BEFORE THE SECRETARY OF STATE

HAVA STATE PLAN UPDATE ADVISORY COMMITTEE

In the Matter of the:

MEETING OF THE SECRETARY OF STATE
HAVA STATE PLAN UPDATE ADVISORY COMMITTEE

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TRANSCRIPT OF PROCEEDINGS

Norwalk, California

Thursday, July 30, 2009
Reported by:

MARCENA M. MUNGUIA,  
CSR No. 10420

Job No.:
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TRANSCRIPT OF PROCEEDINGS, taken at

Los Angeles County Registrar of Voters Offices,

12400 Imperial Highway, Seventh Floor Executive Conference Room, Norwalk, California, commencing

at 10:15 a.m., on Wednesday, July 30, 2009,
heard before the SECRETARY OF STATE HAVA STATE PLAN UPDATE ADVISORY COMMITTEE, reported by MARCENA M. MUNGUIA, CSR No. 10420, a Certified Shorthand Reporter in and for the State of California.
1 APPEARANCES:

2 Committee Members present: ANA ACTON
   FREED ILC
   (via teleconference)

3 ARDIS BAZYN
   Bazyn Communications
   (via teleconference)

4 KATHAY FENG
   Common Cause

5 ROSALIND GOLD
   National Association of
   Latino Elected and Appointed
   Officials Educational Fund

6 ALICE HUFFMAN
   National Association for the
   Advancement of Colored
   People, California State
   Conference
   (via teleconference)

7 MARGARET JOHNSON, Esq.
   Disability Rights California
   (via teleconference)

8 EUGENE LEE
   Asian Pacific American Legal
   Center

9 KARIN MAC DONALD
   Institute for Governmental
   Studies
   U.C. Berkeley
(via teleconference)

REBECCA MARTINEZ
County Clerk-Recorder
Madera County

EFRAIN ESCOBEDO
Representing Dean Logan
County Clerk
Los Angeles County
APPEARANCES (Continued):

CHRIS CARSON
Government Director/State
Board
League of Women Voters of
California
(via teleconference)

Secretary of State Staff  CHRIS REYNOLDS
Liaisons:

DEBBIE O'DONOOGHUE

KAYE KAUFMAN

Secretary of State  JANE HOWELL
Staff:  (via teleconference)

LAURA BAUMANN
(via teleconference)
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MR. REYNOLDS: All right. Well, in the interest of time, maybe we should go ahead and get started. I think Rosalind Gold is the only person who hasn't arrived, so we'll get started.

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

Ana Acton?

MS. ACTON: Yeah, I'm here.

MR. REYNOLDS: Ardis Bazyn?

MS. BAZYN: I'm here.

MR. REYNOLDS: Chris Carson?

MS. CARSON: Here.

MR. REYNOLDS: Karin MacDonald?

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 Secretary of State, Laura Baumann and Jane Howell.
MS. BAUMANN: Here.

MS. HOWELL: Here.

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

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

Who was the other person?

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

MS. JOHNSON: Okay.

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

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

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

And we will not, unfortunately, have Michael Alvarez, Dean Logan or Neal Kelley with us today. My
understanding is that they're all at a PEW event in Seattle. So I guess PEW was a bigger draw than I am, so -- I think they're talking about something to do with voter registration, but I'm not sure what the meeting is about. But this won't be the last meeting, at least the way I'm seeing things unfolding.
I think there will probably be -- at this meeting, which I hope will be a working meeting, I can get some better understanding of the issues and maybe there are some issues that people would deem a higher priority than others and maybe get some flavor for how to characterize those issues, try to revise the State Plan; and from there, we'll do a review via e-mail and then have a last meeting.

And Rosalind Gold has just joined us.

MS. GOLD: My apologies.

MR. REYNOLDS: It's okay.

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

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

MS. JOHNSON: Chris, can I do a clarification of 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,
they will be unidentified on the record.

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

MS. KAUFMAN: As you speak.

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

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

MR. REYNOLDS: That was Margaret Johnson.

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

We do have the transcript from the April 15th meeting, but I wanted to see or encourage people to provide us with any corrections to the minutes that have been passed around. It's really for purposes of a working document. But if people do have corrections to
those, pass them along to Kaye Kaufman and we'll get the changes made.

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

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

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

Some of the issues or comments that were made
had more to do with verbiage that's in the State Plan, a
characterization of why we have the Help America Vote Act, for instance. Those kinds of things are marked as "not funding" and not necessarily a Title III requirement but nonetheless, something that would be accommodated, I think, in a State Plan revision.
So with that, I've already kind of alluded to the outline of the next steps, and that would be to gather this information today and provide a revised copy of the State Plan to Advisory Committee members and, from there, accept more comments and more edits and then try to have a final draft ready for one last meeting where we can do a face-to-face, maybe put the Plan itself up on a screen and do edits as we talk. We have to see how we could be most effective and efficient with people's time.

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

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

MR. REYNOLDS: Uh-huh.

MS. GOLD: Okay. Is that indicating that we don't currently have funding and simultaneously whether it's
eligible for funding from HAVA money, in other words, 'cause it looks like there's two things there --

MR. REYNOLDS: Uh-huh.

MS. GOLD: -- that are indicated, but you have either generally one "Y" or one "N."

MR. REYNOLDS: Right. And that's one of those --
that column is probably the most imperfect, if you will.

And as you indicated, one issue I'm trying to characterize is do we need to provide funding in order to accomplish what seems to be the desire, based on the comment that was received.

MS. GOLD: Right.

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

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

So, again, it's a little imperfect, but I'm trying to capture both of those thoughts, and we would just need to note that it's not necessarily Section 251
funding in some cases and, therefore, it might not be a part of the State Plan, again, unless someone says, Well, I feel very strongly that you should put this in the State Plan despite the fact that it doesn't have anything to do with your program for complying with Title III requirements.
MS. HUFFMAN: This is Alice Huffman. I am missing a document that you guys are referring to. I have the minutes. I suspect I don't have it because I was trying to make myself way down south and maybe the materials didn't come here in advance. Is there any way you could fax it over here?

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

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

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

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

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

MS. HUFFMAN: (916) 498-1895.

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

MS. HUFFMAN: Thank you.

MR. REYNOLDS: So as soon as someone's out the door to get that on the way to you, Alice, I'm going to touch on the first two issues that are on the template, simply
because I want to -- these are clearly Title III requirements and they are items that have received funding so far, and that's -- I just wanted people to be aware that we did need to deploy voting systems in the state of California that meet the Section 301 requirements of HAVA; and they basically are voting
systems that are accessible to voters with disabilities
that have -- and at least one of those units had to be
provided at each polling place; that otherwise, the
system had to provide for people to be able to detect an
error in their ballot before it was cast and to be able
to correct that error.

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

In particular, you can address the overvote --
the need to meet the overvote protection standard with a
voter education program. You don't have to meet that
with technology; but for all intents and purposes, the
direct recording electronic voting unit is very
efficient, at least on paper, in meeting those kinds of
requirements because it won't allow people to overvote.

Once they provide the requisite number of votes, it moves
on to the next race. It will provide a summary screen at
the end, which tells people whether they've missed a race
in their voting, and it will allow people to correct those errors, if they've made any, before they cast their ballot.

And then the Statewide Voter Registration Database, which is a requirement that each state create a list of all the registered voters in the state of -- in
the state and that it also have certain capabilities of
looking for or verifying certain data that's provided by
the voter or otherwise -- and that would be the Driver's
License number or a partial Social Security number -- and
that it also have the capability through automated
processes to connect to the Department of Health Services
or the appropriate State agency for checking vital
statistics, death records, and also to check with the
Department of Rehabilitation and Corrections in the state
of California for felon records, and then to do certain
list maintenance. In particular, they mentioned the
national Change of Address Program.

So, so far, there's been a contract, and that
contract for the voting systems was executed with
counties. It was first made available in November of
2000-- December of 2005, and all the counties had a
contract or all the counties that had any balance of
funding remaining have a contract with the Secretary of
State. It was a cumulative total of $195 million.
And the Statewide Voter Registration Database,
as I think many people are aware, the so-called VoteCal
Project, we've gone through the bidding process and we
have a winning bidder and we're now waiting for
Legislative approval for the Special Project Report,
which is a blueprint for how you're going to create the
system and implement it, and a request in for funding
authority to pay for at least the initial costs of
bringing that vendor on board and getting the work
started.

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

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

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

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

MR. REYNOLDS: Correct. And there are certain
features of the system that have been written into the
business requirements. It is my understanding that, for
instance, a lookup for provisional voting would be built
Right now all the counties are providing that free-access system that's required under Section 302 of HAVA to be able to look up and check on the status of your provisional ballot. VoteCal would be the entity or the automated tool that voters would use to look for that
information; that it would provide some tracking for
absentee ballots; that we would be able to extract from
the database certain information that would go into the
EAC Election Day survey.

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

Alice, did you get --

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

MR. REYNOLDS: Yes.

MS. JOHNSON: -- that are public yet?

MR. REYNOLDS: Yes. They have been public for some
time. They're up on the Secretary of State's website.

And unfortunately, I don't have a computer in front of
me, but if you go to the Elections link on the Secretary
of State's website, they should be in a pretty prominent
location -- I believe it's off to the left-hand side in
the upper corner -- a link to VoteCal information. And
within that VoteCal information, you should be able to
see the Feasibility Study Report, the Special Project
Report. You should be able to see within those documents
the business requirements. There should also be other
descriptive materials available as well.

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

MR. REYNOLDS: Journalists. Thank you.

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

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

MR. REYNOLDS: That's correct.

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

MR. REYNOLDS: I am not sure, but I believe the
requirement currently is under State law to see whether
the ballot was received.

MR. ESCOBEDO: Mailed and received.

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

MS. FENG: A provisional ballot that is counted AVB
is just received.

MR. REYNOLDS: I believe that's true.

MS. KAUFMAN: And, also, there are certain persons that are registered voters that will never be on a list made public, and those are the people that are in the safe-at-home program or other protected classes for the stalker protection and so forth.

MR. ESCOBEDO: And, Chris, just for clarification on the -- as part of that project, there also is work going on obviously with a lot of the counties for conducting a lot of their canvass operations. Provisionals and vote-by-mails use DIMMS Net, provided through Premier. My understanding is there is also work going on to make sure that part of the development project also works with Premier, to make sure that, I guess, there's communication or interfacing so you can provide that information, 'cause it's going to be a hot topic.

MR. REYNOLDS: Yes. There's two basic approaches. And I'm not the technical expert in any of this, so
please forgive me. I'm going to give you a layperson's
description.

There's a top-down approach where what you
create at the State level is, for all intents and
purposes, an Election Management System. The Election
Management System, which right now houses, if you will,
the voter rolls in each county, does a lot more than just
provide for voter registration.

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

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

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

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

MS. FENG: So whatever it is, whether it's Premier or some other system, somehow or another there's going to be
an interface between that County-based Election Management System or even City-based Election Management Based and the SOS?

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

Well, in theory, that could be whoever runs the City of L.A. elections and the County of Los Angeles, but since we're talking about Federal elections, and counties run Federal elections, that's what we're talking about.

Those are the people that we interact with, with respect to HAVA and HAVA compliance.

So whether a City works with the County and somehow integrates its functions or uses the City -- the county's database, they would get all the benefits, if you will, of the integration, but --
MR. ESCOBEDO: Which is what we do, and then cities generally don't do voter registration. It's what the counties do.

So, for instance, with the City of L.A., we have an agreement -- and, actually, in most of the 88 cities, they have access to what we call our VIM System, which is
a VIM System so they can look at voter registrations, get all that information.

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

From your perspective on what we need to discuss for the HAVA plan, I guess it's not so much getting to the details of this but more accountability processes?

So as you move forward, is there some thought about, for instance, involving a similar type of advisory group to work with you and the vendors to provide input from community-based organizations?

And specifically I'll give you an example. Los Angeles County, I do love you all, but your L.A. Vote System for voter registration lookup is not very easy because somebody has to enter exactly -- you can't enter in "North," "South," "East," or "West." You have to --

the usage of like a period after "Avenue" is disallowed.
So when people are entering even the -- when people are in the call center, they sometimes have to try quite a few times to get it exactly right. So things like that, you know, working through to make sure that sensitivity is a little bit more tweaked to be user friendly --
MR. REYNOLDS: Okay.

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

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

MS. HUFFMAN: Definitely.

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

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

MR. REYNOLDS: That's what I was going to mention. On the front end, there was an Advisory Group that was
brought together to say, Here are the business requirements. What kinds of things should be included in the business requirements? What kinds of issues might you have? This is one of those things where you could say that this is not a requirement of Title III and you don't have to have an Advisory Committee to implement
your Statewide Voter Registration Database.

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

MS. FENG: I don't know that that necessarily has to meet on a super-regular basis. I'm not trying to add work, but I do think that this is a perfect opportunity during the design phase to make sure that lessons learned from other systems that are already out there are actually implemented, particularly from a user perspective. So I'm just thinking of -- and certainly the disability accessibility, the language accessibility, but just generally the user interface is very important.
I'm also thinking about some recent technology developments that sound quite exciting and wanting to make sure that the SOS's is most up-to-date on it.

So Rosalind and I just had a -- we were at a conference on redistricting, but one of the things that came up, there's a researcher, Michael McDonald, who you
may have heard of, who was talking about collaborating
with Google Earth. Google Earth is now very interested
in having a lookup, poll site lookup connected with their
Google Earth, and part of their thought was apparently --
what was the number -- 7 percent of voters in 2008 were
already going to Google to try to search for poll site
information --

MR. REYNOLDS: Uh-huh.

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

MR. ESCOBEDO: Well, I know they tried that in '08.

They had a special project and it was voluntary for
counties or states to upload their data.

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

So I think those are the kinds of things where we should just -- it should be used in forming your process so you're using the best technology possible.

MS. GOLD: And I think this issue kind of parallels the issue that we're going to be talking about in terms
of whether the State plan is merely going to focus on
things related to HAVA funding or if it's going to
provide a broader vision about how we think elections
should be -- should be handled in the state.

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

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

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

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

MS. HUFFMAN: Thank you.

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

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

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

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

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

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

Those bills are all -- I'm not going to say that
they're right around the corner, but we certainly
would -- I would want to make sure that the Registration
Database could accommodate that different form of registration.

MR. REYNOLDS: Yeah. And some of this would fall under the category of, Well, is this really HAVA or not, and that would need to get worked out. But in terms of the how you pay for implementing something that's a
change to State law, there have been, I think, some suggestions at the Federal level and then some suggestions about saying, "Okay. If we're going to make this change, then we're going to allow HAVA funds to be used to accommodate it."

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

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

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

MS. FENG: Okay.

MR. REYNOLDS: -- and with respect to online registration, the early discussions had to do with, you know, Could the system accommodate it? What additional
things would need to happen?

There are some other states, it's our understanding in doing our research, that have used HAVA funds to provide for online registration. Arizona has a system. Washington.

MR. ESCOBEDO: I think Kansas just implemented a
system, too, for the online.

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

MS. FENG: Sure.

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

the design of the system.

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

MS. MAC DONALD: This is Karin. If I may real quick,
Kathay, in answer to your question, there's two states allowing online voter registration and Tina Bowen (phonetic) and I have just completed a study for PEW on those two states, and both of them used HAVA funds to implement online voter registration.

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

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

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

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

MR. REYNOLDS: 251.

MS. MAC DONALD: I have to go back through many, many interviews to figure that out. I don't know that we 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
got the same information that we got. But they did tell
us it was the 251 funds. The 251 are the funds to be
used for Title III requirements.

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

MR. REYNOLDS: Nope, not necessarily.

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

So especially Arizona, if I recollect this
properly, they were pretty smart in actually hiring staff
on HAVA money to basically write a -- write the program
and establish a Voter Registration Database, which is
pretty smart, because once they have those people on
board with HAVA money, they could do all kinds of other things with those people as well.

MR. REYNOLDS: Now --

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

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

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

So if you get that missing piece and you get a
picture of it, then you're starting to get closer to be able to do the full vote online, because that way people are entering data and they're saying, "This is my Driver's License number." You're matching the Driver's License to the picture, boom, and you've got their digitized signature. You don't need them to sign
anything. They don't need to do anything. It's
completely online.

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

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

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

MR. REYNOLDS: And what Secretaries have done in the
past and continue to do, I believe the Secretary
continues to do the Birthday Card Program that's using
the DMV data so someone who gets their driver's license
when they're 16 -- and I guess this has happened with
less and less frequency, but to the extent that someone
gets their driver's license when they're 16 or 17, then
there's a file sent to the State's office and when the
birth date shows up, they're going to get that welcome,
you know, "Congratulations. You're 18. You're an adult.
Now one of the things you can do now is vote, and here's
your registration to vote."
But that Birthday Card Program, because of, I don't know what, changes in the way that people -- the behaviors around getting your driver's license have probably made that less effective in terms of getting to that person.

MS. FENG: Because?

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

MS. FENG: So you're saying that essentially they're waiting a little later?
MR. REYNOLDS: Exactly, 'cause it makes it so much easier to get your license.

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

MS. FENG: Chris, I'm sorry. I don't remember this.

One other thing that's on my mind is felon
reenfranchisement in terms of the database. And I haven't been in this issue for a while, but my recollection was that there is not currently a smooth way of reinstating people who have completed their parole by comparing, say, a Database that Department of Corrections is maintaining to a list that the Secretary of State is maintaining. You get an automatic notice when somebody is convicted, but you don't get the automatic notice once they've served their time and have completed their parole. Is that right?

MR. REYNOLDS: Yeah. What we're getting is we're getting data from a couple of different sources. One is from the Department of Corrections and one is the counties are getting information from superior courts. But in California, we continue to have the honor system when it comes to registering to vote so that when someone's finished with their sentence and their parole and can be reinstated, they go fill out the Voter 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
automatically reinstate or to contact a person saying, We
know that you've now completed your --

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

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

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

And in some ways, the way to ask this might be
rather than taking them out of the system, can they
simply be flagged as, I don't know, in purgatory? And
then when there is a notice that comes from Department of
Corrections, or whoever, that the person has completed
their time that they get unflagged so that it's not that
you're taking them out and that they have to reregister?
And the unflagging can then come with a card to that person saying, Hey, congratulations, you're eligible to vote again.

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

MR. REYNOLDS: So you're going to build a whole new program and store a whole lot more data. You're going to keep people in this file and you're going to be tracking them and you're going to be -- you know what I'm saying?

It's a whole separate new element, a new program that gets layered on top of what you're already doing and the question is, do you want to do that?

MS. FENG: Right. And --

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

MS. KAUFMAN: And when they're sentenced, you don't know how long they're actually going to serve and actually be on parole. There's time off on good behavior issues, early release issues. So it's not that I can flag this person, "He got a driver's license at 16; therefore, we know his birthday." He got sentenced to five to ten and you don't know when that five to ten triggered. There's no trigger.
MR. REYNOLDS: There's no other end, if you will, at Corrections saying he built up early release credits, so he got out or she got out --

MS. FENG: That's right.

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

they've gone through rehabilitation or a halfway house
and now their parole is gone, so now where are they?

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

I'm just saying that it's something that has been brought up before and I just think that, you know, as we talk about it, we should -- I don't want it to be lost simply because it's sort of a group of people who are not as sympathetic as 18-year-olds.

MR. REYNOLDS: And I'm not saying -- I'm not attempting to discourage because of that or making a value judgment in any way.

MS. FENG: Yeah.

MR. REYNOLDS: I'm just saying, like I said at the outset, it's a whole program and a whole logistical thing that you have to think through in terms of What do I need to make this work and it's -- it is more difficult, as Kaye said.

MS. KAUFMAN: Yeah. It might possibly be the best thing is to provide brochures to the County to give to the parole personnel so that when they know they've got a
guy going off parole, Here's part of your package.

MS. FENG: We've certainly tried that before and I
would say that the parole officers are less than
enthusiastic about carrying something that they don't
feel like is a part of their job, so they may or may not.

MS. JOHNSON: This is Margaret. I have a comment
that I'd like to make at some point.

MR. REYNOLDS: I'm sorry. Margaret?

MS. HUFFMAN: And Alice also.

MR. REYNOLDS: Margaret, go ahead.

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

There are also people that are put on commitments that have their right to vote removed.

That's not true for everyone that's put on some kind of civil commitment, but that is true for some folks; and then while they're on the civil commitment, they, too, are not eligible to vote, but once they're off of a civil commitment or their right to vote has been restored, they're able to vote, too, and there really -- as best as I can tell, there is no mechanism either for those group of folks either to track them, and once they have their right to vote restored, they're not given information about, "Okay. Your right to vote has been restored. Do you want to register again in order to vote?"
So I just want to flag that there's another group of folks also that have their right to vote removed and at some point do get it restored and there's really no mechanism to make sure that they're able to register again.

MS. HUFFMAN: This is Alice Huffman. I also have a
question and maybe a comment. The authority that
notifies the Secretary of State that a person has lost
his or her right to vote is someone in the Department of
Corrections; is that correct?

MR. REYNOLDS: Yes.

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

MR. REYNOLDS: Uh-huh.

MS. HUFFMAN: So it would seem as though for this
discussion, perhaps it's to have a discussion with the
Department of Corrections to see if they could not
routinely alert the Secretary of State or others that
these people have their rights restored, because there's
a lot of confusion, at least in my community. A lot of
ex-offenders think they have lost their rights
permanently. People have been told that there's a
different process to go through to get yourself
reinstated. So there's a lot of confusion; therefore, we
lose a lot of voters that have been restored and have
their rights to participate.

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

Okay. Yeah. And to tell you the truth, Alice,
I am not sure whether it is -- I would imagine the
Department of Corrections would track, but I'm not sure
whether it's them or the courts.

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

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

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

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

MR. ESCOBEDO: I know.

MS. FENG: And the other way to do it is more along
the birthday card idea, which is they're taken out of the
list, you don't keep them anywhere, and then when
Department of Corrections or somebody gives you the
rein- -- the completion-of-their-parole lists, those
people receive a card that says, "Hey, now you're
eligible" and -- but there's a proactive step there.
MR. ESCOBEDO: I know on the taking of folks off the list -- and I can double-check specifically for folks -- for felons, people already serving or on parole that aren't eligible, but I know for most counties, it's very rare that you actually delete someone off the rolls. We move them into all these other statuses: fatal pends, inactives, pendings, and you keep transaction logs of why and how they're removed. It's always because if someone calls and asks you a question, you need to be able to answer that.

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

MS. FENG: The reason why this is connected to the
design is that -- again, I don't know how this is exactly
going to work with VoteCal, but if currently each county
is maintaining your own Voter Registration Database and
then you're kind of uploading it on a regular basis
through SOS, eventually we're moving to a place where
it's a single database that's maintained by the SOS and
it is or isn't housed at the County level.

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

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

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

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

So what's going to happen is -- my understanding is the data is going to be input by the County because they continue to be the front lines of voter registration, if you will, but they're no longer
loading it onto their system. They're loading on to the
State's system and then the data for the Voter
Registration list will flow back to the Counties to use
in the manner that they say.

MS. FENG: Okay. So that answers -- so that
actually -- so the design issue is this: that -- Efrain
just described a process where L.A. County anyways, when
you were maintaining -- you still are -- maintaining
those lists, if somebody is flagged as "pending" or
"fatal pending" or whatever other number of flags you've
got, you don't actually remove them from the list. They
just sit in a server somewhere; right? And they just sit
there. I mean, it's not like they go anywhere.

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

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

MR. REYNOLDS: There are all kinds of rules about who
gets removed from the lists and under what conditions,
and besides that and the NVRA and so on and so forth.
I do not believe that there are any special provisions for anybody who is a felon. If a person is a, you know, felon, then their right to vote has been revoked. I don't know what Counties might be doing.

MS. MARTINEZ: I think they go into a canceled status.
MS. FENG: But do you maintain their names?

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

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

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

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

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

MS. FENG: That's fine.

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

I'm just trying to further the discussion. I don't mean to necessarily cut anything off.

MR. REYNOLDS: Let me put it this way, for the time being, just to try to be responsive. There's going to be a record. There's going to be an audit record that
something happened to this voter and that will probably be kept for a very long time, if not forever. So that information would remain, but in terms of the person being maintained on the voter rolls, I believe that person would be removed from the voter rolls.

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

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

Now, what "cancel" means, I don't know if that's put in, as Chris says, some sort of record that's going to stay there for some time. I don't know forever, and I'm looking at Rebecca and --
MS. MARTINEZ: I don't know for how long. I put an
e-mail out. I don't know that you purge those records or
if it goes off unended.

MS. KAUFMAN: And one other thing to clarify, Kathay,
even when the State becomes a Statewide Database, we at
Secretary of State are not maintaining it. It is still
maintained at the County level. All input, all update is
done at the County level.

MS. FENG: What about removal?

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

MS. FENG: Right.

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

MS. FENG: Let me take a step back and just echo what
Margaret is saying. The implementation of the Database
generally in terms of design, this is -- it wraps into
that very much and so some of the issues that we've seen
happen in other states with voter registration purging
and all these other types of things are intimately
connected with whether you -- when you have somebody who
is taken off a list, if they are permanently removed and,
you know, do not exist anywhere in the system or if they are put into some type of inactive file, whatever that's called.

And so I would just suggest that I think that Margaret's idea makes a lot of sense and I -- to reconvene some version of the group that worked on the
Statewide Database to make sure that we don't -- whether it's complying with HAVA or just making sure that we don't step into the same doo-doo that other states have done; that in our implementation, we are thoughtful about a lot of these issues.

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

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

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

MS. FENG: You know, how it is a State Plan thing --
and maybe I'm wrong -- is that there's a performance measure thing. There's a section on performance measures --

MR. REYNOLDS: Uh-huh. Right.

MS. FENG: -- and it seems to me like you've got to have some way of evaluating whether your Statewide
Database was implemented in a good way, whatever "good" means.

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

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

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

MS. FENG: Yes.
MR. REYNOLDS: Okay.

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

they do remain on our system indefinitely. They're

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

can tell that we've canceled the record for that

individual, for whatever the reason is; you know, they
moved out of county and then came back, whatever it is.

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

MS. MARTINEZ: It shows a history.

MR. REYNOLDS: The history, right.

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

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

lines at polls, poll worker training. Those were some of
the issues that were brought up.

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

MS. FENG: I -- between Eugene's red-line version of
the language and then also the collective Cal VEC letter

that we sent, did we provide you language that -- I'm sorry. I'm just not -- I haven't looked at those letters in a while.

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

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

Now, you know, I do not, I admit, have a copy of Eugene's red-line with me, so I apologize for that. I can go back and take a look at that for sure if that's --
MS. GOLD: Yeah. Eugene's red-line added a bit of language, but I think there is certainly room to even talk about these issues more. Eugene got a great start on it --

MR. REYNOLDS: Okay.

MS. GOLD: -- and I think there was a lot of
consensus for both one and two that, you know, not only
talking about a better description or the reason for
HAVA, but having a little bit more of a balanced
discussion on DREs would be really helpful for the Plan.

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

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

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

MS. MAC DONALD: And that was Henry Brady.

MR. REYNOLDS: Yeah. Okay.

MS. MAC DONALD: I'm sorry. I missed half of your
comments because it takes so long to get off mute.
MR. REYNOLDS: There's two things. There's a desire, it sounded like, to have a better description of the reason for HAVA in the State Plan. As it's currently drafted, it doesn't really set you up as well in terms of understanding why we have HAVA, in the first place, and then a need for, as Rosalind just said, maybe balance is
the best word in terms of its -- you know, the promise of
the DRE, the value of the DRE, something like that.
So if anybody has any suggestions for me -- but
here's the bottom line. On all this stuff, I'm going to
go back and take a whack at it and see if I can't get
something, and I know that with respect to the reasons
for HAVA, I do have Eugene's red-line version to take a
look at, which unfortunately I did not bring with me, but
that's at least a starting point and then I'll see what
else I can dig up.
But does anybody have anything in terms of, you
know, Well, I read something one time and it was really
great or I read something and so-and-so wrote it and Go
look here, Chris. And you don't have to have it right
now. If you go back and find something later -- I'm not
asking you to look and search either.
MS. GOLD: No. We can do some homework. We've got
our homework assignments.
MR. REYNOLDS: So if anybody, either on their own or
by referencing something else, can tell me, This is a
really good description of the reason for HAVA and This
is a description of the promise or the benefits of DREs,
let me know.
MS. HUFFMAN: Wouldn't you find that in the -- in the
Summary of the Legislation?
MR. REYNOLDS: That's one place I thought I would go take a look at as well.

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

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

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

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

So, I mean, that -- AAPD puts a lot of information out on HAVA and DREs. So you may want to check out and -- I'm not in front of a computer right
now. I probably should have brought my laptop, and then
I could have been searching some of this stuff while
we're talking.

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

MS. JOHNSON: You could check the AAPD to see if they
have any good language there and then I can look around
and see what else I can forward you in terms of links and
things that you can pull from.

MR. REYNOLDS: Sounds good.

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

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

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

MR. REYNOLDS: Thanks.

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

Again, I will go back and look at Eugene Lee's
red-line; but if anybody else had specific language in
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
many languages, tell me what they are, and that -- the fact that Spanish is required statewide, that this is linked to Section 203 requirements, Voting Rights Act Section 203 requirements, and I don't know what else.

MS. GOLD: Absolutely.

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

MS. KAUFMAN: Cognitive disabilities?

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

I know you come up with those kinds of things, but I'm just wanting to throw out that there are kind of disability-related language needs that exist also and to make sure that we don't overlook them in our zeal to only focus on people that English isn't their first language.
MR. REYNOLDS: Okay.

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

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

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

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

And I cannot give you a perspective from the Secretary, but I will tell you that this Secretary has
done more than any other Secretary in terms of making this a reality in California. She's the first one who has approved of a system for use. It's being used in San Francisco and that use is now at least under consideration. I don't know how far it's gone, so I don't want to misspeak, but Alameda County is also, I
think, going to be included soon on that list of counties that would have a system that could be used for this, but it also depends on vendors bringing forward a system and testing and approving a system and making sure that that system works.

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

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

So on adding back in the bullet that was in the 2003 Plan about the desire to encourage, or something, choice voting, do people feel strongly about maintaining that?
MR. ESCOBEDO: Well, my point would be why specifically that and not other alternative methods? I mean, if you were going to add something, why a specific method versus vote-by-mail versus other alternative methods of voting? Why narrowly restrict it to just that method? And then, too, is what would be the language
sort of that would align it to HAVA saying, "Well, this
is making elections more accessible for people; this is
meeting a lot of the tenets of what HAVA stands for"?
Those would be my initial questions on that.

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

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

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

I think that, we would be comfortable with.

And I would say, again, then you would
add to expand it and encourage, you know, to add "like rank voting" and "like vote-by-mail" and the statement be more along the lines of, "The State encourages that as voting systems are developed that they look for alternative methods that provide greater access."

MS. GOLD: And the statement -- combining it with a
statement that I think basically the Secretary would agree with is that, "In California, we want people to be able to have a wide range of options available to cast ballots, to make the system more accessible."

MR. REYNOLDS: Anybody else have thoughts on that?

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

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

MS. JOHNSON: This is Margaret. I think that, you know -- I don't have the original report that you did or 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
what was then in regards to security.

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

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

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

And maybe Ana or Ardis can jump in. They may
have the original Plan in front of them, or others can
jump in, or maybe I'm totally blowing it and there was
like scads on it in the report and I just forgot.
MR. REYNOLDS: No. No.
MS. JOHNSON: That's my point.
MS. BAZYN: This is Ardis. I agree. It wasn't very
much difference. There was just very little about explaining the pluses and the minuses about what the accessibility was versus the security. It was very obvious that a lot more time was spent -- or maybe not a lot more time. It just wasn't explained as well regarding the accessibility.

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

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

MS. FENG: So it's --
MR. REYNOLDS: -- fundamental.

MS. FENG: Right. I guess then it sort of raises this question like when we think about what's fundamental, it sort of gets back to Rosalind's question.

You know, it is a little bit of a policy statement to say, We're not just looking at whether or
not these systems -- not all systems, just some
systems -- properly measure overvotes and undervotes.
We're actually doing -- it got deeper than that;
right? It was talking about whether things could be
infiltrated and, you know, so it's a bigger systemwide
evaluation.
I'm not going to judge whether that was a good
idea or a bad idea, but it's a little bit broader than
what HAVA needed to do. So if we're going to include
into the report this whole description of a top-to-bottom
review which used HAVA funding to do, that may or may not
be entirely within HAVA's scope. I think it just sort of
begs the question about, you know, what we set priorities
to do generally using HAVA.
MR. REYNOLDS: And there was a lot of talk perhaps
about DREs. I mean, there was, but the descriptions in
the Plan right now leaves out the fact that it wasn't
just the DREs that went through the top-to-bottom review.
It was every component of the system. So it was also the
optical scan portion of the system that was run through
the top-to-bottom review as well. There are systems that
are not DREs that were also run through the top-to-bottom
review. Those are the PBR systems used by Los Angeles
County and by the AutoMark system by EMS, so all of the
systems and all facets of the systems.
MS. JOHNSON: Hi. This is Margaret. I hate to interrupt, but I need a bio break, so I'm going to run off. I feel like I would like to hear this part of the description, so I don't know if others need a break right this minute or --

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

MS. JOHNSON: I'm sorry.

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

MS. JOHNSON: That works for me.

MR. REYNOLDS: All right. 15 minutes.

(Recess)

MR. REYNOLDS: Well, I'm going to jump back in then. So the reference to the accessibility reports, why it was reviewed, what was found, who did it, the methodology, just generally include more about accessibility that was done for the top-to-bottom review,
and I will also make note of the fact in the State Plan that the accessibility review has become a standard part of the testing and approval process and probably make note of the fact that we were the first state in the nation to use the accessibility standards and the VVSG, the Election Assistance Commission's Voluntary Voting
Systems Standards, to test the system under those accessibility standards.

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

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

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

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

MR. REYNOLDS: Margaret, I had moved on. I said I had thought I had gotten the point about including under the top-to-bottom review, the accessibility review portion, why it was reviewed, what was found, who did it,
what the methodology was, and generally include in there
and I mentioned that I would also include in there that
the State of California continues to use the
accessibility methodology in all of its testing and
approval going forward, and that we're the first state in
the nation to use, as far as we're aware, the Voluntary
Voting System Guidelines accessibility portion as a test and approval process.

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

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

Although the capability exists for DRE to load people that said every ballot style in the state on a
20 single DRE, I just don't think you could ask the County
to do that. So it's wonderful idea, but I don't know
whether it will ever be practical. How do people feel
about that?

24 MS. KAUFMAN: Well, if for no other reason than just
about every county has a different brand of DRE, so
you're not even on the same system, and being able to do
it, I think, would be prohibitive with any technology I
see coming down the pike in the next five years or maybe
even longer.

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

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

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

The common problem, although I don't know how
many instances we're trying get a sense of that from,
surveying the counties, is that somebody lives in
Orange County but they work in Los Angeles and they
didn't get around to going to the poll site when they
left for work, so they pop into a poll site that's close
to work and try to cast a ballot.

L.A. County now has some number of ballots from neighboring counties because people are commuting, and the question is, I guess, it seems like there is not a uniformity to what happens to those ballots that are
crossing county lines.

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

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

MR. ESCOBEDO: They would be provisional.

MS. FENG: No, I don't think so, not from what we know. We actually -- we were trying to get the Legislature to amend the bill that would actually require for the absentee ballots, for example, to say on the envelope that if you don't drop it off in your county, it may not get counted, because people don't understand that.

MS. FENG: On Election Day, we had County workers telling us that efforts would be made to quickly send -- I mean, obviously you're not sending it to -- if you're in L.A., you're not sending it to Orange -- or to Sacramento.

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

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

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.
That was the transcriber asking for identification of Karin.

MS. MAC DONALD: I'm sorry.

MR. REYNOLDS: That's okay.

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

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

MS. JOHNSON: Margaret. Sorry to interrupt, but
we're a little confused at this end. What are we talking about? Provisional --

MR. REYNOLDS: Absentee.

MS. JOHNSON: -- or absentee?

MR. REYNOLDS: Well, actually --

MS. JOHNSON: -- or something else entirely? We got
kind of lost as to what we're talking about.

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

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

MS. FENG: So let me just back up and say that on more than one occasion, I have heard from folks that it's not that you can vote in any place in any county and ask for another county's ballot style. That certainly doesn't happen.
What I had understood -- the problem is really just that people cross county lines. That's -- the heart of the issue is not sort of -- before we get wrapped up in a single county trying to host every single ballot style of every other county, the fundamental issue is when you have a voter who is legitimately registered and
they've crossed a county line to vote or for some reason
their ballot ends up at the wrong site, like maybe they
dropped off their absentee ballot in the wrong county,
but the question is what happens to that ballot and do we
want to try to make a statement about doing something to
that to make sure that these ballots are counted? I
think that's what this policy proposal was getting at.
I mean, one idea at the time that we had that
was much farther reaching, because we didn't know how the
technology was going to work, was that just like right
now with early voting, you can show up to any site and be
able to get the ballot style as long as you're within the
right county. You know, are there ways to resolve the
next question where a voter is in the wrong county?
MR. LEE: Well, this is Eugene Lee. I guess my
suggestion would be, in the interest of time, is to -- on
this page 9 is simply to list all the goals that were
included in the original 2003 Plan. Just say, "In
California's initial 2003 State Plan, these were the
goals that were articulated" and then continue to say,

"Some progress has been made and some progress continues to be made through these ambitious goals." What's wrong with that restating of the goals?

MS. GOLD: I think, also, if you go back to the Plan and look at some of these goals, they were placed in very
aspirational language. Chris and I just checked and when
we listed some of these goals, we put it in the context
of "bringing us one step closer to the day when," so we
didn't say, "We want this to happen tomorrow," "We want
this to happen," but -- but we sort of drew this in sort
of a very broad, aspirational statement of where we'd
like to get to eventually and I think that's a different
context than saying, Gee, we need to take a look at if we
can do this right now.

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

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

MS. FENG: Page 5? I was looking at 9. So some of
these, I'm wondering if the way to get around -- I mean,
I like Eugene's idea of just importing it and saying, "In
2003, this is what it was," but I wonder if we can say,
"For looking forward, here are some of our aspirational
goals," and they don't have to be as specific as saying
that somebody can show up to any poll site anywhere in
the state and get their ballot style.

I think the -- if we can articulate what the
problem is that we're trying to resolve, there may be
other solutions and so the problem is to ensure that
somebody's ballot -- somebody who was properly registered
in the state of California but who drops their ballot off at the wrong place, that efforts are made to count those ballots.

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

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

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

"It shall be returned by mail or in
person to the elections official from whom it came," which means the same county, "or return the ballot in person to any member of a Precinct Board at any polling place within the jurisdiction."

And it says further -- Section D of that
section, says:

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

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

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

MR. REYNOLDS: Let me reorient people to what I'm
talking about. Let me just make a quick observation on

the three that were left out, and they're actually -- as

Rosalind helped me discover, they're on page 5. Perhaps

it was page 9 of the State Plan update that I was talking

about --

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

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

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

If there is an attempt made because someone looks at that provisional ballot and says, "Oh, this person lives in Orange County; they don't live in L.A. County," and they ship the ballot over to Orange County,
then Orange County is in a bit of a dilemma based on the
Elections Code, but then they've probably voted on a
ballot that has none of the races to which they're
entitled to vote. There's a real distinct possibility
that will happen, in which case they couldn't count any
of the ballots to begin with.
MS. MAC DONALD: Chris, I think you ought to be careful with what you think people are being told in the polling place, because that's perhaps 25,000 times.

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

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

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

MS. GOLD: Because we did in the Plan and other places specifically say, "We recommend that the Secretary
of State go to the State Legislature to try to get laws
to do certain things."

So, for example, a related issue is trying to
make sure that if someone casts a provisional ballot and
they're in, you know, the wrong place, but like at least
the offices that they are eligible to vote for like the
Governor, you know, the Lieutenant Governor, we did say in another place in the Plan -- I can show you that -- that We recommend that there be legislation to have as many of those offices covered.

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

MR. REYNOLDS: In Section 14310.

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

And as Rosalind says, it doesn't have to be next
year. It could be something that's just sort of a,

Here's -- We generally think that here are some

continuing problems that voters face and we'd like to

figure out ways to keep our eye on that issue and see if

technology or legal changes may help with that.

MS. GOLD: Yeah. For example, Election Day
registration is another thing that you would need at the
minimum.

MS. FENG: You need a lot of things.

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

MS. FENG: Right.

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

MS. FENG: Like I think if we were to say "Overseas
and military voters can vote safely and wherever they
might be," that's sort of bringing them all back to the
U.S. That's just an aspirational statement because
clearly wherever they are, there is danger and it won't
be easy. They can't get to a fax machine and they
can't -- so it is all --
MR. REYNOLDS: And that's one of those things that was left in, if I'm not mistaken. I'm talking about specifically these three that were taken out because of these reasons.

MS. FENG: I guess the ones that are left in, I would say that's a value judg- -- they are just as aspirational
and somewhat elusive as the ones that got taken out. And so I think as a group, we should just -- we could soften the language to make it feel like it's less unachievable, but I think that the whole point of putting in words that are aspirational is that they are not currently that way in reality, they're not currently that way in law, but we all think it's not a bad idea to get closer to that goal.

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

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

That's the other thing. I don't want to give you the impression that I'm the definitive authority on how the Secretary might feel about including something,
but I don't want to discourage discussion, and that's my attempt here, to let you know why certain things were done with the State Plan the way they were and so -- okay?

MS. FENG: Okay. Well, so can we tackle each one of 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 --
MS. GOLD: I don't know. I am actually -- I actually prefer the more broader aspirational language than specifically talking about provisional ballots. I think when we first came up with that language, we were sort of really dreaming of this idea that there would someday be technological capabilities where basically you could walk
in any place in California --

MR. REYNOLDS: On Election Day.

MS. GOLD: So I guess I would be -- I would maybe make that as an example, but I don't want the broader concept to be too diminished by talking about the specific issue of the cross-county provisional ballots.

MR. REYNOLDS: So on that one specifically, I'm going to call it the "any voter anywhere," I'm going to leave the language where it is, and again we'll have discussions with the Secretary of State staff internally, and so leave it as is.

And then on the Election Day registration, I assume that's a leave-as-is:

"Election Day registration is available to those who did not register prior to the election."

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

I'm just trying to find some resolution, because I don't think it's going to be easy for you to take on a
mishmash of comments.

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

MS. FENG: I'm talking out loud because I'm quite confident that as soon as I leave this office, I'm not going to be spending very much time doing what I should
be doing, which is --

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

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

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

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

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

MS. GOLD: Any precinct anywhere in the state, like I said, so I can't remember what "or other appropriate
"jurisdiction" meant, because I don't think we were intending for people to be able to vote in New York.

MR. REYNOLDS: I think that would cover going down to County Headquarters or something maybe.

MS. GOLD: Anywhere in the state. If you want to get rid of -- if the "or other appropriate jurisdiction" is
causing red flags or whatever.

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

MS. GOLD: Sure.

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

MS. FENG: Okay. Let me back up again. Sorry. Just to look at this, we have this worded, "Any eligible voter can cast a properly formatted ballot," and maybe that's -- so I think we were at one time envisioning you could show up in Sacramento on a day trip and you needed an L.A. ballot and you could pull it up, but what if it was just "Any eligible voter can cast a ballot in any precinct anywhere"? Now, we haven't said whether it's County, and also -- I think the idea is just that you --
the more common example is the neighboring counties; you show up and now that we have this law change where the top of the ballot that's relevant can be counted to the extent that it's correct. You know, if we said that you could -- if we didn't say that -- by having "properly formatted ballot" somewhat suggests that if I show up in
L.A. or in Sacramento, I should be able to see an L.A. ballot; whereas if you can just cast a ballot, it means I can vote on the ballot and it may be the case that the bottom of the ballot is incorrect because it's the local races and whatnot, but it gets a little bit closer to what currently exists without --

MR. REYNOLDS: I can still do statewide measures.

That's the bottom line.

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

So if we make -- I guess I see a value in this being a place to talk about the big dreams and if, again, it's prefaced with the concept of We acknowledge and we
understand that this is going to require significant technological and legal changes, but this is kind of what we hope to really happen someday because, again, I think that fits into the spirit of maybe all the other bullets as well.

MR. REYNOLDS: Okay. So with respect to this one in
particular, I'll tell you what I'm going to do. I'm

going to give you this language again. Then I'm going to
give you some alternative that's an incremental, because
I think what Kathay is talking about is -- and Kathay
Feng, for those who aren't in the room, is saying, Well,
look, you could get a ballot anywhere in the state,
depending on the election. If it's a UDEL, you're out of
luck, but -- I'm sorry. UDEL is Uniform District
Election Law, which generally deals with special district
stuff, and that's going to be very particular, so you
won't have any statewide measures on a UDEL ballot.
Becky, you can kick me under the table if I get
that wrong, but Kathay is saying at some point, if it's a
presidential or it's a statewide, you have certain things
you can vote on. You're going to be able to vote on
President and Vice President and you can vote on Governor
and Constitutional officers and statewide measures and
those could be counted if you took a ballot in Sacramento
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,
We're telling you that -- because these are logistical and legal issues you're going to deal with -- this was voted before the polls were closed. These were voted.

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

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

MR. REYNOLDS: And this will be the last word before we go for a break and we'll get back on section one, and I'm going to try to move much more quickly for some other 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
bit maybe. "On Election Day" I'm going to leave in. I may include something in there -- somebody referred to it as "softening the language." Somebody referred to it as "making sure people understand," make it an aspirational goal, so I'll do that.

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

MS. FENG: Fair enough.

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

MS. FENG: Okay.

MR. ESCOBEDO: Just really quick, on the aspirational things, and we did discuss the Election Day registration, you've mentioned automatic and permanent registration.

At some point, that may be the specific bullet that only restricts it to online, that there's more of an aspirational voter registration access or some sort of language that doesn't just do online but sort of pursues
"greater access to voter registration" and something, and then you don't have to exclude specific things.

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

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

MS. FENG: Well, this is no longer a goal, right, 'cause this is done?

MR. REYNOLDS: Well, no, it's not. I mean, it's not implemented yet, because one of the things that was written into the bill, at our request, actually, was, Don't make us do this until after VoteCal is implemented.

MS. FENG: So we keep it -- I was just wondering if it was done. So the Election Day registration thing, that's where I thought you were going.

So take this language, this 11th bullet point on Election Day registration, and just say -- I'm not -- "to bring us one step closer to the day when voter registration is not a barrier to"

MR. ESCOBEDO: "Every opportunity to register, up to the day of the election."

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

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

MS. FENG: The general thing would be "where voter
registration is no longer a barrier to voting to citizens who are otherwise eligible to vote" and then including --

MS. GOLD: Yeah. Then just collapse a couple of bullets there.

MR. REYNOLDS: "Including online and EDR registration." Okay. Yeah. I'm getting the flavor.
MS. FENG: Do you know where she stands on those
issues generally or does she --

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

MS. FENG: Okay. Interesting.

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

MS. FENG: Right.

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

MS. FENG: The reason why I like this language that
we've just crafted is there actually may be solutions that we haven't envisioned, and we're caught up in a debate right now that thinks about it in a certain way because that's the technology we have and that's how we're thinking about it, and we weren't talking about automatic registration at all -- well, some people were,
but we weren't talking about it very much in the election reform community until very recently and now it's become part of the checklist of things that people talk about. So I just think that I like this way of having a list that's including or such as --

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

So yeah. I'll do my best to do that, but if
anybody's got ideas -- and just as a logistical thing,

after this meeting today, I'm going to go on vacation for

a week, one, so that I can absorb some of this stuff and

then, two, take that time, if you will, to do the

homework that you want to do and get me whatever you can.

But that's not the deadline, because I think it's going
to take me several weeks after I get back on August 10th

to really try to get you something. Okay?

MS. GOLD: And the point of the vacation is

actually not to be thinking about all this.

MR. REYNOLDS: Yeah, but I'll probably take a look at

the notes and just to refresh my memory.

MS. GOLD: And absorbing --

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

There was a question -- but this is difficult

considering we're doing phone call-ins and physical

in-person stuff, too, but there was talk about, you know,

go out, take a certain amount of time, try to bring

something back and kind of have a working lunch. What's

people's preference?

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

MS. JOHNSON: Margaret. I don't think we care. We

just need enough time to get something.

MR. REYNOLDS: So then -- I don't want to give too

much time, but can we take the next 25 minutes -- see,
I'm trying to accommodate the notion that --

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

MR. ESCOBEDO: It is the traditional lunchtime, so everywhere we go, there's going to be lots of people.
MS. FENG: Half an hour? 40 minutes?

MR. ESCOBEDO: Half an hour, 30 minutes.

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

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

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

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

(Lunch recess)

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

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

MR. REYNOLDS: So at least on the Section one on the priorities template -- and, again, this is not exclusive.

Again, at the end, I hope we have some time at the end to
write down some things that I forgot, if there are any,
or if there's anything anyone would like to add.

Excuse me.

There's a little note about more history on why
paper balloting was considered deficient and I think, in
particular, that it was prescored punch card ballots, but
there may have been butterfly ballots, too. There may
have been a number of things. And for some reason, I
think it was referenced in the joint letter -- let me
call it Cal VEC and California Council of the Blind and
Disability Rights of California and League of Women
Voters. Let me refer to that as a joint letter.
I think there was a reference to the ACLU Common
Cause lawsuit, the one in California, Bill Jones. So
there may be some stuff I can glean from there. So I may
ask Kathay if I can get a link to something or I'm sure I
can Internet or Google it to find a reference to it.
MS. FENG: I was actually trying to think of -- on my
list, I put -- to try to give you some language.
MR. REYNOLDS: Okay. So on paper balloting
deficiencies, including more language there which gets
back to a comment on the Overview Section about a better
promise of DREs, you have to talk about the paper
balloting deficiencies and also it ties into the reason
for HAVA.
So other than what I've mentioned and what Kathay is going to provide, is there anybody who wants to refer me to anything in particular on this point?

Okay. Hearing --

MS. JOHNSON: This is Margaret. I'll see if I can find anything also.
MR. REYNOLDS: Okay.

MS. KAUFMAN: What about Ardis?

MS. JOHNSON: Is Ardis back?

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

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

MR. REYNOLDS: Do you think that was in 2003, early, late, mid?

MS. FENG: I'm just trying -- I know that -- I know that Dan Tokaji and Jim Knox went and presented about this Common Cause ACLU lawsuit at that hearing, so when
was the -- when was that settlement?

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

MS. FENG: So I'm thinking it's kind of like that.

Honestly, I can't remember. It's a bit fuzzy in my head.

I remember there was a lot of good testimony from a pretty varied group of individuals about the individual problems about balloting.

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

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

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

MS. KAUFMAN: John Mott Smith.

MS. FENG: And he did a lot with regards to creating
MR. REYNOLDS: Okay.

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

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

MS. FENG: Okay.

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

MS. FENG: I would add to that that the SOS was coordinating with Easy Voter Guide to help distribute -- approve language and distribute it. Under John Mott Smith, they created these little cassette tapes. They had a lot of little things that they were doing that came
out of the Secretary of State's office, so if you could
dig up --

MR. REYNOLDS: And we coordinated -- under the Bowen
administration, there was coordination with and support
for the Easy Voter Guide and for the --

MS. KAUFMAN: Smart Voter.
MR. REYNOLDS: -- Smart Voter web page.

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

MR. REYNOLDS: Okay.

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

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

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

There is a public hearing that is conducted and staff from the Secretary of State's office sits on -- in a panel-type arrangement and is able to ask questions both of presenters and of others who provide testimony or independently, but that's kind of the approach. And so
is there a desire to explain the change in practice, if
you will?

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

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

And then there's -- Freeman, Kraft, McGregor is a firm that's been used by a lot of different people, including the EAC and others, on voting system testing
and approval, and that was the office. It wasn't -- it
was within the Election Division. The person was housed
within the Election Division.

So then that group, if you will, would do a
testing and approval process. There was, I think, as a
part of that, kind of an open house feature to it; and
then from there, there would be the public hearing which
is required by the Elections Code, and that staff person
would present -- Freeman, Kraft, McGregor would be there
and so on and so forth, and I think there was a
recognition after -- and that practice seemed to continue
under Kevin Shelley.

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

There was a recognition under McPherson, I
believe, that it was really the nature of the systems
that were being approved -- had changed, and it had
already changed, but now there were much more resources
that needed to be brought to bear, and different kinds of
resources.
So a person with more technical expertise and
staff with technical expertise, to the extent that it
exists, maybe not on voting systems particularly but on
computers and on technology generally, were brought in to
assist, and still, reliance on the outside consultants,

Freeman, Kraft, McGregor.

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

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

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

So there has been a widening of reliance on different people. I think from the top-to-bottom review,
they also called upon people from as far away as Princeton and the University of -- I want to say --

MS. O'DONOGHUE: Ohio?

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

Anyway, the point is there's been a broadening
of reliance on and there's been a difference in the
approach to the testing and approval process in that
there is a look at the source code. Since the source
code is the genesis of what makes the system run, you're
checking to make sure that it's doing the functions it's
supposed to and you're looking at security issues through
the so-called red team testing and that's been a practice
that's continued. And because of the nature of the
software, the proprietary nature of the software and the
trade secrets that are asserted, there is a need to keep
a close rein -- that's not the word I'm looking for, but
to control the environment under which you're doing this
testing, because everyone who has access to the source
code to do the testing and to look at the results has got
to sign nondisclosure agreements and so on and so on.
So that has led to a much more -- a closed environment.
I don't know that the environment was ever that
wide open when it came down to the actual testing and
approval at the staff level, but I'm just saying there's
much more attention paid to the security issues around
the testing process, the hands-on testing process.
So there's still a public hearing that's held
and the Voting Systems Panel is not of the same -- it
doesn't have the same emphasis. It doesn't really exist
as it did under Bill Jones and then Kevin Shelley.
So that's a more full description of what I think we're dealing with. I hope it answered your question. I can't even remember what your question was now.

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

MR. REYNOLDS: Okay.

MS. FENG: -- and I think some of us are looking for that -- I think a lot of us had the question about what happened to the Voting Systems Panel because that was at one time a focal point for a lot of input from the outside about the voting systems feasibility; and so it's never been the case that the public has been involved in the actual testing, but it has been the case that -- at one time anyway -- it seemed like there was a much more participatory process where people would come in and say, We are voters or We are organizations that have had extensive experience in voting on or providing services using this voting system and here's what we think about
And there used to also be -- at least we'd work out with the jurisdiction or the State to have -- before a vendor was up for that voting panel hearing, they would do a show-and-tell and people could kind of come and kick it around, and then the comments they provided to the
Voting Systems Panel would be incorporated. And sometimes that was a matter of something maybe before the testing had even happened, but now the staff could be aware to look for this thing, whatever it was. So it could be the ease of which a ballot, you know, could slip into the marking device and how easily is it aligned correctly or whatever, so things that they may or may not have thought of but in the field people had talked about.

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

MR. REYNOLDS: The other thing that I would like to mention, too, is that for the portion of the testing approval process, again, something that no other Secretary had done other than this one, the usability portion is most thoroughly covered, and I think in a way 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.
This is not so -- it's not so necessary in this portion of the test procedures to worry about proprietary information and so on and so forth. So this is a more hands-on, practical usability user interface, however you want to describe it, portion of the test that probably should be described under the State Plan.

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

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

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

MS. O'DONOGHUE: This is Debbie. There's an opportunity, once the consultants or the work is done, for the public to review the reports that the consultants
have done and then go and make public comment either at
the hearing or submit it prior to the hearing or even,
you know, a certain number of days after the hearing.

MS. FENG: Again, I know we're not supposed to get
into the policy. I'll describe to you here's what the
concern was. And maybe the best analogy is when you
bring your car into the shop and you know that there is
like a pinging sound, but it only happens when it's cold
outside and just have after you've been letting it sit
for a while and da, da, da, da, da.

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

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

MR. REYNOLDS: And there is a part -- as part of the
use procedures -- and, Becky, you can -- or, Efrain,
maybe you can correct me if I get this wrong because it's
kind of narrow, more narrow than just, you know, "There's
a pinging noise in a car" or "I couldn't feed the ballot
in right." It has more to do with whether there is a
malfunction in the system. And those, according to Use
Procedures, are supposed to be reported back to the
Secretary of State so that the Secretary of State is made aware if something in the field is going wrong on Election Day.

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

MS. FENG: So on the user-group front, I'm sorry to belabor this, but I do think it's useful to have users that include either poll workers or people who serve voters, because the problems in the field don't always get back to County Headquarters and -- and also, I don't want to cast aspersions, but I think sometimes counties, they're invested in the systems that they have, so you kind of make it work, you know, and it's a very different
conversation than, say, somebody who comes to the table
caring about the voter access but not necessarily
invested in the system that we're currently using, or any
system, of being able to write honest assessment of how
it's working in the field.
So maybe the user groups could be expanded or --
to include -- I'm not saying the whole world but maybe
just more than just counties and vendors.

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

That particular section and that reference is to
the fact that you can meet overvote protection standards
for a voting system through a voter education program.

Okay. So I will, I guess, need to get a better sense
from the counties what they're doing. I mean, I've seen
this, but I haven't tried to compile any information in a
systematic way, but I know the counties, because they're
relying more on optical scan systems now, but also
because they've always had to, because of vote-by-mail balloting, to provide some kind of voter education to people about how to appropriately mark your ballot and what to do if you make an error, how to correct an error on your ballot, and that's what this is about. They provide illustrations many times in the sample ballot and
there are separate mailings that go inside by
vote-by-mail ballots and so on and so forth.

MS. MARTINEZ: And posting. They do post.

MR. REYNOLDS: So I'll be talking to Becky, and

whoever else she tells me to, to try to get a better

sense at the counties how to describe this in a

systematic way: Every county provides X, Y, and Z and

they all do this or something like that.

MS. ACTON: Chris, this is Ana.

MR. REYNOLDS: Yeah.

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

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

MS. ACTON: Okay.

MR. REYNOLDS: I was trying to focus in on this one,
but I think we're going to get to that question in a bit.

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

the one that talks about the use of Advisory Committees
to ensure voting system accessibility and privacy for
voters with disabilities. I guess I've just mentioned
that and I think it goes back to Bill Jones, but I'm not
sure, that there's been a Voting Accessibility Advisory Committee in successive administrations and the one for Secretary Bowen has been in place for I'm not sure how long now, but that would be one of the things that would be mentioned about the use of an Advisory Committee for voting system accessibility and privacy.

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

MR. ESCOBEDO: And, Chris, isn't there also now -- and I'm not sure if it's under the new Guidelines for --

the new Guidelines on Disability Access for counties to create committees, specific committees for voters with specific needs and establish them in each county.

MR. REYNOLDS: Yes. And that has been a practice of the Guidelines. Under Elections Code Section 12280, I
"In the siting of polling places, local elections officials must consult guidelines developed by the Secretary of State. Those guidelines are actually developed as a result of the voting accessibility for
elderly and," excuse me for this term,
"handicapped voters of 1984," something like
that, and the guidelines are supposed to be
about how to make a polling place
accessible."

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

So State and local VAACs.

Now we're back on this bullet of "Better
explanation of the consideration of disapproval" -- and
I'm using the term used to be "certification," but it's
now called "approval," so "disapproval or refusing to
approve voting systems that do not accommodate choice
voting," but we've kind of already talked about this and
I guess the only thing I would put in here is that this
Secretary of State has actually certified a system for use in the City and County of San Francisco for choice voting. That would be the explanation of progress.

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

MS. KAUFMAN: It's conditional.
MR. REYNOLDS: I'll have to check.

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

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

MS. KAUFMAN: At each county.

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

MS. KAUFMAN: Yes.

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

MR. REYNOLDS: It's Sequoia, actually.

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

MR. REYNOLDS: Yeah. They kept being told, You had to come back, You need to come back and come back and it just never panned out. So eventually, the City and County of San Francisco decided they were going to move to Sequoia, which opened up possibilities for Alameda, which had been on Diebold and is now on Sequoia access, 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
now looking for? In other words, before -- before, it was all theoretical. And now that she has gone through the process of approving those systems, there must be now some set of guidelines or measurements --

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

MS. FENG: Test protocols.

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

Now, it's not that the State pays no attention to that. As I said before, there are things that we've
discovered that were missed at the Federal level in terms
of the test. However, the focus really of the State
testing has generally been, Does it meet State
requirements? Can it perform the way it needs to in
California? And I'm grasping right now to think of a
particular condition. Well, you know, Does it provide
for provisional voting? Okay?

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

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

MR. REYNOLDS: Yeah.

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

MR. REYNOLDS: And in some respects, it's going to be more of a test protocol description, as opposed to perhaps a definitive standard in the sense that you want to create the benchmarks or the test protocols, the things that they have to get by, but you don't want to
describe how they have to do it. So, yeah, it will be
more of what you're describing.

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

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

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

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

MR. ESCOBEDO: Like not to generally say they're
using it for everything now. It's sort of being rolled
out and at this point doing local --
MR. REYNOLDS: 'Cause they can't use it for anything else.

MR. ESCOBEDO: Well -- and because you don't want people saying, Wait a minute. In the Elections Code, how can you do that if there's some Legislative changes that have to happen?
MR. REYNOLDS: Thank you. A better explanation in the development of a uniform definition of a vote, there is the uniform definition that has been developed and is posted on our website, so I will be referencing people back to that.

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

MR. REYNOLDS: Okay.

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

MR. REYNOLDS: Okay. For your purposes or for purposes of this group, as an FYI, we hired a consultant. It's supposed to be a definition of a type of voting system, how a vote -- what constitutes a vote for a type of voting system. So you have one for optical scan, you have one for a DRE, and so on and so forth, for a vote-by-mail ballot.
A consultant was hired to do that work. They provided us with an initial draft. The Office of Voter System Technology Assessment reviewed it, we put it out to the counties for comment, and then it was ultimately adopted and posted. So that's a general description of the process.
A list of compliance components. Okay. The reference -- let's see. There should be a reference to the Voting Rights Act, Section 203, and transliteration of ballots and other materials for references to the materials or meeting the requirement that the voting system provide access to those with language needs. That's I think easy enough to do except with respect to transliteration of ballots, and it's got a question mark under HAVA Title III requirement because I'm just not sure about transliteration of ballots, and the reason that I say that is because I thought that that was one of the sticking points with respect to another issue, which is reading back the choices of voters off of the VVPAT -- that's the Voter Verified Paper Audit Trail -- the receipt, if you will, that gets printed by a DRE, was the difficulty in reading character-based languages back to -- so that's my sticking point on this one. Can anybody help me with --

MS. FENG: Okay. Walk us through that sticking point
again, so -- because the DOJ clearly requires not only
translation of ballot but also transliteration of ballot
in certain languages where transliteration makes sense.

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

MS. FENG: Makes sense because there are certain
Asian languages that use a Roman alphabet like Tagalog or, to some extent, Vietnamese so that you could use that same alphabet to write "John Smith" and people have an easier time reading it, whereas character-based languages like Japanese, Chinese, and Korean require transliteration. So that's where the -- and Spanish -- do you transliterate in Spanish? I don't think so.

MR. ESCOBEDO: No.

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

MS. MARTINEZ: The accent?

MR. ESCOBEDO: The accent?

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

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

MS. MARTINEZ: A grammatical thing.

MS. FENG: So the distinction is for Roman
alphabet-based languages versus --

MR. ESCOBEDO: And statewide, I mean, I know there's
the Legislation that I think Assemblymember Yee is moving
that's actually going to give more concrete language of
the transliteration of names on the ballot and all those
kinds of things.
MS. FENG: So the question you have is on VVPAT.

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

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

MR. ESCOBEDO: To be in compliance.

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

MR. REYNOLDS: And that should be noted.

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

Okay. I guess around this issue -- and this is
one where I'd like a little fleshing out, if I could.

Maybe I've captured it wrong here, but the standards for
a vote-by-mail ballot would be the same as for an
optical-scan ballot in terms of usability/accessibility.

I'm not sure exactly what to do with this comment.

MS. JOHNSON: Hi. This is Margaret. I think part of
the issue with vote-by-mail is that it's not accessible
to all people with disabilities and I don't know, based
on your summary here, if that was part of what was trying
to be gotten at, but vote-by-mail isn't accessible for
people who can't see the ballot and people that might
have manual dexterity disabilities.

MS. FENG: I remember this. Margaret --

MS. BAZYN: This is Ardis. There's also an issue
with, you know, transportation and having availability of
accessibility. I mean, you know, transportation is
another big issue. So I think there's a lot of different
components.

MS. JOHNSON: Yeah. So if you're going to do
vote-by-mail and you're going to have vote centers
throughout the county, depending on where those are,
people that need to go to those vote centers to vote
because that's the only place where they can get the
accessible ballots, as Ardis is saying, there may be
transportation issues to get there for the people that
need to get there to use accessible ballots, and I think
some states have dealt with that by having mobile vote
centers that go to where the voters are or move around
the county or whatever. I thought either Riverside or
San Bernardino or Orange, one of those counties --
MS. FENG: Riverside or San Bernardino.
MS. JOHNSON: -- had a mobile vote thing --

MS. FENG: San Bernardino.

MS. JOHNSON: -- primarily for educational purposes,

but I think they could also use it to take the voting

systems to closer to where people are.

MR. REYNOLDS: Okay.

MS. JOHNSON: As Ardis says, there are a number of

issues related to this. We worked heavily on a piece of

legislation a couple of years ago that was trying to move

to a statewide vote-by-mail system, and I could maybe dig

up some of our letters around that which would have

identified numbers of issues that come up for voters with

disabilities when you're trying to move to vote-by-mail.

MR. REYNOLDS: That would be helpful for me to

understand the issue. Again, this is one of those ones

where it may not be HAVA, per se.

MS. FENG: Where does it come up in the Plan? 'Cause

I guess I thought --

MR. REYNOLDS: I don't know.
MS. FENG: I thought -- Margaret, I don't know that
we necessarily have to go so deep into this. I thought
where this came up was more that --

MS. JOHNSON: We can go deep into your stuff, but not
mine? Excuse me, Kathay.

MS. FENG: No. Margaret, I'm just saying that it's
not --

MS. JOHNSON: I'm sorry. I just had to say that.

MS. FENG: No. I'm not saying that. I'm saying that it's not in the Plan language, but I thought how we brought it up was that we were asking for some additional language like the part that says "maintaining a commitment to in-person voting wherever voting" -- "vote-by-mail showed up," but it wasn't like -- it's not a whole section that's dedicated to talking about vote-by-mail. It's just that if you were to do a search for those words, just to make sure that we're talking about it as not a universal system.

But the other thing I thought we had brought this up about -- and, Chris, you'll have to look back at our combined letter -- is that when there's testing done of all sorts of voting systems, is there also testing of --

MR. REYNOLDS: The vote-by-mail component?

MS. FENG: Uh-huh.
MR. REYNOLDS: Well, to the extent that a system gets its paper ballot tested, but, yeah, because -- okay.

MS. FENG: So that was where it -- how it came up was exactly that, that you have a top-to-bottom review of voting systems; but a lot of times, you're kind of assuming that that's in a polling place setting. What
happens when a voter has to deal with that ballot at home without any assistance? And is it then any more or less accessible or difficult to use or what -- all -- or is it harder?

I would certainly say that in L.A., the InkaVote system, when it's used in a vote-by-mail concept, is probably harder for voters in the sense that they don't have the alignment device to kind of help divide them and they're also trying to go back and forth between -- if they're using languages, they've got to go by a sample ballot and then match it up with the bullets that they're filling in. On the other hand, maybe they have help at home.

So just I think the issue was when we evaluate systems, that similarly we should be evaluating the vote-by-mail systems and not just as paper ballots but in the context of somebody voting at home and not having the kind of assistance that they would have at a poll site location.
MR. REYNOLDS: Yeah.

MS. JOHNSON: This is Margaret. I think -- Chris, I think that, you know, part of my comments go to the fact that I think that when you talk about vote-by-mail, people don't really understand why there wouldn't need to be any looking at that system. They don't really get the
access issues. A lot of people think that's just easier for people with disabilities that vote at home. So I think part of when you're -- if we're talking about that, we need to look at standards as related to any system, whether that's at home or not. Then, you know, identifying why that might be the case is important, I think, although I believe that HAVA deals more with DREs than paper ballots. But I think that since they are -- since HAVA is really looking at making sure that voting is accessible for people with disabilities, I just want to make sure the assumption isn't that vote-by-mail is accessible for people with disabilities, because it isn't for many people.

MR. REYNOLDS: Okay. And --

MS. BAZYN: This is Ardis. I just wanted -- it could also go under the line where it says, "The SOS should develop a new definition of accessibility," because obviously it could come under there, too.

MR. REYNOLDS: And I'm just going to make a couple of
general comments in that, yeah, there's no question and
it's pretty self-evident, although it's -- I guess the
point is that it's worth pointing out you don't have
accessibility with respect to vote-by-mail and there's no
expectation in HAVA that you somehow could enhance. But
on the other hand, as Kathay is saying, if there are
things about a vote-by-mail that make it harder to use at
home, but I'm not sure that the polling place system --
if L.A. County has based its current system on its old
system, there was always the reliance on a sample ballot
in conjunction with the ballot. It's always been that
way.

MR. ESCOBEDO: That's actually how you execute
vote-by-mail. You get a sample ballot and you use your
sample ballot; or if you're a permanent vote-by-mail
voter, since you get it so early, you have a special
Voter Guide and it just tells you to match up, to look
for like number 53 and you fill in vote position number
53, and it gives you -- that's actually how you execute
it.

At the polling place, if you are going to do it
in another language, you do need that sample ballot,
because the vote recorder pages that you use to navigate
the pages are in English.

MR. REYNOLDS: Okay.
MS. FENG: So if -- currently, when testing voting systems, you are not evaluating the vote-by-mail system or are you?

MR. REYNOLDS: You are from this sense. I'm not smart enough about it yet, but I'll go back and ask, but you're testing it from at least this perspective: The
actual function of filling in the ballot and having the
ballot results tabulated are the same, in that the voter
is going to take that optical-scan ballot and fill it out
and they're going to mail it in and it's going to run
through a ballot reader in the same way. The process is
the same.

If you're at a polling -- well, I guess if you
have a precinct-based reader, it would be slightly
different, but that's an added feature for the voter to
try to catch an error.

So there's at least one difference that, you're
right, you would include that voter education component,
for overvote protection, at least, in your materials that
you give and you would probably also, if there are
certain ways that you need to educate the voter about how
to fill out that ballot that you can't do because you're
not there as a poll worker or you don't have any postings
or whatever, that you would include that either in the
sample ballot or as a sample mailing or whatever.
MS. FENG: So, Margaret, where does this fit? I can't remember. I remember we talked about it and I wasn't sure, was it -- were we saying that it was fitting it into creating standards for it or during top-to-bottom review or during approval processes that it should be included?
MS. ACTON: This is Ana. Can I just comment on this?
I think, well, there's been talk anyways about the idea
of vote-by-mail initiatives within the state where
basically the whole state would be vote-by-mail.
MR. REYNOLDS: Okay.
MS. ACTON: And I know, because there's been
specifics about turnout and absentee voters and how many
people are voting by mail, and I recall putting together
comments I think with Kathay and Margaret around the
whole vote-by-mail accessibility issues that I think we
have real concerns about regarding accessibility and how
that would be done in our state --
MR. REYNOLDS: Okay.
MS. ACTON: -- and I'm not -- I'm not directly
connecting it to the State Plan, although I wasn't there
for the 2003 discussion, but I think just in general if
there's any movement around that, there needs -- I mean,
there's a lot of concerns around accessibility.
MR. REYNOLDS: Okay.
MS. O'DONOOGHUE: And this is Debbie, Ana. Was this a bill that was in 2006 that it was the Voting Accessibility Advisory Committee that we asked for input on? Does that ring any bells?

MS. ACTON: Yeah, that does ring a bell.

MS. JOHNSON: Also -- this is Margaret -- there was a
bill. I think it was in '06. I think the guy who did it
was the guy from Marin County. I can't remember if he
was an Assemblymember or in the Senate or --
MS. GOLD: Huffman?
MS. JOHNSON: Yeah. Right. Huffman had a bill to do
more kind of statewide vote-by-mail and that, you know,
kind of brought us all out with concerns around the
entire state going that way.
I believe Oregon is a vote-by-mail state, so
they were just trying to do what another state was doing,
potentially successfully, although I believe there, you
know, are access issues in that state and there are
things that they've been doing to overcome that, you
know, like some of the things that I've described.
I think in the context of the State Plan, I
don't really remember where it came up without looking
back at our letters, and I don't have that, but I think
that Ardis said it kind of went to how we're defining
"accessibility."
And I also think that Kathay's point about if we are evaluating or approving voting systems and stuff, that, you know, when vote-by-mail comes up that it might make some sense to evaluate whether that's accessible to people with disabilities and if there are problems with the access, thinking of ways to try and fix that.
MR. REYNOLDS: And here's the comment from the letter:

"At the same time that standards for usability, accessibility, and security of vote should be laid out for vote-by-mail ballots, the Secretary of State should maintain a commitment to accessible in-person voting options."

So I think it was, Okay, if you talk about vote-by-mail at all, make sure you maintain a commitment to in-person voting, but there may be some other issues that could be worked in here. I don't know. I'll have to take all this under advisement and we'll see where we go.

MS. JOHNSON: Chris, I will look for the letter that we wrote, if there were any, on the concerns we had with that Huffman bill, because I think that will kind of lay out like, you know, more than just the fact that people who can't see the paper or manipulate the paper have
There are other problems that surround the whole vote-by-mail thing. So I'll look for that and send that to you, and, you know, you can include what you want, but it's just a way to make you see the breadth of kind of the problem for people with disabilities.
MR. REYNOLDS: Now, the next item is to require that provisional voting be accessible. This one somebody needs to help me with because provisional voting is accessibility. All voting systems that are approved for use are approved as a system as a whole. Each one of those systems includes the accessibility component of the DRE or the -- a voter-assistive device. Every one of those voting assistive devices or DREs must be able to be provide for a provisional ballot option for the voter or they will not be approved, and they all include it.

MS. KAUFMAN: Wasn't this something that was discussed at one of the VAAC meetings where the concern was that if you could not get to your home polling place because it was not accessible and so you went to vote provisionally in another polling location that was accessible, you may not get your exact precinct ballot?

MR. REYNOLDS: I don't know.

MS. KAUFMAN: Is that the concern?

Margaret, do you remember that discussion?
MS. BAZYN: Well, I know that was brought up in the decision we had in L.A., but I don't remember SOS, if we had that same decision.

MS. JOHNSON: Can you say that again?

MS. KAUFMAN: The concern about the provisional voting not necessarily being totally accessible was that
if a person was in polling place Precinct A and the only polling place available for Precinct A was not accessible so they were told to go over and use Precinct B's polling place, but the ballot available in Precinct B did not have the same races as in precinct A --

MR. REYNOLDS: But, Kaye, if a voter is told under the Elections Code that they should use Polling Place B because the Polling Place A is not accessible, then their ballot for Precinct A needs to be at the Polling Place B. That's the way the process is supposed to work.

MS. KAUFMAN: Right, but I'm just voicing the concern that I heard in this one conversation, which was just fairly recently, and I was thinking for some reason it happened at the VAAC.

MR. REYNOLDS: I think it did happen at the VAAC.

MS. JOHNSON: This is Margaret. The only issue with provisional ballots was that for a long time, the only way you could vote provisionally was on a paper ballot.

Now, it's my understanding that the DREs do accept
provisional ballots so if you are a person with a
disability and you come in for some reason and you have
to vote provisionally, you can vote on the DRE. You
don't have to vote with paper.
So the issue that Kaye's talking about, I don't
remember that discussion and I don't -- you know,
assuming that if you're sent somewhere else and told that
you have to go to this other place that's accessible, I
would assume that if you're going to go there that the
right ballot would be waiting there for you. But if it's
not, then that is an issue.

And then secondarily, if you're voting
provisionally and the ballot that you're being told to
vote provisionally on is paper, then that's an access
issue.

But like I said, I thought in one of our VAAC
meetings that was clarified that you can vote
provisionally on the DREs.

MS. KAUFMAN: Right.

MS. BAZYN: I know what incident Kaye is referring
to. It happened last year. We went to vote at a polling
place and their machine was not working, so they were
told if they wanted to vote successfully, they had to go
to a different precinct; but there was a concern
expressed that depending on exactly where the precinct
was that it might not have all the same elements.

MR. REYNOLDS: Right. Okay. And that's --

MS. BAZYN: That was the concern that was expressed.

I had asked if there could be a possible way where you could -- a person with a disability could be given number one to three places that they could go and get
their ballot and they said that they didn't think that it
would be possible.

MS. FENG: That's not uncommon, because during the
2008 elections, we got lots of calls of people saying at
their particular precinct the audio wasn't working or
this or that wasn't working, and so if that one
accessible machine -- accessibility machine isn't
working, then their only other option is to vote at
another precinct or on a nonaccessible ballot.

But I guess my question is, After you've voted
on a DRE provisionally, so under -- in other
circumstances, you're putting that ballot into an
envelope. What happens with the DRE? Is there --
there's a --

MR. REYNOLDS: I'll have to defer to an elections
official who can help me out here because I have never
voted provisionally on a DRE, but I imagine you have to
include all that same information, what's your name,
what's your address, so on and so forth.
MS. FENG: It's in the DRE. It's -- is it in the DRE, like that information then you're adding?

MR. LEE: No. You fill it out on the outside.

MS. MARTINEZ: It's on the envelope.

MS. FENG: The reason why I ask that is because then maybe -- the question is if you're still filling out an
envelope, the envelope is paper; right?

MR. LEE: Yes.

MS. FENG: It's not a digital envelope and you're still having to fill that out and still having to sign it?

MR. LEE: Correct.

MS. FENG: Is that what the issue is, Margaret and Ana?

MR. ESCOBEDO: But I don't see how that would infringe on the -- I mean, you have the assistants there and you're not divulging your vote. You're just saying, This is the name, This is the information. The election official needs to use it.

MS. JOHNSON: This is Margaret. So you're asking if once you've done the provisional ballot and then it has to go into a provisional envelope, if that's the issue?

No. I think the issue was that at least previously you had to vote -- at least here in Sacramento, you had to vote on a paper ballot if you wanted to vote
provisionally. You couldn't use a DRE to do it. But I think the last time this was raised at the VAAC, Chris or somebody clarified that that isn't the case anymore, that you can do a provisional ballot on the DRE.

And I agree with whoever that last speaker was that once you've done the vote and you've got it in your
secrecy sleeve and you take it to a poll worker, who's
then going to put it in your envelope and show you where
to sign, that that probably is not something that we will
be overly concerned about unless others on the phone
think that's a big issue.

MR. LEE: This is Eugene Lee. I think for me this is
where provisional balloting does have concerns with
access, and that's specifically with the envelope.
I don't know of any county that provides actual
translated copies of envelopes that the voters can fill
out. I think counties provide a lot of reference copies
but not actual translated versions that a voter can fill
out and the -- that's an issue for many voters with
needs, and the problem is often exacerbated by the fact
that polling places don't have enough poll workers on
Election Days for someone to sit with a voter and assist
them in filling out the provisional ballot envelope.

So in a busy election like in the November '08
election, for example, there's not going to be a poll
worker who can just sit down and help the voter fill out an envelope.

So that's where I see a lot of the access issues in provisional balloting.

MR. REYNOLDS: Okay. So I'm going to write the word "language" on my cheat sheet. And the issue, again, is
there's a reference copy provided but not a translated ballot and it becomes difficult for the voter to fill it out; and if they don't fill it out properly, the ballot might not be counted; and during a busy election, there's often not a person available to --

MS. MARTINEZ: You're talking about the envelope, right, not the ballot --

MR. REYNOLDS: Not the ballot. Right.

MS. MARTINEZ: -- because ours are translated.

MS. FENG: Your ballots are.

MS. MARTINEZ: My envelopes are translated. It's English-Spanish, but I've only got the two.

MS. FENG: Maybe that's part of it, is the -- any jurisdiction that only has two languages probably can do it.

MS. MARTINEZ: Right. It's when you have more.

MS. FENG: It's a jurisdiction that has three or four.

MR. ESCOBEDO: Or six.
MR. LEE: This is Eugene Lee again. This may not be a Section one of the Plan issue here. It may be Section three, poll worker training, but some of the issues in provisional balloting in addition to the envelope itself are around the training. So it's basically a situation where properly registered voters are actually being
forced to cast provisional ballots unnecessarily because
the roster clerk doesn't check the supplemental roster,
for example.

MR. REYNOLDS: Right. And I think that's on here;
but if not, we'll get back to that when we get to the
poll worker training. It's under Section three, I think.

MR. LEE: Yeah.

MR. REYNOLDS: Let me -- the provisional voting
activities in the 2009 Plan fall short of the scope of
components in the 2003 Plan, see pages 11 and 12.

Now, when I read 11 and 12 of the 2003 Plan, the
part that says "provisional votes," it just describes
what the Federal law is. So I didn't really see that we
had missed the scope on that. I mean, that's just saying
what the law is and what the process is supposed to be.

In the other piece, there was talk about doing some
things to the law and everything seemed to be
accommodated for under the revised Section 14310 of the
Elections Code, for instance, counting as many of the
races as possible -- well, we're not considering

sponsoring legislation to change the name of provisional ballots to a less pejorative term, but the rest of it seemed to be covered.

Was there something in there that I missed that I should be aware of? Does anybody know or do you want
to reflect on that one and get back to me?

MS. FENG: Do you describe all the activities in the 2009 Draft Plan?

MR. REYNOLDS: In what sense do you mean?

MS. FENG: So -- again, I'm sorry. So Debbie has generously shared our own letter with us, but I'm not looking at your Draft Plan.

MR. REYNOLDS: Yeah, and I didn't bring it.

MS. FENG: I think when you compare the 2003 Plan with the 2009 Plan, it may just be that you don't describe what you just verbally did and so --

MR. REYNOLDS: That this is what Federal law requires and that this is what's happened in California?

MS. FENG: No. "In 2003, we aspired to do" blah, blah, blah, blah.

MR. REYNOLDS: And then it happened.

MS. FENG: "Here's what we've done. We haven't done these things, but that's because" whatever it was.

MR. REYNOLDS: Okay. Provisional ballot. Okay. I
get it.

MS. FENG: So it may just be, be more explicit about what has been done. At least that's what this letter -- that's what I think we were saying.

MR. REYNOLDS: Okay. Describe the reasons why voters cast provisional ballots and give -- provisional ballot
rejection rate trends should be described.

I don't really have the data to show trend lines. I did try to provide people with the snapshot that we've gotten out of the EAC's Election Day survey and we have Election Day surveys from the past, but they weren't done in the same manner as this current one, meaning the responses from the states weren't broken down county by county and there weren't the categories for the reasons for rejection, county by county.

I provided a modified spreadsheet to give some of the raw data, which can be manipulated, and I have some information that I teased out; but I don't know that in this current State Plan -- I can certainly describe the reasons why voters cast provisional ballots. There's two, but the --

MS. FENG: And that's what? That they don't appear in the roster --

MR. REYNOLDS: Right, or that they're a first-time voter who's registered by mail, so they need to show some
form of identification. Those voters are going to vote provisionally and show I.D.

MR. LEE: This is Eugene Lee. So, for example, if a person received a vote-by-mail ballot and they're going to the polling place and they want to cast a regular ballot, but they don't have their vote-by-mail ballot to
surrender, they would be casting it provisionally.

MR. REYNOLDS: That's true, but I can't think of any other reasons.

MS. FENG: So, actually, the people not being on the roster, I think this is where we were getting at. If you want to figure out how you can make -- how you can lessen the use of provisional voting, because it's supposed to be a fail-safe, so clearly something in the system is not working as well as it could work, which is why someone has to resort to voting by provisional ballot; right? So when you break down why it is that a person's name is not on the ballot, there's a number of different things that are going on there.

One could be that they registered, but they registered just after the deadline and so they just -- they technically are not eligible to vote because the registration didn't make it in on time.

Another is that they registered in time, but they came during that crush of time during which the
county was scrambling to get all those last two-day, you
know, up-to-the-deadline names into the roster and they
didn't get into the original roster, but they're in the
supplemental or something like that.
A third reason is they didn't make it to the
supplemental, you know, or the supplemental didn't get
out to the people in time.

So breaking down the reasons why someone -- or it could be because the poll worker is goofy and the name is always there, but the poll worker just didn't find it.

But I guess it's helpful to know what those pieces are because that helps us figure out where in the system some things can be solved and some things can't; but in a high-turnout election, you certainly could try to alleviate some of that.

MR. ESCOBEDO: I have some stats that I think they're very telling because they're -- they give you a list for November of '08. We had 271,000 provisional ballots and we counted 229,591, but we have the details of those that did count as far as why they were being issued provisional. And interestingly -- my math skills aren't sharp enough to add them all up as I'm saying them, but it was -- Applied for a vote-by-mail ballot but voted at the polls accounted for 27,000; and then different precinct was another 31,000, and this is different
precinct, same ballot groups. These are people who just
may have gone to a polling place that they're accustomed
to but wasn't assigned one to them, but it was within the
same ballot group. Address changed, but they went to the
same precinct and ballot group, but they didn't
reregister. They had a change of address. The other one
was different precinct, same ballot group, again. And then address change, different precinct, different ballot group, still counted, and you counted for those that you can. And then address change, different precinct, but the same ballot group. So I'd highlight only those because that makes up the majority of them and they were all things that people just didn't reregister. They needed to have reregistered or they needed to have looked up their polling place and not so much as, Oh, they didn't have I.D. or they had to vote, but it's really just stuff --

MR. REYNOLDS: And ballots aren't being rejected. The majority of the votes are counted.

MR. ESCOBEDO: These were all counted. The rejected -- actually, interestingly, about 86 percent of our no-counts had to do with your registration. Either you weren't registered or you didn't complete the registration.

MR. REYNOLDS: And the thing about the EAC data and
the reason that we modified the spreadsheet that it ultimately came in was because they had categories. The first category for the reason for rejecting a provisional ballot was the person wasn't registered in the state. Now, that works okay for a state that actually has a Statewide Voter Database, but California doesn't
have one yet, so the counties looked at that. So we
asked the counties this.

In the future, 2012 and on when we have VoteCal,
we won't even bother the counties with this stuff. We
might double-check with them to make sure there's not
something we're missing, but we'll be able to extract
this data and respond to this survey without even
bothering the counties. It will be easy to show trend
lines and build reports and stuff, I hope, and that's the
intent, but the counties looked at that category and they
went, Well, this doesn't apply. How would I know they're
registered? I mean, they're not registered in my county.
That's all I know.

So if they used the categories provided on the
EAC survey as they best understood them, in some cases,
and as we tried to help clarify for them, so some of the
data is a little hanky, but we need to get to the place,
too, where everybody understands what we're asking for,
why we're asking for it, and then we can get to a better
place with respect to looking at those trend lines. But

I agree with you that we really should start with what

we've got now, see what more we can get. And I'm just

saying at this point I can't give you great information

about --

MS. FENG: I think start with where you have right
now. You don't have to show trend lines, but then you
can put in a sentence saying, "Now that we have
identified a vendor to implement our Statewide Database
System, we anticipate that we're going to be able to say
a lot more about the reasons why people vote
provisionally and begin to address or try to" --
MR. REYNOLDS: This would, I think, also fit in well
with a performance measure.
MS. FENG: Yeah. That's a good one.
MR. REYNOLDS: And I think the Secretary already
mentioned that in her remarks to this group when we met
the first time.
So that's that one so far. VoteCal will make it
better, so I'm going to try to do something with that.
MR. LEE: Chris, this is Eugene. Can I interrupt for
a minute?
MR. REYNOLDS: Sure.
MR. LEE: In the common letter that we sent earlier
this year, we had recommended using a road-show approach
for voting system testing and I didn't see that on the
list. I was wondering if you had meant that to be
captured in one of the earlier categories we talked
about.

MR. REYNOLDS: No. And as I was -- when we were
talking about the voting systems and how it wasn't as
public friendly or something like that, I thought of that, the road show, and the concern that I've heard so far about that is that the environment for doing their red team testing is one that they want to keep secure and so on and forth. So that's why I asked him about the public process.

So the road show logistically some people have suggested is difficult. I'm not saying -- I'm just saying that's the feedback I got.

The second one about that, the open house portion, reinstating the open house portion, and they seemed amenable to that.

MS. FENG: So the only difference between road show and open house is whether it's one venue versus several?

MR. REYNOLDS: Well, it's more like location, location, location. You know, it's in Sacramento.

Now, I don't know if that's always the case.

Maybe if it's one venue -- like you say, they could say,

Well, for this voting system, it's this county. We're
going to ask this county to host the open house. I don't know, but that's --

MS. GOLD: Could we perhaps, you know, put in at least some kind of general language, again sort of aspirational, regarding trying to make testing more accessible to people who can't come to one place in the
state?

MS. FENG: You mean demonstration?

MS. GOLD: Demonstration. Excuse me.

MS. FENG: And it seems like it doesn't have to be --

maybe "road show" makes it sound like you've got to go to

39 different venues, but I think there's something

between 39 and 1 that would be an acceptable number. So

I think you certainly are right that at the very least,

it should be Sacramento and the jurisdiction in which the

machine is going to be implemented. I mean, that seems

kind of an --

MR. REYNOLDS: Except you could have 39 jurisdictions

that want to implement the Sequoia voting system or the

Premier voting system.

MS. GOLD: Again, it's something like exploring the

feasibility.

MS. O'DONOGHUE: Regional.

MS. GOLD: Regional.

MR. REYNOLDS: Well, there seems to be something
about -- and I don't know if this was a part of your
comments, Eugene, or not -- where it falls in the
process. I think Kathay raised the question about it
seemed to be there was some earlier test stuff. I guess
the testing process itself can be taken -- Debbie knows
more about this than I do.
The testing process itself can take weeks or months or whatever, and so where do you place that open house function as a part of it? Maybe somebody can give me some insight early on in the process. So I'm going to try to capture that as well.

Okay. Analyze the reason for -- okay. The next item on the list goes along with what we were just describing in terms of casting provisional ballots, I think. Commit to analyzing the reasons for rejection and in an effort to address the causal reasons. That seemed to be a strong -- I think that's already been kind of captured and I'll bring that back.

Describe progress and efforts on making voting materials at polling places accessible to voters with disabilities.

Now, it was in this 2003 State Plan. As far as I know, there hasn't been any progress. There have been some things done. I shouldn't say that. There have been 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
for a while. So there are things that have been done and
those could certainly be described. So I'll have to do a
survey on that, but I don't know that you have a lot of
materials in polling places in alternative formats at the
polling place. So that's why I made that kind of
statement at the outset that I did.
And I did want to let people know that I took a
look at some of the costs associated with the materials
we had produced in alternative formats just as food for
thought.
What did I do with that? Now, I can't seem to
find them right now, but there is a cost associated with
that and I guess the question is, is it something that
the -- we're going to focus on and something that we
should be talking about how to do it? I mean, when we
talk about providing materials in alternative formats,
what are those alternative formats?
MS. ACTON: This is Ana --
MR. REYNOLDS: Yes.
MS. ACTON: -- and I think that -- I mean, there's a lot of different alternative formats and I guess the question is whether we think they should be available at polling places. I mean, really, all voter education materials applicable in place should also be available in alternative formats.
For example, the Voting Rights Information, is all the printed stuff in large enough print for people with low vision to be able to read? Is there a way to get audio versions of voter -- the State voter pamphlet at voter places?

MS. FENG: So I'm looking at the letter that this language actually came from, Chris, and what it is is page 1 and 2 -- and I think that must be of your draft -- lists --

"Has a list of the materials that the Secretary of State has recently produced.

There is no reference to the voter education materials in languages other than English, and if translated materials have been created, these should be listed. We recommend that the Secretary of State" -- and so I think similarly, I think what we were saying is to the extent that materials had been created in formats that were accessible to people with vision or other
disabilities, that you should also list those.

So you just did that orally by saying, for instance, that there were audio cassettes and braille and ASL. So it's just to say that every time you talk about things that have been created or done, to make sure that you also capture or you capture the full breadth of
what's been done.

I don't know that this section was more a review of what's been done, not a Here's what we want to do. And somewhere we should have that language as well, and that's where Ana's suggestions would come in, but this was specifically in reference to the need to have the description be inclusive of what -- of the other format materials that have been created.

MR. REYNOLDS: Okay. So I'll make note of that, but I did find the cost information that I had come up with. There was a DVD done in American Sign Language for voter education materials. It was a 16-page brochure, or it could have been the Voter Information Guide.

MS. O'DONOGHUE: It was the brochure.

MR. REYNOLDS: It was the brochure, and that 16-page brochure was about $6 for each DVD. There was a 16-page brochure done in braille, and it wasn't the Voter Information Guide, because they've always found that with the time lines that they're provided to produce the Voter
Information Guide and the fact that you can have lawsuits

and last-minute court decisions that make you make

changes to it, it's very difficult to have enough lead

time to do the Voter Information Guide in braille has

been one issue, but it was about $8 for a 16-page

brochure in braille.
It was $649.19 for a brochure on audiotape, but that was a master audiotape and I need to get a per unit cost on that. Let's see. It was audiotapes of the Voter Information Guide, a 144-page principal and a 16-page supplement. It was 7.87 for English, 9.15 for other languages except Tagalog or Filipino, and 11.15 for Tagalog and Filipino, roughly $0.05 per page for English and $0.06 per page for other languages except for Tagalog and Filipino, which was about $0.07 per page. So that was an audiotape of the Voter Information Guide.

And then a large-print principal Voter Information Guide, 144 pages long, was about $0.04 per page or 5.92 per Voter Information Guide, and a large-print supplemental was 16 pages long and was about $0.07 per page and that was 1.15.

So, anyway, this is just food for thought about the fact that Here are some costs that are associated with producing information in alternative formats.

MS. ACTON: Can I just say something, Chris? This is
MR. REYNOLDS: Uh-huh.

MS. ACTON: That some of those things that, as you mentioned, you are already creating, you are already developing, so it's just a matter of -- you know, there could be associated increased costs with printing more,
say, or reproducing more of the audiotapes to have
available at the polling places; but at the same time,
the majority of that work has probably been done already
to create the original that will be copied.

MR. REYNOLDS: Yeah. I'm just thinking about also
the cost to counties to produce a sample ballot in
alternative formats.

MS. KAUFMAN: Yeah, but the biggest cost in the
recording is the initial master, because you're paying
the voice talent, and especially when you're dealing with
languages, because the voice talent has to be able to
speak with the proper appropriate accent and, you know,
get the translation right. So that's your major cost.
The reproduction costs are not that big.

So if you're going into the precinct level and
you've got local races and precinct A has a certain
amount of races; precinct B has the same but has three
different things in there for a Water District; and
precinct C has still something different else, it gets
very costly to customize an entire sample ballot. It
would be cheaper to do it just for the statewide portion,
but then what are you doing?

MS. ACTON: Right, and that's something that --

MR. ESCOBEDO: Isn't it already provided within the
ADD or the DRE?
MR. REYNOLDS: Right. We have audiocassettes.

MS. ACTON: If it's statewide races or measures, then there should already be that stuff from the Secretary of State's office; correct?

MR. REYNOLDS: Yes, there is.

MS. ACTON: And then I think right now under California law, what it says for local law -- correct me if I'm wrong -- is that any propositions must be put into audio, for example, for local races, local --

MR. REYNOLDS: I don't know.

MS. ACTON: There's already a local requirement and, I mean, I don't know how many actual local counties are actually doing it, but I know there's a requirement for either the candidates or I think it's the propositions to be made available and accessible formats on the local level, and I think it's the responsibility of the local Election Department.

MR. REYNOLDS: Okay.

MS. JOHNSON: So this is Margaret. It seems to me
that what we're wanting here is just some sort of
discussion about what steps have been taken. You've
orally described a lot of those to make materials
acceptable for voters with disabilities, and certainly if
you want to have a discussion about We're not going to do
any more than this because of the cost to us, this would
be the place to put this also, I assume.

MS. BAZYN: Chris?

MR. REYNOLDS: Yes.

MS. BAZYN: This is Ardis. I know that, for example, the County of Los Angeles sends out their oral ballot to anyone who puts a request in asking for it and I would think that they probably do a bunch of them ahead of time, in fact. So I would assume that anywhere there's an audio -- you know, obviously they're going to use the audio machine. It would already be on the audio machine so they could listen through that. So I suspect that the only additional thing you might need at a precinct is, like was mentioned before, like if you have an audio copy of the Voters' Rights if they felt they were being denied or something.

So I don't know that it would be that much if you had one at each polling place that could be requested, that that would be so much costs, versus having a bunch of them. I don't know how often it would
even be requested to look at something like that, whether
it's an alternative language or in a traditional format.
MS. FENG: I'll be honest. I remember when the SOS
was making the tape cassettes --
MR. REYNOLDS: We still do.
MS. FENG: -- and when I was at the Legal Center, the
Asian Pacific Legal Center, we would get like a gigantic box mailed to us and then it was a real challenge for us to then try to get that into the hands of voters who might want it. And in listening to it, it was sort of, Wow, it seemed like this gargantuan project because you have this tape cassette that it's just someone reading the whole ballot and it's tedious. Like, I guess there may be individuals who can stand to go through that. 

I wonder certainly the reproduction portion, now that we have online tools and other ways of distributing it through, you know, getting it onto the DREs or whatever, it seems that there is the up-front cost of creating it; but the distribution, I'm not sure if it still quite makes so much sense to make so many tape cassettes. I know you don't make as many; but, boy, it was hard to distribute these things, because people are like, What do I want with this?

And even if they did -- we actually went to an actual conference where a lot of people who were excited
there took them and were really excited about them, but

then the feedback was, Wow, that was really difficult to

listen to that whole cassette, because unlike now, we've

got digitized versions where you can skip ahead and stuff

like that. It's not as easy, and a lot of people have

moved beyond using tape cassettes.
MS. O'DONOGHUE: I just also want to mention we have a downloadable audio version on our website, too. So that might be easier.

MS. FENG: I'm not sure if this is the right place because the part of the Plan that we're looking at is really more a reflection of what has already been done, but at some point we should talk about what formats make sense to spend money on.

MS. JOHNSON: This is Margaret. I mean, I think that Kathay is right, that there are a lot of advances and changes in technology and doing the tape thing is -- most people don't even have tapes. You have to move to CDs, but the other thing to remember is that a lot of people with disabilities are poor and don't necessarily have access to the latest technology. So when we're looking at how to make things accessible, just going to everything's web-based, I don't think many people with disabilities are there yet. At least a lot of the folks that we work with, which would be people with
developmental disabilities or psychiatric disabilities

who are institutionalized or, you know, living very kind

of hands and mouth, they don't necessarily have access to

computers except at libraries and things like that --

MS. FENG: Margaret, would they find it --

MS. JOHNSON: -- which is important to have a larger
discussion about access issues and where we would go with that.

So I agree with that and I do think that here is a place, as I think I said about 10 minutes ago, to really kind of lift what steps have been made to do this to make things accessible for people at polling locations.

MS. GOLD: Margaret, has -- I'm just curious, Margaret or Ana or Ardis, has there been any writing about, again, a best -- I'm just curious -- best practices with respect to making materials accessible?

MS. JOHNSON: Well, there are a lot of things out there around specific technology. I think there's a whole A.T. technology out there that could probably speak to that, and then of course Ardis would probably know what the current trends are or where that information is for other communities.

MS. BAZYN: This is Ardis. We did a study just of 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
that is available out there through the A.T. networks,
and I think Ana might have some other ideas how you
access that information. You've got to remember we are a
law firm, so we don't gather the information in the same
way that others do.

MS. ACTON: We could put it out there to the
Assistive Technology network and see what kind of
research has been done around the topic of who's using
tapes, how are people accessing materials. I could
research that and see what I can come up with.

MR. REYNOLDS: Thank you. That would be very
helpful.

MS. ACTON: Okay.

MR. REYNOLDS: It seems that this could get very
expensive to try to do all the things that are in print
in multiple different formats so that it fits, as it
should, and I'm not saying it shouldn't. I'm just saying
it sounds difficult and expensive to meet the needs of
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 that having to do things in large print and

25 braille and all those different components.
So I think it's just kind of like, you know, sitting down and looking at what's out there and talking to folks who use the stuff to whittle it down to garner maybe the things that'll target the most people, and that may be the way that you go. I mean, that's the way it is with most access stuff, is you're trying to be accessible to the most number of people. There's always going to be somebody out there that it's not going to work for, but you want to try to make it most accessible for the most number of people.

MS. FENG: Chris, if we didn't already, can we put that as a performance evaluation topic?

MR. REYNOLDS: Performance measure. There's something about auditing, but we'll get to those in a minute, I hope. Performance measure.

MS. JOHNSON: And this is Margaret. It's about five to 3:00 and I have down that this was over at 3:00, so I kind of have other -- I made other promises at work that
I would go back and work on some stuff, so do I need to like try and reschedule that stuff or what are we thinking?

MS. GOLD: Chris, I was going to ask, with everybody's indulgence, if perhaps we could just take a few minutes to talk about on page 4 the issues of audit
and performance measures, just to find out where you're at and what you're looking for from us. Would that be okay?

MR. REYNOLDS: Yeah. And I guess then we could use that as a wrap. Is there -- how about this, too. Since we haven't gotten to this and some people have other obligations, can I ask to do a conference call shortly after I get back to work, to see if I can get everybody on the phone and we can go through the rest of this stuff?

MS. FENG: Before Margaret has to leave, do you want us to find some possible dates or do you have your calendar? 'Cause a lot of us are here. That might be easier.

MR. REYNOLDS: Yeah. What is people's availability on, say, a Wednesday or a Thursday?

MS. FENG: Starting when?

MR. REYNOLDS: August 10th. So that would be the 12th or the 13th.
THE REPORTER: Do you want all this transcribed, the calendar stuff?

MS. O'DONOGHUE: No.

(Discussion off the record)

MR. REYNOLDS: Okay. So we'll meet from 1:00 to 5:00 on August the 12th.
MS. JOHNSON: Is it possible that those of us that
are in Sacramento could join here?

MR. REYNOLDS: Absolutely.

MS. KAUFMAN: Yeah. We'll get a room.

MR. REYNOLDS: It's going to be strictly by
teleconference. I'm going to ask Kaye and Debbie, one of
them, to arrange the number and the pass code and all
that stuff and get that information out to people as soon
as possible.

So now with that, I am going to jump to the
performance measure piece and we're going to talk about
what would be -- what I'm looking for.

I think it's easy enough to do something
around -- and the Secretary mentioned at the outset and I
don't think there's any -- maybe it was just a
suggestion. I don't think there was any suggestion that
maybe this is just something to throw out there. I think
maybe she actually was saying, This is something we
should do something about, provisional voting.
That seems like a natural one. Now, on provisional voting, I think the group has provided me with the kind of feedback I need. The question is, What are the rejection -- what are the reasons why people are voting provisionally and what are the big reasons -- what are the reasons for rejection, and are there causal
factors that we can build programs around to address
those? So provisional voting I think is one that I can
deal with.
The other one about the audit of the County
websites, the voting materials, the voting assistance
efforts for accessibility for voters with disabilities
and voters with language needs, now, I marked this down
as a Title III question mark, yes or no, because
websites -- I don't think would be on this as a Title III
requirement. There's no requirement that websites
provide any information.
Voting materials and voting assistance efforts
certainly, depending on what we're talking about, could
be something that is Title III; for instance, your
overvote protection or the stuff you're posting at the
polling place.
The question I guess --
MS. HUFFMAN: This is Alice. I have a question.
MR. REYNOLDS: Yes.
MS. HUFFMAN: How many people don't even receive a provisional ballot? Do we know how many are turned away cold, flat?

MR. REYNOLDS: No. Everyone gets -- well, I don't want to answer that question too glibly, but the answer should be "Everybody who wants one gets one." That is
what they are entitled to under the law.

MS. HUFFMAN: So does that mean that if I'm not there, that somebody -- if I'm not listed, someone's supposed to offer me a provisional ballot?

MR. REYNOLDS: That's correct.

MS. HUFFMAN: Okay.

MS. FENG: The answer is a lot more complex than that and that doesn't always happen.

MS. JOHNSON: Hi. This is Margaret. I hate to interrupt, but I am leaving now, just so folks know.

MR. REYNOLDS: Thanks, Margaret. Bye.

Kathay is saying as a matter of reality, like most things dealing with elections --

MS. FENG: The answer is much more complex than that, because there are a variety of things that poll workers are encouraged to do, sometimes legitimately. So like if somebody shows up and they're not on the roster and it turns out that the person is actually within the vicinity of another precinct where they can show them where that
poll site is, they're oftentimes encouraged to send them
to that precinct so that their ballots will be the
correct ones.

Well, that's an example of where there's a
choice to be made, because the voter could just stay
there and vote provisionally, but they may not and that's
probably the most sort of innocuous examples. But there's lots of examples where people are kind of turned away and they're not given a provisional ballot. And right now, Alice, other than anecdote, we don't have a systemwide way of knowing how that happens because poll workers aren't making a tally of who didn't cast a ballot. There's not a bad record of who did cast something, but not of who came and then went away unassisted.

MS. HUFFMAN: I think that's something we should want to look into. I don't know if it goes into performance at some point, but we may not have a complete picture. As hard as we're working to make sure everybody who can vote votes, I know I have people who go to one place and they don't go to the other. "My name wasn't listed and they tried to send me to," and that's the end of that vote.

MS. KAUFMAN: Alice, this is Kaye. I have done some election observation myself, so this again is anecdotal,
but it is -- it's very likely that if a poll worker is
telling someone essentially to go away, for whatever
reason, that they're not the ones that are likely to make
a little tally that they've done so.

MS. HUFFMAN: Right.

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,
straightforward, not judgmental. You know, no one really
needs to worry too much with providing the information.

MR. ESCOBEDO: So not to interrupt, so on this "yes"
column "HAVA Title III," you're saying websites would be
a "yes" now?

MR. REYNOLDS: Well, what I'm saying is I don't think
it's a Title III website in way, shape, or form because it just doesn't talk about websites providing information.

MR. ESCOBEDO: I know it's not, because we tried to do our website under that Title III and we couldn't.

MR. REYNOLDS: That's the problem, because I thought it absolutely would be because there's a Section 305 that says that Title III requirements are minimum requirements and it doesn't prevent a state from going beyond, but when I asked the EAC, the EAC says, Well, no, that wouldn't be included. It's not a Title III included.

You can use this kind of money, but anyway --

MR. ESCOBEDO: At least for accessibility purposes, I know that funding under 261, that, you can; but it's for accessibility and not for language.

MR. REYNOLDS: And we might be able to go to some of these things in terms of a pilot program, depending on how expensive it is, but you can't necessarily get there with the dollars we have. We might be able to do some
things.

So around the issue of the audit for the State and County websites, I'm going to simply say for the voting materials, we're going to talk about, you know, a basic laundry list of things the County site should probably have. And regarding accessibility, it would be,
"How many languages do you have it in?" and "Are you required to provide it in alternative languages?" and "Are you doing it?"

And for the voters with disabilities, I don't -- I'm not smart enough yet, and I may never be on understanding the technology that's available to assist voters with disabilities, but whether Counties' websites have those kinds of things or not would be an obvious kind of thing too.

So I would change the "audit" maybe, unless the term "audit" is used in a more kind of friendly manner, because we don't really have the authority as the State, despite our immense powers, to really force the counties to do anything.

MS. FENG: Can you say "review"?

MR. REYNOLDS: Yeah.

MS. FENG: And then, also, "provide best practice standards."

I will say this. How this kind of came up was
that Margaret observed that on the State SOS website --
you're not going to be very happy to hear this -- if
you're looking for the translated materials that you all
have very -- you know, you created, or you're looking for
the place where you could get the disability accessible
materials, it's not on the first page.
So to give an example, if you weren't an English speaker, you'd have to navigate through a couple of jumps of English-only materials, or somebody would, to get to the place where you get to the translated materials.

That's where if someone had an eye towards saying, Okay, we've got the materials already, we're not trying to create anything new, but how do we make it accessible, that's an accessibility issue.

MR. REYNOLDS: And just so people are aware, the Secretary of State's office has a Chief Information Officer now and we're undertaking an effort called web governance and making rules and determining certain things, and one of the issues for one of the teams, the content team, would be something like this: Shouldn't there be, from the home page, an immediate kind of "I'm a voter who wants to access this in an alternative format" or "I'm a voter with language needs" in their language that says, "This is where I go to"?

MS. O'DONOGHUE: And there's researchers to add to
that. The team members that are working on this are looking at models, say, of other states, other cities. So there's some good stuff out there for presentation and also for -- maybe it doesn't have to be on the first page, but something you can follow and it's easy to find.

MS. FENG: I think that like L.A. County, although
it's changed a couple of times, L.A. County on the first page are the different languages and you click that and then that sort of sends you down another rabbit hole of all the things in that language that they've got.

So that's what I mean.

MR. O'DONOGHUE: They have to follow the scent.

MR. REYNOLDS: There's only one more item, so hang with me for another two minutes.

The next one is to audit the complaint procedures. Again, this one seems to be -- it's not as straightforward necessarily as might be implied here because complaints come from a lot of different directions. And I will be really honest with you. We don't get a lot of HAVA complaints. We don't even get a handful of HAVA complaints. Maybe that's because they have to be notarized or whatever. We'll get into some of that discussion later, but we don't get a lot of them.

We get complaints, no question, but we find even though they may have labeled it as a HAVA complaint, it turns
out a lot of times it's not a HAVA complaint.

Nonetheless, I think what you really want is the Election Day triage, I think they call it, where you get Voter Hotline stuff, and the counties are getting this. What are you getting pummeled with? So what are your top priorities in terms of addressing the voters' needs?
So I'm getting that and I'm --

MS. FENG: That's exactly what it was, and I will tell you this. From Shelley's time onward, each Secretary of State has said, "Oh, yes, we get a lot of phone calls into that hotline and we absolutely will issue a report this year telling you what kinds of calls came into our hotlines and we will also consult with the counties to gather that." It's never been done, never been issued.

That seems to me like -- the 1-800 hotline was a major component of HAVA and to not ever go back and try to figure out what kinds of things people call in about is a major failing.

MR. REYNOLDS: And we had the 1-800 line. We needed to expand it and we did so with HAVA funds, pursuant to HAVA funds.

The last two items: The one, Rosalind has already said something to Eugene about working with him on that, so I'm going to leave that one alone; and then
the last one, we've already beat the provisional voting
category and so on and so forth to death, so I'm going to leave that one alone.

MS. FENG: Do you have any new ones? You'll go through your notes.

MR. REYNOLDS: If people come through or come up
with, keep that in mind because we're going to come back to that section on August 12th from 1:00 to 4:00 p.m. -- 1:00 to 5:00 p.m. Excuse me.

MR. LEE: Well, I guess I would just add whether we should have a performance measure around poll worker training.

MR. REYNOLDS: I know there's a lot of interest in poll worker training as a priority and I'm still going to continue to tell my sad story about the EAC and its guidance to me and so on and so forth and we'll continue to talk about whether there is something to be done about my sad story, whether they can have something that is done.

MS. FENG: Because it's not covered.

MR. REYNOLDS: When you initially roll out your voting system, that sounds good to us, but thereafter -- and Dean had said something to me about, "Well, rolling out a voting system initially, that could take several election cycles." Well, Sacramento County didn't like my
sad story and they asked the EAC kind of the same

question and the EAC came back with the same answer they
gave me, except they put a little bit finer point on it

and said the first year we roll out the voting system.

MR. ESCOBEDO: I know there was discussion in the

last notes about whether there's a sense of whether that
can be appealed or not.

THE REPORTER: Are we done?

MR. REYNOLDS: Yes. I'm sorry.

Everyone on the phone, I'm kind of wrapping 
things up as I'm talking, and is it okay with you guys?

MS. MARTINEZ: Move to adjourn.

MR. REYNOLDS: Okay. We're going to be back on the 
phone August 12th from 1:00 to 5:00. Be there if you 
can.

With that, I am officially gaveling this meeting 
to a close.

(Proceedings concluded at 3:15 p.m.)