

**NATIONAL COMMISSION ON FEDERAL ELECTION REFORM**

**TRANSCRIPTS OF THE FIRST PUBLIC HEARING**

**Carter Center  
Atlanta, Georgia**

**March 26, 2001**

## PANEL 2: Outside Assessments

### Witnesses:

<b>Mark Pritchett</b>	<b>Executive Vice President Collins Center for Public Policy, Inc., Tallahassee</b>
<b>Susan MacManus</b>	<b>Professor, University of South Florida</b>
<b>Deborah Phillips</b>	<b>Voting Integrity Project</b>
<b>William Boone</b>	<b>Professor, Clark Atlanta University</b>

**President Carter:** As you probably all have noticed, these are elected officials who have given us their own personal experiences in the proper conduct in an election. They also pointed out some of the errors and problems that we face and made some good suggestions for the future. We really appreciate this panel for coming and giving us this information. The next group of panelists will give outside assessments. These are experts on different facets of holding elections. We look forward to hearing from them.

Mr. Pritchett, I believe we changed the order from the printed section. Mr. Pritchett, I believe you will be first. I think it would be better for me if each one of you would begin your comments with one sentence self-introduction. I have it written down here, but it would be nice coming from you.

**Mr. Mark Pritchett:** Thank you, Mr. President and members of the Commission. My name is Mark Pritchett and I am executive vice president of the Collins Center for Public Policy, a non-profit organization in Tallahassee, Florida. I was also Governor Bush's executive director of his election task force reform.

Thank you for the opportunity, Mr. President and Commissioners, for the opportunity to present. I was called by Governor Jeb Bush on December 15<sup>th</sup>—out of the blue—to ask our organization to staff his task force on election reform in Florida. Needless to say, I was excited and accepted it with some trepidation. But when I heard that he had appointed ten Democrats, ten Republicans and one independent, a bi-partisan task force, it made our board of trustees very happy to proceed.

He wanted us to focus on this, as not being an investigation of what went wrong and how we can seek blame. We had no subpoena power or anything. He wanted us to focus on the future. How can we make Florida a model for elections in the future? The biggest challenge our task force had was a very tight timeline. We had the Christmas holidays. We had New Year's, Martin Luther King Day, so it was a very, very tight timeline. But we were able to meet the March 1<sup>st</sup> deadline when he wanted the results. The reason he wanted the results on March 1<sup>st</sup> was because that was when our legislative session began. It will end around the first of May.

This is how we went about our work. We called on expert testimony from around the United States and Florida. We had public testimony in four different cities in Florida.

We had document research – very thorough document research on different types of voting systems like you have been discussing today. Ballot design, absentee ballot issues. We also tried to focus on best practices in elections; that was by far the most difficult thing to ascertain throughout this country. The election system is so decentralized, and there is really no repository for best practices to find out where things are going on well. So it made our work a little more challenging.

We identified our issues, primarily by our staff working with our co-chairmen: former Secretary of State and former Attorney General Jim Smith, a Florida Republican, and University of Miami president Thad Foote, who is a Democrat. We also received public input from various members of the public about what to focus on. Our goal was to make sure that every registered voter in the future will have the opportunity to vote, and that all votes should count. We wanted perfection in our election process.

We also learned a lot of lessons in the past election, and some of them have been rehashed today. We had voters that constantly make mistakes, making their intent difficult to ascertain. We have elections that are locally run with differing standards. We had a voter registration system that was not 100 percent accurate. We had problems with the counting of our absentee ballots. And one thing that has gone unnoticed in this, and one of the biggest issues we have in Florida, is a very compressed election time schedule. Our election process begins in September, we sometimes have a run-off election in October, and then we have a general election. That is one of the biggest problems in Florida.

Well, let me highlight some of the thirty-five recommendations for you, and then you can give me any questions you have later on about the specifics. But one of the decisions we decided as a task force to do is to put people first. And in our report, which we sent to the Miller Center, called “Revitalizing Democracy in Florida: the Report of the Governor’s Select Task Force on Election Procedures, Standards, and Technology”—we really wanted to put the focus on people. We talked about voter education as of primary importance and voter responsibility and civic education, as Commissioner McAndrews talked about. We have no civic education requirement in Florida, and we found that that was a huge weakness. Dr. MacManus, I think, will talk about that later. We also focused on poll workers and better recruitment strategies. We gave specific examples of what we could look forward to in the future. Better training for poll workers and better communication on Election Day to help problem solve issues that come up. We also focused on election officials making those positions non-partisan as administrators of elections it is important that they are perceived as non-partisan in their role and that they restrict their political activities.

The second large area that we focused on was reliable technology. The focus was on voting systems. We opted for a uniform voting system for the 2002 elections. We are looking at the optical scanning for that election because it had the lowest error rate for Florida, less than 1 percent, unlike Georgia. And there are particular reasons for that, which I can get into those later. We also cited a Massachusetts Institute of Technology

Study that said that optical scanning technology right now has the lowest residual rate or voter error rate in the country over the last three presidential elections. Excuse me, last four. I can get into details later.

The third area of focus was procedures and laws. We talked about creating an on-line voter registration base implementing provision ballots, making and implementing convenience voting, establishing clear and consistent standards, and thresholds for recounts and certification. Finally, we had an area that focused on future studies where we might review the voting restrictions on ex-felons, rewriting the election code for the next legislative system and reviewing third-party registration and ballot delivery methods, which somebody brought up earlier.

Finally, I did a quick view on our computer system in Tallahassee to see what bills have been filed. Forty-three bills are on file in the Florida Senate. Seven passed out of committee on Friday dealing with various issues. But there is no omnibus bill out there. These issues are being taken individually, which could make the general public feel like there is something being done when perhaps more needs to be done.

**President Carter:** Thank you, Mr. Pritchett. Dr. MacManus.

**Dr. Susan MacManus:** Good morning, Commissioners. I am Susan MacManus, a political science professor at the University of South Florida in Tampa. I am also chair of the Florida Elections Commission and have written a lot about inter-generational politics.

It is an extreme honor for me to be here today to talk with you about some pressing needs that I think others might not speak to you about. To be specific, I would like to talk to you about the need for very good voter registration. Commissioner McAndrews, you hit right on the topic I am going to talk about because it is an unbelievable fact that in this election cycle, we had the lowest turnout of young voters in American history. Let's face it: long-term fixes for the broken part of our election system simply have to begin with the young. If you consider that new census figures are beginning to show an extreme diversity of cultures, languages, races and ethnicities—especially on the part of our younger population—we are really going to have to tackle educating people as to how to become a good citizen and how to vote properly.

Just to give you some startling statistics, in the 1996 election everybody thought that the voter turnout of young people couldn't go any lower than it did then; it was a dismal 32 percent. In the 1998 mid-term elections, the turnout of the young was less than 20 percent. I am talking about the under 30-year-old voter. And in the 16 states that held contested presidential primaries on March 7, 2000 or earlier, the turnout rate for 18-29 year olds in the primary was just 8 percent. Folks, we have a problem. Civic education has to be part of the solution.

The bottom line from studies that we have done show that young people are not well trained in their high school government and civics classes. We have interviewed a lot of

them and we know for sure that a sizable proportion (of them is) never exposed to a voting machine. They are never taught the mechanics of voting. They are not taught how to vote absentee or how to change their voter registration when they move away. The younger population today is the most mobile cohort in American history.

I ask you this question: young people must practice driving a car at the side of an experienced driver before they get a driver's license. Yet we do not expect them to practice using a voting machine before they get a voter's registration card and go to the polls in the most important act of a democracy. Think about it. In my interactions with college students, they tell me all the time that they never learned how to vote, and they are embarrassed to admit it. Since so many of our students do not go to college, think of all of them that never got beyond high school and are even more embarrassed. That is one of the reasons that the turnout is going down.

We simply have got to do some better things. Well, what should we do? Some ideas have already been expressed. "Kids Vote" programs with mock elections are very important. But I think election personnel simply should bring voting equipment to all high schools. Students should be given the opportunity to vote with it. They also should be given the opportunity to conduct their student body elections on equipment using the standard ballot format that may be used in regular elections once they get to that age. Another very interesting idea, and a lot of these are ideas that came from students in talking with them, why not put some voting machines and interactive exhibits in areas that are heavily trafficked by the young, such as the mall. Put up an interesting question, keep a running tally, have the newspaper and media coordinate coverage about it. Then you get a little bit of excitement about it.

Help fund programs that involve young people in the development of materials that are used. Florida's "Truth Campaign," which is an anti-smoking campaign, has been regarded as one of the most successful in the country. The ad campaign—the PSAs—guess where they came from? They came from a group of students who knew the language and how to reach other students. We also have seen in Pinellas County where college students from the political science honor society become a team. This team of college students, who are kind of with it, come into the high schools and energize students about politics and elections. So I think that it is essential that we have to start in the high schools and even younger. But high schools, meaning you get closest to the eighteen-year-old, the first time voter. We know from the error rates that a lot of the problems were with first time voters; that is, in the Florida elections, of course.

Now the other community, which has been ignored very much, is the community that has physical and mental limitations. My book targeting senior voters—very much through survey work—identifies a lot of the problems that many people have. Of course, many of these problems are concentrated in the senior population. Some of the things that we can do here are adopt pro-active signature update programs that make it difficult for somebody to fraudulently use an elder's ballot because their signature has changed with age.

We can certainly better publicize the assistance available at polling places, because we have not done that. Many polling places and poll workers are able to help, but if there is not advance publicity, people are afraid that if they go to the polls that they won't be given assistance – especially those with disabilities. I think we need to certainly focus on having election office personnel conduct voting in nursing homes and assisted living facilities through mobile polling place programs that eliminate the third party that is a potential fraudulent problem.

We certainly need to develop more video materials that can be given to poll workers, educators, and election personnel on the different types of problems at the polls that are encountered by persons with vision, hearing, mobility, communication and/or dexterity limitations. Finally, we need to develop a much more aggressive poll worker recruitment program that does not only focus on the retiree pool. Now all of this aside, I just want to end with one thing. That is to say that if we ignore these two groups in particular—the young and voters with physical and mental disabilities—we are ignoring two basic tenets of our democracy: one-person one vote and equal protection of the laws.

Finally, I say, election 2000 uncovered a whole bunch of inadequacies. You can thank Florida for that. But now, folks, is the time to fix them. My end comment is to say: no excuses; just do it.

**President Carter:** Thank you. Ms Phillips.

**Ms. Deborah Phillips:** Thank you for the opportunity to speak today. I had prepared comments but so many of my points have already been made by others. So I am going to speak extemporaneously. Please tell me when time is up.

**President Carter:** Watch the little clock up there.

**Ms. Phillips:** There is actually no such thing.

**President Carter:** Please let the group know.

**Ms. Phillips:** I am with the Voting Integrity Project, a national non-partisan organization begun in 1996 as a response to the passage and implementation of the National Voter Registration Act. That Act opened registration for voting so far that today virtually anyone or anything can register to vote and vote without trying to prove who they are or that they exist. That is a fundamental problem that equipment today cannot address and that no amount of money flowing to the states for voter education can address. We have to come up with some response to this problem that will not take us too far back that will not encroach on the positives of NVRA, which was getting more people than ever to register. I think we can do that with the tools that are already available, through a multi-layer, redundant computer matching of existing voter registration lists to other lists.

Currently, NVRA advocates that the matching occur with the national change of address list, the US Postal system list that is kept. But that list only really gets you part of the way there. You also need to include social security records, tax records, phone records, felony records, and citizenship records; there are so many layers. One of the problems is that these records are not kept in a uniform format.

In Florida this year, there was a terrible occurrence where the professional company that had been hired by Florida to perform such redundant matching produced flawed records for the state, largely because of a change in one of the formatting of the records they used. I think it was that the Texas felony records had changed. That one little change in formatting created a faulty data list where non-felons were identified as felons and some disenfranchisement occurred as a result. That is unacceptable.

Similarly, there were problems at the voting end when voters that were not registered at all were permitted to vote. That is the open atmosphere we have to day about voter registration. Most of the time, no identification is required at the polling place at all. So if I am a very organized fraudster, I can quickly determine what names are on the registration record that are unlikely to be voted because the people are dead, they moved out of the area or perhaps they are non-citizens who registered inadvertently and will not be voting. So I can vote those names and I can do it in person if I have enough warm bodies to do it. Or I can do it through the mail because few states require mail-in registrants vote in person the first time. Even if they do, they often provided an identity card that can be used as identity at the polling place. So the system for registration and voting needs to be tightened up in order to prevent fraud that is occurring. It is not occurring in the tradition American way: you know, in big city machine politics. It is occurring in tiny little school board races, or it is occurring in one precinct here, and another precinct there, but enough to make a difference in close margin races.

The other thing I wanted to hit on was technology. A voting system consists of much more than the technology. That is why identical technologies can produce vastly different results and changing the technology does not guarantee improvement. In fact, changing the technology can actually produce an entirely new set of problems without increasing the level of integrity or public confidence. Most election problems that appear at first blush to be technology driven—if you go deep enough into the problems, which we have done many times; we study failed elections—most of the time the problems come down to human resources.

I will give you a quick example. We received thousands of voter reports on November 7, 2000 from all over the country, but for obvious reasons, many of them emanated from Palm Beach County in Florida. And what became very clear to us, and I would like to see a formal study of it done, is that there was some unevenness in Palm Beach County among precincts. Some of the precincts with that butterfly ballot seemed to do ok. And others obviously, did not.

We think the difference may have been the number of poll workers in a polling place. Because they had enough poll workers to educate the voter and remind them of the problems with that ballot coming in. We think that poll workers are one of the big problems in elections that really are not being talked about. We have trained many poll workers as part of our citizen poll-watching program that we conduct. What we have found is that the more you involve citizens in elections—either as official poll workers or as citizen poll watchers—the greater turnout you will get, the greater optimism and confidence you will get in the outcome of that election.

This goes, especially, to the point of young voters. I could not agree more that this is a disaster in the making. Young people have always had other things to think about, other than voting. That is not new. What is new is that we don't have enough education going on. We would like to see the two problems matched up. In this way, we would like to see high schoolers trained to be poll workers. You would have to adjust some state election laws to permit that, but what a positive outcome. That would help solve those very difficult to fill roles and it would educate students at the most basic level. And let me tell you, young people we work with get so excited when they get personal experience like that at elections. Thank you.

**President Carter:** Thank you. We will come back with questions.

**Professor William Boone:** Good morning, President Carter and members of the Commission. My name is William Boone. I am with Clark Atlanta University in Georgia and the Department of Political Science.

Clearly, the electoral system is in disrepair. If not broken, it is on the verge of being viewed as illegitimate. Any effort at reform in the United States electoral system must first consider the philosophical grounds upon which the privilege to vote was extended, to whom this privilege was extended, and why. Voter privileges were initially extended to white, male property owners. The rationale—in addition to patriarchy—was the view that only those that could demonstrate a tangible stake in the government should be allowed to govern. This perception held sway for a major part of the eighteenth and nineteenth centuries. If attacked, it would assume another disguise. In the American South it would take on the garb of poll taxes and literacy tests. We need not recite the long history of racial and sexual barriers erected to limit electoral participation. These barriers were only partially eliminated in the civil war and civil unrest.

We must be self-conscious in our reform efforts that the groups of persons deemed unfit to participate in the electoral process because of the color of their skin, the problematic of their citizenship status, or the lack of money in their bank accounts. It is not universally held among Americans that it is a good for all citizens to be extended the privilege to vote.

There is a need to ground any reform measures within the context of a philosophy, which is premised on several tenets. One, acceptance of the idea that all citizens should be

encouraged to vote—that is, voting becomes a right and not a privilege. Two, that voting should be easy and convenient. And three, acceptance of the view that it is an appropriate and proper role of government to encourage and facilitate voting among its citizens. It is incumbent upon the federal government to lead in reforms of the electoral process. It is unprecedented that the federal government take such action in the electoral arena. It will force states—in many of their senses—to adjust their electoral behavior and many of their rules.

For example, it was the Fifteenth Amendment that forced most states to accept black male voters. It was enacted in the Twenty-fourth Amendment, which forced states to limit the poll tax. The twenty-sixth amendment recognized eighteen-year-old citizens. The nineteenth amendment forced states to eliminate sex as a criterion for voting. It was federal law in the mid-1960s, which altered the electoral landscape with the enactment of the voting rights act. Most recently in 1993 federal legislation broadened the voter pool with the enactment of the National Voter Registration Act, or the “Motor Voter” law.

It seems to me that serious consideration must be given to standardization of voting procedures in federal elections. It is only through standardization that citizens’ confidence in the process will be restored. This lack of confidence stems from what appears to be a capricious and ad-hoc method of dealing with what is given arguably the most important component of the electoral process for a vast majority of its citizens—the casting of the ballot. Loss of confidence in this aspect of the process taints the entire process for many American citizens. Standardized federal law should apply in all election for Congress, President and Vice President. As a start, there should be a standardization of the ballot and the extension of hours for voting. The act of voting should not be in the same category as the Olympic decathlon. Voters should not be forced to negotiate a series of obstacles to vote. The process should be easy and convenient. It is hard to justify the spending of so few resources to enhance voting in this country. There must be recognition that it will require an expenditure of resources to make voting as important as high definition television.

Voting reforms that we are suggesting here will be universal. First, voting cards would allow citizens to vote in federal elections regardless of their location in the country. Second, registration deadlines should be extended. Third, declaration of a federal holiday on Election Day. Fourth (sic), vote and registration by mail. Fifth, consideration should be given to extending the period under which a citizen could vote—i.e. several days. Sixth, clear speedy and uniform grievance procedures. Seventh, simplified ballots that all citizens can understand. Finally, accurate vote counts that reflect the will of the voter. All of the suggestions that we are making here are suggestions that are intended to make it easier and convenient to citizens to participate in what could be considered the most important component in the electoral process in this county.

**President Carter:** That was very fine. Let me congratulate you with being the first one that has tied with the timer. This is a very interesting presentation we will have questions in a moment. When I was a Governor in ancient days 1971, we passed a bill almost

unanimously in the legislature in Georgia designating every high school principal as a deputy voter registrar. Every year after that when I was in the Governors office, we set aside one day early in May where the whole day was spent to educate eighteen year-olds on the voting procedures, and this opened it up. But I think there is a lot of opposition, particularly among incumbent members of the House and Senate, in the Legislatures and the national Congress with broadening the ease with which people can register to vote. Because a safe and secure Congress seat or House seat in the Legislatures is a very valuable thing, and to open up the Pandora's box for new registrants is not always an easy thing to sell. I was surprised to find that some of the most liberal Democrats in the Congress were the ones that basically opposed the efforts we made back then to liberalize the means by which people could register. Now with, a lot more possibilities for electronic crosschecking to prevent abuse, I think it is something that this panel or Commission should address. How to encourage people to vote who have not yet registered. I think we have learned a lot from the Motor Voter law, which I personally like, to try and eliminate those types of abuses.

**Secretary Bill Richardson:** I want to comment, Professor Boone. I think he is going in the right direction. The under-voting in minority communities is a very serious problem in this country. Not only in African-American communities, but also in Native American precincts, in Hispanic areas, even in the Asian-American community. I think we need to address that and we haven't done that.

Now I think as a distinguished group of panel members and hearing witnesses, we kind of dance around the problem. The problem is that we, compared to other nations, our voter participation, especially in presidential elections, is way low. We are lucky to make 50 percent. That is problem one. Problem two, we have electoral deficiencies in a lot of states. We focused on Florida, but in my state of New Mexico there was a problem. And in the Senator's state also. We have a national problem, and Dr. MacManus puts forth a very good solution of getting young voters, disabled voters, Dr. Boone's minority voters. But then we are too gingerly and Secretaries of State, state election officials, get defensive, and we defer to them. Let the states do it. So the problem continues. I guess Dr. MacManus, you are the political scientist and you have no axe to grind. To do the things that you want—to get more young voters, disabled voters, to get Professor Boone's minority voters—what do we do? Do we just encourage states to do this, or do we have the federal government step in and show a little leadership?

On electronic voting, Professor King of Harvard here—who is a very learned scholar, I am teaching there so I have to say that, tells me that electronic voting in a survey between 1988 and the year 2000, the biggest surprise on residual votes is that electronic voting is the worst, 3.1 percent, punch cards 2.5 percent, paper ballots 1.9 percent, optically scanned 1.6 percent, lever machines 1.3 percent. We are heading into electronic voting it seems to be a rush, but there seems to be data challenging that. I have thrown a lot of issues at you, but maybe, Dr. MacManus, you get the gist of what I am saying. You are encouraging something good and you have said do it. But what would you do to make sure that this happens?

**Dr. MacManus:** I think one of the things in terms of education is that it makes much more sense to spend money from the federal government on education that it does equipment. It is a much longer lasting solution to this huge problem. Regarding education, let me just give an example. Recently, Palm Beach had some local elections there. They had to use the punch card equipment. But guess what? The error rate went down considerably. Why? Because people had been educated about the problem. So we know that education works. I think you get much more bang for the buck in putting the federal dollars in education incentives to the states than you do on some of the equipment purchases. But it is critical. It is so true, as all of my colleagues here have mentioned, that we have to focus on everybody being part of the solution—federal governments, state governments, everybody. You cannot expect local governments to tackle the problem. It has to be from federal and state governments in my judgment.

**President Carter:** And there must be some uniformity within the voting procedures of a state or certainly in a television coverage age in order to educate people. If you have two or three different ways to vote it is almost impossible to educate.

**Dr. MacManus:** And all of the polls show—I didn't take my time up by citing a lot of the national polls on what people think about election reform—but one thing they want it done. Seventy-five percent said no excuses; get it done. Not addressing the problem is not an option. And for all of them, the number one thing they expect is uniformity. The number two thing is federal and state governments to deal with it. Very interesting.

**President Carter:** We have a very distinguished Commission member who has just come in, Griffin Bell. Griffin, would you like to make a comment?

**Judge Griffin Bell:** If we can focus on uniform standards for voting. I went to Palm Beach County. I am very familiar with the presidential election there. They finally hit on a way of counting the ballots. It may be that the election you were talking about later, they followed the same system, and they had a standard. But the state did not have a standard. Every county could have its own standard. I don't see how in the presidential election how we can have another one like we had.

**Dr. MacManus:** I absolutely agree.

**Judge Bell:** We need to address uniform standards as part of this. Second is, I think the American people have come to realize what the Supreme Court taught them. That is, we have equal protection of the law. And you can't have equal protection in an election when each county can do whatever they want to do. So that is where we are. Education, fine. I have never been educated but I know how to vote. Nobody ever taught me how to vote. I thought every one of us was required to know how to vote. It takes some intelligence, some dexterity to vote. I think what has happened with the young people is that they have been turned off by the news and the way people conduct themselves nowadays. We almost have to encourage our own children or grandchildren to vote. I

think we are going far a field if we talk too much about education and not enough about the system. So I, Mr. President, would focus on the system.

**President Carter:** Lloyd?

**Mr. Lloyd Cutler:** Several Commissioners and members of both panels have noted that under Article 1 in the Constitution, Congress has the power to supersede state requirements for conducting federal elections. But there is no such power granted under Article One or anywhere else, for conducting presidential elections or the selection of the electors or the judging of contests about the electors. All of that appears to be left to the states. But do any of you think that if, since every presidential election is conducted at the same time as the House and Senate elections, that if Congress required the states to adopt a uniform ballot or a uniform counting system that the states would do the same thing themselves voluntarily for the electors for President rather than have two different systems?

**Dr. MacManus:** We definitely see precedent with the eighteen-year-old vote where state policy quickly followed the federal.

**Mr. Cutler:** Even with respect to the presidential elections.

**Professor Boone:** You also see that with the Motor Voter law. States were forced to come to one system, as opposed to trying to have two sets of books, with both the state and presidential votes.

**President Carter:** Do you think it would be feasible in some way to separate the election of members of the House of Representatives and the U.S. Senate and the President from the multiplicative voting requirements that sometimes require a person to cast 60 different decisions at the same time? Is that the kind of thing the Congress could mandate or at least make a precedent to get federal funding to have a separate ballot just for the president and the House and Senate?

**Ms. Phillips:** It really is not practical when you are thinking of programming the equipment. With ballots, it is going to have to be done. If you are mandating a standard for federal elections only, it is definitely going to impact all elections. So you need to consider that.

**Judge Bell:** Mr. President, you hit on something that is very important. In Georgia, the problem we have in every election is, we are voting on Constitutional amendments. It clogs up the voting lines. People are waiting two to three hours after the polls close, because it takes so long to vote. If I had anything to do with it, I would take the voter discrimination laws, if they passed expand, them and have in fact, a true federal election, separate from the local election. That would solve about half the problem.

**President Carter:** That was the thrust of my question.

**Congressman Michel:** Then you will have those local officials that complain that this is the only way that we can have any big turnout is by having the kind of other issues. Local issues are so mild that we can't get a turnout.

**Judge Bell:** All that does is teach us that we won't do anything.

**Ms. Phillips:** Local election officials are going to be concerned first and foremost with the cost of administering an election. So you are talking about doubling the number of elections—having federal elections and then state and local elections. Then you are going to double the cost of administering elections, so you had better consider funding.

**Judge Bell:** Don't you think the cost is infinitesimal, when we are talking about our county and selecting a president or selecting the Congress? It is really almost besides the point to talk about the cost. It will probably cost as much as one aircraft carrier.

**Ms. Phillips:** It is not beside the point when you don't have enough money to print enough ballots. We have seen many elections that run out of ballots.

**Judge Bell:** That is because if people don't suffer, public officials won't put money up for the right things.

**Ms. Phillips:** I could not agree more. But when the budget process occurs in state Legislatures, elections are at the bottom of the list. That is the reality. Unless Congress is going to kick in federal funds there will be a problem in filtering federal funds down to the local level. On the other hand, if we don't use this opportunity now to insure that adequate funds are flowing to election directors, then we really won't have accomplished very much.

**President Carter:** Don't you agree that after the Florida debacle there is a new ambiance in this country where citizens, state Legislatures and Congress are much more willing to spend what is require? I think if you would have brought up this same kind of discussion four years ago, there would have been very little interest. I think now is the time where there might be enough focus to actually do something. I would guess that four or eight years in the future, that opportunity might have dissipated again.

**Ms. Phillips:** I hope that you are right. But on a smaller scale, in local elections or state-wide elections, where there has been a large problem and there is an immediate response to do something and fix it, that response inevitably evaporates by the time the budget cycle comes around.

**Mr. Cutler:** For large parts of this process what was done in federal elections could be adopted by the states for the simultaneous state elections and you might be able to, as we did for the driving under the influence or the speed limit laws, we might be able to

persuade the states by conditioning grants, to limit the complexity of the local part of the ballot.

**Ms. Phillips:** I agree the carrot and stick approach is very, very useful.

**President Carter:** Senator Gordon.

**Senator Slade Gorton:** I noticed a certain degree of conflict between Professor Boone and Ms. Phillips. I would like them to comment on it. It seems to me that the thrust of Professor Boone's testimony was that there are still too many hoops to go through for voters, among other things, with respect to registering or showing ones eligibility to vote. Ms. Phillips was concerned, and I must admit I share this concern, with the impact of a national Motor Voter registration system; that we are registering people that were not eligible to vote. Therefore, having voter registration lists, which varied rather substantially from those actually eligible to vote, makes us at least susceptible to relatively widespread misvoting and fraud. Did I misinterpret that difference between the two of you? I would like to hear your comments.

**Professor Boone:** I certainly believe there are far too many obstacles to registering and of course to voting as well in this country. I am not quite sure that Ms. Phillips and I disagree at the core. Certainly if one talks about the Motor Voter law and the problems associated with that, I think it is a rather small price to pay to move toward improving the system and encouraging people to vote. One must always remember that large segments of folk in this country truly believe that their participation in this process is not desired, and that certain obstacles are put in the way deliberately to obstruct them from registering and voting.

**Senator Gorton:** Like proof of citizenship?

**Professor Boone:** People who have been convicted felons and served their time in jail when they come out, they are discouraged in some states from voting again. I think that goes to the situation of citizenship as well. Now, I think there are other ways that one can prove citizenship as it specifically relates to the Motor Voter. I think what you are referring to in relation to Motor Voter is in regard to aliens that are not properly in the country and their registration. I think that states can devise methods to deal with that as well. I don't see those kinds of problems as being insurmountable. I don't have the exact solution here. I think the largest thing here should be to encourage citizens who are citizens to vote in this country, and that is not the thing that is being done. We devise ways of depressing that. Certainly incumbents do that all the time by trying to make sure that an identifiable number of voters who they can count on are the ones who vote and any others are not added to the polls. I just think there is a larger good to be served.

**Ms. Phillips:** I think there may be some tensions between insuring full enfranchisement and insuring clean voter rolls. I don't think they are incompatible. What we have today would certainly suggest that they would not be incompatible. Let me tell you, when we

did poll-watching in Baltimore City, a majority-minority jurisdiction, we found that poll watching increased voter turnout because of a ripple effect that occurs. So it was a positive thing. The point of the poll watching was to equip poll watchers with the kind of voter rolls I described, the redundantly matched lists so that they could legally challenge illegal voters. When you have the level of corruption that we currently have in voter rolls, it is a voters' rights issue of the first magnitude because stolen votes dilute legitimate votes and that is just the bottom line. The Voting Integrity Project does believe that there is a substantial amount of impediment to restoration, legitimate restoration, of the voting rights of felons. There could be more done to enact a uniform procedure, an easier procedure for felons that come out of the system and are trying to enter into society. They want their rights back and they should not have to prostrate themselves before the Governor of a particular city to do that.

**Mr. John Seingenthaler:** May I follow up on that? After the last election, there were press reports and substantial anecdotal evidence that lists of convicted felons were provided to voting officials and a number of the complaints came from the state of Florida. People who had registered to vote and were not felons, but whose names were similar to or identical to felons that those people were denied the right to vote. Is the Voting Integrity Project interested in pursuing the effort to make sure that that sort of initiative that puts the names of convicted felons, into the hands of voting officials does not result in the disenfranchisement either of felons in states who are entitled to vote or people who by happenstance have the same name or similar names?

**Ms. Phillips:** That is the point I was addressing in my earlier comments. What you are describing is the experience in the state of Florida, where some of the election directors went ahead and purged without doing adequate verification based on the faulty matching that had been provided by this outside contractor. Other jurisdictions in Florida did not commit the purging so what you had were people that should not have been voting, voting at the polls on Election Day. Neither is acceptable. But the alternative is not to conduct the matching or not to conduct the purging; because what you want is clear voter roles. Only if you have clean voter rolls is the strength of your vote maintained. Otherwise it is worth a much smaller percentage of that vote because a flood of illegitimate votes dilutes it. So we think though that there is a legitimate issue, that there is a racial disparity, that exists in incarceration figures. And that is something that needs greater exploration and needs to be quantified. That is why we support more uniform standards. We don't think it should be federalized, we think it should be up to the states, but we encourage states to adopt more uniform procedures for felons who want to have their rights restored, who have completed their sentences, and to do so in a relatively easy way and in a timely manner.

**Mr. Seingenthaler:** You would agree with Mr. Richardson that if one of our aims is to substantially improve the percentage of voters in this country, then the discouragement of a registered voter or a legitimate voter who goes to the polls and finds later that he or she was qualified because some independent contractor has sent their name in as a convicted felon would be a substantial deterrent to them participating in the process?

**Ms. Phillips:** There is a method to deal with that. Provisional voting is encouraged under NVRA and should be employed by all jurisdictions.

**Mr. Seigenthaler:** It should be but it was not. We have these people who came to the polling place but were not allowed to vote because some independent contractor said they were convicted felons.

**President Carter:** I am going to use my prerogative as chairperson to recess this meeting. I think there is a sharp difference that I can detect from the basic thrust of Professor Boone and Ms. Phillips' comments. I think we need to continue this this afternoon. Instead of reconvening at 2:30 as scheduled, I am going to reconvene at 2 o'clock, which will give us time for lunch. We will continue with this panel, if you all can participate then. The Commissioners can save their questions. Also if you have time, many of the news reporters have a desire for individual interviews concerning this to write their articles. Professor Zelikow will take requests and schedule a time for the reporters to interview either the members of the Commission or the panelists. We will reconvene at 2 o'clock.

\*\*\*\*\*

**President Carter:** Everybody take a seat, please, and the panelists take your positions. What we will do this afternoon is continue this second panel's discussion for one half hour and then we will be back on schedule for our next panelist, Congressman Blunt. Slade or Bill, do you have further questions or comments?

**Senator Gorton:** Mr. Pritchett, you were a little bit neglected during the earlier part of the session. I would like you to explain to us your views now, after the Florida election, on provisional or special ballots. Something—which to my personal regret though, I think, a very good idea in general—which we used in Washington last year and California has. I note you have a recommendation on them. Why, and how do you envision they should be used?

**Mr. Pritchett:** Thank you, Senator. Briefly, the bipartisan task force was upset about the issue of people possibly being denied the right to vote during the election process and maybe letting people vote that should not have voted. So one of the things that the task force looked at was a provisional ballot. We looked at California and Washington and their models. It was a general recommendation without the specifics of how to implement it. The Governor and the Florida Senate are taking those issues up and they are moving rather quickly. That was one of the bills that was passed.

We also recommended appropriating \$3 million to start developing an on-line central voter file similar to what is used in the state of Kentucky, where you can have a real time system of current registered voters who are in that state and are eligible to vote.

The third thing that we recommended is that the Florida Legislature look at the felon issue—the restoration of felon rights. It was too complex and too detailed of a topic for us to cover in a six-week period given everything else we need to look at. But we did feel that it was an important issue that needed to be looked at by the legislature. So those are the three things that we looked at.

**Senator Gorton:** With respect to the second of those things, was that simply so that eligible voters could be assured that when they got to their precincts their names would be there? Or did you do anything with respect to whether or not the voter rolls were polluted by the names of people who were not really eligible, or had died, or moved away, or the like?

**Mr. Pritchett:** Well, I don't want to belabor the point in too much detail. What you need to understand is that in Florida there are 67 databases out there, so it is a very decentralized, very complex registration system. What happens is, every quarter, these batches are sent up to Tallahassee, and they are brought together, are scrubbed periodically, and then they are sent back down. This is a very cumbersome, awkward process that we use for keeping our voter registration database together.

We were recommending a simplification of that process by looking at the Kentucky model—where it is on-line, it is in real time. People input names on one day, get some verification on those names, then it is sent to a central database where anybody in the state can find those names. It is a much easier way to keep the list current.

**Senator Gorton:** If someone moves from one county to another, does that make sure that they are added to the new county and subtracted from the old one?

**Mr. Pritchett:** Some of this has to do with voter responsibility too. Voters are responsible for putting in changes of addresses, and that type of thing when they register. We operate under the premise that we don't have mandatory voter registration in the United States—it is voluntary. Some countries do have mandatory registration, but we do not—so we put the onus on the voter to make that change.

If some name does pop up in the wrong precinct or county then there is the backup plan with the provisional ballot and they can vote a provisional ballot. Their registration record is checked against that database.

**Judge Bell:** So you don't have a statewide voter list.

**Mr. Pritchett:** We have one but . . .

**Judge Bell:** You can vote in two or three counties if you wanted to.

**Mr. Pritchett:** It was a problem in Florida.

**Judge Bell:** I think it would be.

**Mr. Pritchett:** That is why we made the recommendation, sir.

**Judge Bell:** People in the military, they couldn't seem to get their ballots counted down there in Florida.

**Mr. Pritchett:** With the military, I just met with the General Accounting Office of Congress. We did not have any specific evidence that military ballots were thrown out at a more disproportionate rate than other ballots in Florida. The Secretary of State's office looked into that issue also. But there were problems with the absentee ballots.

One of the things we wanted to do was to make voting more convenient. So we have asked that a witness be removed from the requirements of an absentee ballot. All we need is a voter signature, a birth date, and a social security number to make that happen. We are trying to ease that process.

**Judge Bell:** That is the rule on absentee ballots.

**Mr. Pritchett:** Yes sir, absentee ballots for the military and overseas civilians.

**Judge Bell:** You treat sailors, then, the same as you treat other voters.

**Mr. Pritchett:** That is right. We are trying to make it more lenient so that the process is streamlined.

**Judge Bell:** Let me ask you a follow up question, on the absentee ballots. What if we all move in the direction of Oregon where you can vote whenever you want to, as long as you get the ballot in by a certain date so there is a much wider use of absentee ballots. Did you look into that?

**Mr. Pritchett:** Yes, sir. One of our recommendations is that we move to something called convenience voting. We suggested loosening the restrictions for absentee ballots where you have to justify that you are going to be out of town on a certain day. We set up a time period where voters can just come in and vote in a variety of places around the county in which they vote.

**Judge Bell:** They couldn't just mail that in?

**Mr. Pritchett:** They could, but then they would have to request that absentee ballot. We will set it up so they can vote in the courthouse, someplace else, or they can send in an absentee ballot.

**Ms. Colleen McAndrews:** I wanted to ask, when you sort of look back historically—we kept loosening and loosening and loosening—which is good. We want to increase voter

turnout, and we want to remove the obstacles. But at a certain point, isn't there sort of a tension between making it really easy: in Motor Voter registration and absentee ballots, we have the mail-in vote in Oregon—and I know they have done it in Arizona. Another concept I keep dealing with is the idea that we don't have Election Day as one day anymore; it is a constant process. I know political consultants talk about having to change the message, because you are appealing to voters at different points in time—where campaign issues can be changing.

What should we be thinking about in terms of this new world where there is always an election, where everybody is encouraged and convenience to vote—to also protect the integrity of the elections? I know Deborah's organization has probably dealt a lot with this. What we need to be thinking about are checks and balances, because the election system has to have integrity, and has to have confidence—because otherwise people are not going to want to vote. I think that is part of the reason why the young people are not voting. There is so much cynicism in the land. So what do we do to counter that natural tension? Deborah, what would you recommend? What should we be thinking about?

**Ms. Phillips:** Well, first of all, we think that citizen participation is so important in delivering integrity. Without even enough voters going to the polls and without an adequate number of poll workers or citizen poll watchers, there is very little you can do to prevent fraud from occurring. It does not matter what system you have—that is paramount.

We are concerned about some of the movement toward liberal, or no-fault, absentee balloting, because there have been quite a number of instances of absentee ballot fraud. That really is the area where most of the fraud is occurring these days, in the area of absentee ballots. If you think about it, the kinds of reforms that are now being talked about in Florida in absentee balloting, were reforms that were put in place after one of the most infamous fraud cases—the Miami mayoral election, when five thousand fraudulent absentee ballots entered into the system. So the Legislature added many of the requirements, which are now apparently recommended to be rolled back.

In Oregon, there have been numerous reports of citizens receiving more than one ballot for people that used to live at their residence. There is five to twenty-five percent dead wood that exists on the books in any given state—until you clean up the voter rolls. For us, that is what it really comes down to. The only way to guarantee the integrity in an election is to have 100 percent citizen turnout, and then have intelligent voter rolls at the polls, being monitored by election officials, and citizen poll watchers.

**Judge Bell:** Would it help if you had a statewide list, so people couldn't vote in more than one place?

**Ms. Phillips:** Absolutely. The problem of duplicate, triplicate registrants within a state is very bad. We also have it within multiple states because . . .

**Judge Bell:** I will use myself as an example. I have changed my voter registration from one county to another. For all I know I am registered in two counties. If I wanted to, I could vote in both places.

**Ms. Phillips:** And many do.

**Judge Bell:** So I can probably get an absentee from one. Probably there are people that stay in office with groups like that.

**Ms. Phillips:** I assure you that is true. Centralized voter lists that were easily accessible would help a lot. Leaving it in the voter's hands to make that change is not practical—it is just not going to happen. Most voters assume—we hear this all the time from voters—that there is some mechanism that is automatic, on the part of voter registrars, when they register in a new area.

**Judge Bell:** Do you think computers are in wide enough use now in the voter area?

**Ms. Phillips:** No, they are not in wide enough use. Even where they are in use, they are not used well. We were asked, for example, by the small county of Fayetteville, Pennsylvania—that had a lot of problems with this—to help them clean their rolls. They didn't know how to do it, and they have the financial resources to do it.

**Judge Bell:** Well, Mr. Pritchett just told us that in Florida they don't have a statewide system. They instead have 67 databases.

**Ms. Phillips:** Part of the problem is this—if I could just talk for one minute about how elections are delivered—to say that it is decentralized, does not quite touch it. The equipment—the universe of equipment that is out there right now—is all closed architecture systems. That means they are proprietary and one system cannot talk to another system.

Simply by mandating a movement toward an open architecture kind of equipment delivery system in this country, you would move you a long way toward solving all of these problems. If you did that, and centralized your voter rolls, you could deliver much cleaner elections, and have much cleaner voter rolls. This would drive the cost of election systems way down because it would be more competitive.

**President Carter:** So anyone with a computer on the Internet could look at the entire voter's list, right?

**Ms. Phillips:** We advocate putting the voters list on the Internet so that you could get Joe Citizen checking whether his neighbors who moved away a year ago are still on there.

**Ms. McAndrews:** So you are advocating use of the Internet, just for registration?

**Ms. Phillips:** Not for registration, we think the Internet is not ready yet to secure registration.

**Ms. McAndrews:** So, just for maintaining the list.

**Ms. Phillips:** For *publicizing* the list. You would be surprised what little access citizens have to voter rolls.

**Ms. McAndrews:** What about the privacy concerns, and the security concerns of people, if their name, address, and voter information are on the Internet?

**Ms. Phillips:** There really shouldn't be any concern. Those records are public now; it is just the limited access that citizens have to them that is a problem. You don't have to put their social security number up there. You would just have their name and address. It should be sufficient for me to know whether the people listed in my neighborhood are still living there. That would be a tremendous assistance to election officials—to have that input from ordinary citizens.

**President Carter:** Mr. Pritchett, do you have any comment about what Deborah has just said?

**Mr. Pritchett:** That was a contentious debate among our task force. It was a difficult issue: balancing the privacy rights with having that information public.

**President Carter:** What did you recommend?

**Mr. Pritchett:** We did not recommend anything dealing with that particular issue.

**President Carter:** So you didn't recommend a statewide list?

**Mr. Pritchett:** We recommended a statewide list, but not necessarily publicized to the public. We did recommend a statewide voter registration list, where that list could be accessed on Election Day by poll workers to make sure that that person is in the right place to vote. Also, that it was closed off 29 days before the election to make sure that nobody registered to vote after those 29 days. We did not deal with the privacy concerns.

**President Carter:** You would have a key that only the poll officials would have, so only they could access that particular list.

**Mr. Pritchett:** We talked with people in Kentucky about their system and apparently it has been very successful. They have similar issues that we have to deal with in Florida like certain felons not being on the list, and that sort of thing.

**Ms. Phillips:** Well, the Kentucky system is keyed to the Department of Motor Vehicles system. So if you change your registration it is automatically changed. That is different than what you were describing, where essentially you have an honor system. I don't think the honor system would work.

**Mr. Pritchett:** We didn't get into the details of that, but we recommend the Kentucky system. The great thing about the Kentucky system is that it is integrated with a lot of other state agencies, so that data is passed back and forth for address verification. Though we still believe that voters have a responsibility to make those changes too.

**President Carter:** Do any of the other panelists have a comment to make? Professor Boone?

**Professor Boone:** No, only that a centralized list would be most useful. Here in Georgia we have 159 counties—which causes some problems in terms of maintaining any kind of rationalization of this process. I think centralization would help a great deal. I think we should also not be so concerned with the privacy question. I will tell you why, I can access voter lists any time I want, and so can people running for office. I know in Georgia that sometime that happens. So the privacy question, I don't think, is a key question here. I think it is more a question of making the list available to folks on the ground, in precincts, in polling places, so they can access it.

**Ms. McAndrews:** I think the privacy issue . . . Yes. Absolutely. Anybody can go to the registrar of voters and buy a voter's list to use for direct mail, or phone banks, or whatever in campaigns. I think the concern in the privacy is that the Internet makes it so much more accessible to people who may not have positive goals in using the information. Stalkers, public officials who want to have privacy, law enforcement. It almost becomes a disincentive for some people to register to vote. Just like now, some people won't register to vote because they don't want to be called for jury duty.

If people have security concerns in those areas, that could become a disincentive for voter registration if it is posted on the Internet, just because it is so easy to access. You just type in the name, and up pops all this information. That is the counter argument to posting all of this information on the Internet that we have to be aware of.

In California, for the campaign finance information that is posted on the Internet now, one of the requirements is that they block out the address and the zip code. They have the persons name and city, but there is not precise information as to where they live, or a zip code, to enable people to use it for mail solicitation.

**Professor Boone:** With all due respect, I can place your name on the Internet right now through the yellow pages, or the white pages, and it will pop up right away. You can put William Boone there, and everything concerning me pops up, and I have nothing to do with it.

**Dr. MacManus:** I would like to say something about the absentee balloting, because Florida had 600,000 people voting absentee this last time. If you really look at what caused the mess up with the voter news service exit polls in Florida, the removal of 600,000 people from that sampling pool really did cause problems. There is really no question about it.

With the mobile society that we have, and the aging society that we have, more and more people are going to choose not to physically go to the polls, and they will use the absentee ballot process. That was one of those unintended consequences of an idea that at first sounded really good—but turned out to be not so good after all—the centralized voter news service pool.

**Judge Bell:** Are you defending the news service?

**Dr. MacManus:** No, I am not.

**President Carter:** Anyone else have a question?

**Mr. Cutler:** I would like to ask one more question that has to do with lawsuits. Several of you have voiced the concern that we have to solve this problem by 2002, or 2004, or we will be drowned in lawsuits. I gather it is the state of Georgia that has been sued already, or is it Florida?

**President Carter:** Cathy Cox said there was a lawsuit against her, and our Governor.

**Mr. Cutler:** Kathleen Sullivan, one of our commissioners and the Dean of the Stanford Law School, has said that there will be hundreds of lawsuits under the precedent of *Bush v. Gore*. Do you feel a sense of urgency that we must solve these problems by 2004 and is it practical to think we can do that?

**Mr. Pritchett:** In speaking on behalf of the Florida task force, the task force did believe there was a sense of urgency but the Florida Legislature is not quite feeling that urgency. They have a different interpretation. They are feeling like the standards that the Supreme Court in *Gore v. Bush* had to do with recount standards. We said that as a task force, a bi-partisan task force, we feel like that standard could be applied to voting systems also. So there is a sense of concern and urgency on the part of Florida's task force, and I believe the Governor, to move this forward.

**Ms. Phillips:** We remain skeptical that the momentum will be maintained for reform. That is why we need to have some vehicle like that mandated by the Torricelli-McConnell bill, which would create an ongoing Federal Election Administration commission. It would constantly be looking at what needs to be done to maintain the integrity of the system.

**Mr. Cutler:** That would take legislation in the 107<sup>th</sup> Congress.

**Ms. Phillips:** Yes. It was actually introduced in the 106<sup>th</sup>; it has since been reintroduced, along with fifty other bills that are now in Congress. I think it is the only one that advocates an ongoing commission. I think some changes could be done relatively inexpensively that would have tremendous meaning. Mandating, for example, a provisional ballot could go along way toward preventing the kinds of disenfranchisement problems that were experienced in Florida and elsewhere. It doesn't cost any money, other than filtering that mandate down to the poll workers.

**Judge Bell:** In the case of Florida, they could have gone to the Department of Justice for the civil rights division, and asked that under the Voter Right's Act for something be done.

**Ms. Phillips:** The problem, sir, is that the voters themselves are not always knowledgeable about what their rights are. Most of the calls we got on Election Day were very simple to address; and we advised, the voter what they needed to do: to go back to the polls and demand a provisional ballot. Most voters do not know that is an option.

**Judge Bell:** There is something wrong in certain states; Florida being one. You could go there and ask something to be done. That the form of the ballot was wrong and then have somebody look into it. If you don't like the butterfly ballot, then you complain.

**Ms. Phillips:** There is a reluctance. I think Professor Boone would back me up on this. There is a reluctance on the part of the voter to complain a lot of the times. I think Florida was unusual in that regard. Most of the voters we hear from are reluctant even to complain to their local election officials. So I don't think that giving them even one more election office to complain to would be enough to solve the problems.

**Mr. Cutler:** Any other questions for this panel? Why don't we go on to our next panel?

**Ms. McAndrews:** I have one. Do any of you think we should turn back the clock in terms of early voting and absentee voting and vote by mail? Or is it simply the genie out of the bottle in the terms of achieving some of the other goals?

**Dr. MacManus:** The genie is out of the bottle.

**Ms. Phillips:** I agree.

**Mr. Pritchett:** Although for instances of fraud in Florida, we recommended that it be raised to a second-degree felony. We balanced out the convenience with a severe penalty if there are cases of fraud.

**Ms Phillips:** The genie is out of the bottle but we can't just stop there. We have to work with what we have got, make it secure, and guarantee the franchise of legitimate voters.

**Professor Boone:** I want to say, of course, that I think all American citizens are legitimate voters. It is about making the process a little bit easier for them and given what happened in Florida, folks are probably more sensitive to the problems associated with voting and with using the process. I think a great deal of reluctance to press one's rights is because one doesn't know one has those rights. That is the problem there.

**Mr. Cutler:** We thank this panel very much for a very stimulating and useful discussion. We hope that you will give us the benefit of your help and advice throughout our work. Next we are going to hear from Congressman Roy Blunt of Missouri, a Republican from Missouri where a Democrat was elected from the grave.