

SUMMARY OF TESTIMONY OF THE HONORABLE GRACIA M. HILLMAN
BEFORE THE U.S. SENATE COMMITTEE ON RULES AND ADMINISTRATION
WASHINGTON, DC, September 25, 2008

Open government and transparency facilitate accurate and timely information to voters. Informed voters add strength to the fabric of Democracy in America. The paramount question in the minds of voters today is whether or not America is ready for what promises to be unprecedented voter turnout on November 4.

Election Day readiness involves both voters and election administrators. Voters need information. Election administrators need knowledge, adequate staff and sufficient financial resources to ensure that every eligible citizen is able to register and vote, and that every vote cast is accurately recorded and counted. The Election Assistance Commission provides resources to States in the form of guidance, guidelines and suggested best practices for the implementation of Help America Vote Act requirements and general improvement to the administration of Federal elections.

Under the Help America Vote Act, we should strive for world class voting systems that perform with 100 percent accuracy and top notch security. The Act authorized the funding of grants for research on voting technology improvements but funding has not been appropriated. Such research would serve America well during this period of technological transition and transformation.

In the meantime, the Commission has put in place a voting system certification program that provides for rigorous testing of future systems. This is a first for the Federal government. Additionally, I believe the Commission needs to establish interim measures to help States meet their immediate needs with system certification.

Election officials are dedicated and diligent public servants with enormous responsibility for a very complex system of operations. Crucial to efficient Election Day operations are the 2 million people who are needed to serve as election judges and poll workers. It is important to put Election Day readiness in context with the activity that is likely to occur on November 4, 2008. During an 18-hour span of time, an estimated 125 million people will vote. They will show up at any one of 114,000 polling places in over 6,500 local jurisdictions in every State and territory. There is no other single day activity that involves that many people performing the same tasks in those many places.

Perhaps the most important opportunity provided under the Act has been the forging of partnerships among the Federal, State and local governments, the nongovernmental community representing America's various voting constituencies, academics and technical experts. Congress needs to assure America that the business of improving our process of conducting Federal elections continues until we have restored the full faith and confidence of our citizens in this important piece of Democracy in America.

I share President Mandela's observations that *"...after climbing a great hill, one only finds that there are many more hills to climb. I have taken a moment here to rest, to steal a view of the glorious vista that surrounds me, to look back on the distance I have come. But I can only rest for a moment, for with freedom come responsibilities, and I dare not linger, for my long walk is not yet ended."*

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WASHINGTON, DC

September 25, 2008

Good Afternoon Madam Chairman, Ranking Member Bennett and Members of the Committee. I am Gracia Hillman and have served as a Member of the U.S. Election Assistance Commission since December 2003. Thank you for inviting me to testify today regarding my nomination for reappointment to the Commission. It is my privilege to be here.

I am honored to have been recommended for reappointment by Speaker Pelosi and subsequently nominated by President Bush. I use this opportunity to thank the President, the Speaker and the many others who have expressed confidence in my work, abilities and integrity. During my tenure, I have followed the tenets of the Help America Vote Act and have worked to ensure full and complete implementation of the Act.

Madam Chairman, I believe in open government and transparency, especially when it results in accurate and timely information to voters. Informed voters add strength to the fabric of Democracy in America.

I will not repeat the information previously submitted in writing to this committee. Rather, I will use this opportunity to discuss today's issues in the context of progress that has been made under the Help America Vote Act.

We are on the cusp on an historic presidential election. The paramount question in the minds of voters is whether or not America is ready for what promises to be unprecedented voter turnout on November 4. That question looms large and overshadows discussion of the impressive progress that has been made under the Help America Vote Act. So, it seems to me that the most important thing I can do today is put the work of the Election Assistance Commission in perspective with the question of readiness.

Election Day readiness involves both voters and election administrators. Voters need access to readily available information about registration, identification requirements, polling locations, early and absentee voting options, sample ballots and other information that informs about voters rights. I recently developed a Readiness Check List as a useful tool for voters who want to know if their local election officials are ready for November 4. A copy of the readiness check list is attached to my testimony.

On the other side of the readiness equation, election administrators need knowledge, adequate staff and sufficient financial resources. They must be able to provide proficient services that will result in every eligible citizen being able to register and vote, and every vote that is cast being accurately recorded and counted. Since 2004, the Election Assistance Commission has developed the capacity to conduct thorough research. Through our studies, we provide the States with guidance, guidelines and suggested best practices for the implementation of Help America Vote Act requirements and general improvement to the administration of federal elections. Attached to my remarks is a list of publications and web

resources that have been produced by the Commission. These documents cover a wide range of election administration issues and provide information that can effectively improve practices.

Madam Chairman, voter registration deadlines will be soon be upon us in most States and voters need to be reminded that there is nothing fungible about these deadlines. Voters also need to be able to check to see if they are properly registered. The Help America Vote Act requires that all States “shall implement in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list.” The purpose of the requirement is to provide for an updated and accurate statewide list that is immediately accessible to local election officials.

This statewide voter registration data base system is to perform many functions, not the least of which is to provide immediately accessible information to voters who want to know if they are properly registered in their local jurisdiction.

The Election Assistance Commission has provided guidelines and best practices to States about the development, maintenance and upkeep of these lists. The National Academy of Sciences is under contract to the Election Assistance Commission to study inter- and intra-state operability of statewide voting databases. This spring, the Academy submitted an interim report that included suggestions to States for immediate actions and future improvements.

Voters in many States now have options as to how they can cast a ballot. Early and absentee voting has increased in popularity among voters in recent years. To accommodate this trend, the Commission has produced a brochure and other information on suggested best practices in absentee voting. Additionally, the Commission recently adopted a report on Alternative Voting Methods, which includes an examination of early voting trends.

The information contained in all of the Commission’s reports and brochures is designed to be useful to election administrators, voters, the media and the general public. The information is widely distributed and readily available on the Commission’s website, which now hosts more than 1,000 documents and has been visited by about 600,000 people this year alone.

The Help America Vote Act also requires the public posting on Election Day of information that will educate and inform voters about their rights. The information must include the ballot being used in the election; the date and hours of polling place operations; instructions on how to vote all types of ballots; identification requirements for those who registered by mail; and general information on voting rights covered by Federal and State laws.

To assure the effectiveness of this information, the Commission undertook a study of effective designs, which includes samples of posters, signage and ballots. Some of the materials are camera ready thus saving State and local jurisdictions thousands of dollars in design costs. Jurisdictions are also encouraged to post this information in other public areas before Election Day for the benefit of voters who will cast early or absentee ballots.

Provisional ballots are provided for in the Help America Vote Act as “fail safe” ballots. The uneven application of this provision among the 50 States has caused confusion and significant concern among voters. The Commission issued best practices on provisional voting and collects Election Day data about the casting and counting of these ballots after each Federal election. Studies of the data provide a basis from which the Commission can analyze and report to Congress on whether provisional voting is serving its intended purpose under the Act.

Madam Chairman, perhaps the most challenging aspect of voting today is voter confidence in the systems on which they will cast their ballot. Since 2000, America has been in a major transition from the punch card and lever systems of the 20th century to the optical scan and direct recording electronic systems of today. As with any other technology, a period of transition and transformation must occur to get us from then to now. In many respects we are "Navigating the Badlands," as described by Mary O'Hara-Devereaux in her book of the same name.

However, despite voting system anomalies, we should not think of ourselves as stuck in the Badlands. Rather, we should use the opportunity to push for excellence that will result in world class voting systems that perform with 100 percent accuracy and top notch security. Accuracy and security are functions of the system but their performance depends on informed human management. The Help America Vote Act authorized the funding of grants for research on voting technology improvements. Regrettably, funds have not been appropriated to support that authorization. Such research would serve America well during this period of transition and transformation.

Nonetheless, the Election Assistance Commission updated the 2002 Voting System Standards and adopted them as the 2005 Voluntary Voting System Guidelines. We knew even then that updating the 2002 Standards was not sufficient but it was the only way we could meet the 9-month deadline required by the Act. Our partner in this endeavor is the National Institute of Standards and Technology. The Institute recommended and the Commission concurred that the guidelines needed comprehensive development and updates. Consequently, the Commission is in the process of vetting and developing the next iteration of Voluntary Voting System Guidelines to provide assurance about the next generation of voting systems.

In the meantime, the Commission adopted a voting system certification program that contains all of the right components to provide rigorous testing. This is the first time that the Federal government has undertaken this regimen for voting systems. The Commission's certification program requires that all voting systems undergo and pass end-to-end testing before they can receive Federal certification. This requirement applies to systems that are in use now and those that are newly manufactured,

The testing program is sound but in my opinion the process is not complete. Some States have notified the Commission that they need to perform upgrades and fixes to their existing systems. They request Federal certification but our program does not accommodate systems that have not been certified by the Commission. These systems will be in use during future election cycles and I, for one, believe that the Commission must find a way to assist the States with their certification needs. I do not see this as an "either/or" situation. I see it as a situation of both a certification program for the long term and interim measures to help States meet their immediate needs.

Crucial to efficient Election Day operations are the 2 million people who are needed to serve as election judges and poll workers. These are individuals who work an incredibly long day to provide a valuable service to their community. I call them our Champions of Democracy. More often than not, Madam Chairman, election officials are not able to recruit the full complement of Election Day workers to fully staff the polls. This situation is further exacerbated by lack of volunteers with technical skills. To assist States in strategically overcoming this

challenge, the Commission produced guides on the recruitment, training and retention of poll workers, including college student poll workers.

In summary, Madam Chairman, I think the honest answer to the readiness question is that State and local election officials will be as prepared as they can be. Election officials are dedicated and diligent public servants who have enormous responsibility for a very complex system of operations. It is important to put Election Day readiness in context with the volume of activity that is likely to occur on November 4, 2008. During an 18-hour span of time, an estimated 125 million people will vote. They will show up at any one of 114,000 polling places in over 6,500 local jurisdictions in all 50 states, the District of Columbia, Puerto Rico and the territories. I don't know of any other single day activity that involves that many people in those many places, all depending on an army of 2 million volunteers to produce accurate and timely information.

Past predictors of registration and turnout are not likely to be accurate for this year's election. It seems that the only way to be fully ready is to plan for 100 percent turnout of all eligible voters. Anything less than that could result in ballot shortages and extremely long waits to vote, which are disruptions that voters will not tolerate very easily.

Madam Chairman, election improvement under the Help America Vote Act is a massive undertaking that involves full participation of the commission, state and local government officials, nongovernmental organizations, academics, technical experts and, of course, the voters. I sincerely hope that when Congress passed the Act, it did not mean to only start the work. Congress needs to make certain that the business of improving our process of conducting Federal elections continues until we have restored the full faith and confidence of our citizens in this important piece of Democracy in America.

My work on the Commission has been more than an extension of my career. As I noted at my 2003 confirmation hearing, this is an extension of my life's passion; a passion that I have pursued at every opportunity. The Help America Vote Act goes beyond updating voting systems and correcting problems. It provides important new opportunities for voters with disabilities. It reinforces Democracy in America and extends opportunities for renewed voter confidence in how we conduct elections.

The Help America Vote Act caresses the very heart of our Democracy and the soul of our Constitution. It was constructed to cut through partisanship and electoral politics. Perhaps the most important opportunity provided under the Act has been the forging of partnerships among the Federal, State and local governments, the nongovernmental community representing America's various voting constituencies, academics and technical experts.

When I was appointed in 2003, I found that some things weren't as I thought they would be. But for the most part I have found that some things remain the same. As Americans, we are so extraordinarily fortunate to be able to guarantee for our children and grandchildren and all future generations, the inalienable right to life, liberty and the pursuit of happiness. We do that by assuring, confirming and codifying, to a maximum degree, the right of all eligible voters to an equal opportunity to cast a vote and have that vote counted. And we do so knowing that there are many people in the world who are not so fortunate as to have the simple but precious rights to vote and have their vote counted.

The Commission is a product of a carefully balanced bipartisan and bicameral Congressional compromise. I have had the opportunity to work with six incredible people who have served as Members of the Commission during my tenure. I look forward to the opportunity to continue to work with Commissioners Davidson and Rodriguez and look forward to Ms. Beech joining the Commission. I have every confidence that we can accomplish the task at hand.

Madam Chairman, in 2003, I concluded my remarks with a quote from Nelson Mandela. As I reflect back over the past five years, I find that his prolific words ring true today. They continue to ring in the spirit of Dr. Martin Luther King, Jr., Fannie Lou Hamer, Elizabeth Cady Stanton, Caesar Chavez, Justin Dart, and the untold others who have committed their lives to make certain that every eligible voter has a full and equal opportunity to vote and to have his or her vote counted.

In particular, I share President Mandela's observations that "*...after climbing a great hill, one only finds that there are many more hills to climb. I have taken a moment here to rest, to steal a view of the glorious vista that surrounds me, to look back on the distance I have come. But I can only rest for a moment, for with freedom come responsibilities, and I dare not linger, for my long walk is not yet ended.*"

Madam Chairman, Ranking Member Bennett and Members of the Committee, I thank you for your time and am pleased to answer any questions you might have for me.



U.S. ELECTION ASSISTANCE COMMISSION
1225 New York Avenue, NW, Suite 1100
Washington, DC 20005

Readiness Checklist for November 4, 2008 Federal Elections

The U.S Election Assistance Commission (EAC) is working with State and local election officials to identify and remedy problems to ensure that all votes cast will be recorded and counted accurately and timely. Following is a list of items that can be checked and questions to be asked of local election officials prior to Election Day to assess readiness in your district.

- **Potential Problem:** Long lines at the polls that could discourage voter participation.
Likely Cause: Inefficient customer service. Shortage of voting machines, poll workers and ballots. Inefficient check-in procedure. Unresolved or difficult to resolve voter registration issues. First time use of new voting machines. Long ballots. Poll workers with insufficient information to efficiently resolve problems. Delays in arriving at a resolution.
- **Potential Problem:** Voting machine malfunctions.
Likely Cause: Human error. First time use of new voting machines. Lack of technical savvy or familiarity among poll workers with set up and operational procedures. Voter hesitancy with a new process.
- **Potential Problem:** Voter Confusion and Frustration
Likely Cause: Inability to access official information OR information overload. New laws, procedures, polling place locations. New or infrequent voters who are not familiar with the process. Long ballots. Voter information too technical rather than plain language. Numerous flyers, mailers, robo calls, etc. from many different sources, sometimes providing conflicting information. Poor customer service at the polls.
- **Potential Problem:** Unanticipated Catastrophic Event
Likely Cause: Natural Disaster or Mandate
Every State and local jurisdiction should have a written contingency plan to cover every conceivable unanticipated event that could happen on Election Day, including prolonged power outage; building fires or vehicle accidents that destroy ballots and/or equipment; severe weather on Election Day (hurricanes, tornados, snow storms); terrorist type attacks.

Readiness Check List

- ✓ Voter Registration
 - ⇒ What type of statewide voter registration data base is in place, as required by the Help America Vote Act (HAVA)? Who maintains the statewide list? What are the matching protocols to determine legitimate duplications?
 - ⇒ How do local jurisdictions access this database? How do poll workers access the data base on Election Day?
 - ⇒ How can voters find out if they are accurately registered on this list, both before and on Election Day (telephone hotlines, website portals)?
- ✓ Early or Absentee Voting
 - ⇒ Is Early or Absentee Voting offered? If so, when and where?

- ⇒ How do voters know if and when they qualify to vote by absentee ballot, especially persons who are disabled, elderly or confined due to illness?
- ⇒ When and where are the early and absentee ballots counted?

✓ Polling Places

⇒ Locations

Have all polling place sites been identified? If no, when will the selection process be completed?

How many new polling places will be used as compared to 2004? How are voters being notified about changes to polling place locations?

How can voter find out on Election Day where they are to vote?

⇒ Staffing/Poll Workers

Are there sufficient funds to have fully staffed polling places? (How many poll workers are needed to fully staff all polling places in the jurisdiction? What is the plan if the budget will not support full staffing?)

What is being done to recruit the required number of poll workers? What is the contingency plan if recruitment efforts fall short?

What is the poll worker training program? How many hours of training total will each poll worker receive? What types of manuals, handbooks, etc. do the poll workers have access to? Ask to see the materials.

⇒ Accessibility for Disabled and Elderly

Are all polling places accessible as required by federal law? If no, what alternative provisions are being made for accessibility?

⇒ Length of Time to Wait to Vote

What is a reasonable length of time that voters should expect to wait in line to vote during “peak” hours for voting? If the wait turns out to be longer than that, what is the process to identify and remedy the problem?

✓ Voting Systems

⇒ Voter Familiarity

In anticipation of high numbers of new voters, what is being done to provide pre-election voter education on the voting machine(s) to be used in the jurisdiction?

⇒ Pre-election Testing

What tests will be performed prior to Election Day for logic and accuracy? When and where? How is the public notified? (Have someone attend to observe the Logic and Accuracy Testing.)

⇒ Chain of Custody

How are the voting systems secured before and on Election Day? (Have someone visit the warehouse and receive a walk through of the chain of custody.) Does the jurisdiction send voting equipment home with poll workers the night or weekend before Election Day? If yes, what are the security protocols?

⇒ Contingency for Equipment Malfunctions

If a system malfunctions, what is the course of action to diagnose and correct the problem? Who makes that decision?

Will back up systems be deployed to polling sites if there are system malfunctions? Who makes this decision? How long will it take for a back up system to be operational at the polling site?

✓ Ballots

⇒ Was an assessment done to identify potential ballot design problems from previous elections? If yes, what has been done to rectify the issue?

⇒ Who designs the ballot?

⇒ What is the formula to determine how many paper ballots (or rolls of paper and ink cartridges for VVPAT) will be assigned to each polling location?

⇒ What is the chain of custody for ballots before and during Election Day?

✓ Provisional Ballots

⇒ What is the procedure for issuing and counting provisional ballots? What determines when and how this procedure is used? Is it determined by the State or the local jurisdiction?

⇒ How does the voter find out if his/her provisional ballot was counted? If a provisional ballot is not counted, is there an appeal process?

✓ Voter Education and Information

⇒ How will voters receive information before Election Day about polling places, voter identification requirements, sample ballots, etc.? What voter education programs will be conducted? When? Where?

⇒ How will voters be able to tell the difference between official government information and that distributed by other groups?

✓ Contingency Plans

⇒ Ask about the decision making chain of command with respect to unanticipated events on Election Day. Is there a written plan? Is it available for public review (those sections that do not compromise security of the polling place, voting systems and ballots)? How will the public be informed? What process will be followed if there is a severe Election Day disaster – i.e. Category 4 or 5 Hurricane or major earthquake the night before or on Election Day? Who has jurisdiction to determine what happens if a major population area – significant number of voters – cannot participate on Election Day November 4?



U.S. ELECTION ASSISTANCE COMMISSION
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U.S. ELECTION ASSISTANCE COMMISSION

EAC PUBLICATIONS (available in hard copies and electronically at www.eac.gov)

I. Election Management Guidelines Program

Quick Start Management Guide brochures:

- ☐ New voting systems
- ☐ Ballot preparation/printing and pre-election testing
- ☐ Voting system security
- ☐ Poll workers

- ☐ Voting system certification
- ☐ Contingency and disaster planning
- ☐ Managing change in an election office
- ☐ Polling places and vote centers
- ☐ Acceptance testing
- ☐ Absentee voting and vote by mail
- ☐ Media and public relations
- ☐ Developing an audit trail
- ☐ Uniformed and overseas citizens
- ☐ Central count optical scan ballots

Election Management Guidelines Chapters

- ☐ Voting system certification
- ☐ System security
- ☐ Physical security
- ☐ Absentee voting/vote by mail*
- ☐ Acceptance testing*
- ☐ Ballot building*
- ☐ Contingency planning and change management*
- ☐ Polling place and vote center management*
- ☐ Uniformed and overseas citizens*
- ☐ Developing an audit trail*
- ☐ Pre-election and parallel testing*

*These are currently available on the EAC's Web site only, www.eac.gov. Hard copies will be available soon.

II. Language Accessibility Program

- ☐ Spanish Glossary of Key Election Terminology
- ☐ Chinese Glossary of Key Election Terminology
- ☐ Japanese Glossary of Key Election Terminology
- ☐ Korean Glossary of Key Election Terminology
- ☐ Tagalog Glossary of Key Election Terminology
- ☐ Vietnamese Glossary of Key Election Terminology

III. EAC Research (<http://www.eac.gov/program-areas/research-resources-and-reports>)

- ☐ Successful Practices for Poll Worker Recruitment, Training, and Retention
- ☐ A Guidebook for Recruiting College Poll Workers
- ☐ Poll Worker Requirements by State
- ☐ Effective Designs for the Administration of Federal Elections

EAC WEB RESOURCES

Voter Information Center
<http://www.eac.gov/voter>

EAC Completed Research and Reports

<http://www.eac.gov/program-areas/research-resources-and-reports/completed-research-and-reports>

Best Practices for Provisional Voting and Related research

http://www.eac.gov/election/docs/provisionalvoting-october2006.pdf/attachment_download/file
<http://www.eac.gov/Freedom%20of%20Information%20Act/reading-room>

Best Practices Report on Voting by Uniformed and Overseas Citizens

<http://www.eac.gov/election/practices/uaoc>

Best Practices in Election Administration Tool Kit

<http://www.eac.gov/election/practices/bpea/bp-welcome>

Election Management Guidelines

<http://www.eac.gov/election/quick-start-management-guides>

Language Accessibility Program

<http://www.eac.gov/voter/language-accessibility-program-1>

Resources for Overseas Citizens and Military Voters

<http://www.eac.gov/voter/overseas-citizens-and-military-voters>

Becoming a Poll Worker

<http://www.eac.gov/voter/poll%20workers>

HAVA College Poll Worker Program

<http://www.eac.gov/voter/hava-college-poll-worker-program>

State Complaint Procedures

<http://www.eac.gov/voter/state-complaint-procedures>

Election Directory for Cancellation Notices

<http://www.eac.gov/election/cancellation>

EAC Advisories and Guidance

<http://www.eac.gov/election/advisories%20and%20guidance>

For additional information or to request copies of these publications, please contact the EAC at (202) 566-3100 or toll free at 1-866-747-1471, or via email at HAVAinfo@eac.gov.

GRACIA M. HILLMAN

In December 2003, Gracia Hillman was confirmed by the U.S. Senate and appointed by the President to an initial two-year term on the U.S. Election Assistance Commission. She continues to serve on the commission and works to ensure full and complete implementation of the Help America Vote Act.

Throughout her career, Commissioner Hillman has effectively handled both domestic and international issues. Her areas of expertise include nonprofit management, public policy and program development, political services, the interests and rights of women and minorities, community affairs and election related matters, including voting rights.

She has traveled extensively throughout the United States meeting with state and local government officials; national and local groups and businesses; speaking at conferences, conventions and other public forums; and conducting a variety of training and development seminars. Through her international work, Commissioner Hillman traveled in Africa, Asia, the Caribbean and Europe. She conducted nonpartisan political training in Haiti and Kenya, and participated in UN sponsored conferences in Vienna, Beijing and at the United Nations in New York.

Prior to 2003, Ms. Hillman served as President and CEO of WorldSpace Foundation, a nonprofit organization that used cutting edge digital satellite technology to deliver audio and multimedia education programs to Africa and Asia. Ms. Hillman also served the U.S. Department of State as its first Senior Coordinator for International Women's Issues where she was responsible for developing agency-wide strategies to ensure that U.S. foreign policy promoted and protected women's rights. She was the State Department's principal liaison with domestic nongovernmental organizations that are concerned with international women's rights and the role of women in development. In 1995, Ms. Hillman was a member of the official U.S. delegation to the United Nation's Fourth World Conference on Women held in Beijing.

Her work experience includes having served as Executive Director of the League of Women Voters of the U.S., the Congressional Black Caucus Foundation and the National Coalition on Black Voter Participation, which sponsored the popular nonpartisan grassroots program, Operation Big Vote. She also held positions as Executive Consultant to the Council on Foundations and Coordinator of the Voter Law Policy Project for the Joint Center for Political and Economic Studies.

Commissioner Hillman promotes open and inclusive government. Throughout the 1980's, Ms. Hillman championed many nonpartisan and bi-partisan efforts to ensure open access to the voting process for all citizens and the continued voting rights of minority Americans, including her work on the historic 25 year extension of the national Voting Rights Act. Her political experiences include paid and volunteer work on numerous local, state-wide and national campaigns, including having served as a Senior Advisor with responsibility for Congressional and constituent relations for the 1988 Dukakis for President Campaign.

Ms. Hillman began her long time commitment to public service and the nonprofit sector in 1970, when she worked for a community action program in her home state of Massachusetts. She also held management positions in Massachusetts state government. She has served on the boards and advisory committees of numerous local and national organizations concerned with public service, citizen participation and the development of public policy.