

**NATIONAL COMMISSION ON FEDERAL ELECTION REFORM**

**TRANSCRIPTS OF THE SECOND PUBLIC HEARING**

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Simi Valley, CA**

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**National Commission on Federal Election Reform  
Reagan Library Hearing**

**PANEL 1: Perspectives of Administrators in the Field**

**Witnesses:**

**Conny McCormack**  
**Mischelle Townsend**

**Registrar-Recorder/County Clerk, L.A. County, CA.**  
**Registrar of Voters, Riverside County, CA.**

**Senator Slade Gorton:** We are extremely grateful to the Reagan Library for hosting us at this meeting and for the magnificent facilities with which they have provided the Commission. I am Slade Gorton. Kathleen Sullivan and I are Vice-chairmen of the Commission. The two chairmen were regrettably unable to attend but we will listen to testimony here today. If Atlanta is any precedent, there will be vigorous questions from members of the Commission. I understand we are very shortly to have a show-and-tell from Riverside County, California. I am looking forward to that. In the meantime, however, I will introduce Kathleen Sullivan, the dean of Stanford Law School and the Vice-chairman for her remarks and introductions.

**Dean Kathleen Sullivan:** Good Morning. It is a great honor and pleasure to be here. We look forward to hearing from these distinguished panels in the great state of California, which sets the standard for election administration in so many respects. We will devote a lot of our attention today to the lessons learned about best practices in election administration from this state, including its biggest counties.

Let me just introduce, for those of you present, the members of the panel and the other participants in today's proceedings. Starting at the far end of the table we have Robert Pastor who is President Carter's representative here and a very experienced watcher of elections all over the world. Next to him is John Seigenthaler a veteran journalist. He is the founder of the First Amendment Center at Vanderbilt University, former editorial director of USA Today, and one of the most respected journalists in the nation, especially in political affairs. Next to him is Colleen McAndrews, who hails from the firm of Bell, McAndrews, Hill, Tack and Davidian here in California, is one of the nation's greatest experts in election law and an expert, in particular, in the election law of California. Next to Colleen McAndrews is my great friend and former colleague Christopher Edley of the Harvard Law School, also a very experienced policy maker and issues-watcher and self-described policy wonk, a veteran of numerous political and campaign posts and an expert in, among other things, the law of civil rights and the law of equality. We are very happy to have him join the panel today. Senator Gorton needs no introduction.

On my left is another former Senator, Senator Ruddy Boschwitz who was the United States Senator from Minnesota from 1978 to 1991. He hails from Minnesota and managed to get here despite a snowstorm in Denver. Next to him, another person who

probably needs no introduction in this state, former Congressman Leon Panetta, who is well known to people in California as one of the most knowledgeable and fair-minded people in politics. And next to Mr. Panetta is Philip Zelikow who is head of the Miller Center at the University of Virginia, and is the Executive Director of the operation you see before you. He has done a magnificent job of assembling a great deal of the panels you see before you. We are very honored to have all of these people present for this hearing in California. And we will turn, with no further ado, to the first panel. Senator Gorton.

**Senator Gorton:** Well we have only half of our first panel here at the moment. Conny McCormack the Los Angeles County voting registrar is -- surprise, surprise -- caught in traffic. She will apparently be here in ten or fifteen minutes. Fortunately, however, the demonstration of the newest voting techniques is to be presented by Mischelle Townsend, the Riverside County Registrar, who is here. We welcome you and look forward to what you have to tell us and what you have to show us.

**Ms. Mischelle Townsend:** Good morning Senator Gorton and members of the Commission. I am delighted to be here and join you. I want to commend you too because I know each of you are volunteers and taking time from your schedules for this worthwhile project. As you know, in this electoral process, the very backbone of its integrity are volunteers. So would you like an overview of our project before the demonstration?

**Senator Gorton:** Yes. It is entirely up to you how you wish to present it.

**Ms. Townsend:** Basically, we started this incredible journey in June 1998 when California was doing its blanket primary election, the June gubernatorial election. We had no experience with non-affiliated voters voting in a partisan election. We have had a mark-a-vote system for twenty years. Its designer, Kurt Fielder, is in the audience from DFM Associates. Basically, the mark-a-vote system are IBM-type cards where the voter selects his or her choice in a box designated next to the candidate with a specially designed pen. The card reader you see closest to you is the device that tallies those cards after the voter votes. For a major election we could have anywhere from four to ten cards.

The system has been very reliable for twenty years. I can't say enough good about it. What we experienced, though, were rapidly escalating costs in paper and printing. In that first blanket primary election, there was over a \$ 1million spent on paper ballot costs, yet, 41 percent of voters turned out at the polls. So what we had to do was destroy 59 percent of these ballots because we had low voter turnout. What happens is that even though the instructions are very clear -- vote for one -- as we saw recently, voters will tend to over vote for more than the required choice. Or they will neglect to turn the card over and vote for an office on the back. California, as you know, has historically had very lengthy ballots because we tend to legislate through the initiative process. So you do have those inadvertent human errors.

As a steward of public resources, we wanted to look at newer technology and see what was out there and what might preclude some of these inadvertent errors and save the considerable recurring, but non-recoverable, costs. So we convened a task force, as you have done, of people throughout our county, including folks in the technology industry, the president of League of Women Voters, and people who have worked the polls.

We looked at newer forms of optical scan technology. But again, the optical scan technology depended upon the paper ballot. We wanted some functionalities that it could not afford. For example, with our touch screen voting you can program multiple languages without incurring additional printing costs. It has a redundancy factor. When you are in a precinct and you have thousands of these paper cards, if for any reason the poll worker loses any of the paper cards or they are destroyed, the vote is lost. That is your single point of failure; you can't replicate those cards. But with the touch screen voting units you have a redundancy factor; the votes are stored on the unit and on the small results cartridge. If there was a catastrophic incident going to the polling place and the cartridge was lost, we can retrieve the votes from the unit. There was also a redundancy from the unit because we had an average of five units per polling place. If you had a problem with any single unit, you had four others that could back it up. We are very fortunate because we did not have those kinds of performance problems. They performed very well.

Another factor that the task force was looking for was auditability and that paper audit trail. I think there is a misperception out there with the public on electronic voting that there is not paper audit trail, but there is a paper trail. In fact, right after the November 7<sup>th</sup> election we had a recount in a local Marino County school board race in which we printed out the ballot images. They can be printed out in a couple of ways. You can print them out in summary totals. I have examples of these in the material I gave you. These are the summary totals and this is one example of the ballot images. There is a unique identifier code assigned to each candidate and each race. The ballot images can be compared to the machine count on election night. It does have that audit trail.

We were looking at increased security because, as you know, even though we have had very honest elections in California, if anyone had a desire to alter a ballot all they would need would be a blank ballot and a pen or pencil. With the electronic voting unit, there is a results cartridge that is read-only so you cannot write to it. If someone could figure out a way to get into that cartridge, and it is very difficult because it is proprietary and a very complex system, the machine would detect that it has been tampered with and would shut down the voting unit. It has a whole series of checks and balances. It is that level of security that we were looking for.

Another advantage to our voters was improved accuracy. The touch screen units preclude over voting, so every vote counts. We first used the units in a small city called San Asento in Riverside County in August 1999. They had very emotionally divisive elections, the kind where the mayor and city council member were being recalled. We approached them and noted that we had the opportunity to look at this new voting equipment. To their credit, they allowed us to use it because when you have a close

election, you want every ballot to count. That improved accuracy was something that we noted in the November 7<sup>th</sup> election when we used them in all of our polling places. It was very easy for the poll workers to use.

Currently, with our mark-a-vote system, even though it is extremely reliable, it is a very labor-intensive process. When you have thousands of these cards at the end of a fourteen-hour day and the volunteer has to do all of these arithmetic calculations, they probably spend almost an hour making sure that everything balances out. The touch screen unit does that calculation for them. It saves them a lot of the time. At the end of the day, all they have to do is turn a poll switch off on the five units and retrieve the cartridge. They are put in a clear pouch. The pouch is taken to our counting center. They are downloaded, as you can see, in that card reader next to the touch screen unit. The tallying process is much quicker. We just had a special election for our 65<sup>th</sup> Assembly district on April 3<sup>rd</sup>, just a week ago. We were able to count the ballots for those 111 precincts in 75 minutes. For the candidates, the public and the media, it is a very responsive system. We were extremely pleased with it.

I think one of the things that we have noticed over the years is that we have federal, state, and local contests, but currently, only the local body pays for all of those election costs. The federal government sees the value in partnering with local jurisdictions on health programs and welfare programs. I think the predominant cost-sharing program for welfare is about fifty percent. We have all of these federal contests and we do not have an ongoing revenue stream to invest in technology, whether it is for the absentee process, where you need automation, or other portions of your operation. It would be a credit to this country to sustain and strengthen democracy if we could have a cost-sharing formula not only to invest in technology but to keep it current like other disciplines are in local government. That is just a brief overview of our project.

**Senator Gorton:** I understand Conny McCormack has just arrived. Yes, here she is. I think this is appropriate time for you to do the show-and-tell of the machines.

**Ms. Townsend:** Obviously, I would be glad to do that, at least for the members here.

**Senator Gorton:** People in the audience will have the opportunity to inspect them during one of the breaks or at lunch. But for now it is the people at the head table who are going to engage in the demonstration.

## **DEMONSTRATION OF VOTING TECHNOLOGIES FOR COMMISSIONERS**

**Note: In many cases, only responses to the questions were audible.**

**Ms. Townsend:** This is the way that the mark-a-vote system with the card reader counts the ballot. If there is a cut corner that is in the wrong direction, it will stop on that error. You have to stop the count, take the damaged or torn card or card that has placed in the wrong direction out. Those are the delays that sometimes you see in large jurisdictions

where the counting stops and you have to start over. But this is a test disk from one of our recent elections that you can see how it is tallied.

**Question: Does the card reader have the capability of reporting under votes and over votes?**

**Ms. Townsend:** Yes, we do have a report that will empty under votes and over votes. In the past we simply haven't reported this because it wasn't an issue until this last presidential election, but they are used for internal purposes.

We don't have a printer with us. Can you bring that up Brian? He is going to bring that up and he will demonstrate whether there were over votes or under votes on that particular test deck.

**Question: [Does the machine report the total number of under votes and over votes together or separately?**

**Ms. Townsend:** It does tell you how many of each.

**Question unintelligible**

**Ms. Townsend:** No we would have to do that be a manual canvas process.

**Question: What is an over vote?**

**Ms. Townsend:** An over vote is if it is vote for one for president, they voted for two or three. So it invalidates that particular contest. So they have wasted their vote in effect. They have decided that for whatever reason they are not informed on the issue.

**Question: Does the machine ever have a problem determining voter intent?**

**Ms. Townsend:** Sometimes that is correct. I am glad you brought that up. Sometimes, the voter will get in a hurry and they will mark between the boxes and the card reader cannot tell the voter's intent. Or they will get in a hurry and mark in the timing marks. These marks are what tell the unit where to tally the votes for each candidate or contest. If the card reader can't decipher that, we will take those cards out. Then, in that thirty-day manual canvassing of the election, if we can determine the voter's intent, we will count it. If we can't, it is invalidated.

**Question unintelligible**

**Ms. Townsend:** We would not count that. It would be considered an invalid vote for that particular contest. Right. Because it is considered an over vote. If it is an x and is clearly within the box and we can tell the voter's intent and the machine for some reason couldn't, we would count that.

**Question unintelligible**

**Ms. Townsend:** Depends. Sometimes it can and sometimes it can't. We will tell because it will stop on an error message and we will pull out the ballot at that point.

**Question unintelligible**

**Ms. Townsend:** Correct. That is right. Yes during the canvass.

**Question unintelligible**

**Ms. Townsend:** No, because the poll workers just simply bring these cards to the counting center.

**Question unintelligible**

**Ms. Townsend:** Yes. That is correct. Those are the newer, more optical scan types of technologies. These are older units.

**Question unintelligible**

**Ms. Townsend:** We did look at that but we were trying to get away from the paper. Again, we wanted the multiple language capabilities. All the units, as you can see, are wheel chair accessible. Would you like to go over to the electronic?

This basically can be operated two ways – manually or card activated. There is not a correlation between this card and the voter. The only purpose of the card is to bring up the correct ballot type. I believe this is an activated card. They would simply match the yellow arrow. In the earlier elections we learned a lot from the voters and this was designed as navy blue and it blended in so well that we learned from them that it was easier to make it a contrasting color. I am right-handed so let me switch hands here.

The ballot simply is brought up. Would someone like to touch the screen and make your choice? All right Senator Gorton you can simply touch the circle. A green check mark appears. You will see that it takes away the other choices. It took the circles away from the other candidates. In that way it won't let you over vote. But let us say that you go down and you find someone that you like better. All you do is touch the green check mark again. You de-select it and the choices all reappear. You can change your mind as many times as you like without spoiling the ballot. You can make some other choices if you like. If you want to write in a candidate, there is an electronic keyboard and you can write in whomever you want. Just de-select it. Let us go back.

**Senator Gorton:** If I reached over her shoulder or were permitted to do so . . .

**Ms. Townsend:** That is why you have four poll workers to watch that process. If you want to press ‘next’ to go to the next screen you can choose any of the contests on that page if you want.

If you select ‘next’ it will give you your propositions and you can vote. And when you press ‘review,’ it gives you all of your choices on one screen so you can see at that point if you have under voted and left a contest blank. You can touch that particular contest and it will take you back to that page.

**Colleen McAndrews:** Is there any way that any of the systems have a printer attached to this that would print out or give the voter a receipt of how they voted?

**Ms. Townsend:** You could have a printer attached. Currently, California state law precludes this because of the vote buying and those kinds of dangers. We could print out all of the precinct results at the precinct. We decided not to do that because we currently don’t print out the precinct results now. We operate based on remote counting centers and our central headquarters. It makes the tallying system a lot faster than waiting for all five of these units to print out these long precinct results. So you get your tally much quicker.

**Question: Can the machine present information in other languages besides English?**

**Ms. Townsend:** Yes. Multiple languages. It can be done in English. In fact Conny will probably address that shortly. She has six or seven languages and she used the touch screen in early voting in Los Angeles and had all of those languages available. In addition, as you can tell—let us go back—the font size on the touch screens are much larger than the font size on these cards. So we had many of our voters say, “Thank you because for once I can see the ballot without using my glasses.” We can have an audio component for the blind. Where you have a keyboard and a set of headphones. Conny used the blind component in her early voting this time. We will be using it in November. So it has that type of functionality. We had a lot of people in wheel chairs, and motorized scooters. We have a large retirement population in Riverside County. The machine is adjustable if you are in a seated position you can wheel right up to the machine. Currently, you have to go up to a handicapped voting booth. Not with these. You can go up to any booth that your wife or a relative uses. You are not segregated.

**Question: How private is the voting booth with the electronic systems?**

**Ms. Townsend:** Actually, these are privacy wings. It is all self-contained. When you are standing in front of this unit, as you can see, you cannot see how someone is voting. The privacy wings were one of the advantages of this particular unit that we liked. The fact that it is totally integrated. When it is enclosed in its case, you are able to stack it in a warehouse sixteen feet high. Yet, when it’s in its case it is like a piece of luggage with wheels. It is very easy and very mobile to take around. In fact, we have a grant in for a mobile clean air vehicle that will allow us to take the units throughout the county at early voting locations in addition to our more stable early voting.

**Question: On average, how many voting machines do you have per voting location?**

**Ms. Townsend:** We have an average of five. We looked at the historic voter turnout. If we had a larger voter turnout, we would put ten units in. Even in 1996, a presidential election year, we had a sixty-two percent turnout. When we implemented the touch screens we had a seventy-two percent turnout. We did not use all of the machines. The only line formation was at the sign-in process at the roster, not waiting for a machine. We did time and motion studies and to mark a mark vote and fill in the squares front and back for up to ten cards -- it takes half as long to vote the electronic ballot as it does to fill in all of those squares.

**Question: How much does this particular machine cost?**

**Ms. Townsend:** It was about \$3100 per unit, and based upon our 635,000 registered voters that is a one-time cost of \$22 per registered voter. It sounds like a lot of money and it is. But when you consider that is a one time investment for something that is going to last this county at least twenty years, most of us would spend twenty dollars if we could get a twenty year return on that twenty dollars it would be a sound business decision.

**Question: How easy are these machines to maintain?**

**Ms. Townsend:** Maintenance is very easy. Jeff Jensen, here, from our staff, and five others were trained by Sequoia at their manufacturing plant. They were certified on maintaining the units so we maintain them all in house.

**Question: How much do you save from this system compared to a paper system?**

**Ms. Townsend:** Yes. We estimate conservatively that we will save \$600,000 annually by not printing paper ballots at the polls. And just the storage of paper ballots. We can download this election onto a CD ROM, versus 11,000 square feet.

**Question unintelligible**

**Ms. Townsend:** Very few, Mr. Panetta.

**Ms. Conny McCormack:** I have very bad laryngitis and like many of our poll workers I got behind an accident on the freeway today and was stalled for forty minutes. Sometimes some of our poll workers are in that situation and miss getting to the polls on time.

This is very similar to what Mischelle used. We had an early voting pilot project in Los Angeles for the November election. In the three weeks preceding the election, any one of

our 4.1 million registered voters in the county could go anywhere. We had nine locations so they could have gone to any one of the nine and voted on this system up until the day before the election in a pilot program. We had 21,000 voters take advantage of that out of our 2.7 million voters.

### **Question unintelligible**

**Ms. McCormack:** Yes sir. It is very similar. It is a different company but it is the same.

### **Question: How do you ensure the voter gets the correct ballot?**

**Ms. McCormack:** The very first screen. I have already started it for you. We had 263 different ballot combinations so you qualify the voter. You make sure you have given them the right ballot combination with the right Congressman, the right State Assemblyman, the correct Water District. They are issued a card. The very first screen, if you want to come a little closer, is a choice of language. So we will start with English but I can go back and show you in any other language you would like to see just so you can see.

That is a Philippine language. In Los Angeles we are required to do seven languages on our ballot. We think after this census when the language requirements come out, we will be up to ten. So this system really accommodates. We actually had people who were in tears crying, saying how wonderful it was to vote in their native language because our propositions are so complex in California, that understanding them in English can be difficult, let alone if it is your second language. Sometimes it doesn't. But they did say it made it easier for them. English is automatic. If you just hit the 'start' key and upload for whatever ballot it is.

You can read the instructions if you want. We all know people don't, so let us see how easy it is to do if you don't read them. Hit the 'start' key and the ballot comes up. You can see that you can make a choice of presidential candidates. I will pick someone non-controversial like Howard Philips. I didn't mean to do that. What do I do? If you wanted to vote for some mainstream candidate, you could try all you wanted but you would not be able to do that until you went back and erased that one. There is no chance to over vote or vote for more than one. OK. That is what I wanted. It brightly lights up. By mistake I touched over here and then I go, "Oh my gosh. Maybe I didn't want to do that." So then you have to take it off.

So then you can just go through the ballot very similarly to make your choices. Here are the propositions. Like Mischelle said, the wording is so much larger than on the punch card. People could read it much easier. Making choices...skipping...under voting if you want...and then when you get to the end you have a choice of reviewing your ballot and going back and looking at it and casting. Want to review it? OK. Let us go back and see whether or not this is what you wanted to do. We didn't vote in this Antelope Valley

district. You go back and you review your pages and you say, “Oh yes. I forgot to vote for assessor.” As we know, we just skipped a bunch of races.

### **Question unintelligible**

**Ms. McCormack:** Well that can be done. The software on all of these equipments can be done. This was a pilot program for us so we did not go as far as some of the other types. Anything we have asked our vendor to do, they can do that. It would be better to have your list. Then you could go back and say, “Oh, yes. I don’t want to do that.” So then we will go back and go ahead and cast our ballot. And do that. And it says “review.” Your vote has been recorded and then you can remove your card. You can’t remove your card until then.

We can take a look at another language if you just want to see one, just to see what the character language is. Let us say you wanted to vote in Chinese. It starts. It would load up the ballot. We, because we have 5,000 precincts, divide our vote by precinct and the instructions were in Chinese and then the names of the candidates were in Chinese and the titles were in Chinese. We actually, because there are 5,000 precincts, 263 ballot styles and seven languages, have 9 million choices in this software. So when you make those choices it is picking out one of 9 million. You see how fast it was happening.

### **Question unintelligible**

**Ms. McCormack:** I just put it in.

### **Question unintelligible**

**Ms. McCormack:** They do that all in advance before we load it into the equipment so then we have testing to make sure it is accurate. So that is done in the weeks prior to starting the process.

### **Question unintelligible**

**Ms. McCormack:** We did not. For the election on Tuesday, the city of Los Angeles did not want to spend the money. It is not an inexpensive endeavor to have this stuff programmed. They determined that they could not afford to do that for the mayor’s election. We do hope that our board of supervisors, the federal government, or someone will give us the money so that in 2002 we can have more sites, but at this point we are awaiting some funding. Anyway, you get some ideas here. You will see that then you get to the cast ballot. And there we go. And it was in Chinese and the same with the other languages.

We also had the audio headset and we partnered with the Braille Institute and the Center for the Partially Sighted and they did a mailing for 8,000 people on their list in Los Angeles County. We had hundreds of people with seeing eye dogs come in to our early voting sites and were in tears crying, “Oh how wonderful. I can vote without anyone’s

help.” There is an audio headset and a keyboard. I actually voted that way blindfolded. It was incredibly easy. I had no problems doing it. So that is how easy this system is compared to a punch card, which I did bring to show you.

**Question: Is it possible to program it so that you could have graphics on the ballot?**

**Ms. McCormack:** Yes. All graphics, especially when you have the graphics for the languages that are character languages; that is a tremendous amount of graphics. It is very easy, very easy to do.

**Question: How much is this machine?**

**Ms. McCormack:** They are very comparable in price. Depending upon, around the \$3,000 price tag.

**Senator Gorton:** Let us all be seated.

**Ms. McCormack:** I would like to take a few minutes to continue. Even though 21,000 of our Los Angeles County voters in the November election did cast their ballots on the new technology, we had 2.7 million ballots cast in Los Angeles County, which were more ballots than statewide in 41 of the 50 states. So by far we are the largest. Many of the people went to the polls. The vast majority of them voted on, as you all know, the infamous punch card device. In Los Angeles County this has been our voting system for 32 years. This system is one I think all of you are very familiar with it. The voter is issued a ballot card. In it goes. You must connect it over the red pins. And then begin to turn the pages and make the choices with the stylus. Punching choices as you go. Of course, you can over vote as I just did in the presidential race.

In our mayor’s race on Tuesday, we had a big “got chad” campaign. It was like “got milk” in all of the polling places. We saw less chad then we have seen before, so we were pleased about that. People are starting to check their ballots now. We did have some broken styluses they were punching them so hard to make sure. We had all day trouble-shooter calls to come replace our styluses. We do give extra styluses. We did ask every voter to take it out of the machine, turn it over, and check to make sure the holes were cleanly punched out. We had many voters who, I think for the first time, did this, which is good news. However, how long they will remember to do that? For over and under votes in Los Angeles County, there was a lot less than in many places in the country. We had 0.5 percent over vote, which is 0.5 percent of the people who chose more than one candidate. One has to think that of a few of those might have wanted to. I don’t know.

**Senator Gorton:** 0.5 percent over-voted on the presidential race?

**Ms. McCormack:** I am talking just about the presidential race, 0.5 percent. We had 2.2 percent under vote who chose not to vote or were perhaps reflecting the country's uncertainty. They did not know how they wanted to vote. So that is the system. I would be glad to tell you a lot more but Mischelle said so much and I think you probably have questions for the remainder of the period. Thank you.

**Senator Gorton:** Yes. Who would like to start it off?

**Senator Rudy Boschwitz:** I read your memo, where you talk about a dual system. You also mention provisional ballots. I don't know what a provisional ballot is.

**Ms. McCormack:** I think that the provisional voting process is very important for our national discussion. We are very pleased in California at the process that allows the voter to be the one that is never in a situation of being turned away at the polls. Every election is flawed. There is no such thing as a perfect election. We set up 5,000 polling places in Los Angeles County. I can't tell you that every single time that everyone's name is on the correct list. We get them on the wrong list. There is administrative error. There also is the poll worker. Sometimes the name will be hyphenated and they just can't find it on the list and it is right there in front of them.

Many times when we check these provisional ballots, we find that the voter's name was right there on the list. But rather than argue with the voter, even if the voter is not on the list or anything else, the first determination is to determine whether they are at the right polling place. That is what they are told first because sometimes people go to the wrong one. We give a map to every one of our polling places with the neighboring polling places. They will direct them to the correct one if they just happen to be at the wrong fire station.

Let us say they know they are at the right location and we have a list of all of the streets in the precinct and the poll worker can check that and say, "You are sure you are a registered voter?" And the voter says, "Yes. I am absolutely positive that I am a registered voter." The process in California is to hand out a provisional ballot. This is actually a regular ballot. It just looks like every other ballot, except that it goes into what is called a provisional envelope. I wish either Mischelle or I had brought one. It is an envelope that segregates that ballot from the rest of the ballots in the ballot box so that they can be examined later with the opportunity to determine whether or not there should be eligibility of that voter. So on that provisional envelope the voter or the poll worker will make some statements as to what they think happened.

There are many cases of fail-safe. The person moved within the county—and that's by federal law with the National Voter Registration Act—to vote within the county without telling us they re-registered. And that acts as a re-registration, once we determine that they indeed can prove that they live in that precinct. Only in that situation do they have to prove that they live in the precinct: if they have moved within the precinct and admit that they have not re-registered. Then they can show...

**Senator Boschwitz:** So the sanctity or the secrecy of the ballot is compromised in a provisional ballot?

**Ms. McCormack:** It is and it isn't. It is similar to an absentee ballot. When you cast an absentee ballot, you sign the outside of the envelope. Once we remove the envelope from the ballot it is totally imperceptible who the voter is.

**Senator Boschwitz:** Same with the provisional?

**Ms. McCormack:** Very much the same. So in it goes. Everyone signs it in the canvas process, prior to certification. Different states have different timelines for certification. I sit on the National Election Center's Commission for Electoral Reform and we are recommending that states give at least two weeks to election officials. One week is totally insufficient time to go through, if you are going to have a provisional voting process and examine and take the time to determine whether that ballot should have been counted. Out of the 100,000 we had of these in Los Angeles County, we ended up counting 61,000 of those.

**Senator Gorton:** We in Washington call them special ballots.

**Ms. McCormack:** Yes. It is very similar

**Senator Gorton:** But there are two other ways in which they come about in Washington. I was wondering if it is the same in California? One is the person is registered there but the registration has said that he or she has asked for an absentee ballot.

**Ms. McCormack:** Correct.

**Senator Gorton:** So they cast one and it is checked whether they are trying to vote twice before it is counted. And the other is often with the student. The student says, "I know I am not registered here. I am registered at home in Whitman County." In which case, they just package it up and send it to Whitman County to determine whether or not the person is registered there. Do you do that as well?

**Ms. McCormack:** Let us start with the first instance because I think everyone is always concerned and indeed, with our early voting project, people went and voted on this system in the weeks before the election. How would you know that they are not going to go and vote again on Election Day? That was a big issue.

Very similar to an absentee by mail, we determine who indeed voted that way. We send a list to every polling place and they mark their list, so if someone comes in and they say, "The dog ate my absentee or I did ask for one but it never came in the mail." Or "I just mailed it yesterday, do you think it is going to get in?" Well with the post office, I hate to say it, it probably won't get in. So what we suggest is they vote a provisional ballot and then we don't check a single one of those provisionals until we have counted all the absentees. So in that first week after the elections, we are clearing all of those extra

absentees that came in on Election Day and election at the polling place. Then we see whether or not to count the provisional. So it is a two-step process and it does work very well.

In terms of your Washington State law that allows a student to have a ballot or any other category of person that may be traveling that day, testifying or something, and going to vote for president. California law does not allow that. There have been proposals to allow that but at this stage and time there is no proposal to allow a ballot to be taken back, which frankly could work because we have this canvas project.

**Senator Gorton:** What is your view on the subject?

**Ms. McCormack:** I would like to see it happen. I would like to see the opportunity for the voter to have an opportunity if they happen to be out of town to vote, at least on the federal races, and then have it be examined because we have this period of time anyway to examine them. In the end, we counted about 61,000 of these. And they were in all of these categories. Some of them had voted absentee.

**Senator Gorton:** You threw out 40,000 ballots because they were not registered?

**Ms. McCormack:** Or we did count their absentee or for some other flaw that we couldn't determine. And then we do send them a notice. We don't have to by law but we do send them a notification. We don't say that we didn't count your ballot. We say that there seems to have been some problem with your registration—would you like to get re-registered and clarify it—so that we won't continually have these same people always thinking they are registered because they got to vote.

**Ms. McAndrews:** I have a question. We have looked at the two types of technology that you have here today and then we have heard testimony down in Georgia about the optical scanner, which the Florida task forces recommended to solve the problems in Florida. Yet all of the technology seems to be dependent upon having good poll workers available that are trained before hand and are effective on election day to help people vote. Because it really comes down to people being effective voters, not machines being effective.

I would like you to comment on if you think there is a problem in staffing the polls, particularly if there is an elongated period of time. I would like you to comment on how you think the staffing would be affected by a national holiday for Election Day in federal elections. One of the proposals in Georgia was that we move Veteran's Day to the first Tuesday after the first Monday in November as the constitution mandates for federal elections. I am just curious what you think the impact of a holiday would be on recruiting poll workers and the quality and type of poll workers.

**Ms. McCormack:** Well perhaps both of us could comment on that. I don't even know how Michelle feels about it. It has been discussed in the national task forces. I am very ambivalent about it because when I used to be the registrar of voters in Dallas, Texas,

almost twenty years ago now, we had a lot of Saturday voting. People thought it would be more convenient. For most people, voting is not the number one thing on their list on holidays or Saturdays. We did not find a turnout increase because of the Saturday voting. I like the early voting concept because it gives people flexibility. Maybe they are going to be out of town or maybe they are not. Maybe they want to vote on the Saturday before. We were open both Saturdays and Sundays before the election. We had a big crowd on the Saturday and the Sunday before the election.

I think we have to offer people flexibility. Poll workers are always going to be a problem. I think we need to recognize that they are really horribly under-paid. We could find some ways to recognize that and get more money for the training of them. It is always going to be a problem with poll workers, but I think that you have hit the nail on the head. We do have to invest more in the poll workers. We have started some county poll worker programs. I know there is a federal proposal to allow federal workers the day off with pay to work. I think that would be excellent. I highly support that. We need to get a diversity of people in to the polls and not just senior citizens who have the time. We have students now in California in the process, under eighteen, because of a new state law. That has worked beautifully. We need to diversify and have an opportunity to have a back-up crew. I have 300 in a back-up crew; 300 when I have 25,000 poll workers. I use those up pretty fast. I probably need 1000 in a back-up crew. We need to have money to do that. I personally am ambivalent about the national holiday. But I will let Mischelle comment on how she feels about it.

**Ms. Townsend:** I believe it has merit, particularly if the holiday is not on a Friday or Monday where it is a long weekend; if it was on a Tuesday. It would certainly free up many public employees to serve as poll workers. Basically, those types of employees are used to working with the public or answering and problemsolving. I think that it would be a great resource. One of the things, we had a state holiday for Election Day not too many years ago. There is always some hesitancy because of the cost involved to declare another holiday. If you could substitute, as you are suggesting, I think that has some merit. But one of the things I suggested with our schools, because teachers are a great source also as poll workers. They have a number of in-service training days throughout the year. If the schools could just coordinate one or two of those in-service training days with major election days, that too would free up public employees to work the polls.

I have to give Carole Stringer who is in the red suit in the audience, also Colleen, credit. She trained 4,000 volunteer poll workers for this new voting system. To her credit and theirs, they responded extremely well. They were excited about the new technology. They found it easier to do their jobs. I believe that with the proper training materials that they were quite effective.

**Dean Sullivan:** Congressman Panetta.

**Congressman Leon Panetta:** Does all of Riverside County now have the scanners?

**Ms. Townsend:** They have the touch screen units. Correct.

**Congressman Panetta:** What was the total cost of that?

**Ms. Townsend:** \$14 million for the project that included all the auxiliary equipment.

**Congressman Panetta:** And the County paid for that?

**Ms. Townsend:** It was paid for by the Board of Supervisors. We do have state legislation that is going through the process that we hope to get reimbursed for a portion of that.

**Congressman Panetta:** And I take it you are totally satisfied with this process as opposed to the prior process?

**Ms. Townsend:** Yes. It exceeded our expectations.

**Congressman Panetta:** Let me ask Ms. McCormack. If you had the opportunity or funds to be able to replace all of the paper ballots in L.A. County would you do that with the scanners?

**Ms. McCormack:** Not with the scanners but with the touch screens. Yes. I absolutely would. We had a survey of our 21,000 people that voted on the touch screen. Of the 9,000 that filled out a survey—99 percent, which was the same percent that Michelle had—were absolutely thrilled or liked it better or much better than the punch card. There is always the one percent of the people, but it is more than one percent that disliked punch cards, I can assure you. There are always some people that feel like computers are scary. But the testing process and the software requirements are incredibly rigorous for a process like this. Believe me, we are not going to send out inaccurate software.

**Senator Gorton:** What if you only had the choice between punch cards and scanners?

**Ms. McCormack:** I would not switch in Los Angeles County from one paper based system to another, primarily because of the size and the language requirements of our county, I think for any county under a half of a million registered voters, which is 95 percent of the country, the optical scan system can work very well. But with multiple languages—San Francisco ran into this problem in November—it ends up in a situation where you have so many ballots and so much expense. You are trading one piece of paper for errors on another piece of paper. I don't personally advocate it for myself, but that does not mean it isn't very good for other jurisdictions.

**Ms. Townsend:** Another point on San Francisco that I might add. They did not realize the cost of that longer ballot. It is a large ballot. The ballot would require the voter to put an extra stamp on to return it. There was an additional cost to the voter that they did not anticipate.

**Senator Gorton:** Chris.

**Mr. Christopher Edley:** I would like to switch gears for a moment and ask a different question on technology. When I go to a bank to cash a check, it doesn't matter which branch of the bank I go to. They have a way of figuring out if I do business with that branch. I guess my question is that in this day and age, why do we still require precinct based voter lists, rather than having a consolidated countywide list and some database strategy, at least for people who have driver's license numbers and picture ID to say, "Yes I am registered. Here is who I am. Give me a ballot."

**Ms. Townsend:** I think that is an excellent point. We do have the flexibility now with this technology. That is what we experienced with the early voting. If you lived in Palm Springs but were working in Riverside, you could vote anywhere in the county. With one hundred or more ballot types we could not have done that with paper. It is just that our state laws have not caught up with the technology. They are predicated on paper ballots. Clearly, the technology is there, we just have to legislate the ability to go to regional voting locations.

**Mr. Edley:** So you could vote near where you work.

**Ms. McCormack:** Absolutely. I would like to reiterate that because that is what we had in our early voting project with nine locations around the county. Anyone of our 4.1 million voters could go to any location. It was as simple as having a computer there with a voter database. I would like for us to go to a voter database on a PC at every polling place. Even today you could look them up. If they have moved, you could tell. Again, you could have a laptop. We need a different kind of poll worker. I am not going to expect a poll worker to understand our 4.1 million voter database, but it absolutely could be done. I would like to see it happen.

**Mr. Edley:** You could probably find some fifteen year olds who could.

**Ms. McCormack:** The student could be in charge of that.

**Dean Sullivan:** Speaking of fifteen year olds, I wondered if you could speak a little to the security issue. Is there a networking of the machines to tabulate?

**Ms. Townsend:** No. There is not networking. That is the beauty about the touch screen unit. They are each stand-alone units. There are no outside modems or keyboards so you cannot access the unit. They download the results and take them to the counting center. Without that networking, you don't have the ability to compromise or hack into the system.

**Dean Sullivan:** But if you are not networked, it does argue for precinct based voting. It is only through networking that you could take advantage of some of these data base solutions. The more you network the more danger there is that the system could be hacked.

**Ms. Townsend:** There is a difference with networking with respect to the vote casting technology versus networking with respect to the sign in process.

**Ms. McAndrews:** That leads to a question I had. If you can go anywhere to vote, do you require voters to show I.D.?

**Ms. McCormack:** In California there is no requirement to show identification when you go to vote whether it is at the polling place or anywhere else. When you go into one of these early voting sites, you fill out an application just like you would an absentee application and mail it in. We don't check absentee voters either. They come in. We see if they are on the voter file. It is very similar to an absentee process.

But to get back to your question, Dean Sullivan, the voter registration database is separate so then once you burn the card that you put in the machine to tell the machine what ballot style to pull up, exactly like the Sequoia system or the Global system, they are not networked together. They are individual disk and floppy, so there is a redundancy. So there is absolutely no connection with the results to the database of the voter.

**Dean Sullivan:** And if I just take it one step further, do I take it that both of you would oppose Internet-based voting, whereby people could vote from home rather than through the mechanism of a polling tabulation of the kind you describe.

**Ms. Townsend:** I would be open to it once it is certified. But currently we don't have the assurance that the security measures are there to protect the anonymity of the voter or the secrecy of the ballot.

**Ms. McCormack:** I would say the same. At this point in time the Internet is not ready. But you have a whole panel on that this afternoon.

**Dean Sullivan:** If we moved to this touch screen technology and, particularly if we go to where you can vote anywhere, what is your position on the suggestion that gets introduced in the legislature in California every year to require some kind of ID at the voting polls? Do you think that is necessary or not necessary?

**Ms. Townsend:** I personally support it but I believe we might have a difference of opinion here. I like the idea. You go in and you apply for a library card or you cash a check at the grocery store, you show your id. Right now the way we do that is that we validate the signature of the voter. We bring that up on the screen at the early voting sites. If the signature matches, then we allow the voter to vote on the touch screen at those regional locations. But I do not believe that it is too much of a burden to exercise that precious right to vote, to show your identification.

**Ms. McCormack:** I think that it is a political issue. I don't think it is up to administrators to make that decision. We didn't have anyone have a problem in our early voting because we are checking the signature right there. It is actually very secure. We do the same with absentee by mail. We are checking the signature. So in my opinion I

think that it is up to the legislators to decide. There is the issue of whether or not a poll worker may or may not want someone to vote and say you don't look like the picture and whatever else. The thing that could happen if you voted in the early voting, it automatically told the database that this person had voted. Because someone said what if they run off to the next early voting site an hour later, they wouldn't let them vote believe me.

**Senator Gorton:** You mean the least security is on the voter that goes to the right precinct?

**Ms. McCormack:** I have been saying that for years. Everyone thinks that going to the polls is the most secure. For absentee voting you have to have a signature check. You don't have to have a signature check going to your poll. You don't have to show any identification. People don't know who lives in apartment buildings anymore. I think polling place voting is less secure than absentee voting.

**Congressman Panetta:** Can I ask, if you were sitting on this side of the table, what would be the one or two recommendations that you would think would be the most important for us to make?

**Mr. Edley:** I think Leon is always trying to get other people to do his work for him.

**Senator Gorton:** Especially people with experience.

**Ms. McCormack:** We so rarely get asked this question, it is wonderful to hear it. Well certainly Michelle started to touch on one of our biggest problems. The biggest problem in the election field is that we are the last priority of the government. And actually, myself and all of you and everyone else in this room probably thinks that health clinics are more important. Having roads that don't have six inch potholes are more important. And day-to-day living that you need – security, police protection – are always going to reach the number one priority.

This is the problem with local governments because they don't have any funds. Right now our health department in Los Angeles County is \$184 million in the hole. I have asked my board of supervisors for \$3 million. They have a \$14 billion budget. I want \$3 million to expand my early voting in 2002 to 50 locations to accommodate two or three hundred thousand early voters. I very much doubt they are going to give me the \$3 million. It is pennies to assure that we are moving in the right direction, to assure that we are going to have a modern voting system. This one is 33 years old. But if I were sitting on their side of the table, am I going to decide whether to fill the gap in the health department or am I going to . . . It is a very tough decision. But it is our number one problem and it fosters all the other mistakes that happen in the election process.

**Ms. Townsend:** Mr. Panetta, yes, thank you for asking. As I alluded to before, a cost-sharing arrangement so that the federal government could pay its proportionate share is important. Another important policy decision that is hotly debated at the federal level is

the National Voter Registration Act or motor-voter, as we know it. Currently, we are required to keep voters who have moved and a third party, primarily the post office, has notified us that they do not live at that residence. We cannot cancel them off our voter rolls. We have to carry them on an inactive roll. In Riverside County we have about 200,000 of those people on the inactive roll that we have to supply to those poll workers. Yet in looking at our database, about 100 of those actually show up and vote.

**Congressman Panetta:** 100 of 200,000?

**Ms. Townsend:** Right.

**Ms. McCormack:** They could vote provisional, anyway, and get counted.

**Ms. Townsend:** Right. And so I believe that in all of the years that we have had motor-voter, I don't think there has been a good assessment or evaluation of its effectiveness. So I would like to see that.

I think that there is another area that perhaps you have more knowledge of than I do. In California we have 58 counties. We qualify the number of people who run for president for example. But throughout our 50 states you could have 17 candidates for president in one state. Ten candidates in another state. So some consistency in procedures, I think, is worth looking at.

**Senator Gorton:** We will take one more question.

**Dr. Robert Pastor:** Thank you very much Senator. Just a question on verification of voters in the voter registration list. I had asked you before, but just to repeat: When people register, for example, do they need to show proof of citizenship? What provisions do you have to make sure that people do not register in multiple counties and vote? Because they do not have to show identification when they vote, what prevents multiple voting?

**Ms. Townsend:** Dr. Pastor we do have an honor system in California. We are precluded from asking for identification. They sign under penalty of perjury that they are a United States citizen. In California, because of our Secretary of State Bill Jones' initiative, we have introduced a centralized voter database called Calvoter. He connected our entire Elections Department to this centralized system so the Secretary of State shares information on potential duplicates of registration in other counties. In the past we shared that on a manual basis. We exchanged information. This electronic sharing of information has facilitated that process considerably.

**Dr. Pastor:** What prevents a person from registering with different names in five different counties.

**Ms. Townsend:** That can happen.

**Ms. McCormack:** Actually that is a national system. The national system of registering to vote is by mail. Anyone can fill out a form. There is no proof. There is no sending in citizenship papers or anything like that. So anywhere in this county anyone can register to vote by picking up a form and signing that they are a citizen. In the California form, it is the first thing you check: are you a citizen 'yes' or 'no'. I know in some states, they don't have that on their form. I think it would be a good thing to put on the form, that is to have a national standard. Not that you are just signing and swearing you are, but also that you are checking a box. I have no problem with that and we have that process here in California. Absolutely, nationally voter registration is an honor system.

I would like to point out that we do have voter registration fraud. We have many instances in Los Angeles County. We were even on 60 Minutes in 1998 with our 16,000 fraudulent voter registrations. Some of you may have seen that. You never want to get on 60 Minutes. It is not a fun thing.

However, we did track those. We did not have a single one of those people vote. So I really think we need to make a distinction between voter registration fraud, which is often done because people are paid by political parties to register people in their party. It is three days before the deadline. They want to make that five dollars a shot. They get out a phone book. It happens all the time. It is going to continue to happen. Let's face it. If we think our poll workers are at the lower end, some of the people the campaigns are hiring we would not hire as poll workers. We have a pretty low standard for hiring poll workers.

The bottom line is that we really do need -- that this does not translate into voter fraud. We have not seen it. I am not saying in my history of twenty years in this business and running the largest elections in the United States, we haven't had some voter fraud. We have had some double voting. It is usually four or five people an election. It is almost invariably when the District Attorney talks to them -- some ninety-one year old person who voted by absentee and they went to the poll, forgot, and the poll worker hadn't marked the list or hadn't noticed that they voted absentee and it was a combination of these errors. It is amazing they did not die right in the District Attorney's office from fright. We did prosecute one person who did not care, they thought, "I'm not a citizen and I am going to vote." She was prosecuted. We actually had a candidate run for one of our city councils who was not a citizen. He was deported. We have had a few cases of this. But it is pretty minor and rare.

**Ms. McAndrews:** One last question. You mention the quality of poll workers and I know there has been a suggestion that there be credit for jury duty if you served as a poll worker. I wonder what you think about upping the quality of poll workers with that device?

**Ms. McCormack:** Again, that is a bit of a two-edged sword. We have supported that in our statewide association to substitute voter service for jury service. That is, to allow if you will work the poll, then you can get off. There is the concern about no-shows. We have a hard enough time getting them there if they have told us they want to come and do

it. That could be a serious problem. But I think that if we had an opportunity to find a way that we could make it an option or a choice for public service, we could work it out. I know the court systems are very against this and they go to all of the judicial committees and immediately scream, "We can't find jurors now." It would be a definite pull and tug. But it is being discussed. I think it should be in the concept of public service in this country.

**Senator Boschwitz:** May I ask several questions?

**Senator Gorton:** No, not several.

**Senator Boschwitz:** Well I understand we are over time, Mr. Chairman, but we haven't had witnesses this close to the voting process. At least as far as I have read the other meetings that you have had.

Would you tell us again Mischelle how much you save by using this?

**Ms. Townsend:** Conservatively, we estimate that we will save \$600,000 dollars annually in not printing paper ballots at the polls.

**Senator Boschwitz:** So you almost pay for them if that machine lasts twenty years.

**Ms. Townsend:** We expect that with the number of elections we conduct about 100 elections a year for all of our cities, with special districts and the various candidates on the bill, that we should be able to pay for this equipment in ten years.

**Senator Boschwitz:** Did you say a little earlier that you had an increased number of voters because of these machines?

**Ms. Townsend:** It is difficult, Senator, to know if we can attribute that to the use of the equipment, but we feel that we attracted some younger voters and people who were interested in making history in Riverside County by voting on the new equipment. So it increased from sixty-two to seventy-two percent.

**Senator Boschwitz:** Was it easier to recruit workers because of these machines?

**Ms. Townsend:** I believe it was because we did not have the typical day-before-the-election dozens and dozens of people that we had to fill open slots for. We actually had people calling who wanted to serve this time, which was unusual.

**Senator Boschwitz:** I think in Minnesota, that many of the people are volunteers who work in the polls. Is that the same in California?

**Ms. Townsend:** Yes. They are all volunteers.

**Ms. McCormack:** They get a small stipend. It is not minimum wage by any means. It is less than minimum wage.

**Senator Boschwitz:** There was much talk at the last meeting as I read the testimony, about absentee ballots being a richer vein for fraud? Do you agree with that each of you? Comparing the signatures is rather safe?

**Ms. Townsend:** Yes, absolutely. In California after the election we do a one percent manual tally of all of our precincts where we will compare the signed rosters to those who have voted. We have those checks and balances in place for the absentee process as well.

**Senator Boschwitz:** And you feel the same way?

**Ms. McCormack:** I do and I would like to come in on the cost issue too. Mischelle and I were on different voting systems previously. She had a multiple card system and was buying multiple cards for every voter. I have a single card system. The vote-a-matic system is the cheapest system in the county. That is why we are using it. It is seven cents for each one of these.

**Senator Boschwitz:** So you would not save as much money?

**Ms. McCormack:** A century could go by before I could save enough money to buy the new equipment. This has totally depreciated. I mean 33 years. It didn't cost much to start with. These are seven cents each. With four million registered voters to buy ballots for, I am only spending a half of a million dollars on this type of machine. Mischelle would be spending a lot more. And if I was using those big optical scan ballots, San Francisco spent a huge amount. We are here for one reason. These are cheap. That is why we use them.

**Ms. Boschwitz:** Thank you Mr. Chairman, I have found Ms. McCormack's memo to be very helpful.

**Senator Gorton:** I did too. I think we all wanted to compliment you on that. It is one of the first thing that the members of the Commission got. Your study of alternative systems is quite impressive. Members, through the staff, if they have more questions of these witnesses can submit them. I am sure these cooperative witnesses will be delighted to answer. Thank you very, very much.

**Dean Sullivan:** We would like to thank you both for the excellent testimony and the demonstration today.

**Ms. Townsend:** It was our pleasure. Thank you for inviting us.