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I would like to thank the commissioners for the opportunity to appear here today. I think that the commission has done a good job of balancing people's fears that the voting system contains errors with the benefits of not trying to set a one size fits all set of rules. The guidelines should also be commended for explicitly recognizing that perfection is costly, and that while election machinery tends to work fairly well, we could spend the entire country's wealth and still not ensure an absolute 100% guarantee that there are no mechanical breakdowns and things will work as promised.

Motivations for Reform

People are concerned about the integrity and accuracy of the election system. Recent surveys indicate that there are still some significant doubts in people's minds after the 2004 election. A Harris Poll of 1,002 adults from July 22 through July 27, 2005 for the American Bar Association indicates that while 78 percent of those who participated in the 2004 general election are confident that their votes were accurately counted, 14 percent were somewhat confident and 6 percent were "not at all confident."[1] Different types of people did not equally share these concerns, and those who are most concerned make up significant portions of some subgroups. For example, for example, while just 1 percent of Republicans said that they were not confident, the percentage rose to 11 percent among Democrats.

Accusations of fraud are, perhaps, inevitable in a democratic system, but the credible absence of fraud is necessary if the outcome of an election is to be viewed as legitimate. And if not dealt with, can have a corrosive impact on people' willingness to participate and to respect government decisions.

Fortunately, many of the perceived concerns are not be valid, but they still are cause for much of the anger generated about the system. For instance, after the 2004 election there were conspiracy theories involving the computer voting machines and software used in the election. Evidence consisted of differences between exit poll surveys and the actual results that seemed to indicate that Kerry received fewer votes that the exit polls predicted. An extensive study by Edison Media Research and Mitofsky International for the National Election Pool found a simple explanation for the gap: the error was "most likely due to Kerry voters participating in the exit polls at a higher rate than Bush voters."[23] There were also some errors in the way the survey had been weighted.

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[1] Presumably if the survey had included those who did not participate, the rate of mistrust could have been even higher. A discussion of the Harris Poll can be found here: http://www.abanews.org/docs/electionreform_705.pdf.
[2] http://www.vote.caltech.edu/media/documents/EvaluationJan192005.pdf

While it is outside the scope of the commission to directly address these conspiracy theories, the guidelines are an attempt to allay people's fears. The guidelines not only can reduce future problems, but they also indirectly educate people. One example may be the issue of paper audit trails.   The guidelines accomplish this simply by informing people that paper records are just one of many methods that allow voters to verify their ballot choices and provide a permanent record of those choices.[4] Too much of the rhetoric in the media implicitly assumes that paper is the only method of accomplishing these goals. For example, when it comes to keeping records paper, though in a somewhat clumsier and less accessible manner, is fundamentally no different than a write-once read-only CD.

The "Voluntary" Nature of the Guidelines

The operation of elections has been something left to the states. There are strong reasons for that.

> 1) Not all jurisdictions are the same. For example, old fashion paper ballots would be a disaster in a large urban setting, but in relatively lightly populated areas they apparently work very well and have low rates of unmarked ballots. They are also relatively inexpensive. The number of items on a ballot varies greatly across states, and other issues such as the time that it takes to vote using different types of machines can easily outweigh other benefits.

> 2) There is a value to experimenting. You would never learn or improve things without experiments. You run into practical problems in real world settings that might not be encountered in laboratory settings. Even diversity within states makes it much easier to test the costs and benefits of different types of voting machines.

> 3) Allowing experiments raises the probability that a mistake will occur, but it also means that the cost of that mistake will be relatively small. With many different machines and setups being used in a state it is unlikely that a mistake in one county will be sufficiently important that it will affect the result in the entire state. It is even rarer that the mistake will affect the result in a key state that could swing a Presidential election. Adopting a one size fits all approach would likely lower the rate at which problems arise, but whenever a problem does arise the consequences would be much more likely to be catastrophic. Whether

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[3] Kevin A. Hassett and John R. Lott, "Voting Technology and Voter Fraud: A Test Using Exit Poll Data," American Enterprise Institute Working Paper, January 3, 2005.
[4] For a statement on the alternative methods for "voters to verify their ballot choices" see the summary statement that the Commission has released on the Proposed guidance on Voluntary Voting System Guidelines.

the guidelines are at the state or federal level, they are written by human beings and mistakes will occur from time to time.[5]

4) Setting rigid guidelines is a very difficult and costly process. It is one thing to require "best practices" be used to make decisions or require that machines be set up so that voters can "easily identify" something, but it is another thing to explicitly spell out what those terms mean in advance.

The proposed guidelines are purely advisory and that is emphasized at different points in the draft. My only concern is that rules that start off as advisory frequently seem to end up being the required standard. One way that this can occur is through legal challenges to states that deviate from the guidelines. There is some chance that judges may take the guidelines as the yardstick by which those states' actions must be measured. Possibly, just as there are currently discussions that briefly explain why "paper audit trails" are optional, there may be a benefit to briefly providing an explicitly partial list of the reasoning behind making the guidelines voluntary.

Security Issues

The emphasis on read-only memory and write-once media are important security steps and indeed this is following what has been the practice in the industry with DREs. Multiple records not only make tampering more difficult, but they also make it possible for crosschecking to alert users to system errors that might arise. One safeguard for data that is transmitted over public telecommunication networks that doesn't appear to be mentioned is that the voting records are still in a write-once format on the voting machine allowing for one to examine the original data and conduct a recount if any problems should arise in the tabulations because the system has been hacked into.

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[5] My own work suggests that one mistake in the recent debate involves the movement away from punch card ballots. While the nonvoted ballot rate appears higher for punch cards than other machines for presidential elections, the reverse is true for other elections down the ballot. Given the emphasis on the 2000 Presidential elections, it is understandable the research concentrated on Presidential elections, but those mistakes, however accidentally made, would have much more far reaching consequences when the decisions are made federally.