APPEARANCES

STAFF MEMBERS

Mr. Bruce McDannold, OVSTA Interim Director
Ms. Susan Lapsley, Moderator
Mr. Brad Clark, Assistant Secretary of State - Elections
Ms. Caren Daniels-Meade, Chief of Elections
Mr. Michael Kanotz, Elections Counsel
Mr. Lee Kercher, Chief of Information Technology
Mr. Chris Reynolds, HAVA Coordinator

ALSO PRESENT

Ms. Ana Acton, FREED, Systems Change Network Voting Committee
Ms. Kim Alexander, California Voter Foundation
Ms. Judith Alter, Study California Ballots
Mr. Daniel Ashby, California Election Protection Network
Mr. Dale Axelrod
Mr. John Barrilleaux
Mr. Jerry Berkman, Election Reform
Ms. Ann Blake, Bill of Rights Defense Committee
Mr. Robert Bowman, TBAC
Ms. Mary Beth Brangan, California Election Protection Network

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APPEARANCES CONTINUED

Mr. Carl Carter, California Election Protection Network

Mr. Philip Chantri, Santa Clara County

Mr. Warren Cushman, Californians for Disability Rights

Mr. Alan Dechert, Open Voting Consortium

Mr. Lou, Didier, ES&S

Ms. Barbara Dunmore, Riverside County

Mr. Frank Egger

Mr. Chaim Finkelman

Ms. Michelle Gabriel, Voting Rights Task Force, Wellstone

Ms. Ferris Gluck

Ms. Sharon Graham

Ms. Lynn Hamilton, Town Hall Coalition

Mr. Philip Harlan

Mr. Mohamed Hassan

Ms. Sherry Healy, California Election Protection Network

Mr. Randy Hicks, California Disability Rights

Mr. Neil Kelley, Orange County

Ms. Jennifer Kidder, Machinists' Union

Mr. Dan Kysor, California Council for the Blind

Ms. Francie Lane

Ms. Diana Madoshi, Women Democrats of Placer County

Ms. Megan Matson, Mainstreet Moms

Mr. Neil McClure, Hart InterCivic, Inc.

Mr. Ted Newman, California Election Protection Network

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Mr. Chris Ortiz, ES&S
Ms. Eve Roberson, California Election Protection Network
Ms. Linda Roberts, Peace and Freedom Party
Ms. Stephanie Ruseigno, Sutter County Taxpayers Association, Citizens for Change
Ms. Michelle Shafer, Sequoia
Mr. Jim Soper
Ms. Phoebe Anne Sorgen, Voting Rights Task Force
Mr. Paul Terwilliger, Sequoia
Mr. John Tuteur, Napa County
Mr. Steve Weir, Contra Costa County
Mr. Gordon Wright, Berkeley Fellowship of Unitarian Universalists
Mr. Kenji Yamada
Ms. Sandra Yolles, Voting Rights Task Force

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PROCEEDINGS

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

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

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

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

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

There are speaker cards that are available up at the very top. I think most people -- the gentleman up there who's from the Secretary of State's Office just raised his hand. He has speaker cards. If you haven't filled out speaker cards and you wish to, please fill those out and return them up to Paul in the suit, up there.
We have one person that has requested extended speaking time pursuant to the agendized items. If that's -- it was Mr. Scoper.

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

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

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

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

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

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

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

Copies of the agenda were made available on the Web site, and they are also available up on the podium. If anyone doesn’t have a copy of the agenda and would like
one now, please raise your hand, and Paul or someone from
our staff can get you a copy.

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

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

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

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

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

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

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

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

Michael, is that coffee I see down there?

MR. KANOTZ: It's water.

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

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

Finally, if you decide not to give oral testimony
but would like to do so in writing, we will be taking
written testimony through March 8th, which is Wednesday, a
week from today, and that can be submitted via e-mail or
in writing via U.S. Post to our office here.
We will go ahead and get started with ES&S and their application.

OVSTA INTERIM DIRECTOR McDANOLD: Okay. Can everyone hear me?

Good morning.

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

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

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

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

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

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

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

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

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

The other half of this system is the InkaVote
Precinct Ballot Counter. The system -- the version that's been presented is version 1.10. It is based on the existing InkaVote ballot type or technology that's currently being used in the County of Los Angeles. Right now, the County uses those ballots that are collected and then tabulated centrally. The Precinct Ballot Counter is a mark-sense optical-scan reader designed to be used in a precinct. It allows voters or as the ballots are voted and fed into it, it provides warning for over-voting and can optionally be set to also provide warning for under-voting to give a voter the opportunity to correct their ballot.

The PBC runs on a limited version of Linux for security. As I said before, it's programmed over a closed network from the election -- the Unison Election Management System, the secure closed network. The PBC is also designed to provide accessibility support for blind voters. There is a device that is attached to it that provides audio voting direction through headphones, and then there's a small keypad with a limited number of buttons that, typical of many systems, gives the voter audio instruction, and then they can mark their -- use the keys to navigate and select their actual ballot choices.

There is no visual display, so it would be
strictly limited to an audio voting mode. Once at the conclusion of voting ballot and the system presents, in audio, a summary of the ballot that's chosen. If the voter confirms, a slip of paper is printed out in the InkaVote ballot format, and then the voter can then take that ballot and insert it into the PBC to have it read and tabulated as any other InkaVote ballots would be.

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

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

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

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

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

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

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

The Secretary of State's office conducted its testing of this system the week of January 3rd through 27th. Testing was conducted at the corporate
headquarters, of ILTS in Carlsbad, California. Testing was done by state consultants Steve Freeman, Paul Craft as well as Secretary of State staff.

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

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

Some of the more significant findings from our testing, in our testing the InkaVote system that was presented that we received in the application did not record or did not include vote recorders for marking the ballots. These are standard used and helpful for a voter to translate from their vote choices to the numbered position on the ballot to make a mark. They were not presented as part of the application, so certainly to certificate the system, we're proposing certifying it without any vote recorder devices. Although we did test the system with vote recorder devices that were on hand and available, any jurisdiction that would want to use
them would need to present a new application so they can be certified together under the Secretary of State's guidance for certification of voting systems.

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

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

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

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

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

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

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

It does, instead, provide a secure user account
directly into the database that is read only, which we
tested and verified to allow a third-party reporting
utility to be used to obtain the election results and
generate custom reports.

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

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

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

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

In the meantime, we did agree and conducted a
modified volume test on the five units that were available
for our testing. That volume test was conducted on
Friday, January 27th, again, at the ILTS headquarters in
Carlsbad, California. The test was conducted by State
Consultant Mr. Paul Craft as well as Secretary of State
staff. With the 5 PBCs that we had on hand, we cast over
2400 ballots over the course of the day on each PBC. Five
temp workers were hired and contracted to do the actual
casting of the ballots.

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

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

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

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

We had one ballot that was rejected for no
apparent reason. The message just simply said "invalid ballot" again. It was reinserted with a different orientation and, again, successfully accepted.

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

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

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

Of those we have gone through, and the divergences from the expected baseline of the vote results, all the errors that we have reconciled so far have been attributed
again to mismarkings of the test stack and the test ballot, not to any problem with the actual ability of the system to tabulate results.

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

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

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

Thank you.

MODERATOR LAPSLEY: Thank you, Bruce.

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

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

If there are not --

MR. DIDIER: Excuse me.
We'll be available for questions.

CHAIRPERSON McDANNOLD: You're going to be available?

MR. DIDIER: Yes.

MODERATOR LAPSLEY: Okay.

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

Who do we have present?

MR. DIDIER: Lou Didier with ES&S.

MR. ORTIZ: And Chris Ortiz.

MODERATOR LAPSLEY: Thank you.

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

No questions?

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

MODERATOR LAPSLEY: Okay.

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

I wanted to clarify that in this circumstance, is the information intact on the PBC?
OVSTA INTERIM DIRECTOR McDANNOLD: I believe it is, but I would defer to the manufacturer that's here.

MR. DIDIER: Good morning. Lou Didier.

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

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

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

INFORMATION TECHNOLOGY CHIEF KERCHER: Okay.

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

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

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

MODERATOR LAPSLEY: Don't hold the mike --

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

ASSISTANT SECRETARY OF STATE FOR ELECTIONS CLARK: I just had a question on the volume testing. Have the plans been put in place yet to do the volume testing on this system?
OVSTA INTERIM DIRECTOR McDANNOLD: The plans have not been formalized at this point. We have recently been notified by the vendor that they don't anticipate a comply of the equipment being -- sufficient equipment being available until the beginning of April.

MODERATOR LAPSLEY: Any additional questions?

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

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

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

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

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

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

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

I think that what the United States is facing is a monumental task and some of us knew six months ago, eight months ago, that we wouldn't make the HAVA deadlines, and
I'm a betting man that we're not going to make them.

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

It will be interesting to see how that turns out.

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

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

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

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

Ms. Kidder.

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

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

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

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

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

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

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

What I had to say is -- My name is Jennifer
Kidder, and I'm not here representing on organization.
I'm working for the Machinists' Union right now.

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

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

And in terms of the reports about ES&S, in
particular, I can't help thinking, you know, if 18 ballots
were mismarked by people, maybe they were butterfly complicated. I don't see why the public should be punished for their inability to understand some voting system.

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

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

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

MS. KIDDER: I can't recognize what I was saying. All I want to say is that there is a very viable alternative. It doesn't matter whether it's backwards or forwards in time.

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

MODERATOR LAPSLEY: Thank you, Ms. Kidder.
Appreciate your comments.

(Appplause.)

MODERATOR LAPSLEY: Ms. Roberson is next.

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

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

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

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

(Appplause.)

MODERATOR LAPSLEY: Please hold your clapping.

The stenographer cannot take the speaking, so please make sure that we hold those till the end, if you wish to clap.

MS. ROBERSON: The Secretary of State certification of Diebold does not comply with state law, and he has broken his December commitment to Californians
that he would wait for the federal review in testing process completion, before certificating the Diebold equipment.

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

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

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

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

MODERATOR LAPSLEY: Okay. Thank you.

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

It also violates Election Code Section 19251(a), as all DRE voting systems have to come with an accessible voter-verified paper audit trail. They must provide an
audible, read back of the paper trail for visually impaired voters. Diebold does not comply with these laws and cannot legally be certified for use in California for these reasons.

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

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

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

MODERATOR LAPSLEY: Thank you, Ms. Roberson.

Thank you.

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

(Applause.)

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

MR. HASSAN: Hello. My name is Mohamed Hassan, and I am not quite a layperson. Until two years ago, I was a member of the faculty of electrical engineering at California State University in Sacramento where I taught
CMOS design, and before that I worked in the semiconductor industry for 20 years.

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

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

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

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

MR. HASSAN: Thank you.

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

It's like, remember, 20 years ago when garbage in,
garbage out is computer, it is now clean in, garbage out.

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

MR. HASSAN: Thank you very much.

(Applause.)

MR. FINKELMAN: Hello. My name is Chaim Finkelman.

MODERATOR LAPSLEY: Can you please spell your last name?


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

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

And on Diebold machines, we have two little keys -- actual cover keys that cover panels, one of which
had the little silver sticker. And I thought, well, maybe
one of these only really matters. And then I looked over
at the other polling place which was across the room, and
they had the other keyhole covered by the little
tamper-proof sticker.

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

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

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

Thank you.
(Applause.)

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

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

MR. CUSHMAN: Sorry?

MODERATOR LAPSLEY: We also have a handheld one.
MR. CUSHMAN: Good morning. My name is Warren Cushman, and I am here to speak -- actually to tell a story.

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

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

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

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

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

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

MODERATOR LAPSLEY: You have 30 seconds left, Mr.
MR. CUSHMAN: -- and all of the vendors that are not here today need to speak with blind individuals and interact with blind individuals so that we can test these machines.

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

Thank you.

(Applause.)

MODERATOR LAPSLEY: Thank you.

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

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

Sure, they say we drop it in a box and there it is.

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

Is there somebody who represents ES&S could answer
that question? How are they going to fix that to make
sure these ballots stay secure? That anybody just can't
get in there and get them?

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

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

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

That's it.

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

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

MR. DECHERT: You got it.

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

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

I want to commend one thing I heard and that is
that ES&S is starting to use Linux in their operating
system. And that's a step in the right direction toward
transparent software in elections.
As you know, our organization sponsored a bill that asked the Secretary of State to look into using open source software, not only for the operating system, but the voting-specific software as well. And we got that report a little bit late, and I thank you for helping to produce that. It was a little bit skimpy and noncommittal, but it's something to start with.

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

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

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

To that end, we are sponsoring a bill this year, AB 2097, that would require that vendors disclose all of their -- all of the details of their systems including the source code, and the Secretary of State would issue a downloadable disclosure package that would be available to anyone by via the Internet. And we have a lot of
scientific and engineering expertise to apply to this, and
I think it would be helpful not only to the public to gain
confidence in the system, but also would assist you in
your work and making sure that these systems really have
been thoroughly tested.

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

Thank you very much.

(Applause.)

MODERATOR LAPSLEY: Thank you.

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

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

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

We really like the InkaVote system. The person
who had the system in their hotel room programmed in the
voice instructions so low that we could hardly hear them,
so I hope there's some standardization on the voice
recording.
Mr. Didier, that would be a good thing, so we could actually hear the ballot.

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

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

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

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

So thanks for giving us an accessible vote.
MODERATOR LAPSLEY: Mr. Egger.

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

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

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

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

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

Thank you.

(Moderator LAPSLEY: Thank you. Next is Jerry Berkman. After Mr. Berkman we have Linda Roberts and Daniel Ashby.

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

I would like to see the process opened up a little more. If Bill Woods stated at the senate committee about
a month ago that people -- the public could witness the
state testing.

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

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

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

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

And that's all for now.

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

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

You have a flood review system. I e-mailed your
Web page protesting the Diebold certification, and it came back to me.

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

You guys don't do that.

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

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

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

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

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

Thank you.

(Applause.)

MODERATOR LAPSLEY: Next, Mr. Ashby.

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

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

I'm reading from overview of the California Voting System Certification, the document on the Web site. It says about applying it to submit your system for review, it says, "Application is reviewed for completeness."
Examples: has all required material been submitted, has federal testing been completed, etc. Note: certification evaluation is contingent upon vendor's completed application."

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

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

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

MODERATOR LAPSLEY: Thank you, Mr. Ashby.
MR. ASHBY: Okay. I will continue my comments later.

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

(Applause.)

MODERATOR LAPSLEY: Thank you.

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

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

Nobody counts my ballots but me. And I want to say that that's true for every registrar that I know. I took the time to come up here a couple of weeks ago and look at what is the InkaVote Plus system, paper-based system, certainly an interim system, not a system that's going to address every issue, but it does what it says it's going to do. And I wanted to underscore that point.

And while I was here, I was able to talk to David Jefferson, and he's a gentleman who's eminently qualified
to speak for himself, but he indicated to me how impressed he was with the security in the InkaVote Plus system. And so I think that you now have a system that's pending NASED certification, will not be State certified until it gets its NASED number. You have a system that's paper-based. You have a system that does what it says it's going to do, no more and no less. And you have a system that has strong security associated with it.

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

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

MORATOR LAPSELY: Thank you, Mr. Weir.

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

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

Trustworthy elections are fundamental to democracy. More and more U.S. citizens have lost faith in our electoral system, have given up on it.
It is your sacred duty to restore trust in the system and to uphold democracy, and I thank you for holding this hearing today.

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

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

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

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

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

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

So --

MODERATOR LAPSLEY: Thank you, Ms. Sorgen.

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

MS. SORGEN: That's correct.

MODERATOR LAPSLEY: Okay. Thanks.

(Applause.)

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

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

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

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

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

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

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

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

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

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

I've got a thumb drive in my pocket, and if that doesn't mean anything, I wanted hand-counted ballots. And we can produce them and have accessibility for the blind
and the disabled. We can produce paper ballots on
machines for them and count them by hand, the way they
ought to be counted where people of different beliefs,
politically --

MODERATOR LAPSLEY: Your time is up.

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

And I thank you.

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

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

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

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

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

For the ES&S InkaVote system that's being
considered today, the manual recount procedures are pretty slim. The manual recount is the process by which the public has an opportunity to verify the accuracy of software vote counts. This is the one window into the vote counting process that's provided to the public, currently. And it is crucial that the procedures for performing the 1 percent manual count in every county are clearly spelled out in the procedures for the voting system.

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

I think one thing that would help would be if the template that the Secretary of State is providing to the vendors -- which I also took a look at -- for the
procedures would spell out the requirements more -- in
more detail.

MODERATOR LAPSLEY: Thank you.
MS. ALEXANDER: Thank you.
MODERATOR LAPSLEY: And finally, Ms. Acton.
MS. ACTON: Thank you for having this hearing
today.

My name is Ana Acton and I'm from the FREED Center
of Independent Living as well as the chair of the Systems
Change Network Voting Committee.
And of course accessibility is very important as
is security for all of us. And, you know, I know with the
first agenda item, InkaVote, polling place access for any
of the systems on the agenda today is going to be
critical, critical, critical. People need to be able to
get into the polls, be able to use these accessible voting
systems.

We're not there yet with accessibility. We need
ongoing R&D from all vendors. Vendors need to work on the
front end with across-disability representatives on the
development and R&D of accessibility so that we're not
hatching accessibility issues on the back end. So we need
that ongoing R&D. We need -- you know, we're not done
yet. We need to continue our accessibility and usability
of these systems.
And usability is a very critical part of it all too, because you can add all these accessibility features, but if they are not easy to use and confusing to use, then it's not a satisfactory voting experience. So I would really like to encourage the Secretary of State to include usability and accessibility testing as part of the certification process.

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

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

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

MODERATOR LAPSLEY: Thank you.

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

MODERATOR LAPSLEY: Thank you for your comments.
MS. ACTON: Okay. Thank you very much.

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

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

I have printed out from computer files, a 39-page
report that was put together by Voters Unite on failures
of ES&S machines and optical scanners and various systems

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

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

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

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

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

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

MODERATOR LAPSLEY: Thank you.

That concludes our public hearing on ES&S.

Next system --

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

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

MR. NEWMAN: Can you hear me?

MODERATOR LAPSLEY: Yes.

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

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

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

MR. NEWMAN: Yes, there is.

MODERATOR LAPSLEY: Come right down here.
MR. NEWMAN: Again, my name is Ted Newman.

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

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

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

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

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

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

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

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

Because the audio ballots are distinctly different from the normal InkaVote ballots, use procedures for this
system should require that once one ballot is voted using
the ADA booth, at least two more voters should be required
to use the booth to vote an audio ballot and protect the
confidentiality of the initial ballot.

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

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

MODERATOR LAPSLEY: Can you wrap up?

MR. NEWMAN: Just two sentences?

Thank you.

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

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

Thank you very much.

MODERATOR LAPSLEY: Thank you.

Is there any response that the vendor would like
to add?
Okay.

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

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

(Thereupon a break was taken in proceedings.)

MODERATOR LAPSLEY: Let's get started here again.

We have all of our panel members.

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

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

Can you go ahead and give the staff report.

OVSTA INTERIM DIRECTOR McDANNOID: Certainly.

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

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

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

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

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

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

Significant changes between that version and the current version are support for the new VBO or Verified Ballot Option, which is the AVVPAT we'll discuss in a minute, or the verified voter paper audit trail for their touch-screen voting device. BOSS has also removed the default password and then added support for some of the new system security requirements that have been implemented in the system.
Finally, the new version of BOSS allows for customization of the ballot headers in the ballot layout phase. Once the election definition is completed within BOSS, it can be exported to Ballot Now. Ballot Now in this system, version 3.2.4.

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

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

The Ballot Now software, which would be used primarily for absentee in most jurisdictions, also allows the ability to view the entire image of the ballot, as I said, and allows the jurisdiction to read the actual write-in mark and apply it to the correct certified write-in candidate, if appropriate.
It also gives it the ability to look at a ballot marking whole image that may not have been interpreted correctly because the marks were slightly off, so that the voter intent can be determined and appropriately recorded for that ballot.

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

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

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

The next application is called Rally. The version under consideration is Rally version 2.2.4. Rally would typically be deployed in a jurisdiction that was geographically large and disperse. It gives the ability to collect vote results from the precinct voting equipment at a central remote location, gather them up, compile them, and then relay them to the central final count at
the jurisdiction headquarters where the entire election is being tabulated.

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

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

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

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

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

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

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

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

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

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

The previous version of Tally that was certified in California was version 3.2.0, and that was certified September 17, 2004, as well.
Significant changes between that version and the current version under consideration. The current version of the Tally has the capability to resolve write-in votes off of the MBBs, the mobile ballot box and memory cartridges.

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

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

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

At the conclusion of an election, that same application, SERVO, is used to provide an additional
redundant back up of the election data. So while the memory cartridges are uploaded into Rally and Tally, ultimately to do the vote results, the actual voting machines with their redundant memory are read into SERVO to provide a redundant back up of the election data and to provide cross-verification of the election results to help ensure accuracy of the system. The previous version of SERVO that was certified in California was version 2.0.10. That, as well, was certified on September 17th, 2004.

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

The final software application in this suite, or in this system, is called eCM Manager. We have been asked to certify version 1.1.7. This application is new to California. Part of it is built into the system. The use of a Spyrus USB security key. And this is the application to set the unique key ID and password for that security key, and then without
that security key, you cannot use the other applications
like Rally and like Tally. That key has to be inserted
into the machine before those applications -- or at least
the secure functions, the critical functions of those
applications -- can be used.

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

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

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

The eScan reads paper ballot images, as does the
Ballot Now. It takes a full image of the ballot and then
looks within that image to resolve the vote choices on the
ballot. It also can, as I mentioned earlier, pass that
ballot image up to Tally for resolution of write-ins or to
check any stray marks or questionable marks to ensure that
the voter intention is accurately recorded.
The eScan accepts two-sided ballots. One side, single-sided ballots of 8 1/2-inch width with lengths varying anywhere from 11 inches to 20 inches. It provides warning of over-voted ballots. It can optionally be set to provide warning of under-votes.

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

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

It can monitor the activity on up to 12 machines, eSlate machines at one time. When a voter comes into the polling place, they have checked themselves in, verified the registration, their ballot style has been identified, the poll worker would then use the JBC to create a little
slip of paper that has an activation code. The voter then
takes that activation code to any of the eSlate voting
devices that are connected to it, inputs that code number
in, and that's what tells the machine the voter's ballot
style and what voter choices they should be presented
with.

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

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

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

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

The system, as with most other direct record
elections, is required by HAVA, presents -- actually
prevents the voter from over-voting in a contest, and
provides warning if a voter under-votes in a contest and
forgets to mark the total number of ballot choices
available to them.

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

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

The previous version of eSlate certified was
version 2.3.8. That was certified, as well, on

Significant changes between that version and the
current version. This version of the eSlate supports the
VBO, the accessible voter verified paper audit trail,
which I will discuss in a minute. It's also added a
public counter on display on the front of the eSlate, when
anyone walking up to it can tell and keep records of how
many votes -- how many ballots have been voted on that
device.

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

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

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

I should point out that of the devices we've seen,
one of the features of the Hart is it has a very large
4-inch roll for the AVVPAT and a very large font that
makes it very easily readable by anybody.
The other note on the Hart VBO is it's designed to be swapped out as a sealed unit to protect the confidentiality of the voter, which means, if there is any problem with the unit on the Election Day, any concern that it's jammed or it's not recording right, the whole module can be removed and taken back to be forensically analyzed while a new one is just dropped in place to keep recording the election.

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

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

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

They have also reported that that testing was completed to the 2002 voting system standards.
We have a copy -- we have the initial report for system 6.0 draft report that was received -- that was dated January 13th, 2006.

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

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

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

NASED has not received or has not issued the final qualification number on this system. And as mentioned earlier today, the Secretary of State's office cannot certify this system, or the Secretary of State cannot certify the system until all the final reports have been received and that qualification number has been issued by
State testing of this system initially took place in Lafayette at the vendor's offices in Lafayette, Colorado, from December 12th through December 16th, 2005. That testing was conducted by State Consultant Steve Freeman, Paul Craft, and then, Secretary of State staff. The testing was not completed that week, so we resumed testing the week of February 1st or from February 1st through February 3rd, again at those same offices in Colorado. Again, the testing was conducted by Steve Freeman, Paul Craft, as well as Secretary of State staff. Standard test protocols were followed. All testing was done from trusted builds.

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

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

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

Another unique aspect of the system is while it has the capability to generate test ballots for lodging and accuracy testing, when those are run on the system, they are run in a separate memory location, not in the actual lodging and memory location that is used to conduct the election. They are stored separately and, in fact, on the eScan, they cannot be saved. They can be printed out, but they are transient. When you turn off the system and put it in election mode, any memory of that testing is removed.
One of the other things that we noted in the whole system that we found disconcerting in the testing was the use of cryptic numbers in error messages.

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

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

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

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

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

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

We also noticed that while the system supports a high contrast mode for people, voter with visual acuity issues, that works good for most of the vote screens. If you put it into a write-in mode, it actually slips out of the that high contrast mode for write-in candidates and goes back to the normal voting mode.
Also, at the conclusion of voting the ballot, the eSlate slips out of the high contrast mode for that final review and display of the voters vote choices. It slips out of high contrast and goes back into the normal voting mode.

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

Finally, volume testing on the system was conducted February 21st through 22nd at the warehouse facilities for the Orange County Registrar of voters. During that volume test, 50 eScans were tested. They each received an excess of 400 ballots. We also tested 100 eSlates, the DRE devices and each was voted a
Fifty contract temporary workers were hired to do
the voting. The testing was overseen by State Consultants
Steve Freeman, Paul Craft, as well as several members of
the Secretary of State staff.

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

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

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

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

The eScans, however, the precinct ballot scanners,
the paper ballot scanners, we logged 59 errors in the
course of the testing on the device. Twenty-six of those incidents occurred on 21 machines where the machine would suddenly display an alert code, 0X:32676A, and the machine would be locked up. The only way to resolve that was to completely reboot and power it off and power it back up again.

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

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

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

We are recommending certification that the remainder of the system with the standard conditions with use procedures that address all the points that were identified in the reports and identified in testing as well as a robust acceptance procedure, acceptance testing procedure, to identify any eSlates that might be defective.
and keep them, as I mentioned before, from being deployed in the polling place.

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

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

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

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

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

Other than that, those are my only comments.
If the panel has any questions for me, specifically, I would be more than happy to answer them.

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

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

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

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

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

So there's no difference in where it's stored, how
it's processed. It's only tagged as a data element that
identifies it as a task.

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

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

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

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

And we provide for ballot proofing and all manner
of review of the ballot and the setup, but what we have
enforced by the system is once you generate a ballot setup
for the various components once in the system, once that
file exists from a revision management and data integrity
management standpoint, we do not allow any further changes
to the information.
And if there is a problem discovered, what you need to do is copy that election forward and it releases the information. But what it does is it sets up a whole new set of IDs within the data that's transferred around, so you are unable to mix information. So there's a very powerful tool that enforces data integrity throughout the election system, and while care is taken or expressed the need to take care, we've had, you know, years of experience with this work flow, and it's been very successful for our customers and for us.

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

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

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

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

The system's designed to work with COTS third-party scanners on a multiple, and I believe the actual vendor has a list of recommended scanners that they
have tested with it in mind. But those are viewed as third-party scanners to the system.

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

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

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

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

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

INFORMATION TECHNOLOGY CHIEF KERCHER: I have no other questions.

MODERATOR LAPSLEY: Do we have any other
Thank you, Mr. McClure.

At this time we'll open it up for public comment.

The first speaker that I have is Ana Acton.

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

And then next we have Daniel Ashby and Neil Kelley.


Just to be clear, this is on the Sequoia?

MODERATOR LAPSLEY: No. This is Hart InterCivic.

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

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

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

So that's really my main comment with the Hart.

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

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

MODERATOR LAPSLEY: Great. Thank you.

Next is Mr. Ashby.

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

Once again, we're at an extreme disadvantage.

These documents that we're discussing today were released on the Web, Friday evening, about four days allowance for a public review of a matter of extreme importance and public policy.

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

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

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

Again, I've had very little time to prepare anything about Hart, but I will say that reviewing, once again, the NASED qualified voting systems chart, the most recent addition, which I have confirmed with Mr. Hancock at the EAC is current and dated 12/22/05, available on the Web for anyone who wishes to see, does not include any of the Hart components that we have just heard Mr. McDannold describe. They are not present as a certificated system. There is no NASED number for them. We cannot even tell to what versions they were certified.
Mr. McDannold mentioned that as of 2005, EAC guidelines require that all systems, all components of a voting system be uniformly certified to the 2002 standards. You may not mix and match components from earlier versions, according to the 1990 standards, with newer versions.

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

MODERATOR LAPSLEY: Can you wrap up, please.

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

MODERATOR LAPSLEY: Thank you. We appreciate your comments.

(Applause.)

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

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

I want to first say thank you to the staff for the
diligence in the report. I know that we hosted the volume
testing for the staff and there was a tremendous amount of
effort given to that, so I appreciate that.

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

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

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

MODERATOR LAPSLEY: Thank you.
Next we have Mr. Cushman.

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

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

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

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

Thank you.

MODERATOR LAPSLEY: Thank you for your comments.

Next we have Mr. Egger.

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

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

You know, California's 478 cities have consolidated their elections with our 58 counties. And
our elections are now run by the county Registrar of
Voters.

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

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

(Applause.)

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

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

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

Thank you.

MODERATOR LAPSLEY: Thank you for your comments.

Next we have Mr. Kysor.

After Mr. Kysor, we have Jon Barrilleaux. After
that, Michelle Gabriel.
MR. KYSOR: Hello, again, panel. Dan Kysor with the California Council of the Blind.

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

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

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

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

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

Thank you very much.

MODERATOR LAPSLEY: Thank you, Mr. Kysor.
John Barrilleaux.

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

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

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

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

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

The Secretary of State's certification process is broken. It's a sham. It's a joke. It's window dressing to provide an air of legitimacy. It casts down on any
system approved by this process.

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

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

Thank you.

MODERATOR LAPSLEY: Next we have Michelle Gabriel.

MS. GABRIEL: Hi. My name is Michelle Gabriel.

I'm a citizen of Oakland and the mother of that
six-year-old.

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

MS. GABRIEL: I would be glad to.

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

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

I'm surprised that none of the disabled voters
have brought this up. They are really not getting their 
verified vote. It's exactly in the law. It was brought 
up at Senator Bowen's hearing. This is not news to the 
elections staff.

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

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

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

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

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

Then the SOS comes up with a list of security 
procedures for Registrars of Voters to -- in order they're
going to go use the Diebold system.

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

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

MODERATOR LAPSLEY: Thank you. Time is up.

(Applause.)

MODERATOR LAPSLEY: Next we have Jerry Berkman.

Mr. Berkman?

MR. BERKMAN: Jerry Berkman from Berkeley.

As I said, Section 19251 says, and I quoted from the Elections Code, "Accessible means of the information provided on a paper record copy from the voter -- the information provided on the paper record copy from the voter verified paper audit trail mechanism as provided or conveyed to voters in both a visual and non-visual method,
such as an audio component."

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

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

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

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

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

Okay.

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

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

MODERATOR LAPSLEY: Thank you for your comments.
MR. BERKMAN: I also have one last sentence.

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

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

MODERATOR LAPSLEY: Thank you for your comment.

Next we have Kim Alexander.

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

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

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

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

Orange County can and should instead use paper ballots in the primary election and give its vendor more time to work out the problems with its printer unit.
Using paper ballots will ensure there is a meaningful audit trail that's available for the public manual count. And on that point, in the use procedures for the Hart eSlate machine, they do not specify that the voter verified paper audit trail be used to perform the 1 percent manual count. They say instead that a public manual recount of the ballots pass in at least 1 percent of the precincts.

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

(Applause.)

MODERATOR LAPSLEY: Thanks for your comments.

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

MS. SORGEN: Hello. I'm also a member of the Voting Rights Task Force.
And I just want to thank all of those citizens who put in countless hours of research for fair elections. This certification process is designed to force these systems into use with the mere appearance of legality. The complete test results are being hidden, and the tests are incomplete. The public has no basis for trusting our votes to any of them.

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

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

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

None of the systems meets the requirements of the California Elections Code. For example, the Sequoia and
Hart AVVPATs are not accessible according to Election Code 19251. The Sequoia and Hart AVVPATs compromise the secrecy of the ballot. The Sequoia and Hart AVVPATs are not suitable for audits when used for early voting. Multiple precincts are on one AVVPAT reel.

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

(Applause.)

MODERATOR LAPSLEY: Thank you for your comments.

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

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

Also, the Hart machine I used had a reel. A reel to me, you know, like, I said, it's an adding machine tape, and it may be bigger but it's an adding machine
tape. I cannot pull that out and hand it to somebody and
say, "Does this have my vote?" and drop it in a box and
hope that somebody hand counts it.

And I want to say, I have a little drive in my

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

Thank you.

(Moderator Lapsley: Next we have Mary Brangan,
B-R-A-N-G-A-N.

Ms. Brangan: Mary Beth Brangan.)
First of all, thank you for this opportunity to speak and also thank you for what seems to sound like a really laborious process of testing all of these complex machines.

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

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

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

And I'm also extremely concerned that the machine vendors are forcing the certifiers, our testers, to sign nondisclosure agreements, which prevent the flaws and
vulnerabilities of the machines to be disclosed, not only to the public, but it seems, even to the Secretary of State's office.

Thank you.

(Applause.)

MODERATOR LAPSLEY: Thank you for your comment.

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

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

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

More and more, I think we can do a superb job here in California and do a better job. And just the mere fact that any of these things are getting the thumbs up when we can do so much better, with all the people from Silicon
Valley and technologists and activists, that we should rethink this whole thing and we wouldn't get in the predicament we're in right now, down to the wire and so on.

So that's all. Thank you.

(Applause.)

MODERATOR LAPSLEY: Thank you for your comments.

MR. FINKELMAN: Howdy.

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

Now, for the rest of it.

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

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

I don't see it has a feature that you can test, you run the logic tests and when you turn off the machine, I don't know that somebody accessed the machine.
The other bug documentation with documentation was that the memory tests and logic tests were in different locations than the actual places in which the votes would be stored.

Skipping fraud, this means that you tested a memory location where you didn't store the votes. If the memory location where you do store the votes is bad, you've just lost the votes. And fraud, if you store the program that changes the votes in the memory location that you didn't test but that you do store the votes, you access it on Election Day and never before.

Roll-to-roll printing means that you can see when -- who individuals voted for. That's unacceptable. And since I'm not -- It sounds like the entire system is not being junked -- it's just the scanner -- I would like to ask whether any testing --

MODERATOR LAPSLEY: Time's up.

MR. FINKELMAN: Thank you.

MODERATOR LAPSLEY: Thank you.

Finally we have Megan Matson.

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

After listening today, it just seemed very clear to me that the disability and the accessibility -- the
disability access community and its interests need to come
together with the security community and its interests,
and I think we need to recognize that the passage of HAVA
was a civil rights trial that was very hard won by the
disability community, and for us to come in with the
security concerns is a blow to that.

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

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

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

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

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

Thank you very much.

(Applause.)

MODERATOR LAPSLEY: Thank you for your comment. And we actually have one more final request from Ferris Gluck.

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

It seems to me with the HAVA January 1st deadline, 2006, the big problem with bringing the precincts -- counties into compliance with HAVA is addressing the ADA -- excuse me, I don't have my notes with me -- addressing -- complying with ADA under HAVA, under Title 3.
And I want to alert people that there are low-tech solutions now for recording a vote on the same ballot, paper ballot, that all other voters use in the paper -- in the polling place.

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

Thank you very much.

MODERATOR LAPSLEY: Thank you for your comments.

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

MR. McCLURE: No, thank you.

MODERATOR LAPSLEY: It is now about 10 to 1:00. Let's come back at 1:45, and we will start the hearing on Sequoia.

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

Thank you.

(Thereupon a recess was taken in proceedings.)

MODERATOR LAPSLEY: Okay. All right. It's about
Let's go ahead and get started.

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

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

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

It features the following components:

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

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

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

The memory cartridges for the operating systems is
also known for their Edge touch screen DREs.

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

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

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

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

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

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

The next component is the Optech 400-C with WinETP firmware version 1.12.4. The Optech 400-C is a high speed ballot scanner and tabulator for the Sequoia mark-sense
optical ballots. It will read ballots at the rate of approximately 400 ballots a minute. Obviously, it's designed to be used for central tabulation jurisdictions to count their absentee ballots.

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

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

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

Both of these are, again, precinct optical-scan ballot tabulators. The difference, the Insight Plus adds an LCD -- primary difference is it adds an LCD display to exhibit messages to the voter or the user to what's going on with their ballot. Both devices provide -- in compliance with HAVA, provide warning of over-votes and can optionally be programmed to provide warning of under-votes.
As noted before, they are configured with the memory cartridges out of WinEDS. At the conclusion of the election, they are used to export the vote results back into the WinEDS Election Management System.

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

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

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

The next two components are the AVC Edge, both Model 1 and Model 2. Model 1 was the original version of the Edge. It is used in some jurisdictions in California. Model 2 is the newer replacement that's being designed.
Both of those are operating in firmware version 5.0.24. These are touch screen voting, DRE voting devices. The voter selects their vote choices by actually touching those on the screen. At the end, as with traditional, the voter is presented with a summary of their ballot that they can confirm or go back and change their vote as they feel they need to.

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

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

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

With the audio box device attached to the Edge, it provides accessibility support. Namely, a voter can vote an audio ballot with audio instructions, as we've talked
about, with the two prior systems today. It also has the
capability to display a high contrast voter -- or ballot
for voters with visual acuity issues. And it does provide
a sip and puff interface through this audio box.

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

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

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

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

The next device is the Card Activator, version
5.0.21. That's a small, portable device that's used to
program the memory cards for an active voter. The voter uses it to activate the Edge.

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

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

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

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

The final device or the final component of this system is the HAAT, H-A-A-T, Model 50. We're being asked to certify firmware version 1.0.69L. This is also a small
portable device that's used to program those same memory cards. It's an alternative device to the smart cards that voters would use to activate the Edge to cast their ballot.

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

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

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

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

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

The Wyle reports for the Insight and the Insight Plus were dated January 10th, 2006.
Again, these are all in draft form at this point. The report for the MPR, for programming the memory card, the memory modules, that draft report was dated May 10th, 2005.

And then finally SysTest Labs actually did the testing of the HAAT, the H-A-A-T device, the alternative for programming the voter activation cards. That draft report is in hand, dated January 25th, 2006.

And again, all these devices have been tested as compliant with the 2002 voting system standards. Prior to certification, the Secretary of State would need to have copies of the final reports of each of those components.

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

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

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

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

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

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

Significant findings from testing the Sequoia system. First of all, the Edge units were built for supporting dual printer modes, one printer being the VeriVote VVPAT paper audit record, but they were also promoted as being able to attach a second auxiliary report to alternatively print the poll tapes or the results from it at the end of the evening. When we went to test that, we could not get it functioning and consequently, the vendor has withdrawn that functionality from the
When we started our testing, initially, we found both the Edge 1 units were out of calibration at the beginning of the test that we conducted. We re-calibrated the units and were able to complete the test successfully, without any further problems with calibration on those units.

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

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

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

Finally, during the testing, we had -- of the primary test elections -- we used the same set of test
ballots of both Insights, the 400-C, and then finally on
the Eagle.

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

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

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

Under California law, political parties can
optionally decide that not only do -- are their registered
party members allowed to vote in their primary election,
but party -- voters who are not registered to a political
party can be -- a party can optionally elect to let those
people vote in their primary as well.
The condition that's been outstanding on the Sequoia system was its inability to do that and separately break out those vote results.

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

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

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

At the end of their ballot, reasonably enough, when they would finalize their ballot, since they wouldn't be able to read the VeriVote, itself, it scrolls up very
quickly, past the viewing window, and then scrolls up on
the wall the way the others do, on the voter verified
paper audit trail.

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

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

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

Finally -- as with the Hart system that we talked
about earlier -- with the addition of the voter verified
paper audit trail, the VeriVote, you can no longer take
the small lightweight tablet out of the voting booth and
carry it out for curbside voting. To support curbside
voting, the whole polling booth, with the paper audit
trail has to be carried outside to the voter.

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

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

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

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

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

To supply, just logistically, a hundred people
voting 110 ballots, the vendor did come in and
preprogrammed all those voter activation cards and tried
very carefully to arrange them all in stacks at just the
right order to match their ballots. And not surprisingly,
we had a lot of memory cards that just got sorted in the
wrong order.

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

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

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

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

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

In the first case -- both of those were handled
very gracefully by the system.
In the first case, it stated very clearly that the vote has been cast and it had been printed on the paper audit trail and the system just advised that it couldn't post that to the voter activation card, that that card had been voted, which would require a poll worker to come and clear the card manually so someone couldn't turn around and vote that card again.

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

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

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

Of the two remaining errors, we had the VeriVote paper trail jam, that voter verified paper audit trail,
once. Again, the system handled it very gracefully, made it very clear that it had failed to save the ballot.

We replaced the VeriVote with a swapable unit and it immediately recovered by gracefully shutting down the previous ballot and allowing the voter to recast it. Again, the actual record was verified at the conclusion of the test against the record on the voter verified paper audit trail and the integrity of both records, matched and reconciled.

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

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

Twenty-four ballot -- twenty-four of those were ballot jams. In each case, when we ran into a ballot jam
with the Insight, there was a very, very clear message,
saying what problem was with the ballot, why it had
jammed, how to correct it, and whether or not the ballot
had been cancelled. So any voter or poll worker clearly
understood what was going on.

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

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

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

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

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

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

We were able to reconcile all of those out.

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

At the conclusion of the test, as we were printing
the results tape, we had one results tape that jammed from
the little printer that gave the vote results. It just
bunched up inside the door. It was very easy to clear by
lifting the door and feeding the paper through.

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

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

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

    We were able to verify that using a standard
calibration ballot that's designed to test the accuracy of
the read heads, and as soon as we ran that through, it was
apparent that the read heads had gone out.
The Office of Voting Systems believe that underscores the importance of why it's necessary at the conclusion of every election that every optical-scan reader have a calibration test performed on it to make sure that it started the test or started the election and finished the election in calibration, accurately reading ballots. If such a machine was found to be out of calibration, it would be a simple matter to correct the machine or scan those ballots in a different tabulator to get an accurate count and verify, or perhaps, and count the ballots, themselves.

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

Ignoring the -- or excluding the Eagle, the recommendation of the Office is that the remainder of the Sequoia system be certified with the standard conditions as well as use procedures that address all the points that were found in testing as well as identified in the staff
MODERATOR LAPSLEY: Thank you, Bruce.

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

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

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

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

MODERATOR LAPSLEY: And can you identify yourself?

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

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

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

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

MR. TERWILLIGER: Looks like I get to handle that
My name is Paul Terwilliger, T-E-R-W-I-L-L-I-G-E-R.

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

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

MR. TERWILLIGER: That's correct.

INFORMATION TECHNOLOGY CHIEF KERCHER: Thank you.

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

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

Please come up to the podium.

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

I am a former senior consultant with the General PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345
Equipment Corporation and have been a programmer for over 20 years.

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

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

The first part of the information that I got is now posted at http://docs.votetrustusa.org -- I will pass the address on -- org/sequoia/tx/how 2/.

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

And he was able to connect to the database. The database contains all of the information or almost all of
it that is our votes, our registration, and whatever else
is being contained there.

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

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

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

This is not a mission critical system.

Now, section 6.4.1.E of the federal guidelines
says, "After initiation of Election Day testing, no source
code or compilers or assemblers shall be resident or
accessible."
We have BASIC source code on that system. We have SQL source code that I've also seen resident on that system, and I'm assuming that that is after initiation of Election Day testing.

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

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

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

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

And I'm saying, did the ITA ever look at the BASIC code? Has that been inspected? This is one of these
questions that I have to ask you. And I would love to get feedback from the Secretary of States office, showing us that, yes, indeed it was inspected. And if it hasn't been, I think it needs to be sent back up, and maybe also have the California professors check it.

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

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

I want to explain one thing -- excuse me.

To make it clear, I asked the office of the Secretary of State, sent an e-mail last October, asking them, how do we know that the code has been inspected and tested, the code that's on the machine? When the
vendor -- and this applies to all of them -- delivers the
machine, how do we know that that code that's been going
through this entire process is the code on the machine?
The answer was, "We're working on it."

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

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

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

Now, sometimes something nice happens and you get
a little Easter egg, but, potentially, you could do the
same thing on a voting machine where we don't know what's
in the machine, in terms of the code. That means that you
can go through all of the ITA testing you want. You can
go through all the parallel monitoring you want. You can
go through all the logic and accuracy testing, and if
somebody doesn't activate that Easter egg, you're not
going to see it until the people who are working on this
decide to activate it on Election Day, and then it will
work and probably erase itself afterwards, so it probably
doesn't leave a trace. This is a serious problem.

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

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

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

They should not be governing our votes in secrecy.

None of them, especially the Easter bunny.
If you remember what I said about the Easter egg, the Easter bunny is very good at putting those little Easter eggs around. If he starts to work with some of these other guys, we got a problem.

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

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

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

Thank you very much.

(Applause.)

MODERATOR LAPSLEY: Thank you for your comments.

Judith Alter. And Judith had a handout that I'm going to hand out to you. She wanted to make copies available to you.

MS. ALTER: Can I wait until they're handed out?

MODERATOR LAPSLEY: Yes.

MS. ALTER: I'm Judith Alter, emerita professor. I'm testifying against the certification of two Sequoia
Optech scanners, the 400 and the Insight. These count hand-marked ballots.

As part of recount New Mexico, I studied election data from the 86 precincts in Santa Fe County that use these scanners in absentee and early voting. I found a vote diminishing pattern that masked under-votes.

Your handout shows an early voting tape from the Optech Insight scanner. One voter voted Green Straight Party. In the section below, the expected vote for Cobb/Lamarche is a zero.

The other side of the handout shows two Green Party votes that got a zero and one Libertarian vote that registered. This is counted on the 400 scanners.

In all of Santa Fe County absentee reports, I found 56 minor party single votes in the straight party ballot section that did not register as votes for president, nor as under vote, though 22 did.

In early voting results, 25 straight minor party votes for president did not register, nor get counted as under-votes, while 17 did.

Former voting machine examiner, Associate Professor Douglas Jones, University of Iowa, suggested the possibility of Sequoia programs that shift votes from minor to major party candidates. Sequoia contracts, he said, require that the scanner memory packs get programmed...
at company headquarters, not in the counties where they are used. The New Mexico evidence reflects reports from other states that use these two -- Sequoia Optech scanners.

Problems include assigning votes to wrong candidates, failing to read large numbers of votes, not recognizing images made by jell ink and not accurately counting the total number of ballots cast.

Because of this evidence, I urge in Secretary of State and this committee not to certify these scanners for use in California.

(Applause.)

MODERATOR LAPSLEY: Thank you for your comments.

Next we have Stephanie Ruseigno.

MS. RUSEIGNO: Hi. I'm Stephanie Ruseigno, and I hail from the metropolis of Sutter County.

First, I wanted to say something that I can solve, and that's the three-year-old counting problem. It's called Dora the Explorer and grandma. We can do anything.

MODERATOR LAPSLEY: I'll send her to your house.

MS. RUSEIGNO: She can play with my granddaughter.

I've been -- I was an election inspector and prior to that, a poll worker, and when you do it for many years and you live in the neighborhood, you know your neighbors. Everyone knew everybody. You go in there and you vote, so
it makes it easier. You can anticipate everybody's
problems, from the blind -- from this one blind priest to
people that don't speak English to anyone with a
disability. No problem.

After people from Florida proved that there might
have been a problem, we were able to show to the public,
people who came -- or for regular citizens who wanted to
see, hey, here's a box, unsealed. We seal it. At the end
you can watch it. And people enjoy watching the process.

Got lots of comments, hey, that's great, we didn't know.

Our county had it covered. You had a ballot. You
voted. It was counted. We went through it. We counted,
sometimes going past midnight because we were one ballot
off. Aside from our migraine headaches, it worked and
there is another component, and it was the toddlers,
preschoolers, and the young children. We had little
marker votes for them, too, those that could read. They
loved it.

Now, how are you going to do that electronic votes
with kids? How is a parent going to explain to the kid
how to vote when they don't even have confidence,
themselves? So you're disenfranchising the young people.

I speak to that for someone who's been doing it
for over 20 years. That's going to be a problem.

But then maybe it's just in my county -- in my
town that everybody believes in citizenship.

I don't know how else to comment what that guy said. It scared the heck out of me about the Easter bunny and all that.

MODERATOR LAPSLEY: Can you wrap up really quickly?

MS. RUSEIGNO: We're going to have a test case in Sutter County. We're having a recall. No matter what side you're on, nobody's going to trust the system. Is it a Pandora's box, or is it a ballot box?

And a recall is serious, and we've got, like, a civil war and this is just going to add fire to the fuel.

MODERATOR LAPSLEY: Thank you for your comments.

Next we have Megan Matson.

MS. MATSON: Hi. I'm Megan Matson, Mainstreet Moms.

I just wanted to call people's attention to the amassed evidence in the New Mexico litigation against the use of the Sequoia machines.

There was a year-long case pursued there, and it was successful in achieving a temporary restraining order based on hard evidence collected under oath from vendors, election officials, and others, and produced evidence of lost votes, flipped votes, and everything else that contributes to the chaos and loss of confidence on
Election Day.

It caused a 180-degree for Governor Bill Richardson and he came out with a statement supporting the use of paper ballot optiscans, as they provide a auditable paper trial in the end.

I feel that California is a state that leads, and I have been proud of this Secretary of State's office for leading on some of the most rigorous testing, and I know that hasn't been easy.

I feel that the decision to certify a Diebold and, if it goes forward, the decision to certify touch screen DREs that have been proven to have end-to-end security problems, is a failure of leadership with California. And I think that at that point we start being a follower, and we're following Maryland and we're following Georgia and we're following North Carolina. And we're following Ohio and Florida toward chaos and real lasting damage to voter confidence, if we go with touch screen DREs and machines that have proven again and again not to provide adequate accessibility, as proven in the New Mexico case against Sequoia and to provide inadequate security for the American voter.

Thank you.

MODERATOR LAPSLEY: Thank you for your comments.

Next we have Sharon Graham.
MS. GRAHAM: I'm Sharon Graham from South Sacramento, just here for me.

This also seems very complicated, but it's not.

It's simple.

It's about the privatization of our election comments, to transfer public money to private companies, and it will be about as secure as the privatization of our ports.

The purpose is to guarantee the outcome and to consolidate corporate dictatorship. It's already here.

This will just consolidate it.

I weep for the death of our democracy.

(Applause.)

MODERATOR LAPSLEY: Thank you for your comments.

Next we have Ann Blake. After Ann we have Mr. Ashby. And after Mr. Ashby we'll have Ms. Roberts, Linda Roberts.

MS. BLAKE: My name is Anne Blake. I'm from Chico, California, and a Bill of Rights Defense Committee, which is a group there.

And this is relevant to the Canadian crooks, the Malaysian gamblers, and the Easter bunny.

Back to -- maybe you've heard of it -- the international construction company closely tied to the U.S. oil industry has been awarded umbrella contracts to
rebuild the World Trade Center after 9/11; Iraq, after the invasion of 2003; and New Orleans, after Katrina.

Bechtel has close ties to Halliburton, which has been robbing American taxpayers in Iraq, and to Enron, which robbed taxpayers in California. Bechtel also has ties to the CIA, private mercenary armies that call the shots in the Middle East, and private mercenary armies.

And Bechtel -- and speaking of privatization of war -- And Bechtel has close ties to several of the election voting machine companies that are destroying the U.S. election process.

These connections should be made public, as should connections through Bechtel, the governor of California, and the president of the United States.

MODERATOR LAPSLEY: Thank you for your comments.

Next we have Mr. Ashby.

MR. ASHBY: Hello. Dan Ashby, California Election Protection Network.

Examining the Sequoia detailed list of components and carefully listening to the recitation of all the version numbers, I can't find one of them that's on the NASED chart, once again.

And another problem is that since I can't find any detailed breakdown of an actual system, I cannot see which components may or may not be 1990 certified or 2002
certified. And since I previously mentioned there's ample
evidence that systems currently operating in the state
have that mixed security testing status, and they are in
operation, post 2006, they're illegal.

Now, I would like to make a few comments about
what I know or I've heard -- that the WinEDS operating
system is derived from the windows CE operation system,
and here's a principle of secure operations for voting
systems.

The vendors chose these general operating systems
for convenience and then adapted them to voting, but what
they have imbedded in them is the potential to call all
kinds of subroutines. For example, DLL files or dynamic
link libraries.

And this is -- every time that you have such a
potential subroutine called a software program, you've got
a security breach or a potential one. And there are
literally hundreds of thousands of them in this code. And
this code is an extremely dense spaghetti code, as the
programmers would say, meaning it was either ineptly
written or written with unnecessary complications to
camouflage Easter bunnies.

I notice that the PCMCMI cards are used to
carry -- to transport the vote records from the machines
to the tabulators. Now, these are re writable forms of
memory. It makes no sense, whatever. This is such a
basic principle. If you're going to write vote data, you
do not want to have it be rewritable.

There's no purpose --

MODERATOR LAPSLEY: Mr. Ashby, your time is up.

MR. ASHBY: Time is up already?

I was just getting started.

MODERATOR LAPSLEY: Thank you for your comments.

Next we have Linda Roberts.

After Linda Roberts we have Sandra Yolles and John

Tuteur.

MS. ROBERTS: I'm Linda Roberts.

I actually only had a couple of comments, but now
I have a question.

Now, when I was in programming class I was taught
that spaghetti programming is where you just write
statements and there's no particular order and you can't
tell by reading it what's connected to something else.

And I was told you were supposed to use structured
programming, which means there's modules and they are
clearly written so you know which module does. So now my
questions is, Are any of these written that way? Or are
they really written in spaghetti language, which means
they are impossible to debug and it's almost impossible to
tell what's going to happen. So I hope that's not the
case.

My two objections to the Sequoia systems are is that I heard that the owner got arrested for corruption and bribery. This makes me not very comfortable.

But the hackableness of Sequoia is just legendary.

You know, so you wouldn't have any reliability that it was secure.

The other little technical thing is, when I got handed my agenda, I'm having to read it to Warren, here. You know, maybe you should supply agendas that people can actually utilize who are blind.

MODERATOR LAPSLEY: Thank you for your comment.

Next we have Sandra. Okay. If not, we'll go to the next speaker.

After Sandra is John Tuteur.

MR. TUTEUR: Members of the panel, thank you for conducting the public hearing on the certification of the Sequoia system, which Napa County has used successfully since March 2002.

My job, as Registrar of Voters, is to make sure that every eligible voter registers, and that every registered voter votes, if possible, and that every vote counts.

I wanted to just relate a couple of the issues that have happened in Napa County.
We tested the electronic voting system DREs in Napa County with 1700 voters, in live, early voting. They ranged in age from 18 on Election Day to 97 years old. We had unanimous support for our board of supervisors adopting touch screen voting.

We've had 90,000 votes cast on our electronic touch screen machines since March of 2002. We've had parallel monitoring, which found no errors, anywhere in California, with Sequoia systems. And we had 23,000 people vote in the November special election on our touch screen machines.

In contrast to that, we also used Sequoia Optech mark-sense ballots and a 400-C. We have had problems, nothing that we couldn't overcome, but paper ballots have been a problem, and they continue to be a problem.

We had 16,000 people vote absentee on paper in November 2005, and we had to duplicate 2300 of those ballots because the voters did not follow the instructions that are clearly printed on the ballot. And they either failed to mark the ballot the way it should be marked or circle the name or put in "X." We got it done. We got the ballots counted in a timely manner, but it's clear to me, representing the constituents of Napa County, especially those who vote, that there is great support for electronic touch screen voting and that those people who
vote on paper, I need to do a better job in educating them.

Thank you very much.

MODERATOR LAPSLEY: Thank you for your comments.

Next we have Mr. Egger.

Was my pronunciation correct on the third time?

MR. EGGER: You were right the first time.

MODERATOR LAPSLEY: Was I?

MR. EGGER: Thank you. Frank Egger from Fairfax again.

We voters right here in California watched Florida in 2000 and Ohio in 2004. We pat ourselves on the back and said, "That could never happen in California."

Well, it can, and it did in November 2005.

And I'm here to testify as a victim of Diebold systems. It's the counting.

The Fairfax election was decided by a Diebold central tabulator accuvote optical scanner with firmware 2.0.12, known for its security flaws. On Election Day November 8th, 59 percent of the Fairfax voters -- that's 2,149 of them -- voted at the polling places, and their votes were tabulated by a different Diebold scanner, different firmware. They reelected me.

Forty-one percent of the total votes were absentee votes by mail, but Marin's central Diebold tabulator
placed me in almost dead last, out of seven candidates.

We asked for a recount.

Marin County's registrar of voters uses the pay-to-play system. If a recount is requested for small election, approximately 3700 voters --

MODERATOR LAPSLEY: Does this tie into the Sequoia system?

MR. EGGER: It's going to go right to the Sequoia system.

The registrar of voters advised me four days before the statutory time elapsed, to trigger a recount I would have to pay $13,000, first to sort the ballots because Fairfax's were mixed in countywide.

Four days was insufficient time to raise 13,000, plus the 1500 to 2500 of the actual recount. We're only talking about 1540 absentee vote-by-mail ballots to be sorted.

I haven't even touched on the lost absentees delivered after the election and the 485 ballots that finally arrived in Civic Center. These are some of the unopened ballots that were part of the testimony at a Marin County Board of Supervisors meeting, just recently.

Nothing I have heard today gives me any more confidence in Sequoia than Diebold.

These systems need to be tested right here in
Sacramento at the Secretary of State's office, not the vendor's home office.

(Appause.)

MODERATOR LAPSLEY: Thank you for your comments.

Next we have Mr. Kysor, Dan Kysor. After Mr. Kysor we have Judy Bertelsen. And then we have Ms. Phoebe Anne Sorgen.

THE PUBLIC: Excuse me. Mr. Kysor left.

MODERATOR LAPSLEY: Okay. Then we'll go right on to Ms. Bertelson.

MS. BERTELSON: I'm Judy Bertelsen. I'm the co-chair of the Voting Rights Task Force of the Wellstone Democratic Renewal Club.

I will just comment on a couple of points about the technology that is used in this -- by this vendor as well as others.

The continuous roll thermal printer has serious problems, such as -- well, including not keeping private the order of the votes. It's obvious who the first voter was, and so that person's privacy is violated.

But also, there's a big problem with the continuous roll paper in trying to figure out how you would actually do a recount.

The previous speaker raises the problem that we have noticed in past recent elections that there -- where
there is a voter verified paper audit trail, often no one
is willing to go down it, with it, because they are told
you must cross our palms with thousands or even sometimes
a million dollars in order to begin even counting.

And so the verified -- the voter verified paper
audit trail is essentially useless.

Our secretary of state urged our governor to veto
legislation recently that would require this technology to
be used in hand counts -- recommended the veto because the
technology that's available is not suited for this use.

Fortunately, the governor did sign the legislation
and it is the law, but this kind of technology shouldn't
be approved. It's not useful. It hasn't been shown by
the makers, and it hasn't been tested by the testers to
see if it actually can do -- can be used in a recount, and
so I think that needs to be considered.

MODERATOR LAPSLEY: Thank you for your comments.

Next we have Ms. Sorgen. After Ms. Sorgen we will
have Ana Acton. After Ana will be Lynn Hamilton.

MS. SORGEN: Hello.

I hope that many of you have read the Associated
Press article of February 23rd, titled "Watchdog Group
Questions 2004 Florida Vote."

Of course, we heard a lot about Ohio and it was
the Florida of 2004. And so Florida -- it turns out in
Florida there were also many problems in 2004 as well as 2000.

So in Palm Beach County electronic voting machine records from the 2004 election found tens of thousands of malfunctions and errors.

There were cards -- 70,000 instances, in this one county, of cards getting stuck in the ATM-like machines. The computer logged about 100,000 errors, including memory failures. Hard drives crashed on some of the machines made by Oakland, California-based Sequoia Voting Systems.

And it's anybody's -- This report said it's anybody's guess who actually won the presidential race. There's no way to tell who the votes should have gone to.

So about California, none of the voting systems under review at today's hearing have received federal testing qualification numbers that are required by the State Election Code and the Secretary of State's own published procedures.

It's illegal to tell the public that these systems are federally qualified and proceed to test certified contract whereby -- or deploy them when they are not.

Selling counties, like Alameda, software and systems that were not federally qualified is the main thing that got Diebold de-certified by Shelley and cost them $23.6 million in fines.
The Secretary of State and the counties are enjoined by the Elections Code from doing any of that until the NASED number is assigned.

Before examination of this item is to begin, this is actually from the SOS Web site that I'm quoting now.

Before it's to begin --

MODERATOR LAPSLEY: Can you wrap up, please?

MS. SORGEN: Oh, time's up.

Well, hopefully you all know about those procedures that are on the SOS Web site that are not being followed.

MODERATOR LAPSLEY: Next we have Ana Acton.

I don't see Ana here.

Next is Lynn Hamilton.

MS. HAMILTON: Hi. I'm Lynn Hamilton. I'm with the former mayor of the City of Sebastopol. I live in Occidental, California, which is up in Sonoma County.

I'm very glad that you are holding these hearings today, and I want to thank you very much for allowing the public to come and speak about this important issue.

I think my biggest concern is the reliability of those voting machines and the cost of these voting machines, and one of the things that I wanted to say is, I was a participant in the election in Nevada, in November in 2005, and the Sequoia systems did break down in the
precincts where I worked -- in the voting places where I worked.

And they had to be replaced, and the problem was that those locations were quite far away from where the machines were kept. People were in lines for a long time, maybe for hours, where we actually had to buy water and fruit and bring it to them to try to keep them there so that they would vote. This is really an important thing to think about.

When you said, Mr. McDannold, that well, the machines broke down so they had to replace the machine -- you said that one point in your discussion on the Sequoia machine -- but when you're talking about replacing the machines, often, you know, you can't even get the machines to the precincts. Two of them, actually, broke down in the precinct where I was working. So it was really difficult. People couldn't even vote.

But more than anything, I am very concerned about the integrity of democracy. I worked overseas in democracy programs. The United States of America is the primary premier democracy of the world. Everyone looks at us, and they think, around the world, that we are really breaking our democracy.

And you're privatizing the vote. You're looking at systems that cannot be verified.
You very clearly stated that the companies are still working on trying to fix the flaws. They have not fixed them. You cannot certify these machines. You must not certify these machines.

We can do a very simple system. California can be a premier system. The entire world can look at us.

We will have a low-tech system that can be exported around the world. It is very important that you have paper ballots and hand count the votes and they're verifiable.

Please do not certify these.

Thank you.

(Appause.)

MODERATOR LAPSLEY: Thank you.

Next we have Jerry Berkman. After Mr. Berkman we have Robert Bowman.

MR. BERKMAN: Hi. I'm Jerry Berkman from Berkeley, again.

You and the vendor have recommended printing the zero tapes and the results from the VeriVote.

THE REPORTER: You'll have to slow down.

MR. BERKMAN: Can I have more time then?

MODERATOR LAPSLEY: You'll have to speak slower and clearer so she can hear.

MR. BERKMAN: Do I get more time then?
MODERATOR LAPSLEY: We'll start right now. Ready, set, go.

MR. BERKMAN: You and the vendor have recommended printing the zero tape and results of the VeriVote. How will you isolate the zero tape and post the results outside the poll, as required by EC 19370 and 19384? Will the poll workers open the VeriVote and tear off the zero tape from the AVVPAT and the results? This is bad.

You recommended calibrating each Edge at opening of the polls. This would seem unsafe about a logic and accuracy test, and would require more poll worker training.

The audio unit is used by blind, limited vision, limited ability to read, and sip and puff use voters. They are not allowed to verify the paper trail on the Edge, violating 19251.

There are lots of errors, 20 bad VATs, four of a hundred Edges need calibration, etc. There's just too many. You shouldn't certify it.

As with the Hart TSX iVotronic there's no read back for blind, as required by 19251. The AVVPAT compromises security, and reel-to-reel is not suitable for early voting.

Please, if you certify it, at least say it can't be used for early voting, because you got all these
different precincts on one reel, and to do an audit of one
precinct is ridiculous. You just can't do.

Section 2.2.3 of the California AVVPAT standards
says, "The same standards shall apply to paper records
copies as for paper ballots." So the AVVPAT must follow
the specifications in Chapter 3 of division 13 of the
Elections Code with respect to font, type size, water
marks, quality of paper, stubs, etc.

The DRE AVVPATs do not.

Secretary McPherson wrote in the San Jose Mercury
News, "The AVVPATs are not printed on ballot-quality
paper, and the Secretary of State standards says they have
to follow those rules."

So how can you certify?

For those that want a lighter touch and for your
three-year-olds and so on, here's a book, Duck for
President, which is very good.

MODERATOR LAPSLEY: Thank you. Next is Mr.

Bowman.

MR. BOWMAN: Thank you for holding the hearing.

It's been a long day.

I don't have a lot to say about Sequoia. I have
some of the same data about the 2004 election in Florida.

Evidently, what was not mentioned is that there
were 1475 re-calibrations performed on Election Day, on
more than 4300 units. These were Sequoia units. 
So this is definitely going to slow down the 
process. Now, maybe those bugs have been worked out. 
Sounds like a lot of them have. 
I have a couple of questions, though. 
Is Sequoia or Diebold or any of these ready to 
handle instant recount voting in the Bay Area? Are they 
equipped to do that? Because that is mandated in San 
Francisco. Does anyone know? 
MODERATOR LAPSLEY: I'm sure after all the 
questions are asked -- 
MR. BOWMAN: Would someone answer that? 
And also one of the early complaints from your 
office about Diebold was that they use thermal paper, that 
if the machine got too hot, the paper trail would 
evaporate. And you mentioned that there was -- you use 
thermal paper in the Sequoia machines. Is it the same 
type or is it vulnerable to the same problem? 
So those are just a couple of things to consider. 
I would hope that if you do some testing, this 
time, that you will include people from the outside, 
people who have a concern. Because I think the perception 
is that this is happening between -- behind closed doors, 
and I sense that you guys are working really hard to do 
this thing right. And if you would include some of the
these people who have these concerns along with your --
and people who have expertise along with the experts that
you use, you will restore credibility into the system.

Thank you.

MODERATOR LAPSLEY: Thank you for your comments.

Next we have Mary Beth Brangan.

MS. BRANGAN: I wanted to -- The same stream of
logic is going through all of our minds about the issue of
answering one set of complex problems by adding another
layer of complexity, which adds another set of complex
problems to which you then add another layer of
complexity, solving those problems.

When you have machines that have to be
re-calibrated, rebooted, with the average age of the poll
worker, right now, being 72, it's just clear that this is
not a reliable system.

And I have great compassion for those folks who
are putting together our electoral system, that it's very
demanding, very complex.

But I think that the answer to a lot of these
problems is to get more simple, rather than more complex.
There is a wonderful book by Joseph Tainter called, The
Collapse of Complex Societies.

And in it, he illustrates that principle, that
layer of complexity after layer of complexity is added
until the whole society collapses under the weight of
unsustainable costs.

Thank you.

(Appplause.)

MODERATOR LAPSLEY: Thank you for your comments.

Next we have Ferris Gluck. And after Ms. Gluck we
have Chaim. And then after Chaim we have Mr. Cushman.

MS. GLUCK: I pass.

MODERATOR LAPSLEY: No?

Okay.

Mr. Finkelman.

MR. FINKELMAN: Howdy. So I have some questions.

One is, Do we test in our testing procedure for
votes that are outside of the election period, as have
shown up in Palm Beach County with Sequoia systems?

Do the smart card rejection error, which showed up
in Palm Beach County, with Sequoia systems, lead to votes
not being counted?

We use -- Sequoia systems apparently uses similar
memory cards to Diebold. Are they susceptible to the
Hirsty hack? Same question for the PCMCIA cards, also.

Do those have interpretive code and/or DXEs that could be
used to change the vote?

One of the errors you talked about printed to the
voter verified roll, but did not register. Does that mean
that the voter verified roll is then off by one vote? And
that would show up if the voter went to the poll worker
and said, "My vote didn't work," but if a voter just
walked up to the table, turned in their card, and walked
away, disgruntled, would we no longer be able to run a
recount?

Oh, and of course, roll-to-roll, not a good idea.

MODERATOR LAPSLEY: Thank you for your comments.

Next is Mr. Cushman.

MR. CUSHMAN: Good afternoon, panelists.

First of all, I want to make it very clear to
everyone in the room, anything that uses pen and paper is
not going to work for me.

I know there's been a lot of talk about security,
but we do need to realize that I stand here on behalf of
my civil rights. And if we ever went back to pen and
paper, where I had to trust another person to vote for me,
that just doesn't work.

So we need to find a solution that works for all.

One thing I would like to say about this is that I
am hearing that the sip and puff interface doesn't work
with the blind interface. That also doesn't work.

We need to find a system that works for all people
with disabilities, and it seems to me that further testing
needs to be done with this particular machine so that all
people with disabilities can use this machine. I would
also like to say that we are the table, we as in people
with disabilities, are at the table and will continue to
be at the table.

And we do want to remind all vendors to approach
us and to work with us, so that we can solve these
problems.

Thank you.

(Appause.)

MODERATOR LAPSLEY: Next we have Kenji Yamada.
And After Kenji Yamada, we have Phil Harlan.

MR. YAMADA: Do I have to give my name again?

MODERATOR LAPSLEY: No. We have it here on the
card.

MR. YAMADA: As a young voter, I'm just in the
process of learning whether my vote really counts and to
what extent, if it all.

I'm very disenchanted and a little disillusioned
that my government is permitting or considering permitting
a proprietary interest in any part of the election
process.

It seems clear to me that our right as voters, to
participate in our government depends not only on casting
our votes freely, but just as much in our ability to
inspect every part of the election process.
I sincerely hope that the Secretary of State and his staff will safeguard the public right of inspection against by claim to the contrary by commerce. And last, I kind of wonder why these vendors feel a need to keep the proprietary code or anything else a secret, from their customer, which is us, the public. If they don't trust us, then why should we trust them?

(Applause.)

MODERATOR LAPSLEY: Next we have Mr. Harlan.

Mr. Harlan has left.

Next up is Jennifer Kidder.

MS. KIDDER: Hello. I wanted to thank you for noticing that something that is not easy enough for voters to always get it right is something that should not be certified. But I do keep hearing the word "human error" to describe the calibration or marking systems or organization that a computer voting machine requires.

That's not human error. Whatever lends itself to error is the problem, not the few human beings you allow to remain involved.

If the test voters just behave like normal people and the machines can't handle it, it's the machines, not the people, that have to go.

And referring to ES&S from before, I did want to bring to your attention that paper ballots are doughnut
proof.

So I would like some kind of a voting system that is transparent and understandable to all using it and is capable of dealing with real people who do what real people do, when they are counting votes and when they are voting and putting things in upside down. So what? Everybody does something like that, and if your mechanism can't handle it, then the mechanism is too week to deal with real people.

And I also hate to bring this up, again, as I have been here months before and had to say basically the same thing. But I am a disabled person, myself. I have dyslexia. Computers are very difficult for me, and for me, paper is easier. And I'm not saying that I'm comparable to someone who -- for whom paper and pen is absolutely not workable.

I understand what it means for something to be totally not workable to you, and people don't understand that who can use that system.

But I do want to ask, if you're not willing to trust another human being that you know, whom are you willing to trust?

MODERATOR LAPSLEY: Thank you.

MS. KIDDER: The fact that the computer programmers and vote machine corporations are separated
from us by barriers of experience, by an illusion --

MODERATOR LAPSLEY: Can you wrap up, please?

MS. KIDDER: Yes, I am wrapping up.

By an illusion of your experience, does not mean they are not there and doesn't mean that they are trustable and that you know what they are doing and that they are doing what you have -- what you want them to do.

That voting machine shows you one thing. You don't know what it's doing on the inside.

(Applause.)

MODERATOR LAPSLEY: Great. Thank you for your comments.

Next we have Barbara Dunmore.

MS. DUNMORE: Good afternoon. I'm Barbara Dunmore, registrar of voters for Riverside County.

I believe that we're the county in California who has been using electronic voting the longest. We began using electronic voting in November of 2000.

Since that time we've conducted 35 successful elections using Sequoia Edge machines. We've participated in the last two parallel monitoring exercises on Election Day and which show that there were no errors and that our machines recorded with a 100 percent accuracy.

I wanted to tell you a little bit about our Tally system -- our Tally system, which runs when EDS is located
in a glass-walled server room. And it's totally isolated within that ballot counting room, as we call it. There are no outside connections to the Internet, to the intranet. Only electricity comes into that Tally server.

And the reason that I bring this up is your first speaker, Mr. Terwilliger, who mentioned his resource was Jeremiah Aiken in Riverside who had gotten into a database and played around.

And I just wanted to be on the record that that was not Riverside County. Our database is isolated.

I asked Mr. Terwilliger who -- which database was Jeremiah Aiken in, and he said he didn't know the jurisdiction of the database.

And I would just like to say that it would be nice if the original source of these allegations were present here so we could ask those questions.

In Riverside County, we have two voting systems. We have our paper absentee system, and we have our electronic voting units that we use in the polling place.

When our voters go to the polling place, they expect to vote electronically, and this is demonstrated by the November 2004 elections, where less than 1 percent of the voters asked for paper at the polls, which was about 3,000 voters. And in November 2005, less than 300 voters asked for paper at the polls.
And those are my comments. Thank you.

MODERATOR LAPSLEY: Thank you for your comments.

Next we have Francie Lane. And after Francie will be Philip Chantri. And after that will be Gordon Wright.

MS. LANE: My name is Francie Lane.

And I just have a few short comments.

I'm very concerned about this public hearing and short-circuiting the certification process. I had a lot of faith in what I thought Secretary McPherson was doing, in December, when I read about him sending Diebold back for federal retesting of their source code, etc.

And I'm really disappointed in the outcome of that.

And also I found it interesting that the Napa County clerk described the process that he is using, as Sequoia, and the education that he has to give his voters in Napa County using the absentee ballots.

I read quite a bit on the New Mexico lawsuit that was pending and some of the analysis of the votes, and I was very concerned.

One precinct showed that 100 voters came into a Hispanic precinct to vote, and there were 90 of those voters who failed to vote for the president. I mean, that just doesn't make any sense at all. But it takes getting into an analysis of an actual result.
I think that Sequoia is really into under-voting, as shown in the New Mexico results that I looked at. And also, if you take a look at the paper ballot that they mandate every county use for absentee voting, it's very deceptive.

It creates a situation where your eye is diverted away from the marking area.

MODERATOR LAPSLEY: Thank you. Time's up.

MS. LANE: Thank you.

MODERATOR LAPSLEY: Thank you for your comments.

MS. DUNMORE: Madam moderator, may I make a correction for the record? I quoted the wrong name. When I referenced the speaker who referenced Jeremiah Aiken, his name was Jim Soper, not Paul Terwilliger.

MODERATOR LAPSLEY: Thank you.

MS. DUNMORE: Sorry. Thank you for the time.

MR. CHANTRI: Thank you for allowing me to speak today.

Philip Chantri, the elections services coordinator for Santa Clara County.

I am not used to speaking in front of large groups. I consider myself to be a very proud election administer. I look a lot older because I'm balding, probably because of elections.

But I went into elections at a very young age.
because I believed in the process, and I still do believe in the process. I am very proud of what I do.

Let me tell you a little bit about what entails being the election services coordinator. Under that, I am the chair of Santa Clara AVVPAT Committee. I'm the training manager. I'm a member of the Voter Accessibility Advisory Committee. I'm the campus manager. And I'm a member of the DRE Oversight Committee of which many of you will know Professor David Dill. He's also a member of our DRE Oversight Committee.

I'm also the troubleshooter on Election Day. I oversee 5500 voting machines and troubleshooting of them on Election Day.

Santa Clara County has 5500 machines, Edge 2s, eight 400-Cs, and we have sitting in our warehouse 5500 VVPAT machines.

Santa Clara County is proud. We're the first ones to ask. We signed our contract in June of 2003. Included in that contract was 5500 VVPAT -- accessible voter verified paper audit trails. And in May of 2003 we formed a pilot committee. And in June of 2003 we asked the Secretary of State for the ability to use the VVPATs.

I'm proud. I'm happy. I'm ecstatic that I can ask you today to certify this machine and that we can fulfill the promise to the voters of Santa Clara County.
that we made, that we would be ready to use the VVPAT for Spanish, Chinese, Vietnamese, Tagalog, and English.

Thank you.

MODERATOR LAPSLEY: Thank you.

Next we have Mr. Wright, Gordon Wright.

MR. WRIGHT: My name is Gordon Wright. I'm from Berkeley. I'm representing myself and the Berkeley Fellowship of Unitarian Universalists.

Most of us here, I assume, pay taxes, which go to a system which gives priority to the military and to corporations.

A company called Siac, S-I-A-C, comprised of ex-military and ex-CIA people, has had a hand in funding and facilitating most of the different electronic election systems companies.

If any of the these companies really wanted to produce consistency, reliability, certainty, and checkability, they would have done so by now, for some of the same companies that produced the ATM machines, which we know have been proven consistent, reliable, certain, and checkable.

Therefore, we have to assume that the ultimate purpose behind all of these machines is to rig the system, overrule democracy, and substitute corporate fascist rule in its place.

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Therefore -- and I really sympathize -- all of you here and most people in government are in a real conflict of interest.

Do you serve the corporate and fascist interests that are behind them? Or do we really serve the Constitution and the people of the United States who desire fairness, accuracy, and confidence in our voting system?

If it were not for the financial interest involved, it would be much easier to see that the simple method of hand counting hand-marked paper ballots -- as they do in France, and they can find out in four hours what the result is -- would be superior in all respects to the systems with bells and whistles that you have been talking about today.

I pray that some of you here can develop the insight and the strength and the courage to bring -- and love of democracy -- to bring forth and find a way to take creative, consistent, positive steps within this compromised corporate government system to fight for the people and real democracy.

Thank you.

(Appause.)

MODERATOR LAPSLEY: Thank you.

Next we have Diana Madoshi.
MS. MADOSHI: I have been sitting a while. I have a disability. I've sitting for a while. I have to get my thoughts together. I have them. So now we can begin. Okay?

I do voter registration, and I take participating in voting very serious. This is my third time that I have been up here. It's a long time to come up from Rocklin, and it gets hard on me, physically.

Going back to doing voters registration, most recently, there was a young man and I was trying to get him to vote. A lot of young people, we've been trying to get them involved. His comment for me: "We got a Diebold again."

And I also see a lot of African Americans, Hispanics, that feel very disenfranchised when they see our Secretary of State or they hear Secretary of State certifying a machine that lacks -- that has been responsible in Florida, in California -- I mean, Florida and Ohio.

California is the lead. It's been very much of a premier state.

I don't see why, just because you got money coming from the federal government, would you buy flawed equipment. You wouldn't do that with a car.

I mean, I think that in order to ensure that
everybody that can come to the table for accessibility, for security, and for those voters that have also began to feel that it's a fix, that the system doesn't work. If we want to keep our democracy, if we want to keep voters confident, and that should be a priority of everybody, of having everybody's vote count.

I was told they say your vote count. My people went through Jim Crow, my parents, and to have a system in where it's questionable if the votes count, things may be rigged, people may ignore it or accept them, you can have the system, but it's flawed, that to me is like a system, a sophisticated Jim Crow, and I know nobody wants that.

Thank you.

MODERATOR LAPSLEY: Next we have Bud McKinney.

Bud McKinney?

Carl Carter?

MR. CARTER: Good afternoon and thank you. My name is Carl Carter. I'm from Marin County. And I am with the California Election Protection Network.

And I want to thank the panel and all the people who have come here today, because I feel like we've gotten -- the state of California has gotten pushed into this process of dealing with a very complicated issue with a lot of conflicting interests.

And I'm not sure that we are going to be able to
solve it within any HAVA deadlines or any short time here.

One of the things I would like to say is that since I don't believe we're going to be able to completely cover all the hackable things that can happen with software, I think the appropriate thing to do is to set up an audit system that gives you sufficient comfort and is enough of a surprise that people can't anticipate and work around that system.

One of the things I know we have in California is a 1 percent audit requirement. I think we should look at raising that to at least 3 percent and making that a mandatory for the absentee as well as the early votes. Because I know it's not presently interpreted to include absentee ballots, which in this state, is now almost 50 percent. So you have a 1 percent audit, which is audited at one half of 1 percent, presently.

The other thing I'd like to do is suggest that we open -- we create on open source scanning system at the registrar of voter's office in the county, which is an independent open system designed by the University of California, somebody here in Silicon Valley, which would be owned by the State, would be open source, and would wind up being able to be a surprise audit on a precinct-by-precinct basis, which is picked the day of the
Lastly, I would like to say that, I think -- we know that machines that are tested in the ITAs are not tested for hackability or encrypted software, and I think that's one of the flaws. We start going down this path. People say, "Yes, this is a horse. It's a wooden horse. Yep. It has stone wheels. It happens to be outside the gates of Troy. It's a Trojan horse. But it's a great wooden horse. Let's bring it in."

(Applause.)

MODERATOR LAPSLEY: Thank you.

MR. CARTER: Thank you.

MODERATOR LAPSLEY: Next is Mr. Axelrod.


And I'm distributing an op-ed piece by the radical republican Secretary of State Mary Kiffmeyer from Minnesota, entitled "Protecting Election Integrity," in which she advocates, as a last resort, paper ballots, believe it or not.

And the reason she's doing that is because the -- I will just read one or two sentences from this op-ed piece.

She was accused of stonewalling four Minnesota counties, not supplying them with the proper election systems, not certificating their systems, and she says
four Minnesota counties were counting on Diebold to invent
a good system compatible with her existing ballot
scanners.

So it is unfortunate the company did not deliver,
and I think that we have a lot of examples of companies
not delivering exactly what we want them to do. And she
does go on to -- she does have a, what she considers, a
valid system, which is the Automark from ES&S, I believe.

But she does say that short of having the correct
system, that she would use a backup system of a paper
ballot. And certainly, finally, she ends by saying,
"Certainly, funding is a concern, but election security
and taking care of voters are far more important."

My question to this panel is, you're assuming that
these systems are going to pass some sort of federal test.
But what are your contingency plans if they do not pass
those tests, as stipulated, introduce deadlines that you
have done up. What are your contingency plans?

I hope it's something other than going with the
flood system.

MODERATOR LAPSLEY: Thank you, Mr. Axelrod.

I'm just going to go back through. We have no
other cards, but there are -- just to double check that
those that may have left the room haven't come back,
before we conclude.
Mr. Harlan. I don't see him back.
Sandra Yolles, I don't see her back either.
Dan Kysor. Mr. Kysor left.
Ana Acton also left.
And then Mr. McKinney.

Okay. That concludes the public comment period.
I would like to thank everyone for coming. I appreciate it. We all appreciate your time here. We appreciate your testimony.

MS. ALEXANDER: Sorry. I'm going to speak on this item too.

Kim Alexander with the California Voter Foundation. I will make this really quick.

First, I wanted to congratulate the Secretary of State and all the staff people here for instituting volume testing. This is a huge improvement in the certification process, as it provides much for information about how voting machines will actually perform on Election Day.

I was concerned, reading the volume test reports about the number of problems discovered with the Sequoia Edge 1 and 2 touch screen machines, that these primarily revolved around the voter activation cards.

If it was human error in setting up the tests, then we need another test.

I suggest that one of the conditions that you make
on this system is to require paper ballots in polling places in the event that there are similar machine problems on Election Day.

And I remind you that in the March 2004 primary election, the voter activation cards, as we know, are an important part of the process. And the Diebold systems in 2004 in the primary, problems with programming of the smart cards in that system caused over half of San Diego's polling places to be inoperable at some point on Election Day. And one quarter of Alameda's polling places were also impacted.

So the machines, they work well, but if some component of the entire system is not functioning properly, it can shut down the entire system.

And what saved Alameda in that election was that they had paper ballots available, so voters were not turned away in Alameda, as they were in San Diego.

So if for that reason, if you do certify the Edge 1 and Edge 2, I hope that you will, number one, have another volume test, and number two, require that paper ballots be available as a backup.

Thank you.

MODERATOR LAPSLEY: Thank you.

Again, we appreciate everyone's comments and testimony.
And thank you to all the members for being present today and taking their time.

Thank you, Michael Rowe, for videotaping this and spending your time today.

Just a reminder, the written public comment will be taken through March 8th. Please either submit those via U.S. Post, 1500 11th Street, Sacramento, California, 95814. Or via e-mail to votingsystemcomment@ss.ca.gov.

This concludes the meeting. Thank you very much.

(Thereupon the Public Hearing on Proposed Certification of Voting Systems of the Secretary of State adjourned at 3:45 p.m.)
CERTIFICATE OF REPORTER

I, KATHRYN S. KENYON, a Certified Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Public Hearing on Proposed Voting Systems of the Secretary of State was reported in shorthand by me, Kathryn S. Kenyon, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of March, 2006.

KATHRYN S. KENYON, CSR
Certified Shorthand Reporter
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