

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

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

MONDAY, JULY 19, 2004  
10:00 A.M.

JAMES F. PETERS, CSR, RPR  
CERTIFIED SHORTHAND REPORTER  
LICENSE NUMBER 10063

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

PANEL MEMBERS

Mr. Mark Kyle, Chairperson, (via telephone)

Ms. Caren Daniels-Meade

Mr. David Jefferson

Ms. Debra Jones

Mr. Tony Miller, Acting Chairperson

Mr. John Mott-Smith

STAFF

Ms. Dawn Melhaff, Deputy Chief, Elections Division

Mr. Michael Wagaman, Elections Analyst

Mr. Steve Stuart, Staff Counsel

ALSO PRESENT

Mr. Lowell Finley, Law Office of Lowell Finley

Ms. Bev Harris, Black Box Voting

Mr. Jim March, Black Box Voting

Ms. Maureen Smith, Peace & Freedom Party

Mr. Michael Smith, Peace & Freedom Party

Ms. Jocelyn Whitney, Consultant, R&G Associates

Ms. Kathleen Wynn

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ACTING CHAIRPERSON MILLER: Good morning. I'm  
Tony Miller. I'm Acting Chair of this meeting of the  
Voting Systems and Procedures Panel.

We have joining us by telephone Mark Kyle.

PANEL MEMBER KYLE: Good morning.

ACTING CHAIRPERSON MILLER: Also present on the  
panel, John Mott-Smith, David Jefferson, Caren  
Daniels-Meade, Debra Jones and Tony Miller.

I'd like to call upon Mr. Wagaman to provide a  
staff report update.

Mr. Wagaman.

ELECTIONS ANALYST WAGAMAN: Several items from  
the last meeting. We're on Item 5A and 5B from the  
agenda.

One, there was an issue at the last meeting on  
public posting some of the meeting materials. Those were  
posted this week. There were some delays on the staff  
level, which we'd like to apologize for. But we do have  
copies of both the staff report, the consultant's report  
and the procedures -- the revised procedures we've  
received from the vendor on our website. There are also  
hard copies in the back of the room.

Two, we did receive additional public comment  
from this meeting -- for this meeting in the intervening

1 week; there are copies of which in your binders, which  
2 I've distributed. I believe only one of the items was  
3 germane to Item No. 5. It was again in opposition to the  
4 certification on the Diebold TS System.

5           There was also one additional comment as related  
6 to Agenda Item 7. It was again about the procedures, the  
7 process of this panel. And then there are two additional  
8 comments which related to the Sequoia Voting System, which  
9 is not before the panel at this time.

10           In the intervening week we also received revised  
11 procedures from the vendor, as I mentioned before, to  
12 address several of the issues raised and conditions that  
13 were attached by the panel during the last meeting.

14           To go over those items for the last meeting:

15           Item 1 was about a copy of the escrow documents  
16 being received by staff that has been received. So that  
17 condition's no longer relevant.

18           Item 2, which was -- the major issue was the  
19 security issues raised in the consultant's report. The  
20 vendor did address those procedurally on the California  
21 procedures. There's a Section 11 in the procedures, which  
22 I believe starts on page 35 through 37, which does cover  
23 Items A through I in the consultant's report. If you want  
24 to go into specifics about which items pertain to which  
25 items in the consultant's report, we can do that.

1           Three, there is a requirement to delete a  
2 reference on the cover page of the procedures relating to  
3 the procedures taking precedence over California law.  
4 That is an outdated reference. That has been removed.  
5 There was also a change on the cover page to change the  
6 reference of which sections of the voting -- of the  
7 Elections Code were cited as the Elections Code had been  
8 reorganized. So the reference to proper sections of the  
9 Elections Code.

10           Four, there was a requirement coming from April  
11 30th, a directive from the Secretary about posting results  
12 at the polling place. That was added to the procedures as  
13 well. I believe it was the last section of Section 10. I  
14 believe it was 10 or 10.11. It's on page 35, I believe,  
15 of the updated procedures.

16           There was a requirement regarding GEMS version  
17 1.18.18 and 1.18.19 not being used on the same computer at  
18 the same time. That was addressed more broadly by having  
19 added requirements to the procedures that had no  
20 DAO-capable program, which would cover the GEMS 1.18.18 be  
21 used on that computer that's running, the GEMS 1.18.19.  
22 So that item's been addressed.

23           The one item remaining is the issue that the  
24 system would only be certified for use with the components  
25 with which it was tested, so the four components we're

1 bringing before the panel. So we are back to the original  
2 staff recommendation, which is to move forward with the  
3 certification with the four components as tested.

4 ACTING CHAIRPERSON MILLER: Thank you.

5 Does any member of the panel have any questions  
6 of the staff, including Mark Kyle, who's joining us by  
7 telephone?

8 PANEL MEMBER JEFFERSON: The machine is not here  
9 today? We don't have an example today, do we?

10 ELECTIONS ANALYST WAGAMAN: No. At the end of  
11 the last meeting, as I recall, there was a question  
12 whether we needed them, the vendor to be here. And so --  
13 I believe the vendor is here. But we did not make that  
14 request.

15 ACTING CHAIRPERSON MILLER: Any other questions  
16 of staff from the panel?

17 PANEL MEMBER KYLE: None.

18 PANEL MEMBER DANIELS-MEADE: I just would -- a  
19 minor detail, but I'd like to ask another correction be  
20 made to the cover page, to delete the inaccurate use of  
21 the word "enhanced" when it should have been "enhance."  
22 Should have been there -- to include additional steps  
23 being taken by an individual election official to enhance  
24 security and reliability for electoral processes. Just a  
25 typo. But if we're going to adopt it, I'd like to see

1 that correctly.

2 Thank you.

3 PANEL MEMBER KYLE: Mr. Chair?

4 ACTING CHAIRPERSON MILLER: Yes, Mr. Kyle.

5 PANEL MEMBER KYLE: I think procedurally do we  
6 want to -- before we start to hammer out a possible  
7 motion, do we want to reopen public comment?

8 ACTING CHAIRPERSON MILLER: Yes, that's the next  
9 order of business.

10 I wanted to, first of all, determine whether  
11 there were any Panel questions of staff.

12 Hearing none.

13 I would like to reopen this meeting for public  
14 comment. As you recollect, this is a continuation of the  
15 previous meeting, which was continued until today for the  
16 purpose of indeed hearing additional comments from the  
17 public following a posting or making available information  
18 which some members of the public had not received  
19 previously.

20 I would request that if you have already spoken  
21 with respect to this item, and separate and apart from any  
22 response to that which has been posted or otherwise made  
23 available, that you simply stick with what you said before  
24 and refrain from offering additional comment.

25 But at this time I would like to indeed open it



1 up for public comment. We could have a number of comment  
2 cards. And I would like to begin with Andy Stephenson.

3 And please approach the podium and state your  
4 name, and spell that for the record.

5 ELECTIONS ANALYST WAGAMAN: Mr. Chair, are we  
6 going to be using the three-minute limit?

7 ACTING CHAIRPERSON MILLER: We don't have that  
8 many people currently, I would request that you -- indeed  
9 you keep your remarks brief, please.

10 MS. HARRIS: And I had a card on my own. Should  
11 I do them both at once?

12 ACTING CHAIRPERSON MILLER: Yes, would you  
13 please. And state your name for the record.

14 MS. HARRIS: Yes. My name is Bev Harris. I'm  
15 the Executive Director of Black Box Voting, which is a  
16 nonpartisan publicly funded consumer protection  
17 organization for elections.

18 I know Andy Stevenson was here to talk about it.  
19 And he will be -- he's actually at -- we drove about 12  
20 hours, so he's at the copy shop copying a document for  
21 you.

22 He has uncovered some problems with quality  
23 control that -- and the concern about quality control  
24 problems is that when a company has them and they contend  
25 to spill over to many different parts of the company, this

1 is very significant and it has the potential to affect 18  
2 counties in the coming election.

3           What has happened is we've been interviewing  
4 employees in Everett, Washington; Canton, Ohio; and  
5 McKinney, Texas. And in doing so, we learned -- and they  
6 gave us documentation also -- that all of the ballots for  
7 the entire United States are going to be printed at one  
8 facility. The problem is this facility is having extreme  
9 labor difficulties, is in the process of organizing into  
10 the Teamsters Union, and is planning a strike.

11           So we have 12 million ballots being printed in  
12 one location with no real backup plan. The two backup  
13 locations that they had selected, one of them it turns out  
14 has legal problems and the other one doesn't have the  
15 capacity.

16           So we're simply bringing this up because we  
17 believe Diebold should be asked to provide a Plan C. If  
18 they don't have a plan and their employees are going on  
19 strike and all the ballots are going to be printed in one  
20 place, they need to come up with another plan and show it  
21 to us, because we don't want a meltdown.

22           That's Andy's. And he's going to provide you  
23 with a document called "Critical issues," which is an  
24 internal document from Diebold, given to us by a source  
25 within Diebold.

1           The problems are extreme with that particular  
2 plan. It happens to be up where we live, and so we've had  
3 multiple employees contacting us saying they expect it to  
4 melt down.

5           I'm so nervous. I'm not usually like this.

6           That was under three minutes.

7           ACTING CHAIRPERSON MILLER: Thank you.

8           MS. HARRIS: My heart, which is also coming on a  
9 transcript, and I'll also give you a disk.

10          I know this panel had tried to get information  
11 about the ITA certifiers and they're not very forthcoming  
12 with what they do and what their credentials are.

13          One of the things we did was we walked in to  
14 Cyber Labs the day before the 4th of July, got a one-hour  
15 videotape and a tape-recorded interview of Shawn  
16 Southworth. I'll have a transcript of that for you and an  
17 audiotape so that you can hear it. But it has some  
18 concerns on it that relate to certification of all of the  
19 systems from all manufacturers.

20          Basically what he says that I found the most  
21 concern with was that -- and he says this in many ways  
22 every way he can. He perceives his job to be only  
23 checking for what is specifically outlined in FEC  
24 specifications. If he sees a security problem and it is  
25 not specifically in the FEC specifications, he will not

1 write it up. He couldn't have said it more explicitly in  
2 more ways. He even said, "I don't know how many more  
3 times I have to tell you this." There's another quote  
4 where he says, "The vendors do not want me putting  
5 something negative in the report. If it's not in the FEC  
6 specs, I am not allowed to test for it."

7 Now, I asked him about the recent ES&S problem in  
8 Florida where the machines were scrambling the I.D.  
9 numbers. And he said, "It's not in the FEC specs, so I  
10 don't have to test for it."

11 I asked him about wireless. He said, "It's not  
12 in the FEC specs. I don't have to test for it."

13 I asked him about putting negative votes into the  
14 system as the GEMS system allows us to do, minus votes.  
15 He said, "It's not in the FEC specs. I don't need to deal  
16 with it."

17 And I think we'll all find the transcript of this  
18 conversation very enlightening. He's a nice gentleman and  
19 he was extremely gracious. But you can drive a truck  
20 through that hole.

21 I also said, "Would you" -- "Are you saying then  
22 about" --

23 ACTING CHAIRPERSON MILLER: One minute.

24 MS. HARRIS: -- "what do you have to say about  
25 people who say that the system is secure because it's been

1 looked at by ITA certifier?" He said, "I hate it when  
2 they say that, because it doesn't mean it's secure" .

3 That's it.

4 ACTING CHAIRPERSON MILLER: Thank you.

5 Mr. Stevenson and Ms. Harris.

6 Excuse me. Mr. Jefferson, did have a question  
7 for Ms. Harris?

8 PANEL MEMBER JEFFERSON: Well, yeah, I just --  
9 because I had heard about this issue about the ballot  
10 printing problem.

11 What is the primary and the secondary company  
12 that would be used for it?

13 MS. HARRIS: The names are on the document. And  
14 it should be any moment, he and Jim Archer. But the names  
15 are on it. It says what it is. And it's basically bold  
16 print. It's very easy to see.

17 PANEL MEMBER JEFFERSON: Okay. I'll wait for  
18 the --

19 ACTING CHAIRPERSON MILLER: Thank you.

20 I'd like to call upon Kathleen Wynn please.

21 MS. WYNN: Good morning.

22 ACTING CHAIRPERSON MILLER: Good morning.

23 Please state your name for the record.

24 MS. WYNN: Kathleen Wynn. I'm a researcher for  
25 BlackBox Voting. But I come out of Ohio, which is --

1 we've been having some interesting things going on there  
2 too.

3           And the reason that I'm here today is because  
4 we've been following very closely what's going on in  
5 California with regard to the electronic voting machines  
6 as well as other issues surrounding that. And in this  
7 case what I found, we have Board -- transcripts made  
8 whenever the Board of Elections meets with these vendors.  
9 And I obtained one of those transcripts where the Board of  
10 Elections for Cuyahoga County -- and you'll get a copy of  
11 this as well -- had a meeting with Diebold  
12 representatives. And the thing that caught my eye that I  
13 thought Alameda would be interested in knowing about is  
14 that there was a section that talks about a device that  
15 was sent to Alameda County that -- this is the Diebold  
16 representatives discussing it.

17           And I thought that -- now, they're telling our  
18 guys, "We had this device that we sent to Alameda County  
19 that we used in the March 2nd primary." And, now, they  
20 didn't get rid of -- it has to do with the electronic poll  
21 book, you know, that they were trying to test. And our  
22 concern is, number one, I thought their electronic voting  
23 machines were the only thing that we were really concerned  
24 about.

25           Now they're trying to bring in under the covers

1 without any public discussion and -- you know, about these  
2 electronic poll books. Now, was this authorized by  
3 Alameda? And if so, by whom, is what we would like to  
4 know, because we want to make certain that we know what's  
5 going on here so we can monitor it very closely there if  
6 that's what they're intending to do.

7           My big concern also is, who's going to pay for  
8 this? Is this part of the electronic voting machine costs  
9 or is it going to be kind of taken on by the taxpayers of  
10 Cuyahoga County? It doesn't explicitly give us any  
11 details regarding that. And I think that's very  
12 important, because those of us in Ohio don't want to have  
13 to -- number one, I'd like to discuss that, because I  
14 think the poll book is a wonderful thing and I don't want  
15 it taken away and put into cyberspace.

16           So I thought that -- I'd love to know if this was  
17 authorized by Alameda County. And I thought you'd want to  
18 know that this was done.

19           ACTING CHAIRPERSON MILLER: About one minute.

20           MS. WYNN: Okay. Is there any way to get the  
21 answer to those questions, so I can take it back to Ohio  
22 and let them know whether this was accepted by Alameda  
23 county as something they were going to test here to see  
24 how it worked? Because we would like to know how -- have  
25 that discussion in our state.

1           ACTING CHAIRPERSON MILLER: Mr. Clark, do you  
2 have anything you wish to decrypt at this point with  
3 respect to that?

4           MR. CLARK: No.

5           PANEL MEMBER MILLER: No.

6           But thank you for asking the question and --

7           MS. WYNN: So when will I get an answer to that  
8 so I can take it back to Ohio? Is that going to be  
9 something I'll ever get? Or is this just going to be a  
10 question that I'm going to maintain, you know, as maybe,  
11 maybe not? I mean we just don't seem to get a lot of  
12 answers these days.

13          ACTING CHAIRPERSON MILLER: If we can provide the  
14 answer, we will. But I can't provide an answer at this  
15 moment.

16          MS. WYNN: Okay. Thank you.

17          ACTING CHAIRPERSON MILLER: Thank you.

18          I'd like to call on Mr. March -- Jim March.

19          Mr. March is not currently available.

20          Mr. Finley.

21          Mr. Finley is not --

22          MR. FINLEY: I'm not going to comment at this  
23 time. Thank you.

24          ACTING CHAIRPERSON MILLER: No comment from Mr.  
25 Finley.



1           We have a number of individuals who spoke at the  
2 last meeting.

3           Paula Lee.

4           Mr. March is not available.

5           MS. HARRIS: Mr. March is on his way in.

6           ACTING CHAIRPERSON MILLER: Linda Roberts.

7           Does Linda Roberts -- do you have additional  
8 comments to make? Or is it the same material offered last  
9 time?

10          MS. ROBERTS: Right. Thank you.

11          ACTING CHAIRPERSON MILLER: Thank you. Nothing  
12 from you.

13          Maureen Smith.

14          Are these new comments?

15          MS. SMITH: I didn't comment on Diebold at all  
16 last time. I only asked questions about timing of the  
17 meetings.

18          ACTING CHAIRPERSON MILLER: Okay. Would you  
19 state name for the record please.

20          MS. SMITH: It's Maureen Smith. And I truly do  
21 not have any new information like the other people who  
22 spoke here. But I'm kind of flabbergasted, and I'm  
23 feeling we're right back almost to square one. And the  
24 only -- the only resource we have is getting people to ask  
25 for paper ballots, because I do believe that Secretary

1 Shelley did require that paper ballots be provided at all  
2 precincts for people who request them. Is that not  
3 correct?

4 ACTING CHAIRPERSON MILLER: That's correct.

5 MS. SMITH: Okay. So is there any way that this  
6 panel and others can assure us that there will be those  
7 paper ballots at the precincts for people who request them  
8 and to make it known? I know in Santa Clara County, where  
9 we've had some discussions with the registrar of voters  
10 there, that they plan to allow people to vote even on  
11 their sample ballots if they run out of -- oh, I can't  
12 remember the name for the -- provisional ballots. They're  
13 going to have provisional ballots. They're going to have  
14 optical scan ballots. But they're only providing enough  
15 optical scans for 25 percent of the anticipated voters.

16 But they assure us that if we convince enough  
17 people to ask for paper that they're going to have enough  
18 paper.

19 Do you know if the other counties are going to  
20 have enough paper? Because it looks like we can't trust  
21 any of these machines.

22 ACTING CHAIRPERSON MILLER: Each voting system is  
23 not being recertified unless -- for use in a particular  
24 county unless the county agrees to provide the paper  
25 alternative pursuant to the April 30th order. So that is

1 occurring.

2 Thank you, Ms. Smith.

3 Dennis Paull.

4 Okay. Mr. March has rejoined.

5 Three minutes, sir.

6 MR. MARCH: No problem.

7 ACTING CHAIRPERSON MILLER: Would you please

8 state your name for the record please.

9 MR. MARCH: Jim March, member of the Board of  
10 Directors, BlackBoxVoting.Org.

11 There are obviously a lot of concerns with  
12 Diebold. But I think one of the more fundamental that  
13 this panel has still yet to address goes all the way back  
14 to Bev Harris' first report back in late June, early July  
15 of 2003. That is where she found multiple sets of voting  
16 records contained within the GEMS database, the central  
17 vote tabulation database.

18 That double bookkeeping problem is a classic sign  
19 of accounting fraud when it's seen in the financial  
20 industry. When it's seen in the voting industry in the  
21 particular way that Diebold used it, it could be used to  
22 feed an election officer, an election executive numbers  
23 that are different from what are actually counted in the  
24 votes. If they ask for data on a precinct-by-precinct  
25 basis, they get one set of numbers. If they ask for data

1 on a countywide basis, they get a different set of  
2 numbers. So one of the basic auditing methods that honest  
3 election officials use get circumvented.

4 We've established that they did this. There's no  
5 question that they did this. And Diebold has never  
6 answered the complaint that they did this.

7 The problem is that concept of double sets of  
8 books will bypass any other security measure you require  
9 of Diebold. That concept in fact could be used to get  
10 around Mr. Jefferson's fraud concept or the vote here type  
11 of encrypted security. All of those security concepts,  
12 those cryptography concepts work great unless there's a  
13 double set of books behind the scenes.

14 Now, normally if I came up here and said, "Hey,  
15 they might use double sets of books," I'd be a real  
16 conspiracy theorist, except that they've done that  
17 already. They've been caught doing that. How you guys  
18 can even consider ever trusting Diebold again, having been  
19 caught doing that, is beyond me. It Boggles the mind.

20 You guys so far have ignored this double set of  
21 books problem.

22 ACTING CHAIRPERSON MILLER: One minute, Mr.  
23 March.

24 MR. MARCH: You guys have ignored it. And  
25 eventually the courts will not. And I -- I don't know

1 what else I can say to you guys. These people can't be  
2 trusted, not even with the best cryptography, with the  
3 best security you throw at the system. And we know  
4 they're planning on improving the security. I'm sure my  
5 cohorts have already spoken to that subject. They still  
6 can't be trusted. They -- you've got to throw them out of  
7 the state. There's no other choice.

8 Thank you.

9 ACTING CHAIRPERSON MILLER: Thank you, Mr. March.  
10 Those are all the comment cards I have received.  
11 Sir.

12 MR. SMITH: Well, I filled one out and turned one  
13 in.

14 ACTING CHAIRPERSON MILLER: I apologize for that.  
15 Michael Smith.  
16 Mr. Smith.

17 MR. SMITH: Yes. For the record, my name is  
18 Michael Smith from Santa Cruz County.

19 I've been coming here for almost -- over a year  
20 now to these meetings and have been deeply disturbed by  
21 what has occurred with Diebold. Even much more disturbed  
22 today by what we're learning from --

23 ACTING CHAIRPERSON MILLER: Could you please  
24 speak up so Mr. Kyle can hear you.

25 MR. SMITH: Even more disturbed today from what

1 we've learned from Bev Harris and other people.

2 My one big comment would be simply that Diebold  
3 not be certified and be decertified and not be  
4 reconsidered.

5 Also I'm wondering, since the paper ballots are  
6 required as an alternative to electronic voting machines  
7 in every precinct in California, if there is a proposed  
8 method by the Secretary of State to send some kind of  
9 signage or information to the voting public that when they  
10 enter the polling place it's clearly defined that they can  
11 request a paper ballot in lieu of an electronic voting  
12 machine.

13 I'm asking the question. I don't know if that's  
14 been addressed.

15 ACTING CHAIRPERSON MILLER: We'll certainly take  
16 the question. I'm not prepared to provide the answer.

17 MR. SMITH: Okay. Thank you very much.

18 ACTING CHAIRPERSON MILLER: Thank you, Mr. Smith.  
19 Mr. Finley.

20 MR. FINLEY: Yes.

21 Hi. My name is Lowell Finley. I'm an election  
22 lawyer in Berkeley, California.

23 I am --

24 ACTING CHAIRPERSON MILLER: Please speak up.

25 MR. FINLEY: Yes. I asked in an E-mail

1 transmission on Friday that an article and a press release  
2 be included in packets. And I don't know if those made  
3 it's way into your packet.

4 ACTING CHAIRPERSON MILLER: I believe they did,  
5 Mr. Finley.

6 MR. FINLEY: The action of the Ohio Secretary of  
7 State.

8 The Ohio Secretary of State at the end of last  
9 week banned the use of any Diebold touchscreen equipment  
10 in the State of Ohio for the November election based on  
11 new testing that has been done for the state by the  
12 Compuware Organization that did some testing for them a  
13 year ago that identified numerous serious security  
14 vulnerabilities. And I would ask that prior to any  
15 certification vote or decision by this panel, that -- if  
16 that has not already occurred, that you communicate with  
17 the Ohio Secretary of State's Office and determine what  
18 those test results revealed. They're apparently not ready  
19 to make it fully public at this time.

20 But it does seem incumbent on this body to gain  
21 the benefit of the research that's been done by another  
22 state. I would point out that the Secretary of State in  
23 Ohio is a Republican. It helps to make this a clearly  
24 bipartisan issue to have consultation between states that  
25 are headed by officials from the two major parties. And I

1 think it's significant that that action has been taken by  
2 the State of Ohio and is something that ought to be taken  
3 into account by this body.

4 Thank you.

5 ACTING CHAIRPERSON MILLER: Thank you, Mr.  
6 Finley.

7 Those I believe are all the comment cards I've  
8 received. If I've missed a comment card, please let me  
9 know.

10 Seeing no response to that solicitation, public  
11 comment is closed.

12 I would see whether, first of all, there's a  
13 motion by any member of the Panel, and then we will engage  
14 in a discussion.

15 The staff recommendation is set forth in the  
16 staff report. It's my understanding that indeed many of  
17 the issues raised by this Panel last week have been  
18 addressed by the procedures. That was based upon the  
19 updated staff report.

20 I would see if there's any motion with respect to  
21 the staff recommendation.

22 PANEL MEMBER KYLE: Mr. Chair?

23 ACTING CHAIRPERSON MILLER: Mr. Kyle.

24 PANEL MEMBER KYLE: Just as a point of  
25 information to be stated for the record, that the



1 Secretary has been in touch with the Ohio Secretary of  
2 State and has been communicating him this past weekend and  
3 today in fact.

4 And in terms of our dealings with electronic  
5 voting and thereby paper audit trail, we're ahead of Ohio  
6 in terms of scrutiny, analysis and severity of  
7 restrictions in Ohio. But we are communicating with the  
8 Ohio Secretary of State.

9 ACTING CHAIRPERSON MILLER: Thank you, Mr. Kyle.

10 Did everyone hear that. Was that audible?

11 MR. FINLEY: I couldn't hear what you're ahead of  
12 Ohio on.

13 PANEL MEMBER KYLE: Analysis, security,  
14 restrictions, concerns and the requirements for not only  
15 security, but every aspect of electronic voting. We've  
16 been much more scrupulous in our scrutiny than Ohio has.  
17 The Ohio Secretary of State just did about face on his  
18 previous position of the last 12 months. We're glad to  
19 see it, but they're looking at us for leadership, not vice  
20 versa.

21 ACTING CHAIRPERSON MILLER: Thank you, Mr. Kyle.

22 Did everyone hear that? Far in the back?

23 Yes. Thank you.

24 So is there a motion from any member of the  
25 panel?

1           PANEL MEMBER MOTT-SMITH: Yeah, I'll move the  
2 staff's recommendation.

3           ACTING CHAIRPERSON MILLER: John Mott-Smith moves  
4 the staff recommendation.

5           Is there a second to that motion?

6           PANEL MEMBER KYLE: Second.

7           ACTING CHAIRPERSON MILLER: According to Ms.  
8 Daniels-Meade, Mr. Kyle spoke first.

9           So it's been moved and seconded that the staff's  
10 recommendation be accepted.

11          Discussion, members of the panel?

12          Mr. Jefferson.

13          PANEL MEMBER JEFFERSON: Well, I have to say I'm  
14 extremely torn here. I take seriously all of the comments  
15 that I have just heard. And I wish I had more background  
16 on them.

17          I am concerned of course about the security of  
18 the code and the security of the procedures. And I am --  
19 as much scrutiny as there has been, I wish there were more  
20 scrutiny for us. For example, we do not yet have copies  
21 of the source code in the State of California to any of  
22 the systems, including Diebold's. And the only scrutiny  
23 that we've had is by one consultant, who has made a long  
24 list of recommendations which this panel has required to  
25 be addressed, and they have been addressed.

1 I'm sure that there's plenty more that can be  
2 done. And over the course of the next months I expect  
3 this office -- The Secretary of State's Office and this  
4 Panel and the Technical Advisory Board of this Panel to  
5 address many of the issues that are -- that have been  
6 raised. And I take them as seriously as anyone.

7 Let me just leave it at that. I'm extremely  
8 disturbed and concerned about it.

9 ACTING CHAIRPERSON MILLER: Any other discussion  
10 from members of the panel?

11 PANEL MEMBER KYLE: Mr. Chair?

12 ACTING CHAIRPERSON MILLER: Mr. Kyle.

13 PANEL MEMBER KYLE: Ms. Daniels-Meade raised a  
14 concern last week. I believe it was addressed in the  
15 subsequent -- in this period of time, but I wanted to just  
16 confirm that that's the case.

17 ACTING CHAIRPERSON MILLER: That relates to the  
18 source code deposit?

19 ELECTIONS ANALYST WAGAMAN: I believe it's in  
20 reference to depositing the code into the escrow doc and  
21 getting a copy of those escrow documents, which we do have  
22 now.

23 ACTING CHAIRPERSON MILLER: So that concern, that  
24 condition has been addressed?

25 ELECTIONS ANALYST WAGAMAN: Correct.

1 PANEL MEMBER KYLE: That's what I thought.

2 ACTING CHAIRPERSON MILLER: Any other discussion  
3 from members of the panel?

4 Are you ready for the question?

5 PANEL MEMBER KYLE: Adopt this -- I'm sorry, Mr.  
6 Chair. Again, Mark Kyle. Adopt staff recommendation.  
7 There are no additional conditions from what I'm  
8 understanding.

9 ACTING CHAIRPERSON MILLER: That is correct.

10 Mr. Wagaman, do you want to speak to that?

11 ELECTIONS ANALYST WAGAMAN: No.

12 ACTING CHAIRPERSON MILLER: There are no  
13 additional conditions because they've all been addressed  
14 in the procedures manual and by depositing of the  
15 documents in escrow.

16 Ready for the question?

17 Lots of shaking heads previously, I assume.

18 So all those in favor of the motion, signify by  
19 saying aye.

20 (Ayes.)

21 ACTING CHAIRPERSON MILLER: Those opposed signify  
22 by saying nay.

23 Are there any abstentions?

24 PANEL MEMBER JEFFERSON: One.

25 ACTING CHAIRPERSON MILLER: One abstention.

1           The ayes have it. The motion is passed.

2           And that will be the recommendation of this  
3 Panel.

4           I believe that concludes -- we had public comment  
5 at the last meeting, as I recollect. So that item on the  
6 agenda has -- you said -- yes or no?

7           ELECTIONS ANALYST WAGAMAN: You did take a public  
8 comment, Item No. 7. So it's up to the discretion of the  
9 Panel whether to reopen that or not.

10          ACTING CHAIRPERSON MILLER: Okay. Then that  
11 concludes the business of the panel.

12          Motion to adjourn?

13          ELECTIONS DEPUTY CHIEF MEHLHAFF: Mr. Chair, just  
14 to remind you that next Monday's meeting was cancelled.

15          ACTING CHAIRPERSON MILLER: Yes, next Monday's  
16 meeting has been cancelled.

17          Next meeting of this Panel will be August 4th; is  
18 that correct, staff?

19          ELECTIONS ANALYST WAGAMAN: Correct.

20          ACTING CHAIRPERSON MILLER: That is correct.

21          PANEL MEMBER KYLE: At what time?

22          ACTING CHAIRPERSON MILLER: At 10 a.m. August  
23 4th, 10 a.m., right here.

24          Motion to adjourn?

25          PANEL MEMBER MOTT-SMITH: So moved.

1 PANEL MEMBER JEFFERSON: Second.

2 ACTING CHAIRPERSON MILLER: Okay. There's a  
3 second from Mr. Jefferson.

4 All those in favor signify by saying aye.

5 (Ayes.)

6 ACTING CHAIRPERSON MILLER: The meeting is  
7 adjourned.

8 (Thereupon the Secretary of State's, Voting  
9 Systems and Procedures Panel adjourned  
10 at 10:40 p.m.)  
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## 1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, a Certified Shorthand  
3 Reporter of the State of California, and Registered  
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the  
6 foregoing California Secretary of State's, Voting Systems  
7 and Procedures Panel meeting was reported in shorthand by  
8 me, James F. Peters, a Certified Shorthand Reporter of the  
9 State of California, and thereafter transcribed into  
10 typewriting.

11 I further certify that I am not of counsel or  
12 attorney for any of the parties to said meeting nor in any  
13 way interested in the outcome of said meeting.

14 IN WITNESS WHEREOF, I have hereunto set my hand  
15 this 30th day of July, 2004.

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23 JAMES F. PETERS, CSR, RPR  
24 Certified Shorthand Reporter  
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