

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON GOVERNMENTAL OPERATIONS JOINTLY WITH
COMMITTEE ON OVERSIGHT AND INVESTIGATIONS

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November 20, 2018
Start: 10:15 a.m.
Recess: 3:45 p.m.

HELD AT: Council Chambers - City Hall

B E F O R E: COREY JOHNSON
Speaker, New York Council

FERNANDO CABRERA
Chairperson

RITCHIE J. TORRES
Chairperson

COUNCIL MEMBERS: Ben Kallos
Alan N. Maisel
Bill Perkins
Keith Powers
Ydanis A. Rodriguez
Kalman Yeger
Rory I. Lancman
Rafael Salamanca, Jr.
Mark Treyger

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

Michael Ryan, Executive Director, New York City
Board of Elections

Dawn Sandow, Deputy Executive Director, New York
City Board of Elections

Douglas Kellner, Co-Chair, New York State Board of
Elections

Judd Ryan, Election Systems and Software

Ayirini Fonseca-Sabune, NYC Chief Democracy Officer
Democracy NYC Initiative, Office of the Mayor

Susan Lerner, Executive Director, Common Cause New
York

Alex Camarda, Senior Policy Advisor, Reinvent Albany

Diana Finch, Temporary Poll Worker

1 COMMITTEE ON GOVERNMENTAL OPERATIONS JOINTLY WITH
2 COMMITTEE ON OVERSIGHT AND INVESTIGATIONS 4

3 [sound check] [gavel]

4 SPEAKER JOHNSON: I want to welcome to
5 today's hear. My name is Corey Johnson and I am the
6 Speaker of the New York City Council. I want to
7 thank the Chairs of the Committees on Governmental
8 Operations, and Oversight and Investigations, Council
9 Member Fernando Cabrera and Ritchie Torres for their
10 resolve on this issue that we will be discussing
11 today. We are, of course, discussing what happened
12 on Election Day earlier this month. A top-to-bottom
13 review is not a small task, and I want to thank the
14 chairs for setting aside time to devote to today's
15 hearing, and to the staff whose hours of work
16 guaranteed our ability to give this mess the
17 attention that it deserves. We already have some of
18 the most archaic and restrictive election laws in the
19 country, and we can talk about those. We will be
20 raising these issues with our state colleagues to
21 hopefully enact and implement early voting, No-Excuse
22 Absentee Ballot voting, automatic voter registration,
23 electronic poll books and same-day voter
24 registration. It's my hope and no later than the
25 2020 Presidential Election. I understand that
consolidating our congressional and state and local

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2 primary dates would also greatly help our Elections
3 Administration overall. It is beyond urgent that we
4 update our laws to catch up with other states across
5 the country. However, today, we're here to discuss
6 November 6, 2019, the General Election. On November
7 6, 2018, the City Council had 40 staff assigned to
8 approximately 200 poll sites in all five boroughs to
9 oversee day-of operations. By 8:30 in the morning,
10 we were receiving messages that—we were receiving
11 messages that scanners were failing and poll site
12 coordinators were initiating emergency protocol at
13 select sites. That morning, I experience the very
14 issues—those very issues at my own poll site that
15 many other New Yorkers experienced when they tried to
16 vote, or the issues that we saw on new reports. By
17 11 o'clock in the morning at my poll site, the LGBT
18 Center in the Greenwich Village, we were down to one
19 functioning scanner causing a line to back up to out
20 the door, and into the pouring rain. Over the course
21 of the day, the voting crises escalated in four out
22 of five boroughs, voters waiting in two to three
23 hours of lines to vote, scanners jamming or out of
24 commission entirely, and wide-ranging emergency
25 protocols initiated at different poll sites. To say

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2 that I was angry about what I witnessed and
3 bewildered at the day of operations would an
4 understatement. To the more than two million New
5 Yorkers who turned out and cast a ballot in this
6 year's general election, I want to say thank you.
7 You exceeded our expectations, and to those New
8 Yorker who tried to cast a ballot in this year's
9 general election and for reasons beyond your control,
10 found the process arduous, discouraging and unsafe, I
11 want you to know that the Council is committee to
12 getting to the bottom of this. I would hate for your
13 experience on Tuesday, November 6 to end your civic
14 engagement. We need your voice, we need you to
15 ensure that the laws considered by these committee
16 members, myself along with the rest of the Council
17 take you into account to ensure that our budget funds
18 programs in your neighborhood that take you into
19 account, and we need you and every New Yorker who's
20 eligible to cast their ballot. To the
21 representatives of the City Board of Elections, I
22 want to thank you for your willingness to testify to
23 the committees this morning on the 2018 General
24 Election, but I also want to say that regardless of
25 the weather, the turnout or other circumstances, it

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2 is your mandated responsibility to administer our
3 elections in an equitable and organized fashion. I
4 can't begin to describe my disappointment at what I
5 consider to be the egregious failure to effectuate
6 this mandate, and our most recent general election.
7 There should not be riot conditions at poll sites
8 across our city. Elderly and disabled New Yorkers
9 should not be made to wait in line for more than 30
10 minutes as State Law says, let alone two to three
11 hours, and most devastating, voters should not leave
12 poll sites with any doubt of whether or not their
13 ballot has been cast and that their vote has been
14 recorded. This is not democracy. I look forward to
15 an in-depth review that the committees will conduct
16 today, and most importantly, I expect to hear a plan
17 forthcoming from the city and state to rectify the
18 issues of this past election, and to improve ten
19 fold, if not more, that the election operations for
20 the next election and for the one after that, and for
21 the one after that, and I want to now hand it over to
22 the Co-Chairs who are co-chairing this hearing today,
23 the Chair of our Governmental Operations Committee,
24 Chair Fernando Cabrera.

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2 CHAIRPERSON CABRERA: Thank you so much,
3 Mr. Speaker. Good morning and welcome to this joint
4 oversight hearing of the Committee on Governmental
5 Operations and the Committee on Oversight and
6 Investigation on the 2018 General Election. I am
7 Council Member Fernando Cabrera, Chair of the
8 Committee on Governmental Operations, and I want to
9 thank Speaker Corey Johnson and my Co-Chair Council
10 Member Ritchie Torres for their unwavering support of
11 our city's voters. This committee has held oversight
12 hearings on elections before, and it had held
13 hearings with the New York City Board of Elections
14 before, but I cannot remember ever being some
15 immediately obviously that a hearing will be needed
16 as it was with this past election. The long lines.
17 Let me say that again, the long lines and voting
18 machine failures were so widespread that many of us
19 not only heard about it in the news story, but also
20 experienced it when we tried to vote ourselves. Our
21 social media overflow with members of the public
22 reaching out to us for help. We can see on the
23 screen some of the comments from frustrated voters
24 that I received on my personal page all of whom just
25 wanted to participate in our democracy. We spend so

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2 much time in in the Council in improving voting
3 registration efforts, and voting rights education,
4 but it's all for nothing if people try to vote and
5 fail. What does it say when our election process is
6 a bigger deterrent to voters than the pouring rain.
7 We simply must do better. In Nassau County they use
8 the same voting machines we use, operated under the
9 same election laws that we operated under, and
10 because clouds do not stop at the Queens border, the
11 voter in the same wet weather we did, yet we
12 experienced long lines, and they did not. Clearly,
13 our Board of Election is doing or failing to do
14 something different here. I truly hope that today's
15 discussion will be a productive one. It is not
16 enough to say that the problems were unexpected. Now
17 that they have happened, they are no longer
18 unexpected. Therefore, I want to hear how we prevent
19 this from happening again. If our machines are
20 failing, then I want to hear how we will fix them.
21 If our planning was poor, then I want to hear how we
22 will plan better. The voters of New York City
23 deserve to hear that. They don't want to hear
24 excuses. They want to hear solutions. I want to
25 thank the staff of both committees--of both

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2 committees, Brad Reed, Alyssa Vicon (sp?), Emily
3 Forgione, Zach Harris, Steve Pinkney, Jennifer Smith,
4 Pearl Moore, Cordero Perez, Lucy Trender, Mark Chan,
5 as well as my own Legislative Director, Clair
6 McLavain for their tremendous amount of work they put
7 into hearing in such a short amount of time. I look
8 forward to our discussion. With that, I pass it to
9 my Co-Chair Ritchie Torres, Council Member Ritchie
10 Torres.

11 CHAIRPERSON TORRES: Good morning
12 everyone. I'm City Council Member Ritchie Torres and
13 I chair the Committee on Oversight and
14 investigations. I'm honored to join the City Council
15 Speaker Corey Johnson and the Chair of the Committee
16 on Government Operations Fernando Cabrera in chairing
17 the hearing on the Central institution New York City
18 Democracy, our elections. On Tuesday, November 6th,
19 millions of voters were thrown into a preventable
20 state of mass chaos and confusion caused by a lack of
21 planning, preparation, and professionalism from the
22 New York City Board of Elections. There were
23 countless poll sites like P.S. 96 in the Bronx where
24 every machine or nearly every machine had broken
25 down. Even though New York City is the greatest city

1 in the world, the manner in which we conduct
2 elections is unworthy of our city's greatness.
3 Indeed it is nothing short of a national
4 embarrassment that a city so great runs its elections
5 so poorly. Ever since the 2016 election, we have all
6 been keenly aware of the brave new world we live in,
7 and a world where the threat of cyber warfare lurks
8 in the background of every election. But here in New
9 York City it seems as if we have become our own worst
10 enemy. It seems that we have as much to fear from
11 our own incompetent administration of elections as we
12 do from political interference at the hands of a
13 foreign enemy. Now, Michael Ryan, the Executive
14 Director of the Board of Elections is right to point
15 out that the long lines of eager voters are a tribute
16 to "a healthy, robust democracy." But he is only
17 partly right. The never ending delays that most of
18 us have painfully felt first hand is not merely a
19 sign of health in New York City's democracy, it is
20 also a sign of sickness in the New York City Board of
21 Elections, which cannot manage to administer an
22 election without experiencing a systemic breakdown.
23 If it's not a voter purge in Brooklyn, then it's a
24 citywide collapse of voting machines producing long
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2 lines of frustrated New Yorkers. Now, Mr. Ryan has
3 said that the Board of Elections cannot be faulted
4 for "lacking a crystal ball" but the problem is not
5 that Board of Elections did not know or could not
6 have known the challenges of a two-page perforated
7 ballot. Those challenges were well known as evidence
8 by BOE's own records. The problem it seems is that
9 the Board of Elections couldn't be bothered to
10 properly plan and prepare for those challenges as a
11 professional agency would and therein lies the
12 sickness in our system. The most vital institution
13 in our democracy our electoral system is in the hands
14 of a broken bureaucracy. The city cannot afford to
15 have a voting process so cumbersome, so dysfunctional
16 that it inhibits everyday New Yorkers from exercising
17 their fundamental right to vote. Our shared mission
18 should be to produce more voters not less, to make
19 voting more accessible not less. If we as a city and
20 as a state are failing at that critical mission, and
21 the people we represent are paying the price. On the
22 morning after his election in 2012, President Obama
23 said, "I want to thank every American who
24 participated in this election whether you voted for
25 the very first time or waited in line for a very long

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2 time, and then President Obama paused and said, "By
3 the way, we have to fix that." And that is why we
4 are here, Mr. Speaker, to fix that. Thank you.

5 SPEAKER JOHNSON: I want to thank Chair
6 Torres and Chair Cabrera. I will invite the Board of
7 Elections to come up to the witness stand. [pause]
8 We have been joined this morning by Council Member
9 Kalman Yeger, Council Member Bill Perkins, Council
10 Member Keith Powers, Chair Torres, Chair Cabrera,
11 Council Member Alan Maisel, and Council Member Jimmy
12 Van Bramer. I will ask the Committee Counsel to
13 please swear in the witnesses. Oh, I didn't see—like
14 where is she? Oh, I didn't see over. Council
15 Member Alicka Ampry-Samuel.

16 LEGAL COUNSEL: Please raise your right
17 hand. Do you swear or affirm to tell the truth, the
18 whole truth and nothing but the truth in your
19 testimony before these committees, and to respond
20 honestly to Council Members questions?

21 MICHAEL RYAN: Yes, I do.

22 LEGAL COUNSEL: Thank you. [pause] Mr.
23 Speaker, Chairs Cabrera and Torres, and the members
24 of the City Council's Committee on Govern-Committees
25 on Governmental Operations, and Oversight and

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2 Investigation. Thank you for providing the
3 opportunity to appear before you on behalf of the
4 Board of Elections. My name is Michael Ryan, and I
5 am the Executive Director of the Board. Seated to my
6 right is Don Sandal, and we are also accompanied by
7 additional staff as set forth in my written
8 testimony. I will provide an overview regarding the
9 September 13th Primary Election and the November 6,
10 2018 General Election. After providing formal
11 remarks, I am prepared to answer questions from the
12 committee members. Given the proximity of the
13 election, and today's hearing as well as whatever
14 time constraints there may be, I endeavor to keep my
15 remarks as brief as I could, but yet be informative
16 to allow as much time for questions as I'm sure this
17 panel will have many. The New York City Board of
18 Elections is mandated by State Law to conduct fair
19 and honest elections and enfranchise all eligible New
20 Yorkers to practice those rights. That
21 responsibility is taken very seriously. To be clear,
22 the negative voting experience for many New Yorkers
23 during the General Election conducted on November 6,
24 2018 was unacceptable. A forensic evaluation of the
25 of the voting equipment to provide more detailed

1 information for precise causes cannot be conducted
2 and completed until after certification of the
3 election results. The Board is currently immersed in
4 the process of certifying the election results. New
5 York State Election Law provides for one of the most
6 comprehensive post-election canvass process in the
7 nation. This process is designed to ensure that
8 every vote is counted. Nevertheless, the Board has
9 conducted an initial analysis of the general election
10 to provide information here today. After each
11 election, the Board undertakes a comprehensive review
12 of all aspects of the election to identify any issues
13 or problems that have occurred to determine any
14 elements of the implementation that should be
15 replicated and expanded and to determine any elements
16 of the implementation that require remediation. Such
17 comprehensive review is completed by, at a minimum,
18 conferring with all levels of Board staff, poll site
19 coordinated debriefings and by conducting a post-
20 election analysis working jointing with the election
21 system vendor, election systems and software.
22 Conducting an election in a city as large as and
23 diverse as New York City is a complex undertaking.
24 As such, a thorough analysis requires the expenditure
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2 of time to assess all relevant information. Given
3 the Board's certification responsibility, this effort
4 is typically undertaken upon the completion of the
5 certification of the election results. The Board is
6 cognizant that the circumstances that arose during
7 the November 6, 2018 general election caused alarm,
8 concern and inordinate delay, and an immediate desire
9 for answers on the part of the elected officials and
10 the public at large. The Board understands that the
11 purpose of this hearing today is to commence the
12 process of providing answers that are—to questions
13 that are rightfully posed. The Board is ever mindful
14 of the Council's authority and its responsibility to
15 seek such answers on behalf of the citizens of the
16 city of New York, and to work diligently to improve
17 the voting experience of all voters. The Board
18 shares the mutual desire of all concerned that voting
19 is a sacred right that should be exercised
20 conveniently and without impediment to all those who
21 wish to cast a ballot. It is in that spirit that the
22 Board appears here today. The Board will endeavor to
23 provide all of the information requested by the City
24 Council today, and if unable to do so with respect to
25 some inquiries, the Board will work diligently to

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2 provide such information as expeditiously upon the
3 completion of certification as possible, a process
4 that has been instituted by Chair Cabrera under other
5 circumstances and seems to have worked well. There
6 was a remarkable increase in voter participation
7 during the November 6, 2018 General Election.

8 Approximately two million voters voted at poll sites.

9 This is a 100% increase in participation from the
10 2014 General Election. The process of the building
11 election day ballots differs from ordinary document
12 construction. The Board utilizes the system
13 compatible with the DS200 Scanners, and each ballot
14 must be made to ensure that the marking ovals for
15 candidates are placed in a location that is readable
16 by the scanner. To complete this process, all
17 aspects of candidate selection must be completed
18 including primary elections and/or judicial
19 nominating conventions. The names of candidates for
20 various officers must be known as the ballot
21 construction is bound by preset system tolerance and
22 names vary in length. For the November 6, 2018
23 General Election, there were Charter Commission
24 propositions to be considered by the voters, and
25 those appeared on the reverse side of the ballot.

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2 The state certified operating system is not designed
3 to permit candidates and questions to appear in the
4 same section. As such, once it was determined that
5 there would be Charter revisions questions, no
6 portion of the reverse side of the ballot would be
7 available for the placement of candidates' names.
8 Upon the completion of the September 13th Primary,
9 staff commenced ballot and construction for all five
10 boroughs and ballot options were circulated for
11 Commissioner review. On October the 2nd, the Board
12 of Commissioners approved the form of ballot in all
13 five boroughs. The Commissioners were presented with
14 two difficult choices: We have included samples of
15 those choices for the committee members' review and
16 records. One choice was to direct staff to produce a
17 single page 2-sided ballot utilizing an almost
18 unreadable 6 point font for ballots in all boroughs,
19 or secondly, increase the font size to 12 points, and
20 increase the size to a 2-page ballot in four of the
21 five boroughs. The only borough not to have a 2-page
22 ballot was Staten Island, and we did not see the
23 issues that arose in the other counties during the
24 Staten Island conducting of the election. The
25 Commissioners recognize that utilizing a 6 point font

1 was not a realistic option. As such, the born-the
2 Board began the process of creating the 2-page
3 Election Day ballot for the first time used in the
4 city of New York. The Board has been advised that
5 no other jurisdiction in the United States utilizes a
6 2-page perforated ballot. While other jurisdictions
7 utilize multiple page ballots, the pages are not
8 perforated as the Board has been advised that
9 perforated edge of the paper leads to an increase in
10 ballot jams. Voter participation in the Primary
11 Election conducted on September 13, 2018 was
12 approximately triple that of voter participation in
13 the same election in 2014. The Board prepared for
14 the General Election including an anticipated
15 increase in voter participation as follows: The
16 Commissioners authorized the ordering of ballots
17 based on a ratio of 110% of eligible voters with an
18 increase of 30% from the 2014 General Election to
19 ensure that ballots would be available for all
20 voters. This authorization was made following the
21 State Board Certification of the ballot on October 9,
22 2018. It is worth noting that at the last minute,
23 one of the board's three ballot vendors advised
24 without prior warning that they were not able to
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2 complete the printing of a 2-page center page
3 perforated ballot because the equipment that they had
4 ordered to do so had not yet arrived, and the Board
5 was forced on short notice to split a high volume of
6 work between two vendors as opposed to three. I
7 would like to say that the two vendors that completed
8 their work really stepped up to the plate and
9 constructed a ballot of us that had never been done
10 anywhere else on very, very short notice, or quite
11 literally, we were in danger of not having election.
12 So, I would like to applaud the efforts of Fort
13 Orange Press and of Phoenix Graphics for their
14 efforts in working as a—a good partner to make sure
15 that we had an election. I won't mention the name of
16 the other vendor, but we'll be exercising our rights
17 under the contract with respect to their services.
18 The Board recruited, trained and testes over 34,000
19 poll workers across the five boroughs for this
20 election, and approximately 25% increase of poll
21 workers from the 2014 election, and I keep going back
22 to 2014. For everyone that's the last gubernatorial,
23 and we tried to compare election events to the
24 election events. The Board held and additional
25 training for coordinator and AD Field Monitors to

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2 prepare for the 2-page ballot. Given the time
3 constraints, it was not possible to retrain and re-
4 test over 34,000 poll workers. Additional training
5 and reference materials were prepared and distributed
6 to all poll site coordinators, and in the supply
7 carts for use at poll sites on Election Day. We have
8 also provided those materials to this committee for
9 information and review. An additional voter
10 instruction page including—regarding the 2-page
11 ballot was prepared and distributed to all voters
12 along with their ballots in privacy sleeves. A How
13 to Separate the Ballot graphic was placed in the
14 center panel of all privacy boots, the lid of each
15 scanner, and was added to the instruction posters
16 placed at each poll site. The Board did extensive
17 media appearances on major networks in an effort to
18 educate voters with respect to the 2-page ballot, and
19 we spent approximately \$400,000 in paper advertising
20 including full-page ads in two major publications as
21 well as neighborhood newspapers. A video explaining
22 how to vote using the 2-page ballot was created and
23 placed on the board's website and social media
24 platforms. A robocall was sent to all assigned poll
25 workers directing them to view the video as time did

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2 not permit retraining over 34,000 poll workers less
3 than four weeks before election day. In addition to
4 advising the poll worker pay increase, which was less
5 than we asked for, but more than we expected. So,
6 we're—we're happy about the increase in pay to poll
7 workers. The Board used 100% more field tech-support
8 technicians for the November 2018 compared to that
9 deployed in 2014. We implemented a plan to secure
10 Election Day ballots and/or scanner replacements for
11 poll sites that experienced ballot bins that reached
12 capacity. Borough staff processed over 100,000
13 absentee ballot requests the majority of which were
14 mailed out within one week of the state
15 certification. This included two separate mailing-
16 absentee ballot mailings to military and overseas
17 voters necessitated by the June and September
18 primaries, and Mr. Speaker, this is one moment where
19 the consolidated primary would certainly help that
20 we're not distributing ballot materials to overseas
21 voters on two different occasions causing further
22 voter confusion. As stated, approximately 2 million
23 New Yorkers voted at poll sites during the November
24 6, 2018 General Election. The 2-page ballot was
25 utilized in the four largest counties. That

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2 represents approximately 4 million ballot pages
3 scanned on Election Day. For the sake of
4 perspective, less than one million ballot pages were
5 scanned in the 2014 General Election, and
6 approximately 2.5 million ballot pages were scanned
7 during the 2016 Presidential Election. Upon
8 certification, total voter participation is expected
9 to top 2 million voters with the inclusion of all
10 scanner results, absentee, military and affidavit
11 ballots in the certified results. Even with the
12 challenges posed by the 2-page ballot and those
13 experienced during Election Day, the Board was able
14 to report the unofficial results on the poll sites as
15 follows: 70% by 10:00 p.m., 85% by 11:00 p.m. and
16 90% by midnight. That is somewhat behind what we
17 would normally report. However, because of the
18 increased instances of emergency ballots and I want
19 to clarify that an emergency ballot is no more, no
20 less than an Election Day ballot that for some reason
21 in the moment is not able to be scanned into the
22 machine. The procedure was followed at the end of
23 the night, and the majority of those ballots were
24 scanned into the DS200 Scanners on Election Night and
25 included in the unofficial results. The balance of

1 those are returned to the various offices, and
2 included in the election results during the canvass
3 process. As stated above, the Board has not
4 completed a comprehensive analysis. However, upon
5 conferring with ES&S, the Board has been advised that
6 an initial analysis points to the perforated ballot
7 requirement as a major cause of the increase of
8 ballot jams. Such a ballot configuration has not
9 been attempted in any jurisdiction in the United
10 States with a—with use with a poll site scanner. The
11 perforated 2-page ballot presented a series of
12 problems never before experienced by the Board or
13 anywhere in the country. The increase in ballot jams
14 created a ripple effect in poll sites causing longer
15 wait times resulting in crowded sites, long lines,
16 and taxed technical support resources. Further, the
17 ballot jams continued to occur multiple times at the
18 same poll site at a rate not experienced in any
19 election since the use of the DS200 Scanners began in
20 2010. The Board commits to sharing its completed
21 analysis as expeditiously as possible. The Board
22 further commits to making necessary adjustments
23 within its statutory—within its authority and
24 existing Election Law to minimize poll site issues.
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2 In addition, the Board looks forward to working
3 collaboratively with all interested parties to
4 harmonize the Election Law with the current voting
5 system ensuring that the Election Law and technology
6 will work together rather than at cross purposes at
7 times, and to implementing any additional legislative
8 mandates to improve the voter experience. Given the
9 proximity of this hearing to the election date, and
10 given the limits of my authority, I have not been
11 able to nor has the remainder of executive management
12 been able to confer with the Commissioners in detail
13 to set new policies moving forward, but I am
14 certainly happy to discuss what we saw, which I'm
15 sure is going to square 100% with what everyone else
16 saw, and to work closely with this committee and with
17 the Board of Commissioners to implement the policy.
18 Given the limits of my authority, I do not think it
19 was appropriate for me to "jump out ahead of the
20 Commissioners." They set the policy. I am certain
21 we will offer many suggestions and alternatives, and
22 will come up with a plan moving forward working with
23 all of you. That all having been said, I am ready
24 for your questions.

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2 SPEAKER JOHNSON: Thank you, Mr. Ryan and
3 thank you Ms. Sandow for be here. Mr. Ryan, do you
4 apologize to the public for what happened on Election
5 Day?

6 MICHAEL RYAN: Certainly and I also
7 apologize for—it's difficult for me to assess how my
8 remarks were construed because I actually didn't see
9 them after Election Day, but I want to make it clear
10 to—to this committee and—and most especially to you,
11 Mr. Speaker, when I was addressing the weather, I was
12 at a poll site P.S. 22 in Brooklyn. I had just come
13 in out of a heavy rain, and was immediately met by a
14 poll workers who said she was no longer going to work
15 as poll worker because she was using her scarf to dry
16 of the table. It was the height of the rain storm,
17 and there was numerous press outlets there, and the
18 technicians had just left, got all four scanners back
19 up and running, and no sooner did they leave, two
20 more scanners went down. So, when I was discussing
21 the weather, I was discussing that particular poll
22 site at that moment in time based on observations. In
23 no way, shape or form was that meant to be construed
24 as being insensitive to the plight of the voters
25 throughout the city or a shrug of shoulders saying

1 well, it's raining. There's nothing that we can do.
2 We were in the middle of a crisis the likes of which
3 we have not seen in the five years that I've been the
4 Executive Director, and I was attempting to remedy
5 that crisis as best I could. What we did at that
6 poll site was we made sure that we got technicians
7 back there, and they stayed there until that entire
8 crowd was disbursed. So, it that led to, you know, a
9 perceived insensitivity or lack of seriousness of-of
10 what was going on, that was certainly regrettable
11 and intended in any way, shape or form.

13 SPEAKER JOHNSON: I appreciate that, and
14 I understand that you are referring to the remarks
15 that were broadcast by the media on Election Day, but
16 I was I was--when I asked if you apologized, I was
17 speaking more broadly about the conditions that were
18 laid out by Chair Cabrera, Chair Torres and myself on
19 what was experienced on Election Day by thousands and
20 tens of thousands of voters across the city, and what
21 they had to experience going to the polls was
22 something that we find to be unacceptable, and that's
23 what I was really trying to get at if you apologized
24 to the voters of New York City for experience.

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2 MICHAEL RYAN: Yes, we do. We want what
3 you all want, and what the voters want and ease of
4 experience. We want to serve our customers, if you
5 will, the voters of the city of New York as best we
6 can. This particular election event presented us
7 with numerous challenges that we will work hand-
8 hopefully hand-in-glove. We've had a good working
9 relationship with the City Council, and-and city
10 government in general as well as the State
11 Legislature to make additional changes beyond those
12 elements of the elections process that the board
13 controls.

14 SPEAKER JOHNSON: So, let's get to some
15 of this. I want to start at the beginning so we
16 understand how we got here because again, this wasn't
17 a special election called with just a few weeks to
18 spare. There was no unforeseen disaster you had to
19 grapple with the day or the week of. It was general
20 election where it rained, and a lot of people voted.
21 I don't see either of those two things as remarkable
22 or unforeseen occurrences, but somehow in our
23 estimation, in our opinion they led to what we
24 consider to be an epic disaster on Election Day
25 experienced across the city. So, let's go through

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2 this piece by piece. Number one, the ballot you
3 mentioned. We've heard a lot about problems with the
4 2-page ballot, and what that supposedly caused. You
5 discuss that in your testimony. I know that the 2-
6 page ballot is new for us, but it is not putting the
7 man on Mars. This should be doable. You just told
8 the State Assembly in a hearing that they held that
9 you had been expecting a 2-page ballot since 2016.
10 That's what you said at that hearing. So, you've
11 known that this was coming for a while. You knew
12 that the Mayor was doing a Charter Revision
13 Commission in February when he announced in his State
14 of the City that he would be appointing a Charter
15 Revision Commission. So you knew that there would be
16 ballot questions. You didn't know how many. That
17 was decided in September just after Labor Day, but
18 you knew those things. So, what did you do to
19 prepare for a 2-page ballot, and when did you start
20 the preparation on a 2-page ballot if that was one of
21 the root causes of the issues that we saw on Election
22 Day?

23 MICHAEL RYAN: So, we started the
24 preparation for the 2-page ballot basically in 2016.
25 There was a possibility--it turned out not to be the

1 case—that there would be a 2-page ballot prior to the
2 presidential election. In advance of that election,
3 we worked closely with the vendor, and I learned
4 something that there’s apparently a 20-week lead time
5 in ordering additional ballot bins, which we did for
6 the 2016 election and we put that plan in place, and
7 elements of that plan included having additional
8 scanners to be positioned in the field in the event
9 that we were filled to capacity, and coming up with a
10 game plan to deal with ballot bins that were filled
11 to capacity. So, a good portion of the plan was
12 completed in 2016. In the lead-up to this election,
13 and the reason that I went into a little bit of a
14 technical explanation of how ballots are built was
15 even though there were going to be questions on the
16 back of the ballot, we remained hopeful because of
17 all of the advice that we were given regarding the
18 difficulties associated not only with the 2-page
19 ballot, but with a ballot that ends up having one
20 sheet that has perforations on both side. Now, I’m
21 not a machines operation expert. I’m sure that
22 you’re going to hear testimony from the vendor, but
23 they tell me that they are confident that after the
24 analysis of this election that the center perforation
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2 was a major culprit. What I can tell you in my
3 experience in the five years that I've been here we
4 experienced more ballot jams at the top portion of
5 the scanner than in any election, you know, since
6 I've--since I've been here.

7 SPEAKER JOHNSON: Since 2000--since 2016,
8 how often have you raised the possibility of 2-page
9 ballot with the Board?

10 MICHAEL RYAN: It---it is--it's kind of
11 the cloud that's always lurking in the background,
12 and we have raised the issue with the New York State
13 Legislature prior to the 2016 President Election.

14 SPEAKER JOHNSON: But how many times have
15 you raised it with the Board of Commissioners the
16 possibility of 2-page ballot?

17 MICHAEL RYAN: I--I don't know precisely,
18 but I can tell you that it is a regular part of the
19 conversation when we're talking about election
20 preparation.

21 SPEAKER JOHNSON: Did you test the
22 machines with a 2-page ballot?

23 MICHAEL RYAN: Yes, we tested the
24 machines with a 2-page ballot.
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2 SPEAKER JOHNSON: [interposing] So, what
3 did you learn from testing the machines with a 2-page
4 ballot, and how did you adjust from what you learned?

5 MICHAEL RYAN: Given the timing of the
6 Election Day ballot finalizing by the State Board of
7 Elections, we had just enough time to test the DS200
8 Scanners for functionality. We did not have any time
9 to do any kind of random testing to try to replicate
10 the voter experience. All of the machines have to be
11 tested for tabulation.

12 SPEAKER JOHNSON: But what did you learn
13 from the testing?

14 MICHAEL RYAN: We don't learn much from
15 the testing because the people--

16 SPEAKER JOHNSON: [interposing] Then why
17 do you do it?

18 MICHAEL RYAN: We have to do it by law.
19 So, in order for each one of those machines to be
20 able to read a ballot, we have to do pre-election
21 testing. When we do that pre-election testing keep
22 in mind it's done by individuals, our staff who are
23 intimately familiar with the workings of the
24 machines. What you have on Election Day introduces a
25 variable that we cannot replicate in a laboratory

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2 setting, which is the actions of—of the voters on
3 Election Day.

4 SPEAKER JOHNSON: So, you said in your
5 testimony no other jurisdictions have used 2-page
6 ballots with scanning machines.

7 MICHAEL RYAN: With a perforated page.

8 SPEAKER JOHNSON: With a perforation?

9 MICHAEL RYAN: Correct, and I'm advised,
10 and I don't know this independently, but I'm advised
11 that in the jurisdictions that have clean machine
12 edges on all of the sides, that these types of ballot
13 jams that we experienced in this particular election
14 are not present. I don't know that independently,
15 but that's what I've been told.

16 SPEAKER JOHNSON: So, let's turn and talk
17 about two things you've repeatedly blamed as you
18 talked about earlier when I asked the first question
19 about apologizing, the turnout and the weather. I
20 know Chair Torres spoke about this in his opening as
21 well. It seems like the Board of Elections was
22 surprised and unprepared for both the turnout and the
23 weather, and I know there's not a 10-day forecast of
24 likely voters, but I find it hard to believe that any
25 one following the lead-up to this election would not

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2 have expected anything other than huge turnout. We
3 saw it in the Primary Election significantly
4 increased turnout. So, we should have expected it in
5 the General Election. How do you estimate voter
6 turnout?

7 MICHAEL RYAN: Before I—before I get to
8 that, I—I want to—I want to clarify. When I offer an
9 explanation based on what we're learned, I do not
10 want that to be in anyway interpreted as an excuse
11 or—or a running away from responsibilities. An
12 explanation is just that, what we observe. So, what
13 we did for this particular election, and it turn out
14 that the basic modeling that we did was correct. We
15 tried to implement the plan based on 50% turnout. We
16 didn't see 50% turnout across the board, but we
17 certainly saw over 50% turnout in some pockets
18 throughout the city. So, one of the things that we
19 did, which is our first line of defense is our poll
20 site coordinators, we—when we brought them back in
21 for the refresher training, we made sure to tell them
22 to have the voters rotate on the scanners A, then B,
23 then C, then D.

24 SPEAKER JOHNSON: [interposing] Did you--?
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2 MICHAEL RYAN: [interposing] That should
3 keep a level enough number of ballots in each
4 scanner.

5 SPEAKER JOHNSON: Did you follow reports
6 of increased turnout in states with early voting
7 across the country?

8 MICHAEL RYAN: No, and I don't
9 necessarily know that those are a predictor, but what
10 I do know is we planned for a 50% turnout.

11 SPEAKER JOHNSON: [interposing] When did
12 you realize voter turnout would be higher than
13 expected?

14 MICHAEL RYAN: When we realized it, I
15 think when everybody else realized it in New York,
16 which was after the September Primary Election. The-
17 the next highest attended Primary Election after this
18 past September was in 2006 where 400,000 voters voted
19 in that Primary. In this Primary Election, we had
20 over 945,000 people vote. That caught us all by
21 surprise on election night as we were watching the
22 results, and from that point forward we know we were
23 going to have a myriad of challenges for this General
24 Election.

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2 SPEAKER JOHNSON: So, rain during an
3 election is an unprecedented, and it rained this
4 year. It's rained before. When the Board of
5 Elections knows rain or humidity is expected, what do
6 you do?

7 MICHAEL RYAN: With respect--

8 SPEAKER JOHNSON: [interposing] What
9 extra precautions and procedures do you implement?

10 MICHAEL RYAN: We didn't have any extra
11 precautions or procedures with respect to the rain.
12 It--it has not presented itself as an issue to us
13 prior to this election . With respect to the
14 humidity, I have been told because I did raise that
15 specter with our vendor, and I have been told that
16 the humidity reports that have been out in the--in the
17 media are involving this long-term storage of the
18 machines at the facilities, not necessarily their
19 operation on Election Day because I asked. I said,
20 well, how come I'm just hearing about this humidity
21 for the first time? And I was told because you don't
22 have a problem with the way that you store your
23 machines. Your machines are stored in climate
24 controlled environments, and they don't have those
25 issues.

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2 SPEAKER JOHNSON: So, I'm going to try to
3 rifle through some questions quickly to get to the
4 chairs and the other committee members. Voters have
5 problems on Election Day with interpreters, with
6 accessibility, and with communication at the poll
7 sites. Unfortunately, this—from our experience and
8 from what we hear has become pretty standard in New
9 York City elections, but what made this election
10 different, what made this a disaster even by greater
11 standards was the scanner failure that you talked
12 about. We've heard countless stories of poll sites
13 left with one scanner or no scanners after paper
14 jams, sites where poll workers waited hours for
15 technicians. How many scanners were out of service
16 for any length of time on Election Day?

17 MICHAEL RYAN: I don't have that specific
18 report--

19 SPEAKER JOHNSON: [interposing] Do you
20 have an initial number?

21 MICHAEL RYAN: --just yet. I know that
22 we received between ballot marking devices and
23 regular scanners, we received over 3,000 phone calls
24 with respect to that on Election Day.
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SPEAKER JOHNSON: How-how do you collect data on this?

MICHAEL RYAN: Through out call center, I-I--

SPEAKER JOHNSON: [interposing] No data on-well, the question you weren't able to answer at this point.

MICHAEL RYAN: [interposing] Oh, this-- this--

SPEAKER JOHNSON: [interposing] The number of scanners down on Election Day for any period of time, how do you collect that data?

MICHAEL RYAN: Each--each one of the scanner machines has log data in it.

SPEAKER JOHNSON: So, they're error logs.

MICHAEL RYAN: They are error logs, but they were designed--those logs were designed basically, you know, just to be logs. They were not designed to tell you anything if you're not a technician. We work with our vendor, and they are able to reverse engineer the information that's on those logs and provide us with a report post election, but that cannot be done until after certification is completed and that that they have

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2 access to the machines to download the logging
3 information.

4 SPEAKER JOHNSON: How many calls are made
5 by poll site coordinators to the Board of Elections
6 reporting broken or jammed scanners?

7 MICHAEL RYAN: I don't have that
8 information.

9 SPEAKER JOHNSON: Well, why don't we have
10 that information?

11 MICHAEL RYAN: Well--

12 SPEAKER JOHNSON: [interposing] That's
13 easy information to have.

14 MICHAEL RYAN: Right. I don't have it
15 readily available. I have the--

16 SPEAKER JOHNSON: [interposing] Well, you
17 should have that information for this hearing today.

18 [background comments]

19 MICHAEL RYAN: I have raw information,
20 which has not distilled out which ones came from the
21 poll sites, and which came from outside callers. We
22 can distill that information, and get it to you.

23 SPEAKER JOHNSON: That should--Mr. Ryan,
24 that should have been done before this hearing today?

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2 MICHAEL RYAN: I—I understand and I can
3 assure you that it was attempted to be done.
4 However, it was not completed, and for that I
5 apologize but we can get—this is an example of that
6 information that we can get to you relatively quickly
7 at the conclusion of this meeting.

8 SPEAKER JOHNSON: It should have been
9 done by today, but I look forward to getting that.
10 So, I assume you're not going to be able to answer
11 these other questions as well. What percentage of
12 poll sites made a call for a technician at least once
13 on Election Day? Do you have that information?

14 MICHAEL RYAN: No.

15 SPEAKER JOHNSON: What was the average
16 wait time for a technician after a call was made? Do
17 you have that information?

18 MICHAEL RYAN: Yes. Now, the average—the
19 average time to repair varied by borough. Manhattan
20 was less than a half hour. The Bronx was a little
21 over an hour. Brooklyn was about an hour and 15
22 minutes. That was the most difficult borough that
23 we—we had. Queens was slightly less than an hour, 57
24 minutes and Staten Island was also less than a half
25 hour. So, the average wait time for this election

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2 for scanner repairs was 52-1/2 minutes, but when you
3 couple that with--

4 SPEAKER JOHNSON: [interposing] That's a
5 long time.

6 MICHAEL RYAN: It is a long time, and
7 it's longer than--

8 SPEAKER JOHNSON: [interposing] Which is
9 what created much longer lines.

10 MICHAEL RYAN: Correct and it's longer
11 than we have experienced in recent elections for
12 sure.

13 SPEAKER JOHNSON: Are you aware of any
14 instances where a call for a technician went
15 unanswered?

16 MICHAEL RYAN: I'm-I'm-I'm not personally
17 aware of them, but I'm sure that that happened give
18 the volume of calls that we were getting at that
19 time.

20 SPEAKER JOHNSON: [interposing] It was
21 our staff, the people that I mentioned in my opening,
22 observed poll site coordinators calling for
23 technicians, but their phone calls were not being
24 picked up by any one at the Board of Elections.

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2 MICHAEL RYAN: Right. So, there issues
3 on Election Day when call volumes spikes. We have
4 encouraged and trained the poll workers and the poll
5 site coordinators to use their Tablet devices as an
6 alternate means of communication. That advice and
7 request and suggestion is heeded by some, and not by
8 others, but we make every effort to get these issues
9 resolved.

10 SPEAKER JOHNSON: I have many more
11 questions on scanners, on the sequencing. I'm not
12 going to ask those right now. I may come back for an
13 additional round unless other members ask for it.
14 What were you doing on Election Day? Where were you?

15 MICHAEL RYAN: I was in all five
16 boroughs, and typically what I do on Election Day is
17 I remain out in the field, and in the core of
18 executive management remains back at 42 Broadway, and
19 we communicate throughout the day. One of the
20 challenges in—in high turnout election events as well
21 as ones with coverage is there are times where media
22 goes to specific poll sites to follow particular
23 candidates and--

24 SPEAKER JOHNSON: [interposing] How long—
25 how long did it take you to vote?

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2 MICHAEL RYAN: I voted at I.S. 24 in
3 Staten Island, my personal poll site and I voted
4 under 10 minutes.

5 SPEAKER JOHNSON: So, I'm just going to
6 end with this, and then hand it over to the Chairs.
7 I get that you have to deal with arcane laws, state
8 laws and resource constraints, but I don't get just
9 throwing our hands up in the face of those
10 constraints, and in the face of what the State Law
11 says. It doesn't seem like failure of laws or a
12 problem that we could spend our way out of. It seems
13 like a failure to even aim for the bare minimum in
14 our estimation. I don't have any confidence in at
15 this point given that basic information you are not
16 able to provide today and the analysis hasn't been
17 done in a full sum way, and the BOE's ability to
18 ensure that this doesn't happen again in the future,
19 let alone anticipate new problem. We are going to
20 have a special election in February for the Office
21 Public Advocate, and I am concerned of voters being
22 able to have confidence that we will run that. I am
23 embarrassed as a New Yorker by what happened on
24 Election Day. I'm embarrassed by earlier news from
25 years past about purges that took place of-of voters

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2 that should not have purged from the voter rolls. I
3 am embarrassed by poll sites being changed at the
4 last minute. I'm embarrassed that voter guides that
5 don't always properly reflect accurate information.
6 I feel like this happens over and over and over
7 again. I can't remember an election where people
8 said, you know, what, it was done in a thoughtful,
9 calm, professional, easy manner. New Yorkers deserve
10 that and I don't—and I don't have that confidence
11 that that is going to happen, and so we are going to
12 continue to use our oversight authority. We are
13 going to push for changes like early voting, and No-
14 Excuse Absentee Voting, which hopefully would lesson
15 the crush of voters on Election Day, but I would hope
16 that even if we are able to secure those things, that
17 the Board of Elections would be able to implement
18 those good changes in an effective and fair way. So,
19 I want to hand it over to My Chairs. I will come
20 back for additional questions. I am grateful that
21 you're today, but I am disappointed by what happened.
22 I am disappointed by not having all the answers, and
23 am I going to Chair Cabrera first Chair Torres, and
24 I'm going to hand it over to Chair Cabrera.

25 MICHAEL RYAN: Mr. Speaker, if I may.

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SPEAKER JOHNSON: Yes.

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MICHAEL RYAN: I would like to take this opportunity to renew the Board's request to enter into a partnership with New York City to develop a robust Municipal Workers as Poll Workers Program. I have provided materials to this committee regarding a program of a similar nature in Los Angeles County, and if Los Angeles County can do it, New York City can do it.

SPEAKER JOHNSON: I'm open to that, but Ryan--

MICHAEL RYAN: [interposing] Right, so--

SPEAKER JOHNSON: [interposing]--the Mayor--the Mayor--the Mayor offered \$20 million that the Board turned down. Why did the Board turn that money down for reforms?

MICHAEL RYAN: The--the \$20 million that the--the Mayor offered, \$7 million of that was to double the amount of poll worker training, which was advice that ran counter to what we received from our outside consultant that we had already engaged the services of. So, that was \$7 million that was right out of the \$20 million that we were already on a

1 completely different path number one. Number two, an
2 additional \$4.5 million of the \$20 million was to re-
3 send all of the voters their registration
4 information. That task was given by the New York
5 City Council to the Campaign Finance Board. So,
6 right off the top that's over \$11 million that was
7 not going to ultimately come the way of the Board of
8 Elections. In addition, there was \$2.3 million in a
9 poll worker pay increase for \$50, which we just got
10 now. The Board has been asking for a poll worker pay
11 increase of \$100 a day since 2005, and there are two
12 different ways you can get it. One is from the State
13 Legislature. The other one is through executive
14 order, and there are other things that—other money
15 that is in here that was earmarked to outside
16 consultants. In addition, there was a million
17 dollars for a voter outreach portal, which we are—
18 have developed in-house, and it's in the process of
19 being beta tested, and when we're able to launch our
20 new website after all of these cyber security
21 concerns have been addressed, that will be already
22 done within existing funds.

24 SPEAKER JOHNSON: Mr. Ryan, if you were a
25 vote who was sitting at home or sees coverage of this

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2 hearing, who is watching your testimony and the
3 questions that are being asked of you, and who is not
4 an expert in scanners, who is not an expert in
5 perforated ballots, who is not an expert in the rules
6 related to the how elections are administered, but is
7 someone that experienced a 2-hour, 3-hour delay as
8 someone who showed up and their name wasn't in the
9 book because they were purged and removed in a way
10 they shouldn't they shouldn't have been, someone that
11 time after time has experienced unfortunate issues at
12 their voting location. You—if you were watching
13 that, I don't think you would want to hear excuse
14 after excuse, after excuse about vendors, about the
15 size of ballots, about perforations. What you would
16 want to hear is we are going to fix this so this
17 doesn't happen any more in the future. They don't—
18 voters don't care about the technicalities and the
19 administration that happens by you and your staff,
20 and by the Commissioners. What they care about is
21 being able to go up--show up on Election Day and vote
22 in an expedited manner. That's what they care about,
23 and when if you listen to the testimony so far today,
24 and the answers to your questions, what you hear is
25 what I consider to be important information that we

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2 need for oversight capability and to be informed, but
3 it seems like excuse after excuse after excuse. The
4 first step to fixing a problem is admitting you have
5 a problem.

6 MICHAEL RYAN: And we do, and I—the point
7 that I was trying to get to when I raised the
8 municipal workers as poll workers possibility is one
9 serious lesson that we learned at this, for this
10 election is that we have to change the way we
11 approach scanner problems. We have been reticent to
12 allow poll workers to—to overly handle the—the
13 machines for fear that they would not be--

14 SPEAKER JOHNSON: [interposing] What—what
15 if this happens again in the future?

16 MICHAEL RYAN: So--

17 SPEAKER JOHNSON: [interposing] What if
18 the next election the same thing happens again where
19 New Yorkers show up, and this happens again?

20 MICHAEL RYAN: So, what—what I'm trying
21 to say, Mr. Speaker is that if these ballot jams
22 occur because of the perforation, and there is not
23 change in law as our vendor tells us, one of the—the
24 direct fixes that we can do is have steady staff at
25 the poll sites who are there simply to clear what I'm

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2 going to refer to as the top side ballot change. So,
3 if the ballot does jam, it can be cleared quickly as
4 opposed to relying on a team of field technicians to
5 have to be dispatched from on location to another. I
6 suspect that that will be an element of the fix
7 moving forward subject to Commissioner approval, and
8 then if we have that staff at the poll sites and
9 these rather simple jams occur, they can be cleared
10 relatively quickly, and keep the lines moving and
11 avoid the large backups that we had at this—in this
12 particular election. That is a direct fix that I
13 think would address one of the issues.

14 SPEAKER JOHNSON: I just don't feel the—
15 I—I don't personally feel confidence that this is
16 going to get fixed, and I—and I hope I'm wrong
17 because I want this to be fixed. I want to turn it
18 over to the chairs. A lot of people have questions.
19 Chair Cabrera.

20 MICHAEL RYAN: Right, and Mr. Speaker, we
21 have to work to re-earn your trust, and I appreciate
22 that.

23 SPEAKER JOHNSON: Thank you.

24 CHAIRPERSON CABRERA: Thank you so much,
25 Mr. Speaker. Mike, I have to tell you on Election

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2 Day first of all, I appreciate your apology. It was
3 going to be my first question as well, but I have to
4 tell you I was fuming. Let me tell you why. Never
5 since I have been voting in this wonderful city of
6 New York City, never have I see so many people. We
7 were all waiting for this day to happen. Then to
8 have parents take their children—that's the part
9 that's really getting to me, and to have such an
10 awful experience, I tell you in the Bronx we had
11 people waiting two hours. My—my Facebook was blowing
12 up. I put a simple post. People were just livid,
13 just the negative reaction that we're getting in the
14 bad taste, the brackish experience, I have to tell
15 you that inevitably my fear is it's going to have a
16 negative outcome in the next election. People are
17 going to say, you know what, I'm not going to go
18 through this especially the young people or those who
19 voted for the first time in a long time. They went
20 there to vote their conviction, and their beliefs,
21 and that's the part that frustrates me the most. I—I
22 want to get into the machines because as I see your
23 testimony, at the very root of the problem that you
24 are attesting to that this problem is—is the
25 machines. I want to get into the testing. Can you

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2 give me more detail as to the quality control that
3 took place, and here's the specific question I'm
4 asking: Was there ever a test that replicated the
5 exact same experience and process that the—the
6 machines and a person were to go through a entire day
7 meaning did they start early? Did they put them to
8 run early in the morning and make them run as many
9 hours as we have for Election Day?

10 MICHAEL RYAN: It's—it's just not
11 possible to replicate the poll site in the—in the
12 warehouse environment and—and the purpose of the
13 testing once the ballot is finalized is different
14 from how does it work at the poll site. The purpose
15 of the testimony and is required by the state law is
16 we have to run three ballots per stile through each
17 scanner machine to make sure that the eye that is in
18 the scanner is able to read the ovals and
19 appropriately tabulate the election results. So, the
20 purpose of the pre-election testing is not the type
21 of replication that you are suggesting.

22 CHAIRPERSON CABRERA: I—I hear you, Mike,
23 but—but I'm talking about leadership here. It's
24 being able to anticipate what the problem—that's what
25 leaders that's what we do. We anticipate the

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2 problem. I'm not asking what do at the bare minimum
3 that was required by law, did you order for a
4 testing, and you have within your power to do so,
5 right, correct? The power to say let's replicate
6 this. It wouldn't take a whole lot of staff, and-and
7 in a similar scenario for that many hours with that
8 many ballots. You see, that's what I'm looking for.
9 I'm not looking for what the law, you know, the-the
10 law standard that we many have. I'm not saying that
11 the bar is not another one, but what I'm saying is
12 you knew, we all knew that this was going to be-we're
13 going to have an ultimate (sic) amount of people to
14 come and vote. Did-did you guys, did you-did you
15 order for such a testing to take place?

16 CHAIRPERSON CABRERA: No, and-and the
17 thing that I really need to point is the ballot for
18 this General Election for this the citywide election
19 was not finalized until October the 9th and then we
20 first were able to order ballots from our ballot
21 vendors. One of our ballot vendors told us they
22 can't do it. We had to redistribute that work
23 between two. Didn't first receive ballots for
24 testing to test the scanners until October 15th.

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2 CHAIRPERSON CABRERA: Okay. So, let me
3 stop you there. Charter Revision Commission Sure.
4 I'm not trying to be rude.

5 MICHAEL RYAN: No, no, I know that.

6 CHAIRPERSON CABRERA: It's just I'm
7 trying to be parsimonious with our time. So, it's
8 October 15 to test it. You had it. You still the
9 state mandated test, right?

10 MICHAEL RYAN: Yes.

11 CHAIRPERSON CABRERA: You still have that
12 test. On that same day couldn't you have run other
13 machines to run it for that many hours because you
14 knew, like you knew there were going to be problems?

15 MICHAEL RYAN: Yes, yes we did.

16 CHAIRPERSON CABRERA: Okay. So, and I
17 appreciate for—for your—your level of honesty here.
18 You knew there were going to be problems, and in
19 light of that, why not do a test and say here, I'm
20 anticipating problems here to take place. Why not go
21 ahead and test it all day, all in—all the way into
22 9:00 at night to emulate a similar experience?

23 MICHAEL RYAN: In retrospect I am certain
24 there are things that we could have done differently,
25 and perhaps the suggestion that you make is—is one of

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2 them, but in the moment, I'm trying to convey to
3 everyone a sense of appreciation that given how late
4 in the game this ballot was finalized, we were in
5 real danger of not meeting our mandate of putting the
6 election on at all.

7 CHAIRPERSON CABRERA: So, in light.

8 MICHAEL RYAN: [interposing] So, and—and
9 asking print vendors to do something that they have
10 never done before three weeks before an election, and
11 start that process, that lays off to the side that
12 the Staten Island ballot wasn't finalized until
13 October 22nd.

14 CHAIRPERSON CABRERA: And I commend the
15 printing companies that came through. We salute
16 them. You did that. I'll do that myself, but what
17 I'm addressing is, and I think you have acknowledged
18 the enhanced side, that could have been something
19 that would be done. Here—here is another thing that
20 I had in mind here is another option because that was
21 not the only thing we could have done, which was why
22 not have and hire more technicians because we knew we
23 were going to have problems, and have one for every
24 two sites or every three sites? There is not price
25 that we could put when it comes to our most

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2 fundamental right, civic right that we have when it
3 comes to voting. Was there any discussions regarding
4 that?

5 MICHAEL RYAN: Yes, and what we did was
6 we, which we thought was good plan prospectively—
7 retrospectively not so much, was we staffed the field
8 technicians to the level that we do in a presidential
9 election. Previously, we were staffing to those
10 deeper issues inside the machine where the ballot
11 gets jammed internally, and you need a real
12 technician to unclear that jam. In this election we
13 experienced these—these jams really at the top of the
14 scanner in a way that we hadn't done—hadn't
15 experienced that before, and really what happened was
16 there was an avalanche early in the morning, and we
17 just could never catch up.

18 CHAIRPERSON CABRERA: So, why not hire
19 more people right from the beginning, right. That's
20 the part that I don't get.

21 MICHAEL RYAN: Well, I—I think you're
22 right and one of the things that I expect will happen
23 moving forward is that we will have individuals at—
24 rather than relying on field teams solely, which can
25 get stuck in traffic, their vehicle could get a flat

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2 tire. There's a whole bunch of things that could go
3 wrong. One of the things that I expect that we will
4 do is have people at the poll sites, at all poll
5 sites. We had 1,200 and I think 31 poll sites for
6 this election. Had people at the poll sites whose
7 sole function it is to deal with the basic ballot
8 change. Not to--not to engage in scanner repair, but
9 to clear these ballot jams at the stop. So, if it
10 does go down, it can be cleared in a matter of, you
11 know, seconds or a minute as opposed to waiting for a
12 field team to come even from another location.

13 CHAIRPERSON CABRERA: But were these
14 machines cleaned, all of them prior to--just for a
15 point of clarification. I'm assuming that they were--
16 -

17 MICHAEL RYAN: [interposing] Yes.

18 CHAIRPERSON CABRERA: --but I just want
19 to hear it.

20 MICHAEL RYAN: Yes, and one of the issues
21 associated with the perforation as I understand it is
22 that fibrous material becomes loose, and the machines
23 can get sensitive in that regard. So, as a result,
24 our technicians, all of our technicians were equipped
25 with air cans, as simple as that may sound, that's

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2 the way that you fix the fibrous paper. You know,
3 alcohol wipes and air cans. So, all of our
4 technicians had those on Election Day, and we made
5 sure we had an extra supply of that to deal with
6 those issues.

7 CHAIRPERSON CABRERA: Now in the past,
8 actually in this election poll workers were not
9 allowed—and you testified to this in the Assembly
10 hearing, they were not permitted to clear the scanner
11 jams themselves. However, according to the 2017-2018
12 poll workers basic manual under the Scanner
13 Troubleshooting for jams it says, and I quote: “A
14 bipartisan team with a police officer present can
15 break the seal of the ballot box door, open the door
16 and check for a jam making the lid/flaps are open.
17 I’m just curious to as why was this taking--

18 MICHAEL RYAN: [interposing] So that---

19 CHAIRPERSON CABRERA: --of the 2018-2019
20 Manual.

21 MICHAEL RYAN: That is a different
22 problem and that typically deals with the setup on
23 Election Day. The blue ballot bins have four lids
24 that—that open up. They are supposed to be placed in
25 the open position prior to deployment. There are

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2 times when those lids can fall in during
3 transportation, and you'll see on Election Day where
4 the ballot bin will appear to fill up and, in fact,
5 it's not filling up. So, that's a procedure designed
6 to make sure that the ballot bin liner is in ready
7 position to accept ballots.

8 CHAIRPERSON CABRERA: Okay, so that-

9 MICHAEL RYAN: [interposing] So that's-
10 it's a different kind of a circumstance than what we
11 were talking about moments ago--

12 CHAIRPERSON CABRERA: [interposing] Thank
13 you for that.

14 MICHAEL RYAN: --but I understand-I
15 understand what you're saying and we-and we agree.

16 CHAIRPERSON CABRERA: Right. So thank
17 you for that clarification, but why not use the same
18 process for the top jam? I mean this is like-explain
19 to me, you know, please explain to me if I'm wrong.
20 This is like a laser printer, right? It's similar in
21 process.

22 MICHAEL RYAN: [interposing] Right.

23 CHAIRPERSON CABRERA: You open, you know,
24 the machine, you take out the paper.

25 MICHAEL RYAN: [interposing] Right.

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2 CHAIRPERSON CABRERA: You know, you clean
3 it, and then you close it, and then you have the seal
4 placed back--

5 MICHAEL RYAN: [interposing] Right.

6 CHAIRPERSON CABRERA: --obviously under
7 the supervision of a police officer, and--and the two
8 coordinators that are there. I mean why not use that
9 process?

10 MICHAEL RYAN: You make a straightforward
11 and reasonable suggest. The reluctance going back to
12 2010 was that we were losing poll workers because of
13 their fear of--of the new machines. So, a decision
14 was made in that moment, which carried through to
15 this election: Have the poll workers do less with
16 the machines, not more. This election in a very hard
17 way taught us a difficult lesson. The difficult
18 lesson is we need--whether it's the poll worker or
19 some other individual or individuals at the poll
20 sites, we need to have individuals interspersed at
21 all the--over 1,200 poll sites that we use who are
22 fully versed and trained in clearing the ballot jams
23 so should a circumstance arise, the voter will
24 experience minimal inconvenience. That is a lesson
25 learned. I cannot say to you exactly what form that

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will take today. Ultimately, we'll put a plan together. We'll present it to the Commissioners. We have the plan already. We're going to present it to the Commissioners. We have—we have it right here. It's one of the things that we've been working on, and I suspect that the—with good confidence that the Commissioners will authorize us to move forward to do that so that if a circumstance occurs beyond our control like a jam that we'll be able to deal with it quickly as opposed to relying on field teams solely.

CHAIRPERSON CABRERA: You heard in my opening statement that I'm looking for solutions rather than excuses, and I—I sure hope that we will have the level of technician way above what we have right now because I'm anticipating that it's very possible, and I'm hopeful that people will not stay home after what we just went through, that we'll be ready for the next time because we cannot afford to have a part 2 to this movie. I wanted to ask you how many people were receiving the phone calls from the coordinators about—or the public regarding jams?

MICHAEL RYAN: It—it depends. It's a borough by borough breakdown--

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2 CHAIRPERSON CABRERA: [interposing] Go
3 head. We're listening.

4 MICHAEL RYAN: I can certainly get you
5 those--those numbers. We have our call center there
6 was I believe over--is it--is it 100 call takers we had
7 at the center. [background comments] It's over 100
8 call takers at the--between the central office and the
9 Staten Island Call Center that we centralized that we
10 do in each borough then has their own staff. So we
11 can--we can get you a number of the actual dedicated
12 staff. I don't want to mislead. So, we'll get you
13 that number after the hearing concludes.

14 CHAIRPERSON CABRERA: So, what is it? And
15 so those 100 were taking also calls regarding jams or
16 they were referring to somebody else?

17 MICHAEL RYAN: Those are all the calls
18 that come into our 800 number.

19 CHAIRPERSON CABRERA: Because if I'm
20 calling, and I'm saying I'm a member of the public,
21 right, and I'm saying there are jams taking place in
22 this machine, do I get referred to somebody else?

23 MICHAEL RYAN: No, it gets taken into the
24 system. We have a call center system. I--I suppose
25 it's similar to 311--

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CHAIRPERSON CABRERA: [interposing] Okay.

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MICHAEL RYAN: --and then it has dropdown
list and it--and it can tell you what the problem is,
and then that gets dispatched and then ultimately
relatively quickly gets dispatched electronically to
the--to the--to the technicians on their tablets out in
the field.

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CHAIRPERSON CABRERA: Now you--you have
some raw numbers that you said you never--I want to
hear the raw numbers because at the end of the day,
they're all complaints.

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MICHAEL RYAN: Yes, raw numbers. We have
them broken down county by county. So, I'll give
you--I'll give you the--the raw data. We have a total
of 2,284 in Manhattan alone, calls. Of those, 1,200
were scanner and 649 were ballot change. So, I would
take those two as one category in--in some respects
because often people don't know precisely the reason
why they're calling. They know there's a problem
with the scanner. Bronx County, 1,798 total calls,
1,132 with respect to scanners, and 513 ballot jams.
Kings County, 3,362, 2,058 scanners, 851--851 ballot
jams.

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2 CHAIRPERSON CABRERA: So, most of the
3 complaints that were coming in were regrading this
4 particular issue that we're--

5 MICHAEL RYAN: [interposing] Correct.
6 Scanners and the ballot jams. Now, the scans--the
7 ballot jam number is a smaller number but that
8 doesn't mean that those two things can't be read
9 together. Somebody might say there's a problem with
10 the scanner. Another call may come in and say
11 there's a ballot jam. Those we drop into DC's
12 category. (sic)

13 CHAIRPERSON CABRERA: [interposing] How
14 does this compare to the previous election?

15 MICHAEL RYAN: It's--it's certainly
16 higher, and I can get--I can do a comparative
17 analysis.

18 CHAIRPERSON CABRERA: Do you have those
19 numbers with you?

20 MICHAEL RYAN: I don't have them off the
21 top of my head, but we have them, and--and I--believe
22 me, I--I do apologize. We have made our best efforts
23 to be as prepared for this hearing as we--we possibly
24 could, and I've tried to anticipate the types of
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2 increase that we—we would be getting, but I can get
3 you then from the—the prior elections.

4 CHAIRPERSON CABRERA: Please get us those
5 numbers because you were going to say?

6 MICHAEL RYAN: Right, so the one thing I
7 can—I can tell you, which kind of really puts this in
8 some form of perspective. In 2010—no, let me go to
9 2014. In 2014, we had 253,620 voters vote in—in the—
10 in Manhattan in 2010. We only had 14 emergency
11 ballots in 2014.

12 CHAIRPERSON CABRERA: Uh-hm.

13 MICHAEL RYAN: So, when we were planning
14 for this election, we looked back to the last—most
15 recent event. Even if you take that and double it
16 because of turnout, you're still talking about less
17 than 30 emergency ballots. We have significantly
18 higher numbers of emergency ballots in Manhattan for
19 this election. So, I just used that as—as one
20 example. So, when we're having a conversation about
21 what did you anticipate and how did you anticipate
22 it, our plan up to this point is always to look back
23 to them most recent election event of similar type,
24 and—and we saw numbers far out of—out of the ordinary
25 for this election.

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2 CHAIRPERSON CABRERA: So, I hope we could
3 take a round, and I'm getting ready to pass it to my
4 Co-Chair and I have some questions for later on, but
5 I hope that at the next election and all of them
6 thereafter we will have enough technicians or slash
7 poll workers if we're going to use certain workers,
8 to do certain—you know, to deal with the top level
9 jam with the right supervision to make sure, which I—
10 to be honest with you, I'm—I'm not as amicable to the
11 second option. I'm always afraid of people breaking
12 through that seal. Those—there were posting of
13 machines that didn't have the seal on. I'm paranoid
14 and my own experience, you know, I share this with
15 you, and this is the other issue that I was hearing
16 that people's names were not showing up. You know
17 when I ran that my name was not there and three pages
18 were not there, and I had to wait two hours and the
19 day of election to finally for the pages to come in.
20 People are—I'll be honest with you, including myself,
21 I don't trust those paper ballots. I'm sorry for my
22 paranoia, but I just don't trust them. I don't know
23 what people are going to do with those. I—I—I trust
24 the machines because there's an objectivity level for
25 me in my mind, and I'll tell you the vast majority of

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2 New Yorkers because otherwise, it would have not been
3 an issue. Otherwise you would have not gotten this
4 many calls because people just don't trust paper
5 ballots. We're not there yet.

6 MICHAEL RYAN: Well, we share your
7 concerns in that regard. That's the reason we put
8 the seals on the machine in the first place is to
9 prevent those kinds of things, and that was up to
10 this point one of the major concerns about not
11 allowing the poll workers to do too much with the
12 machines on election day. This crisis caused—it's
13 caused us re-evaluate that. The other thing,
14 emergency ballots happen in every election, not to
15 this volume. A poll site could lose power on
16 Election Day. It would be, you know, hourly
17 authority of the—the ability of the board to prevent
18 that. Voters don't like the emergency ballot
19 process. They don't like to put their ballot in a
20 slot, and have it sit there for scanners, you know
21 for poll workers to scan later in the evening at the
22 close of polls. So, anything that we can do that
23 reduces the number of emergency ballots that are
24 necessary, and—and reduces the amount of over-

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2 handling of the machines will necessarily in my
3 opinion increase voter confidence.

4 CHAIRPERSON CABRERA: Let me ask you one
5 last question.

6 MICHAEL RYAN: Sure.

7 CHAIRPERSON CABRERA: At what point did
8 you know we were in trouble?

9 MICHAEL RYAN: What point did I know we
10 were in trouble it was about 6 o'clock in the
11 morning, and I'll tell you how. I was going to an
12 interview--

13 CHAIRPERSON CABRERA: [interposing] So,
14 I'll let me tell you about that--

15 MICHAEL RYAN: [interposing] Sure.

16 CHAIRPERSON CABRERA: That--I just need a
17 time. At 6 o'clock in the morning wouldn't it have
18 been wise I mean to call the Administration to talk
19 to DOITT and train really quickly some of these, you
20 know, the tech people that we have in the city, and
21 then deploy them?

22 MICHAEL RYAN: I suppose that was an
23 option. That I know that offer was made. I believe
24 it was a sincere offer. It came to my personal
25 attention that the offer was made about 4 o'clock in

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2 the afternoon, which was a little bit late in the
3 game to make a decision on the fly, but that is
4 precisely, that offer is precisely why I have
5 provided the municipal workers as poll workers
6 materials from LA because if we can replicate
7 something like that, and have a sufficient number of
8 technicians available to deal with these issues on
9 election day, from a pool of workers that we have
10 access to, you know, year-round so that we could
11 train them and give them familiarity, and we can all
12 rest with a level of comfort that the issues that
13 you've raised don't get replicated that would be
14 something absolutely worthy of exploration.

15 CHAIRPERSON CABRERA: But you're hearing
16 what I'm saying?

17 MICHAEL RYAN: Yes.

18 CHAIRPERSON CABRERA: What I'm saying
19 here is anticipation. Part of leadership is
20 anticipating problems and when a problem occurs, I
21 need to fix this problem right away, what do I do?
22 And so, there were things that we could have done
23 prior to Election Day regarding the quality control
24 that I mentioned, the testing that should have been
25 done while you were doing the other test. At 6

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2 o'clock in the morning you know there was a problem.
3 I know you're under a lot of pressure, more pressure
4 than people will ever know, but--

5 MICHAEL RYAN: [interposing] Thank you.

6 CHAIRPERSON CABRERA: --that's why you're
7 there, right?

8 MICHAEL RYAN: Yes.

9 CHAIRPERSON CABRERA: To provide our
10 leadership and say we have a 911, and election voter
11 problem, and I need to fix this right away. Who can
12 help me to bring a solution here, and so it's not
13 just the complaining part. It's complaining with
14 solutions. What can we do about this, and that's
15 what I'm--that's what I'm asking even moving forward
16 over here, and with that I'll turn it over to my Co-
17 Chair Ritchie Torres.

18 CHAIRPERSON TORRES: Thank you, Council
19 Member Cabrera. Mr. Ryan, I suspect and judging by
20 statement, you know, I'm quite angry.

21 MICHAEL RYAN: Yes and I--and I--

22 CHAIRPERSON CABRERA: [interposing] And
23 I'm not sure if I'm angrier at the Board of Elections
24 about for--about snow response of mismanagement of
25 public housing, but it seems quite a bit is going

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2 wrong in our city. You mentioned earlier that you
3 were unaware that humidity was a factor affecting the
4 performance of the machines. So, did I hear you
5 correctly on that?

6 MICHAEL RYAN: No, what I said is I've
7 been advised by our vendor that the reports regarding
8 humidity deal the storage, the long-term storage of
9 the machines and the effect of humidity in the
10 environments where they're stored. Now, clearly we
11 experienced a different type of humidity, if you
12 will, on--on Election Day, and wet paper will jam.
13 That was the spirit in which I made the comments at
14 P.S. 22 because I was watching it, and people would
15 drop the ballots on the floor, and the floor was wet.
16 So, there was a lot of things going on there. I
17 wasn't meaning to say that it was blanket cause
18 across the city.

19 CHAIRPERSON TORRES: So, you're saying
20 that humidity has an impact on the machines when it
21 comes to storage?

22 MICHAEL RYAN: That's what I have been
23 told.

24 CHAIRPERSON TORRES: And humidity has an
25 impact on the ballots because it dampens and

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2 moisture—and is that—is that your understanding of
3 the impact?

4 MICHAEL RYAN: That is—that is correct.
5 As—as I witnessed it on Election Day, yes.

6 CHAIRPERSON TORRES: How many—how many
7 scanners do you have in your inventory?

8 MICHAEL RYAN: What did I do with that
9 report? I have it. What did I do with the scanner?
10 Hold on one second. I have it.

11 DAWN SANDOW: [off mic] Right, that's
12 5,166. (sic)

13 MICHAEL RYAN: Yes, 5,166. I'm going to
14 get to it. I want to make sure I give the right--

15 CHAIRPERSON TORRES: 5,166 in total?
16 And—and how many of those scanners were deployed on
17 Election Day?

18 MICHAEL RYAN: There were over 4,000. I
19 have that exact report. I'm just not putting my
20 hands on it--

21 CHAIRPERSON TORRES: [interposing] Okay.

22 MICHAEL RYAN: --right this second.

23 CHAIRPERSON TORRES: And so what about
24 the remaining scanners?

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2 MICHAEL RYAN: The remaining scanners
3 were scanners that are either spare scanners as we
4 refer to them, and here we have it. So, we had
5 deployed 4,054 on Election Day, and we had--
6 [background comments, pause] a combination of
7 scanners, spares and training machines at 333 in
8 Manhattan in specific. So--

9 CHAIRPERSON TORRES: [interposing] It
10 sounds like you had about a thousand scanners in
11 reserve.

12 MICHAEL RYAN: A little bit less by 50.

13 CHAIRPERSON TORRES: Okay and how--how
14 many scanners were--were swapped out for our new
15 scanners on Election Day?

16 MICHAEL RYAN: Only 56. So, most of
17 those were--

18 CHAIRPERSON TORRES: [interposing] So, I
19 guess my question is why did you only deploy 56 out
20 of a thousand reserve scanners? That's less than 6--
21 6% of your total reserves.

22 MICHAEL RYAN: Well, we only--we only
23 swapped out the ones that required replacing. Most
24 of them were because their ballot bins failed, not
25 because the machines failed. That was the 56 number,

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2 but in any event, New York State Election Law
3 requires that we deploy one scanner for every 4,000
4 voters. The New York City Board of Elections the
5 Commissioners have set a ratio of one scanner for
6 every 1,400 voters, and that's the foundation on
7 which we assess poll sites. So, we have to prepare
8 under a federal court mandate a survey for each poll
9 site. Every piece of equipment that's in the poll
10 site takes up real estate, and in gubernatorial
11 election it's a little bit more of a challenge
12 because we have to deploy one privacy booth for every
13 250 voters as opposed to privacy booth for every 350
14 voters, which we do in other elections.

15 CHAIRPERSON TORRES: And forgive my
16 ignorance. Of the thousand in reserve, can all of
17 them be easily deployed for any election district
18 throughout the city?

19 MICHAEL RYAN: No.

20 CHAIRPERSON TORRES: Okay.

21 MICHAEL RYAN: Because—like I'll give you
22 for example I know off the top of my head, there were
23 924 ballot styles in the Borough of Manhattan for
24 this past election given all of the context. It
25 takes roughly an hour to complete the testing for

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2 each ballot style on one scanner. If we were to
3 deploy--

4 CHAIRPERSON TORRES: [interposing] You
5 said there were 924 in Manhattan alone.

6 MICHAEL RYAN: Correct. So, if we were to
7 deploy a machine with all over the ballot houses
8 (sic) we don't know where the breakdown is going to
9 occur. It would make—it would take 924 hours of work
10 per machine to get all of those ballots loaded into
11 those machines. So, what we've done in the past is
12 have some at the warehouse, some out in the field,
13 and then they have to be programmed more or less on
14 the fly, and tested quickly to get them deployed to a
15 poll site, which is really why we try not to replace
16 ballot scanners on Election Day. The machines are
17 not that limber in order to us—for us to timely
18 resolve the issue.

19 CHAIRPERSON TORRES: Now, it sounds like
20 the—it sounds like the process of programming these
21 reserve machines is quite cumbersome. Out of the
22 thousand reserve machines, how many then were
23 programmed for all election districts?

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2 MICHAEL RYAN: We clear them out and
3 since we don't know where the program--where the
4 issues are going to arise, we then unprogram them--

5 CHAIRPERSON TORRES: [interposing] No, but
6 in theory you could program a machine for every
7 election district, right? It would take an
8 inordinate amount of time, but you could do it?

9 MICHAEL RYAN: Theoretically yes, but it--

10 CHAIRPERSON TORRES: [interposing] And it
11 sounds like out of a thousand not a single machine
12 was programmed for every Election District in the
13 city?

14 MICHAEL RYAN: Prior to this election,
15 we--we have never done that. We didn't do it for this
16 election either. We have discussed--

17 CHAIRPERSON TORRES: [interposing] Was
18 there any machine that was programmed for all the
19 Election Districts within a county?

20 MICHAEL RYAN: No, and--and I think what
21 you have to remember, Mr. Chairman, is that we didn't
22 get the ballot finalized until October the 9th. So,
23 our ability to test is a finite period of time from
24 October the 9th.

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2 CHAIRPERSON TORRES: But it sounds like
3 you did not program any of the machines or the course
4 of a month.

5 MICHAEL RYAN: As-as I said, it was three
6 weeks and it would take 924 hours for one machine in
7 Manhattan--

8 CHAIRPERSON TORRES: [interposing] But
9 there has to be a middle ground between all or
10 nothing, and it sounds like you opted for nothing
11 even though you had a month to program these
12 machines.

13 MICHAEL RYAN: No. What we opted for
14 what was--had worked. In the past, we had a plan in
15 place for full ballot bins. As--with respect to
16 actual machine failures, our plan worked, but only
17 with respect to that because there was only 56
18 machine failures citywide. What we experienced here
19 was quite a number of machines that had their ballot
20 bins filled because of the turnout, and because of
21 the fact that we were putting double the amount of-

22 CHAIRPERSON TORRES: [interposing] Where
23 do you store these scanners, the reserve scanners?
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2 MICHAEL RYAN: They are in their borough
3 facilities, and then we do put a certain number out
4 on field—in the field on the spots (sic)

5 CHAIRPERSON TORRES: Can you—do you have
6 a breakdown of the numbers? How many are centrally
7 located? How many are in borough based facilities?

8 MICHAEL RYAN: Well, I can give you the—
9 the breakdown of the numbers by borough, and then we
10 can give you a report after the—the election with
11 respect to where precisely they were on Election Day?

12 CHAIRPERSON TORRES: Do you—do—do you
13 feel like the scanners are sufficiently disbursed
14 throughout the city? Because it seems like you could
15 disburse these reserve scanners throughout the city,
16 and have different scanners--

17 MICHAEL RYAN: [interposing] But I think
18 they--

19 CHAIRPERSON TORRES: --preprogrammed for
20 different election districts.

21 MICHAEL RYAN: I think they were prior to
22 this election. I think the experience of this
23 election teaches us something different, and maybe as
24 you suggest, we could find that middle ground where
25 we could load a number of assembly districts onto

1
2 some scanners, and have them strategically placed
3 throughout the city so that we're not doing that 924-
4 hour number for Manhattan alone that we discussed.

5 CHAIRPERSON TORRES: I want to cover some
6 of the ground that was explored by Speaker Johnson
7 and—and Council Member Cabrera. Can you describe in
8 greater detail the process of testing your machines
9 because the—the criticism that I have of the Board of
10 Elections is that it seems like you neither tested
11 your machines for a 2-page perforated ballot nor did
12 you train your employees on how to feed a 2-page
13 ballot into those machines, and I think whether it's
14 elections or any field wherever there's no training
15 and no testing, you're likely to have a systemic
16 failure. But can you explain in greater detail the
17 process of testing your machines?

18 MICHAEL RYAN: Sure. After the ballot is
19 set, and we get the test ballots back from the print
20 vendor, because state law requires that we test
21 ballots from the print run of the—of the ultimate
22 Election Day ballots so that if there's any
23 inconsistency in the printing, that will be picked up
24 during the testing process.

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2 CHAIRPERSON TORRES: And did you test,
3 and I know you point out that you received a ballot
4 late from the Charter Revision Commission, but
5 there's nothing that prevents you from testing your
6 machines for a generic 2-page perforated ballot. So-
7 -

8 MICHAEL RYAN: [interposing] We can test
9 that.

10 CHAIRPERSON TORRES: --and--and you
11 admitted to the Speaker that since 2016 you've been
12 keenly aware of the possibility of a 2-page ballot.
13 So, for about two years you've had an opportunity to
14 test your equipment for a 2-page perforated ballot,
15 and it sounds like over the course of those 2 years
16 you failed to do so.

17 MICHAEL RYAN: What you're talking about
18 is not the type of testing that we engage in before
19 an election, and the generic ballot yes I-I suppose
20 we could have--

21 CHAIRPERSON TORRES: [interposing] But
22 why--why couldn't you undertake the kind of--I mean
23 forget about what is actually legally required? I'm
24 talking about what makes for good practice. What's
25 going to prepare you for every contingency that

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2 arise. What prevents you from extensively testing
3 either all your machines or even a sample of your
4 machines for a 2-page perforated ballot?

5 MICHAEL RYAN: We tested. We time tested
6 on a limited basis the amount of time that it would
7 take a voter to scan a 1-page ballot versus a 2-page
8 ballot. I think the challenge for us is the people
9 that would conduct the testing, our people are
10 intimately familiar with the machines and the way
11 they work. What we experience on Election Day is a
12 variable that we can't replicate in a laboratory
13 setting, and that variable is the voters and their
14 lack of familiarity.

15 CHAIRPERSON TORRES: [interposing] I'm
16 not clear why that's the case. Maybe I'm not
17 following, but why could you not have scenarios in
18 which you certainly--where you're a voter, and you try
19 to feed a 2-page ballot into the scanner, and you
20 could test how often it breaks down. It's--it's not
21 rocket science. It seems like common sense.

22 MICHAEL RYAN: Right, I-I can tell you
23 that the rate of actual breakage is very, very small.
24 The rate of actual--

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CHAIRPERSON TORRES: [interposing] Well,
it sounds like--there's something wrong with it,
because if the rate of failure in your testing is
small, but the rate of failure in real life is quite
high.

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MICHAEL RYAN: [interposing] Well--

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CHAIRPERSON TORRES: So, there's a
disconnect between--

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MICHAEL RYAN: [interposing] I--what I'm--
what I'm trying to get to is it--it--it is a
differential--there's a differential between scanners
that were completely out of service and scanners that
that had momentary problems, and some of them lasted
longer, much longer than they should have. Those are
two different problems for us to attack. I can tell
you what we saw in this election with respect to
these basic jams that were occurring on the top side
of the machine that did not put the machine out of
service for the day was at a rate we had never seen
before.

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CHAIRPERSON TORRES: But those were
precisely the kind of jams that your previous man--
manual will have a bipartisan team of poll workers--

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MICHAEL RYAN: No.

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2 CHAIRPERSON TORRES: --direct, and I
3 won't--

4 MICHAEL RYAN: [interposing] No, what-
5 what-the jams that we're talking about in the manual
6 are really jams that occur based on the setup of the
7 machines. Mostly that will be prior to the start of
8 Election Day and be noticed some point later in the
9 day when depending on volume how quickly the distance
10 between the top of the--of the blue ballot bin now
11 closed, and the--and the bottom of the--of the scanner
12 itself is.

13 CHAIRPERSON TORRES: Do we have the
14 language from the manual? [background comments,
15 pause] Yeah, the 2017 to 2018. What I--and I'll come
16 back to the manual. I want more about--want to know
17 more about the--let me read it. This is from the
18 2017, 2018 Manual. It indicates a bipartisan team
19 with a police officer present can break the seal on
20 the ballot box door, open the door, check the jam for
21 making sure the lid flaps are open. It speaks about
22 jams generally.

23 MICHAEL RYAN: Right.

24 CHAIRPERSON TORRES: It's not specific.

25 MICHAEL RYAN: What I'm saying is--

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2 CHAIRPERSON TORRES: [interposing] So
3 that--

4 MICHAEL RYAN: [interposing] -that is a--

5 CHAIRPERSON TORRES: [interposing] The
6 new manual makes no mention of a bipartisan team of
7 workers resolving the jam. Instead, those workers
8 have to inform the coordinator and the coordinator
9 has to wait for a technician, which has the effect of
10 exacerbating delays.

11 MICHAEL RYAN: That is certainly a lesson
12 that we learned in this past election, which I
13 believe is--was the thrust of my testimony with Chair
14 Cabrera, which is we need to have individuals
15 whomever they turn out to be whether they're poll
16 workers, whether they're municipal workers, whether
17 they're our workers, we need to have people at the
18 poll sites throughout Election Day that have the
19 ability to clear the basic jams. That will keep the
20 line moving. Up to this point, we've been
21 concentrating on our efforts on the more serious jams
22 the one that could either cause the machine to
23 completely fail or require--

24 CHAIRPERSON TORRES: [interposing] You
25 could actually do both. If--if you have--

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MICHAEL RYAN: [interposing] yes.

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CHAIRPERSON TORRES: --some poll workers
focus on the simple jams, you can free up the
technicians for the more complicated jams. It lead
you right to one stop.

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MICHAEL RYAN: Correct and that is a
lesson that we learned in--in this election base on
the increase in volume of jams that we saw on the top
part of the--

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CHAIRPERSON TORRES: [interposing] But I
just want to be clear. Your--your previous statement
if I heard you correctly, during your exchange with
Council Member Cabrera is that historically you've
been hesitant to allow poll workers to correct jams.
That's not true because your previous manual
explicitly authorizes a bipartisan team of poll
workers--

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MICHAEL RYAN: [interposing] But that is
a--

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CHAIRPERSON TORRES: --to correct jams.

MICHAEL RYAN: --because in that specific
instance that one specific instance--

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CHAIRPERSON TORRES: [interposing] It
doesn't specify any instances.

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MICHAEL RYAN: Right.

CHAIRPERSON TORRES: It speaks generally
of a scanner jam.

MICHAEL RYAN: Right. What I'm—I'm
trying to tell you from experience that type of jam
would occur as a problem with the setup of the
machines at the start of Election Day. It is
possible that those flaps could drop down during
Election Day as well. They typically don't. They—
they will drop down either because they left the
warehouse in a closed position, which they should not
have been or they could drop down during
transportation, and—and if we don't have the poll
workers do those types of clearances, the poll site
will—won't get up and running, or if there's a high
volume, the distance between the top of the closed
ballot bin and the bottom of the scanner will fill up
quickly and then the machine will be out of service.
So the first line of defense is to have them check
that, and make sure that the—the ballot bin flaps are
open—in the open position ready to accept ballots.

CHAIRPERSON TORRES: I want to know more
about the actual scanners. So, what's the age of the
underlying software?

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2 MICHAEL RYAN: These scanners and there
3 have been upgrades over the course of time, these
4 scanners have been in use since 2010. After the--

5 CHAIRPERSON TORRES: [interposing] No,
6 the--the software.

7 MICHAEL RYAN: The software. Oh, we have
8 the most recent version. I believe it's been
9 upgraded within the last 18 to 24 months.

10 Understand, when we recognize an issue with the
11 software or the hardware of these machines, there is
12 an extensive change process that we have to engage
13 with the vendor, and the New York State Board of
14 Elections to complete. The City Board of Elections
15 has no authority to--to make any changes or request
16 that the vendor make any changes to the machines or
17 software--

18 CHAIRPERSON TORRES: [interposing] And--
19 and that--that point is taken.

20 MICHAEL RYAN: Right.

21 CHAIRPERSON TORRES: What is the useful
22 life of your scanners?

23 MICHAEL RYAN: I have been told that--

24 CHAIRPERSON TORRES: [interposing] You've
25 been told?

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2 MICHAEL RYAN: Well, I have been told
3 that there was a--approximately a 10-year--

4 CHAIRPERSON TORRES: [interposing] I'm
5 sorry. Why use 10-year? (sic) I mean that to me is
6 one of the most important questions is the age of
7 your--your infrastructure.

8 MICHAEL RYAN: Right, it's--It's--it's a
9 10-year cycle as--as I understand it.

10 CHAIRPERSON TORRES: Okay. So, it's 10
11 years.

12 MICHAEL RYAN: So, I--I--I'm sorry.

13 CHAIRPERSON TORRES: [interposing] It's
14 a--it's within the--

15 MICHAEL RYAN: I--I occasionally over-
16 lawyer and answer because I don't want to say
17 anything that's--that's misleading.

18 CHAIRPERSON TORRES: Okay. So a ten-year
19 useful life. Within the 10 years, what's the age of
20 the--?

21 MICHAEL RYAN: We have used it for nine
22 election cycles and we taxed these machines at this
23 election.

24 CHAIRPERSON TORRES: [interposing] So, we
25 felt that these machines were on the verge of--of

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exceeding their useful life or arriving at their
useful life. Do you intend to replace them before
the useful life expires?

MICHAEL RYAN: There is new technology
that is available through different vendors.

CHAIRPERSON TORRES: [interposing] So,
don't speak to me like a lawyer.

MICHAEL RYAN: Right.

CHAIRPERSON TORRES: Do you intend to
replace them yes or no before--?

MICHAEL RYAN: If-if we have the money,
and it makes fiscally prudent sense to not try to
extend the life cycle, and to purchase new machines,
we will do that. It will be a balance, a balancing
act to determine when a new system--a completely new
system might be available.

CHAIRPERSON TORRES: [interposing] So
there's a question mark over whether you're going to
replace machines that are about to approach their
useful life?

MICHAEL RYAN: Right.

CHAIRPERSON TORRES: I find that--

MICHAEL RYAN: [interposing] Well, the
thing is--

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CHAIRPERSON TORRES: --quite troubling.

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MICHAEL RYAN: --no, I-I wouldn't be quite so troubled on that for this reason: We can replace as needed the machines that we presently have under the contract and go with a-a new DS200 Scanner. Where the balancing act comes from a fiscal prudence perspective is there is new versions--

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CHAIRPERSON TORRES: [interposing] So, can I ask, out of-out of the 5,000 scanners in your inventory, how many of them are approaching their useful life?

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MICHAEL RYAN: I would say virtually all of them.

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CHAIRPERSON TORRES: Virtually all of them.

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MICHAEL RYAN: But-but we monitor them. We do preventative maintenance.

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CHAIRPERSON TORRES: [interposing] Yes.

MICHAEL RYAN: Our vendor does preventative maintenance, and they are evaluated over the course of time--

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CHAIRPERSON TORRES: [interposing] Right.

MICHAEL RYAN: --to make sure that they're functioning properly. If they need to be

1 swapped out, we can do that on a machine-by-machine
2 basis relatively easily. The point that I'm trying
3 to make to you, Mr. Chair is that there are new
4 systems out there, and we have to then make it
5 balancing act judgment collectively not just the
6 Board of Elections, do we spend the money to replace
7 the machines that we have that are based on 10 to 13-
8 year-old technology or do we transition as a state to
9 a new system that would-would take the voting into
10 the future. All of that is not an either/or
11 proposition. I suspect that it lies somewhere in the
12 middle that we'll have to replace some of these DS200
13 machines over the course of time that they determine
14 themselves to be unreliable, but if the replacement
15 of the system is in the offing, which I understand
16 would be impossible, we'll have to make a judgment.

18 CHAIRPERSON TORRES: [interposing] So,
19 can-can I-just make a point of statement? I-I just
20 can't quite wrap my head around the fact, around the
21 lack of testing because you acknowledge the 2-page
22 ballot is not only unusual, but to your knowledge
23 it's nationally unprecedented. Is that-did I
24 Correctly understand your testimony?

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2 MICHAEL RYAN: No. Multiple page ballots
3 are not unprecedented.

4 CHAIRPERSON TORRES: Okay.

5 MICHAEL RYAN: What is unprecedented is
6 the requirements of Election Law Section 7-106
7 Subdivision 1, which requires that if we have to go
8 to a 2-page ballot, that it has a center perforation.
9 So, the--

10 CHAIRPERSON TORRES: [interposing] Okay,
11 so a perforated 2-page ballot?

12 MICHAEL RYAN: Right, so--so--

13 CHAIRPERSON TORRES: Right.

14 MICHAEL RYAN: --so what you had say in
15 Manhattan--

16 CHAIRPERSON TORRES: [interposing] I-I
17 don't want to dwell on this point.

18 MICHAEL RYAN: Right, okay.

19 CHAIRPERSON TORRES: But I want to--you
20 made a comment that you cannot be expected to have
21 crystal ball, but you certainly knew or should have
22 known that an unprecedented 2-page perforated ballot
23 was going to double the amount of strain that you're
24 placing on your aging machines, machines that are
25 near the end of their useful life. So, given what

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2 you clearly knew or should have known, are you going
3 to acknowledge that you made a mistake in not testing
4 whether these machines were prepared to process a 2-
5 page perforated ballot to prepare to process what you
6 describe as a volume of "unprecedented proportion"?
7 I've—I've yet to hear an acknowledgement of a mistake
8 that was made?

9 MICHAEL RYAN: The timing of when all of
10 this happens put us in a very, very difficult
11 position.

12 CHAIRPERSON TORRES: [interposing] But
13 we—we—we've explore this before.

14 MICHAEL RYAN: I understand.

15 CHAIRPERSON TORRES: [interposing]
16 There's nothing that prevents you--

17 MICHAEL RYAN: [interposing] Mr. Chair,
18 what I'm--what I'm--

19 CHAIRPERSON TORRES: --from testing it
20 for a generic ballot. You don't need the exact
21 wording--

22 MICHAEL RYAN: Right.

23 CHAIRPERSON TORRES: --to test machines
24 generally for a generic 2-page perforated ballot.

25 MICHAEL RYAN: Right.

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2 CHAIRPERSON TORRES: I-I just want to and
3 I'll end here, but it seems like there was--there was
4 no--you--you failed to test your machines for the 2-
5 page ballot, you failed to train your employees, you
6 changed your manual in a way that led to insufficient
7 responses to correcting paper jams, and your reserve
8 system strikes me as broken, right. None of your
9 machines were programmed for any--for all of the
10 election districts. So, it seems like the
11 combination of policy choices that the Board made,
12 made the voting experience far more painful than it
13 had to be.

14 MICHAEL RYAN: I am certain that we could
15 have done better. There's no question.

16 CHAIRPERSON TORRES: Well, you certainly
17 could have done better. There's no question.

18 MICHAEL RYAN: There's no question about
19 that.

20 CHAIRPERSON TORRES: Yes.

21 MICHAEL RYAN: What I'm--what I'm trying
22 to avoid is making a commitment to changing something
23 in a specific way when I'm a lawyer by trade not a-
24 not a technology--technician by trade. So, we're
25 going to sit down as we always do with our vendor

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post-election, and come up with things that we can reasonably do within the timeframe of each election to improve things going forward, and assuming that we can't stop those top jams from occurring if we're using a 2-page ballot, we'll have appropriate personnel at the ready however we comprise that to make sure that they're in each poll site to remove those ballot jams quickly so that we're not waiting for field technicians upwards of an hour to get there.

CHAIRPERSON TORRES: I just want to be clear I'm just deeply ashamed of how we manage elections in New York City. As I said in my testimony, it's unworthy of our greatness as a city. It's an embarrassment. There's nothing resembling the 21st Century and how we administer our elections, and I'm—I just remain—I continue to have no confidence in the ability of the Board of Elections to correct some of the problems that were brought to light by this committee hearing. I-I could ask a million questions, but I want to give my colleagues an opportunity to cross-examine. So Council Member Cabrera, thank you.

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CHAIRPERSON CABRERA: Thank you so much to my co-chair for your line of questions. Just a 20-second question. You gave me all the raw data for all the boroughs when it came to the complaints of ballot jams, but I did not hear Queens. Can you give me Queens real quick?

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MICHAEL RYAN: Certainly, if I can get myself back to that.

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CHAIRPERSON TORRES: Either one (sic). I have great people in my colleagues from Queens who feel neglected.

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MICHAEL RYAN: I'm sorry. We're shuffling a lot of paper around here, Mr. Chairman. I had that moments ago.

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CHAIRPERSON TORRES: Well, maybe one of your staff--

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MICHAEL RYAN: [interposing] So, yes. I got it now.

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CHAIRPERSON TORRES: Okay.

MICHAEL RYAN: It was just a question. I put my hands on it. Queens, 1,914, 1,230 were scanner type and 785 were ballot jams.

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CHAIRPERSON TORRES: Okay, thank you for that number, and with that, I'm going to call on my

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2 colleagues. We're going to put a 5-minute clock, but
3 we'll do it differently a second round to make sure
4 we get all your questions in, and with that, we'll
5 start with Council Member Powers.

6 COUNCIL MEMBER POWERS: Thank you , and
7 thank you, Chair for having this hearing, and I like
8 others experienced being outside the polling places
9 this year and having people actually walk off, walk
10 out and say to the, you know, the--the scanners are
11 down, the lines are--are--are jammed up, and I have to
12 walk home. I have to go home, and I'm not going to
13 vote, which is disheartening, you know disheartening.
14 I know you share that--that--that as well. I think when
15 we talk about it right now in the city, some of the
16 agencies and some of the systems that have the
17 biggest challenges of public confidence it's the MTA,
18 public housing and I would put elections up there as
19 well. I think the difference that I note and others
20 have noted this to be on Election Day is the day--the
21 challenges of like MTA for instance are really
22 managing a tremendously large system day-to-day 365
23 days a year, 24/7 in New York City. The difference
24 here is that we get three or four times a year, maybe
25 tops where we have to run these elections. So, the

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2 expectation to me should be higher that these are
3 well executed if that's a—I think that's a fair
4 comment that the ability to prepare, anticipate and
5 be ready for what is a—a moment in time three or four
6 times a year should give us a higher confidence that
7 we are ready for that because of so much time to
8 prepare. I also will note I actually went to the
9 Board of Elections before the Primary to see some of
10 the ballot count, the ballot preparation, and I will
11 say there's definitely a lot of work that goes behind
12 the scenes that we are not aware of, and I do
13 encourage everybody to go and have these discussions,
14 but I—and I will also note that I think that—the—the
15 crisis of confidence is beyond just a 2-page thing.
16 I was at polling place in my district that didn't
17 have pens, an elevator that was broken. So, people
18 who were ADA accessible—who needed ADA accessibility
19 couldn't vote and went home. The other things I
20 mentioned. What I note in the testimony and I know
21 it's kind of moving—kind of in these sort of regular
22 hearings that are had is really kind of a failure to
23 put a plan forward or like a series of
24 recommendations today. Like the CFB does a report at
25 the end of every election cycle where they issue

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2 their next year's recommendations, and many of us
3 look at that. I know I look at them. We see the MTA
4 has a fast forward plan. What I think is it is
5 missing is a plan that actually outlines the
6 priorities. Municipal poll workers I heard that
7 today. So I understand that, but what are the things
8 that the city needs to do in a sort of comprehensive
9 format and plan? So, I was wondering if maybe you
10 could share that with us. It is to move forward
11 special election coming forward 2020 Presidential
12 Election, primaries in general. What are the things
13 both for elections, the operations and to improving
14 the entire voter experience like the top five maybe
15 that the Council, the Mayor's Office and the Board
16 of Elections need to put into place to make sure that
17 voters can walk in and have a reasonable time to
18 vote, have few to none issues with voting? And that
19 that series of things I noted where you get—you vote
20 three times a years maybe twice and once that that is
21 a—a close to flawless experience.

22 MICHAEL RYAN: Right. So, I—I hope that
23 what is expressed here today by me on behalf of the
24 Board of Elections is a deep and abiding respect for
25 the process, and what this Council Committee is

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2 doing. But I also respect the process within the
3 Board. So before I have an opportunity to make
4 recommendations along with staff to the Commissioners
5 and have them pass on it, as they are the decision
6 makers with respect to policy, that's my reticence.
7 Not in reaching solutions, but I want to make sure
8 that I respect our internal process as well. But
9 some of the things that I think that we can certainly
10 do moving forward is as I said, have qualified staff
11 at the poll sites ready to clear ballot jams. The
12 municipal workers as poll workers is a big deal and
13 it's doable. The other thing that we would like to
14 be able to do if we can is to encourage young people
15 to become more involved in elections, and do a nice a
16 robust students as poll workers, a program, which
17 would help us get younger because we are implementing
18 more and more technology in the poll sites including
19 tablets, which we worked collectively with the City
20 Council and the Mayor's Office to secure the funding
21 for that. As we implement more technology, into the
22 poll sites that's going to require more individuals
23 at those poll sites with technical expertise. Those
24 does to into then poll-rate of poll worker pay. Who
25 are the folks that we're going to be utilizing to do

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2 this. Is it students, CUNY and high school students?
3 Is it municipal workers? Is it, you know, the poll
4 workers who are going to perform these--these tasks?
5 All of that factors into the equation and then I
6 would also ask since we are a ministerial agency, and
7 we don't wade into the political waters with respect
8 to legislation unless invited, and then at the
9 direction of the Commissioners it's incumbent upon
10 all of us to work collectively to get the adjustments
11 and amendments to the New York State Election Law to
12 be made quickly with an appropriate plan of
13 implementation. We are living in an electronic
14 voting machine world, and we are operating under
15 lever machine rules.

16 COUNCIL MEMBER POWERS: Okay, I-I
17 appreciate it. I'm going to stop you there because--

18 MICHAEL RYAN: [interposing] So, yeah,
19 sure. I understand.

20 COUNCIL MEMBER POWERS: So, look but I-I
21 would still invite you. I know the political
22 realities here and things like that, but I do think
23 it is important that agencies administer things like
24 the Board of Elections obviously have plans that are
25 public and recommendations that are public. It's

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2 both for the public confidence, but also so we can do
3 our jobs, and we talk about Municipal Workers
4 Program. Like I would invite you to come and meet
5 with all—all of us to talk about how to implement
6 that, and how to—how to execute that because I know—I
7 am familiar with it, but I'm not sure that we all
8 know how that works and what we need to do to do it.
9 The—I assume other things like early voting are
10 things that the Board supports.

11 MICHAEL RYAN: Well, those—those are more
12 political in nature, but I will say this: That
13 generically any amendment to the Election Law that
14 can maintain or increase voter participation while at
15 the same time destressing the volume on—of—of voters
16 at the poll site on election day will be helpful.

17 COUNCIL MEMBER POWERS: Okay. I
18 appreciate that. I have another question. Is there—
19 is it—is it not possible for you to do—I mean one of
20 the problems that a lot of people have with voting is
21 they all show up at the same time after work or
22 sometimes before work. Mid-day is dead, and they all
23 go to vote because they're required—they have to go
24 vote at their local polling place at school or
25 wherever nearby. Is there not an allowance to—to

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2 make more polling places available to people to vote
3 really close to where they work? If you live—if you
4 work in Mid-Town, you work down here, an ability to
5 be able to vote. I mean I think you do have to app-
6 early app. Like if you're showing up to do absentee
7 voting, why can't I vote in Midtown if I work in
8 Midtown?

9 MICHAEL RYAN: That would require a
10 change in legislation, and a change in the voting
11 system as we presently know it. Is there technology
12 available that could accommodate that? Absolutely.

13 COUNCIL MEMBER POWERS: And I know that
14 during Hurricane Sandy I think that something-
15 something similar to that way.

16 MICHAEL RYAN: [interposing] Well, um-uh-
17 -

18 COUNCIL MEMBER POWERS: Because of an
19 executive order.

20 MICHAEL RYAN: Right. That was an
21 executive order, and that presented—that was only the
22 top of the ticket. So, in some sense—the executive
23 order did the best it could under the circumstances,
24 but it—it wasn't helpful to those people that were
25 looking to vote.

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2 COUNCIL MEMBER POWERS: [interposing] You
3 couldn't vote for your local raise because--

4 MICHAEL RYAN: [interposing] Right.

5 COUNCIL MEMBER POWERS: Right. I
6 understand. The--but I--I think it's something that's
7 worth advocating for. Even another way to use voting
8 is to make more polling first of all. Can you talk
9 about next year we have a charter, we may have a
10 charter. We have Charter Commission active today.
11 Does that mean next year we believe there might be a
12 two-year--there's less elections next year [bell] but
13 will there be 2-page ballots anywhere next year?

14 MICHAEL RYAN: I'm anticipating that
15 we'll be able to fill--fit all of the contests in New
16 Year's election on the--on the first page. There will
17 be an extra contest that we are not going to have to
18 do with the result of the election of Letitia James
19 to the Attorney General because we'll have citywide
20 event next year as well, which wasn't going to be the
21 case for public--

22 COUNCIL MEMBER POWERS: [interposing] I'm
23 sorry. You think it's a--we do anticipate it, too?

24 MICHAEL RYAN: No, I'm anticipating that
25 we'll be able to fit all of the contest on the front

1
2 and then proposition questions on the back and we—we
3 should not have these issues replicated.

4 COUNCIL MEMBER POWERS: Got it. Just I—I
5 just have two more questions and then I'll [bell]
6 give my—my time back to the chair.

7 CHAIRPERSON CABRERA: Well, we're going
8 to have a second round.

9 COUNCIL MEMBER POWERS: Well, can I just
10 finish up because I have more to say.

11 CHAIRPERSON CABRERA: It's your place.
12 Yes.

13 COUNCIL MEMBER POWERS: You had
14 mentioned, two questions and then I'll end. I also
15 ask is there one is you said, you mentioned rejecting
16 \$7 million for poll worker training because an
17 outside consultant had advised you to do so. Can you
18 provide more light on that--

19 MICHAEL RYAN: [interposing] Sure.

20 COUNCIL MEMBER POWERS: --and—and I'm
21 going to -I'll ask a second one because at the same
22 time.

23 MICHAEL RYAN: [interposing] There was
24 a—there was a suggestion made that we double the
25 amount of poll worker training for 6 hours to 12

1
2 hours. Prior to that suggestion being made, we had
3 engaged the services of Election Center, which
4 collectively has 150 years of experience conducting
5 elections, and what we were told was that the reason
6 we were having difficulty retraining poll workers was
7 because the 6-hour training was too long, and the
8 whole training program was revamped. We came up with
9 a color coded manual system, and the training thrust
10 was then to train the poll workers to be able to
11 refer to the reference manual to be able to deal with
12 problems on Election Day as opposed to trying to cram
13 the entire election law into the-into the poll
14 workers' heads at a 6-hour training.

15 COUNCIL MEMBER POWERS: Got it. I've
16 heard the-I've actually heard the same complaint
17 about doing training, but there's a balance here. So,
18 let's--

19 MICHAEL RYAN: [interposing] So, this
20 became a philosophical difference. It wasn't a
21 question of do we want the resources. You know, we--
22 we would certainly be able to use that for other
23 things, but just not-it was earmarked for a specific
24 purpose.

1
2 COUNCIL MEMBER POWERS: And the last
3 question. For the New York City Charter Revision
4 Commission that is out there today, do you have
5 recommendations that you are making to them about
6 ways to improve Charter around elections in voting?

7 MICHAEL RYAN: We haven't been invited
8 into this current process yet. We—we did have some
9 conversations with the—with the previous go-around
10 although limited. We were not invited to testify,
11 but if there are specific issues that the Charter
12 Revision Commission wants us to testify about, and
13 puts it out there to us, I will seek the permission
14 of the Commissioners to participate in that
15 testimony.

16 COUNCIL MEMBER POWERS: I don't know the
17 process internally, but I will say like I—I vote—I
18 participate. I was invited.

19 MICHAEL RYAN: But--

20 COUNCIL MEMBER POWERS: I mean my point
21 is like this just seems to be just to be frank like
22 this just seems to be what the attitude is. It's
23 like we will—we will show up when we are asked to
24 show up rather than this is an important thing. I
25 think the Campaign Finance Board testified, though.

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I think is an important thing that we care about.
This an opportunity to improve it, and we will be
there and make we're there when the opportunity
arises for us. It-it just seems like that you don't
have to be invited to testify before the Charter--

MICHAEL RYAN: [interposing] I would say
that I wasn't aware of the protocol. What I'm simply
saying is if I'm going to make any statements
publicly in that regard, I have to take my marching
orders from the Board of Commissioners.

COUNCIL MEMBER POWERS: Okay, thank you.

CHAIRPERSON CABRERA: Thank you so much.
We're going to be hearing now from Council member
Deutsch followed by Yeger, Lander and Treyger and
just--

COUNCIL MEMBER DEUTSCH: Thank you very
much, and I think most-a lot of-a loot of the
questions were answered and I want thank Chair
Cabrera and Chair Torres, and the Speaker for asking
the many good questions on today's subject. My-my
first question is: How many technicians do you have
per borough if you look at all five boroughs?

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2 MICHAEL RYAN: It varies from election to
3 election and I have--in--in this particular election
4 we had 36 or AD Monitoring teams in Manhattan.

5 COUNCIL MEMBER DEUTSCH: I'm sorry. 36
6 what?

7 MICHAEL RYAN: AD monitoring Teams in
8 Manhattan I understand, but the AD monitoring teams,
9 the general office teams, a combination of our AD
10 monitoring teams, our general office teams are ES and
11 S technicians and our borough technicians can all
12 deal with the types of ballots jams that we
13 experienced. If you want me to confine my response
14 to just technicians, we had 14 teams of ES&S techs in
15 Manhattan, 24 Board techs, 11 teams ES&S techs in the
16 Bronx, 25 Board Techs, 19 ES&S teams in Brooklyn, 33
17 BOE techs, 16 ES&S techs in Queens and 19 BOE techs
18 in Queens, but we did have the entire city blanketed
19 with respect to individuals who could clear basic
20 ballot jams.

21 COUNCIL MEMBER DEUTSCH: So in Staten
22 Island we have 19?

23 MICHAEL RYAN: I don't -I don't have the-
24 the Staten Island information. I don't know where
25 that portion of this report went as I was shuffling

1
2 my papers, but we could certainly get that to you as
3 well.

4 COUNCIL MEMBER DEUTSCH: So, in which
5 borough did you have more complaints on Election Day?

6 MICHAEL RYAN: The most complaints that
7 we had pursuant to telephone data that we submitted
8 earlier was Brooklyn.

9 COUNCIL MEMBER DEUTSCH: It is Brooklyn.
10 So, if you take a look, do you know the population of
11 Brooklyn?

12 MICHAEL RYAN: The overall voting
13 population is 1.4 million .

14 COUNCIL MEMBER DEUTSCH: 1.4 and in-do
15 you know per borough?

16 MICHAEL RYAN: The-the per-borough
17 breakdown of voters?

18 COUNCIL MEMBER DEUTSCH: Yes.

19 MICHAEL RYAN: Yes. We have--

20 COUNCIL MEMBER DEUTSCH: [interposing]
21 Which one has like the least amount of voters?

22 MICHAEL RYAN: Staten Island.

23 COUNCIL MEMBER DEUTSCH: Staten Island,
24 and you have-that's why I'm checking because in
25 Brooklyn you have the highest population, right.

1
2 Then comes Queens. Then you have Manhattan, then you
3 have Bronx and then you have Staten Island, and I'm
4 looking at the numbers here in State Island and you
5 had probably almost as much as in Brooklyn and Staten
6 Island is a population to itself, and the voters is
7 480,000.

8 MICHAEL RYAN: We had 12 BOE techs in
9 Staten Island and two ES&S techs. Each borough
10 presents its own set of challenges. Staten Island
11 while small in population is large with respect to
12 land mass and infrastructure is not available. So,
13 we can't rely on anything really than automobile
14 transportation in--in Staten Island, but we think that
15 based on the types of scanner failures that we
16 experienced we had sufficient techs to deal with the
17 absolute failures or scanners. What we didn't have
18 sufficient techs to deal with these jams that
19 occurred on the top side of the scanner the likes of
20 which we had not experienced before, and that's going
21 to be part of our plan moving forward to ensure that
22 we can deal with those quickly and get those scanners
23 that haven't been disabled back up and running as
24 fast as we can.

1
2 COUNCIL MEMBER DEUTSCH: What--what would
3 you say is the comparison from the--the current
4 scanners and the manual ballot machines that we had
5 before in comparison to compliance?

6 MICHAEL RYAN: It's--it's night and day in
7 some respects--

8 COUNCIL MEMBER DEUTSCH: [interposing]
9 Is it better the way we had it before?

10 MICHAEL RYAN: We had a much higher
11 degree of emergency ballots, although it pre--it pre--
12 dated me. It'--it--we had a much higher degree of
13 emergency ballots with the lever machines than we do
14 with the currents scanner sheets.

15 COUNCIL MEMBER DEUTSCH: So, as far as
16 responding to complaints, did you--did you--do you have
17 more complaints now with the digital way it's done,
18 or the way it used be?

19 MICHAEL RYAN: I--I think the complaints
20 are different. There is a different set of
21 challenges when dealing with an electronic voting
22 machine. We have--

23 COUNCIL MEMBER DEUTSCH: [interposing] Do
24 you believe the way it's done now is better than
25 before?

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MICHAEL RYAN: It's certainly more

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accurate in terms of the vote count without question.

4

COUNCIL MEMBER DEUTSCH: So, you're saying

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that up until the—up until modern technology it

6

wasn't accurate?

7

MICHAEL RYAN: That—that is correct. I

8

could—I could--

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COUNCIL MEMBER DEUTSCH: [interposing]

10

So, you have to go through all the elections prior to

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the--

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MICHAEL RYAN: [interposing] Well, I can

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tell you only from the experience that I had, the one

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election that we used lever machines since I've been

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the Executive Director, there was—and the Borough of

16

Queens had the highest number. We had over 30—close

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to 3,500 votes that were unaccounted for in the

18

Discrepancy Report because--

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COUNCIL MEMBER DEUTSCH: [interposing]

20

So, that's a major issue for every election that

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happened up until the mechanical until the—the newer

22

machines?

23

MICHAEL RYAN: I—I can't speak to what

24

happened in years past. I wasn't—I wasn't here. What

25

I can tell is if you look back and you look at the

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2 Discrepancy Reports in the elections when we used
3 lever machines, I will guarantee you that those
4 numbers were higher than they are with the electronic
5 machines. These—sure these—these machines as a
6 tabulator are very accurate.

7 COUNCIL MEMBER DEUTSCH: Okay, finally I
8 just want to ask one last question. So, [bell] you
9 answered many of the questions in the hearing. So,
10 you know, we all—all the members here we have an
11 office across the street in 250 Broadway, and when
12 the machines get jammed, I'm sure many of us or all
13 of us have that beer can and alcohol pads. If you
14 need some we could—we could give you some, but when
15 you have these issues in any office in the city and a
16 machine gets jammed, right, people have their own
17 responsibilities, but they tend to fix those jams by
18 just taking that spray can or the alcohol pads to fix
19 that, and you mentioned that you—you're going to—
20 you're going to reform that by bringing extra
21 manpower, which is great, and I think that's moving
22 in the right direction. But what disturbed me was is
23 that you mentioned that if these machines are not
24 feasible for 2-page ballots, you mentioned you'll
25 have technicians there. So, if it's not going to be

1
2 feasible, if you anticipate that you will have a
3 problem with a 2-page ballot, that you will have to
4 put technicians there, voting is from 6:00 a.m. to
5 9:00 p.m. If I have to take a 15-hour trip with a
6 battery that is half charged that's faulty, I'm not
7 going to take that 15-hour trip with a battery
8 changer in my trunk. I'm going to go maybe rent a
9 car or take mass transit. If you anticipate that
10 it's not feasible for 2 pages, the machines are going
11 to jam up, but you're going to have to put
12 technicians there, then I think that's an issue.

13 MICHAEL RYAN: Yes.

14 COUNCIL MEMBER DEUTSCH: So-so, I think a
15 technician there is not the answer. The answer is
16 having machines that are operable.

17 MICHAEL RYAN: So, the point that I was
18 trying to make is as I have been told, other
19 jurisdictions use multiple page ballots. Other
20 jurisdictions, however, don't have the perforated
21 stub or the center perforation and the—and the—and
22 the experts tell me that it is the perfor—the
23 perforation that's the problem. There could be a
24 change in New York State Election Law 7-106 (1) to do
25 away with the center perforation requirement and then

1
2 you would have a 2-page ballot, but all of edges
3 would be machine cut, and you would lessen the amount
4 of fibrous material that becomes a present as well as
5 the manner in which the machine feeds it. I
6 understand that there's to be real experts in that—in
7 that are that are going to be testifying later, but
8 that is a simple legislative fix that other
9 jurisdictions manage ballot accountability without
10 having a stub, and without have a center perforation,
11 and it seems to me in that regard fears maybe were
12 right at the time, but the legislative action
13 resulted in a pound of security for an ounce of cure,
14 right. So, there—there was--

15 COUNCIL MEMBER DEUTSCH: [interposing] Is
16 this—so is this being discussed now in the State,
17 you're saying?

18 MICHAEL RYAN: I'm hopeful. I know that
19 there's going t to be legislative changes. Now that
20 we have the day of reckoning has come, and the center
21 perforated 2-page ballot was a reality, and we saw
22 how it performed, which was not well, that I'm
23 hopeful that the appropriate legislative changes will
24 be made to give boards of election throughout the
25 state the flexibility that they need to be able to

1
2 conduct elections fairly and conveniently for the
3 voters.

4 CHAIRPERSON CABRERA: Council Member,
5 we're going to do--

6 COUNCIL MEMBER DEUTSCH: [interposing]
7 Okay--

8 CHAIRPERSON CABRERA: --our second round.

9 COUNCIL MEMBER DEUTSCH: --thank you.

10 CHAIRPERSON CABRERA: Thank you. I
11 really appreciate it. I just want to acknowledge
12 that previously we were joined by Council Member Ben
13 Kallos, and now with Council Member Gibson, and now
14 we will hear from Council Member Yeger, Ydanis
15 Rodriguez, Lander and Treyger.

16 COUNCIL MEMBER YEGER: Thank you, Mr.
17 Chairman. Mr. Director, let's just get one question
18 out of the way just to--to make sure there's no
19 confusion. Are lever machines currently allowed to
20 be use in the state New York?

21 MICHAEL RYAN: No.

22 COUNCIL MEMBER YEGER: That's because
23 federal doesn't allow that. Is that correct?

24 MICHAEL RYAN: Yes, the New--
25

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2 COUNCIL MEMBER YEGER: [interposing] If
3 you woke up tomorrow morning and said that the next
4 election is going to use lever machines, you'd be
5 violating federal law.

6 MICHAEL RYAN: For federal elections,
7 correct.

8 COUNCIL MEMBER YEGER: Okay, thanks. I
9 just wanted to make sure that that's—that's stated.
10 Okay, how much does a scanner cost, the current ones
11 that you're using?

12 MICHAEL RYAN: Slightly under \$7,000.

13 COUNCIL MEMBER YEGER: \$7,000. Does it
14 make sense to have an election inspector fiddling
15 around with the machinery that costs substantially
16 more than the \$300 printer that I have in my office?

17 MICHAEL RYAN: That has been our
18 reluctance, quite frankly.

19 COUNCIL MEMBER YEGER: All right. The—the
20 scanners that we use now, which we'll put into play
21 say 8 or 9 years ago, is there, and I know Chair
22 Torres has delved into this. I wanted to just get a
23 little deeper on it. Are there—is there a scanner on
24 the market, and you may have addressed a little bit,
25 but is there a scanner on the market that has the

1
2 ability to simply receive the data of all the
3 different ballot types around the city, which are
4 probably upwards of a couple of thousand and have
5 that information in it without putting aside the
6 requirement that we test each ballot because that is
7 a state requirement. To receive that data and then
8 have that information in it so that they could be
9 deployed as needed?

10 MICHAEL RYAN: Yes, I'm aware of two
11 separate products similar with two vendors that would
12 accomplish that.

13 COUNCIL MEMBER YEGER: Okay, so not to
14 answer now, but if you can look into the cost of
15 those and—and let the Council know what that would be
16 because we're about to do the November plan, and then
17 we're going to start talking about the budget coming
18 up, which is really around the corner. But if the
19 Mayor and the Council would know what that is because
20 it's not like you have a checkbook in your desk, I
21 assume that you can just rip it out and start writing
22 checks to buy a new machine.

23 MICHAEL RYAN: I do, but not enough to
24 cover the cost of the machine.

25 COUNCIL MEMBER YEGER: Okay, alright.

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2 MICHAEL RYAN: But-but, Councilman, just
3 to be clear.

4 COUNCIL MEMBER YEGER: Yes, sir.

5 MICHAEL RYAN: My understanding is that
6 one system that I'm aware of is on the path to
7 certification through the State Board of Elections,
8 and may very well be certified during the summer of
9 2019.

10 COUNCIL MEMBER YEGER: Right.

11 MICHAEL RYAN: Until that certification
12 process is complete, it's as if it doesn't exist to
13 us.

14 COUNCIL MEMBER YEGER: So, Mr. Director,
15 the-the State Board I believe is here I was told and
16 will be testifying later. So, maybe hey can help
17 shed some light on where they're up to, and I agree
18 with-with what you said earlier is that if they were
19 one statewide system it would really not make sense
20 for the city of New York to put its own thing into
21 the world and then have, you know, six months the
22 State of New York say we're doing something
23 different. Then all of our million dollars of
24 equipment go into the garbage.

1
2 MICHAEL RYAN: Right, we—we try to be
3 responsible--

4 COUNCIL MEMBER YEGER: Okay.

5 MICHAEL RYAN: --and if something new is
6 coming, we don't want to engage in wholesale
7 replacement of scanners that we have presently.

8 COUNCIL MEMBER YEGER: Can you—can you
9 explain—you indicated that there were 924 ballot
10 styles in Manhattan, which seems like a lot and
11 recognizing there are different jurisdictional
12 districts, which overlap in some ways, and don't
13 overlap in other ways. Is 924 the bare minimum
14 number of ballot styles that you were able to do?
15 Would you be able to get away with doing less ballot
16 styles in Manhattan?

17 MICHAEL RYAN: Well, certainly I think we
18 could have—we could explore the opportunities to have
19 some number of ballot styles loaded onto the
20 machines, and have them placed strategically
21 throughout the borough.

22 COUNCIL MEMBER YEGER: Okay.

23 MICHAEL RYAN: We have not done that to
24 this point. I was simply trying to connote what it
25 would undertake if we were trying to make a generic

1 machine for the whole borough that would have all
2 that stuff.

3
4 COUNCIL MEMBER YEGER: [interposing] I
5 got that, and I'm on the clock so I'm going to try to
6 speed up a little bit.

7 MICHAEL RYAN: Yep.

8 COUNCIL MEMBER YEGER: When you were
9 having a conversation with Chairman Torres earlier,
10 you indicated there were a thousand reserved scanners
11 and then something that—you know, I wrote a note and
12 then you actually said it a couple of minutes later
13 of exploring the—the ability. We have about 70 to 80
14 assembly districts in the area and in the city of New
15 York and that's really how we separate out our
16 election systems, and if we you were able to say have
17 10 machines in each AD, which had the data for all
18 the potential ballots of that AD, and then
19 strategically located, you'd be able to quickly
20 deploy machines with an AD, which makes more sense I
21 suppose.

22 MICHAEL RYAN: Correct but the—the spare
23 machines in this particular election were integral
24 part of our plan in dealing with overflowing ballots,
25 which is—which was the primary focus in the lead up

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2 to Election Day. We really didn't know (A) what
3 turnout would be. We knew it was going to be greater,
4 and we have no control over when the voters show up.
5 What we saw in this election as well was a crush of
6 voters coming early in the morning. Now, I suspect
7 they were trying to beat the rain, and--and get out
8 quickly. We had a certain number of reserved
9 scanners on the side so if these ballot bins filled
10 up [bell] that we'd be able to move them out and
11 still secure the ballot material since that's part of
12 our responsibility as well.

13 COUNCIL MEMBER YEGER: Mr. Chairman, if I
14 can just go on with one or two quick questions, and
15 I'll--

16 CHAIRPERSON CABRERA: Yes, and few
17 questions. (sic)

18 COUNCIL MEMBER YEGER: --and I'll wait for
19 the second round. Thank you. The--the scanner that--
20 I'm sorry. Withdraw. The--when you were in Crown
21 Heights and you discussed the wet ballot what time of
22 day did you say that was?

23 MICHAEL RYAN: That had to be between
24 11:15 and 11:30.

25

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2 COUNCIL MEMBER YEGER: Okay when the--
3 there's a process right now for when--when the machine
4 hits five--when a scanner hits 500 ballots scanned in
5 somebody from the site has to notify the Board of
6 Elections. You're aware that that's the rule?

7 MICHAEL RYAN: Yes.

8 COUNCIL MEMBER YEGER: Okay, does that
9 data result in somebody maybe going out there and
10 checking the scanner without having any knowledge
11 that there's a problem, but just because we've gotten
12 a report that a scanner has hit the 500. What
13 happens with that data is my question.

14 MICHAEL RYAN: Well, what we were trying
15 to convey to the poll workers is the ballot bin
16 capacity is about 1,400 pieces of paper. So, by
17 putting that 500 notification requirement in was our
18 own plan to try to stay ahead if the--what we
19 anticipated to be overflowing ballots at the end of--

20 COUNCIL MEMBER YEGER: So, basically by
21 the time they hit the third call that bin is full and
22 they have to do the envelope, the sealed bag and the
23 envelope--

24 MICHAEL RYAN: [interposing] Correct.
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COUNCIL MEMBER YEGER: --with Dutch tape
on it?

MICHAEL RYAN: Correct. This was an
attempt on our part to stay ahead of the issue
throughout the day.

COUNCIL MEMBER YEGER: Okay, the-what-
this is real quick. Mr. Chairman. I appreciate it.
What is the average number of voters at a poll site
in New York City?

MICHAEL RYAN: We-it-it--

COUNCIL MEMBER YEGER: [interposing] if
you know.

MICHAEL RYAN: --it goes-it varies--

COUNCIL MEMBER YEGER: Average

MICHAEL RYAN: --greatly. I couldn't
even tell you average. So, we have two site scanner
and we have, you know, we have two scanner sites, and
we have 20 of the big (sic) sites.

COUNCIL MEMBER YEGER: [interposing] I'm-
you know, I-I appreciate that, Director. I'm
referring to sites a building whether it's the lobby
of an apartment building--

MICHAEL RYAN: Right.

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2 COUNCIL MEMBER YEGER: --in the middle of
3 Brooklyn or whether it's private building.

4 MICHAEL RYAN: [interposing] On average,
5 we could say as a rough guestimate 4,000 voters per
6 site.

7 COUNCIL MEMBER YEGER: Okay, is there-is
8 there any, you know, one of the things I-I thought
9 about in the last couple of weeks, really since
10 primary day, but more so in the last 10 days or so.
11 Is that, you know, we have places in America where
12 there are 300 people registered to vote at the local
13 Firehouse and the election goes quite smoothly, and,
14 you know, they roll in, they roll out and life goes
15 on and all is great, and we don't have that luxury
16 here in the city to have a poll site with, you know 2
17 or 300 voters at their local firehouse. And I'm
18 wondering what, if any, resources, efforts you need
19 either to do yourself or to ask the Administration
20 and the Council for help in creating new poll sites
21 to-to divide up the very large sites that we see have
22 problems. Because it's not just in my estimation,
23 and by the way, I voted in under five minutes at-in
24 Brooklyn on Election Day. So, you know, I don't want
25 to be the example, but I know that not everybody had

1
2 to wait online for an hour I believe. What—what
3 would you need to do to split up those super large
4 sites that—that have been the result of problems in
5 this election or the primary and just historical
6 problems since the insertion or the creation of the
7 scanner machines?

8 MICHAEL RYAN: We need access to
9 buildings that are accessible to all New Yorkers. One
10 of the things that we're doing to offset the
11 deficiencies at the poll sites that we—we have to use
12 is we—now—now think about this. We have 1,231 poll
13 sites in—in the city of New York. We had to install
14 temporary—temporary ramping equipment at 503 sites.
15 We used 17 vendors at 387 sites, and we do 116 on our
16 own between our efforts and the efforts of the board
17 of—of the Department of Education. Going back to
18 2014, we had no vendors doing this. We were moving
19 poll sites. We were getting beat up from moving poll
20 sites. People don't like their poll sites moved. I
21 get it. So, we've now—we spend quite bit of expense
22 money resources to make poll sites temporarily
23 accessible when capital expenditure to fix the
24 problems could really be the answer.

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2 COUNCIL MEMBER YEGER: Okay. I will tell
3 you Mr. Director that in my experience something that
4 I've seen is that I think the Board—I'm not really
5 sure what standard the board uses for handicap
6 accessible. I mean I know in my district they—if the
7 Board has a problem with a particular poll site
8 that's a senior center and saying that it's not
9 handicapped accessible, and I know that there are,
10 you know, 100-year Holocaust survivors that make it
11 up the ramp that's there, and the board's position is
12 that's not good enough, and in my district there's a
13 local Community Board, which is a ground floor
14 storefront, and they literally tell me it's true.
15 They came and they installed some kind of matt or
16 ramp, and I've been in that office a hundred times
17 and it never seemed to me. So, I'm wondering if
18 there's maybe, your—your—the board uses too heavy of
19 a definition of what is accessible and what the need
20 for accessible, and I appreciate it, Mr. Chairman and
21 I'll leave it at that and let him answer.

22 CHAIRPERSON CABRERA: Thank you. Thank
23 you so much because I know we—we have a second round.

24 MICHAEL RYAN: That accessibility
25 standard that we go by is as a result of a federal

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2 lawsuit, and we are operating under a federal mandate
3 to utilize the services of Evan Terry Association-
4 Associates to survey all of the poll sites that we
5 use for accessibility, and we work with Evan Terry to
6 make sure that we implement their recommendations,
7 and we meet regularly with the Disability Rights
8 advocate who are counsel for the accessibility
9 community to implement these challenges, and some of
10 them-I mean we've-we've had ramps in-in Upper
11 Manhattan in the Heights for example that are over
12 100 feet long. We have level landing systems that
13 look like they're on flat ground, but because there's
14 a standard we have to place it over-over what appears
15 to be flat ground. So, we follow what the Federal
16 Court is telling us to do by utilizing the services
17 of this outside vendor, and we have taken the
18 position of trying like heck to not move poll sites
19 if we can avoid it, and that's why we have the
20 extensive temporary ramping that we're doing.

21 COUNCIL MEMBER YEGER: Okay. I-I want to
22 get back to this later but, Mr. Chairman wants to
23 allow the colleagues to have questions. So thank you
24 very much Mr. Director.

25 MICHAEL RYAN: Thank you.

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2 CHAIRPERSON CABRERA: Thank you so much,
3 and thank you for the patience of all of my
4 colleagues. Council Member Ydanis Rodriguez followed
5 by Council Members Lander and Treyger.

6 COUNCIL MEMBER RODRIGUEZ: Thank you,
7 Chair. First of all, thank you for the work that you
8 do in assisting that definite need to be
9 restructured. One of my concerns is about the
10 immigrant voters. As one of the probably few elected
11 born and raised in another country that doesn't
12 belong to the United States I have seen how the city
13 had to do much better to be more friendly to
14 immigrants. What steps are taking place in that
15 election to be sure that most workers who were placed
16 in communities where most voters were not English
17 speaking wouldn't be able to create the supports that
18 those voters needed.

19 MICHAEL RYAN: Right. So, we follow the
20 standards of Section 203 of the Voter Rights Act with
21 respect to population density. We are required to
22 provide additional services to voters that speak
23 Chinese, Korean, Bengali and Spanish, and in addition
24 by state law we are required to provide additional
25 materials on our website in the Russian language. We

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2 did extensive outreach with respect to interpreters.
3 We typically have a good number of Spanish speaking
4 interpreters and we don't usually fall short on
5 Election Day. One of the more challenging languages
6 that we have for recruitment, and we haven't been
7 able to put our finger on the button exactly why is--
8 is Korean. But we--work on those languages to make
9 sure that we have a sufficient number of interpreters
10 in and around election day as well as the languages--
11 those languages in certain areas not throughout the
12 city but in certain areas are required to be on the
13 ballot.

14 COUNCIL MEMBER RODRIGUEZ: But what is it
15 that is still today in that election and most likely
16 if we don't take the necessary steps in the new
17 election, the next election come, and most likely
18 will be in February as we will be hoping to have a
19 special election for the Public Advocate. What will
20 the Board of Elections put in place to learn from
21 what happened in the past election on improving? I'm
22 not saying that you guys are not doing the job, but--

23 MICHAEL RYAN: [interposing] Right.

24 COUNCIL MEMBER RODRIGUEZ: --no one can
25 deny that much more has to be done in that particular

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2 area to be sure that immigrants who doesn't speak the
3 language are going to polling sites knowing that
4 there's a friendly place where people there speak the
5 languages. What will you--what did you learn from
6 that previous election that in the next one coming in
7 February or whatever, you will be ready to respond to
8 those needs?

9 MICHAEL RYAN: Right. So, I think in
10 terms of recruitment in our--our media buy, we did
11 well in terms of raw numbers in recruitment. What I
12 cannot answer for you right this minute is we have to
13 review the coordinator logs, the interpreter journals
14 to see if there were any particular problems other
15 than the ones that we normally might experience that
16 require tweaking or--or overhauling moving forward,
17 and we just--from this past election we just don't
18 have that information presently. But I can tell you
19 that we function under a very comprehensive language
20 assistance program again through Federal Court Order,
21 and we--and that has been extended, and through the
22 end of 2019. I expect it will be extended again
23 after that because of the federal interest in making
24 sure that these things are taken care of properly.

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2 COUNCIL MEMBER RODRIGUEZ: And how-how do
3 you plan the ratio of translate-translation-
4 translators per the number of voters that you expect
5 will be going to the polling site and how these past
6 elections respond? Like how many? What is the
7 average or how do you plan?

8 MICHAEL RYAN: I-I can have a longer
9 conversation with you and walk you through the
10 Language Assistance Program. It is not just simply
11 one thing. It's population density through the
12 census. There are a list of surnames that we must
13 review and determine to be, whether they or not,
14 requiring of language assistances. Now, I-I have
15 some questions myself about the overall effectiveness
16 of the Language Assistance Program and whether the
17 targeting of what was in the past an ethnically
18 specific surname, whether that still makes sense to
19 do that moving forward, but under the present rules
20 that we are-we're following through the Federal
21 Court, we have to do it.

22 COUNCIL MEMBER RODRIGUEZ: I-I hear you
23 and that's my- I'll end it with this: With that
24 recommendation that again as someone whose English is
25 not the first language, as someone that is one of the

1
2 recent immigrants that make up 38% of the New York
3 City population. [Speaking Spanish] I feel that as
4 the Board of Elections will look in an area on how we
5 can do better. I think that we still have area to
6 improve when it come to increasing the numbers of
7 workers that is there to translate to the ratio of
8 voters. New York City today is not the 1900s when in
9 this case Latinos were in our country or the African-
10 American population was only 2%. Today, population
11 is 38% of New Yorkers born and raised in another
12 country, and many were living with green cards
13 undocumented 30 years ago, but today that populations
14 are voting, and I have seen that they have been going
15 to places that they need more numbers of translators
16 in those polling places.

17 MICHAEL RYAN: So, just and I-I know you
18 have a specific interest in-in Spanish. We took ads
19 in El Diario.

20 COUNCIL MEMBER RODRIGUEZ: And Hispanics
21 and everyone, Korean.

22 MICHAEL RYAN: [interposing] But-but I
23 understand, but I'm just-I can't read the whole list.
24 So, you know, the Spanish happens to be at the top of
25 Diario, La Voz Hispana, Impacto. We-we took ads in

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those—in those publications to be able to do that form of basic outreach, but we can always come to events, and I tried to say this to all community groups. You know, if there's specific events where you know that there's going to be numbers of people there, invite us. Let us know about them. Send us an email, and we'll make every effort to get our outreach teams there to—to try to get poll workers to come in to try to get people to register and also for translators.

COUNCIL MEMBER RODRIGUEZ: I—I mean in my experience, the workers of Community Boards, you guys are accessible. I know that you respond to the phone. You respond to the email. So, I'm not questioning that piece. I just believe regardless of what, we will rely on the Community Board or the other borough election.

MICHAEL RYAN: Right.

COUNCIL MEMBER RODRIGUEZ: For the next election coming now most likely in February for the next one coming I '21. I just hope that again as in any other election that you look in an area to improve. [Speaking Spanish]

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2 CHAIRPERSON CABRERA: Muchas Gracias,
3 Council Member and with that I'll pass it onto
4 Council member Lander and then Council Member
5 Treyger.

6 COUNCIL MEMBER LANDER: [interposing]
7 Thank you, Mr. Chair, and in a minute I'm going to
8 follow up on Council Member Rodriguez's question.
9 But I—I want to start by telling you about my
10 Election Day experience and asking a question or two
11 about it. It's certainly my sense that an awful lot
12 of the places where all the scanners failed
13 throughout the entire day were highly concentrated
14 in—in my district. We were on the phone with your
15 team a lot, and certainly they were sending
16 technicians out, but it was a bit like a game of
17 Whac-A-Mole because the scanner would go down. Well,
18 we could fix it. Well, the next site to fix it, and
19 one would break again. At—at my site to the
20 Kingsborough Temple on—on Seventh Street and Park
21 Slope, you know, I waited outside in the rain with an
22 umbrella for awhile. The line was up the block. When
23 I got inside, I took some pictures from the door. It
24 was a total mosh pit. Luckily, someone had rigged up
25 an upside down broom stick with "End-of-Line Here."

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2 So, you could find the end of the line because
3 otherwise you were advised of two things: (1) If you
4 want you can just vote while you kind of wait in this
5 snaky line. You don't need to use the privacy booth,
6 which was great because why go to the privacy booth
7 if you're going to have an hour waiting in the snaky
8 line. And (2) we were told three of the four
9 scanners are down. So, you have two choices. You
10 can wait in the snaky line for an hour and use the
11 last scanner or you can just put your ballot right
12 now into the emergency ballot box. Most of us
13 decided, and I will say the spirits were good. It
14 was a happy Election Day despite the madness of the
15 Administration. Most of us decided to wait in the
16 line, and so I waited for about 50 minutes to snake
17 through the--the--the mosh pit and then, of course,
18 when I was about five people from the last scanner,
19 that scanner broke. So, I was not able to--having
20 waited for that hour have my ballot scanned, and
21 instead just as I was approaching they were like
22 okay, stuff you ballot in the Emergency Ballot Box.
23 I had never noticed that the container, the cabinet
24 under the scanner says: Emergency Ballot Box on it,
25 but I got none of my questions asked about under what

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2 circumstances will those ballots be removed from the
3 ballot—Emergency Ballot Box? When will they be
4 scanned? What confidence do I have that they'll be
5 scanned? Who will be watching when they are scanned?
6 So, I didn't see that happen, and hopefully my ballot
7 got counted, but what can— I guess for starters,
8 can you tell me I guess what is the protocol for how
9 the ballots are taken out of the Emergency Ballot Box
10 and scanned? What ballot security is there? Do you
11 have any count of how many ballots were put in and
12 out and, you know, what kind of report can we have on
13 that, and honestly, if that's secure, why not just do
14 that with everything? Like then I wouldn't have had
15 to wait in line for an hour. All the ballots could
16 have gone in the secure ballot box and then been
17 scanned. Like it seemed to me what we had is
18 absolutely the worst of both worlds. I both waited
19 and had no confidence in ballot security. If you
20 convince me, I should have confidence in ballot
21 security. Can't we run the election a lot more
22 efficiently? And if not, why should I believe my
23 ballot was counted?

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2 MICHAEL RYAN: Well, to be clear,
3 emergency ballots happen in every election. What we
4 saw here, and I had-

5 COUNCIL MEMBER LANDER:[interposing] But I
6 don't even know if mine was an emergency ballot. I
7 was given a regular ballot.

8 MICHAEL RYAN: [interposing] Okay.

9 COUNCIL MEMBER LANDER: I filled in the
10 bubbles. I was about to scan it.

11 MICHAEL RYAN: Right.

12 COUNCIL MEMBER LANDER: It became an
13 emergency ballot at the moment that the ballot broke
14 down.

15 MICHAEL RYAN: So, yeah.

16 COUNCIL MEMBER LANDER: The scanner broke
17 down.

18 MICHAEL RYAN: Correct. So-so, we're
19 covering a little extra ground, and I know you-you
20 guys all have a lot of things that you have to do.
21 So, we-we discussed this a little bit earlier, but an
22 emergency ballot is nothing more nothing less than an
23 Election Day ballot that cannot for some reason be
24 scanned into the scanner at the moment. We also-

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COUNCIL MEMBER LANDER: [interposing] And I was still given a choice I guess at that beginning: Would you like to have an emergency ballot or would you like to have a regular ballot?

MICHAEL RYAN: Well, I can tell you that if that was the "choice you were given"--

COUNCIL MEMBER LANDER: [interposing] I'm telling you it was t he choice I was given.

MICHAEL RYAN: I know, but then the information you got [background comment] was not accurate. What--I think what they were trying to convey to you was we can take your ballot and put it into the Emergency Ballot Box, and let you get out of here, or you can wait on line and scan it yourself. I think that's what it sounds like they were trying to convey to you.

COUNCIL MEMBER LANDER: [interposing] I know that's definitely what they told me. They didn't' anticipate that I would wait online and then--

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MICHAEL RYAN: [interposing] So--

COUNCIL MEMBER LANDER: still not be able to have it scanned myself.

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2 MICHAEL RYAN: --my-my point is if you
3 are left with the impression that you were getting a
4 different ballot, that would not have been the right
5 impression.

6 COUNCIL MEMBER LANDER: [interposing] No,
7 no, no. I was clear what my choices were. I hoped
8 that I would be able to scan it myself--

9 MICHAEL RYAN: [interposing] Right.

10 COUNCIL MEMBER LANDER: --because I would
11 have had more confidence it was counted than like
12 stuffing it in the--like throwing it in the basket.
13 (sic)

14 MICHAEL RYAN: [interposing] So--so we saw
15 an inordinate number of emergency ballots this go-
16 round, but I want to give you a number that I gave
17 earlier. Why this never bubbled to the surface is
18 being an issue for us.

19 COUNCIL MEMBER LANDER: [interposing] Can
20 you first--I just want to understand maybe if you did
21 this before, it's fine. I just want to first
22 understand the protocol--

23 MICHAEL RYAN: [interposing] Sure, okay.

24 COUNCIL MEMBER LANDER: --of how it came
25 out of the cabinet--

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MICHAEL RYAN: [interposing] Page-page
90--

COUNCIL MEMBER LANDER: --and we saw it
and what confidence I can have that there was ballot
security and the counting of my ballot.

MICHAEL RYAN: Page 91 of the Poll Worker
Manual details what they do with--with emergency
ballots, and at the end of the night before the
machines are shut down, all of the emergency ballots
are taken out of their respective locations by a
bipartisan team, and in--and with--under the [bell]
supervision of NYPD and individually scanned into the
DS200 Scanners. So, the vast majority of emergency
ballots are tabulated on election night. If for some
reason one of those was unscannable, then that goes
into the emergency ballot envelope for processing
later during the--it's counted and--and accounted for
in the ballot accountability process, and processed
later by borough staff after the NYPD drops all of
the ballot material back to our respective borough
offices.

COUNCIL MEMBER LANDER: And did I--I heard
somewhere that in some cases there were--the--the

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2 emergency ballot cabinets filled up entirely. What
3 happened then?

4 MICHAEL RYAN: Well, that—that was true.
5 What happened we saw as well with these topside
6 scanner jams that we were talking about some of the
7 ballots accordioned, and they don't lay flat, and
8 that ballot, the emergency ballot bin slot is—is not
9 big, but in years past we get double digit numbers
10 of—of—of emergency ballots. This was a high volume
11 of emergency ballots, but the process is to count
12 your vote on election night before the close of
13 polls.

14 COUNCIL MEMBER LANDER: [interposing] So
15 what did people do? What did the poll workers do
16 when they no longer had room in the emergency ballot
17 cabinets, and still didn't have working scanners?

18 MICHAEL RYAN: They utilized the
19 emergency ballot envelopes that we had at the poll
20 sites, and in some instances we had provided seal
21 bags in the case that the ballot bin overflowed and
22 they used those as well, but--

23 COUNCIL MEMBER LANDER: [interposing] DO
24 you understand why I and thousands of other voters
25 find it hard to just have confidence that because our

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2 ballots might have gotten put in plastic bags that
3 there was the level of ballot security that we expect
4 in our elections.

5 MICHAEL RYAN: The majority of those
6 ballots--

7 COUNCIL MEMBER LANDER: [interposing] Do
8 you understand why?

9 MICHAEL RYAN: Certainly.

10 COUNCIL MEMBER LANDER: Okay.

11 MICHAEL RYAN: Absolutely, but I'm
12 trying—I'm trying to convey that the process is to
13 count all of those ballots on election night. If
14 there's anything that's unaccountable or cannot be
15 scanned, those go back in the emergency envelopes and
16 are—and are handled by the borough facilities.

17 COUNCIL MEMBER LANDER: So, and—and I
18 want to ask my—my question in follow-up to Ydanis,
19 but I—I appreciate all of that, and I really—the
20 folks, the workers tried to be very accommodating. I
21 live the upside down broomstick with the end of line
22 sign. They were trying to be helpful when they
23 offered me these choices, but the damage it does to
24 our elections when it feels like what happens is you
25 vote and someone sticks it in a plastic bag, and

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2 later some people will count it, is really damaging.
3 It's hard to believe we have an election system that
4 provides secret ballots. I mean I'm snaking through
5 the thing. I'm voting in front of all my neighbors
6 with not private—I mean I was offered a privacy
7 booth, but almost no one took the privacy booth. You
8 know, voting in public, snaking through like we're in
9 an amusement park and putting our ballots in plastic
10 bags being told someone will later scan and count
11 them. I did not put mine in a plastic bag, but it
12 sounds like some people did. It just makes it very
13 difficult to believe we have an election system that
14 provides secret ballot and counts. People had good
15 will to try to achieve it, but it really is
16 undermining of confidence in the system, and I just
17 want to ask one last question following up on Ydanis'
18 issues around language access because a thing we did
19 vote for on the back of the ballot together Item #2,
20 Proposition #2, New Yorkers overwhelmingly voted in
21 favor of expanding poll site access, language access
22 at poll sites, and I think it's pretty reasonable to
23 believe what likely will come out of that thing that
24 the vast majority of New Yorkers voted for is the
25 city putting some resources in translators. When we

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2 did that last election without the vast majority of
3 New Yorkers asking for it, but just the Council and
4 the Mayor asking for it, the Board of Elections would
5 not let those translators come within 100 feet of the
6 poll site. What are we doing now that the majority
7 of New Yorkers have voted to expand language access
8 to make sure that the resources that get provided
9 through the Civic Engagement Commission are used
10 together with the Board of Elections, and we don't
11 wind up with that kind of standoff that we had last
12 year where the people want more language access, but
13 the translators are forced to be 100 feet outside the
14 polls.

15 MICHAEL RYAN: I think something did
16 change in this election. The people of the city of
17 New York spoke. We have to certify the election, and
18 after the election is certified, I am certain that
19 this topic will be a topic that is addressed by the
20 Board of Commissioners. I don't make policy for the
21 agency, and I'm not going to step out ahead of the
22 Commissioner's authority on that, but I certainly
23 would expect that it—that it will be addressed and—
24 and moving forward irrespective, I would hope that
25 the communication between the city and the Board

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2 would be better than what it was, and I want to—I
3 want to be clear: We were not advised as the Board
4 of Elections as to the poll sites that were going to
5 be used until the week before Election Day, and—and
6 we have to make some preparations for that as well.

7 COUNCIL MEMBER LANDER: [off mic] I'm
8 going to find optimism here.

9 MICHAEL RYAN: Right.

10 COUNCIL MEMBER LANDER: [off mic] I'm
11 going to find optimism here. We don't need to look
12 back.

13 MICHAEL RYAN: Right.

14 COUNCIL MEMBER LANDER: I raised the last
15 election, but I'll let that one go.

16 MICHAEL RYAN: Okay.

17 COUNCIL MEMBER LANDER: It's good to hear
18 that given the fact that this came from the voters of
19 the city, you are open it sounds like with the work
20 of your commissioners to working together to make
21 sure that the effort that comes out of that is
22 coordinated with you and achieves our goal of
23 expanding language access for a broad set of New
24 Yorkers.

25 MICHAEL RYAN: Thank you.

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COUNCIL MEMBER LANDER: Thank you.

CHAIRPERSON CABRERA: Thank you so much
and Council Member Treyger, thank you so much for
waiting.

COUNCIL MEMBER TREYGER: Thank you, Chair
Cabrera and Chair Torres. Good to see you again
Director Ryan.

MICHAEL RYAN: Nice to see you.

COUNCIL MEMBER TREYGER: So, I'm—I'm a
former public school teacher. When it was exam day I
had to prepare for over 170 students, make sure
enough paper, making sure enough pens and pencils. I
did not prepare for 50% participation. I did not
prepare for a quarter participation. I had to
prepare for full participation. We in government and
the message that we give in our—in our society is to
encourage people to vote, to be full participants in
our democracy. It is alarming that we don't have the
capacity to accommodate full participation. We don't
have the capacity to accommodate I think a quarter
participation. This is a wake up call not just to
city officials, but to the state and federal
government as well. So, I just want to begin by—by
saying that. In addition to paper jams, the weather,

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2 2-page ballots, my colleague touched upon this. You
3 know, I led the charge in this—in this body to get
4 resources from the City Council from the city of New
5 York to hire language access interpreters. Director
6 Ryan, I am outraged to learn that once again these
7 hardworking individuals who are only seeking to
8 assist voters to find if they're in the right place,
9 to make sure that they knew what an ED was, were
10 placed outside in the cold weather in the rain a
11 hundred feet away because someone in the Board of
12 Elections interprets language access as
13 electioneering. So, my question to you is who from
14 the Board of Elections had interpreted this—
15 interpreted language access as electioneering? Whose
16 decision was it to order people to stay 100 feet away
17 from the poll sites again in the cold freezing rain?

18 MICHAEL RYAN: That was a—a decision that
19 was made by the Board of Commissioners last year when
20 we were approached, as—as you're aware, very late in
21 the game as we approached Election Day. I can tell
22 you that I participated in one conference call with
23 representatives from the Administration, and said to
24 us not that we offered to them, we understand we have
25 to remain outside the 100 feet. We—the—the Board of

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2 Commissioners was not asked in any way, shape or
3 form--

4 COUNCIL MEMBER TREYGER: [interposing]
5 Director Ryan, just to be clear, you're telling me
6 that the New York City Board of--Board of
7 Commissioners ten individuals for the city of New
8 York interpret language access as electioneering? Is
9 that what you're telling this committee?

10 MICHAEL RYAN: What I'm telling you is
11 that it was a decision that was made last year, and
12 I'm also telling you that we were not asked to
13 revisit that. We were told that the--we were told
14 that the interpreters were going to be set up, and
15 that the interpreters were going to be bringing their
16 own tape measures, and that they were going to set up
17 outside--outside the sign.

18 COUNCIL MEMBER TREYGER: Commissioner,
19 they only--first of all, again as you pointed out, the
20 Federal Voting Rights Act mandates I think Chinese. I
21 think you mentioned Korean. The state--you--the BOE
22 added Bengali for-- Noting in the law--nothing in the
23 law prohibits the BOE from adding more languages. I
24 keep hearing the goal post moving. We in Southern
25 Brooklyn have a very large Russian Speaking

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2 community. Many Holocaust survivors, World War II
3 veterans coming in not sure if they're in the right
4 place because also the BOE moves poll sites around.
5 So, where—where they used to vote they go and
6 they're—and they're told this is not where—where you
7 vote and they simply ask the question: Where do I go?
8 Some might ask what is and ED? Which booth? That's
9 all they want to know. So, we in the city put
10 hundreds of thousands of dollars because the BOE
11 wouldn't do it. They said they didn't have money.
12 The state was not acting. We put in that money
13 simply to hire people, and I thank the Mayor and—and
14 his administration on this issue, simply to hire
15 people to tell them if you're in the right place or
16 not. They have street finders. They're not telling
17 people who to vote for. So, I find it shameful
18 [bell] that the Board of Commissioners interprets
19 helping people to vote as electioneering. They
20 failed that vocabulary test, Commissioner, and this
21 is a major issue in the City of New York. We have—in
22 our population many people speak different languages.
23 It's not just Chinese, Korean or Spanish and we, of
24 course, celebrate those languages, but there are
25 people who speak Russian, Arabic, Urdu. There's

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2 different languages. So, this is an issue that we're
3 going to continue to follow up on. I don't think you
4 can point to one law, one law that prohibits you from
5 expand language access, and I again remain outraged
6 that people were placed in the cold, freezing rain
7 simply because they wanted to assist their fellow
8 voters, and I think the Chairs for their time.

9 [pause]

10 CHAIRPERSON TORRES: Thank you, Council
11 Member Treyger. I just—I have a few—few more
12 questions, and then one day you'll be liberated from—
13 -

14 MICHAEL RYAN: [laughs]

15 CHAIRPERSON TORRES: And I—you might have
16 answered these questions. So, I apologize if I'm--

17 MICHAEL RYAN: That's Okay.

18 CHAIRPERSON TORRES: --covering familiar
19 ground, but it's not clear to me if—if there's an
20 issue that arises at a poll site, what number do you
21 call. Is there a dedicated hot line number operated
22 by BOE that you would call?

23 MICHAEL RYAN: Yes, and it's on the—it's
24 on the side of the voting machine. It depends on

1
2 the borough and the--the poll workers, the
3 coordinators.

4 CHAIRPERSON TORRES: It varies from
5 borough to borough.

6 MICHAEL RYAN: They can call the--the
7 quickest way to get it resolved is to call the
8 dedicated number at the borough office. There's
9 another way to get through to us so that we--we log
10 into the system through the 800-0866.

11 CHAIRPERSON TORRES: So, it seems like
12 whenever--whenever there's an issue, some people will
13 call the Attorney General's Office. Some people will
14 311.

15 MICHAEL RYAN: Right.

16 CHAIRPERSON TORRES: Some people will
17 call the borough offices. Some people might call
18 your central office. Have you ever thought of just--

19 MICHAEL RYAN: [interposing] Right.

20 CHAIRPERSON TORRES: --creating a uniform
21 universal hotline through which all the complaints
22 could go?

23 MICHAEL RYAN: Well, certainly we cannot
24 mandate that any elected official that wants to set
25 up a hotline could set up their own hotline.

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CHAIRPERSON TORRES: I know but-

MICHAEL RYAN: And then I--

CHAIRPERSON TORRES: --that's wonderful

but--

MICHAEL RYAN: [interposing] Right,

right.

CHAIRPERSON TORRES: --but you're the BOE

and the JOE.

MICHAEL RYAN: [interposing] Right, yeah.

No question. When we have--when we have these
conversations, and--and we do regularly with respect
to election planning. Our preference is that the
call come directly to us, and bypass other ways of
doing it because all you end up with at that point is
duplication. But, we do get tremendous cooperation
from 311. We're right in their lineup. So, if
somebody called 311 on Election Day, they would be
routed to us. So, that part of it I think is-is
working pretty well.

CHAIRPERSON TORRES: And what's the--so
you have a coordinating relationship with 311?

MICHAEL RYAN: Right.

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2 CHAIRPERSON TORRES: What's the
3 coordinating relationship with the Attorney General's
4 Office?

5 MICHAEL RYAN: The coordinating
6 relationship with the Attorney General's Office is
7 high level officials in the Attorney General's Office
8 call us directly, and—and we get that--

9 CHAIRPERSON TORRES: [interposing] Do
10 they consistently forward complaints to the Board of
11 Elections in the same manner as 311?

12 MICHAEL RYAN: On Election Day yes.

13 CHAIRPERSON TORRES: Okay.

14 MICHAEL RYAN: And the best time for us
15 to get them is on Election. We have some other
16 groups that liked to gather data and not tell us
17 until after the election is over, which doesn't
18 really help us fix the problem in the moment.

19 CHAIRPERSON TORRES: Do you have an
20 inventory of all the calls that are received
21 regarding like even the borough based calls? Are
22 those forwarded to you centrally?

23 MICHAEL RYAN: Yes, they get—they get
24 logged into the system. Now, of course, if somebody
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2 happens to get through to a random employee that's
3 not --

4 CHAIRPERSON TORRES: [interposing] Sure.

5 MICHAEL RYAN: --necessarily onto--

6 CHAIRPERSON TORRES: [interposing] I'm
7 only referring to the calls.

8 MICHAEL RYAN: Right so--

9 CHAIRPERSON TORRES: [interposing] So,
10 you receive all the borough calls, all the AG calls
11 and all the 311 calls? Okay. How many calls did
12 you receive on Election Day?

13 MICHAEL RYAN: I-I read those numbers
14 into the-into the record earlier. I got them again.

15 CHAIRPERSON TORRES: I'm getting old, my
16 memory.

17 MICHAEL RYAN: [laughs] I have today's
18 report broken down borough by borough.

19 CHAIRPERSON TORRES: Sure okay.

20 MICHAEL RYAN: So we had a total of-and
21 this raw data, unfiltered.

22 CHAIRPERSON TORRES: [interposing] And
23 this is on Election Day?

24 MICHAEL RYAN: On Election Day--

25 CHAIRPERSON TORRES: [interposing] Okay.

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MICHAEL RYAN: --through our call center.

There may be duplicates with this, but this is the raw data, right?

CHAIRPERSON TORRES: Okay.

MICHAEL RYAN: 2,284 in Manhattan; 1,798 in Bronx, 3,362 in Kings.

CHAIRPERSON TORRES: Where in--?

MICHAEL RYAN: Kings County.

CHAIRPERSON TORRES: Kings County.

MICHAEL RYAN: Brooklyn. Sorry.

CHAIRPERSON TORRES: No, that's good.

MICHAEL RYAN: 1,000--

CHAIRPERSON TORRES: [interposing] When I think Kings, I think the Bronx, but--

MICHAEL RYAN: [laughs] 1,914 in Queens, and 428 in Richmond County.

CHAIRPERSON TORRES: And do we know how many of those calls were addressed on Election Day?

MICHAEL RYAN: They're all addressed and then ultimately that's how we characterize our response times with respect to--

CHAIRPERSON TORRES: [interposing] And you respond to every single one of those calls?

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2 MICHAEL RYAN: We—we—we respond to every
3 single—every single one of those calls that's picked
4 up gets logged into the system, and we have our own
5 version of 311. You know we'll call a 311 for
6 elections on Election Day. That is a specially
7 designed program that has all of the dropdowns
8 necessary to deal with election related problems.

9 CHAIRPERSON TORRES: And do you keep
10 track of—of all the issues that are brought to your
11 attention and then the percentage or the number of
12 those issues that were resolved?

13 MICHAEL RYAN: Yes, and—and we can
14 certainly post-election that we're post-election.

15 CHAIRPERSON TORRES: [interposing] So,
16 let's have that. Do you have that data with you at
17 the moment?

18 MICHAEL RYAN: I don't have it for this
19 current election, but I—we can provide you for past
20 elections as far back as the system goes, if you'd
21 like that, and then once we've completed our analysis
22 for this election, we can give you the updated
23 information.

24 CHAIRPERSON TORRES: Now the—and if I'm
25 misstating the law, please correct me. The State

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2 BOE or it might be either your rule or BOE rule
3 requires voters to be able to cast their ballot
4 within 30 minutes. Is that a correct representation
5 of the law?

6 MICHAEL RYAN: That is a--that is a state
7 Board of Elections regulation.

8 CHAIRPERSON TORRES: Okay, and how often
9 do you violate that regulation?

10 MICHAEL RYAN: I guess every time a voter
11 is waiting in line more than 30 minutes, and I'm not
12 saying that to be--

13 CHAIRPERSON TORRES: [interposing] No,
14 do--do you keep--Okay, so--

15 MICHAEL RYAN: Right.

16 CHAIRPERSON TORRES: --there is
17 widespread violation of the BOE regulation. I'm
18 happy you're conceding that point.

19 MICHAEL RYAN: Right. We have--

20 CHAIRPERSON TORRES: [interposing] But
21 how--how do you keep track of how often you're in
22 violation of the rule?

23 MICHAEL RYAN: It is very difficult for
24 us to track that on an ongoing basis other than
25 anecdotally. We did have our vendor a few years back

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2 do an analysis for us based on log data coming out
3 of--of the machines where you can extrapolate that
4 math backwards. We just don't have ready access to
5 the--

6 CHAIRPERSON TORRES: [interposing] I
7 guess the challenge here is, you know, what's the
8 value of a rule if you're not tracking whether you're
9 complying with the rule? There's no mechanism for
10 holding you accountable for compliance with the rule.

11 MICHAEL RYAN: My understanding of the
12 rule is that it applies to presidential elections.
13 Not that that's material. It--we should--we should
14 apply a good standard to all elections.

15 CHAIRPERSON TORRES: It only applies to
16 presidential elections.

17 MICHAEL RYAN: That's--that's my
18 underrating. I--I could be wrong on that.

19 CHAIRPERSON TORRES: So--what's--what's the
20 rule for it? Because that would seem arbitrary to
21 me. What's the rule for--for non-presidential
22 elections?

23 MICHAEL RYAN: We have to process the
24 voters as--as quickly as possible, but one of the
25 challenges that we face, and I said this earlier, and

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2 this is not by way of excuse, but by way of
3 explanation. We are trying to shoehorn an electronic
4 machine universe into rules designed to govern poll
5 sites that had lever machines. The—the machines that
6 we use now though smaller, with all of the attendant
7 equipment that is required that wasn't required
8 previously, create more space challenges.

9 CHAIRPERSON TORRES: [interposing] I
10 guess my question is so let's stipulate that the rule
11 is 30 minutes. Do you have a sufficient amount of
12 space and a sufficient number of scanners and paper
13 bins and all the rest to ensure that voters on
14 average are voting within 30 minutes?

15 MICHAEL RYAN: In all locations no.
16 There are spots in New York City that present to us
17 very specific challenges. I vote I-24 in Staten
18 Island, and -and I never have a problem voting, and
19 they don't treat me extra special when I walk in. I
20 just get in line like everybody else and go and vote.
21 Other sites throughout the city and particularly in
22 Manhattan, which gets a lot of attention, there is a
23 shortage of usable poll sites. One of the things
24 that we're doing to address that challenge--hopefully
25 it will help—we've contracted with Esri, which is a

1
2 software management system that we were using it for
3 our maps, and we're going to be able to 3D map the
4 entire city as well as through the use of software
5 identify locations, particularly in government owned
6 buildings to try to expand our pool--our pool of pole
7 sites. [pause]

8 CHAIRPERSON TORRES: So, let's stipulate
9 the 30-minute rule. So there are a number of poll
10 sites where even though voters have a right to cast
11 their ballot within 30 minutes, given the lack of
12 space constraints, given the lack of resource
13 constraints, those voters are effectively deprived of
14 that right. Is that a fair--?

15 MICHAEL RYAN: In those areas where we
16 don't have the space, absolutely.

17 CHAIRPERSON TORRES: In the latest
18 election the--the act of voting within 30 minutes was
19 that the rule or the exception in your opinion? It
20 seems like the exception. It seems like it was more
21 often the case that people were not able to vote
22 within 30 minutes--

23 MICHAEL RYAN: In this---

24 CHAIRPERSON TORRES: [interposing] In the
25 latest election.

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2 MICHAEL RYAN: --this election,
3 anecdotally there were widespread problems. You've
4 heard testimony not only from myself, but from a
5 couple of your colleagues that there areas where
6 areas where there weren't problems, but I can tell
7 you this: Where there were problems, the problems
8 were significant, and the likes of which we hadn't
9 seen before and that's where we're going to
10 concentrate our efforts moving forward to ensure. We
11 can't stop a ballot from jamming necessarily, but we
12 can change the way we deal with it once it happens,
13 and I think what happens at poll sites it's like when
14 a highway has a car accident. A ballot jam is the
15 equivalent of a car accident. One the traffic backs
16 up, it takes time for it to dissipate.

17 CHAIRPERSON TORRES: And the—you provide
18 tablets to poll coordinators correct?

19 MICHAEL RYAN: Yes, we do.

20 CHAIRPERSON TORRES: And can poll
21 coordinators submit complaints to those tablets?
22 [background comments]

23 MICHAEL RYAN: They receive our
24 information only our field
25

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2 DAWN SANDOW: [off mic] They can receive
3 that.

4 MICHAEL RYAN: They receive our
5 information. Only our field technicians push out
6 information back to us. The reason that we don't do
7 that is--

8 DAWN SANDOW: [off mic] We have the
9 capability.

10 MICHAEL RYAN: We have the capability to
11 do it. However, the security concerns with respect
12 to keeping an open line of communication back and
13 forth between the Board of Elections and the poll
14 sites have not been overcome just yet to a sufficient
15 degree so that we're confident--

16 CHAIRPERSON TORRES: [interposing] Wait a
17 minute. I'm not--I'm not following.

18 MICHAEL RYAN: Cyber security. I'm very--
19 I'm always very circumspect to talk about the cyber
20 issues. I can tell you that we have worked very,
21 very closely with Cyber Command in New York City.

22 CHAIRPERSON TORRES: [interposing] So, so
23 your Tablets lack the ability to have poll workers to
24 submit complaints because you're concerned about
25 cyber security?

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2 MICHAEL RYAN: We have not overcome that
3 challenge.

4 CHAIRPERSON TORRES: But why is that, and
5 I'm not taking lightly the concerns about cyber
6 security. Even the machines themselves are
7 susceptible to cyber warfare and cyber attacks, but
8 why would it be--

9 MICHAEL RYAN: [interposing] The reason
10 that becomes--

11 CHAIRPERSON TORRES: --a concern for me
12 to send an email or some kind of complaint through a
13 Tablet saying this scanner--three of our scanners are
14 down. Can you come and fix it?

15 MICHAEL RYAN: [interposing] It's--it's
16 just--

17 CHAIRPERSON TORRES: Like why is that a
18 threat to cyber security on that?

19 MICHAEL RYAN: It's presently a simple
20 answer. We use those same tablets to upload the
21 results at the end of the night, and one of our major
22 concerns with any election is avoiding dedicated
23 denial of service attack as we're processing the
24 election results at the end of the night. So, we
25

1
2 need to keep those tablets as pristine and pure as we
3 can during Election Day.

4 CHAIRPERSON TORRES: But if—if you're
5 putting sensitive information in the Tablets as is,
6 that information is already susceptible to cyber
7 attacks.

8 MICHAEL RYAN: There—there is a
9 difference between pushing information out and
10 allowing an open line of communication back and forth
11 between the tablets. Now, if we—if we go to a
12 different process where we have a separate Tablet for
13 complaints, and we can segregate that from—from the
14 election results reporting piece of it, then maybe
15 we'll have--

16 CHAIRPERSON TORRES: [interposing] I'm
17 really not following. I just don't know why if you
18 and I are communicating via Tablet about problems at
19 a poll site, that's not sensitive communication.
20 That's what?

21 MICHAEL RYAN: No, what—what I'm talking
22 about is there is a difference as the tech people
23 tell me in pushing information out versus allowing an
24 open Internet communication network essentially
25 throughout the city, and we have an absolute

1
2 obligation to keep those results protected, and I and
3 our staff has worked very closely with Cyber Command
4 in New York City to ensure the cyber integrity of the
5 elections process, and this is one of those areas
6 where we're just not going to jump head long into it
7 until we know that the security concerns have been
8 met.

9 CHAIRPERSON TORRES: Okay, okay. Council
10 Member Yeger, do you have questions?

11 COUNCIL MEMBER YEGER: Yep, and so, Ms.
12 Sandow reminded me that we have discussed perhaps
13 providing separate Tablets to the coordinators for
14 exactly that purpose in upcoming election events
15 provided that we can-

16 CHAIRPERSON TORRES: What-what are that
17 status of those discussions, sir.

18 DAWN SANDOW: [off mic] The Tablets that-
19 we did receive the complaints this election that
20 there were issue setting-

21 CHAIRPERSON TORRES: [interposing] Can
22 you speak into the mic, please.

23 DAWN SANDOW: I'm sorry. We received
24 complaints this election that poll workers had issues
25 getting in touch with certain call centers. So, of

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2 course, after the election when we were doing some
3 debriefings among staff, we did discuss because we
4 cannot open up the--the lines on the Tablet that is
5 used upload the PMDs. We discussed the plain Tablets
6 that our technicians use. Basically they're--they--
7 they respond to us in real time. So, they receive on
8 their Tablet that there's an issue. They then click
9 the button that they're on their way and we know it's
10 dispatched in order to resolve their clicking results
11 so we receive a result time, and we know that the
12 incident was taken care of. So, we decided that we
13 should send these tablets to the coordinators with
14 them to also put in that there's issues at the poll
15 sites if they cannot get through on the--to the call
16 centers.

17 CHAIRPERSON TORRES: So, you can submit
18 complaints to a Tablet?

19 DAWN SANDOW: A separate Tablet.

20 CHAIRPERSON TORRES: A separate Tablet.

21 DAWN SANDOW: It's a separate tablet.

22 It's our--

23 CHAIRPERSON TORRES: So, these poll
24 coordinators had separate tablets?

25 MICHAEL RYAN: No.

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DAWN SANDOW: No.

CHAIRPERSON TORRES: But that's something
you're exploring.

MICHAEL RYAN: Correct.

CHAIRPERSON TORRES: Okay.

DAWN SANDOW: It's--

CHAIRPERSON TORRES: So, is that
something that's going to be implement by the next
election or--?

MICHAEL RYAN: Councilman, through the
work that we've done with the Council and the
Administration, we procured these Windows Based
Tablets several years ago. It is a process that is
evolving, and we're also anticipating putting even
more information on the Tablet. So, yes, it's
something that we're--we're looking at. We put some
things off--

CHAIRPERSON TORRES: [interposing] But
you--you--you cannot guarantee it?

MICHAEL RYAN: Um, that's--

DAWN SANDOW: We have to procure it.
This is something that we have to procure.

MICHAEL RYAN: We have to. It would be a
new need, and we would have to procure them. I'm not--

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2 I'm sure it's not cost prohibitive, but we had put
3 certain things off into the 2019 year because we were
4 anticipating that it would not be a busy election
5 cycle, and we might be able-

6 CHAIRPERSON TORRES: Well, how-how
7 burdensome is the process of procuring Tablets?

8 MICHAEL RYAN: It's-it's not just the
9 burdensome process, it's also a question of then
10 buying the Tablets, training our--

11 CHAIRPERSON TORRES: [interposing] Do you
12 know the cost?

13 MICHAEL RYAN: The-the cost per Tablet?

14 CHAIRPERSON TORRES: Yeah.

15 MICHAEL RYAN: The last one, it was I
16 think-

17 CHAIRPERSON TORRES: [interposing] Or the
18 total cost of procurement.

19 MICHAEL RYAN: --the-the city contract
20 was just about \$600 per Tablet. It's not cost-
21 prohibitive--

22 CHAIRPERSON TORRES: Okay.

23 MICHAEL RYAN: --but we would have work
24 it into the process, and we were planning on doing
25 some of this stuff during 2019 when we had a little

1
2 bit of-of down time. We keep jumping from election
3 to election to election, and-and some of the-the
4 longer-term planning keeps growing.

5 CHAIRPERSON TORRES: But the next
6 election is going be--

7 MICHAEL RYAN: February.

8 CHAIRPERSON TORRES: Next year.

9 DAWN SANDOW: That's an election--

10 MICHAEL RYAN: No, February. Right.

11 CHAIRPERSON TORRES: That's for that
12 Public Advocate.

13 MICHAEL RYAN: So, we were expecting to
14 have some down time between January and September.
15 That has now been interrupted, and we're going to
16 have a full citywide election event in November that
17 we will--

18 CHAIRPERSON TORRES: [interposing] So,
19 how-how likely are you going to be able to procure
20 those Tablets by the Public Advocate's Election?

21 MICHAEL RYAN: I think the procurement is
22 probably the least of it. It's really a question of
23 me getting back with the-the Tablet Unit staff to
24 make a determination how far along they are in the
25

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2 implementation of their plan, and see how quickly we
3 can get the--the poll workers trained.

4 CHAIRPERSON TORRES: Okay, Council Member
5 Yeger.

6 COUNCIL MEMBER YEGER: Thank you, Mr.
7 Chair. Just Mr. Director, I just want to let you
8 know just for your own comfort I'm working very hard
9 to make sure that February 2019 Special Election of
10 Public Advocate this is the last time you ever have
11 to worry about a special election for Public
12 Advocate. The--we discussed a little earlier, and you
13 mentioned several times the perforated ballot and the
14 requirement under the Election Law Article 7 that a
15 ballot that has to appear on more than one page is
16 the--contain a perforation, and be separated. That
17 provision to your knowledge, if you can tell me, was
18 that written before we started using paper ballots in
19 New York or as we started to, you know--

20 MICHAEL RYAN: [interposing] My
21 understanding is--

22 COUNCIL MEMBER YEGER: --in other words,
23 as we went from the lever system over to

24 MICHAEL RYAN: My understanding is it all
25 came in together--

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COUNCIL MEMBER YEGER: [interposing]

Okay, so---

MICHAEL RYAN: --as we made preparations.

COUNCIL MEMBER YEGER: Okay, so it-it-I believe and you've said this a number of times that the perforate ballot is the first time in this jurisdiction meaning not just the city of New York but all of the-the counties throughout the state. This is 62 counties. We represent five of them so I guess 57 of them, and they've never used perforated ballot in New York. So this is really the first time that that's been done. It hasn't been done in other jurisdictions, but we're required by law. So, if you have to do a 2-page ballot because of the challenge new with this 6-1/2 point font ballot, which would have been the alternative, you can only do a perforated ballot. Is that correct?

MICHAEL RYAN: That's my understanding of the Election Law, yes.

COUNCIL MEMBER YEGER: Okay. The-if-just if you can expand a little bit, is there an agency in the city of New York that is not the Board of Elections that is responsible for notifying and

1
2 promoting voter participate-participation and urging
3 people to participate in elections?

4 MICHAEL RYAN: The Campaign Finance
5 Board.

6 COUNCIL MEMBER YEGER: Okay and they
7 receive money from the city of New York through
8 allocations by the City Council and the adoption of
9 our budget. Is that correct?

10 MICHAEL RYAN: Yes.

11 COUNCIL MEMBER YEGER: So, it's their job
12 I believe to tell the people of New York that there's
13 an election to urge people to come out and vote. Is
14 that your mandate under State Law?

15 MICHAEL RYAN: Voter outreach is an-is an
16 aspect of our mandate. However, the way it works
17 here in the city of New York is that the primary
18 responsibility of that is the Campaign Finance Board
19 and the Board of Elections does its best efforts to
20 depoliticize the elections. For example: If a-if
21 there was a contest where-could you imagine a
22 circumstance where there was a contest where one
23 candidate submitted their information and the other
24 one didn't, and the Board of Elections had that
25 information up on their website, and only having the

1
2 information for one candidate. I know that happens
3 with the Campaign Finance Board that not all
4 candidates participate in their Voter Guide. So,
5 that is one real reason why we stay away from that
6 mine field.

7 COUNCIL MEMBER YEGER: That's a good
8 policy. The Voter Assistance Commission I believe
9 the arm of the Campaign Finance Board used to be two
10 separate agencies.

11 MICHAEL RYAN: Yes.

12 COUNCIL MEMBER YEGER: The voters of New
13 York combined it in the Charter Revision I believe in
14 2010 or thereabouts, put it under the—the arms of the
15 Campaign Finance Board. Earlier this year, the
16 Campaign Finance Board sent out an incredibly
17 inaccurate notification to voters of New York with
18 respect to their rights as it relates to parolees in
19 New York, and whether or not they had the right to
20 vote. So, they didn't do that perfectly in their
21 outreach. Is that correct?

22 MICHAEL RYAN: Yes.

23 COUNCIL MEMBER YEGER: Okay. Council
24 Member Treyger earlier today was discussing the
25 various languages, and I fully supported the Mayor's

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2 efforts through MOIA to deploy translators with the
3 understanding that there are technical hurdles and
4 they needed to say beyond the 100 feet radius. I
5 don't necessarily agree with that, but I understand
6 the—the concern of these workers. They didn't
7 necessarily take the boards oath, and I understand
8 those issues, but the Campaign Finance Board's
9 literature does not utilize the languages that the
10 Board—that the City's Office of Immigrant Affairs was
11 utilizing for translation purposes. Is that correct
12 to your knowledge?

13 MICHAEL RYAN: I'm not fully familiar
14 with what MOIA has disseminated versus Campaign
15 Finance Board. I know that Campaign Finance Board
16 has made voter registration forms in additional
17 languages beyond those serviced by the Board of
18 Elections and—and that they're up there and people
19 can download for their use if they so choose.

20 COUNCIL MEMBER YEGER: Okay, two more
21 quick things and I want to get back to the federal
22 lawsuit that—regarding the accessibility issues, and
23 the hurdles that you have to overcome, but I just
24 wanted to clarify something. My understanding, and
25 correct me if I'm wrong, is that in the past when we

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2 had the lever machines, an ED had a lever machine
3 deployed 800 voters. So, if an ED had 1,600 voters,
4 it would have two lever machines, 3,200 voters. It
5 would. Okay, today it's 1,600--and correct me if I'm
6 wrong--but per 1,600 voters in a site is where you
7 deploy and additional scanner. So, you're starting
8 point is two scanners per site no matter how many
9 voters there are because in case one breaks and then
10 you increase it per 1,600. [bell] Are you--are you at
11 the point based on this election where you may be
12 concerned that either deploying those additional
13 thousand scanners or simply just biting the bullet so
14 to speak and getting more scanners and reducing that
15 1,600 number?

16 MICHAEL RYAN: It-it is-it is 1,400, but
17 the point is still taken. Yes, we're going to
18 evaluate all of our poll sites, but we also have a
19 finite number of poll sites, and each one of those
20 poll sites has a finite amount of square footage that
21 we have accessible to us, and in gubernatorial
22 election, we have to deploy one privacy booth for
23 every 250 voters. Whereas, in other elections we can
24 do that for every 350 voters. So--

COUNCIL MEMBER YEGER: [interposing]

Excuse me. It brings me to my next point, which is the federal lawsuit accessibility because one of the conundrums as I understand in your inability to find more locations where you can conduct elections is that you're operating with this very strict realm of requirements of what constitutes handicap accessibility, and as I've told you earlier, in my earlier line of questioning, I found I believe some of the requirements that—and you've described this as board requirements that you're obligated to do under the federal lawsuit. I—I find them to be owners beyond-beyond reason. For example, I was told that—that a hospital in Brooklyn, SUNY Hospital, needed to have your technicians come out and make it handicap accessible. It doesn't make sense, of course, that the hospital wouldn't be handicapped accessible. I told you about a community board, I told you about a senior center in Borough Park, which obviously has 90, 100-year-old people going into it, but you—your staff needed to come and make it better, and I'm wondering if there's a chance or an opportunity for us to revisit that federal lawsuit and if you ask perhaps if Corporation Counsel can assist you in

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2 going back to court and saying some of these
3 requirements don't make sense particularly in
4 instances where the poll site is located in a place
5 that is already handicap accessible. For example,
6 the lobby of an apartment building may not fit within
7 the realm of what you're required to do under the
8 federal lawsuit, but so clearly it is handicap
9 accessible. The lobby of a hospital may not fit
10 within the reality of what you're required to do
11 under the federal lawsuit, but so clearly it's
12 handicap accessible.

13 MICHAEL RYAN: So revisiting the-the
14 purpose of the lawsuit is not likely. It was decided
15 by the Federal Circuit Court of Appeals for the
16 Second Circuit in February-in May of 2014. However,
17 we do work closely with overseer, and the Disability
18 Rights Advocates. So, when we find those instances
19 where the cure is worse than the underlying problem,
20 we have made compromises, and earlier I discussed all
21 of the 503 sites that we have placed temporary
22 ramping. So, we're doing everything we can to keep
23 the poll sites that we have in the places where we
24 have them. Another thing that we've done we've taken
25 the Help America Vote Act money and we're working

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2 with the Department of Education. You guys are
3 familiar with the zipper drains (sic) and they have-
4 the cup because they cheap grading. We have worked
5 with a designer and a vendor to make cast iron
6 grading that we are providing to the Department of
7 Education to help America Vote Act Money to put that
8 grading down once and for all so that we don't have
9 the cupping. We're doing some basic stuff. It
10 doesn't sound too sexy, but it's like grinding
11 concrete where there's a lip. Well, we can't just
12 walk onto the school property to do that, but we're
13 working closely with them to use those resources
14 where can, and to be a good and fair partner, you
15 know, with the-the schools primarily because we know
16 that they're facing challenges, too.

17 COUNCIL MEMBER YEGER: So, Director that-
18 that references sits that you're currently already
19 using, but what I indicated in my earlier line of
20 questioning was whether or not we can expend the
21 sites of, you know, for example in my district that
22 senior center that I referenced the Board really
23 wants to not have the election there and they're-
24 they're hunting for another place in my neighborhood,
25 but there is no other place, and I know the challenge

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2 you have. There are a lot--there are place you simply
3 can't get into even if you have right to, but simply
4 because it just doesn't work, and I'm wondering if
5 you're able to look beyond what--what--what simply
6 works as an accessible site, and say well this is not
7 at 100% but it's 80% and with a little work we can--we
8 could make this work as a site, and then divide some
9 of these extremely large election sites into, you
10 know, two or three or four or five sites to get to
11 that little town place that I talked about earlier--

12 MICHAEL RYAN: [interposing] Right.

13 COUNCIL MEMBER YEGER: --with 300 people
14 registered to votes a firehouse.

15 MICHAEL RYAN: So, we will analyze any
16 site that is known to us that's a potential for poll
17 site use. What we have done in other circumstances,
18 and I extend this offer to you as well, Councilman,
19 if there's a particular site that's vexing (sic) in
20 a--in a district, you are the eyes and ears of your
21 community, and you have been elected to represent
22 them. So, to that extent you speak for the voters in
23 your district. If there's a spot that requires
24 particular attention, we've done site visits. I've
25 brought the--the vendor up from Alabama to come in

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2 specifically Jim Terry himself and assess sites that
3 have particular issues because he has a specific
4 expertise in this area, and we can walk the whole
5 site, and make a determination whether there is
6 something that has been heretofore overlooked to make
7 sure that we preserve that site for the use of that
8 community. And I commit to you that we've done it in
9 the past, and we're happy to do it moving forward.
10 Some sites require, you know, more comprehensive
11 analysis than others, and while our staffers have
12 good basic skills with respect to poll site
13 assessment, they're not architects.

14 COUNCIL MEMBER YEGER: I will tell that
15 in the instance where the board reached out to me--
16 I'm only in office for 10-1/2 months--and told me
17 that they needed to get out of this senior center,
18 and we were we on hunt, and I was looking with your
19 staff to try to help them identify another place, and
20 I could not find a place in my neighborhood that met
21 the requirements that you are forced--not by your own
22 doing--but that you're forced to undergo. I couldn't
23 find it. I couldn't help, and they were coming to me
24 with some names places, and I said, you know, go
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2 check it out. You're not going to be able to get in
3 there. You'll see yourself.

4 MICHAEL RYAN: Right.

5 COUNCIL MEMBER YEGER: And that's—that's
6 I think the conundrum that a lot of—a lot of this is
7 based around, which is that you have these very large
8 sites, and then you have this kind of thing around
9 your neck where you can't get in—you can't do it some
10 place else that looks like it would work perfectly
11 because it just doesn't meet your requirements, and
12 you have to go and do an enormous amount of work to
13 make it work, and I'm wondering why you can't— We'll
14 you've kind of answered it, but why you can't out
15 from under this albatross of—of—of a requirement that
16 may actually make no sense particularly when you're
17 going and retrofitting a hospital in order to run an
18 election there.

19 MICHAEL RYAN: Right. So—so we have a lot
20 of poll sites. What we do as I—as I said, on a case-
21 by-case basis we go through the final surveys that—
22 that we come—that come through Evan Terry Associates
23 and our staff reviews them, and then we sit down with
24 the disability rights advocates who are the counsel—
25 the opposing counsel in the lawsuit and we try to

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2 come to a reasonable determination, and as I said to
3 you, there are have been limited instances, but
4 instances none the less where the fix was worse than
5 the underlying problem, and in those circumstances
6 where the fix has been worse than the underlying
7 problem, we've reached a compromise in most of those
8 instances, and this is one of those spots that we're
9 very happy to take a look at that again to bring it
10 up to Evan Terry Associates and as well as DRA, and
11 see if there's not some common ground that meets the
12 needs of all the voters and that's our challenge, and
13 we never want to be in a position where the
14 accessibility community feels like they're being
15 pitted against the other voters in a district.

16 COUNCIL MEMBER YEGER: Alright, thank you
17 very much, Mr. Director. Thank you, Mr. Chairman.

18 CHAIRPERSON CABRERA: Thank you and
19 Council Member Jumaane Williams.

20 COUNCIL MEMBER WILLIAMS: Thank you, Mr.
21 Chair. Thank you, Mr. Ryan of BOE for being here.
22 I'm pretty sure that everybody has expressed their--
23 the irate nature that they felt. So, I'm just going
24 to add a bit just so I can speak up for my
25 constituents particularly P.S. 208, P.S. 269, Saint

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2 Augustine's. It was pretty atrocious. I have never
3 witnessed anything like it. It seems to me that it's
4 getting worse and worse. I think it fall in the line
5 of suppression of voters. Unlike Georgia or other
6 places where it was done intentional, this—I don't
7 think it was intentional, but it has the desired
8 effect as people leave because they're frustrated or
9 in some cases have their names take off the rolls.
10 There are a whole bunch of issues that fall into
11 that, and it does get quite frustrating. I do
12 believe it is a—a broader thing that has to be done.
13 I absolutely believe on the state level there's a
14 bunch of reforms that can help the system that has to
15 be the number one thing that we do, but that can't
16 provide an excuse for dereliction of the Board of
17 Elections. And so, the first I have to do, do we
18 have any data on voter attrition or voters who
19 weren't able to vote or had to leave the polling site
20 before they were scanning? Do we have any
21 information like data, any anecdotal information at
22 all?

23 MICHAEL RYAN: Only anecdotal and—and
24 you're right. Denial of a right to voter whether—
25 whether by mistake or error or—or systemic, is still

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2 denial of a right to vote, but I do appreciate your
3 recognizing that you do not believe it was
4 intentional. But anecdotally speaking, I am certain
5 that there were voters based on the wait times who
6 decided to leave, and—and did not vote, but I have no
7 way of quantifying that, and I apologize.

8 COUNCIL MEMBER WILLIAMS: In my—in one of
9 my voting sites P.S. 269, for the first time ever I
10 saw an impressive police presence. Not one or two,
11 but a lot, and they actually shut down the street,
12 which I had never seen before because of the
13 frustrations. Did that happen across the city? How
14 many time have we heard that? Was—what was the
15 interaction with the NYPD?

16 MICHAEL RYAN: It didn't happen, you
17 know, on mass across the city, but we have a very
18 good working relationship with the Special Events
19 Unit from the Police Department that assists us with—
20 with elections and they are an effective partner
21 under the leadership of Inspector Wally, and when we
22 have issues like that on election day, the NYPD is
23 absolutely as responsive as it can be while they're
24 trying to balance a lot of issues as well not to
25 mention your regular policing and the anti-terrorism

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2 threats that they face. So, we thank them for their
3 work in that regard.

4 COUNCIL MEMBER WILLIAMS: So, you know,
5 at the beginning of the day, BOE actually responded
6 fairly quickly. There is generally speaking on my
7 end when I Tweet something, I do get a response.
8 However, by the end of the day, I just think it was
9 an epic fail, right, and so the BOE failed. It's not
10 the first time. So, I'm trying to lead up to the day.
11 Is there anticipation of this kind of failing and if
12 there is, why are there no alarm bells sounded before
13 the day of?

14 MICHAEL RYAN: So, as I have testified,
15 you know, throughout the course of the proceedings
16 today, the--this 2-page center perforated ballot
17 presented us challenges that unfortunately some of
18 the things we can only learn through the experience
19 of having gone through it. Now, we've come out the
20 other end. As I said, we cannot prevent a ballot jam
21 from happening in the first place necessarily.
22 However, we can respond better to those circumstance
23 when they arise, and one of the things that I'm
24 certain we will discussing with the Commissioners,
25 and I can't imagine a scenario where some form of it

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2 does not happen. Getting additional staff to be
3 constantly present at the poll sites. So, if there
4 is a relatively easily fixed ballot jam that we get
5 that done quickly and it doesn't have effect of
6 shutting down a machine or machines for an extended
7 period of time.

8 COUNCIL MEMBER WILLIAMS: So, and we've
9 been here before. We've had problems on Election
10 Day, and so at some point we have to learn the
11 lessons because we went through them, and we've seen
12 that that's not happening. So, I just want to walk
13 through a couple of things. We did anticipate that
14 we would have a higher than normal turnout. Yes?

15 MICHAEL RYAN: Yes.

16 COUNCIL MEMBER WILLIAMS: We did
17 anticipate because we had perforations we would have
18 double the amount of papers going through with
19 increased turnout. Yes?

20 MICHAEL RYAN: Yes.

21 COUNCIL MEMBER WILLIAMS: We didn't
22 anticipate that that might cause some trouble because
23 of the perforation and the changes?

24 MICHAEL RYAN: Yes.
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2 COUNCIL MEMBER WILLIAMS: But we did
3 nothing to try to address that beforehand?

4 MICHAEL RYAN: No.

5 COUNCIL MEMBER WILLIAMS: Okay.

6 MICHAEL RYAN: We had plans. Honestly,
7 our focus was—we didn't anticipate the types of
8 repetitive ballot jams that we would get. That
9 clearly was not something that was on our radar
10 screen. What we were focusing our efforts on in the
11 lead up to Election Day was the ballot bins filling,
12 and what do we do with the now voted ballot material
13 that we have legal responsibility to keep and
14 maintain, and how do we secure them in poll sites
15 throughout the city that are not created equally? We
16 have some very small poll sites. We have some very
17 large poll sites, and we tried to work
18 collaboratively not only with our staff and do what
19 we needed to do, but also to work with the NYPD to
20 make sure that we kept the machines and the ballot
21 material secure. And that's why I keep going back
22 Councilman to the point of we need to have staff at
23 the poll sites to clear the ballot jams so if they
24 happen we can keep the lines moving.

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2 COUNCIL MEMBER WILLIAMS: So, my bell
3 rung, but so let me just close, but I do want to say
4 it sounded like a dereliction in terms of the
5 questions I asked that you said yes to that no one
6 would figure or consider what would happen if there
7 were ballot jams, and that's the--that's the--that's
8 that problem I'm having. So, my hope is that there's
9 conversation before hand about what could happen--

10 MICHAEL RYAN: [interposing] Right.

11 COUNCIL MEMBER WILLIAMS: --or else
12 everyone is going to assume that we're okay when
13 we're not, and that's just a problem. We've been
14 through this. Well, this is about the general now.
15 We've had problems--

16 MICHAEL RYAN: Right.

17 COUNCIL MEMBER WILLIAMS: --and we said
18 we have to learn to go through it, but it turns out
19 intuitively we might have perceived that some things
20 could occur, and then I think even if there were
21 backup plans that didn't work, the community would
22 feel a little better because at least we had planned
23 it out.

24 MICHAEL RYAN: Right.
25

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2 COUNCIL MEMBER WILLIAMS: It looks like
3 we didn't. So--

4 MICHAEL RYAN: [interposing] So

5 COUNCIL MEMBER WILLIAMS: --but-but let
6 me say these things--

7 MICHAEL RYAN: [interposing] Sure.

8 COUNCIL MEMBER WILLIAMS: --because I
9 know my--my bell rung. One, we are trying to get an
10 additional site at Flatbush Gardens on New York. The
11 owners made some changes. I think the wheelchair
12 entrance they said the ramp or something was at a
13 wrong angle. It seemed weird when I saw it, but that
14 would be what would shut down that space. It's a much
15 bigger space than places. So, I'm asking you to
16 please look into that. Lastly, just for my
17 colleague's first comment on the Public Advocate's
18 Office, my belief is that if we think something is
19 not powerful enough, we may want to increase the
20 power. It's the first time I've ever heard of taking
21 it away, but thank you very much.

22 MICHAEL RYAN: So, on--on the planning,
23 what we did was we--we put out teams of technicians
24 equivalent to what we do in a--in a presidential
25 election, and in the postscript to this election was

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2 that additional increase in staffing was inadequate,
3 and we have to modify that moving forward. So, we
4 certainly, and I—and I know you weren't here, but I—I
5 did apologize and I—and I hope that we can work
6 collaboratively to regain the trust of this body.

7 COUNCIL MEMBER WILLIAMS: Thank you, and
8 thank you, Mr. Chair.

9 CHAIRPERSON CABRERA: Thank you so much
10 Council Member. One last quick question before we go
11 to the next panelist. So you anticipate any problems
12 at the next election that we have not spoken about?

13 MICHAEL RYAN: The next election is going
14 to be a Special Election that will be declared
15 sometime three days after the—the New Year and then
16 be conducted within 45 days. Special Elections by
17 definition are usually lightly attended election
18 events. There will be one office on the—on the
19 ballot. It will be the smallest ballot that we use.
20 So, if we can look to Staten Island as what happens
21 in a busy election when there's not a 2-page ballot
22 and you had relatively few problems, I would
23 anticipate that we would have relatively few problems
24 in this election coming up. So, in terms that we take
25 each election event in their own little silo and this

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2 is—this election event coming up will have no basis
3 of comparison to the 2016–2018 General Election.

4 CHAIRPERSON CABRERA: Okay, I was just
5 thinking it's going to be in February, right?

6 MICHAEL RYAN: It's going to be in
7 February.

8 CHAIRPERSON CABRERA: So the coldest
9 month of the year.

10 MICHAEL RYAN: The Mayor has a little bit
11 of flexibility but not a lot. He's got a—he's—he's—
12 the Mayor has to issue a proclamation within three
13 days of the vacancy and then conduct the election
14 within 45 days of the proclamation give or take a few
15 days depending on how the calendar lays out.

16 CHAIRPERSON CABRERA: Alright, just think
17 about, you know, with your Think Tank Team what are
18 the other potential problems? Things that perhaps
19 we're not looking at. It's going to be in February
20 the coldest month. What will happen if we have a
21 super snowstorm, if we have what we just had a couple
22 of days ago.

23 MICHAEL RYAN: Are you now wishing things
24 on us? [laughs]

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CHAIRPERSON CABRERA: So, Mr. Ryan, thank you so much for all your information that you have provided. I'm looking for solutions. From what I hear, you will be coming up with a plan that you will be presenting and executing to making sure we don't have a part 2 of this nightmare.

MICHAEL RYAN: Yes.

CHAIRPERSON CABRERA: The voting nightmare we just went through. Thank you so much.

MICHAEL RYAN: And I also want to thank you and the working relationship that we have cultivated with you and your staff, and Mr. Reed and I think that the lines of communication are open, and that we should be able to work collaboratively to solve some of these very important issues.

CHAIRPERSON CABRERA: And we will continued to do that. Thank you so much.

MICHAEL RYAN: [interposing] Thank you, very much.

CHAIRPERSON CABRERA: With that, I will invite now Mr. Douglas Kellner from the New York State Board of Elections. Thank you for waiting patiently.

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2 DOUGLAS KELLNER: He's running up that
3 way. [laughs] [grunts] [background comments, pause]

4 CHAIRPERSON CABRERA: I know you're
5 anxious to start. So, and thank you for waiting. I
6 know it's—all right. So, we had a lot of important
7 questions.

8 DOUGLAS KELLNER: Of course you did, and
9 I found it very interesting to listen to it. Some of
10 it was illuminating and some of it was very
11 disappointing that we're repeating the same old
12 problems. Let me—I'm not going to read my testimony.
13 That's there--

14 CHAIRPERSON CABRERA: [interposing] Thank
15 you.

16 DOUGLAS KELLNER: --for the record, but I
17 do want to remind the Council that there are going to
18 be major changes in Election Law in Albany this years
19 because of the election of the Democratic Senate. I
20 have a list of bullets of changes that we anticipate.
21 The most significant for the City Board of Elections,
22 which we really didn't discuss, is the implementation
23 early voting and I would expect, although it hasn't
24 really been decided yet that the early voting will go
25 into effect for the General Election in November of

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2 2019, and the idea is that's an off year, but it
3 would be good to at least get the pilot up and
4 running to see if we can work out the kinks in
5 advance of the presidential year, but that's a big
6 project, a big new project for the City Board to be
7 undertaking, and we want to, you know, I want to
8 highlight that so that you realize that their budget
9 request should take that into account, and that they
10 have adequate personnel to do realistic planning for
11 it. Now, there's been a lot of discussion about the
12 30-Minute Rule. I was the original proponent of
13 adding the 30-Minute Rule to the State Board
14 Regulations in 2007. Unfortunately the city has
15 never complied with it for a presidential election.
16 This last election is another example of how the city
17 still is not close to complying and unfortunately
18 now, the new excuse we're going to hear is, Oh, early
19 voting is going to take the pressure off overcrowded
20 poll sites, and that will be the next excuse for the
21 city not complying in November 2020. There are three
22 key things that the city is just ignoring that are
23 really not acceptable from my point of view that
24 would solve the problem. First is you've heard
25 Director Ryan over and over again say space is an

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2 issue that they don't have enough space. Well,
3 they're not doing what they need to do to get
4 additional space. The schools are closed on Election
5 Day. They can use the entire school building and
6 their problem is that they're in this mindset of one-
7 size-fits-all. They want one site plan for every
8 election.

9 CHAIRPERSON CABRERA: Hm.

10 DOUGLAS KELLNER: No, they need a
11 different site plan for the Presidential Election,
12 the General Election, the Mid-Term, the Gubernatorial
13 General Election and the Mayoral General Election,
14 which are top three most crowded events in the cycle.
15 They can use much smaller space for the primaries.
16 They can use many fewer poll workers for the
17 primaries, but they don't—they're—they're in this
18 one-size-fit-all mindset at least as far as it comes
19 with space. I'm not aware of any efforts to take up
20 my challenge that they expand the poll site for the
21 presidential election year, and that will give them
22 additional space to have additional book tables, and
23 by the way, it's still very frustrating that after
24 years of experts telling them, they still don't
25 divide the books in the middle of the alphabet. So

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2 that if you have a long line for the people in the
3 first half of the alphabet, and a very short line for
4 the people in the second book because the—the—the
5 alphabetization of names does not split right at A-M.
6 So, that's a simple thing that the city could do now
7 that they tell me that they told the vendor to do it
8 that way, but I haven't seen any follow up because
9 the vendor didn't do it that way. And then with the
10 assignment of poll workers, again as I've said, one
11 size doesn't fit all. There shouldn't be the same
12 number of poll workers working on the special
13 election in February as you would have for a general
14 election, and then as Director Ryan referred to I
15 agree with him that the way we assign poll workers is
16 an anachronistic. The city has taken a very strict
17 hard line interpretation of the election law that
18 many of other counties do not do to avoid flexibility
19 in assigning poll workers. It's our position that
20 there only needs to be two Democrats and two
21 Republicans in charge of a poll site that they can be
22 assigned as the official inspectors for each election
23 district at the poll site, and that all of the other
24 workers can be more flexibly assigned, and if they
25 use the flexible assignment, then you can have

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2 training for different poll workers at the site, and
3 my suggestion is that you start out with just giving
4 a poll worker training on how to do the book or how
5 to open the polls, or how to unjam the machine, and
6 increase their salaries as they qualify for
7 additional training and work their way up to a
8 position where they can be in charge of the poll
9 site. So, that's my summary of the key things that I
10 think the city should be doing for the City Council.
11 I've repeated in my remarks the section that they
12 should be paying attention ending the runoff for 2021
13 that that's costly and unnecessary. I personally
14 support instant runoff voting, but it would be just
15 as well if you, or it would—it would still be better
16 if you eliminated the runoff to avoid that extra
17 expense of the city.

18 CHAIRPERSON CABRERA: Thank you so much.
19 Actually I was, Mr. Chair, I was very happy to hear
20 that there's movement for early voting. I think
21 that's going to help some of our problems. It baffles
22 (sic) me than in other states. We have, you know,
23 they had it for years, and we still are fumbling in
24 the state with this particular opportunity that we
25 could have, and I think early voting is actually

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2 going to bring forth more people to come out to vote
3 not just because like the convenience of voting
4 earlier, but it creates a buzz about the election.
5 It creates momentum that begins to take place and an
6 excitement. So, I'm very happy about. I'm going to
7 ask you this next question because I really don't
8 know the answer to this question. You mentioned that
9 you have spoken to New York City Board of Elections.
10 What's your level of enforcement that you have over
11 the city,--and I could that you are shaking your
12 head--is I'm assuming nothing right?

13 DOUGLAS KELLNER: Well, it's not nothing,
14 but it's only moral suasion realistically because I
15 have to get my Republican colleagues to agree to do
16 anything more significant. So, so we try to push
17 them, but when they ignore us there's not a whole lot
18 we can do, and on these issues of additional poll
19 sites of dividing the books in half, of the way they
20 staff their poll workers they ignore us.

21 CHAIRPERSON CABRERA: Yeah, it would seem
22 like common sense, but definitely my staff will take
23 a look at your recommendations, and we will have the
24 discussion that Director Ryan invited us to have, and
25 we've been having discussions to be able to get to a

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2 place where we could have just common sense—common
3 sense approach to make it fruitful, beneficial and
4 positive experience for all of our voters. One last
5 question for my end. I don't know Council Member if
6 he does have a question. Is in regards to the
7 machines. Who gets to select? I know we had three
8 options, right at this moment three machines that are
9 eligible for all the municipalities to use. Is that
10 correct, three?

11 DOUGLAS KELLNER: I couldn't tell the
12 count. There are two vendors, and—and it's the State
13 Board that's responsible for that.

14 CHAIRPERSON CABRERA: The State Board?

15 DOUGLAS KELLNER: The State Board of
16 Elections--

17 CHAIRPERSON CABRERA: Okay.

18 DOUGLAS KELLNER: --has to certify the
19 voting machines that can be used in all of the
20 contracts for the purchase of voting equipment have
21 to be approved by the State Board.

22 CHAIRPERSON CABRERA: Do you—do you
23 happen to know why that we only have two vendors and
24 less options. I would imagine—is there rationale
25 behind it?

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2 DOUGLAS KELLNER: Well, I think that
3 politically after the Help America Vote Act was
4 enacted, it became clear that New York State was
5 going to be a ballot scanning state, although there
6 were vendors that submitted direct recording
7 electronic machines for certification. None of them
8 passed certification because of security and
9 verification issues. So, these are the systems. I
10 would say that in 2010, the systems were the state-
11 of-the art, and we always say that New York may have
12 been the last state to come into compliance with the
13 Help America Vote Act, but we were the first to get
14 right in terms of ballot security and public
15 confidence in the equipment. But there have been
16 developments in the last decade that as Director Ryan
17 indicated, particularly as we shift from-to early
18 voting and the concept of vote centers. Ideally,
19 every vote-every citizen of New York should be able
20 to walk into any vote center anywhere in the state,
21 obtain the ballot for that voter's locality and cast
22 a vote and we have that technology now. It's
23 complicated. It might be a little bit expensive, and
24 the cost will come down in coming years, but we need
25

1
2 to completely rethink the voting process so that to
3 make it easier for the voter.

4 CHAIRPERSON CABRERA: Alright and I'll
5 close with this. I'm curious to hear your opinion on
6 online voting especially for soldiers who are serving
7 far and away. We do have people. We have companies
8 that have federal certification, and the people who
9 do the Oscars and the Grammys. I know there's a
10 fear, of course, but we're not the only—you know,
11 there's other countries in which they have utilized
12 this with no—with no signs that there have ever been
13 a break-in into the system, but we do have at least
14 one company that I know them and I met with them that
15 nobody has been able to break in—into their system.
16 I'm just curious as to you opinion, and I'll be
17 talking.

18 DOUGLAS KELLNER: No, Councilman, I'm a
19 very strong advocate on this issue. I would take
20 issue with some of your remarks that I don't, you
21 know, I would challenge some of the facts that you've
22 represented. The many experts including the
23 Department of Defense have worked on ways to make a
24 secure ballot that can be transmitted electronically
25 and nobody has been able to do that yet, and claims

1
2 that vendors make are usually bunk. The most recent
3 example is this claim of using black chain voting in
4 West Virginia. Well, first of all they only used it
5 for 65 ballots. So, it's not all that significant,
6 but the experts have shown how it has very
7 substantial security vulnerabilities. In New York
8 State we provide the ballots online. So, that
9 military and oversees voters can download the ballots
10 online, but they have to return them by mail, and we
11 believe that that's the only secure system. Now,
12 I'll say that there's one exception I'm willing to
13 make. For the very, very small number of military
14 voters or others who—for whom it is absolutely
15 impossible to mail back a ballot. For example an
16 astronaut in the space station—in the space station I
17 would allow them to vote electronically because there
18 really is no other alternative, and the number is
19 small it's not going to be a source of fraud to
20 affect the election. But I—I don't hear people
21 talking that way. They want to get the camel's nose
22 under the tent, and then have everybody voting.

23 CHAIRPERSON CABRERA: Well, I mean I'm
24 remind you we just had a congressman that just won
25 the election by one vote. I remember Council Member

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2 White when he was here. He won by four votes. So,
3 one vote it can make a difference in—in some races,
4 but, you know, looking to the future with are all the
5 bright minds that we have in the Unites I'm sure that
6 one of these days that we could get to that place and
7 make it a lot easier. Let me turn it over to Council
8 Member Yeger for—for questions.

9 COUNCIL MEMBER YEGER: Thank you, Mr.
10 Chairman. Mr. Chairman, thank you for joining us
11 today. The, just preliminarily and I apologize if
12 you addressed this earlier. Is your testimony our
13 opinion or is it the opinion of the board?

14 DOUGLAS KELLNER: No, it's very much only
15 my opinion.

16 COUNCIL MEMBER YEGER: Okay.

17 DOUGLAS KELLNER: There's four
18 Commissioners and one Commissioner talking is like
19 one hand clapping.

20 COUNCIL MEMBER YEGER: Well, and—and just
21 to be clear, I don't move that question with
22 disrespect. I—your—your history in New York State
23 elections and your longevity on the board is to be
24 honored. I just wanted to make sure that it's clear
25 that it's not the Board of Elections that's actually

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2 here because I did say that earlier today, and I
3 didn't want misrepresent. You addressed the 30-
4 Minute Rule, and a number of my colleagues, I believe
5 it was--actually, it was Mr. Chairman Torres who
6 addressed the 30-Minute Rule and the notion that the
7 Board here doesn't necessarily comply with that, and
8 you state this requires more space, which requires
9 advanced planning that needs to take place now, and
10 I-I engaged in a lengthy dialogue in both rounds of
11 questioning with City Board about trying to find more
12 space and their--their limitations in that regard, and
13 do you have anything to add to--

14 DOUGLAS KELLNER: [interposing] Well, I-I
15 want to emphasize the one thing is the schools are
16 closed, and the City board insists on having a single
17 poll site plan for all election events, not a
18 separate poll site plan for the events that require
19 more space.

20 COUNCIL MEMBER YEGER: Do you not think
21 that's wise that--that it makes more sense that every--
22 that on Election Day and Primary Day and Special
23 Election Day and Run-off Day and every election day
24 in between, that the voter kind of knows this is
25 where I go, and this is where I've always gone, and--

1
2 DOUGLAS KELLNER: Not if there's not
3 enough space that the voter has to wait two hours in
4 order to vote.

5 COUNCIL MEMBER YEGER: So my suggestion
6 to the City Board, Mr. Chair, was that they inquire
7 and--and explore whether or not there's an ability to
8 get out from the Albatross of the--of the requirements
9 of this federal lawsuit that requires it to retrofit
10 a hospital for example to make it accessible

11 DOUGLAS KELLNER: I agree with you. I
12 could tell lots of anecdotal stories, but I think
13 that Mr. Ryan also agrees with you in principle of
14 the problems, and I think that in terms of their path
15 of negotiating with the other side I don't fault them
16 on how they're doing that. I--I think that they're
17 trying. What I fault them on is their lack of
18 commitment to expand the poll sites where they know
19 that they are not in compliance--

20 COUNCIL MEMBER YEGER: I--I can tell that--

21 DOUGLAS KELLNER: --and--and they --

22 COUNCIL MEMBER YEGER: --not as a--not as
23 a defense of them, but I can tell you that in that--
24 like I said earlier, I've only been in office for 10--
25 1/2 months this question came up earlier this year

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2 shortly after I took office about this particular
3 senior center, which has been a polling site since I
4 was a little kid, and they said well we have to get
5 out of there. It doesn't comply. Can you help us
6 find another place? We can try to force over here,
7 we can try to get into there, and we explored it and
8 we could not find a location--

9 DOUGLAS KELLNER: No.

10 COUNCIL MEMBER YEGER: --and it's very,
11 very difficult.

12 DOUGLAS KELLNER: I agree with you, but
13 you have a public school. The public school is
14 closed on General Election day. They can expand into
15 additional space in the public school as needed.
16 During Hurricane Sandy, most of the poll sites in
17 Rockaway got shut down, and all of those poll sites
18 got relocated to just four places including the East
19 Rockaway High School. And I was so impressed with
20 how they handled the emergency at the high school
21 simply because what they did is they assigned a
22 classroom for each election district and then had the
23 personnel to escort the voters to go to the classroom
24 for that election district. They had plenty of space
25 even though they moved something like 20 or 30

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2 election districts into the building. The city knows
3 how to do that. They just have to do it.

4 COUNCIL MEMBER YEGER: But it only works
5 on General Election Day.

6 DOUGLAS KELLNER: Correct.

7 COUNCIL MEMBER YEGER: It doesn't work
8 in—it won't work in February and it won't work in
9 June and September.

10 DOUGLAS KELLNER: We don't have the
11 problem then because we don't have the turnout.

12 COUNCIL MEMBER YEGER: We had it this
13 September, though, Mr. Chairman. We had—we had an
14 incredibly high turnout this September to the point
15 where there were there--

16 DOUGLAS KELLNER: [interposing] Well, you
17 had--

18 COUNCIL MEMBER YEGER: [interposing] In
19 some E—in some A-Ds, there were—there were lines.
20 You know, I didn't have that in my district but
21 inside these were incredible.

22 DOUGLAS KELLNER: Well, it's bad
23 management but the turnout for the September Primary
24 is less than half of what turnout was for the
25 November General Election.

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2 COUNCIL MEMBER YEGER: In both cases
3 unanticipated I think is fair to say and everybody
4 including the election professionals who sat at that
5 table and people like me who have worked on campaigns
6 for 30 years, I didn't see this kind of turnout
7 coming. I don't—I don't know who anticipated it. I
8 could tell you Joe Crowley didn't anticipate it--

9 DOUGLAS KELLNER: Yeah. [laughs]

10 COUNCIL MEMBER YEGER: --and there are a
11 lot of people who did not anticipate that kind of
12 turnout, and I was shocked to see some of the turnout
13 in places. I mean I—as I indicated earlier, I voted
14 in under five minutes but the turnout was tremendous
15 in June and then again in September and then surely
16 in November. You know, the Governor got twice as
17 many votes in the city. It's just in September as
18 he—as his opponent did work the other way around. I
19 think his opponent got twice as many votes as his
20 opponent did last time and then he still exceeded the
21 votes by twice as much. [bell] It was an incredible
22 and I believe unanticipated turnout. I want to just
23 really quickly, one more thing, Mr. Chairman if I
24 may. You talked about the increased number of
25 staffing and the staffing at the polls needs to be

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2 more efficient, and the Director of the Board talked
3 about the Poll Worker Program, and referenced that
4 other cities and jurisdictions have a Poll Worker
5 Program where we use municipal employees, and I
6 engaged in lengthy dialogue with him earlier this
7 year at this committee about that, and he simply has
8 not been able to get it off the ground, not due to
9 the fault of the board, but I believe due to the
10 fault of the government to actually participate. Do
11 you have any recommendations for how to mandate that
12 in essence perhaps in state law by saying, you know,
13 requiring I don't know, a day off or an extra pay or
14 something if you were a municipal employee, and I
15 think as one of our chairs asked earlier, wouldn't
16 that have been great if all of our DOITT technicians—
17 we have this huge agency here the Department of
18 Information Technology, would it have been able to
19 have been deployed around the city of New York to fix
20 these scanners, which are essentially just kind of
21 high operational printers. We have people across the
22 street who could fix scanners fairly quickly. So, do
23 you have any advice that you could offer not to us,
24 and not the city Board, but really to the government

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2 of New York City as to how to institute a municipal
3 poll worker program?

4 DOUGLAS KELLNER: I think it's a good
5 proposal, and that the Mayor's and the Council should
6 pay careful attention to the proposal that the City
7 Board has advanced.

8 COUNCIL MEMBER YEGER: Right, and again,
9 I—I do greatly appreciate you coming in to—to talk to
10 us, and thank you very much, Mr. Chair.

11 DOUGLAS KELLNER: You're quite welcome.

12 CHAIRPERSON CABRERA: Mr. Chair, thank
13 you for serving as a Co-Chair. I know you're State
14 Board of Election. We really appreciate you waiting.
15 I know you were waiting here for a long time, but
16 your suggestions will definitely be noted and
17 followed through. Thank you so much. With that, I
18 invite Judd Ryan from Election Systems and Software
19 [background comments, pause]

20 CHAIRPERSON CABRERA: You could begin as
21 soon as you're ready. [pause]

22 JUDD RYAN: [off mic] Thank you, Mr.
23 Chairman and Council Members. [background comments,
24 pause] [on mic] Okay. Thank you, Mr. Chairman,
25 Council Members. I appreciate the opportunity to

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2 address the Council today. I have some remarks from
3 my testimony to read, but I think a lot of my
4 testimony has been covered here today so I'll stick
5 to the highlights.

6 CHAIRPERSON CABRERA: Thank you.

7 JUDD RYAN: My name is Judd Ryan. I'm
8 Senior Vice President for Election Systems and
9 Software. I've been with the company for 24 years,
10 and I've had responsibility and relationship in the
11 New York City Board of Elections since the
12 implementation of the ballot marking devices in 2008.
13 The city of New York utilizes the DS200 Scanner.
14 That's our most recent technology. It's digital
15 scanner. It actually images the front and back of a
16 ballot as it's scanned. During the November Election
17 over 37,000 DS200s were deployed and utilized in
18 jurisdictions across the country including five other
19 jurisdictions in New York State besides New York City
20 including jurisdictions like Nassau County and Erie
21 County. As we all know, the long lines and
22 frustrations many voters experience on November 6th
23 in New York City was extremely unfortunate and
24 unacceptable. I'm here today to offer my perspective
25 on the causes of some of the problems, and to provide

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2 ideas on how to improve the voter experience going
3 forward. As we've heard today, I think the major
4 culprit here was the first time use of a 2-part
5 perforated ballot. This is something that hasn't
6 been done in the city of New York the state of New
7 York or anywhere else in the country. So, this is a
8 first I think for everybody. Obviously, in Brooklyn
9 and in Queens, the ballot was two 19-inch ballots
10 perforated together so the total of 38-inches of
11 paper and then Manhattan and the Bronx it was 34
12 inches or two 17-inch ballots. In both cases
13 obviously we're talking about a sheet of paper that
14 is three feet long. I don't know of anything in life
15 today where somebody is asked to handle a 3-foot
16 sheet of paper, and obviously that caused a great
17 deal of issue on Election Day. Number one, the-the
18 piece of paper was long and cumbersome. The privacy
19 booth that the voters is provide has a shelf or space
20 for marking that is basically 20 inches long. So,
21 when you're talking about a 38-inch sheet of paper,
22 over a foot is hanging off the front of the privacy
23 booth, and where the voter is forced to fold the
24 ballot underneath itself at the perf (sic). I think
25 both of those facts kind of do away with the intent

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2 of the law as it's prescribed and what it's supposed
3 to do is provide the voter the visual ability to view
4 the entire ballot in one shot. When you have to fold
5 the ballot underneath itself where half of the ballot
6 is hanging over the edge of the privacy booth,
7 obviously the voter is not getting the benefit of
8 seeing the entire ballot. So, I think essentially
9 what we're talking about here is legislation and a
10 technology in this case paper-based voting are not
11 aligned. The DS200 was utilized, you know, just in
12 some cases a few miles always from the city of New
13 York in Nassau County. The exact same type of
14 scanner, the same age of equipment and same weather
15 conditions, and they did not experience the problems
16 that New York City experienced, and the difference is
17 with the 2-part ballot you do not have—on one of the
18 pieces you do not have a single clean edge to feed
19 through the scanner. Both edges are perforate, which
20 can be rough. They have a tendency to—to catch, and—
21 and can attribute to jams. The other thing that was
22 exhibited or observed on Election Day were voters,
23 and I'm certainly not blaming the voters. They've
24 never been exposed to this. We're trying to feed the
25 entire 38-inch ballot through the scanner without

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2 bursting it. Some were folding the ballot over and
3 trying to feed two pieces when the scanner is only
4 designed obviously and needs to take it. It can't
5 have it folded over because it's too thick, and then
6 also if it were to accept it that way, you—you
7 wouldn't be reading the panel. So, the scanner
8 automatically rejects it. There is a sensor that
9 will kick the ballot back, and make sure that it does
10 not accept two ballots at one time. The other thing
11 obviously is the voter is instructed to separate the
12 ballot after they make their marks. So, you're
13 asking a voter to separate a ballot while they're at
14 the scanner, and also they have to tear it basically
15 in mid-air instead of having a desk or something like
16 when you're tearing a piece of paper out of a legal
17 pad or your check book, you can apply pressure and
18 then tear. The voters weren't afforded that luxury.
19 You know, they're tearing the ballot at the scanner,
20 which led to a lot of imperfect tears. So,
21 essentially now you have one ballot that's too long,
22 and another ballot that's too short both of which are
23 issues that will cause the scanner to return the
24 ballot back to the voter. Okay, so obviously a lot
25 of issues with the perforated ballot. There's been

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2 some discussion about humidity and the weather and so
3 forth. So, I'd like to set the record straight on
4 that. Humidity is not an issue. These scanners
5 operate in South Florida, Alabama, the Carolinas,
6 Mississippi very humid environments. We don't see
7 jams or issues based on humidity. We did get reports
8 of because of the length of the ballot that it was
9 difficult for voters to hold the hold the ballot in a
10 way that really made sense, and so ballots were
11 touching wet clothing because of the length of the
12 ballot and things of that nature. Wet paper is an
13 issue for scanners, printers, copiers. You know,
14 paper-wet paper will not travel well through
15 machinery. That was an issue, and then lastly, I
16 think the volume of paper was filling up the tow pins
17 (sp?) inside the metal boxes, which led to a backup
18 into the ballot path, which was another cause for
19 some of the jamming. You know, as I've sat here
20 today, I've heard a lot of the Council Members ask
21 for suggestions going forward, and potentially
22 improving the process. When it comes to the ballot,
23 because I think, you know, the full face requirement
24 to see the ballot in one shot is not really being
25 honored because it's-it's laying over or being folded

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2 under. You know, hopefully the New York State
3 Legislature would consider doing away with having the
4 ballot in a single sheet for several reasons. We do
5 have multiple page ballots quite a bit in other
6 jurisdictions, Miami-Dade, Florida, Hillsborough
7 County, Florida, they had multiple page ballots.
8 They both utilize DS200s. In Miami-Dade for example,
9 they had five 19-inch ballots per voter, and they did
10 not experience any of the issues as far as jamming
11 goes that were experienced here on Election Day. So,
12 you know, to do away with the perforated ballot, and
13 maybe the new need for the numbered stub, numbered
14 and stubs, you know, are typically asked for here in
15 New York for ballot accountability. There are other
16 methods of providing ballot accountability without
17 numbering and stubs, which actually by removal of
18 that requirement the jurisdictions would actually
19 money on ballot production with compromising the
20 integrity of the election or the ballot counts.
21 There are other methods for that. So, that would be
22 another method, and then as I've listened today, you
23 know, there's been a lot of talk about polling places
24 and space. I think a redesign of the polling
25 location. You know, the scanners are already set up

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2 to tabulate by polling place, but because of I think
3 carryover from lever machine days, we're still
4 checking in by ED/AD. You could check in by polling
5 place, and establish a much more orderly flow to the
6 polling locations as well as free up space by
7 eliminating ED supply carts and things that will
8 allow for more privacy booths and scanners on
9 Election Day. So, those are some of the elements.
10 The other thing there's been a lot of talk about
11 emergency ballots. Again, I think this is a
12 carryover from the lever machine day. When a lever
13 machine went down, you switched to emergency ballots.
14 States that are used to voting on paper, they don't
15 have such a classification. A ballot is a ballot,
16 and I think that's relevant from the standpoint that
17 if a scanner is inoperable for some reason, ballots
18 are pushed into the emergency bin. Once the scanner
19 is restored, replaced or functioning again, typically
20 the procedure is to have one poll worker of each
21 party and a police officer in the case of the state
22 of New York come over and remove those ballots from
23 the emergency bin and feed them through the scanner.
24 That way—excuse me. To some of the questions that
25 have been asked here today, was my ballot tabulated?

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2 There are procedures in place to make sure that it is
3 counted. It's counted during voting hours, and then
4 at the end of the day, the Election Day workers after
5 a very long day don't have additional tasks to
6 perform. So, those are some of my observations.

7 Lastly, I would just like to say on behalf of
8 Election Systems and Software, I want to emphasize
9 that you have our commitment to work with
10 legislators, New York State Board of Elections and
11 the New York City Board of Elections to work toward
12 solutions that ensure both the election laws and the
13 technology work together for the benefit of the voter
14 experience. We empathize with the voters who
15 experienced unacceptable lines and frustrations, and
16 we are eager to do our part to improve the process, -
17 procedures and operations to enhance the voting
18 experience and maintain voter confidence. I
19 appreciate you time here today, and I'm happy to
20 answer any questions you might have.

21 CHAIRPERSON CABRERA: Thank you. Thank
22 you so much for that testimony. It's very helpful to
23 put everything into context. I have a few questions.
24 The—all the suggestions that you had given, were
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2 those suggestions given to the Board of Elections
3 prior to the Election Day?

4 J U D D R Y A N : We've had discussions with
5 the Board about some of these ideas. You know I
6 think until a problem presents itself a lot of times
7 legislator have, you know, more pressing issues on
8 their plate. I think, you know, after a problem
9 presents itself that obviously I think people are
10 more willing to listen.

11 C H A I R P E R S O N C A B R E R A : But did your
12 company anticipate—did your company knew that there
13 was going to be a problem because of the perforation,
14 that we were going to have more than usual jams?

15 J U D D R Y A N : We did. I had a conversation
16 with Mr. Ryan about this. We said, you know, we're
17 worried, we're concerned about the perforation.
18 We're concerned about what voters will do with is
19 and, you know, Mr. Ryan recognized, you know, the
20 things that I raised and, you know, he had had those
21 thoughts already as well. You know, I think where
22 the New York City Board was stuck was between trying
23 to follow the law and fit everything on a single
24 sheet of paper and then balance a readable font.
25 Obviously, to stay within the confines of the 19-inch

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2 ballot, you know, the five languages, it's, you know,
3 I don't know if it's a 6 point or a 5 point font, but
4 I've seen the ballot and it's very hard to read.

5 CHAIRPERSON CABRERA: But I—actually, I
6 appreciate that you warned the Board of Election,
7 which should have taken place within the context that
8 they were given is to assign, and this is what I've
9 been saying from the very beginning of—to this
10 hearing to assign a tech person, to hire more people
11 or to call out to DOITT here in the city to help
12 provide more techs because as you so clearly pointed
13 out you anticipated these problems were going to
14 happen. No fault of the way the machine was designed
15 originally. You were given this task for I
16 understand the last minute, right? Hopefully, it was
17 last minute because if it's from a long, long time
18 ago, then I wonder why there was no remedy, you know,
19 earlier remedy to this, but the most immediate,
20 easiest way to have dealt with this was to have more
21 techs in the poll sites to fix the jams, or to allow
22 the poll workers to deal with the easiest type, which
23 was the upper jam, as—as I understand it.

24 JUDD RYAN: That's correct. The—
25 typically when the—the scanner jams, it can be

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2 cleared by opening the lock in front, sliding the
3 scanner forward and removing the ballot. It's a
4 rather quick process. Where it becomes cumbersome is
5 when you factor in the breaking of the seal, the
6 recording of the seal, the additional requirements
7 that are in place then it's—it begins to take more
8 time.

9 CHAIRPERSON CABRERA: But that's small
10 compared to—a smaller problem compared to the 2-hour
11 lines that we were having, and that at the end of the
12 day was—is the reason why we're here because
13 technically we should have anticipated, the Board of
14 Elections should have anticipated this was going to
15 happen. You guys warned the, and this is the first
16 time and, therefore, it would have made a lot of
17 sense to have the techs there. Let me move onto a
18 couple of quick questions. I know my colleague does
19 have a—a question or two, or however many questions
20 he needs to ask, but the DS200 machines have a useful
21 life of 10 years. Can you explain what useful life
22 means, and can these machines still be used after the
23 useful life? Can you talked about—talk about the
24 software because you mentioned these are the latest
25 machines. Though the machines are nine years old, I

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2 would imagine what keeps changing is the software not
3 the—the actual machine or perhaps the machine has
4 changed. I don't know, but if you could address the
5 issue of the 10-year useful life.

6 JUDD RYAN: Sure. I'd be happy to. I'm
7 not sure where the 10-year useful life statement or
8 issue came from.

9 CHAIRPERSON CABRERA: [interposing] We go
10 over the life.

11 JUDD RYAN: We tell our customers that,
12 you know, they can stay on a technology as long as
13 they want to use it. We'll keep that—we'll keep that
14 product going for them. We've demonstrated that over
15 the years. We had a product two generations ago
16 called the AVTECH Eagle. That product came out in
17 1990. We just saw people go away from that product
18 in the last two years. So, we had people using that
19 product for almost 30 years. Our predecessor to the
20 DS200 was called the Model 100. That product came
21 out in 1997. WE still have people using that product
22 today. So, obviously, they're on it for 20 years and
23 counting now. I think the same holds true for the
24 DS200. You can keep that product for 10 years, 15
25 years or longer if you wish. I think, you know, some

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2 of it will depend on legislation, and the—the law
3 they have today. I mean with this ballot here, you
4 are about two inches away from potentially having a
5 third panel to this ballot. As we've heard today,
6 you know, there are additional contests and maybe
7 requests for additional languages to be applied to
8 the ballot. If you add one or two more languages,
9 this ballot would have been either a 51 or a 56-inch
10 ballot. That's—that's giving—with the current law,
11 that's a very long piece of paper. I mean that's—for
12 some people as tall as they are. I mean the ballot
13 as tall as the person voting on it, which obviously
14 would be even more cumbersome and more problematic,
15 and that's not unrealistic. I mean literally
16 probably two inches away from being in a scenario in
17 this particular election.

18 CHAIRPERSON CABRERA: So, look, I—part of
19 my life I was in high school years, and the first
20 time I voted was in L.A., and, you know, over there
21 they have propositions for just about everything or
22 anything. So, I'm—I'm shocked as well that we still
23 have, we're requiring the state to have perforation.
24 I think we should stay away from that, but I'm glad
25 that you mentioned that the numbers, the years that

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2 we were told really came from the Board of Elections.
3 They are the only ones who have told us that they
4 have lifespan of only 10 years, and so I thank you
5 for clarifying that point, which leads me to the
6 Maintenance Contract. What kind of a—can you
7 describe what the maintenance contract or agreement
8 you hold with the city Board of Elections?

9 JUDD RYAN: Sure. So, when they first
10 acquired the equipment, the equipment came with a 5-
11 year warranty, which included both all parts and
12 labor associated with repair of the units,
13 preventative maintenance as well as software and
14 firmware maintenance on the products. Right now our
15 arrangement with the city is we have at the request
16 of the New York City Board of Elections we train
17 their technicians to do preventative maintenance. If
18 a machine breaks or parts go bad, ES&S does the
19 repair. So the Board does the maintenance, we do the
20 actual repairs and then they also have a contract
21 with us to keep the software and the firmware on the
22 products up to date and in line with current
23 technology.

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CHAIRPERSON CABRERA: Okay. Thank you so much. With that, let me turn it over to Council Member Yeger?

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COUNCIL MEMBER YEGER: Thank you, Mr. Chairman. Thank you, sir, for joining us today, and using your experience to help us understand what has happened, and what could be made better. You mentioned Miami-Dade County as jurisdiction, which uses similar technology and software and paper and scanning and whatnot. How are their lines on Election Day?

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JUDD RYAN: You know, I think every jurisdiction with a concentrated population will experience lines from time to time. I can tell you that they weren't having lines based on backup at the scanner. You know, often lines are generated by check-in process, but I did not hear of reports of long lines in this particular election in Miami. Now, Florida also offers early voting. So that does take some of the pressure off of Election Day by handling a portion of our electorate prior to the big day.

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2 COUNCIL MEMBER YEGER: Florida—Florida
3 also has historic trouble counting ballots as I've
4 learned.

5 JUDD RYAN: Well, I—I'm sure you're
6 referring to the 2000 Presidential and the—the
7 hanging chads.

8 COUNCIL MEMBER YEGER: In the last—in the
9 last 10 days.

10 JUDD RYAN: Yeah.

11 COUNCIL MEMBER YEGER: Okay. How many
12 voters—I'm sorry. How many vote—yes, excuse me. How
13 many voters per scanner are planned for—planned for
14 in the Florida jurisdiction just to frame it? In New
15 York we used to have a system where one lever machine
16 would be assigned per 800 voters in the particular
17 ED. So, if there was an ED with 1,600 voters that ED
18 would have two scanners—to lever machines because we
19 no longer segregate voters by ED. We seg—we combine
20 them within a single poll site. We use or the board
21 uses 1,400. I thought it was 1,600 as the number.
22 So, if there are 4,800, then they use, you know, 48
23 or 3—3 scanners, 4 scanners based on each time it
24 goes up to an additional 1,400. What is the number
25 of voters that Florida uses?

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2 JUDD RYAN: I don't know their exact
3 ratio, Council Member.

4 COUNCIL MEMBER YEGER: So, I mean it's
5 just in my perspective it's important to, you know,
6 make sure that we're comparing, you know, apples and
7 apples, not apples and Volkswagens. You know, if
8 we're talking about what happened in Florida, let's
9 just make sure, you know, your scanners may work just
10 fine, and I'm not saying they don't, and I'm saying
11 that there's a problem with you system or there isn't
12 but I want to make sure that if we're looking to
13 another jurisdiction for a solution, and saying well
14 they're at least a gold standard or somewhere close
15 to a gold standard than New York City is, let's just
16 make sure that we're actually looking at the same
17 thing.

18 JUDD RYAN: Understood.

19 COUNCIL MEMBER YEGER: Okay.

20 JUDD RYAN: And I was not trying to imply
21 that they were the gold standard. What I was saying,
22 though--

23 COUNCIL MEMBER YEGER: [interposing]
24 Well, I don't think you are, and I don't think
25 anybody would.

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JUDD RYAN: Okay.

COUNCIL MEMBER YEGER: Okay.

JUDD RYAN: Just that the—the non-perforated aspect of their ballot is an experience that doesn't create jams like a perforated ballot does.

COUNCIL MEMBER YEGER: Okay, fair enough and—and I agree with that. I think that the perforation requirement that I said this earlier today, the perforation requirement of State Law is something that was instituted before anybody in New York voted on paper other than absentee voters and emergency voters, and there was this idea I guess that, you know, ballot security making sure that the voter received an intact ballot, and that there was no, you know, funny business at the inspector's table. We make sure that the—if a ballot has to be on more than one page, it's a—it's a ballot with a perforation that the voter himself or herself has to tear. I asked earlier of the Board if it was aware, and I would ask you the same thing, is there a system or is there a scanner on the market that can receive a single upload of all of our various—variations of ballot style that we have in New York City, which are

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2 several thousand or can be several thousand in an
3 election. Can it just receive the upload without all
4 of the individualized testing that's required leaving
5 aside that the testing is a requirement of law, but--
6 and--and board process set in Albany, but that if
7 there was a way that we could create a system where
8 someone just puts in a disk and says these are the
9 4,200 different kinds of ballots that are being used
10 in New York City on Election Day and now every
11 machine has all of that information in it.

12 J U D D R Y A N : The machines you have today
13 are capable of doing that. The DS200 is capable of
14 polling every single ballot style in the Borough of
15 Manhattan, for example so--

16 C O U N C I L M E M B E R Y E G E R : [interposing] It
17 doesn't happen in the Borough of Manhattan you say?
18 In the--throughout the entire city--in the entire city?

19 J U D D R Y A N : Um--

20 C O U N C I L M E M B E R Y E G E R : How many--many
21 ballot styles can I t hold?

22 J U D D R Y A N : 9,999.

23 C O U N C I L M E M B E R Y E G E R : 9,000. Okay, so up
24 to 10,000 ballot styles?

25 J U D D R Y A N : Yes, sir,

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COUNCIL MEMBER YEGER: And it doesn't require individual upload of each ballot? It could just receive that information in one programming?

JUDD RYAN: The ballot styles are put onto a USB drive. Okay, so each ballot style is placed on the USB drive for a given—we classify them as polling locations. [bell] So, in the case of states or counties that have vote centers, early voting, in-person, absentee, however, you want to classify it, typically those DS200s are loaded with every single style in the jurisdiction.

COUNCIL MEMBER YEGER: How long does it take to load all the ballot styles if you were going to use the maximum that the machine could take, 9,999? [bell] How many—how—how long does it take to load that onto a machine?

JUDD RYAN: Just a matter of minutes.

COUNCIL MEMBER YEGER: Okay and so it's the testing that's an hour per ballot?

JUDD RYAN: So, the testing, you know, New York State prescribes a certain configuration of ballots that need to go through a given device. So, what you could do with some, you know, leniency in the rules and regulations is you could take your

1
2 Monster Test Deck, which would be a monstrous test
3 deck, and feed that through the high speed reader,
4 and then essentially after you've proven that the
5 election definition is correct and accurate, then
6 copy it to the precinct scanner so you're not having
7 to hand feed thousands of thousands and thousands of
8 ballots.

9 COUNCIL MEMBER YEGER: And then each
10 scanner can do that testing with that or do that
11 verification that the ballot could be read properly
12 without an individualized testing of each ballot per
13 scanner? And I believe that the Board right now
14 basically votes a ballot into the machine to make
15 sure that it's aligning the ovals into the proper
16 place that, you know, Andrew Cuomo gets his votes and
17 not Molinaro's votes.

18 JUDD RYAN: Yeah. So, there's really-
19 there's two purposes to the testing that's conducted.
20 Is one, is to make sure that the election definition
21 that is loaded onto the USB Drive is accurate that
22 when you feed the ballot through that the election
23 definition is what you suspect it to be, and that
24 it's counting accurately.

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2 COUNCIL MEMBER YEGER: Okay, so, I-I
3 don't-my time is up. It's been up for a while.

4 JUDD RYAN: [interposing] Okay.

5 COUNCIL MEMBER YEGER: So, I don't want to
6 keep you on this, but the-but the basic takeaway that
7 I'm getting is that these machines can take up 10,000
8 ballots. They don't-assuming the law and the rules
9 of the Board were to permit it, which they don't
10 right now, and the City Board has got his hands tied-
11 hands tied by Albany, it would be able to do this
12 without necessarily having to test each ballot in to
13 each machine and each machine requiring an hour. So,
14 for example as the Director stated earlier today, 924
15 ballot style in Manhattan would have taken 924 hours.
16 That would not be necessary with our equipment?

17 JUDD RYAN: Based on changes--

18 COUNCIL MEMBER YEGER: [interposing]
19 That's yes or no?

20 JUDD RYAN: --to the rules and-and
21 regulations, yes.

22 COUNCIL MEMBER YEGER: Technological
23 speaking, you would not--forget about the rules and
24 regs and the statutes.

25 JACK RYAN: The answer is yes.

1
2 COUNCIL MEMBER YEGER: Technologically
3 speaking-- Yes. Okay, got it. Thank you very much,
4 Mr. Chairman.

5 JACK RYAN: If I can just--

6 COUNCIL MEMBER YEGER: Sure.

7 JACK RYAN: If the intent is to vote
8 anywhere and--and have the flexibility that you're
9 talking about where if you live in Brooklyn, you can
10 vote in Manhattan. If you're voting on paper, it
11 would also require the introduction of--

12 COUNCIL MEMBER YEGER: [interposing] That
13 is not. I'm sorry.

14 JACK RYAN: Okay.

15 COUNCIL MEMBER YEGER: That's not--what
16 I'm saying is that we have--we have 6,000, 5,000
17 ballot machines in New York City. They are not--they--
18 they are deployed purely to locations, and then there
19 are a thousand back-up ballots. The thousand back-up
20 scanners. The thousand scanners are not--are not
21 programmed with particular ballots given the
22 complexities of loading up thousands and thousands of
23 variations of ballots. So, a machine that's sitting
24 dormant in Manhattan not being utilized won't
25 necessarily be deployed elsewhere anyway because it

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2 doesn't have any information on it. If it's
3 available to be deployed in case of emergency, what
4 I'm suggesting is can the city of New York--can the
5 City Board of New York take all 5,000 machines, put
6 all the different variations of the ballots on all
7 the machines, and then have them available to be
8 deployed wherever they are. So, for example, if, you
9 know, they find out that as the Director was at P.S.
10 22 in Crown Heights on Election Day, if he sees a
11 machine broken, he can pick up the phone and call up
12 the guy who has another machine a couple of blocks
13 away, and hey, let's get that machine over and plug
14 it in, and it will be good to go. That's a yes or
15 no.

16 JACK RYAN: That's a yes.

17 COUNCIL MEMBER YEGER: Okay.

18 JACK RYAN: I--I--there may be a better
19 alternative to troubleshooting that.

20 COUNCIL MEMBER YEGER: I just want to
21 make sure that techno--that the technology allows it
22 on your equipment before we deal with the--the--the
23 issues of whether or not the law allows it, and--and

24 JACK RYAN: [interposing] Yeah.

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1
2 COUNCIL MEMBER YEGER: --and the State
3 Board, which governs the city board allows it, and
4 whether it's--it's even logistically possible. I just
5 want to make sure that the technology that we're
6 talking about these ES200s--DS200s, can actually
7 accommodate what I'm suggesting.

8 JACK RYAN: Yes.

9 COUNCIL MEMBER YEGER: Okay, cool. Thank
10 you very much.

11 JACK RYAN: Thank you.

12 COUNCIL MEMBER YEGER: Thank you, Mr.
13 Chairman.

14 CHAIRPERSON CABRERA: I just have one
15 question. It's related to--you mentioned the
16 humidity, that is not a factor because you had them
17 in Florida and other states where humidity is
18 definitely much higher. Does your manual--I heard you
19 say that--that your manual--in your manual it says that
20 it needs to--they should be operated in environments
21 where humidity levels are under 50%. Is that correct
22 or did I get this--?

23 JACK RYAN: No, sir, that's--that's not a
24 correct figure.

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CHAIRPERSON CABRERA: Okay, okay, great.

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Well, I want to thank you. You clarified some things

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for me, some very important things. Thank you so

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much for the information, and with that we go to our

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next panelist, and thank you.

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JACK RYAN: Thank you.

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CHAIRPERSON CABRERA: Thank you. Very

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informative. So, we'll be calling for the Chief

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Democracy Officer NYC Ayirini Fonseca-Sabune.

11

[pause]

12

LEGAL COUNSEL: Would you please raise

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your right hand? Do you swear or affirm to tell the

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truth, the whole truth and nothing but the truth in

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your testimony before these committees, and to

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respond honestly to Council Member questions?

17

AYIRINI FONSECA-SABUNE: I do.

18

LEGAL COUNSEL: Thank you.

19

CHAIRPERSON CABRERA: You may begin.

20

AYIRINI FONSECA-SABUNE: Good afternoon

21

Chair Cabrera and thank you for having this hearing.

22

To you and Chair Torres and the Speaker today. My

23

name is Ayirini Fonseca-Sabune. I'm the Chief

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Democracy Officer for the City of New York. I work

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with the Democracy NYC Initiative in the Mayor's

1
2 Office. I'd like to thank you again for holding this
3 hearing and for the opportunity to testify before you
4 on such an important topic that affects more than 4.6
5 million New Yorkers. First, I'm going to tell you
6 about the Democracy NYC Initiative, some of the work
7 that we've done and what we think can ameliorate some
8 of the problems that happened on Election Day two
9 weeks ago today. The Democracy NYC Initiative was
10 born out of the voter purge that happened in 2016
11 where 200,000 voters in New York City were improperly
12 purged from the poles. Combined with low voter
13 turnout during that 200-2016 General Election, the
14 Administration identified a need to increase voter
15 participation and civic engagement. The Democracy
16 NYC Initiative is responsive to those needs. The
17 goals of the initiative are to increase voter
18 registration, participation and civic engagement.
19 The initiative was announced in the Mayor's State of
20 the City Address this past February, which detailed a
21 robust 10-point plan for the Initiative. Earlier
22 this year, Phillip Thompson was appointed as the
23 Deputy Mayor for Strategic Policy Initiatives and
24 charged with overseeing the Initiative, and I began
25 in this role last month. I am an educator and a

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2 civil rights and human rights attorney. I have
3 devoted my professional career to giving voice and
4 building power in vulnerable communities locally and
5 internationally. Most recently I worked as a
6 tenant's rights attorney representing tenant
7 associations and affirmative ligation against
8 landlords, and working closely with community
9 organizing groups throughout the city. It has been a
10 privilege to support tenants building power in their
11 communities and using their voices to make change.
12 I've also worked as a teacher, at high schools in
13 Bushwick and Uganda and as a Community Health Program
14 Coordinator in rural Rwanda. In each of these roles
15 I have strived to give voice to communities who may
16 not otherwise have had a voice. In this way, my work
17 as the First Chief Democracy Officer for the City of
18 New York is a natural extension of my work. Since I
19 began this position last month, only a month before
20 the election, I have been speaking with New Yorkers
21 all over the city in all of the boroughs, in high
22 schools, in senior centers and community centers, in
23 house of worship. I have relished the opportunity to
24 hear from all of these New Yorkers, and all of them
25 have said the same thing: It is too hard to vote in

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2 the city. This past election only exemplified these
3 problems. We had people waiting on line for two or
4 three hours leaving with knowing whether their vote
5 had been counted, leaving without the opportunity to
6 vote, polling sites with no operable scanners or only
7 one scanner operable, people who did not have privacy
8 to fill out their ballots as legally required. In
9 2018, it is past time to modernize and
10 professionalize our elections in New York City. I
11 will start talk—I will start by talking about some of
12 the city led initiatives that we have done and then
13 move onto state reforms that are needed. Voting
14 rights are civil rights. The city recognizes its
15 role in making voting accessible to all who are
16 eligible including and particularly communities who
17 are historically disenfranchised or who have
18 participated less in voting. To that end, the city
19 has spearheaded a number of initiatives engaging
20 young voters, voters with limited English
21 proficiency, and those who are or have been involved
22 with the justice system. The city has also offered
23 the Board of Elections \$20 million to support and
24 reform that institution, which is responsible for
25 administering elections in this city. Starting with

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2 engaging youth voters this past spring for the first
3 time the Mayor's Office works with the Department of
4 Education to initiate Student Voter Registration Day
5 on a citywide basis. In over 300 high schools the
6 Democracy NYC Team worked with the Department of
7 Education to register over 10,000 young people on one
8 day. We heard from students how empowering it was to
9 work, to have the opportunity to register in school.
10 One student in particular who registered as a senior
11 at the High School for Health Profession and Human
12 Services said: I don't think I would have been
13 motivated to go out and figure out how to register to
14 vote by myself. I would not have. I would have put
15 it off, and there would not have been a point when it
16 would have been too late. This person is now a
17 Freshman in college and voted absentee for the first
18 time. We know that when people vote young and vote
19 early they can become lifelong voters. We have also
20 worked with the Mayor's Office of Immigrant Affairs
21 to support the voting of New Yorkers with limited
22 English proficiency, which has been discussed today.
23 This year--this--this past election two weeks ago MOIA
24 provided interpretation services at 101 polling sites
25 around the city offering Russian, Haitian, Creole,

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2 Yiddish, Italian, Arabic of Polish interpreters going
3 beyond what is required by the Voting Rights Act,
4 which current requires at certain polling sites
5 interpretation in Spanish, Mandarin, Cantonese,
6 Korean and Bangala. Sites and languages for MOIA's
7 interpretation services were selected using census
8 data. MOIA is currently evaluating the success of
9 this project to inform the citywide expansion passed
10 by the voters. This past election is part of the
11 Charter Revision Commission expansion. MOIA has also
12 provided translation of state voter registration
13 forms into 11 languages beyond those required by the
14 Voting Rights Act. All of these initiatives aimed at
15 making it easier for New Yorkers with limited English
16 proficiency to fully participate in voting. We also
17 have been working on voter participation for Justice
18 involved people. Starting this past summer we worked
19 with the Campaign Finance Board, and the Legal Aid
20 Society in order to register detainees and visitors
21 on Rikers Island. First, we worked with DOC to
22 increase outreach efforts on Rikers Island, posting
23 over 1,000 voter outreach posters containing voter
24 registration information in English and Spanish at
25 high traffic areas throughout the facilities. Also,

1
2 working with staff on Rikers Island, Law Library
3 coordinators, program counselors in order to make
4 sure they were getting the word out to folks who were
5 detained on Rikers Island that they could register to
6 vote, that they could vote by absentee ballot.

7 Perhaps most importantly we worked with the
8 Department of Corrections to implement a secondary
9 manned channel, which both sped up the receipts and
10 sending of voter mail, and increase the security and
11 the privacy of requests for absentee ballots and
12 voter registration. Through this initiative, over
13 900—almost 900 individuals were registered to vote
14 including both detainees and visitors at Rikers
15 Island. Despite the success of these initiatives,
16 and our commitment to continue them, New York needs
17 change at the state level and systemic reform. First
18 and foremost we need Board of Elections reform in
19 this city. New York City deserves a professionalized
20 and modernized Board of Elections, which will ensure
21 that what happened two weeks ago never happens again.
22 We also need early voting in this state to alleviate
23 the massive crush when 4.6 million registered voters
24 are eligible to vote during a 15-hour period on one
25 day. Thirty-seven states and the District of

1
2 Columbia have early voting. We need early voting in
3 New York. We also need No-Excuse Absentee Voting so
4 that people can send in their ballot without a pre-
5 approved reason or excuse. We need to modernize
6 voter registration in this state through automatic
7 voter registration, pre-registration of 16 and 17-
8 year-olds, and same day voter registration. Finally,
9 we need Electronic Pollbook in order to make the
10 voting process more nimble, more efficient and more
11 accurate on Election Day. Voting in New York City
12 has been far too long for far too long—far too hard
13 for far too long. We look forward to partnering
14 with the Council to bring much needed reform to the
15 voting in our city. I appreciate the Council's focus
16 on this issue, and I look forward to your questions.
17 Thank you.

18 CHAIRPERSON CABRERA: Thank you. Thank
19 you so much for your testimony. I have a few
20 questions, but before I get to questions, I concur
21 with your four points that you brought forth, and
22 hopefully at the state level we will get so much
23 needed help in legislation. I wanted to ask you
24 regarding the Board of Elections, the New York City
25 Board of Elections suggestion of using municipal

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2 employees as supplemental poll workers. What's the
3 Administration's position?

4 AYIRINI FONSECA-SABUNE: Today is the
5 first I've heard of that proposal, and I look forward
6 to hearing more about it, and exploring it. We are
7 very interested in making it easier to vote in the
8 city. The Administration offered \$20 million to the
9 Board of Elections two years ago in order to address
10 many of the issues that appeared time and time again
11 in New York City's elections. So, I will look
12 forward to exploring that with the Board of
13 Elections.

14 CHAIRPERSON CABRERA: Yeah, I would for
15 the Administration to have a dialogue with the New
16 York City Board of Elections because what they were
17 sharing earlier, as you heard is that much of the
18 funding that is being offered and what is being
19 targeted for in so many words they have--there's no
20 need for that. They would rather see a target on
21 this particular issue that will make it a lot easier,
22 but I thank you wanting to have that discussion and
23 I'm looking forward to being part of that.

24 AYIRINI FONSECA-SABUNE: Absolutely, and,
25 you know, if I could just say the reason that there

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2 were attached—you know, conditions attached to the
3 funding is because we didn't want to see the exact
4 same thing happening with that funding, and
5 respectfully to the consultants that the Commission
6 has been working with whatever those recommendations
7 are they clearly have not been working, and so, this
8 funding the requirements attached were to have a blue
9 ribbon commission that would identify the failures.
10 Would have outside consultants who could think about
11 poll worker training. Perhaps we would have known in
12 advance that we should have trained poll workers to
13 address some of these issues in advance. So, day-of
14 logistics that was another thing. Every election day
15 we hear about these logistical problems. It is not a
16 surprise that we have millions of people voting in
17 New York City. So, that is the reason there were
18 conditions attached to that funding.

19 CHAIRPERSON CABRERA: We sent you a
20 letter back on October 18--

21 AYIRINI FONSECA-SABUNE: Yes.

22 CHAIRPERSON CABRERA: --with 12
23 questions, and I'm—I'm going to say we—me and Council
24 Member Ritchie Torres, my Co-Chair and myself, when
25 can we expect to have the answers?

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AYIRINI FONSECA-SABUNE: Very soon.

Things have been quite busy in our office, and leading up to and following Election Day, but we're looking forward to responding to each of your questions very soon.

CHAIRPERSON CABRERA: So, very soon means? It's a relative term.

AYIRINI FONSECA-SABUNE: [laughs]

CHAIRPERSON CABRERA: A week, two weeks, three months?

AYIRINI FONSECA-SABUNE: You know, I, you know, we have a holiday coming this week. I would say that within the next couple of weeks would be my goal and—and I really think we can get that done.

CHAIRPERSON CABRERA: Thank you so much. Let me turn it over to Council Member Yeger and then I'll have two final questions.

COUNCIL MEMBER YEGER: Thank you, Mr. Chairman. The \$20 million that the Administration was going to give to the Board of Elections, the Board of Elections broke it down for us. I didn't really take notes on that, but if I remember \$11.5 million they identified as things they didn't need, and then I don't remember what they said about the

1
2 other stuff, but what I do remember is they said they
3 spoke with the consultant that they have and \$7.5
4 million I think of that was something that the
5 consultant that they had said was not necessary, and
6 now for the first time as I understand it, you're
7 representing that you were—you were suggesting they
8 use the money. You—I mean the Administration was
9 suggesting they use the money for other consultants.
10 So, the Board of Elections' consultants decided not
11 necessary, they're wrong. You guys wanted to use it
12 for consultants that you thought made sense. You are
13 right. Which consultants are right, and which
14 consultants are wrong?

15 AYIRINI FONSECA-SABUNE: What I can say
16 is that what is happening in New York City on
17 Election Day year after year is not working, and so
18 the funding was attached to a few conditions
19 including a Blue Ribbon Commission that would examine
20 the failures. This came directly out of the purge of
21 200,000 voters in 2016. Why did that happen? What
22 needed to be changed to make sure that that did not
23 happen again. So, there was the Blue Ribbon
24 Commission. There was an independent consultant to
25 recommend changes, increased poll worker training,

1
2 day-of logistical support to make sure that the
3 issues that we see coming up again and again do not
4 continue to happen.

5 COUNCIL MEMBER YEGER: Well nobody loves
6 a good Blue Ribbon Commission more than I do, but as
7 identified your—your suggestions on pages 5 and 6 of
8 what you provided to the Council, every single thing
9 that you identified here is something that the State
10 Legislature needs to enact. There's nothing we can
11 do here, and nothing you can do over on the other
12 side, nothing that the Board of Elections can do. Is
13 that correct? I mean is that an accurate wrap-up of
14 what you've suggested—BOE reform, and you
15 professionalize the modernized Board of Elections.
16 The State Legislature to put that in early voting.
17 We can't do that. No-Excuse Absentee Voting, we
18 can't do that. Voter registration changed automatic
19 voter registration, pre-registration of 16 and 17-
20 year-olds. I don't know why not 14-year-olds, but
21 sure. Same-day voter regs. All good. Electronic
22 Pollbook. Sure. That's great. None of that can
23 happen here in this building.

24 AYIRINI FONSECA-SABUNE: My hope is that
25 we can partner with you and the other members of the

1
2 Council in order to work together to get that done in
3 Albany. I think in terms of things that can happen
4 here, the \$20 million offer was not specifically
5 outlined in my testimony, but I would be happy to go
6 with--

7 COUNCIL MEMBER YEGER: [interposing]

8 Okay, one of the things I spoke about—I don't know
9 how long you've been in the room today, but one of
10 the things I spoke with--

11 AYIRINI FONSECA-SABUNE: [interposing]

12 I've been here all day.

13 COUNCIL MEMBER YEGER: Okay, super.

14 AYIRINI FONSECA-SABUNE: Yes.

15 COUNCIL MEMBER YEGER: Sorry. No it's
16 been-[interposing] I—I got paid to be here, and, you
17 know, I appreciate that you're here. The—the Board
18 both the City Board and the Co-Chair of the State
19 Elections Board, we talked about expanding the number
20 of poll sites and, you know, I'll go back to the
21 example that I've used, the 300 people registered to
22 vote at the local firehouse. It's not really
23 something we can get here in New York City, but
24 surely I think we all agree that the number of people
25 who are voting in most of our poll sites is simply a

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2 very large number. And—and my question has been
3 constantly what can we do to make that smaller, and
4 have more poll sites, and the Board seems to indicate
5 that its hands are tied and with respect to expanding
6 the number of poll sites, they are doing the things
7 they can and that they are working diligently. And I
8 can tell you that in my district they have reached
9 out to me to try to help them identify additional
10 poll sites. But they have consistently pointed back
11 to some—they haven't termed it this way, but I will—
12 ridiculous hand-tying that they are facing because of
13 an order from Federal Court that requires them to
14 retrofit a hospital to make sure that it can handle
15 people who need access to get in, which I would
16 assume that a hospital seems to be okay handling
17 people who can get in. But it's good enough for the
18 patients and it's good enough for their families, not
19 good enough for the Board under this order. So, my
20 question is what is the city doing to help the board
21 get out from the Albatross of this seemingly
22 ridiculous order?

23 AYIRINI FONSECA-SABUNE: I can't speak to
24 the details of that court order. We can follow up
25 with your office about that.

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COUNCIL MEMBER YEGER: Don't even—you
don't even have to follow up. Just help them get out
from under it because it seems to me that it's
ridiculous that we have places in New York City which
are clearly accessible and for every purpose other
than for voting, and it just doesn't make sense that
the Board can't identify—that the Board's hands are
tied in identifying additional locations that a
senior center is good enough to receive DFTA funding
and is good enough to serve as a senior center, but
is not good enough to support those very same seniors
to go vote on Election Day.

AYIRINI FONSECA-SABUNE: After looking
into that, I--

COUNCIL MEMBER YEGER: [interposing] No,
no, I'm not saying that you would have the answer and
I—I don't--

AYIRINI FONSECA-SABUNE: [interposing]
But-but I will say that the—the—the crush of voting
on Election Day could be ameliorated by early voting
and by No-Excuse Absentee so--

COUNCIL MEMBER YEGER: Okay, great.
We'll adopt that today then.

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2 AYIRINI FONSECA-SABUNE: Well, we can
3 work together to get that done.

4 COUNCIL MEMBER YEGER: No, we can't. We
5 can work together. That's—that's a talking point.
6 We can't work together in adopting it. We're not—
7 we're not the State Legislature.

8 AYIRINI FONSECA-SABUNE: [interposing]
9 Yes. But all of us--

10 COUNCIL MEMBER YEGER: [interposing] Go
11 up to Albany. I'll tell you where to get a ticket.
12 Go up to Albany, get them to do it.

13 AYIRINI FONSECA-SABUNE: [interposing] I
14 will--

15 COUNCIL MEMBER YEGER: Come back and let
16 us know it happened.

17 AYIRINI FONSECA-SABUNE: Come with me.

18 COUNCIL MEMBER YEGER: I don't want early
19 voting. So, you're not going to get me to go with
20 you, but my point is--

21 AYIRINI FONSECA-SABUNE: [interposing]
22 That's a different issue that you don't want early
23 voting.

24 COUNCIL MEMBER YEGER: [interposing] But
25 my point is, but my point is—my point is—my point is

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2 that you come into the Council and saying that we can
3 fix the Board of Elections by only getting early
4 voting is not necessarily--and by the way I want to
5 amend my statement in a second-but it is necessarily
6 the fix to the--to--to the problems that are at the
7 board. Early voting will help a little bit, but I
8 think everybody who testified the, experts who load
9 their machines will testify that early voting will
10 take a little bit of a burden away from the Board,
11 but you're still going to have the early morning
12 crush. I could tell you in my neighborhood, the--the
13 number of people who vote between 6:00 and 9:00 far
14 exceeds the number of people who vote between 6:00
15 a.m. and 6:00 p.m. by vast, vast, vast numbers, and I
16 have been. The last two elections--I don't remember
17 the weather in every election day, but I could tell
18 you that last November and this November a very, very
19 bad rain. I was at the same poll site. The number
20 of people who come at the end of the day are
21 tremendous. Early voting doesn't necessarily get
22 that, but before I go any further I just want to fix
23 one thing. It's not that I'm against early voting.
24 I'm--my point is that I'm--I don't want to point the
25 finger at early voting and at No-Excuse Absentee

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2 Voting and at all the different fixes and saying,
3 well, if only we had same day voter registration then
4 we wouldn't have lines at the---at the polling
5 places. It doesn't even make sense that these are
6 things we're pointing to, to say that's what we can
7 fix. All of your points are right. Your advocacy is
8 incredible. You're 100% right on you points, but the
9 idea that that's what's going to fix our elections,
10 instead of simply just having--instead of 1,200 or
11 thereabouts polling sites, 2,400 or 5,000, and reduce
12 the number of sites that are in New York City so that
13 the bipartisan team of election inspectors that do
14 make sense to have can do their work, get people in
15 and our. I know that was a lot. I'm sorry about
16 that.

17 AYIRINI FONSECA-SABUNE: No, I--I mean I
18 agree with you that we need comprehensive election
19 reform for New York City. It will not--there is no
20 one fix. We are so far behind so many other states
21 so--

22 COUNCIL MEMBER YEGER: [interposing] I
23 just gave you one fix. I gave you one fix.

24 AYIRINI FONSECA-SABUNE: Well, I can say
25 to that one I'm going to need to look at that issue.

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2 It's not something I have examined. So, after I look
3 at it, I would be happy to weigh in.

4 COUNCIL MEMBER YEGER: If a poll site
5 didn't have to accommodate more than 500 voters,
6 elections would be smoother. That's not--that's not a
7 guess. I don't need a study to tell you that. It's
8 just, you know, anybody can vote--

9 AYIRINI FONSECA-SABUNE: [interposing]
10 With respect to the Federal Court Order, I can't
11 speak to that.

12 COUNCIL MEMBER YEGER: It's not a Federal
13 Court Order. I'm just telling you if we can figure
14 out a way to--to--I'm not--I'm not suggesting that
15 that's the only problem. I'm suggesting that the
16 city of New York should make sure that it--that it
17 helps the Board of Elections get into more places
18 whether they need to retrofit these locations in
19 order to make them compliant, or whether the Corp
20 Counsel can help the Board get out from under this
21 Albatross of an order, but either way, we need more
22 poll sites, and we need the Municipal Poll Worker
23 Program, absolutely do, and I engaged in a
24 conversation with the--with the Executive Director of
25 the Board, Mr. Chairman, some time I think during

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2 budget time we talked about at our committee, and—and
3 Board was telling us that they had been talking to
4 the Administration. I know it was before you got
5 there. So, this is, you know, something you would
6 have to look at, but the Board was telling us that
7 they had been talking to the Administration about
8 trying to kick something off like that. And I—I just
9 think it's not only a good program for—for our
10 election systems, but it's good for our municipal
11 employees. It will help them. It'll—it'll use their
12 talents in a way to participate and help the city. It
13 will give them a benefit because there are ways that
14 we can pay them with an extra day off, comp time, et
15 cetera, and it's just good all around. There's no
16 reason not to do it, and I would love for the
17 Administration to be able to help us get that done.

18 AYIRINI FONSECA-SABUNE: I would love to
19 hear more about that, and I have been briefed
20 extensively on the discussions that the
21 Administration has had with the Board of Elections.

22 COUNCIL MEMBER YEGER: [interposing] I'm
23 going to give you my book about Little Los Angeles we
24 have witnessed. (sic)

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2 AYIRINI FONSECA-SABUNE: Thank—thank you,
3 and I—I think that what we need is comprehensive
4 reform at every level, and I—I think this is the time
5 to get it done in New York.

6 CHAIRPERSON CABRERA: Thank you so much--

7 COUNCIL MEMBER YEGER: [interposing]

8 Thank you, Mr. Chairman.

9 CHAIRPERSON CABRERA: --Council Member and
10 I have to say it's very logical that if you have more
11 sites, less lines of people. It will move quickly,
12 less aggravation. So, Chief, please help us that so
13 we could have more sites. I only have one more
14 question, and this is going back to August. Democracy
15 NYC announced an increase in poll worker pay. Now,
16 this is August and it was through Democracy NYC.
17 Several of us supporting the adding, even supply-
18 supplying quotes for your press release. When the
19 Primary Election came the next month, there was no
20 pay increase and poll workers were left confused and
21 disappointed and so the question, the logical next
22 question will be why you did not increase the poll
23 worker's pay into the General Election.

24 AYIRINI FONSECA-SABUNE: I am familiar
25 with the increase in poll worker pay. It was also

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2 one of the things in the package of reforms that were
3 offered—it was offered two years ago with the \$20
4 million poll worker increases as one of those. I
5 think it's very important. When the offer was made
6 in August, you know, I wasn't here. I'm not sure
7 when the offer was made, what the implementation
8 timeline was. I know that it was implemented the
9 General Election two week ago, and I can look into
10 that specific, you know, timing question about
11 implementation and get back to you.

12 CHAIRPERSON CABRERA: Well, let me help
13 you out. It was—it was Democracy NYC. You could
14 find it online. We actually mentioned it to one of
15 your staff at the last hearing or the hearing before
16 that and as a matter of fact, he's here. He's a
17 tremendous staff that you have, very capable and so
18 and it was, you know, we literally—literally read it
19 from it online, and it was in August. So, the
20 implication is if you're making a statement in
21 August, and the election is in September, that the
22 messaging that people receive, and I don't mean you
23 because you weren't here, but the messaging is that
24 they're going to get the increase on the next
25 election. I mean to me that will be the next logical

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2 jump. There was nothing said that it was going to
3 happen in November. So, it was easily—it was very
4 easy for everyone to assume that it was for
5 September. I would also encourage you to not only
6 look at it, but it's not too late to go back and to
7 give this increase of pay. The money is there. The
8 funding is there, and—and it's going to make a
9 difference for a lot of other people who you know
10 it's not easy work, right. I always salute everyone
11 who does this kind of work because they're there, you
12 know, at 5:00 or actually 4:30 in the morning. They
13 get up very early. They—they come out very late at
14 night. It's a very long day. So, this extra pay at
15 the very least is meaningful and symbolic, but at the
16 end of the day, you know, it's to compensate in light
17 of the fact that we pay them very little. So, please,
18 if you could go back, and see if we could go
19 retroactively on this, and make this move. I think
20 it would also send a loud message to all of our poll
21 workers that they matter.

22 AYIRINI FONSECA-SABUNE: Thank you and I
23 will look into that.

24 CHAIRPERSON CABRERA: Okay, thank you so
25 much.

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AYIRINI FONSECA-SABUNE: Okay, thank you.

CHAIRPERSON CABRERA: We appreciate your input and looking forward to reviewing your testimony, and see what we can implement.

AYIRINI FONSECA-SABUNE: Thank you.

CHAIRPERSON CABRERA: Okay, and with that to the very patient, you all deserve a trophy. The last panel from Common Cause, of course, Susan Lerner. [background comments, pause] Reinvent Albany; Alex Camarda; Diane Finch. She's a poll worker, and from Citizens Union Ethan Derringer-Smith. (sp?) [background comments, pause] You could begin--

SUSAN LERNER: [interposing] Okay.

CHAIRPERSON CABRERA: --as soon as you're situated.

SUSAN LERNER: Okay, I apologize. I don't have written testimony today, but I will provide a written testimony in the future. The reason I'd like to talk specifically about what we at Common Cause believe there was such a mess on Election Day, and we think that there are really two or three reasons. First, bad law at the state level, and I'm not going to belabor that. We've—I think that's been covered extensively. The second is bad

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2 policy choices by the New York City Board, and
3 frankly the third is political theater instead of
4 effective city action. So, I'd like to talk about
5 the bad policies and then I would like to talk about
6 effective city action could be, what the Council
7 could actually be doing--

8 CHAIRPERSON CABRERA: [interposing] Yes.

9 SUSAN LERNER: --certainly what the Mayor
10 could be doing. First, the bad policy choices that
11 the Board made. The Board insists that it has to
12 place all five languages on every ballot. That is
13 not a legal requirement at all, but it makes it much
14 harder to design a reasonable ballot, and it resulted
15 in the absurd ballot that voters faced on November
16 6th. So, aside from the question of changing the
17 state law, the Board makes choices that--that make the
18 ballot unreadable, unworkable, and they don't need to
19 do that. They have been advised repeatedly by
20 language access authorities, by the advocacy
21 community and they stubbornly decide they know
22 better, and there we have a problem I think that
23 encapsulates every problem. The Board does not
24 listen. The Board does not take consultation. The
25 Board decides on its own. The poll workers are not

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2 trained on clearing the scanners, and we have heard
3 that that was a deliberate choice on the part of the
4 Board. Advocacy groups, poll workers, coordinators
5 have been begging the Board for years to have more
6 hands-on training for the poll workers so that they
7 understood how the scanners worked. The Board in its
8 infinite wisdom decided it knew better and the voters
9 suffer. Generally, there is inadequate poll worker
10 training, and I would have to contest the assertion
11 that well, our consultant, our education consultant
12 tells us one thing. For years the advocacy community
13 has been asking the board to share the
14 recommendations of the consultant, and magically that
15 has never happened. So, we don't actually know what
16 the consultant has recommended, and we don't know
17 what the Board has accepted or not accepted from the
18 consultant that the taxpayers pay for because the
19 Board refuses to make the public. That's a bad
20 choice, and I suspect that there are recommendations
21 that the Education Consultant made that the Board
22 just decided to ignore. So, using the consultant as
23 a shield is frankly offensive because we don't know
24 what the consultant said and, you know, so—Oh, and
25 the Board was advised when it became clear that there

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2 was going to this super long ballot and that voters
3 were going to be confused. We heard that the Board
4 had taken certain actions and was bringing the
5 coordinators back in, and that they had produced a
6 video to explain to voters how to handle the ballot
7 and the video was on their website. We suggested to
8 the Board that they email the link to the video to
9 every single poll worker in advance of elections.
10 Oh, well, you know, we can't really do that. So,
11 every step along the way the Board makes bad choices
12 and they are never held accountable for it, which
13 gets me to my second—my third point. We see these—
14 this same hearing over and over again. It's really
15 déjà vu, and the punching bag is always the staff.
16 It's always the Executive Director, and occasionally
17 some of the other staff members, but as Executive
18 Director Ryan made very clear, the choices are made
19 by the Commissioners. I would suggest that you
20 should have the Commissioners come and answer
21 questions, if they refuse your invitation, this might
22 be an appropriate place to use your subpoena power.
23 The—so requiring the Commissioners to appear and
24 answer questions. The Council has passed some very
25 good laws that would improve aspects of our city

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2 elections. For instance it is now a matter or of
3 city law that the Board is supposed to post a notice
4 of change at a close polling place telling voters
5 where they can now go to vote. They Board does not
6 do that. We've heard discussion today about the
7 amount of money and the effort put into providing
8 translators in other languages. The Board insists
9 that the translators cannot be at the desk inside
10 with other translators. The Board insists that the
11 translators have to sit out more than a hundred feet
12 away from the front door of the polling place, and in
13 the last two years in the pouring rain. So, the
14 voters actually don't know that their services are
15 available. The city knew this last November and
16 there was no negotiation or limited negotiation
17 between the Mayor's Office and the Board to solve
18 this problem. So, now we—the taxpayers have paid for
19 double the number of translators to sit outside where
20 nobody saw them in the pouring rain for an entire
21 day. That's inexcusable and that's something that
22 can be fixed if somebody is actually doing more than
23 posturing, and actually trying to help the voters.
24 So, you know, we see this over and over again,
25 decisions that are made for show. If there is a

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2 problem, the Council has passed a law that the Board
3 of Elections is not following, and the Board of
4 Elections refuses to follow it after negotiations and
5 various requests frankly, the city is going to have
6 to sue because otherwise the law is useless, and
7 strongly recommend that the—that the Council should
8 be looking at ways to use the budget process to
9 require the Board to take actions that the Council
10 feels is necessary. It is possible to put
11 restrictions on the use of the money rather than a
12 large pot of general allocations, and we really
13 haven't seen that being done. I would also like to
14 point to things that are done in some other
15 jurisdictions, which could be helpful. There was—
16 there were bills pending in the Council in the four
17 or five-year ago time period to require city workers
18 to be available as poll workers. Common Cause and
19 other good government organizations worked on those
20 bills. I personally had discussions with various
21 unions, found that there were questions that the
22 unions had. The bills basically went nowhere. We
23 agree with the Board that it's a really good idea to
24 have the city workers available and to be urged to
25 have them as poll workers. We had suggested that poll

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2 workers recruitment be placed in all of the pay
3 checks for poll workers so that the poll-the city
4 employees knew about this opportunity. There are
5 double dipping questions, there's time off questions
6 that would have to be negotiated with the unions, but
7 this is a very solvable problem. As pointed out, Los
8 Angeles County has solved it. Los Angeles County is
9 also doing something very interesting that some other
10 jurisdictions have done, which I seriously recommend
11 that the Committee think about, and that is to design
12 its own software, to own the software and not to be
13 subject to endless maintenance contracts on the part
14 of private vendors so that the software could be
15 changed. It could be open source. It can be
16 proprietary to New York City or to New York State.
17 It could be much more nimble and adaptable and the
18 public would pay for it once and maintain it with
19 city employees rather than having to spend a huge
20 amount of money on endless maintenance contracts.
21 You're probably familiar with the marking adage that
22 it's not the disposable razor holder that you make
23 you money with. It's the disposable razors. So, if
24 you're doing business with the private vendors, it's
25 the maintenance contracts where they really can hold

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2 you hostage and there is an alternative. So, I think
3 that these are very solvable problems, but it is
4 going to require some change in conduct in the
5 political actors to hold the Board responsible and to
6 take more effective action. [pause]

7 ALEX CAMARDA: Good afternoon, Chair
8 Cabrera and members of the Committee. My name is
9 Alex Camarda. I'm the Senior Policy Advisor for
10 Reinvent Albany. Thank you for holding this hearing
11 today. As you know from the—the previous testimony
12 there are many issues with our elections, and many
13 different solutions that are put into place at
14 different levels of government. Some of them the
15 City Board can do administratively. Others can be
16 done by the city itself, and others require the
17 changes in state law and even the state constitution.
18 So, today we're focused on solutions that the city or
19 the City Board of Election—of Elections can do. We
20 did provide testimony to the Assembly last week, and
21 that is on our website. We provided 10 pages of
22 testimony related to bills and actions that the State
23 can take, and I'm happy to answer any questions about
24 those. But regarding actions the city and the City
25 Board of Elections can take, we tried to organize our

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2 testimony into a problem and solution construct. So
3 that it's very clear since there are many different
4 issues involved in administering a successful
5 election. So, let me start with I think what has
6 been identified as—as the root problem and the major
7 problem on Election Day on November 6th and that was
8 the breakdowns of the scanners. We heard a lot of
9 testimony about this previously. Before the Assembly
10 last week, Executive Director Michael Ryan provided
11 some preliminary numbers, and he indicated that there
12 were 2,631 incidents with the scanners of which 4,064
13 were actually deployed. That's a very large number,
14 and obviously indicative of a very systemic problem
15 for which you heard a number of reasons today. On
16 Election Day as Executive Director Ryan indicated, he
17 talked mostly about humidity and the wetness of the
18 ballots as causing some of the scanner jams. During
19 his testimony today and also last week, he spoke more
20 about the perforated edge of the ballot and the
21 tearing of the ballot not being done cleanly. Last
22 week before the Assembly, which he did not mention
23 today, he talked about the feeding in of the ballot
24 into the scanners done too quickly by voters, which
25 also created some of the jams. I don't think we've

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2 really precisely identified for each of these factors
3 which ones were the most, were the primary or
4 secondary causes of the scanners malfunctioning. We
5 were very please to see that the Council brought ES&S
6 and that they came forth and testified regarding the
7 scanners. I will say we think they're understating
8 the role of humidity and wetness. In their
9 Operational Manual from 2013, I'm reading
10 specifically from page 4 it says that operational
11 humidity during operations should be between 10 and
12 50%. So, clearly it seems from that manual that
13 humidity is impactful during operations and not just
14 on storage as they indicated. The second issue that
15 we've also heard about is—is ballot design, and we
16 heard about the unwieldy 2-page, 4-sided, 17-inch
17 ballot in Manhattan, and also a 19-inch ballot in
18 Brooklyn. All this is avoidable by the City Board if
19 they were only to reduce the number of languages on
20 the ballot, and this is an issue that has come up in
21 the past, and I think the Board has been reluctant to
22 do it because it requires that they create many more
23 ballot styles. They now have to get all those
24 different ballot styles out to poll sties, and it's
25 more complexity for the poll workers, and the issue

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2 with the poll workers is the board faces a real
3 challenge in recruiting over 35,000 poll workers for
4 what is effectively a temporary job, and I think all
5 of us have a very high expectation of the
6 Administration on Election Day, but at the same time,
7 the Board is relying a temporary workforce. And
8 that's why as Common Cause indicated, and we support
9 our Municipal Poll Worker Program and the Board of
10 Elections does, I think all the Good Government
11 groups have for years. So, we really think that
12 that's something that the Council and the
13 Administration could work on, and work out some of
14 the issues that have been mentioned, and try to come
15 up with the solution because I really think, you
16 know, this year it was malfunctioning scanners. In
17 another election it will be another issue, and if we
18 want to have a performing workforce, we need to bring
19 the city's workforce into the fold rather than rely
20 on temporary workers. I just don't think you can get
21 35,000 very high performing temporary workers.
22 [pause] One of the other secondary kind of cascading
23 issues that the malfunctioning scanners created was
24 the-was overcrowded poll sites, and then also the
25 ballot security being compromised, and the emergency

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2 procedures being put into place that Council Member
3 talked in-depth about. What we'd like to see is to
4 reduce the lines and the overcrowding is to employ
5 these emergency ballot procedures sooner in some
6 instance. For example, if one scanner is down for a
7 period of time, it would be better to employ the
8 Emergency Ballot Procedures, educate the public about
9 them so they have more confidence that their vote
10 will be counted rather than waiting for every scanner
11 to go down, and it causing people to wait in long
12 lines and some them walk away not even having voted.
13 We also think that the Board should take up the
14 Mayors proposal of bringing in an operational
15 consultant at the Board obviously has some
16 consultants, but we think they would benefit from a
17 consultant who would look at pool site design, layout
18 issues, how to handle these snaky lines that Council
19 Member Lander spoke. All of that would be helpful. I
20 know the DMV did something similar, and their
21 operations I think got better as a result of that.
22 So, there should be experts that they could bring in
23 for that purpose. And then lastly I would just say
24 that beyond the poll worker issue, clearly the Board
25 of Elections has staffing and operational issues that

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2 are internal to the Board and kind of unique to their
3 agency. You know, for years and Council Member
4 Kallos has raised this, they haven't really employed
5 professional hiring practices. They have not
6 advertised positions online. I don't know.
7 Internally it doesn't seem like they do a rigorous
8 hiring process. They should professionalize their
9 workforce not withstanding the bipartisan
10 requirements in the Constitution for the Board, and
11 we don't think that those filter down to every
12 position within the City Board anyway. For example,
13 you don't really need to have a republican and a
14 democrat voter technician. You just need a voter
15 technician that can go out into the field and
16 actually fix the machine in a timely way. We also
17 think that the Board should utilize far more
18 digitization and automation that modern companies
19 use. It's a very paper-based environment there, and
20 the staff could be reduced by employing digitization
21 and automation, and they—and the counsel and the
22 budget for the Board could be increased. You know,
23 many of the permanent staff at the Board are actually
24 not well paid relative to other agencies and we'd
25 like to see a workforce that emphasizes quality over

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2 quantity rather than having many workers who are paid
3 \$30,000 a year, which is the case for many of
4 them even while some of these positions are patronage
5 positions. Lastly, I just wanted to comment on
6 communications to inactive voters, which the Chief
7 Democracy Officer was seeking to help in sending a
8 mailer earlier this year or I should say a couple of
9 months ago. You know, while we appreciate her
10 efforts, the reality is that the Board of Elections
11 sends a communication in August regarding the
12 upcoming election, lets voters know, registered
13 voters where their poll site is, and additional
14 information about the election. In state law there
15 is only a requirement that communication go to active
16 voters. There's no requirement that goes to inactive
17 voters. I don't believe the Board sends it to
18 inactive voters. I think if the Administration
19 wanted to help, they should duplicate that mailing,
20 send it to inactive voters, say nothing about
21 changing your status, just send the information so
22 people can go vote at their appropriate poll site,
23 and then when they go and vote, and do so, they
24 become active voters. That would be most helpful we
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1
2 believe to inactive voters. Thank you and I welcome
3 any questions you may have.

4 DIANA FINCH: [off mic] Thank you. My
5 name is Diana Finch.

6 CHAIRPERSON CABRERA: Thank you. Thank
7 you, Diana.

8 DIANA FINCH: [on mic] Thank you. My
9 name is Diana Finch. I've been a high performing,
10 temporary poll workers in the Bronx for over 10
11 years, and I've never seen an election so marred by
12 shortages and poor planning. The only things we had
13 enough of on November 6th were ballots and voters.
14 We did not have enough training. The only
15 notification we had about the 2-page ballot was a
16 robocall from Executive Director Ryan the Saturday
17 beforehand advising us to view a video on the website,
18 which when I saw it, it was simple animation. The
19 news media had better demo videos of actual ballots.
20 We did not have enough workers. In the October 30th
21 Commissioner's meeting, Executive Director Ryan
22 quickly reports numbers for November 6th, 1,231 poll
23 sites, 35,556 workers just under 29 workers per site
24 enough for ours, but on the day we only had 21 or 22
25 people show up, and we had just one coordinator when

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2 for big elections are site is supposed to have two.
3 A major flaw is that while the 35,000 who passed
4 training were sent a notice to work by mail, there's
5 no requirement that we respond to say if we're coming
6 to work or not. So the Board of Elections doesn't
7 really know how many workers they'll have on any
8 election day. We've heard about not enough working
9 scanners, not enough scanner repair people, there
10 were also not enough privacy booths. Executive
11 Director Ryan announced approximately 13 per site.
12 Ours were filled completely at many times, which
13 created more long lines. Executive Director Ryan
14 cited 1,302 ballot marking devices meaning fewer than
15 100 sites had more than one. Ours was in steady use
16 by voters who can't see well or don't have great
17 reading skills for such a long, detailed ballot, but
18 it broke down by mid-day and was never repaired.
19 Some voters than had to have two poll workers from
20 our skeleton staff read the entire ballot to them.
21 There were not enough privacy sleeves, the folders
22 for voters to keep ballots in partly because there
23 were so many in use held by voters standing on line
24 to fill out their ballots and standing on line to
25 scan them. We didn't even have enough pens, and at

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2 least a third of the privacy booths lacked pens. So,
3 right away we had to give out some of our too few
4 pens. Why do folders and pens matter? They high
5 number of jammed scanners were blamed on damp
6 ballots, the heavily re-used folder meant to keep the
7 ballots dry as well as private to wet from coats and
8 umbrellas, but we couldn't set them aside because we
9 didn't have enough in the first place. Not enough
10 pens meant people digging into their wet pockets and
11 bags for their own getting everything wetter. We
12 even ran out of I Voted stickers greatly
13 disappointing many, and finally, there were not even
14 enough voter registration forms. Our entire site ran
15 out of this essential. The New York City Board of
16 Elections did anticipate the turnout as evidenced by
17 the Commissioner's discussions about how many ballots
18 to print, enough for 110 to 120% of the total
19 registered voters. So, why does the Board of
20 Elections not ask for and plan for adequate staffing
21 and supplies for New York City voters? That is the
22 question we and the Commissioners need to ask, and
23 why are none of the Commissioners here today? Thank
24 you.

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2 CHAIRPERSON CABRERA: And that is the
3 question.

4 DIANA FINCH: Yes.

5 CHAIRPERSON CABRERA: I—I really
6 appreciate your testimony and I cannot let you go
7 without asking a few questions. You mentioned Susan
8 and I'm curious with Alex. Have you—when was the
9 last time you had an opportunity to sit down with the
10 Executive Director of the New York City Board of
11 Elections?

12 SUSAN LERNER: Well, I have found that
13 that the—the staff is pretty accessible. They—but
14 there's no regular process. Other jurisdictions
15 actually have advisory councils made up of voters and
16 advocacy organizations who meet on a regular basis--
17 and that was my experience in Los Angeles County—to
18 discuss what's going right, what's going wrong, what
19 are the good ideas, what is the board thinking of and
20 to get feedback from the community. This Board lives
21 in isolation.

22 CHAIRPERSON CABRERA: Have you suggested,
23 and actually you have, but I—and what kind of
24 feedback did you get back regarding?

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2 SUSAN LERNER: That the Commissioners
3 would have to talk about it, and the Commissioners
4 are not interested in any input from anybody.

5 CHAIRPERSON CABRERA: Okay.

6 ALEX CAMARDA: So, I mean in my
7 experience I've—I've—certainly Executive Director
8 Ryan is responsive to phone calls, and then just
9 going to the meetings. I mean the Board has meetings
10 every Tuesday at 1:00 and actually, you know, very
11 open because they have to deliberate as a Board on
12 all the major policy decisions they make. So, in—in
13 a lot of ways the Board is more transparent than say
14 agency-led--agencies led by a Commissioner that don't
15 have to have that open meetings requirement. So, I
16 mean it is a very deliberative process, and you do
17 get to see how they make decision if you go to board
18 meetings routinely. So, I, you know, I've found them
19 personally to be accessible. You know, I—I think the
20 issues that occur are—are somewhat the odd construct
21 of having a bipartisan board and then also just
22 further down the lines, the junior staff, you know,
23 not being paid well, not employing modern hiring
24 techniques. The digitization and automation we spoke
25 about I think is an issue, and then just the

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2 challenges of having a temporary workforce that's
3 very large to implement on Election Day.

4 SUSAN LERNER: But what I have seen
5 unfortunately on various occasions are
6 recommendations from the staff that make a lot of
7 sense, and the commission doesn't even entertain
8 them, or just—just basically says no. Too radical,
9 too different. We never did that before. So,
10 there's a real problem at a Commissioner level that's
11 really the root of the—of I think a lot of the
12 inefficiencies that we because we have paid the staff
13 to be come election administrators. None of the
14 staff were election administrators before we hired
15 them. The management staff now has been there for
16 awhile. So, we paid them for the on-the-job
17 training. They're—they're giving the commission
18 better ideas, but the Commission doesn't care. So,
19 we've got to hold Commissioners responsible.

20 CHAIRPERSON CABRERA: Wow. I meant to
21 ask you, and then I have a question for you, Diana.
22 I'll leave the last question for you, the best
23 question. I wanted to ask you on page 4 that you
24 mentioned it says between 10 to 50%, but the next
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2 page it says 80%. Did you notice that piece? Have
3 you—

4 ALEX CAMARDA: So I think the 80% was
5 referring to storage whereas the 10 to 50 was
6 operational. I think the point is that clearly
7 humidity impacts operations, and it seemed to me that
8 both Executive Director Ryan, and then ESMS were not
9 acknowledging that as fully as they should.

10 CHAIRPERSON CABRERA: But we had—we had
11 the same level of humidity in other municipalities--

12 SUSAN LERNER: Yeah.

13 CHAIRPERSON CABRERA: --and from the
14 testimony that we have heard in our investigation it
15 seems that they didn't have the problems that we had.
16 It looks like it was perforation problem. The
17 biggest problem for me was that—that the company that
18 supply the machines warned the Board of Elections
19 that they were going to have a problem, and there
20 were steps, there was no proactive steps taken to fix
21 the problem. That's the—that for me is the biggest
22 problem that I have here because if I look at all the
23 variables, I'm always looking what's constant, the
24 one piece that looked different than any other
25 municipality was perforation.

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ALEX CAMARDA: Yeah, I think that's certainly part. It could be the primary reason for the -the ballot scanners. I mean as I was saying in my testimony, there were a number of factors cited at different times on different days before, you know, even before different bodies, and I don't believe we precisely know the primary cause. It could be the perforation ballot. I will say on the-on the humidity piece yes and that has had issues with-with similar but other machines in other jurisdictions. They did in North Carolina on Election Day. So, I think that it-that it could be more of a factor than they're-than they're indicating, and to Council Member Lander's point who is calling his poll sites a mosh pit, nobody knows the relative humidity in that particular poll site, or other poll sites where you had a lot of people in-coming out-coming in from wet weather, and the humidity I would imagine was pretty high, and I don't it was measured. So, we just don't know.

CHAIRPERSON CABRERA: I think they should have. If they knew that that was a problem, too, as well, there should have been instruction to give

1 instruction to the people who were coming to vote.

2 You know, make sure your hands are dry--

3 ALEX CAMARDA: [interposing] Right.

4 CHAIRPERSON CABRERA: -et cetera.

5 SUSAN LERNER: Right and I think. I mean
6 we've got first hand testimony that I found very
7 compelling of the lack of the-

8 CHAIRPERSON CABRERA: Right.

9 SUSAN LERNER: --shortfall in the privacy
10 sleeves contributing to the fact that the ballots
11 were actually getting wet. Forget humidity. If
12 they're wet, they're definitely going to be a
13 problem. We heard complaints throughout the day
14 where people were freaking out because the boxes in
15 the scanners were filling out--were filling up, and
16 look, you have a double ballot. So, you're going to
17 have double the number of pieces of paper in these
18 boxes, and there was great confusion about what you
19 do when they fill up, and voters were calling Common
20 Cause and the Election Protection Hotline, and asking
21 what's going to happen? Where are the ballots going
22 to go? Well, we heard from Council Member Lander
23 sometimes they ended up in paper--in plastic bags. So,
24 you know, it's a complete lack of planning, and just
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2 unable to grapple with a realist assessment of what's
3 coming at you.

4 CHAIRPERSON CABRERA: And Diana I wanted
5 to ask if you were there, you know, in--nobody could
6 speak better about the issue that took place really
7 than you because you were there. You were on the
8 front lines. You did all those long hours. Did you
9 see that many of the ballots were getting wet?

10 DIANA FINCH: Yes.

11 CHAIRPERSON CABRERA: Okay.

12 DIANA FINCH: Particularly from the
13 folders.

14 CHAIRPERSON CABRERA: It was because the
15 folders were wet?

16 DIANA FINCH: I think so.

17 CHAIRPERSON CABRERA: Okay.

18 DIANA FINCH: And the folders were wet
19 because the voters were wet, and then we couldn't put
20 away or throw away the wet folders because we didn't
21 have enough folders.

22 CHAIRPERSON CABRERA: And I'm not talking
23 about--

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DIANA FINCH: [interposing] And some people had to use their ballots without any folders at all.

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CHAIRPERSON CABRERA: Wow, and I know I'm talking about just one particular site. So, but at what time did the machines started to jam? Did--did--I mean on the scene? Did--on your site did the machines jam?

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DIANA FINCH: Yes.

CHAIRPERSON CABRERA: And what was the error?

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DIANA FINCH: And at one point we were down to just one functioning.

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CHAIRPERSON CABRERA: Oh, really. Wow. What time did they started to jam?

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DIANA FINCH: Probably around 8:00 or 9:00 in the morning.

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CHAIRPERSON CABRERA: And then there was a call that was placed I would imagine.

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DIANA FINCH: Yes, and the coordinator initially said that she couldn't even get through--

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CHAIRPERSON CABRERA: [interposing] Wow.

DIANA FINCH: --to the Board of Elections.

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CHAIRPERSON CABRERA: Okay.

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SUSAN LERNER: So, I was at a number of polling places in Brooklyn and I do feel that at least in that borough the board had deployed more technicians who were responding pretty quickly, but what we were seeing was often all of the machines would go do down. They would get a technician pretty well that the machines would be fixed, and once they went down once, it was a much higher probability that they were going to go down again. .

CHAIRPERSON CABRERA: Definitely.

SUSAN LERNER: So, we would see four machines were out. They were all fixed within two hours. One of them had gone down. That one got fixed. Another went down. So, you know, the problems were intermittent throughout the day and voters were tearing their hair out.

CHAIRPERSON CABRERA: And so, I'll close with this last question: What you would say if the Director was sitting right here to where I am, what would you like to tell him?

DIANA FINCH: I would like to tell him that he has to completely open up the whole operation and take very hard look at the number. I don't think any one is really looking at the number, and doing a

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2 professional study of what's needed, and what we need
3 to do. He ran through all the numbers that I cited
4 the week before the election. He presented them to
5 the Commissioners and the Commissioners asked no
6 questions, and they didn't even figure out so, that
7 means you have only one ballot marking device for
8 most of the poll sites across the city. What happens
9 if it breaks, and he didn't even ask any of those
10 questions. And the meeting after the election, which
11 I tried to make, but I thought I couldn't and then I
12 thought well many other people will come and testify.
13 It's not just me. No one came to testify, and the
14 Commissioners discussed the election for seven
15 minutes. That's how long that meeting was and only
16 one of the commissioners from Brooklyn said anything
17 about what had happened on Election Day.

18 CHAIRPERSON CABRERA: And think--and I'm
19 going to conclude today's hearing--I think that that
20 is really at the root of the problem. We need a
21 leadership. We need a leadership to anticipate.

22 SUSAN LERNER: For sure.

23 CHAIRPERSON CABRERA: We need a
24 leadership to hear--to hear the advice of those who
25 have been this and have been working, the non-

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2 profits, the community, the--the poll workers being at
3 for many, many years, and we are going to get to the
4 bottom of this. I know this is my first year, Susan.
5 Have a little faith with me. [laughter] I--I'm into
6 results. I'm not into the fanfare. I want to see
7 results. I want to see changes. We're going to
8 demand changes. It's going to happen. You'll see
9 some, and I'm looking forward to being able to
10 organize maybe a roundtable that we could down with
11 the director and your community has been working
12 tirelessly on in this effort. Diana, thank you for
13 being on Facebook as well.

14 DIANA FINCH: Yes.

15 CHAIRPERSON CABRERA: I know you were out
16 there--

17 DIANA FINCH: Thank you.

18 CHAIRPERSON CABRERA: --because that's
19 where people are at. That's where people are
20 listening, and the message truly went out. I want to
21 thank my co-chair, Ritchie Torres, the Speaker, all
22 of the staff that have been here literally all day
23 with me. They did a fantastic job from both
24 committees. They are truly five star staff, and with
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that, we conclude today's hearing. [gavel]

[background comments, pause]

DIANA FINCH: You know I looked up the
job opening at--

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date November 26, 2018