

HOUSE STATE GOVERNMENT COMMITTEE
PUBLIC HEARING

Thursday, September 25, 2008
Philadelphia, Pennsylvania

COMMITTEE MEMBERS PRESENT:

REPRESENTATIVE BABETTE JOSEPHS,
CHAIRWOMAN
REPRESENTATIVE THOMAS W. BLACKWELL,
VICE-CHAIRMAN
REPRESENTATIVE RONALD WATERS
REPRESENTATIVE LAWRENCE H. CURRY
REPRESENTATIVE MICHAEL O'BRIEN
REPRESENTATIVE CHERELLE L. PARKER

OTHERS PRESENT:

BRIAN DELL, Research Analyst
KRISTEN KOHAN, Research Analyst

HELD AT: Ethical Humanist Society of Philadelphia
Philadelphia, Pennsylvania

REPORTED BY: SUSAN L. SINGLAR, Court Reporter

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2 TESTIFIERS:

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THE HONORABLE HARRY VanSICKLE

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FRANK NERI, USPS

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KAREN TUCKER, USPS

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LORA LAVIN, League of Women Voters of PA

9

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SARAH STEVENSON, Committee of Seventy

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ANDREW HOOVER, ACLU of PA

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1 REPRESENTATIVE JOSEPHS: I'm
2 going to start by asking the State Representatives
3 who are here to introduce themselves briefly
4 starting to my left.

5 REPRESENTATIVE O'BRIEN: Hi. I'm
6 Mike O'Brien. I represent the 175th Legislative
7 District here in Philadelphia, which was what was
8 left of Center City after Chairman Josephs was
9 done.

10 REPRESENTATIVE BLACKWELL: I'm
11 Tom Blackwell. I represent the 198th District in
12 West Philadelphia, parts of Strawberry Mansion and
13 West Philadelphia.

14 REPRESENTATIVE CURRY: Lawrence
15 Curry, Eastern Montgomery County.

16 REPRESENTATIVE JOSEPHS: I'm
17 going to dispense with the microphone, if everybody
18 can hear me. I want to say that we are joined by
19 the Republican attorney, are you?

20 MS. KOHAN: Staff.

21 REPRESENTATIVE JOSEPHS: -- for
22 the committee, Kristen Kohan. And on my staff,
23 Matt Hurlburt, Brian Dell and Lydia Prochecko and I
24 thank you all for the work that you've done to set

1 this up. We will be joined by Ron Waters, but I'm
2 going to forge ahead and let him speak whenever he
3 comes in that doesn't interrupt anybody else. He
4 is the person who asked for this hearing most
5 persistently and made the case that we really do
6 have to be worried about preparedness for election
7 day, November 4th.

8 I want to start by saying
9 something about the State House Government
10 Committee, of which the three gentlemen who are
11 sitting here are members. We are perhaps the most
12 active standing committee in the House. We have
13 passed out, in the course of this election, of this
14 session 82 bills, including a whole group of bills
15 that everybody talks about in terms of state
16 government reform. We passed out two open records
17 bills. We reported out two bonus band bills, a
18 Constitutional study; that is to say, a study which
19 would decide whether or not we should hold the
20 Constitutional convention, a bill on campaign
21 finance reform, a bill on requiring taxpayer
22 disclosure on government advertisements.

23 We passed out legislation which
24 would forbid a silent session. We stopped

1 political telemarketers from having absolute
2 freedom to call you when you're trying to eat
3 dinner. We reported out four bills which would
4 make the State's investment terror and genocide
5 free. In all, we passed more than half of the
6 bills that were sent to us by the Senate, and this
7 is either our 19th or 20th hearing, which is an
8 extraordinary number of hearings. We need to go
9 back and count and make sure.

10 I am thankful for the people who
11 are here. I thank you for coming, both witnesses
12 and audience and my colleagues. I want to thank
13 the Ethical Society for their splendid
14 accommodations and convenient. I want to say that
15 I am proud to be holding a hearing in a building
16 that has a big sign over the door that says torture
17 is wrong.

18 So let us go ahead. We will hear
19 from Representative Ron Waters when he comes in,
20 but I'd like to ask Honorable Harry VanSickle,
21 deputy secretary of the Commonwealth for his
22 testimony. I should also say that I am leaving
23 here at five. I would appreciate all of the
24 witnesses who are testifying in person -- we have

1 two people who have submitted written testimony,
2 Marion Snyder from Voter Action and Kathryn
3 Brookbar, who is from the Advancement Project Voter
4 Protection Program. We will consider their written
5 testimony seriously, as we will consider the oral
6 testimony. But I would very much appreciate those
7 people who are testifying in person, if they can
8 speak, rather than read, and leave us some time for
9 asking questions, because I am sure there will be
10 questions.

11 Mr. VanSickle, whenever you are
12 ready.

13 MR. VanSICKLE: Thank you very
14 much, Chairwoman Josephs. I really appreciate
15 being here, other distinguished members of the
16 House State Government Committee. As you know,
17 Secretary Cortes did come before you in the spring
18 before the primary to try to let you know that
19 there was a preparedness for the primary from both
20 the state and the counties and we could meet those
21 challenges. I think we did that, and I will say
22 that Commissioner Gracia Hillman from the Elections
23 System Commission was in Pennsylvania that
24 particular day and was in Philadelphia that morning

1 touring some of the polling places, then came to
2 Dauphin County and also saw some of those polling
3 place; came to the Department of State that evening
4 to watch what we were doing.

5 And she was very complimentary of
6 the way Pennsylvania had prepared for the primary
7 election, and actually said so in Roll Call where
8 she stated how this was kind of a best practice, if
9 you will, for other states to look at for this
10 November's election. Obviously, the Governor is
11 committed to eliminating barriers to voting. We
12 want fair, accurate, accessible secure elections
13 for all, and that's what we'll be working with the
14 67 counties for, to get to that point.

15 You see the five areas that the
16 testimony talks about. I will just briefly hit
17 some of them. The Statewide Uniform Registry of
18 Electors voter registration, more commonly known
19 SURE. As you know, since 2006, all 67 counties
20 have been involved with SURE. In my opinion, I
21 have been here three and a half years, it has
22 gotten better and better every year. The primary
23 it did pretty well. There were a couple spots, but
24 those have been looked at over the summer, and

1 right now, things are going very well for the SURE
2 system. The counties seem pretty happy with it.
3 You're always going to have little glitches
4 wherever you have computers, but they're going very
5 well right now.

6 I did want to touch upon the SURE
7 portals, which is an extension of SURE. Counties
8 can put the software on their computers in their
9 offices, and 64 of the 67 counties have done so.
10 What this allows them to do is this allows them to
11 set up a computer, which is called the public
12 portal, where a person can go in and look up their
13 voter registration, they can look up their polling
14 place, make sure they know where they have to go.
15 It also helps the election directors and voter
16 registration offices by allowing them to have other
17 people enter data off of the voter registration
18 application and then it gets queued into the SURE
19 system where the voter registration personnel who
20 really know what they're doing can do all the
21 checks on everything. So it really helps them to
22 get a lot more voter registration applications in
23 in the same amount of time.

24 As you know, of course, October

1 6th is the registration deadline. Right now we're
2 over 8.5 million registered voters. So things are
3 going very well. We're in the top five in the
4 country in registered voters.

5 Voter education, and Madam Chair,
6 you talked about this yesterday at Ready Set Vote,
7 Votes Pennsylvania dot com, it's a pretty good web
8 site, I think. We have done a lot of work on it.
9 It's interactive. You can go there as a voter and
10 see a lot of different things and determine a lot
11 of different areas of interest. Again, you can
12 find out polling places. You can set it up so it
13 gives you reminders of what is going on. Different
14 languages and so forth are on that web site.

15 As we did in the spring, we reach
16 out to different groups. We're reaching out to
17 university presidents to communicate guidelines to
18 college voters. We're also making a very, very
19 special effort to reach members of our armed
20 forces, as well as overseas civilians to try to
21 make sure that they receive their absentee ballots
22 in a timely fashion. One thing I will point out is
23 the Governor reviewed a program from the federal
24 voting system program at the Department of Defense

1 and that program allows, through a secure server, a
2 person overseas to actually upload an application
3 for an absentee ballot. It then gets delivered to
4 the county where they reside here in Pennsylvania,
5 as long as it's a participating county, and that
6 county can, if they like, upload the proper ballot
7 back and send, again, a secure server back to the
8 person, or the county can just opt to send it by
9 mail. There's 36 counties as of this time
10 including, Philadelphia and Allegheny. So we're
11 kind of excited about that. It's another
12 opportunity for people in the armed services and
13 also the civilians overseas to get their
14 applications in quickly.

15 Historically, issues that arise
16 around the election day are human error. It's just
17 inevitable when you have 9,200 polling places, when
18 you have over 50,000 poll workers. We're all
19 human, there are going to be mistakes. So poll
20 worker training, obviously, is very important.

21 There's is new DVD that is a
22 training piece that we have sent out to all the
23 counties that they can copy them, and we sent them
24 enough that they can copy for their poll workers.

1 We have also streamed it now on our web site at the
2 Department of State so people can go in and take a
3 look at that. It basically takes someone through
4 -- it takes a poll worker, what all they should be
5 doing during the opening of the polls and
6 throughout the day and the closing. So we're very
7 happy about that. Also, at the end of next week
8 we'll have another DVD, which is for poll workers,
9 and it's to help them assist persons with
10 disabilities, which we think is very important. So
11 that should be ready by the end of next week.

12 Obviously, of great importance,
13 voting system integrity and security. And just for
14 your information, and this coming election will be
15 counties -- 51 counties will be using DREs, 12
16 counties use optical scan, and four a combination,
17 mostly will be using optical scan, but for
18 accessibility, they will be using DREs. So that's
19 kind of the layout for the voting system.

20 Also, we recommended to counties,
21 and we pushed it very hard, that they are
22 transparent, and that's both in the logic and
23 accuracy testing so that the equipment is made
24 ready and made sure that they're at zero counts and

1 everything, all the way through the counting of the
2 unofficial count on election night back at the
3 tabulation room. They should make facilities
4 available for people to view those proceedings.

5 Also, election-day activities,
6 and there's two parts to this. Obviously, letting
7 the counties know what is going on, as well as what
8 we do at the Department of State on election day.
9 The Department is continuing its practice of
10 notifying counties of any precinct they have where
11 there are 100 or more new voters in that precinct.
12 We feel that's important because there could be
13 more provisional ballots there. There could be
14 more voter ID situations. So we want to make sure
15 that they're watching for that. We also will be
16 letting first-time voters know, through phone calls
17 and so forth, they should be bringing photo ID with
18 them.

19 Other things we do, we really put
20 an emphasis on how to handle provisional ballots.
21 There were some problems, not a lot, as far as do
22 we hand out provisional ballots or don't we. We
23 hand out a one page, very specific form that tells
24 people what are the four methods to handout the

1 provisional ballot. We also say you cannot deny
2 someone and it must be offered. So it's very, very
3 clear.

4 We have also really pushed on
5 emergency ballots. We have changed our electronic
6 voting system directly to state that if all
7 machines are down in a precinct, emergency ballot,
8 paper ballot shall be handed out immediately. And
9 we have also asked them to please have an adequate
10 amount on hand. Our initial memo, I believe if you
11 remember, stated that they should have at least 20
12 percent on hand to cover the -- at least the first
13 two hours of the day and to make sure that they're
14 then able to get other ballots out there.

15 We have also talked to them about
16 lines, splitting poll books so there are maybe two
17 lines that go through the poll worker table. Most
18 times lines are at the poll workers table, as
19 opposed to you don't have enough machines. We're
20 addressing both, but we're trying to -- just
21 instead of just adding machines, which we're
22 already doing, we're asking them split the poll
23 books, if you can. Of course, that depends on can
24 we get poll workers.

1 We have also seen a lot of
2 counties are buying additional machines. Just
3 recently in Montgomery County, it was in the paper,
4 Cumberland County and some others are all adding
5 machines. They are also -- the counties are
6 educating voters, talking about try not to come
7 during the peak times, if at all possible. Your
8 first hour is going to be very heavy, your noontime
9 will be very heavy, and, of course, from five to
10 eight will probably be very heavy. If there's any
11 way voters can get to the polls in between those
12 times, obviously, the county would appreciate that
13 and hold down on some of the lines.

14 One other thing is we have been
15 trying to do better job of reporting election night
16 results, which, of course, are unofficial. In the
17 spring we had 21 counties who actually loaded onto
18 the SURE portals, the results, take them off the
19 machine, put them into this. We then can upload
20 them directly to our web site. And this coming
21 election, November 4th, we'll have over 50 counties
22 doing that. So the results should come up pretty
23 quickly. So, obviously, they're all unofficial on
24 that night, but everybody pretty much takes them to

1 heart. So they will be coming directly from the
2 counties.

3 That's pretty much all I have. I
4 really appreciate being invited here. On behalf
5 Secretary Cortes, we thank you for your interest,
6 and we know of your press conference you had
7 yesterday, and applaud you for that. And thank you
8 for your invitation. If you have any questions,
9 I'd be happy to answer them.

10 REPRESENTATIVE JOSEPHS: As we
11 see, Representative Waters has joined us. I'm
12 going to ask if there are any questions of Mr.
13 VanSickle, and then I'm sure Representative Waters
14 has a few words he wants to say.

15 Any questions?

16 Mr. O'Brien?

17 REPRESENTATIVE O'BRIEN: Thank
18 you, Madam Chair.

19 Mr. Secretary, how are you doing?
20 Certainly presidential cycles are always a higher
21 turnout, and we anticipate record turnout this
22 time. But it always strike me that I hear on the
23 radio at closing time that there was a problem in a
24 particular precinct, or as we like to say here in

1 Philadelphia, division; that they go to the court
2 and ask for an extension of hours. I think it's
3 reasonable to assume that whatever glitches have
4 caused, they asked for an extension of hours, we're
5 going to see a disproportionate amount of it in
6 this cycle.

7 Has the Department issued any
8 directives, and what would be the procedure for
9 that extension of hours?

10 MR. VanSICKLE: That is up to the
11 local jurisdictions and the court. What we try to
12 do -- because it seems to come from long lines.
13 That generally is the case. In the case of if
14 there are machines down in a polling place when
15 they first open, if it takes an hour for them to
16 get back up, hopefully the emergency paper ballots
17 will take care of that. So that is part of the
18 directive, as you know. The other part is if the
19 long lines aren't a result of voting systems,
20 they're probably a result of the poll worker table
21 where you first come in. So by trying to get the
22 counties to have their poll workers split the
23 polling books, that would be a help in that
24 instance, also. I'm not sure, other than that,

1 what we can do about it.

2 REPRESENTATIVE O'BRIEN: Has the
3 Department issued any directives or guidelines to
4 the courts?

5 MR. VanSICKLE: No.

6 REPRESENTATIVE O'BRIEN: Thank
7 you, Mr. Secretary.

8 MR. VanSICKLE: Thank you.

9 REPRESENTATIVE JOSEPHS: Are
10 there any other questions?

11 Mr. Waters?

12 REPRESENTATIVE WATERS: Yes.
13 Thank you, Madam Chair. And I'm sorry I'm late
14 getting here. A couple problems came up. Driving
15 through Philadelphia, I'm sure you're aware of the
16 problems.

17 I'm so happy that we're able to
18 have you come here and represent the Department so
19 that we can talk to you about what not only happens
20 in Philadelphia because of the legislators and some
21 of us represent parts of the other parts of the
22 Commonwealth, too, Delaware County, too.

23 In Philadelphia County the last
24 election there were several problems. I don't know

1 if you should be the one to answer this or not, but
2 throughout the Commonwealth, do you notice that
3 there are a greater or an increasing amount of
4 problems in certain counties, as opposed to others,
5 like, out of 67 counties, I know Philadelphia is
6 the biggest county out of all of them, but do we
7 have more problems here than any other county has?

8 MR. VanSICKLE: Well, I think
9 when you have 1,680 some precincts you're going to
10 have quite a few problems. I know I talked to the
11 technicians down here. They had less than 100
12 service calls. In a small county like where I'm
13 from, Union County, that would be terrible, I mean,
14 a lot, but less than 100 service calls down here in
15 the first two hours is very little compared to what
16 usually it is. And sometimes it's old buildings,
17 where we find an outlet that works, those kind of
18 questions.

19 The voting system concerns have
20 all decreased dramatically. It's primarily other
21 issues that aren't related to voting systems, per
22 se. But you do get a lot more reports from
23 Philadelphia County and Allegheny County. There's
24 a lot more people. Montgomery County, Delaware

1 County. It's relative. They're a lot bigger, a
2 lot more precincts, a lot more voting machines, a
3 lot more people that may not want to stand in line
4 and those kind of things.

5 REPRESENTATIVE WATERS: Thank
6 you. With HAVA that came in place in 2002, in
7 Philadelphia County, where we have a lot of old
8 buildings, it has been kind of difficult for most
9 of the Committee people to find a location that
10 lives up to the requirements that they have
11 insisted upon, and it has forced some voters or
12 some polling places to have to be moved as a result
13 of that.

14 And in doing so, has Your
15 Department had a chance to look at what is going on
16 in Philadelphia? Because we had to move them, it
17 caused some people not to come out and vote because
18 now they have to go too far. I know in some
19 counties polling places are relatively close
20 compared to how far some people have to travel to
21 go vote, maybe in some of the rural areas. But
22 we're kind of used to things being a certain way
23 because of the condensity of the population.

24 What has your Department been

1 able to do to help accommodate or to make the
2 polling places more adequate for the HAVA
3 environments?

4 MR. VanSICKLE: The biggest thing
5 is the accessibility part of the HAVA Act. Polling
6 places do have to be accessible. There are 24
7 points of accessibility that have to be met, and
8 we're working currently with Philadelphia
9 one-on-one, if you will, to try to -- I think there
10 are 286 or 300 polling places that are critical
11 that we start looking at to try to get assessable.
12 I know the Department of Justice is looking at
13 them.

14 There are polling places. The
15 greatest number of your polling places, the
16 accessibility concern is with parking. And what we
17 want to do, we can save those, but there are other
18 ones that have other problems. I can't enumerate
19 all of those, but we're working very closely with
20 Bob Lee and that group and the commissioners to try
21 to knock down the number of polling places that are
22 not accessible. That may necessitate a moving of a
23 polling place, if it just may not be possible to
24 get an accessible polling place where it is

1 currently. So that would necessitate the move.

2 But believe me, we're working
3 very closely with Philadelphia because we know --
4 and a lot of people are watching. And we do want
5 to make the polling place accessible for a person
6 with disabilities. They have the right to be
7 independent and secrecy in their voting, just like
8 all of us.

9 REPRESENTATIVE WATERS: Thank
10 you.

11 REPRESENTATIVE JOSEPHS: I would
12 like to say that HAVA that we have been talking
13 about is the acronym, they're great, Help America
14 Vote Act. It requires us to do a certain number of
15 things.

16 I have a question. You were
17 talking about the ability of somebody overseas to
18 download an absentee ballot application; is that
19 correct?

20 MR. VanSICKLE: That's correct.

21 REPRESENTATIVE JOSEPHS: People
22 in the legislature are talking about allowing
23 people who are overseas to vote by FAX or by
24 computer. When I mentioned to somebody who had

1 such a bill in mind, that that would certainly
2 present a major problem about ballot secrecy, he
3 said to me: Well, you would relinquish your right
4 to a secret ballot. I'm under the impression that
5 you can't relinquish your right to a secret
6 ballot.

7 And I'm wondering if the
8 Department has any position on FAXing or voting
9 internet by military personnel overseas?

10 MR. VanSICKLE: At this point,
11 according to the law, I don't think it would be
12 possible because I think you're quite correct about
13 the secrecy aspect of it.

14 REPRESENTATIVE JOSEPHS: A public
15 hearing, just for the information of the audience,
16 means that public comes and listens. Questions
17 come from the members of the House and staff.

18 Is there any member of staff who
19 would like to ask a question, Kristen, Ms. Kohan or
20 Mr. Hurlburt?

21 I don't think I have more
22 questions. I thank you very much for being here.
23 Thank you for coming to the 182nd District. I want
24 to give Mr. Waters a chance to say a few words, and

1 then we will move to the witnesses from the U.S.
2 Post Office.

3 REPRESENTATIVE WATERS: I did
4 have some prepared comments that I had intended on
5 sharing with you as I arrived here today, but
6 unfortunately, I don't have them with me. You
7 probably don't want to hear them anyway. It was
8 about ten pages long. But I just want to thank the
9 Chair of the State Government Committee, State
10 Representative Babette Josephs, for allowing this
11 hearing to take place today.

12 And I believe we're doing it in a
13 very timely fashion, because not only are we trying
14 to deal with election day preparedness, but we also
15 want to deal with everything that takes place from
16 being eligible to vote, from being a registered
17 voter, to being an educated voter, to being
18 prepared for election day so that we will be able
19 to hopefully, because especially with this upcoming
20 election right now, we have a lot of young people
21 who are voting, I think, in record numbers. And we
22 want to make sure that their experience at the
23 polling place and this election day process is a
24 good one, because we want to -- we believe that if

1 they have a pleasant experience, that perhaps there
2 will be repeat behavior on their part. And we want
3 more and more young people to participate in the
4 election process.

5 Thank you, Madam Chair, for
6 having this hearing.

7 REPRESENTATIVE JOSEPHS: I have
8 two names, Mr. Frank Neri, Karen Tucker, but I
9 think there are more than two folks here from the
10 Post Office. If you would like to introduce the
11 other people. If they have testimony to give, they
12 are welcome to come up here. Please introduce
13 yourselves and the people you came with.

14 MR. NERI: Good afternoon. My
15 name is Frank Neri. I am the District Manager for
16 the Philadelphia Metropolitan District of the
17 United States Postal Service. And to my right is
18 Karen Tucker, who is the National Election Mail
19 Coordinator for the United States Postal Service
20 with us here from Washington, DC. Also with us is
21 Jackie Erwin. She's the manager of the Business
22 Mail Entry Unit here in Philadelphia and Mitch King
23 from Government Relations, from our headquarters in
24 Washington.

1 If I could take a moment, I'd
2 like to describe the structure of the United States
3 Postal Service. We are structured into 80
4 districts nationally. And the Philadelphia
5 Metropolitan District is one of four districts in
6 Pennsylvania. The other districts are located in
7 Erie, Pittsburgh and Harrisburg. And each are led
8 by a district manager with the same
9 responsibilities which I have, and it's my pleasure
10 to represent them here today, as well.

11 My area of responsibility
12 includes the City of Philadelphia and its suburbs
13 and southeastern Pennsylvania. This territory
14 covers approximately 1,800 square miles and
15 includes 344 post offices served by over 11,000
16 postal employees who support 1.7 million residents.
17 Our employees have been trained and are looking
18 forward to being part of the election process.

19 The United States Postal Service
20 stands ready for the upcoming general election.
21 Our districts in the nation are working to ensure
22 that all election mail is handled promptly and
23 correctly. We realize the importance of the
24 election and have taken the necessary steps to

1 ensure that the process and procedures are closely
2 monitored. In fact, Postal Service has a national
3 election mail program, which will be described by
4 Ms. Tucker.

5 MS. TUCKER: Good afternoon.

6 How are you?

7 REPRESENTATIVE JOSEPHS: Thank
8 you for being here. Good afternoon to you.

9 MS. TUCKER: Thank you for having
10 me, Majority Chair Josephs and the members of the
11 State Government Committee. I'm happy to be here
12 and I appreciate the opportunity to let you know
13 some of the things that we're doing within the
14 Postal Service. I actually call it bragging
15 because I'm just so proud of the work that we've
16 done around the election in the last few months.

17 From the perspective of the
18 Postal Service, we recognize the vital role that
19 mail plays in the election process, and we
20 understand that our basic mission is to bind the
21 nation together. We're excited to participate in
22 the election process and help those Americans that
23 choose to cast their ballots through the mail.

24 We also recognize that our role

1 has expanded through the use of absentee balloting
2 across the nation and vote by mail in states like
3 Oregon, and we understand that that role will
4 continue to expand as additional states adopt other
5 voting by mail methods. States have the
6 responsibility of deciding how to conduct an
7 election. They have the responsibility and the
8 accountability, and we in the Postal Service do not
9 impose any of our thoughts about that on those
10 states. However, when the states choose to use the
11 mail, we're readily available to support them in
12 that endeavor, and that's our role.

13 To that end, several years ago we
14 developed the National Election Mail Program and
15 worked with election officials to understand what
16 their needs were, what their requirements were and
17 how they could work better with the United States
18 Postal Service. So we stand here in 2008 as this
19 election approaches in November, and we know that
20 we have done all of the work that we needed to do.
21 We have reached out to the organizations and the
22 communities that we needed to reach out to do
23 ensure that we will have a smooth election through
24 the mail.

1 And for the remaining moments of
2 my remarks, I'd like to just share with you some of
3 the things we have in place and some of the things
4 we think are going to make this is a successful
5 2008 election.

6 As early as 2005 we developed a
7 National Task Force that's comprised of election
8 officials across the nation, along with postal
9 representatives and other interested parties, and
10 we come together in telecons, and webinars, and all
11 kinds of opportunities to talk about issues related
12 to using the mail for elections.

13 With inside of our organization
14 we developed a cross-functional team. Mr. Neri
15 helped to explain we're a very large organization.
16 As you might imagine, when we talk about a national
17 program, we're reaching across 37,000 post offices
18 and 600,000 employees. So we are massive.

19 We have developed standard
20 operating procedures for handling ballots, for
21 moving ballots, for recognizing ballots and other
22 election type of mail. We have participated in
23 conferences, organizations, such as the Election
24 Center, which is comprised of election officials

1 across cross the nation, and IACREOT, which is
2 another organization that has a good amount of
3 election officials, as well.

4 We have trained our employees and
5 we have worked with the Military Postal Service to
6 ensure that the military and overseas ballots that
7 the Deputy Secretary talked about earlier, that
8 we're prepared to handle those swiftly and
9 accurately and make sure they're counted in this
10 election.

11 We have developed internally
12 processes for responding to inquiries, whether they
13 come from voters, election officials or political
14 mailers, and we have ongoing internal and external
15 communications on the topic of elections. Some of
16 the key things that we have done is in May of this
17 year we had something called a National Postal
18 Forum. Upwards of 3,000 individuals attend that
19 event. We had a special workshop just on the
20 election at that end.

21 We also developed an election
22 mail 2008 kit, which we made available to election
23 officials throughout the nation. The materials
24 contained in the kit, some of which you have in

1 your folder, explain our program and gives contact
2 information, and it tells election officials across
3 the nation who to get in touch with when they have
4 questions about mailing.

5 We also had, this past July, our
6 chief operating officer sent out a letter to every
7 Secretary of State in the nation, again,
8 reiterating the fact that we're here to help,
9 giving contact information and explaining some of
10 the services that are available through the Postal
11 Service to help election officials in their
12 endeavor.

13 You will also see within your
14 folder is a vote by mail lobby poster. This poster
15 was developed, again, in conjunction with election
16 officials across the nation. So that in our
17 lobbies -- we are, actually by Monday, going to
18 have that poster in every single facility across
19 the nation. Canivote.org is an organization, is an
20 URL developed by the National Association of
21 Secretaries of State. And at that location any
22 voter in the nation can find out deadlines for
23 voting, they can pull down applications, they can
24 find out if they're registered, they can find out

1 where the polling stations are. We're putting this
2 in every single lobby throughout our organization.

3 In addition to that, we have
4 updated our web site on USPS.com. If you go there
5 today you will find something that looks very
6 similar to this poster. And if you click
7 through -- voters can go to links. They can go to
8 the canivote.org link. They can find FAQs and
9 answers to their questions. Election officials can
10 do the same, as can military and overseas voters
11 and political mailers, as well. It's comprehensive
12 web site. It's a service that we're offering for
13 the first time this year to ensure that anyone who
14 is coming to the Postal Service to find out about
15 voting by mail can find resources and find the
16 information they need in order to cast their vote.

17 Also in your folder you will find
18 a green tag 191. This is something new we
19 developed in conjunction and working with election
20 officials across the nation. When the ballots come
21 into our system, there are two significant ways
22 these ballots can be identified so that our
23 employees don't miss that these are ballots. One
24 is the logo on the bottom. This is the only time

1 the Postal Service has done a cooperative logo with
2 another organization. This is the only logo that
3 is allowed to be used on mail that the Postal
4 Service actually endorsed, and it is only available
5 for election-related mail.

6 This green tag that you see that
7 says Ballots Only is for domestic and international
8 use. It can be attached to trays and stacks and
9 bundles. Anytime mail comes in, particularly if
10 it's ballot, we want to know that it is so we can
11 handle it appropriately. So these were ordered
12 originally in quantities of 800. Somehow they ran
13 off the shelves, and we have ordered an additional
14 one million to make sure we have sufficient
15 quantities. Local election officials simply have
16 to go to their local postmasters to obtain these
17 and include them in their mailing.

18 APO/FPO procedures, we talked
19 about that briefly, and the deputy secretary also
20 spoke to that. We work very closely with the
21 Military Postal Service to make sure that our
22 process is in place. And during the period of
23 September 15th through November 3rd we're going to
24 use our express mail network to move ballots

1 throughout the system to military and overseas
2 voters.

3 Those special handling procedures
4 are similar to ones we have had in the past. One
5 of the things that the Military Postal Service is
6 doing for us this year is helping the states to
7 clean up their mailing lists. You know, one of the
8 issues with ballot through the mail is how good is
9 your list. And I probably don't need to explain to
10 you that when voters move, they don't always take
11 the effort to come back and change their address
12 appropriately. So one of the things that we're
13 doing to make sure that, particularly the military
14 and overseas vote, is we're working with the
15 Military Postal Service to make sure that those
16 lists are clean as they can possibly be and that
17 we're delivering those mails to the intended
18 recipient.

19 Mail security is an issue that
20 always comes up. And I just want to say that
21 supporting our efforts within the Postal Service we
22 have the oldest law enforcement agency in the
23 United States, and that is the Postal Inspection
24 Service. That organization, coupled with the

1 Office of the Inspector General, are there to
2 provide the level of security that and trust that
3 voters can feel confident that their ballots will
4 be handled properly.

5 In conclusion, I want to leave
6 you with the words that have meant so much to me.
7 They're from the Honorable Bill Bradley. I
8 understand he spoke before this Committee not too
9 long ago. And in the Washington Post a couple of
10 years ago he said the answer to the nation's voting
11 anxiety is not a national standard that imposes new
12 rules on an outdated system of polling places. The
13 answer is a low tax, low cost, reliable and
14 convenient system that makes it easier to vote and
15 easier to count votes. The answer is vote by mail.
16 Thank you.

17 REPRESENTATIVE JOSEPHS: Thank
18 you.

19 Why don't we start on this end?
20 Mr. Curry?

21 REPRESENTATIVE CURRY: What is
22 the election-related mail?

23 MS. TUCKER: That would be
24 registration materials. Those would be where is

1 your polling place.

2 REPRESENTATIVE CURRY: The county
3 Board of Elections?

4 MS. TUCKER: That's what we're
5 talking about.

6 REPRESENTATIVE CURRY: Thank you.

7 REPRESENTATIVE JOSEPHS: Mr.
8 O'Brien?

9 REPRESENTATIVE O'BRIEN: Thank
10 you, Madam Chair.

11 Elections and mail is a very,
12 very sensitive topic to me for two reasons. One,
13 both my children this year will vote by absentee
14 ballot, and I need the votes. And number two, in
15 the 2006 primary the United States Postal Service
16 lost \$30,000 worth of my mail, two mailings lost.
17 And at the end of the day, after conversations with
18 the Inspector General, the appropriate parties, the
19 answer was simply: Well, we moved our bulk center
20 from 30th Street to Lindberg Boulevard and those
21 things happen.

22 Now, while I consider my
23 political mailings to be the quality of the great
24 American novel, I understand that a read rate of 10

1 percent, it ranks with nuisance mail. But let's
2 now bring us to the sanctity, the sanctity, the
3 fundamental American great responsibility, the
4 sanctity of the ballot, my childrens' ballot. Do
5 me a favor and take a prolonged moment and go
6 through the security procedures from the moment
7 that the County Board of Elections puts this in the
8 mail and the security that this goes through until
9 my kids open their mailbox and receive their
10 ballot. Take a prolonged moment for that.

11 MS. TUCKER: The security of that
12 ballot is the same security we provide to all the
13 mail that is tendered to us within the United
14 States Postal Service. As I mentioned earlier in
15 the presentation, we have in place the Postal
16 Inspection Service. We have the Office of the
17 Inspector General. We have supervisors who are
18 trained in security measures and employees who are
19 taught about securing the mail.

20 Every piece of mail that's
21 tendered us to, whether it's ballot, a first class
22 mail piece, a standard mail piece, or a package
23 receives the same level of security and care as
24 those ballots that your children are about to send

1 back voting for you in this election.

2 REPRESENTATIVE O'BRIEN: So, that
3 doesn't make me feel real good, because someplace
4 out there, two and a half years later, I have got
5 12,000 pieces of mail that have never been
6 accounted for.

7 There is no special security
8 assigned to the ballot process?

9 It's just normal; nothing special
10 about it?

11 MS. TUCKER: Our systems are
12 equipped to handle the security on those pieces, as
13 they are equipped to handle security on other
14 pieces of mail. I have to apologize for our
15 organization. I don't know the circumstances --

16 REPRESENTATIVE O'BRIEN: No
17 apology needed. That's water under the bridge.
18 I'm more concerned about security, especially in --
19 if we look at the polls, I'm a political junkie, so
20 I look at daily tracking polls. We have got a
21 razor thin race going on here. And certainly, if
22 one of the candidates sneezes at us in an
23 inappropriate manner, it will shift the percent in
24 this race. So for me, a sense that the sanctity,

1 that an elevated sense of security would exist on
2 the ballot is kind of paramount.

3 MS. TUCKER: What we have done is
4 an elevated communication process, and that's what
5 I was talking about earlier. We have communicated
6 to every employee within our organization through
7 internal newsletters, through stand-up talks,
8 through SOPs --

9 REPRESENTATIVE JOSEPHS: What is
10 an SOP?

11 MS. TUCKER: I'm sorry. A
12 standard operating procedure.

13 We have done massive
14 communications around this election in a format
15 that we actually never done before. Internally, we
16 have set up a web site that employees have been
17 asked to go to. And on that website they can find
18 PowerPoint presentations, they can find
19 information, they're being asked to get very much
20 engaged. And I have to tell you that our
21 employees, unionized supervisors and others are
22 actually responding to this election in a manner
23 that even is surprising to us.

24 The security that you're looking

1 is part of how we conduct our business. And the
2 unique situation that caused your mail to go awry,
3 I cannot speak to, but it is unique. It is very
4 unique compared to the billions of pieces of mail
5 that we move through our system successfully and
6 without problem.

7 REPRESENTATIVE O'BRIEN: Thank
8 you, Madam Chair.

9 REPRESENTATIVE JOSEPHS: Mr.
10 Waters?

11 REPRESENTATIVE WATERS: Thank
12 you.

13 Thank you, Ms. Karen Tucker and
14 Frank Neri. Thank you very much.

15 I have got a question dealing
16 with something similar to what my colleague is
17 talking about. This is a problem that has happened
18 in past elections, and even the April 22nd election
19 of this year. Many people who register to vote
20 said that they never received the voter
21 registration information; the card never came
22 back. And we tried to track it to find out what
23 happened with -- from the person who filled out the
24 application to it being processed, and then the

1 only place where the gap seems to be that maybe you
2 can help me out with right now is with the mail.

3 What I have been told, and I
4 don't want to say anymore than what I have been
5 told, that many of those applications were at the
6 post office and they never got sent out, at least
7 in the timely manner so that the people could get
8 them. And that, in effect, before some of the
9 people came to me, caused a problem for them,
10 especially first time voters, they're not political
11 yet, or maybe they just needed to have more
12 specific information. The cards were given to
13 them, information as to where my ward is, what ward
14 I vote in, what my polling place is. They are
15 searching, they have got something they can show
16 somebody who may be as political a junkie, like my
17 friend here, to help give them some guidance.

18 So I don't know if can you answer
19 this, if you are aware of it, but what is --
20 because you don't treat any other application or
21 any other mail differently than you treat all the
22 mail, what will you do if you find out that perhaps
23 because people never received their information in
24 a timely manner, and it was at the Post Office in a

1 trailer, rather than being sent out, who supervises
2 that to make sure that doesn't happen?

3 MR. NERI: The operations are my
4 responsibility in Philadelphia, and we have a
5 Consumer Affairs Office. If individual residents
6 of Philadelphia, or anywhere between the
7 Philadelphia metropolitan district, experience any
8 problem with the mail, they certainly can reach out
9 to our Consumer Affairs Office where we would
10 launch an investigation to determine, in fact,
11 working with them and the sender to determine when
12 the mail was entered into the postal system and try
13 to identify the way the mail was made up when it
14 was entered, where it might be within our chain,
15 supply chain within the Postal Service.

16 And we take every inquiry, every
17 issue that's brought forward through our Consumer
18 Affairs Office very seriously and we investigate
19 every one of them. And we do also monitor our mail
20 conditions on a daily basis within our operations,
21 within our processing center. We take an inventory
22 by operation of what mail we have in the system and
23 ensure that that mail is fluid and moving through
24 the system.

1 REPRESENTATIVE WATERS: So the
2 Consumer Affairs Department, have you received any
3 concerns from people about they're not getting
4 their voter registration card?

5 MR. NERI: I'm not personally
6 aware of any complaints coming into us for that. I
7 would certainly check and be able to get back to
8 you, if, in fact, we have had experience in the
9 past, any specific complaints to that, but I'm not
10 aware of any.

11 REPRESENTATIVE WATERS: You're
12 not aware of any. Well, I just want to say thank
13 you so much for the material. Thank you. I just
14 want to personally thank you for taking time to
15 come here to speak and answer the questions.

16 REPRESENTATIVE JOSEPHS: Mr.
17 Blackwell?

18 REPRESENTATIVE BLACKWELL: Thank
19 you, Madam Chair.

20 Mr. Neri, you said you tried the
21 operation. I just want to get something clear.

22 Representative O'Brien, did you
23 say your mailing was never accounted for?

24 REPRESENTATIVE O'BRIEN: That's

1 correct.

2 REPRESENTATIVE BLACKWELL: Couple
3 that with what you just said in terms of what
4 happened after -- first of all, how long have you
5 been in charge of the operation?

6 MR. NERI: I've been here in
7 Philadelphia for just over three years now.

8 REPRESENTATIVE BLACKWELL:
9 Probably the same time he's talking about.

10 What happened -- he said his
11 mailing was never accounted for.

12 How did that get lost in the
13 system?

14 MR. NERI: Well, I can tell you
15 what we have done in the time frame we have been
16 here. And just about two years ago, which was
17 around the time that was described by the
18 Representative, and we have put in place a very
19 close, tight monitoring system on political mail
20 that is entered into the system, campaign mail.
21 There are -- procedures include an identification
22 tag, similar to the green tag that was presented
23 here. It's a red tag that identifies it as
24 political mail, that then we also work closely with

1 printers and the campaign offices of every
2 candidate and attempt to reach out to them to get
3 electronic copies of the mail piece before they're
4 entered into the postal system, identifying
5 penetration, the ZIP codes that those mail pieces
6 are being mailed to.

7 We proactively now send out those
8 electronic copies to all of our Post Offices that
9 should be expecting to receive that campaign mail
10 and require them to respond back to our coordinator
11 when that is received. So we try to monitor or we
12 work towards monitoring every step of the process
13 to ensure that we're tracking when the mail is
14 expected at the local Post Office, it's received
15 and delivered in that timely fashion. So that
16 communication has increased. The work coordination
17 of working together with the campaign offices and
18 the printers has increased year after year, and
19 more are coming on board with working with us with
20 that process.

21 REPRESENTATIVE BLACKWELL: I'm
22 glad to hear that because coupled with a lot of
23 complaints that may or may not occur, usually more
24 often than not in the poor or minority communities

1 you tend to have more problems because of the
2 voting aspect, itself. Because of this election,
3 which is purported to be tight on a daily basis, it
4 goes either way, which I don't usually believe in
5 polling, I think that maybe perhaps you should --
6 you answered my question, actually, about your
7 safeguards.

8 But I'm afraid there's going to
9 be some things that are going to try to -- people
10 are going to try to make sure occur in this
11 election on a national level. And I would hope
12 that in your answer that political mailings are not
13 treated the same as regular mailings, more
14 especially in this election, because I think that
15 either way it goes, history is going to be made.
16 And I think because of that, more especially
17 because of the problem that we have often
18 experienced in the minority communities, generally
19 our votes come in late because of whatever reason,
20 electronics seem to not touch us sometimes, that's
21 what they say, I would hope that we would pay a
22 little more attention to those areas because our
23 accounts generally come in later and I don't want
24 anything to be lost, because John Kennedy got one

1 Chicago, a very small percentage of votes, which he
2 became president, I don't want to see someone
3 winning because of someone not paying attention.

4 But, actually, in your testimony
5 you answered my second question. Thank you very
6 much.

7 MR. NERI: We will ensure that we
8 monitor the process so it works the way we designed
9 it.

10 REPRESENTATIVE JOSEPHS: Any
11 other questions? I have a question.

12 Somebody discovered someplace --
13 my district is all in this area, of course, but
14 somebody discovered at some point my newsletters
15 from -- I don't remember which year now. These are
16 not, I think, political mailings, but they are bulk
17 mailings, trays and boxes of them someplace in a
18 post office in another section of the City. I
19 believe there's a criminal investigation going on.

20 Am I right, they're not political
21 mailings? I don't know.

22 Do you care to make some comment
23 on that? I mean, I think a postal employee
24 discovered them. I'm not upset with the post

1 office system, and I think the investigation is
2 ongoing.

3 But do you have any comment?

4 MR. NERI: Only that we take
5 every instance, every incident that occurs very
6 seriously. And again, we do work with the Postal
7 Inspection Service and the Office of the Inspector
8 General when we do have such isolated criminal
9 activity and we cooperate fully with those
10 investigations and provide all the resources
11 necessary when they're conducted.

12 REPRESENTATIVE JOSEPHS: Thank
13 you. I was sure you did.

14 Anything else from the members?
15 I want to thank the post office people for being
16 here. We do have a packet, but, Ms. Tucker, I
17 think I noticed you were, and perhaps Mr. Neri,
18 also, reading from other written materials. If you
19 could forward those to me, I will distribute them
20 to the Committee, if that's okay.

21 MS. TUCKER: Will do.

22 REPRESENTATIVE JOSEPHS: I want
23 to commend you for coming up by train. And one of
24 the reasons why we moved this along as fast as we

1 could is because they have a train to catch back.

2 I'd also like to say, before we
3 take our little break, that we did invite a number
4 of election directors from counties to be here and
5 testify today, but they are really busy, and I can
6 understand why they were not able to come. We
7 asked the election director from Montgomery County,
8 specifically, and the election director from this
9 county. We also asked the County Commissioners
10 Association to testify. I'm really disappointed
11 that the person who is the executive director could
12 not make it; that we could not have a substitute to
13 come.

14 And the last thing I want to say,
15 I did mention this to the people from the post
16 office, is that we did advance in our Committee --
17 in Pennsylvania, in order to have a no excuse
18 absentee ballot, most legal experts believe that we
19 have to amend our Constitution. So we did move out
20 of Committee fairly recently, after the Secretary
21 of State from Oregon testified here, Bill Bradley,
22 a Constitutional amendment. I believe it was
23 unanimous. Everybody here at the table was on my
24 Committee voted for it, which would provide for a

1 no excuse absentee ballot, and which would put, for
2 the first time in our Constitution, the fact that
3 military voters get special treatment. We do it
4 because the feds required it. I believe we should
5 do it because we require it.

6 I'm going to give us not quite 15
7 minutes. I want to be back here at 3:45; give our
8 recorder a little rest.

9 ---

10 (Whereupon, a recess was taken at
11 3:31 p.m.)

12 ---

13 (Whereupon, testimony resumed at
14 3:45 p.m.)

15 ---

16 REPRESENTATIVE JOSEPHS: I'm
17 going to ask Lora Lavin from the League of Women
18 Voters, vice-president for Issues and Actions.

19 MS. LAVIN: I want to thank you
20 for this opportunity to testify, and I also want to
21 apologize for all the typographical errors in my
22 testimony. The League received your letter dated
23 September 17th on Tuesday, which was September
24 23rd. Our executive director said they could have

1 made a paper airplane and shot it out the window
2 across the street, it would have got here faster.

3 REPRESENTATIVE JOSEPHS: I
4 apologize.

5 MS. LAVIN: It's not your fault.
6 That's why all the typographical errors, because it
7 didn't -- I ran it by my husband. I told him to
8 read it while I was making his dinner.

9 Anyway, you asked us not to read
10 our testimony, to ad lib, so that's what I'm going
11 to do. As you know, voting is our top priority,
12 protecting the right of people to vote and citizens
13 to vote, and also voter education are the two arms
14 of our election activities.

15 In our advocacy role we have
16 worked actively, alone and in collation with the
17 Pennsylvania Voters Coalition, specifically, on
18 fundamental issues related to the voting process.
19 And right now I'm actually co-chairing that
20 Pennsylvania Voters Coalition. And so, I have
21 heard and been involved in many of the issues that
22 are being brought up by others who have presented
23 testimony, written testimony, Kathryn Bookbyer,
24 specifically, and also Miriam Snyder and the ACLU.

1 I want to say that the Department
2 of State, and particularly the Secretary of State,
3 has been very responsive and cooperative with the
4 League of Women Voters and the Pennsylvania Voters
5 Coalition on a number of issues that we have
6 brought up, specifically regarding the provisional
7 ballots, the emergency paper ballots, and also,
8 although it's not mentioned in my testimony, the
9 right of voters, not poll workers or poll watchers,
10 but voters to hear what they want when they come to
11 the polls.

12 We appreciate the responsiveness
13 of the Secretary of State to issue directives to
14 the counties regarding these issues. We realize
15 that they do not have the force of law but we hope
16 the counties will take those directives of the
17 Department of State and would abide by them because
18 the League believes that one of the things that's
19 very important is that the election procedures be
20 applied equally across the state. A person's right
21 to vote shouldn't be jeopardized because something
22 is enforced one way in one county or one precinct
23 and another way in another county or another
24 precinct. Everybody should know what the law is,

1 what the procedures are, and there should be --
2 they should be applied equally.

3 In particular, the emergency
4 paper ballot has become a big issue because of the
5 widespread reports of machine breakdowns, but also,
6 more specifically, particularly when the polls
7 open, sometimes the poll workers have not been able
8 to properly get the machines started by the time
9 the polls open. And I personally answered a phone
10 call from a couple that said they were told to come
11 back later, and I said: They should have given
12 you an emergency paper ballot, and they were
13 apparently -- the poll workers at that precinct
14 never heard of it.

15 So I think that is a particularly
16 important issue. A lot of people do show up to
17 vote. They want to vote before they go to work.
18 They may not be able to come back later in the day
19 to vote. As it turned out, this particular couple
20 was able to do so, but they had to go to a great
21 deal of trouble to rearrange their work schedules
22 in order to do so. I do -- over the last couple of
23 years, I have had the opportunity to answer phones
24 at 6ABC in Philadelphia, so believe me, I have

1 heard it all. All those problems are real
2 problems.

3 Incidentally, we do support the
4 no fault absentee ballot and certainly like to work
5 with your Committee, and in the future, to get that
6 passed.

7 I also want to say that the
8 League encourages citizens who -- the other thing
9 that I wanted to bring up was the poll workers. I
10 almost forgot about that. The poll worker training
11 has been an issue with the League for quite a long
12 time. We have been quite aware that the training
13 of poll workers is uneven at best. The counties
14 are required to offer. The poll workers don't
15 necessarily have to show up. And what is presented
16 at those trainings varies across the state. Again,
17 the Department of State has made an effort to
18 provide materials for poll worker training so that
19 these are the things that should be -- these are
20 the things that should be in the training program,
21 but whether the counties use them or not is
22 certainly up to the counties.

23 I think that Mr. VanSickle told
24 you about the DVDs that they're distributing.

1 Are they, these DVDs, going to be
2 used?

3 Will they be distributed to poll
4 workers?

5 Will they try to make them
6 available to poll workers that are not able to come
7 to training? I don't know.

8 With regard to poll worker
9 training, I just want to say that the League is
10 working, again, in partnership with the Advancement
11 Project. The Advancement Project has a grant to
12 prepare what they call a palm card. It's called
13 the Top Ten Things Every Pennsylvania Poll Worker
14 Should Know. And I have a sheet of paper here that
15 has the content on it. Obviously, it's not a palm
16 card, but when I can finally get it formatted, it
17 will be palm card size. And they will be able to
18 have as many of these printed up as is necessary to
19 distribute to every poll worker in the state. This
20 is a matter of how we can distribute them; if we
21 can get them to the counties and the counties can
22 agree to distribute them to their poll workers,
23 that would be great.

24 It's immediately readable. It is

1 not -- they don't have to thumb through pages and
2 pages of -- what I guess the counties call the
3 election day gesture and various manuals that they
4 send to the polls with the judges of election. So
5 I think that this will be an important educational
6 tool. Nevertheless, there will be problems, and
7 there are various hotlines. The Department of
8 State has a hotline at 877-VOTESPA. There's
9 866-MYVOTEONE. There's 866-OURVOTE. The League of
10 Women Voters has an 800 number, which does not have
11 letters associated with it. It's 800-564-6598.
12 That receives calls.

13 Also, many of our local leagues
14 have listed phone numbers, and our local leagues do
15 get phone calls on the days leading up to election
16 day and on election day from people wanting
17 information, mostly where to go to vote, but
18 sometimes they do report voting problems.

19 At the state and local level, we
20 are, of course, well-known for our traditional
21 voter education activities, the candidate forums,
22 Voters Guides and voter registration. And I also
23 wanted to announce that we have recently learned
24 that the Attorney General candidates Tom Corbett

1 and John Morganelli have agreed to a televised
2 debate at WPVI on October 28th.

3 Our Voters Guides and are now
4 being put on-line at -- a lot of our local leagues
5 are putting their Voters Guides on-line on their
6 local web sites. We have our State Voters Guide on
7 our State web site. We're hoping that our local
8 leagues will take advantage of the National
9 League's web site, vote411.org, to post their
10 Voters Guides on that web site, as well.

11 But what I wanted to particularly
12 talk about is a new and what we believe is unique
13 voters guide, on-line voters guide tool for
14 candidates and voters, and it's called Smart Voter.
15 And this originated as a project in California.
16 Two of our county leagues have undertaken to
17 provide this Smart Voter tool to voters and
18 candidates in Pennsylvania.

19 And Smart Voter is not to be
20 confused with Vote Smart. It is not a candidate
21 questionnaire. What a Smart Voter does is, first
22 of all, for this election, the two counties,
23 Allegheny and Delaware County, volunteers in those
24 counties have put onto the Smart Voter web site,

1 smartvoter.org, all the candidates that will be on
2 the ballot in all the counties in the State of
3 Pennsylvania. And it will start with president,
4 attorney general, et cetera and it go will go to
5 Congress, state house, state senate, state house.
6 If there's the state voter referendum on the water
7 bond issue, that is on there already. If there are
8 local referendums that we find out about, those
9 will be also put on it.

10 And what a voter can do is you
11 type in your address and your ZIP code and it gives
12 you your ballot. You will be able to see what will
13 be on your ballot specifically on election day.
14 I'm pretty sure it's 99 percent accurate. We have
15 learned about some glitches, but it is fairly
16 accurate.

17 And the other thing about this
18 Smart Voter is the candidates can put information
19 about their candidacy on this web site. You get
20 from our volunteers in Allegheny and Delaware
21 County a code that enables you to enter the web
22 site and put in information about your candidacy.
23 And there's unlimited space, so unlike our printed
24 voters guide where had a question and only 125

1 words to answer it, this you can answer at length
2 and you don't have to deal with yes and no answers,
3 like do you support yes or no. Because this -- I
4 think a lot of legislators and candidates resent
5 being backed into that kind of yes-or-no corner.
6 So this allows you to respond to questions that may
7 come to voters that may come up with regard to your
8 candidacy in an expansive manner.

9 Another thing about it is that it
10 is alive right up to election day. So if new
11 conditions arise that cause you to want to put more
12 information up there, like members of Congress now
13 might want to put up their views on the current
14 crisis, economic crisis, they are able to do that.
15 This is something that has just come up.

16 So we're very excited about this
17 web site. I know that Representative Josephs has
18 been using it. I have some poster, which I will
19 present to you and which you can put up. In fact,
20 I have several. You can put them up anywhere you
21 want. Put them up in your office. Put them up in
22 your synagogue, you know, to encourage people to
23 use it. I did hand you all a pamphlet about Smart
24 Voter. So we're just very excited about this. I

1 am a member of the Delaware County League and we're
2 just hoping that we will be able to continue to
3 offer this service. As you can well imagine, that
4 is not free.

5 So the other thing that I wanted
6 to point out is that the League of Women voters is
7 a grass-roots organization. We have a presence in
8 35 counties around the state, and this gives us the
9 ability to really provide voter information at the
10 grass-roots level, to work with boards of election
11 at the grass-roots level in those counties where we
12 have a presence. And our -- I have listed in my
13 testimony some of the many things that our local
14 leagues are doing.

15 Many of our local leagues have
16 met with their county boards of elections to talk
17 about some of the issues that are being raised in
18 this hearing. They are, of course, registering
19 voters. As I said, they have telephones. They are
20 talking. We have one league in Wilkes Barre, a
21 number there spoke to 400 Pennsylvania job corps
22 students on the importance of voting. So this is
23 the kind of thing that our grass roots enables us
24 to do.

1 One of the things that I know
2 that our Lackawanna League is helping the
3 Lackawanna Board of Elections draft a manual for
4 the poll workers in Lackawanna County. And I
5 believe that one of our other leagues can also be
6 doing the same. And so that is another advantage
7 of our grass-roots network, I guess, is to be able
8 to provide that kind of service and that resource
9 for the counties.

10 As you can imagine, our work is
11 very volunteer intensive. We -- there's a whole
12 lot of things that I know that we should be doing
13 that we're not able to do because we simply don't
14 have the resources to be able to do them. For that
15 reason we have welcomed the partnership of the many
16 organizations that have taken a more involved
17 interest in the election process as a result of the
18 problems that were exposed in 2000. Many of these
19 problems were, I might brag or not, would say our
20 problems that the League knew about for years and
21 no one is paying any attention. So now they're
22 getting attention and we're delighted.

23 Thank you, again.

24 REPRESENTATIVE JOSEPHS: Thank

1 you. I'd like to say we have been joined by
2 Representative Cherelle Parker, who I'm sure had
3 the same problem as Mr. Waters, which was parking.
4 I'm sorry. There is just no place to park in the
5 182nd District. I'm sorry.

6 MS. LAVIN: Well, I took the
7 train.

8 REPRESENTATIVE WATERS: That's a
9 smart way to get here.

10 REPRESENTATIVE JOSEPHS: I don't
11 even have a car. I can't deal with it.

12 Any questions?

13 Mr. Waters?

14 REPRESENTATIVE WATERS: How are
15 you doing?

16 MS. LAVIN: I'm doing fine.

17 How about yourself?

18 REPRESENTATIVE WATERS: I'm good.

19 MS. LAVIN: Thank you for using
20 the mic.

21 REPRESENTATIVE WATERS: As
22 vice-president of the League of Women Voters, I
23 would guess that you have been involved over the
24 years with a lot of complaints or concerns that

1 you've been made aware of. I was informed about
2 the changes of election rules in the different
3 counties throughout the state. You touched on it
4 in the beginning of your testimony.

5 I know in Philadelphia a person
6 who goes out to vote, if they want to go into the
7 polling place and they want to wear their
8 candidate's paraphernalia into the polling place,
9 that it's okay. The people who work on the polls,
10 at the polling place, cannot. Anyone who stays in
11 the polling place for a significant amount of time
12 cannot, a poll watcher or somebody. But I was told
13 that in certain counties in this Commonwealth that
14 you can't even go in and vote if you're wearing a
15 candidate's paraphernalia. And it seems as if you
16 are saying you don't like that policy; that it
17 should be a uniform policy throughout the whole
18 Commonwealth.

19 What measures have you taken, or
20 your organization, taken thus far to encourage the
21 changes that you think should, and I agree, should
22 be in place?

23 MS. LAVIN: Are you talking
24 specifically about the dress code?

1 REPRESENTATIVE WATERS: Or a
2 campaign button or something.

3 MS. LAVIN: Right. The League of
4 Women Voters joined with the ACLU in sending a
5 letter to the Secretary of the Commonwealth asking
6 him to issue a directive to the counties regarding
7 this issue because -- and we joined this because
8 the League has been aware for years that there is
9 -- we have received complaints and questions about
10 whether this was legal or not and we wanted that
11 issue clarified.

12 And, in particular, we also
13 wanted it clarified in favor of the right of a
14 voter to wear what they want into the polling
15 place, as long as they are not actively
16 electioneering. As you mentioned earlier, in this
17 election, we're going to have a lot of young people
18 voting who are voting for the first time. They're
19 going to be enthusiastic. They're going to be
20 enthusiastic about the candidate they support,
21 whoever that candidate is. We want their voting
22 experience to be a good experience, and we don't
23 want cold water thrown on it because at some
24 precinct they're told they have to go home and

1 change clothes or turn their tee shirt inside out
2 or whatever.

3 REPRESENTATIVE WATERS: So in
4 these counties where they're not allowed to go in
5 and vote unless they make these changes, does that
6 mean that they are turned away from voting for just
7 that reason because they wanted to go in there -- I
8 mean, it's easy to take off a button, if that's all
9 you've got to change. But if the weather is good,
10 and it's hard to predict how the weather is going
11 to be, no matter what time of year anymore, you
12 might go in in there and you might just have your
13 shirt on. So if you walk in there and you've got a
14 candidate's shirt on, you might walk in there with
15 a Ron Waters' shirt on and you're going to be told
16 you can't wear that shirt in here and you can't
17 vote. That, to me, is an infringement upon a
18 person's right to vote.

19 MS. LAVIN: That's our belief.

20 REPRESENTATIVE WATERS: That's
21 the belief I have, too, so I would love to support
22 you. I don't know if I can speak for my
23 colleagues, because I'm sure because we don't have
24 that problem in Philadelphia. You do have a lot of

1 support here in Philadelphia.

2 MS. LAVIN: I'm sure that the
3 ACLU is testifying later and I'm sure they will
4 talk to you at length about this issue.

5 REPRESENTATIVE WATERS: So you're
6 talking to the Secretary of State.

7 It's not a legislative issue?

8 MS. LAVIN: Pardon? The
9 Secretary of State issued a directive to the
10 counties in which he said it is the opinion of the
11 Department of State that the definition of
12 electioneering, as it is used in the Election Code,
13 does not cover voters wearing this type of
14 paraphernalia while they're voting.

15 REPRESENTATIVE WATERS: Thank
16 you, Madam Chair.

17 REPRESENTATIVE JOSEPHS: Before I
18 ask another, if there's another question, I would
19 like to say that it's a question that interests me.
20 I have been talking about it to my staff. I would
21 like to work -- I would like to work with the
22 Secretary of State. There might be need for some
23 sort of legislative oversight of all of this. I,
24 personally, agree with you. I like the

1 Philadelphia rules, but I don't really know at this
2 point what you know about it, how widespread there
3 are in the counties that are different rules and
4 some things that we would like to find out.

5 We did 20 hearings this session.
6 Maybe my staff will faint doing 40 hearings, but
7 this is one of the issues that I do want to explore
8 because I think it's important, too. And I am
9 aware that there's a balance here that we really
10 want to trust the local officials to run the
11 election themselves, as much as they can without
12 interference from either the federal or the state
13 authorities. So I want to explore that part of
14 this issue that has to do with election
15 paraphernalia in the polling place. So I'm very
16 interested in this.

17 Any other questions?

18 REPRESENTATIVE BLACKWELL: I have
19 a question.

20 REPRESENTATIVE JOSEPHS: Mr.
21 Blackwell?

22 REPRESENTATIVE BLACKWELL: It's
23 not a question, but thank you for your testimony.
24 There is a problem in terms of -- something that

1 elected officials of each ward or county, executive
2 boards, they're not in uniform in Philadelphia. I
3 remember the -- when I first ran, my wife and my
4 daughter had on tee shirts with my name on it and
5 the election official, himself, just happened to be
6 an opponent of mine, or was with the opponent I was
7 running against, so they had to take their shirts
8 off because there was political -- he said
9 political apparatus. There was a question.

10 So, you know, until there is a
11 will to do the right thing -- you said you
12 contacted the Department of State, but there has to
13 be the direction from some type of elected
14 officials in the legislature to mandate certain
15 rules and requirements, because each county -- it
16 should be uniform. If you're an electioneer, of
17 course, you should be inside the place.

18 But who is to enforce this kind
19 of stuff, if the election boards, themselves, don't
20 really know the requirements. You understand what
21 I'm saying. So it's crazy. I, personally,
22 wouldn't do that.

23 MS. LAVIN: I wish this question
24 had come up when Mr. VanSickle was here, because I

1 think that is something that I -- I mean, I know
2 what the response of the Department of State will
3 be, but I'm not going to speak for the Department
4 of State. So that would be something that you
5 would have to direct to them is to what force of
6 law certain directives have that come from the
7 Department of State and how enforceable are they.

8 REPRESENTATIVE BLACKWELL: Well,
9 I know that sometimes when there is no law, people
10 will just take authority themselves and they will
11 say: Well, this is the way it's supposed to be,
12 and that's what I think you have in this case,
13 there is no law. So what happens, I am aware of
14 the Department of State's decision because we get
15 E-mails about it. But meanwhile, if there's no law
16 that govern what we do in our elections, you're
17 going to continue to have what you have because
18 each county election board does their own thing.

19 MS. LAVIN: This is one of the
20 reasons why we think poll worker training is
21 important, why we would like to help the
22 Advancement Project get these palm cards into the
23 hands of as many poll workers as possible so they
24 are aware of these issues and what the law is.

1 In the end, again, I would not
2 want to speak for the Department of State, and I'm
3 not a lawyer, but the judges of elections are
4 responsible for the conduct of what goes on at
5 their polling place. But if there's lack of
6 decorum, they're responsible for enforcing decorum.
7 Sometimes the judges of election look the other
8 way. I have heard instances of candidates walking
9 in and out of the polling place with doughnuts for
10 the poll workers and this sort of thing. I love
11 the idea of somebody coming in and bringing
12 doughnuts. Nevertheless, that probably is
13 something that should not be done.

14 REPRESENTATIVE BLACKWELL: Thank
15 you, ma'am.

16 REPRESENTATIVE JOSEPHS: I'd like
17 to make a request, Ms. Lavin. In the future, any
18 correspondence that you are sending to the
19 Secretary of State that has to do with any of your
20 missions, because I think we probably cover them
21 all, please include my office.

22 MS. LAVIN: Okay.

23 REPRESENTATIVE JOSEPHS: I have
24 been a League member for a while. I generally

1 agree with all of your positions, so it probably
2 can't hurt to send it.

3 MS. LAVIN: We'll do your
4 counterpart on the other in the Senate.

5 REPRESENTATIVE JOSEPHS:
6 Absolutely. I would share everything in a
7 bipartisan manner.

8 MS. LAVIN: Absolutely.

9 REPRESENTATIVE JOSEPHS: If there
10 are no more questions, I want to thank you very
11 much. I appreciate the League as a volunteer
12 organization, and I appreciate the work that you
13 do.

14 Sarah Stevenson, who is the
15 assistant director of policy for the Committee of
16 Seventy, please start when you're ready.

17 MS. STEVENSON: Thank you,
18 Representative Josephs and the House State
19 Government Committee. I want to say a special
20 hello to Lawrence Curry, who was my representative
21 growing up, and to Representative Parker that was
22 my predecessor before my time.

23 Basically, given the short amount
24 of time today, I just want to highlight what

1 Seventy is looking at this election and what our
2 preparations have been thus far. A little bit
3 about our program, we're a -- we plan to or
4 anticipate about 800 nonpartisan volunteers this
5 November to answer phones, visit polling places,
6 and we also have a handful of people in court, in
7 case we need them.

8 Our program has grown over the
9 years. We now cover most of the city. I'm not
10 sure of the exact percentage, but we agreed all the
11 way up to 107 in the northwest and southwest and
12 northwest. So we have grown in the past couple
13 years. Basically, voters, polling officials or
14 candidates have a problem on election day, they can
15 call 1-866-OUR-VOTE. We partner with the National
16 Lawyers Committee for Civil Rights, and that's a
17 national number, but I think phone calls coming
18 from anywhere east of the Susquehanna will be
19 directed to Philadelphia and we'll hopefully be
20 able to manage the problem from our office and our
21 partners at Daily Piper.

22 I just highlight here a few of
23 the problems that we've seen in the past and what
24 we anticipate in November, particularly some long

1 lines and overcrowded conditions; some improper
2 challenges; minority party election board members
3 being denied access to their polling place; varying
4 levels of intimidation; voter's improper influence
5 or assistance; and general voter education issues,
6 like bringing card identification, if they're a
7 first time voter or if they have moved.

8 And basically, what we have done
9 is there are 16 divisions in this city that are
10 over the state kind of threshold of 1,200 that we
11 have made -- the commissioner's aware of it. We
12 have contacted them. The most -- I don't want to
13 speak for the commissioners, I don't think there's
14 a representative here, but I think in yesterday's
15 meeting the most populous division, which is in
16 Chinatown, will be split by the spring primary. So
17 again, I don't want to speak for them, but that's
18 what was reported in yesterday's meeting.

19 But we want to keep an eye on
20 these divisions that are overpopulated, especially
21 with long lines, to make sure there are a
22 sufficient number of provisional ballots available,
23 especially if machines go down. The election
24 boards will likely use the provisional ballots as

1 emergency paper ballots, and in the event that all
2 the machines go down for a few hours, which
3 hopefully won't happen, that there is sufficient
4 numbers of paper ballots available to voters so
5 they can get through the lines.

6 Also, we just want to make sure
7 campaigns are aware of proper election procedures.
8 For example, in Pennsylvania, you can only be
9 challenged -- a voter can be challenged based on
10 their identity or never having lived in the
11 division. I know there's problems in other states,
12 rumors of parties using foreclosure lists, for
13 example, to challenge voters. We want to educate
14 campaigns on the proper rules in Pennsylvania so
15 every -- we have done this for years. Everyone
16 here will probably get a letter that we send out
17 highlighting different pieces of Pennsylvania
18 election laws so campaigns can educate their
19 volunteers, as well, including poll watchers.

20 We have also received reports in
21 the past of minority party election board and poll
22 watchers being denied access to the polling place.
23 We want to encourage all election boards to allow
24 their colleagues access to the polling place and

1 credentialed poll workers also to be permitted
2 inside that have the right to be there.

3 Again, we received varying
4 reports -- varying levels of intimidation, anything
5 from individuals blocking doors to, on the other
6 extreme, racially-based comments made to people in
7 the polling place or outside the polling
8 someplace. So we're very aware of these things and
9 we're in contact with not only the DA's Office and
10 the Law Department, but also the U.S. Department of
11 Justice, if it reaches that level. It is a federal
12 election, so we're generally in contact with them.
13 Also, any undue influence or electioneering or
14 illegal systems we want to keep an eye on and we
15 want voters and polling officials to contact us if
16 they experience this or witness this.

17 And lastly, which I think is a
18 hugely important piece, which I would love to see
19 Seventy do more of is the voter education piece.
20 We just launched a new web site, and on it we're
21 going to continue to build out the voter ed part of
22 our web site through the fall, including -- we'll
23 get -- it sounds like the League of Women voters
24 has a jump on the Smart Voter thing. We'll

1 probably do it by state rep, all the splits in the
2 city, so every voter has the opportunity to see the
3 scan of the pink ballot they will see on election
4 day on our web site, and just giving voters a heads
5 up on their rights. And like I mentioned in the
6 beginning, if they need ID, to bring ID so there's
7 not a problem so they can move through the line,
8 get in and get out.

9 We also have a polling place
10 located on our web site and it's also via
11 telephone, in case somebody doesn't have access to
12 the internet. It's also in Spanish, and we're also
13 in the process of holding some voter ed seminars.
14 We have had one in the Russian Community Center in
15 the northeast and we're planning to hold one in
16 Chinatown in October.

17 Basically, that's what we're
18 looking at. We try to -- we have problems come in
19 all day and we just try to get our trained
20 volunteers to the location as quickly as possible
21 and in partnership with the lawyer's committee has
22 allowed us to do that because they have allowed us
23 the use of the 1-866-OUR-VOTE number and also
24 increase better technology, access to a database

1 that we can plug the problems in and connect our
2 volunteers to the actual locations. And then also,
3 on the flip side of this, we're also in direct
4 contact with the Law Department, DA's Office and
5 U.S. Department of Justice. So we're kind of
6 creating that liaison because the law enforcement
7 agencies have limited resources, so we're there to
8 help them actually enforce the rules that are in
9 place. So that's what we're up to.

10 REPRESENTATIVE JOSEPHS: Are
11 there any questions?

12 REPRESENTATIVE PARKER: She's new
13 at Seventy, so we'll give her a break.

14 REPRESENTATIVE JOSEPHS: Mr.
15 Waters?

16 REPRESENTATIVE WATERS: I know
17 you're new, but you sound smart to me. I'm not
18 going to be hard on you. As you know, we're just
19 trying to come up with some remedies to help
20 facilitate the process, and that's what this
21 Committee is doing today.

22 I want to talk to you about some
23 statistics here about some problems that have
24 occurred recently, I guess you could say. For

1 instance, the last election there were registration
2 problems. I believe that was reported by your
3 Committee, different levels of problems that have
4 occurred at polling place inquiries. And 24
5 percent of your problems that you reported were
6 just voter registration records, inaccurate in the
7 poll book and registered voters missing from poll
8 book, newly registered voters who are not listed in
9 the poll books or in the state registration
10 database.

11 So it appears that this is -- if
12 this problem is not corrected, it will serve as a
13 distancing for getting people to want to cooperate.
14 I know I talked to someone in the audience here who
15 has been a registered voter since the early '70s
16 and they said they went to the polling place the
17 last election and they still wasn't on the books,
18 but it was in the books, but disappeared twice in
19 the last election. So, fortunately for this
20 person, he's a committeeperson, so he had to be
21 there anyway and he knows what his rights are. But
22 there are some people who might not understand what
23 their rights are and they might not know that they
24 should ask for a provisional ballot so they can

1 still vote.

2 The Committee of Seventy, I
3 believe, is great, I guess you call them a watch
4 dog organization and a champion to make sure the
5 process is fair and giving everybody full
6 disclosure to what their rights are.

7 I hear some of the things you're
8 talking about. But as a result of some of your
9 involvement, have you noticed any improvements in
10 the process?

11 MS. STEVENSON: That's hard to
12 say because I visited the warehouse where all the
13 voter registration applications are entered into
14 SURE, and I mean, that process has been the same
15 from April until now. The SURE system hasn't been
16 changed or anything like that. And, again, I don't
17 want to speak for the Secretary of the Commonwealth
18 or anything like that, but I wish I had a longer
19 range -- I haven't been in this business so long.
20 I know that the -- I don't want to speak for the
21 commissioners, but they have reported to us, and by
22 commissioners I mean staff, too, not necessarily
23 the elected officials, but that they have had
24 difficulty with the SURE system, that it's slow,

1 and in a large county like Philadelphia that's
2 mobile, a lot of people move around and just high
3 numbers, and now with the Mayor wanting to attract
4 75,000 new people in X number of years, that they
5 just have difficulty with -- the technology has not
6 caught up with or it doesn't match the demographics
7 of Philadelphia in terms of numbers. So that might
8 be something to look at moving forward.

9 I think the State Department is
10 looking at their own internal database, trying
11 to -- because I think this is contracted out, but
12 they're looking at their own new management system.
13 So I think surely in a place like Philadelphia,
14 which has so many registrations, or attempted
15 registrations, that looking at -- making sure
16 whatever system is in place in Philadelphia can
17 accommodate not only Elk County, I don't know how
18 many people live there, and that whatever system is
19 in place will really be able to accommodate every
20 county in Pennsylvania. So I mean, that's just a
21 matter of doing diagnostics and running tests on
22 the system and things like that.

23 REPRESENTATIVE WATERS: Would you
24 be able to carry out provisional ballots themselves

1 when they're travelling around in case they're
2 needed?

3 MS. STEVENSON: Do we carry them
4 around? We don't, but the Law Department acts as a
5 representative of the commissioners and we're in
6 direct contact with them. So whenever we hear of a
7 polling place that's low, I have literally someone
8 next to me and I say: Please call so and so to
9 send.

10 REPRESENTATIVE WATERS: That's
11 how you get them out to the people?

12 MS. STEVENSON: Usually the poll
13 workers are trained on -- I attended a poll worker
14 training, and they were trained on if the machines
15 go down, use the provisional ballot as a paper
16 ballot, mark it emergency ballot. So the poll
17 workers that go to training do have some --

18 REPRESENTATIVE WATERS: Not
19 everybody goes?

20 MS. STEVENSON: No, they don't.

21 But they are also -- and this is
22 what we instruct our volunteers, too, to have the
23 poll workers contact the election -- contact the
24 Commissioner because this is a huge administration

1 of elections. So we try to facilitate but not get
2 in the way.

3 REPRESENTATIVE WATERS: Good.
4 Thank you.

5 REPRESENTATIVE JOSEPHS: I'd like
6 to make the same request of you that I make from
7 Ms. Lavin. When you correspond with the election
8 officials or with Department of State, if you put
9 our office in the loop, I think we can be of help
10 to you.

11 MS. STEVENSON: Great.

12 REPRESENTATIVE JOSEPHS: And a
13 general comment is that I think we are pretty
14 unusual, Matt will correct me, Mr. Hurlburt will
15 correct me if I'm wrong, it's a very big state that
16 has totally -- almost totally run citizen --
17 citizen-run election day, and I'm very proud of
18 that. That's as it should be. The citizens should
19 run our own election. But it brings with it some
20 problems about training and inconsistency that I
21 think we just have to work through without losing
22 sight of the fact that our citizens run our own
23 election. That's pretty outstanding. That's real
24 democracy.

1 So is there any other questions?

2 Thank you so much.

3 MS. STEVENSON: Thank you.

4 REPRESENTATIVE JOSEPHS: I very
5 much appreciate the work of the Committee of
6 Seventy and the League of Women Voters and the
7 American Civil Liberties Union, Pennsylvania
8 Chapter, and Andrew Hoover is next. I made full
9 disclosure about the League of Women Voters. I
10 said I am a member. I'm also a member of the
11 American Civil Liberties Union. That's my conflict
12 of interest.

13 MR. HOOVER: You and 18,000
14 Pennsylvanians, Madam Chair.

15 REPRESENTATIVE JOSEPHS: Mr.
16 Hoover?

17 MR. HOOVER: Good afternoon,
18 Madam Chair Josephs and members of the Committee,
19 Representative Waters. Thank you for inviting me
20 to participate in this hearing and for having the
21 hearing. This is an important issue to focus on,
22 obviously, as we approach our staff has been
23 involved in two issues in the last month or so, one
24 of which you've already addressed and talked about,

1 which has come to be known as passive
2 electioneering, which is the wearing of buttons and
3 tee shirts in the polling places. Our staff has
4 also been involved in the issue of the right to
5 vote for former offenders. And I'm going talk
6 in-depth about those two issues and also talk a
7 little bit about some of the antidotes we heard
8 about issues that are out there related to the
9 election.

10 As you certainly know, in 1997
11 the General Assembly passed and Governor signed a
12 law that barred former felons for voting for five
13 years after their release. Three years later the
14 state Supreme Court ruled that that law was
15 unconstitutional and struck it down. Our
16 experience has been that the 1997 law is well-known
17 but the Supreme Court decision of 2000 is not. We
18 have three offices around the state, as well as 11
19 chapters, and our staff of volunteers have found
20 that a lot of former offenders don't know they can
21 vote, and some government officials also don't know
22 they can vote. And community advocates that we
23 have worked with confirm this.

24 Within the last two months an

1 activist who had been working on the voter
2 registration drive contacted us and he said that he
3 had been told by people he approached that parole
4 officers were telling parolees that they did not
5 have the right to vote, and, in fact, one
6 particularly egregious case, a parole officer
7 allegedly told a parolee that if he voted, it would
8 be a violation of his parole and that he could
9 return to jail.

10 So as we researched this further,
11 it was also discovered there are some counties that
12 still had information on their web sites that said
13 that former offenders -- former felons cannot vote
14 for five years after release. So as this surfaced
15 we saw it as a further opportunity to educate the
16 public and government officials particularly at the
17 local level about the law on ex-offender voting.
18 Witold Walczak sent a letter to the state Probation
19 and Parole Board and he also sent a letter to the
20 67 counties clarifying the law and reminding
21 officials that former offenders do have the right
22 to vote. He also encouraged probation and parole
23 officials to provide a copy of the Secretary of
24 State's guidelines on this issue. If you go to

1 votespa.com, there's an excellent brochure about
2 the former offenders and pretrial detainees and
3 people convicted of misdemeanors and their right to
4 vote.

5 So we're happy to report that
6 this seems to have a positive impact. So far, 11
7 counties have contacted us saying they plan to
8 disseminate the information in some form or
9 fashion. In addition, a spokesperson from the
10 State Board of Probation and Parole contacted us
11 and said they would give the information to all
12 their officers and give it to their parolees. And
13 the State Board also reinforced this message with
14 all of the county offices. In addition, our
15 community organizing staff here in Philadelphia
16 produced an some information card, which is
17 available to the public for distribution that talks
18 about the right of former offenders at the polling
19 place.

20 The legal team has also been busy
21 working on this issue you talked about earlier
22 regarding free speech at the polling place in the
23 form of tee shirts and buttons that support a
24 particular candidate. During the April primary we

1 received several complaints that people were turned
2 away because of what they were wearing. The
3 complaints came from Mount Lebanon in Allegheny
4 County, Ardmore in Montgomery County and the City
5 of York in York County. Now, we don't think this
6 was a deliberate attempt at voter suppression. Our
7 suspicion is that the poll workers were likely
8 interpreting the definition of electioneering
9 broadly. State law indicates that no person when
10 within the polling place shall electioneer or
11 solicit votes from any political party, political
12 body or candidate, nor shall any written or printed
13 matter be posted up within the said room, except as
14 required by this Act, but electioneering is not
15 defined in that law.

16 So whether the poll workers'
17 intentions were pure or cynical, the ACLU believes
18 the First Amendment right to free speech allows
19 this kind of silent expression by voters at the
20 polls. Furthermore, the imposition of a dress code
21 could result in a voter being denied the right to
22 vote if he or she wears an unacceptable message.
23 And our legal team looked into this and they
24 realized, as you discussed earlier, there's no

1 uniform standard. In fact, there were other places
2 in Allegheny County, I mentioned Mount Lebanon, was
3 turning people away. Other places in Allegheny
4 County were allowing voters to wear tee shirts and
5 buttons from particular candidates.

6 So in August, Mr. Walczak, one of
7 our staff attorneys, and Sara Rose and Andrea
8 Mulrine from the League of Women Voters did send a
9 letter that you talked about earlier to the
10 Secretary of the Commonwealth Pedro Cortes asking
11 for clarification. Chet Harhut, who is a
12 commissioner with the Department sent a memo to all
13 the county election boards on September 4th and it
14 stated that the Commonwealth agrees with our
15 position that this kind of expression is allowed in
16 the polling place.

17 You talked a little bit about
18 what kind of power the Department of State has. If
19 you read that memo, and, in fact, in my written
20 testimony there's a link to it, Commissioner Harhut
21 says that the Department of State feels that they
22 do not have the power to give a binding directive
23 on this issue. In fact, he even goes further and
24 says that the only binding power that they believe

1 that they have is in regards to machines.

2 Now, the reaction to this memo
3 has been mixed. Eleven counties have responded
4 saying they that would allow this kind of free
5 speech at the polls. Ten of those counties were
6 already doing that. Two of them are the largest
7 jurisdictions, Philadelphia and Allegheny County.
8 Lebanon County also, as another example, passed a
9 resolution last week saying they would allow this
10 kind of expression. Unfortunately, there are at
11 least four counties that indicated that they would
12 not follow the directive from the Department of
13 State.

14 I also should add that last week
15 two election officials from Allegheny County filed
16 a lawsuit in regards to this issue asking the court
17 to mandate that all 67 counties not follow the
18 Department of State's directive. And today the
19 ACLU of Pennsylvania is filing papers to intervene
20 in that lawsuit and to contest the requested
21 relief.

22 Now, most of our work in
23 preparation for the election has been focused on
24 these two issues. Our Community Organizing

1 Department has been working with organizations for
2 a number of years, including this year, on voting
3 rights issues and as a result, we have heard a
4 number of stories about problems that may be out
5 there. In just my own small circle of colleagues
6 and friends, I have heard several examples of
7 allegations that poll workers were asking voters
8 for photo identification at the polls, even those
9 these voters had voted there in the past. Of
10 course, you know that photo identification is not
11 required in Pennsylvania law. These voters who
12 told me these stories were not denied the right
13 because they had photo ID, but, of course, as we
14 know, people without photo ID could potentially
15 lose the right to vote. Statistics show and
16 studies show that people without ID tend to be the
17 elderly, persons with disabilities, the poor and
18 racial and ethnic minorities.

19 Our staff has worked with a
20 number of groups, as I mentioned, and some of these
21 groups are involved in the Pennsylvania Election
22 Protection Coalition. This Coalition has a list of
23 concerns about Pennsylvania's election preparation,
24 including limited -- or not limited to language

1 access, disability access. You've mentioned poll
2 worker training, and the photo ID issue could be
3 tied potentially back to that, unprocessed voter
4 registrations and challenges and voter
5 intimidation.

6 You may also know that last week
7 Common Cause released a report examining the
8 election preparedness of ten swing states,
9 including Pennsylvania. And this report gave
10 Pennsylvania both high marks and low marks. Common
11 Cause praised the Commonwealth for providing
12 provisional ballots registered to voters who are
13 registered to vote but who go to the wrong
14 precinct, for student access to the polls and for
15 the availability of voter registration information.

16 The report criticized the
17 Commonwealth for a lack of laws cracking down on
18 voter deception tactics, for allowing any person to
19 challenge the eligibility of any voter and for not
20 mailing a sample ballot to election voters before
21 election day.

22 Ensuring a fair election, as you
23 can tell from today's testimony, is a monumental
24 task and there are many issues for state and county

1 officials to address. This is clearly a work in
2 process and the ACL is grateful that this
3 Committee, the legislature and the Department of
4 State continue to examine these issues. Our
5 democracy depends on it.

6 Thank you for the opportunity to
7 testify today.

8 REPRESENTATIVE JOSEPHS: Thank
9 you for being here.

10 Are there any questions?

11 REPRESENTATIVE PARKER: Yes.

12 REPRESENTATIVE JOSEPHS: Ms.
13 Parker?

14 REPRESENTATIVE PARKER: Thank
15 you, Madam Chair, and good afternoon. Two
16 questions for you.

17 One, is it at all possible for
18 the ACLU to work in conjunction with the League to
19 ask our local radio stations and even some of our
20 television stations if they can produce some sort
21 of public service announcement educating
22 ex-offenders about that information that's on that
23 card? And it would be particularly interesting or
24 it would be great if you could do it at least three

1 weeks out. And I really do -- not coming from
2 government or from these two well-respected
3 organizations that have been around for many years,
4 and I think they will definitely be receptive of
5 that.

6 MR. HOOVER: I'm glad you
7 mentioned that. About a month ago our staff began
8 working on that very idea. I was briefly in the
9 loop and then out of the loop, so I'm not sure
10 where that stands at this point, but if you're
11 interested, I can find out what the status is of
12 that project.

13 REPRESENTATIVE PARKER: In
14 addition to that, I wanted to know the information
15 card that you have, is it possible to get those to
16 all members of the Philadelphia delegation who are
17 interested in putting them in their office? I
18 would need that information. I mean, each of us
19 usually have that information on display when
20 constituents walk into our office, and that
21 definitely would be beneficial to those of us who
22 have a population of constituency where we have a
23 number who have in some way, shape or form have
24 come in contact with the criminal justice system.

1 You are absolutely right, you'd be surprised how
2 many people are not familiar with the Supreme
3 Court's decision, but everyone remembers that 1997
4 signing of that legislation.

5 Now, the last question has
6 absolutely nothing to do with what we're talking
7 about today, but I just wanted to just get your
8 thoughts on it. In 2005 I had an opportunity to
9 visit Australia and we visited their Board of
10 Elections for the country.

11 Eighty-five to 95 percent voting
12 turnout there, and how? Well, they have this thing
13 called compulsory voting, which is basically
14 mandatory voting. And it's not telling you -- they
15 don't tell you that you have to vote for any
16 candidate in particular. But if you are a citizen,
17 I think we were in Sydney at the time, you are
18 required by law to participate in the process, and
19 if you don't, there's some sort of nominal fine.
20 They don't take anyone away if they don't
21 participate, if you're in the hospital or something
22 like that, you are excused. And I talked to Larry
23 about that he and I had long debates about what
24 ACLU would end up on this issue.

1 But I was really fired up when I
2 came back and I said we should do this in
3 Pennsylvania, not telling people that they have to
4 vote, but that you are here, you're in the
5 Commonwealth, government impacts your life from
6 birth to death, participate in the process, it's
7 your responsibility. So I just wanted to hear what
8 your thoughts were about it.

9 REPRESENTATIVE JOSEPHS: Let me
10 comment that the person that was referred to in Ms.
11 Parker's testimony is Andrew Hoover's predecessor,
12 Larry Frankle.

13 MR. HOOVER: Let me first go back
14 to the cards for just a minute. We produced them
15 for that very purpose, whether it's advocacy
16 organizations or elected officials who want to have
17 them. So I can certainly make sure that as many of
18 the delegation -- I have to check on how many we
19 have left, but I can certainly look into sending
20 them to the Philadelphia delegation.

21 On the issue of participation, as
22 you can probably guess, the ACLU is not a fan of
23 government telling people what to do. But I think
24 there are ways to encourage participation. Our

1 philosophy generally is the less barriers to the
2 polls the better. So in some other states there
3 are other ways to approach this, same-day
4 registration, for example. This Committee had the
5 hearing on voting by mail. Those are issues that
6 we have not taken positions on, that I'm aware of,
7 but certainly they are interesting for further
8 research to encourage an increase in participation.

9 In some of the states, Oregon, I
10 believe, has one of the highest participations as a
11 result of the voter by mail. So I think there are
12 ways to -- there are different things that can be
13 looked at by the legislature to encourage people to
14 participate.

15 REPRESENTATIVE JOSEPHS: Is there
16 any other?

17 Mr. Waters?

18 REPRESENTATIVE WATERS: Yes.

19 Thank you, Mr. Hoover, for being
20 here. I want to ask you: Have you been aware of
21 some of the E-mails that are going out that people
22 are reading that Act as a deterrent to people
23 participating in the election?

24 MR. HOOVER: I am not aware of

1 them, but one of the things that came out of that
2 Common Cause report is that Pennsylvania lacks a
3 law that is strict on voter deception and
4 intimidation. But I'm not aware of those E-mails,
5 but I'd be interested in hearing more about it.

6 REPRESENTATIVE WATERS: I just
7 want to ask you, too, I was happy you brought up
8 the subject about ex-offenders, because as my
9 colleague and you had already stated, that some
10 people are still in the dark about that.

11 What is your feelings of, let's
12 say, when people are released from prison? We had
13 a law that we passed a while ago, I don't know if
14 it was law, a policy, that we took where people
15 coming out turning 18 in high school, when they
16 received their diploma would also be a voter
17 registration card. And a person coming out of a
18 penal institution getting a voter registration card
19 to be civically involved.

20 What do you think about that?

21 MR. HOOVER: I think it's a great
22 idea. In fact, again, this is something we have
23 been exploring in recent months. I don't know if
24 you're aware of this, but Louisiana passed a law, I

1 guess in June, early late spring or early summer
2 that does that very thing. As soon as prisoners
3 come out of jail they are given, as part of their
4 release, a voter registration card.

5 REPRESENTATIVE WATERS: They did
6 it by law?

7 MR. HOOVER: They did it by law,
8 correct. It can probably be done one of two ways,
9 either through legislation, which might be a little
10 more challenging. If you can get the Department of
11 Corrections to do it through policy, that would
12 probably be easier than getting it through two
13 chambers.

14 REPRESENTATIVE WATERS: Thank
15 you. Thank you, Madam Chair.

16 REPRESENTATIVE JOSEPHS: If
17 there's any other questions? I don't see
18 questions. I want to thank you, Mr. Hoover, very
19 much for your testimony. I think the advocacy
20 groups are really the key to making this system
21 better, just as the citizens who work on election
22 day are the people who really make this a real
23 democracy.

24 I thank everybody for being here.

1 The hearing is adjourned.

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(Whereupon, the hearing was

10 adjourned at 4:42 p.m.)

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1 C E R T I F I C A T E

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3 STATE OF PENNSYLVANIA

4 COUNTY OF BUCKS

5

6 I, SUSAN L. SINGLAR, a Court

7 Reporter and Notary Public in and for the State of

8 Pennsylvania, do hereby certify that the foregoing

9 transcript of the public hearing of the House State

10 Government Committee, taken on Thursday, September

11 25, 2008 is true and accurate to the best of my

12 knowledge, skill and ability.

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16 SUSAN L. SINGLAR

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