APPEARANCES

PANEL MEMBERS

Mr. Mark Kyle, Chairperson
Mr. Marc Carrel, Vice Chairperson
Ms. Caren Daniels-Meade
Mr. David Jefferson
Mr. Lee Kercher
Mr. Tony Miller
Mr. John Mott-Smith

STAFF

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

ALSO PRESENT

Ms. Kim Alexander, The California Voter Foundation
Mr. Philip Chantri, Santa Clara County
Mr. Alfie Charles, Sequoia Voting Systems
Ms. Cathy Darling, Shasta County Clerk/Registrar of Voters

PETERS SHORTHAND REPORTING CORPORATION  (916) 362-2345
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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345
CHAIRPERSON KYLE: We'll get started in 30 seconds.

Those of you who would like to have any comments, fill out the yellow card. There aren't that many people, so we'll recognize people.

We have a number of items today. We're going to get started. My name is Mark Kyle. For those of you who don't know, I'm Chair of the Voting Systems and Procedures Panel.

I'd like to welcome all of you here today. We have two main presentations for the Panel.

Just for record, I'll note that Deborah Jones, one of the Panel members is absent and will not be here today. We do have a quorum.

And I would like to proceed. So Mr. Wagaman, if you'd like to go to Agenda Item No. 1.

ELECTIONS ANALYST WAGAMAN: The first item is an application from Sequoia Voting Systems. The procedure is hardware, firmware and software consisting of WinEDS 3.0.134, the AVC Edge 4.3.320, Card Activator 4.3.320, and the VeriVote.

One note, some of the reports will reference, particularly the ones from the technical and consultant version, 4.3.307. That is the firmware version that the
state-tested. Subsequently the Feds required an additional change, which I will reference, which caused the jump from 4.3.307 to 4.3.3. -- 4.3.320. That's going to screw me up.

CHAIRPERSON KYLE: Just go slow. That's fine.

ELECTIONS ANALYST WAGAMAN: So those are the -- so that's the reason for that discrepancy if you see that anywhere.

The application consists of different components: First being WinEDS 3.0.134. That's the election management software. It's the same election management software this panel previously recommended and the Secretary previously certified about a month ago.

The second component of the application is the AVC Edge 4.3.320, but previously certified version -- it's an upgrade from the previously certified version. The changes -- the most significant change is support for the VeriVote system, which is their voter-verified paper audit trail system. It includes also additional functionalities including adding a provisional voter ID to a smart -- to the voted smart cards. Added functionalities allowing the voter to specify audio -- allowing the poll worker to specify audio voting when activating the smart card; displaying undervotes and rate changes in the way it displays...
undervotes in races in which there's a vote for more than one -- basically a vote for more than one.

Previously, if there was a vote for only one -- you voted for one out of two, it would just show that one out of two and not highlight it as an undervote. Now if you voted for only one out of two, it would still highlight that second one as a potential undervote.

An additional under functionality relates to the printing of multiple results reports where the county would go ahead and set in advance a feature to print multiple reports rather than having to tell the -- we're having to do that manually.

And also correction related to an anomaly on the internal clock. This would only affect the older hardware version numbers, so only Riverside County.

Third component is the card activator. Again, the major change there is the previous reference change allowing the poll worker to specify the audio loading when activating the smart card.

And the fourth component is the VeriVote. This is a new piece of hardware that has not been previously certified in California. It is their voter-verified paper audit trail system.

The way the VeriVote works is it mounted on the left panel adjacent to the screen -- the DRE screen. It
is then connected by cord -- a series of cords to the back of the unit. When the voter votes, they will vote as they would have previously on the DRE, making their selections. They'll view their review screen, accept their review screen as previously, except -- and this is where a change would occur -- where instead of the vote then just being cast, the printer would then print a paper record which would scroll up, be visible under Plexiglas. The voter would then be able to review that, just determine if they want to accept that ballot, either reject it -- it will then reprint again -- or accept it and then it will reel forward and be stored within that printer.

Federal testing. One change from the staff report, subsequent to the issuing of the original NASED number. There is a slight change in the number from NASED in order to keep their numbering in sequence. So the new number actually N-1-07-12-11-006 instead of 5. But it has been issued an NASED number, although we have not yet received the federal ITA reports.

However, one thing that we do believe will be contained in the ITA reports is a reference to again this being a sequential system of the reel-to-reel-based system. And staff's belief is that the federal report will basically say it's up to the states whether they want to allow for that sequential storage of votes. So that's
one issue that will be for the Panel, whether to allow
that or not.

PANEL MEMBER DANIELS-MEADE: Michael, can I
interrupt you just for a second there. Because I'm
looking at everybody's paper, and we all have the same
question, it would appear.

This paragraph that you give us says -- you know,
there's a NASED number -- and I realize you just change
the number -- "has been issued for this system, but we
don't have final reports." And then the next part of that
sentence says, "and an NASED number has not been issued."

So I --

ELECTIONS ANALYST WAGAMAN: That would be a
result of the fact that this report was completed while I
was traveling in Orange County and I received a NASED
number while I was in Orange County --

PANEL MEMBER DANIELS-MEADE: So we should remove
that second part of the sentence.

Okay. Thank you.

ELECTIONS ANALYST WAGAMAN: We should remove that
second part. The NASED number has been issued. It has
not been posted to their website yet, but it has been
issued.

PANEL MEMBER DANIELS-MEADE: Thank you.

But the federal reports have not yet been
received.

I apologize for that.

PANEL MEMBER DANIELS-MEADE: That's okay.

ELECTIONS ANALYST WAGAMAN: So, again, the sequential vote issue.

State testing, as I mentioned earlier, was actually completed on version 4.3.307, not the 4.3.320, which was the federal qualified version. The change there is the Feds required the removal of the -- on the paper record, for removal of a reference to which a machine actually produced that paper record. This is a part of addressing that sequential vote issue.

That was the only change between those two version numbers. It has -- that change was reviewed on the federal level. And staff has determined that we don't think we need to look at that, and that won't require a new round of state testing. But that is a discrepancy between the version numbers.

However, during state testing there were three points where we identified the VeriVote component of the application as potentially conflicting with the state standards.

The first is relating to the section of state standards relating to accessibility for disabled voter. Frequently the audio voters use the audio function. The
state standards basically require a hardware solution to
that issue that the data stream going to the audio has to
either come from the paper itself or has to be split off
with the data stream that's going to the printer. The
vendors use as a software solution -- it's basically the
same software is used -- that's to generate the audio
stream prior to the printing of the paper record is the
same audio stream that's use during the verification
process. So that is a potential conflict there.

Second conflict relates to the accessibility for
people using alternative languages. The state standards
require that the paper record be printed in both English
and the alternative language. That is a standard that
came from the counties out of concern about how they would
run a recount in a situation if the record was only
printed in the alternative language.

The third item is one that relates to the review
screen. As I described previously, the voter would view
the review screen, accept that. Then it would print the
paper record. But the review screen on the DRE and the
paper record would not be visible at the same time as
currently required by our state standards.

The vendor has, I will note, raised objections to
the staff's application of these standards in all three of
these cases. If you look in the public comment section,
they did submit a matrix that shows their comments on each component of the state standards and why they believe they're compliant or why they believe that standard should not be applied.

Compliance with state and federal laws. Again, the issues raised in that section are the same ones that I've raised before. Again, the sequential storage of vote on the federal level where we have to make a determination. The three issues relating to the VeriVote, none of those issues apply to the system if it's configured without the VeriVote. The 4.3.320 can be used either with or without the VeriVotes. There are two different configurations really before you today.

Additional considerations. Again, as I said, there are two different configurations, one with the voter-verified paper audit trail and one without. The one without obviously would still be bound by the requirements from the Secretary's directives and now the legislation from across the street requiring that that be put in place by 2006.

In addition, they would obviously -- as a DRE would be subject to the various conditions from the decertification orders in April.

Public comment. At the time that this report was released the staff had not received any public comment.
Subsequently, as I noted earlier, we did receive public comment from the vendor.

We also received public comment from several counties that use the Sequoia System. Those were generally advocating adopting the system, including the VeriVote. One noted -- or one of the comments, one of the counties said to accept it; and if not to accept it, then to table it to a future date rather than reject outright.

The staff recommendation. Staff recommendation is to certify all of the components with the exception of the VeriVote, so only the one configuration. The VeriVote was not recommended for certification for the reasons previously noted.

On the certification itself for the remaining three components, several of these conditions are going to be carried over from the previous certification on the previous version of the firmware that was certified.

Condition one relates to the fact we still have not received those federal ITA reports. And we're requiring those to be submitted by the middle of next week.

The second item is one again carried over from the previous certification, involving the installation of additional software utilities.

Items 3 and 4 both relate to previously
identified limitations with the previously certified
WinEDS software.

Item number 5 relates to -- it's just standard
language relating to no further changes being made to the
system without approval.

Item 6 and 7 and 8 all relate to the
decertification orders from the Secretary back in April.
The only change is, under Item 8, moving forward the date
to January rather than July reflecting new legislation.

Item No. 9 is standard language we now include
about modifications to the procedures to enhance the
security, accuracy or reliability of a system.

And Item No. 10 requires the submission of an
Election Observer Panel plan, which again the standard
language we include in any certification.

That concludes the staff report. The vendor is
present and, I'm sure, has comments as well.

CHAIRPERSON KYLE: Thank you, Michael.

I would like to allow the Panel to ask the staff
questions. Then I would like to hear from the vendor.
And I'd like to hear from any counties on this point.

Then I'd like to hear from public comments. And then I'd
like to come back to discussion with the panel.

So first questions from the panel to Mr. Wagaman
after he delivers this card.
Mr. Miller, any questions on your end at this point?

PANEL MEMBER MILLER: No. Ms. Daniels-Meade asked my question, and it's been answered.

PANEL MEMBER DANIELS-MEADE: Well, I'm so greedy.

CHAIRPERSON KYLE: Ms. Daniels-Meade.

PANEL MEMBER DANIELS-MEADE: No, I don't believe I had any other questions.

CHAIRPERSON KYLE: At this point, none.

Mr. Carrel.

PANEL MEMBER CARREL: Do you want to wait, or I'll go. I've got a bunch.

I know there's correction on the clock setting that you talk about. And that was primarily for one county using an old system, correct?

ELECTIONS ANALYST WAGAMAN: It is the older hardware version number. The issue is that on occasion the clock when it's first booted up will display the wrong time. It will go back to a default time, in essence, instead of just selecting the correct time.

PANEL MEMBER CARREL: Is that correction planning on being installed for this election?

ELECTIONS ANALYST WAGAMAN: No, the county had already dispelled their firmware version numbers, so they would not upgrade for this time.
PANEL MEMBER CARREL: Okay. Let's go to the
Veri-Vote NASED number.
You said the NASED number was issued only
yesterday?
ELECTIONS ANALYST WAGAMAN: The 20th, which would
be two days ago.
PANEL MEMBER CARREL: And so this's no ITA
report, just a NASED number, correct?
ELECTIONS ANALYST WAGAMAN: Correct.
There's no NASED -- there's no report that has
been delivered to this office. It has been requested from
both the Feds and from the vendor and it hasn't been
delivered.
PANEL MEMBER CARREL: So we don't have
documentation, but we do know that a NASED number has been
approved?
ELECTIONS ANALYST WAGAMAN: Correct.
PANEL MEMBER CARREL: I note that there was
discussions related to -- among NASED related to the
federal qualification based on an IT A report that we
haven't seen. And I had to leave for a second. So I
assume you mentioned that it was related to randomness.
ELECTIONS ANALYST WAGAMAN: Correct, and then
related to a sequential storage of votes. Basically,
again, this is a reel-to-reel-based system. It stores the
voters sequentially. The Federal Government -- or the
federal process does not have its own voter-verified paper
audit trail standards in place.

So, therefore, they only have the DRE standards,
which they currently have. Those DRE standards are fairly
explicit in not allowing the storage of votes. But
those -- again, those standards are designed with an
electronic vote in mind. And that was the discussion on
the federal level, was whether or not to apply that
standard to the paper record.

PANEL MEMBER CARREL: Okay. And they -- we don't
know exactly what they did because we don't have anything
on the record?

ELECTIONS ANALYST WAGAMAN: We know that --
PANEL MEMBER CARREL: -- except -- we don't know
why they -- if they were just -- if they're explaining
their concerns?

ELECTIONS ANALYST WAGAMAN: We know that they
issued a NASED number. And indications on the staff
level, they indicated that in some way they were going to
note the sequential vote issue and basically make it a
state level decision. The exact language, I believe it is
either going to be noted when they post the NASED number
to their website or will be noted in the final report --
finalized report, or a combination thereof. But we don't
have that language at this point.

PANEL MEMBER CARREL: So they funded.

Let me move on to our standards. Now, I worked with Mr. Mott-Smith with a working group -- several working groups and, with you, Mr. Wagaman, and you were the one who wrote most of the standards. And I know that there were several issues in the standards that this system doesn't meet.

Now, let me preface it by saying that I was in Las Vegas and Clark County for the Nevada primary and also for the early votings. So I saw how this system was used.

I was impressed with how the system was used. I was impressed with the ease of which the voter took to the system.

But I do know that the Nevada standards are not nearly as rigorous as our standards. And one of them is accessibility. When we adopted our standards based upon the Secretary's directive, we did not just want to be a VVPAT. We wanted an AVVPAT, accessible voter-verifiable paper audit trail, which required that this data stream going to the printer was the data that was being heard on the audio portion by a blind voter and not just repeating the same information that they input, which was going to be read to them as confirming and wouldn't have to verify their vote.
So I am a little disappointed that this system doesn't -- isn't designed with that feature in mind. Also I understand the language accessibility, you're saying that it only provides for English and Spanish, correct?

ELECTIONS ANALYST WAGAMAN: Correct. Currently the vendor's application is only -- on the VeriVote component is only for English and Spanish.

PANEL MEMBER CARREL: So when a voter votes in Spanish, they're not seeing both language, they're just seeing Spanish?

ELECTIONS ANALYST WAGAMAN: Correct.

PANEL MEMBER CARREL: Okay. Now, I recall when we were working on the standards and we took input from counties, we took input from a vendor, we took input from poll workers, we took input from a technical group, there was -- they each had different concerns. But I remember that the county was the one who did not vote -- the representatives from the county, I think there were six or seven or of them, did not want it just in one language, they wanted it both English and Spanish.

Do you recall what the rationale was?

ELECTIONS ANALYST WAGAMAN: The original draft of the standards that was first released back whenever it was did not have that in the language -- the current language.
It just said that the paper record had to be printed in
the same -- had to include the same language that the
voter voted in. So if the voter voted in Spanish, it had
to be printed at least in Spanish. Left that question of
whether the English would also appear open.

The county working group -- and one group left
out of the group that we set public comment from was the
public at large as well. But the public -- the county
working group raised a concern about their ability to run
recounts since under the standards the voter-verified
paper audit trail will always be using at least some of
the recounts, at least the one from -- recount, their
ability to run that efficiently and accurately if it was
printed, it did not also have that English language. So,
therefore, based out of that input, along with the other
input you described, that standard was changed in a final
draft.

PANEL MEMBER CARREL: I'm just interested in
maybe -- if you don't know, maybe someone on the Panel
does -- for counties that use non-English ballots pursuant
to the Voting Rights Act, are the ballots bilingual or are
they a single language?

PANEL MEMBER MOTT-SMITH: My understanding is
they're bilingual.

CHAIRPERSON KYLE: Say that into the mike.
PANEL MEMBER MOTT-SMITH: My understanding is they're bilingual.

PANEL MEMBER CARREL: So a paper record that we're requiring be bilingual is consistent with the standard --

PANEL MEMBER MOTT-SMITH: Yeah, well, I couldn't assert that that's true in all circumstances, but that's to the best of my knowledge.

PANEL MEMBER CARREL: Do you have any understanding?

ELECTIONS ANALYST WAGAMAN: Every place I've seen it it's been bilingual. But I couldn't, again, say that it's -- everywhere it's been bilingual.

CHAIRPERSON KYLE: Okay. So there are paper records, in that if they print it in multiple languages, it saves them.

PANEL MEMBER CARREL: Okay. The last thing you noted that was consistent with our standards was the review screen. And I know that this was something that we -- I don't recall who required it. I think it was the technical group that we put together to seek items from -- to require the paper trail to be -- the printout the paper record. For the voter to verify it, we thought it made sense for the paper record to display at the same time that the review screen on the DRE was displayed so they
could compare them both; because, as we all know, we've
call voted for judge in local offices and we don't remember
what we voted for second after we vote because we move on.
That they could actually compare how their votes were --
was that --

ELECTIONS ANALYST WAGAMAN: That language was
actually I believe in the original drafts. But then as
part of the public comment period there was public comment
on both sides of that issue. And so it was brought
forward to the various working groups that were reviewing
that to gauge their opinion. And it was one of the places
where the stronger opinion on that side was from a
tactical working group.

CHAIRPERSON KYLE: Okay. I don't have any else
right now. Thanks.

CHAIRPERSON KYLE: Mr. Jefferson.

PANEL MEMBER JEFFERSON: Did I hear you say that
it was -- because I don't see it in writing here. But I
thought I heard you say the staff does not recommend
use -- the certification of VeriVote System?

ELECTIONS ANALYST WAGAMAN: Correct. The staff
recommendations for certification of the remaining three
components, the software, the firmware on DRE, and the
firmware on the card activator, but not for the VeriVote.

PANEL MEMBER JEFFERSON: Okay. I'll hold off
till later.

CHAIRPERSON KYLE: Mr. Kercher?

PANEL MEMBER KERCHER: No, I'm fine.

CHAIRPERSON KYLE: Mr. Mott-Smith?

PANEL MEMBER MOTT-SMITH: One comment I think I would add in terms of the language in the bilingual ballot, that the purpose of needing to be able to know what you're looking at when you're doing a recount is more applicable in a character-based language than in a Spanish language translation. Though in either case the names of the candidates are going to be the same. It's the offices that would be potentially different. But it's not a -- at least in my view it's not a barrier that is insurmountable.

ELECTIONS ANALYST WAGAMAN: The only note of exception there is some counties will add a candidate requests, again, not for Spanish, but for the other languages, will sometimes transliterate those names into the character-based languages; in which case then they may be printed in that language at least on the paper ballot records. So if we were dealing with the Asian languages, there may be that additional complication. But with the Spanish you don't have that issue.

CHAIRPERSON KYLE: Okay. And I note, Caren, this addresses some of the issues that you had on this point?
PANEL MEMBER DANIELS-MEADE: Um-hmm.

CHAIRPERSON KYLE: Okay. Go ahead.

PANEL MEMBER CARREL: I know it's not part of the application because this comes from the vendor. But was there a request from a county to use this system for this election?

ELECTIONS ANALYST WAGAMAN: There was a request -- there were two requests from two counties. First was from Riverside just for the firmware component, not for the VeriVote. They subsequently withdrew that request because we weren't able to go through the steady testing process quick enough for their needs. So they're using a previously certified version of the firmware.

The other request came from San Bernardino County. They I believe -- my belief is their intent is to try to use the VeriVote in a very limited situation, basically at their county office on election day just for that voting in a limited controlled environment on a couple of machines.

PANEL MEMBER CARREL: Okay.

ELECTIONS ANALYST WAGAMAN: But that's the only use for November that you'll see with this application, if approved.

PANEL MEMBER JEFFERSON: But that request is not before us at the moment, is that right?
CHAIRPERSON KYLE: Right.

ELECTIONS ANALYST WAGAMAN: That's just on the staff level. If this was approved, that's the only intent that has been expressed for use for November from any county. The application is for full approval.

PANEL MEMBER JEFFERSON: Right. So that's what's before us right now, the full approval application for --

ELECTIONS ANALYST WAGAMAN: Correct.

PANEL MEMBER JEFFERSON: Right. So what you're saying is, if I understand correctly, there is no county that needs -- that is even requesting this certification of full approval for this election?

ELECTIONS ANALYST WAGAMAN: Well, San Bernardino is requesting the approval in order to be able to use it in a limited situation.

PANEL MEMBER JEFFERSON: All right. So I guess that's what we're going to have to discuss then?

PANEL MEMBER CARREL: Plus we'll receive comments from other counties requesting our approval as well.

PANEL MEMBER JEFFERSON: The only question on my mind is, you know, I'm deeply concerned that here we at the last second before a major general election considering this. And I would feel a lot more comfortable if we were considering an experiment that didn't involve real votes.
And so, Mr. Chairman, how are we going to proceed in distinguishing these two issues?

CHAIRPERSON KYLE: What I'd like to do is kind of walk through some of a little bit more information gathering. I'd like to hear from the vendor and I'd like to hear from some of the counties. Then I think we can put forward some of the communications we've received from the county and see what kind of motion comes forward for either adoption or rejection of the recommendation, some proposal for a modification thereof, and then we can have discussion on those. So that's how I'd like to proceed. Are there any further questions of Mr. Wagaman before I request the vendor representative to come forward?

CHAIRPERSON KYLE: Alfie Charles, you're here representing the vendor? I'd assume you have a couple of comments.

MR. CHARLES: I do. Thank you.

First I'd like to begin by commending the state for taking the initiative to put standards together when others had not yet done so and when we really didn't know exactly what these systems would look like in practice and how they would function. I think the state did a very good job in that environment putting these standards together.
I think that we've met all of the standards, the spirit of all of the standards with a couple of small exceptions that I believe probably warrant in relation to the standards or interpretation of the standards from legal counsel and from a review of how those standards are deployed in the field and what the human factors components are of those standards, as well as whether a slight change in the standards would do anything to reduce the cost and increase the likelihood that these systems will be able to be deployed quickly so the counties will be able to use them in elections in 2005 as early as possible so they can learn the technology, they can work with it, they can get all of the issues that they need to get resolved understood and under control prior to rolling it out in a presidential -- or in a gubernatorial primary election in 2006 when the mandate hits full speed. I think that is critical to making sure that this project and this concept works well.

On the specific points in the staff recommendation, I think the first one I'd like to discuss is the accessibility portion.

The accessibility of the machine provides the same user interface. We tried to keep this as easy as possible for voters with disabilities and visual impaired voters. It is the same voting process used with the paper
trail that was used previously for the electronic systems,
accessible systems prior to the addition of the paper
trail. We heard concern that voters would be
disenfranchised, that they would have to invite someone
else in to look at that paper record before casting their
vote. They don't have to do that on this system.

In certification we've been able confirm and
demonstrate that the audio selections made by the voter
are the exact same as the printout. That printout is
reviewed sighted voters, by voters throughout the day, and
it has been demonstrated in certification to be consistent
with the audio representation to the voter.

It also is consistent with the federal guidance
that we received last summer, which was that the visual
impaired voter and the disabled voters need to have the
same but not identical access to the protections of the
voting system. That is, the paper record is generated for
the audio voter. Their ballot is secured. It's
protected. We've assured through certification that it's
correct. And they receive that protection that all other
voters receive with this current design. It contains the
same information. It has the same content that the audio
ballot has and we demonstrated that through certification.
We've also demonstrated that it works well in practice
throughout the State of Nevada.

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Second point in the staff report dealt with the standards regarding -- I may have these out of order -- but the standards regarding the printing of two languages versus the printing of one language on the ballot for -- on the paper review for the voter.

The concern that we have with the standard is that it will require longer ballots for voters that cast a ballot in a non-English language. By doing that you give a greater likelihood that they will have to go through a two-page review of that paper record. They will be required to have additional burdens placed on them in casting their vote that English-speaking voters did not have. I think that is a legal concern for the state that ought to be considered.

I think there's also a practical concern and a fiscal concern for counties who will then have to purchase additional printers that they can replace on there if paper supply is exhausted more readily through that requirement.

I think that the burden should be placed on county election officials to hire a Spanish speaker or a Chinese speaker to review those records rather than placing the burden on a poll worker and the voter in complicating the process for the voting public. I think that makes for wise policy and the human factors element.
makes much more sense than the existing state requirement.

Although I fully understand why the state included that.

That in theory makes some sense. In practice it becomes
more complicated than it first appeared.

The other component is the -- we've got some
language.

ELECTIONS ANALYST WAGAMAN: -- review screen.

MR. CHARLES: -- the review screen. The state
standard has a requirement that the voter is able to
review the paper record and the review screen at the same
time. You can do that on this system. It currently does
do that. When the voter opts to make a change, their
selections are still viewed in the window, and they can go
back through their ballot and make changes, check the
review screen and confirm that it's accurate. We don't
think that that should be the first default method of
comparing the review screen because of the complication in
instructions that presents to the voter. Right now
when -- the first option when the voter prints that paper
record, the screen says, "Please review the paper
record" -- "Please review and confirm your paper record.
You can now make changes or cast ballot." That is a
clear, easy, well designed interface for the voter that
worked very well in Nevada and did not have complications.

My concern is if you clutter that screen with the
review screen and just of a small piece available to allow
them to confirm their vote or if you required that review
screen to have a scrolling function that would enable them
to go through the ballot or paginate through that ballot,
you are going to have a more difficult human interface.
You will have voters getting confused, whereas right now
you have a much cleaner design and we found that voters
have adapted well to it and have used it -- intuitively
used it well. So we think that that is a requirement of
the standards that we meet, but we don't think that it is
something that should be a mandate for all voters to see,
because of the complexity it adds on the human interface.

And, finally, I think it's important for us to
get full certification so we can have some certainty for
the counties, so we can move forward and allow them to
make their decisions. They are concerned about the
upcoming deadline, but we're concerned about the deadline.
We want to make sure that we have something available to
them to meet the standards, to meet the law, that they can
have as quickly as possible so they can implement it and
prevent any sort of time crunch, to the likes of which we
saw this last summer when equipment was not delivered on
time or was not certified on time and counties where left
in the lurch trying to figure out whether they go to an
alternate voting system, whether they go with the system

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that they hope is going to be certified in time, the
result of which I think we all saw was problematic.

We need to have options for counties. We need to
have them quickly. I hope that the panel will support our
request for certification. And I think the State of
Nevada has demonstrated that this works very well. I
realize there's different standards in the state, but I
think we've -- we've met them to know that we haven't met,
we've erred on the side of feasibility for the voter, and
I think that bodes well for the system and for the likely
success in the counties.

So thank you for your time. I'd be happy to
answer any questions that you have as well.

CHAIRPERSON KYLE: Any questions of Mr. Charles?
PANEL MEMBER MILLER: Mr. Charles, could you
address the reel-to-reel, the sequential reporting a vote
issue with respect to VeriVote?

MR. CHARLES: Sure. The VeriVote printer
stores -- we found in testing and then I think it was
during the other process feel that the most reliable
method of storing votes was to have a reel-to-reel
concept. We also recognize the need to protect the
anonymity of the voter. So what we've done is we provide
a reel-to-reel design. We include a tamper evidence seal
so that the poll workers or observers who are watching
voters cast their ballots will not have access to that paper record. That seal remains intact and is stored until it's delivered to the county, at which time it's broken and stored for recount purposes.

There are considerable parallels in election administration for using a procedure to guarantee the anonymity of the vote. There are Penal Code provisions for attempting to violate the secrecy of the ballot. There are parallels in absentee voting where the voter sends in their ballot in a signed envelope with their name on it. And we rely on the procedures to ensure -- in the law to ensure the election officials deal with that properly. Provisional ballots are the same way. All mail precincts, the same way.

To interpret the standard that you can not rely on standards to protect the secrecy of a ballot would be to essentially prohibit mail balloting as we know it today. And I don't think that that is a wise thing to do. I think -- to do and have done for quite some time.

CHAIRPERSON KYLE: Mr. Charles, I'm going to ask you to indulge the panel. I want you to stick around and be prepared to resume this train of thought.

I'm going to ask for a five-minute break. I need to make a technical modification to the configuration up here. So we're going to take a five-minute break. And
then hold your thought, Mr. Miller, and we'll come back to
you and to you, Mr. Charles.

MR. CHARLES: Thank you.

(Thereupon a recess was taken.)

CHAIRPERSON KYLE: All right. Why don't we get
started.

Mr. Charles, would you'd please take the witness
stand again.

(Laughter.)

PANEL MEMBER CARREL: You're on the spotlight.

CHAIRPERSON KYLE: Mr. Miller, do you have any
follow up or further questions?

PANEL MEMBER MILLER: Not at the moment.

MR. CHARLES: May I add to that last response? I
left out one pretty important part on that.

CHAIRPERSON KYLE: Go ahead.

MR. CHARLES: One of the additional benefits in
addition to sealing that and all the procedures, if you
have a way to guarantee that no records have been added or
removed from that audit trail, you have an additional
layer of security that you don't have if you use a cut
ballot design, you drop them in a bucket. It's more
reliable for a lot of other engineering reasons. But
what -- when you go back to the county and you've lost one
or two cut ballot records, you know longer have the
guarantee of a 100 percent intact audit trail that you
have with the storage on the roll. It's also more
compact. You can also recount it more easily by attaching
it to a reader that a separate company's developed on our
behalf which -- not on our behalf, but they developed it
with our assistance, that would enable a higher speed
recount to be conducted where they can rescroll those and
do a machine recount of those records and expedite some of
the recount possess. So that there are official ways to
recount additional security features that are built for
that design.

PANEL MEMBER MILLER: Thank you.

CHAIRPERSON KYLE: Caren, did -- did anyone else
have any questions of Mr. Charles? I have one or two.
Let me ask mine, if you don't mind.
We'll go in this way, this order.
So you're asking for full certification. We've
heard from the staff their understanding of what the
various counties -- and we're going to hear from a couple
of county representatives. But I'd like to know what your
understanding of the various counties' intents would be
with regards to certification of any or all of the
components that have been submitted.
MR. CHARLES: They all need it to comply with the
state law. They all hope to get it as quickly as they

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can. The counties of Santa Clara and San Bernardino have arranged in their contract with us to receive the printers at no additional cost to the contract that they have. We'd like to be able to fulfill that commitment as soon as we can to allow them to move forward.

For the short term the only county that is planning to use it for November would be San Bernardino. But we would like full certification so that not only our existing customers but any other counties that are intending to comply with Help America Vote Act can begin their process and have an alternative available to them if they choose to get the ball rolling right after this election, which is my understanding many of them are ready to get going. We'd like to be able to provide that if we can.

CHAIRPERSON KYLE: Okay. Thank you. Just as a little bit of clarification. On the San Bernardino, is it your understanding that — do you have the same understanding that it will be in a very restrictive limited fashion?

MR. CHARLES: Early voting at their office, yes.

CHAIRPERSON KYLE: Okay. Mr. Carrel.

PANEL MEMBER CARREL: When you say early voting, they were planning using it for how long? Just election day or for a few weeks before?
MR. CHARLES: If you'd asked me a month ago, it would have been a few weeks before.

(Laughter.)

MR. CHARLES: But the calendar is ticking. And they have -- just the time that it would take them to get the code loaded on -- load the ballots and get voting. I would assume just around about a week and a half unloading -- I don't know if it's going to be through that period or just at their office.

PANEL MEMBER CARREL: And you don't -- I mean I'm just curious -- and I don't know if you know the answer -- as to why no one from San Bernardino is here today? I mean I know they're planning for an election.

MR. CHARLES: Yeah, it's a --

PANEL MEMBER DANIELS-MEADE: Registration cards.

MR. CHARLES: It's a little bit of a busy time in some of the county offices I understand, as it is for us and for you as well. But I believe they were going to send a letter of request for support for this recommendation. I don't know if they have or not.

PANEL MEMBER DANIELS-MEADE: They did. They sent us --

CHAIRPERSON KYLE: For the record, they did.

PANEL MEMBER CARREL: You talked about Nevada.

And I was there in Nevada, so I saw the response of the
voters. And I don't question the response of the voters, nor do I question the I guess propriety of the system and to do what it's supposed to do, based on the design that you had. But you talked about the randomness of the -- or to the lack -- I mean the issue of the privacy of cartridges and keeping them in sequential order.

And has there been any discussion about trying to come up with a work-around solution to achieve greater randomness such as using several cartridges during the day and switching them so that it's even less likely to determine where in the order you are?

MR. CHARLES: There are ways to do it. Whether the benefits outweigh the risks of adding complexity to poll worker training and poll worker implementation, I don't know. I think that when the federal process of -- the one issue that they asked us to revise was to remove the machine ID number from the printout. I think that is a mistake. I think it lessens the auditability of the system. But they've asked us to put that in, so it's now a configuration on it. But the State of Nevada does not want to do that. They don't want to lose some of the auditability that they've incorporated with the design.

But I think that the existing procedures are pretty solid in protecting not only the access to those records, but the ability of anyone to go back and attempt
to violate the secrecy -- it's much stronger in this
system than it is with other voting mechanisms that are in
place and used widely across the country.

PANEL MEMBER CARREL: You talk about the option
to speed up the recount using bar code. Just for
information, we originally had that in the first draft of
the standards to require a bar code be posted for each
vote record so that you could expedite the recount by the
counties that -- may recount, but removed it and thus we
did not require it be looked at as an option for the
counties to discuss with the vendors, so that if they
decided to use it for sorting ability, but obviously not
recountability, they would use that.

Back to the issue of languages. And I understand
the issue, which is clearly an issue over -- of ease for
voters versus ease for election administrators. And that
was an issue that was -- that decision, those two forces
were the two forces we dealt with on a number of policy
issues in establishing the standards, which was more
important for that situation, for that issue. Was the
ease of voter more important or was the ease of the
counting more important? And we got, you know, input from
the county election officials that it made more sense to
provide it in a bilingual fashion.

Now, as Mr. Mott-Smith said earlier, clearly the
name of the candidate is not going to be in two languages, unless it's a -- I guess unless it's an Asian character. But for this situation you're talking about Spanish-English, and this would only be certified for Spanish-english. And so you're talking about a situation where the language is only Spanish even though, for instance, Proposition 41 -- I don't know that they say proposition in Spanish. But you're just adding one or two words, I don't see how it's going to lengthen it dramatically. And, yes, si, no, no. I mean I'm not trying to be flippant. I'm just saying that -- I understand your argument that it's going to add language to it. We understood that too. We made the determination that it was more valuable for the administration of the election to have an English translation on that so that the recounts could occur much quicker. I don't have any other questions. Just one more comment, which is the bad -- you talked about the standards being -- the passing Nevada standards and passing federal qualification. I have no idea what Nevada's standards are. So I -- and we don't -- I haven't looked at them. I don't -- we didn't test against them, so I can't say. But I do know that we were the first to establish standards for a verified paper trail. We wanted
to establish standards that provided both verification for
the voters but also accessibility for disabled voters to
comply with our interpretation of HAVA and the State
Attorney General's interpretation of HAVA, disregarding
what the Feds might have said, and also the State Attorney
General's interpretation of State law.

CHAIRPERSON KYLE: Mr. Jefferson.

PANEL MEMBER JEFFERSON: Thank you.

So I guess I'd like to distinguish a discussion
in principle about this -- the concern about the
sequential nature of the VeriVote design from discussion
of any particular motions that might be on the table
later. So this is on the principal discussion now.

Because I'm, as you know, deeply concerned about that
design feature.

The Sequoia voting systems -- DRE systems, when
they record the votes electronically internally, they
randomize them, right?

MR. CHARLES: Correct.

PANEL MEMBER JEFFERSON: Why do they do that?

MR. CHARLES: There is a requirement to ensure
the privacy of the voter. It's not -- there were
different standards in the 1990 standards with the 2002
standards. But there is a requirement for some form of
protection of voter --
PANEL MEMBER JEFFERSON: Right. And all three --
well, all of the three big vendors, Diebold and ES&S and
Sequoia, do this and tout it in fact as a feature of their
electronic voting systems.

Now, the thing that concerns me is that having
then -- then making a paper record alongside this,
parallel to it, which is completely sequential, it seems
to me it completely undermines whatever privacy value that
the randomization of the electronic vote records provides.

Does it not?

MR. CHARLES: No.

PANEL MEMBER JEFFERSON: Why not?

MR. CHARLES: Because there is no record --
especially in California there's no record of the order in
which a voter votes. There's no record of the machine on
which they vote. There is no -- there's statutory
prohibitions against attempting to violate the secrecy of
that ballot. The poll workers who see how the voters
vote, the observers who see how the voters vote do not
have access to the paper records. Those records are sent
back to the county. The county then uses them in a
recount. So I think there --

PANEL MEMBER JEFFERSON: There are -- that is
true --

MR. CHARLES: -- are significant legal and
procedural protections to ensure the secrecy.

PANEL MEMBER JEFFERSON: Right. But all of that was true without a paper record. Without a paper record, you know, the order of voters voting was not recorded. And the poll workers are not the same people -- you know, who might observe the order of voters, not the same people as the county officials who might conduct a recount. That was all true without the paper record. And yet all three manufacturers touted that the randomization of the order of storage of electronic ballots is a voter secrecy feature. So it seems to me you can't get away from the fact that printing the ballots in sequential order of people voting on that machine does completely undermine whatever secrecy value was added by the randomization of the electronic copies.

MR. CHARLES: Well, I disagree. To say that it completely undermines the secrecy is a gross overstatement. The procedures protect -- they protect it for multiple other voting processes. When you look at the locked room of a precinct count optical scanner, you can see which order those ballots dropped in. And when you look at a provisional ballot, you see the signature of the voter. When you look at an absentee ballot, you see the signature. When you see an all-mail precinct, then there's a signature of the voter on that.
This is greatly more secure than those other
options that are available in the marketplace today.

PANEL MEMBER JEFFERSON: So let me come at it
from a different angle now.

I agree with you that other forms of voting, FAX
balloting, provisional balloting, absentee balloting, all
have systematic privacy issues which can only be handled
procedurally.

What I am interested in is preserving the last
form of voting, namely, you know, mainstream precinct
voting, which -- I would like to preserve a system
that has no privacy issues. So that if privacy is the
voter's primary concern, as it is for lots of people, that
they at least have some mode or ability where it's simply
impossible, not just difficult or not depending on
procedures or something, but impossible to reconstruct how
a person voted.

So I'm concerned, for example, that if people
wish to observe some celebrity voting and they discover
that the celebrity, you know, voted number second on
machine number 3. You don't have to have a full record of
that. If you just want to know how one person voted, it's
easy enough to observe, you know, where and when they
voted. And then it is not -- the information is just not
lost to the world of which ballot they cast. Whereas it
is if their ballot is put into a -- you know, into a ballot box with all the other ballots or if their ballot is randomized in electronic copy and a randomized paper ballot -- paper image audit trail is produced.

I would like to have a system in which we do not have to depend on the proper application of procedures, where voters have -- where the structure of the voting system makes it impossible by design for people to mismanage or to circumvent the privacy requirements. I'd like to have at least one voting option which has that property. And if this becomes the standard precinct voting system for many precincts in California, I think we lose that.

You don't agree?

MR. CHARLES: Not at all. I don't mean to belabor this just a little more. Well, I think we may have to agree to disagree. But the standards are that voters must have their privacy secure. And the standards that exist contemplate procedures in a variety of other voting systems and with this system that are used to enhance the security of a system, used to enhance the protection of the voter, used to enhance the accuracy of a system.

I think that what we need to do is make sure that what is used in a polling place works, it captures the
voter intent which is reliable. We have seen failures in
other systems that use more complicated and more fragile
moving parts and technologies. We need to make sure that
this works and that it's sufficiently durable. We need to
balance that with the requirements for accuracy and
secrecy. We can address those through procedure -- we
have addressed them through procedure. And I think that
to mandate a technology that has -- or -- and a particular
approach to this is to invite problems or invite the
voting public to have no option at all for voter
verification if the systems don't work, if they break on
election day. That doesn't help anybody. We need to make
sure they work. And we need to make sure that voter
secrecy is protected, there's no doubt about that. That's
why we've included a tamper evidence seal with a unique
serial number. We've included procedures to make sure
that the records are handled appropriately at the county
level. There are statutes that protect that.

There are a great deal more protections than we
had in with other systems. And I think that to ignore
those in reviewing this is to -- is to really address one
of the things that the market place needs to work out
rather than a standards body that is charged with making
sure that it is possible to do this and it's possible to
protect secrecy of the ballot. And it does that.
But I think -- I think we've had a discussion about this before and we see that differently. But this --

PANEL MEMBER JEFFERSON: But there are other companies who have systems -- voter-verified systems which have cutters. Avante has one. I've even seen, ES&S had a -- what's the -- prototype -- thank you -- system a year ago. I'm not sure what became of that.

This isn't -- you know, and every gasoline pump in the United States and every DRE in the United States has cutters on rolls of paper. You really think that this is a sufficient engineering impediment that we should reduce our standard of privacy from absolute impossibility of recovering a voter's ballot to one of procedural safeguards against it?

MR. CHARLES: I think a system must work. I think that the systems that have been developed so far have a great deal of complications for poll workers. They've demonstrated that there are difficulties with that technology. I think that you protect the secrecy of what we have. I think it does that very well. And I think that we know it works and that the clock is ticking -- this is not an unlimited budget item for counties either.

We also have to factor in that they need to be able to review those records. Cut ballot records where
ballots are lost are a disaster waiting -- in the event of a recount. The ability to recount curled up slips of thermal paper versus the ability to take a compact record that we know is intact, it has all of its integrity intact because it is a continuous form, provides added layers of security and readability on the county side. There are, you know, things that you lose by implementing cut ballot records and there are things that you gain by doing that. I think that we need to find the appropriate balance, and I think we've found that with this and it works very well. I'd hate to see something that works as well as it does, that accomplishes the goal, which is to make sure the voter has a voter-verifiable paper record that protects them in the case of -- in the event of an audit, and I'd hate to see that lost because we quibble over the optimal ways to protect secrecy when secrecy is assured and guaranteed for a number of important steps.

PANEL MEMBER JEFFERSON: So let me, if I may, get quantitative here for a moment as to the degree of secrecy that we are giving up. Because, you know, I've been working with this for a long time and, as you know, I'm seriously concerned about it. Suppose there are 250 voters in a precinct, and
they put all their paper ballots into one big paper ballot
box and shake it up. Then no matter what you do, you
cannot know which of those 250 ballots you personally
cast, meaning any particular person you want to choose.
The degree of anonymity of that ballot is one in 250.
That's pretty good protection.

By contrast, if there are four voting machines in
a precinct and I just observe that you cast the first
ballot on machine number 1 -- or maybe I don't even know
which machine you cast it on, but I know you cast the
first ballot of the day. So it's on one of the four
machines. Now I know that your ballot is the first one on
tape number 1 or the first one of four -- on four tapes.
So instead of having my vote lost in a sea of 250 ballots,
it's one of four, or maybe I can narrow it down to one of
one. And maybe it's, you know -- you don't see that as a
huge change in the secrecy properties of the voting
system?

MR. CHARLES: If we just stored those records and
gave anybody who's standing there in the polling place
full rein and had no procedural requirements that -- just
because you saw somebody who voted first on a machine does
not mean that you will ever have access to see how that
person voted on that paper record. To do so would be a
felony.
To see somebody attempting to compare a list of the order in which people voted to a paper record would be a felony. Maybe it's a misdemeanor. But it's a -- it ought to be a felony.

PANEL MEMBER JEFFERSON: I'll agree with that.

MR. CHARLES: And I think -- we all recognize that secrecy is important. We also recognize that this is a great deal -- I hope we all recognize -- this is a great deal more secure than the way in which about half the voters in many counties case their ballot today.

PANEL MEMBER JEFFERSON: One last comparison to make. And then, Mr. Chairman, I'm going on.

CHAIRPERSON KYLE: That's okay.

PANEL MEMBER JEFFERSON: We have a statute in California that if you are casting a paper ballot, either punch or mark is it, if somebody discovers a mark on that ballot during the counting process that might identify the voter, that ballot is void. And the reason for that historically is that that voter might either be exposed to coercion and the mark allows him to be identified, or the voter could be selling his vote and the voter allows him to be -- allows the voter to collect payment for voting.

We have a statute in those cases that if it's possible to identify -- and not by the poll worker, mind you, because the mark would be discovered by somebody

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doing a counting of the ballots later or a recount of the
ballots later. If at any time a mark is discovered that
potentially identifies the vote, that vote is void.

Now, my concern here is that if this system
were -- and I approve of that rule, I might add, that
statute. And it's a statute in many states in the United
States. Now, it seems to me that if I know that your vote
is number 37 on reel 3 in this precinct, or number 1 on
the real, that your vote is essentially marked. And an
insider, the very same people who have to void your ballot
if they find a mark that might identify you on a paper
ballot, those very same people now have to ignore the, if
you will, virtual mark, the sequence number. They don't
make your ballot void -- they don't make it all void --
under the procedures that you're suggesting. So it seems
to me that, once again, even though it is a felony and
even -- to reveal how someone voted if you're an insider
and even though there are procedural safeguards against
it, nonetheless the statute is that in the other voting
systems your ballot is void to protect voters against --
and then protect the public against identification of
ballots.

But we're losing that protection here in an
exactly comparable situation. In both cases it's insiders
whose access to the ballots are the concern.
MR. CHARLES: Yeah, I think we just disagree on that. I don't believe that there is any greater risk with this system, and there is actually a lower risk with this system than with others. And I hear your arguments. I disagree with them. And I think the federal standards have qualified this system and I believe that they meet those standards and procedures that have assured us on a number of other cases.

PANEL MEMBER JEFFERSON: You're right, that the federal standards do not in fact mandate randomization, even the electronic copies, let alone they say nothing about paper copies.

It's my belief -- and correct me if I'm wrong -- that this is because other states do not have privacy standards as stringent as California's and that in order to get a paper -- maybe federal standards, which didn't require a revision of those state standards, the standards were written more loosely, sort of a consensus standard on that point. Is that -- that's my understanding. Is that your understanding?

MR. CHARLES: That may be. I don't know the genesis of the federal standards right now.

PANEL MEMBER JEFFERSON: Mr. Chairman, thank you.

I'm done for now.

CHAIRPERSON KYLE: If you could stick around, Mr
Charles. And then we may have a couple other questions from the end.

Let's go to --

PANEL MEMBER MOTT-SMITH: Mine's unrelated, so go ahead.

PANEL MEMBER CARREL: One question for staff on the randomization issue, which I know is a federal issue. But with regard to our standards, that was not an issue with regard to our standards, correct?

ELECTIONS ANALYST WAGAMAN: What our standards require is that it complies with federal -- both federal and the state requirements. So the federal requirements are deemed by whatever the Feds say. We don't know exactly what they say because we don't have the report. But that's a requirement of our state standard is that it applies to the federal requirements. I'll just relate that.

For the state standards, the system as configured, based on the staff's interpretation, would meet that randomization in the situation where there are multiple machines in the precinct.

PANEL MEMBER CARREL: But if there's one --

ELECTIONS ANALYST WAGAMAN: But if there is one machine, then you'd have a sequential storage vote with no randomization between each machine. So the issue in which...
Mr. Jefferson described where you know who voted first, period, you would know which machine they were on by default, that would then create that issue.

So if the Panel were to choose to certify the system and modify the staff recommendation, staff would then recommend that one of the requirements be that there be at least two machines in any precinct using the system.

PANEL MEMBER CARREL: Oh.

ELECTIONS ANALYST WAGAMAN: Under the current procedures.

PANEL MEMBER CARREL: Under the current procedures. Or that procedures be modified to figure out a way to randomize one's -- if there's only one in a precinct. And I don't think it's that difficult if you have two or three printer cartridges and randomly change them during the day to provide randomization.

ELECTIONS ANALYST WAGAMAN: Correct, if that procedure was added -- that process was added to the procedures, and staff would deem that compliant.

PANEL MEMBER CARREL: Okay. Mr. Mott-Smith.

PANEL MEMBER MOTT-SMITH: I wondered if you had any comments on the staff recommendations on the other three components of the system?

MR. CHARLES: I mentioned early on my concern with the staff recommendation on the bilingual -- or is
that the piece, the two languages at one time with a paper record?

PANEL MEMBER MOTT-SMITH: No, the win WinEDS, the 3.0.134, the 4.3.320, and the card activator.

MR. CHARLES: No, only that we would like them all certified with the VeriVote printer to the extent that -- well, I think the request that we put is for full certification of all those pieces.

CHAIRPERSON KYLE: Thank you.

If you'd stick around, we may have some further questions a little later.

I'd like to ask a couple of county clerks to come up.

Kathy Darling from Shasta County please.

MS. DARLING: Good morning. I have a prepared statement. If you guys want to ask me questions when I'm done, feel free.

My name is Kathy Darling. I'm the County Clerk and Registrar of Voters for Shasta County. I appreciate the opportunity to speak to about this very important decision you have before you today.

I want to try to give you snapshot of what it's like to stand in my shoes. I think this is really relevant, because the county elected administrator was the county clerks, the county registrars, are the people who
provide elections for our voters in this state.

Our job is to serve the public and to ensure that every election we administer is conducted legally, fairly, and that every vote cast in our county is counted accurately. We work for the voters in our counties. Not for the State or even if they're appointed for the Board of supervisors. We work for the voters.

Our most basic and compelling responsibility is to offer the right of franchise, the most important fundamental right of every American citizen. We take this very seriously and are deeply and profoundly cognizant of the weight of this responsibility. This is a difficult period to work in elections for all of us.

In Shasta County I am one of ten full-time staff. As of today we have a little more than 93,000 registered voters, which is a new record for Shasta. And we spent the last years adjusting and readjusting to an environment of constant change.

Our punch card voting system, which performed flawlessly for 30 years, was decertified. In good faith and with considerable effort we purchased a new voting system, which was federally and state certified. State certified by this office, by this panel and this very same process.

Then the rules changed. In April our shining new
voting system was again decertified unless certain security measures were complied with. We have complied, and will comply for November, and we'll use that system in November for the fourth time successfully and error free.

The Secretary mandated the use of the VVPAT in his directives to the counties. He sponsored legislation, and that legislation was signed into law by the Governor just about a month ago.

Now, the staff report presented to this Panel recommends non-certifying the only federally certified system that allows DRE counties to comply with the law.

How can we engage voters in a process that seems to be built on a base of quicksand? This action has the potential to further erode the confidence they have worked so hard to engender in the elections process, both in Shasta County and across California.

The new voting system mandated by contrary decertification and HAVA was initially received very well by the voters in my county. Over the past several months, as a result of the climate of fear that has been promulgated and encouraged by both this Panel and the Secretary himself, voters have been vocal in their support of a paper backup copy of their electronic vote.

Earlier this month I was invited to demonstrate one of our new voting machines to a local community group.
I think the social secretary wasn't really very well in touch with her membership. Because when I got there I discovered that not only was the entire group of about 40 already registered to vote; they were all also without exception absentee voters. They were not very interested, and told me directly that they would not go to the polling place and vote on electronic touch screen machine without a paper backup. And I have talked to many other voters with the same situation.

My office is very small. When a voter calls with a complaint or a problem, I usually talk to them myself.

Explanation of the addition to this system that we use in Shasta, which obviously is Sequoia, when I explain to people who feel anxious about the security of their vote on a long-term touchscreen, but we will have available when it's legal a printer to verify their selections, they are without exception pleased and relieved to hear that that's coming.

And they don't understand why it's not available now and today. I don't expect to use it in November obviously.

When the Secretary's directive came out to add a VVPAT to our voting system, I was not in favor of it. It seems to me to be an addition to a system that I am fully confident that's not necessary. I have every confidence
in my system. And the addition of VVPATs in our county
will spend precious county dollars that we can ill afford.

But I have come to believe that the cost cannot be a deciding factor when you're talking about voter confidence in the election system. There is no price on the belief of the voters that their vote is counted accurately and correctly.

And it's a real burden on my office for me to be here today. When ten of us trying to enter -- I think we have a couple thousand voter register cards still to be entered and absentee ballots that have to be examined and signature checked, I just feel it was very important that somebody from county come here today and talk to you about these issue.

I would respectfully request that this Panel and the Secretary consider carefully the impact and ramifications of denying certification of this system.

As someone said earlier, we're now 11 days away from one of the highest interest, most closely examined elections of our time. I do not imagine that this proposed action will have any positive effect on that election or those in the future.

Voters in my county have told me that they want a VVPAT. It is mandated by law. I've sat in this very room so many times and listened repeatedly to voting activists
of every persuasion vigorously lobbying this panel to
mandate a paper record.

The course of events of the past 12 months follow
a logic that I cannot explain to the voters of my county.
We are told we must use a tool and now we are in danger of
losing access to it.

CHAIRPERSON KYLE: Thank you.

Mr. Mott-Smith.

PANEL MEMBER MOTT-SMITH: Thanks, Kathy. I
wanted to not ask you a question but respond to what you
said in one sense. And that's the inability to explain
the logic, because I understand what you're saying. But I
want to tell it to you from a different perspective.
Because I heard this yesterday as well, that a little
while ago we were being told that there was no interest in
a paper trail. And now we're being told that there's so
much interest that it's potentially a an issue. And the
statement has been that there's a fear that has been
generated by this panel and by the Secretary. And
respectfully I want to characterize that not as a campaign
to engender fear, but it was a recognition of what the
voters in California wanted. And I think it's fair for
people to acknowledge that the Secretary saw that possibly
before many local elections officials saw it. And so what
we're seeing now of the issue coming forward is not the
result of anybody instilling fear; it is the result of --

a natural result of voters becoming aware of an issue and
making, as you have said, their opinions and preference
for some form of paper trail known.

So I just wanted to say that.

CHAIRPERSON KYLE: Mr. Carrel.

PANEL MEMBER CARREL: Yeah, I would echo that. I mean with all due respect, I am confused. Over the past two years we have tried to -- I think everything that has happened from this office has moved from step to step to step to step. And county elections officials have been completely inconsistent about this issue from beginning to end. I know that counties are not unilateral. I do know that the Clerks Association has been unilateral.

And, you know, having been one of the key staffers in the middle of this, when you say that this is quicksand, I take offense to that, because we established standards. We're the first state to establish standards, that there was a quicksand, so that we knew what the standards were, so the vendors knew what the standards were, so the counties knew what the standards were. And we didn't do this unilaterally. We worked with a working group from the counties. We worked with a working group from technology, a community. We worked with the vendors. We sought advice from the vendors what would work and what
wouldn't work. And we didn't want a quicksand, which we knew was possibility because we were hearing -- and I know that's true in other states right now. And, thank God, we do have standards not only for this but we -- I think we have among the highest standards for running our elections in California than most other states. And I'm thankful for that.

I would reiterate what John said about fomenting fear. I don't believe we did that. I think we responded to the fear that was already out there.

Like I said about the county reaction, you know, we were -- I am hearing up till last week from several county officials who still are adamantly opposed to a paper trail, even though it had no "no" votes in the legislations passing it. It had no "no" votes in the Legislature. And the Governor signed it. And now we're hearing -- getting E-mails this morning -- I'm shocked because I'm getting E-mails this morning to pass paper trail, to support it. That what message will this send if we don't pass it. And I'm thinking, you know, we -- it's as if symbolism is the only thing that matters and not the standard.

I'm very supportive of -- and I saw it in Nevada -- of this system because I think it has a tremendous amount of potential to solve some of the
concerns that the counties have, that the voters have.

I'm also concerned though that it doesn't get to a hundred percent of the standards that we know we needed because of the working group and the disabled and others. However, you know, what I'm hearing from you is a hundred percent isn't necessary.

And I'll leave it at that.

CHAIRPERSON KYLE: Mr. Miller.

PANEL MEMBER MILLER: Just a brief comment.

I want to thank you for making your trip. We really appreciate your input. And we've talked about this paper trail at length over the past several months. And I really appreciate your being here in support of a paper trail.

Thank you.

CHAIRPERSON KYLE: Mr. Jefferson.

PANEL MEMBER JEFFERSON: Thank you for coming.

I'm one of strongest advocates in the United States for voter-verified paper trail. So as you -- it pains me somewhat to be offered a system which has a bona fide voter-verified paper trail, but which on the other hand has what I see as another major flaw and which I would prefer to see corrected before we certify it.

Now, we are always in an election cycle. But at this particular time we are as far away from the major
statewide election as we can get. I'm thinking of the
March 2006 primary.

MS. DARLING: June.
PANEL MEMBER JEFFERSON: I'm sorry. Is it June 2006?
MR. CHARLES: We just changed it again.
PANEL MEMBER JEFFERSON: Well, that's all right.
June. Even farther.
So we have as long a lead as we ever, ever have
to do this right. And we were told, for example, a year
ago -- we, meaning the Electronic Voting Task Force --
that if we were to recommend or require a paper trail,
that it couldn't possibly be ready in time for this
November's election. It turned out not to be true.
Sequoia has produced it and it's deployed statewide in
Nevada.
You know, the estimates of the engineering lead
times and the marketing and certification lead times are
generally exaggerations for this. We have enough time to
do it right. And I would much prefer to see an
engineering modification to preserve that, not only voter
verification, but also the same degree of privacy and
accessibility and language accessibility that we have in
other systems before we certify. At least that's where
I'm coming from.
CHAIRPERSON KYLE: Thank you.

Ms. Darling, two things. One, do we have a copy of your written statement?

MS. DARLING: (Witness shakes head.)

CHAIRPERSON KYLE: If you could --

MS. DARLING: I could E-mail it to --

CHAIRPERSON KYLE: Yeah, that -- if you could E-mail it, it would be appreciated. That way it would make it a formal part of the record, and which I'd like to do.

And, secondly, I just want to thank you for taking the time out of your busy schedule for coming down.

MS. DARLING: I'm happy do so. If I can respond to a couple of the comments.

I would say, first of all, that the Association is very much divided about a lot of the issues, and this is just one of them.

Part of that I believe comes from a difference of manageability and size. I can do things very manageably that San Bernardino County and Riverside County because of the nature of the size of the county cannot do. And vice-versa. And I really -- you know, Shasta County bought this system, science and contract, in May of 2003, purchased this system. The voting systems -- I'm sorry -- the VVPAT standards I believe were published for the first
time February of this year.

So it really does feel to some of us at the
county level, and especially the nine decertified
counties, that the rules are changing midstream. And that
may be not the responsibility of this Panel. It may --
I'm sure we can lay a lot of the responsibility at the
federal level for their failure to push funding down at
CEAC members and that kind of thing.

But, you know, the bottom line is we have to get
the job done everyday. And I absolutely think that if
you're going to waive administrative difficulty over the
voter rights and presentation to the voter, the voter wins
every time.

CHAIRPERSON KYLE: Thank you very much.

MS. DARLING: Thank you.

CHAIRPERSON KYLE: Santa Clara County.

MR. CHANTRI: Philip Chantri, the Election
Services Coordinator from Santa Clara County.

CHAIRPERSON KYLE: Would you mind Spelling your
last name for the record.

MR. CHANTRI: Chantri, no problem.

C-h-a-n-t-r-i.

I respect the Panel and I thank you for allowing
me to speak today.

Four years ago at this time I was on a campaign
trail. I left that campaign side of politics about three
years ago for what I thought was the calm, constant,
election administration experience.

My second election was the gubernatorial recall
on a punch card system. And then I implemented the
Sequoia voting system.

Santa Clara County has 5500 machines. I am in my
capacity as Election Services Coordinator responsible for,
among other things, training the election officers of
Santa Clara County.

In a little over two years we've gone from having
20 classes to this time we will have 118 three-hour
classes countywide with a training staff of over 20. That
involves taking, you know, four or five vans out every day
to four different locations in the county; thirty Sequoia
machines, card activators, audio component, EO manuals,
troubleshooting manuals, audio voting guides. It goes on
and on and on. It's become extremely complex.

So one of my primary concerns was the ease of use
and is the ease of use of the VeriVote.

Thankfully I had the opportunity to travel to
Nevada along with Santa Clara County. I had hired an
AVVPAT program implementation manager. And I have taken
the role of AVVPAT Chair for Santa Clara County. The
three of us, along with the assistant registrar, traveled
to Nevada. We're extremely impressed with the ease of use. Again, that was my primary concern.

Overwhelmingly when we asked voters what they thought, they liked it. Overwhelmingly when we asked election officers about their training, they were extremely impressed and they had no problems with it. In fact, all of the team leaders with whom we spoke expressed ease of using connecting the VeriVotes to DRE touchscreen voting machine. Overall the VeriVote experience was very positive for the election officers and voters.

On election day something else I'm tasked with is I am in charge of the field technicians we have in the field on election day. We have approximately between 80 and 100 that travel around the precincts and they troubleshoot the technical problems.

Again, something I'm extremely concerned with is ease of use, the ease of replacing these, if they run out of paper, if there's a paper jam. There are other things besides the VeriVote in this certification that I'm very happy to see. I'm very, very happy to see functionality adjustments to provisional voting on the card activator, very happy to see functionality adjustments to audio voting of activating the smart card at that level instead of at the machine.

We've added easily an hour -- 45 minutes to an
An hour to our training just to explain audio voting, to 
activate the audio voting component in all of our 
precincts to ensure that it will work well in our 
precincts. We have a very powerful and, rightly so, 
constituency of disabled voters in Santa Clara County that 
have been clamoring for it. They like it. And we need to 
make sure it works on election day.

I could go on and on. But what I'm asking the 
panel for is time. We have 5500 machines in Santa Clara 
County. We need time to play with the certified system, 
to practice with the certified system, to do voter 
education outreach with the certified VeriVote. I respect 
the comment that there's a long span of time between now 
and the next California primary. We do not want to 
implement in the California primary. We would like to 
implement in a smaller election before that so that we can 
use it a couple times before that.

I respect the panel. I thank the panel for their 
time. And I'm available for questions.

CHAIRPERSON KYLE: Thank you.

Any questions from the panel?

Thank you very much.

And if you have anything in writing -- I don't 
know if -- I didn't see -- thank you.

Public comment. Kim Alexander.
MS. ALEXANDER: Good morning. I'm Kim Alexander with the California Voter foundation.

I appreciate this discussion that we're having here today and realize that California, as is often the case, is attempting to set a high bar when it comes to new voting innovations. And I think the standards that were developed by the Secretary of State's Office that grew out of the Secretary of State's ad hoc touchscreen task force did that, by not only having a voter-verified paper trail, but specifying that it must be accessible to disabled voters and it must be accessible to linked voters who vote in non-English and that the ballots must be randomized.

And as I recall the discussions on randomizations, it was something that the late Bob Nageley was very adamant about in our task force meetings. He was very concerned that that output of the voter-verified paper record be randomized.

I did a little bit of homework this morning and was checking the California constitution because it actually is a constitutional right that California voters have, that voting shall be secret. It's not just a matter of statute or a matter of practice. It's Article 2 Section 7 of the California Constitution. And It simply says voting shall be secret. So we're left to figure out how to ensure that.
I share David Jefferson's concerns. And we've had lots of long discussions about this issue of randomization.

And I have mixed feelings about the VeriVote system, because on one hand I'm very eager, as many paper trail advocates are, to get a voter-verified paper trail on the market and available for use as quickly as possible. And I too made the trip to Las Vegas, as many of us made our pilgrimage over there to go see the VeriVote system in operation. And I was quite impressed with the feedback that I heard, at least in the early voting environment, from the poll workers and the voters alike.

But my hope is that California standards will drive the national standards. And that's been the case before. In fact California developed voting system standards before the federal government developed any voting system standards. And Bob Nageley, who developed the standards for California, played an instrumental role over a couple of decades in using those California standards and has experience developing them as a foundation for developing the 1990 Federal Voting System standards.

So, once again, California can play a role in establishing high standards. And we ought to because, as
we all know, the federal standards don't do an adequate
job in many, many areas of providing a baseline for
security on a number of features in all of our voting
systems, whether it's transferring ballots via modem or it
is having a vote counting server, whether it's electronic
ballot or optical scan connected to the Internet. These
are basic security provisions that don't exist in federal
standards. And even though we can impose them in
California, as a California voter I have no peace of mind
that other states that claim to follow the federal voting
system standards are preventing those kinds of risks that
we have identified.

So we as California being a state that is in the
forefront on this issue, I feel have a special
responsibility to provide the leadership and set a high
standard for the voter-verified paper trail. That said, I
hope that we can find some way to allow San Bernardino to
demonstrate this new system in this election season on
limited basis. A couple of things that we could do, for
example, to allow that would be to limit San Bernardino to
use -- to only have the system be used for voters who come
into early voting who won't need the audio headset. As
long as there's another DRE in the early voting site that
provides the audio headset feature, then we wouldn't be
imposing anybody's -- restricting anybody's rights by
having a VeriVote system set up with an audio component
disabled so that we don't have to violate the California
standard on that count.

Similarly, if language is an issue, we can do the
same kind of thing. But based on the discussion that we
heard and also the comments from Kathy Darling, we know
that all counties are not the same, they come in different
sizes, and they have different needs. And it might be the
case that the language issue whether you print out the
voter-verified paper record both in English and voter's
language of preference or you have a translator at the
county elections office translating non-English paper
records, maybe that's a choice that could be left up to
the counties. Maybe that's something that could be done
at a procedural level based on what the county is planning
to do. I would imagine in larger counties they might have
translators. And in a smaller county having some ballots
that are in both English and Spanish might not be such a
hassle. So that's one way we could resolve that.

As far as the side-by-side screen, that's
something that I do hope that we can develop. But I also
think it's the kind of feature that could be probably
easily changed in the future through some programming to
enable the voter to have that side-by-side review to be
able to look at a full summary of all their votes beside
the voter-verified paper record.

I am concerned about the use of bar codes. I think it's beneficial to have a voter-verified paper record that can be read electronically. But I am concerned that we might reach the point where all we do is read them electronically. And what we're trying to get away from is relying exclusively on secret software to tell us who wins and who loses elections. So I'm not completely opposed to the use of bar codes but I think we have to tract very carefully on this issue because the use of bar codes could potentially in the future undermine what the goal here of having a voter-verified paper trail is, which is to have a paper record that can be read with human eyes and not exclusively being machine readable.

And in closing I would like to remind you that the voter-verified paper trail is not only for the voter. It serves two purposes: It gives, first of all, the voter the ability to verify that their electronic ballot was recorded as they intended it; and, secondly, it gives elections officials the audit tool that they need to verify the final results at the close of the elections.

As we know, an electronic ballot, as all ballots, go through a whole long process of transition from the polling place to the county elections office; and there are a lot of places along the way where our ballots could
be compromised. So having a ballot voter-verified paper record gives the elections officials the tool they need.

In California it's the tool that they need to satisfy the one percent manual count requirement. And whatever we do with our standards on voter-verified paper trail, I urge you to keep in mind that it's both of those needs that we need to satisfy, the need of the voter to verify that their own ballot was reported properly and accurately, and the need of the elections officials to verify that the overall election results were accurate as well.

Thank you.

CHAIRPERSON KYLE: Thank you, Ms. Alexander.

Any questions or comments from the Panel?

Hearing none, I'm going to close the public comment period and move to further discussion or comments from the Board.

And we currently have the staff report and discussion and a recommendation from us. I'll entertain motions from the panel.

Mr. Mott-Smith, it looks like you're prepare to --

PANEL MEMBER MOTT-SMITH: Yes, I would like to make a motion.

The motion would have two parts: First is to move the staff recommendations for the three system
components, WinEDS, Edge, and Card Activator.

CHAIRPERSON KYLE: I'm sorry. Would you mind speaking right into the microphone and a pinch louder.

PANEL MEMBER MOTT-SMITH: There would be two portions to the motion: One is to move the staff recommendations as they relate to the WinEDS, Edge, and Card Activator systems. And the second is to move a conditional approval of the VeriVote to be used in conjunction with those components.

And by way of explaining before I get to what those conditions are exactly, I want to say that thinking back a year from today, the task force that Marc Carrel was leading was trying to decide if it was possible to have a paper trail with a voting machine, if it was possible to have something that would not jam, would not create long lines, would operate in a normal polling place environment. And then if it was possible, when it would be possible.

And my recollection was that we were talking about 2010, we were talking about 2008, we were talking about 2006. And here we are in October of 2004 looking at a working model that has been tested in at least one state and is now being proposed for certification in California. I want to congratulate the vendor to be the first through the door. And I hope that the door is actively
opening and closing after you with all of the other vendors.

Bottom line for me is that I find this to be tremendously exciting. This is what we've been asking for. This is what the Secretary's been looking for. This is a moment to be seized, not to be neglected or ignored, in my view.

However, I do think that we need to acknowledge that this system does not meet the standards that we have set for voter-verified paper audit trail. It does give the voter a paper record. It does let the voter verify the paper record. It is user friendly and it is secure. And actually when I say, "we," I want to be clear that that's not just the Voting Systems Panel, it's not the Secretary of State. It is a panel of county representatives. And I don't remember the exact number, but there were many who participated. There were some who declined to participate even though that they were invited. And it included technical experts. And the result are these standards. These standards are the best we could do. But they have not been tested. They have not been compared against any actual use.

I'm assuming that we will as we gain experience modify the guidelines to reflect greater knowledge as we go along.
So I would like to move the approval of the VeriVote to be used in conjunction with the other system components with the following conditions:

The first is that it's one time, one place; that is, San Bernardino County for the November 2nd, 2004, election. And, just parenthetically, we made this same condition as an approval for the DRE system that was first used in Alameda County. The purpose of this is to be able to gather some information, some experience, bring it back and potentially make any modifications on a going-forward basis.

Secondly, that it's only at the headquarters of the county election office.

Thirdly, that there be multiple machines. And the third and fourth conditions are both related to randomization. There be multiple machines. And that there be a system set up where the printers on the machines are randomly changed through the day in order to increase the randomization. So, 1) voters go to multiple machines. They're not directed just to one machine. 2) The printers on the machines are randomly either interchanged or there are different printers put on and moved so that -- I think you get my point.

Where am I? On five? That these would be -- that voters would be taking care of by professional
election office staff. So that these are people who are not necessarily inspectors or people who are trained for once-a-year experience. But that these are people who have responsibility as regular employees within the office and can respond to whatever needs to be done.

Sixth, that it is only for the English and Spanish version at this point. I think we do need to take another look at what, if any, issues arise out of the bilingual ballot issue with the other languages.

Seven, that the Secretary of State be on site to monitor this. And I have to confess, it was my understanding that San Bernardino was interested in this only on election day. If they're interested in a longer term period, we're going to have to work out, you know, what that monitoring means. But if it is for early voting for any period of time before the election, then we need to work out how the Secretary of State's going to be involved in monitoring that.

And then, eight, by December 15th, I would like to have a report from our staff, a separate report from the vendor, and a separate report from the county basically describing what we've learned, what we've observed about the process in order for us to go forward with this in the future.

I'm sorry I've made that such a long motion.
PANEL MEMBER MILLER: I'll second the motion, Mr. Chairman.

PANEL MEMBER JEFFERSON: Could it be separated into two parts?

CHAIRPERSON KYLE: We're being asked if we can separate it into two parts. Why don't you elaborate on what you mean. I'm not sure what you mean by that.

PANEL MEMBER JEFFERSON: Well, there were two parts, the second of which was very long, the first of which was to recommend certification -- or to recommend the staff report. Can I suggest these as two separate motions and we deal with them separately?

PANEL MEMBER MOTT-SMITH: To me it's one motion. But I -- if the panel wants to separate them.

PANEL MEMBER CARREL: So we have a motion to separate the motion?

PANEL MEMBER JEFFERSON: Yes, right. Because, you know, I can easily see myself supporting the first part and not the second part.

PANEL MEMBER CARREL: Then you need a second on that motion.

PANEL MEMBER MILLER: I'll second both motions.

CHAIRPERSON KYLE: Let's have a little discussion on the second motion.

Mr. Jefferson, do you want to elaborate for a

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second. Then I'd like to hear --

PANEL MEMBER JEFFERSON: Well, so, with regard to
the potential use of this VeriVote system in San
Bernardino County for the upcoming general election,
that's subject that, you know, I have a lot to say about.
And I'm concerned about -- for several reasons. One is
there a lot of issues that were not talked about in your
motion, such as what is the recount procedure; are the
test ballots that are cast -- are they to be cast in an
early voting situation, in which case is that eligible for
the one percent recount at all? If it's to be cast only
on election day, is it considered a precinct and,
therefore, is eligible for the one percent recount
procedure? And in fact I'm -- most of my comments have to
do with the recount procedure. So if this is to be
considered an experiment, I would actually like to see
this pretend precinct used as a recount precinct. Or at
any rate, like to stipulate that we go through that
process. And they never like to talk about the recount
procedure when there's a -- when we don't have the
randomized ballots. And I would like to suggest how that
might be done. And I would also like to talk about the
precedence that we are setting by actually certifying a
system for use in a real general election, albeit one
precinct in one county, that is in contra-distinction,
which we all agree, to the standards that we set for this very kind of system.

I think it's a bad precedent and I am concerned that the take-away message will be that Nevada and California have certified this system for use in the general election of 2004 before all of these issues have been properly discussed and there's been proper, you know, national as well as regional and statewide discussion on it. We got the paperwork on this voting system at 5 o'clock yesterday. And I really think we are just rushing headlong into something that's unnecessary.

I would have no objection if San Bernardino County wanted to use this system in an experiment where the votes did not count. And I don't think we need to certify if that's the nature of the experiment. And we can do, you know, a lot more creative things.

I would also like see, before we do this, reports from the State of Nevada about their -- and any experiences they with the recount procedure. There's just -- I think we're going -- here we are ten days before the election and we're introducing a whole new category of voting system and certifying it. And I think it's way premature. It's just not necessary. And that's why I think it should be severed. There's much more to say.

CHAIRPERSON KYLE: Okay. That makes it pretty
clear.

I'm going to recommend -- I'm going on speak to

severing it so we can move forward and have a more

elaborate discussion. I want to just see if there's any

discussion on -- if we were to sever it, on moving the

staff recommendation on the first three components, the

WinEDS, Edge and the Card Activator.

PANEL MEMBER CARREL: I don't think there's

any --

CHAIRPERSON KYLE: Okay. So they're not done

with it.

I am going to as the Chairman sever the motion,

Mr. Motion Maker, and call the question on the first

motion, which would be to adopt the recommendations of the

staff vis-a-vis the WinEDS 3.0.1.34, the AVC Edge 4.3.320,

the Card Activator 4.3.320.

Do I have all my numbers right on that, or do you

monitor --

ELECTIONS ANALYST WAGAMAN: An extra point. It's

3.0.134.

CHAIRPERSON KYLE: Okay. Thank you.

So that we would basically adopt your

recommendation, but strike the last sentence of your

recommendation which says, "Staff does not recommend the

certification of the VeriVote VVPAT."

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And then in a separate motion we'll take up that issue.

All those in favor?

(Ayes.)

CHAIRPERSON KYLE: Any opposed?

Any abstentions?

The "ayes" have it.

Thank you for that friendly amendment.

Now, let's take up the second motion. And I'd like to continue discussion of that, including entertaining further suggestions for conditions that might move us towards the possibility -- if we could reach a possibility of implementing something and as a pilot project in San Bernardino. And if we can't, we can't.

But you had a couple concrete suggestions, Mr. Jefferson. And there may be a few others.

ELECTIONS ANALYST WAGAMAN: Staff had one question for the motion maker.

Did the motion include the original ten conditions from the first part for the VeriVote, we'll supply that as well?

CHAIRPERSON KYLE: It did. That was number 1, that it use all of the conditions as in 1 above.

PANEL MEMBER JEFFERSON: So to continue, Mr. Chairman. I guess my first recommendation would be that
we encourage San Bernardino County or any county who
wishes to experiment with this on votes that are not --
that do not count in the general election. And I have no
objection to that. I think in fact I would encourage it
strongly.

Secondly, I would suggest that we need to pay
serious attention to the recount procedures. That is to
say, if that is the time when the long reel of ballots is
unrolled from that -- from the cannister in which it is
sealed an that seal is broken and officials have access to
the ballots and in the order in which they were cast, we
need to specify a recount procedure and procedures
involved -- that preserve secrecy. This is if we insist
on doing this at all. I mean my recommendation is we do
not do this for this general election. But if we must,
then some -- a procedure, for example, in which the
recount of a precinct involves physically separating the
ballots from one another. Cut them at that time for the
recount, and only for a recount. Leave them in the
cannister otherwise. But require that as a procedure.
And then randomizing them and then counting them. Now,
that of course, I am well aware, defeats the possibility
of a machinery count. To me this is a price that you pay
to preserve voter privacy.

There are other things that you can do as well.
CHAIRPERSON KYLE: Before you go on to those other things, Mr. Mott-Smith did you want to address the recount procedure?

PANEL MEMBER MOTT-SMITH: Tony or Lisa, correct me if I'm wrong, but I don't believe that voting in the office of the elections official constitutes voting in a precinct for purposes of the one percent manual recount.

Two things --

PANEL MEMBER MILLER: I think you're right.

PANEL MEMBER MOTT-SMITH: So a) it's a random process. You couldn't pre-select it on purpose. And b) I don't think it would be in the universe that is to be selected from for the purpose of the one percent manual recount.

PANEL MEMBER JEFFERSON: And I thought that might be the case. And so what I -- but then my suggestion is, when -- a recount issue is the critical privacy issue here, as far as I'm concerned. And so if we're really interested in testing this and if we are serious about it, that's where the content of the privacy problem is. The instant that seal was broken on that cannister and that thing is unrolled, that's where you have your privacy problem. So I would like to see that problem addressed. Otherwise, you seem to be suggesting -- I mean even if
that's not in the one percent recount, there is a chance
that a recount will be required in that election among
those ballots, even if it's not because of the one percent
rule. And so we need some kind of procedure for that
eventuality.

So I was going to suggest what do you think about
machine cutting of the ballots, separating them and
randomizing them as a recommended recount procedure in
that case?

PANEL MEMBER MOTT-SMITH: I'd like to expand the
collection, because I'm very curious as to what other
people think. But I could I think personally live with
that as an experimental procedure for this one time.

CHAIRPERSON KYLE: Let's have a few other
comments.

Mr. Miller.

PANEL MEMBER MILLER: Well, as the seconder of
the motion I could agree to that too. This is a pilot
project. And it makes sense to I think follow that
approach that Mr. Jefferson suggests. It may not be the
approach ultimately taken with respect to paper trail.
But with respect to pilot project, I could certainly
support that.

PANEL MEMBER CARREL: If I could comment.

We're talking about a pilot project which would
help us -- I hope the purpose here is to help us understand what are standards we need to achieve, then also help us understand how to successfully implement a voter-verified paper trail system in the California county.

And, first of all, let me say that I do think it would be useful to do a recount out of those machines to actually -- we're doing parallel monitoring in that county, but to also do a recount to verify that the vote on the paper is the same as the vote on the machines. And so a recount would be useful.

I don't think it makes any sense to cut them.

PANEL MEMBER MOTT-SMITH: What do you call it, a recount or a comparison? A recount has an official formal --

PANEL MEMBER CARREL: Okay. A comparison of the vote.

I don't think it makes any sense to cut them because that's not in our procedures. And if we determine based on the utilization of the current procedures -- the procedures of the system and standards that we have that they're not adequate, then we could look into changing them to require the cutting. I don't think the cutting --

I understand the privacy concerns that Mr. Jefferson brings up. But, again, I have to weigh the privacy
And I am worried about what Mr. Charles stated earlier, where if you lose one of them, you undermine the recount -- of the system. And so I'm concerned that adding that component in creates an added variable that could potentially create a problem and not necessarily solve a problem.

Let me though remind people that this is not the first -- would not be the first time a voter-verified paper audit trail system pilot project was done in California. Maybe one county in a general election for president. It was done -- no, it wasn't president. It was for governor. But it was done two years ago in the general in Sacramento county, and it was only for early voting, and it was Avante's system, their first generation system. They have submitted their second generation system, which does cut the paper into a ballot box. They have submitted their second generation system for federal qualification and it has received federal qualification. And it's coming up -- they have submitted it to us as well. So it will be before us at some point.

There's also another company, Accu-Poll, which also is federally qualified.

So I agree with Mr. Mott-Smith that there are -- once this door is open, there will be others.
The difference between the Avante system and the Sequoia system is that the Avante system was never tested under the standards that we adopted for a voter-verified paper trail -- for a successful voter-verified paper audit trail. And so -- and it's never been submitted for that. So we would have -- because they didn't exist at that time. But this would not be -- this would not set a precedent in an election, follow a precedent for the implementation of a new type of system to be used for early voting, to be used in one county, to be used on a limited basis.

And while I do have concerns about fully certifying this system because of the accessibility, and I do have concerns about certifying the system because it doesn't meet 100 percent of the standards, I do see a benefit in doing a pilot project so that we can see whether our standards are useful or not useful or if they actually hinder the process, and to actually see how we can implement them in the successful implementation of a system, unlike Avante, a system that is likely to be mass produced in the near future. The Avante -- the second generation may happen, but the first one was never going to be produced on a -- wide basis.

So I actually think for a pilot project that we get the report from the vendor, we get a report from the
county, we get a report from our own people and understand 
what the voter reaction is, understand the implementation 
from the county, that it would be extremely valuable for 
us as we move forward. And I think extremely valuable for 
the counties, who are looking for the future to see the 
implementation.

This would not be a widespread thing -- I agree 
with Mr. Mott-Smith. It has to be limited to only two or 
three machines. It has to be limited to election -- 
county election staff. But even under those conditions we 
could gain a lot of knowledge and could -- it could be 
very beneficial.

PANEL MEMBER MILLER: Mr. Chairman, this is a 
very important issue raised by Mr. Jefferson. Could we 
have Mr. Charles respond to it very briefly with respect 
to the issue of the recount, if he wishes to.

CHAIRPERSON KYLE: Please do.

MR. CHARLES: Two points on that. The State of 
Nevada did a recount on a number of machines in every 
county. They counted all of them and they mention a 
hundred percent.

If the recommendation is to cut paper records 
individually, I think that adds a logistical nightmare 
when you roll that out on the larger scale. Maybe it's 
possible. But if that's your concern, somebody's -- I
mean if you take this conspiracy that somebody's going to see who voted 20 seconds somewhere and they're going to follow that machine forever and then they're going to find that paper and they're going to figure out that that was from machine 22 and -- maybe that's the person that's cutting your record and you have to be worried about them. I just think we can take this issue and extend it beyond the reasonable scope of what would happen in an election environment. We really do have to balance the administratability, if that's a word, to this. There are procedures I think that we can protect them in ways other than cutting the ballots.

But I think it would be entirely manageable to do a comparison of all of those voted records in 3, 4, 5 machines. And, you know, whether it's -- I don't if they have a polling place at the county or whether it would be early voting at the county or election day voting at the county. It may -- that might be a poll site -- a poll site that would be open too. But I'm not sure what their plans are.

But I would, you know -- I would suggest against doing that cutting at this stage and see how it goes. And take that feedback into the report. That would be my recommendation.

CHAIRPERSON KYLE: When you say there are two or
three other procedures, what are those two or three other procedures?

MR. CHARLES: To?

CHAIRPERSON KYLE: To cutting.

MR. CHARLES: To cutting?

CHAIRPERSON KYLE: Yeah, you said there's two or three alternatives to cutting that would here --

MR. CHARLES: Protections. There are other protections in place, such as the randomization, not to keep track of the machines, as Mr. Mott-Smith mentioned. If you switch the printers around from machine to machine, it's going to be pretty difficult for anyone to figure out which voter was on which machine and which order. That's already difficult to do. It's already under seal. It's already not available to the people who do the recount. But if you skip through those first several steps, I think the swapping around of the printers can be done. And I think it would be important in the post-election report to determine if that is something that is feasible to do in an election environment when there are voters coming in throughout the day. But to do that just so the Panel's clear on how that is done. You power off the machine, you unplug the printer, slide it off at the side of the touchscreen, and then you slide another one on, plug it back in, turn on the power. It's
fairly easy to do. It's the procedure for replacing
paper. But it's just a logistical headache on election
day that you -- you certainly wouldn't want to do during
high traffic time.

PANEL MEMBER JEFFERSON: So that the comparison
that I would like to suggest is the printer switching
procedure, which would have to be done in 100 percent of
the precincts if the system were widely deployed, versus
no printer switching, no effort -- no additional effort at
all on the part of the poll workers, no additional
training for this on the part of the poll workers. But in
the one percent of the counties -- or, sorry -- one
percent of the precincts plus any others that are
recounted for some other reason, only in that one percent
would you do the cutting procedure at the time of a
recount. It sounds to me like, you know, 50 times as much
logistical complexity to switch printers in every precinct
in the state that uses Sequoia systems as opposed to the 1
or 2 percent that are recount afterwards.

MR. CHARLES: I would defer to the election
administrators on what the burden would be. My gut sense
tells me it's probably easier to unplug something and plug
it back in than it is to unroll something and cut
individual records in the hundreds per machine across the
entire county.

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There are also concerns, that if you start swapping printers, you lose some of that ability to audit individual machines for accuracy. You also run the risk of, if you swap a printer and you're putting it on to a machine in an early voting environment where all of the ballot styles may be voted, you -- if you're doing a recount that includes ballots from that precinct, you're going to want to be able to find that printed record. The bar code would help you do that eventually. But in the interim, if you're swapping machines around, you really want to make sure you can find those paper records if that's what you need in a recount. I'd hate for somebody to think that they couldn't find ten records because they never looked at the right printer because they didn't know that was one that was swapped from one to another. So it's also another concern.

PANEL MEMBER JEFFERSON: I think that's a good point.

PANEL MEMBER CARREL: Let me explain though. I don't think there's any intent to swap printers between machines. I think the idea is to have, as you would already have one extra printer per precinct anyway, to have one or two extra printer cartridges per each machine and each machine rotates among those printer cartridges randomly, the ones assigned to it, so that you've achieved
randomization -- a greater randomization for that machine.

But there's no swapping between machines. That way if there is a problem with a machine, you can locate it to these three printers, and it's not mixing votes between machines.

MR. CHARLES: There, you can do that. And it would require counties to buy more printers, which I guess we're okay with. But --

(Laughter.)

MR. CHARLES: I don't think it's essential.

PANEL MEMBER CARREL: Well, I think we need to -- I mean as a pilot project we want to see how that works and whether it's beneficial or not.

ELECTIONS ANALYST WAGAMAN: One note, Mr. Carrel. Remember, under the federal system, unless the printer's labeled, there's not going to be a way to tie the one machine to paper records.

PANEL MEMBER CARREL: If we would have to -- I don't understand why the Feds, as Mr. Charles said earlier, decided to remove the identification connection between a printer and the machines. Because if there is a problem with the machine, you would want to check that printer to see if the printer reflects what --

ELECTIONS ANALYST WAGAMAN: It was to -- for a recount to be done as a precinct as a whole rather than on
the individual machine. Which for audit purposes you would want to do the individual machine, but for the privacy purposes --

PANEL MEMBER JEFFERSON: Yeah, I think that is the reason.

PANEL MEMBER CARREL: But from an audit -- and it says in HAVA though that it has to have a manual audit capacity for each machine. So you don't have a manual audit capacity if you disassociated the printer from the machine because the printers effectively would become part of the machine. So I don't understand that. And we would have to require that the code of the data -- implication code of the machines is located somewhere in the printer cartridge so that they can be tied together if necessary, but maybe hidden under something.

MR. CHARLES: Configuration of it right now.

PANEL MEMBER CARREL: Okay. So if it's not eliminated from the system, it's already available.

The other thing that I should note is while this would be a pilot project, while this would be used for the benefit -- to study the implementation and for the benefit of the counties and then for us, we have to understand one important thing: If there is a recount countywide because a race is too close, we have to make sure that the procedures that are in place adopted -- that we adopt
today are the ones that work, comfortable with for a full recount if there is a race that is too close in that county, because this could be used for that recount.

MR. CHARLES: Mr. Carrel, if I might note, that one of the Panel's standing conditions on certifications is that the state has the opportunity to amend procedures as they see fit. And I think that would be helpful if there is something after today that the state thinks is essential to incorporate prior to that election or prior to any recount, that the latitude is there.

PANEL MEMBER CARREL: And I understand that. I just disagree with the cutting. I think it adds a logistical problem. There's going to be enough problem -- not problem -- but enough potential complications learning this new system. And there -- this may be very close in San Bernardino -- there may be a number of close races in San Bernardino. I don't know. But, you know, for two or three machines I think we should study how -- if it works under our current system. And if we decide that it didn't achieve enough privacy -- enough secrecy, that we evaluate that later and see how that might work. I don't advocate doing it now. It only adds more complication at this point.

CHAIRPERSON KYLE: Further discussion -- Mr. Kercher.
PANEL MEMBER KERCHER: I'd like to stake out a little more conservative position here, suggesting that the panel ought to be very conservative about violating or excepting -- I guess it would be an exception to its standards; that its tests for that ought to be a "compelling need" rather than "highly desirable". And, in fact, I would suggest that "highly desirable" as it's been characterized here is around the value of the experiment which we have spent the last 20 or so minutes trying to craft that experiment in a manner that makes sense.

Again, I remain uncomfortable, that we have risen below that -- the value of this experiment and of the safety of that experiment to support the idea of moving away from a standard which was done through a much more complex deliberate with outside input.

CHAIRPERSON KYLE: Thank you. Good point.

PANEL MEMBER MILLER: Mr. Chairman, I've long supported the idea of having a paper trail. I've always been incredibly, incredibly admiring of the Secretary of State for taking the leadership nationally. He spoke. Some listened initially. Many opposed. And then most people, many election officials ended up supporting his point of view.

I missed the bus to Las Vegas. I didn't get to go. So I didn't see the voting system operate. I
understand it operated successfully. But I really do want to see it operate. And I think it's very appropriate to have a pilot project in California. I'm very mindful of Mr. Jefferson's concerns with respect to voter privacy. It is a felony in California to violate the privacy of a voter, be it an elections official or any other person.

I really think that the procedures suggested mitigate against the violation of the voter secrecy, as well as the criminal sanction that would be associated therewith.

I really think we should move forward with the pilot project with the conditions stated. I am still a little questionable with respect to the paper cutting condition, whether that's really necessary or not. As Mr. Carrel suggested, it's not necessary. Mr. Jefferson suggested it is. I don't know. Before we vote I'll have to decide.

But I support the paper trail, I support the pilot project. And I wish that I had been able to go to Las Vegas.

CHAIRPERSON KYLE: For more than one reason.

(Laughter.)

CHAIRPERSON KYLE: With the gambling tendency you have.

I want to -- before I turn it back over to you,
Mr. Jefferson I want to just -- looking through the conditions that you listed, Mr. Mott-Smith, there were two that seemed slightly problematic that we're hung up on. And the others I think there are no controversy, and I'll be with those in just a second.

But it goes to your point -- the ones that are slightly problematic are the recount procedure and how to protect that process.

And we had one suggestion today, your suggestion, Mr. Mott-Smith. And the other one was machine cutting of the ballot. Both to attempt to address the same issue.

So it seems we need to resolve that.

And the other issue had to do --

PANEL MEMBER CARREL: What machine can we use?

Manually?

CHAIRPERSON KYLE: There's manually.

PANEL MEMBER JEFFERSON: I meant not tearing.

CHAIRPERSON KYLE: No, I understand, using a cutter or scissors.

And that the other -- second issue was designating the county as a random recount precinct, and that -- we couldn't do that under the random aspect because it wouldn't be random. However, I'm wondering if we can just stipulate it as a precinct to be recounted, irrespective of the random -- in addition to it. Just say
we want to recount there.

PANEL MEMBER MOTT-SMITH: What I was suggesting -- I guess the answer to that is we probably could. But what I was suggesting is that we designate it as a requirement -- a comparison, not using the vocabulary as a code that actually says recount.

CHAIRPERSON KYLE: So how would that be written up? When we mail this to --

PANEL MEMBER MOTT-SMITH: We would require that there be as a part of the canvass a comparison of the electronic versus the paper records.

PANEL MEMBER CARREL: On those machines?

PANEL MEMBER MOTT-SMITH: On those machines.

PANEL MEMBER CARREL: If we were to designate the elections office in San Bernardino which is using these two or three machines as a precinct that needs to be recounted, you have to remember they probably have six or seven other machines without a voter-verified paper trail in it. That would be included as well if you did the whole precinct. And I think that that would undermine the purpose that we're trying to seek here, which is to understand whether the voter-verified paper trail is presenting an accurate reflection of the votes on those machines. So we can get totals for those machines and then compare it to the paper trails for those machines. I
think that would achieve what we're trying to achieve without using the whole office as a precinct.

CHAIRPERSON KYLE: Okay. Mr. Jefferson.

PANEL MEMBER JEFFERSON: I'm going to toss another suggestion possibly into the discussion.

With FAX voting in some states, when a voter actually does FAX their ballot, they are expected to understand that their ballot is not as private as other balloting methods. And in some cases they actually have to sign a form saying they understand that.

One thing that I think would be perhaps appropriate here is for the voters who choose this method of voting in such an experiment, that they be notified that we don't guaranty the same standard of privacy for this particular method of voting as we do for other systems. And then voters can volunteer on that basis. And we acknowledge that they don't meet our own AVVPAT standards.

PANEL MEMBER CARREL: Interesting.

PANEL MEMBER MILLER: I would disagree with you, Mr. Jefferson, in that regard. I don't think that's appropriate because I think there are safeguards to preclude compromising voter secrecy, unlike a FAX ballot. There's compromising inherent in that process. And I don't think that is true with respect to this voting
PANEL MEMBER JEFFERSON: Well, just how is it unlike a FAX ballot? It seems very similar to me at the recount time.

PANEL MEMBER MILLER: I think that it's very -- would be very difficult, especially if we were using multiple printer, that approach, very difficult to ascertain how anybody has voted. That's not true with respect to FAX ballots, especially at the front-end. At the back-end there are a number of safeguards in place with respect to protecting voter privacy. At the front-end they may not exist.

I really don't think they're comparable.

PANEL MEMBER JEFFERSON: Well, as an example -- to take Mr. Carrel's example of shuffling a set of printers to the -- well, a particular set of printers assigned to a particular machine. So, if I know you're the first voter on machine one, then I know your ballot is the first vote on one of the three printer cartridges. And so out of the universe of votes, I've narrowed your vote down to number one. If I'm there observing the recount, as I might like to be, I would not like to have the burden of knowing, you know, which of -- that it's one of these three ballots. And if they all happen to vote for the same person for president or senator, I know how
the person voted.

PANEL MEMBER MILLER: But you have multiple machines. That's one of the conditions, you have multiple machines. So you don't know which --

PANEL MEMBER JEFFERSON: But Mr. Carrel's suggestion was that it not shift printers between machines.

PANEL MEMBER CARREL: But they do have multiple machines.

PANEL MEMBER MILLER: But you have multiple machines. So --

PANEL MEMBER JEFFERSON: Well, so we would have to talk about -- we don't a requirement, for example, that voters be assigned the machine randomly. It's a poll worker discretion. And we don't have a procedure -- we haven't yet decided on the procedure for shuffling printers among machines. If you have K printers and N machines, it matters how big K is and it matters whether you shuffle them within -- you know, across all the machines or you assign them to a machine. There's been no analysis of any of this. I would like to see this analysis. I would be happy to contribute to this analysis. But it matters hugely for a privacy point of view exactly what the printer shuffling procedures are and how many printers there are per machine and so on.
PANEL MEMBER CARREL: I'm not a mathematician. I acknowledge that. I don't even pretend. And I know that there's been criticism of our one percent manual recount as not achieving complete statistical randomness. But we do one percent manual recount, unlike other states, and so we at least have some benefit to it.

And that's sort of what we're trying to achieve here, is some benefit of randomization, augmented by the felony, if you know of -- if you know where someone voted, augmented by the other procedures in place to protect the privacy of the vote and keeping, you know, the average person from seeing the ballot.

PANEL MEMBER MOTT-SMITH: And it was a part of my motion that there be multiple machines and that the voters be assigned to the multiple machines, not all to one but randomly assigned to the --

PANEL MEMBER CARREL: I don't mean to move off of this because this is so compelling. But -- and I'm sure there's still more discussion on it. But I think there's one other condition that I'm concerned about that I don't know if it was mentioned, which is regarding accessibility and to -- while Mr. Jefferson makes the point that we let people know that their privacy may not be protected, I think it's clear that accessibility is not achieved by this and we should not have the other audio components...
connected to these two machines. So that if someone is
blind, they're directed to a different machine which has
audio capacity and people aren't lacking accessibility for
verification.

PANEL MEMBER MOTT-SMITH: I'm not sure I see the
point of that. You have no less accessibility as a blind
citizen to the AVVPAT system than you do to the regular
system.

PANEL MEMBER CARREL: You have no. --

PANEL MEMBER MOTT-SMITH: You may not be getting
any more, but you're not getting any less. And why you
would deny someone the ability to use the audio because
they're not getting more, I'm not clear on.

PANEL MEMBER MILLER: And also you have the
additional safeguard with respect to sighted voters who
are able to look at the printout. They're able to
verify -- that would provide some credibility for the
visually impaired voter that the machine is operating
correctly. I agree with Mr. Mott-Smith.

CHAIRPERSON KYLE: I'm going to raise yet another
issue and, that is, designation of early voting versus
voting only on November 2nd. Because that's unclear, and
I don't think we should go forward. I'd be uncomfortable
going forward, unless this panel has some kind of
resolution on that. I don't think we should just throw it

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out there and say, "Well, if you guys get it together by
next today, go ahead and start doing early voting."

We should either say that it's okay or say that
it's for November 2nd only. My understanding of your
motion is that it's for November 2nd only.

PANEL MEMBER MOTT-SMITH: My understanding of
what San Bernardino had asked for was on election day. I
wish they were here to answer that question.

Mr. Charles' indicated --

CHAIRPERSON KYLE: Don't we have a formal --

excuse me. Don't we have a formal --

PANEL MEMBER MOTT-SMITH: I looked at their
letter and it doesn't say.

ELECTIONS ANALYST WAGAMAN: Their letter doesn't
say the vendor's actually trying to contact the county to
verify what their intent would be.

CHAIRPERSON KYLE: I'd be more comfortable if
staff tried to contact the county right now and verify
what their intent would be. If you --

ELECTIONS ANALYST WAGAMAN: Staff will make that
attempt as we speak.

CHAIRPERSON KYLE: Thank you very much.
CHAIRPERSON KYLE: Let me go through the
non-controversial issues. And let's verify that we're all
on the same page on these.
One, that it would be used conditionally. It would be used with the conditions that are articulated in a motion that's already been seconded and passed regarding the other three components that were tested.

John, you tracking --

PANEL MEMBER CARREL: It's only used with those other --

CHAIRPERSON KYLE: Right. And all the conditions set forth in the staff recommendation.

Two, that it's one time only. That's an open issue as to early voting versus -- that it would only be for November 2nd and/or early voting leading up to the election November 2nd. And we'll clarify that in a second.

Next, that it's only in San Bernardino, that it's only in the headquarters election office of San Bernardino.

That they're multiple machines. And I think we need to define that with some specificity. We should designate two machines, three machines.

PANEL MEMBER CARREL: I'd say three.

CHAIRPERSON KYLE: You didn't make the motion.

(Laughter.)

CHAIRPERSON KYLE: And then --

PANEL MEMBER JEFFERSON: I would say a thousand.
(Laughter.)

CHAIRPERSON KYLE: You'd say a thousand.

Election staff must act as poll workers. That's how I'm phrasing that one.

It's only for English-spanish. That there are Secretary of state on-site monitors. That the state and the county and the vendor must submit written reports by December 16th. That we require the county to conduct a comparison of electronic versus paper in their official canvass.

Then there's three that were offered as friendly amendments: Notice to voters that there's a lowered standard of privacy; assign voters randomly between multiple machines; and disable the audio component.

PANEL MEMBER CARREL: I'll remove my disabling the audio component if I can -- I'll remove my proposal to disable the audio if I can promote the random assignment to the machines and no records kept of which machine the voter votes at.

CHAIRPERSON KYLE: While we're waiting for -- I was going to say it's 12:35. Do you folks want to take a break, and then we can come back and get some more information hopefully from the county and try to resolve a few of these issues?

PANEL MEMBER MOTT-SMITH: Okay. I just wanted to
mention that --

PANEL MEMBER CARREL: Are you talking about a ten-minute break or a lunch break?

CHAIRPERSON KYLE: You have some information?

PANEL MEMBER MOTT-SMITH: -- that a portion of the motion was a requirement for randomization, both of the direction of the voters and to the machines and also rotation of the printers on the machines. I didn't -- if you mentioned that, I didn't --

CHAIRPERSON KYLE: No, I didn't.

PANEL MEMBER JEFFERSON: So in addition to specifying the number of machines, we have to specify the number of printers per machine, right?

PANEL MEMBER MOTT-SMITH: Yeah. And I'm -- yeah, that's right.

PANEL MEMBER JEFFERSON: The more, the better.

CHAIRPERSON KYLE: So this to me goes to the issue of how do we ensure a recount that's random. And it's either changing printers or doing the cutting of the ballot. And so that's one that needs to be worked out.

So I'm going to suggest a break until one o'clock. That will give you folks a chance to grab a bite real quick and inhale it and come back, and then we can -- hopefully we'll have some more data and maybe think through some of these suggestions.

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Okay. Hearing no objection.

(Thereupon a lunch break was taken.)

CHAIRPERSON KYLE: All right. We're tracking Caren down, but let's reconvene.

And we understand from staff, you have new information from San Bernardino County itself?

ELECTIONS ANALYST WAGAMAN: Correct. Their original intent was to actually use the system Monday through Wednesday next week. So starting on Monday through Wednesday, just for those three days.

They said they could also support the alternative option presented here of just using it on election day.

So they would be able to support either one of those options.

PANEL MEMBER JEFFERSON: Excuse me. Do you have any idea of the estimate of the number of voters who will be involved in the Monday through Wednesday scenario?

ELECTIONS ANALYST WAGAMAN: I did not get an estimate. They did say they're having fairly significant volume, but they didn't -- I don't have an estimate.

PANEL MEMBER JEFFERSON: Again, it's a privacy issue.

ELECTIONS ANALYST WAGAMAN: Right. I understand the volume increasing of -- but, no, I don't have that information for you.
CHAIRPERSON KYLE: With that new information, Mr. Motion Maker, what do you think?

PANEL MEMBER MOTT-SMITH: I think -- I'm very certain about election day. I think it would be good to do it on election day. And I think Monday seems awfully short notice to me.

CHAIRPERSON KYLE: Sure does, especially since we're haggling over --

PANEL MEMBER MOTT-SMITH: They wouldn't get any public notice out to speak of.

So I would say the Monday before the election and the Tuesday of the election would be -- make more sense to me. Or I'd just go for the day of the election. I don't have that strong a feeling about it.

PANEL MEMBER CARREL: I agree with either one. I don't think it matters, as long as it's not prior to the Monday before the election day. And no more than that Monday and Tuesday. But I could go with just one of them.

CHAIRPERSON KYLE: Tony.

PANEL MEMBER MILLER: I would defer to the county actually. They could make the judgment as to what works for them.

PANEL MEMBER CARREL: I just -- one other item. Address -- and it's not specifically on this. But that is that -- when we talk about an observer, I don't -- I just
want it understood that --

CHAIRPERSON KYLE: You.

(Laughter.)

PANEL MEMBER CARREL: I'm just wanted to say

that I -- no.

(Laughter.)

PANEL MEMBER CARREL: I just want it understood

that the observer is not for security purposes. We're
doing parallel monitoring to assure the accuracy. And
we'll do the comparison first for accuracy. But getting
the report from the county and report from the vendor and
then having our own monitor observer down there doing up a
report is to understand our concerns about implementation
of the system so that we can learn from it. And all three
of them are different perspectives. And I think we can
get a lot of information when we're three -- the three
different points, the county, the state and the vendor,
are all focused on the implementation of the perspectives.
And it's not necessarily like a security. It's to
understand and to improve based upon that.

CHAIRPERSON KYLE: I would agree with that.

Lee. And then I'll come back -- Mr. Jefferson.

PANEL MEMBER JEFFERSON: Well, okay. So I want
to make some general comments.

I really can't support this motion for the
reasons that I've outlined. But I want to sort of summarize.

What we're talking about is characterizing a San Bernardino precinct as an experiment. And I think characterizing it as an experiment is really not proper. The issue here to me is the privacy. So if I were to characterize it as an experiment, I would like to have an experiment that helps us determine whether or not there are privacy issues with this architecture or not. And the only way of doing that is not -- I mean it's not going to suffice to use it in a precinct and note that, after the fact, nobody is able to announce how any particular voter voted and, therefore, call it a success, there wasn't a privacy problem. The only way to do this is to have somebody actually attack in some realistic way, to actually try to violate the privacy of some voters. Okay. And that means somebody down there with access and with money to spread around or something like that. And we're not contemplating a serious experiment here.

What I expect to happen instead is that after this happens we will get a nice report from staff and from the county and they will say the thing went smoothly, the printers didn't jam, the voters liked it, the vote counts on paper matched the vote counts electronically
afterwards. Big success. And nothing about that kind of
report or that kind of experiment addresses the issue of
privacy.

We have no analytical analysis describing, you
know, what the parameters should be of the printer
swapping procedure that would minimize the risk to vote
privacy.

In the end I predict that what will happen is
that this experiment will be pronounced a success. It
will not mean anything at all about the primary issue of
privacy. But people will go on to tout it as a success.

California will have certified this system and California
will have written a report saying it was a success. And
we will not have been honest about -- nor true to our own
standards.

I would like to see us write standards and defend
them. We have written the standards. I would now like to
see us defend them. The standard says it shall not be
possible to reconstruct how a voter voted. It doesn't say
it shouldn't be possible if certain procedures are
followed. It doesn't say, you know, there shall be
procedural protections in place to help prevent the
possible violation of voter privacy. It says it shall be
impossible. I was one of the advisors that participated
in the writing of this standard. I knew what it meant.
Everybody on the phone calls that I was on understood what that meant. I would like to see us set a standard and stick to it.

So with respect to everybody, I can't support this second motion, unless it were done -- unless they were volunteer voters whose votes did not count. And then I would enthusiastically support it.

CHAIRPERSON KYLE: Any other comments?

John, would you mind going through your point by point.

PANEL MEMBER MOTT-SMITH: Is this a summary of the motion?

CHAIRPERSON KYLE: Yes, please.

PANEL MEMBER MOTT-SMITH: Just one comment. As we did hear, I am concerned that 2005 is upon us and 2006 is going to be here soon too, and I do think this moves us down the road. And I also think, David, that we can address any weaknesses in the way that the study -- or things that we don't address, we can call those out in the study and say those weren't addressed. This does necessarily -- this is not to change the standards. This is to get some real world experience.

So the motion is, as Mr. Kyle suggested, to certify with conditions:

The first of which is all of the conditions in
the original motion.

The second is that it's for one time, which is
the November 2nd general election.

Third is that it's in one place, San Bernardino
County.

The fourth is that it's in the headquarters only.

Fifth -- and if I lose track of the numbers, just --
CHAIRPERSON KYLE: Just say "next".

PANEL MEMBER MOTT-SMITH: -- that there be
multiple machines. And I would suggest no less than
three, no more than five.

Next, that there be a -- that voters be assigned
to the machines in a random fashion.

Next, that there be a system for rotation of
printers on each of the machines periodically through the
day so that each machine has more than one printer
assigned to it and that those printers are rotated
randomly through the day.

Next, the election office staff -- or the
equivalent to the election office staff who are
specifically trained for this purpose be the people who
administer it.

Next, it's only for English and Spanish.

Next, that the SOS monitor participate on site in
the voting.
Next, that there be reports no later than the
15th of December from our office, from the vendor, and
from the county separately.

And, next, that there be a comparison of the
paper versus the electronic record.

And I believe that that is the list of
conditions, unless I missed something.

PANEL MEMBER CARREL: I think when you talk about
voters being assigned randomly to the machines, in
addition to that it was that no records be kept of which
voters voted on those machines.

PANEL MEMBER MOTT-SMITH: Okay.

CHAIRPERSON KYLE: Do you accept that?

PANEL MEMBER MOTT-SMITH: Yes.

PANEL MEMBER MILLER: Point of clarification.

Which days can be used --

PANEL MEMBER MOTT-SMITH: Oh, I'm sorry. It
would be on Monday and Tuesday, so November 1st and
November 2nd.

PANEL MEMBER CARREL: And did we want to -- what
was the number of machines? You said three --

PANEL MEMBER MOTT-SMITH: No less than three, no
more than five.

PANEL MEMBER CARREL: Do we want to just
establish three or four --
PANEL MEMBER MOTT-SMITH: Four.

PANEL MEMBER CARREL: Four?

CHAIRPERSON KYLE: Well, why don't we --

PANEL MEMBER MILLER: Let the county make that decision.

CHAIRPERSON KYLE: What about -- have we eliminated the discussion of disabling the audio component?

PANEL MEMBER CARREL: I think I rescinded that.

PANEL MEMBER MILLER: Yes, he did.

CHAIRPERSON KYLE: And what about notice that there's a lower standard of privacy?

PANEL MEMBER MILLER: Not supportive.

PANEL MEMBER DANIELS-MEADE: Not supportive.

PANEL MEMBER CARREL: Not supportive.

CHAIRPERSON KYLE: What about a notice of...

PANEL MEMBER MILLER: No, whatever it is.

(Laughter.)

PANEL MEMBER DANIELS-MEADE: Do you want a million dollars?

(Laughter.)

CHAIRPERSON KYLE: All right.

ELECTIONS ANALYST WAGAMAN: Was the audio question addressed?

PANEL MEMBER CARREL: Yeah, I rescinded that.
ELECTIONS ANALYST WAGAMAN: Okay.

CHAIRPERSON KYLE: And --

PANEL MEMBER CARREL: I would just make one comment. And it's related to the standards, so I assume it's in the procedures, although I'd have to check. But that if there's a problem with the verification, voter notices that the machine is pulled out of service, so I assume that that's --

ELECTIONS ANALYST WAGAMAN: All that same language has been -- with the procedures.

PANEL MEMBER CARREL: So there's no need to put that in.

CHAIRPERSON KYLE: And, Mr. Mott-Smith, what's your proposal for addressing Mr. Jefferson's concern about some kind of standards for how -- or parameters for changing the printer?

PANEL MEMBER MOTT-SMITH: I would like the general condition that is included in number -- the first condition.

CHAIRPERSON KYLE: Whatever one that is?

PANEL MEMBER MOTT-SMITH: Yeah, that allows us -- the staff to work out with the county a) what the procedures would be for rotation of the printers and b) possibly if there are issues that relate to specific procedures for recount.
CHAIRPERSON KYLE: Okay. So that will be added.

ELECTIONS ANALYST WAGAMAN: So here -- base that plan agreed to by both the county and the Secretary of State's office for the implementation of this pilot program?

PANEL MEMBER MOTT-SMITH: Right.

ELECTIONS ANALYST WAGAMAN: Including, but not limited to, the issues just addressed. Okay.

CHAIRPERSON KYLE: Anything else?

All right. Then the motion as it stands, all those in favor?

PANEL MEMBER CARREL: Do we have a second from Mr. Miller?

PANEL MEMBER MILLER: Yes, we do.

CHAIRPERSON KYLE: All those in favor?

(Ayes.)

CHAIRPERSON KYLE: Did I here any ayes ace to my left?

PANEL MEMBER MOTT-SMITH: I was an aye.

CHAIRPERSON KYLE: All those opposed?

(Hands raised.)

CHAIRPERSON KYLE: All those abstaining?

The "ayes" have it.

All right. I would like to set a date on that one for setting up the procedures though so we're not
fumbling into November 1st.

PANEL MEMBER MOTT-SMITH: Okay.

PANEL MEMBER CARREL: Today's Friday.

CHAIRPERSON KYLE: Wednesday or Thursday?

ELECTIONS ANALYST WAGAMAN: I would suggest

Wednesday because that's the date already in the --

deadline to submit the report from the ITA.

CHAIRPERSON KYLE: Good.

PANEL MEMBER MOTT-SMITH: Good.

CHAIRPERSON KYLE: All right. So by next

Wednesday.

PANEL MEMBER CARREL: Half a loaf, Mr. Charles.

CHAIRPERSON KYLE: Few slice.

(Laughter.)

CHAIRPERSON KYLE: Okay. So we're done with that

part.

Move on to Agenda Item 2, and then 3. And we

should be done by 6 or 7.

(Laughter.)

ELECTIONS ANALYST WAGAMAN: Mr. Chair, would you

prefer to address the ES&S items together or separately?

PANEL MEMBER CARREL: Please, together.

CHAIRPERSON KYLE: That's a question to the

Chair. You're the Vice Chair.

Any objection to doing them together?
Hearing none.

Do it.

ELECTIONS ANALYST WAGAMAN: I may bounce them back and forth a little bit because I have the report written separately. You'll be looking at tabs D and G for the staff reports.

These are the items remaining under ES&S that staff had difficulty verifying the current certification status of the particular version that was being used in the state. The equipment itself was certified. And as I go forward, I'll explain some of the history on each of these items as we go forward. But that's what we're looking at here. These are items already deployed. These are not new systems. It's going back and we're trying to clean up some of our certification on systems already deployed.

The iVotronic version 7.4.5.0. The iVotronic is a DRE touchscreen voting system. It's a little different from some of the ones we've seen before in that instead of it being activated by a card activator or a credit card, it's activated by a PEB, which is -- it looks like half a brick basically. And it's put in there and it's actually activated by the poll worker rather than the voter. That's the principal functional difference from some of the other DRE's you're more familiar with.
Also, the printer is not installed directly on
the printer. It's actually got one communication pack
that's used for the whole precinct that relates to that
printer.

Those are the major functional differences from
systems you're more familiar with.

The historic record on this is: Staff has been
able verify that version 7.4.1.0 was cert -- 7.4.0 -- I'm
sorry -- was certified previously by the state. We also
know that separate 7.4.5.0 was tested by the state. We
know that a VSP hearing was held. Probably no minutes
from that meeting because that happens to be a meeting
where we had a problem with our shorthand reporter where
both pieces of their equipment broke down so there is no
minutes from that meeting. We know it was considered by
the panel. However, we don't know what action was taken
and we don't have a record of whether -- approval was
issued or not.

So that's a history on that particular item.

That firmware version number has -- does have a
NASED number, 010105-7.4.5.0. Those are the 1990
standards.

Switching over now to the other system before I
move on to the state testing. The other -- I'm sorry.

Back on the iVotronic. That is only used in Merced
County, so you're only talking about one county.

The other component of the application relates to San Mateo County. The two components are the Optech Eagle and the Optech IV-C. The Optech Eagle is a precinct count optical scan. The IV-C is a central count optical scan. That equipment is used in two other counties: Amador and San Francisco. The San Francisco equipment carries that one-time-use cert for previously -- rank choice voting. The Amador uses an older version, which we were able to verify the certification on.

So the -- issue only relates to San Mateo County.

The Optech Eagle, its APS version 1.52 and APS version 1.30, again, is a central -- is a precinct count optical scan system. There are a couple of chinks between the version that we have a record of certification on, which is the version used in Amador.

The Optech IV-C is, again, a central count optical scan system. There are some changes -- fairly minor changes between that and the version that we've been able to verify certified 1.03b.

But the history on this is that all this equipment was certified back once Sequoia and ES&S were the same company, VRC. And so some of the certification documents from back then have been lost in the split. So we weren't able to necessarily verify all the equipment.
Sequoia has a similar 1.301.50, which we were able to verify the certification on. But we don't know if what they call 1.30 is the same thing as what ES&S calls 1.30. So we weren't able to verify that certification.

These are legacy systems. They have been tested on, so they were grandfathered in under their state certification previously. They are federal qualification. They do not have a NASED number on them. They have been tested at the federal level, both tested and -- or two times they've been tested we know of in recent history, one where they're tested and the Feds include them as part of NASED number but basically said these are legacy systems and certification should depend on state testing.

The other item where they were tested was as part of rank choice voting. They did not issue an NASED number then because the Feds did not have standards to issue a qualification on rank choice voting. So they tested, did code review on it, but they did not qualify -- did not issue a federal qualification number for it.

So that's the history on these items.

We're close to the state testing. Staff have been working with the vendor for several months trying to verify the certification status, when it became apparent that we couldn't -- state offered the vendor an opportunity to bring it forward for a full round of state
testing. The vendor indicated that there would not be
sufficient time to complete that prior to the election.
So staff then instead arranged directly with the two
counties affected to do a more limited state testing with
more limited objectives.

Basically what the goal was is to do sufficient
testing to allow a one-time use cert limited to the
specific jurisdictions and to be able to bring that
forward -- and to be comfortable bringing that forward
before the Panel. So the testing was more limited in that
we didn't try to extrapolate out to every single possible
scenario. Specifically we did not test the primary logic,
which takes up a significant amount of our state testing.
So the state testing was very limited with a very limited
goal.

That testing was conducted in the counties, in
Merced and in San Mateo, earlier this month. The vendor
was present and did participate in that testing. The
testing was successful for the purposes as I just
described, which leads us forward to our reports.

On the iVotronic, this does not currently include
the voter-verified paper audit trail. One issue of note
is that the vendor does intend to bring forward the
iVotronic either with the new firmware version or with the
firm -- a new firmware version that is federally qualified
or another new firmware version that includes the VVPAT,
whichever one they have ready. But they would bring that
forward I believe in December and January. You can ask
the vendor about that. So that will be in place before
March, which is the next time the county may have a local
election. So that they would not have to go back through
this process -- they would have a full cert by that point.

But, again, this does not include currently the
voter-verified paper audit trail. So not that it's
relevant since this is one-time use, but it would have all
the other standards that carry requirements that are
required for the April directives.

That leads us to recommended certifications,
first on the iVotronic, again certified only for the
specific jurisdiction, Merced; certified only for the
particular election that was tested, November 2004 general
election; only be certified with -- used with certified
election management software, the Unity package; the
standard language about no modifications at a later date.

The items 6 through 7 are the standard language
as relating to the April directives on touchscreen voting.
I removed the standard language relating to the timing out
January 2006 since this certification would end at the end
of this year or with the November election, regardless.

Two other items. One is -- item 8 is the
Election Observer Panel plan. That's a standard requirement.

Item 9 is worthy of note. It requires them to submit a copy of their -- the certification from the Logic and Accuracy Board. That's something that's already required under the Elections Code. That was added here because part of the state testing was based around the logic and accuracy testing the counties were doing. We actually worked with both county and vendor to modify their logic and accuracy testing in order to beef it up to a point where we felt it would be sufficient to verify the accuracy of the system in this limited environment.

So the submission of that logic and accuracy is important towards the staff recommendation that that was successfully completed. So that's why that was added specifically then rather than just relying on the Elections Code.

So that's the first recommendation.

The second recommendation relates to the Optech Eagle and the Optech IV-C. Recommending the Optech Eagle APS version 1.52, HPS version 1.30; Optech IV-C version 1.07a with the following conditions:

Again, limited to San Mateo County. Again, limited to the November election.
management software. In both of these case it's Unity  
2.2, by the way.

4) That it not -- the Optech Eagle shall not be permitted to be connected to an exterior communications system, including the public telephone system. The reason for that is that one of those changes between 1.28 and 1.30 is a change that relates to the use of the modem. It allows for basically the modem being -- in certain situations be triggered automatically if certain conditions are met. That was not tested as part of the state testing. Therefore, that's a change that we didn't test; so, therefore, it's not a change we're comfortable recommending to you. The county's not planning on using it, so it's not an issue. But that's a condition on the certification.

Five is, again, the standard language about no modifications without approval.

Six is, again, standard language relating to preserving the right to make modifications at a later date.

Item 7 is, again, Election Observer Panel plan, which is standard.

Item 8 is, again, the Logic and Accuracy Board. Again, the same logic as from Merced. The only difference being that San Mateo's original logic and accuracy plan...
met our needs. We didn't require any additional changes like Merced, where we requested changes be made.

Thus concludes the staff report.

CHAIRPERSON KYLE: Okay.

And what was your thinking behind limiting both of those to just November 2004?

ELECTIONS ANALYST WAGAMAN: The state testing was specifically designed only to verify our accuracy for that election. Basically what we did is rather than our standard testing where we developed a test deck that makes sure it exercises all the logic that could be run into in the state, all the primary logic, all the general logic, all the write-in logic, all the multiple vote logic, all those kind of logics that possibly could exist, what we in essence did is we took their election data set and used that to build our test deck around. So, therefore, we didn't test all the logic. We only tested the logic of -- Merced's logic for the November election or San Mateo's logic for the November election. So other elections that logic was not necessarily tested; so, therefore, we're not recommending the certification beyond that.

And as I indicated earlier on the iVotronic, the same is true for the Eagle and IV-C, that that vendor has basically already agreed to bring forward those items for a full round of testing once we get through this election.
CHAIRPERSON KYLE: So they would supercede the need?

ELECTIONS ANALYST WAGAMAN: Correct, they would bring forward before March, which is when both those jurisdictions -- the earliest they would have any other elections in those jurisdictions.


PANEL MEMBER MOTT-SMITH: Are we talking about the November only for the November state election? In other words, I'm not aware whether the counties have -- merced or San Mateo might have elections in December or January --

ELECTIONS ANALYST WAGAMAN: No, both those counties have indicated the earliest they'll have an election is March of 2005. They have no December elections or January or February elections planned. San Mateo is definitely having an election March. Merced may, but think it's more likely not till December of 2005.

PANEL MEMBER MOTT-SMITH: All right.

PANEL MEMBER CARREL: Building on that. If -- they're actually in March. But you're suggesting ES&S going forward with a new generation of software, is that what you're saying?

ELECTIONS ANALYST WAGAMAN: They'd either bring
forward a new version of software, which is the case with
the iVotronic, or they're bring forward another version --
the current version before you, but we would go through a
full round of state testing designed to test all the logic
that would be sufficient to issue a full certification.

PANEL MEMBER CARREL: Is there Federal
qualification at this point or not?

ELECTIONS ANALYST WAGAMAN: The federal
qualification's already on there on the iVotronic for the
new version.

PANEL MEMBER CARREL: On the new version?

ELECTIONS ANALYST WAGAMAN: Right. There were --
the Unity version 2.4.3, which you certified previously
listed in the -- the optical scan systems, includes a
qualification on the iVotronic 8.000. They may bring
forward an even newer version than that that supports the
VVPAT if it's ready. But they have at least one version
that is fully qualified.

PANEL MEMBER CARREL: But that still needs state
certification and that's --

ELECTIONS ANALYST WAGAMAN: Right.

-- the version that the counties are anticipating
using after this election?

ELECTIONS ANALYST WAGAMAN: Correct. They
would -- this system would only be certified for this one
election. So in future elections they would have to get
something forward to be fully certified before it could be
used.

CHAIRPERSON KYLE: Other questions from the
Panel?

PANEL MEMBER CARREL: One more.

I'm trying to find the recommendations. And I
see a recommendation page here for the Optech Eagle and
Optech IV-C version 1.07a. Then I see one for the
iVotronic in Merced.

But the Optech Eagle for San Mateo, wasn't San
Francisco part of this?

ELECTIONS ANALYST WAGAMAN: San Francisco uses
the same configuration, but they use a modified version
that includes rank choice voting.

PANEL MEMBER CARREL: Then we've already cert --

ELECTIONS ANALYST WAGAMAN: Then you already have
a one-time-use certification on it, correct.

CHAIRPERSON KYLE: Any questions? And also we
have the vendor representative here. So if there are
questions --

PANEL MEMBER KERCHER: Just a clarification.
The logic and accuracy test with each of the
counties, have those tests actually been performed and
have we seen the results or we're just waiting for a final
report, or is your recommendation somehow dependent upon
the results that are in a report --

ELECTIONS ANALYST WAGAMAN: The last impression I
had was that the testing had been completed. I have not
received that -- the document that would verify that,
which is that Logic and Accuracy Board certification,
which is why that was included in a condition. The state
testing was built around the logic and accuracy testing in
part, and that's why that was put in there.
PANEL MEMBER KERCHER: So, again, are you going
to be making a conditional determination when you see
those reports?

ELECTIONS ANALYST WAGAMAN: Right. They have
provided copies of what the test plan was. We observed
portions of the plan. We participated in parts of the
logic and accuracy testing. That certification would
indicate that that plan had been successfully completed --
PANEL MEMBER KERCHER: Thank you.

ELECTIONS ANALYST WAGAMAN: -- which would then
meet the staff's -- which meet the needs for staff to then
issue that recommendation for certification with
conditions.
PANEL MEMBER CARREL: I would make a motion to
adopt staff recommendations.
PANEL MEMBER DANIELS-MEADE: Second.
CHAIRPERSON KYLE: I'm going to hold off on it.

Thank you very much. The motion is duly noted.

I just want to give the vendor representative an opportunity to speak if there's any points to be made. Or any questions from the panel to the vendor rep?

Okay. Then we have a motion and a second to adopt the recommendations for both the Eagle and the iVotronic, if I can use shorthand --

ELECTIONS ANALYST WAGAMAN: -- and the IV-C?

CHAIRPERSON KYLE: Both -- all three. Right, the IV-C -- the Eagle, the IV-C and the iVotronic.

PANEL MEMBER CARREL: -- and the Optech IV-C version 1.07a and iVotronic.

CHAIRPERSON KYLE: Any discussion?

Okay. Anyone want to segregate the motions?

(Laughter.)

CHAIRPERSON KYLE: All right. In that case, let's all up or all down.

All those in favor say aye.

(Ayes.)

CHAIRPERSON KYLE: Those opposed?

Any abstentions?

The "ayes" have it.

Any additional items?

ELECTIONS ANALYST WAGAMAN: No, sir.
CHAIRPERSON KYLE: Okay. Then I'll entertain a
motion to adjourn.

PANEL MEMBER CARREL: So moved.

PANEL MEMBER DANIELS-MEADE: Second.

CHAIRPERSON KYLE: Okay. All those in favor?

(Ayes.)

CHAIRPERSON KYLE: Thank you. The "ayes" have
it.

(Thereupon the California Secretary of
State's, Voting Systems and Procedures
Panel adjourned at 1:35 p.m.)
CERTIFICATE OF REPORTER

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

That I am a disinterested person herein; that the foregoing California Secretary of State's, Voting Systems and Procedures Panel meeting was reported in shorthand by me, James F. Peters, 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 meeting nor in any way interested in the outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of November, 2004.

JAMES F. PETERS, CSR, RPR
Certified Shorthand Reporter
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