

PUBLIC HEARING
STATE OF CALIFORNIA
SECRETARY OF STATE
PROPOSED CERTIFICATION OF VOTING SYSTEMS

OFFICE OF THE SECRETARY OF STATE
1500 11TH STREET
1ST FLOOR
AUDITORIUM
SACRAMENTO, CALIFORNIA

WEDNESDAY, MARCH 1, 2006

10:07 A.M.

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CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 13061

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Mr. Michael Kanotz, Elections Counsel

Mr. Lee Kercher, Chief of Information Technology

Mr. Chris Reynolds, HAVA Coordinator

ALSO PRESENT

Ms. Ana Acton, FREED, Systems Change Network Voting Committee

Ms. Kim Alexander, California Voter Foundation

Ms. Judith Alter, Study California Ballots

Mr. Daniel Ashby, California Election Protection Network

Mr. Dale Axelrod

Mr. John Barrilleaux

Mr. Jerry Berkman, Election Reform

Ms. Judy Bertelson, Voting Rights Task Force, Wellstone Democratic Renewal Club

Ms. Ann Blake, Bill of Rights Defense Committee

Mr. Robert Bowman, TBAC

Ms. Mary Beth Brangan, California Election Protection Network

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Mr. Philip Chantri, Santa Clara County

Mr. Warren Cushman, Californians for Disability Rights

Mr. Alan Dechert, Open Voting Consortium

Mr. Lou, Didier, ES&S

Ms. Barbara Dunmore, Riverside County

Mr. Frank Egger

Mr. Chaim Finkelman

Ms. Michelle Gabriel, Voting Rights Task Force, Wellstone

Ms. Ferris Gluck

Ms. Sharon Graham

Ms. Lynn Hamilton, Town Hall Coalition

Mr. Philip Harlan

Mr. Mohamed Hassan

Ms. Sherry Healy, California Election Protection Network

Mr. Randy Hicks, California Disability Rights

Mr. Neil Kelley, Orange County

Ms. Jennifer Kidder, Machinists' Union

Mr. Dan Kysor, California Council for the Blind

Ms. Francie Lane

Ms. Diana Madoshi, Women Democrats of Placer County

Ms. Megan Matson, Mainstreet Moms

Mr. Neil McClure, Hart InterCivic, Inc.

Mr. Ted Newman, California Election Protection Network

Mr. Chris Ortiz, ES&S

Ms. Eve Roberson, California Election Protection Network

Ms. Linda Roberts, Peace and Freedom Party

Ms. Stephanie Ruseigno, Sutter County Taxpayers
Association, Citizens for Change

Ms. Michelle Shafer, Sequoia

Mr. Jim Soper

Ms. Phoebe Anne Sorgen, Voting Rights Task Force

Mr. Paul Terwilliger, Sequoia

Mr. John Tuteur, Napa County

Mr. Steve Weir, Contra Costa County

Mr. Gordon Wright, Berkeley Fellowship of Unitarian
Universalists

Mr. Kenji Yamada

Ms. Sandra Yolles, Voting Rights Task Force

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1 PROCEEDINGS

2 MODERATOR LAPSLEY: First of all I would like to
3 welcome everyone here today.

4 I am Susan Lapsley. I will be acting as the
5 moderator for today's meeting.

6 As you all may be aware, the Elections Code
7 provides that the Secretary of State is the one
8 responsible for approving voting systems for use in
9 California.

10 Secretary McPherson takes this responsibility very
11 seriously and considers all public comment being taken and
12 considers it for part of the certification process which
13 is why everyone is here today.

14 And, again, we appreciate everyone coming and
15 showing up today. Thank goodness the weather cooperated
16 with us. Yesterday it had me a little concerned that we
17 wouldn't have anyone turning out for today's public
18 hearing in the rain.

19 There are speaker cards that are available up at
20 the very top. I think most people -- the gentleman up
21 there who's from the Secretary of State's Office just
22 raised his hand. He has speaker cards. If you haven't
23 filled out speaker cards and you wish to, please fill
24 those out and return them up to Paul in the suit, up
25 there.

1 We have one person that has requested extended
2 speaking time pursuant to the agendized items. If
3 that's -- it was Mr. Scoper.

4 If there's anyone else that somehow made a request
5 and didn't get a receipt, please let them know at the
6 table up there, please.

7 As I said, we're here today to take public
8 comment. The process for today is that these -- we have
9 Secretary staff that is up here that will hear public
10 comment that's taken -- that's given. There will also be
11 reports by the vendors -- by the staff and comment by the
12 vendors that will be made part of the process today.

13 Today the Secretary staff that's present, we have,
14 starting from the far right, we have Michael Kanotz who is
15 the elections counsel for the office. We have Caren
16 Daniels-Meade who is the Elections Division chief. We
17 have Brad Clark, the assistant secretary of state for
18 elections. We have Chris Reynolds, who is our HAVA
19 coordinator. We have Lee Kercher who's our chief
20 information officer. Bruce McDannold who's interim
21 director of the Office of Voting System Technology
22 Assessment. There's a mouthful for you. He'll be
23 presenting the staff reports, and as I said, I will be
24 moderating.

25 As you may or not be aware the certification

1 process in California involves several steps. The vendor
2 must first submit an application, which includes a
3 thorough review and documentation of their system. The
4 components of the system must be complete through federal
5 testing and the system must receive federal certification,
6 which is -- for those who may not be aware of the
7 process -- that is the Federal Independent Testing
8 Authority, which we refer to as the Federal ITA and then
9 an asset number is issued by the governing body at the
10 federal level. Then they come to us for certification
11 through the state process.

12 Then extensive testing is conducted to verify the
13 conduct of the system and the content of the software.
14 There's a state certification where the software is
15 reviewed and then a volume test where the functionality of
16 the process of the systems are also reviewed.

17 A demonstration is held for election officials and
18 the accessibility community so they can review the
19 systems. That was held on February 17th, here in this
20 very same room.

21 Then the last step in this process is the public
22 hearing which, again, is why we are here today.

23 Copies of the agenda were made available on the
24 Web site, and they are also available up on the podium.
25 If anyone doesn't have a copy of the agenda and would like

1 one now, please raise your hand, and Paul or someone from
2 our staff can get you a copy.

3 Just from a housekeeping standpoint, Item Number
4 4, which is Populex, will not be heard. It's cancelled
5 today. Populex had a code change that it had to make on
6 its system, which required it to go back to the Federal
7 ITA for recertification.

8 We will be hearing first ES&S and the various
9 components of that application, then Hart InterCivic and
10 its various components of the system, and then Sequoia.

11 Again, for each vendor -- or as each system, each
12 vendor we'll first have a staff report by Mr. McDannold
13 and then we will have a brief moment for the vendor to
14 make a response, if they wish to. And then we will open
15 it up for public comment.

16 Again, we've had one person request in advance,
17 pursuant to the agenda, to make an extended comment.
18 Otherwise, those wishing to speak during the hearing will
19 be limited to two minutes. Jason right here is our time
20 keeper. Jason will hold up a 30 second notice. At that
21 time, please wrap up and make your final comments on what
22 you wish to say. And he will hold up the final "time's
23 up" and at that time, please make sure that you wrap up.

24 Any statement that is made today, if you wish to
25 speak, it is being transcribed by our court reporter. As

1 she noted to me before the hearing, she is not familiar
2 with the terminology that may be used today, so please be
3 clear in your speaking. She may need to stop you if you
4 speak too rapidly. I think OVSTA, the Office of Voting
5 System Technology Assessment is probably enough. I will
6 be very slow when I say that.

7 And we will take breaks. On the agenda, there
8 aren't breaks that are noted, but we will take breaks for
9 the bathroom and to stretch our legs.

10 There's no food or drink in the auditorium, except
11 for water.

12 Michael, is that coffee I see down there?

13 MR. KANOTZ: It's water.

14 MODERATOR LAPSLEY: To be fair, all the time
15 requested must be used by the person who has requested it.
16 People may not cede their time to another person.

17 Many people have come a long way for this hearing
18 so please -- everyone would like to have their voice
19 heard, so please be respectful. And although someone's
20 opinion may differ from your own, please treat them as you
21 want to be treated, yourself, during speaking.

22 Finally, if you decide not to give oral testimony
23 but would like to do so in writing, we will be taking
24 written testimony through March 8th, which is Wednesday, a
25 week from today, and that can be submitted via e-mail or

1 in writing via U.S. Post to our office here.

2 We will go ahead and get started with ES&S and
3 their application.

4 OVSTA INTERIM DIRECTOR McDANNOLD: Okay. Can
5 everyone hear me?

6 Good morning.

7 The first application we have under consideration
8 today is presented by Elections Systems and Software.
9 It's the Unisyn Voting Solution Election Management System
10 combined by a InkaVote Precinct Ballot Counter.

11 This is a new equipment being presented to the
12 state of California.

13 The Election Management System, the Unisyn Voting
14 Solution Election Management System Version 1.1 has been
15 presented. It's a little different than some of the
16 systems we're used to in that the Election Management
17 System isn't one big monolithic piece of software.
18 Instead, it's a suite of separate applications that can be
19 run independently, each doing a dedicated function in the
20 process of conducting an election.

21 Those components are the Ballot Generator, version
22 1.1, which is used to define an election, set the
23 parameters of an election, the precincts, the contest, the
24 candidates, and create the ballot layout.

25 Once that's done, the information is exported to a

1 second application called the Election Convertor. That is
2 also version 1.1. Then the election convertor is used to
3 add audio data to the ballot information, the ballot
4 styles, as well as to set the configuration options for
5 the Precinct Ballot Counter, the PBC, and then all that
6 information is put together and exported into a CD called
7 the election CD.

8 The election CD is then used and loaded into
9 another application called the Election Loader and, again,
10 it's version 1.1, which takes that information and it is
11 used to program the Precinct Ballot Counters, the PBCs,
12 over a closed network.

13 At the conclusion of the election the data is
14 taken from the Precinct Ballot Counters and then imported
15 or loaded back into the Election Management System, using
16 an application called Vote Convertor, version 1.1. And
17 again that moves the election data from the individual
18 Precinct Ballot Counters into the system.

19 Finally, the last application in the suite is the
20 Vote Tabulator, version 1.1, which is used to tabulate all
21 that data and then generate reports on the election
22 results.

23 As I said, this is a new application to
24 California. It's not been seen before.

25 The other half of this system is the InkaVote

1 Precinct Ballot Counter. The system -- the version that's
2 been presented is version 1.10. It is based on the
3 existing InkaVote ballot type or technology that's
4 currently being used in the County of Los Angeles.

5 Right now, the County uses those ballots that are
6 collected and then tabulated centrally. The Precinct
7 Ballot Counter is a mark-sense optical-scan reader
8 designed to be used in a precinct. It allows voters or as
9 the ballots are voted and fed into it, it provides warning
10 for over-voting and can optionally be set to also provide
11 warning for under-voting to give a voter the opportunity
12 to correct their ballot.

13 The PBC runs on a limited version of Linux for
14 security. As I said before, it's programmed over a closed
15 network from the election -- the Unison Election
16 Management System, the secure closed network.

17 The PBC is also designed to provide accessibility
18 support for blind voters. There is a device that is
19 attached to it that provides audio voting direction
20 through headphones, and then there's a small keypad with a
21 limited number of buttons that, typical of many systems,
22 gives the voter audio instruction, and then they can mark
23 their -- use the keys to navigate and select their actual
24 ballot choices.

25 There is no visual display, so it would be

1 strictly limited to an audio voting mode. Once at the
2 conclusion of voting ballot and the system presents, in
3 audio, a summary of the ballot that's chosen. If the
4 voter confirms, a slip of paper is printed out in the
5 InkaVote ballot format, and then the voter can then take
6 that ballot and insert it into the PBC to have it read and
7 tabulated as any other InkaVote ballots would be.

8 Optionally, the PBC can also be configured to be
9 used in an absentee mode for central tabulation, at which
10 point then counties would turn off the over-vote and
11 under-vote warning because voters wouldn't be able to see
12 those warnings. But it can also be used for absentee
13 tabulation.

14 Finally, at the conclusion of the election the
15 vote results are saved to a little USB thumb drive that
16 the System calls the transport media, and then taken from
17 that thumb drive, memory drive and inserted back in the
18 Election Management System through the application, I
19 mentioned earlier, called Vote Converter.

20 Part of the security of the system is the
21 operating system for the PBC is designed to check the
22 digital signature of that thumb drive, and if it's invalid
23 to shut the system down. It's one of the security
24 features of the system.

25 As to federal testing, the InkaVote -- this

1 InkaVote system -- First of all, the PBC was tested by
2 Wyle Laboratories and successfully completed that testing
3 to the 2002 voting system standards.

4 The Secretary of State's office has received a
5 draft report of that testing, dated December 20th, 2005.
6 Of course, the final version of that report will be
7 required prior to certification and should be received and
8 finalized once the system is federally qualified.

9 Cyber, the ITA Cyber Incorporated has completed
10 the source code review of the Election Management System
11 as well as functional testing of that system and then
12 end-to-end testing of the entire voting system. They have
13 completed testing as well and stipulated that the entire
14 system meets the 2002 voting system standards, and we have
15 received the draft report. Again, that report is dated
16 February 21st, 2006.

17 NASED, the National Association of State Election
18 Directors is not yet -- is in the process of reviewing
19 those reports and has not yet issued a final qualification
20 number to the system. That qualification number would
21 also be required prior to the Secretary of State's office
22 certifying the system.

23 The Secretary of State's office conducted its
24 testing of this system the week of January 3rd through
25 27th. Testing was conducted at the corporate

1 headquarters, of ILTS in Carlsbad, California. Testing
2 was done by state consultants Steve Freeman, Paul Craft as
3 well as Secretary of State staff.

4 We followed, generally, the standard testing
5 protocol. We work from trusted builds of the software,
6 verified and established a base line, conduct the standard
7 Secretary of State test primary elections and general
8 elections as well as using the recall definition of an
9 election to test capability, to read unusual markings on
10 the ballots.

11 The test protocol that we followed is included in
12 the Secretary of State staff report for testing of this
13 system, which is available on the Internet for download.

14 Some of the more significant findings from our
15 testing, in our testing the InkaVote system that was
16 presented that we received in the application did not
17 record or did not include vote recorders for marking the
18 ballots. These are standard used and helpful for a voter
19 to translate from their vote choices to the numbered
20 position on the ballot to make a mark. They were not
21 presented as part of the application, so certainly to
22 certificate the system, we're proposing certifying it
23 without any vote recorder devices. Although we did test
24 the system with vote recorder devices that were on hand
25 and available, any jurisdiction that would want to use

1 them would need to present a new application so they can
2 be certified together under the Secretary of State's
3 guidance for certification of voting systems.

4 One of the interesting things about the Precinct
5 Ballot Counter that we found in testing is that not only
6 does it read the standard-length InkaVote ballot, it also
7 reads correctly and accepts an InkaVote ballot with the
8 write-in stub attached to it.

9 But we also found that typical of InkaVote
10 ballots, they also generally include a small stub that
11 includes the ballot serial number that can be given to the
12 voter as an effective receipt for voting.

13 We found that the InkaVote Precinct Ballot Counter
14 accepted the ballots with that serial number stub attached
15 to it.

16 Unfortunately, under California election law, any
17 ballot that's received that has a unique identifying mark
18 like a serial number cannot be tabulated, so the Secretary
19 of State's office recommends that these procedures be very
20 specific to provide guidance for poll workers to ensure
21 that ballots do not get into the PBC ballot box with that
22 stub attached and recommend that in future versions, the
23 PBC be adjusted to recognize that stub and refuse the
24 ballot until it has been detached.

25 We found and noted that the serial port that is

1 used to download and configure the election information
2 does not have actually a locking mechanism over it, and
3 recommend that instead for the time being, while there is
4 a cap, that that cap be sealed with a tamper evidence seal
5 that is serialized and then at the end of the election
6 that seal be evaluated if it has been tampered with.
7 Again, procedures should address appropriately how to
8 tabulate the ballots.

9 We also noticed that there is in the prototype, so
10 to speak, that we conducted our testing with, there was a
11 capability to actually directly insert a ballot into the
12 ballot box, bypassing the ballot tabulator or the reader
13 on top. The vendor has assured us that the actual
14 production models that will be deployed will have foam
15 gaskets to prevent that from happening in a real election
16 situation.

17 Finally, we want to note that the system, the
18 Unisyn Election Management System has very limited basic
19 barebone election reporting. It provides basic
20 information. The system is not designed to customize or
21 modify any of the election reports generated by the
22 system.

23 It does, instead, provide a secure user account
24 directly into the database that is read only, which we
25 tested and verified to allow a third-party reporting

1 utility to be used to obtain the election results and
2 generate custom reports.

3 In terms of the accessibility support with the
4 InkaVote Precinct Ballot Counter, its limited modality or
5 its single modality seems to be for blind people or people
6 with visual disabilities who would need audio assistance.
7 There are no sip and puff or tackle switches that we have
8 seen in some of the other systems.

9 Generally, the reviews and the feedback we've
10 gotten on the instructions are actually fairly clear. It
11 supports multiple languages in the audio instruction mode.
12 There is a synthesized version where counties can instead
13 generate their own audio files and sound descriptions for
14 the ballot.

15 The system does not appear to readily support
16 curbside voting in the current mode as well.

17 Finally, when we did our testing, at that time,
18 the manufacturer could not supply -- did not have
19 available the full 50 units that are required for the
20 Secretary of State's protocol of a volume test. It
21 certainly, in accordance with the Secretary of State's
22 directives, the system cannot be certified until that
23 volume test has been conducted.

24 In the meantime, we did agree and conducted a
25 modified volume test on the five units that were available

1 for our testing. That volume test was conducted on
2 Friday, January 27th, again, at the ILTS headquarters in
3 Carlsbad, California. The test was conducted by State
4 Consultant Mr. Paul Craft as well as Secretary of State
5 staff. With the 5 PBCs that we had on hand, we cast over
6 2400 ballots over the course of the day on each PBC. Five
7 temp workers were hired and contracted to do the actual
8 casting of the ballots.

9 The documentation from that testing and the error
10 reports is posted on the Secretary of State's Voting
11 Systems Web site for download.

12 We logged 25 errors in the volume test. Eighteen
13 of those were attributed to human error or human mistakes.
14 The largest majority of those came from the hand marking
15 of the paper ballots and mismarking those ballots prior to
16 testing beginning.

17 We ran into three ballots that jammed at intake.
18 In each case we were able to pull the ballot out and just
19 simply reinsert it and it was accepted.

20 We had one jam that required that we disassemble
21 the unit, and when we did to clear it, we found that one
22 of the workers, the hired voters, had been eating a
23 doughnut and part of his doughnut had fallen inside the
24 machine.

25 We had one ballot that was rejected for no

1 apparent reason. The message just simply said "invalid
2 ballot" again. It was reinserted with a different
3 orientation and, again, successfully accepted.

4 We had one incident where the memory module had
5 come out of the PBC, that the first two attempts we tried
6 to read it back into the Election Management System, it
7 was refused, and the third time we were successful.

8 Finally, we had one incident that when we came to
9 test voting with the testers using the audio interface and
10 casting the ballots, the keyboard did not work
11 incorrectly -- or did not work correctly. With the vendor
12 research that we identified that it was the original
13 prototype -- serial number was 0001 of the keyboard -- and
14 that keyboard had originally been designed to give off a
15 different key code for one of the keys that had been
16 abandoned in all the successive keyboards. It used a
17 different code. We swapped it out to a keyboard with the
18 correct configuration, and the machine operated correctly.

19 Finally, I should point out that due to the nature
20 of the InkaVote ballots, we are still in the process of
21 reconciling the reports and the vote results from that
22 test.

23 Of those we have gone through, and the divergences
24 from the expected baseline of the vote results, all the
25 errors that we have reconciled so far have been attributed

1 again to mismarkings of the test stack and the test
2 ballot, not to any problem with the actual ability of the
3 system to tabulate results.

4 As I mentioned before, in accordance with
5 Secretary of State directive, the system cannot be
6 certified until a full volume test has been run in
7 accordance with the established Secretary of State
8 protocols for volume test.

9 Finally, the Office of Voting Systems Technology
10 Assessment recommends certification of this system if at
11 the time that that testing is completed successfully.
12 That recommendation is with the standard conditions in
13 place as well as use procedures that address the points
14 found in the testing and identified in the staff report.

15 Finally, we would like to note one more time that
16 if a jurisdiction wants to use the vote recorders with the
17 system, that would require a separate application to be
18 combined with the system.

19 Thank you.

20 MODERATOR LAPSLEY: Thank you, Bruce.

21 Now, I'm not sure if anyone from ES&S wishes to do
22 any sort of response or a quick reply.

23 I don't see anyone. I'm not sure.

24 If there are not --

25 MR. DIDIER: Excuse me.

1 We'll be available for questions.

2 CHAIRPERSON McDANNOLD: You're going to be
3 available?

4 MR. DIDIER: Yes.

5 MODERATOR LAPSLEY: Okay.

6 If there's anyone that has questions for -- I'm
7 sorry. I can't see from here.

8 Who do we have present?

9 MR. DIDIER: Lou Didier with ES&S.

10 MR. ORTIZ: And Chris Ortiz.

11 MODERATOR LAPSLEY: Thank you.

12 If there's anyone that has any questions -- You
13 guys are available for the panel.

14 No questions?

15 INFORMATION TECHNOLOGY CHIEF KERCHER: I have a
16 question for Bruce.

17 MODERATOR LAPSLEY: Okay.

18 INFORMATION TECHNOLOGY CHIEF KERCHER: Bruce, the
19 staff reports indicates that there was several incidents
20 during its testing where that the information could not be
21 recovered from the transport media coming from the PBC
22 device that indicated that there was a purge process that
23 needed to be run and had not been certified.

24 I wanted to clarify that in this circumstance, is
25 the information intact on the PBC?

1 OVSTA INTERIM DIRECTOR McDANNOLD: I believe it
2 is, but I would defer to the manufacturer that's here.

3 MR. DIDIER: Good morning. Lou Didier.

4 On that, it's basically redundant, so yes, it does
5 recognize back. It holds it in.

6 INFORMATION TECHNOLOGY CHIEF KERCHER: So if it's
7 not recovery off the transport media, the data is not
8 lost?

9 MR. DIDIER: Correct. We can go back and recover
10 it.

11 INFORMATION TECHNOLOGY CHIEF KERCHER: Okay.

12 MODERATOR LAPSLEY: Are there any other questions
13 from the panel?

14 ASSISTANT SECRETARY OF STATE FOR ELECTIONS CLARK:
15 Yes, I have one question.

16 I just had a question, not for ES&S, but for
17 Bruce. On the volume testing --

18 MODERATOR LAPSLEY: Don't hold the mike --

19 I apologize to everyone. We have a new microphone
20 system that is brand new to this room, so this is the
21 first time that everybody here has used it.

22 ASSISTANT SECRETARY OF STATE FOR ELECTIONS CLARK:
23 I just had a question on the volume testing. Have the
24 plans been put in place yet to do the volume testing on
25 this system?

1 OVSTA INTERIM DIRECTOR McDANNOLD: The plans have
2 not been formalized at this point. We have recently been
3 notified by the vendor that they don't anticipate a comply
4 of the equipment being -- sufficient equipment being
5 available until the beginning of April.

6 MODERATOR LAPSLEY: Any additional questions?

7 None being seen, we will now go ahead and open it
8 up to public comment.

9 I apologize if I mispronounce names or can't read
10 the handwriting. Please help me through the process.

11 Start with the easiest one. Ted Newman. Mr.
12 Newman, please step right down here, please.

13 Because it's a long walk, the next person I have
14 is a Jennifer Kidder and then after that, Eve Roberson.

15 MR. NEWMAN: Good morning. My name is Ted Newman.
16 I'm from Mill Valley. And I'm a member of California
17 Election Protection Network.

18 As a layperson, I just have done a little review
19 of these reports from Mr. Freeman and the staff.

20 And let me back up by saying, I want to thank this
21 group of people and the people in other rooms for all
22 their work on this.

23 I think that what the United States is facing is a
24 monumental task and some of us knew six months ago, eight
25 months ago, that we wouldn't make the HAVA deadlines, and

1 I'm a betting man that we're not going to make them.

2 So that said, we have very complex systems here,
3 and what I find interesting is that the State of
4 California is racing the federal government for
5 certification of all of these systems. But right here,
6 the one from ES&S, I think that my understanding is that
7 it is in violation of the standards from NASED, that you
8 have to get approval from NASED, that you have to get
9 approval before you can go out and certify. And I think
10 you're taking a bet as well that you're going to get that
11 from NASED before you actually certify.

12 It will be interesting to see how that turns out.

13 I lastly wanted to note that in Mr. Freeman's
14 report here, for instance, his references, none of these
15 systems have been certified by NASED, so I don't see them
16 as being particularly valid references.

17 I see pending here -- He talks about all kinds of
18 problems with the system. And so obviously they are all
19 going to have to be addressed before this can be
20 certified.

21 And I guess I'm just sort of wondering why we're
22 having this hearing today when it doesn't seem like the
23 system is ready. I wish all of this lots of luck.

24 Thank you.

25 (Applause.)

1 MODERATOR LAPSLEY: Thank you, Mr. Newman, for
2 your comments.

3 Ms. Kidder.

4 MS. KIDDER: Before my time begins, I don't know
5 if I can -- I had my hand up to ask a question. Can I ask
6 the question and have it answered and then also take my
7 public comment to this? Is that possible?

8 MODERATOR LAPSLEY: The format of the hearing is
9 to provide public comment. If you have a question that
10 you want to submit in writing after the hearing, please do
11 so.

12 MS. KIDDER: Even though I had my hand up, two
13 seconds -- you know, like two minutes ago I had my hand
14 up. And I can't ask it now?

15 MODERATOR LAPSLEY: It would be for -- The
16 questions were for the panel members to ask the vendors
17 that were here.

18 MS. KIDDER: Oh, I see. We weren't allowed to ask
19 the vendors.

20 MODERATOR LAPSLEY: Feel free to make it part of
21 your comments and we can provide answers afterwards.
22 Okay?

23 MS. KIDDER: I won't do that. I'm able to do
24 that, but okay.

25 What I had to say is -- My name is Jennifer

1 Kidder, and I'm not here representing on organization.

2 I'm working for the Machinists' Union right now.

3 And I am working on a picket line, trying to
4 support some strikers and what the new owners basically
5 have as an excuse to tell us for taking the job security
6 and the retirement security away from those workers.
7 "It's the wave of the future." And I hear that about
8 computerized everything, primarily voting machines where
9 it seems to be the only argument to pushing computerized
10 for-profit, private, corporate, and secret ownership of --
11 not secret ownership, but ownership and secret operations
12 of our most fundamental right in our democracy, our entire
13 election systems, which should be the most open and
14 publicly owned, in my opinion, thing that we have in our
15 society.

16 And all I'm hearing is that is the wave of the
17 future and, you know, in Germany in the '30s, I'm sure
18 that was the argument also at that time. The wave of the
19 future was the Nazi party. It certainly was. I mean,
20 that was the winning ticket, if you wanted to jump on the
21 bandwagon, but I don't. I think it is more important to
22 look at the morals and what is important about a
23 situation.

24 And in terms of the reports about ES&S, in
25 particular, I can't help thinking, you know, if 18 ballots

1 were mismarked by people, maybe they were butterfly
2 complicated. I don't see why the public should be
3 punished for their inability to understand some voting
4 system.

5 Reading tests were outlawed in the south for
6 punishing would-be voters or trying to prevent voters,
7 have them pass some intelligence test in order to vote.

8 People should not have to be computer whizzes to
9 vote, and they shouldn't have to deal with operations that
10 are more complicated than they understand. I have a
11 degree in physics, so I know how complicated computers can
12 be, but people shouldn't have to understand all about
13 computers in order to vote.

14 MODERATOR LAPSLEY: Thank you. Can you please
15 wrap up?

16 MS. KIDDER: I can't recognize what I was saying.

17 All I want to say is that there is a very viable
18 alternative. It doesn't matter whether it's backwards or
19 forwards in time.

20 It is paper ballots, hand-counted, publicly owned
21 by civil service by the public, in the view of the public,
22 and I trust human beings more than I trust any machine,
23 especially a machine that can be programmed by a few human
24 beings that can then control many, many computers.

25 MODERATOR LAPSLEY: Thank you, Ms. Kidder.

1 Appreciate your comments.

2 (Applause.)

3 MODERATOR LAPSLEY: Ms. Roberson is next.

4 After that, Mohamed Hassan will be next. And I'm
5 having difficulty reading the handwriting. Chaim
6 Finkelman. I apologize.

7 MS. ROBERSON: Madam moderator and members of the
8 board, I'm Eve Roberson and I live in Santa Rosa,
9 California. I'm a former California election
10 administrator and I'm a member of CEPN. And I believe in
11 the importance of integrity in elections.

12 And I stand before you today with very serious
13 concerns about the integrity of the future elections in
14 California.

15 The recent actions of Secretary of State McPherson
16 in certifying Diebold election voting machines was a
17 betrayal of election integrity and raises numerous red
18 flags.

19 (Applause.)

20 MODERATOR LAPSLEY: Please hold your clapping.
21 The stenographer cannot take the speaking, so please make
22 sure that we hold those till the end, if you wish to clap.

23 MS. ROBERSON: The Secretary of State
24 certification of Diebold does not comply with state law,
25 and he has broken his December commitment to Californians

1 that he would wait for the federal review in testing
2 process completion, before certificating the Diebold
3 equipment.

4 The Secretary's own internal review team found
5 Diebold to be riddled with bugs and susceptible to
6 tampering. For the Secretary to receive such a critical
7 report and still certify the Diebold machines makes voters
8 makes more fearful than ever of the integrity of our
9 elections.

10 I urge the Secretary of State to reverse his
11 certification of Diebold voting machines for use in
12 California.

13 MODERATOR LAPSLEY: Can I interrupt right here.
14 Again, the items that were agendized --

15 MS. ROBERSON: This is germane. I'm getting to
16 the point, please.

17 MODERATOR LAPSLEY: Okay. Thank you.

18 MS. ROBERSON: And it is a violation of Elections
19 Code Section 19250(a) which prevents the Secretary of
20 State from approving the use of any direct recording
21 device voting system unless it has been certified by the
22 feds.

23 It also violates Election Code Section 19251(a),
24 as all DRE voting systems have to come with an accessible
25 voter-verified paper audit trail. They must provide an

1 audible, read back of the paper trail for visually
2 impaired voters. Diebold does not comply with these laws
3 and cannot legally be certified for use in California for
4 these reasons.

5 The haste with which the Secretary certified
6 Diebold and the lack of public notice raise even more red
7 flags.

8 MODERATOR LAPSLEY: Ms. Roberson, the items that
9 are agendized today are ES&S, are InterCivic, and Sequoia.

10 MS. ROBERSON: Finally, why was not the Diebold
11 machine considered in this public hearing today along with
12 other electronic voting machines? That's my question.

13 MODERATOR LAPSLEY: Thank you, Ms. Roberson.
14 Thank you.

15 MS. ROBERSON: And in closing, I urge the
16 Secretary, through this board, to reverse his
17 recertification of Diebold electronic voting machines for
18 California.

19 (Applause.)

20 MODERATOR LAPSLEY: The next person that we have
21 is Mohamed Hassan.

22 MR. HASSAN: Hello. My name is Mohamed Hassan,
23 and I am not quite a layperson. Until two years ago, I
24 was a member of the faculty of electrical engineering at
25 California State University in Sacramento where I taught

1 CMOS design, and before that I worked in the semiconductor
2 industry for 20 years.

3 I am legally blind. However, I must express my
4 feelings about these proposals about these machines that
5 are supposed to help the disabled.

6 I don't feel comfortable at all and I have no -- I
7 have no trust in them because from what I heard today, I
8 heard about testing, but I didn't hear about random
9 verification, the possibility of random verification of
10 the results, and in case of recount. I didn't hear
11 anything about this. How can we verify this?

12 Until this is done, then I have no trust in them.
13 I feel more comfortable with the usual paper, paper,
14 verifiable trails that we are used to.

15 MODERATOR LAPSLEY: Mr. Hassan, you have 30
16 seconds left.

17 MR. HASSAN: Thank you.

18 And therefore, at this point and until this is
19 done, I think we're better off with the usual system,
20 because what we are presented with is not verifiable, and
21 I say this -- and I say this and I will not be intimidated
22 by this talk about technology and being helpful to the
23 disabled. That is nonsensical. That is not helpful at
24 all.

25 It's like, remember, 20 years ago when garbage in,

1 garbage out is computer, it is now clean in, garbage out.

2 MODERATOR LAPSLEY: Your time is up, Mr. Hassan.

3 MR. HASSAN: Thank you very much.

4 (Applause.)

5 MR. FINKELMAN: Hello. My name is Chaim

6 Finkelman.

7 MODERATOR LAPSLEY: Can you please spell your last
8 name?

9 MR. FINKELMAN: Yes. F-I-N-K-E-L-M-A-N. First
10 name Chaim, C-H-A-I-M.

11 And I am representing a citizen. I do not come
12 from an organization.

13 And I'm coming to this fairly late.

14 I have watched from a distance this process and
15 gotten more and more scared. And every time I go to
16 vote -- unfortunately, I vote in Alameda County where we
17 have Diebold machines, so I don't get to talk directly to
18 the machines that I vote on. Every time I go, I get more
19 and more scared.

20 I'm not satisfied with the little silver
21 anti-tamper sticker on the serial port, because last time
22 I voted, we had a special election. So I got to see two
23 polling places that were combined.

24 And on Diebold machines, we have two little
25 keys -- actual cover keys that cover panels, one of which

1 had the little silver sticker. And I thought, well, maybe
2 one of these only really matters. And then I looked over
3 at the other polling place which was across the room, and
4 they had the other keyhole covered by the little
5 tamper-proof sticker.

6 One of these keys is not visible to the poll
7 workers when I am voting. I asked the poll worker about
8 this, and they said the regulation said that the keys
9 should be covered by the sticker, so they watched the
10 manufacturer cover a keyhole with a sticker.

11 If we can not get the procedures down right, if
12 the poll workers have to ask me if I've tampered with an
13 election when I bring up issues, I get a little worried.

14 (Laughter.)

15 And the official ballot has to be the paper
16 ballot, because ones and zeros can't be overseen.

17 Thank you.

18 (Applause.)

19 MODERATOR LAPSLEY: Next we have Warren Cushman
20 and after Mr. Cushman is Randy Hicks and then after that,
21 Alan Dechert.

22 Mr. Cushman, we also have a handheld one, if you
23 prefer.

24 MR. CUSHMAN: Sorry?

25 MODERATOR LAPSLEY: We also have a handheld one.

1 MR. CUSHMAN: Good morning. My name is Warren
2 Cushman, and I am here to speak -- actually to tell a
3 story.

4 A couple of years ago my wife and I went to the
5 Arden Fair Mall and we enjoyed a nice lunch and then we
6 went over to a booth and we were able to go inside the
7 booth, and we were able to choose an assemblyman. We were
8 able to choose a county board of supervisor. We were able
9 to choose a school board member, by ourselves, without any
10 assistance from my grandmother or her mother.

11 Both of us had been used to voting with the aid of
12 a sighted person, ever since we were 18 years old. Now
13 there is a possibility and a chance to vote on our own.

14 Right now, there are three blind people living in
15 my house. There is no sighted assistance.

16 The only way that we can vote is by the choice of
17 voting by ourselves. And that choice has not been
18 available to us in the past.

19 Now there is an option. There is a possibility
20 for me to vote by myself. That option, that possibility
21 is very important to the blind community.

22 I am here to say to the vendors that these
23 machines need to be tested and all of the vendors that are
24 here today --

25 MODERATOR LAPSLEY: You have 30 seconds left, Mr.

1 Cushman.

2 MR. CUSHMAN: -- and all of the vendors that are
3 not here today need to speak with blind individuals and
4 interact with blind individuals so that we can test these
5 machines.

6 And I want to say -- I may be back later -- that
7 other issues including security and verifiable ballot
8 issues are important, but just as important, equally
9 important, is the right for me to vote by myself.

10 Thank you.

11 (Applause.)

12 MODERATOR LAPSLEY: Thank you.

13 MR. HICKS: I'm Randy Hicks from the California
14 Disability Rights, and Warren spoke eloquently for our
15 organization.

16 We also have an issue about the fact that you said
17 there's no other accessibility features except for vision
18 impaired. We also represent people who have developmental
19 disabilities, and a lot of them vote absentee so they send
20 their paper ballot in and they don't know where it goes.
21 Sure, they say we drop it in a box and there it is.

22 I had one question to ask about the ES&S system.
23 Somebody said that there was no cap, there is no safety
24 cap.

25 Is there somebody who represents ES&S could answer

1 that question? How are they going to fix that to make
2 sure these ballots stay secure? That anybody just can't
3 get in there and get them?

4 And is there also, as Linda told me, that ES&S do
5 their own counting. They don't even have a county
6 registrar office count the ballots.

7 So these are some of the questions I have, we've
8 been having in Sacramento County for about a year now. So
9 I would like to know that.

10 I'm concerned about security, accessibility, and
11 accountability. And that's what we need.

12 That's it.

13 MODERATOR LAPSLEY: Thank you, Mr. Hicks. And I'm
14 sure if you address your questions to the gentleman from
15 ES&S, he would be able to answer those after the hearing.

16 Next we have Alan Dechert. And I apologize if I
17 mispronounce your name.

18 MR. DECHERT: You got it.

19 MODERATOR LAPSLEY: D-E-C-H-E-R-T.

20 MR. DECHERT: Yes. I'm Alan Dechert. I'm the
21 president of the Open Voting Consortium.

22 I want to commend one thing I heard and that is
23 that ES&S is starting to use Linux in their operating
24 system. And that's a step in the right direction toward
25 transparent software in elections.

1 As you know, our organization sponsored a bill
2 that asked the Secretary of State to look into using open
3 source software, not only for the operating system, but
4 the voting-specific software as well. And we got that
5 report a little bit late, and I thank you for helping to
6 produce that. It was a little bit skimpy and
7 noncommittal, but it's something to start with.

8 I want to quote one thing from your report here.
9 You're quoting Dr. Michael Shamus, co-director of the
10 Institute for eCommerce and director of the Center for
11 Privacy Technology at Carnegie Mellon University.

12 And he stated in this part of your -- that you
13 captured in the report that "all voting system software
14 should be disclosed to the public."

15 Of course we endorse that. And we appreciate your
16 reports today, but we would like the opportunity to view
17 the data, ourselves. And in fact, all the details, we
18 feel, including the source code for these systems, should
19 be publicly disclosed, as Dr. Shamus suggests.

20 To that end, we are sponsoring a bill this year,
21 AB 2097, that would require that vendors disclose all of
22 their -- all of the details of their systems including the
23 source code, and the Secretary of State would issue a
24 downloadable disclosure package that would be available to
25 anyone by via the Internet. And we have a lot of

1 scientific and engineering expertise to apply to this, and
2 I think it would be helpful not only to the public to gain
3 confidence in the system, but also would assist you in
4 your work and making sure that these systems really have
5 been thoroughly tested.

6 So I'm sure that Secretary McPherson will be on
7 board with AB 2097.

8 Thank you very much.

9 (Applause.)

10 MODERATOR LAPSLEY: Thank you.

11 Next, the next speaker will be Mr. Dan Kysor.

12 MR. KYSOR: Good morning, Committee. My name is
13 Dan Kysor. I'm governmental affairs director for the
14 California Council of the Blind and have been involved in
15 the accessibility issue now since Bill Jones took office,
16 and I was on the original Voting Standards and Practices
17 Equipment subcommittee.

18 First off, I'm just here to talk about the
19 accessibility of these three machines and not into
20 anything else.

21 We really like the InkaVote system. The person
22 who had the system in their hotel room programmed in the
23 voice instructions so low that we could hardly hear them,
24 so I hope there's some standardization on the voice
25 recording.

1 Mr. Didier, that would be a good thing, so we
2 could actually hear the ballot.

3 And I think the one thing that is true for all
4 three machines is that the sampling rate does need to be
5 higher on the main menu in that the front-end instructions
6 on how to use the machine -- not even talking about the
7 ballot part, because the ballot part instructions are
8 supposed to be up to the counties, at least that's what
9 all three companies are telling me. But the machine part
10 of the instruction on the machine needs to be better on
11 all of these three machines.

12 You have to figure, I just took a bunch of
13 Sudafed, my mind is not operating correctly, so therefore,
14 I got to design these instructions accordingly so that
15 everybody can understand these -- how to operate these
16 machines.

17 MODERATOR LAPSLEY: You have 30 seconds, Mr.
18 Kysor.

19 MR. KYSOR: The California Council of the Blind is
20 in strong support of accessibility. We would like to
21 thank these companies for their hard work and all of the
22 things that have happened to them so far and the Secretary
23 of State coming in late and having to, you know, adjust
24 accordingly. And it's not easy for anybody.

25 So thanks for giving us an accessible vote.

1 MODERATOR LAPSLEY: Mr. Egger.

2 MR. EGGER: Yes. Thank you. Good morning.

3 I'm Frank Egger, a former seven-time mayor and
4 ten-term city council member from Fairfax and Marin
5 County.

6 We are less than 100 days from the June primary.
7 A number of contested elections ballot measures, we'll be
8 voting on.

9 You've advised us that complete testing for the
10 ES&S cannot be accomplished before mid April, six weeks
11 before the election, at best. To think that this system
12 can even be considered is beyond comprehension.

13 California voters should not be forced into this
14 rush to judgment to find some kind of a machine to meet
15 some standards that aren't going to prove worthy of the
16 voters of the California.

17 Thank you.

18 (Applause.)

19 MODERATOR LAPSLEY: Thank you. Next is Jerry
20 Berkman. After Mr. Berkman we have Linda Roberts and
21 Daniel Ashby.

22 MR. BERKMAN: Hi. I'm Jerry Berkman from
23 Berkeley.

24 I would like to see the process opened up a little
25 more. If Bill Woods stated at the senate committee about

1 a month ago that people -- the public could witness the
2 state testing.

3 And also I see no reason why the public could not
4 witness the volume testing or be invited to the open
5 house.

6 I don't think you get hundreds of thousands of
7 people actually attending, but I see no reason why the
8 public cannot attend any of those three events, especially
9 if Bill Woods said the public could attend the State
10 testing.

11 I asked, a little late, but I asked if I could
12 attend those events and I never got a response. I sent in
13 some e-mail, and I may have missed some, and I was late
14 but I never got a response that I was late or it was done
15 or anything like that.

16 Okay. I would also like to thank the staff, and
17 the reports are very interesting. In some sense you find
18 all these weird things, and we come up here and say, why
19 do we certify for these?

20 And that's all for now.

21 MODERATOR LAPSLEY: Thanks, Mr. Berkman. Next we
22 have Linda Roberts.

23 MS. ROBERTS: I'm Linda Roberts. I'm in the Peace
24 and Freedom Party here in Sacramento.

25 You have a flood review system. I e-mailed your

1 Web page protesting the Diebold certification, and it came
2 back to me.

3 I attend a lot of these public hearings and I sign
4 in, and when I go to other state agencies to go to a
5 hearing, when they have the next hearing, they notify me,
6 because they've looked at the sign-in sheet.

7 You guys don't do that.

8 I have a concern that the ES&S owner is closely
9 related, I guess, brothers with the Diebold owner. It
10 doesn't seem like real competition. It sounds like
11 pretend competition.

12 I've heard complaint from one of the other
13 counties that when the ballots from the county were
14 entered in ES&S system, that the staff that worked for
15 ES&S system, that the staff that worked for ES&S counted
16 the ballots and didn't allow the registrar staff to have
17 anything to do with it, and that is not appropriate.

18 The disabled folks like myself have a right to
19 independently vote with a fully accessible system. An
20 audio system won't help my disability, so you need to have
21 a system that helps those of us with hand disabilities.

22 I liked when the ES&S system that allowed the live
23 voters to check the paper ballot that they had previously
24 voted on or that someone else had voted for them. I think
25 that's very helpful.

1 However, I want security for my vote. I want to
2 know that my vote will be counted and not flipped, as what
3 happened in Ohio, and that a paper ballot will be
4 available for recounts, and I don't want the paper ballot
5 or the counting materials, whatever, be considered
6 proprietary. I don't want to hear that ever again.
7 That's not appropriate. It belongs to us.

8 Thank you.

9 (Applause.)

10 MODERATOR LAPSLEY: Next, Mr. Ashby.

11 MR. ASHBY: My name is Dan Ashby and I'm a
12 volunteer for the California Election Protection Network.

13 And what I want to bring attention to everyone,
14 again, is that the premise of these hearings is flawed
15 from beginning in that none of the systems up for hearing
16 today have actually received a NASED qualification number.
17 That means that they have not passed their federal testing
18 yet, even though the State is telling us that they have
19 passed their testing. That's not the way it works. And
20 anyone who wishes to confirm this can read the EAC
21 guidelines and the State's own procedures.

22 I'm reading from overview of the California Voting
23 System Certification, the document on the Web site. It
24 says about applying it to submit your system for review,
25 it says, "Application is reviewed for completeness.

1 Examples: has all required material been submitted, has
2 federal testing been completed, etc. Note: certification
3 evaluation is contingent upon vendor's completed
4 application."

5 What this means is, the State's not allowed to
6 even begin a certification program, any state exam, any
7 hearings, certainly not contracts, certainly not purchase,
8 certainly not deployment of systems until they have
9 received a NASED certification number.

10 I contacted the secretary of the EAC, which is the
11 person who refers all inquiries about NASED qualification
12 standards, two days ago, and asked him, "Is the table of
13 qualified systems displayed at the NASED Web site complete
14 and correct and up to date?" And he said, "Yes." And I
15 said, "Are you aware that California is claiming the
16 systems that are up for review have received NASED
17 qualification, they are certified?" And he said, "No, I
18 wasn't aware of that."

19 The chart is available, if anyone wants to look it
20 up, by searching the Internet for NASED, N-A-S-E-D. This
21 is the semi-official body that is in charge of
22 administering the federal testing program. They are the
23 people who decide what labs will be testing the software.
24 It's been the same handful of labs for the last 15 years.

25 MODERATOR LAPSLEY: Thank you, Mr. Ashby.

1 MR. ASHBY: Okay. I will continue my comments
2 later.

3 I do need to add, we are supposed to be reviewing
4 election system software, Unisyn Voting Solution Election
5 Management System version 1.1, InkaVote Precinct Ballot
6 Counter version 1.10. These simply do not appear at the
7 NASED chart. They are not there.

8 (Applause.)

9 MODERATOR LAPSLEY: Thank you.

10 MR. WEIR: Steve Weir, Registrar of Voters for
11 Contra Costa County.

12 Thank you for the hearing. Let me just say, I've
13 heard a few things today that merit being answered. I
14 have an ES&S system, certainly not this one, but one
15 that's State certified, federally qualified.

16 Nobody counts my ballots but me. And I want to
17 say that that's true for every registrar that I know.

18 I took the time to come up here a couple of weeks
19 ago and look at what is the InkaVote Plus system,
20 paper-based system, certainly an interim system, not a
21 system that's going to address every issue, but it does
22 what it says it's going to do. And I wanted to underscore
23 that point.

24 And while I was here, I was able to talk to David
25 Jefferson, and he's a gentleman who's eminently qualified

1 to speak for himself, but he indicated to me how impressed
2 he was with the security in the InkaVote Plus system. And
3 so I think that you now have a system that's pending NASED
4 certification, will not be State certified until it gets
5 its NASED number. You have a system that's paper-based.
6 You have a system that does what it says it's going to do,
7 no more and no less. And you have a system that has
8 strong security associated with it.

9 Registrars are 97 days away, as are all voters,
10 from a federal election. We're 37 days away from overseas
11 and military voting, and we're 68 days away from absentee
12 voting.

13 I would agree with previous speakers that say the
14 time is tight. But we don't get to call this election
15 off. It's imperative that you certify this system and
16 these systems as soon as they get their NASED number.

17 MODERATOR LAPSLEY: Thank you, Mr. Weir.

18 Next we have Phoebe Anne Sorgen, it looks like,
19 and Philip Harlan and Kim Alexander after that.

20 MS. SORGEN: Hello. I'm Phoebe Anne Sorgen. I'm
21 vice chair of Reclaim Democracy, Bay Area,
22 reclaimdemocracy.org.

23 Trustworthy elections are fundamental to
24 democracy. More and more U.S. citizens have lost faith in
25 our electoral system, have given up on it.

1 It is your sacred duty to restore trust in the
2 system and to uphold democracy, and I thank you for
3 holding this hearing today.

4 I stand here against secret, proprietary,
5 corporate election fraudware that is pouring into our
6 state.

7 Diebold, of course, is not the only problem, but
8 because they are all very similar, these systems that are
9 hackable, and it's hackable in an undetectable manner.

10 Diebold is known to have contributed large amounts
11 of money to at least two disability groups who then sent
12 representatives to hearings to testify.

13 Now, everybody wants accessibility, of course.
14 Nobody can be against that, but we also want
15 accountability and security for all of our votes.

16 So I urge you not to certify these systems. It's
17 just not reasonable to expect that testing for ES&S won't
18 be completed until six weeks before elections.

19 We have a system that works, which is paper
20 ballots. We can have an all-mail election and still have
21 the machines -- unfortunately, hackable machines -- but
22 still have those for accessibility. But why do we all
23 have to be subjected to hackable machines?

24 So --

25 MODERATOR LAPSLEY: Thank you, Ms. Sorgen.

1 MS. SORGEN: -- ES&S, Hart, and Sequoia all
2 violate Election Code 250(a), as does Diebold.

3 MODERATOR LAPSLEY: Thank you. Just to clarify,
4 your last name is S-O-R-G-E-N?

5 MS. SORGEN: That's correct.

6 MODERATOR LAPSLEY: Okay. Thanks.

7 (Applause.)

8 MODERATOR LAPSLEY: Next we have Philip Harlan.
9 Kim Alexander is next, and then, finally, Ana
10 Acton.

11 MR. HARLAN: I have a guide, and I walk up here
12 myself.

13 My name is Philip Harlan, and I live in
14 Healdsburg, California, and I do not represent a
15 disability organization.

16 I live in a wonderful country where disabled
17 people like me can get a check, can get subsidized
18 housing. I can have a car pick me up at my home and drive
19 me to the bowling place. I can ask the driver to help me
20 mark my ballot if I need to, but I don't need to because I
21 tested the machine a few weeks ago in Sonoma County.

22 I tested three, actually, and one of them I
23 actually got a ballot, put it in my hand, put it in the
24 machine, and marked it.

25 Now, I'm pretty good with the computer. I

1 maintain three Web sites. I've created two of them. So I
2 can do that. I don't know if all disabled people can or
3 not, but I like that machine for the ability for me -- for
4 me as a blind person to be able to produce a ballot in
5 private.

6 Problem is, I can't read it, so I've got to bring
7 someone along I trust to read it me, unless I want to
8 trust that whoever programmed software did it correctly.
9 And I don't know if I want to do that or not, but I don't
10 have to because I'm fairly trusting of my neighbor, and I
11 have my neighbor read it for me.

12 So that machine is fine with me. I have no
13 problem with the ES&S Automark, which is the one I tested,
14 and I don't know why they are coming out with a new one
15 now that sounds very similar. But that's okay, whatever
16 they need to do for their business.

17 I want to say that my problem is not with
18 accessibility, because I don't have one. A lot of blind
19 people in my family. My disease is hereditary.

20 We -- Producing ballots is fine. It's how we
21 count them. I don't want any ballots counted with any
22 scanners. I don't want any secret software.

23 I've got a thumb drive in my pocket, and if that
24 doesn't mean anything, I wanted hand-counted ballots. And
25 we can produce them and have accessibility for the blind

1 and the disabled. We can produce paper ballots on
2 machines for them and count them by hand, the way they
3 ought to be counted where people of different beliefs,
4 politically --

5 MODERATOR LAPSLEY: Your time is up.

6 MR. HARLAN: -- can watch each other and make sure
7 it's a fair process.

8 And I thank you.

9 MODERATOR LAPSLEY: Thank you, Mr. Harlan, for
10 your comments.

11 MS. ALEXANDER: Good morning. I'm Kim Alexander,
12 president of the California Voter Foundation.

13 Thank you for having this hearing today. I'm glad
14 to see that there's so much public interest in this issue.

15 I'm also glad to hear that the NASED number will
16 be required of the system and all the systems that are
17 being considered today, before certification. This was
18 not stated in the staff report and surely caused some
19 confusion and concern among the folks, including me, that
20 read the staff report.

21 Most of my comments today on this system and the
22 other systems up for consideration focus on the procedures
23 that are currently up on your Web site, the draft
24 procedures, which will still require your final approval.

25 For the ES&S InkaVote system that's being

1 considered today, the manual recount procedures are pretty
2 slim. The manual recount is the process by which the
3 public has an opportunity to verify the accuracy of
4 software vote counts. This is the one window into the
5 vote counting process that's provided to the public,
6 currently. And it is crucial that the procedures for
7 performing the 1 percent manual count in every county are
8 clearly spelled out in the procedures for the voting
9 system.

10 I reviewed that section of the procedures for all
11 three vendors that are being considered today.

12 Sequoia's procedures, I found to be the best among
13 the three that are up for consideration. Their
14 procedures, for example, clearly say that the precincts
15 that are selected for the 1 percent manual count must be
16 selected at random. That is not included in the
17 procedures for ES&S, and we want to ensure that any county
18 that uses the InkaVote system, such as Los Angeles, will
19 be conducting the 1 percent manual count, based on a truly
20 random selection of those precincts and that that section,
21 itself, takes place in a public process. So we would like
22 to see the procedures filled out.

23 I think one thing that would help would be if the
24 template that the Secretary of State is providing to the
25 vendors -- which I also took a look at -- for the

1 procedures would spell out the requirements more -- in
2 more detail.

3 MODERATOR LAPSLEY: Thank you.

4 MS. ALEXANDER: Thank you.

5 MODERATOR LAPSLEY: And finally, Ms. Acton.

6 MS. ACTON: Thank you for having this hearing
7 today.

8 My name is Ana Acton and I'm from the FREED Center
9 of Independent Living as well as the chair of the Systems
10 Change Network Voting Committee.

11 And of course accessibility is very important as
12 is security for all of us. And, you know, I know with the
13 first agenda item, InkaVote, polling place access for any
14 of the systems on the agenda today is going to be
15 critical, critical, critical. People need to be able to
16 get into the polls, be able to use these accessible voting
17 systems.

18 We're not there yet with accessibility. We need
19 ongoing R&D from all vendors. Vendors need to work on the
20 front end with across-disability representatives on the
21 development and R&D of accessibility so that we're not
22 hatching accessibility issues on the back end. So we need
23 that ongoing R&D. We need -- you know, we're not done
24 yet. We need to continue our accessibility and usability
25 of these systems.

1 And usability is a very critical part of it all
2 too, because you can add all these accessibility features,
3 but if they are not easy to use and confusing to use, then
4 it's not a satisfactory voting experience. So I would
5 really like to encourage the Secretary of State to include
6 usability and accessibility testing as part of the
7 certification process.

8 I would like to see a usability advisory committee
9 made up of representatives of cross-disability community,
10 representatives from the usability community, people with
11 technology backgrounds, so that we can work together on
12 really making these systems usable to provide a
13 satisfactory voting experience.

14 Voting is a right that we all have and people with
15 disabilities have not had the opportunity to an
16 independent and private vote, and here we are where we're
17 actually going to see this. And this is a really
18 important right for every single citizen in the United
19 States.

20 And what I would like to say about security is
21 that we cannot address security at this point without
22 addressing accessibility. They have to go hand in hand.

23 MODERATOR LAPSLEY: Thank you.

24 MS. ACTON: You cannot do one without the other.

25 MODERATOR LAPSLEY: Thank you for your comments.

1 MS. ACTON: Okay. Thank you very much.

2 MODERATOR LAPSLEY: And I was actually just handed
3 one final card for ES&S from Sandra Yolles.

4 MS. YOLLES: Hi. I'm Sandra Yolles. I work with
5 some voting rights groups. I'm here as a private citizen,
6 and I brought with me -- you know, in the past I've done
7 this for these hearings.

8 I have printed out from computer files, a 39-page
9 report that was put together by Voters Unite on failures
10 of ES&S machines and optical scanners and various systems
11 in use in 2004 and 2002.

12 And you know, when you flip through this
13 information and look at it, and it talks about 131 percent
14 turnout in one place and 540 votes missed in another place
15 and 700 votes skipped in another place, you know, in the
16 aggregate, especially, it gets your attention.

17 And really why I came here today is because I want
18 to submit this history and put it in the record so it's a
19 part of the file and a significant part of the file, I
20 think.

21 And we're all -- This is a very interesting
22 situation with everything, with the time constraints that
23 the counties are under and the security questions that so
24 many of us have. I mean, it's like a collision of
25 interests, and I think -- open and honest and secure

1 elections are something we all have to care about.

2 And so anyway, I will submit this, if I can.

3 MODERATOR LAPSLEY: Actually, do you have just one
4 copy?

5 MS. YOLLES: I have just one copy, but I can give
6 it to you. Thanks.

7 MODERATOR LAPSLEY: Thank you.

8 That concludes our public hearing on ES&S.

9 Next system --

10 MR. NEWMAN: Excuse me. Wait a minute. When I
11 signed up for the speaker card, I signed up for 1A.

12 MODERATOR LAPSLEY: I can't see you from here. I
13 apologize.

14 MR. NEWMAN: Can you hear me?

15 MODERATOR LAPSLEY: Yes.

16 MR. NEWMAN: I signed up for 1A as a speaker card,
17 and I did speak under 1A. But I also want to make a
18 couple of comments under 1B. I did not understand that
19 you can go under the other.

20 MODERATOR LAPSLEY: The systems are being taken as
21 a whole.

22 Is there something specific as to 1B that you
23 would like to say?

24 MR. NEWMAN: Yes, there is.

25 MODERATOR LAPSLEY: Come right down here.

1 MR. NEWMAN: Again, my name is Ted Newman.

2 I'm citing from the staff report regarding the
3 InkaVote. This would be Item 3 on Page 6 of the report.

4 It says, "On the PBC units tested, there was no
5 mechanism to physically secure and lock the network port."

6 In the short term, this must be addressed with the
7 requirement and the official use procedures that this
8 can't be sealed with a serialized tamper-evident seal.

9 Future versions of the PBC should include a means
10 of physically preventing access to this port, such as a
11 locking door to cover the port.

12 A network port is any physical hardware that
13 allows a computer to communicate with some other
14 equipment, usually another computer.

15 It could be a modem, an ethernet connection, a
16 Wi-Fi adapter, or an IR port, or even -- I shudder at the
17 thought -- an Internet over-the-powerline capability.

18 The latter is a technology that is just beginning
19 to be implemented. It would allow Internet communications
20 without any external cable at all.

21 The second point is from the report, Page 8 from
22 the report dated February 22nd, '06. "This system shall
23 preserve the secrecy of the ballot."

24 Because the audio ballots are distinctly different
25 from the normal InkaVote ballots, use procedures for this

1 system should require that once one ballot is voted using
2 the ADA booth, at least two more voters should be required
3 to use the booth to vote an audio ballot and protect the
4 confidentiality of the initial ballot.

5 In all other respects, the system preserves the
6 secrecy of the ballot.

7 And that is in response to -- then it appears that
8 this device does not comply with the Code. The voter
9 assists terminal prints out a ballot that is not
10 identical --

11 MODERATOR LAPSLEY: Can you wrap up?

12 MR. NEWMAN: Just two sentences?

13 Thank you.

14 The voter assist terminal prints out a ballot that
15 is not identical to the ballots marked by all of the other
16 voters at the public place.

17 It seems like they are trying to -- I'm reading
18 someone's comments -- dance around the issue with their
19 suggested solution that for every one disabled person that
20 votes at the terminal, two non-disabled people should vote
21 there quote to protect confidentiality.

22 Thank you very much.

23 MODERATOR LAPSLEY: Thank you.

24 Is there any response that the vendor would like
25 to add?

1 Okay.

2 Let's take a five-minute break. I think the court
3 reporter needs to stretch her legs. And we'll take a
4 restroom break.

5 We'll be back here in five minutes, starting at
6 11:30.

7 (Thereupon a break was taken in
8 proceedings.)

9 MODERATOR LAPSLEY: Let's get started here again.
10 We have all of our panel members.

11 One other issue that I forgot to point out before
12 we started was that we are -- in addition to this being --
13 taken the information by the stenographer, it's also being
14 videotaped by Mr. Mike Rowe back there. He's done a great
15 job in setting up this room and teaching us how to use the
16 microphones.

17 We're going to go ahead and get started with the
18 next system, which is the Hart system.

19 Can you go ahead and give the staff report.

20 OVSTA INTERIM DIRECTOR McDANNOLD: Certainly.

21 The next system being presented is the Hart system
22 6.1. This system also is for election management system
23 designed with several components, modular components or
24 applications that work together to primarily -- to, in
25 total, encompass the role of an election management

1 system.

2 There are several components to the system, and I
3 will take the software components first.

4 The first is BOSS, version 4.2.13. BOSS stands
5 for Ballot Origination Software System.

6 This is a software application that is used to
7 define an election and configure an election, the
8 districts, the parties, the precincts, the contests, the
9 candidates, then ultimately carry that information through
10 to create the ballot layout itself.

11 Once that's all done, again, that election
12 definition is saved and exported to a CD for use by the
13 other applications.

14 BOSS -- A previous version of BOSS, is already
15 certified for use in the state of California. That
16 version, 3.5.4, was originally or was last certified in
17 September 17th, 2004.

18 Significant changes between that version and the
19 current version are support for the new VBO or Verified
20 Ballot Option, which is the AVVPAT we'll discuss in a
21 minute, or the verified voter paper audit trail for their
22 touch-screen voting device. BOSS has also removed the
23 default password and then added support for some of the
24 new system security requirements that have been
25 implemented in the system.

1 Finally, the new version of BOSS allows for
2 customization of the ballot headers in the ballot layout
3 phase. Once the election definition is completed within
4 BOSS, it can be exported to Ballot Now. Ballot Now in
5 this system, version 3.2.4.

6 Ballot Now is an application that's used, first of
7 all, to print paper ballots on demand for the appropriate
8 precinct that a voter would be voting. At the conclusion
9 of the election, Ballot Now was also used to scan voted
10 ballots back into the system and tabulate them.

11 The Hart system is a little unique, in that unlike
12 most typical mark-sense optical-scan systems where there
13 are registers and there are optical readers that read the
14 specific bubbles or locations for voting, in the Hart
15 system, the software takes and makes an entire scanned
16 image of the entire ballot, and then the software goes in
17 and analyze where those marks were and then determines the
18 vote results by interrupting where those marks were in the
19 entire image.

20 The Ballot Now software, which would be used
21 primarily for absentee in most jurisdictions, also allows
22 the ability to view the entire image of the ballot, as I
23 said, and allows the jurisdiction to read the actual
24 write-in mark and apply it to the correct certified
25 write-in candidate, if appropriate.

1 It also gives it the ability to look at a ballot
2 marking whole image that may not have been interpreted
3 correctly because the marks were slightly off, so that the
4 voter intent can be determined and appropriately recorded
5 for that ballot.

6 The previous version of Ballot Now has been
7 certified in the state of California. That was version
8 2.3. That was last certified, as well, in September 17th,
9 2004.

10 Significant changes between that version and the
11 version that we are seeing today are: improved efficiency
12 of that ballot image; resolution of the vote feature; as
13 well as increasing the limit of ballot sheets that can be
14 part of one ballot, from four sheets now up to nine
15 sheets, to compose a complete ballot.

16 Finally, the Ballot Now has been, in this version,
17 enhanced, as well, to support the new security
18 requirements of the Hart system.

19 The next application is called Rally. The version
20 under consideration is Rally version 2.2.4. Rally would
21 typically be deployed in a jurisdiction that was
22 geographically large and disperse. It gives the ability
23 to collect vote results from the precinct voting equipment
24 at a central remote location, gather them up, compile
25 them, and then relay them to the central final count at

1 the jurisdiction headquarters where the entire election is
2 being tabulated.

3 That relay is done either by modem, as an official
4 result, or it could be done through a closed, private,
5 secure network.

6 The communication between Rally and the ballot
7 tabulation application is encrypted with SSL security, as
8 well as password protected.

9 The previous version of Rally that was certified
10 in the state of California was 1.2.0 and that was
11 certified as well on September 17th, 2004.

12 Significant changes between that version and the
13 version under consideration is updated security features;
14 including the -- a force to create a new database password
15 that's unique to the system at the time of installation,
16 as well as the time of initial log on, a force creation of
17 an SSL certification, SSL, again, secure sockets layer.

18 The next application in the system is called
19 Tally. Under consideration is version 4.2.8.

20 Tally is a Windows-based software application that
21 reads and stores the vote results from the mobile, the
22 MBBs, the mobile ballot boxes. And the Hart system and
23 MBB, or mobile ballot box, is simply a memory cartridge
24 that is used to take vote results off of the precinct
25 voting machines and bring that back in, either to Rally or

1 to Tally for tabulation and aggregation.

2 After the semi-official canvas, Tally can also be
3 used to view ballot images for the paper ballots and
4 resolve the mismarkings or the write-ins, as I discussed
5 with the Ballot Now system.

6 Tally can also, in accordance with California
7 law -- One of the things that can happen is a voter can
8 vote a provisional ballot and afterwards it's discovered
9 that the voter voted that ballot in the wrong precinct.
10 And the ballot they were given may have had contests on it
11 that they were not legally entitled to, because they
12 didn't have the correct ballot for their precinct.

13 Tally can handle that automatically. Once the
14 system is told the correct precinct that voter should have
15 voted in, and all the contested votes that that voter
16 should have been entitled to are automatically applied or
17 transferred over to the correct ballot style.

18 Tally includes flexible reporting capabilities
19 that address not only the vote results from the election,
20 but the status of the election, which machines have been
21 counted, which ones haven't, as well as extensive audit
22 trails of the election system.

23 The previous version of Tally that was certified
24 in California was version 3.2.0, and that was certified
25 September 17, 2004, as well.

1 Significant changes between that version and the
2 current version under consideration. The current version
3 of the Tally has the capability to resolve write-in votes
4 off of the MBBs, the mobile ballot box and memory
5 cartridges.

6 It also has support for the parsed provisional
7 ballots, as I just discussed, and again, enhanced security
8 features including removal of the default user, the forced
9 creation of a unique database password, an installation of
10 the application, and finally, the generation, automatic
11 generation of an SSL certification at the first log on to
12 the application.

13 The next application in the Hart system is called
14 SERVO. Version 4.1.6 is the version under consideration.
15 SERVO is a Windows-based software application that is used
16 for elections management and recap management.

17 Prior to the election, the jurisdiction would use
18 SERVO to clear all the prior election information that's
19 resident on the precinct voting input, the judge's booth
20 controllers, the eSlates, the eScans that we will discuss
21 in a minute. It clears all of those. It also keeps track
22 of the historical usage of the machine and prepares those
23 and configures them for the upcoming election.

24 At the conclusion of an election, that same
25 application, SERVO, is used to provide an additional

1 redundant back up of the election data. So while the
2 memory cartridges are uploaded into Rally and Tally,
3 ultimately to do the vote results, the actual voting
4 machines with their redundant memory are read into SERVO
5 to provide a redundant back up of the election data and to
6 provide cross-verification of the election results to help
7 ensure accuracy of the system. The previous version of
8 SERVO that was certified in California was version 2.0.10.
9 That, as well, was certified on September 17th, 2004.

10 Significant changes with SERVO from the previous
11 version. This version of SERVO has additional support for
12 the new eScan device that's been added to this system. It
13 supports the reporting and provisional ballots and then it
14 also has additional support for system security, support
15 for the new ECM cryptic graphic key to unlock the
16 applications, again, forced creation of a unique database
17 password at installation, and audit locking at secured
18 events.

19 The final software application in this suite, or
20 in this system, is called eCM Manager. We have been asked
21 to certify version 1.1.7. This application is new to
22 California. Part of it is built into the system. The use
23 of a Spyrus USB security key.

24 And this is the application to set the unique key
25 ID and password for that security key, and then without

1 that security key, you cannot use the other applications
2 like Rally and like Tally. That key has to be inserted
3 into the machine before those applications -- or at least
4 the secure functions, the critical functions of those
5 applications -- can be used.

6 As I said, eCM Manager is new to the system. It
7 gives the jurisdiction also the ability to set their own
8 unique key, specific to that jurisdiction, for each
9 election.

10 In terms of the hardware of this system, there are
11 two general sets of precinct tabulation equipment. The
12 first is the eScan, which is an optical image, paper
13 ballot reader for the polling place.

14 For precincts using this in the polling place, as
15 with the ES&S system we discussed, the ballot is the paper
16 audit trail that is verifiable and can be opened at any
17 time to review the results or conduct a recount to test
18 the accuracy of the system.

19 The eScan reads paper ballot images, as does the
20 Ballot Now. It takes a full image of the ballot and then
21 looks within that image to resolve the vote choices on the
22 ballot. It also can, as I mentioned earlier, pass that
23 ballot image up to Tally for resolution of write-ins or to
24 check any stray marks or questionable marks to ensure that
25 the voter intention is accurately recorded.

1 The eScan accepts two-sided ballots. One side,
2 single-sided ballots of 8 1/2-inch width with lengths
3 varying anywhere from 11 inches to 20 inches.

4 It provides warning of over-voted ballots. It can
5 optionally be set to provide warning of under-votes.

6 The eScan is a new device to California.

7 For systems not using an optical-scan paper-based
8 system or for systems that want to use -- or jurisdictions
9 that want to use optical-scan but then need to supplement
10 it with a system that needs to provide accessibility for
11 the disabled, the Hart system offers the eSlate, which is
12 a touch screen DRE voting device to record ballots.

13 The heart, or the controller of those eSlates is,
14 first of all, the JBC or the Judge's Booth Controller.
15 Version in this system is version 4.1.3 that's been
16 presented. As I said, that's the heart of the system. It
17 would sit with the poll worker, and it actually monitors
18 and controls the 12 eSlates in the system. They talk to
19 each other, and when voters vote on the eSlates, those
20 results are communicated back to the JBC.

21 It can monitor the activity on up to 12 machines,
22 eSlate machines at one time. When a voter comes into the
23 polling place, they have checked themselves in, verified
24 the registration, their ballot style has been identified,
25 the poll worker would then use the JBC to create a little

1 slip of paper that has an activation code. The voter then
2 takes that activation code to any of the eSlate voting
3 devices that are connected to it, inputs that code number
4 in, and that's what tells the machine the voter's ballot
5 style and what voter choices they should be presented
6 with.

7 The JBC has previously been certified as part of
8 the system. That was version 2.3.8, and that was
9 certified September 17th, 2004 as well.

10 Significant changes between that version and the
11 current version of the JBC. The current version increases
12 support for provisional ballots as well as provides
13 support for all precincts on a JBC on Election Day.

14 The eSlate voting device, that I mentioned before,
15 is a -- and I may have said a touch screen voting device,
16 and that's not correct. It's a direct record election
17 system. Voters actually make their selection on the
18 system. Instead of touching the screen, there's a little
19 thumb wheel that is turned, and then that moves the cursor
20 from vote position to vote position on the eSlate.

21 Once their vote choice is highlighted, turning the
22 cursor, then push a select button, and that's how the
23 machine records their vote choices.

24 The system, as with most other direct record
25 elections, is required by HAVA, presents -- actually

1 prevents the voter from over-voting in a contest, and
2 provides warning if a voter under-votes in a contest and
3 forgets to mark the total number of ballot choices
4 available to them.

5 With the DAU device, it's called, or the
6 disability access unit, there's additional support for
7 voters with special accessibility requirements, using this
8 device.

9 The eSlate also provides for a high contrast
10 ballot image for voters with visual disabilities. There
11 is an audio mode for blind voters to receive assistance in
12 voting their ballot. And the system also supports
13 alternative interfaces for voters with physical
14 disabilities, supports a sip and puff interface as well as
15 a binary tactile, or otherwise known as a jelly switch,
16 for voting on the eSlate.

17 The previous version of eSlate certified was
18 version 2.3.8. That was certified, as well, on
19 September 17th, 2004.

20 Significant changes between that version and the
21 current version. This version of the eSlate supports the
22 VBO, the accessible voter verified paper audit trail,
23 which I will discuss in a minute. It's also added a
24 public counter on display on the front of the eSlate, when
25 anyone walking up to it can tell and keep records of how

1 many votes -- how many ballots have been voted on that
2 device.

3 There have been improvements in the audio
4 instructions, and then again eSlate has had initial
5 support added for provisional ballots.

6 Finally, the last component of this system is the
7 VBO. The VBO, as I said, is the accessible voter verified
8 paper audit trail for the eSlate DRE. It is a
9 reel-to-reel paper device. There is a printer that mounts
10 into the eSlate voting booth, as required for these AVVPAT
11 devices. After the voter has reviewed their ballot
12 selections and said, yes, that's how I want to vote, then
13 it's printed as the paper scrolls up, so the voter can
14 then confirm that their vote has been accurately reported
15 on the paper trail, and then once they confirm that, it's
16 scrolled up, hidden, so the next voter cannot see it.

17 The voter, as required under the California
18 guidance for these devices, has the opportunity, twice, to
19 look at that paper trail, say that's not how I wanted to
20 vote, and reject it before the third time is automatically
21 accepted.

22 I should point out that of the devices we've seen,
23 one of the features of the Hart is it has a very large
24 4-inch roll for the AVVPAT and a very large font that
25 makes it very easily readable by anybody.

1 The other note on the Hart VBO is it's designed to
2 be swapped out as a sealed unit to protect the
3 confidentiality of the voter, which means, if there is any
4 problem with the unit on the Election Day, any concern
5 that it's jammed or it's not recording right, the whole
6 module can be removed and taken back to be forensically
7 analyzed while a new one is just dropped in place to keep
8 recording the election.

9 The federal testing on this system, Wyle
10 Laboratories, the federal ITA, has completed its testing
11 of the eScan, the JBC, the eSlate, and the VBO and has
12 written its report that those components tested to the
13 2002 voting system standards.

14 The Secretary of State's office has received a
15 draft report from those tests, dated January 11th, 2006,
16 and as mentioned earlier, that final report must be
17 received by the Secretary of State's office before the
18 Secretary can certify this voting system.

19 Cyber Incorporated, another federal testing ITA,
20 has completed the source code review of the software
21 applications as well as the functional testing of those
22 components as well as the end-to-end testing of the entire
23 system.

24 They have also reported that that testing was
25 completed to the 2002 voting system standards.

1 We have a copy -- we have the initial report for
2 system 6.0 draft report that was received -- that was
3 dated January 13th, 2006.

4 I should point out that one of the things
5 discovered during the initial testing of the system was
6 the VBO, that paper audit trail, printed a unique serial
7 number for each and every ballot, making any ballot
8 uniquely identifiable on how any particular voter voted,
9 which is not in accordance with California law.

10 The vendor, Hart InterCivic, went back to the ITA
11 with a modification to the program to remove that serial
12 number. That occurred the week between Christmas and New
13 Year's, last December, 2005.

14 We have tested to that system. We have received
15 confirmation from the ITAs that they successfully
16 completed testing and that resulted in the revision of a
17 system number from 6.0 to 6.1. We have not received a
18 final report from that testing, just a confirmation level
19 letter that it was successfully completed.

20 NASED has not received or has not issued the final
21 qualification number on this system. And as mentioned
22 earlier today, the Secretary of State's office cannot
23 certify this system, or the Secretary of State cannot
24 certify the system until all the final reports have been
25 received and that qualification number has been issued by

1 NASED.

2 State testing of this system initially took place
3 in Lafayette at the vendor's offices in Lafayette,
4 Colorado, from December 12th through December 16th, 2005.
5 That testing was conducted by State Consultant Steve
6 Freeman, Paul Craft, and then, Secretary of State staff.

7 The testing was not completed that week, so we
8 resumed testing the week of February 1st or from
9 February 1st through February 3rd, again at those same
10 offices in Colorado. Again, the testing was conducted by
11 Steve Freeman, Paul Craft, as well as Secretary of State
12 staff. Standard test protocols were followed. All
13 testing was done from trusted builds.

14 The primary standard or primary and general test
15 elections were conducted on the system as well as the
16 recall definition used to test abnormal markings and how
17 the system handled those.

18 Significant findings from that testing included,
19 as I mentioned earlier, that both Ballot Now, that
20 generated the paper printed ballots, as well as the VBO,
21 the accessible voter verified paper audit trail, printed a
22 unique ballot ID number. Well, that could initially be
23 turned off for Ballot Now and suppressed in procedures,
24 for the system require that, it could not. Since then
25 it's been modified and now, for California, the eSlate and

1 the VBO do not print a unique ballot serial number on each
2 ballot.

3 One of the other things to be noted on this
4 system, again, part of the vendor's approach to design
5 security for the system. Once that election definition
6 system is finalized and locked down, it cannot be changed.
7 So if errors are discovered in the election definition,
8 late in the game that need to be corrected, or if a
9 jurisdiction has determined that prior to locking it down,
10 they have not created enough of the little memory
11 cartridges to record election results, the MVB, the
12 jurisdiction would be in a serious position. So it's
13 strongly recommended in procedures that there be guidance
14 on an adequate number of MVBs and extra care taken to
15 approve that election before that lock down takes place.

16 Another unique aspect of the system is while it
17 has the capability to generate test ballots for lodging
18 and accuracy testing, when those are run on the system,
19 they are run in a separate memory location, not in the
20 actual lodging and memory location that is used to conduct
21 the election. They are stored separately and, in fact, on
22 the eScan, they cannot be saved. They can be printed out,
23 but they are transient. When you turn off the system and
24 put it in election mode, any memory of that testing is
25 removed.

1 One of the other things that we noted in the whole
2 system that we found disconcerting in the testing was the
3 use of cryptic numbers in error messages.

4 For instance, a printer error in the VBO in the
5 voter verified paper audit trail instead of just saying,
6 "Stop. The printer is low on paper. It needs to be
7 exchanged," it said, "Problem alert. Blue screen.
8 Contact poll worker. Error number EV101," or some number,
9 which we have a concern, presents voters with routine
10 things that are probably understandable is likely to be a
11 little disconcerting and strongly recommend that the
12 vendor update those and correct those with clear, easily
13 understandable error messages that identify to the voters
14 and the poll workers exactly what's going on with their
15 ballot.

16 Finally, there were utilities that we discovered
17 from the vendor that are used, have been presented for use
18 called Transfusion and Bravo. Those utilities were not
19 examined by the ITA as part of the package. They are not
20 really part of the central election system itself. They
21 are used to do things like give to -- is used to give to a
22 third party vendor that provides ballot translations. And
23 it reads the language that should be there, and then as
24 the translator works on the translation, it puts that
25 language or that text back in a format that's

1 understandable by the voting system.

2 Because those systems have -- those applications
3 have not been tested by the ITA, the Secretary of State's
4 office is specifically recommending in the certification
5 that they be excluded until they can be reviewed by a
6 third party, trusted third party like the ITAs.

7 In terms of accessibility support for the system,
8 as we noted before, the eSlate does provide the
9 opportunity for audio voting, for the blind. The
10 instructions, they believe, we felt were generally clear.

11 It should be noted that, unlike a lot of other
12 systems, if a blind voter goes up to use the audio, the
13 voting screen cannot be blanked. So procedures need to be
14 in place to keep people from coming up and unbeknownst to
15 a blind voter, observing how that voter is voting.

16 Also, we noted in the summary of the ballot in
17 reading that back and reviewing it in the audio mode, it
18 does not provide a detail of write-in candidates or what
19 letters were picked and how they voted and selected.

20 We also noticed that while the system supports a
21 high contrast mode for people, voter with visual acuity
22 issues, that works good for most of the vote screens. If
23 you put it into a write-in mode, it actually slips out of
24 the that high contrast mode for write-in candidates and
25 goes back to the normal voting mode.

1 Also, at the conclusion of voting the ballot, the
2 eSlate slips out of the high contrast mode for that final
3 review and display of the voters vote choices. It slips
4 out of high contrast and goes back into the normal voting
5 mode.

6 The system does support sip and puff as well as
7 toggle switches. Those were tested as part of our
8 testing, and finally, now, with the addition of the VBO,
9 the original eSlate can be pulled out of its cradle on a
10 small tablet be taken for curbside voting and put in a
11 voter's lap in the car. That can no longer be done,
12 because the voter verified paper audit trail, the VBO,
13 needs to be attached. So now if the jurisdiction wants to
14 support curbside voting, the entire final polling booth
15 and the chain needs to be disconnected, the whole booth
16 taken out, and placed up, perhaps, up against the window
17 of a car for a voter to operate, perhaps sideways, to be
18 able to do -- to support curbside voting. I believe the
19 whole device weighs around 40 pounds.

20 Finally, volume testing on the system was
21 conducted February 21st through 22nd at the warehouse
22 facilities for the Orange County Registrar of voters.

23 During that volume test, 50 eScans were tested.
24 They each received an excess of 400 ballots. We also
25 tested 100 eSlates, the DRE devices and each was voted a

1 minimum of 110 ballots.

2 Fifty contract temporary workers were hired to do
3 the voting. The testing was overseen by State Consultants
4 Steve Freeman, Paul Craft, as well as several members of
5 the Secretary of State staff.

6 All the results of that testing -- or the error
7 reports, as well, are posted on the Secretary of State's
8 Web Site.

9 The eSlate generally performed well. There were
10 two repetitive errors that we found. We found four
11 eSlates, the DRE devices, that within the first initial
12 ballots, locked up, printed "cancelled ballot on the VBO"
13 that the voter had tried to vote, and then just locked up
14 and refused to accept direction.

15 We tried rebooting and we tried replacing the
16 power supply at the suggestion of the vendor to no avail,
17 and consequently those four machines were taken out of
18 service for the remainder of the test.

19 All of those were noted within the first, I
20 believe, five ballots cast on the machines, indicating
21 that they were defective pieces of equipment that should
22 have and would likely be caught in acceptance testing and
23 never be sent out to a polling place.

24 The eScans, however, the precinct ballot scanners,
25 the paper ballot scanners, we logged 59 errors in the

1 course of the testing on the device. Twenty-six of those
2 incidents occurred on 21 machines where the machine would
3 suddenly display an alert code, 0X:32676A, and the machine
4 would be locked up. The only way to resolve that was to
5 completely reboot and power it off and power it back up
6 again.

7 We had at least five ballot jams that we recorded,
8 possibly more, that the only way to resolve them was to
9 physically unlock the ballot box, open it up, and clear
10 the ballot from underneath.

11 Finally, we had several jams with ballots that, as
12 we looked at them, we did not, as we resolved the ballot,
13 removed the ballot from the jam, did not have a clear
14 determination how that ballot had been voted, had it been
15 counted, hadn't it been counted at that point in time.

16 For those reasons, the Secretary of State Office
17 of Voting Systems is recommending that we not certify the
18 eScan at this time until those problems have been
19 specifically addressed and corrected.

20 We are recommending certification that the
21 remainder of the system with the standard conditions with
22 use procedures that address all the points that were
23 identified in the reports and identified in testing as
24 well as a robust acceptance procedure, acceptance testing
25 procedure, to identify any eSlates that might be defective

1 and keep them, as I mentioned before, from being deployed
2 in the polling place.

3 Finally, the utilities Transfusion and Bravo,
4 which have not been independently reviewed, not be used in
5 California until they can be subjected to a source code
6 review.

7 MODERATOR LAPSLEY: Thank you, Bruce. I think we
8 have from Hart InterCivic, Neil McClure.

9 Mr. McClure, is there anything you would like to
10 respond to that was in Mr. McDannold's report?

11 MR. McCLURE: Yeah. One comment that I would like
12 to make is related to Transfusion and Bravo. These
13 utilities have been around since the original release of
14 the system. They have been operated with the voting
15 system in mind, and they are used as external utilities
16 for productivity and efficiency for our customers. They
17 have been part of the system from the beginning.

18 The State has taken a new position about what
19 their definition of the voting system boundary is, and
20 they have now expanded that and included it, which is
21 fine, but, you know, these applications, these utilities
22 have been used by our customers. They are in place, and
23 we need the opportunity to get those reviewed and the time
24 to respond to that.

25 Other than that, those are my only comments.

1 If the panel has any questions for me,
2 specifically, I would be more than happy to answer them.

3 MODERATOR LAPSLEY: Are there any questions from
4 the panel members?

5 INFORMATION TECHNOLOGY CHIEF KERCHER: I would
6 like to start with -- there's a comment there's apparently
7 some possibility that the logic for the test process in
8 the Ballot Now and the actual process are different. It
9 appears to be there's two separate sets of -- This is from
10 the staff report.

11 My question is, first of all, that for your
12 testing, was that done with the -- in the normal mode when
13 you did all of the volume testing, or was that using the
14 test mode?

15 OVSTA INTERIM DIRECTOR McDANNOLD: Actually, the
16 first week, it was done in a combination of both when we
17 discovered this. When we resumed testing in February, we
18 used ballots that were printed that we can run in a live
19 election mode.

20 MR. McCLURE: And if I may clear that up, we
21 generate and can print ballots that are called test
22 ballots. And the only difference to that is that it's
23 identified in the ballot image or cast vote record is
24 identified as a test cast vote record.

25 So there's no difference in where it's stored, how

1 it's processed. It's only tagged as a data element that
2 identifies it as a task.

3 INFORMATION TECHNOLOGY CHIEF KERCHER: Right. The
4 staff report was they certainly did not verify that there
5 were different logics, but your testing was all done
6 against a productions --

7 MR. McCLURE: Right. But we used reliable
8 election ballots for the testings subsequent to that.

9 INFORMATION TECHNOLOGY CHIEF KERCHER: Then in the
10 discussion of some of the issues with the Ballot Now,
11 where there was a requirement for extreme care in setting
12 up the election and that changes could not be made
13 afterwards, I don't know if either of you could comment on
14 the consequences if, in fact, the extreme care is somehow
15 insufficient.

16 MR. McCLURE: We have a tremendous amount of
17 experience with this work flow that we have established
18 within our system.

19 And we provide for ballot proofing and all manner
20 of review of the ballot and the setup, but what we have
21 enforced by the system is once you generate a ballot setup
22 for the various components once in the system, once that
23 file exists from a revision management and data integrity
24 management standpoint, we do not allow any further changes
25 to the information.

1 And if there is a problem discovered, what you
2 need to do is copy that election forward and it releases
3 the information. But what it does is it sets up a whole
4 new set of IDs within the data that's transferred around,
5 so you are unable to mix information. So there's a very
6 powerful tool that enforces data integrity throughout the
7 election system, and while care is taken or expressed the
8 need to take care, we've had, you know, years of
9 experience with this work flow, and it's been very
10 successful for our customers and for us.

11 INFORMATION TECHNOLOGY CHIEF KERCHER: And then
12 finally -- I guess this starts with Mr. McDannold, that
13 there's the recommendation not to certify the eScan.

14 And if I'm understanding the process correctly,
15 then that then requires that the Ballot Now be used with
16 what is described as a third-party scanner.

17 And is there any intent -- Apparently only a
18 single device was used in your testing, the Kodak device.
19 Is there intent to restrict the certification to only the
20 one that was tested?

21 OVSTA INTERIM DIRECTOR McDANNOLD: There's no
22 intent to restrict it.

23 The system's designed to work with COTS
24 third-party scanners on a multiple, and I believe the
25 actual vendor has a list of recommended scanners that they

1 have tested with it in mind. But those are viewed as
2 third-party scanners to the system.

3 MR. McCLURE: It goes beyond that. We have
4 specified specific scanners that have been tested all as
5 part of the ITA process, so those are the only ones that
6 our customers are allowed to use. And they are all Kodak.
7 They are all varying levels of input.

8 INFORMATION TECHNOLOGY CHIEF KERCHER: So does
9 that mean that the certification recommendation would be
10 restricted to those that have gone through ITA?

11 OVSTA INTERIM DIRECTOR McDANNOLD: I don't believe
12 any scanners other than has been tested with it, but I
13 don't want to leave the mistaken impression that the
14 scanners themselves or their firmware have been tested by
15 the ITA.

16 They are viewed as a COTS product, and ITA
17 identifies, I believe, the scanners that it was tested
18 with, those are also provided in the documentation which
19 is bound by the use procedures on the system.

20 Again, those scanners that it's been tested with,
21 then I will make sure that these procedures make some note
22 of that restriction or address that.

23 INFORMATION TECHNOLOGY CHIEF KERCHER: I have no
24 other questions.

25 MODERATOR LAPSLEY: Do we have any other

1 questions?

2 Thank you, Mr. McClure.

3 At this time we'll open it up for public comment.
4 The first speaker that I have is Ana Acton.

5 We'll go ahead and start with the public comments
6 and break for lunch about 12:45.

7 And then next we have Daniel Ashby and Neil
8 Kelley.

9 MS. ACTON: Hello. Ana Acton, FREED Center for
10 Independent Living and the Systems Change Network Voting
11 Committee.

12 Just to be clear, this is on the Sequoia?

13 MODERATOR LAPSLEY: No. This is Hart InterCivic.

14 MS. ACTON: This is Hart InterCivic. Okay. I was
15 out of the room. I apologize.

16 So once again, we need continued R&D on these
17 systems. We need to increase accessibility and usability.
18 The Hart does have a better verified paper audit trail.
19 People with disabilities want the same access to security
20 issues as everybody else does.

21 You're going to keep hearing this. We need an
22 accessible -- VVPAT. And you know, we want to be able to
23 verify the ballot as much as anyone else. And as we know,
24 the VVPAT can be used for audits and recounts, can be
25 considered the official ballot, and we want equal access

1 to the VVPAT.

2 So that's really my main comment with the Hart.
3 They do have some good accessibility features, but I do
4 not believe we are quite there. We still have the
5 usability issue. We had -- when I demoed it last -- two
6 Fridays again when you guys did the demo, we had -- there
7 were some audio components missing from the audio stream
8 instructions on when to push "cast your ballot." So those
9 kind of issues need to be fleshed out. We need really
10 clear instructions on the audio so that it's easy for
11 people to use so they can have a satisfactory voting
12 experience.

13 Also, the buttons on the Hart are not raised up
14 enough for some. I heard a friend who was demoing, he was
15 blind, said they had a hard time pushing, you know, the
16 buttons. Those buttons can be raised up so it's easier to
17 find for someone who is blind, so continue -- We need an
18 accessible VVPAT and continued R&D on accessibility. We
19 are not there yet. We need to continue working. This is
20 the first steps. And it only makes sense that it's the
21 first step in the process. And we're on A and we need to
22 get to B, so we need to continue work in that direction.

23 MODERATOR LAPSLEY: Great. Thank you.

24 Next is Mr. Ashby.

25 MR. ASHBY: I'm Dan Ashby, California Election

1 Protection Network.

2 Once again, we're at an extreme disadvantage.
3 These documents that we're discussing today were released
4 on the Web, Friday evening, about four days allowance for
5 a public review of a matter of extreme importance and
6 public policy.

7 There has been some suggestion that approval of
8 the voting system rises to the level of approval of a
9 regulation, which would be subject to Government Code
10 requirements for provision of a 30-day public written
11 comment review period, in advance of the hearing.

12 And we will pursue this legal question. I believe
13 the law will uphold us to these kind of hearings. These
14 kinds of rushed submission of documents are illegal.

15 Next, I want to talk about what I've been hearing.

16 Again, I've had very little time to prepare
17 anything about Hart, but I will say that reviewing, once
18 again, the NASED qualified voting systems chart, the most
19 recent addition, which I have confirmed with Mr. Hancock
20 at the EAC is current and dated 12/22/05, available on the
21 Web for anyone who wishes to see, does not include any of
22 the Hart components that we have just heard Mr. McDannold
23 describe. They are not present as a certificated system.
24 There is no NASED number for them. We cannot even tell to
25 what versions they were certified.

1 Mr. McDannold mentioned that as of 2005, EAC
2 guidelines require that all systems, all components of a
3 voting system be uniformly certified to the 2002
4 standards. You may not mix and match components from
5 earlier versions, according to the 1990 standards, with
6 newer versions.

7 Yet, if you look at the California charts of
8 approved systems and you compare them to NASED systems,
9 you will see that there are numerous voting systems by all
10 vendors that are used in the state right now, that are
11 mixed components, 1990 and 2002 standards. These are
12 illegal.

13 MODERATOR LAPSLEY: Can you wrap up, please.

14 MR. ASHBY: Okay. So California's Election Code
15 192508 says, "Requires that after January 1, 2005, the
16 Secretary of State may not prove a DRE unless the system
17 has received federal qualification."

18 MODERATOR LAPSLEY: Thank you. We appreciate your
19 comments.

20 (Applause.)

21 MODERATOR LAPSLEY: Next we have Neil Kelley.
22 After Mr. Kelley, we have Warren Cushman and Frank Egger.

23 MR. KELLEY: Good afternoon. Neil Kelley, Acting
24 Registrar of Voters for the Orange County.

25 I want to first say thank you to the staff for the

1 diligence in the report. I know that we hosted the volume
2 testing for the staff and there was a tremendous amount of
3 effort given to that, so I appreciate that.

4 One of the things I am concerned about and want to
5 echo Mr. McClure's comments from Hart is this inclusion of
6 Bravo, Transfusion now into the certification process.
7 Just really briefly, to let you know, Bravo is the utility
8 that we use to pull the data out of our voter registration
9 system to put it into a certified component, which is
10 BOSS. Trans is what we use to translate the valid data
11 for the four languages we support in Orange County, plus
12 English. And then Fusion is what we use to report the
13 results at the end of the election night.

14 So this is vital to what we do for elections and I
15 tell you that with the recommendation that the VVPAT be
16 certified, that won't do us much good if we are not
17 allowed to use these utilities because we will be at a
18 standstill, whether we're a DRE system or whether we're
19 using paper in Orange County, so it's vital to us.

20 And I understand that Hart is willing to work with
21 the State to try and come up with some sort of a solution,
22 so if there were conditional use of that -- of those
23 utilities through the June primary, that would be very
24 useful to Orange County. And with that, thank you.

25 MODERATOR LAPSLEY: Thank you.

1 Next we have Mr. Cushman.

2 MR. CUSHMAN: Good afternoon, members of the
3 panel.

4 I just wanted to say I am impressed with the
5 description of the inclusion of this system. I think that
6 in terms of people with disabilities, I think that this is
7 one of the more inclusive systems I've heard about.

8 I would again like to encourage all the vendors
9 here today to approach the disability community, not just
10 wait for the disability to come to you, but to approach us
11 and to appear at our conventions and our organizations to
12 interact with us because, as Ana said, there is still some
13 issues to be worked out.

14 There are multiple opportunities to do this, and
15 as we go through this process, I wanted to encourage the
16 dialogue to continue.

17 Thank you.

18 MODERATOR LAPSLEY: Thank you for your comments.

19 Next we have Mr. Egger.

20 MR. EGGER: Thank you, again. Frank Egger from
21 Fairfax.

22 And the more I listen, the more concerned I
23 become.

24 You know, California's 478 cities have
25 consolidated their elections with our 58 counties. And

1 our elections are now run by the county Registrar of
2 Voters.

3 It's obvious that we need one statewide system so
4 whether you are a voter in Sacramento or in Sebastopol,
5 California, you are using the same system, a system with
6 paper ballots, a system that allows hand tabulating.

7 Technology aside, voters have the right to know
8 their votes were counted and counted correctly.

9 (Applause.)

10 MODERATOR LAPSLEY: Again, please do not clap
11 here. Save it for after.

12 MR. EGGER: And that means a hand count to back up
13 or audit, whether it be ES&S, Hart, Sequoia, or Diebold.
14 The counties have deferred to the Secretary of State's
15 office, these decisions.

16 And it looks like we're going to end up with just
17 as mishmash of various systems, up and down the state of
18 California. And there's no uniformity, whatsoever, at
19 all, and I think this is totally unacceptable to the
20 cities.

21 Thank you.

22 MODERATOR LAPSLEY: Thank you for your comments.

23 Next we have Mr. Kysor.

24 After Mr. Kysor, we have Jon Barrilleaux. After
25 that, Michelle Gabriel.

1 MR. KYSOR: Hello, again, panel. Dan Kysor with
2 the California Council of the Blind.

3 And specifically speaking to the accessibility
4 features of the Hart system, I thought it was one of the
5 better systems I've ever seen actually or used.

6 And the one thing I was -- I am concerned about
7 is, again, the lack of specific help when it comes to
8 navigating the device and that's very important. One of
9 the reasons why it's important, because you turned off the
10 screen so we can have privacy. But if I were to call a
11 poll worker, how are they going to help me?

12 So it's very important that the manufacturers of
13 these products get it right.

14 The issue with Hart is the wheel. If you're a
15 Turbo user, like I am, you can turn the wheel too fast and
16 it cuts off the speech. Then you are left with, "Where am
17 I? I don't know where I am." And a lot of this is -- it
18 erodes your confidence in voting if you lose the vital
19 information you need to vote, because it's already
20 complicated enough with these large ballots.

21 So again it's -- let's make sure that the
22 manufacturers produce these help menus and not leave it up
23 to the counties.

24 Thank you very much.

25 MODERATOR LAPSLEY: Thank you, Mr. Kysor.

1 John Barrilleaux.

2 MR. BARRILLEAUX: My name is John Barrilleaux, and
3 I am a citizen of Oakland.

4 Let's see. Election Code Section -- I believe
5 it's 19251, says that you must -- "These systems must
6 verify from the paper," from the paper trail, that the
7 verification must be from the paper trail.

8 However, it seems as though all the DREs that have
9 been approved, including the ones up for approval are
10 actually reading back from memory, not from the paper, so
11 the verification is not coming from the paper.

12 This is and it's not -- this is one of the issues
13 not being addressed by the certification process. This is
14 indicative of a general pattern regarding certification
15 process.

16 This is the third hearing I've attended. I've
17 attended other hearings by election committees. I've
18 heard the testimony. I've heard about the illegal
19 interpretive code. I've heard about the glaring security
20 issues of some of these systems. I've heard about the
21 proven hackability of the Diebold system. Yet, the system
22 was approved.

23 The Secretary of State's certification process is
24 broken. It's a sham. It's a joke. It's window dressing
25 to provide an air of legitimacy. It casts down on any

1 system approved by this process.

2 If I were one of these other vendors, I would
3 really be upset.

4 So what won't be certified by the Secretary of
5 State? I have a six-year-old that can blindly count to a
6 hundred. Would the Secretary of State certify him?
7 Perhaps not. He doesn't own a multi-million dollar
8 business that can make generous campaign donations.

9 Thank you.

10 MODERATOR LAPSLEY: Next we have Michelle Gabriel.

11 MS. GABRIEL: Hi. My name is Michelle Gabriel.
12 I'm a citizen of Oakland and the mother of that
13 six-year-old.

14 MODERATOR LAPSLEY: Could you guys get your
15 six-year-old to give my three-year-old counting lessons?

16 MS. GABRIEL: I would be glad to.

17 I'm concerned that the examiners are not looking
18 at the systems to make sure they meet the Elections Code.
19 Otherwise, how can they recommend approval of the systems
20 that are clearly in violation of the Code and haven't been
21 fully tested to see if they meet the Code.

22 One specific example, Election Code 19251, the
23 audio feedback for blind voters needs to be from the paper
24 trail, not from memory.

25 I'm surprised that none of the disabled voters

1 have brought this up. They are really not getting their
2 verified vote. It's exactly in the law. It was brought
3 up at Senator Bowen's hearing. This is not news to the
4 elections staff.

5 Yet, it's not even covered in the examiner's
6 reports. It's just skipped over, this piece of the
7 Election Code.

8 I have many other questions that I would like to
9 ask about State certification testing. I don't know how
10 to get these answered. I send in questions via e-mail on
11 the Secretary of State page. I don't get a response. I
12 call the office; no one calls me back. So maybe I'll try
13 to state them here in hopes that I can get some answers.

14 Did the Sequoia, the Hart, and ES&S systems get
15 looked at by security experts the same way that the
16 Diebold system was studied? If not, shouldn't they?

17 The independent security testings showed how
18 little the ITA security testing can be deed of trusted.
19 Sixteen basic security flaws. Sixteen basic security
20 flaws.

21 If you can find that in the Diebold system, don't
22 you think you should apply the same thing to everybody
23 else's system?

24 Then the SOS comes up with a list of security
25 procedures for Registrars of Voters to -- in order they're

1 going to go use the Diebold system.

2 And I assume that if you did such testing, that
3 would be on the other -- the same thing on the Sequoia,
4 Hart, and ES&S.

5 How does the Secretary of State propose to enforce
6 these rules for Registrars of Voters to follow? What
7 happens if they don't follow these rules? Who is supposed
8 to tell them? How are you supposed to -- What are you
9 supposed to do, re-run the election? What is the point of
10 making unenforceable rules? How can we trust what the
11 Secretary of State tells us? What is the point of making
12 these unenforceable demands and make statements, promises,
13 publishes hundreds of pages of reports for our citizens to
14 look at?

15 MODERATOR LAPSLEY: Thank you. Time is up.

16 (Applause.)

17 MODERATOR LAPSLEY: Next we have Jerry Berkman.

18 Mr. Berkman?

19 MR. BERKMAN: Jerry Berkman from Berkeley.

20 As I said, Section 19251 says, and I quoted from
21 the Elections Code, "Accessible means of the information
22 provided on a paper record copy from the voter -- the
23 information provided on the paper record copy from the
24 voter verified paper audit trail mechanism as provided or
25 conveyed to voters in both a visual and non-visual method,

1 such as an audio component."

2 That's not being done with these machines. These
3 machines have no connection. If they -- tell you what --
4 They think it's on the paper, but if the printer jams, if
5 the printer runs out of ink and doesn't print anything,
6 you would still get the same thing back from the audio.

7 And that's the Election Code, and I don't
8 understand it.

9 In the staff report they go through a whole bunch
10 of Election Code items. They do not -- That item is
11 omitted.

12 They have things about, the Election Board should
13 have precinct board members, etc., which the system meets
14 that condition. It's independent of the condition.

15 The Secretary of State's standards for an AVVPAT
16 have the same condition. Let me see if I can find it.
17 Okay.

18 It says, under the design requirements for the
19 paper record display unit, the audio -- The AVVPAT
20 components include an audio component. And the Hart, TSX,
21 and Sequoia do not.

22 The secrecy, these continuous -- AVVPATs, the lock
23 in the polling station to vote, the law says you must
24 announce your name -- I'm up already? Okay.

25 MODERATOR LAPSLEY: Thank you for your comments.

1 MR. BERKMAN: I also have one last sentence.

2 2.2.3 of the AVVPAT standard says that the ballot
3 must be -- the paper trail must be the same quality of
4 paper as the ballot.

5 And the Secretary has already said that that does
6 not meet that standard.

7 MODERATOR LAPSLEY: Thank you for your comment.

8 Next we have Kim Alexander.

9 MS. ALEXANDER: Hi. Kim Alexander with the
10 California Voter Foundation.

11 I did review the volume tests for the Hart eSlate
12 system and noticed that there were numerous problems with
13 the printer units. And despite these problems, the staff
14 is recommending certificating this system with conditions.

15 The voter verified paper audit trail is not a
16 minor feature in the voting systems. It is the key to
17 public verification software and vote counts, as mandated
18 by State law.

19 If the paper trail in Orange County's election
20 system -- Orange being the only county currently using
21 HART's e-voting machines -- is not reliable, the manual
22 count will not be reliable either.

23 Orange County can and should instead use paper
24 ballots in the primary election and give its vendor more
25 time to work out the problems with its printer unit.

1 Using paper ballots will ensure there is a meaningful
2 audit trail that's available for the public manual count.
3 And on that point, in the use procedures for the Hart
4 eSlate machine, they do not specify that the voter
5 verified paper audit trail be used to perform the
6 1 percent manual count. They say instead that a public
7 manual recount of the ballots pass in at least 1 percent
8 of the precincts.

9 We have worked for two years, now, to make sure
10 that when this manual count law is satisfied that it is
11 with the voter verified paper record and not with
12 printouts of electronic ballots, and this ambiguity in the
13 draft procedures for the Hart system appears to leave open
14 the opportunity for Orange or any other county using this
15 system to print out electronic copies of paper ballots, so
16 we feel very strongly that the procedures for this county
17 and this vendor and any other county clearly spell out the
18 fact that the 1 percent manual count must take place with
19 the voter verified paper audit trail.

20 (Applause.)

21 MODERATOR LAPSLEY: Thanks for your comments.

22 Next we have Phoebe Anne Sorgen. After Ms. Sorgen
23 we have Philip Harlan.

24 MS. SORGEN: Hello. I'm also a member of the
25 Voting Rights Task Force.

1 And I just want to thank all of those citizens who
2 put in countless hours of research for fair elections.

3 This certification process is designed to force
4 these systems into use with the mere appearance of
5 legality. The complete test results are being hidden, and
6 the tests are incomplete. The public has no basis for
7 trusting our votes to any of them.

8 The mandatory procedures for federal qualification
9 and state certification are being routinely violated by
10 the Secretary of State's office, as are the mandatory
11 public notice laws.

12 Not one of the systems up for review has the
13 required federal NASED qualification number. I'm alarmed
14 by Diebold certification in the face of known hacking
15 paths and by the Secretary of State's broken promises to
16 await the ITA report and to offer a period of public
17 comment before making any decision. I'm alarmed by the
18 noncompliance of all the vendors' proffered voter
19 verifiable paper audit trail solutions. This entire
20 electronic voting approval process is an outlaw
21 enterprise.

22 The EAC ruling banned mixing 1990 and 2002
23 standards, but that's what's happening.

24 None of the systems meets the requirements of the
25 California Elections Code. For example, the Sequoia and

1 Hart AVVPATs are not accessible according to Election Code
2 19251. The Sequoia and Hart AVVPATs compromise the
3 secrecy of the ballot. The Sequoia and Hart AVVPATs are
4 not suitable for audits when used for early voting.
5 Multiple precincts are on one AVVPAT reel.

6 The volume tests show that the systems are
7 unreliable. There are variations in the details, but all
8 the machines have the same basic problems and must be
9 abandoned, if we are going to restore democracy in this
10 country.

11 (Applause.)

12 MODERATOR LAPSLEY: Thank you for your comments.

13 MR. HARLAN: I am Philip Harlan, 521 Brown Street,
14 Healdsburg.

15 I don't know if the device that my people use are
16 any different from this machine than it was in the Hart
17 machine I tested a few weeks ago. But it was a little
18 harder to use than I would like to have seen, if that
19 means anything. It was a handheld device on a cable. You
20 know, had an electrical cord running out of it to transfer
21 data, of course -- if that means anything to you, because
22 I don't know what configuration you were using.

23 Also, the Hart machine I used had a reel. A reel
24 to me, you know, like, I said, it's an adding machine
25 tape, and it may be bigger but it's an adding machine

1 tape. I cannot pull that out and hand it to somebody and
2 say, "Does this have my vote?" and drop it in a box and
3 hope that somebody hand counts it.

4 And I want to say, I have a little drive in my
5 pocket. It goes in my USB port. It's a solid state
6 memory. I could have brought a 100-gigabyte hard drive,
7 put it in my pocket. I have one. It's in my shirt
8 pocket. Holds a hundred gigabytes, and I can stick that
9 in your machine and you can put your vote tally in it and
10 I can take it down to the county central office and I can
11 stick it in and I can put in that machine and I can say
12 print out the vote.

13 And if I'm a Registrar of Voters, I can say that
14 nobody counts my votes but me, but I'm going to tell you,
15 I think the guy and that counts the votes in that case is
16 the guy that wrote the software. And if the County
17 Registrar of Voters wrote the software and put it in
18 there, he counted the vote. Otherwise, he just took
19 somebody else's vote count and put it in his machine, and
20 that's not good enough for me.

21 Thank you.

22 (Applause.)

23 MODERATOR LAPSLEY: Next we have Mary Brangan,
24 B-R-A-N-G-A-N.

25 MS. BRANGAN: Mary Beth Brangan.

1 First of all, thank you for this opportunity to
2 speak and also thank you for what seems to sound like a
3 really laborious process of testing all of these complex
4 machines.

5 But my concern about this rush to provide these
6 machines to take over the election system is that the
7 testing for certification involves only testing for
8 functions and features. It doesn't get -- they don't get
9 tested as to whether the system can be hacked.

10 There are so many different ways that they can be
11 hacked, and be -- the votes altered and manipulated, that
12 the GAO report on this issue, as well as the Carter-Baker
13 Commission, both commented on the ease with which fraud
14 can be made to happen with all of these electronic voting
15 machines.

16 I'm also concerned about exactly what the last
17 speaker just pointed out, that it's very easy for external
18 devices to communicate with all of these machines, even on
19 the day of voting, before voting, after voting, in
20 tabulation. So I don't -- It's completely a mystery to me
21 how anybody who knows the most rudimentary facts about
22 this issue could have any faith in this process.

23 And I'm also extremely concerned that the machine
24 vendors are forcing the certifiers, our testers, to sign
25 nondisclosure agreements, which prevent the flaws and

1 vulnerabilities of the machines to be disclosed, not only
2 to the public, but it seems, even to the Secretary of
3 State's office.

4 Thank you.

5 (Applause.)

6 MODERATOR LAPSLEY: Thank you for your comment.

7 Next we have Sherry Healy. After Ms. Healy we
8 have Chaim -- I will have this by the end of the day --
9 Chaim Finkelman. And our final speaker after that will be
10 Megan Matson.

11 MS. HEALY: I'm Sherry Healy from the California
12 Election Protection Network. A lot of my good points have
13 already been covered, so I won't be redundant. I'm part
14 to hear that we are recommending not to certify the Hart
15 InterCivics eScan because learning of the 44 percent
16 failure rate was a little concerning and so on and that
17 the bar code features being taken off.

18 But I think that overall, the main concern today
19 is just the fact that all these systems are predicated on
20 a flawed certification -- federal qualification system and
21 I do understand we could opt out of that.

22 More and more, I think we can do a superb job here
23 in California and do a better job. And just the mere fact
24 that any of these things are getting the thumbs up when we
25 can do so much better, with all the people from Silicon

1 Valley and technologists and activists, that we should
2 rethink this whole thing and we wouldn't get in the
3 predicament we're in right now, down to the wire and so
4 on.

5 So that's all. Thank you.

6 (Applause.)

7 MODERATOR LAPSLEY: Thank you for your comments.

8 MR. FINKELMAN: Howdy.

9 Start off with the positive. The accessibility
10 features sounded better than the last one. I am dyslexic
11 and usually listen to text material. And with the last
12 system, I would have had to choose whether to look at my
13 ballot or to read it -- or to listen to it, and this one,
14 I can do both. So that's a plus.

15 Now, for the rest of it.

16 An axiom of programmers is that a feature is above
17 with documentation. There are several of these that seem
18 to be listed to me.

19 There is supposed to be some testing that was
20 transient and didn't have a log file. Any time somebody's
21 turning on the election machines, I would like to know
22 about it.

23 I don't see it has a feature that you can test,
24 you run the logic tests and when you turn off the machine,
25 I don't know that somebody accessed the machine.

1 The other bug documentation with documentation was
2 that the memory tests and logic tests were in different
3 locations than the actual places in which the votes would
4 be stored.

5 Skipping fraud, this means that you tested a
6 memory location where you didn't store the votes. If the
7 memory location where you do store the votes is bad,
8 you've just lost the votes.

9 And fraud, if you store the program that changes
10 the votes in the memory location that you didn't test but
11 that you do store the votes, you access it on Election Day
12 and never before.

13 Roll-to-roll printing means that you can see
14 when -- who individuals voted for. That's unacceptable.

15 And since I'm not -- It sounds like the entire
16 system is not being junked -- it's just the scanner -- I
17 would like to ask whether any testing --

18 MODERATOR LAPSLEY: Time's up.

19 MR. FINKELMAN: Thank you.

20 MODERATOR LAPSLEY: Thank you.

21 Finally we have Megan Matson.

22 MS. MATSON: Hi. I'm Megan Matson of Mainstreet
23 Moms, and I have one quick point to make.

24 After listening today, it just seemed very clear
25 to me that the disability and the accessibility -- the

1 disability access community and its interests need to come
2 together with the security community and its interests,
3 and I think we need to recognize that the passage of HAVA
4 was a civil rights trial that was very hard won by the
5 disability community, and for us to come in with the
6 security concerns is a blow to that.

7 I think that the AutoMARK and vote-PAD and
8 technologies like that show us a way toward auditable
9 technologies that we can both get behind. The touch
10 screen DREs have been condemned by the government
11 accountability office, by the Carter-Baker Bipartisan
12 Commission.

13 The republican governor of Maryland just came out
14 against them, saying that he's seen 1,000 percent
15 increases in the maintenance cost estimates for the
16 Diebold systems.

17 I think cost has got to be on the table when we
18 talk about this. It means something to our communities
19 that the touch screen DREs, in -- for Leon County -- I
20 spoke with Ion Sancho, the registrar there, over the
21 weekend, would cost \$5 million when he can do a ballot
22 marking device and an optiscan in every precinct for
23 1.8 million.

24 That matters to our communities. That matters to
25 basic services in our budgets.

1 The Sequoia contract there included \$254 per
2 machine. That's 7,000 machines per year, and that didn't
3 even include the cost of the replacement of batteries,
4 which was another \$1 million. And this kind of cost is
5 going to have a ripple effect in our counties all over the
6 country.

7 We don't watch touch screen DREs. There are
8 security problems from end to end. It all comes down to
9 the audit. The paper trail is an unworkable audit as
10 implemented by the vendors, though it was a beautiful
11 triumph by verified voting and the rest of that community.

12 Thank you very much.

13 (Applause.)

14 MODERATOR LAPSLEY: Thank you for your comment.

15 And we actually have one more final request from
16 Ferris Gluck.

17 MS. GLUCK: Hi. My name is Ferris Gluck, and I
18 just wanted to comment on where we're at and some of the
19 solutions.

20 It seems to me with the HAVA January 1st deadline,
21 2006, the big problem with bringing the precincts --
22 counties into compliance with HAVA is addressing the
23 ADA -- excuse me, I don't have my notes with me --
24 addressing -- complying with ADA under HAVA, under Title
25 3.

1 And I want to alert people that there are low-tech
2 solutions now for recording a vote on the same ballot,
3 paper ballot, that all other voters use in the paper -- in
4 the polling place.

5 There is the equalla vote (phonetical) and there
6 is also the vote-PAD, and these address all of the needs
7 of people who have no sight or who have low vision or have
8 no sight and cannot hear, people with dexterity problems.

9 Thank you very much.

10 MODERATOR LAPSLEY: Thank you for your comments.

11 Mr. McClure is still here. Is there any final
12 wrap up or response that you would like to make to any of
13 the issues that were presented?

14 MR. McCLURE: No, thank you.

15 MODERATOR LAPSLEY: It is now about 10 to 1:00.

16 Let's come back at 1:45, and we will start the
17 hearing on Sequoia.

18 Just for everyone's information, if you are not
19 familiar with the area, we have a cafeteria up on the
20 second floor. There's also La Bou and other places to get
21 a bite to eat, right across the street.

22 Thank you.

23 (Thereupon a recess was taken in
24 proceedings.)

25 MODERATOR LAPSLEY: Okay. All right. It's about

1 actually 5 to.

2 Let's go ahead and get started.

3 The next system that we'll be hearing is the
4 Sequoia system, and Sequoia has quite a few parts.

5 Go ahead and turn it over to Bruce to do our staff
6 report.

7 OVSTA INTERIM DIRECTOR McDANNOLD: Thank you. The
8 final system being presented today is coming from Sequoia
9 Voting Systems.

10 It features the following components:

11 First, WinEDS, version 3.1.012. WinEDS is a
12 software election management application. Unlike the two
13 that we talked about earlier today, this is more of a
14 monolithic application that does it all within the same
15 application.

16 It's a Windows-based program. Within WinEDS, the
17 user or the jurisdiction would define the election, create
18 the ballot layouts. At the conclusion of the election, do
19 the consolidation of the vote results, the tabulation, and
20 then ultimately the reporting, all done from within
21 WinEDS.

22 WinEDS is also used to program the memory
23 cartridges that configure the various voting devices in
24 the system that we'll talk about in a minute.

25 The memory cartridges for the operating systems is

1 also known for their Edge touch screen DREs.

2 The previous version of WinEDS certified in
3 California was version 3.1.134. That was last certified
4 in January 1, 2005.

5 This application has actually been entirely
6 rewritten by the vendor to bring it into compliance with
7 the 2002 voting system standards.

8 The rest of the system is all basically hardware
9 components. I'll step through those.

10 The first is the MPR, the Memory Pack Reader.
11 We're being asked to certify firmware version 2.15. This
12 is the device that is used by WinEDS to actually write the
13 instruction to the memory packs that are used to program
14 and configure the Insights and the Eagle ballot
15 tabulators.

16 At the end of the election it's also the device
17 that is used to read the data back off of those memory
18 packs, into WinEDS.

19 This was last -- this version actually is already
20 certified in California, as part of a previous system.
21 And that was certified last April, April 28th, 2005, and
22 returns unchanged for this application.

23 The next component is the Optech 400-C with WinETP
24 firmware version 1.12.4. The Optech 400-C is a high speed
25 ballot scanner and tabulator for the Sequoia mark-sense

1 optical ballots. It will read ballots at the rate of
2 approximately 400 ballots a minute. Obviously, it's
3 designed to be used for central tabulation jurisdictions
4 to count their absentee ballots.

5 Previous version of the Optech 400-C was certified
6 April 28th, 2005. That was version 1.10.5. At that time
7 it was not certified -- tested and certified for use with
8 WinEDS, as it is in this application.

9 The firmware for the 400-C has, again, been
10 rewritten to bring it into compliance with the 2002 voting
11 system standards.

12 The next two components are precinct ballot
13 scanners, tabulators for optical-scan ballots. Those are
14 the Optech Insight, firmware versions APX K2.10, HPX K.142
15 (sic) and then sistered with that is a new device to
16 California called the Optech Insight Plus, and that is
17 also the same firmware, versions APX K2.10, HPX K1.42.

18 Both of these are, again, precinct optical-scan
19 ballot tabulators. The difference, the Insight Plus adds
20 an LCD -- primary difference is it adds an LCD display to
21 exhibit messages to the voter or the user to what's going
22 on with their ballot. Both devices provide -- in
23 compliance with HAVA, provide warning of over-votes and
24 can optionally be programmed to provide warning of
25 under-votes.

1 As noted before, they are configured with the
2 memory cartridges out of WinEDS. At the conclusion of the
3 election, they are used to export the vote results back
4 into the WinEDS Election Management System.

5 The next device is a legacy that was part of the
6 application, is a legacy optical-scan ballot tabulator
7 called the Optech Eagle. In this case, firmware versions
8 APS 1.52, HPS 1.30. That is also a similar precinct
9 optical scanner for ballots. It also provides warning for
10 over-votes and optionally can be programmed to provide
11 warning for under-votes.

12 This device was not included as part of the
13 application submitted to the Federal ITAs, as part of the
14 system. It is already certified -- It is already
15 certified for use in California, just not to be used in
16 conjunction with the system.

17 The vendor asked that we include it as part of the
18 system, and we tested it, therefore, while we were doing
19 our existing state certification testing with the test of
20 the system. So it was tested to be potentially part of
21 the system.

22 The next two components are the AVC Edge, both
23 Model 1 and Model 2. Model 1 was the original version of
24 the Edge. It is used in some jurisdictions in California.
25 Model 2 is the newer replacement that's being designed.

1 Both of those are operating in firmware version 5.0.24.

2 These are touch screen voting, DRE voting devices.
3 The voter selects their vote choices by actually touching
4 those on the screen. At the end, as with traditional, the
5 voter is presented with a summary of their ballot that
6 they can confirm or go back and change their vote as they
7 feel they need to.

8 The Edges are both programmed with a PCMCIA memory
9 device PC card that is programmed from WinEDS and then at
10 the conclusion of the election, that memory device is used
11 to take the results out of the Edge and import them back
12 into WinEDS for tabulation.

13 As with most DREs, the Edge devices absolutely
14 prohibit over-voting and provide warning if a voter skips
15 a contest or does not vote all the options a voter may
16 have in a particular contest.

17 The Edge, with this version of firmware in this
18 system, has been brought up so it now supports all the
19 languages required in California, which was a problem in
20 the previous version. It now supports all languages,
21 including character-based, graphical languages, such as
22 Chinese and Japanese.

23 With the audio box device attached to the Edge, it
24 provides accessibility support. Namely, a voter can vote
25 an audio ballot with audio instructions, as we've talked

1 about, with the two prior systems today. It also has the
2 capability to display a high contrast voter -- or ballot
3 for voters with visual acuity issues. And it does provide
4 a sip and puff interface through this audio box.

5 The Edge 1 was previously certified for use in
6 California. That certification does not include Sequoia's
7 VeriVote for the voter verified paper audit trail.

8 The Edge 2 was last certified firmware version
9 4.3.320, last January. And that was in conjunction with
10 the VeriVote voter verified paper audit trail.

11 The next component of the system is the VeriVote
12 printer or that AVVPAT, the audit trail, which was
13 designed to mount on the edge of the polling -- or the
14 voting booth for the AVC Edge units. It is also a
15 reel-to-reel device. It's driven by a thermal printer,
16 and if there are problems with that device, it is, again,
17 designed to be replaced and swapped out as an entire
18 single unit to protect the integrity of the vote trail and
19 the confidentiality of the ballots in it.

20 The VeriVote printer was last certified
21 January 21st, 2005, for use only with the Edge 2, with
22 this application. It was tested and proposed to be
23 certified with both versions of the Edge.

24 The next device is the Card Activator, version
25 5.0.21. That's a small, portable device that's used to

1 program the memory cards for an active voter. The voter
2 uses it to activate the Edge.

3 The memory cards are smart cards that we've --
4 many of us have seen and are familiar with. They have a
5 little metal contact on one side.

6 What happens is the voter goes into the polling
7 place. And once they are checked in, their registration
8 is verified, their eligibility. A poll worker would put
9 the smart card into the card activator and tell the card
10 activator of the ballot style, the precinct, and perhaps a
11 political party and any primary election that this voter
12 is voting. Then that information is put on the smart
13 card. That's handed -- The voter activation card is
14 handed to the voter. They can walk up to any Edge device.
15 These DRE devices put it in, and that's how the machine
16 knows what ballot to present to the voter.

17 Card Activator is one device for programming the
18 memory cards. That was previously certified as version,
19 firmware version 4.3.320, January 1, 2005, and I believe
20 that may be a misprint, but it was January 2005.

21 This version has been brought up to date to be
22 fully compliant with the 2002 voting system standards.

23 The final device or the final component of this
24 system is the HAAT, H-A-A-T, Model 50. We're being asked
25 to certify firmware version 1.0.69L. This is also a small

1 portable device that's used to program those same memory
2 cards. It's an alternative device to the smart cards that
3 voters would use to activate the Edge to cast their
4 ballot.

5 This is also programmed by WinEDS, using the
6 PCMCIA card, those PC cards that are used to program the
7 Edge units, themselves.

8 This device is new to California. It's the first
9 time we've seen it presented for certification in use in
10 this state.

11 The various hardware components have all been
12 tested by the Federal ITAs. All the hardware components
13 were actually tested by Wyle Laboratories. We have the
14 draft reports for each of those components. They've all
15 been tested to the 2002 voting system standards, as
16 compliant.

17 The ITA report for the Edge 1, the Edge 2, the
18 VeriVote, the audio box, and the Card Activator, we have
19 the draft report. It was dated February 8th, 2006. The
20 final report, as I mentioned earlier, would be required
21 prior to certification of the voting system.

22 Wyle's report for the Optech 400-C is in hand.
23 That was dated January 13, 2006.

24 The Wyle reports for the Insight and the Insight
25 Plus were dated January 10th, 2006.

1 Again, these are all in draft form at this point.

2 The report for the MPR, for programming the memory
3 card, the memory modules, that draft report was dated May
4 10th, 2005.

5 And then finally SysTest Labs actually did the
6 testing of the HAAT, the H-A-A-T device, the alternative
7 for programming the voter activation cards.

8 That draft report is in hand, dated January 25th,
9 2006.

10 And again, all these devices have been tested as
11 compliant with the 2002 voting system standards.

12 Prior to certification, the Secretary of State
13 would need to have copies of the final reports of each of
14 those components.

15 Finally, Cyber Incorporated did the source code
16 review of WinEDS, the functional testing of WinEDS, as
17 well as the end-to-end testing of the entire system. We
18 have their draft report in hand, dated February 15th,
19 2006, and, again, the final version of that report would
20 need to be received prior to certification of the system
21 for use in California.

22 Finally, NASED has not yet issued the federal
23 qualification number for this system either, and that, of
24 course, as mentioned before, would be required to be
25 issued prior to the Secretary of State certifying this

1 voting system.

2 We conducted our State testing of the system,
3 February 6 through 10th at the corporate headquarters of
4 Sequoia Voting Systems in Oakland, California.

5 The State testing was conducted by Steve
6 Freeman -- Consultant Steve Freeman, Paul Craft, as well
7 as Secretary of State staff.

8 We followed the standard test protocols, working
9 with trusted builds received directly from the ITAs,
10 conducting the standard primary and general test elections
11 as well as testing for unusual ballot markings, using the
12 standard recall election definition that we use for that
13 testing.

14 The test protocol was spelled out, again, in the
15 staff report for the testing of the Sequoia system, which
16 is available on our Internet Web site.

17 Significant findings from testing the Sequoia
18 system. First of all, the Edge units were built for
19 supporting dual printer modes, one printer being the
20 VeriVote VVPAT paper audit record, but they were also
21 promoted as being able to attach a second auxiliary report
22 to alternatively print the poll tapes or the results from
23 it at the end of the evening. When we went to test that,
24 we could not get it functioning and consequently, the
25 vendor has withdrawn that functionality from the

1 application.

2 When we started our testing, initially, we found
3 both the Edge 1 units were out of calibration at the
4 beginning of the test that we conducted. We re-calibrated
5 the units and were able to complete the test successfully,
6 without any further problems with calibration on those
7 units.

8 One of the things we discovered was if a voter
9 using WinEDS casts a write-in ballot and then on their
10 write-in ballot chooses one of the candidates that is
11 actually one of the listed candidates for that contest,
12 WinEDS has a problem resolving the issue. You should go
13 in and -- say this is a vote for president was a write-in,
14 and you want to switch it to the actual voted candidate
15 for that ballot, that would have been up -- I'm not sure
16 if I'm explaining that correctly. Try that again.

17 If we had a candidate or a contest, let's say, for
18 President and we had Michael Smith and Joe Johnson and
19 then a voter wrote in "Michael Smith" as the write-in
20 candidate, WinEDS has a problem then taking that vote and
21 crediting back to an actual candidate on the ballot.

22 So these procedures need to address and spell out
23 how a jurisdiction would get around that and use that.

24 Finally, during the testing, we had -- of the
25 primary test elections -- we used the same set of test

1 ballots of both Insights, the 400-C, and then finally on
2 the Eagle.

3 We had one ballot that was not read by the Eagle,
4 that had been correctly read by the Insights as well as
5 the 400-C. When we examined the ballot, nobody could
6 determine anything improper in the marking, and the vendor
7 suggested that it was probably associated with a problem
8 of the composition of the ink that was used to mark the
9 ballot.

10 The Eagle uses an older, infrared technology for
11 the read heads that is much more sensitive to the types of
12 ink used. So that's the suggested explanation of why the
13 vote count was off. That was one ballot that was
14 incorrectly read out of the 439 ballots that were read for
15 that test.

16 The other issue that came up in testing with the
17 WinEDS was how it handled -- declined to state voters,
18 nonpartisan voters who chose to vote partisan in a primary
19 election.

20 Under California law, political parties can
21 optionally decide that not only do -- are their registered
22 party members allowed to vote in their primary election,
23 but party -- voters who are not registered to a political
24 party can be -- a party can optionally elect to let those
25 people vote in their primary as well.

1 The condition that's been outstanding on the
2 Sequoia system was its inability to do that and separately
3 break out those vote results.

4 When we tested the Sequoia system, they were able
5 to define the election in such a way that we could get
6 separate reports and separate break downs in that fashion
7 of the non-partisan voters who voted in a partisan race as
8 well as the partisan voters who vote in that same partisan
9 race. But the system cannot currently aggregate those and
10 give us the combined totals of how many people voted in
11 that contest.

12 That, of course, can be -- can be manually done
13 fairly readily, and the vendor has advised us, they are
14 currently working on a correction that will allow the
15 system to do that, automatically.

16 In terms of the accessibility support with the
17 Edge units, there is the audio ballot mode for the blind.
18 Again, we generally found the instructions to be clear and
19 fairly straight forward. We did note that if a voter is
20 voting on the Edge in audio ballot mode, the screen
21 assumes that they are completely blind and the Edge blanks
22 out the screen. It's not an option for that voter.

23 At the end of their ballot, reasonably enough,
24 when they would finalize their ballot, since they wouldn't
25 be able to read the VeriVote, itself, it scrolls up very

1 quickly, past the viewing window, and then scrolls up on
2 the wall the way the others do, on the voter verified
3 paper audit trail.

4 Interestingly enough, if you are using the device
5 with a sip and puff interface, because you have physical
6 disability issues, that support is designed to go through
7 that same audio box, which means it presumes you are a
8 blind voter.

9 So if you are using the sip and puff, it also
10 blanks out the screen so that you cannot see the actual
11 visual version of the ballot, and then you also have no
12 opportunity to verify, visually, off of the VeriVote paper
13 trail on the voter verified paper audit trail. That
14 scrolls up as well.

15 There is a high contrast mode, but we did note in
16 testing that the high contrast mode does not work if you
17 are using it with a graphic-based language, so if you are
18 voting in Chinese or Japanese, when you put in the high
19 contrast mode, the contrast labels go away. So these
20 procedures need to explicitly, using the system, say that
21 the high contrast mode cannot be offered or used with
22 graphic-based languages.

23 Finally -- as with the Hart system that we talked
24 about earlier -- with the addition of the voter verified
25 paper audit trail, the VeriVote, you can no longer take

1 the small lightweight tablet out of the voting booth and
2 carry it out for curbside voting. To support curbside
3 voting, the whole polling booth, with the paper audit
4 trail has to be carried outside to the voter.

5 We conducted the volume testing of this system the
6 week -- February 14th and February 15th. That was done at
7 the Alameda County Fairgrounds.

8 For this volume test, Sequoia supplied 50
9 Insights, 50 Insight Plus devices, 100 Edge Model 1 units
10 and 100 Edge Model 2 units.

11 We contracted 60 temporary workers to provide the
12 voting and conduct the test. That was overseen, again, by
13 Consultant Paul Craft as well as Secretary of State staff.

14 The direct test results in the error reports are
15 available as well on our Internet site for download and
16 inspection. I will take each of those tests individually
17 in our findings on each of the devices.

18 The Edge Model 1, we recorded 78 errors. Of those
19 78 errors, 72 of them were human errors that were an
20 artifact of the test, itself.

21 To supply, just logistically, a hundred people
22 voting 110 ballots, the vendor did come in and
23 preprogrammed all those voter activation cards and tried
24 very carefully to arrange them all in stacks at just the
25 right order to match their ballots. And not surprisingly,

1 we had a lot of memory cards that just got sorted in the
2 wrong order.

3 Any time something like that happened, it was
4 logged as an error, even though it wasn't actually
5 anything to do with the voting equipment, itself.

6 So 78 errors, 72 were related to just the human
7 factors of errors in setting up the test.

8 Of the remaining errors, we again found at the
9 start of the test, four of the Edge 1 units out of
10 calibration, right at the beginning of the test on the
11 first ballot counted. Once those were put back into
12 calibration, the testing -- the remainder of the testing
13 on those units went fine. We had no further calibration
14 problems.

15 Between that and the testing we found -- the state
16 certification testing, it is the recommendation of the
17 Office of Voting Systems that calibration be required as
18 part of the opening procedures on any Edge Model 1 unit,
19 just before opening the polls to make sure that they are
20 in calibration for the voters.

21 We had two incidents on the Edge 1 where it came
22 to the point that the voter went to cast the ballot and
23 there was a problem.

24 In the first case -- both of those were handled
25 very gracefully by the system.

1 In the first case, it stated very clearly that the
2 vote has been cast and it had been printed on the paper
3 audit trail and the system just advised that it couldn't
4 post that to the voter activation card, that that card had
5 been voted, which would require a poll worker to come and
6 clear the card manually so someone couldn't turn around
7 and vote that card again.

8 The second time, the machine locked up and
9 displayed that the vote had not been cast correctly. For
10 the purpose of the test, we rebooted the machine, put the
11 voter card back in, and confirmed that it had not been
12 cast on the card and allowed the voter to continue voting
13 in the test, as they would have.

14 The Secretary of State's recommendation is -- or
15 that the Office of Voting Systems's recommendation is that
16 if we had a machine that required rebooting at the polling
17 place, that it instead be taken out of service in a real
18 election and replaced with another machine.

19 On testing the Edge 2 VeriVote, we had 75 errors
20 logged. Again, 73 of those were attributed to the same
21 types of just human errors, confusion on what to do,
22 following the script, or cards that had been programmed
23 wrong.

24 Of the two remaining errors, we had the VeriVote
25 paper trail jam, that voter verified paper audit trail,

1 once. Again, the system handled it very gracefully, made
2 it very clear that it had failed to save the ballot.

3 We replaced the VeriVote with a swappable unit and
4 it immediately recovered by gracefully shutting down the
5 previous ballot and allowing the voter to recast it.

6 Again, the actual record was verified at the conclusion of
7 the test against the record on the voter verified paper
8 audit trail and the integrity of both records, matched and
9 reconciled.

10 We also had another episode with the Edge 2. One
11 episode where the voter record ballot failed to save and
12 once we had rebooted it, normal voting was allowed. And
13 as I mentioned before, the same recommendation that if it
14 happened in a real polling place, the machine be taken out
15 of service and replaced, rather than reboot and put back
16 into service.

17 As to the two Insight optical-scan units, the
18 Insight 1, first of all, we had 33 errors. Four of those
19 attributed to human mistakes. Some of the mistakes we saw
20 were test voters not paying attention and tried to feed
21 two ballots through at the exact same time or feeding a
22 ballot in as one was coming back up and then trying to
23 pull it out and it jammed the machine.

24 Twenty-four ballot -- twenty-four of those were
25 ballot jams. In each case, when we ran into a ballot jam

1 with the Insight, there was a very, very clear message,
2 saying what problem was with the ballot, why it had
3 jammed, how to correct it, and whether or not the ballot
4 had been cancelled. So any voter or poll worker clearly
5 understood what was going on.

6 To clear a ballot jam could be done either by
7 lifting the cover and pulling the ballot back out or
8 alternately lifting -- for those that had jammed further
9 back -- lifting the front of the Insight and merely
10 tugging the ballot, because it has been counted, and
11 letting it drop back into the ballot box, unseen by the
12 poll worker.

13 I also want to point out that in the testing of
14 these ballots and the way that the vendor handled
15 preparing for the test, we also had five sets of the test
16 stack that -- or ten test stacks that had, prior to the
17 test, each ballot had been run through a machine, twice,
18 to verify that the test stack actually conformed to the
19 baseline.

20 Then, through the course of testing the Insights,
21 those same ballots went through another five passes, each.
22 So they started the test having been read twice and then
23 finished the test having been read seven times. So we
24 would expect based on that, that fatigue of the ballots
25 would be a factor and likely increase any experience of

1 jams that we ran into in our testing.

2 We had five ballots that were also rejected just
3 because the machine had difficulty reading the timing
4 marks, the little black marks that give it the
5 instruction. In each of those cases, we simply reinserted
6 the ballot with a different orientation, upside down or
7 backwards, and it was accepted just fine.

8 At the conclusion of the test all of the results
9 from all 50 Insights were reconciled down to the last
10 vote, and no errors were found.

11 With regards to the test of the Insight Plus, we
12 had 33 errors, again, and four of those were attributed to
13 human factors. One of the problems we ran into the
14 workers is the second day they were getting tired and
15 ballots were getting moved and not cleared out of one
16 ballot box in preparation for the test stack, and then the
17 next person would come along, and the ballot from the
18 first stack now became part of the second stack. So some
19 of the counts were off.

20 We were able to reconcile all of those out.

21 We had 28 ballot jams in the test of the Insight
22 Plus. Again, all of those were handled gracefully with
23 very clear instructions. We had no vote errors in
24 tabulation.

25 At the conclusion of the test, as we were printing

1 the results tape, we had one results tape that jammed from
2 the little printer that gave the vote results. It just
3 bunched up inside the door. It was very easy to clear by
4 lifting the door and feeding the paper through.

5 If worse came to worse in that it had been
6 damaged, the Insight Plus and the Insight both allow that
7 tape to be reprinted, anyway.

8 Finally, to point out in those jams, we now had
9 ballots that had been through 2 passes prior to the start
10 of the first test had gone through five passes during the
11 test of the Insight and now had gone through passes 8
12 through 13. So we did have very fatigued ballots that I
13 think would be attributed to the experience of the jams we
14 saw.

15 Finally, it should be noted at the conclusion of
16 the test that as we were reconciling the vote results from
17 the test of the Insight Pluses, we had one machine whose
18 vote counts were off. And when we investigated it, during
19 the very last few ballots of the test, the machine had
20 lost some of its read heads. They had gone blank and not
21 read the ballots accurately.

22 We were able to verify that using a standard
23 calibration ballot that's designed to test the accuracy of
24 the read heads, and as soon as we ran that through, it was
25 apparent that the read heads had gone out.

1 The Office of Voting Systems believe that
2 underscores the importance of why it's necessary at the
3 conclusion of every election that every optical-scan
4 reader have a calibration test performed on it to make
5 sure that it started the test or started the election and
6 finished the election in calibration, accurately reading
7 ballots. If such a machine was found to be out of
8 calibration, it would be a simple matter to correct the
9 machine or scan those ballots in a different tabulator to
10 get an accurate count and verify, or perhaps, and count
11 the ballots, themselves.

12 The recommendation of the Office of Voting
13 Systems, based on our testing, is that, first of all, the
14 Eagle not be certified as a part of this system. The
15 Eagle is not compliant with the 2002 voting system
16 standards, and based on its technology with infrared
17 ink -- or infrared read heads, as we noted, it's subject
18 to the error of not reading ballots that the voter may
19 have marked and thought they had marked accurately, and
20 had used the wrong kind of pen or pencil to mark.

21 Ignoring the -- or excluding the Eagle, the
22 recommendation of the Office is that the remainder of the
23 Sequoia system be certified with the standard conditions
24 as well as use procedures that address all the points that
25 were found in testing as well as identified in the staff

1 report.

2 MODERATOR LAPSLEY: Thank you, Bruce.

3 Is there anyone from Sequoia that's here that's a
4 representative and would like to make a comment on Bruce's
5 report?

6 MS. SHAFER: We would be happy to answer
7 questions.

8 MODERATOR LAPSLEY: Can you come up to the podium,
9 please? Are you here by yourself?

10 MS. SHAFER: I have two of my colleagues with me.
11 If I'm unable to answer a questions, I'll bring someone
12 else up with me.

13 MODERATOR LAPSLEY: And can you identify yourself?

14 MS. SHAFER: Michelle Shafer, S-H-A-F-E-R.

15 MODERATOR LAPSLEY: Are there any questions from
16 the panel for the vendor or for Bruce?

17 INFORMATION TECHNOLOGY CHIEF KERCHER: I have one.
18 There is a description in the use procedures as well as in
19 the staff and consultant reports of the voter activation
20 cards. In each case it describes those voter activation
21 as smart cards, but they don't describe them any further.

22 Can you talk about a bit about what is actually on
23 that card? What's the relationship between that logic and
24 the logic that's on the voting system, itself?

25 MR. TERWILLIGER: Looks like I get to handle that

1 one.

2 My name is Paul Terwilliger,
3 T-E-R-W-I-L-L-I-G-E-R.

4 We call the voter activation card a smart card,
5 which probably isn't technically correct. It's a memory
6 card, a small amount of memory on there. What we're
7 loading on there, in encrypted form, is the time and date
8 when the card is activated. There is a time window for
9 when it's valid. We're loading the voter's ballot style,
10 and we're loading a check sum of the ballot to make sure
11 that the card is used only in this particular election.

12 INFORMATION TECHNOLOGY CHIEF KERCHER: So there's
13 no logic on that card? It is a memory card only? And
14 that memory is controlled by logic that's on the
15 activation devices or on the election system itself?

16 MR. TERWILLIGER: That's correct.

17 INFORMATION TECHNOLOGY CHIEF KERCHER: Thank you.

18 MODERATOR LAPSLEY: Are there any other questions
19 from the panel?

20 In that case we'll go ahead and -- we had one
21 request for extended time. Mr. Soper, S-O-P-E-R, made a
22 request.

23 Please come up to the podium.

24 MR. SOPER: Thank you. My name is Jim Soper.

25 I am a former senior consultant with the General

1 Equipment Corporation and have been a programmer for over
2 20 years.

3 The first bit of information I want to go through
4 was relayed to me through Jeremiah Aiken down in
5 Riverside.

6 And I believe -- I'm going to pose this more in
7 the form of questions, because the system that he had
8 accessed to work with is a little bit older than what's
9 been certified, but you still have visuals on the system
10 and you are using SQL, so we have reason to believe that
11 it's still up to date. But what I'm going to ask is that
12 these things be checked out.

13 The first part of the information that I got is
14 now posted at <http://docs.votetrustusa.org> -- I will pass
15 the address on -- [org/sequoia/tx/how 2/](http://docs.votetrustusa.org/sequoia/tx/how%20/).

16 Mr. Aiken was able to demonstrate in a system that
17 he worked on that he could use the basic interpreter
18 compiler, and I'm not sure which one it is, but Visio has
19 a basic -- I'm going to call an interpreter in it. And he
20 was able to access and read back the code or write new
21 code on the system and change it and set it up so that
22 once you let the program come back in, there was no trace
23 of what he did.

24 And he was able to connect to the database. The
25 database contains all of the information or almost all of

1 it that is our votes, our registration, and whatever else
2 is being contained there.

3 He was able to access that, make a connection, and
4 he was even able to change the audit log of the database.
5 So he can set it up, theoretically, to make other changes
6 elsewhere, and with no trace.

7 He also showed how he could possibly get in --
8 there's a database of translations with the candidates'
9 names. And, for example, you want to do some Chinese --
10 show a candidate's name in Chinese. There's -- They have
11 a table for that, and they have numbers, and you can go in
12 and flip the numbers so that all the Chinese voters
13 thinking they are voting for candidate A were voting for
14 B, and B, voting for A, and flip folks. They were able to
15 change that in the table.

16 There's a default password for the system. That
17 password is really hard. It's called "password," and he
18 was able to show, by looking at the help file, that you
19 can continue to use that "password" password without
20 having a system force you to change it to something else.

21 This is not a mission critical system.

22 Now, section 6.4.1.E of the federal guidelines
23 says, "After initiation of Election Day testing, no source
24 code or compilers or assemblers shall be resident or
25 accessible."

1 We have BASIC source code on that system. We have
2 SQL source code that I've also seen resident on that
3 system, and I'm assuming that that is after initiation of
4 Election Day testing.

5 This is in violation of the guidelines and is a
6 big security gap as Mr. Aiken was able to show, because he
7 was able to go and play around with the database and not
8 leave a trace.

9 Another point in the BASIC code, you would see
10 among other things in Section 4.2.3.E that there is a
11 prohibition against multiple exit points and it's also
12 generally known that you're not allowed to use goto's.

13 And I've seen plenty of source code that I would
14 pass up. It's also on this Web site that uses multiple
15 exit points and goto's.

16 Now, the interdiction of that is mainly about
17 readability and has somewhat less to do with security,
18 although you're trying to avoid security problems later,
19 but the problems I saw are small, and I'm not going to
20 make a big stink about that. But I have seen ITA reports
21 where they junk all over Sequoia for having multiple exit
22 points. And now I'm looking at the BASIC code and I'm
23 seeing multiple exit points and goto's.

24 And I'm saying, did the ITA ever look at the BASIC
25 code? Has that been inspected? This is one of these

1 questions that I have to ask you. And I would love to get
2 feedback from the Secretary of States office, showing us
3 that, yes, indeed it was inspected. And if it hasn't
4 been, I think it needs to be sent back up, and maybe also
5 have the California professors check it.

6 I'm not going to go -- Mr. McDannold did a good
7 resume of what the reports said -- thank you very much --
8 of the idea that if you're using sip and puff, the screen
9 goes blank is not good interface design.

10 I also was not happy to see when you make a
11 selection for one candidate, you can only choose one, and
12 they want to choose someone else, the normal standard way
13 of doing this is you can just press somebody else's name
14 and that's what you get. On the Sequoia system, you have
15 to deselect it first before you get to the next one. And
16 that through me off, just when I was using it, because I
17 had the expectation of standard computer uses. That's a
18 small thing, but when I see that and sip and puff
19 problems, I'm wondering about the general interface
20 design.

21 I want to explain one thing -- excuse me.

22 To make it clear, I asked the office of the
23 Secretary of State, sent an e-mail last October, asking
24 them, how do we know that the code has been inspected and
25 tested, the code that's on the machine? When the

1 vendor -- and this applies to all of them -- delivers the
2 machine, how do we know that that code that's been going
3 through this entire process is the code on the machine?
4 The answer was, "We're working on it."

5 And I had an exchange of e-mails with Dr. David
6 Wagner, who helped write the Diebold reports. And I asked
7 him the same question: Am I correct in believing that we
8 do not know what's on those machines? And he said,
9 "Correct."

10 This is a fundamental problem, and it must be
11 solved before we can start to have confidence in the
12 system.

13 There is a list -- Compuware did a list of 34 ways
14 to attack a computer. And it talks about viruses and
15 worms and so on. I want to talk a little bit about what's
16 called an Easter egg, which is an Easter egg, in computer
17 terms, is somehow you manipulate the interface in a
18 slightly difficult way or maybe on a voting machine,
19 pressing four corners in a certain pattern and that will
20 activate a program.

21 Now, sometimes something nice happens and you get
22 a little Easter egg, but, potentially, you could do the
23 same thing on a voting machine where we don't know what's
24 in the machine, in terms of the code. That means that you
25 can go through all of the ITA testing you want. You can

1 go through all the parallel monitoring you want. You can
2 go through all the logic and accuracy testing, and if
3 somebody doesn't activate that Easter egg, you're not
4 going to see it until the people who are working on this
5 decide to activate it on Election Day, and then it will
6 work and probably erase itself afterwards, so it probably
7 doesn't leave a trace. This is a serious problem.

8 We don't know what's on those machines, and we
9 need to know. I would have loved to have been able to
10 stand up to you -- in front of you and say we checked all
11 these problems with the Live Basic code, and so on, ahead
12 of time, but we get can't even get access to the machines
13 to go double check this. So I'm not actually sure what I
14 said is right, but I am sure you will check that.

15 The SQL, by the way, there's SQL code in there,
16 that is going through a compiler, and I will repeat,
17 again, that in 6.1.4.E, there shall be no compiler on the
18 system after initiation of Election Day. So there's a
19 compiler in there. And somebody can start to write human
20 readable code to change how the thing works.

21 This is not a partisan issue. I don't care if
22 these companies are owned by Canadian crooks, Malaysian
23 gamblers, Venezuelans, or the Easter bunny.

24 They should not be governing our votes in secrecy.
25 None of them, especially the Easter bunny.

1 If you remember what I said about the Easter egg,
2 the Easter bunny is very good at putting those little
3 Easter eggs around. If he starts to work with some of
4 these other guys, we got a problem.

5 I am a software engineer, and I know I speak for
6 quite a number of software engineers and highly ranked
7 computer scientists, experts in security. We feel like
8 the civil engineers must have felt when they were warning
9 the politicians that the levies of New Orleans were going
10 to break. Now, we've seen what happens when the
11 politicians ignore the engineers.

12 I am here to say that not only are these levies of
13 democracy going to break, they are already breaking.

14 We must open the system up, from top to bottom,
15 open up the code, open up the testing, and fix it.

16 Thank you very much.

17 (Applause.)

18 MODERATOR LAPSLEY: Thank you for your comments.

19 Judith Alter. And Judith had a handout that I'm
20 going to hand out to you. She wanted to make copies
21 available to you.

22 MS. ALTER: Can I wait until they're handed out?

23 MODERATOR LAPSLEY: Yes.

24 MS. ALTER: I'm Judith Alter, emerita professor.
25 I'm testifying against the certification of two Sequoia

1 Optech scanners, the 400 and the Insight. These count
2 hand-marked ballots.

3 As part of recount New Mexico, I studied election
4 data from the 86 precincts in Santa Fe County that use
5 these scanners in absentee and early voting. I found a
6 vote diminishing pattern that masked under-votes.

7 Your handout shows an early voting tape from the
8 Optech Insight scanner. One voter voted Green Staight
9 Party. In the section below, the expected vote for
10 Cobb/Lamarche is a zero.

11 The other side of the handout shows two Green
12 Party votes that got a zero and one Libertarian vote that
13 registered. This is counted on the 400 scanners.

14 In all of Santa Fe County absentee reports, I
15 found 56 minor party single votes in the straight party
16 ballot section that did not register as votes for
17 president, nor as under vote, though 22 did.

18 In early voting results, 25 straight minor party
19 votes for president did not register, nor get counted as
20 under-votes, while 17 did.

21 Former voting machine examiner, Associate
22 Professor Douglas Jones, University of Iowa, suggested the
23 possibility of Sequoia programs that shift votes from
24 minor to major party candidates. Sequoia contracts, he
25 said, require that the scanner memory packs get programmed

1 at company headquarters, not in the counties where they
2 are used. The New Mexico evidence reflects reports from
3 other states that use these two -- Sequoia Optech
4 scanners.

5 Problems include assigning votes to wrong
6 candidates, failing to read large numbers of votes, not
7 recognizing images made by jell ink and not accurately
8 counting the total number of ballots cast.

9 Because of this evidence, I urge in Secretary of
10 State and this committee not to certify these scanners for
11 use in California.

12 (Applause.)

13 MODERATOR LAPSLEY: Thank you for your comments.

14 Next we have Stephanie Ruseigno.

15 MS. RUSEIGNO: Hi. I'm Stephanie Ruseigno, and I
16 hail from the metropolis of Sutter County.

17 First, I wanted to say something that I can solve,
18 and that's the three-year-old counting problem. It's
19 called Dora the Explorer and grandma. We can do anything.

20 MODERATOR LAPSLEY: I'll send her to your house.

21 MS. RUSEIGNO: She can play with my granddaughter.

22 I've been -- I was an election inspector and prior
23 to that, a poll worker, and when you do it for many years
24 and you live in the neighborhood, you know your neighbors.
25 Everyone knew everybody. You go in there and you vote, so

1 it makes it easier. You can anticipate everybody's
2 problems, from the blind -- from this one blind priest to
3 people that don't speak English to anyone with a
4 disability. No problem.

5 After people from Florida proved that there might
6 have been a problem, we were able to show to the public,
7 people who came -- or for regular citizens who wanted to
8 see, hey, here's a box, unsealed. We seal it. At the end
9 you can watch it. And people enjoy watching the process.
10 Got lots of comments, hey, that's great, we didn't know.

11 Our county had it covered. You had a ballot. You
12 voted. It was counted. We went through it. We counted,
13 sometimes going past midnight because we were one ballot
14 off. Aside from our migraine headaches, it worked and
15 there is another component, and it was the toddlers,
16 preschoolers, and the young children. We had little
17 marker votes for them, too, those that could read. They
18 loved it.

19 Now, how are you going to do that electronic votes
20 with kids? How is a parent going to explain to the kid
21 how to vote when they don't even have confidence,
22 themselves? So you're disenfranchising the young people.

23 I speak to that for someone who's been doing it
24 for over 20 years. That's going to be a problem.

25 But then maybe it's just in my county -- in my

1 town that everybody believes in citizenship.

2 I don't know how else to comment what that guy
3 said. It scared the heck out of me about the Easter bunny
4 and all that.

5 MODERATOR LAPSLEY: Can you wrap up really
6 quickly?

7 MS. RUSEIGNO: We're going to have a test case in
8 Sutter County. We're having a recall. No matter what
9 side you're on, nobody's going to trust the system. Is it
10 a Pandora's box, or is it a ballot box?

11 And a recall is serious, and we've got, like, a
12 civil war and this is just going to add fire to the fuel.

13 MODERATOR LAPSLEY: Thank you for your comments.

14 Next we have Megan Matson.

15 MS. MATSON: Hi. I'm Megan Matson, Mainstreet
16 Moms.

17 I just wanted to call people's attention to the
18 amassed evidence in the New Mexico litigation against the
19 use of the Sequoia machines.

20 There was a year-long case pursued there, and it
21 was successful in achieving a temporary restraining order
22 based on hard evidence collected under oath from vendors,
23 election officials, and others, and produced evidence of
24 lost votes, flipped votes, and everything else that
25 contributes to the chaos and loss of confidence on

1 Election Day.

2 It caused a 180-degree for Governor Bill
3 Richardson and he came out with a statement supporting the
4 use of paper ballot optiscans, as they provide a auditable
5 paper trail in the end.

6 I feel that California is a state that leads, and
7 I have been proud of this Secretary of State's office for
8 leading on some of the most rigorous testing, and I know
9 that hasn't been easy.

10 I feel that the decision to certify a Diebold and,
11 if it goes forward, the decision to certify touch screen
12 DREs that have been proven to have end-to-end security
13 problems, is a failure of leadership with California. And
14 I think that at that point we start being a follower, and
15 we're following Maryland and we're following Georgia and
16 we're following North Carolina. And we're following Ohio
17 and Florida toward chaos and real lasting damage to voter
18 confidence, if we go with touch screen DREs and machines
19 that have proven again and again not to provide adequate
20 accessibility, as proven in the New Mexico case against
21 Sequoia and to provide inadequate security for the
22 American voter.

23 Thank you.

24 MODERATOR LAPSLEY: Thank you for your comments.

25 Next we have Sharon Graham.

1 MS. GRAHAM: I'm Sharon Graham from South
2 Sacramento, just here for me.

3 This also seems very complicated, but it's not.
4 It's simple.

5 It's about the privatization of our election
6 comments, to transfer public money to private companies,
7 and it will be about as secure as the privatization of our
8 ports.

9 The purpose is to guarantee the outcome and to
10 consolidate corporate dictatorship. It's already here.
11 This will just consolidate it.

12 I weep for the death of our democracy.

13 (Applause.)

14 MODERATOR LAPSLEY: Thank you for your comments.

15 Next we have Ann Blake. After Ann we have Mr.
16 Ashby. And after Mr. Ashby we'll have Ms. Roberts, Linda
17 Roberts.

18 MS. BLAKE: My name is Anne Blake. I'm from
19 Chico, California, and a Bill of Rights Defense Committee,
20 which is a group there.

21 And this is relevant to the Canadian crooks, the
22 Malaysian gamblers, and the Easter bunny.

23 Back to -- maybe you've heard of it -- the
24 international construction company closely tied to the
25 U.S. oil industry has been awarded umbrella contracts to

1 rebuild the World Trade Center after 9/11; Iraq, after the
2 invasion of 2003; and New Orleans, after Katrina.

3 Bechtel has close ties to Halliburton, which has
4 been robbing American taxpayers in Iraq, and to Enron,
5 which robbed taxpayers in California. Bechtel also has
6 ties to the CIA, private mercenary armies that call the
7 shots in the Middle East, and private mercenary armies.

8 And Bechtel -- and speaking of privatization of
9 war -- And Bechtel has close ties to several of the
10 election voting machine companies that are destroying the
11 U.S. election process.

12 These connections should be made public, as should
13 connections through Bechtel, the governor of California,
14 and the president of the United States.

15 MODERATOR LAPSLEY: Thank you for your comments.

16 Next we have Mr. Ashby.

17 MR. ASHBY: Hello. Dan Ashby, California Election
18 Protection Network.

19 Examining the Sequoia detailed list of components
20 and carefully listening to the recitation of all the
21 version numbers, I can't find one of them that's on the
22 NASED chart, once again.

23 And another problem is that since I can't find any
24 detailed breakdown of an actual system, I cannot see which
25 components may or may not be 1990 certified or 2002

1 certified. And since I previously mentioned there's ample
2 evidence that systems currently operating in the state
3 have that mixed security testing status, and they are in
4 operation, post 2006, they're illegal.

5 Now, I would like to make a few comments about
6 what I know or I've heard -- that the WinEDS operating
7 system is derived from the windows CE operation system,
8 and here's a principle of secure operations for voting
9 systems.

10 The vendors chose these general operating systems
11 for convenience and then adapted them to voting, but what
12 they have imbedded in them is the potential to call all
13 kinds of subroutines. For example, DLL files or dynamic
14 link libraries.

15 And this is -- every time that you have such a
16 potential subroutine called a software program, you've got
17 a security breach or a potential one. And there are
18 literally hundreds of thousands of them in this code. And
19 this code is an extremely dense spaghetti code, as the
20 programmers would say, meaning it was either ineptly
21 written or written with unnecessary complications to
22 camouflage Easter bunnies.

23 I notice that the PCMCMI cards are used to
24 carry -- to transport the vote records from the machines
25 to the tabulators. Now, these are rewritable forms of

1 memory. It makes no sense, whatever. This is such a
2 basic principle. If you're going to write vote data, you
3 do not want to have it be rewritable.

4 There's no purpose --

5 MODERATOR LAPSLEY: Mr. Ashby, your time is up.

6 MR. ASHBY: Time is up already?

7 I was just getting started.

8 MODERATOR LAPSLEY: Thank you for your comments.

9 Next we have Linda Roberts.

10 After Linda Roberts we have Sandra Yolles and John
11 Tuteur.

12 MS. ROBERTS: I'm Linda Roberts.

13 I actually only had a couple of comments, but now
14 I have a question.

15 Now, when I was in programming class I was taught
16 that spaghetti programming is where you just write
17 statements and there's no particular order and you can't
18 tell by reading it what's connected to something else.

19 And I was told you were supposed to use structured
20 programming, which means there's modules and they are
21 clearly written so you know which module does. So now my
22 questions is, Are any of these written that way? Or are
23 they really written in spaghetti language, which means
24 they are impossible to debug and it's almost impossible to
25 tell what's going to happen. So I hope that's not the

1 case.

2 My two objections to the Sequoia systems are is
3 that I heard that the owner got arrested for corruption
4 and bribery. This makes me not very comfortable.

5 But the hackableness of Sequoia is just legendary.
6 You know, so you wouldn't have any reliability that it was
7 secure.

8 The other little technical thing is, when I got
9 handed my agenda, I'm having to read it to Warren, here.
10 You know, maybe you should supply agendas that people can
11 actually utilize who are blind.

12 MODERATOR LAPSLEY: Thank you for your comment.

13 Next we have Sandra. Okay. If not, we'll go to
14 the next speaker.

15 After Sandra is John Tuteur.

16 MR. TUTEUR: Members of the panel, thank you for
17 conducting the public hearing on the certification of the
18 Sequoia system, which Napa County has used successfully
19 since March 2002.

20 My job, as Registrar of Voters, is to make sure
21 that every eligible voter registers, and that every
22 registered voter votes, if possible, and that every vote
23 counts.

24 I wanted to just relate a couple of the issues
25 that have happened in Napa County.

1 We tested the electronic voting system DREs in
2 Napa County with 1700 voters, in live, early voting. They
3 ranged in age from 18 on Election Day to 97 years old. We
4 had unanimous support for our board of supervisors
5 adopting touch screen voting.

6 We've had 90,000 votes cast on our electronic
7 touch screen machines since March of 2002. We've had
8 parallel monitoring, which found no errors, anywhere in
9 California, with Sequoia systems. And we had 23,000
10 people vote in the November special election on our touch
11 screen machines.

12 In contrast to that, we also used Sequoia Optech
13 mark-sense ballots and a 400-C. We have had problems,
14 nothing that we couldn't overcome, but paper ballots have
15 been a problem, and they continue to be a problem.

16 We had 16,000 people vote absentee on paper in
17 November 2005, and we had to duplicate 2300 of those
18 ballots because the voters did not follow the instructions
19 that are clearly printed on the ballot. And they either
20 failed to mark the ballot the way it should be marked or
21 circle the name or put in "X." We got it done. We got
22 the ballots counted in a timely manner, but it's clear to
23 me, representing the constituents of Napa County,
24 especially those who vote, that there is great support for
25 electronic touch screen voting and that those people who

1 vote on paper, I need to do a better job in educating
2 them.

3 Thank you very much.

4 MODERATOR LAPSLEY: Thank you for your comments.

5 Next we have Mr. Egger.

6 Was my pronunciation correct on the third time?

7 MR. EGGER: You were right the first time.

8 MODERATOR LAPSLEY: Was I?

9 MR. EGGER: Thank you. Frank Egger from Fairfax
10 again.

11 We voters right here in California watched Florida
12 in 2000 and Ohio in 2004. We pat ourselves on the back
13 and said, "That could never happen in California."

14 Well, it can, and it did in November 2005.

15 And I'm here to testify as a victim of Diebold
16 systems. It's the counting.

17 The Fairfax election was decided by a Diebold
18 central tabulator accuvote optical scanner with firmware
19 2.0.12, known for its security flaws. On Election Day
20 November 8th, 59 percent of the Fairfax voters -- that's
21 2,149 of them -- voted at the polling places, and their
22 votes were tabulated by a different Diebold scanner,
23 different firmware. They reelected me.

24 Forty-one percent of the total votes were absentee
25 votes by mail, but Marin's central Diebold tabulator

1 placed me in almost dead last, out of seven candidates.

2 We asked for a recount.

3 Marin County's registrar of voters uses the
4 pay-to-play system. If a recount is requested for small
5 election, approximately 3700 voters --

6 MODERATOR LAPSLEY: Does this tie into the Sequoia
7 system?

8 MR. EGGER: It's going to go right to the Sequoia
9 system.

10 The registrar of voters advised me four days
11 before the statutory time elapsed, to trigger a recount I
12 would have to pay \$13,000, first to sort the ballots
13 because Fairfax's were mixed in countywide.

14 Four days was insufficient time to raise 13,000,
15 plus the 1500 to 2500 of the actual recount. We're only
16 talking about 1540 absentee vote-by-mail ballots to be
17 sorted.

18 I haven't even touched on the lost absentees
19 delivered after the election and the 485 ballots that
20 finally arrived in Civic Center. These are some of the
21 unopened ballots that were part of the testimony at a
22 Marin County Board of Supervisors meeting, just recently.

23 Nothing I have heard today gives me any more
24 confidence in Sequoia than Diebold.

25 These systems need to be tested right here in

1 Sacramento at the Secretary of State's office, not the
2 vendor's home office.

3 (Applause.)

4 MODERATOR LAPSLEY: Thank you for your comments.

5 Next we have Mr. Kysor, Dan Kysor. After Mr.
6 Kysor we have Judy Bertelsen. And then we have Ms. Phoebe
7 Anne Sorgen.

8 THE PUBLIC: Excuse me. Mr. Kysor left.

9 MODERATOR LAPSLEY: Okay. Then we'll go right on
10 to Ms. Bertelson.

11 MS. BERTELSON: I'm Judy Bertelsen. I'm the
12 co-chair of the Voting Rights Task Force of the Wellstone
13 Democratic Renewal Club.

14 I will just comment on a couple of points about
15 the technology that is used in this -- by this vendor as
16 well as others.

17 The continuous roll thermal printer has serious
18 problems, such as -- well, including not keeping private
19 the order of the votes. It's obvious who the first voter
20 was, and so that person's privacy is violated.

21 But also, there's a big problem with the
22 continuous roll paper in trying to figure out how you
23 would actually do a recount.

24 The previous speaker raises the problem that we
25 have noticed in past recent elections that there -- where

1 there is a voter verified paper audit trail, often no one
2 is willing to go down it, with it, because they are told
3 you must cross our palms with thousands or even sometimes
4 a million dollars in order to begin even counting.

5 And so the verified -- the voter verified paper
6 audit trail is essentially useless.

7 Our secretary of state urged our governor to veto
8 legislation recently that would require this technology to
9 be used in hand counts -- recommended the veto because the
10 technology that's available is not suited for this use.

11 Fortunately, the governor did sign the legislation
12 and it is the law, but this kind of technology shouldn't
13 be approved. It's not useful. It hasn't been shown by
14 the makers, and it hasn't been tested by the testers to
15 see if it actually can do -- can be used in a recount, and
16 so I think that needs to be considered.

17 MODERATOR LAPSLEY: Thank you for your comments.

18 Next we have Ms. Sorgen. After Ms. Sorgen we will
19 have Ana Acton. After Ana will be Lynn Hamilton.

20 MS. SORGEN: Hello.

21 I hope that many of you have read the Associated
22 Press article of February 23rd, titled "Watchdog Group
23 Questions 2004 Florida Vote."

24 Of course, we heard a lot about Ohio and it was
25 the Florida of 2004. And so Florida -- it turns out in

1 Florida there were also many problems in 2004 as well as
2 2000.

3 So in Palm Beach County electronic voting machine
4 records from the 2004 election found tens of thousands of
5 malfunctions and errors.

6 There were cards -- 70,000 instances, in this one
7 county, of cards getting stuck in the ATM-like machines.
8 The computer logged about 100,000 errors, including memory
9 failures. Hard drives crashed on some of the machines
10 made by Oakland, California-based Sequoia Voting Systems.

11 And it's anybody's -- This report said it's
12 anybody's guess who actually won the presidential race.
13 There's no way to tell who the votes should have gone to.

14 So about California, none of the voting systems
15 under review at today's hearing have received federal
16 testing qualification numbers that are required by the
17 State Election Code and the Secretary of State's own
18 published procedures.

19 It's illegal to tell the public that these systems
20 are federally qualified and proceed to test certified
21 contract whereby -- or deploy them when they are not.

22 Selling counties, like Alameda, software and
23 systems that were not federally qualified is the main
24 thing that got Diebold de-certified by Shelley and cost
25 them \$23.6 million in fines.

1 The Secretary of State and the counties are
2 enjoined by the Elections Code from doing any of that
3 until the NASED number is assigned.

4 Before examination of this item is to begin, this
5 is actually from the SOS Web site that I'm quoting now.

6 Before it's to begin --

7 MODERATOR LAPSLEY: Can you wrap up, please?

8 MS. SORGEN: Oh, time's up.

9 Well, hopefully you all know about those
10 procedures that are on the SOS Web site that are not being
11 followed.

12 MODERATOR LAPSLEY: Next we have Ana Acton.

13 I don't see Ana here.

14 Next is Lynn Hamilton.

15 MS. HAMILTON: Hi. I'm Lynn Hamilton. I'm with
16 the former mayor of the City of Sebastopol. I live in
17 Occidental, California, which is up in Sonoma County.

18 I'm very glad that you are holding these hearings
19 today, and I want to thank you very much for allowing the
20 public to come and speak about this important issue.

21 I think my biggest concern is the reliability of
22 those voting machines and the cost of these voting
23 machines, and one of the things that I wanted to say is, I
24 was a participant in the election in Nevada, in November
25 in 2005, and the Sequoia systems did break down in the

1 precincts where I worked -- in the voting places where I
2 worked.

3 And they had to be replaced, and the problem was
4 that those locations were quite far away from where the
5 machines were kept. People were in lines for a long time,
6 maybe for hours, where we actually had to buy water and
7 fruit and bring it to them to try to keep them there so
8 that they would vote. This is really an important thing
9 to think about.

10 When you said, Mr. McDannold, that well, the
11 machines broke down so they had to replace the machine --
12 you said that one point in your discussion on the Sequoia
13 machine -- but when you're talking about replacing the
14 machines, often, you know, you can't even get the machines
15 to the precincts. Two of them, actually, broke down in
16 the precinct where I was working. So it was really
17 difficult. People couldn't even vote.

18 But more than anything, I am very concerned about
19 the integrity of democracy. I worked overseas in
20 democracy programs. The United States of America is the
21 primary premier democracy of the world. Everyone looks at
22 us, and they think, around the world, that we are really
23 breaking our democracy.

24 And you're privatizing the vote. You're looking
25 at systems that cannot be verified.

1 You very clearly stated that the companies are
2 still working on trying to fix the flaws. They have not
3 fixed them. You cannot certify these machines. You must
4 not certify these machines.

5 We can do a very simple system. California can be
6 a premier system. The entire world can look at us.

7 We will have a low-tech system that can be
8 exported around the world. It is very important that you
9 have paper ballots and hand count the votes and they're
10 verifiable.

11 Please do not certify these.

12 Thank you.

13 (Applause.)

14 MODERATOR LAPSLEY: Thank you.

15 Next we have Jerry Berkman. After Mr. Berkman we
16 have Robert Bowman.

17 MR. BERKMAN: Hi. I'm Jerry Berkman from
18 Berkeley, again.

19 You and the vendor have recommended printing the
20 zero tapes and the results from the VeriVote.

21 THE REPORTER: You'll have to slow down.

22 MR. BERKMAN: Can I have more time then?

23 MODERATOR LAPSLEY: You'll have to speak slower
24 and clearer so she can hear.

25 MR. BERKMAN: Do I get more time then?

1 MODERATOR LAPSLEY: We'll start right now. Ready,
2 set, go.

3 MR. BERKMAN: You and the vendor have recommended
4 printing the zero tape and results of the VeriVote. How
5 will you isolate the zero tape and post the results
6 outside the poll, as required by EC 19370 and 19384? Will
7 the poll workers open the VeriVote and tear off the zero
8 tape from the AVVPAT and the results? This is bad.

9 You recommended calibrating each Edge at opening
10 of the polls. This would seem unsafe about a logic and
11 accuracy test, and would require more poll worker
12 training.

13 The audio unit is used by blind, limited vision,
14 limited ability to read, and sip and puff use voters.
15 They are not allowed to verify the paper trail on the
16 Edge, violating 19251.

17 There are lots of errors, 20 bad VATs, four of a
18 hundred Edges need calibration, etc. There's just too
19 many. You shouldn't certify it.

20 As with the Hart TSX iVotronic there's no read
21 back for blind, as required by 19251. The AVVPAT
22 compromises security, and reel-to-reel is not suitable for
23 early voting.

24 Please, if you certify it, at least say it can't
25 be used for early voting, because you got all these

1 different precincts on one reel, and to do an audit of one
2 precinct is ridiculous. You just can't do.

3 Section 2.2.3 of the California AVVPAT standards
4 says, "The same standards shall apply to paper records
5 copies as for paper ballots." So the AVVPAT must follow
6 the specifications in Chapter 3 of division 13 of the
7 Elections Code with respect to font, type size, water
8 marks, quality of paper, stubs, etc.

9 The DRE AVVPATs do not.

10 Secretary McPherson wrote in the San Jose Mercury
11 News, "The AVVPATs are not printed on ballot-quality
12 paper, and the Secretary of State standards says they have
13 to follow those rules."

14 So how can you certify?

15 For those that want a lighter touch and for your
16 three-year-olds and so on, here's a book, Duck for
17 President, which is very good.

18 MODERATOR LAPSLEY: Thank you. Next is Mr.
19 Bowman.

20 MR. BOWMAN: Thank you for holding the hearing.

21 It's been a long day.

22 I don't have a lot to say about Sequoia. I have
23 some of the same data about the 2004 election in Florida.

24 Evidently, what was not mentioned is that there
25 were 1475 re-calibrations performed on Election Day, on

1 more than 4300 units. These were Sequoia units.

2 So this is definitely going to slow down the
3 process. Now, maybe those bugs have been worked out.
4 Sounds like a lot of them have.

5 I have a couple of questions, though.

6 Is Sequoia or Diebold or any of these ready to
7 handle instant recount voting in the Bay Area? Are they
8 equipped to do that? Because that is mandated in San
9 Francisco. Does anyone know?

10 MODERATOR LAPSLEY: I'm sure after all the
11 questions are asked --

12 MR. BOWMAN: Would someone answer that?

13 And also one of the early complaints from your
14 office about Diebold was that they use thermal paper, that
15 if the machine got too hot, the paper trail would
16 evaporate. And you mentioned that there was -- you use
17 thermal paper in the Sequoia machines. Is it the same
18 type or is it vulnerable to the same problem?

19 So those are just a couple of things to consider.

20 I would hope that if you do some testing, this
21 time, that you will include people from the outside,
22 people who have a concern. Because I think the perception
23 is that this is happening between -- behind closed doors,
24 and I sense that you guys are working really hard to do
25 this thing right. And if you would include some of the

1 these people who have these concerns along with your --
2 and people who have expertise along with the experts that
3 you use, you will restore credibility into the system.

4 Thank you.

5 MODERATOR LAPSLEY: Thank you for your comments.

6 Next we have Mary Beth Brangan.

7 MS. BRANGAN: I wanted to -- The same stream of
8 logic is going through all of our minds about the issue of
9 answering one set of complex problems by adding another
10 layer of complexity, which adds another set of complex
11 problems to which you then add another layer of
12 complexity, solving those problems.

13 When you have machines that have to be
14 re-calibrated, rebooted, with the average age of the poll
15 worker, right now, being 72, it's just clear that this is
16 not a reliable system.

17 And I have great compassion for those folks who
18 are putting together our electoral system, that it's very
19 demanding, very complex.

20 But I think that the answer to a lot of these
21 problems is to get more simple, rather than more complex.
22 There is a wonderful book by Joseph Tainter called, The
23 Collapse of Complex Societies.

24 And in it, he illustrates that principle, that
25 layer of complexity after layer of complexity is added

1 until the whole society collapses under the weight of
2 unsustainable costs.

3 Thank you.

4 (Applause.)

5 MODERATOR LAPSLEY: Thank you for your comments.

6 Next we have Ferris Gluck. And after Ms. Gluck we
7 have Chaim. And then after Chaim we have Mr. Cushman.

8 MS. GLUCK: I pass.

9 MODERATOR LAPSLEY: No?

10 Okay.

11 Mr. Finkelman.

12 MR. FINKELMAN: Howdy. So I have some questions.

13 One is, Do we test in our testing procedure for
14 votes that are outside of the election period, as have
15 shown up in Palm Beach County with Sequoia systems?

16 Do the smart card rejection error, which showed up
17 in Palm Beach County, with Sequoia systems, lead to votes
18 not being counted?

19 We use -- Sequoia systems apparently uses similar
20 memory cards to Diebold. Are they susceptible to the
21 Hirsty hack? Same question for the PCMCIA cards, also.
22 Do those have interpretive code and/or DXEs that could be
23 used to change the vote?

24 One of the errors you talked about printed to the
25 voter verified roll, but did not register. Does that mean

1 that the voter verified roll is then off by one vote? And
2 that would show up if the voter went to the poll worker
3 and said, "My vote didn't work," but if a voter just
4 walked up to the table, turned in their card, and walked
5 away, disgruntled, would we no longer be able to run a
6 recount?

7 Oh, and of course, roll-to-roll, not a good idea.

8 MODERATOR LAPSLEY: Thank you for your comments.

9 Next is Mr. Cushman.

10 MR. CUSHMAN: Good afternoon, panelists.

11 First of all, I want to make it very clear to
12 everyone in the room, anything that uses pen and paper is
13 not going to work for me.

14 I know there's been a lot of talk about security,
15 but we do need to realize that I stand here on behalf of
16 my civil rights. And if we ever went back to pen and
17 paper, where I had to trust another person to vote for me,
18 that just doesn't work.

19 So we need to find a solution that works for all.

20 One thing I would like to say about this is that I
21 am hearing that the sip and puff interface doesn't work
22 with the blind interface. That also doesn't work.

23 We need to find a system that works for all people
24 with disabilities, and it seems to me that further testing
25 needs to be done with this particular machine so that all

1 people with disabilities can use this machine. I would
2 also like to say that we are the table, we as in people
3 with disabilities, are at the table and will continue to
4 be at the table.

5 And we do want to remind all vendors to approach
6 us and to work with us, so that we can solve these
7 problems.

8 Thank you.

9 (Applause.)

10 MODERATOR LAPSLEY: Next we have Kenji Yamada.
11 And After Kenji Yamada, we have Phil Harlan.

12 MR. YAMADA: Do I have to give my name again?

13 MODERATOR LAPSLEY: No. We have it here on the
14 card.

15 MR. YAMADA: As a young voter, I'm just in the
16 process of learning whether my vote really counts and to
17 what extent, if it all.

18 I'm very disenchanted and a little disillusioned
19 that my government is permitting or considering permitting
20 a proprietary interest in any part of the election
21 process.

22 It seems clear to me that our right as voters, to
23 participate in our government depends not only on casting
24 our votes freely, but just as much in our ability to
25 inspect every part of the election process.

1 I sincerely hope that the Secretary of State and
2 his staff will safeguard the public right of inspection
3 against by claim to the contrary by commerce.

4 And last, I kind of wonder why these vendors feel
5 a need to keep the proprietary code or anything else a
6 secret, from their customer, which is us, the public. If
7 they don't trust us, then why should we trust them?

8 (Applause.)

9 MODERATOR LAPSLEY: Next we have Mr. Harlan.

10 Mr. Harlan has left.

11 Next up is Jennifer Kidder.

12 MS. KIDDER: Hello. I wanted to thank you for
13 noticing that something that is not easy enough for voters
14 to always get it right is something that should not be
15 certified. But I do keep hearing the word "human error"
16 to describe the calibration or marking systems or
17 organization that a computer voting machine requires.

18 That's not human error. Whatever lends itself to
19 error is the problem, not the few human beings you allow
20 to remain involved.

21 If the test voters just behave like normal people
22 and the machines can't handle it, it's the machines, not
23 the people, that have to go.

24 And referring to ES&S from before, I did want to
25 bring to your attention that paper ballots are doughnut

1 proof.

2 So I would like some kind of a voting system that
3 is transparent and understandable to all using it and is
4 capable of dealing with real people who do what real
5 people do, when they are counting votes and when they are
6 voting and putting things in upside down. So what?
7 Everybody does something like that, and if your mechanism
8 can't handle it, then the mechanism is too weak to deal
9 with real people.

10 And I also hate to bring this up, again, as I have
11 been here months before and had to say basically the same
12 thing. But I am a disabled person, myself. I have
13 dyslexia. Computers are very difficult for me, and for
14 me, paper is easier. And I'm not saying that I'm
15 comparable to someone who -- for whom paper and pen is
16 absolutely not workable.

17 I understand what it means for something to be
18 totally not workable to you, and people don't understand
19 that who can use that system.

20 But I do want to ask, if you're not willing to
21 trust another human being that you know, whom are you
22 willing to trust?

23 MODERATOR LAPSLEY: Thank you.

24 MS. KIDDER: The fact that the computer
25 programmers and vote machine corporations are separated

1 from us by barriers of experience, by an illusion --

2 MODERATOR LAPSLEY: Can you wrap up, please?

3 MS. KIDDER: Yes, I am wrapping up.

4 By an illusion of your experience, does not mean
5 they are not there and doesn't mean that they are
6 trustable and that you know what they are doing and that
7 they are doing what you have -- what you want them to do.

8 That voting machine shows you one thing. You
9 don't know what it's doing on the inside.

10 (Applause.)

11 MODERATOR LAPSLEY: Great. Thank you for your
12 comments.

13 Next we have Barbara Dunmore.

14 MS. DUNMORE: Good afternoon. I'm Barbara
15 Dunmore, registrar of voters for Riverside County.

16 I believe that we're the county in California who
17 has been using electronic voting the longest. We began
18 using electronic voting in November of 2000.

19 Since that time we've conducted 35 successful
20 elections using Sequoia Edge machines. We've participated
21 in the last two parallel monitoring exercises on Election
22 Day and which show that there were no errors and that our
23 machines recorded with a 100 percent accuracy.

24 I wanted to tell you a little bit about our Tally
25 system -- our Tally system, which runs when EDS is located

1 in a glass-walled server room. And it's totally isolated
2 within that ballot counting room, as we call it. There
3 are no outside connections to the Internet, to the
4 intranet. Only electricity comes into that Tally server.

5 And the reason that I bring this up is your first
6 speaker, Mr. Terwilliger, who mentioned his resource was
7 Jeremiah Aiken in Riverside who had gotten into a database
8 and played around.

9 And I just wanted to be on the record that that
10 was not Riverside County. Our database is isolated.

11 I asked Mr. Terwilliger who -- which database was
12 Jeremiah Aiken in, and he said he didn't know the
13 jurisdiction of the database.

14 And I would just like to say that it would be nice
15 if the original source of these allegations were present
16 here so we could ask those questions.

17 In Riverside County, we have two voting systems.
18 We have our paper absentee system, and we have our
19 electronic voting units that we use in the polling place.

20 When our voters go to the polling place, they
21 expect to vote electronically, and this is demonstrated by
22 the November 2004 elections, where less than 1 percent of
23 the voters asked for paper at the polls, which was about
24 3,000 voters. And in November 2005, less than 300 voters
25 asked for paper at the polls.

1 And those are my comments. Thank you.

2 MODERATOR LAPSLEY: Thank you for your comments.

3 Next we have Francie Lane. And after Francie will
4 be Philip Chantri. And after that will be Gordon Wright.

5 MS. LANE: My name is Francie Lane.

6 And I just have a few short comments.

7 I'm very concerned about this public hearing and
8 short-circuiting the certification process. I had a lot
9 of faith in what I thought Secretary McPherson was doing,
10 in December, when I read about him sending Diebold back
11 for federal retesting of their source code, etc.

12 And I'm really disappointed in the outcome of
13 that.

14 And also I found it interesting that the Napa
15 County clerk described the process that he is using, as
16 Sequoia, and the education that he has to give his voters
17 in Napa County using the absentee ballots.

18 I read quite a bit on the New Mexico lawsuit that
19 was pending and some of the analysis of the votes, and I
20 was very concerned.

21 One precinct showed that 100 voters came into a
22 Hispanic precinct to vote, and there were 90 of those
23 voters who failed to vote for the president. I mean, that
24 just doesn't make any sense at all. But it takes getting
25 into an analysis of an actual result.

1 I think that Sequoia is really into under-voting,
2 as shown in the New Mexico results that I looked at. And
3 also, if you take a look at the paper ballot that they
4 mandate every county use for absentee voting, it's very
5 deceptive.

6 It creates a situation where your eye is diverted
7 away from the marking area.

8 MODERATOR LAPSLEY: Thank you. Time's up.

9 MS. LANE: Thank you.

10 MODERATOR LAPSLEY: Thank you for your comments.

11 MS. DUNMORE: Madam moderator, may I make a
12 correction for the record? I quoted the wrong name. When
13 I referenced the speaker who referenced Jeremiah Aiken,
14 his name was Jim Soper, not Paul Terwilliger.

15 MODERATOR LAPSLEY: Thank you.

16 MS. DUNMORE: Sorry. Thank you for the time.

17 MR. CHANTRI: Thank you for allowing me to speak
18 today.

19 Philip Chantri, the elections services coordinator
20 for Santa Clara County.

21 I am not used to speaking in front of large
22 groups. I consider myself to be a very proud election
23 administer. I look a lot older because I'm balding,
24 probably because of elections.

25 But I went into elections at a very young age

1 because I believed in the process, and I still do believe
2 in the process. I am very proud of what I do.

3 Let me tell you a little bit about what entails
4 being the election services coordinator. Under that, I am
5 the chair of Santa Clara AVVPAT Committee. I'm the
6 training manager. I'm a member of the Voter Accessibility
7 Advisory Committee. I'm the campus manager. And I'm a
8 member of the DRE Oversight Committee of which many of you
9 will know Professor David Dill. He's also a member of our
10 DRE Oversight Committee.

11 I'm also the troubleshooter on Election Day. I
12 oversee 5500 voting machines and troubleshooting of them
13 on Election Day.

14 Santa Clara County has 5500 machines, Edge 2s,
15 eight 400-Cs, and we have sitting in our warehouse 5500
16 VVPAT machines.

17 Santa Clara County is proud. We're the first ones
18 to ask. We signed our contract in June of 2003. Included
19 in that contract was 5500 VVPAT -- accessible voter
20 verified paper audit trails. And in May of 2003 we formed
21 a pilot committee. And in June of 2003 we asked the
22 Secretary of State for the ability to use the VVPATs.

23 I'm proud. I'm happy. I'm ecstatic that I can
24 ask you today to certify this machine and that we can
25 fulfill the promise to the voters of Santa Clara County

1 that we made, that we would be ready to use the VVPAT for
2 Spanish, Chinese, Vietnamese, Tagalog, and English.

3 Thank you.

4 MODERATOR LAPSLEY: Thank you.

5 Next we have Mr. Wright, Gordon Wright.

6 MR. WRIGHT: My name is Gordon Wright. I'm from
7 Berkeley. I'm representing myself and the Berkeley
8 Fellowship of Unitarian Universalists.

9 Most of us here, I assume, pay taxes, which go to
10 a system which gives priority to the military and to
11 corporations.

12 A company called Siac, S-I-A-C, comprised of
13 ex-military and ex-CIA people, has had a hand in funding
14 and facilitating most of the different electronic election
15 systems companies.

16 If any of the these companies really wanted to
17 produce consistency, reliability, certainty, and
18 checkability, they would have done so by now, for some of
19 the same companies that produced the ATM machines, which
20 we know have been proven consistent, reliable, certain,
21 and checkable.

22 Therefore, we have to assume that the ultimate
23 purpose behind all of these machines is to rig the system,
24 overrule democracy, and substitute corporate fascist rule
25 in its place.

1 Therefore -- and I really sympathize -- all of you
2 here and most people in government are in a real conflict
3 of interest.

4 Do you serve the corporate and fascist interests
5 that are behind them? Or do we really serve the
6 Constitution and the people of the United States who
7 desire fairness, accuracy, and confidence in our voting
8 system?

9 If it were not for the financial interest
10 involved, it would be much easier to see that the simple
11 method of hand counting hand-marked paper ballots -- as
12 they do in France, and they can find out in four hours
13 what the result is -- would be superior in all respects to
14 the systems with bells and whistles that you have been
15 talking about today.

16 I pray that some of you here can develop the
17 insight and the strength and the courage to bring -- and
18 love of democracy -- to bring forth and find a way to take
19 creative, consistent, positive steps within this
20 compromised corporate government system to fight for the
21 people and real democracy.

22 Thank you.

23 (Applause.)

24 MODERATOR LAPSLEY: Thank you.

25 Next we have Diana Madoshi.

1 MS. MADOSHI: I have been sitting a while. I have
2 a disability. I've sitting for a while. I have to get my
3 thoughts together. I have them. So now we can begin.
4 Okay?

5 I do voter registration, and I take participating
6 in voting very serious. This is my third time that I have
7 been up here. It's a long time to come up from Rocklin,
8 and it gets hard on me, physically.

9 Going back to doing voters registration, most
10 recently, there was a young man and I was trying to get
11 him to vote. A lot of young people, we've been trying to
12 get them involved. His comment for me: "We got a Diebold
13 again."

14 And I also see a lot of African Americans,
15 Hispanics, that feel very disenfranchised when they see
16 our Secretary of State or they hear Secretary of State
17 certifying a machine that lacks -- that has been
18 responsible in Florida, in California -- I mean, Florida
19 and Ohio.

20 California is the lead. It's been very much of a
21 premier state.

22 I don't see why, just because you got money coming
23 from the federal government, would you buy flawed
24 equipment. You wouldn't do that with a car.

25 I mean, I think that in order to ensure that

1 everybody that can come to the table for accessibility,
2 for security, and for those voters that have also began to
3 feel that it's a fix, that the system doesn't work. If we
4 want to keep our democracy, if we want to keep voters
5 confident, and that should be a priority of everybody, of
6 having everybody's vote count.

7 I was told they say your vote count. My people
8 went through Jim Crow, my parents, and to have a system in
9 where it's questionable if the votes count, things may be
10 rigged, people may ignore it or accept them, you can have
11 the system, but it's flawed, that to me is like a system,
12 a sophisticated Jim Crow, and I know nobody wants that.

13 Thank you.

14 MODERATOR LAPSLEY: Next we have Bud McKinney.
15 Bud McKinney?

16 Carl Carter?

17 MR. CARTER: Good afternoon and thank you.

18 My name is Carl Carter. I'm from Marin County.
19 And I am with the California Election Protection Network.

20 And I want to thank the panel and all the people
21 who have come here today, because I feel like we've
22 gotten -- the state of California has gotten pushed into
23 this process of dealing with a very complicated issue with
24 a lot of conflicting interests.

25 And I'm not sure that we are going to be able to

1 solve it within any HAVA deadlines or any short time here.

2 One of the things I would like to say is that
3 since I don't believe we're going to be able to completely
4 cover all the hackable things that can happen with
5 software, I think the appropriate thing to do is to set up
6 an audit system that gives you sufficient comfort and is
7 enough of a surprise that people can't anticipate and work
8 around that system.

9 One of the things I know we have in California is
10 a 1 percent audit requirement.

11 I think we should look at raising that to at least
12 3 percent and making that a mandatory for the absentee as
13 well as the early votes. Because I know it's not
14 presently interpreted to include absentee ballots, which
15 in this state, is now almost 50 percent. So you have a
16 1 percent audit, which is audited at one half of 1
17 percent, presently.

18 The other thing I'd like to do is suggest that we
19 open -- we create an open source scanning system at the
20 registrar of voter's office in the county, which is an
21 independent open system designed by the University of
22 California, somebody here in Silicon Valley, which would
23 be owned by the State, would be open source, and would
24 wind up being able to be a surprise audit on a
25 precinct-by-precinct basis, which is picked the day of the

1 election.

2 Lastly, I would like to say that, I think -- we
3 know that machines that are tested in the ITAs are not
4 tested for hackability or encrypted software, and I think
5 that's one of the flaws. We start going down this path.

6 People say, "Yes, this is a horse. It's a wooden
7 horse. Yep. It has stone wheels. It happens to be
8 outside the gates of Troy. It's a Trojan horse. But it's
9 a great wooden horse. Let's bring it in."

10 (Applause.)

11 MODERATOR LAPSLEY: Thank you.

12 MR. CARTER: Thank you.

13 MODERATOR LAPSLEY: Next is Mr. Axelrod.

14 MR. AXELROD: Dale Axelrod. Petaluma citizen.

15 And I'm distributing an op-ed piece by the radical
16 republican Secretary of State Mary Kiffmeyer from
17 Minnesota, entitled "Protecting Election Integrity," in
18 which she advocates, as a last resort, paper ballots,
19 believe it or not.

20 And the reason she's doing that is because the --
21 I will just read one or two sentences from this op-ed
22 piece.

23 She was accused of stonewalling four Minnesota
24 counties, not supplying them with the proper election
25 systems, not certificating their systems, and she says

1 four Minnesota counties were counting on Diebold to invent
2 a good system compatible with her existing ballot
3 scanners.

4 So it is unfortunate the company did not deliver,
5 and I think that we have a lot of examples of companies
6 not delivering exactly what we want them to do. And she
7 does go on to -- she does have a, what she considers, a
8 valid system, which is the Automark from ES&S, I believe.

9 But she does say that short of having the correct
10 system, that she would use a backup system of a paper
11 ballot. And certainly, finally, she ends by saying,
12 "Certainly, funding is a concern, but election security
13 and taking care of voters are far more important."

14 My question to this panel is, you're assuming that
15 these systems are going to pass some sort of federal test.
16 But what are your contingency plans if they do not pass
17 those tests, as stipulated, introduce deadlines that you
18 have done up. What are your contingency plans?

19 I hope it's something other than going with the
20 flood system.

21 MODERATOR LAPSLEY: Thank you, Mr. Axelrod.

22 I'm just going to go back through. We have no
23 other cards, but there are -- just to double check that
24 those that may have left the room haven't come back,
25 before we conclude.

1 Mr. Harlan. I don't see him back.

2 Sandra Yolles, I don't see her back either.

3 Dan Kysor. Mr. Kysor left.

4 Ana Acton also left.

5 And then Mr. McKinney.

6 Okay. That concludes the public comment period.

7 I would like to thank everyone for coming. I
8 appreciate it. We all appreciate your time here. We
9 appreciate your testimony.

10 MS. ALEXANDER: Sorry. I'm going to speak on this
11 item too.

12 Kim Alexander with the California Voter
13 Foundation. I will make this really quick.

14 First, I wanted to congratulate the Secretary of
15 State and all the staff people here for instituting volume
16 testing. This is a huge improvement in the certification
17 process, as it provides much for information about how
18 voting machines will actually perform on Election Day.

19 I was concerned, reading the volume test reports
20 about the number of problems discovered with the Sequoia
21 Edge 1 and 2 touch screen machines, that these primarily
22 revolved around the voter activation cards.

23 If it was human error in setting up the tests,
24 then we need another test.

25 I suggest that one of the conditions that you make

1 on this system is to require paper ballots in polling
2 places in the event that there are similar machine
3 problems on Election Day.

4 And I remind you that in the March 2004 primary
5 election, the voter activation cards, as we know, are an
6 important part of the process. And the Diebold systems in
7 2004 in the primary, problems with programming of the
8 smart cards in that system caused over half of San Diego's
9 polling places to be inoperable at some point on Election
10 Day. And one quarter of Alameda's polling places were
11 also impacted.

12 So the machines, they work well, but if some
13 component of the entire system is not functioning
14 properly, it can shut down the entire system.

15 And what saved Alameda in that election was that
16 they had paper ballots available, so voters were not
17 turned away in Alameda, as they were in San Diego.

18 So if for that reason, if you do certify the Edge
19 1 and Edge 2, I hope that you will, number one, have
20 another volume test, and number two, require that paper
21 ballots be available as a backup.

22 Thank you.

23 MODERATOR LAPSLEY: Thank you.

24 Again, we appreciate everyone's comments and
25 testimony.

1 And thank you to all the members for being present
2 today and taking their time.

3 Thank you, Michael Rowe, for videotaping this and
4 spending your time today.

5 Just a reminder, the written public comment will
6 be taken through March 8th. Please either submit those
7 via U.S. Post, 1500 11th Street, Sacramento, California,
8 95814. Or via e-mail to votingsystemcomment@ss.ca.gov.

9 This concludes the meeting. Thank you very much.

10 (Thereupon the Public Hearing on Proposed
11 Certification of Voting Systems of the
12 Secretary of State adjourned at 3:45 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, KATHRYN S. KENYON, a Certified Shorthand Reporter
3 of the State of California, do hereby certify:

4 That I am a disinterested person herein; that the
5 foregoing Public Hearing on Proposed Voting Systems of the
6 Secretary of State was reported in shorthand by me,
7 Kathryn S. Kenyon, a Certified Shorthand Reporter of the
8 State of California, and thereafter transcribed into
9 typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said workshop nor in
12 any way interested in the outcome of said workshop.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 14th day of March, 2006.

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KATHRYN S. KENYON, CSR

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