

1 BEFORE THE SECRETARY OF STATE
2 HAVA STATE PLAN UPDATE ADVISORY COMMITTEE

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6 In the Matter of the:)
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7 MEETING OF THE SECRETARY OF STATE)
 HAVA STATE PLAN UPDATE ADVISORY)
8 COMMITTEE)
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15 TRANSCRIPT OF PROCEEDINGS

16 Norwalk, California
17 Thursday, July 30, 2009

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22 Reported by:

23 MARCENA M. MUNGUIA,
24 CSR No. 10420

25

Job No.:

25 B2414NCO

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15 TRANSCRIPT OF PROCEEDINGS, taken at
16 Los Angeles County Registrar of Voters Offices,
17 12400 Imperial Highway, Seventh Floor Executive
18 Conference Room, Norwalk, California, commencing
19 at 10:15 a.m., on Wednesday, July 30, 2009,

20 heard before the SECRETARY OF STATE HAVA STATE
21 PLAN UPDATE ADVISORY COMMITTEE, reported by
22 MARCENA M. MUNGUIA, CSR No. 10420, a Certified
23 Shorthand Reporter in and for the State of
24 California.
25

1 APPEARANCES:

2 Committee Members present: ANA ACTON

FREED ILC

3 (via teleconference)

4 ARDIS BAZYN

Bazyn Communications

5 (via teleconference)

6 KATHAY FENG

Common Cause

7

8 ROSALIND GOLD

National Association of

9 Latino Elected and Appointed

Officials Educational Fund

10

ALICE HUFFMAN

11 National Association for the

Advancement of Colored

12 People, California State

Conference

13 (via teleconference)

14 MARGARET JOHNSON, Esq.

Disability Rights California

15 (via teleconference)

16 EUGENE LEE

Asian Pacific American Legal

17 Center

18 KARIN MAC DONALD

Institute for Governmental

19 Studies

U.C. Berkeley

20 (via teleconference)

21 REBECCA MARTINEZ
County Clerk-Recorder
22 Madera County

23 EFRAIN ESCOBEDO
Representing Dean Logan
24 County Clerk
Los Angeles County

25

1 APPEARANCES (Continued):

2 CHRIS CARSON
3 Government Director/State
4 Board
5 League of Women Voters of
6 California
7 (via teleconference)

8 Secretary of State Staff CHRIS REYNOLDS
9 Liaisons:

10 DEBBIE O'DONOGHUE
11 KAYE KAUFMAN

12 Secretary of State JANE HOWELL
13 Staff: (via teleconference)

14 LAURA BAUMANN
15 (via teleconference)

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1 Norwalk, California, Wednesday, July 30, 2009

2 10:15 a.m.

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5 MR. REYNOLDS: All right. Well, in the interest of
6 time, maybe we should go ahead and get started. I think
7 Rosalind Gold is the only person who hasn't arrived, so
8 we'll get started.

9 Let me run through who I think we have on the
10 phone; and if I get any of this wrong, someone please
11 correct me.

12 Ana Acton?

13 MS. ACTON: Yeah, I'm here.

14 MR. REYNOLDS: Ardis Bazyn?

15 MS. BAZYN: I'm here.

16 MR. REYNOLDS: Chris Carson?

17 MS. CARSON: Here.

18 MR. REYNOLDS: Karin MacDonald?

19 MS. MAC DONALD: Here.

20 MR. REYNOLDS: Alice Huffman?

21 MS. HUFFMAN: Here.

22 MR. REYNOLDS: Margaret Johnson?

23 MS. JOHNSON: I'm here.

24 MR. REYNOLDS: With two staff members from the

25 Secretary of State, Laura Baumann and Jane Howell.

1 MS. BAUMANN: Here.

2 MS. HOWELL: Here.

3 MR. REYNOLDS: Here in L.A., we have Eugene Lee,
4 Efrain Escobedo, Becky Martinez, Kathay Feng; and from
5 the Secretary of State's office, Kaye Kaufman, Debbie
6 O'Donoghue and Chris Reynolds. So we will not --

7 MS. JOHNSON: Chris, who was that third -- there was
8 another person you said that was there with you. I
9 missed the name. I've got Becky, Eugene, and Kathay.
10 Who was the other person?

11 MR. REYNOLDS: Efrain Escobedo, who is filling in for
12 Dean Logan today --

13 MS. JOHNSON: Okay.

14 MR. REYNOLDS: -- from L.A. County.

15 MS. JOHNSON: And what's his first name or her first
16 name?

17 MR. REYNOLDS: Efrain, E-f-r-a-i-n.

18 And we will not, unfortunately, have Michael
19 Alvarez, Dean Logan or Neal Kelley with us today. My

20 understanding is that they're all at a PEW event in
21 Seattle. So I guess PEW was a bigger draw than I am,
22 so -- I think they're talking about something to do with
23 voter registration, but I'm not sure what the meeting is
24 about. But this won't be the last meeting, at least the
25 way I'm seeing things unfolding.

1 I think there will probably be -- at this
2 meeting, which I hope will be a working meeting, I can
3 get some better understanding of the issues and maybe
4 there are some issues that people would deem a higher
5 priority than others and maybe get some flavor for how to
6 characterize those issues, try to revise the State Plan;
7 and from there, we'll do a review via e-mail and then
8 have a last meeting.

9 And Rosalind Gold has just joined us.

10 MS. GOLD: My apologies.

11 MR. REYNOLDS: It's okay.

12 So we'll pass around a revised version of the
13 Plan via e-mail, get comments and edits, and then try to
14 do a last in-person meeting where we do the page-by-page,
15 line-by-line, if necessary, approach to getting something
16 in final draft form.

17 So with that, I did want to touch on --

18 MS. JOHNSON: Chris, can I do a clarification of
19 who's there in L.A.? Is Rosalind there in L.A. or on the

20 phone?

21 MR. REYNOLDS: Rosalind is here in L.A.

22 MS. GOLD: In person, live in the house.

23 MS. JOHNSON: Good to talk to you.

24 THE REPORTER: Excuse me. I don't know the voices on

25 the phone unless they tell me their names. Otherwise,

1 they will be unidentified on the record.

2 MR. REYNOLDS: The person who's taking -- making a
3 transcript of this meeting needs to hear the name of the
4 person on the phone. The rest --

5 MS. KAUFMAN: As you speak.

6 MR. REYNOLDS: Yeah, before you speak. As we --

7 MS. JOHNSON: Sorry. That was Margaret speaking,
8 kind of after the fact.

9 MR. REYNOLDS: That was Margaret Johnson.

10 Okay. I did want to touch -- real quickly,
11 there were some minutes done of the last meeting and we
12 can make, if people desire, a transcript of the meeting
13 available. It will take a couple of weeks before we have
14 the transcript.

15 We do have the transcript from the April 15th
16 meeting, but I wanted to see or encourage people to
17 provide us with any corrections to the minutes that have
18 been passed around. It's really for purposes of a
19 working document. But if people do have corrections to

20 those, pass them along to Kaye Kaufman and we'll get the
21 changes made.

22 So at the last meeting -- I'm not going to try
23 to recap all of the issues that were discussed, but I
24 just wanted to give a characterization of it as something
25 of a brainstorming and back-and-forth with respect to

1 information and questions.

2 And what I have now is -- what I've provided to
3 people is a priorities template is what I called it and
4 I've tried to capture the issues that have been discussed
5 so far, and I have tried to characterize them as whether
6 they're a HAVA Title III requirement or some other HAVA
7 requirement, and the funding category is a little
8 imperfect as well. It might mean is there funding
9 provided now or is it -- is it -- is it possible or does
10 it appear possible to provide funding. But I may have
11 inappropriately characterized an issue or I may be
12 missing something or I may need to ask the EAC a question
13 about it, or there may be something, again, that I have
14 missed in the discussion of the item that makes it
15 something that is fundable, is eligible for funding.

16 And then the other piece there would be, is it a
17 priority? Do people want to see something devoted to
18 this, in terms of funding?

19 Some of the issues or comments that were made

20 had more to do with verbiage that's in the State Plan, a
21 characterization of why we have the Help America Vote
22 Act, for instance. Those kinds of things are marked as
23 "not funding" and not necessarily a Title III requirement
24 but nonetheless, something that would be accommodated, I
25 think, in a State Plan revision.

1 So with that, I've already kind of alluded to
2 the outline of the next steps, and that would be to
3 gather this information today and provide a revised copy
4 of the State Plan to Advisory Committee members and, from
5 there, accept more comments and more edits and then try
6 to have a final draft ready for one last meeting where we
7 can do a face-to-face, maybe put the Plan itself up on a
8 screen and do edits as we talk. We have to see how we
9 could be most effective and efficient with people's time.

10 So with that, I kind of want to get to the meat
11 of the issue, which is an open discussion of the issues
12 and the priorities for the State Plan; but I do want to
13 entertain any questions, comments, or anything else at
14 this point.

15 MS. GOLD: Yes. I have a question about the column
16 that says, "Funding needed; eligible."

17 MR. REYNOLDS: Uh-huh.

18 MS. GOLD: Okay. Is that indicating that we don't
19 currently have funding and simultaneously whether it's

20 eligible for funding from HAVA money, in other words,

21 'cause it looks like there's two things there --

22 MR. REYNOLDS: Uh-huh.

23 MS. GOLD: -- that are indicated, but you have either

24 generally one "Y" or one "N."

25 MR. REYNOLDS: Right. And that's one of those --

1 that column is probably the most imperfect, if you will.
2 And as you indicated, one issue I'm trying to
3 characterize is do we need to provide funding in order to
4 accomplish what seems to be the desire, based on the
5 comment that was received.

6 MS. GOLD: Right.

7 MR. REYNOLDS: The other one is, is it a Title III
8 requirement, because we're using Section 251 money, but
9 it might be some other category. We do have what's
10 called 261 money, which is money for approving polling
11 place accessibility.

12 So I would like to capture, for instance, if
13 there's a desire to do something around the issue of
14 polling place accessibility, perhaps there's someplace
15 outside of the Section 251 money where we could go to get
16 some revenue to apply to the fix or the program.

17 So, again, it's a little imperfect, but I'm
18 trying to capture both of those thoughts, and we would
19 just need to note that it's not necessarily Section 251

20 funding in some cases and, therefore, it might not be a
21 part of the State Plan, again, unless someone says, Well,
22 I feel very strongly that you should put this in the
23 State Plan despite the fact that it doesn't have anything
24 to do with your program for complying with Title III
25 requirements.

1 MS. HUFFMAN: This is Alice Huffman. I am missing a
2 document that you guys are referring to. I have the
3 minutes. I suspect I don't have it because I was trying
4 to make myself way down south and maybe the materials
5 didn't come here in advance. Is there any way you could
6 fax it over here?

7 MS. O'DONOGHUE: Alice, this is Debbie. Do you want
8 me to e-mail it to you?

9 MS. HUFFMAN: I'm not at a computer where I could
10 retrieve it. Is it too big to fax?

11 MS. KAUFMAN: No. It's six pages.

12 MS. HUFFMAN: Could you fax it over to me?

13 MS. O'DONOGHUE: What's your fax number?

14 MS. HUFFMAN: (916) 498-1895.

15 MS. O'DONOGHUE: Okay. We'll get it over.

16 MS. HUFFMAN: Thank you.

17 MR. REYNOLDS: So as soon as someone's out the door
18 to get that on the way to you, Alice, I'm going to touch
19 on the first two issues that are on the template, simply

20 because I want to -- these are clearly Title III
21 requirements and they are items that have received
22 funding so far, and that's -- I just wanted people to be
23 aware that we did need to deploy voting systems in the
24 state of California that meet the Section 301
25 requirements of HAVA; and they basically are voting

1 systems that are accessible to voters with disabilities
2 that have -- and at least one of those units had to be
3 provided at each polling place; that otherwise, the
4 system had to provide for people to be able to detect an
5 error in their ballot before it was cast and to be able
6 to correct that error.

7 Now, within that description, I'm trying to
8 capture overvotes and undervotes and also just any
9 mistake that someone might make.

10 In particular, you can address the overvote --
11 the need to meet the overvote protection standard with a
12 voter education program. You don't have to meet that
13 with technology; but for all intents and purposes, the
14 direct recording electronic voting unit is very
15 efficient, at least on paper, in meeting those kinds of
16 requirements because it won't allow people to overvote.
17 Once they provide the requisite number of votes, it moves
18 on to the next race. It will provide a summary screen at
19 the end, which tells people whether they've missed a race

20 in their voting, and it will allow people to correct

21 those errors, if they've made any, before they cast their

22 ballot.

23 And then the Statewide Voter Registration

24 Database, which is a requirement that each state create a

25 list of all the registered voters in the state of -- in

1 the state and that it also have certain capabilities of
2 looking for or verifying certain data that's provided by
3 the voter or otherwise -- and that would be the Driver's
4 License number or a partial Social Security number -- and
5 that it also have the capability through automated
6 processes to connect to the Department of Health Services
7 or the appropriate State agency for checking vital
8 statistics, death records, and also to check with the
9 Department of Rehabilitation and Corrections in the state
10 of California for felon records, and then to do certain
11 list maintenance. In particular, they mentioned the
12 national Change of Address Program.

13 So, so far, there's been a contract, and that
14 contract for the voting systems was executed with
15 counties. It was first made available in November of
16 2000- -- December of 2005, and all the counties had a
17 contract or all the counties that had any balance of
18 funding remaining have a contract with the Secretary of
19 State. It was a cumulative total of \$195 million.

20 And the Statewide Voter Registration Database,
21 as I think many people are aware, the so-called VoteCal
22 Project, we've gone through the bidding process and we
23 have a winning bidder and we're now waiting for
24 Legislative approval for the Special Project Report,
25 which is a blueprint for how you're going to create the

1 system and implement it, and a request in for funding
2 authority to pay for at least the initial costs of
3 bringing that vendor on board and getting the work
4 started.

5 And there's an anticipation of a start date of
6 August 31st. I think it's August 31st of working with
7 the vendor, which is Catalyst Consulting, and I think
8 ultimate deployment would happen around 2012. So let's
9 say final implementation, if you will.

10 MS. FENG: You mean the system would be up and
11 running and ready for the first round of elections in
12 2012?

13 MR. REYNOLDS: That it would be operational at the
14 time.

15 MS. FENG: In time to be able to be used?

16 MR. REYNOLDS: Correct. And there are certain
17 features of the system that have been written into the
18 business requirements. It is my understanding that, for
19 instance, a lookup for provisional voting would be built

20 into the system.

21 Right now all the counties are providing that

22 free-access system that's required under Section 302 of

23 HAVA to be able to look up and check on the status of

24 your provisional ballot. VoteCal would be the entity or

25 the automated tool that voters would use to look for that

1 information; that it would provide some tracking for
2 absentee ballots; that we would be able to extract from
3 the database certain information that would go into the
4 EAC Election Day survey.

5 So those kinds of things, features, if you will,
6 for the Statewide Database are written into its business
7 requirements. There are about 400 of them, so --

8 Alice, did you get --

9 MS. JOHNSON: This is Margaret. Is it possible to
10 see those business requirements? Are they somewhere --

11 MR. REYNOLDS: Yes.

12 MS. JOHNSON: -- that are public yet?

13 MR. REYNOLDS: Yes. They have been public for some
14 time. They're up on the Secretary of State's website.
15 And unfortunately, I don't have a computer in front of
16 me, but if you go to the Elections link on the Secretary
17 of State's website, they should be in a pretty prominent
18 location -- I believe it's off to the left-hand side in
19 the upper corner -- a link to VoteCal information. And

20 within that VoteCal information, you should be able to
21 see the Feasibility Study Report, the Special Project
22 Report. You should be able to see within those documents
23 the business requirements. There should also be other
24 descriptive materials available as well.

25 MS. KAUFMAN: And, Margaret, if you don't find the

1 link -- this is Kaye -- you can just use the search

2 engine that's on that site and type in "VoteCal" with

3 capital V and a capital C, all one word.

4 MS. JOHNSON: Okay. This is Margaret. I'm not near

5 a computer. I'll check it when I get back to the office.

6 Thank you.

7 MS. HUFFMAN: This is Alice Huffman. Will the public

8 be able to use this database?

9 MR. REYNOLDS: Well, there's a -- the public will be

10 able to use, as I understand -- again, I don't want to

11 provide misinformation, but it's my understanding at this

12 point that they would be able to use it to check their

13 registration status, that they would be able to use it to

14 check their polling location, potentially.

15 MS. KAUFMAN: Only theirs.

16 MR. REYNOLDS: And Kaye's correcting me. They would

17 only be able to look up their own polling location.

18 MS. KAUFMAN: Or their own information.

19 MR. REYNOLDS: Yeah. They would only be able to look

20 up their own information. There are certain people,
21 because of their title, if you will, that have access to
22 the voter registration information, you know: The
23 academics, the political campaigns and candidates and so
24 on and so forth, political parties, other governmental
25 agencies. And I'm forgetting one, but there are four.

1 MS. KAUFMAN: Journalists.

2 MR. REYNOLDS: Journalists. Thank you.

3 There are four groups of people, if you will,
4 that fall into those categories that are entitled to be
5 able to receive the entire database. They will never be
6 able to receive the Driver's License number or the
7 partial Social Security number of any voter. That is
8 strictly confidential. But they may be able to get other
9 information like voter history and so on and so forth;
10 but for all intents and purposes, the public will be able
11 to try to get access to their own data.

12 MS. FENG: And you said that they could also track --
13 they could also use this system to -- if they had voted
14 provisionally, to see if their provisional ballot counts?

15 MR. REYNOLDS: That's correct.

16 MS. FENG: And if they had voted absentee, to see if
17 their ballot had been received or all the way through to
18 counting?

19 MR. REYNOLDS: I am not sure, but I believe the

20 requirement currently is under State law to see whether

21 the ballot was received.

22 MR. ESCOBEDO: Mailed and received.

23 MR. REYNOLDS: Mailed and received. So that kind of

24 tracking.

25 MS. FENG: A provisional ballot that is counted AVB

1 is just received.

2 MR. REYNOLDS: I believe that's true.

3 MS. KAUFMAN: And, also, there are certain persons

4 that are registered voters that will never be on a list

5 made public, and those are the people that are in the

6 safe-at-home program or other protected classes for the

7 stalker protection and so forth.

8 MR. ESCOBEDO: And, Chris, just for clarification on

9 the -- as part of that project, there also is work going

10 on obviously with a lot of the counties for conducting a

11 lot of their canvass operations. Provisionals and

12 vote-by-mails use DIMMS Net, provided through Premier.

13 My understanding is there is also work going on

14 to make sure that part of the development project also

15 works with Premier, to make sure that, I guess, there's

16 communication or interfacing so you can provide that

17 information, 'cause it's going to be a hot topic.

18 MR. REYNOLDS: Yes. There's two basic approaches.

19 And I'm not the technical expert in any of this, so

20 please forgive me. I'm going to give you a layperson's

21 description.

22 There's a top-down approach where what you

23 create at the State level is, for all intents and

24 purposes, an Election Management System. The Election

25 Management System, which right now houses, if you will,

1 the voter rolls in each county, does a lot more than just
2 provide for voter registration.

3 Then there is the bottom-up approach where what
4 you do is aggregate all of the data from the different
5 counties and then you provide the functionality at the
6 statewide level, pursuant to HAVA.

7 What we're attempting to do, we had within the
8 bidding process the option for the bidders to suggest
9 that they would build a statewide Election Management
10 System and that this is what it would cost, and
11 eventually there was a decision made based on the risk
12 that that involved and the cost and so on and so forth to
13 forego building the Election Management System.

14 Part of the issue was we weren't certain whether
15 counties wanted the Election Management System. Are they
16 more comfortable with what they're using now? Are they
17 ready to jump to a whole new system that they would have
18 to learn, that they wouldn't have control of, so on and
19 so forth? So it was decided that they are going to

20 continue to use the system that they have now.

21 And Efrain is absolutely right. We're going to
22 need to integrate and synchronize the functions of that
23 system and interface it with the Statewide Database.

24 MS. FENG: So whatever it is, whether it's Premier or
25 some other system, somehow or another there's going to be

1 an interface between that County-based Election
2 Management System or even City-based Election Management
3 Based and the SOS?

4 MR. REYNOLDS: I'm not sure that the City-based would
5 be included, because HAVA's about Federal elections and
6 that's why when we talk about who's represented on this
7 committee, for instance, they say they need to have the
8 Elections officials from the two most populous
9 jurisdictions.

10 Well, in theory, that could be whoever runs the
11 City of L.A. elections and the County of Los Angeles, but
12 since we're talking about Federal elections, and counties
13 run Federal elections, that's what we're talking about.
14 Those are the people that we interact with, with respect
15 to HAVA and HAVA compliance.

16 So whether a City works with the County and
17 somehow integrates its functions or uses the City -- the
18 county's database, they would get all the benefits, if
19 you will, of the integration, but --

20 MR. ESCOBEDO: Which is what we do, and then cities
21 generally don't do voter registration. It's what the
22 counties do.

23 So, for instance, with the City of L.A., we have
24 an agreement -- and, actually, in most of the 88 cities,
25 they have access to what we call our VIM System, which is

1 a VIM System so they can look at voter registrations, get
2 all that information.

3 MS. FENG: I was thinking the Election Management
4 System, but -- so, Chris, this is extremely fascinating
5 and, actually, I'm guessing that a lot of us want to dig
6 a lot deeper into what has just been decided.

7 From your perspective on what we need to discuss
8 for the HAVA plan, I guess it's not so much getting to
9 the details of this but more accountability processes?
10 So as you move forward, is there some thought about, for
11 instance, involving a similar type of advisory group to
12 work with you and the vendors to provide input from
13 community-based organizations?

14 And specifically I'll give you an example.
15 Los Angeles County, I do love you all, but your L.A. Vote
16 System for voter registration lookup is not very easy
17 because somebody has to enter exactly -- you can't enter
18 in "North," "South," "East," or "West." You have to --
19 the usage of like a period after "Avenue" is disallowed.

20 So when people are entering even the -- when
21 people are in the call center, they sometimes have to try
22 quite a few times to get it exactly right. So things
23 like that, you know, working through to make sure that
24 sensitivity is a little bit more tweaked to be user
25 friendly --

1 MR. REYNOLDS: Okay.

2 MS. FENG: -- those are the kinds of input that I
3 think a group of us would be helpful to provide advice
4 on.

5 MS. JOHNSON: This is Margaret. I mean, I would echo
6 that, at least in terms of disability access also, in
7 making sure that you have some guidance around entering
8 in the Database that the public is going to be using to
9 look things up on, that it is accessible to people with
10 various sorts of disability.

11 MS. HUFFMAN: Definitely.

12 MS. FENG: We could probably think, if we sat here
13 for a bit, the broad scope of what that committee might
14 need to think about, but I'm wondering if that's part
15 of -- does that fit in with the HAVA plan?

16 MS. ESCOBEDO: There was an Advisory Committee for
17 the --

18 MR. REYNOLDS: That's what I was going to mention.
19 On the front end, there was an Advisory Group that was

20 brought together to say, Here are the business
21 requirements. What kinds of things should be included in
22 the business requirements? What kinds of issues might
23 you have? This is one of those things where you could
24 say that this is not a requirement of Title III and you
25 don't have to have an Advisory Committee to implement

1 your Statewide Voter Registration Database.

2 There are -- we are reaching out to the
3 counties. We are having regional meetings with the
4 counties. There is going to be ongoing communication as
5 the project is scoped and as they have what they call
6 JAAD, Joint Application and Design, sessions. So I would
7 imagine that there is going to be an avenue, a conduit
8 for information through the counties to the group, but
9 this is one of those things that I'll put down on the
10 list and --

11 MS. FENG: I don't know that that necessarily has to
12 meet on a super-regular basis. I'm not trying to add
13 work, but I do think that this is a perfect opportunity
14 during the design phase to make sure that lessons learned
15 from other systems that are already out there are
16 actually implemented, particularly from a user
17 perspective. So I'm just thinking of -- and certainly
18 the disability accessibility, the language accessibility,
19 but just generally the user interface is very important.

20 I'm also thinking about some recent technology
21 developments that sound quite exciting and wanting to
22 make sure that the SOS's is most up-to-date on it.

23 So Rosalind and I just had a -- we were at a
24 conference on redistricting, but one of the things that
25 came up, there's a researcher, Michael McDonald, who you

1 may have heard of, who was talking about collaborating
2 with Google Earth. Google Earth is now very interested
3 in having a lookup, poll site lookup connected with their
4 Google Earth, and part of their thought was apparently --
5 what was the number -- 7 percent of voters in 2008 were
6 already going to Google to try to search for poll site
7 information --

8 MR. REYNOLDS: Uh-huh.

9 MS. FENG: -- and they thought that if they could
10 integrate directly with the states and then through the
11 counties to upload poll site information -- I don't know
12 that that's as easy as they think, because it changes.

13 MR. ESCOBEDO: Well, I know they tried that in '08.
14 They had a special project and it was voluntary for
15 counties or states to upload their data.

16 MS. FENG: I think they're really moving towards that
17 direction where they want to integrate it with their
18 Google maps and everything so that literally you can see
19 your house and then where is the poll site and how to get

20 there and all that.

21 So I think those are the kinds of things where

22 we should just -- it should be used in forming your

23 process so you're using the best technology possible.

24 MS. GOLD: And I think this issue kind of parallels

25 the issue that we're going to be talking about in terms

1 of whether the State plan is merely going to focus on
2 things related to HAVA funding or if it's going to
3 provide a broader vision about how we think elections
4 should be -- should be handled in the state.

5 I mean, I think we've talked about the fact that
6 we do want to have a continuing discussion on the HAVA
7 issues with the Secretary of State's office, and one
8 possibility would be to use that process, that committee,
9 whatever form it takes, broaden it to have sort of an
10 ongoing discussion about a broad range of election
11 issues.

12 MS. HUFFMAN: This is Alice Huffman.

13 Before you guys move on, it's a little hard to
14 break back in on the conversation there, but I didn't
15 have my answer completely to the question I raised,
16 because the group that you outlined did not include
17 community-based organizations like ours, there's voter
18 registration and Get Out the Vote and whether or not
19 there's a provision for us to have access to that

20 Database.

21 MR. ESCOBEDO: Alice, this is Efrain. I know from
22 past experience, I know it wasn't specifically mentioned,
23 but community-based organizations are a part of the
24 groups that have access to the voter files in terms of
25 purchasing and using them for voter education, voter

1 outreach, as long as that's stated.

2 So it's -- it is accessible to community-based
3 organizations. I don't know if you guys wanted to add to
4 it.

5 MS. HUFFMAN: Thank you.

6 MS. O'DONOGHUE: I just was going to echo what Efrain
7 said. I think that's prescribed in the Elections Code.

8 MR. REYNOLDS: This is Chris. There's a process that
9 we use when somebody wants to get a copy of the data.
10 There's an application form and -- because certain people
11 have access to it and other people don't, and so you fill
12 out the application and if there's any question about
13 whether you fit under the category of political
14 organization or something like that.

15 Someone might say, Well, we don't believe you
16 fit or we have a question about it, but my understanding
17 is that generally speaking, those people are not
18 denied --

19 MS. HUFFMAN: Thank you.

20 MR. REYNOLDS: -- the access.

21 MS. FENG: And, Chris, there's a number -- there's a
22 fairly huge movement now after 2008, but certainly a
23 number of bills that have been winding their way through
24 the Legislature that have to do with voter registration
25 and making it easier or even more automatic, and I'm

1 wondering if in the RFP there was some language that
2 envisioned that those might be possibilities, although
3 they're not necessarily right now.

4 Some examples: One of them has already passed,
5 for instance, online registration. Another one that's
6 percolating through is some notion of an Election Day
7 registration type of thing.

8 Another thing that's been proposed is something
9 that gets closer to automatic registration where the
10 database of, let's say, 16-year-olds that are in our high
11 schools are uploaded and then tracked so that by the time
12 they become 18, they get a selective service type of
13 notice that says, Hey, you're 18, Welcome to the club,
14 you know, Do you want to register or We're ready to
15 register you or We have registered you unless you tell us
16 otherwise sort of thing.

17 Those bills are all -- I'm not going to say that
18 they're right around the corner, but we certainly
19 would -- I would want to make sure that the Registration

20 Database could accommodate that different form of
21 registration.

22 MR. REYNOLDS: Yeah. And some of this would fall
23 under the category of, Well, is this really HAVA or not,
24 and that would need to get worked out. But in terms of
25 the how you pay for implementing something that's a

1 change to State law, there have been, I think, some
2 suggestions at the Federal level and then some
3 suggestions about saying, "Okay. If we're going to make
4 this change, then we're going to allow HAVA funds to be
5 used to accommodate it."

6 So I think it kind of depends where things are
7 coming from as to whether you can say with any definitive
8 answer whether HAVA -- you know, whether it fits into
9 HAVA.

10 MS. FENG: Well, let's start with online
11 registration, since that is --

12 MR. REYNOLDS: But generally, what I was going to say
13 was that we have tried to -- the people who put together
14 the RFP and the other documents have tried to anticipate
15 what kinds of changes might occur --

16 MS. FENG: Okay.

17 MR. REYNOLDS: -- and with respect to online
18 registration, the early discussions had to do with, you
19 know, Could the system accommodate it? What additional

20 things would need to happen?

21 There are some other states, it's our

22 understanding in doing our research, that have used HAVA

23 funds to provide for online registration. Arizona has a

24 system. Washington.

25 MR. ESCOBEDO: I think Kansas just implemented a

1 system, too, for the online.

2 MR. REYNOLDS: So this is changing from state to
3 state. In any event, we saw that bill coming and we were
4 still in the process. There's been some accommodation,
5 some understanding, some anticipation of that, and I
6 think, in fact, that the main concern right now is Don't
7 make a whole lot of changes right now before we put in
8 place the statewide system, because to the extent that
9 you start changing the rules of the game right now, then
10 we are starting -- we have to start chasing those.

11 MS. FENG: Sure.

12 MR. REYNOLDS: Much better to get the system in
13 place, make it HAVA compliant, and then we can start
14 talking about how to accommodate. But my understanding
15 is that they have tried to anticipate that there would be
16 changes to the law. I mean, anybody who's watched
17 elections over the years knows that things change,
18 especially these days. Things seem to be accelerating in
19 terms of change. So they have been mindful of that as

20 they have written the RFP and so on and so forth and in
21 the design of the system.

22 So there are some of these things that they have
23 tried to accommodate. You might even find some of that
24 in the RFP. We have mentioned that.

25 MS. MAC DONALD: This is Karin. If I may real quick,

1 Kathay, in answer to your question, there's two states
2 allowing online voter registration and Tina Bowen
3 (phonetic) and I have just completed a study for PEW on
4 those two states, and both of them used HAVA funds to
5 implement online voter registration.

6 MR. REYNOLDS: Right. And those, again, were Arizona
7 and Washington State?

8 MS. MAC DONALD: Arizona and Washington State. And
9 we're really hoping that that report will ever see the
10 light of day.

11 MR. LEE: Karin, this is Eugene Lee -- or for anyone
12 else -- what sort of HAVA funds did those states use in
13 the acquisition?

14 MS. MAC DONALD: I have to go back, but I'll provide
15 you with the answer.

16 MR. REYNOLDS: 251.

17 MS. MAC DONALD: I have to go back through many, many
18 interviews to figure that out. I don't know that we
19 asked specifically what HAVA funds, but we might have.

20 But let me go back to the interviews since --

21 MR. LEE: All right. Chris Reynolds is indicating it

22 was Section 251.

23 MR. REYNOLDS: It's the money that you use for

24 Title III requirements, is our understanding, Karin. But

25 yes, I'd love to get -- that you've confirmed that you

1 got the same information that we got. But they did tell
2 us it was the 251 funds. The 251 are the funds to be
3 used for Title III requirements.

4 MR. LEE: This is Eugene Lee again. So it seems to
5 me that probably the states would have received some
6 guidance from EAC that the use of such funds --

7 MR. REYNOLDS: Nope, not necessarily.

8 MS. MAC DONALD: Eugene, what happens -- this is my
9 recollection of something that we researched a year ago,
10 so this is many moons ago for me. And what I understood
11 was that they implemented their State Voter Registration
12 Database and a bunch of other things using HAVA funds and
13 it was basically one process so everything was lumped
14 into that, wrapped in together.

15 So especially Arizona, if I recollect this
16 properly, they were pretty smart in actually hiring staff
17 on HAVA money to basically write a -- write the program
18 and establish a Voter Registration Database, which is
19 pretty smart, because once they have those people on

20 board with HAVA money, they could do all kinds of other

21 things with those people as well.

22 MR. REYNOLDS: Now --

23 MS. MAC DONALD: So it's a pretty smart move on their

24 part.

25 MR. REYNOLDS: There's a certain commonality of

1 functions between the online registration and what you
2 do, because it's required by HAVA. You have to have an
3 exchange of information between the Department of Motor
4 Vehicles and your Statewide Database to check a Driver's
5 License number. Well, Arizona is importing, if you will,
6 I don't know the technical term, the digitized -- not
7 digital, but digitized signature that they get for the
8 Driver's License number.

9 We have set up under State law many years ago
10 the ability to get that information from the Department
11 of Motor Vehicles, so it's a matter of the exchange of
12 information including the digitized signature. So it's
13 not a big leap to go from, "Okay. I'm already getting
14 this data from the Department of Motor Vehicles. I also
15 want the digitized signature," which is the key
16 identifying component right now that we really use or
17 have used before HAVA, I should say. There's always the
18 signature.

19 So if you get that missing piece and you get a

20 picture of it, then you're starting to get closer to be
21 able to do the full vote online, because that way people
22 are entering data and they're saying, "This is my
23 Driver's License number." You're matching the Driver's
24 License to the picture, boom, and you've got their
25 digitized signature. You don't need them to sign

1 anything. They don't need to do anything. It's
2 completely online.

3 MS. FENG: This is still a bill that's pending, but
4 certainly it suggests that you also get a little bit
5 closer to this idea of automatic registration where you
6 might compare to another registration -- another list and
7 start seeing who it is.

8 MR. REYNOLDS: My understanding is the bill that
9 talks about online registration has been adopted by the
10 State.

11 MS. FENG: I'm saying automatic registration,
12 comparing to lists like DMV's list or people who are 16
13 or older.

14 MR. REYNOLDS: And what Secretaries have done in the
15 past and continue to do, I believe the Secretary
16 continues to do the Birthday Card Program that's using
17 the DMV data so someone who gets their driver's license
18 when they're 16 -- and I guess this has happened with
19 less and less frequency, but to the extent that someone

20 gets their driver's license when they're 16 or 17, then
21 there's a file sent to the State's office and when the
22 birth date shows up, they're going to get that welcome,
23 you know, "Congratulations. You're 18. You're an adult.
24 Now one of the things you can do now is vote, and here's
25 your registration to vote."

1 But that Birthday Card Program, because of, I
2 don't know what, changes in the way that people -- the
3 behaviors around getting your driver's license have
4 probably made that less effective in terms of getting to
5 that person.

6 MS. FENG: Because?

7 MR. REYNOLDS: Because now when your 16 years old, in
8 order to get a driver's license, you've got to go to a
9 driving school and hire or pay for driving school. The
10 school districts no longer provide driver's ed. Then you
11 have to have some education component at the school
12 district. Then you have a limitation on how many hours
13 and your parent providing you with your permit and da,
14 da, da, and then you've got to -- a lot of people are
15 foregoing all those requirements which attach to 16, and
16 18 or 17 and a half -- once you get to 17 and a half, all
17 those kinds of restrictions roll away, so that's what --

18 MS. FENG: So you're saying that essentially they're
19 waiting a little later?

20 MR. REYNOLDS: Exactly, 'cause it makes it so much
21 easier to get your license.

22 MS. KAUFMAN: And the cost of insurance is another
23 factor, especially in this economy.

24 MS. FENG: Chris, I'm sorry. I don't remember this.
25 One other thing that's on my mind is felon

1 reenfranchisement in terms of the database. And I
2 haven't been in this issue for a while, but my
3 recollection was that there is not currently a smooth way
4 of reinstating people who have completed their parole by
5 comparing, say, a Database that Department of Corrections
6 is maintaining to a list that the Secretary of State is
7 maintaining. You get an automatic notice when somebody
8 is convicted, but you don't get the automatic notice once
9 they've served their time and have completed their
10 parole. Is that right?

11 MR. REYNOLDS: Yeah. What we're getting is we're
12 getting data from a couple of different sources. One is
13 from the Department of Corrections and one is the
14 counties are getting information from superior courts.
15 But in California, we continue to have the honor system
16 when it comes to registering to vote so that when
17 someone's finished with their sentence and their parole
18 and can be reinstated, they go fill out the Voter
19 Registration Form and hand it in and they're registered

20 to vote again.

21 I don't know if anybody is double-checking

22 about, you know, Has this person -- and there's no

23 automatic way that someone's notified that, Oh, go

24 contact this person now or automatically reinstate them.

25 So, yeah, there's no process that we follow to

1 automatically reinstate or to contact a person saying, We
2 know that you've now completed your --

3 MS. FENG: I know it's not political --

4 MS. JOHNSON: This is Margaret. I have a question
5 when you have a break.

6 MS. FENG: Okay. I know it's not politically
7 popular, but it seems to me like in some ways it's like a
8 birthday card type of program that could be set up where
9 essentially you had a list of people who have been taken
10 off of voter registration because Department of
11 Corrections or the courts sent it to the State and those
12 people were taken off.

13 And in some ways, the way to ask this might be
14 rather than taking them out of the system, can they
15 simply be flagged as, I don't know, in purgatory? And
16 then when there is a notice that comes from Department of
17 Corrections, or whoever, that the person has completed
18 their time that they get unflagged so that it's not that
19 you're taking them out and that they have to reregister?

20 And the unflagging can then come with a card to that
21 person saying, Hey, congratulations, you're eligible to
22 vote again.

23 MR. REYNOLDS: And I am not an expert, a technical
24 expert, by any stretch of the imagination. I think it's
25 a technological and practical issue.

1 MS. FENG: Right.

2 MR. REYNOLDS: So you're going to build a whole new
3 program and store a whole lot more data. You're going to
4 keep people in this file and you're going to be tracking
5 them and you're going to be -- you know what I'm saying?
6 It's a whole separate new element, a new program that
7 gets layered on top of what you're already doing and the
8 question is, do you want to do that?

9 MS. FENG: Right. And --

10 MR. REYNOLDS: I don't know that it has anything to
11 do with HAVA.

12 MS. KAUFMAN: And when they're sentenced, you don't
13 know how long they're actually going to serve and
14 actually be on parole. There's time off on good behavior
15 issues, early release issues. So it's not that I can
16 flag this person, "He got a driver's license at 16;
17 therefore, we know his birthday." He got sentenced to
18 five to ten and you don't know when that five to ten
19 triggered. There's no trigger.

20 MR. REYNOLDS: There's no other end, if you will, at

21 Corrections saying he built up early release credits, so

22 he got out or she got out --

23 MS. FENG: That's right.

24 MR. REYNOLDS: -- and now they're on parole so --

25 they've gone through rehabilitation or a halfway house

1 and now their parole is gone, so now where are they?

2 MS. FENG: I'm acknowledging it's not an easy thing.

3 I'm just saying that it's something that has been brought

4 up before and I just think that, you know, as we talk

5 about it, we should -- I don't want it to be lost simply

6 because it's sort of a group of people who are not as

7 sympathetic as 18-year-olds.

8 MR. REYNOLDS: And I'm not saying -- I'm not

9 attempting to discourage because of that or making a

10 value judgment in any way.

11 MS. FENG: Yeah.

12 MR. REYNOLDS: I'm just saying, like I said at the

13 outset, it's a whole program and a whole logistical thing

14 that you have to think through in terms of What do I need

15 to make this work and it's -- it is more difficult, as

16 Kaye said.

17 MS. KAUFMAN: Yeah. It might possibly be the best

18 thing is to provide brochures to the County to give to

19 the parole personnel so that when they know they've got a

20 guy going off parole, Here's part of your package.

21 MS. FENG: We've certainly tried that before and I

22 would say that the parole officers are less than

23 enthusiastic about carrying something that they don't

24 feel like is a part of their job, so they may or may not.

25 MS. JOHNSON: This is Margaret. I have a comment

1 that I'd like to make at some point.

2 MR. REYNOLDS: I'm sorry. Margaret?

3 MS. HUFFMAN: And Alice also.

4 MR. REYNOLDS: Margaret, go ahead.

5 MS. JOHNSON: It's okay. This isn't exactly on point
6 but sort of related.

7 There are also people that are put on
8 commitments that have their right to vote removed.
9 That's not true for everyone that's put on some kind of
10 civil commitment, but that is true for some folks; and
11 then while they're on the civil commitment, they, too,
12 are not eligible to vote, but once they're off of a civil
13 commitment or their right to vote has been restored,
14 they're able to vote, too, and there really -- as best as
15 I can tell, there is no mechanism either for those group
16 of folks either to track them, and once they have their
17 right to vote restored, they're not given information
18 about, "Okay. Your right to vote has been restored. Do
19 you want to register again in order to vote?"

20 So I just want to flag that there's another
21 group of folks also that have their right to vote removed
22 and at some point do get it restored and there's really
23 no mechanism to make sure that they're able to register
24 again.

25 MS. HUFFMAN: This is Alice Huffman. I also have a

1 question and maybe a comment. The authority that
2 notifies the Secretary of State that a person has lost
3 his or her right to vote is someone in the Department of
4 Corrections; is that correct?

5 MR. REYNOLDS: Yes.

6 MS. HUFFMAN: So when a parolee finishes his parole,
7 someone in the Department of Corrections must also have
8 that same record to indicate that that person's rights
9 have been restored or that they're off parole.

10 MR. REYNOLDS: Uh-huh.

11 MS. HUFFMAN: So it would seem as though for this
12 discussion, perhaps it's to have a discussion with the
13 Department of Corrections to see if they could not
14 routinely alert the Secretary of State or others that
15 these people have their rights restored, because there's
16 a lot of confusion, at least in my community. A lot of
17 ex-offenders think they have lost their rights
18 permanently. People have been told that there's a
19 different process to go through to get yourself

20 reinstated. So there's a lot of confusion; therefore, we
21 lose a lot of voters that have been restored and have
22 their rights to participate.

23 MR. REYNOLDS: Okay. Authorize permanently or new
24 reinstatement process.

25 Okay. Yeah. And to tell you the truth, Alice,

1 I am not sure whether it is -- I would imagine the
2 Department of Corrections would track, but I'm not sure
3 whether it's them or the courts.

4 But, anyway, you're right, somebody's tracking.

5 MR. ESCOBEDO: Yeah. And I know our officials
6 receive the lists and you go by it.

7 MS. FENG: I think there's two options out there that
8 seem viable, although one's probably more difficult than
9 the other.

10 One is that you are -- you never -- somebody who
11 is convicted of a felony has their name not removed from
12 the data list, but tagged as not being eligible to vote;
13 and then at some point if their name is -- comes back
14 from a Department of Corrections or Court list saying
15 that they've served their time and finished their parole,
16 then their name is automatically unflagged and they're
17 back on the rosters.

18 MR. ESCOBEDO: I know.

19 MS. FENG: And the other way to do it is more along

20 the birthday card idea, which is they're taken out of the
21 list, you don't keep them anywhere, and then when
22 Department of Corrections or somebody gives you the
23 rein- -- the completion-of-their-parole lists, those
24 people receive a card that says, "Hey, now you're
25 eligible" and -- but there's a proactive step there.

1 MR. ESCOBEDO: I know on the taking of folks off the
2 list -- and I can double-check specifically for folks --
3 for felons, people already serving or on parole that
4 aren't eligible, but I know for most counties, it's very
5 rare that you actually delete someone off the rolls. We
6 move them into all these other statuses: fatal pends,
7 inactives, pendings, and you keep transaction logs of why
8 and how they're removed. It's always because if someone
9 calls and asks you a question, you need to be able to
10 answer that.

11 So I know -- I can double-check with regard to
12 felons, but I know it's very rare that we ever
13 actually -- at least at the County level -- delete people
14 from your files. I don't know that at least flagging and
15 unflagging, whether that would need Legislative change
16 and that maybe reinstatement is you have to reregister to
17 be reinstated and it's not sort of a flag and unflag and
18 that would -- might need Legislative change.

19 MS. FENG: The reason why this is connected to the

20 design is that -- again, I don't know how this is exactly
21 going to work with VoteCal, but if currently each county
22 is maintaining your own Voter Registration Database and
23 then you're kind of uploading it on a regular basis
24 through SOS, eventually we're moving to a place where
25 it's a single database that's maintained by the SOS and

1 it is or isn't housed at the County level.

2 So what Efrain is talking about as a County
3 practice of holding on to names and just mark them as
4 "pending" or "fatal pending" or whatever, has that been
5 worked out whether the SOS is going to continue that
6 practice or if they're going to do it differently?

7 MR. REYNOLDS: I'm sorry. You lost me there.

8 MS. FENG: Well, so let me start with this. For
9 VoteCal, are Counties no longer going to be maintaining
10 their own lists the way that they do right now?

11 MR. REYNOLDS: Well, the counties will have a list,
12 but what will happen is that the stuff will originate at
13 the State level. You're talking a bottom-up versus
14 top-down, and I said I was going to give you simplified.
15 What we're talking about is a hybrid here.

16 So what's going to happen is -- my
17 understanding is the data is going to be input by the
18 County because they continue to be the front lines of
19 voter registration, if you will, but they're no longer

20 loading it onto their system. They're loading on to the
21 State's system and then the data for the Voter
22 Registration list will flow back to the Counties to use
23 in the manner that they say.

24 MS. FENG: Okay. So that answers -- so that
25 actually -- so the design issue is this: that -- Efrain

1 just described a process where L.A. County anyways, when
2 you were maintaining -- you still are -- maintaining
3 those lists, if somebody is flagged as "pending" or
4 "fatal pending" or whatever other number of flags you've
5 got, you don't actually remove them from the list. They
6 just sit in a server somewhere; right? And they just sit
7 there. I mean, it's not like they go anywhere.

8 But if the Secretary of State moves to
9 maintaining that entire list, there's this question about
10 whether or not people who are marked as "pending" or
11 "fatal pending" or maybe you've got evidence that they've
12 moved from the state or whatever, you know, does that
13 mean that they are deleted from the list or do you put
14 them into separate buckets and you still maintain them
15 somewhere in that digital ether world?

16 MR. ESCOBEDO: I think part of it's going to be --

17 MR. REYNOLDS: There are all kinds of rules about who
18 gets removed from the lists and under what conditions,
19 and besides that and the NVRA and so on and so forth.

20 I do not believe that there are any special
21 provisions for anybody who is a felon. If a person is a,
22 you know, felon, then their right to vote has been
23 revoked. I don't know what Counties might be doing.
24 MS. MARTINEZ: I think they go into a canceled
25 status.

1 MS. FENG: But do you maintain their names?

2 MS. MARTINEZ: We have them -- there is a place in
3 our system where you maintain the canceled records. I
4 don't know how long they sit there.

5 I just sent an e-mail out to staff, but they do
6 go into a canceled. They do not go into a fatal pend or
7 anything like that.

8 MS. JOHNSON: This is Margaret. I want to make a
9 comment when I get a chance, again.

10 MS. FENG: I guess this again is just a
11 synchronization thing, but it's worth talking through,
12 because whether or not there's State legislation or not,
13 there is a practice I'm hearing now with Counties about
14 what to do with people who they've been removed from the
15 registration lists, but they are -- they still have
16 somewhere in their digital ether world a list of people's
17 names who are tagged as "pending" or "canceled" or
18 whatever.

19 And, again, so the question is just, in part,

20 What's the State going to do when you assume

21 responsibility for maintaining the registration?

22 MS. KAUFMAN: One thing you need to know --

23 MS. JOHNSON: This is Margaret. Can I make a

24 comment?

25 MR. REYNOLDS: Go ahead.

1 MS. JOHNSON: I'm sorry. I know it's like -- you
2 know, I mean, I totally sympathize with Kathay and agree
3 that it's really important that people that are, you
4 know, removed from having their right to vote and then
5 have that restored again that there be some way to get
6 those people registered again. But I guess I'm starting
7 to feel like we're getting into the nitty-gritty of how
8 the Database would work and those sorts of things and I'm
9 not really sure that that's, you know, kind of the
10 purpose of this call --

11 MS. FENG: That's fine.

12 MS. JOHNSON: -- and it might make some sense that --
13 I know that HAVA doesn't require that we have any kind of
14 working group that deals with these issues, but it seems
15 like there's a lot of energy here and a lot of concerns
16 raised for both people who are in the correctional system
17 and also people who have been committed and have had
18 their voter rights removed, that maybe there be some sort
19 of working group to kind of flesh out all those issues

20 and give you guidance.

21 I'm just trying to further the discussion. I

22 don't mean to necessarily cut anything off.

23 MR. REYNOLDS: Let me put it this way, for the time

24 being, just to try to be responsive. There's going to be

25 a record. There's going to be an audit record that

1 something happened to this voter and that will probably
2 be kept for a very long time, if not forever. So that
3 information would remain, but in terms of the person
4 being maintained on the voter rolls, I believe that
5 person would be removed from the voter rolls.

6 MS. O'DONOGHUE: And this is Debbie. The Elections
7 Code that covers this is Elections Code -- it's Elections
8 Code -- and I'm not an attorney -- 2212, and the term
9 that the Elections Code uses is "canceled."

10 "The elections official shall, during
11 the first week of April and the first week
12 of September in each year, cancel the
13 affidavits of registration of those persons
14 who are currently imprisoned or on parole
15 for the conviction of a felony."

16 Now, what "cancel" means, I don't know if that's
17 put in, as Chris says, some sort of record that's going
18 to stay there for some time. I don't know forever, and
19 I'm looking at Rebecca and --

20 MS. MARTINEZ: I don't know for how long. I put an
21 e-mail out. I don't know that you purge those records or
22 if it goes off unended.

23 MS. KAUFMAN: And one other thing to clarify, Kathay,
24 even when the State becomes a Statewide Database, we at
25 Secretary of State are not maintaining it. It is still

1 maintained at the County level. All input, all update is
2 done at the County level.

3 MS. FENG: What about removal?

4 MR. REYNOLDS: No. We have -- we need to work
5 through that there may be some functions that are more
6 automated, but there will always be some County control.

7 MS. FENG: Right.

8 MR. REYNOLDS: The ability to influence that process
9 or to undo that process is going to be something we're
10 going to work through with the Counties. I'm just not
11 sure how much of the functions would be automated.

12 MS. FENG: Let me take a step back and just echo what
13 Margaret is saying. The implementation of the Database
14 generally in terms of design, this is -- it wraps into
15 that very much and so some of the issues that we've seen
16 happen in other states with voter registration purging
17 and all these other types of things are intimately
18 connected with whether you -- when you have somebody who
19 is taken off a list, if they are permanently removed and,

20 you know, do not exist anywhere in the system or if they
21 are put into some type of inactive file, whatever that's
22 called.

23 And so I would just suggest that I think that
24 Margaret's idea makes a lot of sense and I -- to
25 reconvene some version of the group that worked on the

1 Statewide Database to make sure that we don't -- whether
2 it's complying with HAVA or just making sure that we
3 don't step into the same doo-doo that other states have
4 done; that in our implementation, we are thoughtful about
5 a lot of these issues.

6 Some of these are -- for instance, if each
7 county is doing something slightly different, at some
8 point the State's going to have to come up with a
9 regulation or even go to the Legislation perspective to
10 define what it is you do with a canceled voter, and it
11 sounds like it's not entirely clear and each county was
12 doing -- was engaging in their own practice.

13 So there's a lot of open-ended questions that
14 are worth a committee discussing.

15 MR. REYNOLDS: And so, again, this is not necessarily
16 a State Plan thing, but I will take this under
17 advisement, go back, and talk with people about the
18 mechanism to --

19 MS. FENG: You know, how it is a State Plan thing --

20 and maybe I'm wrong -- is that there's a performance

21 measure thing. There's a section on performance

22 measures --

23 MR. REYNOLDS: Uh-huh. Right.

24 MS. FENG: -- and it seems to me like you've got to

25 have some way of evaluating whether your Statewide

1 Database was implemented in a good way, whatever "good"
2 means.

3 And so just like what you just said with the
4 importation of signatures from the DMV is kind of an easy
5 thing once you already have funding set aside to import
6 the other pieces of information from the DMV that you
7 need for HAVA verification purposes, the same goes with
8 this.

9 If you're creating a committee that is partly
10 looking at performance measures for the implementation of
11 the Statewide Database which is required by HAVA, then
12 you're wrapping in some things like disability and
13 language that are required by HAVA and then you wrap in
14 other things that might not be, but you've got to look at
15 the whole enchilada. You can't just look at a piece of
16 it.

17 MR. REYNOLDS: Okay. A working group to discuss
18 performance measures for the Database?

19 MS. FENG: Yes.

20 MR. REYNOLDS: Okay.

21 MS. MARTINEZ: If we could go back to the cancels,

22 they do remain on our system indefinitely. They're

23 there. So any time you pull up a record for someone, we

24 can tell that we've canceled the record for that

25 individual, for whatever the reason is; you know, they

1 moved out of county and then came back, whatever it is.

2 MR. REYNOLDS: That was the audit mechanism I was
3 referring to, the audit record that would show you.

4 MS. MARTINEZ: It shows a history.

5 MR. REYNOLDS: The history, right.

6 MS. FENG: I'm sorry. I think for some of us, we're
7 struggling with language because there's language clearly
8 associated with it, but I -- you know, it just -- I
9 imagine if you had a collection of community advocates
10 and also some registrars, some of these will come out
11 that you never thought of, and it would be helpful from
12 the design perspective that we should be a little bit
13 more explicit about -- in our approach.

14 MR. REYNOLDS: Okay. On the overview portion,
15 there's a desire for a better description of the reasons
16 for HAVA and so I just wanted to see whether we could
17 quickly talk about -- the note I made to myself in the
18 Comments section was to include the shortcomings of the
19 paper-based voting systems, the lack of uniform

20 practices, the voter registration list purging, long
21 lines at polls, poll worker training. Those were some of
22 the issues that were brought up.

23 Is there any discussion around those or do
24 people want to help me understand --

25 MS. FENG: I -- between Eugene's red-line version of

1 the language and then also the collective Cal VEC letter
2 that we sent, did we provide you language that -- I'm
3 sorry. I'm just not -- I haven't looked at those letters
4 in a while.

5 MR. REYNOLDS: It says simply in the Cal VEC letter,
6 if you will, the joint letter, let's call it, it just
7 simply says:

8 "To the extent that the overview is
9 intended to provide some historical context,
10 it is important to explicitly spell out the
11 concerns raised by the 2000 elections,
12 including disputes over voter intent with
13 paper ballots, disparate County and State
14 practices, lists purging, long lines, and
15 inconsistent poll worker training." And
16 then it's -- yeah.

17 Now, you know, I do not, I admit, have a copy of
18 Eugene's red-line with me, so I apologize for that. I
19 can go back and take a look at that for sure if that's --

20 MS. GOLD: Yeah. Eugene's red-line added a bit of
21 language, but I think there is certainly room to even
22 talk about these issues more. Eugene got a great start
23 on it --

24 MR. REYNOLDS: Okay.

25 MS. GOLD: -- and I think there was a lot of

1 consensus for both one and two that, you know, not only
2 talking about a better description or the reason for
3 HAVA, but having a little bit more of a balanced
4 discussion on DREs would be really helpful for the Plan.

5 MR. REYNOLDS: And, again, the better discussion of
6 the DREs. That's the second one.

7 So does anybody have anything that they want to
8 provide me by way of information about residual vote
9 research? I know it was talked about during the
10 presentations before the Supreme Court. It was Henry
11 Brady -- is that his name -- who got up and gave
12 information about residual vote totalings and comparing
13 the system with that.

14 Does anybody have anything that they want to
15 give me on the better description of the promise of DREs?

16 MS. MAC DONALD: And that was Henry Brady.

17 MR. REYNOLDS: Yeah. Okay.

18 MS. MAC DONALD: I'm sorry. I missed half of your
19 comments because it takes so long to get off mute.

20 MR. REYNOLDS: There's two things. There's a desire,
21 it sounded like, to have a better description of the
22 reason for HAVA in the State Plan. As it's currently
23 drafted, it doesn't really set you up as well in terms of
24 understanding why we have HAVA, in the first place, and
25 then a need for, as Rosalind just said, maybe balance is

1 the best word in terms of its -- you know, the promise of
2 the DRE, the value of the DRE, something like that.

3 So if anybody has any suggestions for me -- but
4 here's the bottom line. On all this stuff, I'm going to
5 go back and take a whack at it and see if I can't get
6 something, and I know that with respect to the reasons
7 for HAVA, I do have Eugene's red-line version to take a
8 look at, which unfortunately I did not bring with me, but
9 that's at least a starting point and then I'll see what
10 else I can dig up.

11 But does anybody have anything in terms of, you
12 know, Well, I read something one time and it was really
13 great or I read something and so-and-so wrote it and Go
14 look here, Chris. And you don't have to have it right
15 now. If you go back and find something later -- I'm not
16 asking you to look and search either.

17 MS. GOLD: No. We can do some homework. We've got
18 our homework assignments.

19 MR. REYNOLDS: So if anybody, either on their own or

20 by referencing something else, can tell me, This is a

21 really good description of the reason for HAVA and This

22 is a description of the promise or the benefits of DREs,

23 let me know.

24 MS. HUFFMAN: Wouldn't you find that in the -- in the

25 Summary of the Legislation?

1 MR. REYNOLDS: That's one place I thought I would go
2 take a look at as well.

3 MS. HUFFMAN: You know they have to justify all that
4 money and it was all about increasing -- creating more
5 confidence in a national voting system and so forth.
6 I'll bet you that wording is what you're looking for.

7 MR. REYNOLDS: Okay. That's one place I will
8 definitely look.

9 MS. GOLD: Yeah. Margaret and Ardis, do you know if
10 there's like a couple paragraphs -- because I know
11 there's been a lot written about the accessibility of
12 DREs, the enhanced accessibility for persons with
13 disabilities.

14 MS. JOHNSON: Well, this is Margaret. I'm sure there
15 are many things out there that we could probably give you
16 links to, Chris.

17 So, I mean, that -- AAPD puts a lot of
18 information out on HAVA and DREs. So you may want to
19 check out and -- I'm not in front of a computer right

20 now. I probably should have brought my laptop, and then

21 I could have been searching some of this stuff while

22 we're talking.

23 MR. REYNOLDS: That's okay. Check the AAPD?

24 MS. JOHNSON: You could check the AAPD to see if they

25 have any good language there and then I can look around

1 and see what else I can forward you in terms of links and
2 things that you can pull from.

3 MR. REYNOLDS: Sounds good.

4 MS. JOHNSON: And then, Ardis -- I don't know -- you
5 might have some good ideas, too, or Ana.

6 MS. ACTON: Yeah. I'll do a little search -- this is
7 Ana -- and see what I can come up with.

8 MS. HUFFMAN: I'll see if I have something in the
9 original -- you know, where it was originally, where we
10 thought it was necessary anyway.

11 MR. REYNOLDS: Thanks.

12 Okay. The next item was to include access for
13 voters with disabilities and voters with language needs
14 in the bulleted sections on page 6 and 9 for voting
15 systems; early voting; and provisional ballots. So I'm
16 thinking that I could do that.

17 Again, I will go back and look at Eugene Lee's
18 red-line; but if anybody else had specific language in
19 mind for something like that, let me know. But I'll

20 definitely take this one and try and run with it.

21 The next one on the reference to the scope of

22 the language needs in California, I think I can handle

23 that, but if Rosalind or Eugene or anybody has -- Kathay

24 has suggestions for me about something specific to say,

25 what I'm thinking was intended by this was tell me how

1 many languages, tell me what they are, and that -- the
2 fact that Spanish is required statewide, that this is
3 linked to Section 203 requirements, Voting Rights Act
4 Section 203 requirements, and I don't know what else.

5 MS. GOLD: Absolutely.

6 MS. JOHNSON: This is Margaret. This may not fit in
7 this section, but I know some folks in the disability
8 community need more simplified language, and this would
9 go to meeting the needs of folks who either have limited
10 English or -- I'm blanking on the term now, but people
11 who haven't been through enough schooling to read at a
12 higher level. What's the right word for that?

13 MS. KAUFMAN: Cognitive disabilities?

14 MS. JOHNSON: They're speakers, but haven't
15 progressed high enough in school with their literacy rate
16 and, also, there are people, adults, who aren't very
17 proficient at English because they speak another
18 language; the American Sign Language. I know when we're
19 generally talking about language needs, we're targeting

20 whatever those -- based on the population and everything.
21 I know you come up with those kinds of things, but I'm
22 just wanting to throw out that there are kind of
23 disability-related language needs that exist also and to
24 make sure that we don't overlook them in our zeal to only
25 focus on people that English isn't their first language.

1 MR. REYNOLDS: Okay.

2 MS. JOHNSON: Braille is another thing that was
3 raised. I'm not sure that we usually view braille as
4 another language, but Ardis is on the phone. She can --

5 MS. BAZYN: It's not called a language. It's -- I
6 mean, not like French or Spanish or whatever. It's not
7 technically a language, but it's an altered format.

8 MR. REYNOLDS: Okay. On the adding of the bullets
9 for the desire for choice voting, the instant raw voting
10 and the choice voting in California, well, on this one,
11 this is not a HAVA requirement. It's not something that
12 would receive funding, per se, but it's kind of a policy
13 statement which gets to Rosalind's comment, and she's
14 made it a couple of times.

15 Is this document a more expansive document that
16 talks about policy issues that really aren't within the
17 scope of what we're dealing with here?

18 And I cannot give you a perspective from the
19 Secretary, but I will tell you that this Secretary has

20 done more than any other Secretary in terms of making
21 this a reality in California. She's the first one who
22 has approved of a system for use. It's being used in
23 San Francisco and that use is now at least under
24 consideration. I don't know how far it's gone, so I
25 don't want to misspeak, but Alameda County is also, I

1 think, going to be included soon on that list of counties
2 that would have a system that could be used for this, but
3 it also depends on vendors bringing forward a system and
4 testing and approving a system and making sure that that
5 system works.

6 So to make a policy statement that says, as they
7 did in the 2003 plan, that there is going to be
8 consideration of not approving any system -- and the term
9 then was "certified" -- not certifying any system that
10 can't handle choice voting and decertifying ones that
11 don't accommodate it, I don't know that that's going to
12 be a place the Secretary's going to go.

13 Having said that, I don't speak for the
14 Secretary, so I don't want to discourage discussion, but
15 I did want to make people aware of that.

16 So on adding back in the bullet that was in the
17 2003 Plan about the desire to encourage, or something,
18 choice voting, do people feel strongly about maintaining
19 that?

20 MR. ESCOBEDO: Well, my point would be why
21 specifically that and not other alternative methods? I
22 mean, if you were going to add something, why a specific
23 method versus vote-by-mail versus other alternative
24 methods of voting? Why narrowly restrict it to just that
25 method? And then, too, is what would be the language

1 sort of that would align it to HAVA saying, "Well, this
2 is making elections more accessible for people; this is
3 meeting a lot of the tenets of what HAVA stands for"?
4 Those would be my initial questions on that.

5 MS. GOLD: And I also actually think in this case
6 there is a difference between saying We want to encourage
7 rank voting, which I think there's not consensus on that,
8 as opposed to saying We just want the equipment to have
9 the capability to do it.

10 So I know from our perspective, we have a lot of
11 questions about IRVs still and we would not want to see a
12 statement that affirmatively says the State of California
13 encourages rank voting.

14 MR. REYNOLDS: Okay. But -- well, then is it okay or
15 is it preferable? Where is it on the spectrum of saying
16 that, if possible, that voting systems should be --

17 MS. GOLD: I think that, we would be comfortable
18 with.

19 MR. ESCOBEDO: And I would say, again, then you would

20 add to expand it and encourage, you know, to add "like
21 rank voting" and "like vote-by-mail" and the statement be
22 more along the lines of, "The State encourages that as
23 voting systems are developed that they look for
24 alternative methods that provide greater access."
25 MS. GOLD: And the statement -- combining it with a

1 statement that I think basically the Secretary would
2 agree with is that, "In California, we want people to be
3 able to have a wide range of options available to cast
4 ballots, to make the system more accessible."

5 MR. REYNOLDS: Anybody else have thoughts on that?

6 Okay. The next one had to do with people saying
7 that there should be more information provided. The way
8 I described it here was "add a reference," but provide
9 more information with respect to the accessibility
10 reports that were in the top-to-bottom review.

11 Now, I wanted to see if I could flesh that out a
12 little bit because, again, in what context would -- are
13 people interested in seeing those referenced? I can
14 certainly do a mention of it; but, again, I guess I want
15 to understand the purpose behind mentioning it. How
16 should it be characterized, from your perspective?

17 MS. JOHNSON: This is Margaret. I think that, you
18 know -- I don't have the original report that you did or
19 the HAVA Plan that you did. I don't have it in front of

20 me --

21 MR. REYNOLDS: Okay.

22 MS. JOHNSON: -- but if I recall, most of the HAVA

23 Plan thing -- well, maybe "most" is an overstatement.

24 There were many, many paragraphs on the top-to-bottom

25 review and there was a lot of information given about

1 what was then in regards to security.

2 Part of that top-to-bottom review included a
3 whole review of the access features and I don't recall
4 any in-depth discussion of what was found and why the
5 Secretary of State did that, whereas for the security
6 stuff, there was quite a bit of information about why it
7 was done, what the process was for doing it, what the
8 result was, and some analysis of that.

9 So I guess I was just looking for something
10 comparable around the access top-to-bottom that was done
11 also, so kind of like why that was done, who did it, what
12 the methodology was, and kind of what the result was.

13 And, again, I don't have the original HAVA Plan,
14 Chris, that you did in front of me, but just something
15 that more parallels what was done in relation to
16 security, because it's my memory that there was just
17 maybe one sentence that said that that was done, but it
18 wasn't really fleshed out.

19 And maybe Ana or Ardis can jump in. They may

20 have the original Plan in front of them, or others can
21 jump in, or maybe I'm totally blowing it and there was
22 like scads on it in the report and I just forgot.

23 MR. REYNOLDS: No. No.

24 MS. JOHNSON: That's my point.

25 MS. BAZYN: This is Ardis. I agree. It wasn't very

1 much difference. There was just very little about
2 explaining the pluses and the minuses about what the
3 accessibility was versus the security. It was very
4 obvious that a lot more time was spent -- or maybe not a
5 lot more time. It just wasn't explained as well
6 regarding the accessibility.

7 MS. FENG: Chris, I'm wondering if maybe you can help
8 me understand this. As we talk about things that are
9 covered by HAVA or required by HAVA, how does HAVA
10 require something like a top-to-bottom requirement of the
11 security of voting systems?

12 MR. REYNOLDS: There's a requirement in HAVA that you
13 meet the error rates, that you have a system that -- I
14 mean, it's kind of inherent within any voting system that
15 it has got to provide you with true results. The only
16 way to really measure the legitimacy of any democracy is
17 whether you trust the results of the ballot box. So it's
18 kind of --

19 MS. FENG: So it's --

20 MR. REYNOLDS: -- fundamental.

21 MS. FENG: Right. I guess then it sort of raises

22 this question like when we think about what's

23 fundamental, it sort of gets back to Rosalind's question.

24 You know, it is a little bit of a policy

25 statement to say, We're not just looking at whether or

1 not these systems -- not all systems, just some
2 systems -- properly measure overvotes and undervotes.

3 We're actually doing -- it got deeper than that;
4 right? It was talking about whether things could be
5 infiltrated and, you know, so it's a bigger systemwide
6 evaluation.

7 I'm not going to judge whether that was a good
8 idea or a bad idea, but it's a little bit broader than
9 what HAVA needed to do. So if we're going to include
10 into the report this whole description of a top-to-bottom
11 review which used HAVA funding to do, that may or may not
12 be entirely within HAVA's scope. I think it just sort of
13 begs the question about, you know, what we set priorities
14 to do generally using HAVA.

15 MR. REYNOLDS: And there was a lot of talk perhaps
16 about DREs. I mean, there was, but the descriptions in
17 the Plan right now leaves out the fact that it wasn't
18 just the DREs that went through the top-to-bottom review.
19 It was every component of the system. So it was also the

20 optical scan portion of the system that was run through
21 the top-to-bottom review as well. There are systems that
22 are not DREs that were also run through the top-to-bottom
23 review. Those are the PBR systems used by Los Angeles
24 County and by the AutoMark system by EMS, so all of the
25 systems and all facets of the systems.

1 MS. JOHNSON: Hi. This is Margaret. I hate to
2 interrupt, but I need a bio break, so I'm going to run
3 off. I feel like I would like to hear this part of the
4 description, so I don't know if others need a break right
5 this minute or --

6 MR. REYNOLDS: Why don't we take 15 minutes?

7 MS. JOHNSON: I'm sorry.

8 MR. REYNOLDS: No. No. This is perfect. And I'll
9 tell you what we'll do then. We'll come back and since
10 we're taking a bio break right now, if you wouldn't mind
11 if we go until 12:30 and then take a lunch break --

12 MS. JOHNSON: That works for me.

13 MR. REYNOLDS: All right. 15 minutes.

14 (Recess)

15 MR. REYNOLDS: Well, I'm going to jump back in then.

16 So the reference to the accessibility reports,
17 why it was reviewed, what was found, who did it, the
18 methodology, just generally include more about
19 accessibility that was done for the top-to-bottom review,

20 and I will also make note of the fact in the State Plan
21 that the accessibility review has become a standard part
22 of the testing and approval process and probably make
23 note of the fact that we were the first state in the
24 nation to use the accessibility standards and the VVSG,
25 the Election Assistance Commission's Voluntary Voting

1 Systems Standards, to test the system under those
2 accessibility standards.

3 So I think we're ready to go to the next item
4 then, adding back in the goals from the 2003 Plan.

5 And, again, this is one of those areas where
6 they may not be exclusively HAVA, but I'm going to again
7 ask for people's feedback here. I shouldn't say
8 "exclusively HAVA." I should say "included in HAVA."

9 The ability for any voter anywhere that they
10 choose to show up on Election Day getting the proper
11 ballot, even with the existing technology, I think is
12 really problematic. Being able to get a -- have a voter
13 who lives in -- is registered to vote in Madera County
14 show up in Los Angeles --

15 MS. JOHNSON: Hi. This is Jane and Margaret.

16 MR. REYNOLDS: Margaret, I had moved on. I said I
17 had thought I had gotten the point about including under
18 the top-to-bottom review, the accessibility review
19 portion, why it was reviewed, what was found, who did it,

20 what the methodology was, and generally include in there
21 and I mentioned that I would also include in there that
22 the State of California continues to use the
23 accessibility methodology in all of its testing and
24 approval going forward, and that we're the first state in
25 the nation to use, as far as we're aware, the Voluntary

1 Voting System Guidelines accessibility portion as a test
2 and approval process.

3 So I had moved on to the one underneath that on
4 the template about adding back in the goals from the 2003
5 Plan about any voter who shows up anywhere being able to
6 get the proper ballot on Election Day, and I was saying
7 that technologically and practically speaking, I think
8 that's a very difficult goal to work toward because
9 although you will have a Statewide Voter Registration
10 Database, you're going to have -- I don't know that
11 you're going to have polling place access to that
12 Database.

13 And, additionally, I don't know that you could
14 ask Los Angeles County to have a ballot that could be
15 cast by a certain person in a certain place in Madera
16 County or any other county where they're registered to
17 vote.

18 Although the capability exists for DRE to load
19 people that said every ballot style in the state on a

20 single DRE, I just don't think you could ask the County

21 to do that. So it's wonderful idea, but I don't know

22 whether it will ever be practical. How do people feel

23 about that?

24 MS. KAUFMAN: Well, if for no other reason than just

25 about every county has a different brand of DRE, so

1 you're not even on the same system, and being able to do
2 it, I think, would be prohibitive with any technology I
3 see coming down the pike in the next five years or maybe
4 even longer.

5 MS. FENG: Being able to load any other county's
6 ballot style is what you're saying specifically?

7 MS. KAUFMAN: Yes. If I were in Madera County and
8 wanting to vote my Sacramento County ballot from my
9 precinct, they couldn't do it. They're on different
10 systems, for one thing.

11 MS. FENG: Let me point out maybe the more
12 fundamental problem before we get to what the solution
13 might be, because maybe it isn't loading every ballot
14 system and style in every county.

15 The common problem, although I don't know how
16 many instances we're trying get a sense of that from,
17 surveying the counties, is that somebody lives in
18 Orange County but they work in Los Angeles and they
19 didn't get around to going to the poll site when they

20 left for work, so they pop into a poll site that's close

21 to work and try to cast a ballot.

22 L.A. County now has some number of ballots from

23 neighboring counties because people are commuting, and

24 the question is, I guess, it seems like there is not a

25 uniformity to what happens to those ballots that are

1 crossing county lines.

2 MR. MAC DONALD: They don't get counted, Kathay.

3 MR. REYNOLDS: They aren't marched back and forth.

4 MR. ESCOBEDO: They would be provisional.

5 MS. FENG: No, I don't think so, not from what we

6 know. We actually -- we were trying to get the

7 Legislature to amend the bill that would actually require

8 for the absentee ballots, for example, to say on the

9 envelope that if you don't drop it off in your county, it

10 may not get counted, because people don't understand

11 that.

12 MS. FENG: On Election Day, we had County workers

13 telling us that efforts would be made to quickly send --

14 I mean, obviously you're not sending it to -- if you're

15 in L.A., you're not sending it to Orange -- or to

16 Sacramento.

17 MS. MAC DONALD: I just don't think that's true.

18 MS. FENG: They'll make efforts to --

19 MS. MAC DONALD: In my experience, that is absolutely

20 not true. It's a nice thing to tell you, but I don't
21 think that that's the way it works. They have to be in
22 the county where you live.

23 THE REPORTER: Is that Karin speaking?

24 MR. REYNOLDS: I'm sorry. That's Karin MacDonald
25 speaking.

1 That was the transcriber asking for
2 identification of Karin.

3 MS. MAC DONALD: I'm sorry.

4 MR. REYNOLDS: That's okay.

5 There is a provision in the Elections Code that
6 says, If you're in the wrong precinct, you're in the
7 right county, they'll count as many races as they can,
8 but I don't think there's any attempt to pass them. If
9 they don't find you on the rolls, I think the assumption
10 is going to be This person's not registered to vote.

11 MS. FENG: I'll have to double-check that, because I
12 was told that not just by random hotline people, but as
13 we were going around on Election Day and post Election
14 Day monitoring the vote counting, I thought that there
15 was something where they were saying, Well, if we get
16 within the canvassing period, if, for instance, L.A.
17 collects a certain number of Orange County ballots, that
18 they do try to return them to --

19 MS. JOHNSON: Margaret. Sorry to interrupt, but

20 we're a little confused at this end. What are we talking

21 about? Provisional --

22 MR. REYNOLDS: Absentee.

23 MS. JOHNSON: -- or absentee?

24 MR. REYNOLDS: Well, actually --

25 MS. JOHNSON: -- or something else entirely? We got

1 kind of lost as to what we're talking about.

2 MR. REYNOLDS: There is a desire, according to the
3 comments that I received on page 9 of the 2003 Plan,
4 there are three bullet points that were not included in
5 the update that I did, and the three bullet points were
6 the first one, which is the one we're discussing, that
7 any voter could walk into any polling place in the state
8 and receive the appropriate ballot, that that ballot
9 would be counted. I think that was sort of the way it
10 was described.

11 MS. JOHNSON: Okay. This is Margaret again. I'm
12 confused by where the discussion is going then. It
13 sounds like Kathay thinks she was told that that could
14 happen now?

15 MS. FENG: So let me just back up and say that on
16 more than one occasion, I have heard from folks that it's
17 not that you can vote in any place in any county and ask
18 for another county's ballot style. That certainly
19 doesn't happen.

20 What I had understood -- the problem is really
21 just that people cross county lines. That's -- the heart
22 of the issue is not sort of -- before we get wrapped up
23 in a single county trying to host every single ballot
24 style of every other county, the fundamental issue is
25 when you have a voter who is legitimately registered and

1 they've crossed a county line to vote or for some reason
2 their ballot ends up at the wrong site, like maybe they
3 dropped off their absentee ballot in the wrong county,
4 but the question is what happens to that ballot and do we
5 want to try to make a statement about doing something to
6 that to make sure that these ballots are counted? I
7 think that's what this policy proposal was getting at.

8 I mean, one idea at the time that we had that
9 was much farther reaching, because we didn't know how the
10 technology was going to work, was that just like right
11 now with early voting, you can show up to any site and be
12 able to get the ballot style as long as you're within the
13 right county. You know, are there ways to resolve the
14 next question where a voter is in the wrong county?

15 MR. LEE: Well, this is Eugene Lee. I guess my
16 suggestion would be, in the interest of time, is to -- on
17 this page 9 is simply to list all the goals that were
18 included in the original 2003 Plan. Just say, "In
19 California's initial 2003 State Plan, these were the

20 goals that were articulated" and then continue to say,
21 "Some progress has been made and some progress continues
22 to be made through these ambitious goals." What's wrong
23 with that restating of the goals?
24 MS. GOLD: I think, also, if you go back to the Plan
25 and look at some of these goals, they were placed in very

1 aspirational language. Chris and I just checked and when
2 we listed some of these goals, we put it in the context
3 of "bringing us one step closer to the day when," so we
4 didn't say, "We want this to happen tomorrow," "We want
5 this to happen," but -- but we sort of drew this in sort
6 of a very broad, aspirational statement of where we'd
7 like to get to eventually and I think that's a different
8 context than saying, Gee, we need to take a look at if we
9 can do this right now.

10 MS. FENG: Right. And I guess what I'm trying to say
11 is that I cannot find the language that we're looking at
12 or that we're struggling with.

13 MR. REYNOLDS: It's page 5, Kathay.

14 MS. FENG: Page 5? I was looking at 9. So some of
15 these, I'm wondering if the way to get around -- I mean,
16 I like Eugene's idea of just importing it and saying, "In
17 2003, this is what it was," but I wonder if we can say,
18 "For looking forward, here are some of our aspirational
19 goals," and they don't have to be as specific as saying

20 that somebody can show up to any poll site anywhere in
21 the state and get their ballot style.

22 I think the -- if we can articulate what the
23 problem is that we're trying to resolve, there may be
24 other solutions and so the problem is to ensure that
25 somebody's ballot -- somebody who was properly registered

1 in the state of California but who drops their ballot off
2 at the wrong place, that efforts are made to count those
3 ballots.

4 MS. MARTINEZ: In the wrong county? Is that what you
5 mean?

6 MS. FENG: So I know there's a distinction between
7 within the county and out of the county. I guess if we
8 get to a place where we're stating some goals that are a
9 little more generalized, it's aspirational and then we
10 don't get into the "weeds" about, Well, we can do it in
11 the county but not outside, and then what the solution
12 would be and making every effort to count could be just a
13 matter of saying, Well, okay, if you sort out the ballots
14 for neighboring counties and you're still within the
15 canvassing period, that you'll make an effort to send it
16 next door.

17 MS. KAUFMAN: Okay. The Elections Code, Section
18 3017, says that:

19 "It shall be returned by mail or in

20 person to the elections official from whom
21 it came," which means the same county, "or
22 return the ballot in person to any member of
23 a Precinct Board at any polling place within
24 the jurisdiction."
25 And it says further -- Section D of that

1 section, says:

2 "The provisions of the sections are
3 mandatory, not directory, and no ballot
4 should be counted if it is not delivered in
5 compliance with this Section."

6 So it now states that you cannot submit it to
7 another county.

8 MS. JOHNSON: This is Margaret. I think I kind of
9 like Eugene's idea of just kind of being able to restate
10 what was there and kind of say, This is -- These are
11 things that we still think we want to strive for or they
12 were outside of the scope of what we should have been
13 doing in the first place. I think any comments I made
14 about including goals from the previous Plan were simply
15 to say We recognize those goals were there and we still
16 think they're goals or, you know, just something about
17 them, and I'm happy to talk about whether we think these
18 goals are still ones that we want to have, I guess.

19 MR. REYNOLDS: Let me reorient people to what I'm

20 talking about. Let me just make a quick observation on
21 the three that were left out, and they're actually -- as
22 Rosalind helped me discover, they're on page 5. Perhaps
23 it was page 9 of the State Plan update that I was talking
24 about --
25 MS. GOLD: Exactly.

1 MR. REYNOLDS: -- but they're on page 5 of the 2003
2 Plan. The first one we were talking about is bullet
3 number three, and in addition to the Elections Code
4 sections that this may be contrary to, there's also very
5 practical issues.

6 If a person shows up at a polling place and they
7 are not on the roster, okay, then the person will say
8 that they're not registered, they'll make them fill out a
9 provisional ballot; and when they list another county as
10 their place of registration, that ballot will not be
11 counted and that person will be told, The reason your
12 provisional ballot was not counted is because you're in
13 the wrong jurisdiction.

14 So there's that process that needs to be
15 followed, following the provisional voting stuff through.

16 If there is an attempt made because someone
17 looks at that provisional ballot and says, "Oh, this
18 person lives in Orange County; they don't live in L.A.
19 County," and they ship the ballot over to Orange County,

20 then Orange County is in a bit of a dilemma based on the
21 Elections Code, but then they've probably voted on a
22 ballot that has none of the races to which they're
23 entitled to vote. There's a real distinct possibility
24 that will happen, in which case they couldn't count any
25 of the ballots to begin with.

1 MS. MAC DONALD: Chris, I think you ought to be
2 careful with what you think people are being told in the
3 polling place, because that's perhaps 25,000 times.

4 MR. REYNOLDS: No. I'm not saying anyone's being
5 told anything at the polling place. I'm simply saying
6 that if you look at the way the process is supposed to
7 work, this as a practical matter would be what would
8 happen if the person showed up at the wrong place and
9 they weren't on the roster. They would get a provisional
10 ballot and certain things would happen thereafter.

11 MS. GOLD: Chris, would it be fair to say, "To
12 achieve this, we need both changes in the law and changes
13 in technology"?

14 MR. REYNOLDS: And for those kinds of things, there
15 may be a desire on the part of this Secretary to talk to
16 people about If we're talking about goals that need law
17 changes, we can talk about those in a different venue.

18 MS. GOLD: Because we did in the Plan and other
19 places specifically say, "We recommend that the Secretary

20 of State go to the State Legislature to try to get laws

21 to do certain things."

22 So, for example, a related issue is trying to

23 make sure that if someone casts a provisional ballot and

24 they're in, you know, the wrong place, but like at least

25 the offices that they are eligible to vote for like the

1 Governor, you know, the Lieutenant Governor, we did say
2 in another place in the Plan -- I can show you that --
3 that We recommend that there be legislation to have as
4 many of those offices covered.

5 MS. FENG: And that was a bill that was passed and it
6 changed, so I feel --

7 MR. REYNOLDS: In Section 14310.

8 MS. FENG: I guess I see this as different in
9 orientation, but I see this document as not just sort of
10 saying, Here's what the state of the law is and we're
11 going to be straightjacketed by that and that's all that
12 we're going to talk about. I think that there are
13 portions of this Plan which do allow the Secretary of
14 State and/or this committee to say what we aspire to, and
15 that's a perfect example of something that happened over
16 the course of the last 2000- -- after the last 2003 Plan.
17 The law was changed in accordance with those aspirations
18 and now we've got a changed situation.

19 And as Rosalind says, it doesn't have to be next

20 year. It could be something that's just sort of a,
21 Here's -- We generally think that here are some
22 continuing problems that voters face and we'd like to
23 figure out ways to keep our eye on that issue and see if
24 technology or legal changes may help with that.
25 MS. GOLD: Yeah. For example, Election Day

1 registration is another thing that you would need at the
2 minimum.

3 MS. FENG: You need a lot of things.

4 MS. GOLD: So one thing is this section could be
5 prefaced with a statement to the effect of, We understand
6 or we acknowledge that for these goals to be achieved, we
7 are going to need, you know, significant changes,
8 fundamental, many, extensive, whatever word you want to
9 use, many extensive changes in law and technology --

10 MS. FENG: Right.

11 MS. GOLD: -- but we want to say that these are
12 aspirational.

13 MS. FENG: Like I think if we were to say "Overseas
14 and military voters can vote safely and wherever they
15 might be," that's sort of bringing them all back to the
16 U.S. That's just an aspirational statement because
17 clearly wherever they are, there is danger and it won't
18 be easy. They can't get to a fax machine and they
19 can't -- so it is all --

20 MR. REYNOLDS: And that's one of those things that
21 was left in, if I'm not mistaken. I'm talking about
22 specifically these three that were taken out because of
23 these reasons.

24 MS. FENG: I guess the ones that are left in, I would
25 say that's a value judg- -- they are just as aspirational

1 and somewhat elusive as the ones that got taken out. And
2 so I think as a group, we should just -- we could soften
3 the language to make it feel like it's less unachievable,
4 but I think that the whole point of putting in words that
5 are aspirational is that they are not currently that way
6 in reality, they're not currently that way in law, but we
7 all think it's not a bad idea to get closer to that goal.

8 MR. REYNOLDS: And, likewise, the Election Day
9 registration again was left out because it's not current
10 law.

11 Now, the Internet and telephone voting -- so
12 that it would fall under the discussion we just had, but
13 the internet and telephone voting is contrary to State
14 law. State law specifically prohibits this activity, so
15 I don't know that we -- and I don't know that this
16 Secretary disagrees with that.

17 That's the other thing. I don't want to give
18 you the impression that I'm the definitive authority on
19 how the Secretary might feel about including something,

20 but I don't want to discourage discussion, and that's my

21 attempt here, to let you know why certain things were

22 done with the State Plan the way they were and so --

23 okay?

24 MS. FENG: Okay. Well, so can we tackle each one of

25 these separately as far as whether they get incorporated

1 back for the 2009 Plan?

2 MR. REYNOLDS: Well, what I'm going to do is go back
3 and redraft and I need to talk internally with the
4 Secretary's, you know, policy thinkers and so on and so
5 forth, but I'll be getting back to people about -- and
6 perhaps it's really a restatement, because when you look
7 at the language on page 5, it's bullet three on the
8 right-hand column, "Every eligible voter receives" -- I'm
9 sorry. It's not number three.

10 MR. LEE: Fifth from the bottom.

11 MR. REYNOLDS: Yes. Thank you. Fifth from the
12 bottom, Eugene.

13 "Any eligible voter can cast a properly
14 formatted ballot in any precinct anywhere in
15 the state or other appropriate jurisdiction
16 on Election day."

17 That one might need to be restated in terms of
18 cross-county provisional ballots to the appropriate
19 jurisdiction or something like that in the hopes that --

20 MS. GOLD: I don't know. I am actually -- I actually
21 prefer the more broader aspirational language than
22 specifically talking about provisional ballots. I think
23 when we first came up with that language, we were sort of
24 really dreaming of this idea that there would someday be
25 technological capabilities where basically you could walk

1 in any place in California --

2 MR. REYNOLDS: On Election Day.

3 MS. GOLD: So I guess I would be -- I would maybe

4 make that as an example, but I don't want the broader

5 concept to be too diminished by talking about the

6 specific issue of the cross-county provisional ballots.

7 MR. REYNOLDS: So on that one specifically, I'm going

8 to call it the "any voter anywhere," I'm going to leave

9 the language where it is, and again we'll have

10 discussions with the Secretary of State staff internally,

11 and so leave it as is.

12 And then on the Election Day registration, I

13 assume that's a leave-as-is:

14 "Election Day registration is available

15 to those who did not register prior to the

16 election."

17 MS. FENG: So let me back up. Sorry.

18 I'm just trying to find some resolution, because

19 I don't think it's going to be easy for you to take on a

20 mishmash of comments.

21 MR. REYNOLDS: And I'm wide open to you sending me

22 something specifically.

23 MS. FENG: I'm talking out loud because I'm quite

24 confident that as soon as I leave this office, I'm not

25 going to be spending very much time doing what I should

1 be doing, which is --

2 MR. REYNOLDS: You have other things to do, yes.

3 MS. FENG: -- thinking of better language. So "Any
4 eligible voter" -- if we took out some of the language or
5 if we made it even more general than this, so "Any
6 eligible voter can cast a properly formatted ballot in
7 any precinct on Election Day," does that make it easier
8 as an aspirational goal?

9 MR. REYNOLDS: It says the same thing. It's still
10 the same goal. It's no different from --

11 MS. GOLD: I think the language we have -- I'm trying
12 to remember why we put "other jurisdiction." Basically
13 we're talking about California, so I'm not sure why the
14 language got in there --

15 MS. FENG: Were we thinking that it could be just
16 countywide? Yeah. I think like, okay, if you have --
17 well, I guess --

18 MS. GOLD: Any precinct anywhere in the state, like I
19 said, so I can't remember what "or other appropriate

20 jurisdiction" meant, because I don't think we were

21 intending for people to be able to vote in New York.

22 MR. REYNOLDS: I think that would cover going down to

23 County Headquarters or something maybe.

24 MS. GOLD: Anywhere in the state. If you want to get

25 rid of -- if the "or other appropriate jurisdiction" is

1 causing red flags or whatever.

2 MR. REYNOLDS: I wouldn't say that's it, but I have
3 not gotten and gone through a line-by-line --

4 MS. GOLD: Sure.

5 MR. REYNOLDS: -- but initially my reaction was, and
6 the kind of feedback I've gotten back so far is, Well, if
7 there's discussion about changing the law and
8 aspirational goals and stuff, there are other venues to
9 discuss how we should move forward and whether we should
10 move forward and so on and so forth.

11 MS. FENG: Okay. Let me back up again. Sorry. Just
12 to look at this, we have this worded, "Any eligible voter
13 can cast a properly formatted ballot," and maybe
14 that's -- so I think we were at one time envisioning you
15 could show up in Sacramento on a day trip and you needed
16 an L.A. ballot and you could pull it up, but what if it
17 was just "Any eligible voter can cast a ballot in any
18 precinct anywhere"? Now, we haven't said whether it's
19 County, and also -- I think the idea is just that you --

20 the more common example is the neighboring counties; you
21 show up and now that we have this law change where the
22 top of the ballot that's relevant can be counted to the
23 extent that it's correct. You know, if we said that you
24 could -- if we didn't say that -- by having "properly
25 formatted ballot" somewhat suggests that if I show up in

1 L.A. or in Sacramento, I should be able to see an L.A.
2 ballot; whereas if you can just cast a ballot, it means I
3 can vote on the ballot and it may be the case that the
4 bottom of the ballot is incorrect because it's the local
5 races and whatnot, but it gets a little bit closer to
6 what currently exists without --

7 MR. REYNOLDS: I can still do statewide measures.
8 That's the bottom line.

9 MS. GOLD: But I would say, again, for what we're
10 hoping, what do we want this to say? If we want this to
11 be what our ultimate dream was, at least at that time,
12 our dream was eventually with technology and law
13 changes -- you know, me, I live in Culver City. I could
14 show up in Sacramento and somehow get a ballot for --
15 that would have the Culver City council members on it and
16 the Culver City school districts.

17 So if we make -- I guess I see a value in this
18 being a place to talk about the big dreams and if, again,
19 it's prefaced with the concept of We acknowledge and we

20 understand that this is going to require significant

21 technological and legal changes, but this is kind of what

22 we hope to really happen someday because, again, I think

23 that fits into the spirit of maybe all the other bullets

24 as well.

25 MR. REYNOLDS: Okay. So with respect to this one in

1 particular, I'll tell you what I'm going to do. I'm
2 going to give you this language again. Then I'm going to
3 give you some alternative that's an incremental, because
4 I think what Kathay is talking about is -- and Kathay
5 Feng, for those who aren't in the room, is saying, Well,
6 look, you could get a ballot anywhere in the state,
7 depending on the election. If it's a UDEL, you're out of
8 luck, but -- I'm sorry. UDEL is Uniform District
9 Election Law, which generally deals with special district
10 stuff, and that's going to be very particular, so you
11 won't have any statewide measures on a UDEL ballot.

12 Becky, you can kick me under the table if I get
13 that wrong, but Kathay is saying at some point, if it's a
14 presidential or it's a statewide, you have certain things
15 you can vote on. You're going to be able to vote on
16 President and Vice President and you can vote on Governor
17 and Constitutional officers and statewide measures and
18 those could be counted if you took a ballot in Sacramento
19 and you, in fact, lived in -- now, it's a much easier

20 proposition, idea, to swallow if you're talking about

21 neighboring counties.

22 It's much more difficult to suggest that

23 Mendocino is going to take the ballots they get from 18

24 different counties and stick them in the mail and get

25 them down before the canvass period is closed and say,

1 We're telling you that -- because these are logistical
2 and legal issues you're going to deal with -- this was
3 voted before the polls were closed. These were voted.

4 Anyway, I don't know how much challenge people
5 would raise with respect to -- especially who might argue
6 with things like, Well, jeez, if you do that, then
7 there's not much security you're going to have in terms
8 of people in Mendocino County who are going to try to
9 swing an election in Stanislaus. I don't know.

10 MS. FENG: I would say, again, so we agree that we
11 haven't quite figured out how it be implemented, but
12 let's -- it sounds like we all would like to have some
13 type of aspirational statement that still gives people
14 some ability to not have their ballots cast -- thrown out
15 or not be turned away automatically.

16 MR. REYNOLDS: And this will be the last word before
17 we go for a break and we'll get back on section one, and
18 I'm going to try to move much more quickly for some other
19 stuff, but if I need to be slowed down, I'm willing to be

20 slowed down.

21 Here's the last word I'm going to give you for
22 this one, at least from me. If anybody has anything to
23 add, please.

24 But on the "any voter anywhere," I'm going to
25 leave it as is, but I'm going to try to tweak it a little

1 bit maybe. "On Election Day" I'm going to leave in. I
2 may include something in there -- somebody referred to it
3 as "softening the language." Somebody referred to it as
4 "making sure people understand," make it an aspirational
5 goal, so I'll do that.

6 But on the Internet and telephone voting, I'm
7 thinking there's a much steeper hill and a much bigger
8 rock to try to push because Internet voting and telephone
9 voting --

10 MS. FENG: Fair enough.

11 MR. REYNOLDS: -- so I'm going to drop that.

12 MS. FENG: Okay.

13 MR. ESCOBEDO: Just really quick, on the aspirational
14 things, and we did discuss the Election Day registration,
15 you've mentioned automatic and permanent registration.
16 At some point, that may be the specific bullet that only
17 restricts it to online, that there's more of an
18 aspirational voter registration access or some sort of
19 language that doesn't just do online but sort of pursues

20 "greater access to voter registration" and something, and
21 then you don't have to exclude specific things.

22 MS. FENG: And here on the Election Day registration,
23 it seems like what we could do is say that --

24 MR. REYNOLDS: I want to capture this. So it's the
25 fifth bullet I think on page 5, online registration. Add

1 auto registration?

2 MS. FENG: Well, this is no longer a goal, right,

3 'cause this is done?

4 MR. REYNOLDS: Well, no, it's not. I mean, it's not

5 implemented yet, because one of the things that was

6 written into the bill, at our request, actually, was,

7 Don't make us do this until after VoteCal is implemented.

8 MS. FENG: So we keep it -- I was just wondering if

9 it was done. So the Election Day registration thing,

10 that's where I thought you were going.

11 So take this language, this 11th bullet point on

12 Election Day registration, and just say -- I'm not -- "to

13 bring us one step closer to the day when voter

14 registration is not a barrier to" --

15 MR. ESCOBEDO: "Every opportunity to register, up to

16 the day of the election."

17 MS. GOLD: Then you could say "including online" --

18 MR. ESCOBEDO: "Election Day" or "automatic."

19 MS. FENG: The general thing would be "where voter

20 registration is no longer a barrier to voting to citizens
21 who are otherwise eligible to vote" and then including --
22 MS. GOLD: Yeah. Then just collapse a couple of
23 bullets there.
24 MR. REYNOLDS: "Including online and EDR
25 registration." Okay. Yeah. I'm getting the flavor.

1 MS. FENG: Do you know where she stands on those
2 issues generally or does she --

3 MR. REYNOLDS: My understanding is that there is
4 interest in Election Day registration and in some form --
5 and I don't know that I'm authorized to speak on this,
6 so --

7 MS. FENG: Okay. Interesting.

8 MR. REYNOLDS: The thing about it is that I think on
9 a lot of these things, the truth of the matter is that
10 this Secretary is moving; like on choice voting, again,
11 done more than any other Secretary to make it happen, but
12 does it belong in the Plan? I don't know. EDR, those
13 kinds of -- now, on some issues, there is going to be
14 tension or disagreement, but we can all agree to disagree
15 on some things --

16 MS. FENG: Right.

17 MR. REYNOLDS: -- and still be friends and still
18 continue to talk to each other, I hope.

19 MS. FENG: The reason why I like this language that

20 we've just crafted is there actually may be solutions
21 that we haven't envisioned, and we're caught up in a
22 debate right now that thinks about it in a certain way
23 because that's the technology we have and that's how
24 we're thinking about it, and we weren't talking about
25 automatic registration at all -- well, some people were,

1 but we weren't talking about it very much in the election
2 reform community until very recently and now it's become
3 part of the checklist of things that people talk about.
4 So I just think that I like this way of having a list
5 that's including or such as --

6 MR. REYNOLDS: And to the extent that -- here's
7 homework. And then I said that would be the last word,
8 but this will be my last word, I promise, to the extent
9 that people want to write a preamble that says We want to
10 move closer toward it and that law changes may be
11 necessary or that changes in program or regulation or
12 whatever or there are barriers to all those kinds of
13 caveats and preamble, then you can lay out all your
14 aspirational goals and say things like "that the voter
15 registration process is no longer a barrier to every
16 eligible citizen who wants to cast a ballot on Election
17 Day to be able to, including auto registration, Election
18 Day registration, and online."

19 So yeah. I'll do my best to do that, but if

20 anybody's got ideas -- and just as a logistical thing,
21 after this meeting today, I'm going to go on vacation for
22 a week, one, so that I can absorb some of this stuff and
23 then, two, take that time, if you will, to do the
24 homework that you want to do and get me whatever you can.
25 But that's not the deadline, because I think it's going

1 to take me several weeks after I get back on August 10th
2 to really try to get you something. Okay?

3 MS. GOLD: And the point of the vacation is
4 actually not to be thinking about all this.

5 MR. REYNOLDS: Yeah, but I'll probably take a look at
6 the notes and just to refresh my memory.

7 MS. GOLD: And absorbing --

8 MR. REYNOLDS: So we will take our break right now.

9 There was a question -- but this is difficult
10 considering we're doing phone call-ins and physical
11 in-person stuff, too, but there was talk about, you know,
12 go out, take a certain amount of time, try to bring
13 something back and kind of have a working lunch. What's
14 people's preference?

15 MS. FENG: I don't mind that, because I feel that --

16 MS. JOHNSON: Margaret. I don't think we care. We
17 just need enough time to get something.

18 MR. REYNOLDS: So then -- I don't want to give too
19 much time, but can we take the next 25 minutes -- see,

20 I'm trying to accommodate the notion that --

21 MS. GOLD: You guys would know the best. How long
22 would it take us to get something? How much time do we
23 need?

24 MR. ESCOBEDO: It is the traditional lunchtime, so
25 everywhere we go, there's going to be lots of people.

1 MS. FENG: Half an hour? 40 minutes?

2 MR. ESCOBEDO: Half an hour, 30 minutes.

3 MR. REYNOLDS: I was going to give 25 minutes.

4 That's the other thing I was going to mention.

5 We're at the height of the lunch hour, people running to
6 lunch.

7 Okay. So 35 minutes. That means at 1:10, we
8 will resume our discussion. Thank you very much.

9 (Lunch recess)

10 MR. REYNOLDS: I'm going to go ahead and get started
11 again, but people are eating. I'm aware of that, so
12 that's right, I'm going to make sure that I'm checking
13 with the eye contact. So you folks on the phone, just
14 pipe up or whatever.

15 MS. KAUFMAN: Yeah. This is your big chance, guys,
16 while everybody here has a mouthful.

17 MR. REYNOLDS: So at least on the Section one on the
18 priorities template -- and, again, this is not exclusive.
19 Again, at the end, I hope we have some time at the end to

20 write down some things that I forgot, if there are any,

21 or if there's anything anyone would like to add.

22 Excuse me.

23 There's a little note about more history on why

24 paper balloting was considered deficient and I think, in

25 particular, that it was prescored punch card ballots, but

1 there may have been butterfly ballots, too. There may
2 have been a number of things. And for some reason, I
3 think it was referenced in the joint letter -- let me
4 call it Cal VEC and California Council of the Blind and
5 Disability Rights of California and League of Women
6 Voters. Let me refer to that as a joint letter.

7 I think there was a reference to the ACLU Common
8 Cause lawsuit, the one in California, Bill Jones. So
9 there may be some stuff I can glean from there. So I may
10 ask Kathay if I can get a link to something or I'm sure I
11 can Internet or Google it to find a reference to it.

12 MS. FENG: I was actually trying to think of -- on my
13 list, I put -- to try to give you some language.

14 MR. REYNOLDS: Okay. So on paper balloting
15 deficiencies, including more language there which gets
16 back to a comment on the Overview Section about a better
17 promise of DREs, you have to talk about the paper
18 balloting deficiencies and also it ties into the reason
19 for HAVA.

20 So other than what I've mentioned and what
21 Kathay is going to provide, is there anybody who wants to
22 refer me to anything in particular on this point?
23 Okay. Hearing --
24 MS. JOHNSON: This is Margaret. I'll see if I can
25 find anything also.

1 MR. REYNOLDS: Okay.

2 MS. KAUFMAN: What about Ardis?

3 MS. JOHNSON: Is Ardis back?

4 MS. BAZYN: Yeah. No. I'm sure what is listed in
5 the letter is probably sufficient, 'cause obviously
6 there's a lot of accessibility reasons.

7 MS. FENG: I don't want to send you on too much of a
8 wild goose chase, but there was a hearing that Congress
9 had and it was held in L.A. City Hall -- and I want to
10 say that maybe it was Congressional Member Diane Watson,
11 but I can't remember exactly -- following -- it was right
12 around that period of 2000- -- oh, gosh. I can't
13 remember, but basically a lot of groups provided
14 testimony and they had a nice little report that came out
15 of talking about the things that they were going to try
16 to address, and that I think is then directly reflected
17 to the goals behind HAVA, like what they were responding
18 to had a lot to do with people feeling like there were a
19 lot of questions about ease of use of ballots and things

20 like that and long lines and pieces like that.

21 MR. REYNOLDS: Do you think that was in 2003, early,

22 late, mid?

23 MS. FENG: I'm just trying -- I know that -- I know

24 that Dan Tokaji and Jim Knox went and presented about

25 this Common Cause ACLU lawsuit at that hearing, so when

1 was the -- when was that settlement?

2 MR. REYNOLDS: Summer of 2004. I think it was August
3 or thereabouts.

4 MS. FENG: So I'm thinking it's kind of like that.
5 Honestly, I can't remember. It's a bit fuzzy in my head.
6 I remember there was a lot of good testimony from a
7 pretty varied group of individuals about the individual
8 problems about balloting.

9 MR. REYNOLDS: About the time of joint ACLU lawsuit
10 settlement.

11 Okay. Adding language describing the efforts to
12 make -- this is more of a what has California Secretary
13 of State's office done about making voting more user
14 friendly, reducing voter confusion, promoting
15 accessibility, particularly for voters with disabilities
16 and alternative language needs. And I guess that's
17 incumbent upon us to try to scare up an apt description
18 of what's been done there. So I'm just kind of taking
19 that on, but if there's anybody who is aware of anything

20 that has been done in particular, let me know.

21 MS. FENG: What was his name? There was an
22 individual during Shelley and then McPherson's time who
23 was in charge of voter outreach, and, you guys, just --

24 MS. KAUFMAN: John Mott Smith.

25 MS. FENG: And he did a lot with regards to creating

1 materials that were accessible.

2 MR. REYNOLDS: Okay.

3 MS. FENG: I think we should talk about the
4 committees that were created during Shelley's time that
5 kind of rolled over into McPherson's time where they were
6 addressing voters with specific needs, issues --

7 MS. MAC DONALD: Kathay, you know who he was working
8 with was Maria Midlin.

9 MS. FENG: Okay.

10 MS. MAC DONALD: The person John was working with,
11 her name is -- it's Maria Midlin. She's out of Davis and
12 she does like accessibility things, like easy reading
13 kind of organizational stuff. She's quite good. We met
14 with her.

15 MS. FENG: I would add to that that the SOS was
16 coordinating with Easy Voter Guide to help distribute --
17 approve language and distribute it. Under John Mott
18 Smith, they created these little cassette tapes. They
19 had a lot of little things that they were doing that came

20 out of the Secretary of State's office, so if you could

21 dig up --

22 MR. REYNOLDS: And we coordinated -- under the Bowen

23 administration, there was coordination with and support

24 for the Easy Voter Guide and for the --

25 MS. KAUFMAN: Smart Voter.

1 MR. REYNOLDS: -- Smart Voter web page.

2 MR. ESCOBEDO: And I think that's even -- if you did
3 dig all that up to compound that into some sort of best
4 practices around these specific issues, in particular
5 different things that counties do.

6 MR. REYNOLDS: Okay.

7 MS. HUFFMAN: They also did a lot of outreach through
8 CBOs.

9 MR. REYNOLDS: Okay. A better explanation of the use
10 of Voting Systems Panel for voting system approval and
11 disapproval, and I think the reference there is actually
12 to the draft State Plan, or perhaps it's not.

13 The Voting Systems Panel is not something that
14 is required. The Secretary of State is responsible for
15 testing and approving or disapproving voting systems and
16 there was -- the Voting Systems Panel was created under
17 Bill Jones and continued under Kevin Shelley, but it was
18 discontinued and an Office of Voting System Assessment
19 was created under the McPherson administration and that's

20 kind of the current practice.

21 There is a public hearing that is conducted and
22 staff from the Secretary of State's office sits on -- in
23 a panel-type arrangement and is able to ask questions
24 both of presenters and of others who provide testimony or
25 independently, but that's kind of the approach. And so

1 is there a desire to explain the change in practice, if
2 you will?

3 MS. FENG: Yeah. I think that was the idea. What
4 you just said was what we were looking for. Was there an
5 evolution of thought by the time it got to Bowen that it
6 made sense to have this process be housed in an office of
7 staff members, as opposed to a task force that had
8 outside individuals?

9 MR. REYNOLDS: I think part of the -- and I think the
10 change -- and I don't want to speak out of turn and I'll
11 have to talk to some other people about this to make sure
12 I get it right, but I think what happened, under Bill
13 Jones, there was a person who was generally designated as
14 the voting systems person and then there's help from
15 outside consultants, and the Elections Code provides for
16 hiring outside consultants.

17 And then there's -- Freeman, Kraft, McGregor is
18 a firm that's been used by a lot of different people,
19 including the EAC and others, on voting system testing

20 and approval, and that was the office. It wasn't -- it
21 was within the Election Division. The person was housed
22 within the Election Division.

23 So then that group, if you will, would do a
24 testing and approval process. There was, I think, as a
25 part of that, kind of an open house feature to it; and

1 then from there, there would be the public hearing which
2 is required by the Elections Code, and that staff person
3 would present -- Freeman, Kraft, McGregor would be there
4 and so on and so forth, and I think there was a
5 recognition after -- and that practice seemed to continue
6 under Kevin Shelley.

7 There may have been more emphasis -- I don't
8 know how to characterize it -- more emphasis placed on
9 the activities or the hearing of the Voting System
10 Procedures Panel, but that group was never the authority
11 for making decisions, if you will. It's always to make
12 recommendations to the Secretary about approval in a
13 particular, I guess you could say, use procedures that go
14 along with every voting system that gets approved. You
15 have to have use procedures.

16 There was a recognition under McPherson, I
17 believe, that it was really the nature of the systems
18 that were being approved -- had changed, and it had
19 already changed, but now there were much more resources

20 that needed to be brought to bear, and different kinds of
21 resources.

22 So a person with more technical expertise and
23 staff with technical expertise, to the extent that it
24 exists, maybe not on voting systems particularly but on
25 computers and on technology generally, were brought in to

1 assist, and still, reliance on the outside consultants,
2 Freeman, Kraft, McGregor.

3 Under Bowman, it became even more in depth in
4 terms of the approach, and the top-to-bottom review was
5 the first step toward that. So now there is this office
6 that includes Lowell Finley, who is the Deputy Secretary
7 of State for voting systems technology, and a couple of
8 staff people, a couple three staff people, and the
9 assistance of a number of consultants, not just Freeman,
10 Kraft, McGregor, but they've relied on people like David
11 Wagner from U.C. Berkeley. They depended on -- for the
12 top-to-bottom review, in particular, a gentleman whose
13 name is escaping me right now who headed up the effort
14 out of U.C. Davis.

15 MS. O'DONOGHUE: Matt Bishop? David Wagner?

16 MR. REYNOLDS: Matt Bishop is the name I'm looking
17 for.

18 So there has been a widening of reliance on
19 different people. I think from the top-to-bottom review,

20 they also called upon people from as far away as

21 Princeton and the University of -- I want to say --

22 MS. O'DONOGHUE: Ohio?

23 MR. REYNOLDS: -- Chicago, but somebody from

24 Illinois.

25 Anyway, the point is there's been a broadening

1 of reliance on and there's been a difference in the
2 approach to the testing and approval process in that
3 there is a look at the source code. Since the source
4 code is the genesis of what makes the system run, you're
5 checking to make sure that it's doing the functions it's
6 supposed to and you're looking at security issues through
7 the so-called red team testing and that's been a practice
8 that's continued. And because of the nature of the
9 software, the proprietary nature of the software and the
10 trade secrets that are asserted, there is a need to keep
11 a close rein -- that's not the word I'm looking for, but
12 to control the environment under which you're doing this
13 testing, because everyone who has access to the source
14 code to do the testing and to look at the results has got
15 to sign nondisclosure agreements and so on and so on.
16 So that has led to a much more -- a closed environment.

17 I don't know that the environment was ever that
18 wide open when it came down to the actual testing and
19 approval at the staff level, but I'm just saying there's

20 much more attention paid to the security issues around
21 the testing process, the hands-on testing process.

22 So there's still a public hearing that's held
23 and the Voting Systems Panel is not of the same -- it
24 doesn't have the same emphasis. It doesn't really exist
25 as it did under Bill Jones and then Kevin Shelley.

1 So that's a more full description of what I
2 think we're dealing with. I hope it answered your
3 question. I can't even remember what your question was
4 now.

5 MS. FENG: It's -- you just gave the explanation of
6 what happened to the Voting Systems Panel --

7 MR. REYNOLDS: Okay.

8 MS. FENG: -- and I think some of us are looking for
9 that -- I think a lot of us had the question about what
10 happened to the Voting Systems Panel because that was at
11 one time a focal point for a lot of input from the
12 outside about the voting systems feasibility; and so it's
13 never been the case that the public has been involved in
14 the actual testing, but it has been the case that -- at
15 one time anyway -- it seemed like there was a much more
16 participatory process where people would come in and say,
17 We are voters or We are organizations that have had
18 extensive experience in voting on or providing services
19 using this voting system and here's what we think about

20 it.

21 And there used to also be -- at least we'd work
22 out with the jurisdiction or the State to have -- before
23 a vendor was up for that voting panel hearing, they would
24 do a show-and-tell and people could kind of come and kick
25 it around, and then the comments they provided to the

1 Voting Systems Panel would be incorporated. And
2 sometimes that was a matter of something maybe before the
3 testing had even happened, but now the staff could be
4 aware to look for this thing, whatever it was. So it
5 could be the ease of which a ballot, you know, could slip
6 into the marking device and how easily is it aligned
7 correctly or whatever, so things that they may or may not
8 have thought of but in the field people had talked about.

9 There is a sense that that level of public input
10 is not so much existent anymore and it may be that in
11 describing the history of how this has evolved, you know,
12 it's helpful to talk about why it's gotten to where it
13 is.

14 MR. REYNOLDS: The other thing that I would like to
15 mention, too, is that for the portion of the testing
16 approval process, again, something that no other
17 Secretary had done other than this one, the usability
18 portion is most thoroughly covered, and I think in a way
19 it wasn't covered previously through the accessibility

20 portion. And this is a place where they do bring in -- I

21 don't know if they call them volunteers. Kathay?

22 MS. FENG: Yes.

23 MR. REYNOLDS: So they bring in volunteers who have a

24 range of disabilities and they ask them to participate in

25 the actual testing procedures that they're doing.

1 This is not so -- it's not so necessary in this
2 portion of the test procedures to worry about proprietary
3 information and so on and so forth. So this is a more
4 hands-on, practical usability user interface, however you
5 want to describe it, portion of the test that probably
6 should be described under the State Plan.

7 And in addition, there was that open house that
8 I talked about before. And I've talked with people about
9 the possibility of including some of the open house
10 element to it. Whether it gets in on the front end or
11 not, I'll have to talk to people about.

12 And Kaye was just reminding me about the volume
13 testing that's done, and I believe there was some public
14 observation of the volume testing that was done.

15 So let me make some notes to myself: Open
16 house, volume testing, user.

17 MS. O'DONOGHUE: This is Debbie. There's an
18 opportunity, once the consultants or the work is done,
19 for the public to review the reports that the consultants

20 have done and then go and make public comment either at
21 the hearing or submit it prior to the hearing or even,
22 you know, a certain number of days after the hearing.

23 MS. FENG: Again, I know we're not supposed to get
24 into the policy. I'll describe to you here's what the
25 concern was. And maybe the best analogy is when you

1 bring your car into the shop and you know that there is
2 like a pinging sound, but it only happens when it's cold
3 outside and just have after you've been letting it sit
4 for a while and da, da, da, da.

5 So in testing conditions, I know that there's
6 volume as well as bringing in users, but it's -- it may
7 be the case that something that is a commonly encountered
8 problem in the field when you're deploying 25,000 things
9 or 5,000 things and using them regularly over and over
10 again during the course of one day is something that
11 people know exist and you can get feedback from, but it
12 may not appear during the test conditions for whatever
13 reason.

14 So that's just where I think there was this
15 feeling that the open hearings that the Voting Systems
16 Panel used to have was an opportunity to bring those
17 types of concerns up.

18 MR. REYNOLDS: And there is a part -- as part of the
19 use procedures -- and, Becky, you can -- or, Efrain,

20 maybe you can correct me if I get this wrong because it's
21 kind of narrow, more narrow than just, you know, "There's
22 a pinging noise in a car" or "I couldn't feed the ballot
23 in right." It has more to do with whether there is a
24 malfunction in the system. And those, according to Use
25 Procedures, are supposed to be reported back to the

1 Secretary of State so that the Secretary of State is made
2 aware if something in the field is going wrong on
3 Election Day.

4 There's also a requirement under the Use
5 Procedures that there be user groups, and I think this is
6 a continuation of past practices of other Secretaries,
7 but it was decided it was a good idea to have user
8 groups, consisting of the counties and the vendors, meet
9 at least I think it's annually and say, Here's what's
10 going on and let's talk about it. Maybe that should be
11 mentioned as well.

12 MS. FENG: So on the user-group front, I'm sorry to
13 belabor this, but I do think it's useful to have users
14 that include either poll workers or people who serve
15 voters, because the problems in the field don't always
16 get back to County Headquarters and -- and also, I don't
17 want to cast aspersions, but I think sometimes counties,
18 they're invested in the systems that they have, so you
19 kind of make it work, you know, and it's a very different

20 conversation than, say, somebody who comes to the table
21 caring about the voter access but not necessarily
22 invested in the system that we're currently using, or any
23 system, of being able to write honest assessment of how
24 it's working in the field.

25 So maybe the user groups could be expanded or --

1 to include -- I'm not saying the whole world but maybe
2 just more than just counties and vendors.

3 MR. REYNOLDS: Okay. The next item, there was a
4 desire to have a better explanation of voter education
5 materials. Now, I've added "to meet overvote
6 protections" because the comment was made in reference to
7 what was in the 2003 State Plan, and in the 2003 State
8 Plan at the very bottom of page 10, it says, "Develop and
9 distribute voter education materials as appropriate to
10 meet the requirements of 301(A)(1)(B)," large B, "of
11 HAVA."

12 That particular section and that reference is to
13 the fact that you can meet overvote protection standards
14 for a voting system through a voter education program.
15 Okay. So I will, I guess, need to get a better sense
16 from the counties what they're doing. I mean, I've seen
17 this, but I haven't tried to compile any information in a
18 systematic way, but I know the counties, because they're
19 relying more on optical scan systems now, but also

20 because they've always had to, because of vote-by-mail
21 balloting, to provide some kind of voter education to
22 people about how to appropriately mark your ballot and
23 what to do if you make an error, how to correct an error
24 on your ballot, and that's what this is about. They
25 provide illustrations many times in the sample ballot and

1 there are separate mailings that go inside by
2 vote-by-mail ballots and so on and so forth.

3 MS. MARTINEZ: And posting. They do post.

4 MR. REYNOLDS: So I'll be talking to Becky, and
5 whoever else she tells me to, to try to get a better
6 sense at the counties how to describe this in a
7 systematic way: Every county provides X, Y, and Z and
8 they all do this or something like that.

9 MS. ACTON: Chris, this is Ana.

10 MR. REYNOLDS: Yeah.

11 MS. ACTON: I think there was discussion also on just
12 general information on voter education materials around
13 how to use voting systems, around voting rights, and
14 ensuring that people with disabilities have access to
15 that voter education materials.

16 MR. REYNOLDS: Yes, and that's kind of in a different
17 place.

18 MS. ACTON: Okay.

19 MR. REYNOLDS: I was trying to focus in on this one,

20 but I think we're going to get to that question in a bit.

21 So for the time being, I'm going to move on to

22 the one that talks about the use of Advisory Committees

23 to ensure voting system accessibility and privacy for

24 voters with disabilities. I guess I've just mentioned

25 that and I think it goes back to Bill Jones, but I'm not

1 sure, that there's been a Voting Accessibility Advisory
2 Committee in successive administrations and the one for
3 Secretary Bowen has been in place for I'm not sure how
4 long now, but that would be one of the things that would
5 be mentioned about the use of an Advisory Committee for
6 voting system accessibility and privacy.

7 We do ask the Voting Accessibility Advisory
8 Committee to entertain a lot of different things, but we
9 do ask them for assistance with respect to Voluntary
10 Voting System Guidelines and for whatever -- you know,
11 bring up whatever items they would like to discuss as
12 well.

13 MR. ESCOBEDO: And, Chris, isn't there also now --
14 and I'm not sure if it's under the new Guidelines for --
15 the new Guidelines on Disability Access for counties to
16 create committees, specific committees for voters with
17 specific needs and establish them in each county.

18 MR. REYNOLDS: Yes. And that has been a practice of
19 the Guidelines. Under Elections Code Section 12280, I

20 think it is, there's a reference to:

21 "In the siting of polling places, local
22 elections officials must consult guidelines
23 developed by the Secretary of State. Those
24 guidelines are actually developed as a
25 result of the voting accessibility for

1 elderly and," excuse me for this term,
2 "handicapped voters of 1984," something like
3 that, and the guidelines are supposed to be
4 about how to make a polling place
5 accessible."

6 One of the features that's been in past
7 guidelines from Secretary of States' offices and
8 continues to be a part of Draft guidelines that we're
9 considering putting out for further public comment very
10 soon does include a reliance on a VAAC at the local level
11 as well. So perhaps that should be mentioned as well.

12 So State and local VAACs.

13 Now we're back on this bullet of "Better
14 explanation of the consideration of disapproval" -- and
15 I'm using the term used to be "certification," but it's
16 now called "approval," so "disapproval or refusing to
17 approve voting systems that do not accommodate choice
18 voting," but we've kind of already talked about this and
19 I guess the only thing I would put in here is that this

20 Secretary of State has actually certified a system for
21 use in the City and County of San Francisco for choice
22 voting. That would be the explanation of progress.

23 MR. ESCOBEDO: Does it have full or is it still under
24 the conditional --

25 MS. KAUFMAN: It's conditional.

1 MR. REYNOLDS: I'll have to check.

2 MS. KAUFMAN: It's conditional, each election, at
3 this point.

4 MR. REYNOLDS: And they're providing administration
5 approval at this point for each election.

6 MS. KAUFMAN: At each county.

7 MR. ESCOBEDO: So Alameda has to be certified for
8 Alameda and then for San Francisco --

9 MS. KAUFMAN: Yes.

10 MS. MARTINEZ: Is that with ES & S or who is that?

11 MR. REYNOLDS: It's Sequoia, actually.

12 MS. KAUFMAN: ES & S had one, but it's now Sequoia.

13 MR. REYNOLDS: Yeah. They kept being told, You had
14 to come back, You need to come back and come back and it
15 just never panned out. So eventually, the City and
16 County of San Francisco decided they were going to move
17 to Sequoia, which opened up possibilities for Alameda,
18 which had been on Diebold and is now on Sequoia access,
19 so as the world turns. So election by election,

20 conditional approval.

21 The next one on a development of a uniform

22 definition of a vote --

23 MS. FENG: I'm sorry. So before we get off of IRV,

24 RCV, in doing the conditional approval, does Bowen now

25 have a set of standards or something that the testing is

1 now looking for? In other words, before -- before, it
2 was all theoretical. And now that she has gone through
3 the process of approving those systems, there must be now
4 some set of guidelines or measurements --

5 MR. REYNOLDS: There's test protocols that are in
6 use.

7 MS. FENG: Test protocols.

8 MR. REYNOLDS: See, in the case of the State, it
9 depends what voting system you're talking about, what
10 type of voting system you're talking about. But if
11 you're talking about a DRE, then the DRE under State law
12 has first got to be tested and certified -- I'm going to
13 use that word -- for the Federal process, by the --
14 through a Federal process, and so there's a certain --
15 those test protocols and those standards are ones that
16 the Federal government is kind of responsible for as a
17 first flesh.

18 Now, it's not that the State pays no attention
19 to that. As I said before, there are things that we've

20 discovered that were missed at the Federal level in terms
21 of the test. However, the focus really of the State
22 testing has generally been, Does it meet State
23 requirements? Can it perform the way it needs to in
24 California? And I'm grasping right now to think of a
25 particular condition. Well, you know, Does it provide

1 for provisional voting? Okay?

2 So those kinds of things are one of the things
3 that the State is particularly focused on. And in
4 addition to that, they're looking for the functionality,
5 but they're not delving into it in certain ways that
6 replicate what happens at the Federal level.

7 MS. FENG: I guess the only question I'm asking is in
8 writing this, can you put a sentence in that says that As
9 of whatever year, you know, 'cause you're going to say
10 that, you know, Bowen is now conditionally certifying IRV
11 for use in San Francisco in "election" election, you can
12 say something that as of a certain year, the Secretary of
13 State's office has developed test protocols on basically
14 what it takes for an IRV system to be approved, whatever
15 that is. So that --

16 MR. REYNOLDS: Yeah.

17 MS. FENG: Because what it was before was that there
18 was no standard only because it wasn't a reality to be
19 implemented, and now that we have something to measure it

20 by, we should say that.

21 MR. REYNOLDS: And in some respects, it's going to be

22 more of a test protocol description, as opposed to

23 perhaps a definitive standard in the sense that you want

24 to create the benchmarks or the test protocols, the

25 things that they have to get by, but you don't want to

1 describe how they have to do it. So, yeah, it will be
2 more of what you're describing.

3 MS. FENG: I don't think it needs to be that
4 specific. The words could be, "The State's developed the
5 test protocols," something that you've now got something.

6 MR. REYNOLDS: And we will probably reference them
7 back to a link, you know, look at those more closely if
8 they want to.

9 MR. ESCOBEDO: And it might not be relevant, but just
10 for -- in regards to talking about that and given that
11 this would be in the State Plan, how about would there
12 need to be any caveat that it's certified but hasn't been
13 used for like State Legislative contests, Federal
14 contests? Because it's really only used for local
15 contests in the state.

16 MR. REYNOLDS: That's the only thing it applies to.

17 MR. ESCOBEDO: Like not to generally say they're
18 using it for everything now. It's sort of being rolled
19 out and at this point doing local --

20 MR. REYNOLDS: 'Cause they can't use it for anything
21 else.

22 MR. ESCOBEDO: Well -- and because you don't want
23 people saying, Wait a minute. In the Elections Code, how
24 can you do that if there's some Legislative changes that
25 have to happen?

1 MR. REYNOLDS: Thank you. A better explanation in
2 the development of a uniform definition of a vote, there
3 is the uniform definition that has been developed and is
4 posted on our website, so I will be referencing people
5 back to that.

6 MS. FENG: I think what this was was the process by
7 which you developed that definition --

8 MR. REYNOLDS: Okay.

9 MS. FENG: -- not -- we get -- I think -- I'm sorry
10 that I don't have the draft, but -- yeah, it's just the
11 process. How did you get to the place where that
12 definition now exists?

13 MR. REYNOLDS: Okay. For your purposes or for
14 purposes of this group, as an FYI, we hired a consultant.
15 It's supposed to be a definition of a type of voting
16 system, how a vote -- what constitutes a vote for a type
17 of voting system. So you have one for optical scan, you
18 have one for a DRE, and so on and so forth, for a
19 vote-by-mail ballot.

20 A consultant was hired to do that work. They
21 provided us with an initial draft. The Office of Voter
22 System Technology Assessment reviewed it, we put it out
23 to the counties for comment, and then it was ultimately
24 adopted and posted. So that's a general description of
25 the process.

1 A list of compliance components. Okay. The
2 reference -- let's see. There should be a reference to
3 the Voting Rights Act, Section 203, and transliteration
4 of ballots and other materials for references to the
5 materials or meeting the requirement that the voting
6 system provide access to those with language needs.

7 That's I think easy enough to do except with
8 respect to transliteration of ballots, and it's got a
9 question mark under HAVA Title III requirement because
10 I'm just not sure about transliteration of ballots, and
11 the reason that I say that is because I thought that that
12 was one of the sticking points with respect to another
13 issue, which is reading back the choices of voters off of
14 the VVPAT -- that's the Voter Verified Paper Audit
15 Trail -- the receipt, if you will, that gets printed by a
16 DRE, was the difficulty in reading character-based
17 languages back to -- so that's my sticking point on this
18 one. Can anybody help me with --
19 MS. FENG: Okay. Walk us through that sticking point

20 again, so -- because the DOJ clearly requires not only
21 translation of ballot but also transliteration of ballot
22 in certain languages where transliteration makes sense.

23 MR. REYNOLDS: Right. That's the part, "makes
24 sense," and I'm not sure I understand.

25 MS. FENG: Makes sense because there are certain

1 Asian languages that use a Roman alphabet like Tagalog
2 or, to some extent, Vietnamese so that you could use that
3 same alphabet to write "John Smith" and people have an
4 easier time reading it, whereas character-based languages
5 like Japanese, Chinese, and Korean require
6 transliteration. So that's where the -- and Spanish --
7 do you transliterate in Spanish? I don't think so.

8 MR. ESCOBEDO: No.

9 MS. FENG: The only thing I can think of is where you
10 might or might not put the --

11 MS. MARTINEZ: The accent?

12 MR. ESCOBEDO: The accent?

13 MS. FENG: Does that happen? If you had a Spanish
14 last name candidate, would you put the accent?

15 MR. ESCOBEDO: No, 'cause it wouldn't change the
16 meaning or imply that it's something different. It's
17 just --

18 MS. MARTINEZ: A grammatical thing.

19 MS. FENG: So the distinction is for Roman

20 alphabet-based languages versus --

21 MR. ESCOBEDO: And statewide, I mean, I know there's

22 the Legislation that I think Assemblymember Yee is moving

23 that's actually going to give more concrete language of

24 the transliteration of names on the ballot and all those

25 kinds of things.

1 MS. FENG: So the question you have is on VVPAT.

2 MR. REYNOLDS: No. No. No. I'm just trying to
3 understand how it fits in and you're pointing out to me
4 U.S. DOJ requirements for transliteration where it makes
5 sense, meaning where you have character-based like
6 Chinese, Japanese?

7 MS. FENG: Is that right, Eugene? They pretty much
8 have come in and said, "On these languages, you have to
9 transliterate."

10 MR. ESCOBEDO: To be in compliance.

11 MS. FENG: That is within the same standard that
12 requires translation. Transliteration is just the next
13 step, but they assume it within the definition of
14 "transliteration."

15 MR. REYNOLDS: And that should be noted.

16 Describe the standards for vote-by-mail for
17 usability, accessibility, and security while maintaining
18 a commitment to in-person voting.

19 Okay. I guess around this issue -- and this is

- 20 one where I'd like a little fleshing out, if I could.
- 21 Maybe I've captured it wrong here, but the standards for
- 22 a vote-by-mail ballot would be the same as for an
- 23 optical-scan ballot in terms of usability/accessibility.
- 24 I'm not sure exactly what to do with this comment.
- 25 MS. JOHNSON: Hi. This is Margaret. I think part of

1 the issue with vote-by-mail is that it's not accessible
2 to all people with disabilities and I don't know, based
3 on your summary here, if that was part of what was trying
4 to be gotten at, but vote-by-mail isn't accessible for
5 people who can't see the ballot and people that might
6 have manual dexterity disabilities.

7 MS. FENG: I remember this. Margaret --

8 MS. BAZYN: This is Ardis. There's also an issue
9 with, you know, transportation and having availability of
10 accessibility. I mean, you know, transportation is
11 another big issue. So I think there's a lot of different
12 components.

13 MS. JOHNSON: Yeah. So if you're going to do
14 vote-by-mail and you're going to have vote centers
15 throughout the county, depending on where those are,
16 people that need to go to those vote centers to vote
17 because that's the only place where they can get the
18 accessible ballots, as Ardis is saying, there may be
19 transportation issues to get there for the people that

20 need to get there to use accessible ballots, and I think
21 some states have dealt with that by having mobile vote
22 centers that go to where the voters are or move around
23 the county or whatever. I thought either Riverside or
24 San Bernardino or Orange, one of those counties --
25 MS. FENG: Riverside or San Bernardino.

1 MS. JOHNSON: -- had a mobile vote thing --

2 MS. FENG: San Bernardino.

3 MS. JOHNSON: -- primarily for educational purposes,
4 but I think they could also use it to take the voting
5 systems to closer to where people are.

6 MR. REYNOLDS: Okay.

7 MS. JOHNSON: As Ardis says, there are a number of
8 issues related to this. We worked heavily on a piece of
9 legislation a couple of years ago that was trying to move
10 to a statewide vote-by-mail system, and I could maybe dig
11 up some of our letters around that which would have
12 identified numbers of issues that come up for voters with
13 disabilities when you're trying to move to vote-by-mail.

14 MR. REYNOLDS: That would be helpful for me to
15 understand the issue. Again, this is one of those ones
16 where it may not be HAVA, per se.

17 MS. FENG: Where does it come up in the Plan? 'Cause
18 I guess I thought --

19 MR. REYNOLDS: I don't know.

20 MS. FENG: I thought -- Margaret, I don't know that

21 we necessarily have to go so deep into this. I thought

22 where this came up was more that --

23 MS. JOHNSON: We can go deep into your stuff, but not

24 mine? Excuse me, Kathay.

25 MS. FENG: No. Margaret, I'm just saying that it's

1 not --

2 MS. JOHNSON: I'm sorry. I just had to say that.

3 MS. FENG: No. I'm not saying that. I'm saying that
4 it's not in the Plan language, but I thought how we
5 brought it up was that we were asking for some additional
6 language like the part that says "maintaining a
7 commitment to in-person voting wherever voting" --
8 "vote-by-mail showed up," but it wasn't like -- it's not
9 a whole section that's dedicated to talking about
10 vote-by-mail. It's just that if you were to do a search
11 for those words, just to make sure that we're talking
12 about it as not a universal system.

13 But the other thing I thought we had brought
14 this up about -- and, Chris, you'll have to look back at
15 our combined letter -- is that when there's testing done
16 of all sorts of voting systems, is there also testing
17 of --

18 MR. REYNOLDS: The vote-by-mail component?

19 MS. FENG: Uh-huh.

20 MR. REYNOLDS: Well, to the extent that a system gets
21 its paper ballot tested, but, yeah, because -- okay.

22 MS. FENG: So that was where it -- how it came up was
23 exactly that, that you have a top-to-bottom review of
24 voting systems; but a lot of times, you're kind of
25 assuming that that's in a polling place setting. What

1 happens when a voter has to deal with that ballot at home
2 without any assistance? And is it then any more or less
3 accessible or difficult to use or what -- all -- or is it
4 harder?

5 I would certainly say that in L.A., the InkaVote
6 system, when it's used in a vote-by-mail concept, is
7 probably harder for voters in the sense that they don't
8 have the alignment device to kind of help divide them and
9 they're also trying to go back and forth between -- if
10 they're using languages, they've got to go by a sample
11 ballot and then match it up with the bullets that they're
12 filling in. On the other hand, maybe they have help at
13 home.

14 So just I think the issue was when we evaluate
15 systems, that similarly we should be evaluating the
16 vote-by-mail systems and not just as paper ballots but in
17 the context of somebody voting at home and not having the
18 kind of assistance that they would have at a poll site
19 location.

20 MR. REYNOLDS: Yeah.

21 MS. JOHNSON: This is Margaret. I think -- Chris, I
22 think that, you know, part of my comments go to the fact
23 that I think that when you talk about vote-by-mail,
24 people don't really understand why there wouldn't need to
25 be any looking at that system. They don't really get the

1 access issues. A lot of people think that's just easier
2 for people with disabilities that vote at home. So I
3 think part of when you're -- if we're talking about that,
4 we need to look at standards as related to any system,
5 whether that's at home or not. Then, you know,
6 identifying why that might be the case is important, I
7 think, although I believe that HAVA deals more with DREs
8 than paper ballots. But I think that since they are --
9 since HAVA is really looking at making sure that voting
10 is accessible for people with disabilities, I just want
11 to make sure the assumption isn't that vote-by-mail is
12 accessible for people with disabilities, because it isn't
13 for many people.

14 MR. REYNOLDS: Okay. And --

15 MS. BAZYN: This is Ardis. I just wanted -- it could
16 also go under the line where it says, "The SOS should
17 develop a new definition of accessibility," because
18 obviously it could come under there, too.

19 MR. REYNOLDS: And I'm just going to make a couple of

20 general comments in that, yeah, there's no question and
21 it's pretty self-evident, although it's -- I guess the
22 point is that it's worth pointing out you don't have
23 accessibility with respect to vote-by-mail and there's no
24 expectation in HAVA that you somehow could enhance. But
25 on the other hand, as Kathay is saying, if there are

1 things about a vote-by-mail that make it harder to use at
2 home, but I'm not sure that the polling place system --
3 if L.A. County has based its current system on its old
4 system, there was always the reliance on a sample ballot
5 in conjunction with the ballot. It's always been that
6 way.

7 MR. ESCOBEDO: That's actually how you execute
8 vote-by-mail. You get a sample ballot and you use your
9 sample ballot; or if you're a permanent vote-by-mail
10 voter, since you get it so early, you have a special
11 Voter Guide and it just tells you to match up, to look
12 for like number 53 and you fill in vote position number
13 53, and it gives you -- that's actually how you execute
14 it.

15 At the polling place, if you are going to do it
16 in another language, you do need that sample ballot,
17 because the vote recorder pages that you use to navigate
18 the pages are in English.

19 MR. REYNOLDS: Okay.

20 MS. FENG: So if -- currently, when testing voting
21 systems, you are not evaluating the vote-by-mail system
22 or are you?

23 MR. REYNOLDS: You are from this sense. I'm not
24 smart enough about it yet, but I'll go back and ask, but
25 you're testing it from at least this perspective: The

1 actual function of filling in the ballot and having the
2 ballot results tabulated are the same, in that the voter
3 is going to take that optical-scan ballot and fill it out
4 and they're going to mail it in and it's going to run
5 through a ballot reader in the same way. The process is
6 the same.

7 If you're at a polling -- well, I guess if you
8 have a precinct-based reader, it would be slightly
9 different, but that's an added feature for the voter to
10 try to catch an error.

11 So there's at least one difference that, you're
12 right, you would include that voter education component,
13 for overvote protection, at least, in your materials that
14 you give and you would probably also, if there are
15 certain ways that you need to educate the voter about how
16 to fill out that ballot that you can't do because you're
17 not there as a poll worker or you don't have any postings
18 or whatever, that you would include that either in the
19 sample ballot or as a sample mailing or whatever.

20 MS. FENG: So, Margaret, where does this fit? I
21 can't remember. I remember we talked about it and I
22 wasn't sure, was it -- were we saying that it was fitting
23 it into creating standards for it or during top-to-bottom
24 review or during approval processes that it should be
25 included?

1 MS. ACTON: This is Ana. Can I just comment on this?

2 I think, well, there's been talk anyways about the idea

3 of vote-by-mail initiatives within the state where

4 basically the whole state would be vote-by-mail.

5 MR. REYNOLDS: Okay.

6 MS. ACTON: And I know, because there's been

7 specifics about turnout and absentee voters and how many

8 people are voting by mail, and I recall putting together

9 comments I think with Kathay and Margaret around the

10 whole vote-by-mail accessibility issues that I think we

11 have real concerns about regarding accessibility and how

12 that would be done in our state --

13 MR. REYNOLDS: Okay.

14 MS. ACTON: -- and I'm not -- I'm not directly

15 connecting it to the State Plan, although I wasn't there

16 for the 2003 discussion, but I think just in general if

17 there's any movement around that, there needs -- I mean,

18 there's a lot of concerns around accessibility.

19 MR. REYNOLDS: Okay.

20 MS. O'DONOGHUE: And this is Debbie, Ana. Was
21 this -- was this a bill that was in 2006 that it was the
22 Voting Accessibility Advisory Committee that we asked for
23 input on? Does that ring any bells?
24 MS. ACTON: Yeah, that does ring a bell.
25 MS. JOHNSON: Also -- this is Margaret -- there was a

1 bill. I think it was in '06. I think the guy who did it
2 was the guy from Marin County. I can't remember if he
3 was an Assemblymember or in the Senate or --

4 MS. GOLD: Huffman?

5 MS. JOHNSON: Yeah. Right. Huffman had a bill to do
6 more kind of statewide vote-by-mail and that, you know,
7 kind of brought us all out with concerns around the
8 entire state going that way.

9 I believe Oregon is a vote-by-mail state, so
10 they were just trying to do what another state was doing,
11 potentially successfully, although I believe there, you
12 know, are access issues in that state and there are
13 things that they've been doing to overcome that, you
14 know, like some of the things that I've described.

15 I think in the context of the State Plan, I
16 don't really remember where it came up without looking
17 back at our letters, and I don't have that, but I think
18 that Ardis said it kind of went to how we're defining
19 "accessibility."

20 And I also think that Kathay's point about if we
21 are evaluating or approving voting systems and stuff,
22 that, you know, when vote-by-mail comes up that it might
23 make some sense to evaluate whether that's accessible to
24 people with disabilities and if there are problems with
25 the access, thinking of ways to try and fix that.

1 MR. REYNOLDS: And here's the comment from the
2 letter:

3 "At the same time that standards for
4 usability, accessibility, and security of
5 vote should be laid out for vote-by-mail
6 ballots, the Secretary of State should
7 maintain a commitment to accessible
8 in-person voting options."

9 So I think it was, Okay, if you talk about
10 vote-by-mail at all, make sure you maintain a commitment
11 to in-person voting, but there may be some other issues
12 that could be worked in here. I don't know. I'll have
13 to take all this under advisement and we'll see where we
14 go.

15 MS. JOHNSON: Chris, I will look for the letter that
16 we wrote, if there were any, on the concerns we had with
17 that Huffman bill, because I think that will kind of lay
18 out like, you know, more than just the fact that people
19 who can't see the paper or manipulate the paper have

20 problems. There are other problems that surround the
21 whole vote-by-mail thing.

22 So I'll look for that and send that to you, and,
23 you know, you can include what you want, but it's just a
24 way to make you see the breadth of kind of the problem
25 for people with disabilities.

1 MR. REYNOLDS: Now, the next item is to require that
2 provisional voting be accessible. This one somebody
3 needs to help me with because provisional voting is
4 accessibility. All voting systems that are approved for
5 use are approved as a system as a whole. Each one of
6 those systems includes the accessibility component of the
7 DRE or the -- a voter-assistive device. Every one of
8 those voting assistive devices or DREs must be able to be
9 provide for a provisional ballot option for the voter or
10 they will not be approved, and they all include it.

11 MS. KAUFMAN: Wasn't this something that was
12 discussed at one of the VAAC meetings where the concern
13 was that if you could not get to your home polling place
14 because it was not accessible and so you went to vote
15 provisionally in another polling location that was
16 accessible, you may not get your exact precinct ballot?

17 MR. REYNOLDS: I don't know.

18 MS. KAUFMAN: Is that the concern?

19 Margaret, do you remember that discussion?

20 MS. BAZYN: Well, I know that was brought up in the
21 decision we had in L.A., but I don't remember SOS, if we
22 had that same decision.

23 MS. JOHNSON: Can you say that again?

24 MS. KAUFMAN: The concern about the provisional
25 voting not necessarily being totally accessible was that

1 if a person was in polling place Precinct A and the only
2 polling place available for Precinct A was not accessible
3 so they were told to go over and use Precinct B's polling
4 place, but the ballot available in Precinct B did not
5 have the same races as in precinct A --

6 MR. REYNOLDS: But, Kaye, if a voter is told under
7 the Elections Code that they should use Polling Place B
8 because the Polling Place A is not accessible, then their
9 ballot for Precinct A needs to be at the Polling Place B.
10 That's the way the process is supposed to work.

11 MS. KAUFMAN: Right, but I'm just voicing the concern
12 that I heard in this one conversation, which was just
13 fairly recently, and I was thinking for some reason it
14 happened at the VAAC.

15 MR. REYNOLDS: I think it did happen at the VAAC.

16 MS. JOHNSON: This is Margaret. The only issue with
17 provisional ballots was that for a long time, the only
18 way you could vote provisionally was on a paper ballot.
19 Now, it's my understanding that the DREs do accept

20 provisional ballots so if you are a person with a
21 disability and you come in for some reason and you have
22 to vote provisionally, you can vote on the DRE. You
23 don't have to vote with paper.

24 So the issue that Kaye's talking about, I don't
25 remember that discussion and I don't -- you know,

1 assuming that if you're sent somewhere else and told that
2 you have to go to this other place that's accessible, I
3 would assume that if you're going to go there that the
4 right ballot would be waiting there for you. But if it's
5 not, then that is an issue.

6 And then secondarily, if you're voting
7 provisionally and the ballot that you're being told to
8 vote provisionally on is paper, then that's an access
9 issue.

10 But like I said, I thought in one of our VAAC
11 meetings that was clarified that you can vote
12 provisionally on the DREs.

13 MS. KAUFMAN: Right.

14 MS. BAZYN: I know what incident Kaye is referring
15 to. It happened last year. We went to vote at a polling
16 place and their machine was not working, so they were
17 told if they wanted to vote successfully, they had to go
18 to a different precinct; but there was a concern
19 expressed that depending on exactly where the precinct

20 was that it might not have all the same elements.

21 MR. REYNOLDS: Right. Okay. And that's --

22 MS. BAZYN: That was the concern that was expressed.

23 I had asked if there could be a possible way where you

24 could -- a person with a disability could be given

25 number one to three places that they could go and get

1 their ballot and they said that they didn't think that it
2 would be possible.

3 MS. FENG: That's not uncommon, because during the
4 2008 elections, we got lots of calls of people saying at
5 their particular precinct the audio wasn't working or
6 this or that wasn't working, and so if that one
7 accessible machine -- accessibility machine isn't
8 working, then their only other option is to vote at
9 another precinct or on a nonaccessible ballot.

10 But I guess my question is, After you've voted
11 on a DRE provisionally, so under -- in other
12 circumstances, you're putting that ballot into an
13 envelope. What happens with the DRE? Is there --
14 there's a --

15 MR. REYNOLDS: I'll have to defer to an elections
16 official who can help me out here because I have never
17 voted provisionally on a DRE, but I imagine you have to
18 include all that same information, what's your name,
19 what's your address, so on and so forth.

20 MS. FENG: It's in the DRE. It's -- is it in the

21 DRE, like that information then you're adding?

22 MR. LEE: No. You fill it out on the outside.

23 MS. MARTINEZ: It's on the envelope.

24 MS. FENG: The reason why I ask that is because then

25 maybe -- the question is if you're still filling out an

1 envelope, the envelope is paper; right?

2 MR. LEE: Yes.

3 MS. FENG: It's not a digital envelope and you're
4 still having to fill that out and still having to sign
5 it?

6 MR. LEE: Correct.

7 MS. FENG: Is that what the issue is, Margaret and
8 Ana?

9 MR. ESCOBEDO: But I don't see how that would
10 infringe on the -- I mean, you have the assistants there
11 and you're not divulging your vote. You're just saying,
12 This is the name, This is the information. The election
13 official needs to use it.

14 MS. JOHNSON: This is Margaret. So you're asking if
15 once you've done the provisional ballot and then it has
16 to go into a provisional envelope, if that's the issue?
17 No. I think the issue was that at least previously you
18 had to vote -- at least here in Sacramento, you had to
19 vote on a paper ballot if you wanted to vote

20 provisionally. You couldn't use a DRE to do it. But I
21 think the last time this was raised at the VAAC, Chris or
22 somebody clarified that that isn't the case anymore, that
23 you can do a provisional ballot on the DRE.
24 And I agree with whoever that last speaker was
25 that once you've done the vote and you've got it in your

1 secrecy sleeve and you take it to a poll worker, who's
2 then going to put it in your envelope and show you where
3 to sign, that that probably is not something that we will
4 be overly concerned about unless others on the phone
5 think that's a big issue.

6 MR. LEE: This is Eugene Lee. I think for me this is
7 where provisional balloting does have concerns with
8 access, and that's specifically with the envelope.

9 I don't know of any county that provides actual
10 translated copies of envelopes that the voters can fill
11 out. I think counties provide a lot of reference copies
12 but not actual translated versions that a voter can fill
13 out and the -- that's an issue for many voters with
14 needs, and the problem is often exacerbated by the fact
15 that polling places don't have enough poll workers on
16 Election Days for someone to sit with a voter and assist
17 them in filling out the provisional ballot envelope.

18 So in a busy election like in the November '08
19 election, for example, there's not going to be a poll

20 worker who can just sit down and help the voter fill out

21 an envelope.

22 So that's where I see a lot of the access issues

23 in provisional balloting.

24 MR. REYNOLDS: Okay. So I'm going to write the word

25 "language" on my cheat sheet. And the issue, again, is

1 there's a reference copy provided but not a translated
2 ballot and it becomes difficult for the voter to fill it
3 out; and if they don't fill it out properly, the ballot
4 might not be counted; and during a busy election, there's
5 often not a person available to --

6 MS. MARTINEZ: You're talking about the envelope,
7 right, not the ballot --

8 MR. REYNOLDS: Not the ballot. Right.

9 MS. MARTINEZ: -- because ours are translated.

10 MS. FENG: Your ballots are.

11 MS. MARTINEZ: My envelopes are translated. It's
12 English-Spanish, but I've only got the two.

13 MS. FENG: Maybe that's part of it, is the -- any
14 jurisdiction that only has two languages probably can do
15 it.

16 MS. MARTINEZ: Right. It's when you have more.

17 MS. FENG: It's a jurisdiction that has three or
18 four.

19 MR. ESCOBEDO: Or six.

20 MR. LEE: This is Eugene Lee again. This may not be
21 a Section one of the Plan issue here. It may be Section
22 three, poll worker training, but some of the issues in
23 provisional balloting in addition to the envelope itself
24 are around the training. So it's basically a situation
25 where properly registered voters are actually being

1 forced to cast provisional ballots unnecessarily because
2 the roster clerk doesn't check the supplemental roster,
3 for example.

4 MR. REYNOLDS: Right. And I think that's on here;
5 but if not, we'll get back to that when we get to the
6 poll worker training. It's under Section three, I think.

7 MR. LEE: Yeah.

8 MR. REYNOLDS: Let me -- the provisional voting
9 activities in the 2009 Plan fall short of the scope of
10 components in the 2003 Plan, see pages 11 and 12.

11 Now, when I read 11 and 12 of the 2003 Plan, the
12 part that says "provisional votes," it just describes
13 what the Federal law is. So I didn't really see that we
14 had missed the scope on that. I mean, that's just saying
15 what the law is and what the process is supposed to be.
16 In the other piece, there was talk about doing some
17 things to the law and everything seemed to be
18 accommodated for under the revised Section 14310 of the
19 Elections Code, for instance, counting as many of the

20 races as possible -- well, we're not considering
21 sponsoring legislation to change the name of provisional
22 ballots to a less pejorative term, but the rest of it
23 seemed to be covered.

24 Was there something in there that I missed that
25 I should be aware of? Does anybody know or do you want

1 to reflect on that one and get back to me?

2 MS. FENG: Do you describe all the activities in the
3 2009 Draft Plan?

4 MR. REYNOLDS: In what sense do you mean?

5 MS. FENG: So -- again, I'm sorry. So Debbie has
6 generously shared our own letter with us, but I'm not
7 looking at your Draft Plan.

8 MR. REYNOLDS: Yeah, and I didn't bring it.

9 MS. FENG: I think when you compare the 2003 Plan
10 with the 2009 Plan, it may just be that you don't
11 describe what you just verbally did and so --

12 MR. REYNOLDS: That this is what Federal law requires
13 and that this is what's happened in California?

14 MS. FENG: No. "In 2003, we aspired to do" blah,
15 blah, blah, blah, blah.

16 MR. REYNOLDS: And then it happened.

17 MS. FENG: "Here's what we've done. We haven't done
18 these things, but that's because" whatever it was.

19 MR. REYNOLDS: Okay. Provisional ballot. Okay. I

20 get it.

21 MS. FENG: So it may just be, be more explicit about

22 what has been done. At least that's what this letter --

23 that's what I think we were saying.

24 MR. REYNOLDS: Okay. Describe the reasons why voters

25 cast provisional ballots and give -- provisional ballot

1 rejection rate trends should be described.

2 I don't really have the data to show trend
3 lines. I did try to provide people with the snapshot
4 that we've gotten out of the EAC's Election Day survey
5 and we have Election Day surveys from the past, but they
6 weren't done in the same manner as this current one,
7 meaning the responses from the states weren't broken down
8 county by county and there weren't the categories for the
9 reasons for rejection, county by county.

10 I provided a modified spreadsheet to give some
11 of the raw data, which can be manipulated, and I have
12 some information that I teased out; but I don't know that
13 in this current State Plan -- I can certainly describe
14 the reasons why voters cast provisional ballots. There's
15 two, but the --

16 MS. FENG: And that's what? That they don't appear
17 in the roster --

18 MR. REYNOLDS: Right, or that they're a first-time
19 voter who's registered by mail, so they need to show some

20 form of identification. Those voters are going to vote
21 provisionally and show I.D.

22 MR. LEE: This is Eugene Lee. So, for example, if a
23 person received a vote-by-mail ballot and they're going
24 to the polling place and they want to cast a regular
25 ballot, but they don't have their vote-by-mail ballot to

1 surrender, they would be casting it provisionally.

2 MR. REYNOLDS: That's true, but I can't think of any
3 other reasons.

4 MS. FENG: So, actually, the people not being on the
5 roster, I think this is where we were getting at. If you
6 want to figure out how you can make -- how you can lessen
7 the use of provisional voting, because it's supposed to
8 be a fail-safe, so clearly something in the system is not
9 working as well as it could work, which is why someone
10 has to resort to voting by provisional ballot; right? So
11 when you break down why it is that a person's name is not
12 on the ballot, there's a number of different things that
13 are going on there.

14 One could be that they registered, but they
15 registered just after the deadline and so they just --
16 they technically are not eligible to vote because the
17 registration didn't make it in on time.

18 Another is that they registered in time, but
19 they came during that crush of time during which the

20 county was scrambling to get all those last two-day, you
21 know, up-to-the-deadline names into the roster and they
22 didn't get into the original roster, but they're in the
23 supplemental or something like that.

24 A third reason is they didn't make it to the
25 supplemental, you know, or the supplemental didn't get

1 out to the people in time.

2 So breaking down the reasons why someone -- or
3 it could be because the poll worker is goofy and the name
4 is always there, but the poll worker just didn't find it.
5 But I guess it's helpful to know what those pieces are
6 because that helps us figure out where in the system some
7 things can be solved and some things can't; but in a
8 high-turnout election, you certainly could try to
9 alleviate some of that.

10 MR. ESCOBEDO: I have some stats that I think they're
11 very telling because they're -- they give you a list for
12 November of '08. We had 271,000 provisional ballots and
13 we counted 229,591, but we have the details of those that
14 did count as far as why they were being issued
15 provisional. And interestingly -- my math skills aren't
16 sharp enough to add them all up as I'm saying them, but
17 it was -- Applied for a vote-by-mail ballot but voted at
18 the polls accounted for 27,000; and then different
19 precinct was another 31,000, and this is different

20 precinct, same ballot groups. These are people who just
21 may have gone to a polling place that they're accustomed
22 to but wasn't assigned one to them, but it was within the
23 same ballot group. Address changed, but they went to the
24 same precinct and ballot group, but they didn't
25 reregister. They had a change of address. The other one

1 was different precinct, same ballot group, again. And
2 then address change, different precinct, different ballot
3 group, still counted, and you counted for those that you
4 can. And then address change, different precinct, but
5 the same ballot group.

6 So I'd highlight only those because that makes
7 up the majority of them and they were all things that
8 people just didn't reregister. They needed to have
9 reregistered or they needed to have looked up their
10 polling place and not so much as, Oh, they didn't have
11 I.D. or they had to vote, but it's really just stuff --

12 MR. REYNOLDS: And ballots aren't being rejected.
13 The majority of the votes are counted.

14 MR. ESCOBEDO: These were all counted. The
15 rejected -- actually, interestingly, about 86 percent of
16 our no-counts had to do with your registration. Either
17 you weren't registered or you didn't complete the
18 registration.

19 MR. REYNOLDS: And the thing about the EAC data and

20 the reason that we modified the spreadsheet that it
21 ultimately came in was because they had categories. The
22 first category for the reason for rejecting a provisional
23 ballot was the person wasn't registered in the state.
24 Now, that works okay for a state that actually
25 has a Statewide Voter Database, but California doesn't

1 have one yet, so the counties looked at that. So we
2 asked the counties this.

3 In the future, 2012 and on when we have VoteCal,
4 we won't even bother the counties with this stuff. We
5 might double-check with them to make sure there's not
6 something we're missing, but we'll be able to extract
7 this data and respond to this survey without even
8 bothering the counties. It will be easy to show trend
9 lines and build reports and stuff, I hope, and that's the
10 intent, but the counties looked at that category and they
11 went, Well, this doesn't apply. How would I know they're
12 registered? I mean, they're not registered in my county.
13 That's all I know.

14 So if they used the categories provided on the
15 EAC survey as they best understood them, in some cases,
16 and as we tried to help clarify for them, so some of the
17 data is a little hanky, but we need to get to the place,
18 too, where everybody understands what we're asking for,
19 why we're asking for it, and then we can get to a better

20 place with respect to looking at those trend lines. But
21 I agree with you that we really should start with what
22 we've got now, see what more we can get. And I'm just
23 saying at this point I can't give you great information
24 about --
25 MS. FENG: I think start with where you have right

1 now. You don't have to show trend lines, but then you
2 can put in a sentence saying, "Now that we have
3 identified a vendor to implement our Statewide Database
4 System, we anticipate that we're going to be able to say
5 a lot more about the reasons why people vote
6 provisionally and begin to address or try to" --

7 MR. REYNOLDS: This would, I think, also fit in well
8 with a performance measure.

9 MS. FENG: Yeah. That's a good one.

10 MR. REYNOLDS: And I think the Secretary already
11 mentioned that in her remarks to this group when we met
12 the first time.

13 So that's that one so far. VoteCal will make it
14 better, so I'm going to try to do something with that.

15 MR. LEE: Chris, this is Eugene. Can I interrupt for
16 a minute?

17 MR. REYNOLDS: Sure.

18 MR. LEE: In the common letter that we sent earlier
19 this year, we had recommended using a road-show approach

20 for voting system testing and I didn't see that on the
21 list. I was wondering if you had meant that to be
22 captured in one of the earlier categories we talked
23 about.

24 MR. REYNOLDS: No. And as I was -- when we were
25 talking about the voting systems and how it wasn't as

1 public friendly or something like that, I thought of
2 that, the road show, and the concern that I've heard so
3 far about that is that the environment for doing their
4 red team testing is one that they want to keep secure and
5 so on and forth. So that's why I asked him about the
6 public process.

7 So the road show logistically some people have
8 suggested is difficult. I'm not saying -- I'm just
9 saying that's the feedback I got.

10 The second one about that, the open house
11 portion, reinstating the open house portion, and they
12 seemed amenable to that.

13 MS. FENG: So the only difference between road show
14 and open house is whether it's one venue versus several?

15 MR. REYNOLDS: Well, it's more like location,
16 location, location. You know, it's in Sacramento.

17 Now, I don't know if that's always the case.
18 Maybe if it's one venue -- like you say, they could say,
19 Well, for this voting system, it's this county. We're

20 going to ask this county to host the open house. I don't

21 know, but that's --

22 MS. GOLD: Could we perhaps, you know, put in at

23 least some kind of general language, again sort of

24 aspirational, regarding trying to make testing more

25 accessible to people who can't come to one place in the

1 state?

2 MS. FENG: You mean demonstration?

3 MS. GOLD: Demonstration. Excuse me.

4 MS. FENG: And it seems like it doesn't have to be --

5 maybe "road show" makes it sound like you've got to go to

6 39 different venues, but I think there's something

7 between 39 and 1 that would be an acceptable number. So

8 I think you certainly are right that at the very least,

9 it should be Sacramento and the jurisdiction in which the

10 machine is going to be implemented. I mean, that seems

11 kind of an --

12 MR. REYNOLDS: Except you could have 39 jurisdictions

13 that want to implement the Sequoia voting system or the

14 Premier voting system.

15 MS. GOLD: Again, it's something like exploring the

16 feasibility.

17 MS. O'DONOGHUE: Regional.

18 MS. GOLD: Regional.

19 MR. REYNOLDS: Well, there seems to be something

20 about -- and I don't know if this was a part of your
21 comments, Eugene, or not -- where it falls in the
22 process. I think Kathay raised the question about it
23 seemed to be there was some earlier test stuff. I guess
24 the testing process itself can be taken -- Debbie knows
25 more about this than I do.

1 The testing process itself can take weeks or
2 months or whatever, and so where do you place that open
3 house function as a part of it? Maybe somebody can give
4 me some insight early on in the process. So I'm going to
5 try to capture that as well.

6 Okay. Analyze the reason for -- okay. The next
7 item on the list goes along with what we were just
8 describing in terms of casting provisional ballots, I
9 think. Commit to analyzing the reasons for rejection and
10 in an effort to address the causal reasons. That seemed
11 to be a strong -- I think that's already been kind of
12 captured and I'll bring that back.

13 Describe progress and efforts on making voting
14 materials at polling places accessible to voters with
15 disabilities.

16 Now, it was in this 2003 State Plan. As far as
17 I know, there hasn't been any progress. There have been
18 some things done. I shouldn't say that. There have been
19 materials made available in braille. There have been

20 materials made available in American Sign Language.

21 There have been materials that have been put on the

22 website that are accessible. If there's anything I'm

23 missing, Debbie --

24 MS. O'DONOGHUE: Large prints.

25 MR. REYNOLDS: Audio cassettes, that's been around

1 for a while. So there are things that have been done and
2 those could certainly be described. So I'll have to do a
3 survey on that, but I don't know that you have a lot of
4 materials in polling places in alternative formats at the
5 polling place. So that's why I made that kind of
6 statement at the outset that I did.

7 And I did want to let people know that I took a
8 look at some of the costs associated with the materials
9 we had produced in alternative formats just as food for
10 thought.

11 What did I do with that? Now, I can't seem to
12 find them right now, but there is a cost associated with
13 that and I guess the question is, is it something that
14 the -- we're going to focus on and something that we
15 should be talking about how to do it? I mean, when we
16 talk about providing materials in alternative formats,
17 what are those alternative formats?

18 MS. ACTON: This is Ana --

19 MR. REYNOLDS: Yes.

20 MS. ACTON: -- and I think that -- I mean, there's a
21 lot of different alternative formats and I guess the
22 question is whether we think they should be available at
23 polling places. I mean, really, all voter education
24 materials applicable in place should also be available in
25 alternative formats.

1 For example, the Voting Rights Information, is
2 all the printed stuff in large enough print for people
3 with low vision to be able to read? Is there a way to
4 get audio versions of voter -- the State voter pamphlet
5 at voter places?

6 MS. FENG: So I'm looking at the letter that this
7 language actually came from, Chris, and what it is is
8 page 1 and 2 -- and I think that must be of your draft --
9 lists --

10 "Has a list of the materials that the
11 Secretary of State has recently produced.
12 There is no reference to the voter education
13 materials in languages other than English,
14 and if translated materials have been
15 created, these should be listed. We
16 recommend that the Secretary of State" --
17 and so I think similarly, I think what we were saying is
18 to the extent that materials had been created in formats
19 that were accessible to people with vision or other

20 disabilities, that you should also list those.

21 So you just did that orally by saying, for

22 instance, that there were audio cassettes and braille and

23 ASL. So it's just to say that every time you talk about

24 things that have been created or done, to make sure that

25 you also capture or you capture the full breadth of

1 what's been done.

2 I don't know that this section was more a review
3 of what's been done, not a Here's what we want to do.
4 And somewhere we should have that language as well, and
5 that's where Ana's suggestions would come in, but this
6 was specifically in reference to the need to have the
7 description be inclusive of what -- of the other format
8 materials that have been created.

9 MR. REYNOLDS: Okay. So I'll make note of that, but
10 I did find the cost information that I had come up with.
11 There was a DVD done in American Sign Language for voter
12 education materials. It was a 16-page brochure, or it
13 could have been the Voter Information Guide.

14 MS. O'DONOGHUE: It was the brochure.

15 MR. REYNOLDS: It was the brochure, and that 16-page
16 brochure was about \$6 for each DVD. There was a 16-page
17 brochure done in braille, and it wasn't the Voter
18 Information Guide, because they've always found that with
19 the time lines that they're provided to produce the Voter

20 Information Guide and the fact that you can have lawsuits
21 and last-minute court decisions that make you make
22 changes to it, it's very difficult to have enough lead
23 time to do the Voter Information Guide in braille has
24 been one issue, but it was about \$8 for a 16-page
25 brochure in braille.

1 It was \$649.19 for a brochure on audiotape, but
2 that was a master audiotape and I need to get a per unit
3 cost on that. Let's see. It was audiotapes of the Voter
4 Information Guide, a 144-page principal and a 16-page
5 supplement. It was 7.87 for English, 9.15 for other
6 languages except Tagalog or Filipino, and 11.15 for
7 Tagalog and Filipino, roughly \$0.05 per page for English
8 and \$0.06 per page for other languages except for Tagalog
9 and Filipino, which was about \$0.07 per page. So that
10 was an audiotape of the Voter Information Guide.

11 And then a large-print principal Voter
12 Information Guide, 144 pages long, was about \$0.04 per
13 page or 5.92 per Voter Information Guide, and a
14 large-print supplemental was 16 pages long and was about
15 \$0.07 per page and that was 1.15.

16 So, anyway, this is just food for thought about
17 the fact that Here are some costs that are associated
18 with producing information in alternative formats.

19 MS. ACTON: Can I just say something, Chris? This is

20 Ana.

21 MR. REYNOLDS: Uh-huh.

22 MS. ACTON: That some of those things that, as you

23 mentioned, you are already creating, you are already

24 developing, so it's just a matter of -- you know, there

25 could be associated increased costs with printing more,

1 say, or reproducing more of the audiotapes to have
2 available at the polling places; but at the same time,
3 the majority of that work has probably been done already
4 to create the original that will be copied.

5 MR. REYNOLDS: Yeah. I'm just thinking about also
6 the cost to counties to produce a sample ballot in
7 alternative formats.

8 MS. KAUFMAN: Yeah, but the biggest cost in the
9 recording is the initial master, because you're paying
10 the voice talent, and especially when you're dealing with
11 languages, because the voice talent has to be able to
12 speak with the proper appropriate accent and, you know,
13 get the translation right. So that's your major cost.

14 The reproduction costs are not that big.

15 So if you're going into the precinct level and
16 you've got local races and precinct A has a certain
17 amount of races; precinct B has the same but has three
18 different things in there for a Water District; and
19 precinct C has still something different else, it gets

20 very costly to customize an entire sample ballot. It

21 would be cheaper to do it just for the statewide portion,

22 but then what are you doing?

23 MS. ACTON: Right, and that's something that --

24 MR. ESCOBEDO: Isn't it already provided within the

25 ADD or the DRE?

1 MR. REYNOLDS: Right. We have audiocassettes.

2 MS. ACTON: If it's statewide races or measures, then
3 there should already be that stuff from the Secretary of
4 State's office; correct?

5 MR. REYNOLDS: Yes, there is.

6 MS. ACTON: And then I think right now under
7 California law, what it says for local law -- correct me
8 if I'm wrong -- is that any propositions must be put into
9 audio, for example, for local races, local --

10 MR. REYNOLDS: I don't know.

11 MS. ACTON: There's already a local requirement and,
12 I mean, I don't know how many actual local counties are
13 actually doing it, but I know there's a requirement for
14 either the candidates or I think it's the propositions to
15 be made available and accessible formats on the local
16 level, and I think it's the responsibility of the local
17 Election Department.

18 MR. REYNOLDS: Okay.

19 MS. JOHNSON: So this is Margaret. It seems to me

20 that what we're wanting here is just some sort of
21 discussion about what steps have been taken. You've
22 orally described a lot of those to make materials
23 acceptable for voters with disabilities, and certainly if
24 you want to have a discussion about We're not going to do
25 any more than this because of the cost to us, this would

1 be the place to put this also, I assume.

2 MS. BAZYN: Chris?

3 MR. REYNOLDS: Yes.

4 MS. BAZYN: This is Ardis. I know that, for example,
5 the County of Los Angeles sends out their oral ballot to
6 anyone who puts a request in asking for it and I would
7 think that they probably do a bunch of them ahead of
8 time, in fact. So I would assume that anywhere there's
9 an audio -- you know, obviously they're going to use the
10 audio machine. It would already be on the audio machine
11 so they could listen through that. So I suspect that the
12 only additional thing you might need at a precinct is,
13 like was mentioned before, like if you have an audio copy
14 of the Voters' Rights if they felt they were being denied
15 or something.

16 So I don't know that it would be that much if
17 you had one at each polling place that could be
18 requested, that that would be so much costs, versus
19 having a bunch of them. I don't know how often it would

20 even be requested to look at something like that, whether
21 it's an alternative language or in a traditional format.

22 MS. FENG: I'll be honest. I remember when the SOS
23 was making the tape cassettes --

24 MR. REYNOLDS: We still do.

25 MS. FENG: -- and when I was at the Legal Center, the

1 Asian Pacific Legal Center, we would get like a gigantic
2 box mailed to us and then it was a real challenge for us
3 to then try to get that into the hands of voters who
4 might want it. And in listening to it, it was sort of,
5 Wow, it seemed like this gargantuan project because you
6 have this tape cassette that it's just someone reading
7 the whole ballot and it's tedious. Like, I guess there
8 may be individuals who can stand to go through that.

9 I wonder certainly the reproduction portion, now
10 that we have online tools and other ways of distributing
11 it through, you know, getting it onto the DREs or
12 whatever, it seems that there is the up-front cost of
13 creating it; but the distribution, I'm not sure if it
14 still quite makes so much sense to make so many tape
15 cassettes. I know you don't make as many; but, boy, it
16 was hard to distribute these things, because people are
17 like, What do I want with this?

18 And even if they did -- we actually went to an
19 actual conference where a lot of people who were excited

20 there took them and were really excited about them, but
21 then the feedback was, Wow, that was really difficult to
22 listen to that whole cassette, because unlike now, we've
23 got digitized versions where you can skip ahead and stuff
24 like that. It's not as easy, and a lot of people have
25 moved beyond using tape cassettes.

1 MS. O'DONOGHUE: I just also want to mention we have
2 a downloadable audio version on our website, too. So
3 that might be easier.

4 MS. FENG: I'm not sure if this is the right place
5 because the part of the Plan that we're looking at is
6 really more a reflection of what has already been done,
7 but at some point we should talk about what formats make
8 sense to spend money on.

9 MS. JOHNSON: This is Margaret. I mean, I think that
10 Kathay is right, that there are a lot of advances and
11 changes in technology and doing the tape thing is -- most
12 people don't even have tapes. You have to move to CDs,
13 but the other thing to remember is that a lot of people
14 with disabilities are poor and don't necessarily have
15 access to the latest technology. So when we're looking
16 at how to make things accessible, just going to
17 everything's web-based, I don't think many people with
18 disabilities are there yet. At least a lot of the folks
19 that we work with, which would be people with

20 developmental disabilities or psychiatric disabilities

21 who are institutionalized or, you know, living very kind

22 of hands and mouth, they don't necessarily have access to

23 computers except at libraries and things like that --

24 MS. FENG: Margaret, would they find it --

25 MS. JOHNSON: -- which is important to have a larger

1 discussion about access issues and where we would go with
2 that.

3 So I agree with that and I do think that here is
4 a place, as I think I said about 10 minutes ago, to
5 really kind of lift what steps have been made to do this
6 to make things accessible for people at polling
7 locations.

8 MS. GOLD: Margaret, has -- I'm just curious,
9 Margaret or Ana or Ardis, has there been any writing
10 about, again, a best -- I'm just curious -- best
11 practices with respect to making materials accessible?

12 MS. JOHNSON: Well, there are a lot of things out
13 there around specific technology. I think there's a
14 whole A.T. technology out there that could probably speak
15 to that, and then of course Ardis would probably know
16 what the current trends are or where that information is
17 for other communities.

18 MS. BAZYN: This is Ardis. We did a study just of
19 our members to find out how many of them were not on the

20 Internet and it was a pretty high percentage that still

21 did not use the Internet. I think it was like 27

22 percent, something like that.

23 MR. REYNOLDS: Okay.

24 MS. JOHNSON: But you were asking about the practices

25 just in terms of the different technology and I think

1 that is available out there through the A.T. networks,
2 and I think Ana might have some other ideas how you
3 access that information. You've got to remember we are a
4 law firm, so we don't gather the information in the same
5 way that others do.

6 MS. ACTON: We could put it out there to the
7 Assistive Technology network and see what kind of
8 research has been done around the topic of who's using
9 tapes, how are people accessing materials. I could
10 research that and see what I can come up with.

11 MR. REYNOLDS: Thank you. That would be very
12 helpful.

13 MS. ACTON: Okay.

14 MR. REYNOLDS: It seems that this could get very
15 expensive to try to do all the things that are in print
16 in multiple different formats so that it fits, as it
17 should, and I'm not saying it shouldn't. I'm just saying
18 it sounds difficult and expensive to meet the needs of
19 every individual voter who steps into a very specific

20 polling place.

21 MS. JOHNSON: This is Margaret. That's why I think a

22 lot of the times we move more towards audio things,

23 because that tends to work for a larger range of people

24 rather than having to do things in large print and

25 braille and all those different components.

1 So I think it's just kind of like, you know,
2 sitting down and looking at what's out there and talking
3 to folks who use the stuff to whittle it down to garner
4 maybe the things that'll target the most people, and that
5 may be the way that you go.

6 I mean, that's the way it is with most access
7 stuff, is you're trying to be accessible to the most
8 number of people. There's always going to be somebody
9 out there that it's not going to work for, but you want
10 to try to make it most accessible for the most number of
11 people.

12 MS. FENG: Chris, if we didn't already, can we put
13 that as a performance evaluation topic?

14 MR. REYNOLDS: Performance measure. There's
15 something about auditing, but we'll get to those in a
16 minute, I hope. Performance measure.

17 MS. JOHNSON: And this is Margaret. It's about five
18 to 3:00 and I have down that this was over at 3:00, so I
19 kind of have other -- I made other promises at work that

20 I would go back and work on some stuff, so do I need to

21 like try and reschedule that stuff or what are we

22 thinking?

23 MS. GOLD: Chris, I was going to ask, with

24 everybody's indulgence, if perhaps we could just take a

25 few minutes to talk about on page 4 the issues of audit

1 and performance measures, just to find out where you're
2 at and what you're looking for from us. Would that be
3 okay?

4 MR. REYNOLDS: Yeah. And I guess then we could use
5 that as a wrap. Is there -- how about this, too. Since
6 we haven't gotten to this and some people have other
7 obligations, can I ask to do a conference call shortly
8 after I get back to work, to see if I can get everybody
9 on the phone and we can go through the rest of this
10 stuff?

11 MS. FENG: Before Margaret has to leave, do you want
12 us to find some possible dates or do you have your
13 calendar? 'Cause a lot of us are here. That might be
14 easier.

15 MR. REYNOLDS: Yeah. What is people's availability
16 on, say, a Wednesday or a Thursday?

17 MS. FENG: Starting when?

18 MR. REYNOLDS: August 10th. So that would be the
19 12th or the 13th.

20 THE REPORTER: Do you want all this transcribed, the
21 calendar stuff?

22 MS. O'DONOGHUE: No.

23 (Discussion off the record)

24 MR. REYNOLDS: Okay. So we'll meet from 1:00 to 5:00
25 on August the 12th.

1 MS. JOHNSON: Is it possible that those of us that
2 are in Sacramento could join here?

3 MR. REYNOLDS: Absolutely.

4 MS. KAUFMAN: Yeah. We'll get a room.

5 MR. REYNOLDS: It's going to be strictly by
6 teleconference. I'm going to ask Kaye and Debbie, one of
7 them, to arrange the number and the pass code and all
8 that stuff and get that information out to people as soon
9 as possible.

10 So now with that, I am going to jump to the
11 performance measure piece and we're going to talk about
12 what would be -- what I'm looking for.

13 I think it's easy enough to do something
14 around -- and the Secretary mentioned at the outset and I
15 don't think there's any -- maybe it was just a
16 suggestion. I don't think there was any suggestion that
17 maybe this is just something to throw out there. I think
18 maybe she actually was saying, This is something we
19 should do something about, provisional voting.

20 That seems like a natural one. Now, on
21 provisional voting, I think the group has provided me
22 with the kind of feedback I need. The question is, What
23 are the rejection -- what are the reasons why people are
24 voting provisionally and what are the big reasons -- what
25 are the reasons for rejection, and are there causal

1 factors that we can build programs around to address
2 those? So provisional voting I think is one that I can
3 deal with.

4 The other one about the audit of the County
5 websites, the voting materials, the voting assistance
6 efforts for accessibility for voters with disabilities
7 and voters with language needs, now, I marked this down
8 as a Title III question mark, yes or no, because
9 websites -- I don't think would be on this as a Title III
10 requirement. There's no requirement that websites
11 provide any information.

12 Voting materials and voting assistance efforts
13 certainly, depending on what we're talking about, could
14 be something that is Title III; for instance, your
15 overvote protection or the stuff you're posting at the
16 polling place.

17 The question I guess --

18 MS. HUFFMAN: This is Alice. I have a question.

19 MR. REYNOLDS: Yes.

20 MS. HUFFMAN: How many people don't even receive a
21 provisional ballot? Do we know how many are turned away
22 cold, flat?

23 MR. REYNOLDS: No. Everyone gets -- well, I don't
24 want to answer that question too glibly, but the answer
25 should be "Everybody who wants one gets one." That is

1 what they are entitled to under the law.

2 MS. HUFFMAN: So does that mean that if I'm not

3 there, that somebody -- if I'm not listed, someone's

4 supposed to offer me a provisional ballot?

5 MR. REYNOLDS: That's correct.

6 MS. HUFFMAN: Okay.

7 MS. FENG: The answer is a lot more complex than that

8 and that doesn't always happen.

9 MS. JOHNSON: Hi. This is Margaret. I hate to

10 interrupt, but I am leaving now, just so folks know.

11 MR. REYNOLDS: Thanks, Margaret. Bye.

12 Kathay is saying as a matter of reality, like

13 most things dealing with elections --

14 MS. FENG: The answer is much more complex than that,

15 because there are a variety of things that poll workers

16 are encouraged to do, sometimes legitimately. So like if

17 somebody shows up and they're not on the roster and it

18 turns out that the person is actually within the vicinity

19 of another precinct where they can show them where that

20 poll site is, they're oftentimes encouraged to send them

21 to that precinct so that their ballots will be the

22 correct ones.

23 Well, that's an example of where there's a

24 choice to be made, because the voter could just stay

25 there and vote provisionally, but they may not and that's

1 probably the most sort of innocuous examples. But
2 there's lots of examples where people are kind of turned
3 away and they're not given a provisional ballot.

4 And right now, Alice, other than anecdote, we
5 don't have a systemwide way of knowing how that happens
6 because poll workers aren't making a tally of who didn't
7 cast a ballot. There's not a bad record of who did cast
8 something, but not of who came and then went away
9 unassisted.

10 MS. HUFFMAN: I think that's something we should want
11 to look into. I don't know if it goes into performance
12 at some point, but we may not have a complete picture.
13 As hard as we're working to make sure everybody who can
14 vote votes, I know I have people who go to one place and
15 they don't go to the other. "My name wasn't listed and
16 they tried to send me to," and that's the end of that
17 vote.

18 MS. KAUFMAN: Alice, this is Kaye. I have done some
19 election observation myself, so this again is anecdotal,

20 but it is -- it's very likely that if a poll worker is
21 telling someone essentially to go away, for whatever
22 reason, that they're not the ones that are likely to make
23 a little tally that they've done so.

24 MS. HUFFMAN: Right.

25 MR. REYNOLDS: Okay.

1 MS. GOLD: Eugene, I wanted to check in with you.
2 Perhaps we could work together on -- off-line after this
3 meeting on coming up with some of the performance
4 standards for materials and assistance for voters with
5 language needs. Would that be okay?

6 MR. LEE: Sure.

7 MR. REYNOLDS: Here's what I'm going to do, everyone,
8 in the interest of time. Everybody's busy. I'm holding
9 everyone up. When I leave, I get to start vacation so
10 I'm the most anxious of all.

11 When it comes to the County websites, I think a
12 performance measure should be something about providing
13 them with all the information that they need, and I'll
14 talk with the CACEO about whether there is a best
15 practices kind of laundry list of things that a County
16 website should. And then, against that, you could search
17 the sites for that kind of stuff and the CACEO could
18 be -- we don't want to be too obtrusive. These need to
19 be, in the best of all possible worlds, simple,

20 straightforward, not judgmental. You know, no one really
21 needs to worry too much with providing the information.

22 MR. ESCOBEDO: So not to interrupt, so on this "yes"
23 column "HAVA Title III," you're saying websites would be
24 a "yes" now?

25 MR. REYNOLDS: Well, what I'm saying is I don't think

1 it's a Title III website in way, shape, or form because
2 it just doesn't talk about websites providing
3 information.

4 MR. ESCOBEDO: I know it's not, because we tried to
5 do our website under that Title III and we couldn't.

6 MR. REYNOLDS: That's the problem, because I thought
7 it absolutely would be because there's a Section 305 that
8 says that Title III requirements are minimum requirements
9 and it doesn't prevent a state from going beyond, but
10 when I asked the EAC, the EAC says, Well, no, that
11 wouldn't be included. It's not a Title III included.

12 You can use this kind of money, but anyway --

13 MR. ESCOBEDO: At least for accessibility purposes, I
14 know that funding under 261, that, you can; but it's for
15 accessibility and not for language.

16 MR. REYNOLDS: And we might be able to go to some of
17 these things in terms of a pilot program, depending on
18 how expensive it is, but you can't necessarily get there
19 with the dollars we have. We might be able to do some

20 things.

21 So around the issue of the audit for the State

22 and County websites, I'm going to simply say for the

23 voting materials, we're going to talk about, you know, a

24 basic laundry list of things the County site should

25 probably have. And regarding accessibility, it would be,

1 "How many languages do you have it in?" and "Are you
2 required to provide it in alternative languages?" and
3 "Are you doing it?"

4 And for the voters with disabilities, I don't --
5 I'm not smart enough yet, and I may never be on
6 understanding the technology that's available to assist
7 voters with disabilities, but whether Counties' websites
8 have those kinds of things or not would be an obvious
9 kind of thing too.

10 So I would change the "audit" maybe, unless the
11 term "audit" is used in a more kind of friendly manner,
12 because we don't really have the authority as the State,
13 despite our immense powers, to really force the counties
14 to do anything.

15 MS. FENG: Can you say "review"?

16 MR. REYNOLDS: Yeah.

17 MS. FENG: And then, also, "provide best practice
18 standards."

19 I will say this. How this kind of came up was

20 that Margaret observed that on the State SOS website --
21 you're not going to be very happy to hear this -- if
22 you're looking for the translated materials that you all
23 have very -- you know, you created, or you're looking for
24 the place where you could get the disability accessible
25 materials, it's not on the first page.

1 So to give an example, if you weren't an English
2 speaker, you'd have to navigate through a couple of jumps
3 of English-only materials, or somebody would, to get to
4 the place where you get to the translated materials.

5 That's where if someone had an eye towards
6 saying, Okay, we've got the materials already, we're not
7 trying to create anything new, but how do we make it
8 accessible, that's an accessibility issue.

9 MR. REYNOLDS: And just so people are aware, the
10 Secretary of State's office has a Chief Information
11 Officer now and we're undertaking an effort called web
12 governance and making rules and determining certain
13 things, and one of the issues for one of the teams, the
14 content team, would be something like this: Shouldn't
15 there be, from the home page, an immediate kind of "I'm a
16 voter who wants to access this in an alternative format"
17 or "I'm a voter with language needs" in their language
18 that says, "This is where I go to"?

19 MS. O'DONOGHUE: And there's researchers to add to

20 that. The team members that are working on this are
21 looking at models, say, of other states, other cities.
22 So there's some good stuff out there for presentation and
23 also for -- maybe it doesn't have to be on the first
24 page, but something you can follow and it's easy to find.
25 MS. FENG: I think that like L.A. County, although

1 it's changed a couple of times, L.A. County on the first
2 page are the different languages and you click that and
3 then that sort of sends you down another rabbit hole of
4 all the things in that language that they've got.

5 So that's what I mean.

6 MR. O'DONOGHUE: They have to follow the scent.

7 MR. REYNOLDS: There's only one more item, so hang
8 with me for another two minutes.

9 The next one is to audit the complaint
10 procedures. Again, this one seems to be -- it's not as
11 straightforward necessarily as might be implied here
12 because complaints come from a lot of different
13 directions. And I will be really honest with you. We
14 don't get a lot of HAVA complaints. We don't even get a
15 handful of HAVA complaints. Maybe that's because they
16 have to be notarized or whatever. We'll get into some of
17 that discussion later, but we don't get a lot of them.
18 We get complaints, no question, but we find even though
19 they may have labeled it as a HAVA complaint, it turns

20 out a lot of times it's not a HAVA complaint.

21 Nonetheless, I think what you really want is the

22 Election Day triage, I think they call it, where you get

23 Voter Hotline stuff, and the counties are getting this.

24 What are you getting pummeled with? So what are your top

25 priorities in terms of addressing the voters' needs?

1 So I'm getting that and I'm --

2 MS. FENG: That's exactly what it was, and I will
3 tell you this. From Shelley's time onward, each
4 Secretary of State has said, "Oh, yes, we get a lot of
5 phone calls into that hotline and we absolutely will
6 issue a report this year telling you what kinds of calls
7 came into our hotlines and we will also consult with the
8 counties to gather that." It's never been done, never
9 been issued.

10 That seems to me like -- the 1-800 hotline was a
11 major component of HAVA and to not ever go back and try
12 to figure out what kinds of things people call in about
13 is a major failing.

14 MR. REYNOLDS: And we had the 1-800 line. We needed
15 to expand it and we did so with HAVA funds, pursuant to
16 HAVA funds.

17 The last two items: The one, Rosalind has
18 already said something to Eugene about working with him
19 on that, so I'm going to leave that one alone; and then

20 the last one, we've already beat the provisional voting

21 category and so on and so forth to death, so I'm going to

22 leave that one alone.

23 MS. FENG: Do you have any new ones? You'll go

24 through your notes.

25 MR. REYNOLDS: If people come through or come up

1 with, keep that in mind because we're going to come back
2 to that section on August 12th from 1:00 to 4:00 p.m. --
3 1:00 to 5:00 p.m. Excuse me.

4 MR. LEE: Well, I guess I would just add whether we
5 should have a performance measure around poll worker
6 training.

7 MR. REYNOLDS: I know there's a lot of interest in
8 poll worker training as a priority and I'm still going to
9 continue to tell my sad story about the EAC and its
10 guidance to me and so on and so forth and we'll continue
11 to talk about whether there is something to be done about
12 my sad story, whether they can have something that is
13 done.

14 MS. FENG: Because it's not covered.

15 MR. REYNOLDS: When you initially roll out your
16 voting system, that sounds good to us, but thereafter --
17 and Dean had said something to me about, "Well, rolling
18 out a voting system initially, that could take several
19 election cycles." Well, Sacramento County didn't like my

20 sad story and they asked the EAC kind of the same
21 question and the EAC came back with the same answer they
22 gave me, except they put a little bit finer point on it
23 and said the first year we roll out the voting system.
24 MR. ESCOBEDO: I know there was discussion in the
25 last notes about whether there's a sense of whether that

1 can be appealed or not.

2 THE REPORTER: Are we done?

3 MR. REYNOLDS: Yes. I'm sorry.

4 Everyone on the phone, I'm kind of wrapping
5 things up as I'm talking, and is it okay with you guys?

6 MS. MARTINEZ: Move to adjourn.

7 MR. REYNOLDS: Okay. We're going to be back on the
8 phone August 12th from 1:00 to 5:00. Be there if you
9 can.

10 With that, I am officially gaveling this meeting
11 to a close.

12 (Proceedings concluded at 3:15 p.m.)

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