

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON GOVERNMENTAL OPERATIONS

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September 26, 2008

Start: 10:00am

Recess: N/A

HELD AT: Committee Room
City Hall

B E F O R E:

SIMCHA FELDER
Chairperson

COUNCIL MEMBERS:

Peter F. Vallone, Jr.
Helen Sears
Daniel R. Garodnick
Domenic M. Recchia, Jr.
Larry B. Seabrook
Inez E. Dickens

A P P E A R A N C E S (CONTINUED)

Alberta Orr
Executive Director
Disabilities Network of New York City

Rema McCoy
Voting Rights Coordinator
Center for Independence of the Disabled New York

Dori Resch
Lighthouse International

Neil Rosenstein
Government Coordinator
New York Public Interest Research Group

Marcus Cederqvist
Executive Director
New York City Board of Elections

Steven H. Richman
General Counsel
New York City Board of Elections

Pamela Perkins
Administrative Manager
New York City Board of Elections

Steve Ferguson
Director of Management Information Systems
New York City Board of Elections

Susan Lerner
Common Cause New York

Adrienne Kivelson
Director of City Affairs
League of Women Voters

Teresa Hommel
Chairwoman, Task Force on Election Integrity
Community Church of New York

A P P E A R A N C E S (Continued)

Reverend Wendell Foster
Retired Council Member

Joseph Garber
Coordinator and Poll Worker

Barbara Zucker
Poll Worker

Andrea Sentino
Citizens Union Foundation

Adele Bender
Coordinator
Joint Public Affairs Committee for Older Adults

CHAIRPERSON FELDER: All right.

Good morning and welcome to this hearing of the Committee on Governmental Operations. I'm Simcha Felder, Chair of the Committee and I am joined by my colleagues, Council Member Peter Vallone, Jr. and Council Member Dan Garodnick, and I think Domenic Recchia was waiting and finally gave up on me. He may be back soon, but was here. I'd also like to acknowledge the staff from the Committee that prepared for today's hearing. We've also been joined by Councilmember Helen Sears. I already mentioned Councilmember Domenic Jr., who is always very punctual at the hearings. Who prepared for today's hearing-- first of all to my right, Matt Gewolb, [phonetic] Counsel to the Committee, thank you; Israel Rodriguez, who is to his right, the Policy Director, the Policy Analyst to the Committee; and my legislative director, Michael Casertano. And also, all the way to my left sitting with a beautiful blue shirt, Jason Yee [phonetic]-- anyone else have a beautiful blue shirt in the room; I don't want to insult you-- who is an intern with us, who we appreciate your work very much. Today the Committee will conduct

an oversight hearing to assess the City's Board of Election Compliance with the Help America Vote Act, otherwise known as HAVA, for the recent primary election, and examine improvements that could be made for November's general election; in particular examining the implementation of the new ballot marking devices. Before we go any further, let me first commend the Board of Elections. The Board has worked very hard to achieve HAVA compliance and prepare for the implementation of new machines, and I want to thank them for the tremendous efforts and for their cooperation with this Committee. I'm looking forward to hearing from the board regarding the running of the recent primary and to hearing their own evaluation of how the BMDs and poll workers performed. I also look forward to hearing from the advocates who have been monitoring the implementation of the ballot marking devices. Additionally, the Committee is anxious to discuss some other important and related issues including poll worker training, the availability and use of HAVA funds and the Board's determination of voter status using NYS Voter. These are all critical issues that are of

paramount importance as we approach an election for which we expect a record turnout at the polls. Before we begin today's formal hearing, I'd like to emphasize that it is my policy as chair of the Government Operations Committee to ensure that the hearings begin on time, usually, and therefore my rule is that only those individuals that sign up to testify within the first 15 minutes of the start of the hearing will be permitted to testify; so until 10:30. We'll leave it until 10:30. So anybody who wants to testify must sign up before 10:30. Additionally, I ask witnesses to refrain from repeating points made by previous witnesses. You can I agree with so and so. That would not be repeating, that would just be saying you agree or disagree. If someone has already made the point you wish to make, it suffices to simply note your agreement. Before we hear from the first panel, I'd like to open the floor up to Committee Members to make any comments that they may have, and then turn the floor over to town Councilmember Garodnick, who is not a standing member of the Committee, but it is an honor that we have him joining with us today, and I look forward to

hearing some statements from him regarding today's hearing. Is there any member of the Committee that has anything they'd like to say? Councilmember Peter Vallone?

COUNCIL MEMBER VALLONE, JR.: [off mic] I need to apologize, because we will be walking back and forth between these two meetings.

CHAIRPERSON FELDER: I should have said that. There is another hearing going on right across the home.

COUNCIL MEMBER VALLONE, JR.: And go Mets.

CHAIRPERSON FELDER: Anyone else? All right. Councilmember Garodnick, please.

COUNCIL MEMBER GARODNICK: Thank you very much Chairman Felder. And you're starting the hearing just a few minutes after 10:00. I think by all Council standards that's considered early and on time. So we thank you for that. And I wanted to thank you for the opportunity to participate today and to say a few words at the outset here since I am not a member of the Governmental Operations Committee. I want to play a supporting role in this hearing because

I think that there are a number of questions that are still unanswered about our City's preparedness for this November's elections and beyond. Some of those questions relate directly to new obligations created by HAVA, others simply about the way our local board is doing business. And they include questions about the number of poll workers and about their preparedness, questions about the way the new BMDs were publicized and their success on primary day; I should say at the outset that I and my family and a number of members of my staff all voted on the BMDs, which make us a significant percentage of the people who voted on the BMDs. So we have feedback and reactions for you; plans for sample ballots for voters to view in advance whether New Yorkers might be disenfranchised by a failure to double-check registration cards of unverified voters, whether we've taken steps to ensure all poll sites are accessible for disabled voters and whether we are in short ready for a high turnout election in November. This Council and this Committee needs to work with the Board and the Board of course needs to work with us to ensure that it is responding to these concerns as

1 well as taking bold and creative measures to
2 ensure both compliance with federal law, as well
3 as the smooth functioning of poll sites in the
4 upcoming November election. So again, Chairman
5 Felder, thank you for the opportunity and I look
6 forward to what I know is going to be an
7 interesting set of panels.

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9 CHAIRPERSON FELDER: In contrast to
10 the usual procedures, I am going to try my best
11 from now on to have a panel of people or advocates
12 or good government groups, whatever you want to
13 call, speak before any city agency and then have
14 the city agency speak. I think maybe it's just
15 one of my own hang-ups, but I think for too long
16 the city agencies have had the ability, and
17 nothing terribly wrong, to speak-- and then people
18 speak. I think it's about time that we switch
19 things around. And the Board of Elections, as far
20 as I'm concerned, has been doing a wonderful job.
21 You just happen to be the lucky ones for us to
22 start this improvement on this Committee. So
23 we're going to take a panel first of people who
24 have signed up. I have Alberta Orr Executive
25 Director of Disabilities Network of New York City-

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[pause]

CHAIRPERSON FELDER: Dori Resch

[phonetic], Lighthouse International. Rema McCoy, CIDNY and Neil Rosenstein of NYPRIG. And I'll let you decide on your own so I don't have to be the one making any trouble. You can decide on your own, whoever wants to start first. We've been joined by Councilmember Larry Seabrook. Thank you.

ALBERTA ORR: Thanks a lot. Good morning everyone. My name is Alberta Orr and I'm the Executive Director of the Disabilities Network of New York City. And I do have some comments included in my testimony that I'm sure will be represented by CIDNY, so I'll try not to-- I just want you to know that I have some of those, but I'll try not to repeat them. Over 70 organizations and thousands of individuals make up the Disabilities Network of New York City. The Disabilities Network believes that participation in American Society must include full access to voting in all aspects equally and independently. The Disabilities Network of New York City supports

voting systems that are accessible, secure, accurate and recountable. Sadly, many unnecessary barriers continue to restrict voters with disabilities from taking part in this and the most fundamental of American rights. Like our able-bodied friends, colleagues and family members, individuals with disabilities must be offered both the burdens and the benefits of citizenship and be able to participate fully and equally in American democracy. The Help America Vote Act of 2002 requires voting systems to be accessible to voters with disabilities, quote, in a manner that provides the same opportunity for access and participation, including privacy and independence for all other voters, end of quote. This section of the law captures the Disability Network's position regarding accessible voting. Voting access should apply not only to machines, but to the entire voting system. A voting system consists of those districts and equally important processes, making selections, verifying selections and casting one's vote. To be truly equal, voters with disabilities must be able to do each part privately and independently. To be true to the

spirit and intention of HAVA, every part of the voting process must be covered, from the voting machines themselves to provisional ballots, accessibility to voting equipment and the environment entered into by individuals with disabilities, including voting registration and poll worker training. Elected officials, legislators and advocates in each state are responsible for making HAVA work properly to ensure the most inclusive, timely implementation process. Under HAVA, states must meet a range of new federal requirements, including provisional ballots, statewide computerized voter lists, second-chance voting and disability access. Congress authorized almost 4 billion dollars for states to comply with these mandates and to approve the administration of elections. To be eligible for grants, each state must design a HAVA implementation plan, pass soliciting legislation and appropriate a small amount of state funds. I just want to note that according to the Department of Justice, jurisdictions must purchase voting systems, at least one per polling place, that provide independent and private voting that

includes all three steps in the voting process: making one's selection; verifying one's selection and casting one's vote. For individuals with disability ensuring an accessible voting opportunity is paramount to the Help America Vote Act. And I'm going to try to skip a few things that I think will be covered by CIDNY. To correct these problems, those identified by CIDNY's survey that is, which will be addressed, the 70 organizations which comprise the Disabilities Network of New York City and the thousands of individuals within them, recommend that the Council do the following. Commit to fully accessible poll sites; New York City is on our way to providing fully accessible voting systems, but what use will these systems be if voters with disabilities can't get to the polls or if support materials are inaccessible. Voters with disabilities still cannot be sure that they can trust their local polling site that it will be accessible, especially when they continually encounter the same barriers at every election, many of which require simple, low cost fixes, sometimes as simple as finding an accessible

entrance to a polling site. Number two; the Council should press the Board of Elections to develop a workable, solution-oriented plan to make all polling sites accessible. And New York City should make it a priority to fund every necessary improvement. Accessible voting sites are the law and New Yorkers with disabilities deserve no less. Additionally, all materials made available to the public and displayed on poll sites should be offered in accessible formats to people who are blind, visually impaired, including those in Braille, large print, recorded tape and computer readable formats. Number three; increase the number of accessible voting systems. New York City intends to place a single accessible voting system at each poll site each year. With some sites being as many as 12 election district tables, that will likely translate to long, cumbersome and difficult wait lines for disabled voters to get to the devices, unless the ratio of accessible voting systems to election district tables is automatically increased for 2008 and in the future. New York is years behind federal guidelines to conform to the act enacted to

improve voting accessibility and accuracy for people with disabilities after the contested 2000 presidential elections. By the fall of 2009, New York must replace every old-fashioned pole lever voting machine in the state and new HAVA-compliant machines. To date, New York has received 220 million in federal HAVA money, according to a report from the Election Assistance Commission. By the end of 2007, the state has spent just over 16 million. Inability and unwillingness to act is a poor substitute for inclusive public policy. Thank you for your time and attention.

CHAIRPERSON FELDER: Thank you.

Next?

REMA MCCOY: Good morning. My name is Rema McCoy. I'm the Voting Rights Coordinator at the Center for Independence of the Disabled New York, CIDNY. CIDNEY very much appreciates this Committee's attention to HAVA's implementation and its concern for voters with disabilities. I'm submitting, I see some of you have been looking at it, our latest poll accessibility report, which is based on surveys CIDNEY conducted during the September 9th primary. CIDNY teams of consumers

and volunteers visited 24 sites in Manhattan and Queens, finding barriers at 21 of those sites. Many of the barriers are problems that we've seen many times before, at the same sites, such as confusing or missing signage and obstructed pathways; and these can be fixed with very little effort, awareness and training. We hope that the Board of Elections is going to be much more proactive in addressing these barriers so that voters with disabilities can have confidence on election day that they can go to their polling sites and find the accessible entrance and get to their voting machines. Since this is the first time there was a ballot-marking device placed at every polling site in New York City, CIDNY piloted an individual consumer survey, so that consumers could communicate with us about their experiences with the accessible voting machines. So part of my comments today are based on individual consumer experiences as they voted on the accessible machines in their neighborhoods for the first time. And attached to the testimony that you've received that I'm delivering right now, some consumers have written their own testimony. So

that's separate from the report. That's, I think you've received my-- yeah, that one right there. So at the end you'll see some testimonies that consumers took the time to write. When things worked well, consumers told us that it was a great experience. Several reported that it was an improvement over previous voting experiences and nearly everyone said that they preferred to vote in their own neighborhoods with their neighbors. So they want to go out to their polling sites. We received enthusiastic comments such as, quote, I'm very happy about these machines; it makes voting much less daunting, end quote. Quote, I loved using it; this was easy and stress free and private, end quote. So for people for whom their sites are accessible and the machines are working, it's a great experience. But unfortunately at many sites things did not go well. We saw and got reports of machines that were not working, poll workers who did not know how to use the machines, machines that were placed in such a way that someone in a wheelchair or a scooter would have to actually ask that a table or a chair or even sometimes a machine be moved, so that they could

have access to the machine and be able to vote.

And in some cases, we found that the machine hadn't even been plugged in well into the day. So the Board of Elections has to considerably improve. I think the two points we really want to make is they need to improve poll worker training and voter communication. We understand that with the new machines they are going to be inevitable glitches, but poll worker training and voter communication are variables that the Board of Elections has control over. About poll worker training; we found repeatedly that poll workers were inadequately trained to operate the BMDs. Poll workers were put in the uncomfortable position of having to operate machines that they had actually never used before primary day. Voters were put in the uncomfortable position of actually having poll workers encroach on their privacy by watching them vote or of even having to ask for things to be moved so that they could access the machines. Not everyone can be as assertive about their rights as this one voter who wrote in that she actually had to ask poll workers to turn the machine because it was facing the room

and others could see, and therefore her vote would not be private. Voters came across poll workers who were trying to figure out how to put the ballot into the BMD for the first time. We have reports of poll workers trying to figure out how to use siff and puff mechanism, which they said had not been demonstrated during their training. At one poll site that we visited, poll workers said that all the people who had been trained to use the BMDs, none of them had shown up so they were winging it. The quality of poll worker training is the difference between voters with disabilities believing that they're welcomed into the civic arena with their rights intact, or feeling that they're still fighting to be treated as citizens. About communication with voters, nearly every voter with a disability who completed our survey said they would have liked more information about how the BMDs worked. We received called from voters who had contacted their local Board of Elections Offices and got confusing information about whether the new machines would actually be at their polling site and whether their vote would even be counted on

election night. So people are thinking, if they don't know that their votes are counted on election night, why would they use the machines? The Board of Elections has not utilized the communications outlets open to them to educate voters on the use of the new machines. It's difficult for those voters who cannot vote privately and independently, without the assistive technology that the new machines provide, it's difficult for them to understand why they're not getting more information about where and how they can vote. And due to the lack of information, voters with disabilities have little reason to believe that they no longer have to depend on absentee ballots or assistance from people they don't know, and can instead use the accessible BMDs at their polling sites. It's been mentioned that this turnout coming up is going to be like, 2,000,000 New Yorkers are going to vote in the presidential election. So these numbers are going to put a strain on poll workers and voters. And we're wondering what the Board of Elections is planning to do to truly provide access to voters with disabilities. It will be a bitter pill for

voters with disabilities to swallow if they're not able to join their neighbors voting at polling sites privately and independently because of inaccessible polling sites, non-working or poorly placed machines, ill-trained poll workers. Voters with disabilities have looked forward to the promise of HAVA and accessible voting machines that allow them to come out to vote, bring their children with them to see America's vote in action, and participate in exit polling and other election day events. So the promise was made in 2002 and New Yorkers with disabilities are still waiting for that promise to be filled.

CHAIRPERSON FELDER: Thank you very much.

DORI RESCH: Good morning. My name is Dori Resch. I am testifying on behalf of Lighthouse International this morning. The Lighthouse was established in 1905, and our mission is to preserve vision and provide essential vision rehabilitation services to people coping with vision loss. I'm going to talk just briefly about my own personal experience and then some of our suggestions. In February I voted in

the primary election, and as I entered the voting booth I discovered-- I am legally blind. I have progressive vision loss. I discovered that I could no longer vote on my own. I couldn't see the levers. I needed help. So I asked for help and I was not aware of how I would be able to vote or what my rights were. But after a flurry of activity and confusion and indecision, I was joined in the booth by a Democrat and a Republican, and they helped me vote. And the experience of voting independently and privately was lost. So when I returned to the Lighthouse that day to my office, I started to research what was available to me so I, at the next election, would be able to again vote independently and find out what was available to me in terms of accessible voting. In talking to my colleagues at the Lighthouse, there was very little information known. And I was quite surprised to learn that not many people asked. And I made the assumption that that is because when it gets to be too difficult, people just stopped doing it. And if people were not prepared to do a mail in ballot, which I wasn't because I made my decision that

morning, they probably weren't voting at all. So I called Matthew Sapolin, Deputy Commissioner Matthew Sapolin in the Mayors Office for People with Disabilities, and I told him about my experience and I asked him for his advice. What could the Lighthouse do to help people get ready for this upcoming general election and to spread the word about what was available and how they could vote independently. And Matthew suggested; he thought it was a great idea. He thought the timing was perfect. And he suggested that I get in touch with the Board of Elections and contact Valerie Vasquez [phonetic], who was in charge of the communications department, I believe. So I did. Valerie was not available, but at the time I spoke with Marcus Cederqvist, who had just been in the job I think for a few days. He was very, very helpful, but apparently I was a little early at asking these questions, and suggested that we would follow through. I did follow up later on with Valerie. She told me that yes, they would supply us with the information we needed. I offered the Lighthouse's partnership in sharing this information with our clients and consumers

and the people we serve. I heard nothing further and in further follow up really had no response. Last Friday we hosted a Lighthouse Technology Expo for people who are visually impaired to showcase assistive and accessible technologies that are available. We had a fantastic turnout of over 600 people interested in what's available to them. The MTA, New York City Transit, did participate. I asked again, I reached out to the Board of Elections in July, and invited them to participate and demonstrate the new ballot marking devices or even just to supply us with one that we would demonstrate. And our request was declined; because I believe the reason was that they would be busy canvassing after the September primary. So, we're still here six weeks before the election. And I personally am unaware of how I will be using this device or what I need to do to make sure that one is at my polling place, that it is available to me. I would prefer to vote on my own without strangers in the booth with me. And so we are once again in a position and ready and willing and asking to partner with the Board of Elections to help to get the word out, of course,

1 to stress the importance of training. I did go on
2 the website and I read what was available about
3 the ES & S Ballot Marking Device. I can tell you
4 I read it two or three times and I can't say that
5 I would know how to use it independently. But I
6 trust that and hope that at least one person in
7 each polling place will be trained to assist and
8 guide people who need these devices through. And
9 lastly we're hoping that, we believe, I feel very
10 strongly that for people who are visually impaired
11 having an opportunity to try one first makes a
12 world of difference and really increases the
13 confidence and the ability to use it. So, if we
14 could host, you know, a meeting or a gathering and
15 just to get a device and be able to give our
16 clients and patients and members an opportunity to
17 try it out, to become familiar with it would make
18 a world of difference. Thank you.

20 NEIL ROSENSTEIN: Hi. Good
21 morning. My name is Neil Rosenstein. I'm a
22 Government Reform Coordinator with the New York
23 Public Interest Research Group. Thanks very much
24 for the opportunity to testify today. I'll be
25 going over some specific questions we have for the

Board, as well as the City to help improve general election day coming up and general election days in the future. You know there's a saying that the Devil is in the details, and that certainly can't be more true when you talk about election administration, where the smallest change in election laws or procedures at a board office can impact on voters at the polls; and I'd just like to start by highlighting two or three of those. The first is the issue of ID. I think this Committee was great in early this summer having the Board actually say on record that they don't have the resources and they also haven't been following the law in ensuring that people who have been flagged by the state as potentially not being verified, as having to show ID at the polls, they don't have the resources to go back, follow state law and make sure that that wasn't due to a clerical error by the Board or, in some cases, by the voter. Sometimes-- Neil Rosenstein was entered in with an A; maybe it was entered in with an I; maybe a middle name or maybe a maiden name was put in. All of those cases should be reviewed. They're supposed to be reviewed by

state law, as this Committee so aptly demonstrated in June, and it's our understanding it's still not happening here at the City level. If the City has to come up with the resources for the Board or the Board has to find them and then just bill the City, it has to be done. ID at the polls more affidavits at the polls mean longer lines, more confusion. And in a general election year where we're going to have more than 2,000,000 people or 2,200,000 people showing up, that's chaos and that's disenfranchising for everyone in terms of what it does for conditions at poll sites. The second one also deals with kind of the minutiae of election administration and the statewide database, slightly related. The Board has been identifying people as potential duplicates, have the same name, perhaps date of birth as in other counties. A number of legal organizations and civic sent a letter to the State Board and the City earlier this summer as well, with concerns as to how that kind of purging process or that notification process is taking place. In the middle of the summer, letters were sent out giving people ten days to respond. We think the tone of

the letter was incorrect. We have serious concerns about whether or not the City, and indeed other counties across the state, should be using this database, particularly as the City points out, I believe the latest incarnation of the statewide database was never pre-cleared by the Justice Department; and that also raises, of course, extra concerns here in New York City.

Another administrative issue which came up, which perhaps also falls in the realm of technical glitch; we also had reports on election day, one in particular of one voter, the head of a very prominent legal organization in the city, who went to their poll site and all the Ls were missing from the poll site book. She knew that because her last name began with the letter L. This has happened in the past in the City, years ago, when for some reason there just wasn't enough computer memory and the end of a lot of poll site books, the Xs through Zs weren't printed. I think the Committee should try and find out from the Board what happened there. Maybe there was some collating error, but to try and make sure that doesn't happen on general election day, because

once again, that's chaos at the polls. On to voting systems; you know the Board of Elections has an extraordinary challenge in front of them. And I think all of our organizations and folks here want to help them and assist them. We also had stories about poll workers who were not properly trained. And we hope at the general election that those trainings will be reinforced. But listen; there are 850 folks use these ballot markers on the primary. That doesn't seem like a lot. General election, there's going to be ten times the turnout. You're talking about 8,500 to 10,000 people who want to use these devices. And here, I think, is part of the responsibility of the City to come forward with the resources needed to have dedicated staff sitting at those ballot-marking devices. What's going to happen? On general election day, if someone wants to use a ballot marking device, are they going to have to wait to bring someone from a table where other voters are using the lever machines, so the lines slow up in both places while we're waiting? They have to get the poll site coordinator perhaps to come over. That's wrong. We're still hopeful.

There's time for the City to come up with those resources. It's common sense. You know, you can have accessible machines, but you also need accessible poll sites and you also need people to help run those machines and not to the detriment of other voters in the poll site. Just going on; early this summer also this Committee questioned the Board on a number of common sense reforms and other steps that could be taken before election day to improve conditions at the polls. I think also I want to start by saying the Board deserves praise for their new poll site notice. It's a lot clearer and that's the kind of change that we think is good for voters. Unfortunately, state law says send out the poll site notice in August, right? Eight percent of the people voted. Who is going to be keeping their poll site notice from August at the November election? That other 92% of the voters need a poll site notice closer to the general election day when they're showing up at the polls. And that's also something the Board has indicated they would send it out. We really hope the City will come forward with those resources. It's something which still could be

done before the election. You're cutting down on confusion. You're cutting down on people going to the wrong polling sites and losing their votes on affidavit ballots and everything associated with it. Similarly, we'd love to see the use of technology, something else, I'm going to end with this, which we think still can be done before election day. And that's-- even if it's just an initial step, one assembly district in each borough, we should be putting sample ballots-- it doesn't have to be the facsimile, the actual ballot on the website when people use that poll site finder, they can actually find out what their ballot is going to look like, so when they go in they're not standing there and saying, state assembly, state senate, and they didn't even know that those races were on the ballot. It slows down lines, adds to confusion. And before Election Day as well, the City and Boards did a very good job agreeing to use 311, putting the poll site locator on their website. I thin it would be a great idea if in the subway instead of Dr. Zitmore [phonetic] leading up to election day we had posters saying call 311 or go to VoteNYC to

find out your poll site. I think that would be a lot more useful. I know it's allergy season, but nonetheless, I think for the voters that's the kind of fast initiatives that I wanted to focus on today that I think could still be done before the general election. Thank you.

CHAIRPERSON FELDER: Thank you very much. We've been joined by Councilmember Inez Dickens. Councilmember Dan Garodnick has a question.

COUNCIL MEMBER GARODNICK: Thank you, Mr. Chairman, and thank you all for your testimony. Just to share my own personal experience with you, I did vote on the BMD machine, and as I mentioned in the outset, members of my staff, family and others, we all experimented. I can speak from my own opinion that the machine itself was pretty easy to use. The problem was the surrounding atmospherics; the fact that the boxes were not assembled for you put your ballot in; the fact that people didn't realize that there were privacy mechanisms that were available to you; the fact that I was the first in my poll site to even ever use a BMD

1 machine and therefore had an army of people around
2 me, very enthusiastic by the way, to help. And I
3 did not, you know, because I wanted them to see
4 how it work, I invited them all to come and watch
5 me vote because I didn't really have a particular
6 concern about my privacy. I had already made my
7 public endorsement, so it didn't really matter
8 anyway. But I wanted them to be there--

9 experienced a paper jam right off the bat. Nobody
10 knew exactly how to put the paper into the machine
11 and there was not a specific instruction on the
12 machine as to what direction you should put it in.
13 We figured it out, but it was fine and easy when I
14 was the only person in the entire voting area on a
15 very low turnout day to play around with it. But
16 it raises, of course, the concerns about what
17 happens in November. So let me just ask a couple
18 questions here. First is, you know, how many poll
19 workers do you think we need at each site to be
20 able to properly administer these machines?

21 That's a question for any of you, because it's new
22 technologies, it's new machines. I'm sure the
23 Board of Elections has some ideas as to what that
24 should be, and they've put out specific numbers on
25

that. What do you all think in terms of to be able to adequately operate and to make sure that we have a fair flow on a potentially historic high election, 2,000,000 plus, whatever it ends up being; what do you think that they need to do?

DORI RESCH: You know I really think that if there's one device at each polling place, you need to make sure there's always one person attending to that device who is an expert in its use. Everybody doesn't have to know how to do it, but one person has to be dedicated at all times to be available to help a person get through whatever their needs are. So one person to be trained and available all the time and really expert, knows everything about how this ballot marking device works.

COUNCIL MEMBER GARODNICK: Anybody else want to take that? I think that that's a reasonable answer. Did you want to add?

REMA MCCALL: This is sort of an attachment to where you're going with that concept, sorry, which is that I went to the BMD demonstration at Selis Manor, and there were people who were concerned about the idea that

there might only be one ballot marking device at a place like Selis Manor, which is a home for people who are blind and have low vision. And that on the general election where you're going to have so many people trying to vote, if you have one or maybe even two ballot marking devices-- and it can take a really long time. It can take 40 minutes for somebody who is blind to listen to all the choices; that could present a really big problem. So that's not exactly an answer to your question, but it's related.

COUNCIL MEMBER GARODNICK: No, but you raise an important point, which is that there may be particular voting locations in which the minimum requirement of one BMD machine may not make any sense. And we'll ask the Board of Elections whether they have incorporated that into their process and whether at areas like that, whether there are actually more BMD machines, which would of course make sense. Let me go to the other question that I had about making people aware of the BMD option. It's my impression that very few people in the City of New York know about the existence of these machines. Most people who

don't think that ten demonstrations around the City is nearly enough. As many outlets, as many opportunities to communicate with the general population and let them know is so important. And I think, yes, partnering with non-profits and other agencies that have a certain constituency is critical, because there is no way that, you know-- first of all, I don't think that I would probably venture into a place, one of these ten locations personally, you know, unless it really was convenient and worked out perfectly for me. Also, I want to just go back to what you said about a sign. You know, particularly for the population of people who are visually impaired, signs are meaningless. So I hear all the time, well there's a sign there that says, you know, whatever. Well, we don't see the signs. So, marketing to a group of people with low or no vision, you know, through print is really not the right way. So it has to be really vocal. I mean I would imagine, you know, it should be on the news outlets. There should be a lot of PR involved in this. Everybody should know that these are available and, you know, it's also my understanding that in the near

future these will roll out for use by everyone. So, it's, you know, it's information that needs to get out there in as many ways as possible. And ten seems extremely inadequate to me.

REMA MCCALL: I wanted to make a comment about the question of getting it to advocacy organizations. I got a phone call last week from Edith Prentiss from Disabled in Action, and she was saying that they were holding this huge senior fair this past Wednesday, and they wanted to have a ballot marking device at that fair, because they were going to have hundreds of seniors coming who knew nothing. She told me they know nothing about the BMD. She said she tried to get a hold of the Board of Elections here, and they were unable to provide a ballot marking device or even a staffer. But that would have been a great way to reach a lot of people. So thank you for bringing up that point.

NIEL ROSENSTEIN: Just as a quick-- I mean the Board does have some HAVA money for voter education efforts and they have to pace that between this year and next year when the lever machines also will be phased out. I think it's a

good idea for the Council to delve into that, what percentage is being used this year. I also amend my suggestion for Dr. Zitmore [phonetic], it only being about using 311 and a poll site locator, there's no reason that kind of public campaign, which is relatively low cost, I believe the City has rights to place some adds at times, also couldn't be put up in the subways. And there was four years ago, to their credit, the Board did an electronic voting machine demonstration in Grand Central Station. And my assumption is if the Board took a team and went down, not where there are commuters as much in the plaza, but down in the subways, which is also a good test for the machines with all that grime, and you know, sat there for, you know, a day, that they would probably be able to get, you know, more people than probably at any individual community events. And I think it would be interesting to ask, with their budget, if there's dedicated staff that are able to go out every single day just to public locations, not to a particular event or a meeting where there are a lot of folks.

COUNCIL MEMBER GARODNICK: Thank

1
2 you. I think what we're hearing from you all is
3 that there is a lot more that the Board can be
4 doing to bring it directly to people and make it
5 very, very easy and partnering with the
6 organizations, like many of yours, that actually
7 can make it very, very easy for disabled voters.
8 I just wanted-- one point on Dr. Zitmore
9 [phonetic], I think as a noted dermatologist; I
10 think he might object to that slight
11 mispronunciation of his name. I think it's
12 Zizmore; but that's neither here nor there. And I
13 just wanted to be clear that you all have not
14 gotten, in any request that you have made to the
15 Board of Elections for the display of machines,
16 the response has been no or has been no response?
17 I just want to make sure that I understand,
18 because we'll ask them about that in a minute.

19 DORI RESCH: I did make a request.
20 The initial response was, we'll get back to you
21 with information, but not with a machine. And
22 then my direct request and offer for the Board of
23 Elections to provide a machine to our Expo last
24 week was declined.

25 COUNCIL MEMBER GARODNICK: Okay.

Any particular reason offered?

DORI RESCH: I was told that it was too close to the September election, and that they would be busy, if I'm not mistaken, re-canvassing.

COUNCIL MEMBER GARODNICK: Okay.
Thank you. Thank you very much.

CHAIRPERSON FELDER: Councilmember Recchia?

COUNCIL MEMBER RECCHIA, JR.: Yes.
Thank you for coming here and testifying today, because on election day, this picture that you have right here, this is what was seen in many of the voting booths and polling places in Brooklyn. And I wish your study would have covered the borough of Brooklyn. And when I stood in some polling places for a period of time, I asked the coordinator how many people voted on that. And you know, they go, we don't know. They just came here and dumped it off. Okay? Now this was more than one polling place. Okay? There was no one there encouraging people to try the new machines. All they wanted to do was keep status quo, get paid their money, sit there, not hear a thing, not be bothered, not go out of their way. And this is

something that we have to change. Now I believe you've got to have good-- I support what you said, by having maybe two people at every polling place just working with these new machines; and two people that know what they're doing. And that's going to encourage that. So, I just, you know, I have to say I wish your study would have covered the borough of Brooklyn, because you would have been surprised in what you found. And, you know, I went into another polling place like a quarter to 9:00 and they already had this machine already wrapped up. Okay? So those people that came running in late, even if they wanted to, they couldn't have done this. Now, for those machines that were working, the complaints that I'm getting back is that these new machines, is that how come the computer machine does not give a total, does not total out the tallies, why you still have to count the paper ballots. And that's where they think that there might be problems. Have you gotten any feedback about that, about the closing of the polls and what will happen and what could happen?

NEIL ROSENSTEIN: Well, I can see

that as a natural inclination of poll workers to say, wow, there's this computer, it's doing all of this. Why can't it just count the votes too?

COUNCIL MEMBER RECCHIA, JR.:

Exactly.

NEIL ROSENSTEIN: But, I mean that was a very conscious policy decision. The notion of having a computerized voting system that tallies the vote is one which has a lot of folks particularly concerned with security and how well the machine is counting what is put into it or is subject to tampering; very, very concerned. And I think a lot of advocates were very pleased that the Board went with this system where you can have all those bells and whistles to assist voters in helping fill out their ballots, either language access or physical access, but at the end of the night, we shouldn't rely on that computer. And there's this tangible paper ballot that people-- it's a little extra work, yeah, but people are going to have to read and tally. Now the good news is-- or I wouldn't say the good news for those poll workers, is next year there'll be a scanner potentially introduced if the board goes

that way, which those ballots will be inserted into, which will do that automatic tallying. But the paper ballots will always be there for a recount. So this year is a very odd one for those ballot-marking devices. It's not the full system; it's only half of it. So it should get a little easier, but also a lot more complex next year when everyone might be filling out papers.

COUNCIL MEMBER RECCHIA, JR.: So in 2009 when the inspectors close the booths, there is going to be a device that they put a piece of paper in and get a final total?

NEIL ROSENSTEIN: Well, it's a bit different. Actually the process will be, if-- and once again, the Board hasn't made a final determination on their system, is if the lever machines are gone, which they're scheduled to be; a court order agreed to be--

COUNCIL MEMBER RECCHIA, JR.:
[Interposing] We hope.

NEIL ROSENSTEIN: If the levers are gone, most voters will be given the choice of filling out that paper ballot by hand or use the ballot marking device. When either of those

ballots are finalized, the voters with assistance or individually, will after at that time insert them into the scanner. The scanner is another way for a voter filling out a ballot by hand, for it to be rejected to say if there's an under vote or an over vote. Right? As opposed to just putting it in a box, that voter who filled it out by hand inserts it into the machine and the scanner will say, hey, you forgot to vote on a race. So the process is a twofold one for ballot marking device votes. They use one machine to print it, another machine to put it in. The scanner will have the benefit of having a tally at the end of the evening as opposed to individually counting all of those paper ballots. But the paper ballots are there in case there's any discrepancies.

COUNCIL MEMBER RECCHIA, JR.: So next year in 2009, they're going to have the choice of using the machine or using the paper ballot?

NEIL ROSENSTEIN: That is what's anticipated. The Board is scheduled to make their final decision on a voting system, you can ask them, I believe it's November 7th, or sometime in

mid November. I'm not sure if that's still it.

COUNCIL MEMBER RECCHIA, JR.: Okay. Well we'll hear from them. We'll ask them when they're going to make their final decision. Okay. I just want to thank you.

CHAIRPERSON FELDER: Are there any other questions? First of all I want to thank the panel. A lot of the questions that we had prepared were asked by my colleagues and many of them were answered before we had a chance to ask, which shows that I have an unbelievable staff and we had an unbelievable panel. But one thing is very clear to me, that the system that we're putting in place of having a panel that does not represent the City first is a very good idea, despite the fact that it was mine. It is a good idea, because it doesn't mean that we listen to you and we agree to everything that you've said; but what it does mean is that when the Board, in this case, the Board of Elections comes up, hopefully they will have a chance to respond to at least a sampling of some of the concerns that were raised, instead of what is normally done, which is to ask the administration or an agency to leave

someone here to listen to it, which is also good, but it's a lot more exciting this way, certainly and maybe more informative. So I thank you very much. And now we'll call on the Board of Elections. We have Marcus Cederqvist, from the Board of Elections with Steven Richman and Pamela Perkins. Whenever you're ready, we're ready.

MARCUS CEDERQVIST: Sure. Thank you, Mr. Chairman. Thank you very much, members of the Committee. My name is Marcus Cederqvist. I'm the Executive Director of the Board of Elections in the City of New York. I'm joined here by Pamela Perkins. Can you hear me okay? The Administrative Manager at the agency and Steven Richman, who is our General Counsel. I want to thank you again for this opportunity of letting me appear before you today. Much has happened since we last appeared before your Committee on June 23rd, most notably the recent primary election on September 9th, where the Board of Elections in the City of New York for the first time implemented the ballot marking devices at ever poll site throughout the City, every poll site that was open and had a primary. Foremost on

the minds of the members of the Committee is certainly whether the Board successfully complied with the federal order by Judge Gary Sharpe of the United States District Court, that every poll site be equipped with a HAVA-compliant, handicap accessible ballot marking device, beginning with the recent election. The Board fulfilled its obligation to provide at least one of these devices at every poll site, and in that sense it was successful. And actually one point I want to make is, because somebody brought it up, we do put in certain situations more than one ballot marking device in a poll site, and we mentioned that to you previously, I believe definitely at the last hearing and probably in some of the budget testimony as well. There's a formula we have for the number of voters in a poll site, the total number of voters that go to a poll site, and how many election districts are in that poll site.

And I can't tell you off the top of my head, maybe John could tell me what the criteria is. But, you know, if we hit that threshold we'll put an extra ballot marking device; specifically Selis Manor, because she brought it up, we had two ballot

marking devices at that poll site because we knew there would be a large constituency for it, and we're looking to have even more than that at the general election. So, anyway, that's that.

CHAIRPERSON FELDER: I'm sorry, station break. I just wanted to take credit for something I had nothing to do with and say it's as a direct result of our pressure that you suddenly agreed to put--

MARCUS CEDERQVIST: [Interposing]
No, well unfortunately I can't agree with that. But anyway, be that as it may. Given that this election represented the initial deployment of the new BMDs, we were fortunate that voter turnout was low. Slightly more than 222,000 voters turned out to vote in a primary election, representing approximately nine percent of eligible voters, that's, you know, people by virtue of their party enrollment that happen to have a primary in their neighborhood. In all 851 ballots were cast that had their selections marked by a BMD. And for those of you-- it sounds like some people aren't familiar with what a ballot-marking device is. Just so you understand, a ballot-marking device

does not count votes. A ballot-marking device, really think of it as a giant pen; it marks a ballot for somebody that either cannot do it on their own or would prefer that the machine do it for them. It doesn't count votes. It really is a giant pen. You go through a menu with different types of devices that accommodate different types of disabilities, and go through the selection of how you want to cast your vote, and it literally just marks that ballot for them. Looking ahead, forces beyond our collective control have placed a tremendous burden on this agency; and I must be candid in stating that we have concerns regarding their potential impact on the upcoming presidential election. In a very literal sense, a perfect storm has developed where we're implementing an entirely new and additional voting system throughout the City under a federal judge's order, while conducting an election in a presidential race that we anticipate will generate an enormous voter turnout, at the same time when City support of this agency has been reduced significantly. This hearing is not intended to be a budget hearing, and I'm not intending to coax

that into becoming a reality. However it's difficult to ignore mentioning the lack of adequate resources at a time when the task has expanded significantly and make guaranteeing that there will be no issues or problems on Election Day a fool's errand. In our previous appearances before you, members of this Committee could not have been more unequivocal in their stated support for adequate resources, specifically the need for additional poll workers on election day, dedicated to serving the voters using BMDs. Regrettably, when the fiscal year '09 budget was adopted only a few days after we last met, these needed resources were not included. The Commissioners of Elections and the staff at the Board are fully cognizant of the austere physical climate that exists, as anyone who attends our regular Tuesday meetings can attest to. And a lot of these people do attend the regular Tuesday meetings. Simply stated, we are doing the best we can with the limited resources that we have. Early this spring, the Board staff, with the assistance of Gartner Consulting made an assessment and recommendation for poll worker deployment

enhancements that would allow the Board of Elections to best serve the voters with the addition of the BMD at every poll site. This draft plan was circulated and shared with various levels of government. As the general fiscal climate deteriorated throughout the spring, the staffing consultants developed a greatly reduced plan that, while not as comprehensive in scope or the level of service, would at least provide some minimal level of dedicated support for voters using the BMD machines. When the fiscal year '09 budget was adopted and there were no additional funding for the new poll workers, the Commissioners approved a plan often referred to internally at the Board as Plan C, where some of our existing poll workers would receive additional training on how to use the new BMDs and would be charged with the additional responsibility of assisting voters who wished to use these machines. I've taken the liberty of attaching a copy of the Plan C to the written testimony. In accordance with this plan, 3,236 of the 28,000 plus poll workers who worked in the primary election on September 9th received supplemental training

lasting 30 to 45 minutes on the BMDs. These poll workers were identified for the added responsibility based on specific criteria such as previous service. Of the 1,134 poll sites that were open on Election Day, 180 of them were staffed by poll inspectors who did not receive supplemental training on the BMD, although the poll site coordinators did receive such training. Also, as you know on Election Day, we have a reserve pool of standbys who go out to fill vacancies when people don't show up to work on Election Day. At the standby sites we did have training for the standbys that morning. So they were receiving some training before they went out and were deployed that morning. It's important to note that these BMD poll inspectors have been asked to assist voters in using the BMD in addition to their regular duties in processing and assisting voters using the lever machines. I'm not aware of any complaints specifically aside from what I've heard here this morning, but people haven't called me personally with complaints about the fact that they were multi-tasking. But, you know, I'm definitely concerned about the general

election, as we've heard here today, because the turnout is going to be significantly more. I also wanted-- well actually I'll skip this part and leave it to the written testimony. But it does talk a bit, and I plead with you to read about some of the work the Board staff has done with regard to getting these machines. You know we began receiving the machines in mid July, and then all the machines were tested. We're talking almost 1,800 machines. They were tested, then set up for the machines, and then in accordance with state regulations, they were tested with the ballot. And every single machine has to be tested with every single type of device and every ballot style. So some machines you're talking, I think John, right, upwards of 16 ballots have to go through a machine? It has to be tested 16 times per machine. Multiply that by 1,800, and that will tell you the kind of time that the staff put in. I mean we put an enormous stress on the staff to get this done. The amount of overtime, frankly, was significant. I guess if I could use a euphemism for obscene. It was an enormous amount of work. On Labor Day, when everyone was

gone, all our voting machines were open; all our staff was working to get these machines tested so that we could have them deployed for the primary election. So, you know, just in terms of talking about the fact that this is a presidential election year, I should also mention that the staff is stressed in other points aside from just machine deployment and things like that. Voter registration, we've already received 200,000 voter registrations this year that have been processed. If you go back-- as you know, presidential election years, there's usually a spike in voter registrations, and we definitely anticipate this again this year. This is one of the areas where we've pleaded with advocacy groups or just political organizations or whatever, that often like to collect voter registrations throughout the year and with a little bit of a press hullabaloo bring them down to the Board all in one big bunch right before the filing deadline; what ends up happening is we end up with tens, and tens, and tens of thousands of voter registrations that we have to get processed in only a few days and into the system. This is one of the years where some

of the good government groups have actually been very helpful and have been bringing them in in a trickle instead of dumping them on us at the end.

I mean, that's one way, one of the best ways to try to avert human error is by not dumping that much work on the staff all at one time. What

happens is we do get a lot of voter registration forms and we end up literally working around the

clock with split shifts because we have to stay

open 24 hours to make sure that all these voter

registrations get into the system so that the

voters are in the books on election day and can

sign in and vote on the machines. And also for

those groups that do bring an enormous amount of

registrations right on the filing deadline, you

know, I will be looking at the voter registrations

and if they're voter registration forms that were

filled out in the spring and the summer and those

people would have been entitled to vote in the

primary election, I want to let those

organizations know about it. I've talked a little

bit about voter turnout. If you look in the

written testimony you'll see a breakout of past

turnout in presidential elections. Kind of going

from a high end, I mean voter turnout has decreased over the years going back in the last century, but if you go at a high in one of the elections where New York State was really in play was 1980, you had an 80% turnout. More than 2,000,000 people turned out to vote. We also had a tremendous turnout in the last election, which was 2004 and that was only a 61% turnout of registered voters, but it was still almost 2,500,000 people that turned out to vote. So, you know, now I'm not really in the political world or looking at polls or anything like that, but what I'm hearing is that New York State could conceivably be in play. If that's the case, then it elevates voter turnout, given what the enrollment is now, you could have actually 3,000,000 people showing up to polling places in New York. And you can imagine that will put a tremendous stress on the system. Given this expected activity, it is difficult to characterize the recent primary election as an adequate test run of the new voting system. Although some knowledge and experience was gleaned by the staff during the initial deployment of the BMDs,

especially concerning the use and modification of the election management system software and the logistics of literally deploying the machines, the people on the front lines on Election Day our poll workers, did not benefit from the BMD scarce use on Election Day. Our effort to inform the public about the new BMDs continues. Our office organized and held five public demonstrations of the BMDs, one in each borough between August 4th and August 11th. We invited all elected officials throughout the City to these events, as well as the Community Boards and numerous advocacy groups. The demonstrations provided any interested person an opportunity to ask questions about the BMDs and actually test the devices with sample ballots. We're continuing this outreach effort. We've scheduled ten more demonstration events for the public from October 2nd to October 15th. We encourage anyone interested in learning more about the BMDs, or who simply wants to give it a test-drive, to attend. Again, I've taken the opportunity of attaching the schedule to the written testimony. I hope you all have that. And I want to make one more point about some of the

requests about having a machine and things like that. This was based partially on the experience of my predecessor, who had ballot marking devices, as you know, that were isolated to super poll sites. But anyway, we had a previous version of ballot marking devices. In his public outreach efforts, he did try to attend a lot of individual community events and found at times that the turnout was not necessarily commensurate with the effort it took to get it all done. I mean as you know, you bring a BMD, granted it's not the 800 pound gorilla that our lever machines are, but it still takes a trucking-- you know, we have to get a truck to bring it out to a site and everything like that. It's a bit more of an effort than just kind of getting on a subway and showing up to a place. There was a decision by-- actually as I mentioned before, we have a whole work stream and project plan structure for this implementation. And there was a decision by our public information work stream that the best way to go is to encourage everyone to attend the events that we organize and to try to get everyone there and work in partnership with the Board in trying to get

people who are interested in seeing these devices and trying them and everything to actually go to these events. I believe all the groups that have spoken so far were on the mailing list for that. I know all the elected officials were. Some staffs of elected officials showed up at the demonstrations, and actually one of your colleagues in the Council, Dr. Eugene, did attend the event in Brooklyn. So they were fairly successful. Turnout wasn't what we wanted. You know, we attributed that partly to the fact that it was the summer, hopefully in August maybe as many people weren't around. But I think interest is going to grow and we definitely want to see better turnout in the upcoming events, and we encourage all of you to attend. One final note in closing; in an attempt to remain on topic for the purposes of this hearing, I have limited my discussion to topics concerning the 2008 HAVA implementation for the primary and general election, and have not mentioned that in the coming months the New York State Board of Elections is scheduled to certify a new voting system that will replace the lever voting machines

that have been used for decades throughout the state. Nonetheless, this is something that this Committee should be aware of and that we look forward to discussing its impact with you as well. The purpose of this agency continues undiminished and unabated, to ensure the fair and accurate conduct of elections in the City of New York. I want to thank you again for your time. And as always, my staff and I are here to answer any of your questions.

CHAIRPERSON FELDER: Thank you very much. We have Councilmember Sears.

HELEN SEARS: Thank you, Mr. Chair. I'm sorry I have to leave for a meeting in the District. But I just wanted to make a couple of comments that I think the Committee should consider, with all due respect to all the comments that we've heard. Since I get very involved in the elections every time, you should know some of the challenges that those who look for poll workers-- I was looking at the numbers of the letter that was sent to you in response to the questions you had. In the primary 2007 there were 18,000; I'm just going to round the numbers off.

And unfilled positions were 992. In the 2007 general election, 37,000 were assigned workers and 1,930 positions were unfilled. In the 2008 presidential primary there were 39,000, I'm just rounding off the numbers, assigned. And there were 1,802 positions unfilled. Most of the time those positions that are to be filled are what the leaders in all of the boroughs have not filled. And it falls to the Board of Elections to do that. That is an enormous thing to do. On the day of an election, any leader's phone can ring at 5:00 in the morning that an inspector is sick and cannot show up. So that problem is part of what are the unfilled positions. And at 5:00 in the morning I can tell everybody, that is not an easy job to do. So one of the major things that the City of New York I think needs to concentrate on, and where the monies, where everybody has got a right to vote, should come from the state and the federal government. And the City should be concentrating with the monies that we do, and they're not very many, and when we have to cut so much of what goes to the Board of Elections gets cut, is that we need to concentrate on having poll workers, seeing

that they get trained, because the City and leaders are responsible for providing those poll workers. And it's not the Board of Election that has a fault with that most of the time, because they get to fill in what is not filled. And that is enormous undertaking to do that. So I think when we look at unfilled positions and look at what the Board is not doing, elections in this City are the most difficult, the process is the most difficulty, manpower is in enormous shortage, enormous. And unless you have a poll worker at that poll, people are waiting. And they're waiting a long time. There are elderly that can't see well. We need younger people to work at the polls. Mothers-- on primary schools are open. They're only closed at a presidential election, which means that you cannot get younger people who have families or women who have kids in school that can fill in those lengthy days. All of that is part of putting our heads together and seeing how we meet what everybody's talking about. I would agree-- and as far as the machines and how faulty they are, we must remember we're probably the only city, and you'll correct me if I'm wrong,

there may be some more, we don't keep our voting machines where they are used. After they are used, they are carted to some godforsaken places. And remember when they are pulled out they get damaged. They literally get damaged. Half the times they get to a voting place and they need to be in repair. Somebody can't vote. It is not-- those are the things that this City of New York has severe problems with. And those are things that I think we need to look at, because they hamper the smoothness of having an election process continue without a cumbersome challenging thing. And I would be remiss if I didn't make those comments, because it's not just whether a machine is there and you've got one in every one; the fact is they need workers. But what makes it much more difficult is the fact that we do not meet the challenges to go to the polls and vote. And we have a responsibility in this city and this Committee needs, I think, to look at it. And we should advocate for the state through the federal government to provide the dollars so we can concentrate on what I'm talking about, because it's the federal government's responsibility to

see that each and everyone has a right to vote. It's not just a municipal responsibility. And we're amiss in really advocating that. And the state legislature certainly has not been at its best. So I bring that up because I think in all the considerations and we look at, and the monies that get put in, we are going to continue to diminish the use of those monies wisely because of the things that I'm talking about. Thank you very much.

CHAIRPERSON FELDER: Thank you.

HELEN D. SEARS: I appreciate that.

CHAIRPERSON FELDER: Councilmember Dickens?

COUNCIL MEMBER DICKENS: Thank you so much, Mr. Chair, and than you for your testimony. And to just speak for a moment on what my colleague Helen Sears spoke about, about the unfilled positions; to be perfectly honest, even on the voter registrations there's a space where a new registrant can check off and say they're interested in working as a poll worker. The district leaders, the elected, can all submit names to the Board. People have to take the

training. Now I've got a problem, I've also got a problem with the Board, but to be perfectly honest, they try to do as much outreach into the community as possible, because they do go speak to the elected, they call them, they call the district leaders, they try to encourage them to fill all of their slots. If you're registered as a new register or changing your address you can check and say I'm interested. I do get calls at 5:00 in the morning that someone is not going to show up. However I try to maintain a list of people who have taken the training but have not been assigned, for the last minute. And the Board also, to be truthful about it, has a list of people that they try to send out citywide no matter where they live, so that sites are filled. So I just wanted to say that in defense of them, because they do try to do that. But now, in not defense of that; in talking about these new BMDs, by the way-- my husband was recently diagnosed with severe RP, Retinitis Pigmentosa. He's got a lot of help because he's just now joined Lighthouse and Visions to get assistance. And we went in September and saw for the first time the

BMDs. And he would not vote on it. And he was afraid of the privacy issue, number one. He was afraid in asking the question about who was going to count his vote, that it was going to be counted there and whether it was going to be counted. He had severe issues. And of course I was with him, so I was able to go to be of assistance. But if he goes alone, then he's-- I'm fearful about what's going to happen, because he has some issues with that machine. And I just wanted to put that on the record, because when we got to the polling site, there was only one person in the whole school that was able to assist him with how to work the machine. That was number one. And it was not set up for privacy. So, you know, and when I spoke to my club members to find out what they had to say, and they said that at least one person was supposed to know how to work it, not necessarily everybody. And also, just before you do respond to that, the Board, Tim Gay [phonetic] has informed me that they are trying to make arrangements, Chair, to bring the machine down here to give a demonstration to the entire Committee as well as any of the Council Members

that would like to see. And I don't know whether you've been noticed of this and has a date and time been set yet?

CHAIRPERSON FELDER: Notified, but we don't have a date yet.

COUNCIL MEMBER DICKENS: All right. Well, because I would hope that the Board would notify my Chair as soon as possible, so that date can be set and he can timely notice the other Council Members so that as many of us as possible can be here to see the demonstration.

MARCUS CEDERQVIST: Sure. I'm going to begin with what you mentioned at the end with regard to the demos actually, because I've got to give you all the credit for that idea. I know you had a conversation with one of our Commissioners that was the genesis of this. And then at his request I contacted the Gov Ops staff and I've been in touch with Edwin Moya [phonetic], working on a schedule. Actually I did talk to him yesterday and I think he said that he wanted to do it on the 16th of October, but you know, because I'm on the record don't quote me on that because I want to make sure it's correct. But I believe

it's the 16th of October and obviously I'll work with him to make sure that that information is circulated to all of your colleagues. And then our staff will be here to explain any, you know, questions. And also you'll be able to use the devices just like any of the public demos. With regard to your husband's experience, first off, you know, I apologize for that and I largely agree with you. As you heard in my testimony, we wanted dedicated poll workers for the BMDs. I think his experience would have been very different if we had gotten that. And again, this Committee, especially, was very supportive of our request. Unfortunately it didn't materialize in the budget, but they were very supportive of the request. And you know, I guess I have to quote one of your colleagues who isn't here now, but was at one of the previous budget hearings when he said, if things go wrong, we're going to come back and say, what did you expect us to do? Well, in something of a sense, I'm doing that right now; is that we wanted these poll workers that would have been there specifically to help your husband vote on the BMD on Election Day and we didn't get that.

And we're trying to make due the best we can with the resources that we have. We're trying to train some of the poll workers to take on this additional responsibility. Now keep in mind, they're not getting paid more to take on this responsibility. They're not getting-- you know, we can't give them any extra money for training than we do for everybody else. We're literally saying, you're kind of the cream of the crop; we're asking you to do this as well. With regard to the way-- his concerns about privacy or anything, we do have procedures for how the machine is supposed to be set up at the poll site. You know, it's supposed be set up so that it's facing a wall so no one can go behind them, all these things. And there's procedures for that. We have cheat sheets that go out with the machine on Election Day so the poll workers can refer to that. If it's not done properly, obviously, we have a hotline. We have 80 monitors that go out and troubleshoot all day. We have Board staff that goes out and troubleshoots all day. And when we have complaints, we want to know about them. I mean we beg people to call us and tell us what

they are so that we can go address them. I was talking to one of the leaders of an advocacy group-- after Election Day one of the things I try to make a habit is call them and just try to get a sense of what they heard in the street, because frankly the election day I'm sitting in my office, you know, taking calls and things like that, but I'm not out there, which is frustrating. So I make a round of calls and I pretty much spend all of the day following the election doing that. And one of the people referred me to a situation where he said somebody who was high profile, and I can't pretend that I remember who it was, said that he went to a polling place and it was a certain time of day and the BMD wasn't even open. I was like, okay, did you call it in. And he's like, no, I'm telling you. Well this is the day after the election. What good does that do? I mean you got to let us know when there's a problem so we can go address it right away. Anyway, I know I might have gone a little off topic there, but I hope I answered at least some of your concerns.

COUNCIL MEMBER DICKENS: That's all right. But to be perfectly honest, the average

voter doesn't know where to call. And to call the Board's number-- it's frequently very busy. They're put on hold, because you're busy. And that's a busy day, Election Day. And I recognize that. But a voter, an individual voter that's calling down, they don't realize that maybe they might have to call back again, maybe they might be put on hold for a period of time, or they might have to leave a message. And--

MARCUS CEDERQVIST: [Interposing]
I'm sorry. Steve is itching to say something, so.

STEVEN H. RICHMAN: Council, thanks to your support and funding over the past years, the phone bank has been expanded so there's no one here in Manhattan with 60?

MALE VOICE: 40.

STEVEN H. RICHMAN: 40 operators and another 20 in Staten Island. If you call the toll free number on Election Day the wait time is really limited. It's very short, especially in this primary when literally with 200,000 people voting we didn't have a major turnout. The problem is, is we don't get information timely. As opposed to Marcus, I was out in the field. I

1
2 was in four of the five boroughs on Election Day,
3 and we had some problems of course, but the
4 biggest problem was again no turn out. Have of
5 our inspectors were bored out of their minds. But
6 again, sites where they were busy, areas that had
7 contests, people worked and the sites were set up
8 properly.

9 COUNCIL MEMBER DICKENS: Steve,
10 this is true, that you have expanded. But this
11 was a light election turnout this year. I'm
12 talking now about where the turnouts are going to
13 be greater. Now this is going to be a very
14 historic election that we're about to embark upon.
15 And ordinarily, just ordinarily, in presidential
16 elections you know that it's literally thousands
17 of more people come out and vote than ordinarily
18 do in a primary. And because this is an historic
19 election, it's going to be even broader than that.
20 And I am really fearful because I know I have made
21 calls where it took me time to get through. And
22 because I don't try to call Pam direct, because,
23 you know, I try to follow the procedure, you know.
24 So, you know, I am afraid of what's going to
25 happen in November because it's going to be

literally thousands of people, and ordinarily people are sometimes waiting on line for hours. And this time it's even going to be more so. So, you know, I do have a fear.

MARCUS CEDERQVIST: I appreciate what you're saying. I think like Steve mentioned, the phone bank has been greatly enhanced and that's largely thanks to you guys and the support you gave us for that. I think it's been improved also; 311 assists on Election Day to help with calls such as where is my poll site and what are the hours. And actually a tremendous amount of the calls are really those questions. So that--

COUNCIL MEMBER DICKENS:

[Interposing] [Off Mic]

MARCUS CEDERQVIST: Okay. Well I don't know, but, you know just for our purposes for that day it actually is helpful because it does relieve the phone bank staff of a lot of those routine questions, frankly, and let them focus on some of the other things. So it actually is pretty helpful. And I kind of lost my train of thought. I was going to mention-- oh, the AD monitors, too, is important. This is something

which actually the Council as well funded, where we have AD monitors that visit every poll site, and they're like rovers out there going from poll site to poll site to poll site and actually you guys probably appoint a lot of them. And they troubleshoot. And when they see problems they address them. If there's problems they can't address themselves they know who to call at the Board, you know, not even through the phone bank but directly to the Borough offices. And that troubleshooting mechanism has helped tremendously. I mean, are there going to be lines? Absolutely. You mentioned that it's going to be tens of thousands more people. It's going to be millions more people that vote in this upcoming election. And we want people to vote. I mean that's the business we're in. And we want them to get in and out as quickly as possible. You know I can't say there aren't going to be any lines and some people are going to have to wait on lines. In a sense I think we should be proud of that because people are participating in the process. I mean they're going to have to wait a little while and we just beg for their patience. We're not going to ask

them to wait all night like people do for an iPhone or anything like that. But it's very important; people have to exercise their right to vote and we're going to do our best job to make sure that we get them in and out of there as quickly as possible and that every single vote gets counted.

COUNCIL MEMBER DICKENS: All right. Thank you so much.

CHAIRPERSON FELDER: Councilmember Recchia?

COUNCIL MEMBER RECCHIA, JR.: Yes. You were here earlier. You heard my comments about those polling places, and I just hope you could address those.

MARCUS CEDERQVIST: Yeah. Again, that's a classic situation. If you were at a poll site and you saw a BMD that wasn't opened, I implore you to please call us and let us know about it and we'll make sure it get opened.

COUNCIL MEMBER RECCHIA, JR.: We are, and we're going to take a, you know, much more aggressive approach, you know. But I'm over here looking at your testimony packet I received,

and I see this flyer where you're going to have the demonstrations.

MARCUS CEDERQVIST: Right.

COUNCIL MEMBER RECCHIA, JR.: Okay? Now, and I want to thank you for having one in my district. But, if I wasn't here today, I wouldn't even know you'd be in my district next week.

MARCUS CEDERQVIST: Well actually there's a mailing that's going out so you're going to be getting a letter from me letting you know about it.

COUNCIL MEMBER RECCHIA, JR.: But what I'm saying is that today is Friday. This is happening next Thursday, and I already-- I emailed my scheduler and asked her if I received anything. I got an email back, no. But here I am now; I'm trying to rearrange my schedule because this is important. And again, my district, okay, I have a very large Jewish population. Okay? It's Rosh Hashanah Tuesday and Wednesday. How am I-- nobody knows in my district that you're having this. And if you would have consulted the district leaders, I believe that the district leaders have to play a major role in elections. I believe that it's the

district leaders that work with the inspectors.

And I think that you have to communicate with them better. And no one asked why did you pick Haber House Senior Center to have this demonstration? That's what I want to know.

MARCUS CEDERQVIST: The staff that was arranging the demos, I mean, there were a lot of things; obviously, accessibility was one and convenience of the location. It was actually difficult finding some of these locations. And some of them we actually just locked down very recently. We had a lot of trouble in Queens, which I think we're actually having the demo on our Borough office for that reason.

COUNCIL MEMBER RECCHIA, JR.: But--

MARCUS CEDERQVIST: [Interposing]
So some of these sites we just locked down very recently. The mailing actually I'm pretty sure already went out, right? It went out to every elected official. It went out to Community Boards. It went out to advocacy groups. I mean I signed these letters, so I know there was an awful lot that went out.

COUNCIL MEMBER RECCHIA, JR.: No,

no. I understand. But you're having this next week, right? My Community Board--

MARCUS CEDERQVIST: [Interposing]
Beginning next week, yes.

COUNCIL MEMBER RECCHIA, JR.: My Community Board met this past Wednesday night. Okay--

MARCUS CEDERQVIST: [Interposing]
And there's also going to be ads; we're also taking out ads in the paper about this to publicize it.

STEVEN H. RICHMAN: Again, part of the problem is that we have a legal responsibility, which we finished on Tuesday of counting the votes from the primary. As long as we have not been given adequate staff to even get a mailing out in time and get the information, our public information staff consists of one person, who happens to be on maternity leave now. There's not a lot of staff. We're doing double and triple duty--

COUNCIL MEMBER RECCHIA, JR.:
[Interposing] And that's why I'm saying you have to work with the district leaders.

STEVEN H. RICHMAN: And what I'm--

COUNCIL MEMBER RECCHIA, JR.:

[Interposing] If you work with the district leaders, involve them-- can I ask you a question? When was the last time the Board of Elections met with district leaders from every county?

STEVEN H. RICHMAN: The borough office has constant communication with each of the leaders as they go through the entire process of locating poll sites, appointing poll workers--

COUNCIL MEMBER RECCHIA, JR.:

[Interposing] Yeah, but when did you meet with them and say, okay, we have a situation. We want to have demonstrations. Is there anyone-- you know, and we need your help in getting out the message. Okay? We need your help. How are we going to get out the message? Like, next week, how do I know how many people are going to be here?

PAMELA PERKINS: Council--

COUNCIL MEMBER RECCHIA, JR.:

[Interposing] Yeah, go ahead.

PAMELA PERKINS: I'm sorry. Many of the commissioners of our Board meet with the

1 district leaders. I know at least the Manhattan
2 commissioner is a district leader. He meets with
3 the district leaders on a regular basis as well as
4 he just attended a community meeting of elected
5 officials with the Deputy Chief from the Manhattan
6 office, that was sponsored by Congressman Rangel.
7 So I think the commissioners, not just the Board,
8 but the commissioners on their level take some
9 active role and meeting with the county and party
10 leaders to inform them of what's going on. And we
11 rely on them to do that.
12

13 COUNCIL MEMBER RECCHIA, JR.: I
14 understand that, okay. But I believe that if
15 you're understaffed, not funded properly, okay,
16 you have to figure out a way how to say, how am I
17 going to get the-- you know, just putting an ad in
18 the paper, well I covered myself. I put an ad in
19 the paper; I sent out letters, I covered myself.
20 I don't have to worry. You know what? That's not
21 what it's about. You have to-- I mean what was it
22 to pick up the phone and call the elected
23 officials where you're having these seminars and
24 demonstrations. Call them up. Say, listen we're
25 having this; what could you do to help us in

getting the word out? Okay? I mean had I known this ahead of time I would have, you know, taken an approach. I would have done something in my office. You know, maybe I would even have done a mailing. Okay? Now, this is, you know, basically going to be done in a few days. And I just think that coming up especially for next year when all these new machines-- I think that we have to come up with a plan. You have to work with the district leaders, work with the elected officials and figure out a plan on how we're going to make sure that as many people as possible are aware on how the machine works. Because I'm going to tell you right now, people are going to go into the booth with those new machines and say, what do you mean paper ballot? I don't want anyone to see. I mean, you can have a lot of, you know, a lot of problems. But we're going to have to educate them. And I'm just, listen, I'm willing to work with you. Now I just learned about this, okay? But I mean, had I known about this ahead of time I would have really helped you guys out. And believe me, I would have gone in my own pocket to take out a mailing to the community to let them

1
2 know about this. Because this is how important
3 this is to the people of my community. So I think
4 you've got my message. But after this meeting I
5 would like to have-- I will get in touch with you
6 and figure out a plan how we could have other
7 meetings in South Brooklyn to educate them. Thank
8 you.

9 CHAIRPERSON FELDER: Councilmember
10 Garodnick?

11 COUNCIL MEMBER GARODNICK: Thank
12 you very much. It sounds to me like there's a
13 two-pronged approach necessary here for
14 communicating and making sure that the BMDs are
15 working and the people know that they can use them
16 and know how to show people how to use them; one
17 is the communication with the poll workers; and
18 one of them is the communication with the public.
19 Let me just start with the public element first
20 and just follow up on what Councilmember Recchia
21 just said. We have, we've heard from some of the
22 advocates right before you were here, who offered
23 to do some of the hard stuff that you all
24 apparently are struggling to do, because you have
25 one public information officer who happens to be

on maternity leave. Would you be willing to make a few of these machines available to them so that they can go ahead and publicize, make them, you know, readily available at the convenience of a lot of the people who they talk to very, very regularly, the folks who actually would be likely using these machines? Would you be able to do that?

MARCUS CEDERQVIST: Well first off, with regard to just kind of giving people machines, saying hey, take it and do what you will with it. I mean that I don't think is very--

COUNCIL MEMBER GARODNICK:
[Interposing] Okay, I got that. I got that you're not going to hand off a machine.

MARCUS CEDERQVIST: Right.

COUNCIL MEMBER GARODNICK: So, putting that aside, within certain parameters, right, where you actually have some sort of either supervision or you're present with them or they tell you the dates or something, would you be willing to make those machines available at times that are convenient for them to publicize them to the people who they speak to regularly?

MARCUS CEDERQVIST: I mean that's something that, the best way I can answer is that we would look into it. We made a decision that it was very difficult to accommodate everyone, I mean obviously in this huge city of ours, to accommodate everyone that may want to do that, may want to say come by here with your machine so that we can show it to a few people who are interested, and that's why we really, really pushed these public demonstrations; the ones we had, obviously, before the primary and now the ones that we're having as well. I mean it's something we can look into.

COUNCIL MEMBER GARODNICK: Well we don't have, we obviously don't have a lot of time.

MARCUS CEDERQVIST: We don't have a lot of time, exactly.

COUNCIL MEMBER GARODNICK: So, then let's take a step back and let's talk about your handing over a few machines. Because obviously these are not machines, which, you know, they serve one technical purpose, which is to mark a ballot. Right? And I assume the concern there would be one, City property and liability for

1
2 damage. And I assume that you could very, very
3 easily write a contract, which would protect the
4 City from that, by working with any number of
5 these advocacy groups to be able to protect the
6 City from damage to their machines. What about
7 that?

8 MARCUS CEDERQVIST: Well you're
9 also; you're talking about a fleet of demo
10 machines. We have a small fleet of demo machines.
11 The machines that actually get used on election
12 day, I mean they're being right now, they're being
13 basically fixed for lack of a better word, from
14 the primary election; you know, because they were
15 transported and everything like that. Then they
16 have to get set up, then they have to get tested.
17 This is a process that's going to be ongoing right
18 up until the election.

19 COUNCIL MEMBER GARODNICK: Okay, so
20 you can't-- what you're telling me is you can't--

21 MARCUS CEDERQVIST: [Interposing]
22 We can't take it from the regular fleet of
23 machines, no.

24 COUNCIL MEMBER GARODNICK: How many
25 demo machines have you got?

MARCUS CEDERQVIST: John, how many?

JOHN: Six demo machines.

MARCUS CEDERQVIST: We have six
demo machines citywide.

COUNCIL MEMBER GARODNICK: Okay.
Now are those six demo machines, are as far as I
can tell, inactive on October 3rd, 4th, 5th, 8th,
9th, 10th, 11th, 12th, 13th and 16th and beyond?
Is that fair to say?

MARCUS CEDERQVIST: Perhaps.

COUNCIL MEMBER GARODNICK: I mean,
the demo machines are not--

MARCUS CEDERQVIST: [Interposing]
They also--

COUNCIL MEMBER GARODNICK: --going
anywhere that you haven't prescribed here, right?

MARCUS CEDERQVIST: Right, but they
also do get trucked back and forth from the sites.
I mean again, the carts, you saw them on Election
Day. It's not something you can stick in the back
of your car, so we've got to get a truck--

COUNCIL MEMBER GARODNICK:
[Interposing] There's only the six of them though.

MARCUS CEDERQVIST: Right, right.

1
2 And in addition to that there's a staffing issue
3 where we do have to have our staff go out with
4 these machines, and they're the ones that answer
5 the questions and everything like that. And
6 they're multitasking. The whole agency is
7 multitasking with this implementation. And so we
8 have to make sure that they're available too.

9 COUNCIL MEMBER GARODNICK: Okay. I
10 realize that this is not a, it's not an easy, easy
11 thing. But it's not also really all that hard
12 either from my impression. And since there's only
13 six of them, and I appreciate that, it seems like
14 we need to be making use of every day that exists,
15 particularly between the 7th and the 20th or
16 whatever, 25th or so of October, because people
17 don't know; they don't know that they're
18 available. And you have an advocacy community
19 sitting right behind you that is ready to really
20 go to town to promote these machines. And I think
21 we should take advantage of that. So can I ask
22 you to, to reach out to them and find the date or
23 dates that are not one of your immediately
24 prescribed dates in one of the boroughs to be able
25 to make additional demonstrations so that they can

reach out to their constituencies to be able to promote these things?

MARCUS CEDERQVIST: I will look into that. Again, it's subject to staff, and also keep in mind that these demos are used for training purposes as well. So even if you don't see that they are necessarily booked for these demos, that doesn't mean that we're not going to be used.

COUNCIL MEMBER GARODNICK: Poll workers.

MARCUS CEDERQVIST: Yeah, we use them to train the poll workers. We also use them to train the AD monitors and the staff that goes out on Election Day, because they're all trained on the BMDs for the troubleshooting purposes. So there is a chance that a lot of these machines are going to be booked up on those days that you cited. I don't have that data in front of me--

COUNCIL MEMBER GARODNICK:
[Interposing] I understand. Well I guess all I really need from you, I'm surprised you won't commit to this because I think you should, the-- just the reach out to the folks who've testified

here already.

MARCUS CEDERQVIST: Yeah, yeah--

COUNCIL MEMBER GARODNICK:

[Interposing] and say let us try to find an appropriate day for us to work with you to get those machines so that you can make them available. That's what I'm asking for now. I realize that there are constraints here. I'm not seeing everything. But I'd just like to ask you to make that commitment to us today.

MARCUS CEDERQVIST: Yeah.

PAMELA PERKINS: The other--

COUNCIL MEMBER GARODNICK:

[Interposing] Okay, that was a yes. Thank you. And-- go ahead.

PAMELA PERKINS: I just wanted to just clarify something. The Commissioners established a policy, because when we started these demos back in August, we were getting a lot of requests. And we were getting requests from a number of agencies. We got one from the HAVA coalition. We got requests from a number of civic organizations, and it was becoming overwhelming.

COUNCIL MEMBER GARODNICK:

[Interposing] Did you grant any--

PAMELA PERKINS: [Interposing] May I finish? The Commissioners established a policy that we were going to have the demos and that we would do as much outreach as possibly we could. And hopefully that those groups who wanted their own demonstration would attend the demos that we were putting forth so that we could serve their purposes as well. That was the Commissioners policy, Marcus, Steven, no one at this table have the ability to change that policy. If the Lighthouse endeavor seems very promising-- but that is something we would have to go back and establish with our Commissioners, because once you open the door for one group-- I'm sure they're a very good group and we'd love to work with them, and I think we have to work with them, but then you have to look at there are other groups that have been asking. And who's going to make the decision? Like we say at the Board, which group do we disrespect?

COUNCIL MEMBER GARODNICK: I understand that. But let me just understand this. So it is the official Board policy that you cannot

share the machines or make any other public demonstrations other than what is listed in the ten additional and the five that have already been done?

STEVEN H. RICHMAN: The Commissioners' rationale is given the cut that this body, this Council and the Mayor imposed on us and the limited resources that now jeopardizes our ability to conduct the fundamental function of conducting a fair and honest election, the best outreach was to set up the demonstration programs, because the cost involved, trucking etcetera, the staffing-- we didn't get the staffing we requested. Councilman Felder listened to us repeatedly all last year as we outlined the needs of what was needed. We're attempting now to run an election for 4.3 million voters with 350 permanent staff members who are all on overtime, who are all doing double or triple duties and functions, and there was a need to triage what was the most important functions. What has come down as the Commissioners' policy is A, conduct the elections, get the machines out, get as much poll workers as we can get to the sites, get the

registration records process. Beginning next week, the 10th is the last day to receive registrations. We're going to be all sitting, opening registrations and clocking them in, from the Executive Director to every clerk. Because if we get another half a million registrations and we have to process them in five days, 350 people working around the clock, we barely make it. Otherwise those names won't get into the poll list book, so when people show up to vote. That's the choices that the Commissioners had to face; some it may be very difficult choices. But as I said, given the number of staff we have devoted to public education and outreach who could be trained and experienced, because I don't see any purpose of delivering the device if there's no one there to show you how to use it, it's just sitting there-- it will be as bad as where they sat at the poll sites and nobody used it. So the Commissioners made a conscious decision, Councilmember. But we're dealing with an ongoing problem where election administration in this country, but this City is not exempted, is chronically under funded and under staffed. And

as new burdens are being placed on that responsibility, something has got to fall by the wayside. There's only so much some people can do in a 20-hour day.

COUNCIL MEMBER GARODNICK: Okay.

So then I think understand it. I think the answer is then it's not the Board's policy not to do additional ones. It's that you're making decisions within the confines of limited resources. Is that fair thing?

STEVEN H. RICHMAN: Limited

financial and personnel resources.

COUNCIL MEMBER GARODNICK: Okay.

So let's go to that point for one second then. Because I just want to make sure that I understand a couple things that are immediate ones for you all. One of them is the new registrants, right? You just talked about the fact that you might get a new flood coming in before October 10th and local boards under New York law are required to confirm-- you know, if they put them, once you put them in and if there's something that raises question about their accuracy and legitimacy, they get flagged as I understand. Right? And there is

1
2 a requirement under state law that those
3 registrants who are marked as unverified be
4 double-checked before that they are-- those voters
5 are asked to produce identification on Election
6 Day. Did I get that right in terms of what the
7 state law requires?

8 STEVEN H. RICHMAN: That is one
9 element of the statewide voter registration.

10 COUNCIL MEMBER GARODNICK: Okay.
11 So let me just ask. I think that in June it was
12 the testimony of the Board of Elections that the
13 City Board was not able to, perhaps because of
14 resources, not able to double-check those flagged
15 voters. Is that accurate?

16 STEVEN H. RICHMAN: The City Board
17 was not able to check all the flagged voters.
18 However, working with the State Board System, a
19 computer program was developed where an attempt
20 was made to re-verify many of those who were
21 flagged. And Mr. Ferguson, how many of-- Steve
22 Ferguson, our Director of MIS should fill in how
23 many were--[off mic]. That as a result of that
24 resubmission and I think a better re-synching of
25 the databases, the number of people required to

produce ID as a result of insufficient information to match went down dramatically. Correct, Steve?

STEVE FERGUSON: Yeah. It was around 40,000 when we did the first batch of processing re-verifications.

COUNCIL MEMBER GARODNICK: 40,000 were flagged as possible-- as unverified?

STEVE FERGUSON: As requiring ID.

STEVEN H. RICHMAN: Requiring ID.

COUNCIL MEMBER GARODNICK: What's that?

CHAIRPERSON FELDER: Just ask him to identify himself.

COUNCIL MEMBER GARODNICK: Oh, yes. Go ahead and identify yourself before--

STEVE FERGUSON: I'm sorry. I'm Steve Ferguson, Director of MIS. It was about-- I'll give you a round number, around 40,000 that were flagged as needing to show ID. And upon the re-verification it went down to around 2,000.

COUNCIL MEMBER GARODNICK: Now were those 40,000 folks who came in on primary day and had to show ID?

STEVE FERGUSON: No, this is

before.

COUNCIL MEMBER GARODNICK: Okay.

So this was all done prior to the primary?

STEVE FERGUSON: Correct.

STEVEN H. RICHMAN: The universe [phonetic] went from approximately 40,000 to 2,000.

COUNCIL MEMBER GARODNICK: Okay what--

STEVEN H. RICHMAN: [Interposing] If any of those showed up, A, if they had a primary, if they were in the right party, we're not sure. But that reduced the number, you know, dramatically.

COUNCIL MEMBER GARODNICK: What is this computer program and what does it do?

STEVE FERGUSON: It--

STEVEN H. RICHMAN: [Interposing] The statewide voter registration data-- voter registration list process is supposed to be what was designed, required by HAVA for the state to design a system to ensure that the identity of each voter is confirmed, each voter is given a unique identifying number and to provide a central

1 statewide voter registration database. The Board,
2 this City Board has had serious problems with the
3 way the state system is operating. The
4 Commissioners have filed a complaint with the
5 state board under the complaint process, alleging
6 that the current system is operating in an
7 unconstitutional and illegal manner. And as a
8 result, we have not been fully participating in
9 the statewide system. We've attempted to do some
10 of these interim fixes that will protect the voter
11 rights, and that the-- in this case where the
12 database was able to be re-synched properly, the
13 number of people who were asked to produce ID.
14 But again, the legislature, in its wisdom, has set
15 forth a failsafe system, so that if a person is
16 required, for whatever reason, is asked to produce
17 ID on Election Day and they do not have an ID or
18 don't produce it, they vote by provisional-- by
19 affidavit ballot, the New York version of
20 provisional ballots. And if the person is
21 properly registered, i.e. we have a registration
22 record that is active, and in the right party and
23 the right subdivision, that ballot is counted, and
24 the ID requirement goes away. So this is really
25

at the most an inconvenience as opposed to anyone being denied the right to vote.

COUNCIL MEMBER GARODNICK: And the maximum is 2,000 is what exists now; is that right?

STEVEN H. RICHMAN: Out of-- go ahead.

STEVE FERGUSON: Well it changes on a daily basis, actually because registrations keep coming in. But that re-verification process now goes on also on a daily basis.

COUNCIL MEMBER GARODNICK: Okay. But your 40,000 became 2,000 after you ran it through that computer?

STEVE FERGUSON: Yes, that was the-- that was the initial.

MARCUS CEDERQVIST: The state ran it through the system. It actually is done through the state system.

STEVE FERGUSON: The state is the one that goes to the DMV and through the DMV to the social security administration.

COUNCIL MEMBER GARODNICK: Okay. All right. Let me-- I'm going to move on because

I know that there are other people testifying and I don't want to abuse my very generous privilege granted me by the Chairman. Can I just ask a couple-- one more?

CHAIRPERSON FELDER: Just keep on complimenting me.

COUNCIL MEMBER GARODNICK: Okay, good. Good. He's a very competent and capable chairman, maybe a couple more. All right. So on duplicate voters, advocates have pointed out that there's notice received by registrants who are identified as possibly having duplicate registrations at-- they say that it's statutorily unauthorized, unclear and unnecessarily intimidating. The letter, I've seen the letter. It says, you know, we are canceling your registration. I'll tell you exactly what it says. It says something very scary. Let's take a look. It says, notice of intent to cancel.

MARCUS CEDERQVIST: Right. That's-

-

COUNCIL MEMBER GARODNICK: In big words. And I realize that's a slightly different thing than what I initially said. It is-- but

1 this is, it's not necessary for the City Board to
2 say this is a notice of intent to cancel, right?
3 I mean you could simply say that this is, you
4 know, we need to deactivate, or this is a notice
5 that we intend to deactivate or something a little
6 less scary.

8 STEVEN H. RICHMAN: That's the
9 statutory language. We copied directly from the
10 statute. The state board is required to
11 promulgate the official notice. Again, the state
12 board has not promulgated that notice. So, we
13 drafted a notice that our Commissioners are using,
14 and we actually copied the statutory language.

15 COUNCIL MEMBER GARODNICK: So the
16 statutory language requires the City Board, the
17 City or any local board, to say this is a notice
18 of intent to cancel?

19 STEVEN H. RICHMAN: Whenever a
20 local board believes that a person may no longer
21 be qualified to vote, they are required to send a
22 notice of intent to cancel to give the person a
23 14-day window, which in reality given both the
24 postage concerns and the lack of staff for the
25 City, probably tends closer to be 21 to 30 days to

respond to correct. And this could be for a whole range of reasons. We have gotten this to be used not only for the statewide dupe list, but some people think it's funny to call in and say, or send us a note saying, Mr. X died and we have no death certificate, we have nothing; but we're just not ignoring it; or so and so no longer lives here, they moved out of state. They really live in the Hamptons; they don't have a real address here. In order to protect every voter's right, the Commissioners decided to exercise the right under the law given to them to send a notice of intent to cancel, rather than to make the voter inactive or cancel them first.

COUNCIL MEMBER GARODNICK: So after-- so if you don't hear from them though--

STEVEN H. RICHMAN: Basically--

COUNCIL MEMBER GARODNICK:

[Interposing] After 14 or 20--

STEVEN H. RICHMAN: [Interposing]
We say we have a reason to believe that you may not be qualified. You have to please respond within 14 days if you believe you are still qualified to vote in the City of New York.

COUNCIL MEMBER GARODNICK: And it says if you don't your registration will be cancelled.

STEVEN H. RICHMAN: Right. And then--

COUNCIL MEMBER GARODNICK: [Interposing] Now does the state law require that you say that registration will be cancelled or is it a deactivation of--

STEVEN H. RICHMAN: [Interposing] A notice of intent to cancel results in a cancellation.

COUNCIL MEMBER GARODNICK: Okay. And it is the state law as for your--

STEVEN H. RICHMAN: [Interposing] It's the election law, yes.

COUNCIL MEMBER GARODNICK: That requires this particular form.

STEVEN H. RICHMAN: That's one form. It's the only way that the Board now has a right-- and the reason that we did it with the statewide potential dupe list is that we have real concerns about the quality of the data being put in from other jurisdiction. The bipartisan

requirement throughout the election law, every voter registration transaction we process by a bipartisan team, doesn't exist in the statewide database system. So we're not sure if the person - and there have been various allegations that depending on which political affiliation you are, certain people are being cancelled for a reason, maybe only by staff of one party. In the City of New York, in our system, each voter registration transaction is processed by a bipartisan team. There's an electronic signature for each member going through it. So there's a clear paper trail. We believe that the state system doesn't have that. Basically they gave us a list and said; we think these people may no longer be qualified in yours. And if you determine that under their statewide dupe list that this is a duplicate, you inactivate them immediately. We felt, the Commissioners strongly felt that it's more important to give-- take the extra step and take a little longer time, which both the state board and the Department of Justice think is a waste of time, to give people the opportunity to respond. And I don't have the exact numbers, Steve, but do

you remember what the response level was?

STEVE FERGUSON: Yeah. It was about 38,000 notices that went out, if I remember correctly. I think something in the order of 3,000 were returned as saying no, in fact we are entitled to vote in this jurisdiction. In fact, you weren't there Councilmember, but we mentioned this at your last hearing and I think we gave you the accurate figures at that hearing.

COUNCIL MEMBER GARODNICK: Okay. Last question from me goes to that, the letter to my esteemed and very talented Chairman, Simcha Felder, dated September 24th, which has the number of poll workers who attended trainings and the number who were assigned and the number that were unfilled. I just want to make sure that I'm reading right. I see that in the 2008 presidential primary there were 39,594 people who were assigned and there were 22,623 who attended training. Does that mean that 19, approximately 19,000 people were assigned by did not attend training?

STEVEN H. RICHMAN: No. I think the problem we have with the presidential primary

is that it falls within the cycle year. In other words, election inspectors are appointed from July 15th to July 14th of the following year. So many of those who were assigned on the presidential primary received training either in July or August of that, of '07 before the February presidential primary. So I don't think that's a legitimate number at this time to look at.

COUNCIL MEMBER GARODNICK: Okay.

I'm sorry, so those numbers don't correspond--

STEVEN H. RICHMAN: [Interposing]

Well those 39,000 were appointed and of those went for training for the presidential primary was the 19,000.

COUNCIL MEMBER GARODNICK: The 22--

STEVEN H. RICHMAN: [Interposing]

The 22- yeah, and the balance, many of them may have been trained--

COUNCIL MEMBER GARODNICK:

[Interposing] For the previous election.

STEVEN H. RICHMAN: In the cycle before November, September and November '07 primaries, which we don't have.

COUNCIL MEMBER GARODNICK: Okay,

okay.

STEVEN H. RICHMAN: There was a specific question of who went for training for the presidential primary.

COUNCIL MEMBER GARODNICK: Okay. So that may not be the right measure. Let me ask you, how many poll workers who worked the September 2008 presidential primary did not attend--

MARCUS CEDERQVIST: [Interposing]
[Off Mic]

COUNCIL MEMBER GARODNICK: Yeah, I'm sorry, the regular old primary, did not attend training?

MARCUS CEDERQVIST: You know what? Probably I don't have that data. That's something we could generate from our computer system but--

STEVEN H. RICHMAN: [Interposing]
After the payroll gets run.

MARCUS CEDERQVIST: Yeah, after the payroll gets run, which will be done soon.

PAMELA PERKINS: The payroll, the payroll for the primary election is due from the boroughs today. They are busy cleaning it up,

finishing up. After the payroll is completed we'll be able to have hard figures, what I call hard figures for the September primary. But we don't have definite figures yet.

COUNCIL MEMBER GARODNICK: Okay. Would you be willing to provide that to this Committee--

MARCUS CEDERQVIST: [Interposing] Yeah, absolutely.

COUNCIL MEMBER GARODNICK: When that, when those numbers are generated?

PAMELA PERKINS: Of course.

MARCUS CEDERQVIST: Absolutely.

COUNCIL MEMBER GARODNICK: Okay. All right, Mr. Chairman. I have more, but I think I've done more than I was really allowed. So I appreciate your--

CHAIRPERSON FELDER: [Interposing] No, no. That's all right.

COUNCIL MEMBER GARODNICK: -- indulgence. And I thank you all. We'll follow up. But you obviously, you have real challenges and we all realize that and we want to work with you. We do want to get those sample ballots up

too. I realize that that's not number one on your list at the moment, but it really is something which I consider very important and also could alleviate some of the confusion on election day. So we'd like to work with you on that and find ways to creatively do that together. Certainly combining it with video voter guides and things like that next year I think are obvious synergies. So, we should be talking about that together. Thank you.

CHAIRPERSON FELDER: Thank you.
Councilmember Dickens?

COUNCIL MEMBER DICKENS: Thank you so much, Mr. Chair. My colleague mentioned about the fearful language, and you responded that it's statutory. To be perfectly honest, I think fearful language should be put on it, on the letter because it will get their attention. If you send me an ambiguous letter that I'm not quite sure what it says, I may or may not investigate. But if you send me something that instills fear in me that I might lose my right to vote, I'm going to call right away. So for me I kind of differ this time with my colleague on that. Most times

we agree, but this time I disagree, because I feel that fearful language is what's needed so that no one loses their right to vote. But one thing I do want clarity on is if a voter is given the opportunity or the option, I should say, to vote by a ballot, for whatever reason, by affidavit ballot, for whatever reason, if that voter declines to do that, does he have the option of going to get a court order?

MARCUS CEDERQVIST: Yeah. Yeah, that's exactly--

STEVEN H. RICHMAN: [Interposing]
Yeah, go ahead.

MARCUS CEDERQVIST: That's exactly right. There is a judge that's assigned to every borough on Election Day, and in fact they can go to that judge and get a judicial order. They're usually located at, I believe, in our borough offices.

STEVEN H. RICHMAN: In every borough they're in the borough office, except in Manhattan, the first department has created a second part at the Harlem State Office Building as well. But we have ensured that from 7:00 a.m.

until the close of the polls, we make-- I should say the presiding justices make, the Supreme Court Justice, sit at the Board office and entertain those applications. And all of our inspectors are given the information including the notice to get a court order to say what the problem is. It has the address on it. So any voter that asks for that-- and they also get a voter's bill of rights, which says that is one of your rights, is to go get a-- talk to a judge, and if the judge orders you, you go back and vote on the machine.

COUNCIL MEMBER DICKENS: Okay. Thank you. I just wanted clarity because that's so important because frequently people don't understand that they do have that option. So thank you.

CHAIRPERSON FELDER: Thank you very much. It's almost two hours and I haven't said much; and I know most of you are very disappointed. But many of the questions have been raised by my colleagues and I'm delighted about that. So I just want to ask you a few things that we haven't covered. In a little more detail, in terms of the poll workers training for the ballot

marking devices, again, how many poll workers have been trained?

MARCUS CEDERQVIST: On the BMDs?

CHAIRPERSON FELDER: Yeah.

MARCUS CEDERQVIST: For the primary election, I'm just flipping through my testimony so I apologize--

CHAIRPERSON FELDER: [Interposing]
In other words--

MARCUS CEDERQVIST: [Interposing]
It was 3,236.

CHAIRPERSON FELDER: So by the time this November's election will take place, how many will you have in place?

PAMELA PERKINS: Let me answer.

MARCUS CEDERQVIST: Yeah, go ahead.

PAMELA PERKINS: Well what we're going to do is there were poll workers who were assigned in August to go to a BMD inspector training. And as we're finding out, some of those inspectors didn't go through the training; they may have gone to the regular basic training because the day they were assigned to go to the BMD training they couldn't come so they went to

1
2 basic training. Or some of them didn't go to
3 training at all. We have identified those poll
4 workers. The boroughs are in the process of
5 trying to get them rescheduled for training class
6 that we're going to be doing-- we've already
7 started as of Monday our remedial, what we call
8 remedial makeup training. After each election,
9 primary election, we have makeup training classes
10 for those who missed training or those who may
11 need a repeater course because they did not pass
12 the class. So we're in the process of trying to
13 identify those, reach out to those inspectors and
14 get them into another training class. And that's
15 where district leaders could be very helpful on
16 both sides of the aisle. If they can get the
17 message out to their inspectors that they must go
18 to training it would go a long way to assisting
19 the voter on Election Day.

20 MARCUS CEDERQVIST: And Mr.
21 Chairman, if I could reiterate also, keep in mind
22 this training is mainly a regular poll worker
23 training class that the Board has been giving in
24 the past. For these specific people that are
25 targeted there's an additional training on the BMD

of about 30 to 45 minutes, and that's an additional responsibility that they bring with them into the polling place on Election Day. The goal is to have two people that are trained on the BMDs at every poll site throughout the City. We're trying to do that, again, with what we have. There's always the chance, I mean god forbid it snows or rains on Election Day and some of the poll workers decide they don't want to go work, then we're really scrambling from the reserve pool to try to fill not only inspector spots, but in this case inspector spots with people who know something about the BMDs. And it's a very difficult situation to be in right now.

CHAIRPERSON FELDER: So, I'm going to ask you the same question again. How many-- under the best scenario that you anticipate, how many poll workers will be trained with the BMDs by the time November election comes along? Does that mean-- are you saying that every poll worker will be trained or two per poll?

MARCUS CEDERQVIST: The goal is to have two per poll site trained with the additional training on the BMD.

CHAIRPERSON FELDER: Now two per poll site, but you're going to have to train some additionally, because as Councilmember Sears mentioned earlier and some of you mentioned earlier, you have to anticipate that some may not show up or whatever else--

MARCUS CEDERQVIST: [Interposing] Right. The reserve-- not the reserve pool, the standby site-- if you're filling in with the standby site there's a central location where all the standbys go--

CHAIRPERSON FELDER: [Interposing] I'm not talking about standby site. What I'm saying to you is--

MARCUS CEDERQVIST: [Interposing] But I'm saying the standby poll workers, when they get there in the morning are immediately trained on the BMD by Board staff. We have special people who are training people at those sites on the BMDs. And then when they get dispatched, you know, the goal is especially for those people, if there's a BMD inspector missing from a poll site that they would go there. I mean obviously we're filling vacancies throughout the day for

inspectors that don't show up and the standbys are used for that. But all the standby poll workers do receive the BMD training that morning. In addition the coordinators who go to training are getting BMD instruction.

CHAIRPERSON FELDER: So just for a moment humor me. Somebody at 6:00 in the morning, in theory, goes and needs, you know, a BMD device for voting. There are supposed to be two people there. One of them doesn't show up and there are three people waiting or four people waiting. What happens?

MARCUS CEDERQVIST: That person who is trained on the BMD is supposed to go over to the BMD, leave the table and their other responsibilities and go over to the BMD and help those people vote.

CHAIRPERSON FELDER: Again, there are supposed to be two people assigned specifically. I don't know whether it was Neil from NYPRIG, I don't remember who mentioned it earlier, about the possibility of having-- so you're telling me, and I'm sorry, I wasn't maybe concentrating clearly enough. Right now there's

no one assigned to the BMD devices alone.

MARCUS CEDERQVIST: No. Exactly this is what we--

PAMELA PERKINS: [Interposing] No.

MARCUS CEDERQVIST: --in all three appearances before you this year--

CHAIRPERSON FELDER: [Interposing] I got it.

MARCUS CEDERQVIST: --this is what we had been asking for and we didn't get it.

CHAIRPERSON FELDER: I got it. Okay. Okay. Stop. Now it's my chance. You had a chance to look good. I have to make believe as well. You know what I mean? So, and the form and the substance of that training, you said, is about 40 minutes? Is that?

MARCUS CEDERQVIST: It's 30 to 45 minutes.

CHAIRPERSON FELDER: And basically after that some people get it and some people don't; they need more additional training. Is that what you said?

PAMELA PERKINS: It's possible. The entire training class is four hours. It went

from three hours to four hours. The last hour or 45 minutes is dedicated to the BMD.

CHAIRPERSON FELDER: Got it.

PAMELA PERKINS: Sometimes the inspectors get it, sometimes they don't.

CHAIRPERSON FELDER: Okay. Good. Now, in terms-- we were honored earlier to have someone from the Lighthouse testify earlier, and I'm delighted that the Lighthouse now has one of our former City Council employees, Lester Marks, unfortunately we lost a good man to a good organization-- but testified earlier about the privacy and the sensitivities which, you know as some of you mentioned earlier about having the machines against a wall and other things. But when you do the training, what type of training is given to the-- your people regarding the sensitivity of people with disabilities? I think it was last time somebody testified that somebody voted and then everybody clapped afterwards. It was almost, like, childish. I mean, the intention-- the questioning has nothing to do, let me be clear, with anyone maliciously, you know, or the evil-- anything evil. It's a question of

sensitivity. And sometimes you don't realize something. So what part of the training--

MARCUS CEDERQVIST: [Interposing] I appreciate that. That is in the poll worker training. Actually there is a specific component to sensitivity to all voters regardless of ability or disability. In addition to that they are taught certain procedures. One of them is, you know, to help, basically the voter getting set up with the BMD, but then actually when the voter is ready to vote they're instructed to step aside. And, you know, obviously we hope that all of the poll workers do that. I can't guarantee that they do. And if they don't, we want to know about it so that we can correct that. But they are instructed, in fact to step aside and only interject themselves if they're asked by the voter for assistance.

CHAIRPERSON FELDER: All right.

PAMELA PERKINS: They also in that training, Councilmember, we also lay out for them how the poll site should be laid out on election day, so that when someone comes to use a BMD we basically tell them how to set up the BMD and make

1
2 sure that the desk is against the wall so the
3 person can come around and they'll have that kind
4 of privacy because no one will see their vote; so
5 all of that is covered during the training. And
6 so when we hear about locations and we see
7 locations where they're just not complying with
8 the procedures that's something we just have to do
9 better and work on in future trainings. And we
10 plan to do that.

11 CHAIRPERSON FELDER: Wonderful. I
12 have like sort of a hodgepodge of questions,
13 general questions that I've raised every single
14 time, and I intend to raise at every single time
15 until they get resolved, not necessarily by you.
16 One has to do with the issues, not in a general
17 election, but in the primary elections, and it
18 happened again about security and safety. And
19 since we're talking about people with
20 disabilities, I was witness at least on one
21 occasion where you have, and again it's not your
22 fault but it exists, where you have people voting
23 in a public school where there are children,
24 obviously, there the same day. And in a small
25 space certainly you had children running through

the halls, which is wonderful, and somebody in a wheelchair in this case trying to get to a poll-- it was impossible. In other words, the entrance was very accessible, but given the constraints that you were given with the space it was impossible to-- I shouldn't say impossible. That's an exaggeration, and elected officials like myself love to exaggerate to get attention. But it was very difficult, certainly very difficult. So A, the accessibility issue, also was compounded by the fact that the children are there. And then again, the safety issues. Anybody, Simcha Felder, walks in to vote. That's a dangerous situation.

MARCUS CEDERQVIST: As you know from--

CHAIRPERSON FELDER: [Interposing]
You understand the point.

MARCUS CEDERQVIST: Absolutely.

CHAIRPERSON FELDER: There's normally--

MARCUS CEDERQVIST: [Interposing]
As you know--

CHAIRPERSON FELDER: [Interposing]
Normally the security office stop people at the

door. What are you doing in the school? On Election Day no one stops anybody. And even if they do, they say I'm here to vote.

MARCUS CEDERQVIST: Right.

CHAIRPERSON FELDER: And it's not a good situation. I don't know the solution.

MARCUS CEDERQVIST: Yeah. As you know from our previous conversations on this topic, we share your frustration on this. We have asked-- one of our legislative priorities has been to close the schools. As you know schools constitute most of our poll sites, actually. And we have asked the state legislature to close the schools on primary election day. The security concern is paramount, but there are other things as well. A lot of times when dealing with the custodians, and some of the staff could talk to this better than myself, because the school is open, even though we've designated, say, a gymnasium for Election Day, they'll say on Election Day, no, you know what? That's no good. We need it. You go vote over there instead or whatever. And so we're in competition with the operation of the school. It would be a lot better

1
2 if the school was closed operationally, but also
3 paramount is the security as well. And as you
4 know we agree with you on that and we hope that
5 you will help us lobby the legislature to actually
6 close the schools on Election Day.

7 CHAIRPERSON FELDER: I'm mentioning
8 it to Mike, you know, as well as the lawyers here
9 and the Policy Analyst. I think we're having a
10 hearing next door, and the hearing next door about
11 closing schools for Muslim holidays, which is a
12 legitimate issue given the, you know, some of the
13 other holidays. Maybe they shouldn't be closed--
14 either they shouldn't be closed at all or should
15 be closed certainly for other holidays. And now
16 we have-- if you're going to close them for
17 holidays, which makes sense, the first priority I
18 would think should be that they should be closed
19 when it endangers the safety of the children. I
20 don't know that any Jewish, Muslim or Catholic
21 holidays, to my knowledge, endanger the safety of
22 the children. It's about being closed because
23 it's a holiday, teachers are away, whatever else,
24 which is wonderful. But we have, you know, if
25 there was an emergency I think we would close the

schools to protect the children, and this is something that-- the other issue I didn't get clarity is that with the 311, again, if let's say I went to a poll site and I was having a problem and I called 311; I said I'm at 47th St. and 18th Ave. and they're not allowing me to vote, whatever it is. What would happen, do you know?

MARCUS CEDERQVIST: 311 is very helpful, like I said. There's basically two questions that they answer. One is what is the hours that the poll sites are open. The other is where is my poll site, which actually you can even check on our website.

CHAIRPERSON FELDER: Right.

MARCUS CEDERQVIST: Everything else then gets transferred over to our phone bank and those concerns would be addressed--

CHAIRPERSON FELDER: [Interposing]
Pause for a minute. Will they connect me to you?

MARCUS CEDERQVIST: Yes.

CHAIRPERSON FELDER: So in other words, instead of the 800 number that you talk about, it would seem to me to make more sense encouraging people to call 311 and have them

connected and saying to people and educating people, if you have a problem, even though 311 is far from perfect, but 311 is easy to remember. And when people come to poll sites, if they were educated to know, you have a problem, don't memorize an 800 number or anything else. You call 311. You say you can't vote, ask them to connect you to the Board of Elections. That would seem to me to make a lot more sense than trying to educate people with an 800 number.

PAMELA PERKINS: Councilmember, that's the Board Policy, the Commissioners of Elections. We are not in the business of advertising 311. We have an 800 number, which this body was generous to fund us for and that's the number that we are instructed to produce on all our literature and to notify voters of.

MARCUS CEDERQVIST: And keep in mind, our number is going year round. I mean 311 is helpful on Election Day--

CHAIRPERSON FELDER: [Interposing]
I--

MARCUS CEDERQVIST: [Interposing]
But year-round we want the voters to have access

to our staff and to have their answers questioned and so that's a number they can use throughout the year.

CHAIRPERSON FELDER: I am going to defer to some of the people who will come testify after you. I'm willing to bet that-- forget about the number the 800 number, that's a good thing, like you said, all year round. I'm talking about voters knowing on Election Day if they're in trouble, they have a problem, they're upset, the 800 number does not work for most people. For most people, for good or for bad, 311 is something that they know does work. And, having very visible, very visible, at least telling people if you have a problem, call 311 or 1-800, I think would go along way in making feel-- people feel that they are empowered to get help.

PAMELA PERKINS: If the voter call 311, we will get the call transferred to us. We will get the call.

CHAIRPERSON FELDER: We're not arguing. We're--

PAMELA PERKINS: Oh, you just--

CHAIRPERSON FELDER: We're not

arguing.

PAMELA PERKINS: Okay. It's--

CHAIRPERSON FELDER: I was going to say I love the Board and the Board loves me. I just have-- but, you know, in a dark alley, we'll talk about it some other time. But, the point is if you're trying to make sure that people easily have a way to get in touch with you, and let me just say this, when they do reach you, do you give them a complaint number or something like that?

STEVEN H. RICHMAN: Commissioner, it's entered on

CHAIRPERSON FELDER: No, I'm not a Commissioner yet.

STEVEN H. RICHMAN: Oh. Council Member, each call received on Election Day is entered into our Fleet Management system so we're able to track whether it's--

CHAIRPERSON FELDER: No, but, Steve, I'm asking a specific question.

STEVEN H. RICHMAN: Do we give them a complaint number? I don't believe we give them--

-

CHAIRPERSON FELDER: Okay.

STEVEN H. RICHMAN: --a specific complaint number.

CHAIRPERSON FELDER: So, I'm going to say it again, because we're not arguing. I'm making suggestions that I would ask you to consider. And, if you don't consider them, that's fine. You'll explain to me why you don't want to. And, if I still don't like it, we'll still talk. There's no problem here. This is not the in-law relationships. We're having a discussion, open discussion.

What I'm saying to you is right now, if they don't pick up my garbage and I call 311, they connect me to Sanitation. But, before they do that or I think at some point in that process, if I'm not mistaken, they say your complaint number is S75777, so that if, at any point, we want to follow up with that, there's a record of that. And, I'm suggesting that the same process should be done when somebody calls to complain about a voting machine that--

STEVEN H. RICHMAN: Right.

CHAIRPERSON FELDER: --was down or something else that's not working, so that there's

some reference to it. You know, you just mentioned earlier, Council Member Recchia and the others, that we should call at that moment. If that was in place, then we would be able to come back to you and say these are complaint numbers that we got about a certain issue or something else like that without having to go back and forth.

STEVE FERGUSON: Right, that's, honestly, I could look into with the IT staff and the person who designed the Fleet system.

CHAIRPERSON FELDER: We're going to write to you so that just to make sure since you've been talking about short staff, so that we can have a record of it so that you can remind yourself of some of the suggestions--

STEVE FERGUSON: Thank you.

CHAIRPERSON FELDER: --we're making. We're going to have the staff-- and, finally, this is a very interesting topic to me personally. But, a general question, when you send out your mail notifying people that there's going to be a primary, right, you send them mail, I should say, who sent me mail saying that there's

going to be an election September 9th? You did?

MARCUS CEDERQVIST: It was from the Board of Elections.

CHAIRPERSON FELDER: Okay.

MARCUS CEDERQVIST: I mean, it's done through a vendor, obviously.

CHAIRPERSON FELDER: No, no, I understand. Now, what is the normal process? You send that letter how much in advance of the primary election? How much?

STEVEN H. RICHMAN: Seventy-five to sixty days before the general election.

CHAIRPERSON FELDER: Okay. Very good.

STEVEN H. RICHMAN: That's by the statute.

CHAIRPERSON FELDER: Okay. And, it has to be 75 to 60 days and you send it once?

STEVEN H. RICHMAN: Yes.

CHAIRPERSON FELDER: How does it work? The statute--

STEVEN H. RICHMAN: Okay. One notice 75 to 60 days before the general election.

CHAIRPERSON FELDER: Okay.

STEVEN H. RICHMAN: And, if a primary election falls within that period, we're required to include that notice that there maybe a primary election and to provide you with where you could contact the Board to determine if you actually have a contest in your jurisdiction.

CHAIRPERSON FELDER: Say the last part again. That was very--

STEVEN H. RICHMAN: The requirement is is that you, and you see it on the flyer, to call to determine if you have a primary, because, for example, in this year, certain parts of the City had primaries; certain parts didn't. That's why not every poll site was open.

CHAIRPERSON FELDER: Well, let me tell you--

MARCUS CEDERQVIST: Mr. Chairman, you'll see the first bullet point inside the mailer, which I think you actually have as well. The first bullet point says please call the Board of Elections toll-free, and there's the number, to confirm that there is a primary in your district. As you can imagine, I mean, the ideal situation is when there's a citywide primary or if there's a

countywide primary in every county, or a statewide for that matter, yeah, we're kind of covered. We know every poll site's going to be open.

We had a little bit of an unusual situation this year, where three counties had countywide primaries, so every poll site was open, but, two counties didn't. And, in addition to that, in the counties that didn't, three were legal challenges going on, where literally we were not entirely certain of what the ballot would be. I think it's the day before the election when the last one was adjudicated.

MALE VOICE: The Friday before.

PAMELA PERKINS: The Friday.

MARCUS CEDERQVIST: Yeah, the Friday before the last one was adjudicated. So, and if that candidate had been put on the ballot and it had created a contest, it would have opened new poll sites.

CHAIRPERSON FELDER: Let me save you time. Look, I don't know, and I'm not going to get into a debate with you, as to whether the Board of Elections is capable of sending out, at least to some, at least to some of the voters

something that would reflect clearly whether they have a primary election taking place.

A lot of people, and I've heard this throughout the City, go to vote on primary elections, when there are no elections taking place whatsoever. And, if that's an issue for voters without disabilities, can you imagine what it means to someone with a disability to make the effort and energy, 'cause they want to vote. And, to come to a place and the place is closed, they're closed. I've asked a number of colleagues and this goes on a lot.

PAMELA PERKINS: That's not even a issue.

CHAIRPERSON FELDER: And, what I'm saying to you is that I'm not debating with you whether you can or can't do it at this point. I don't want to fight. It's that time of year. We'll have another hearing after Yom Kippur and we will fight. Okay.

But, this thing, I'll call it, that you are compelled by law to send to people that are in a number of different languages, is one of the worst pieces of mail I have ever seen in my

life. If I was trying to get elected with this piece of mail, dead meat. But, at a minimum, the issue of finding out whether there's a primary election, it must be made much more clearly. I'm not talking about for November. That's not the issue. I'm talking about in the future. You know, how you have warning, what did you have on the other thing about intent to deceive--

MARCUS CEDERQVIST: [Interposing]
That is the intent to cancel.

CHAIRPERSON FELDER: --or something like that.

PAMELA PERKINS: Intent to cancel.

MARCUS CEDERQVIST: Notice of
Intent to cancel.

CHAIRPERSON FELDER: Intent to
cancel.

MARCUS CEDERQVIST: Right.

CHAIRPERSON FELDER: Okay. It has to be clear, very clear, this is-- I'm not going to get into detail about anything else. But, there has to be very-- you see how you wrote vote, how beautiful that thing is. That's wonderful. I love that. That's very nice and, you know, it

grabs your attention.

The average person does not know, most people, when they get this in the mail, they think they have an election to go to on primary day and certainly on Election Day. And, if you can't manage to send people notice that makes it clear or not whether there's a purpose to go to a voting place, a voting booth, on primary day, you must make it clearer than anything, as anything, to say primary election. I don't know if you want to say maybe. But, say call beforehand. Primary election, it says Tuesday, right on the front. I don't see anything. Primary election, if I take this and I take a lot of my mail and, unfortunately, I look at it and I see if it's a bill or not. And, if it's not a bill, it goes in the garbage, right, recycle, of course. Now, it says vote on primary day. I don't look for anything else now. Now, you're telling me I have to open it up and look through this and, yes, you do say somewhere--

STEVE: - -

CHAIRPERSON FELDER: Huh?

STEVE: - -

CHAIRPERSON FELDER: At first, I am sorry, Steve. You know what, please forgive me. Come on. You get the point. You could do a lot better. And, if you can't do it, I'm willing to help you. I should have become a commercial artist. I maybe do better at that than what I'm doing. But, it doesn't make sense. You're telling people to go vote, very hard. And, there has to be a better way to inform voters clearly that primary election, Tuesday, call.

I know you don't want to discourage people from voting either. But, I'm telling you that I got so many, so many complaints this past primary day about people thinking they had an election going on, going and the place was closed. There must be a way, a better way. Don't answer it. Don't answer it, unless you say I have the better way. And, I know how to do it, because there has to be a better way. [Pause]

Excellent. My lawyer just told me in a nice way to shut up. And, he's a good lawyer. So, I will stop just to say is that at a minimum, I'm asking that the training done with your people also to take into consideration the

sensitivities of people thinking that they have an election to come to in certain places, where it is open and they don't-- people come in. They're fuming, you know. They got mail. They come in and, of course, who's the recipient of their wrath? Your workers. But, they have to be trained, you know. They are the psychiatrists, psychologists on everything else for the day when people come in and they get mail. They have to be able to be trained to be sensitive enough to be patient with people who are coming in and thinking they're supposed to be voting when they're not supposed to be voting.

And, finally, this is the killer. I want a letter from you, stating that you will be unable to-- I wish Neil Rosenstein was here 'cause he'd love this-- to you will be unable to, with the current staffing, carry out your mission in the current election 'cause based on what you've said, and I agree with you, a lot of the suggestions that have been made about, for example, getting stuff to the Lighthouse or other places, and you're saying rightfully you just don't, not only, it's not only the Commissioners,

the Commissioners were right. They can't do everything with the staff and the money you have. And, you're repeating that over and over again, that based on the funding you have, you're going to do the best you can, to put words in your mouth.

And so, if you believe by doing the best you can, you're going to be able to fulfill the mission in accordance with state law, then don't write me anything. But if, based on the funding that you've been given, which I declare is not enough for you to fulfill your mission, then you should put that in writing. You should put that in writing. You should put that in writing. And, you don't have to answer this question either. I'm repeating. I'm assuming that despite the cuts and despite the City and the state and the federal government not giving you money you need to fulfill your mission, you're going to be able to do it. If you're not going to be able to do it, then I'd like that in writing.

STEVEN H. RICHMAN: Councilman, you got copied on a letter we sent to the State Board on July 30th, and the lack of adequate funding and

the problems, the last line reads, I'm quoting from your own briefing paper, "That would seriously compromise the Board's ability to ensure the September primary and November general elections are conducted in a fair, honest and lawful manner." The Commissioner's position has not changed. We believe that, right now, the lack of funding seriously compromises our ability to conduct the elections.

MARCUS CEDERQVIST: - - referring to--

STEVEN H. RICHMAN: In your briefing paper.

MARCUS CEDERQVIST: Your own briefing paper.

STEVEN H. RICHMAN: You quote from the letter that the Commissioners sent to the State Board of Elections on July 30.

CHAIRPERSON FELDER: With the letter, you sent that letter to the State?

STEVEN H. RICHMAN: Yeah, and we copied you--

CHAIRPERSON FELDER: Yes.

STEVEN H. RICHMAN: --on the

letter.

CHAIRPERSON FELDER: Okay. So, I probably threw it in the garbage. So, can you send me another copy?

STEVEN H. RICHMAN: Absolutely.

CHAIRPERSON FELDER: Okay.

MARCUS CEDERQVIST: [off mic]

CHAIRPERSON FELDER: Huh?

MARCUS CEDERQVIST: We can do that.

CHAIRPERSON FELDER: Thank you very, very much. And, I want to echo what I said earlier is that we are in awe of your trying to accomplish what you're trying to do with the restrictions and restraints you have. So, we appreciate all the hard work that you're putting into getting this election done. I thank you very much. We have-- thank you very much. We have 20 minutes left for this room. So, I'm going to have to ask the next panel and the panel after that to limit your remarks to two minutes a piece. I didn't put any-- 'cause it was such a critical hearing, I didn't put any limitations earlier. Susan Lerner [phonetic], Adrienne Kivelson, Teresa Hommel and Joseph Garber [phonetic]. Is someone

there to work?

MALE VOICE: [off mic]

CHAIRPERSON FELDER: [Pause] ready.

FEMALE VOICE: First--

CHAIRPERSON FELDER: The Sergeant at Arms, are you prepared? Okay. We'll go from left to right, if that's okay. Are you ready, Mr. Alf [phonetic]?

MR. ALF: Yes, sir.

CHAIRPERSON FELDER: Thank you. Can you run the clock? Okay. Go ahead.

SUSAN LERNER: [Pause] Okay. Your left, sorry. Sorry. Stage left, not audience left.

CHAIRPERSON FELDER: Absolutely. -
-

SUSAN LERNER: Thank you, Council Member for the opportunity. I'm Susan Lerner from Common Cause New York. I haven't submitted any written testimony because I wanted to be more reactive and to bring a couple of things. This was a very lively and informative discussion. I want to thank you for the hearing.

But, I would like to point out that

one thing that got lost between the first panel and the second panel is that we heard nothing from the Board, as to how they were going to address the simple access issues, which the first panel brought up and have specific instances. I'd like to point out that we have been in relatively regular communication, our Coalition, because I represent a statewide Coalition of groups that work on issues and that meet here in New York City. So, we are also very concerned with New York City election conduct. And, we meet relatively regularly and we are in contact with the Board of Elections' staff.

And, one of the discussions was about putting together a working group between the representatives of the disability community and the Board. And, I'm not sure that anything has really happened with that. We've had some other instances where the Board has said that they, the Board's staff, let me be clear, has said that there were certain things that they would try and do. And, at the last hearing, I was under the impression that there was going to be an attempt to send another notice in October from the Board

of Election to all voters, letting them know about the November election verifying their place of voting, their polling place.

I'd like to point out that when polling place notices go out, they are specific to the voter by definition. And, that's an opportunity to at least flag the possibility you are likely to, you are not likely to have a primary election. So, at least that one state required mailing, while not very timely, at least gives the voter who's paying attention, a heads-up.

I'd like to just say that our community, the groups that meet in Coalition, the disability community, we are advocacy groups, we are not adversary groups. And, the comments that were made by Council Member Recchia about letting us know, we have the same problem. We receive notification of the demonstration of the ballot marking device the Friday before the week it was happening. We have thousands, Common Cause does, of members on our cause net. We can communicate with them electronically given a day maybe two worth of notice, because we're hooked into a

national system. So, I have to get in queue.

But, if I have the information in a timely manner, more than six or seven days before, well, we can get it out to our membership.

I'd also like to say that we've been back and forth with the staff about the notice of intent to cancel, concerns about what it states. We have a Freedom of Information Act request with the Board, where we're asking them to tell us who did you communicate with with this letter? What have the results been because we want to do some sampling to find out whether the letter is being effective and whether people-- our concern is people who are our active voters are going to be kicked off the rolls. And, the--

CHAIRPERSON FELDER: Can you wrap it up, please?

SUSAN LERNER: Yes.

CHAIRPERSON FELDER: Only, I'm sorry. It's just because I want to give everybody a chance.

SUSAN LERNER: So, we are sympathetic that they do not have the staff to do the job, but we don't feel that there is a kind of

private/public partnership which New York City really is excellent at modeling for the rest of the country, which is being explored and exploited here in New York.

CHAIRPERSON FELDER: Thank you very much.

ADRIENNE KIVELSON: Thank you. I'm Adrienne Kivelson, from the League of Women Voters. I submitted written testimony, but I'm not going to speak to it because I'm also going to be reactive. I hope you'll read my testimony later.

First of all, the last message that you gave to the Board in terms of letting voters know if there're primaries, sample ballots would solve all of this. And, sample ballots are possible. They're possible on the Internet. There are ways to get sample ballots. But, there is an objection among the Commissioners, not the staff of the Board of Elections, to using sample ballots. We recommended them for the February primary. That would have been 15 ballots for the entire City.

And, there is discomfort among the

Commissioners with using sample ballots, which brings me to the point that it's wonderful to see these people and we love the staff, there are technically 10 Commissioners of the Board of Elections. They do make policy. And, we urge you to meet with them because we think they have a much larger role in managing elections in New York City than is readily known. And, while you're doing that, we'd love to-- I live in Queens. I don't have a representative on the Board of Elections. There are no Queens Commissioners at the moment. So, if there's anything you can do to fill out the Board of Elections before this election, it would be very helpful.

Then, I want to speak to the one person staff for public information, which I can see it is impossible to do a job. But, I think there's also, I believe, a \$6 million contract that has been let to Burson-Marsteller. I think they did the voting information notice. And, I think there has to be a way that they can be more hands on in the public information area so that we don't have to wait to Valerie comes back from maternity leave to get information out to the

public. I think a lot more could have been done about the BMDs. And, if you look at the Board's website, you have to know to look in Accessible Voting to even find the video that is pretty good video. But, it's hidden somewhere on the Board's website.

Just, quickly, two more things that I also would maybe suggest to the Board that they just let a very big contract with ES&S for the automarks [phonetic] and ES&S would love to get a contract for optical scanners and possibly ES&S could be prevailed upon to bring demo machines to some of the sites that the Board cannot afford to do and bring ES&S staff to show them how to use these machines. So, I'm raising that as a possibility.

And, finally, what I want to leave you with is, as I prepared my testimony and we talked to the Board of the League, we were really, in the days that we're now going through, doom and gloom and budget cuts and essential services and nonessential services, we think that election administration is viewed as an ancillary service and not an essential service. And, we're very

concerned that as budget cuts loom, election administration is going to be cut more. And, you know, we're afraid of the future of our country. The fact of the matter is the lynchpin of our democracy is free and fair elections and the opportunity everybody to vote. And, each time you chip away a dollar here and a dollar there, you're damaging the most precious right we have in this country.

So, as you go through the process, I know this is not a budget hearing, but as you go through this process, this is not something-- we're faced now with an election which, as the Board said, may not work in New York, because they don't have the resources. I don't know what those resources are that are necessary. But, I believe the City administration and the City Council does have a responsibility and an obligation to see that the Board gets the resources that it needs to run free and fair elections in the City. Thank you.

TERESA HOMMEL: All right. My name is Teresa Hommel. Thank you for the opportunity to be here today. I am going back to something

that I said five and a half years ago, when I first heard about electronic voting. And, that is we shouldn't be doing that. So, I wrote a four-page testimony. I'm just going to read the headings.

The federal law allows continued use of the lever machines. I brought in something from two days ago, a news report. Idaho, they're still using their punch card voting. And, I don't see the Department of Defense suing them. I've said all along that that Department of Defense action was some sort of grandstanding.

FEMALE VOICE: Justice.

TERESA HOMMEL: Oh, excuse me. Well, it will become the Department of Defense soon, right. Justice, excuse me. New York State is the first state in the union to properly test the equipment prior to certifying it, prior to purchasing it and prior to using it. And, I commend, again, our New York City Board of Elections, which is the more I know about elections across this country, the more I understand that our Board is the best in the country. And, I wish everybody had the advantage

of having our Board of Elections. Things would be a lot different.

But, the fact is, that I understood, yesterday I heard that the Department of Justice and the Federal Court are now going to pressure New York State to skip the rest of our certification because it's taking too long. And, as the Judge said last December, I don't care if they don't work. The law says buy them. So, go ahead and buy them. That's a paraphrase that's very close to what he actually said.

The arguments against the continued use of the lever machines are false. We hear that there are no parts available. Most of the parts are standard. The few that are not, you know, you can buy them in a hardware store. The few that are not, you can make them in a machine shop.

I'm skipping ahead just hitting the high points here. People say the lever machines are old. I'll say what I said before. I'm 64 years old. If you think that's old, and I should be retired, you know, I'll see you in the alley.

The point is, we know that the budget is going down. The budget will continue to

go down in the future. The HAVA money that we're getting, you know, it looks like we're getting something. But, it's like getting money from the mob. Once we take that money, we will never stop paying because the machines that we get will cost more than the money we get. The maintenance will cost more and within the minute after the five-year warranty elapses, all that equipment is going to fall apart and we will have to buy new equipment. We will have no money whatsoever. This has happened all the way across the country. There are numerous local reports about sticker shock when people find out what they're so-called free equipment is going to cost them.

And, I would like, I know that Domenic Recchia left, but I would like--oh, no, it wasn't him. I'm sorry. It was Councilwoman Sears who I thought was dissing the warehouses. I've been to the old warehouse, which wasn't really plush. And, I've also been to the new warehouse. And, it's lovely. You know, I wouldn't mind living there. It's not some, what do they say, a God forsaken place. It isn't.

I gave a historical perspective on

the change of people's understanding of how we should vote. Originally, I said that computers were inappropriate 'cause nobody really understands them. And, I would like to repeat that again. Not only that nobody really understands them, but in a democracy, it's inappropriate to use equipment for voting that people cannot directly observe. We have seen more and more problems in the last year, year and a half, with optical scanners. And, I do support the use of optical scanners, except there is something better. And, I think that that's the old lever machines. Thank you. I know--

CHAIRPERSON FELDER: Thank you.

TERESA HOMMEL: --I've run out of time.

CHAIRPERSON FELDER: Council Member Dickens, I understand we have a very special guest with us that you would like to share--

COUNCIL MEMBER DICKENS:

[INTERPOSING] Oh, we certainly--

CHAIRPERSON FELDER: --with our...

COUNCIL MEMBER DICKENS: We certainly do, Mr. Chair. Thank you so much. We

have retired Council Member Reverend Wendell Foster from the Bronx, who is here with us.

REVEREND WENDELL FOSTER: Thank you.

COUNCIL MEMBER DICKENS: Twenty-four years he spent here in these halls.

CHAIRPERSON FELDER: He looks pretty good. He looks pretty good.

REVEREND WENDELL FOSTER: - - kicked me out.

CHAIRPERSON FELDER: In good health. In good health. Well, we may extend term limits, you know.

REVEREND WENDELL FOSTER: Does that mean I [pause]

CHAIRPERSON FELDER: Yes.

REVEREND WENDELL FOSTER: - -

CHAIRPERSON FELDER: Have a good day. And, our final witness.

JOSEPH GARBER: Good afternoon, Councilman Felder and members of the Board of Elections. My name is Joseph Garber. I'm a longtime poll worker, coordinator and poll worker for almost 20 years. I'm going to speak very

quickly. But, I'm definitely going to have to exceed briefly my two minutes.

First of all, you said you don't want to go into a fight with somebody on Yom Kippur. Let me prove you wrong - - . All right.

CHAIRPERSON FELDER: Listen, listen, that's going to come off your time 'cause we're pressed for time.

JOSEPH GARBER: I have to--

CHAIRPERSON FELDER: Let's stick to--

JOSEPH GARBER: I have to say this. There's a concept [foreign language], he shall drive a corrupt government from the land. The way the Board of Elections is operating in many facets is corrupt. So, you're doing a [foreign language]. Okay.

On August the 26th, I attended a BMD and poll worker training session. Now, I'm curious. I didn't hear discussed, how were the people that were selected for the BMD training, selected? I didn't get a straight answer from my instructors. Anyway, the BMD class, which technically should cover this 33-page BMD manual,

was performed by a representative of ES&S, the company that manufactured the BMD machines.

Contrary to Administrative Manager Perkins' testimony that the BMD training is usually one hour and 45 minutes at the end of the training session, this was in the beginning of the training session and, consisted maybe 30 minutes. We had around 18 students in the class. In no way, shape or form, could these 18 students have hands-on training. The instructor, when he held up the puffing machine, he said this is the puffing machine. We were not given hands-on experience.

When I left that class, I realized no way, shape or form am I qualified. So, I called up Mr. Marcus Cederqvist's office and he gave me a Rohonda Ramundi [phonetic] and she got me a private session, which, in that private session of an hour, I learned and I compared my notes from the training session on the 26th, and I saw that I didn't grasp any of the stuff that I had on my private session. So, if I couldn't grasp it, I could see many people didn't grasp it.

But, I was very concerned that at

the training session, a Mr. Feldman, who was an instructor on the poll workers' manual, says that none of us, no poll worker should our prospective voter that there's a BMD machine. And, that's wrong. Why are we going through this training if this was said? Okay.

Now, on the September 7th, before Election Day, my Democratic Club, called all the poll workers together because we were in the place where the contested election between Marty Conner and Dan Squadron. And, it was basically partisan, partisan, partisan. They didn't discuss about fraud. They didn't discuss about anything else.

I was assigned to a site not my normal site. I'm usually assigned to 114 Taylor Street or 80 Clymer [phonetic] Street. For some reason, I was placed across the street at 157 Wilson Street. I think that was because I could recognize which prospective voters are fraud, who don't live in the area and I could have challenged them. So, that has to be investigated by outside.

Now, I attended the first Board of Elections meeting after the primary. And, the process where somebody can speak at a Board of

Commissioner's meeting is nebulous. I asked Miss Brenda McQueen [phonetic], the secretary what to do. She asked Deputy Executive Director George Gonzales and he told me to go to the lady who takes the steno. When I went to her and wanted to give her my notice, she said sit down. Finally, when President Sampel was going to call in the Board in Executive Session, I raised my hand. And then, finally, after Executive Session, I spoke and then when I started speaking, he told me to sit down. And Commissioner Nancy Mottola Schacher was very adamant that I was discussing what I was discussing.

Now, as far as the test. The tests are much too easy. They should not be open book. They should not be open book. And, people are cheating from each other. The training has to be revamped. I've been a professional trainer with the City of New York to teach people promotional examination techniques. This is no way how to conduct a training course. Okay. You know, you should have broken up the BMD training from the poll worker training.

I also suggest that the Board of

Election conduct a study to compare the coordinator's manual and the poll worker's manual. I have done that. I'm not going to tell you what I found. There's discrepancy in instructions and disparity instructions. We need an Oversight Commission. I'm going to give your Council or your policy analyst all my notes. All right. But, it requires more. It requires oversight. We maybe need a - - Commission to study the City Board of Elections. Thank you.

CHAIRPERSON FELDER: Thank you very much. And, the final panel, we have Andrea Santano [phonetic], Barbara Zucker [phonetic] and Adele Bendell [phonetic], I think. I'm sorry. We're ready.

BARBARA ZUCKER: If this is green, that means I can go?

CHAIRPERSON FELDER: It's on.

BARBARA ZUCKER: Okay.

CHAIRPERSON FELDER: It's on.

BARBARA ZUCKER: I'm Barbara Zucker. I happen to be a member of a good government group and I go to meetings of the HAVA Coalition. But, I'm here today as a private

1
2 citizen because I am also a poll worker. I've
3 been a poll worker for seven years. I was trained
4 on the BMD device. My experience is a little
5 different from this last gentleman.

6 I did have hands-on training. They
7 divided us in groups of three and we had an hour
8 and a half on the machine. Even so, I would
9 actually like a little bit more training. But, I
10 did receive that training.

11 My poll site consists of four
12 election districts that are all within the same
13 Assembly district. I do double duty 'cause I'm
14 Chair of my E-Z [phonetic] and I also was one of
15 two BMD persons. However, in the whole day, I was
16 never able-- I mean, I did invite a few people. I
17 didn't want to call it BMD. I didn't want to say
18 it was for disabled. Nobody used the BMD machine
19 at our site. We set it up really early, just
20 right. I did that before I did my regular poll
21 thing, 'cause I was worried about it. But, nobody
22 came.

23 I think there has to be a lot more
24 public information about it. It's really
25 important and the people vote on that machine who

aren't disabled and don't need it because otherwise there is no privacy for the disabled because it only marks the ballot. You put it in a box and count them at night. And, if just a few disabled people vote, you know who they voted for. So, I'm just asking, they have something in writing, but I'm asking for much more information to the public to encourage them to use the machines.

CHAIRPERSON FELDER: Thank you.

ANDREA SENTINO: [Pause] good afternoon, Chairperson Felder. My name is Andrea Sentino [phonetic]. I'm from Citizens Union Foundation, non-profit organization here in New York City for government reform.

This past June, Citizens Union, along with other civic organizations and community members, testified before this Committee about the importance of making small, but meaningful, changes to the way elections are administered to improve voting on Election Day. To date, many of these suggestions have seen little or no action.

For the first time this September, accessible voting was made available in every poll

site in the State. And, this was the first step towards the transition to new voting machines.

This introduction of the ballot marking devices in New York City provided the Board of Elections with a unique opportunity to test its systems and roll out a plan for a much larger voting machine transition that'll happen next year.

But, due to funding constraints, a detailed and extensive plan surrounding the ballot marking devices was never carried. And, what was initially to be a placement of special poll workers dedicated to the BMDs amounted to a substitute plan that required poll workers to serve dual roles staffing simultaneously BMDs and their regular lever voting machines.

With the low voter turnout and the striking lack of primaries across the City, a lot of voters didn't use BMDs. A lot of voters didn't go to vote. But, our anecdotal evidence from phone calls that we received showed that a lot of voters who did go to vote and tried to vote on BMDs where unable to do so. And, in one particular case, a voter went into his poll site at 6 p.m. in Brooklyn Heights. He was the first

voter of the day to ask if he could use the BMD. He waited patiently for 20 minutes while seven of the poll workers at that poll site tried to get the BMD functioning so that he could vote on it. He eventually voted on the lever machine. But, he also, and obviously frustrated, but he also expressed that the poll workers themselves were incredibly frustrated and apologetic that they themselves didn't know how to operate the machinery. And, that they weren't provided with hands-on training.

We received a number of phone calls from people leading up to the Election Day. They didn't know if they had a primary. They didn't know how to use the list of candidates. We did as much as we could to provide them with that information. But, a sample ballot online at the polling site locator could have prevented some of those phone calls.

And so, in closing, it's very important that poll workers receive the hands-on training. That all poll workers have some sort of working knowledge of the BMDs on Election Day so that we can kind of alleviate that stress. And,

we encourage the City and the Board of Elections to take a look at our commonsense steps that we release with other civic group [pause] time for this election and in preparation for 2009. Thank you.

ADELE BENDER: [Pause] My name is Adele Bender. I'm Queens Borough Coordinator for JPAC, which stands for the Joint Public Affairs Committee for older adults. Mine is kind of short and sweet and it'll summarize pretty much what's been, I think all that has to be said has been said.

Voting is what empowers the people. Many of us devote much time and energy working on issues that concern us and society. If steps to reform, especially with the new BMD, ballot marking device, or if the poll workers are not properly and not thoroughly trained on the BMDs, or if voters are, in some cases, not at their correct polling locations, or not assisted with the proper information, if nothing is done that may-- or, I'm sorry, if anything is done that may knowingly or unknowingly discourage some people from voting, then many of the issues related to

the concerns of citizens could be muted, since some voters could be discouraged from exercising their right to vote for the person that they feel will address their concerns.

This would, indeed, be sad, unfair and unjust. The voting process that must be made accessible to all who wish to vote and should encourage voters to participate in this most important day. I would also hope that the votes from the BMDs be counted that night right after the vote and not the next day. Thank you.

CHAIRPERSON FELDER: Thank you very much. And, I thank everybody for coming and testifying and for your patience. This hearing is hereby closed.

C E R T I F I C A T E

I, Erika Swyler, certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature  _____

Date _____ October 8, 2008 _____