

MEETING  
STATE OF CALIFORNIA  
SECRETARY OF STATE  
VOTING SYSTEMS AND PROCEDURES PANEL

SECRETARY OF STATE  
1500 11th STREET  
AUDITORIUM  
SACRAMENTO, CALIFORNIA

THURSDAY, FEBRUARY 17, 2005

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TIFFANY C. KRAFT, CSR, RPR  
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APPEARANCES

PANEL MEMBERS

Mr. Mark Kyle, Chairperson  
Mr. Marc Carrell, via telephonically  
Ms. Caren Daniels-Meade  
Mr. David Jefferson  
Mr. Tony Miller  
Mr. John Mott-Smith

STAFF

Ms. Lisa Niegel, Staff Counsel  
Mr. Michael Wagaman, Elections Analyst

ALSO PRESENT

Mr. George Allen, Amador County  
Mr. John Arntz, Director of Elections, San Francisco  
Ms. Janice Atkinson, Sonoma County  
Mr. Jerry Berkman  
Mr. Carl Carter, Marin County Democratic Party  
Mr. Steve Chessin, Californians for Electoral Reform  
Mr. Brad Clark  
Ms. Rafaella Cohn  
Mr. Lou Dedier, Election Systems and Software  
Mr. Rob Dickinson, San Mateo County for Electoral Reform  
Ms. Pat Driscoll, Sacramento County Green Party  
Mr. Steven Hill

APPEARANCES CONTINUED

ALSO PRESENT

Mr. Dave Joki, Wellstone Democratic Renewal Club

Mr. Chuck O'Neil, Sacramento Chapter; CFER

Mr. Pete Martineau, Californians for Electoral Reform

Mr. Michael Petrucello, Los Angeles County

Ms. Maureen Smith, Peace and Freedom Party

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1 PROCEEDINGS

2 CHAIRPERSON KYLE: My name is Mark Kyle. I'm the  
3 Chair of the Voting Systems and Procedures Panel. And I'd  
4 like to start the meeting today.

5 We have one person absent. Lee Kercher is out  
6 absent today. And we have one person calling in by  
7 remote. Marc Carrell, you're on the phone. Can you  
8 acknowledge you're here?

9 PANEL MEMBER CARRELL: I am here.

10 CHAIRPERSON KYLE: Good. And you have the  
11 documents in front of you?

12 PANEL MEMBER CARRELL: I do.

13 CHAIRPERSON KYLE: Thank you.

14 So we do have a quorum, and we will proceed.

15 I want to just welcome everyone who took the time  
16 and energy to come here, county election officials, voting  
17 activists, public at large, vendor representatives, and  
18 anyone else I may have missed.

19 If you do want to speak on one of the agenda  
20 items, you'll have an opportunity. But please fill out a  
21 yellow card and pass it forward to the table here in the  
22 front and please indicate which item you'd like to  
23 address.

24 I'd like to start with the first agenda item on  
25 Election Systems and Software, if we can have the staff

1 report on that, please.

2           ELECTIONS ANALYST WAGAMAN: This is coming back.  
3 It was a condition on the certification that was issued  
4 back in April of last year. It was a one-time use  
5 certification for the city and county of San Francisco to  
6 run an RCV, rank choice voting, or IRV, instant runoff  
7 voting, election in November of 2004. The components  
8 involved in the application are the same as those  
9 originally certified, with one exception, which is the  
10 ERM, which I will touch on later on about why that's  
11 slightly different from the version that was originally  
12 certified.

13           First, I will touch on the original conditions on  
14 the certification, what each of those conditions was, how  
15 it was met in November, or how it's been met subsequent to  
16 November so you are aware of those issues going forward.

17           The first condition was that this was for  
18 one-time use for one election in the city and county of  
19 San Francisco. It did successfully run that election.  
20 There were some late changes that were required, which I  
21 will touch on again momentarily.

22           One decision for the Panel to be considered is  
23 whether to expand that or not. The current application  
24 from the vendor is for administrative approval just,  
25 again, for the city and county of San Francisco through

1 the end of the year, 2005. That is something that came up  
2 in the public comment period.

3           Second was that the source code review for  
4 several components be reviewed on the federal level. Some  
5 of those had been previously reviewed prior to the  
6 original certification. There are a couple of components  
7 that had not been federally reviewed at that time. The  
8 Panel said that they would approve the application, but it  
9 was conditional on that additional software being  
10 reviewed. That was completed. It was not completed by  
11 the original time line, which is why later in that same  
12 year of 2004 the Panel modified that certification to  
13 allow that additional time. So that condition has been  
14 met.

15           First was that procedures be put in place to deal  
16 with an audit log issue. The audit log issue was that the  
17 system, when it was running, the RCV algorithm would not  
18 keep a log of each step in the process. As each  
19 individual candidate was being dropped, it would only  
20 capture the beginning and the end, in essence.

21           What the county put in place was a process  
22 whereby through each one of those individual steps, the  
23 system was stopped and a printout was created. That was  
24 the way the audit log was created. And I'm sure the  
25 county and/or the vendor can comment more on that.

1           Fourth, system must be used with certified  
2 components. This has to do with the underlining  
3 components, the non-RCV components. The system, as you  
4 are aware, is one of the grandfathered systems in the  
5 state. We touched on that issue at the last VSP meeting.  
6 The vendor has said that in regards to those underlining  
7 components they will submit a long-term plan for those  
8 components by April 15th of this year.

9           Condition five had to do with procedures to deal  
10 with how to resolve tie votes. It was an issue relating  
11 to RCV where a tie may interrupt, occur prior to the very  
12 last step of, you know, who are the top two candidates.  
13 The third and fourth candidate breaking that tie may  
14 affect who is the first and second place candidate. The  
15 county put in a procedure to deal with that, basically  
16 breaking that tie after the election was completed on a  
17 case by case basis, which again the county can comment on  
18 in more detail.

19           Six had to do with voter education, that the  
20 County had to do extensive voter education to talk to the  
21 people of the city of San Francisco and educate them about  
22 this new way of voting. That's detailed in page 4 of the  
23 County's report.

24           The next item had to do with the actual votes had  
25 to be used for the recount. This is an issue where the

1 way the RCV system works is there's a paper ballot that is  
2 then scanned by the Eagles or the IV-C. That creates a  
3 ballot image, which basically is a recording of what it  
4 read on each of those marks. That is then what is counted  
5 by the RCV algorithm. The requirement was when the hand  
6 recount was done, that had to go back to the paper, not  
7 that interim step of the ballot image. That's what the  
8 County did. If there are questions on that process, you  
9 can go back to the County.

10           A representative from the Secretary of State  
11 Office had to observe the election, and a report had to be  
12 submitted to this Panel. This is the process we're going  
13 through right now. Both the Chair of the VSP and another  
14 staff from the Secretary of State's Office observed the  
15 actual election itself. In addition, I went down to  
16 observe the post-election process of the algorithm. So if  
17 there are questions, Mr. Kyle will be able to answer  
18 election day stuff, and I can answer any post-election  
19 issues.

20           Finally, there was a recommendation from this  
21 Panel -- it wasn't a requirement, but a recommendation  
22 that the County put the RCV elections on a separate ballot  
23 card. It's my belief that's what the County did.

24           Again, going back to the first issue I touched on  
25 about the successful use of the system. The system was

1 used successfully. There was an issue that was run into  
2 with this one component. Prior to the election, the  
3 vendor notified us of two problems with the system, two  
4 anomalies with the system. The first had to do with the  
5 number of times the RCV algorithm could be run. It could  
6 only be run 19 times. If it were, in essence, required to  
7 be run 20 times, the system couldn't accommodate that.  
8 That was the first issue.

9           The second issue had to do with ties. If there  
10 was a tie that occurred between more than four candidates,  
11 only four of the candidates' names would appear on the tie  
12 resolution screen. So you could only select from those  
13 four. So if the fifth candidate was the one that won the  
14 tie, you couldn't select that person. And it wouldn't be  
15 apparent there was a tie between five people unless you  
16 had actually gone through and printed those reports to  
17 see, wait a second, there's a tie between five people.

18           Because these came up relatively late in the  
19 process, and because they are relatively unlikely to  
20 effect the election, a determination was made not to go  
21 ahead and test those, not to go ahead and approve those  
22 prior to the election, and rather wait and see if there  
23 was a need to deal with that. And if so, that it would be  
24 dealt with subsequent to the election.

25           When the election day results came in on Tuesday

1 night, it became apparent to the County and then to the  
2 Secretary of State's Office that there was going to be an  
3 issue with the 19 algorithm. In one supervisorial  
4 district, there were 21 candidates. There were no places  
5 where two candidates were dropped simultaneously, which  
6 meant there had to be 20 runs of that algorithm, which we  
7 knew the system could not accommodate.

8           The next day, on Wednesday, we made arrangements  
9 with the vendor to submit the source code for just that  
10 one change. Not for the tie change, but just for the one  
11 change with the 20-run issue to submit that to our  
12 technical consultant, Steve Freeman, to review that source  
13 code. He did review it. It was a very minor change that  
14 involved just a few lines of code. After his review, we  
15 approved that change administratively. That new version,  
16 which was Version A, was installed. And they began moving  
17 over the ballot images from the Eagles and the IV-C over  
18 into the central tabulation system.

19           At that time, a second issue came up where the  
20 number of ballot images that were showing up on the Eagles  
21 and the IV-Cs was not matching the number that was showing  
22 up in the central tabulation system in the RCV portion of  
23 it. That, again, stopped the process.

24           This was now on Wednesday. The vendor went back  
25 to try to diagnose what the source of the problem was.

1 What it turned out to be is there was an artificial limit  
2 to the number of ballot images that could be moved over  
3 from the Eagle and the IV-C to the central tabulation RCV  
4 component at one time. So the images were captured.  
5 There was never any votes lost. But they were not being  
6 moved over and imported over successfully. Again, that's  
7 required basically one line of code, that artificial  
8 limitation, to be deleted out.

9           The vendor submitted that change to us. It was  
10 reviewed, again, in that same process by our technical  
11 consultant, who said it was a minor change. That was  
12 administratively approved. That version was then  
13 installed, and that was the version that, in fact,  
14 successfully ran the election. So that's the process that  
15 went on that. Public comment, there were four public  
16 comments submitted.

17           Those are in your binders. They basically all  
18 advocated approving RCV at least for the city and county  
19 of San Francisco. Some advocate approving it statewide  
20 and for removing the time limitations to it.

21           There was one that was an issue about how the  
22 City and County reported its statement of vote.  
23 Basically, what the County would do is report each  
24 individual step in the process of who was dropped and how  
25 many votes that person -- how those votes would be

1 distributed. They did not report how many people voted a  
2 particular way of voting per county. They did Candidate A  
3 as 1, Candidate B as 2, C as 3, et cetera, et cetera, et  
4 cetera, so that somebody could replicate that drop  
5 process. So there was a request from the public on that.

6           Recommendations, at the time the staff report was  
7 written, we did not have the report from the County. We  
8 do now have that. So the Panel can go forward based on  
9 that information and act on the request for administrative  
10 approval, which, again, is to extend the certification  
11 just for the city and county of San Francisco through the  
12 end of the year, which is 2005. Or it can just take that  
13 issue under advisement. Again, there was request for  
14 administrative approval, so it doesn't necessarily require  
15 VSP action.

16           At this point I would recommend any questions you  
17 have for staff. And we have the City and County here  
18 along with the vendor to give their report and their input  
19 to the Panel.

20           PANEL MEMBER CARRELL: I'm having difficulty  
21 hearing.

22           CHAIRPERSON KYLE: We'll ask Michael to speak up,  
23 Marc.

24           Mike, did you review the report from the City and  
25 County?

1           ELECTIONS ANALYST WAGAMAN: Yes, I did. And it  
2 did touch on the issues that were raised in the staff  
3 report about the issues that were mentioned specifically  
4 in the staff report. There's one issue that has to do  
5 with how the audit log issue was dealt with. It does  
6 touch on that indirectly. That may be one thing the Panel  
7 may want to ask specifically of the vendor.

8           CHAIRPERSON KYLE: So right now the actual  
9 request from the vendor and from the City -- we'll speak  
10 to both of them in a minute -- has to do with an extension  
11 of the current certification through the end of this  
12 calendar year for the use in the city and county of  
13 San Francisco?

14           ELECTIONS ANALYST WAGAMAN: Right. For the  
15 version that was previously approved, with one exception  
16 of the change to the ERM from Version 6.4.3.2 to Version  
17 6.4.3.2.b. The B Version is the version that was actually  
18 ultimately used to run the 2004 November election.

19           CHAIRPERSON KYLE: Okay. Panel, questions of  
20 Mr. Wagaman?

21           PANEL MEMBER MILLER: Not really a question, but  
22 I notice on page 5 of the San Francisco City and County  
23 report that they used a video in their training. Would it  
24 be possible, if we don't have it already, to get a copy of  
25 that? It might be very helpful. And I like movies so --

1           ELECTIONS ANALYST WAGAMAN: I would ask that of  
2 the County, but I'm sure.

3           PANEL MEMBER MILLER: Thank you. It may be  
4 useful going forward to have that.

5           CHAIRPERSON KYLE: Mr. Arntz, would you mind  
6 coming up to the podium? Go ahead and just -- hold on a  
7 second.

8           PANEL MEMBER JEFFERSON: I had a couple  
9 questions. Does San Francisco have elections coming up  
10 through the end of this calendar year for which they want  
11 to use this system?

12          ELECTIONS ANALYST WAGAMAN: I would, again, defer  
13 to the County. But I believe they have at least one  
14 election they would like to use the system in.

15          PANEL MEMBER JEFFERSON: I would like to know  
16 about that, because I would like to know what pressure we  
17 are under to take immediate action. And maybe the  
18 representative from the County will help us.

19          CHAIRPERSON KYLE: Any questions for Mr. Wagaman?

20                 All right. Mr. Arntz, why don't you first  
21 identify yourself for the record. Then, secondly, if you  
22 wouldn't mind talking about your report at kind of a  
23 general 30,000 foot level, if there's anything that you  
24 want to touch on that was not addressed on here. And then  
25 we can batter you with questions.

1           MR. ARNTZ: I'm John Arntz, Director of Elections  
2 for San Francisco.

3           An overall review of our report is the election  
4 went rather well, considering all that had to go into  
5 making rank choice voting happen in San Francisco. It was  
6 a huge challenge. And the focus that the VSPP put on the  
7 outreach I think was very a positive approach to making  
8 rank choice voting be successful in San Francisco.

9           We do have a DVD and also a videotape for people  
10 to learn about rank choice, how to mark their cards, and  
11 also how votes can be eliminated and reallocated within  
12 the rank choice method.

13           We also did a lot of outreach to language  
14 communities other than English. That was also a positive  
15 aspect of rank choice voting, since I think it increased  
16 the ordinance of the election generally in San Francisco.

17           The tie vote issue, we just touched on it  
18 briefly, as Mr. Wagaman mentioned in his oral report. And  
19 we essentially adopted state code when it came to rank  
20 choice voting for the tie vote issue. Instead of drawing  
21 lots for the two candidates who had the most votes, we  
22 would have drawn lots for who had the least amount of  
23 votes. And then whoever was eliminated -- and this time  
24 when the winner was eliminated, they didn't win. That's  
25 the difference with rank choice voting. If there was two

1 ties, a tie vote with people who had the least amount of  
2 votes, the person who's name was chosen in the lot would  
3 have lost. And that person would have been eliminated  
4 from the campaign, from the contest. And then we looked  
5 to the second or third choices on the voters' cards and  
6 reallocated the records. That was our approach to that.

7           Other than that, I think our report is clear on  
8 its face. There are some things that we would like to see  
9 improve with rank choice voting going forward, if it's  
10 possible, within the certification of the current version.  
11 One issue that's come up is how undervotes, overvotes, and  
12 eliminated candidates are reported in the statement of  
13 vote. If there's a way to separate -- right now,  
14 overvotes, undervotes, and eliminated candidates are  
15 combined in the same category. And I think that it'd be a  
16 clear presentation of information if we could separate  
17 those out on the report.

18           Also, we were thinking about perhaps the tie  
19 issue that Mr. Wagaman brought up. If there would be a  
20 way for us to resolve this tie issue going forward and not  
21 waiting to see if we do have more than four candidates tie  
22 in rank choice voting, so the system can acknowledge that.

23           Another issue is write-ins. Right now, the way  
24 the system is configured, if there's more than two  
25 qualified write-in candidates, the County has to do a

1 rather labor-intensive process to get that information  
2 entered into the tabulation software. If there's some way  
3 that the vendor within the certification can resolve that  
4 issue, I think it would be helpful to our process overall.

5 And I'm willing to take any questions now from  
6 the Panel.

7 PANEL MEMBER JEFFERSON: Do you have an election  
8 coming up this year?

9 MR. ARNTZ: Well, we have at least one, we know  
10 that. And there's potentially a special election the  
11 Governor may call. And if the Governor were to call that  
12 election in San Francisco, there was an appointment by the  
13 Mayor, the Treasurer. And if there's a special election,  
14 the Treasurer's contest would be with that special  
15 election. It would not wait until the November election.  
16 There is at least one election with rank choice voting  
17 this year, possibly two, that we're aware of.

18 CHAIRPERSON KYLE: That would be November, the  
19 one that you're aware of?

20 MR. ARNTZ: Yes. November 8th.

21 PANEL MEMBER JEFFERSON: But the earliest  
22 possible date would be what?

23 MR. ARNTZ: It depends when the Governor could  
24 call the contest. I can't speculate on that.

25 PANEL MEMBER CARRELL: That was citywide if it

1 happens earlier?

2 MR. ARNTZ: Yes, because it's citywide. It's for  
3 the Treasurer, so it's a citywide contest.

4 PANEL MEMBER CARRELL: It would be supervisorial  
5 districts that didn't have rank choice voting?

6 MR. ARNTZ: Correct.

7 CHAIRPERSON KYLE: That would be about how many?  
8 Six districts?

9 MR. ARNTZ: Five.

10 CHAIRPERSON KYLE: Would you mind answering Mr.  
11 Miller's question about the availability of a training  
12 videotape?

13 MR. ARNTZ: Yeah. We can send all the materials  
14 that we have actually so --

15 CHAIRPERSON KYLE: Any other questions?

16 PANEL MEMBER CARRELL: I have one more. If the  
17 Governor does call an election, and you do a rank choice  
18 voting election, how much time do you need for voter  
19 education in the supervisorial that didn't have rank  
20 choice voting?

21 MR. ARNTZ: How much time do we need for outreach  
22 to get the system ready?

23 PANEL MEMBER CARRELL: The education outreach  
24 that you did this time to inform voters.

25 MR. ARNTZ: Well, for the rank choice election we

1 had for this November, we had to actually squeeze the  
2 outreach between a March primary and the November general  
3 election. And, really, we had beginning in June going  
4 forward, with most outreach occurring in September. So I  
5 would like to have six months' lead time to get the  
6 outreach started and start implementing it, too, and then  
7 concentrating again as we get closer to the election date.

8 PANEL MEMBER CARRELL: You said six months?

9 MR. ARNTZ: Yeah.

10 PANEL MEMBER CARRELL: Even though the Governor  
11 might call something sooner than that? Okay.

12 MR. ARNTZ: I mean, just like anything with  
13 elections, Mr. Carrell, you always want more time than  
14 you're going to get.

15 PANEL MEMBER DANIELS-MEADE: Marc, you might note  
16 that the Governor has to call it at least 148 days before  
17 the election date. So that almost covers six months  
18 anyway.

19 CHAIRPERSON KYLE: Mr. Miller.

20 PANEL MEMBER MILLER: Not a question, but I  
21 appreciated your report, especially the last paragraph you  
22 were commending the staff of the Secretary of State's  
23 Office and the Secretary of State for helping with this  
24 remarkable challenge. I appreciated that part. And  
25 especially Mr. Wagaman's efforts that were magnificent.

1           But I also want to simply complement you and your  
2 staff for making this happen so well in San Francisco.  
3 Everything I read about it and what I read today confirms  
4 that you and your staff met the challenge extraordinarily  
5 well. And my congratulations.

6           MR. ARNTZ: Thank you very much.

7           CHAIRPERSON KYLE: Any further questions of  
8 Mr. Arntz or his staff?

9           Okay. Anything the vendor, ES&S, would like to  
10 add? I know we have a representative here.

11          MR. DEDIER: Only if there's any questions.

12          CHAIRPERSON KYLE: We have a question. If you  
13 wouldn't mind coming and identifying yourself, please.

14          MR. DEDIER: Good morning. Lou Dedier, Vice  
15 President and Manager for Election Systems and Software.

16          CHAIRPERSON KYLE: Go ahead. You have a  
17 question.

18          PANEL MEMBER JEFFERSON: Yes, I do. I'm  
19 concerned about the effect of software bugs that were  
20 described and were, you know, in play in the last  
21 election. And I'd like to know how it was that they got  
22 into the code, in particular, the artificial limitation to  
23 a 19 vote redistribution algorithm when the system was  
24 supposed to be able to handle and did handle for other  
25 purposes a larger number of candidates.

1           MR. DEDIER: The imprint and ballot images that  
2 was in the old code --

3           PANEL MEMBER JEFFERSON: Not the import. Unless  
4 we're talking --

5           MR. DEDIER: The IV-C brings basically the bar  
6 code of the ballot images into the algorithm. And the  
7 idea there was a limitation on the old IV-C code that was  
8 remaining from the past old securities standards within  
9 the 1990s of how many ballot images you could bring into  
10 the process. What it did was a set limitation of how many  
11 ballots you could bring into the tabulation in one single  
12 batch.

13          PANEL MEMBER JEFFERSON: Are we talking about the  
14 same thing?

15          ELECTIONS ANALYST WAGAMAN: There are two issues.  
16 I'm not sure which one you're talking about.

17          PANEL MEMBER JEFFERSON: I'm talking about the  
18 artificial limit of 19 iterations of the --

19          MR. DEDIER: Are you talking about the candidate?

20          PANEL MEMBER JEFFERSON: Yes.

21          MR. DEDIER: The candidate issue, what we did was  
22 set a limit. The idea is there's no set standards within  
23 the testing parameters for the ITA for RCV. We basically  
24 took 19, figuring that was the maximum candidates. We  
25 should have went higher.

1           PANEL MEMBER JEFFERSON: Well, then, in  
2 particular, the system was otherwise capable of handling  
3 more candidates. It doesn't make any sense to be able to  
4 handle N candidates and not be able to run N minus one  
5 iterations of the algorithm. So it sounds like whoever  
6 wrote the software, to do that vote iteration algorithm  
7 round by round, was not clued into the rest of the  
8 structure of the code, or didn't read the rest of the code  
9 and realize it's supposed to handle more candidates than  
10 that, or something.

11           MR. DEDIER: They set a limitation when they  
12 wrote the new -- basically, that portion of the code. And  
13 by establishing that limitation, that created a problem.  
14 And we went and starting figuring out how many  
15 candidates -- we were in a rush to get it done. We pushed  
16 to get it done, first time use. There was a limitation  
17 set within there. That limitation created a problem, as  
18 we started looking at how many candidates we could have.

19           CHAIRPERSON KYLE: Mr. Jefferson, we weren't  
20 clued into the politics of San Francisco.

21           PANEL MEMBER JEFFERSON: The software was  
22 otherwise able to handle many more candidates than that.  
23 You should have as many rounds of elimination as you are  
24 able to handle candidates. That's my concern. It's a  
25 separate issue whether 21 or 50 was enough candidates for

1 an election.

2 MR. DEDIER: Well, sure. It's the same issue we  
3 ran into -- a lot of vendors ran into the same problem  
4 with the idea of there was a limitation placed on the  
5 rank -- not rank voting, but going back to the recall  
6 where you see everybody rush because you never expect this  
7 many candidates. Well, once again, you know, we basically  
8 stepped up to the plate. We set a limitation. We didn't  
9 use San Francisco politics. I can tell you now, we've got  
10 that down.

11 PANEL MEMBER JEFFERSON: You did -- the code did  
12 handle that many candidates.

13 MR. DEDIER: But there was a limitation.

14 PANEL MEMBER JEFFERSON: But then an additional  
15 artificial limitation not consistent with the number of  
16 candidates that the code was otherwise able to handle was  
17 imposed for no reason at all, that I can see.

18 MR. DEDIER: Strictly with the idea of putting it  
19 in there for additional security. They set a limitation.  
20 That's the idea of -- some of the older code --

21 PANEL MEMBER JEFFERSON: I don't think that's a  
22 really good explanation.

23 What I would like to suggest, Mr. Chairman, is  
24 this is a case where the code had not gotten sufficient  
25 testing or sufficient code review, and this is an occasion

1 where the Technical Advisory Board would --

2 MR. DEDIER: How many candidates would you  
3 suggest is tested for --

4 PANEL MEMBER JEFFERSON: As many --

5 MR. DEDIER: But what is --

6 PANEL MEMBER JEFFERSON: We're not talking about  
7 the number of candidates it's tested for. Given the  
8 number of candidates it can handle already, when you add  
9 RCV to it, we're talking about how many rounds of  
10 candidate eliminations should there be. If there are any  
11 candidates that's otherwise accepted, N minus 1 is the  
12 number of rounds of elimination.

13 CHAIRPERSON KYLE: Hold on. Rather than have a  
14 debate on the number of rounds of testing, what might be a  
15 proper testing procedure, I'd like to hear you complete  
16 your sentence on what -- your thought on what you're  
17 suggesting.

18 PANEL MEMBER JEFFERSON: What I would like to  
19 suggest is -- and there's a problem perhaps with the  
20 deadline coming up for a review of this. But we're always  
21 under such deadlines. But I think this and the tie  
22 breaking issue, which is also substantive, is not an  
23 arbitrary issue, are things that the Secretary of State's  
24 Technical Advisory Board should be asked to review before  
25 we recertify or -- certainly, before -- I mean, I don't

1 know what the timing can be. But these are clearly issues  
2 for the Technical Advisory Board.

3 ELECTIONS ANALYST WAGAMAN: Just a few points of  
4 information for the Panel for your consideration. The  
5 artificial limitation was removed, so the version that's  
6 before you, that no longer exists.

7 The four tie issue the vendor has written  
8 actually has not gone through our review. It was a more  
9 extensive piece of code change, largely dealing with the  
10 way that information is visually displayed, not the actual  
11 mechanism of doing it. So that part has not been  
12 reviewed.

13 The source code for everything that is here was  
14 federally reviewed. It was not federally qualified, but  
15 it was federally reviewed back as part of that original  
16 certification process. The only part that was not  
17 federally reviewed were those two changes. That source  
18 code was reviewed by, again, Mr. Freeman, our technical  
19 consultant.

20 PANEL MEMBER JEFFERSON: I did understand that.

21 ELECTIONS ANALYST WAGAMAN: The one other  
22 additional item just for your information, this was also  
23 educational for staff in that in our development of our  
24 test plans and if vendors come forward and were looking to  
25 RCV components in the future, these are the kind of issues

1 that do not come up with other types of voting systems and  
2 other types of voting. There are things built into our  
3 test plan, because they're not something we would normally  
4 have to deal with. So this is part of our educational  
5 process as well in the test process. That's why this  
6 wasn't part of the state or federal certification process.

7 CHAIRPERSON KYLE: Okay. Does that address your  
8 concerns?

9 PANEL MEMBER JEFFERSON: I understood all that,  
10 but my suggestion is still on the table.

11 CHAIRPERSON KYLE: Okay. Any other questions for  
12 Mr. Dedier?

13 MR. DEDIER: I'd like to commend you guys for the  
14 job you did. It was an extraordinary feat. And it was a  
15 combined effort with the Secretary of State's Office and  
16 San Francisco basically getting rank choice voting to come  
17 through. We appreciate your patience that you took with  
18 us in making it happen.

19 CHAIRPERSON KYLE: Sure.

20 MR. DEDIER: Thank you.

21 CHAIRPERSON KYLE: Thank you.

22 We have a number of requests for speaking on this  
23 point. I'd like to call Steven Hill to the podium,  
24 please.

25 MR. HILL: Thank you. Steven Hill representing

1 the Center for Voting and Democracy. We were the  
2 advocates for this system, rank choice voting, instant  
3 runoff voting, in San Francisco. And as some of you who  
4 have been involved from the beginning with this, as you  
5 know, it's been a long process. And we're really  
6 gratified to be here at this point. And I want to  
7 congratulate the Voting Systems Panel as well as the  
8 Department of Elections and the Director, John Arntz. And  
9 it all came together remarkably smoothly. And ES&S also I  
10 think did a very good job of pulling the system together.

11           You know, we -- as the advocates, we were not  
12 only trying to get it in place, but we wanted it to work.  
13 So we were certainly watching to see if there were going  
14 to be problems with this system. And we had observers out  
15 on election day covering most of the precincts that were  
16 using rank choice voting. We also helped to get money for  
17 an exit poll done by San Francisco State University,  
18 because we wanted to have -- and we also worked with a  
19 professor at San Francisco State University who did an  
20 aggregate precinct analysis. We were coming at it from  
21 different points of view. And all the different points of  
22 view, all the multiple sources of information that we had,  
23 this was a successful election.

24           Just a quote to you from the San Francisco State  
25 exit poll, the report concludes the majority of voters

1 appear to have made the transition to rank choice voting  
2 with little problem. The overall finding is positive. A  
3 wide majority of voters knew about rank choice voting,  
4 understood it, and used it to rank their preferences.  
5 Further, most prefer it. Only about one in eight saying  
6 they prefer the former runoff system. Sixty-one percent  
7 preferred the new system, which was more than the voters  
8 who actually had voted for it originally.

9           And I think that's a tribute, again, to the  
10 education that went on, not only the Department of  
11 Elections -- you know, we had gotten \$300,000 for  
12 community outreach to target communities as well as  
13 community groups like the Center for Voting and Democracy  
14 and others that were out there beating the bushes  
15 educating about this.

16           So I think that from the point of view of an  
17 operational standpoint, the voter education standpoint and  
18 the actual product itself, it worked. Not to say there  
19 aren't still things to learn, particularly with voter  
20 outreach and education. I think in the language-minority  
21 communities, in particular, there's still more work to be  
22 done there. Because even though the numbers there show  
23 they used the system and used it well, the numbers weren't  
24 as high as the other parts of the city and other  
25 constituencies. I think there's more work that needs to

1 be done there.

2           Now I want to talk about what should happen from  
3 here. You know, in terms of the system itself, you had an  
4 unprecedented level of security and transparency with this  
5 rank choice voting system. You not only had the paper  
6 ballots itself, but you had ballot images. And then the  
7 Department of Elections put those ballot images up on the  
8 websites for people to download and have it and run the  
9 algorithm themselves. You had more transparency and  
10 security in this election than you have in any other  
11 election in California. I want to call your attention to  
12 that when you think about whether this system should be  
13 certified on a go-forward basis.

14           And you also had the number one rankings that  
15 were in the cartridge of the rank choice of the Eagle  
16 itself. So, again, you had multiple backups of voters'  
17 votes, and either which could be used as a backup for each  
18 other. I think that's the important thing to keep in  
19 mind.

20           The other thing is that, you know, I would like  
21 to see this system be certified for all of California.  
22 There are other counties now that want to use rank choice  
23 voting, instant runoff voting. Berkeley passed, with 72  
24 percent of the vote, a ballot measure that wants to use  
25 instant runoff voting in Berkeley. And the vendor there

1 is Diebold. Who knows if they're going to come across  
2 with a system that does rank choice voting. There's a lot  
3 of discussion going on in Alameda County right now. If  
4 they don't, I can tell you Berkeley is going to want to  
5 use this ES&S system. There's no reason why they  
6 shouldn't be able to use the system.

7           There is a contradiction in the fact that the  
8 Eagle is certified for the entire state, but you're saying  
9 the RCV system should not be certified for the entire  
10 state, when the RCV system worked fine. Sure, there was a  
11 glitch, but that was discovered. That was a tribute to  
12 the process as well that the glitch was discovered. It  
13 was fixed. The vendor stepped up to the plate. The  
14 Department of Elections stepped up to the plate. You guys  
15 stepped up to the plate. Steve Freeman, you all, stepped  
16 up to the plate to fix a glitch. Glitches happen in new  
17 systems. We all know that. That's what the certification  
18 process is about.

19           So I would submit to you this is proof that this  
20 certification process, at least in this instance, has  
21 worked, and worked very well. So the system is simply an  
22 RC re-version of a certified system in California. And if  
23 the RCV system worked, and seems to me we're all saying it  
24 did work, then the RCV version of a certified system  
25 should itself be certified for California. That just

1 makes sense. That's logical. That's consistent  
2 logically. It's inconsistent logically to have a  
3 certified system that has a new component put on it that  
4 works not be certified for the entire state in my point of  
5 view.

6           So I would urge you to certify this system, list  
7 the conditions, allow San Francisco to use this system to  
8 go forward, allow Berkeley, other places -- San Leandro  
9 passed a measure just a couple of years ago to either a  
10 two-round runoff or instant runoff to make sure their  
11 winners have a majority. They decided to use a two-round  
12 runoff. They just had their first runoff election. It  
13 was an election in which everybody know who was going to  
14 win. They just spent \$100,000 to figure out the  
15 preordained outcome. And now the San Leandro Chamber of  
16 Commerce is pushing for rank choice voting to be used  
17 there.

18           So I think you're going to see many, many  
19 jurisdictions throughout the state wanting to use this  
20 system, the ES&S system, or another system certified in  
21 California. So we still have more work to do. And I,  
22 again, applaud you and thank you for your previous work  
23 and hope that we can continue to work together to allow  
24 rank choice voting to be used throughout the state of  
25 California. Thank you.

1 CHAIRPERSON KYLE: Thank you, Mr. Hill.

2 Any questions from the Panel?

3 Steve Chessin.

4 MR. CHESSIN: Thank you. My name is Steve  
5 Chessin, C-h-e-s-s-i-n. I am President of Californians  
6 for Electoral Reform. And I'm here to support the  
7 certification of San Francisco's election system  
8 permanently, not just for San Francisco, but for any  
9 county that has equivalent equipment, such as San Mateo  
10 that also wants to use rank choice voting.

11 I also want to draw your attention to the next to  
12 the last paragraph of Mr. Arntz' report where he suggests  
13 that clarification or guidance is needed from the  
14 Elections Code as to how counties should administer  
15 instant runoff voting elections. I know my home county of  
16 Santa Clara passed a charter amendment back in 1998 to  
17 allow the use of instant runoff voting. And now that we  
18 have Sequoia touch screen equipment, our Board of  
19 Supervisors has started the process to investigate what it  
20 will take to implement instant runoff voting. And our  
21 vendor, Sequoia, is contractually obligated to provide  
22 that software. I'm sure they would appreciate guidance as  
23 to what they should do so they don't have to reinvent the  
24 wheel.

25 I would urge you not only to certify the

1 San Francisco equipment, again, not just for  
2 San Francisco, but for any county that would want to use  
3 it, but also work with the Secretary of State's Office,  
4 whichever department it is that drafts legislation or  
5 regulations, to provide guidance. And our organization,  
6 Californians for Electoral Reform, would be very happy to  
7 work with your folks on drafting such regulations or  
8 legislation. Thank you very much.

9 CHAIRPERSON KYLE: Thank you.

10 Any questions from the Panel?

11 Thank you, Mr. Chessin.

12 Rob Dickinson.

13 MR. DICKINSON: Hello. I'm Rob Dickinson. I'm  
14 the Chair of San Mateo County for Electoral Reform. We  
15 are a not for profit, nonpartisan group committed to  
16 improving our democratic institution. We are supporters  
17 of instant runoff voting. We believe it's a good system,  
18 an improvement to the way we do things now. We'd like to  
19 see it used in more localities, including San Mateo  
20 County.

21 Our group has met with the Legislative  
22 Subcommittee of San Mateo County, and as a result of that,  
23 the County actually is on record as requesting a report  
24 from the Voting Systems and Procedures Panel. One of the  
25 things about our county is that we use almost exactly the

1 same voting equipment that San Francisco uses, except for  
2 the RCV modifications. So if you were to certify this  
3 equipment for use throughout the state and beyond the  
4 current time limit, it would be something that would be  
5 usable by San Mateo County. In addition, we would benefit  
6 from all of the hard work that was done for San Francisco  
7 both by your Panel, by San Francisco, and by the vendor to  
8 make the equipment ready. We would be able to use the  
9 ballot work and design. We would be able to use the  
10 outreach and educational materials. It's a great benefit  
11 from the work that's been done, and we shouldn't just  
12 limit that. I'd like to urge you to lift all the  
13 conditions on this for statewide use and also the time  
14 limits.

15 In addition, I'd like to commend John Arntz and  
16 the San Francisco Elections Bureau for their hard work. I  
17 was an observer of their election. I observed the 1  
18 percent manual recount. I thought that the whole process  
19 that I observed was done both in a solid, consistent,  
20 thorough, and deliberate manner. And the recount  
21 process -- the 1 percent manual recount process was no  
22 exception. I think it's a good system. It worked well.  
23 We ought to let other cities and counties use it. Thank  
24 you.

25 CHAIRPERSON KYLE: Thank you.

1           Chuck O'Neil.

2           MR. O'NEIL: My name is Chuck O'Neil. I'm the  
3 Sacramento County Chapter representative for Californians  
4 for Electoral Reform. I'd like to urge you to approve  
5 this for the entire state.

6           We have two groups in Sacramento County working  
7 on getting our rank choice voting established. One in Elk  
8 Grove is highly motivated. As you may know, Elk Grove is  
9 a very rapid growing city. It's a new city. And there  
10 are a lot of hot issues, and citizens are very agitated  
11 because they're electing their county representatives with  
12 a plurality, and they don't feel they're getting adequate  
13 representation.

14           The Elk Grove City Council held a workshop on the  
15 issue of electing the Mayor, and people there quickly  
16 decided that the problem wasn't how they elected the  
17 Mayor, but that they were electing their representatives  
18 with the plurality instead of majority. So we gave a  
19 presentation on our rank choice voting. Everybody there,  
20 about 30 people who attended that meeting, everybody  
21 agreed that they needed to change the way they do it.  
22 And, by far, a majority, about two-thirds, agreed that  
23 rank choice voting was the way they would prefer to go.

24           In the City of San Francisco, we have another  
25 group that's working. They're not as far along as Elk

1 Grove, but you may know our Mayor is elected with a  
2 majority requirement and a follow-up runoff vote. Costs  
3 the City a lot when we have to do that. And we can save  
4 the City of Sacramento a lot of money if we used rank  
5 choice voting.

6 Sacramento County uses ES&S equipment. And one  
7 of the things I've been telling people, may be wrong, is  
8 that San Francisco has done the hard work for us, and we  
9 appreciate that. And the system is essentially ready to  
10 go. It would help me a lot if you didn't make a liar out  
11 of me.

12 And I appreciate the diligence with which you're  
13 taking your job and the hard questioning. I think that's  
14 very admirable that you take your job seriously and make  
15 sure that these systems are working properly. But from  
16 what I've heard today, we've had about as thorough a test  
17 of this system as one can have an actual live vote with a  
18 large number of candidates and a major city, and in my  
19 opinion, very few glitches. I used to work on software.  
20 I'm surprised there are so few. And everybody did their  
21 job. So it's been tested. It works. And the few bugs  
22 that were found have been fixed.

23 So I'd encourage you to approve this statewide.

24 CHAIRPERSON KYLE: Thank you. Pat Driscall.

25 MR. DRISCAL: Good morning. My name is Pat

1 Driscal, and I'm elected County Council Member of the  
2 Sacramento County Green Party. And I would like to ask  
3 for you to please certify the ES&S rank choice voting  
4 system for use statewide.

5           The Green Party has long supported rank choice  
6 voting as a key component of electoral reform, and it was  
7 very exciting for us to see and work in San Francisco with  
8 rank choice voting to actually see it come to fruition  
9 successfully. And I think the Green Party will be pushing  
10 rank choice voting across the state. You've heard already  
11 of several efforts that are underway in Berkeley and now  
12 in Sacramento and Elk Grove. These efforts will only  
13 increase.

14           And I think it's important for us to be able to  
15 say we've had a successful experience with rank choice  
16 voting in San Francisco. The Voter Registrar and the  
17 State have been able to work together to iron out the  
18 procedures to do this. The voters understand it. We have  
19 educational tools to help others understand it, and it is  
20 possible for us to roll the system out. And we have a  
21 system that can be certified. I think these are all very  
22 positive steps. And, again, on behalf of the Green Party,  
23 I would ask you to please certify the system for statewide  
24 use. Thank you.

25           CHAIRPERSON KYLE: Thank you.

1           Pete Martineau.

2           MR. MARTINEAU: I'm Pete Martineau. I'm with  
3 Californians for Electoral Reform and the Center for  
4 Voting Democracy. I live in the Sacramento metro area,  
5 and I'm working both the efforts for rank choice voting  
6 use in Elk Grove and Sacramento. We're going to start  
7 action in the eastern part of the county, too.

8           I'm also a member of the League of Women Voters,  
9 and the League of Women Voters a couple years ago  
10 supported statewide the idea that executive offices should  
11 be elected by the majority of voters. So they're on  
12 record to support instant runoff voting and rank choice  
13 voting if the system is approved statewide.

14           If efforts begin and we get going for several  
15 efforts here and statewide and we don't have any software  
16 that's approved, the registrars, with their horrible  
17 problems with all the ballots they have to put up with,  
18 changes for the various efforts in various precincts, they  
19 would -- it would help us with them immensely if they knew  
20 that they had a system for scoring rank choice votes that  
21 is approved and worked well, and it has. And so,  
22 therefore, we also strongly ask that you approve the  
23 system for statewide use.

24           CHAIRPERSON KYLE: Thank you.

25           Maurine Smith.

1 MS. SMITH: Hi. My name is Maurine Smith, and  
2 I'm from Peace and Freedom Party. And I'd like to say  
3 that Peace and Freedom Party has supported proportional  
4 representation and advocated for it since 1970, which  
5 includes rank choice voting.

6 I've also voted rank choice in several elections.  
7 And sometimes I chose to vote for maybe only half the  
8 candidates. In other words, doing about half the ranking.  
9 Other times, the full slate.

10 But I read something in the San Francisco report  
11 that gave me a little concern. And that was that there  
12 were only allowed three choices. The top three you were  
13 able to vote for. I'm not a mathematician -- and this is  
14 a question I have before I can say, yeah, go for it. Is  
15 it possible for the real winner to lose because only the  
16 first three rankings are used? And did I make a mistake  
17 of what I read in there that you could only vote for your  
18 first three choices out of, say, 22 candidates? It's a  
19 question, and the experts on that may or may not be in the  
20 audience. But I certainly would not want to see the real  
21 winner not win because of that limitation. Thank you.

22 CHAIRPERSON KYLE: Thank you, Ms. Smith.

23 If I could just get a clarification. You would  
24 be in favor of rank choice voting if, in fact, the real  
25 winner was not eliminated by some inadvertent or mistaken

1 reason?

2 MS. SMITH: Yeah. If there's 22 people listed  
3 and you can only vote for your first three choices, then  
4 there may be a mathematical possibility that the wrong  
5 person wins. That's my concern. And it is a true  
6 mathematical issue, and I can't answer it.

7 CHAIRPERSON KYLE: As long as that didn't happen,  
8 you would be in favor of rank choice voting?

9 MS. SMITH: I am certainly always in favor of  
10 rank choice voting. I just saw that as being a possible  
11 drawback. And can that be addressed? Can there be a way  
12 for people to vote further down the list?

13 CHAIRPERSON KYLE: Just for point of information,  
14 I met with the delegation from Australia earlier last  
15 year, and they, in fact, tried rank choice voting as an  
16 experiment. And they had everyone vote. You had to vote  
17 for all 98 candidates. And so even if you were only  
18 interested in the top three, you had to go through. If  
19 you didn't fill in every single box, they disqualified the  
20 ballot.

21 MS. SMITH: Well, you also legally have to vote,  
22 too.

23 CHAIRPERSON KYLE: I'd be just writing numbers,  
24 presumably.

25 MS. SMITH: Yeah. I mean, like I said, I choose

1 not to vote for all of them sometimes, but that's my  
2 choice. But --

3 CHAIRPERSON KYLE: I understand your point.

4 MS. SMITH: You know what I'm talking about.

5 Thanks.

6 CHAIRPERSON KYLE: John.

7 PANEL MEMBER MOTT-SMITH: We've had this  
8 discussion, Steven Hill and I and others. I think the  
9 answer to your question is two-fold. One is that it is  
10 mathematically possible, if you limit the field to the  
11 three choices, that that limitation can determine which  
12 person actually ends up winning. And Steven has pointed  
13 out, and you can say so in your own words if you wish, but  
14 basically that doesn't necessarily define who should have  
15 won the election. You're using the rules of instant  
16 runoff voting, rank choice voting to elect a person with  
17 three candidates total. And so the winner is the winner  
18 that comes out of that process.

19 But specifically to your point, mathematically,  
20 it is possible to have different outcomes. I don't know  
21 if you want to respond.

22 CHAIRPERSON KYLE: Mr. Wagaman, while Mr. Hill is  
23 coming up, you want to say something?

24 ELECTIONS ANALYST WAGAMAN: The system that was  
25 configured and approved only can allow you to vote for

1 your top three choices. That's correct.

2 San Francisco's charter language includes  
3 specific languages that allows that to be used. It would  
4 also allow the system that allows the vote, in essence,  
5 for everyone. But this particular system only allows you  
6 to vote for the top three and only can accommodate that.  
7 That's one of the issues that would come up with moving  
8 this to other jurisdictions outside of San Francisco. The  
9 system was specifically tested against the San Francisco  
10 charter language. And staff cannot verify this particular  
11 system would meet language approved in other  
12 jurisdictions.

13 MR. HILL: The San Francisco charter calls for  
14 unlimited rankings, unless there's a technical limitation.  
15 That's the only reason, a technical limitation, because of  
16 the voting equipment. In this case, the technical  
17 limitation was three rankings for the Optech Eagle.

18 And there's no question unlimited rankings is the  
19 best way to do it. You know, five rankings is better than  
20 four rankings. Four rankings is better than three. But  
21 the thing I would point out is that three rankings are  
22 better than one ranking, which is what we have in all of  
23 our elections in California, the plurality system, where  
24 you only get to pick one candidate. And you may guess  
25 wrong. You vote for losers all the time with the one-rank

1 system, called plurality voting.

2           And so the defect that is being raised here in a  
3 sense about three-choice rank choice voting is not as  
4 severe as it is with most -- the method we use for most of  
5 our elections in California. And so we just have to keep  
6 these things in context when you talk about these things.  
7 Mathematically, sure, there is a chance. But the chance  
8 with three rankings is infinitesimal, but there is a  
9 chance there. Thank you.

10           CHAIRPERSON KYLE: Thank you.

11           David Joki.

12           MR. JOKI: I'd like to pass. I want to talk to  
13 Item 3.

14           CHAIRPERSON KYLE: Pass on 2 as well?

15           MR. JOKI: Yeah.

16           CHAIRPERSON KYLE: And then I have Rafaella Cohn,  
17 who didn't indicate the number.

18           MS. COHN: I didn't know I was supposed to. I'll  
19 pass on this one. I'd like to talk on 3 and possibly 5.

20           CHAIRPERSON KYLE: That concludes public comment.

21           We have one more, Jerry Berkman.

22           MR. BERKMAN: I'm Jerry Berkman. I'm from  
23 Berkeley. I work at U.C. Berkeley, but not representing  
24 them.

25           With respect to your questions, our stepson -- my

1 stepson at Arizona in his freshman class using  
2 mathematics, whatever they call it, one of their examples  
3 was an election and how you structured runoffs, you could  
4 get different winners. So in some sense, I'm not sure  
5 who's supposed -- the real winner is. I think we're all  
6 the real winner if we have instant runoffs.

7           And the second thing is what happens if you have  
8 a race such as vote for our School Board. You vote for  
9 three out of ten. You elect three out of ten. And what  
10 happens with those instant runoff then?

11           CHAIRPERSON KYLE: Thank you very much.

12           That concludes public comment for this agenda  
13 item.

14           I think the issue before us, Panel, is do we  
15 extend the current certification to the end of the year  
16 with the modification described by Michael Wagaman for use  
17 in San Francisco?

18           Two corollary issues have been raised, and we can  
19 discuss them before we address the initial issue. And  
20 that is whether to extend to all of California or outside  
21 of San Francisco. And I would just point out that that  
22 request is not formally in front of us by any of the  
23 counties that might use rank choice voting or have been --  
24 to my knowledge.

25           ELECTIONS ANALYST WAGAMAN: The request has to

1 come from the vendors. It's their system --

2 CHAIRPERSON KYLE: Nor from the vendors, as I was  
3 about to say. So we haven't had those discussions with  
4 counties, nor has the vendor made that request.

5 The second issue, if I'm not mistaken, has to do  
6 with the underlying system and proposal from ES&S, from  
7 the vendor, that they're going to have some additional  
8 information in April.

9 ELECTIONS ANALYST WAGAMAN: I can provide more  
10 information on that, if you'd like.

11 CHAIRPERSON KYLE: Please.

12 ELECTIONS ANALYST WAGAMAN: This information was  
13 covered as part of the grandfathered voting system report  
14 back in January. The underlying components, which are the  
15 one -- I'm going to fumble the version numbers, the 1.30  
16 Version of the Optech Eagle along with the 10.7 version of  
17 the IV-C. Those components currently have a limited  
18 certification on them. They have a certification that's  
19 currently limited to the end of the year right now just  
20 for the city -- or for the county of San Mateo. So they  
21 have a limited certification.

22 Because of that limited certification for San  
23 Mateo, in addition to this issue with San Francisco, the  
24 vendor has committed in writing by April 15th they will  
25 submit a long-term plan for those components -- those

1 underlying RCV components that are not directly related to  
2 RCV. There are other versions that are used and certified  
3 both from this vendor and from a different vendor for the  
4 Eagle and the IV-C, but the underlying component used in  
5 San Francisco has only this limited certification -- that  
6 conditional certification on it.

7 CHAIRPERSON KYLE: Thank you.

8 Any discussion from the Panel?

9 John.

10 PANEL MEMBER MOTT-SMITH: Just want to make sure  
11 when we talk about the issue of -- am I getting ahead  
12 by --

13 CHAIRPERSON KYLE: No. Go ahead. I think we  
14 need to flush this out a little bit.

15 PANEL MEMBER MOTT-SMITH: When we talk about the  
16 issue of extending the certification statewide, currently  
17 we're looking -- currently, there are two counties that  
18 use the precise configuration of equipment that would be  
19 subject to this certification; is that correct?

20 ELECTIONS ANALYST WAGAMAN: Partly correct.

21 There are two counties that use ES&S versions of the  
22 Optech Eagle and the Optech IV-C. One county uses a  
23 different underlying version of the firmware for the  
24 Eagle. So San Mateo is the only county that uses the same  
25 firmware version and the same hardware version, the same

1 central tabulation system.

2 PANEL MEMBER MOTT-SMITH: Okay. So we're talking  
3 about San Francisco and San Mateo?

4 ELECTIONS ANALYST WAGAMAN: Correct.

5 PANEL MEMBER MOTT-SMITH: So the "extension to  
6 statewide" would be prospective to another county  
7 purchasing the equipment that's used in San Francisco or  
8 San Mateo?

9 ELECTIONS ANALYST WAGAMAN: With the one other  
10 exception of a county wanting to convert over to this  
11 Eagle IV-C package. Correct. That existing system, yes.

12 PANEL MEMBER MILLER: Mr. Chairman, a follow-up  
13 on your inquiry. Has the vendor requested an extension  
14 statewide or just San Francisco?

15 ELECTIONS ANALYST WAGAMAN: No. The vendor  
16 submitted a request for administrative approval. The  
17 vendor has requested extension of the -- submitted a  
18 request for administrative approval for, one,  
19 certification previously mentioned in San Mateo, which was  
20 granted, and the second was to extend the certification  
21 for San Francisco only, and, again, only to the end of the  
22 year. So that's the only thing currently pending before  
23 the Panel.

24 PANEL MEMBER MILLER: Even going back to the  
25 original application of the vendor, that was for

1 San Francisco only, was it not?

2 ELECTIONS ANALYST WAGAMAN: Correct. The  
3 original application was just for San Francisco and just  
4 for the November 2004 election.

5 PANEL MEMBER MILLER: The only thing that could  
6 be considered was an extension in San Francisco?

7 CHAIRPERSON KYLE: That's what's before us.

8 ELECTIONS ANALYST WAGAMAN: That's the only thing  
9 that was requested. Again, this was not requested  
10 directly of VSP. It was a request for administrative  
11 approval. But that's the only item, yes.

12 PANEL MEMBER MILLER: Correct.

13 ELECTIONS ANALYST WAGAMAN: That's the only item  
14 staff prepared for us. We did not go through and compare  
15 to the requirements in other jurisdictions.

16 CHAIRPERSON KYLE: David.

17 PANEL MEMBER JEFFERSON: So I guess I want to get  
18 on the record a number of concerns and issues.

19 I, like everyone probably in the room or most  
20 people, like the idea of rank choice voting. I think it's  
21 an improvement. And over time, I hope to see it more  
22 widely adopted. But I'm concerned about the very large  
23 number of technical issues that we face in this  
24 implementation. The definition of rank choice voting has  
25 a thousand variations depending upon whether you're voting

1 for three out of N candidates -- or only one winner or  
2 three winners out of N candidates. Whether you're allowed  
3 to vote your first and third choice but not second, is  
4 that a misvote, or does the third count as your second  
5 choice? What is the tie-breaking rule? There are various  
6 choices of tie-breaking rules. These matter.

7           And to the best of my knowledge, there has not  
8 been any state consideration of the many, many variations  
9 on rank choice voting that there are. And I think that  
10 either we should have some kind of state consensus as to  
11 what the definitions are -- preferably, I mean, the  
12 Legislature should probably take the lead on this, or  
13 perhaps the Secretary of State could suggest standards.

14           But in any case, another possibility is that  
15 individual jurisdictions will make their own rules, 17  
16 variations of the rules around the state, and then we will  
17 be faced with certifying a single voting system that has  
18 to be able to correctly calculate the winners of elections  
19 based on the 17 different local rules. And I don't know  
20 how -- we don't have a testing process yet that is capable  
21 of doing that. Certainly, the federal process is too  
22 blunt to handle that kind of detail.

23           So, Mr. Chairman, my concern is with our  
24 certification procedures. I don't really have any  
25 principled objection to extending the preliminary

1 certification for San Francisco for the remainder of the  
2 year. It's more that there are a very large number of  
3 technical issues that we should understand. And there are  
4 some serious mathematical issues that were brought up as  
5 well.

6           There is no general agreement in the election  
7 community. There can't be any general agreement on the  
8 perfect algorithm for rank choice voting, because all of  
9 them have paradoxes that are well known to the literature.  
10 So we're going to have to settle on -- for the most part,  
11 these are minor paradoxes, but they are always  
12 mathematically there. And we have to settle on some  
13 standards. And I would like to suggest that we do that  
14 before we jump into certainly more -- a grander extension  
15 of rank choice voting than we have now, even though in  
16 general I would like to get there.

17           CHAIRPERSON KYLE: Understood.

18           Mr. Mott-Smith, and then Mr. Carrell, you're not  
19 forgotten.

20           PANEL MEMBER MOTT-SMITH: I think that's a good  
21 idea, David.

22           What I'm wondering about is what the timing of  
23 that would be in terms of -- assuming that the Technical  
24 Advisory Board could address the subject of rank choice  
25 voting in the detail that you just described and come up

1 with a uniform definition. What kind of a time line are  
2 you envisioning for something like that?

3 PANEL MEMBER JEFFERSON: I think if you gave us a  
4 direction, we would meet your time line.

5 CHAIRPERSON KYLE: So then the issue before us --  
6 Mr. Miller.

7 PANEL MEMBER MILLER: Could I ask Mr. Arntz a  
8 question?

9 CHAIRPERSON KYLE: Sure, you can.

10 PANEL MEMBER MILLER: With respect to extending  
11 the certification for the rest of the year for  
12 San Francisco, when do you need to know, assuming that you  
13 have a November election -- and we don't know about any  
14 other election, but you have a November election coming  
15 up. When do you need to know in terms of whether or not  
16 this is going to be extended or not?

17 MR. ARNTZ: As soon as possible. We're about to  
18 go out to RFP for a voting system in San Francisco. So we  
19 have to be able to explain to the vendors what type of  
20 voting methods San Francisco will be using in that RFP.  
21 San Francisco, as a charter city, has already explained  
22 the definition of rank choice voting for San Francisco.  
23 That's what we've done already with the current vendor.  
24 In the RFP, we put that same definition into the request.  
25 So if there's going to be changes that would somehow

1 effect our charter, we would have to know that  
2 immediately, to be honest with you.

3 PANEL MEMBER MILLER: Thank you.

4 PANEL MEMBER CARRELL: Mr. Chairman.

5 CHAIRPERSON KYLE: Go ahead, Mr. Carrell.

6 PANEL MEMBER CARRELL: I'm a little confused.

7 What issue is before -- is there an issue before us to  
8 take action on today, or just to report today?

9 CHAIRPERSON KYLE: There is a report that's been  
10 submitted -- actually several reports, and there is an  
11 action. That's a live request that there is an extension  
12 on the current -- the certification that was issued for  
13 the November election in San Francisco. There's a live  
14 request that that be extended to the end of this calendar  
15 year for San Francisco. Technically, we can move on that  
16 today. We can put it off. We can deny it. We can do all  
17 kinds of things. So that's what's before us.

18 PANEL MEMBER CARRELL: My other question -- I  
19 have a statement. My other question is related to  
20 Mr. Arntz' comments just a second ago. You said you have  
21 an RFP in front of you. Are you only accepting proposals  
22 from those who have certified RCV systems? And, if so,  
23 when are those -- well, I guess that's the question.

24 MR. ARNTZ: No. We're opening it up to all  
25 vendors. And we're not going to just limit the response

1 to the RFP to the only vendor who has a rank choice  
2 system. Any vendor that is willing to develop and have  
3 certified a rank choice system that follows San  
4 Francisco's charter, then they will be welcome to bid.

5           PANEL MEMBER CARRELL: Okay. I just ask that  
6 question, because I think that was sort of part of the  
7 problem -- my impression is that was sort of the reason  
8 there was a lot of glitches last time because of the  
9 timing and the system that was in place was not a system  
10 that had been certified before it was already decided to  
11 be used.

12           But from a broader perspective, my comments are  
13 this. I agree with Mr. Jefferson. I believe that the  
14 State has not taken a position on rank choice voting in  
15 terms of the procedures that need to be used statewide.  
16 And what we will have is every jurisdiction using a  
17 different procedure either based on the different system  
18 they use or based on their own charter or local  
19 ordinances. I don't think that's wise. I'm not a fan of  
20 this particular system for variety of reasons, including  
21 the fact that every time something comes up, we have to  
22 make a fix to it. And I'm guessing that's going to happen  
23 at your next election. There's always going to be  
24 something new. That happens in a lot of systems.

25           But this system seems to be coming before us at

1 the last minute every single time with small changes. And  
2 so while it's the only system that San Francisco can use  
3 at this point that's certified for rank choice voting and  
4 I would exceedingly support its continued use in  
5 San Francisco only, I would not consider it for any other  
6 jurisdiction, unless it goes to the Technical Advisory  
7 Board and it comes back. And you know, I think that there  
8 needs to be some state standards established. And, thus,  
9 that will also spur other vendors to submit their system  
10 for rank choice voting as well.

11 CHAIRPERSON KYLE: Anything else, Marc?

12 PANEL MEMBER CARRELL: That's it.

13 CHAIRPERSON KYLE: Thank you.

14 Okay. Anyone feely strongly one way or the other  
15 and want to make a comment or motion?

16 PANEL MEMBER DANIELS-MEADE: Motion. I move that  
17 we adopt the continued use of the system in San Francisco  
18 for the remainder of the 2005 year.

19 I think as a separate motion we should address  
20 the definitions and standards that clearly need to be  
21 developed.

22 CHAIRPERSON KYLE: Thank you.

23 Do I hear a second?

24 PANEL MEMBER MOTT-SMITH: Second.

25 ELECTIONS ANALYST WAGAMAN: On that additional

1 motion, one recommendation from staff would be not only  
2 the original conditions, but adding conditions. There's  
3 some boilerplate language that was included subsequent to  
4 that original language having to do with changes to the  
5 procedures, source code, those kinds of things, that that  
6 additional boilerplate language be added to the  
7 certification.

8 PANEL MEMBER DANIELS-MEADE: Agreed.

9 CHAIRPERSON KYLE: Still have a second?

10 PANEL MEMBER MOTT-SMITH: Yes.

11 CHAIRPERSON KYLE: Okay. Any further discussion?

12 All those in favor say aye.

13 (Ayes)

14 CHAIRPERSON KYLE: All those opposed say no.

15 Anyone abstaining?

16 The ayes have it.

17 PANEL MEMBER MOTT-SMITH: So we have a second

18 motion?

19 CHAIRPERSON KYLE: I think we can just direct

20 staff to start working that out.

21 What I would like to ask Mr. Mott-Smith as the  
22 Chair of the Election Division is that you assume the  
23 responsibility to move the Task Force along with me as the  
24 Chair of the Voting Systems Panel.

25 PANEL MEMBER MOTT-SMITH: I'll set a date for

1 David.

2 CHAIRPERSON KYLE: Make it 30 days, and let's get  
3 it done. And then we can develop maybe some outlines and  
4 float it by public input from a variety of different  
5 people.

6 PANEL MEMBER MOTT-SMITH: I'll bet you there will  
7 be some input.

8 CHAIRPERSON KYLE: I bet there will be. Float it  
9 by the counties, by the vendors, by the advocacy groups.  
10 Okay. Good.

11 PANEL MEMBER MILLER: Mr. Chair, I just want to  
12 clarify that the motion we just approved, that's a  
13 recommendation to the Secretary, correct? It's not a  
14 decision by --

15 CHAIRPERSON KYLE: As all motions that are made,  
16 seconded, and passed by this Panel, it's a recommendation  
17 to the Secretary so --

18 PANEL MEMBER MILLER: Thank you.

19 CHAIRPERSON KYLE: I think the City and the  
20 County as well as the vendor are aware of that. So that  
21 will be going forward to the Secretary.

22 So we're done with Item Agenda Number 1, and  
23 let's move on to Agenda Item Number 2. So the  
24 Grandfathered Voting Systems Report. I believe we have a  
25 report for that.

1           ELECTIONS ANALYST WAGAMAN: Yes. This item was  
2 previously presented to the Panel at their January  
3 meeting. It was a discussion item at that meeting.  
4 Again, it's a discussion item at this meeting. It's been  
5 noticed for the March meeting as an action item.

6           The issue here is that we have several systems  
7 left in the state that are not federally qualified  
8 generally, because they pre-date the federal qualification  
9 process, but do have a state certification. A couple of  
10 vendors and several counties requested direction from this  
11 Panel on how those systems would be handled in the future,  
12 specifically with two questions. One, will those systems  
13 ever be decertified due to their lack of federal  
14 qualification? And, two, would those systems have to seek  
15 federal qualification in order to be state certified if  
16 they were ever changed in the future? So any  
17 modification, would that be a trigger for requiring  
18 federal qualification? Because those questions were posed  
19 to staff, they were then posed to the Panel, which is  
20 there before you.

21           At the last hearing, there was a request, I  
22 believe, from the Chair for further information from staff  
23 about how these systems correspond with the various  
24 requirements from HAVA. That's the chart that is the  
25 final page of the staff report. I'll just run through

1 those fairly briefly.

2           First, it's not a requirement. It's a funding  
3 source. 102 provides money for the punch card buyouts.  
4 The Datavote System is a punch card system. Therefore,  
5 counties that were using that system in November of 2000  
6 would be eligible for those funds if they replace that  
7 system. If they don't replace that system, they would  
8 have to return those funds if they've already received  
9 them, or would not be eligible to apply for those funds.  
10 The other systems are not punch card systems. They're all  
11 optical scan systems, and, therefore, would not be  
12 eligible for those funds.

13           The second requirement is to promote voters to  
14 vote privately and independently. All these systems do  
15 allow for that. There is an exception for disabled  
16 voters, which I will get to, because that's handled under  
17 a separate requirement in HAVA.

18           Allows voters to track their change to ballot.  
19 Again, all these systems allow for that. All these are  
20 paper-based systems, so in some situations they would  
21 require the voter to replace their ballot cards. So, in  
22 essence, say, "I'm discarding my ballot. I need a new  
23 one. Get me a new one." And they re-mark that ballot,  
24 which does meet the requirement of HAVA.

25           The fourth requirement is an overvote

1 notification. The Optech Eagle is a precinct count on a  
2 full scan system that can be configured to notify the  
3 voter that they overvoted. All of the other systems are  
4 central count systems, therefore, they cannot do that. So  
5 they either have to be used in conjunction with some sort  
6 of precinct count system, or they would have to utilize an  
7 exception, HAVA, which allows the county to implement an  
8 educational program as an alternative.

9           Shall produce a permanent paper record. All  
10 these are paper-based systems, so all produce a  
11 paper-based record.

12           Disability accessibility, this is the component  
13 that none of these systems meet currently. They all  
14 require either a modification or they would have to be  
15 used in conjunction with at least one other voting system  
16 component in order to meet that requirement. But they on  
17 their own do not meet that requirement.

18           Language accessibility, all these systems can  
19 accommodate other languages other than English.

20           Shall provide universal definition of vote.  
21 That's a process staff is currently working on in  
22 conjunction with the counties and the vendors. That's  
23 going to be handled through the use procedures, and all of  
24 these systems do have use procedures attached to them  
25 which can be modified to their -- put in that universal

1 definition of a vote. Many of them already have note  
2 count procedures already in them.

3           So that's basically what you're looking at, is  
4 generally these systems do meet the requirements of HAVA  
5 with the exception they do not meet the accessibility  
6 requirement and generally, with the exception of the  
7 Eagle, they do not -- in and of themselves do not meet the  
8 overvote notification requirement.

9           That's the additional information request of  
10 staff. Again, this is only a discussion item. Action  
11 will take place at the March hearing.

12           CHAIRPERSON KYLE: Any discussion on this  
13 discussion item?

14           Mr. Mott-Smith.

15           PANEL MEMBER MOTT-SMITH: I have several  
16 questions for staff. I'm just not certain whether I  
17 should ask them before public testimony or after. But,  
18 basically, I'd like to get some detail from Michael about  
19 what specific counties use which systems.

20           CHAIRPERSON KYLE: Why don't we go ahead and do  
21 it now and then have public comment.

22           PANEL MEMBER MOTT-SMITH: Can you walk through  
23 your chart, Michael, in terms of starting from just using  
24 the chart, Datavote, InkaVote, Mark-A-Date, Optech. And,  
25 basically, I'd like to know for each one of them which are

1 the -- how many counties that use them, which are the  
2 counties, and what are we looking at in terms of trends  
3 for the voting systems in each of those counties.

4           ELECTIONS ANALYST WAGAMAN: The first system is  
5 the Datavote system. This is the non pre-scoring punch  
6 card system still used in the state. It's currently used  
7 in twelve counties. There are three different central  
8 tabulation systems that support it: One from DIMS, which  
9 is now Diebold; one from Sequoia, and one from DFM. Those  
10 counties tend to be smaller counties. The one exception  
11 is Ventura County, which is a fairly large county. Most  
12 of those systems -- based on response to the surveys  
13 submitted by the 301 Task Force, most of those counties I  
14 think are planning on replacing that system in part due to  
15 the fact that they would lose out on that 102 money if  
16 they didn't replace that system. That's one of the  
17 reasons that system I would say generally is disappearing.

18           Second system is InkaVote system. That's only  
19 used in the county of Los Angeles. Again, that is a  
20 system that the county plans on eventually replacing.  
21 Their time line for that is sometime in the future.  
22 Certainly, sometime I believe after the end of this year.  
23 So we would be talking at least 2008. I know a  
24 representative from the county is here who can probably go  
25 into more detail about their plans and exact time line for

1 replacing that system.

2           The Mark-A-Vote system is currently used in eight  
3 counties. Riverside uses it for absentee voting. That's  
4 a fairly large county, but it's only used for just the  
5 absentee portion. Contra Costa uses the system, which is  
6 another fairly large county. I know both of those  
7 counties are making plans on replacing that. Some of the  
8 counties though -- the remaining counties have expressed  
9 an interest in maintaining that system at least in the  
10 short term, also potentially in the long term. The vendor  
11 has requested -- would like to continue to use the system.  
12 I don't believe they're planning on marketing the system  
13 to new counties, but to be able to continue to use the  
14 system for their existing counties.

15           PANEL MEMBER MOTT-SMITH: You say they are or are  
16 not planning on marketing?

17           ELECTIONS ANALYST WAGAMAN: I don't believe  
18 they're planning on marketing to new counties, just  
19 servicing the current counties that want to retain the  
20 system. And that vendor has indicated they do have some  
21 changes, some bug fix type things they would like to  
22 submit for changes, which is one of the reasons they were  
23 one of the vendors that asked how are we going to handle  
24 these grandfathered systems and do I have to get qualified  
25 before I submit any application in that sense.

1           PANEL MEMBER DANIELS-MEADE: Michael, can I ask a  
2 question? Are they supportive of more than DFM?

3           ELECTIONS ANALYST WAGAMAN: Mark-A-Vote is only  
4 supported by DFM.

5           PANEL MEMBER DANIELS-MEADE: That's what I  
6 thought.

7           ELECTIONS ANALYST WAGAMAN: DFM central  
8 tabulation system can support both the Mark-A-Vote and the  
9 Datavote.

10           The Optech Eagle IV-C, that's used fairly widely,  
11 but the version we're talking about is used fairly  
12 narrowly. Sequoia supports the Optech Eagle IV-C, but  
13 their version is qualified and certified. It's the  
14 version that's used by ES&S which have an issue with the  
15 federal qualification. It's used in three counties:  
16 Amador, San Mateo, and San Francisco. Obviously, just  
17 addressed the San Francisco issue. San Mateo got  
18 certification through the end of the year. Amador has a  
19 full certification for the version they use that it does  
20 not have any time limitation to it.

21           As far as the long-term plans for the Eagle and  
22 the IV-C -- and the vendor is here and can correct me if  
23 I'm wrong -- I don't believe they're marketing the IV-C  
24 anymore. They are, rather, using the 550 and the 650  
25 which are their newer central tabulation system.

1           The Eagle, I believe, they are primarily now  
2 marketing the Model 100, which is, again, their newer  
3 version. The Eagle they may try to take through the  
4 federal qualification process to be qualified and state  
5 certified with the AutoMark, which has not yet come before  
6 the Panel. But I believe they're primarily focusing on  
7 the AutoMark with the 100.

8           So, generally, you're not seeing -- the general  
9 pattern you would see is most of these systems are slowly  
10 being replaced. It's a question of when they're going to  
11 be replaced and are probably a few places where there are  
12 jurisdictions who do not want to replace them. They want  
13 to keep them and supplement them to meet the HAVA  
14 requirements as noted during the staff report.

15           PANEL MEMBER MOTT-SMITH: Thank you.

16           CHAIRPERSON KYLE: Other questions from the  
17 Panel? Comments? Discussion?

18           I'm going to open it to the public comment.  
19 Michael Petrucello.

20           MR. PETRUCELLO: Morning. Michael Petrucello,  
21 Assistant Registrar of Voters, County Clerk, Information  
22 Technology, Los Angeles County. I just have a few  
23 comments, input I would like to get across.

24           We know that the cohort of grandfathered systems  
25 we look at and we say -- we look more at the differences

1 county to county. And in particular in L.A. County with  
2 5,000 polls and the size that we have to deal with, and we  
3 would say every county is unique. L.A. is at least as  
4 unique, if not more, with four million voters, three  
5 million voters who came out November and voted.

6 We want to make a few recommendations or get a  
7 point across that we would advocate in the same sense that  
8 every county is individual that we look at every system  
9 individually and maybe not do a blanket approach to  
10 grandfathered systems on certification or  
11 non-certification.

12 I would point out that our InkaVote system,  
13 which, of course, was a response to the decertification of  
14 punch card, was certified in 2002 by the Secretary of  
15 State and was recertificated in February of 2004. We've  
16 used it in a number of elections last year, in particular.  
17 It was extremely successful. In November, we had three  
18 million people come out and vote, a million of whom had  
19 never seen the InkaVote device before. I think we had, I  
20 mean, a handful of letters. And in my experience, I've  
21 seen hundreds of letters, sometimes on voter problems.  
22 But it just was extremely more successful than I can  
23 really communicate the InkaVote system.

24 I think there was a question about compliance  
25 with HAVA on the points that Michael was citing. And our

1 intention or our plan, anyway, and the direction we're  
2 trying to go -- and, again, this is in the context of  
3 eventually getting to a viable electronic system. Our  
4 direction is to add a device that will satisfy the  
5 requirement for informing the voter that they've overvoted  
6 and do that in privacy and provide for disability's  
7 voting. And our intention is to seek approval from the  
8 Board to add on a device that will perform those two  
9 functions. That would satisfy the HAVA requirements for  
10 '06.

11           And the other feature that we're considering for  
12 this in this proposal would be that the same device -- and  
13 you can find those in different places in the country --  
14 where you insert your ballot and it comes back and tells  
15 you you overvoted. And you can do that privately without  
16 assistance.

17           Is to also obtain from that device -- and there  
18 would be one in every poll is what we're contemplating.  
19 It would potentially also give us the ability to have a  
20 quick tally. That in the same process of reading the  
21 ballot, it would capture the ballot image. It would not  
22 be performing the tally. It would give us a quick tally.  
23 And one of the requirements or one of the recurring  
24 requests in L.A. County is that we have the ability to get  
25 election results out sooner. I think we can all identify

1 with that. So that would be one of the other constraints  
2 that would satisfy.

3 I think one of the other issues was a time  
4 horizon on this. And we see this as a -- indeed, as we  
5 see InkaVote as a filling in the integral between now and  
6 finding out that we're liable. Well-seasoned electronic  
7 voting device, we see this in maybe a three-year,  
8 five-year to bridge that integral.

9 And I would point out for L.A. County, there's  
10 5,000 polls, and there would be a sunset on the 1250 limit  
11 on precincts. We're back to 1,000 voter precincts. We  
12 mailed out 750,000 absentee ballots in November, 600,000  
13 or so back. We're still looking at 5,000-plus precincts.  
14 You think in terms of maybe five electronic devices per  
15 precinct or six. You're looking at 30,000 electronic  
16 devices, perhaps more, spares. So it's a gargantuan  
17 undertaking when the time comes for us to do it. Just  
18 think about warehouse space and service and loading.  
19 You're familiar with all the little glitches that have  
20 come up. So for L.A. County, it will just be a remarkably  
21 daunting task to be successful doing that.

22 That gets back again to how successful we've been  
23 with InkaVote. And we certainly didn't anticipate that  
24 InkaVote would be -- this would have this duration, but  
25 it's working out that it is.

1           So that's basically the position of L.A. County.  
2 Key point, you know, on certification that the system  
3 works. We think that certainly should be the criteria for  
4 determining if a system can be sustained, should be  
5 sustained. We should retain the certification. It works,  
6 it works extremely well. Any questions?

7           CHAIRPERSON KYLE: Thank you.

8           Questions? Comments?

9           Mr. Mott-Smith.

10          PANEL MEMBER MOTT-SMITH: I'm confused, and maybe  
11 this isn't the time for it, necessarily. But since you're  
12 here, I'll ask you anyway. But what exactly you're  
13 proposing is a system you're going to use for your  
14 InkaVote system. I'm not clear whether you have one  
15 device for overvotes and one device for accessibility or  
16 one device for both of those things, or what exactly was  
17 it you just described?

18          MR. PETRUCELLO: I think we're at the -- you  
19 know, we're at the conceptual level. And we're trying to  
20 develop an RFP that would specify a device. And I don't  
21 have a model or an example to show you. We know what we  
22 need, and we're trying to specify those requirements. So  
23 in some of the devices that exist -- and I haven't seen  
24 it, but I think years ago or currently Chicago has a  
25 similar type device where you insert the punch card ballot

1 and it will come back and tell you you overvoted. So we  
2 see some type of device that you would insert the card in,  
3 and then you get some response, possibly on the screen.  
4 But I'm just speculating. And then for the disabilities,  
5 there would be a headset. And, again, potentially a  
6 screen and some buttons to go forward, go back to hear the  
7 audio.

8           PANEL MEMBER MOTT-SMITH: And you mentioned three  
9 to five years. This is 2005. So you're potentially  
10 looking at converting to a new voting system in 2010.

11           MR. PETRUCELLO: I would say through 2008. We  
12 would want to carry InkaVote through 2008. I don't think  
13 in the next -- what is it -- presidential that we want to  
14 go with roll out for the first time ever, 30,000  
15 electronic devices and 5,000 polling places and 25,000  
16 poll workers and all of the training and everything else  
17 that will go along with it. Our preference is always the  
18 odd year to come out in November with 1,200 precincts. I  
19 think that's the realistic time frame in terms of being  
20 able to be successful. And that's really what it's --  
21 we're saying is the ultimate criteria. Can you  
22 successfully count? Can you successfully conduct an  
23 election?

24           PANEL MEMBER JEFFERSON: I have one small  
25 question. If you add the tally function to the other two

1 functions that you mentioned of this additional device,  
2 that then means that it's -- that basically every voter  
3 has to use the device, right?

4 MR. PETRUCELLO: I need to qualify -- I think I  
5 need to amplify that a little bit. It would not be the  
6 official -- it would not be the official tally. It would  
7 be quick results and be able to get our results sooner  
8 than a county that large.

9 PANEL MEMBER JEFFERSON: I did understand.

10 The point I was trying to get at is it is now the  
11 case you have to route every other voter through this  
12 device, because otherwise the tally would be not close to  
13 correct. Whereas, if it were just for purposes of  
14 overvote checking or for purposes of helping the disabled  
15 voters, you wouldn't rally every voter to it. So this is  
16 now a second step in the voting process that you would --  
17 at first, the person marks the vote. And then they put it  
18 in this machine, and then the ballot is rendered to the  
19 officials.

20 MR. PETRUCELLO: Correct. And we would  
21 anticipate that virtually every voter would use the  
22 device.

23 PANEL MEMBER JEFFERSON: But it sounds like you  
24 want to require it, if you're to have a reasonably  
25 accurate preliminary tally.

1           MR. PETRUCELLO: Yes. To the extent you can  
2 require.

3           ELECTIONS ANALYST WAGAMAN: Maybe I can put this  
4 in the terms of what the Panel is used to. And if I say  
5 anything that's inaccurate, please correct me.

6           It sounds like what they're describing is, in  
7 essence, potentially a hybriding of the precinct optical  
8 scan system used only for official results and the DRE  
9 system that is only used for voters needing the audio  
10 function, not for all voters. And whether those be  
11 separate components or hybrids, I wasn't clear. But I  
12 think that's accurate; is that correct?

13          MR. PETRUCELLO: Basically, yes.

14          CHAIRPERSON KYLE: Other questions?

15          Thank you. It's been very helpful information.

16          I noticed a number of other County registrars in  
17 the room. If they would like to come up -- I don't have  
18 cards from all of them. But if anyone would like to come  
19 up and address any of their particular systems that have  
20 been touched on in this report now -- I know we heard from  
21 a number of you last time. But if you now want to add or  
22 reemphasize a main point, you would be welcome to. It is  
23 a discussion item only today. We'll bring it back up  
24 again in March. But I know you've taken the time to come  
25 here.

1           Okay. Dave Joki.

2           Go ahead.

3           Thank you, Dave.

4           MR. ALLEN: My name is George Allen. I'm Deputy  
5 Registrar of Voters in Amador County. And we're one of  
6 the ones that have the Eagles. I believe we just have the  
7 precinct counters, not the central count, so we can't  
8 count overvotes.

9           One thing I would like to emphasize is that  
10 you're not going to get away from paper ballots. I don't  
11 see that, at least not in my lifetime, because we've got  
12 absentee voters. Our absentee voter rate this last  
13 election in the general was over 40 percent, and it's  
14 continuing to climb. So we're still going to need the  
15 paper ballots.

16           What we're looking at is some type of device to  
17 supplement or maybe a separate device in the precinct. I  
18 know ES&S has something that looks very attractive to us.  
19 My only concern is that we're limited to one vendor. But  
20 in one way, that may be a good case.

21           I think that's all I have. If you have any  
22 questions --

23           CHAIRPERSON KYLE: Thank you. Useful  
24 information.

25           Mr. Joki, and then if other counties want to come

1 up.

2 MR. JOKI: My name is Dave Joki. I'm from El  
3 Sobrante. I'm here with the Wellstone Democratic Renewal  
4 Club of the East Bay.

5 And I was reading through the website of the  
6 Secretary of State last night and this morning. I was  
7 very impressed with the work the Office has done to  
8 protect the integrity of democracy in California. I just  
9 wanted to say that first.

10 However, I'm very concerned. I think nationally  
11 my faith in the integrity of elections has been shaken  
12 quite a bit in the last four to five years by what  
13 happened in Florida in 2000 and again in Ohio and other  
14 states in 2004. The thing that concerns me about  
15 California is that as I was reading through many of the  
16 documents on the website, seems to me that in 2003 the  
17 Secretary of State formed an Ad Hoc Task Force. And their  
18 conclusion was, and the conclusion also of computer  
19 scientists nationally, was that the federal testing of  
20 machines was inadequate. And I'm very basically very  
21 concerned with that still.

22 And the two things that I advocate and I believe  
23 the group I'm with advocate also is, first of all, for  
24 voter verified paper ballots on all elections. And also  
25 as far as I can tell, a completely open to the public

1 source code. And I'm not an expert at all in these areas.  
2 But it seems to me that the source code needs to be  
3 completely open to the public. And as I read through the  
4 documents on the website, I continually ran into this  
5 statement the Secretary of State's Office has the right to  
6 review source code and then, "subject to time and  
7 confidentiality constraints." And, you know, because of  
8 my pessimism about the integrity of elections when I see  
9 that in quotes, "subject to time and confidentiality  
10 constraints," it really appears to me like a led anchor  
11 that pulls down democracy in California at this point in  
12 time.

13           So in any event, I mean, those are my two main  
14 concerns and I believe the main concerns of our group.  
15 Thank you.

16           CHAIRPERSON KYLE: Thank you very much.  
17 Ms. Atkinson.

18           MS. ATKINSON: Janice Atkinson, Sonoma County.

19           And I guess it's appropriate that the oldest  
20 living elections official is here to address grandfathered  
21 voting systems.

22           (Laughter)

23           MS. ATKINSON: Anyway, I just wanted to reiterate  
24 as I mentioned last time --

25           PANEL MEMBER MOTT-SMITH: You're the oldest

1 living or the oldest serving?

2 (Laughter)

3 MS. ATKINSON: I think I'm the last, aren't I?  
4 Where's Candy Lopez? She's the only other one that's been  
5 around this long.

6 I just want to reiterate, as I said last month,  
7 Sonoma County has used the Mark-A-Vote voting for 21 years  
8 very successfully. Over 50 percent of our voters  
9 currently vote by mail. I see that trend continuing to  
10 increase. And, in fact, tomorrow I'll be one of a Panel  
11 addressing the Senate Elections Committee on voters who  
12 are choosing to vote outside of the polling place. We do  
13 plan on enhancing our voting system with an accessible  
14 unit for the disabled. However, I will say that as more  
15 and more of our voters turn to voting by mail, it seems to  
16 me that voting at the polling place is becoming a less  
17 practical and viable alternative for us.

18 Thus far, Mark-A-Vote voting system is the only  
19 voting system I've seen that truly meets the needs of our  
20 county and truly meets the needs of any county that is  
21 heavily absentee voting. It's been a very good system.

22 And I would like to agree with Michael Petrucello  
23 on the point that I do think these systems should be  
24 considered individually, rather than lumped together as  
25 grandfathered systems, because they are very different in

1 what they do and how the data is presented to voters.

2 I also, you know, was interested in looking at  
3 the residual -- and I know this is a little ahead of its  
4 time -- the residual votes put together on that chart. I  
5 think it's a very interesting chart. And, you know, I'm  
6 happy to note that Sonoma County with the Mark-A-Vote  
7 voting system has a very low overvote and undervote rate.  
8 And I do think that's something to be considered. So  
9 while we are doing an education campaign for our voters on  
10 what constitutes an overvote and what that does to a  
11 voter's vote in that contest, you know, I don't think that  
12 it's a significant problem associated with our system.

13 Thank you.

14 CHAIRPERSON KYLE: Any questions?

15 Thank you.

16 Is Ms. Cohn here? Ms. Cohn.

17 MS. COHN: I'm a layperson, and this is the first  
18 time I've attended a meeting of this kind, so it's both a  
19 bit overwhelming and, well, just confusing.

20 CHAIRPERSON KYLE: Let me help you. Start out by  
21 saying your name and spelling it for our record.

22 MS. COHN: All right. My name is Rafaella Cohn,  
23 R-a-f-a-e-l-l-a, last name, C-o-h-n.

24 CHAIRPERSON KYLE: Then limit your remarks to  
25 about three to five minutes, and we'll be all set.

1 MS. COHN: I won't take that long.

2 The reason I'm commenting on the section is that  
3 I'm here because I am concerned about what happened in the  
4 last two national elections and the election in Georgia in  
5 2002. Like so many of us, I consider those problems to be  
6 unacceptable. I want to add my voice to whatever efforts  
7 are being put forward here to make certain that paper and  
8 machine interact in a way that successfully results in  
9 each of us being able to vote and having our votes counted  
10 properly.

11 I was struck by Mr. Petrucello's comments. What  
12 concerns me, not knowing any of the conditions that were  
13 discussed -- and I apologize, because perhaps I should be  
14 more knowledgeable than I am, but I'm not -- is how  
15 they'll be read, especially where there's a pairing of a  
16 paper and a machine process.

17 I agree with the last speaker that each of these  
18 systems should be looked at independently. And I'm  
19 particularly concerned that somewhere the interaction will  
20 compromise, you know, the counting of those votes.

21 My bottom line is that it's critical that every  
22 voter be able to interact with the ballot or machine, that  
23 paper trail exists. That's one I want to emphasize, that  
24 the voter be able to correct mistakes, that the vote be  
25 counted properly, and that there be no dispute as to what

1 a ballot said after the voter has departed from the  
2 precinct. Thank you.

3 CHAIRPERSON KYLE: Thank you very much.

4 I think that's all the comments for this agenda  
5 item. So I'm going to ask if there's any comments or  
6 discussion from the Panel.

7 Mr. Mott-Smith.

8 PANEL MEMBER MOTT-SMITH: I understand we're not  
9 making any decisions today. But I just want to say this  
10 is something I've been stewing over in just not knowing  
11 how to address this topic. And I just want you and others  
12 to know the direction that I'm headed. And that's that  
13 these are grandfathered systems, even though Michael  
14 probably has the youngest grandfather in the state in one  
15 sense, because InkaVote is new and the Votomatic is old.  
16 They're sort of like older vehicles and the smog control  
17 system where they were exempted from the smog control  
18 requirements because they are so old. I think at some  
19 point they basically did extend to older vehicles or move  
20 the date back.

21 But, basically, I think I'm coming to a sense  
22 that we have to acknowledge that these are part of the  
23 landscape, that they're paper based, that they're central  
24 count, and that they have a built-in mechanism for  
25 security, which is the 1 percent manual recount, and that

1 rather than take these systems which are slowly drifting  
2 in the direction of obsolescence in most cases, or  
3 replacement if not obsolescence, if anything, we would  
4 look at potentially increasing the 1 percent to 2 percent  
5 or something other than going to a federal testing  
6 requirement.

7 CHAIRPERSON KYLE: Thank you, John. That was  
8 helpful.

9 Any other thoughts comments?

10 Mr. Carrell, are you still there?

11 PANEL MEMBER CARRELL: I am there. I have no  
12 comments.

13 CHAIRPERSON KYLE: All right. Then we're done  
14 with this agenda item, and we will take it up again in a  
15 month. And I'm going to call for a ten-minute break. We  
16 have one other agenda item of substance which shouldn't  
17 take that long. But we've been sitting here for two  
18 hours, so we'll come back and get a report. I have 12:00.  
19 I have five of. We'll reconvene at 12:10.

20 (Thereupon a recess was taken.)

21 CHAIRPERSON KYLE: I believe we're on the  
22 residual vote report, and we have some follow-up work.  
23 And you were going to conclude that, and you've done the  
24 necessary leg work. So, Mr. Wagaman, if you wouldn't mind  
25 commencing with your report.

1           ELECTIONS ANALYST WAGAMAN: Okay. The residual  
2 vote report was requested by staff and then by the Panel.  
3 Residual votes are primarily talking about undervotes and  
4 overvotes. So talking about fewer candidates you are  
5 eligible to vote for or voting for more candidates than  
6 you are eligible to vote for.

7           In order to conduct the survey, we tried to pair  
8 down the number of races so we didn't overwhelm the  
9 counties and try to keep the analysis a little bit more  
10 compact. The four contests we surveyed were President,  
11 U.S. Senate, Prop. 65, and Prop. 66. The President and  
12 U.S. Senate were selected because those are statewide  
13 elections everyone voted in, so they provided a common  
14 basis for everyone. Prop. 65 and 66 was selected, because  
15 everyone voted on them statewide. All the Propositions  
16 were the ones that had the lowest and highest undervote  
17 rates, so it provided that contrast between a race that  
18 had a relatively low undervote rate and a relatively high  
19 undervote rate.

20           Surveys were sent to the counties followed up by  
21 the state. That data was then collected. Staff went  
22 through the process of verifying that data and making sure  
23 it was all in the same format. There was some data that  
24 staff modified the data that came from the counties. That  
25 was primarily to make sure all the data was in a common

1 format. So when we talk about total votes cast or total  
2 votes counted, everybody was referring to it in the same  
3 way. Staff did not have time to go back to the counties  
4 and say this is how we changed your data to impact  
5 accurately. So there may be some future modifications  
6 made to the database on county feedback.

7           The raw data is included in the material that is  
8 given to the Panel. It was also included in the material  
9 on the website. For the copies given to the public in the  
10 back, I only included the chart, not the raw data. That  
11 was because it was a lot of paper, and we're cheap and  
12 broke.

13           Some limitations in the data. There are four  
14 counties that are not included in the analysis: Mono,  
15 Monterey, Yuba, and Shasta. This is because either not  
16 enough data was submitted or incomplete data was  
17 submitted. Fresno County, the data was fairly limited.  
18 They only submitted overvote information. And for three  
19 counties, Marin, Mariposa, and San Francisco, they  
20 submitted a full set of data. They did not differentiate  
21 between the precinct count and their optical scan systems.  
22 They treated all optical scan as one category. They were  
23 included in the analysis for overall and overall optical  
24 scan, but not for precinct count or optical scan. That  
25 differentiation did not include those three counties.

1           The results of the analysis, you see that the  
2 state had a very low residual vote rate for President. It  
3 says in the report 1.6. That's actually the number from  
4 2000. That's 1.2 percent. We did have a drop from 2000  
5 to 2004. The overvote rate was also very low, 0.1  
6 percent, a fraction of people running into overvotes.

7           Differentiating that out now, breaking out  
8 various categories by system type, for most systems you  
9 see a residual vote rate for these four contests of 6 to 7  
10 percent. The one exception was the central count optical  
11 scan systems. That seems to be primarily related to an  
12 outlier in the data of InkaVote, the L.A. County, which  
13 had a higher residual vote rate. If you exclude L.A.  
14 County, the residual rate for central count systems is 6.4  
15 percent, which is, again, kind of on par with the other  
16 types of system. Between system types, the overall  
17 residual vote rate was fairly consistent.

18           There are a couple of things of note. One, that  
19 DREs had an overvote rate of basically zero. Amazingly,  
20 there were actually some overvotes where people would, for  
21 example, write in more than one candidate's name. So it  
22 didn't entirely eliminate overvotes, but generally it was  
23 basically zero.

24           Also you saw precinct-based systems. A precinct  
25 count optical scan system and DREs had slightly lower

1 residual vote rates than central count systems, so like  
2 the Datavote system, like central count optical scan  
3 systems. That's something of note.

4           Moving on to voting system vendors. Again, you  
5 see a fairly uniform spread of 6 to 7 1/2 percent residual  
6 vote rates by each system. Two exceptions of note.  
7 Sequoia had a lower residual vote rate of about 5 1/2  
8 percent. That's primarily due to a lower residual vote  
9 rate for DRE, the ABC Edge, which I'll come back to. And  
10 InkaVote had a higher residual vote rate than other  
11 systems, about 8.7 percent. Particular note, it had a  
12 higher overvote rate for both President and U.S. Senate  
13 than other vendors and other voting systems. But that  
14 does represent a significant improvement over the last  
15 time the system was used. So they are making progress,  
16 even though they do have higher residual vote rates than  
17 other systems.

18           By voting systems, again, you see the attached  
19 chart with the breakout by each individual system. A  
20 couple systems had lower residual vote rates than others.  
21 You'll note again ABC Edge, which had a residual vote rate  
22 of only 4.3 percent. ES&S Model 100, 550, and 650 series  
23 had residual vote rates in the low 5 percent range. And,  
24 again, as noted on the other end of the scale, the  
25 InkaVote system had a higher residual vote rate than

1 others.

2           You have the chart with each individual county.  
3 There are a few outliers in there. The outliers may, as I  
4 mentioned before, be due to problems in reconciling the  
5 data with the county and trying to standardize that data.  
6 So we're going to try to resolve those just to verify if  
7 those are outliers or just a data reporting issue.

8           So, again, overall, residual vote rates, we  
9 represent an improvement over the previous election.  
10 Overvote rates are a very small portion of the election.  
11 Generally, there's a high degree of consistency between  
12 systems, between vendors, between system types about the  
13 residual vote rate. Residual votes tend to get lower the  
14 closer the system is to the voter, if it's a precinct  
15 count system versus a central count system. DREs  
16 represent some particular advances particularly related to  
17 overvotes.

18           And that's basically the report from staff on  
19 residual votes.

20           CHAIRPERSON KYLE: Good. Thank you.

21           Questions from the Panel?

22           Mr. Miller.

23           PANEL MEMBER MILLER: Great report as always.  
24 And thank you for explaining the DRE overvote rate as  
25 being virtually zero. I was wondering what the virtual

1 was, and you explained that. But --

2 ELECTIONS ANALYST WAGAMAN: I was confused  
3 myself. I had to call the counties that reported it and  
4 say, how is there no overvote?

5 PANEL MEMBER MILLER: But it's still possible for  
6 these DRE systems to write in as well cast a ballot for --

7 ELECTIONS ANALYST WAGAMAN: They would write in  
8 two names.

9 PANEL MEMBER MILLER: Write in two names?

10 ELECTIONS ANALYST WAGAMAN: They wrote in, "I  
11 vote for John and Betsy."

12 PANEL MEMBER MILLER: The two names would be  
13 there, and they show up as write-ins. I see.

14 PANEL MEMBER JEFFERSON: Why didn't the machine  
15 prevent that for a single office?

16 ELECTIONS ANALYST WAGAMAN: Because you're  
17 writing in a name, and there is no text recognition.  
18 You're writing in two different names. It just recognizes  
19 a series of letters.

20 PANEL MEMBER MILLER: It would assume it's one  
21 person --

22 ELECTIONS ANALYST WAGAMAN: That's one name  
23 versus two names, versus whatever. It's not until you go  
24 to the ballot reconciliation process where you look at  
25 what's written in and you see there they've written in two

1 names. It wasn't like they selected write-in, then  
2 selected write-in a second time. They selected write-in  
3 once, and in that one slot wrote in --

4 PANEL MEMBER JEFFERSON: Two people's names.

5 ELECTIONS ANALYST WAGAMAN: Correct.

6 CHAIRPERSON KYLE: Other comments?

7 Mr. Mott-Smith.

8 PANEL MEMBER MOTT-SMITH: So obviously then the  
9 DRE number doesn't include the AV system. AV system is  
10 reported separately.

11 ELECTIONS ANALYST WAGAMAN: The absentee voting  
12 system, it would have been broken out based on whatever  
13 absentee voting system was used in that particular county.  
14 Under the county's line item, it would have the aggregate  
15 of whatever was used for precinct count voters and  
16 whatever was used for early voters and whatever was used  
17 for absentee voters.

18 PANEL MEMBER MOTT-SMITH: Okay. And I think I  
19 asked you this before, but my recollection was that each  
20 of the procedures for the voting systems included a  
21 requirement that the county capture undervote and overvote  
22 information for each state election. And in terms of  
23 going forward and keeping these numbers going forward, is  
24 that the case or is that not the case?

25 ELECTIONS ANALYST WAGAMAN: The case is that most

1 of the procedures include that, but it is not universal.  
2 It is something staff has made a note of. And any future  
3 procedures we will make sure it's included. And when we  
4 go through the process of revamping those procedures later  
5 in the year, that's something on the list and something  
6 we'll look at in each individual procedure to make sure we  
7 go back and capture the older systems.

8           PANEL MEMBER MOTT-SMITH: Okay. And did you -- I  
9 think I also asked you this. Did you get from Caltech/MIT  
10 their undervote, overvote, residual vote analysis, and  
11 does it match?

12           ELECTIONS ANALYST WAGAMAN: It was requested, but  
13 they've not yet completed their research.

14           PANEL MEMBER MOTT-SMITH: You're faster than the  
15 MIT and Caltech?

16           ELECTIONS ANALYST WAGAMAN: We may have had  
17 different research goals, so I will not criticize that  
18 fine institution, as they may have been doing something  
19 more extensive and more in-depth.

20           PANEL MEMBER MILLER: Mr. Chairman, I have  
21 another question. I noticed that the e-slate, which is  
22 the Orange County system, the undervote for President  
23 seemed extraordinarily high as compared to other systems.  
24 And I have a call in to see whether or not they have a  
25 take on that. Do you have any explanation for why the

1 e-slate undervotes for President would be like 2.1, which  
2 is much higher than other systems?

3 ELECTIONS ANALYST WAGAMAN: Staff did not inquire  
4 as to why any of these things are the way they are. It  
5 was just a collection of data.

6 PANEL MEMBER MILLER: I appreciate that. I was  
7 just wondering whether or not you had any additional  
8 information.

9 ELECTIONS ANALYST WAGAMAN: The only information  
10 I can provide is that the e-slate is different from the  
11 other systems, and that is a DRE, not a touch screen, so  
12 the interface is slightly different. Whether that's the  
13 cause would be purely speculative. But that's the only  
14 thing that differentiates it from the other DRE systems.

15 PANEL MEMBER MILLER: Thank you.

16 CHAIRPERSON KYLE: Any other questions or  
17 comments from the Panel?

18 All right. We have no public comments on this  
19 one. So we'll accept your report, and let's move to the  
20 last agenda item, Other Business. And there are two parts  
21 to this. I believe there's the EAC report.

22 ELECTIONS ANALYST WAGAMAN: Correct. There was a  
23 request from a Panel member that in the future staff  
24 provide a report -- an ongoing report to this Panel about  
25 what's going on on the federal process, as there are

1 changes on the federal process so you know what's going on  
2 there.

3           The Technical Guidance and Development Committee  
4 of the EAC had a meeting back in January where they passed  
5 a series of resolutions. They're going forward in  
6 developing their procedures. I can go into that, or it  
7 can just be as information for the Panel.

8           CHAIRPERSON KYLE: Let me ask a question. Was  
9 this posted and is currently on the web?

10           ELECTIONS ANALYST WAGAMAN: It was posted on the  
11 website.

12           CHAIRPERSON KYLE: Last week?

13           ELECTIONS ANALYST WAGAMAN: On Friday.

14           CHAIRPERSON KYLE: Okay. I've read through the  
15 whole thing. I'm assuming the other Panel members have.  
16 It's been available. I'm not sure it's really necessary  
17 to go into this, unless there are Panel members who are  
18 interested in hearing it. I have a number of public  
19 comments, but I don't believe any of them are on this.  
20 And since it is available, there are other topics.

21           PANEL MEMBER DANIELS-MEADE: I was just wondering  
22 if Brad might want to make any kind of comment, since  
23 you're a part of that Panel.

24           MR. CLARK: I'm on the Standards Board.

25           PANEL MEMBER DANIELS-MEADE: I was thinking you

1 were on the Technical Guidelines.

2 CHAIRPERSON KYLE: If we have a report on the  
3 standards, we'll ask you, Mr. Clark.

4 Any preference from the Panel? Anybody have any  
5 issues on that?

6 PANEL MEMBER MILLER: My only question, and you  
7 may not know the answer to this, was there any indication  
8 as to time line for carrying out some of these  
9 resolutions, within my lifetime or --

10 ELECTIONS ANALYST WAGAMAN: I don't know about  
11 your lifetime. Probably my lifetime.

12 PANEL MEMBER MILLER: Thank you, Mr. Wagaman.  
13 Thank you for reminding me.

14 CHAIRPERSON KYLE: And I would just direct anyone  
15 in the audience who's interested in federal testing and  
16 federal standards to take a look at this on the web. And  
17 if you have concerns, this is the group to lobby or lobby  
18 your federal representatives to adopt these and put them  
19 in some kind of a time line where most of us aren't  
20 retired and they're past their usefulness, because those  
21 are really the bodies that need to be motivated to act on  
22 them. For the most part, they're behind the curve. But  
23 these are good beginning steps.

24 So we're into the last item on the agenda, which  
25 is Other Business, and we have four requests for

1 miscellaneous items. And those are starting with Carl  
2 Carter.

3 Am I pronouncing that correctly?

4 MR. CARTER: Yes. That's correct.

5 CHAIRPERSON KYLE: Would you mind saying your  
6 name, spelling it, and giving us your identification?

7 MR. CARTER: Sure. My name is Carl Carter, and  
8 last name is C-a-r-t-e-r. I'm from Marin County. I'm  
9 just a concerned citizen who's recently got involved with  
10 looking at the whole integrity issues of votes, and very  
11 appreciative of the work people have been doing for months  
12 and years about this. So some johnny-come-latelies may  
13 have a question or two that's more global or generic.

14 And I appreciate the individual vote count issue  
15 to monitor the integrity of the vote and make sure the  
16 vote is counted. And I think one of the issues here about  
17 over and undervotes is make sure they are not combined as  
18 they are in some states and give you a less than accurate  
19 representation.

20 But my concern is that, and I think George Allen  
21 has helped me a little bit, but if you're monitoring the  
22 vote very carefully on an individual basis, what happens  
23 when they get rolled up to the next level of being  
24 reported and then compounded? I know in some states where  
25 they went back and during the audit last time they audited

1 the individual precincts which worked, but no one stepped  
2 back and looked at auditing the totals as they were  
3 reported at the line. I think we may have this addressed  
4 in California. But I'd just like to be comfortable that  
5 issue is covered, because that's really my main concern.

6 Thank you.

7 CHAIRPERSON KYLE: Okay. Thank you.

8 Mr. Berkman.

9 MR. BERKMAN: I'm Jerry Berkman from Berkeley  
10 again.

11 One thing that's coming up, I like paper ballots,  
12 especially because the voters can hold them, as opposed to  
13 have them behind glass. And there is a development, the  
14 Open Voting Consortium, which is developing a system that  
15 does that basically, that you have some touch screen or  
16 whatever device that creates a paper ballot, which you  
17 then carry over to a machine.

18 That group needs a little money, and they will  
19 probably have something out within six months to a year  
20 and will be a lot cheaper than the others, which would  
21 really help the budgets of most of our counties. I don't  
22 know anybody, especially L.A. with 30,000 machines, if you  
23 can save a couple thousand per machine. The Consortium  
24 itself consists of faculty, the Board from the University  
25 of Iowa, Santa Cruz, Illinois, and Upsalain in Sweden. So

1 it's sort of an independent group developing this.

2 I would hope -- I guess you don't have any money,  
3 but at least you could urge the people with money to  
4 support this effort, because right now -- they had a  
5 demonstration at the Secretary of State's Office last  
6 year, I understand. And they're trying -- they're  
7 desperately poor right now. They're trying to hire two  
8 full-time programers in addition to all their volunteers,  
9 which would cost about the same as maybe two or three  
10 DREs, and support people to try to get them some money.

11 Another avenue would be through CITRS, which  
12 is -- do you know what that is? The Central for  
13 Information Technology Research for Society, or something  
14 like that, which is the Northern California University of  
15 California campuses doing research. And if we could give  
16 them some money to help or somehow get something going so  
17 we have more avenues than just the vendors, who are  
18 currently fairly high priced.

19 One other thing I'd like to request is that all  
20 results be put online in an easily usable format, rather  
21 than some of them from some counties are in PDFs, which is  
22 impossible -- 75 megabyte PDFs for your results, and  
23 that's hard to get that in a program that can actually  
24 scan and verify. Because if that's all on line, there's  
25 plenty of people out there that can audit and make sure

1 that the precincts add up to the countywide and statewide  
2 totals. But if we can't get it down and analyze it, that  
3 makes life difficult.

4 CHAIRPERSON KYLE: Thank you very much.

5 Ms. Cohn.

6 MS. COHN: My comments will still be brief, but  
7 not quite as brief as the last time. I'm an  
8 organizational trainer and business process consultant.  
9 When I consult with businesses, the first thing I do is  
10 ask what people's job descriptions are and for a copy of  
11 the organizational chart.

12 I read recently that there are 58 Registrars of  
13 Voters in California. It's not clear to me what  
14 relationship those Registrars of Voters have to the  
15 residents in their counties. I know they run the  
16 elections, but what relationship do they have to the  
17 voters in terms of giving them information about the  
18 process, what it is that has happened when a vote has been  
19 taken and people have concerns, and what is their duty to  
20 help resolve those concerns? Who monitors, for example,  
21 Registrars of Voters in the implementation of their  
22 duties, especially when concerns arise?

23 I raise this point because I live in Alameda  
24 County. When I went to vote, I asked for a paper ballot.  
25 This was in the last election. That was because the way

1 to vote in my precinct -- the only way to vote was via a  
2 machine that I was told lacked a verifiable paper trail.  
3 There weren't, as it turned out, any paper ballots. I'm  
4 sure you're familiar with this issue already, but I'd like  
5 to raise my own story, because it's important to me that I  
6 know that all of you have heard what I'm saying to you.

7 I was told there weren't paper ballots because  
8 the Registrar of Voters hadn't provided them, only  
9 provisional ballots. I was a duly registered voter.  
10 There was no reason I should have to use a provisional  
11 ballot, except I wanted to vote by paper, and no paper  
12 ballots were available. I learned the Secretary of  
13 State's Office had requested that Registrars provide paper  
14 ballots, but that my Registrar had not complied.

15 Moreover, I learned that the Registrar of Voters  
16 wasn't required to begin counting provisional ballots  
17 until four days after the election, and that he had 28  
18 days to count the ballots. Many people I talked to,  
19 including people in state government, believe my ballot  
20 probably wouldn't be counted, since the elections in  
21 question weren't "close" for my county.

22 Before Registrars make further decisions about  
23 machines, money, expenditures, et cetera, I would like to  
24 see each of them publicize their proposed decisions and  
25 conduct public and/or town hall meetings. I would like to

1 see them show they are committed to addressing public  
2 concerns and have a commitment to both include the public  
3 and support our desire for voter integrity. At least in  
4 my county, I have not seen adequate proof of that. Thank  
5 you.

6 CHAIRPERSON KYLE: Thank you very much.

7 Ms. Smith.

8 MS. SMITH: My name is Maurine Smith, Peace and  
9 Freedom Party. And I'd like to thank the last speaker. I  
10 hadn't heard that before about Alameda County.

11 I only have a brief comment, after seconding  
12 everything she has to say. And that is at the end of  
13 every report -- almost every report, there's a statement  
14 about public comment. And it says there was no public  
15 comment in a timely fashion, et cetera. And so I just  
16 felt the need to comment that it's hard for the public to  
17 comment in a timely fashion by writing, because usually we  
18 don't have the reports to view timely enough for us to be  
19 timely in reacting to them. So I don't know. It's just  
20 an observation. It's not a criticism, because I know  
21 staff's really busy, and so are we. But the fact that  
22 there's no public comment should not make anyone think  
23 that the public is not interested in those items.

24 That's all. Thanks.

25 CHAIRPERSON KYLE: Thank you.

1           And you should just know, Ms. Smith and others,  
2 that that really is kind of a formalistic way to say at  
3 that particular point in time there was no public comment.  
4 And we're aware that there's a very short window, and we  
5 really do try to get all the reports out as far ahead of  
6 time as possible. In fact, spent a number of days last  
7 week jockeying things around or trying to get them up on  
8 the web as soon as possible.

9           You should also know that any comments that come  
10 in, whether timely or not, do ultimately make their way to  
11 the Board and are read. And they are filed and they're  
12 incorporated either directly by testimony, all oral  
13 testimonies into the record and is preserved and is part  
14 of the formal record, as well as anything that's written  
15 and submitted to us both prior to the hearing, at the  
16 hearing, and quite honestly, post the hearing. We don't  
17 exclude anything. So we appreciate the efforts of  
18 everyone who make that effort to take the time and energy  
19 to submit something.

20           Thank you very much. There's no further items --

21           PANEL MEMBER MILLER: Mr. Chairman, I wanted to  
22 clarify a point about Alameda County in response to  
23 Ms. Cohn and Ms. Smith. It was permissible for counties  
24 to use provisional paper ballots as the paper backup for  
25 the polling places. So that was permissible.

1           And with respect to votes being processed, all  
2 provisional ballots were processed. Every vote was  
3 counted. It was counted, regardless of the closeness of  
4 any particular race. That is part of the responsibilities  
5 of election officials to make sure that every vote is  
6 eligible to be counted is counted, including provisional  
7 ballots. Thank you.

8           CHAIRPERSON KYLE: Good point. Thank you.

9           Any others?

10          Okay. Meeting is adjourned.

11          (Thereupon the Voting Systems and Procedures  
12 Panel meeting adjourned at 12:39 p.m.)

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2 I, TIFFANY C. KRAFT, a Certified Shorthand  
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13 IN WITNESS WHEREOF, I have hereunto set my hand  
14 this 1st day of March, 2005.

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