

UNITED STATES ELECTION ASSISTANCE COMMISSION
PUBLIC MEETING

TUESDAY, AUGUST 23, 2005 - 10:00 A.M.

THE ADAM'S MARK HOTEL
DENVER, COLORADO

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1 CHAIR HILLMAN: Good morning. This
2 meeting of the United States Election Assistance
3 Commission will come to order. If I could ask
4 everyone to please make sure your cell phone and
5 all other electronic devices are turned off or
6 silent, so as not to disturb the proceedings of
7 this meeting. And if you would stand and join me
8 in the Pledge of Allegiance.

9 ALL: I pledge allegiance to the flag of

10 the United States of America, and to the Republic,
11 for which it stands, one Nation under God,
12 indivisible, with liberty and justice for all.

13 CHAIR HILLMAN: If we could have the roll
14 call, please?

15 MS. THOMPSON: Thank you, Madame Chair.
16 Commissioners, please respond by saying present or
17 here after I call your name. Gracia Hillman,
18 Chair?

19 CHAIR HILLMAN: Here.

20 MS. THOMPSON: Paul DeGregorio, Vice-
21 Chairman?

22 MR. DEGREGORIO: Here.

23 MS. THOMPSON: Ray Martinez,
24 Commissioner?

25 MR. MARTINEZ: Here.

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1 MS. THOMPSON: Donetta Davidson,
2 Commissioner?

3 MS. DAVIDSON: Here.

4 MS. THOMPSON: Madame Chair, that is four
5 members present, and a quorum.

6 CHAIR HILLMAN: Thank you. We have
7 before us the agenda for today's meeting. Are
8 there any adjustments or amendments to the agenda.
9 If not, it would be appropriate to adopt the
10 agenda.

11 MR. DEGREGORIO: So moved.

12 MR. MARTINEZ: Second.

13 CHAIR HILLMAN: Okay, all in favor.

14 MR. DEGREGORIO: I.

15 MR. MARTINEZ: I

16 MS. DAVIDSON: I.

17 CHAIR HILLMAN: Thanks. Correction and
18 approval of minutes for July 28. We have those in
19 our binder; are there any corrections?

20 MR. DEGREGORIO: Move adoption of the
21 minutes, Madame Chair.

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22 MR. MARTINEZ: Second.
23 CHAIR HILLMAN: Okay, all in favor of
24 adoption of the minutes, say I.
25 MR. DEGREGORIO: I.

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1 MR. MARTINEZ: I.
2 MS. DAVIDSON: I.
3 CHAIR HILLMAN: Okay, thank you. So now
4 we move to the report section, and we have two
5 reports this morning. One is an update on the
6 Title II Requirements payments to the states. And
7 the second will be an update on public comments
8 received regarding the voluntary voting system
9 guidelines. Commissioner - - I think,
10 Vice-Chairman, do you have a report --
11 MR. DEGREGORIO: Thank you --
12 CHAIR HILLMAN: -- on the requirements;
13 I'm sorry.
14 MR. DEGREGORIO: -- Madame Chair, and
15 fellow Commissioners, and Commissioner Davidson.
16 MS. DAVIDSON: Thank you.
17 MR. DEGREGORIO: Welcome. I know this is
18 your first meeting.
19 CHAIR HILLMAN: Thank you. Excuse me. I
20 just took it for granted. I'm so sorry. This is
21 such an exciting time that I just didn't -- we've
22 already talked, you know, organized. This is the
23 first meeting of the United States Election
24 Assistance Commission that former Secretary of
25 State, now Commissioner Donetta Davidson is joining

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1 us, and welcome.
2 MS. DAVIDSON: Thank you.
3 CHAIR HILLMAN: And it is so fortuitous

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4 that we happen to be holding this meeting here. I
5 know people won't believe it, but it just really
6 was sort of coincidental. But it all worked out
7 very nicely and we're so pleased to be here.

8 MS. DAVIDSON: Thank you, and welcome to
9 Colorado.

10 CHAIR HILLMAN: Thank you. Okay.

11 MR. DEGREGORIO: Thank you.

12 CHAIR HILLMAN: Mr. Vice-Chairman?

13 MR. DEGREGORIO: Thank you. You know I
14 met Donetta -- Commissioner Davidson, I guess I
15 should call her now since she's a fellow
16 Commissioner, four years ago in this room, and she
17 was welcoming the folks from my [indiscernible] who
18 were meeting here in Denver at the same hotel. And
19 I think you gave them a taste of the west, a taste
20 of Colorado, and I hope that you're bringing that
21 back to Washington, because we know that westerners
22 always have a lot to bring, and perhaps you wear
23 one of those western hats that I saw you in, I
24 think, at the [indiscernible].

25 MS. DAVIDSON: We are unique.

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1 MR. DEGREGORIO: Madame Chair, let me
2 give you a report on our requirements payments.
3 You know, we do this every month, and we get it at
4 our last meeting on July 7. I'm here to report
5 that we haven't made anymore payments since that
6 time. We have distributed \$2.3 billion though, of
7 course, since July 9 of 2004. And we have \$76
8 million left to distribute. And there's four states
9 or territories that haven't received any of there
10 2004 requirements payments, that's Delaware, Guam,
11 Montana, and Oregon. In addition to that, the
12 State of Michigan has received a partial payment
13 because they previously received the requirements
14 payments from a partial payment that they made to a
15 partial match that they made in early of this year.

16 Just to briefly -- Delaware needs to file a state
17 plan to address the 2004 funds. Hawaii has
18 recently appropriated a five percent match, and we
19 expect them to apply and certify for the 2004 funds
20 very shortly. Michigan plans to submit a
21 certification for the additional payments very
22 shortly. Montana delivered its state plan to us,
23 and it has to go to the federal register for
24 publication. Once the 30 day comment period is
25 over, we fully expect to receive their

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1 certification for their 2004 funds. And the State
2 of Oregon recently appropriated its five percent
3 match, and will label certified for its 2004 funds
4 shortly. So, Madame Chair, the bottom line is that
5 we fully expect, if not by the end of the fiscal
6 year on September 30, shortly thereafter, to have
7 distributed the \$76 million that's left from our
8 requirements payments.

9 CHAIR HILLMAN: Thank you. Are there
10 questions on the report, Commissioner Martinez?
11 No? Okay. Thank you so much. The next report is
12 Carol Paquette. Ms. Paquette, oh there she is;
13 thank you. We'll receive an update on the public
14 comments that the EAC has received regarding the
15 voluntary voting system guidelines. Just as a
16 reminder, the guidelines went out for public
17 comments at the end of June, and so we are about
18 seven -- probably seven weeks into that cycle, and
19 they'll be out for comment until the end of
20 September. Ms. Paquette?

21 MS. PAQUETTE: Thank you, Madame Chair.
22 Just to very briefly summarize the comments that we
23 have received. We currently, as of about 3:00
24 yesterday afternoon, have 141 comments submitted.
25 Many of these comments are very concise, single

1 comments, to a single requirement in the guidelines
2 document. Several commenters have provided us
3 documents with comments, and we are in the process
4 of going through those documents and extracting all
5 the various comments and allocating them to the
6 appropriate places in the guidelines. About half
7 of the comments we've received by e-mail and about
8 half have been submitted to our website. In
9 general, about half of the comments received --
10 half of the commenters have made observations
11 specifically related to the guidelines. The
12 remainder are very general observations, to the
13 effect that the EAC should make paper audit trails
14 mandatory, or general observations that the
15 election process in the United States needs to be
16 improved, but no specific attribution to the places
17 in the guidelines document that might be modified.
18 Of those comments that deal specifically with the
19 guidelines, the largest number we have received so
20 far, which is 16, is on security, and we have about
21 14 that deal with accessibility comments. As the
22 Chair noted, we have about another five or six
23 weeks of commenting time until September 30, which
24 is when the public comment period closes. We
25 expect to receive many more comments in this final

1 month and we will be giving future reports on what
2 those are. I would note that all the comments are
3 being posted to our website. Even those that have
4 been received by e-mail are being entered into the
5 database that is under the EAC website under
6 voluntary voting system guidelines, so that anyone
7 can log into that website and review the comments
8 that are being provided themselves. We will also
9 accept comments and observations on comments,

10 should anyone be so inclined to do that. Madame
11 Chair, that concludes my report; are there any
12 questions?

13 CHAIR HILLMAN: Okay, Commissioners?

14 MR. DEGREGORIO: Carol, if you can just
15 repeat the exact closing date of public comments
16 for the benefit of the audience here, but also I
17 think we're live on our webcast. We do have a date
18 for the final -- the final date to submit the
19 public comments, in other words.

20 MS. PAQUETTE: Yes, the final date for
21 submission of public comments is September 30.

22 MR. DEGREGORIO: Okay, thank you.

23 MS. PAQUETTE: Sure.

24 MR. MARTINEZ: A quick question, Carol,
25 these 141 comments, they are pertinent to the

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1 document that we published in the Federal Register.
2 Is that correct?

3 MS. PAQUETTE: Well, as I indicated,
4 about half of those are directly referencing the
5 guidelines.

6 MR. MARTINEZ: I understand.

7 MS. PAQUETTE: The other half are more
8 general in nature.

9 MR. MARTINEZ: My point is -- as I
10 understand it that NIST [phonetic] received
11 comments after they published their final document?

12 MS. PAQUETTE: That is correct.

13 MR. MARTINEZ: And we'll receive those
14 comments also, the people who make comments to
15 NIST, on the document, prior to --

16 MS. PAQUETTE: Yes, we have received
17 those comments from NIST, and as you are aware, we
18 have a contract with Kennesaw State University that
19 is --

20 MR. MARTINEZ: Right.

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21 MS. PAQUETTE: -- assisting us in
22 managing and doing the data entry, and so on with
23 these comments, and they will be adding those
24 comments to the one that have been submitted by the
25 public and not processed.

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1 MR. MARTINEZ: Thank you.

2 CHAIR HILLMAN: Commissioner Davidson,
3 any questions?

4 MS. DAVIDSON: No questions.

5 CHAIR HILLMAN: Okay, thank you very
6 much.

7 MS. PAQUETTE: Thank you.

8 CHAIR HILLMAN: I appreciate the report.
9 This afternoon at the public hearing, we will be
10 receiving testimony from individuals about the
11 guidelines. And so -- and we include those
12 comments that are submitted in writing as a part of
13 the total comments that we receive on the voluntary
14 voting system guidelines. The next section of our
15 meeting will be presentations about voting systems
16 certifications and laboratory accreditation
17 processes. Under the Help America Vote Act, the
18 Election Assistance Commission has been assigned
19 significant responsibility to accredit
20 laboratories, as well as to certify voting systems
21 against the guidelines. And we have with us this
22 morning three people who will make presentations,
23 and I believe we will be receiving a recommendation
24 from the EAC Staff, with respect to next steps in
25 this process. Up to this point, the National

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1 Association of State Election Directors has been
2 assuming the responsibility for certification on a
3 voluntary basis, and so we are in the process of a

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4 transition, and I believe the presentations and the
5 recommendation will address and cover important
6 aspects of the transition process. So if we could
7 ask Stephen Berger from TEM Consulting, and Chair
8 of the IEEE Standard Coordinating Committee 38, and
9 you can explain what all that is, for the record.
10 Art Wall, with TEM Consulting, and he is retired
11 Deputy Chief of Federal Communications Commission
12 Laboratory Division -- that's the US Federal
13 Communications Commissions. And Brian Hancock, who
14 is Election Research Specialist for the EAC.
15 Please. We have a good amount of time, an hour or
16 so, to be able to get through the presentation,
17 including questions for the Commissioners, so I'm
18 guessing your presentations are what, about seven
19 or ten minutes each, or thereabouts, but feel free
20 to take your time because you will be talking about
21 a lot of technical terms, and I don't want us to
22 rush through this, especially since we will be
23 receiving a recommendation for action at the end of
24 the presentations. So, Mr. Berger, I believe you
25 are first. And for the record, if you could please

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1 just explain what the IEEE stands for, number one,
2 and what the function of the Standard Coordinating
3 Committee 38 is.

4 MR. BERGER: Thank you, Madame Chair,
5 Commissioners, I appreciate very much the
6 opportunity to be here and present these thoughts.
7 The IEEE is the Institute for Electrical and
8 Electronic Engineers. It is the largest technical
9 professional organization in the world. We operate
10 under the IEEE Standards Association to establish
11 technical standards in a variety of fields related
12 to our discipline. Currently, I believe we have
13 about 800 published standards, and a similar number
14 of active projects under development. In those

15 efforts, what we try and accomplish is to identify
16 where the technical consensus is on any of the
17 topics that we're dealing with. Where we have
18 topics that deal with several areas of technology,
19 we try and bring together collaborative forums,
20 where different specialists can bring their
21 expertise to bear, resulting in a standard that
22 represents the best technical understanding of the
23 combined community. Very often what we do is
24 develop standard coordinating committees. Those
25 would be areas where none of our 36 societies

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1 clearly have dominance. So for example, for voting
2 equipment, clearly our Computer Society,
3 Electromagnetic Compatibility Society, Reliability
4 Society, Communication Society, all have important
5 expertise and understanding to contribute, but none
6 totally take care of all of the issues that need to
7 be brought to bear. So for the topic of voting
8 systems and election technology, the IEEE created
9 standard coordinating committee 38. We have seven
10 of our IEEE societies that are participating there.
11 And also we had eight additional organization that
12 wanted to contribute, notably in the areas of
13 usability and security. And so that organization
14 is an attempt, in the IEEE standards process, to
15 allow those organizations to have easy entrance to
16 the process and contribute their expertise.

17 CHAIR HILLMAN: Thank you.

18 MR. BERGER: Okay, so if I can proceed.
19 These presentation will discuss the elements that
20 are common to conformity assessment systems, and
21 how Election Assistance Commission may implement
22 these elements in a system in for certification and
23 decertification of voting system -- voting
24 equipment. In my previous comments, talking about
25 the IEEE Standards, I was discussing the standards

1 and specification documents. Those are vitally
2 important, and much of today will be contributed to
3 -- dedicated to discussing the voluntary voting
4 system guidelines. But the concerns of the EAC have
5 to go beyond the good technical document that puts
6 forth the technical specifications for voting
7 equipment, and the technical term for that is
8 conformity assessment. And that addresses a set of
9 questions of how do we know those requirements are
10 adequately evaluated, and then embodied in
11 equipment that's delivered. Next slide please.
12 And so certification of a product is a means of
13 providing assurance that it complies with specified
14 standards and other normative documents. The topic
15 for today would be the voting -- voluntary voting
16 system guidelines. And there are number of
17 conformity assessment systems that exist, and a
18 body of international standards under the ISO,
19 International Standard Organization, that give
20 guidance on how to construct a conformity
21 assessment system. Just as an example, ISO Guide
22 17025 gives guidance on how to assess a laboratory
23 as to its confidence, and I'll discuss some of the
24 others as we go through. Key components of
25 conformity assessment system are, first of all,

1 initial type testing. A representative system is
2 brought to an accredited laboratory and is
3 evaluated as to whether it meets the requirements.
4 After that happens, a second element is the
5 evaluation of the supplier's quality system, and
6 their change control system. So what confidence is
7 there that the system that is brought for
8 evaluation will be sufficiently similar, within

1
9 manufacturing tolerance, to the system that are
10 later built and delivered to the end-users. The
11 third element is field information and feedback.
12 How do we know what actually is happening in the
13 field, and what are the communication lines that
14 will ensure that the system has an ongoing quality
15 and reaction to field experience and user
16 involvement. Will the users of the system
17 understand their role and how to properly use the
18 system, so they get the full benefit of it. Just as
19 examples, we know that any security can be either
20 strengthened or diminished by the way a system is
21 used, equally usability can be enhanced or
22 diminished by the way the system is set up in the
23 polling place. So that's the user involvement
24 aspect of this. And when we talk about the system,
25 we're really envisioning the way all the key

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1 stakeholders cooperate. Clearly the EAC has a
2 pivotal role in this process, equally state
3 certification authorities, as they evaluate
4 equipment for usability in the states are protocol.
5 The testing laboratories, the vendors, through
6 state and local officials, all have vital roles.
7 In this slide, we're talking about the contrast
8 between the national program, and the state and
9 local programs. Part of our concern of the
10 national program is to evaluate that the system
11 design meets the requirements that are set forth.
12 And so there, the focus is on evaluation of a
13 system that is delivered, representative of a
14 design for a voting system. The primary concern of
15 the state and local officials, is that the units
16 delivered meet and continue to meet the
17 requirements over their useful life. So we look at
18 conformity assessment systems, we're really looking
19 to answer a set of very simple, common sense
20 questions, simply questions not easy to answer.

21 First, what is the minimum acceptable system? That
22 question is being answered through the BBSG, and
23 that will set forth specific requirements, the
24 number of technical areas, as to what the minimum
25 acceptable system for the US is. Beyond that, tests

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1 are provided in the document so that the valuator
2 can know how to test and demonstrate that a system
3 meets the requirements set forth. As soon as we
4 have -- are comfortable -- we have a satisfactory
5 document, we then need to ask the questions, are
6 testing laboratories or testing personnel, and the
7 lab assessors who accredit those laboratories
8 qualified, second set of processes. Third, will
9 the vendor deliver units within manufacturing
10 tolerance to those tested? There needs to be a
11 satisfactory and comfortable answer that there is
12 adequate assurance that the delivered units will be
13 well represented by the units tested. Fourth, how
14 will election officials know if non-compliant
15 units are delivered, and then what lines of
16 communication and corrective actions are available
17 to deal with non-compliance and deficiencies that
18 are identified? Fifth, will election officials and
19 poll workers use this system as intended? Next
20 slide. So to provide answers to those questions, a
21 set of processes is necessary. And, let me digress
22 for a moment and talk about the international
23 standards -- there's a series of them in the ISO
24 Guidelines -- 17025 provides laboratory
25 accreditation, and in a quick summary, what that

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1 document sets forth is a guidance on how to assess
2 that a lab first has the technical specialized

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3 knowledge to do an adequate evaluation in the area
4 that its addressing. Secondly, that it has the
5 managerial and quality processes in place to assure
6 that the same evaluation will be done for every
7 system that is brought to that lab for evaluation,
8 or to other labs that are working on the same
9 topic. 17011 is a document that particularly has
10 relevance to the EAC in this, in their roles as
11 accrediting bodies. And it provides guidance on
12 the topics that should be addressed by the
13 accrediting bodies, in their roles of accrediting
14 laboratories, certifying systems, or examiners. A
15 third document, 17024, gives guidance on value --
16 on personnel certification. That basically deals
17 with the topic of assuring that personnel have the
18 adequate skills, knowledge, and experience to
19 perform adequately in their specified roles. So
20 now looking at the processes that we have, there
21 are technical reviewers, and they'll be a slide at
22 the end in which we lay out the flowchart, but the
23 concept is that the EAC will make available to
24 itself a set of technical experts who will be able
25 to receive test plans and test reports, review

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1 them, and give recommendation on whether a system
2 adequately has been evaluated and then it meets
3 their requirements set forth. Product evaluations
4 will be performed by accredited labs that will
5 first deliver a test plan to be reviewed and
6 approved, and then provide testing, perhaps at
7 times witness testing, by the test reviewers. Next
8 slide, please. Vendors will be registered, and at
9 the registration process will include their
10 delivering information on what their configuration
11 control and quality systems are. User involvement
12 is important to communicate to election officials
13 and others, give feedback on the guidelines, which
14 is -- will be happening this afternoon. Also,

15 giving feedback to vendors and voting system test
16 laboratories to assure that ongoing quality is part
17 of the process. There are processes being
18 recommended for interpretations, petitions,
19 appeals, and complaints, so that good ideas can be
20 brought forth and deficiencies can be identified
21 and dealt with. We field information and feedback
22 processes. Next slide, please. Product evaluation
23 is being dealt with in -- the concept is that a
24 vendor will develop a candidate system, select one
25 of a list of accredited labs, bring that system to

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1 the lab, and explain its function. The lab will
2 then develop a specialized test plan for that
3 system. That test plan will be delivered to the
4 EAC for review and approval, and then the lab will
5 be free to go ahead on this test. Actually, I
6 think we went backward there. So here's the process
7 in overview. The candidate system gets brought to
8 a set of accredited labs. The labs first develop a
9 test plan, deliver that to the EAC. Once it's
10 approved they do the tests, send over a test
11 report, and the EAC, with the assistance of a test
12 review team, will look over those documents. And
13 when it's satisfied that a product meets the
14 requirements, three things need to happen. First,
15 clearly the system will be certified by the
16 Commissioners. And at that point, the vendor needs
17 to put that system under its quality and
18 configuration control process, to ensure that the
19 system tested will be in tolerance to the systems
20 delivered from that point forward. Then it's very
21 important that an adequate and a technically
22 detailed description of the system be prepared and
23 delivered to state and local officials so that when
24 they are evaluating systems for state acceptance
25 and local incoming receiving inspection, they can

1 know that in detail with the systems they're
2 looking at are the same as the system that was
3 originally evaluated at the federal level.
4 Software will be deposited in the software records
5 library at M.I.S.T. and hash codes and other
6 metrics will be delivered, so that with high
7 confidence, the software can be certified to be the
8 same without change, in this systems evaluation,
9 state, and local level, and on each system as it's
10 brought in initially for receiving, and then before
11 each election it can be documented that the
12 software is uncahnged from what was evaluated.
13 Following those evaluations, the system is
14 delivered for deployment and use. Next slide,
15 please. That assumes that a lot of lines of
16 communication are established and developed.
17 Clearly vendors need to be communicating ongoing
18 with the Commission, with state and local
19 officials, and with those who perform incoming
20 receiving. No product remains unchanged for long,
21 particularly with ongoing part changes, responses
22 to field experience, and other things. And so that
23 communication also envisions the vendor notifying
24 officials of changes that they proposed, and then
25 appropriate evaluations being done to upgrade

1 systems certifications. And of course, ongoing
2 communication with technical reviewers, NIST, and
3 the National Voluntary Laboratory Accreditation
4 Program, and the software reference library, and
5 the citizens. When a system is well constructed
6 and these processes are detailed out, as they are
7 being recommended today, we believe that what is
8 delivered will be satisfactory answers to the

9 Commission and to the nation as a whole -- that
10 minimum acceptable standards have been developed,
11 that competent laboratories have been identified,
12 evaluated, and in place to review some candidate
13 systems, that the vendors will be good partners and
14 control deliver units with a manufacturing
15 tolerance to those that are evaluated. That
16 election officials will have the tools at their
17 disposal to know that if non-compliant systems,
18 either in hardware or software are either initially
19 delivered or, before elections, brought forth, that
20 they can document that the systems before each
21 election are the same as those that were evaluated.
22 And finally, that the election officials and
23 poll-workers will use the systems as intended. So I
24 thank you for this time and this opportunity to
25 present these thoughts.

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1 CHAIR HILLMAN: Okay, Commissioners, if
2 it's okay, we'll wait and have questions after all
3 three have made presentations. Mr. Wall?

4 MR. WALL: Thank you, Madame Chair and
5 Commissioners. This presentation compares the
6 proposed EAC certification program with a similar
7 products approval program, mandated by the US
8 Federal Communications Commission. It will show
9 that the EAC proposed system is comparable to other
10 private sector and government conformity assessment
11 systems. My testimony will basically cover some
12 common terms, so they're not confused, some
13 standards that are internationally accepted, go
14 over some of the same issues that Steve has already
15 covered -- Mr. Berger has already covered, talk
16 about the EAC conformity assessment program, just
17 the key elements, similarities between the EAC
18 system and the FCC system for product
19 certification. I'll talk about the stakeholders

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20 inputs to all the systems, enforcement, and then
21 conclusion and additional thoughts. You'll hear
22 different terms; you'll hear conformity assessment,
23 you'll hear certification, equipment approval and
24 -- certification, just to be clear, is a
25 third-party product approval system. And

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1 accredited laboratories are laboratories that have
2 determined to be competent to perform a specific
3 task. And they usually accredit it by somebody, in
4 this case it'd be under the NIST NVLAP program. A
5 lot of these definitions and everything come out
6 IEC ISO Guide 17000. These are just a short list
7 of some of the conformity assessment guides. Mr.
8 Berger has already mentioned some of them. The one
9 that -- probably one that will be used here in this
10 program is, of course, 17025, which is the program
11 for laboratory accreditation. The creditor must
12 meet guide 58. Certification bodies typically meet
13 17011, and there's the definitions and terms of
14 those. Again, if you look at 17000, IEC Standard
15 17000 those terms are explained in greater detail.
16 Mr. Berger has already gone over the key elements,
17 so I won't spend a lot of time on the EAC program
18 that's being proposed. But basically you're going
19 to use accredited laboratories, there's a vendor
20 registration program, there's a test plan
21 submittal, voters systems are tested, and
22 applications filed with the EAC. The applications
23 will be viewed by technical reviewers, and then
24 there's a quality system to ensure compliance of
25 the product that's actually marketed. Maybe I'll

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1 just mention very, very briefly a little bit about
2 the FCC. The FCC is an independent regulatory

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3 agency, created by the Communications Act of 1934,
4 and it's been amended a number of times, to
5 regulate radio and wire line communications in the
6 public interest. It has adopted mandatory
7 standards to ensure --

8 CHAIR HILLMAN: Excuse me one second, Mr.
9 Wall, could you turn the mic a little bit toward
10 you so that we --

11 MR. WALL: -- it has mandatory standards
12 that was adopted over the years, and then it has
13 adopted a quality approval program, or a conformity
14 assessment program. These -- this is called the
15 electromagnetic environment, or radio environment,
16 with all kinds of the places on the market. Now,
17 I'm not implying by this diagram that the FCC
18 regulates the lightning and ESD, but manufacturers
19 have to take into considerations when they're
20 designing a product, the electrical impact or radio
21 impact of lightning and other national phenomenons.
22 Obviously, power lines can cause interference, so
23 power companies have to take that into
24 consideration. We do regulate a number of
25 products, such as transmittals, computers, and

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1 other devices. We have adopted, over the years,
2 some technical regulations or mandatory standards,
3 test methods, conformity assessment requirements,
4 and marketing requirements. Briefly, this is the
5 FCC equipment modification program. We have more
6 than just certification requirements. Most
7 products are subject to what it is called
8 manufacturers self-declaration [phonetic], SDOC.
9 For a few products, such as transmitters, we feel
10 there's greater potential for radio interference,
11 so we have adopted this certification program, but
12 it's only for a few products. The certification
13 process that the FCC has adopted is just kind of

14 outlined here really briefly. The product is tested
15 to determine compliance, a report is prepared, that
16 report is sent to either the FCC or something
17 called a telecommunication certification party. It
18 has been designated -- accredited by ANSI and
19 designated by the FCC. They are -- if you will,
20 many FCC's that have authority to certify products.
21 Their authority is very limited. But any case, the
22 manufacturer sends the application to either the
23 FCC for approval or the ETCB. The FCC issues a
24 grant, a label is put on a product, uses
25 instructions, and the product is marketed. A

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1 summary of the key elements of the FCC program.
2 They are equipped with standards, and test
3 procedures as specified. The equipment is tested
4 by an accredited laboratory. The test report in
5 application must be submitted to the FCC or
6 designated TCB for approval. A grant of
7 certification is issued by the FCC, and there are
8 follow-up audits and compliance, if necessary. In
9 conclusion, while there are some minor differences
10 between the proposed EAC system and the FCC
11 certification system, the major issues and
12 procedures are essentially the same. Both systems
13 are developed in the open, with public input and
14 guidance, and both have all the essential same
15 elements. Now, some additional thoughts, the key
16 element of the EAC certification program is the use
17 of technical reviews to review and evaluate the
18 efficiency of voting systems. Sufficient training
19 and time should be allocated to develop eight to
20 ten technical reviewers -- basically you're using
21 contractors to do that. Meetings of the technical
22 reviewers and the EAC staff should be held on a
23 regular basis to ensure consistency of the results.
24 The reason I'm giving you these additional thoughts
25 is in going through and developing the TCB program

1 for the FCC, these are the type of issues that we
2 ran into -- the constant communication between all
3 the parties is a key element of that. To ensure
4 the voting systems are marketed -- are the same as
5 the unit tested and certified, require
6 manufacturers to have a plan in place to ensure
7 reliability and consistency of products marketed
8 based on a units test and certified. That's the
9 quality program that Mr. Berger was talking about.
10 Have the states and technical reviewers field test
11 at least one system for each of the manufacturers
12 against the unit certified. To help the states and
13 local municipalities, it would be helpful if the
14 EAC would call on the manufacturers to include any
15 application or series of simple test to assist the
16 end user in determining efficiency or the
17 compliance of the voting system. The voting system
18 users should be encouraged to follow reports of the
19 EAC to -- on how the machines are functioning in
20 the field. The reports should be taken seriously
21 and audits should be performed, if warranted. And
22 finally, actions to direct field problems can be a
23 number of different ways -- allow manufacturers to
24 correct field problems, remove manufacturers from
25 the EAC vendor list, or issue EAC notice of

1 non-conformity. And these are all tools that you
2 use, or would you develop as you move down the
3 path. Again, these are just some personal
4 comments, and thank you for the time.

5 CHAIR HILLMAN: Okay, thank you very
6 much, Mr. Wall. Mr. Hancock, does your
7 presentation -- if it doesn't, would it, just do a

1
8 review for us of where the certification process
9 has been, and where it is today, and how -- just
10 how it will move forward. I know you're going to
11 address moving forward, but I would like for the
12 record to put it into the context of where the
13 process has been and where it is today.

14 MR. HANCOCK: I will do that; thank you,
15 Madame Chair. As you can see, the EAC staff has
16 been working very closely with Mr. Berger and Mr.
17 Wall over the past several months to develop the
18 proposed EAC testing and certification program,
19 parallel to a very well developed and very well
20 recognized program in other government agencies.
21 We didn't just start from scratch or from somewhere
22 out there. We've worked very hard to make sure
23 this program is similar to other well established
24 programs. Where the testing and certification
25 program is now -- for the past 12 to 15 years, the

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1 National Association of State Election Directors,
2 that is NASED, has been the entity in charge of the
3 testing, and currently qualification, of voting
4 systems. After the Federal Election Commission
5 passed the first set of voluntary voting systems
6 standards in 1990, there was not an organization
7 out there -- that is, Congress did not give the FEC
8 the authority at that time, nor any other federal
9 agency, the authority to implement the standards
10 and to have voting systems tested to these
11 standards. To step in to the gap, as it were, the
12 National Association of State Election Directors
13 which, in fact, was a very new organization at that
14 time, felt that it was not only in the best
15 interest of the company, but also in the best
16 interest of their organization to step in and
17 develop a process to use these standards to test
18 voting systems. During that process, NASED has
19 worked with three test labs -- there's currently

20 three test labs used. These labs have been
21 accredited by NASED, by an individual that is, in
22 fact, certified by NVLAP, the National Voluntary
23 Laboratory Accreditation Program to do for them
24 accreditation of laboratories. And it follows a
25 very, very similar program that NVLAP will be using

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1 to accredit the EAC laboratories in the future.
2 The process currently is that a voting systems
3 vendor will contract with one of these test labs,
4 initially, it was simply hardware. It's moved now
5 more because computers have moved to software;
6 there are software test labs as well. The vendors
7 have their systems tested by these independent labs
8 according to the current, currently 2002 Voting
9 Systems Standards. Once that process has been
10 completed, the test report moves from the test lab
11 to members of the NASED technical subcommittee, of
12 the voting systems board of NASED. These folks are
13 experts, not only in election administration, but
14 also in computer science. They review the test
15 reports to make sure that the labs have done their
16 due diligence in testing these systems, and then
17 recommend to the full voting systems board that the
18 systems be qualified. At that point, NASED does
19 issue a qualification number to the voting system.
20 And that is where we are as of today's date.

21 CHAIR HILLMAN: Okay. You referred to
22 NVLAP, accrediting labs for EAC. Will you explain
23 NVLAP?

24 MR. HANCOCK: All right. NVLAP is an arm
25 of NIST. It's an organization under the National

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1 Institute of Standards and Technology. It is the

1
2 National Voluntary Laboratory Accreditation
3 Program, and it works to test laboratories under
4 ISO Standard 17025 that Steve and Art have talked
5 about.

6 CHAIR HILLMAN: Okay. And just one other
7 point of clarification before you go on, what is
8 the difference between what was previously a
9 qualification and what EAC is being asked to do,
10 which I understand is certified?

11 MR. HANCOCK: Yes, Madame Chair.
12 Essentially qualify and certify can be used
13 interchangeably. The NASED process was qualified;
14 under the Help America Vote Act, it requires the
15 EAC certify voting systems. The process is very
16 similar, however.

17 CHAIR HILLMAN: Thank you, please
18 proceed.

19 MR. HANCOCK: Okay. Madame Chair, I will
20 now read the staff recommendation into the record,
21 and I've also submitted this document for inclusion
22 into the written record. After I read the
23 recommendation, the three of us would be happy to
24 take any questions from the Commission. As
25 required by Section 231 of the Help America Vote

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1 Act of 2002, the Election Assistance Commission is
2 mandated to provide for the testing, certification,
3 decertification, and recertification of voting
4 systems. To accomplish this goal, the Commission
5 is required to first develop a program for
6 accrediting independent, non-Federal testing
7 laboratories. These accredited laboratories will
8 test voting systems in accordance with applicable
9 EAC standards or guidelines. The EAC is also
10 required to create a program and process for the
11 ultimate certification, decertification,
12 recertification of tested voting system hardware
13 and software. Consistent with these mandates,

14 therefore, staff recommends the Commission -- A,
15 provide for interim accreditation of National
16 Association of State Election Directors accredited
17 Independent Test Authorities, or ITA's. The EAC
18 will develop a process to temporarily accredit
19 current NASED ITS's. This temporary EAC
20 accreditation is needed to ensure that certified
21 test laboratories are available in the near term.
22 It has been determined that the EAC will not
23 receive a recommended list of testing laboratories
24 from the National Institute of Standards and
25 Technology's National Voluntary Laboratory

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1 Accreditation Program until approximately the
2 spring of 2007. Item B, develop procedures for the
3 EAC accreditation of Voting System Test
4 Laboratories, as opposed to the accreditation of
5 the current ITA's. The EAC will develop procedures
6 for the accreditation of Voting System Test
7 Laboratories recommended by NIST after appropriate
8 evaluation under its NVLAP program. C, create
9 procedures for the EAC certification,
10 decertification, and recertification of voting
11 systems. These procedures shall constitute a
12 program which, one, makes use of the test results
13 provided by EAC certified Voting System Test Labs
14 or ITA's. Certified labs shall, through the use of
15 technical data packages and test plans, test voting
16 systems to standards found in the relevant EAC
17 guidelines. Voting System Test Labs, or ITA's
18 shall create test reports for use by the Election
19 Assistance Commission in its system certification
20 program. Two, utilize contracted experts to assist
21 the EAC in the review of voting system technical
22 data packages, test plans, and test reports
23 forwarded by the test laboratories. Three, provide
24 stakeholders a process for requesting

1 in the EAC Guidelines and appealing perceived
2 adverse certification determinations. Four,
3 provide the public access to relevant voting system
4 information to the greatest degree practical under
5 current law. And D, develop additional procedures
6 and documents necessary to carry out this program.
7 With that, Madame Chair, we would be happy to
8 answer any questions the Commission might have.

9 CHAIR HILLMAN: Okay. Commissioners,
10 given the time we have about ten minutes a piece
11 which would include our questions to the panelists
12 and their responses back. Mr. Vice-Chairman?

13 MR. DEGREGORIO: Thank you, Madame Chair.
14 Thank you for your presentation, and I know this
15 has been a process that we have taken very
16 seriously, and I know that you all and folks
17 associated with you worked very hard to bring us to
18 this point. If I might ask just a few questions.
19 Mr. Berger, in your presentation, you gave us a
20 slide that talked about this national program, this
21 one that's established by the EAC, then how there's
22 a state program -- there's a state's program for
23 certification. How is our national program going
24 to help instruct state and local election officials
25 in the process that they use to certify election

1 equipment in their state?

2 MR. BERGER: Well, there's overlap and
3 difference. In the national program, we're looking
4 at common minimum requirements for voting equipment
5 that are common for all states, and that's the
6 primary focus of that program. In the state
7 evaluations, the officials are particularly looking

1
8 at the unique ways that each state conducts
9 elections and evaluating systems as to their
10 adequacy to support individual state requirements.
11 The two obviously are linked and I think, well
12 constructed, there's a certain level of overlap,
13 because deficiencies can be identified in one place
14 or another, and those sorts of things need to be
15 identified. For example, functional problems or
16 security vulnerabilities may be identified at any
17 point in the system. And clearly, a well
18 constructed system would provide with appropriate
19 reaction and can come about whether or not that
20 happens in the initial evaluation through the EAC
21 process, or subsequently in a state evaluation.

22 MR. DEGREGORIO: Okay. Mr. Hancock, can
23 you give us some idea of a timetable for this
24 activity. And I recognize that we're going to be
25 hear -- getting comments on the voluntary voting

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1 system guidelines until September 30, and then at
2 some point thereafter, perhaps, in October this
3 Commission will adopt these guidelines. And that
4 begins a process, obviously once that is done. But
5 can you give me some -- and I know you described
6 the certification process for the laboratories.
7 You're suggesting to us that we have an interim
8 accreditation and then the longer term some time in
9 2007, after we get the NIST/NVLAP process
10 completed. What is the time frame that you see for
11 the first equipment out there to be run through
12 this program and to certified for the EAC. Do you
13 have any estimate for a timetable for this?

14 MR. HANCOCK: Yes, Mr. Vice-Chair, I
15 think we do. We have been working over the past
16 several months and have already established
17 procedures and documents that will be ready for
18 Commission review very shortly, for the interim

19 accreditation of the NVLAP labs that I spoke of.
20 That will be ready, again, for Commission review,
21 probably within the next one to two weeks I think
22 that can be done. Beyond that, sometime in
23 September, I believe we should be ready to start
24 the procedures that will bring us competent
25 technical reviewers that we spoke about that will

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1 need to look at the test plans that come in, the
2 test reports, to help us get guidance to the
3 Commission. Beyond that, we are looking sometime
4 toward the end of this calendar year to be able to
5 begin the full testing program, so we would say
6 probably December sometime we would hope to have
7 the technical reviewers on board, trained, and
8 ready to go to review reports. And hopefully those
9 currently ITA's will be ready to do the same to the
10 guidelines.

11 MR. DEGREGORIO: I know you described the
12 current system, the current NASED certification,
13 and of course this one that is proposed. What
14 would you say that are two to three major
15 differences or enhancements, perhaps, to this
16 process, the one we are about to embark on with the
17 EAC versus the NASED process that has been in
18 existence for, certainly, several years.

19 MR. HANCOCK: Yes, certainly to me, one
20 of the key points of the program, and probably the
21 most important that we are presenting for
22 Commission consideration is the transparency of the
23 process. I think we've all heard and read
24 different reports that the current process does not
25 allow the public, media, other members to review

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1 what goes on in the process, what test labs do,

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2 what, you know, NASED does to a great extent. We
3 are going to provide through a program to allow as
4 much openness. We envision a program whereby the
5 EAC would make available on its website, test
6 reports, even things like pictures of the systems
7 that were tested, other pertinent information,
8 consistent with current law. Of course, there
9 would be certain things, proprietary information,
10 that would need to be redacted from those reports.
11 But I think the transparency by far is the key. We
12 will also have -- I just think more resources than
13 the NASED folks had to put towards all this, so the
14 program will be a little larger and hopefully done
15 consistent to more international programs that
16 NASED was not able to do.

17 MR. DEGREGORIO: Thank you. Thank you,
18 Madame Chair.

19 CHAIR HILLMAN: Okay, Commissioner
20 Martinez?

21 MR. MARTINEZ: Thank you, Madame Chair.
22 And my thanks to all of your for your time and your
23 expertise to this particular issue. Mr. Hancock,
24 and I'm sorry if I'm having you repeat something
25 you might have said during your presentation. How

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1 many states currently participate or require a
2 national certification of their voting systems
3 before a vendor can actually market that system in
4 their jurisdiction?

5 MR. HANCOCK: Right now about 40 states
6 require a use of the current voluntary voting
7 system standards.

8 MR. MARTINEZ: And I know that you've
9 been doing this for even longer than the history of
10 the EAC because you came over to us from the FCC,
11 and you even in that capacity were participating
12 with helping to coordinate the certification

13 process through NASED. Is there any indication
14 from you, in just talking to your colleagues and
15 others, that do this that some of the states that
16 do not participate may have some interest so that
17 we can increase the number 40 up to as much to full
18 participation as possible.

19 MR. HANCOCK: I think so, at least some
20 indication has been out there. There are a few
21 states that actually had problems in the last
22 federal election that did not use the current
23 voluntary voting system standards that I think now
24 see some of the reasons for using that program and
25 some of the benefits it can bring to the states.

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1 So I would say yes, I'm looking for several more
2 states, at least, to adopt the standards and new
3 guidelines.

4 MR. MARTINEZ: Mr. Berger, one of the
5 things that is somewhat intriguing to me is this
6 whole -- this term used and called decertification.
7 And perhaps, Mr. Hancock, you can jump in here, is
8 there any precedent for the decertification of a
9 voting system in this county?

10 MR. BERGER: Brian, do you want to take
11 that question?

12 MR. HANCOCK: Sure, as far as I'm aware,
13 the current NASED process has never decertified a
14 voting system. What happens more than likely if a
15 defect is found during the current testing process,
16 that machine never gets out into the public or is
17 able to be purchased by election officials. It is
18 sent back to the vendor to make whatever changes
19 are necessary, and then is put back into the
20 testing process to make sure those changes have
21 been made.

22 MR. MARTINEZ: So in this framework that
23 you are envisioning that we are trying to wrap our

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UNITED STATES ELECTION ASSISTANCE COMMISSION
PUBLIC MEETING

TUESDAY, AUGUST 23, 2005 - 1:00 P.M.

THE ADAM'S MARK HOTEL
DENVER, COLORADO

1 CHAIR HILLMAN: Okay, this hearing of the
2 United States Election Commission will come to
3 order. Before we begin, just a couple of
4 announcements, may I ask everybody to make sure
5 that your phones, pagers, and all other electronic
6 devices are either turned off or silenced, so as
7 not to disrupt the proceedings. This meeting is
8 scheduled to run from 1:00 to 5:00 p.m. There will
9 be three panels and it will end with a 30 minute

10 period, in which various individuals have signed up
11 to do short testimonies. Please stand and join me
12 in the Pledge of Allegiance.

13 ALL: I pledge allegiance to the flag of
14 the United States of America, and to the Republic
15 for which it stands, one Nation, under God,
16 individual, with liberty and justice for all.

17 CHAIR HILLMAN: If we could have a roll
18 call, please?

19 MS. THOMPSON: Thank you, Madame Chair.
20 Commissioners, please answer by saying present or
21 here when I call your name. Gracia Hillman, Chair?

22 CHAIR HILLMAN: Here.

23 MS. THOMPSON: Paul Degregorio, Vice-
24 Chairman?

25 MR. DEGREGORIO: Here.

3

1 MS. THOMPSON: Ray Martinez,
2 Commissioner?

3 MR. MARTINEZ: Here.

4 MS. THOMPSON: Donetta Davidson,
5 Commissioner?

6 MS. DAVIDSON: Here.

7 MS. THOMPSON: Madame Chair, that is four
8 members present.

9 CHAIR HILLMAN: Thank you. We have
10 before us the agenda for today's hearing. Are
11 there any changes to the agenda? If not, it would
12 be appropriate to adopt the agenda.

13 MS. DAVIDSON: So moved.

14 MR. MARTINEZ: Second.

15 CHAIR HILLMAN: All in favor?

16 MS. DAVIDSON: I.

17 MR. MARTINEZ: I.

18 MR. DEGREGORIO: I.

19 CHAIR HILLMAN: Okay. Presentations on
20 proposed Voluntary Voting System Guidelines, that
21 is the subject of today's hearing. This is the

1
22 third of three hearings that the Election
23 Assistance Commission is holding on the proposed
24 Guidelines. The Guidelines were posted for public
25 comment on or about the 29th of June. They will be

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1 available for public comment for a 90 day period,
2 which means the end of the comment period is about
3 September 30. In addition to the comments that we
4 have received via e-mail, and fax, and other
5 mechanisms to our offices, we are receiving
6 testimony from individuals who we have invited to
7 present for us, or individuals who have signed up
8 for the public comment period. All of it provides
9 invaluable information and insight into the work
10 that we are doing. This is, of course, the first
11 time that the Election Assistance Commission will
12 be issuing Voluntary Voting System Guidelines under
13 its authority, as mandated by the Help America Vote
14 Act. This is a process that we take very
15 seriously. It's a huge task. It's an enormous
16 responsibility, but a very important one. And
17 while many of the issues that we address are very
18 technical in nature, this also speaks to the
19 essence of the confidence that the voters have in
20 the voting systems that they use when they go to
21 the polls to vote on election day. And so, without
22 further comment, unless there are any opening
23 remarks from Commissioners -- no? We will get into
24 the panel. Our first panel, local election
25 officials, and in the order that they will present,

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1 we have Bob Terwilliger?

2 MR. TERWILLIGER: That's right.

3 CHAIR HILLMAN: Terwilliger, I'm going to

1
4 keep saying that and it's going to roll right up --
5 who is Auditor Snohomish [phonetic], am I doing
6 that right?

7 MR. TERWILLIGER: Um-hmm.

8 CHAIR HILLMAN: That is such a challenge,
9 I love it -- Snohomish County, Washington. Also
10 with us is Lance Grough, Executive Director of the
11 Chicago Board of Elections, and Russ Ragsdale,
12 Clerk and Recorder, City and County of Broomfield.
13 That means the City is Broomfield and the county is
14 Broomfield?

15 MR. GROUGH: Yes, ma'am.

16 CHAIR HILLMAN: That's great, terrific.
17 Thank you very much for accepting the invitation to
18 be here. And we will begin, I understand that we
19 each have written testimony from the three of you,
20 so we do have that to refer to. And we ask that
21 you take up to about seven minutes to just do a
22 review and overview of your testimony, and then we
23 will have questions to follow that. Thank you.

24 MR. TERWILLIGER: Thank you, Madame
25 Chair. I appreciate the opportunity to be here

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1 today. My name is Bob Terwilliger. I am currently
2 the elected Snohomish County auditor from the State
3 of Washington. I've been the elected auditor since
4 1993, and for ten years before that I was Chief
5 Deputy Auditor. In addition, I have a law degree
6 and served three years in the Snohomish County
7 Prosecuting Attorney's Office, as a Deputy
8 Prosecuting Attorney, advising the County Auditor's
9 Office on legal matters related to Election Law.
10 I'm also a member of the EAC Standards Board, so
11 I've been directly and indirectly in the elections
12 and voter registration business for over 25 years.
13 It's clear that since the presidential elections of
14 2000 and 2004, and in the State of Washington since
15 the governor's race in 2004, the public in general

16 and various interest groups, specifically, have
17 become interested, energized, and involved in all
18 aspects of election and voter registration
19 processes. This, I believe, is long overdue and is
20 good in healthy turn of events. Nowhere is this
21 interest more prevalent than in and around the
22 concern for how election tabulation software and
23 hardware is developed, manufactured, tested, and
24 deployed, and used in the process of counting
25 ballots. This series of events involves vendors,

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1 election officials, testing authorities, and the
2 public. The purpose of my comments today is to
3 offer my impression of the draft Voting System
4 Guidelines, volume one. My comments are limited to
5 two through six. The sections dealing with issues
6 outlined in seven through nine are the [inaudible]
7 well founded in the concepts and precepts of
8 computers, and the associated technology,
9 performance standards, and testing standards which
10 is well beyond my expertise. In general, I believe
11 the standards set forth in sections two through six
12 follow common sense precepts that, to a large
13 degree, are already followed by elections officials
14 around the country. As you have experts here to
15 talk about the accessibility issues for the
16 disabled, my only comment on those sections is that
17 the level of specificity and the breadth of
18 populations intended to be served by those
19 standards will all add additional costs. For many
20 jurisdictions, even with the HAVA money, the cost
21 implications are overwhelming, and certainly will
22 be so once the HAVA money is gone. Therefore, it is
23 critical that the mandatory requirements for voters
24 with disabilities be limited to serve the largest
25 numbers of a disabled community is possible, while

1 at the same time recognizing that not every single
2 disability can be accommodated in a polling place
3 environment. As a county that converted its
4 polling placing environment from one of optical
5 scan central count to electronic DRE central count
6 in 2002, I am especially interested in the sections
7 dealing with electronic voting. In our county,
8 650,000 population, 359,000 registered voters,
9 220,000 who vote by mail, we have deployed
10 electronic voting without any major mishaps. We do
11 not use any wireless communication mode. We do not
12 transmit any data via the internet. We have a
13 stand alone, central count, ballot tabulation
14 environment. We count all ballots centrally. We
15 employ parallel monitoring for all elections. We
16 calculate pre-logic and accuracy test to all
17 machines to be deployed in any given election. And
18 we also conduct a logic and accuracy test,
19 supervised by the Secretary of State's office,
20 three days before the election, and again on
21 election day before we count ballots. And finally,
22 we conduct a post-election logic and accuracy test
23 on all machines used in the election. We understand
24 the need to demonstrate the trustworthiness of
25 votes cast on electronic voting machines. One area

1 over which counties, and to a large degree, the
2 state election offices as well have had to rely on
3 has been the area of testing the hardware and
4 software by independent testing laboratories. The
5 requirements for more rigorous testing for hardware
6 and software is set forth in sections three and
7 four are, in my opinion, are long overdue. My only
8 suggestion would be to move rapidly to certify more
9 independent testing authorities, and to require

10 their process of testing be open to the public so
11 trust can be built with the public regarding the
12 testing process. For example, if there was
13 sufficient testing authorities certified on a
14 regional basis, then those interested members of
15 the public, or interest groups in a region, could
16 attend the testing process to ensure that the
17 standards, as adopted by the EAC are being adhered
18 to on a regular basis. More openness about the
19 testing of the source code, while at the same time
20 protecting proprietary interests of the vendors is
21 a good thing. Also, the records of the software and
22 hardware that have been tested and certified must
23 always be current, and what is being used in the
24 local jurisdictions must always correspond to what
25 has been tested and certified. Section five talks

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1 about telecommunication issues and protocols, which
2 again are beyond my expertise. Finally, I would
3 like to make some comments on section six, which
4 deals with the standards for electronic voting. In
5 order for the independent dual verification systems
6 to be useful, the standards for this option must be
7 developed quickly and hopefully economically as
8 well. Being a county that has electronic voting at
9 the polls, and also being from a state that has
10 required voter verified paper audit trails,
11 effective January 1, 2006, my county is faced with
12 spending \$1 million to comply with this
13 requirement. If other jurisdictions can benefit
14 from the quick development of independent dual
15 verification systems at a reasonable cost, then the
16 two major issues surrounding electronic voting, as
17 stated in the draft, Voluntary Voting System
18 Guidelines, which are whether electronic voting
19 systems are accurately recording ballot choices,
20 and whether the ballot record contents can be

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21 audited precisely, post election, may be resolved
22 without resorting to the expense of alternative of
23 voter verified paper audit trails. The requirement
24 for voter verified paper audit trails that various
25 states, including Washington, have passed, may well

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1 complicate the polling place environment without
2 any real proof that the two major audit issues for
3 electronic voting have been met. I am convinced
4 that the process we have in place in Snohomish
5 County for programming, testing, deploying, and
6 auditing of the electronic voting machines, coupled
7 with the enhanced and more rigorous testing
8 standards than the draft Voluntary Voting System
9 Guidelines for software and hardware are sufficient
10 to demonstrate that electronic voting machines are
11 accurate and trustworthy. The voluntary, excuse
12 me, the voter verified paper audit trail solution
13 for the independent dual verification systems need
14 to be both available at a cost within reach of
15 local election jurisdictions and in a manner
16 transparent to the voter to be effective and
17 showing that electronic voting is both accurate and
18 trustworthy. Thank you.

19 CHAIR HILLMAN: Thank you, very much.
20 Mr. Grough, Chicago, Illinois.

21 MR. GROUGH: Thank you. Madame Chair, if
22 it's all right with you, I did give written
23 comments, but if I could not read from them because
24 there's some items that I'd like to add, if the
25 Commission would give me that --

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1 CHAIR HILLMAN: Certainly.

2 MR. GROUGH: -- permission. Thank you.
3 Yeah, it's funny, I've been in the election

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4 business for over 30 years now, and when I first
5 got to the Chicago Board of Election, I thought all
6 you had to do was get a polling place, get the
7 ballots out there, have the voters vote, you count
8 them and you're done. Well, my second day on the
9 job I found out that's not true. There are so many
10 items that, you know, the election officials have
11 to concentrate on. And recently, after the 2000
12 election, the public has now become an expert also.
13 And after that cry after the 2000 presidential
14 election, HAVA was enacted, and that's why this
15 Commission was put in place. And I have to applaud
16 this Commission. If you look at the way this
17 Commission is made up, you have officials that know
18 state election, local election, advocacy groups,
19 campaigns. This Commission has, probably out of
20 all the federal commissions I've seen, has seen
21 what we have been asking for many years. And I
22 have to applaud this Commission. And I also would
23 like to state that I've seen your budget. I've
24 seen your number of employees that you have
25 working; I would like to urge Congress, and

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1 whatever we can do in Illinois, to give you the
2 tools to operate with. I know the size of your
3 staff. I just run the city elections for the City
4 of Chicago, and I have 163 full-time employees, and
5 you're overlooking the entire United States, so
6 there has to be some kind of accountability and
7 Congress should know about that. What I'd like to
8 talk about is that, you know, the single most
9 challenging aspect now facing election authorities
10 in the United States is compliance with HAVA. And
11 this requirement, and one item I would like to talk
12 about is people with disabilities. In the City of
13 Chicago, we believe everybody, everybody has the
14 right to vote. Everybody has the right to cast

15 their ballot in secrecy, and I'd like to get --
16 like to talk more about that. But just to let you
17 know, in the last two weeks the Chicago Board of
18 Elections just implemented a contract, a \$26
19 million contract with a new vendor that we will be
20 having -- we have gotten rid of punch card voting,
21 we are probably the last name standing. We thought
22 punch card got a black eye, but due to public
23 pressure, we're making that change. And what we're
24 doing is we're going to a dual system, and I'd like
25 to explain that. We're going to have optical

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1 ballots being counted in the precincts, along with
2 the DRE machine, so we can take care of people with
3 disabilities, and under section 203 of the Voting
4 Rights Act, language capabilities. On DRE you're
5 able to use multiple languages. We're going to
6 take both of those units that are being counted in
7 the precinct, and we're going to download the
8 memory card from the optical and the memory card
9 from the DRE into one unit that will combine
10 totals, will also print out those totals, and I
11 know a lot of people don't want to hear those, but
12 they will transmit those wirelessly to our office.
13 And looking at the standards, I'd like to commend
14 this Commission for keeping the availability, or
15 allowing us to do this wireless transmission. We
16 think it's very necessary in the City of Chicago.
17 We have 2,709 precincts scattered throughout the
18 City of Chicago, and to get the results to us as
19 soon as possible we think is very critical. And
20 I'll talk about security question and answer with
21 the Commission after that. We also have gone to
22 name on ballot, and in fact, from going from punch
23 card voting, using optical ballot as large as our
24 ballot is in the City of Chicago, our ballot is
25 going to be 22 inches long, which is the longest in

1 the industry. And even with that we still may have
2 to go to two different ballot cards, which is going
3 to make our job that much harder. We talk about
4 money; well, consider we are going from punch card
5 to name on ballot will increase our printing cost
6 by about a third, so we're looking at about \$1.2
7 million in printing ballots alone for the City of
8 Chicago. In the year after the 2000 election, a
9 lot of jurisdictions ran to optical scan and found
10 out that they weren't the end all and do all of
11 equipment. In fact, I'd like to say right now that
12 there's not a DRE that I've seen that could handle
13 everything. There's not one DRE out there that can
14 handle all the needs for the disability. And in
15 fact, your standards that you've just published,
16 I'd like to applaud you that they have probably the
17 toughest standards, meaning to meet with the
18 disability community, but with less than seven
19 months to go before our next election,
20 approximately 210 days before we have our primary
21 election, these standards are strictly voluntary,
22 and they've just been published; they haven't even
23 been adopted yet. We had to purchase equipment,
24 and we're in the process of having it delivered.
25 It meets the 2002 standards, but I don't think it

1 all meets the 2006 standards that you guys have --
2 that the Commission has proposed. And that's going
3 to cause a problem with us. I don't know if the
4 Commission is going to ask for all equipment to be
5 retested or not, that's something I will follow up
6 with a paper to this Commission, because in our
7 contract we do have that the company has to meet
8 all standards for the 2006, so we're hoping that

1 happens. Before this Commission published your
2 standards, we had to meet with the disability
3 groups in Illinois to go over our equipment, and
4 that took approximately two months and we're -- as
5 you know, if you have a large group of people that
6 are reviewing equipment, you will not always agree
7 on one item. And we have many that we did not
8 agree on. But we are going to try to put basically
9 everything in place, as much as possible. But
10 under the proposed Voting System Guidelines
11 contained, as I said, many high goals -- desirable
12 goals for this, and the EAC should be commended as
13 giving us that. But please allow me to take a few
14 minutes and review some of the Human Factor
15 Guidelines that our ability to complete, and in my
16 own personal opinion, the feasibility of some of
17 these points. It is my opinion and that of my

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1 staff, there is no single voting system in the
2 market today that will meet all the different needs
3 and requirements for every type of disability.
4 Despite our best effort, we are aware that we are
5 not going to satisfy every disability advocate, but
6 we're going to do everything we can. And I think
7 with your guidelines, a lot of those answers, a lot
8 of those things will be answered. In the City of
9 Chicago, we are equipping all 2,709 precinct
10 polling places with one DRE designed to meet these
11 needs of the disability. Our DRE units incorporate
12 headsets, I'm sorry, and audio instructions to
13 navigate the blind voter through the ballot. And
14 we recently redesigned the navigational box to make
15 it more user friendly for those voters that need
16 it. This is an accomplishment that after several
17 meetings with our disability groups that we came up
18 with some new equipment that's being added that
19 wasn't part of our contract. For those voters with
20 no sight, the ability to have a screen go blank we

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21 thought was an advantage. A lot of our disability
22 group says, well, some have partial eye sight that
23 having the entire screen going blank is not what we
24 wanted, so we had to make those modifications. The
25 guidelines suggested that electronic imaging

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1 display be capable of providing all information in
2 at least two different font types. Well, the
3 equipment that we have in the present time does not
4 do that. Hopefully, by the November election, we
5 should have that in place. The advocacy guidelines
6 also suggested that we provide for persons using
7 paper ballot who have poor reading vision. Well,
8 for those persons, we have invited magnifying
9 materials that we have been doing for the last 20
10 years. What I'd like to say is that, you know, we
11 hear the problem of money. Money always seems to be
12 a problem, but, you know, somebody -- I met
13 somebody that says if you've never been in my
14 shoes, you don't know what I go through. I have a
15 friend that is blind, and for the first time this
16 March election he'll be able to vote without any
17 assistance. And I don't think you can put a price
18 tag on that. And I'd like to applaud the
19 Commission. I'd like to end that and take
20 comments. I'd like to end that and say that I
21 applaud this Commission for doing everything you
22 have, and I think we need to go farther. Thank you.

23 CHAIR HILLMAN: Thank you, very much.
24 Mr. Ragsdale, and that's Broomfield County,
25 Colorado, right here in Colorado, right?

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1 MR. RAGSDALE: Yes, it is --

2 CHAIR HILLMAN: Okay --

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3 MR. RAGSDALE: -- Madame Chair, thank
4 you.

5 CHAIR HILLMAN: -- thank you.

6 MR. RAGSDALE: I am the Clerk and
7 Recorder of the City and County of Broomfield. My
8 name is Russ Ragsdale. Broomfield is located on
9 the northern edge of the Denver metro area, and as
10 such, I'd like to welcome, extend a welcome to the
11 Commission and to the Standards Board who will be
12 meeting the next two days in Colorado. I hope your
13 stay is both productive and enjoyable. I would be
14 remised if I didn't take this opportunity to also
15 congratulate the Commission on the appointment of
16 their newest Commission, former Colorado Secretary
17 of State, Donetta Davidson.

18 MS. DAVIDSON: Thanks, Ron.

19 MR. RAGSDALE: Donetta and I -- I've had
20 the distinct pleasure of being able to work with
21 Donetta, for what, the last 70 or 80 -- well, it's
22 probably been less than that, maybe only 20 years
23 --

24 MS. DAVIDSON: A long time.

25 MR. RAGSDALE: -- but she has taught me a

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1 lot about the world of elections and I appreciate
2 that. And Colorado's loss is truly the nation's
3 gain, so I wish you the best in your new adventure.
4 I'd like to start off with kudos and appreciate to
5 the Technical Guidelines Development Committee. The
6 Voluntary Voting Systems Guideline is an amazing
7 piece of work that was created in a very short
8 period of time. I find it very thorough as --
9 looking through it, I did find some typos. I did
10 find some specific items that I'd like clarified,
11 but overall I think it's an incredible piece of
12 work, and I think it's a great starting point for
13 our future in elections. A couple of the areas
14 that I want to focus on is one, how it deals with

15 the interface with the voter, the end user, so to
16 speak; how it is directed at the vendors and
17 developers of elections systems, and of course,
18 it's impact on local election officials. The VVSG
19 provides a great deal of focus on the voter as it
20 should. The usability for the voter and how our
21 election systems interface with those voters, and
22 how they are treated by our election systems. If I
23 may quote from the volume one, section 2.2.7, the
24 human factors, it describes the difficulties of
25 designing usable and accessible voting system. I

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1 think it does a good -- articulates very well, and
2 there is a couple of these points I'd like to bring
3 forth. The first is voting is performed
4 infrequently, so there is limited opportunity for
5 voters and poll working to gain familiarity with
6 the process. This is an infrequent process, the
7 one of elections, and I would like to bring that on
8 to the local election officials too. For those of
9 us in mid to small size jurisdictions, often times
10 we don't even have full-time staff working on
11 elections. They have other tasks as the year goes
12 by. So, I just want to point that out in time
13 that's -- one of things I'd like to bring out, is
14 this is a wonderful document, but we need to also
15 make sure that it translates well. How does it
16 play Vioria [phonetic], so to speak? How does it
17 translate to the mid and small size jurisdictions.
18 The second point that's on that -- in that same
19 section is jurisdictions may change voting
20 equipment, thus opiating [phonetic] whatever
21 familiarity the voters might have acquired. Again,
22 it's the familiarity -- that's the tool that, I'm
23 sure, my colleagues to my right also appreciate.
24 Familiarity in any of the elections aspects that
25 the voters may have, whether it's the location of

1 polling place or the use of voting equipment.
2 Unfortunately, with all the changes we're seeing in
3 the world of elections, familiarity is becoming a
4 rare commodity. There's also another thing I would
5 like to vote out to is that in our mobile society,
6 more often than jurisdictions changing voting
7 systems, you will see voters moving from one
8 jurisdictions to another. And in those states that
9 have not adopted a uniform voting system, those
10 voters will be faced from election to election to
11 different voting equipment. For instance,
12 Broomfield, I have three neighboring counties, and
13 among the four of us we have two flavors of optical
14 scan systems and two flavors of DREs. So depending
15 on what neighborhood the voter depends to live in,
16 they may be dealing with a new voting system from
17 election to election. Also, in volume one, in the
18 fifth section, it sets forth three broad
19 principles, that I believe, are fundamental tenants
20 that I would love to see stitched into a sample and
21 hung on the wall of every election official in the
22 country. Those tenants are, one, all eligible
23 voters shall have access to the voting process
24 without discrimination. Two, each cast ballot
25 shall accurately capture the selections made by the

1 voter. Three, the voting process shall preserve
2 the secrecy of the ballot. That sums it up, that's
3 what our mission is, as local election officials.
4 And I really appreciate that being articulated in
5 the VVSG. It also focuses considerably on
6 accessibility for voters with disabilities, as it
7 well should. And it's a requirement from HAVA, and
8 it's something we're all going to have to face that

1 challenge, as local election officials, in our
2 world. I'm really interested to see what testimony
3 you received today from the representatives from
4 the disability community, and see how they feel
5 about the VVSG. As Mr. Terwilliger said, some of
6 these items in here are from folks that have more
7 knowledge in those particular areas, and this is
8 the case for me, with the handicapped
9 accessibility. VVSG, is to large part, directed at
10 the vendors and developers of elections systems, as
11 it should be. This is a certification process.
12 This is what the vendors are going to have to live
13 up to. I think it sends a strong message to the
14 vendors and developers of the systems that the
15 systems must be auditable, the functions must be
16 demonstrable and verifiable, and essentially the
17 system must work. And we appreciate you setting

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1 that standard as high as you have. Because a large
2 portion of these guidelines are directed
3 specifically at system developers, it is
4 necessarily technical in nature. And quite
5 honestly, reading through this volume in the last
6 two months, a lot of it has gone over my head from
7 a technical aspect. What I would -- what I would
8 ask the Commission to do is keep in mind the
9 development of a practical guide for the local
10 election officials. In other words, converting
11 this document to something -- I guess, to be honest
12 to you, I don't see too many of my peers having
13 this sitting on their desk and referring to it as a
14 resource to help them establish their processes and
15 procedures in the elections office. It's an
16 absolutely fantastic foundation for us, but I think
17 we need to, and if you'd indulge me, develop a VVSG
18 for dummies, myself being one of the dummies of
19 course. Somehow so that we can convert this to the

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20 reality. I think, when I read through this, one of
21 the things that I was feeling was a disconnect
22 between the effort towards the vendors and the
23 voters, the disconnect with the local election
24 officials. Please don't minimize the role of the
25 local election official in this process. We are,

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1 after all, the folks in most cases who are going to
2 be procuring, implementing, managing, and
3 maintaining these systems into the future. We need
4 to have the information and resources available to
5 understand how to implement these in practical
6 terms. What HAVA requires, as Mr. Grough point
7 out, we have requirements with HAVA coming up. On
8 January 2006 we're going to be required to have
9 essentially a DRE in every polling place for voter
10 accessibility. What we're asking there, in some
11 small to medium size jurisdictions, is
12 sophisticated election equipment, electronic
13 election equipment. In jurisdictions that have
14 little to no experience in managing information
15 systems, this is going to be a challenge and we
16 need to be able to make sure those folks get the
17 right instructions and education on how to
18 implement this and how to get that across to the
19 voters. One of the efforts by the Election
20 Assistance Commission is the publication of the
21 Election Management Best Practices, and that
22 attempts to bring to the election officials around
23 the country real life situations, real life
24 solutions to the challenges we're facing.
25 Unfortunately, I think that's been a passive

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1 effort, and I would like to ask the Commission to
2 convert that to a more aggressive effort. If you

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3 could compel, or I could start doing that, or the
4 three of us here, it might be a good idea to start
5 compelling our colleagues to submit those
6 solutions. Left to our devices, we're relatively
7 resourceful out there, and we are going to have to
8 share those ideas and those solutions as we meet
9 these challenges with the rest of the nation. And
10 in conclusion, one thing that's very clear after
11 reading through the VVSG, successful implementation
12 will not be a solo effort. We cannot do it as a
13 solo effort at the local level. It cannot be done
14 as a solo effort at the state level, nor the
15 federal level. It's going to take all three of us
16 working in unison. So I would ask that, yes, we
17 need more additional resources, such as the
18 information clearinghouse, and yes, of course, we
19 will need more funding as we come along with this.
20 And Donetta, not to put pressure on you so early in
21 your new job, but we're going to be relying on you
22 too. Thank you.

23 CHAIR HILLMAN: Thank you very much. Mr.
24 Ragsdale, you're absolutely right. Given the size
25 and the numerous technical references in the

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1 guidelines, it's not the kind of document that one
2 can just flip to and go to section whatever,
3 whatever, to get some guidance. So we appreciate
4 your request and recommendation about a practical
5 handbook, if you will. But you've also done a
6 rather unique thing, which I for one appreciate
7 very much. And that is you managed to find the
8 statement of principles in there. And it's one
9 that really resonates to a very important issue.
10 And I wish, if you would for me, for the record,
11 just read that wonderful statement of principle
12 that you found in there about the accessibility
13 issue. And I'm not sure if it's in the written

14 testimony that we have, but I want to make sure
15 that we have that for the record.
16 MR. RAGSDALE: This comes from volume
17 one, section 2.2.7. It actually enumerates three
18 principles; the first being, I believe this is the
19 one you're referring to, all eligible voters shall
20 have access to the voting process without
21 discrimination. Is that the one?
22 CHAIR HILLMAN: Right, yes, indeed.
23 MR. RAGSDALE: I think that, in
24 conjunction with the other two that I read are --
25 CHAIR HILLMAN: Right.

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1 MR. RAGSDALE: -- like I say, that should
2 be hung on the wall of every election official
3 throughout the country.
4 CHAIR HILLMAN: Well, we do --
5 MR. RAGSDALE: They are well articulated.
6 CHAIR HILLMAN: -- we are challenged to
7 find ways to translate some of the work we do into
8 the kind of language and explanation that every
9 voter can appreciate, with respect to the work that
10 we are doing with election officials on behalf of
11 voters. And so it was nice to see you find that
12 statement in the midst of those several hundred
13 pages there. Thank you.
14 MR. RAGSDALE: You're welcome.
15 CHAIR HILLMAN: We are now ready for
16 questions, and Commissioner Davidson, if you'd like
17 to begin.
18 MS. DAVIDSON: One of the questions I had
19 --
20 CHAIR HILLMAN: Excuse me, one second,
21 just to let me say that we have about 10 minutes
22 again, for questions and to receive responses from
23 the panelist --
24 MS. DAVIDSON: Okay.
25 CHAIR HILLMAN: -- okay?

1 MS. DAVIDSON: One of the question --
2 see, I thought I was going to be last, so I was
3 going to pick up on everybody else's questions. The
4 testing and what you're doing in Washington, and in
5 your DREs, and the statements you made in testing
6 -- before the Secretary the State coming out being
7 part of the tests three days before, can you go in
8 to a little bit of that testing area of how you're
9 accomplishing that?

10 MR. TERWILLIGER: Approximately two to
11 three weeks before each election we actually test
12 the mechanics of each DRE that's going to be
13 deployed to a polling place --

14 MS. DAVIDSON: Okay, the mechanics, okay.

15 MR. TERWILLIGER: And then we also vote a
16 prescribed, predetermined ballot to make sure that
17 the machine is accurately recording the choices
18 that are available on the ballot styles that are on
19 that machine. And we certify that that's been
20 done, not on two machines, but on every machine
21 that's deployed in the election. The Secretary of
22 State test is a more general test where members
23 from the public, party observers, come in and pick
24 out three or four precincts randomly and test on
25 three or four machines that are -- that have the

1 entire program ballot on it, and then when we bring
2 the machines back in on election day, we do the
3 same mechanical test, and also the same pre-
4 described test ballot that we did beforehand to
5 make sure that it's still recording correctly. So
6 if we have any machines with problems, we know.

7 MS. DAVIDSON: Do you see that there's a

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8 need for a best practices, and this is a little bit
9 off the subject, but a best practices for every
10 type of equipment out there, of what states are
11 doing, and getting information back so we can
12 develop some best practices to help some of the
13 counties that are maybe mid-sized to small sized,
14 to help develop some ease in what they should be
15 doing? On the other end, making sure that they're
16 accomplishing every bit of the testing that they
17 should be doing?

18 MR. TERWILLIGER: I do. I do agree with
19 my fellow -- Russ over here though that I come from
20 a state where the smallest jurisdiction has 1,400
21 registered voters in it, and the largest has 1.2
22 million registered voters in it. So staffing and
23 expertise, et cetera, are not going to necessarily
24 provide for the ability to do the level of testing
25 that I can do with a staff that I have. So, it's

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1 going to take a marriage between the state's
2 elections offices and the local elections offices
3 to develop those best practices and then work in
4 partnership, which we do a pretty good job of in
5 the State of Washington, to make sure that this is
6 being done, where the staffing component at the
7 local level is not there to do that.

8 MR. GROUGH: But just to make a comment
9 to follow-up with Bob. The logic and accuracy
10 test, once your ballot is known and you download
11 your ballot into your equipment, I think that is --
12 a lot of the states have that requirement. You
13 know, every piece of equipment before it goes out,
14 we have to run a pre-audit test deck through it,
15 after that, we seal up the equipment. The Thursday
16 before the election, we have to run a test through
17 our central computer system. Once that has been
18 deemed to be okay, we lock that down and nothing
19 can be touched or changed until, you know, until

20 Election Day.

21 MS. DAVIDSON: Um-hmm.

22 MR. GROUGH: And even election day we run
23 another audit on the system. So, I mean, there are
24 a lot of checks and balances that we go through
25 that the public does not understand. I mean it's

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1 not like you just put the ballot in and you go with
2 it. I mean there's a lot of testing that we have
3 to make sure that everything, you know, is on the
4 up and up. And we have -- community groups are
5 invited to come in and review our testing. You
6 know, I mean it's an open practice and that's what
7 we'd like everybody to know.

8 MS. DAVIDSON: Don't you think it would
9 bring some unity in to, you know, the transparency
10 of the election if we can make our voters
11 understand how much testing there is that goes on
12 with equipment?

13 MR. GROUGH: We really do; we really do.
14 I mean we run articles in the newspaper prior to
15 let everybody know that we are going to do this
16 testing and that you're invited to review it.

17 MR. TERWILLIGER: I think what happened
18 nationally, and certainly what's happened in the
19 State of Washington as a result of a governor's
20 race that was absolutely incredible in terms of the
21 closeness of it all is there are public groups and
22 individuals that are so much more interested, so
23 much more paying attention now, that the time is
24 right to have those best practices identified so
25 that they can be the check and balance as much as

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1 we are on ourselves to make sure that we're really

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2 following those best practices when they're
3 identified. So often the public is -- doesn't have
4 the time or hasn't taken the interest because they
5 didn't think there was ever any reason to be
6 involved. But now I think they're very aware that
7 there is. And it's not that many of us haven't, or
8 all of us haven't been doing those testing
9 procedures, but it's one of those things that's
10 just an unknown. And now I think we need to make
11 it clear that we do it and we need to make it
12 totally accessible for anybody that wants to come
13 in and observe it, to observe it.

14 MS. DAVIDSON: I know Colorado has just
15 changed laws, and I think many states have also,
16 trying to up the amount of testing and the amount
17 of credibility that is put in to the process prior
18 to the election and after the election. Russ, do
19 you have anything you want to add to that?

20 MR. RAGSDALE: Just that going,
21 Commissioner Davidson -- in Colorado we had the
22 allocation for a public logic and accuracy test
23 prior to the election, and that was the only public
24 testing that was required by law. And essentially
25 that public LNA was a confirmation of the internal

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1 testing that had taken place the week before. And
2 as was stated earlier, the public wasn't aware of
3 how much internal testing was done, and how much
4 diagnostic tests were performed on the equipment.
5 We have been shown the light that needs to be
6 transparent. We need to invite the public in to
7 watch that because it's a very positive step.

8 MS. DAVIDSON: Thank you.

9 CHAIR HILLMAN: Thank you very much.
10 Commissioner Martinez?

11 MR. MARTINEZ: Thank you, Madame Chair.
12 Just a few quick questions, and I want to start
13 with just a statement, and that is -- kind of pick

14 up where my colleague, Commission Davidson has left
15 off, and that is the issue of transparency. And I
16 want to say that I've been privileged in the 20
17 months or so, serving as a Commissioner, to be able
18 to visit lots of jurisdictions, including, really
19 all three of yours. Not personally to your county
20 and jurisdiction, Mr. Ragsdale, but to Colorado as
21 a Commissioner, not too long ago and the invitation
22 of then Secretary Davidson to talk to you and your
23 colleagues at one of your training sessions. Mr.
24 Terwilliger, you've hosted me and our Vice-Chair,
25 Paul Degregorio, not too long ago during your

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1 recount process there in Snohomish County. And Mr.
2 Grough, we've been to Chicago many times. I was
3 just there a few weeks ago for the ABA conference,
4 and officially at your invitation on a couple of
5 different occasions. And I know first hand the
6 commitment to equality, security, and to
7 transparency that all of you exude from your
8 particular positions in the -- as election
9 administrators, so I want to applaud you for that
10 dedication and for taking that time to be here
11 today. This is an important and very challenging
12 project I think that we're all undertaking. And
13 I've said it before, perhaps you've heard me say it
14 from the podium that the confidence meter of the
15 American public, right now, seems to be moving, for
16 whatever reason, in the wrong direction, despite
17 the fact that, every jurisdiction I visit, I see a
18 commitment to dedication and integrity, quite
19 frankly. And so I think that all of us can work at
20 this together to make sure that the confidence
21 meter is headed back in the right direction. I
22 think it will happen. This is certainly a major
23 effort in that direction. Mr. Terwilliger, I want
24 to ask a couple of questions about, specifically,

1 jurisdiction. I think when I was there a few
2 months ago you mentioned that, I think most of your
3 ballots on election, for election day come in via
4 mail, if I'm not mistaken, into Snohomish County?

5 MR. TERWILLIGER: That's correct.

6 MR. MARTINEZ: But yet you still, you do
7 use DRE machines for voters who are going to vote
8 on election day?

9 MR. TERWILLIGER: Correct.

10 MR. MARTINEZ: Right. And there is a
11 requirement, a proposed requirement in the proposed
12 Guideline in section -- on page 2.22 that says if
13 the normal procedure includes voter verified paper
14 audit trail, then the accessible voting system, in
15 your case, it would be your DRE system, should
16 provide features that enable voters who are blind
17 to perform this verification. The requirement goes
18 on to say, and I'm quoting, if the state requires
19 the paper record produced by the VVPAT to be the
20 official ballot, then that voting system shall
21 provide features that enable visually impaired
22 voters to review the paper record. You're in a
23 state that I believe through administrative action
24 by Secretary Reed has required a VVPAT by 1/01/06.
25 And I just wondered if you would comment on the

1 specificity of this particular requirement,
2 proposed requirement?

3 MR. TERWILLIGER: Actually, at this point
4 in time our state legislature has required a bi-
5 legislation --

6 MR. MARTINEZ: I see, okay.

7 MR. TERWILLIGER: -- so -- but it doesn't

8 identify that the VVPAT is the official ballot,
9 except in manual recounts.

10 MR. MARTINEZ: Okay.

11 MR. TERWILLIGER: And it does have a
12 requirement that we do a post election audit on up
13 to four percent of the machines that are in any
14 particular election, comparing the results off the
15 machines back to the VVPAT. Right now, we're
16 awaiting certification from our vendor for their
17 system to meet the terms and conditions that are
18 outlined in the 2002 Standards, to be able to have
19 the disabled community, and specifically the blind
20 community, be able to review the VVPAT in a way
21 that doesn't disclose or violate their right of
22 secrecy. So that's a work in progress and our
23 expectation is that we are going to have that
24 certified to us in January. We're not going to
25 meet the January 1 deadline, obviously --

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1 MR. MARTINEZ: Right.

2 MR. TERWILLIGER: -- and then we'll go
3 forward from there

4 MR. MARTINEZ: So in terms of this
5 particular proposed language, it is -- it does not
6 conflict with the way your legislature has written
7 the VVPAT requirement, and that they haven't
8 addressed it as the official record other than for
9 recount purposes is what you're saying?

10 MR. TERWILLIGER: Correct.

11 MR. MARTINEZ: And then you also
12 mentioned the independent dual verification
13 systems, and I just want to explore that a little
14 bit more with you. I think what I hear you saying
15 is if work can be done to explore other means to
16 explore verification, other than through a paper
17 audit trail, that you would encourage that as a
18 local election administration?

19 MR. TERWILLIGER: Yes, I would. I think
20 there's been much testimony and some evidence to
21 the fact that there are potential issues in terms
22 of administering and maintaining the audit and
23 secrecy and actually conducting whatever audit or
24 recount exercise would have to take place on the
25 verified paper audit trail. I think technology, as

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1 we all know it, advances so quickly, almost daily,
2 that if there can be developed some transparent way
3 for voters to know their ballots have been voted
4 and recorded correctly on this electronic voting
5 system that is equal to or great than what we're
6 talking about with the voter verified paper audit
7 trail, we should certainly explore that.

8 MR. MARTINEZ: Right.

9 MR. TERWILLIGER: My testimony to my
10 state legislature was actually to allow or to have
11 the legislation have language in it to provide for
12 that possibility, but they didn't see that that was
13 something they could agree to at that point in
14 time, and I think frankly because there isn't
15 really anything identifiable out there yet.

16 MR. MARTINEZ: Um-hmm.

17 MR. TERWILLIGER: But I think we need to
18 work towards that.

19 MR. MARTINEZ: Right.

20 MR. TERWILLIGER: Because I think that
21 may be a better, more effective way to demonstrate
22 the accuracy of electronic voting, than the voter
23 verified paper audit trail.

24 MR. MARTINEZ: Yeah. Mr. Grough, any
25 thoughts? I know that -- I can't recall, but I

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1 think Illinois is also one of the states that's

1
2 required a paper trail for the use of any
3 electronic voting systems?

4 MR. GROUGH: Yes, and I follow on a
5 second that it's not the official --

6 MR. MARTINEZ: Okay.

7 MR. GROUGH: -- you know, it's only used
8 for recount.

9 MR. MARTINEZ: Right, and you're going to
10 have optical scan there in Chicago, but you're also
11 going to have a mixture of optical scan and DRE
12 systems?

13 MR. GROUGH: Yes, we are.

14 MR. MARTINEZ: Yeah, so you'll have to
15 have a paper trail for the DRE systems?

16 MR. GROUGH: We do have -- yes, we do.

17 MR. MARTINEZ: Okay. And then, the
18 issue, Mr. Grough, with regard to wireless
19 communication. We were actually, at our last
20 hearing, in Pasadena I think; I'm losing track of
21 where I've been recently, but I think we were in
22 Pasadena recently, and we took testimony of a very
23 esteemed panel of folks who gave us various
24 perspectives on the use of wireless communication
25 for election and the process of administering an

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1 election. One of the requirements, I don't have it
2 in front of me, but says that use of wireless
3 communication ought to be encrypted if you're going
4 to use it for the purposes to transmitted ballot
5 information, or whatever. And I assume that that
6 is something that is called for in the use of
7 wireless communication, as well?

8 MR. GROUGH: Yes, it is. And
9 Commissioner, I was invited to speak, but I could
10 not make it because we were in negotiations on the
11 contract. So I had to miss that, but wireless
12 technology has come so far. And with encryption and

13 with the type of equipment that we have, I'm not
14 worried about it. Plus, everybody forgets, it is
15 strictly unofficial -- what the results you get
16 from the wireless is strictly unofficial. We go
17 back and do testing on it. We have to then
18 manually read everything into the system, so I mean
19 -- and then we do a canvas. So I mean wireless --
20 people get very concerned when they say, oh, you're
21 transmitting election totals over the air waves.
22 Well, yes, we are but they're unofficial.

23 MR. MARTINEZ: Got it. I appreciate
24 that. Mr. Ragsdale, you mentioned election
25 management standards, and I wonder -- that is, I

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1 think a topic that we've been talking about since
2 the first days of our Commission, and obviously now
3 that we are in a position where this fiscal year we
4 are fully funded by Congress, we are making some, I
5 think, some increasingly proactive steps to try to
6 develop some election management standards. But I
7 know that you want to move aggressively on that
8 front, and what's the priority when it comes to
9 that type of a standard to be developed? I mean
10 what are you looking for at the local level for us
11 to be able to offer, be a best practices or be at
12 some sort of voluntary standards in that area?

13 MR. RAGSDALE: Well, quite -- when you
14 first put out the best practices on your website --

15 MR. MARTINEZ: Um-hmm.

16 MR. RAGSDALE: -- we went to it for
17 better ways to do our business --

18 MR. MARTINEZ: Right.

19 MR. RAGSDALE: -- essentially. I think
20 the priority now is ways to accomplish what is
21 legally required, or to say shortly required of us.
22 The testing requirements, the accessibility
23 requirements, we need to know -- in the VVSG goes
24 into quite an in- depth in security it measures.

1 MR. RAGSDALE: One thing that pops to
2 mind is management of the actual physical
3 environment, the election equipment and tabulation
4 server and what have you. That's something that a
5 lot of jurisdictions don't have experience with.

6 MR. MARTINEZ: Right.

7 MR. RAGSDALE: And that's something that
8 should be kept isolated in a separate room, with
9 key card entry. What do you do? Who has access to
10 keys in those rooms? Those kind of things that are
11 really new challenges to a lot of jurisdictions.

12 MR. MARTINEZ: Right.

13 MR. RAGSDALE: So things that I would say
14 if I could put it succinctly, what we need now as a
15 priority and best practices is how to solve what is
16 required of us --

17 MR. MARTINEZ: Sure.

18 MR. RAGSDALE: -- and made easy.

19 MR. MARTINEZ: Right, okay. That's very
20 helpful. I want to go back, if I could, and for my
21 last question, Mr. Terwilliger. We talked this
22 morning, and I'm not sure if you were here in the
23 morning session during our meeting about the
24 National Software Reference Library. And as a
25 county that uses DRE systems already, I'm just

1 wondering if you're familiar with the idea of a
2 repository of the software that's used by the
3 vendors and their systems and whether that could be
4 of use to you as a local election administrator?

5 MR. TERWILLIGER: Yes, I am familiar with
6 it and I think it would be useful because much of

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7 the objection, if you will that we hear from
8 communities that have concerns about the electronic
9 voting system is not knowing or not believing that
10 there is a standard or that we are using the same
11 version that was certified. And I think it would
12 be helpful to all elections officials and all the
13 vendors, frankly, to have that place where that
14 could be stored.

15 MR. MARTINEZ: Great. I'm the -- that's
16 the end of my questions, but I do want to say since
17 I normally address you as Bob, I'm sorry if I
18 butchered your last name during our discussion.

19 MR. TERWILLIGER: Well, you did fine.

20 MR. MARTINEZ: Thank you, Madame Chair.

21 CHAIR HILLMAN: Okay, Mr. Vice-Chairman?

22 MR. DEGREGORIO: Thank you, Madame Chair.

23 Mr. Terwilliger, as Commissioner Martinez
24 indicated, last December he and I had the great
25 opportunity to observe the recount that was going

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1 on in Washington State, and we had the honor of
2 coming to your county and watching that process.
3 And of course, you went through and your staff went
4 through a very meticulous process to count those
5 ballots, to account for each one of them. And in
6 doing so, you went through several recounts of the
7 vote. You had the election night and you had --
8 there were several recounts. In that process, did
9 you learn anything that you can tell us that would
10 help in establishing these voting system
11 guidelines? Did you learn anything about the
12 accuracy of your system that, you know, by doing
13 it, by hand counting, we really learned that these
14 results are accurate. And is there anything that
15 we can learn from that, perhaps we can include or
16 include perhaps in management practices that we may
17 come out with, in your experience of the recount of
18 Washington State?

19 MR. TERWILLIGER: Well, I think it's
20 interesting -- first of all, it's my understanding
21 that not all states even have recount statutes to
22 the degree that the State of Washington does. From
23 our unique experience, a change was made in our
24 state statute in the legislature that just ended
25 its session. So now on a statewide race, if the

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1 closeness of the race is within 1,000, and less
2 than one quarter a percent, we're going to go right
3 to a hand recount. And that is to eliminate the
4 perception that occurred in our state, because our
5 first state under our prior law was that we did a
6 machine recount. We recounted all the ballots
7 again with the same tabulation machines, and then,
8 it still was close enough that, as we all know, the
9 Democratic Party applied for a hand recount and the
10 results changed. I don't think there was anything
11 untort about that. It's just that it doesn't feel
12 good and it doesn't look good, and it doesn't
13 perceive well to the public. So, in terms of the
14 machinery and the tabulation accuracy, I think it's
15 clearly accurate and does give us clear indication
16 of who won and who lost when your differences are
17 greater than the differences that we were talking
18 about in our state. But when they get to be within
19 that level, I don't think that there's any machine
20 that's accurate enough to represent that. And the
21 public, at large, I believe, has a much better
22 feeling about who won and who lost, at the end of
23 the day, when the ballots are actually looked at by
24 individual teams, you know, where they were in our
25 state. So I think the legislation is a good piece

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1 of legislation because now, in that statewide
2 environment, which maybe we'll never experience
3 again, we're not going to have that intermediate
4 machine recount. We're going to go right to a hand
5 recount and that will be it.

6 MR. DEGREGORIO: Did you find --

7 MR. TERWILLIGER: That was a learning
8 experience.

9 MR. DEGREGORIO: Was it accurate in your
10 county?

11 MR. TERWILLIGER: Yes, um-hmm.

12 MR. DEGREGORIO: I realized in some
13 counties there were some votes added because votes
14 were found.

15 MR. TERWILLIGER: Right.

16 MR. DEGREGORIO: And that's a different
17 story than --

18 MR. TERWILLIGER: Exactly.

19 MR. DEGREGORIO: -- from then --

20 MR. TERWILLIGER: Right. And when you
21 can look at the optical scan ballot, which is a
22 vast majority of the ballots in the State of
23 Washington because of how many of folks vote by
24 mail, because we have that liberal provision, you
25 see all kinds of indications on the ballot. We're

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1 clearly as a state that one would characterize as a
2 voter intense state, and we have clear rules and
3 regulations about how to decide whether that ballot
4 should be transferred, duplicated to another
5 ballot, in a way to represent that voter intent.
6 Those are the issues that you can clarify when
7 you're doing a hand recount that aren't going to be
8 picked up in a machine recount, but when the
9 difference is five, six, seven, ten, 50,000 votes,
10 that's accurate enough to determine clearly who won
11 and who lost. When the difference is 134 votes, I
12 think you need to be looking at the ballots.

13 MR. DEGREGORIO: Okay, thank you. Mr.
14 Grough --
15 MR. GROUGH: Yes.
16 MR. DEGREGORIO: -- certainly I'm
17 familiar with your shop there in Chicago. I'm 20
18 years familiar with Chicago, in fact. And you had
19 punch cards for years?
20 MR. GROUGH: Yes, we have.
21 MR. DEGREGORIO: And you took the
22 leadership -- a leadership role after the 2000
23 election to invest millions of dollars to give
24 voters of the City of Chicago second chance voting
25 with punch cards, which most jurisdictions that had

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1 punch cards did not do that. But you did that. And
2 I certainly was there last November to witness your
3 last use of punch cards and how that worked, and it
4 did work well. But now you have, you know, you
5 just described this new system that you're going to
6 with DRE, optical scan, and Commissioner Martinez
7 talked about the wireless aspect of the guidelines
8 --

9 MR. GROUGH: Um-hmm.
10 MR. DEGREGORIO: -- and how it will be
11 applied. Now, do you see any difference with these
12 guidelines applying to unofficial results that will
13 be transmitted from your polling places to your
14 office on election night, as opposed to any
15 official results that may be transmitted from some
16 point from the polling place to your offices?

17 MR. GROUGH: Well, just to let me say
18 that we've done many recounts in the City of
19 Chicago, as you know, and we have never had a
20 difference in what we've done unofficially,
21 wirelessly, and we've done a hand recount. So I
22 said, there hasn't been any changes on that. The
23 public, believe it or not, is the one that, in the

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24 City of Chicago, asked for this wireless
25 transmission. They want to know as soon as

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1 possible who won or who lost. The news media, in
2 fact, the reason why we went to wireless where we
3 had a remote transmission site was hit by lightning
4 and the phone lines were out, and the news media
5 accused us of holding back election results in a
6 certain area of the City of Chicago. That's why --
7 that's basically why we went with the wireless
8 transmission. We wanted to have the public feel as
9 confident as possible that their election results
10 or their election is being counted fairly.

11 MR. DEGREGORIO: Many jurisdictions
12 across the country are changing over from paper
13 machines and punch cards. You're not the last
14 jurisdiction standing; I guarantee you, there's
15 several counties in my own State of Missouri that
16 are not where you are in this process. But you
17 mentioned that you negotiated with your vendors,
18 your vendor, when buying your equipment, that
19 they're going to meet the EAC guidelines. Is that
20 correct?

21 MR. GROUGH: Yes, yes.

22 MR. DEGREGORIO: Was that difficult to
23 do? Did you get any push back from that? Or were
24 they ready to put that as part of the package in
25 selling this product to you?

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1 MR. GROUGH: Well, I don't want to speak
2 for the vendor, but this contract -- it took two
3 months to negotiate, so there were a lot of items
4 that were in question. But I think the vendor
5 understands that it's to their advantage to meet
6 these guidelines when you're selling the equipment.

1
7 What's better than to say that you meet all the
8 requirements that are out there. So, for a vendor
9 not to fight to have those standards met I think
10 doesn't make any sense at all.

11 MR. DEGREGORIO: You know, I knew I hear
12 from a nervousness in jurisdictions around the
13 country who are purchasing equipment the worry that
14 they have in buying something today that a year
15 from now may not meet the EAC Voluntary Voting
16 System Guidelines that's adopted by their state. So
17 I think what you have done is helped them. And I
18 think that other jurisdictions, perhaps, will look
19 to you and the way that you did this as they
20 purchase equipment. I hope that perhaps you can
21 share your contract. I know that it's a public
22 record with them, so they can at least see what the
23 City of Chicago got from this effort. Mr.
24 Ragsdale, you indicated that you had a system in
25 place for a few years, is that correct? Is it an

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1 optical scan system?

2 MR. RAGSDALE: Yes, Mr. Degregorio, we've
3 had a unique situation in Broomfield. We became a
4 county in November 2001 --

5 MR. DEGREGORIO: Oh.

6 MR. RAGSDALE: -- so our system isn't
7 older than that, three years. We have an optical
8 scan system that we use in our polling places, and
9 DRES in our early voting where we have multiple
10 voting styles.

11 MR. DEGREGORIO: Now, we're going to
12 adopt these Voluntary Voting System Guidelines in
13 the fall, probably in October. I assume that the
14 State of Colorado will take a look at them and
15 determine if they want to adopt these guidelines as
16 their guidelines. Do you have a contract with your
17 vendor? How do you see your jurisdiction meeting

18 these guidelines if the State of Colorado indeed
19 adopts them as their own?

20 MR. RAGSDALE: That's an excellent
21 question, and a question that I imagine that every
22 local election official around the country is
23 asking themselves. We are obviously under the
24 mandate from HAVA that January 2006 to have
25 accessible voting equipment in every polling place.

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1 We need to have that equipment, at minimum,
2 matching the 2002 FEC certification. Colorado is
3 going to adopt the Guidelines set forth by the EAC.
4 It does leave us with a bit of a conundrum if we
5 cannot get a negotiation with our vendors; we may
6 very well be buying equipment that is, in practical
7 terms, obsolete as soon as these guidelines are
8 adopted. Now, I know you have the 24 months until
9 they're implemented, but that's still in essence,
10 that's a very short life span for any kind of
11 computer based system. It's an issue. It is very
12 much. Now, the Secretary of State in Colorado is
13 taking a proactive effort in that in trying to do a
14 contract statewide that any of the counties can
15 then join under that umbrella contract, which will
16 help us, hopefully, but the negotiation there is
17 that the vendor will come back and retrofit, at a
18 minimum, that equipment to meet the EAC Guidelines.

19 MR. DEGREGORIO: You mentioned earlier in
20 your discussion with other Commissioners the
21 management best practices, the need for that as
22 part of these Voluntary Voting System Guidelines,
23 and we are moving in that direction. We hope to
24 actually do an RFP and get moving on establishing a
25 process where we're going to put together some good

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1 management practices and hire some people to do
2 that, over a period of time. But, when would be
3 the opportune time, and I ask all three of you, to
4 have these management practices, best practices,
5 from the EAC. We're going to adopt these
6 guidelines; they're not going to take effect though
7 for a couple of years, although we do know that
8 jurisdictions will -- may move up their own
9 deadlines for these Guidelines, and vendors will
10 try to meet them certainly before the deadline that
11 we put forth when we adopt these guidelines. But
12 you have elections next year, and I'd like to know
13 from all of you, when is the opportune time from
14 you to be receiving from us some of these
15 management best practices for these new guidelines.
16 We'll start here.

17 MR. TERWILLIGER: Well, obviously, I
18 think the sooner the better. But I also think that
19 these best practices guidelines probably have more
20 direct impact and more immediate benefit than the
21 Voluntary Voting Systems Guidelines do. In other
22 words, there's a lot more need and a lot more
23 immediacy that can be accomplished by a
24 jurisdictions needing and having available to them
25 best practices in the various areas that you heard

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1 us talk to today, just about security, about
2 audibility, about management of the hardware and
3 software that you now currently have. These
4 guidelines aren't going to mean a whole lot if
5 those best practices aren't in place now. So, in
6 terms of a priority, I almost think it's almost
7 more important to have as many of those out quicker
8 and take time to make sure that these are done
9 correctly and meet the concerns that are being
10 raised. Because there's, in my opinion, where the
11 need is. I see it in my own State, as I say

12 because of the size of the jurisdictional
13 differences, to have a resource that the smaller
14 counties can just go to and say, oh, this is what
15 we need to do; this is how we should do it. I
16 think it would be extremely beneficial sooner
17 rather than later.

18 MR. GROUGH: I'm in agreement with that,
19 and especially for the smaller counties in
20 Illinois. You have to understand there's some
21 counties that don't even have their own computers;
22 they share the AllState computer next door to
23 operate their vote counting equipment. So, I'm
24 just saying as soon as we can get the best
25 practices out there so everybody will be on that

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1 even level playing field.

2 MR. RAGSDALE: I would absolutely act
3 with that. I think that the comments by Mr. Grough
4 about negotiating the contract with this vendor and
5 getting them to assure compliance with the EAC
6 guidelines. I think -- I look at the weight of
7 Chicago as a client in negotiations, it's probably
8 a little more leverage than Broomfield brings to
9 bear with my 28 polling places, but I feel your
10 pain. It's something I'm sure I could use mightily
11 from the larger jurisdictions, and I think the
12 sooner we can get those out there, the better for
13 all.

14 MR. DEGREGORIO: Thank you, gentleman.

15 CHAIR HILLMAN: Okay, thank you. The
16 State of Washington is moving towards moving by
17 mail. I know we're here talking about the Voting
18 Systems Guidelines, and I really appreciate the
19 time that you've taken, but as the State moves
20 toward its neighbor Oregon, and voters seem to like
21 being able to vote by mail, I'm wondering what is
22 the impetus for that? What's been the motivation
23 to see an overwhelming number of people prefer to

24 do voting by mail?

25 MR. TERWILLIGER: A couple of things,

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1 Commissioner Hillman. The State adopted, oh maybe
2 10 or 15 years ago, what I would refer to as sort
3 of fail- safe absentee voting. You need no reason
4 to vote; you can simply opt for that as a status.
5 Primarily following the lead of Oregon when they
6 went to all mail balloting our state legislature
7 wasn't willing to make that step, but they did
8 approve legislation to say that can be a voting
9 status. By choice, our voting public has chosen
10 that status to the point of, today, approximately
11 70 percent of our 3.3, or whatever it is, million
12 registered voters are voting that way by choice.
13 So for many of the counties there's that issue, but
14 there's also a geographical issue of large county,
15 small population, trying to locate polling places,
16 staffing the polling places, delivering the ballots
17 after the election day is over, et cetera, so the
18 voting by mail facilitates that. It also probably
19 comes as close to where we may ever be in the State
20 of Washington to one uniform voting system, if the
21 State actually takes the leap and goes all the way.
22 Right now, when you're in a large county like I am,
23 King and Pearus [phonetic] are our other two larger
24 counties, you're running a dual election system.
25 You're running a polling place election, which is

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1 probably around 30 to 35 percent of our registered
2 voters, and then a vote by mail system at the same
3 time. And it does add complexity, and it adds for
4 problems in terms of security and audit trails, et
5 cetera, so that's been the impetus. Right now,

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6 today, 30 of our 39 counties have opted to do that;
7 however, the nine that haven't represent the four
8 largest counties in the State. So 60 percent of
9 the registered voters are still involved in a dual
10 system. But it's hard to say where it will go when
11 the legislature convenes in 2006. But it's been a
12 convenience factor for the voters, and I think it's
13 also been a cost saving factor for some of the
14 smaller jurisdictions to not have to run two
15 systems at the same time.

16 CHAIR HILLMAN: In the counties that are
17 using principally voting by mail, what will be
18 available for -- what is available for voters who
19 prefer to vote by person?

20 MR. TERWILLIGER: They all know that they
21 have to purchase a certain number of electronic
22 voting devices in order to satisfy the
23 disabled/handicapped accessibility requirement, and
24 I would expect that anyone who wants to come and
25 actually vote in person will also be able to vote

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1 on those devices as well, but of course the impetus
2 is going to have most everybody vote by mail.

3 CHAIR HILLMAN: Thank you. Mr. Grough,
4 you talked about the DREs meeting the requirements
5 of HAVA, with respect to providing access to
6 disabled voters.

7 MR. GROUGH: Yeah.

8 CHAIR HILLMAN: In July, toward the end
9 of July I believe it was, the Election Assistance
10 Commission issued an advisory, if you will. We
11 called it a gap analysis, talking about minimally
12 what systems need to have to be compliant with the
13 requirement of HAVA, effective January 1.

14 MR. GROUGH: Yes.

15 CHAIR HILLMAN: Did you find that -- was
16 that useful, helpful for you/

17 MR. GROUGH: Yes, it was. Yes, it was.

18 I think all of us here would be certain to say it
19 was useful.

20 CHAIR HILLMAN: Okay, all right.

21 MR. GROUGH: And we did use that.

22 CHAIR HILLMAN: All right. You also
23 talked about the complexity of conducting elections
24 from end to end, and most people wouldn't
25 understand that or even take the time to want to

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1 understand that. And I think you're right, it's a
2 very complex enterprise, if you will, not
3 complicated, but complex. And I'm wondering, in
4 your option, how many elected officials in
5 Illinois, those that are affected by how elections
6 are conducted in Chicago, could be conversant about
7 the complexity of what it takes to run an election?

8 MR. GROUGH: You know, it's funny, I've
9 always said that the reason election laws have not
10 been changed in Illinois is because a politician
11 was elected this way and he wanted to stay elected.
12 You know, I don't think a lot of your -- in the
13 City of Chicago, let's say, your local people, your
14 average person knows more about his local elected
15 official than about his national elected official.
16 I mean you would have more people knowing about
17 your mayor, your alderman, than talking about the
18 President. In fact, somebody said it's not a
19 trickled down effect in the City of Chicago, it's a
20 trickle up effect. I mean, your alderman is
21 someone that people talk to or see more than they
22 do the President. So I'm saying, I think your
23 politicians, our local politicians understand the
24 complexity of elections. I think -- they come into
25 my office daily. I have politicians running in and

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1 out of the office daily looking for different items
2 and know what we're doing, and I do appreciate
3 that. I think the public knows about it now also.
4 Like I said, after the 2000 election, everybody is
5 interested in elections in the City of Chicago, but
6 they always have been. By having a bad rap, people
7 have done more to look at our elections than
8 anybody else. On election day, not only do I have
9 community groups, but we have the FBI, and the
10 State's attorneys, and other law enforcement
11 agencies, and we appreciate that. We have nothing
12 to hide.

13 CHAIR HILLMAN: For the other two
14 panelists, what are your experiences comparing to
15 what Mr. Grough just laid out with respect to the
16 amount of information that elected officials gather
17 from your offices about the process?

18 MR. RAGSDALE: That's an excellent
19 question. I think Chicago may be unique, at least
20 from my perspective, in that people know their
21 local elected officials better than they do their
22 federal officials. I think just to witness the
23 turnout we had last November and the interest that
24 was displayed by the electorate, this year we have
25 our municipal election in November. Odd years in

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1 Colorado we have coordinated elections, and
2 municipalities will add their races to that ballot,
3 so we have our mayor and city council members up in
4 this race, so really me -- my job security is more
5 important this year than it was last. But actually
6 for the elected officials and for the electorate in
7 general, they know less about what's happening, I
8 think, in the race this year than they did last
9 year. I don't think we'll ever see the -- at least
10 in an odd year election, the level of interest that
11 we had this last November. As far as the elected

12 officials knowing about the process, I think that's
13 -- I'm not sure how to answer that. A lot of our
14 local candidates who are running for our city
15 council, because our department that handles
16 elections is part of the city budget, they do have
17 an interest in it, and they do want to know that
18 their voters are having the opportunity to vote and
19 know where to go. Polling place location is always
20 very important to them, and how we communicate that
21 information to the voters. But as far as the
22 intricacies of setting up an election, and setting
23 the perimeters for it, and testing the equipment,
24 it's -- I'd have to say it's pretty low.

25 MR. TERWILLIGER: I would say that one

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1 thing that will peak the interest of state
2 legislatures more than ever before is to have a
3 governor's race that was as close as ours was. They
4 now know more about elections than they ever did
5 before, but quite frankly before that they were as
6 naive about it as the average person in the public.
7 I got to my poll, I vote, the ballots are counted
8 and everything comes out just fine. Understanding
9 the intricacies and the complexities of it, there
10 were a couple of state legislators from my county
11 that actually did take the time to come in and
12 visit the office several times, and they had a
13 knowledge base that was relied upon, quite frankly
14 in the state legislature up until this point in
15 time. And still, but I mean there are more now --
16 more familiar just because of our experience. Even
17 the local county council, county executive does not
18 really take the time or has the understanding of
19 the complexity of what we do in elections.

20 CHAIR HILLMAN: I'll tell you where I'm
21 going with that question. Each of you addressed
22 how the bar has been raised, if you will, with

1
23 respect to the management practices and standards
24 within elections. And you addressed the financial
25 implications of that. And if Congress did not

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1 appropriate any more money to the states in
2 requirements payments; it does not appear that will
3 happen. It didn't happen this year; it does not
4 appear it will happen in 2006, and we don't know
5 what the future holds. Will state and county
6 appropriators be ready to address the issue? Will
7 they be ready to understand the cost implications
8 and the need for additional funds to go to
9 jurisdictions, to be able to support the conduct of
10 elections the way that each of you had described
11 what you're working to achieve?

12 MR. GROUGH: I could, just to let you
13 know in the City of Chicago, I think the City is
14 talking about \$100 and something million deficit.
15 The county is looking at about an \$189 million
16 deficit. So with deficits like that, elections
17 would not be a top priority.

18 MR. TERWILLIGER: I think that's the true
19 case in our State as well. Although there was a
20 whole package of election reform legislation
21 passed; many of those have financial implications,
22 and many of the counties are going before their
23 county councils right now and asking for monetary
24 support for that. The state legislature did refund
25 what we know as our election certification and

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1 training component of our Secretary of State's
2 Office as a response to our issues, which is a good
3 thing because they do provide training uniformly
4 throughout the State and do audit reviews on best
5 practices on the county level. But they've not

6 been able to do that for the last four or five
7 years because the State cut the funding, but now
8 they've put it back into place. So that was a
9 positive response by our state legislature, but
10 there's still more to do and it remains to be seen
11 how they respond to it.

12 CHAIR HILLMAN: Mr. Ragsdale?

13 MR. RAGSDALE: I would have to point out
14 our former Secretary of State created a blue ribbon
15 panel after the last election in November that was
16 -- part of the members of that panel were
17 legislators, state legislators. And I think that
18 was a great tool to educate the legislators, seeing
19 what their fellow legislators were doing, and the
20 word of mouth, and the informal communication from
21 that I think helped tremendously. I think the
22 State level, the Secretary of State, we were
23 fortunate in Colorado to have the Secretary of
24 State who worked quite closely with the legislators
25 and was able to educate them to a degree of the

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1 needs of the elections world. However, in Colorado
2 we do have term limits, so that education process
3 needs to continue as new legislators come in. So I
4 don't think it's something we can certainly rest on
5 our laurels to say our state legislators are now
6 educated and we can move forward knowing and being
7 comfortable that our funding will be there. I
8 don't believe that that's the case.

9 CHAIR HILLMAN: Okay. I think about that
10 a lot because I know setting the standards for the
11 voting systems will require constant upgrading in
12 the out years, replace -- equipment replacement,
13 upgrading, and so on an so forth. And just the
14 notion of state and local jurisdictions having
15 sufficient funds so that ten years from now the
16 momentum can continue, and we don't have to see

17 ourselves revisiting all over again voting systems
18 that aren't serving the ever increasing demands. I
19 mean I think Chicago pushes the envelope with
20 respect to the number of polling places you have,
21 the number of elected offices that there are, and
22 you know, just the size of your ballot, and the
23 extent to which systems can accommodate those -- in
24 an affordable way. Okay, thank you. I think we
25 are about 2:20, the end of this panel. And it is

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1 time for panel two. And thank you very much,
2 gentlemen --

3 MR. TERWILLIGER: Thank you.

4 MR. RAGSDALE: Thank you.

5 MR. GROUGH: Thank you.

6 CHAIR HILLMAN: -- for the time that
7 you've taken and the information that you have
8 shared. And we will now set up for panel two,
9 community interest groups, and that's Ms. Lillie
10 Coney, the Electronic Privacy Information Center,
11 and Mr. John Lott, Resident Scholar at the American
12 Enterprise Institute. Thank you very much. I'm
13 trying to find an EAC staff person or somebody from
14 -- the lights are a little blinding, but Carol,
15 thank you. Okay, we have with us Ms. Lillie Coney
16 and Mr. John Lott. And we do have your written
17 testimony, and we would ask that you just summarize
18 from that the highlights, the things you want us to
19 really know and remember, and take up to five or
20 seven minutes to do that and then we'd like to have
21 time for questions with you. Thank you.

22 MS. CONEY: Thank you. I'd like to thank
23 you on behalf of the Electronic Privacy Information
24 Center --

25 CHAIR HILLMAN: Can you move the

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1 microphone a little closer maybe and speak up so we
2 can hear you?

3 MS. CONEY: Sorry. First, I'd like to
4 request that I'd be allowed to revise next to my
5 mark for the permanent record for this hearing?

6 CHAIR HILLMAN: Sure.

7 MS. CONEY: First, my name is Lillie
8 Coney. I'd like to thank you on behalf of the
9 Electronic Privacy Information Center and its
10 project, the National Committee for Voting
11 Integrity, for this opportunity to contribute to
12 your deliberation on the final Guidance, which will
13 be given to States on electronic voting -- on
14 voting technology and systems. The things that the
15 National Committee for Voting Integrity would like
16 to vote out are one, it's a wonderful document, one
17 that looks at accessibility issues. It goes far
18 beyond a lot of expectations initially going into
19 the process. It is a living document that will be
20 with us for quite a while, that a portion of it
21 will be a landmark, basically, the guidance that
22 should be looked to for states and localities to
23 make voting accessible for those with disabilities.
24 I think the issues of privacy and transparency and
25 auditability are issues that really need to be

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1 focused on in the document, provide some guidance
2 to states in those areas. The bar for voting
3 technology and voting systems should not be set
4 artificially low. I think that the opportunity to
5 sit a floor, and encourage states and localities to
6 reach for higher areas of expectation and goals are
7 -- this is a wonderful opportunity to be able to do
8 that. As far as the general comments, while the
9 Voting Technology Guidelines has some strong
10 recommendations, there are some areas that are of

11 some concern to the electronic technology
12 community, as long -- as well as those are in
13 resident, auditability, and transparency.
14 Transparency in open government procedures that
15 allow public access to the elections administration
16 process are very important to democratic processes.
17 Guidance should make them aware that the challenges
18 to transparency posed by bar codes on voted
19 ballots, and non-disclosure agreements as a
20 condition for purchase of electronic voting -- of
21 voting technology is an impediment to transparency.
22 On the issue of audit, in the draft version of the
23 Voting System Guidelines, two little focuses placed
24 on the importance of conducting audits of election
25 results. For audits to be credible, the same

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1 vendor that supplied the voting technology being
2 audited should not perform the audit. It is
3 important to know when election systems perform is
4 expected as well as when they do not. For this
5 reason, independent verifiable and transparent
6 audits of election results should be routine.
7 Audits should include a representative hand count
8 of ballots or ballot images, documentation of the
9 change of custody about voting technology, and the
10 chain of custody on all unmarked or marked ballots.
11 States are well within their prerogative to
12 determine how audit information will be used, but
13 they should be strongly encouraged to incorporate
14 audits into their election procedure, and to make
15 the results of those audits public. As far as
16 privacy is concerned, one the aspects of privacy
17 that needs to be address are absentee voting or
18 early voting. The privacy of those voters are just
19 as important as the privacy of voters that vote on
20 election day. Some states have taken up some
21 interesting avenues to try to address privacy and
22 absentee voting. They use double envelopes, where

23 the exterior of the envelope that's being sent out
24 or the one that's being returned doesn't reflect
25 party affiliation or any more information necessary

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1 than to return that envelope -- make sure it gets
2 to its destination. And as soon as practical, the
3 exterior envelopes need to be removed from that
4 ballot so it can be properly counted as part of the
5 election process. Security issues that we have some
6 concerns about, security is a matter of trade-offs.
7 It's basically -- it's a formula of what are you
8 going to get for what you're willing to pay. And
9 the EAC is in a position to make decisions
10 regarding trade-offs to establishing a practice,
11 reliable, secure, accessible, transparent, and
12 accurate, and auditable elections. If the results
13 of the Commissions' actions are that it can be said
14 that our domestic elections are more secure,
15 reliable, accessible, transparent, accurate, and
16 auditable, then you've done your job. The voter is
17 the only person who should know they cast a
18 particular vote. They should not be able to prove
19 their vote on a particular ballot to any person.
20 They should be no mark or any identification --
21 identified feature on that ballot that would
22 attract back to that voter. There's a particular
23 voting technology that was deployed in the last
24 year's election that records all votes on a
25 continuous spool of paper -- a roll of paper. That

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1 system is definitely a problem when it comes down
2 to making sure that these principles are able to be
3 followed. And your recommendation in the guideline
4 would disallow a system of that type, and that is a

1
5 very strong position to take regarding
6 accessibility and verifiability. Tele-communication
7 requirements would like to make sure that strong
8 recommendations that are made to states that there
9 are villages associated with telecommunication
10 systems that, in particular, the internet has
11 insecurities that are very difficult to address.
12 Last year, the Pentagon canceled its Serve
13 [phonetic] project because of a report that was
14 very critical and pointed out many of these
15 vulnerabilities. There is a study that is directed
16 under HAVA that would look at telecommunication
17 systems, including the Internet that would be very
18 beneficial in giving direction to states, as well
19 as be an information resource for the Commission,
20 to help provide direction in that regard. States
21 should be encouraged to review the benefits of
22 using such systems, assess the risks that are
23 associated with such systems, have contingency
24 plans in place in the event of some kind of
25 complication that may not be foreseeable at this

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1 point in time, but maybe reasonable in the review
2 of these systems and looking at their potential
3 risk of vulnerabilities. There's also an issue
4 with electrostatic disruption. The standards,
5 based on the analysis of members of the National
6 Committee for Voting Integrity, only look at
7 humidity below 25 percent. Many states in this
8 area -- in many states in this nation, in many
9 localities in many states, that's not a realistic
10 view of what the average humidity, that states
11 should be encouraged to look at where technology
12 will deployed, and the factors, the conditions, in
13 which those machines will be used to set the
14 standard for what will be allowable or acceptable
15 in this regard. Voting system security, and also
16 looking at infrared technology, I strongly

17 recommend not allowing that technology to become
18 standard in the construction of voting machines,
19 that states be directed to do a detailed analysis
20 of the need for that technology along with
21 technical consideration of what the potential risks
22 are. Looking at the technology, it's very
23 commonplace, we see it everywhere, but that also
24 means the standards are very common. The
25 information on the spectrum range on where the

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1 technology operates is also very well known. It's
2 conceivable that it would pose a security risk if
3 someone intentionally tried to use that technology
4 in a way that would undermine an election. The
5 best approach is not to use it. If states find
6 that it is something they absolutely must have,
7 that they have -- it would be good to be able to
8 physically remove the technology from the machines
9 before they're deployed for elections, and at the
10 minimum, as your recommendation suggests, an opaque
11 material be used to cover access to that port. But
12 states should be definitely directed regarding the
13 seriousness of failed system of that nature, if
14 it's deployed and used in an election. The other
15 issue looking at is the -- what follows six months
16 from now. How does direct -- NIST will assist in
17 compiling a list of laboratories that will be
18 suitable for testing voting systems. The EAC's
19 role will be to select those -- to federally
20 approve those laboratories that we use. In the
21 draft guidance, it appeared that there may be --
22 the existing system may continue with the EAC
23 taking the role of NASED in that process. I'm not
24 sure -- maybe -- just because maybe I'm misreading
25 that, but I just wanted to point that out and hope

1 -- and reiterate and encourage you to look at any
2 process that -- they was showing the current system
3 for testing and certifying voting equipment in this
4 country. It's not only broken but it's virtually
5 non-existent. We strongly support this view of the
6 current process and would encourage you to develop
7 a stronger process as possible within the capacity
8 of the resources that Congress provides to you.
9 Voting systems intended for sources of recording,
10 storing, reproducing accurate lists of qualified
11 voters of ballots for the use in public elections
12 should have well defined critical requirements.
13 Those critical requirements are only those aspects
14 of this -- of both of those type of systems that if
15 they fail would mean that an otherwise qualified
16 person attempting to register to vote would not be
17 able to, or a qualified voter attempting to vote
18 would not be able to vote or have that vote counted
19 as cast or retained as cast. There is -- okay, the
20 last point is voter verified paper audit trail. At
21 the end it basically says that it's option. And it
22 also include -- the [inaudible] voter verified
23 paper audit trail is not mandatory. There are 24
24 states today that have passed laws in this regard,
25 and 13 with proposed legislation. All of the

1 recommendations from -- that you will be making are
2 voluntary in nature. States should be encouraged
3 to, whenever possible and when it's accessible,
4 that voter verified paper audit -- voter verified
5 paper audit trails are not -- should not be
6 prohibited, but should be encouraged, and
7 encouraged in a way that will allow any voter to be
8 able to independently cast a ballot as well as
9 verify the ballot that is left, and the audit trail
10 instrument that's left with it, if it's intended to

11 be the ballot or only for audit purposes. States
12 should have routine processes for doing an audit of
13 the results of each election that they conduct.
14 Those audits can be the decision of the state or at
15 the discretion of the state of how they want to use
16 that audit information, but I think that it's very
17 important for that audit information for
18 transparency purposes to also be available to the
19 public. It may also provide a valuable resource to
20 the library of information that the Commission will
21 be putting together to better understand what
22 happens in elections before, during, and after the
23 process. In closing, I would like to thank the
24 Commission for all of the work on these Standards,
25 to encourage them to include in the standards and

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1 direct to states that these are minimum standards,
2 that they should be encouraged to aggressively seek
3 out ways to retire levels of standards if their
4 states have the resources and the opportunities
5 present themselves to do so. Voluntary guidance to
6 states can lead to better elections in this nation.
7 The attention that's been brought to bear because
8 of very close elections speak to the health about
9 democracy, that people in this nation do take an
10 ownership in their elections that they conduct in
11 their state, and local, and national level. And
12 they should be encouraged to participate in that
13 process by making it as open and accessible as
14 possible, through transparency and audit capacity.
15 Thank you.

16 CHAIR HILLMAN: Thank you very much. Mr.
17 Lott?

18 MR. LOTT: Yes. Thank you Chairman
19 Hillman, and thank you Commissioners for inviting
20 me to attend today. I think the Commission has
21 done a good job in balancing peoples' fears that

1
22 voting systems contain errors, with the benefits of
23 not trying to have a one size fit all for all the
24 states. The Guidelines generally seem to be, in a
25 large part, a clearinghouse of what's kind of the

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1 best received information or knowledge on a lot of
2 the issues, regarding everything from security to
3 all the other issues that are covered here. I
4 think the Guidelines should also be commended for
5 not explicitly -- for explicitly recognizing that
6 perfection is costly. And while election machinery
7 tends to work fairly well, we could spend the
8 entire countries wealth and still not ensure
9 absolute, 100 percent guarantee that they'll be no
10 mechanical breakdowns, and things will work as
11 promised. There's a range of other issues. I like
12 the flexibility here across, not only, different
13 types of machines but where the votes can be
14 counted. And, you know, explicit recognitions of
15 things, such as there's no single best way to
16 design software. There's - motivations for reform
17 here are pretty obvious. People are concerned
18 about the integrity and accuracy of the decision
19 election system. We have a Harris Poll that just
20 came out. It shows that about 14 percent of voters
21 are somewhat confident about the electoral, 16 --
22 six percent are not at all confident. It varies by
23 party, about 11 percent of Democrats and only about
24 one percent of Republicans. It's hard to know how
25 much of that is driven by political concerns versus

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1 actual concerns that people have. You know,
2 accusations of fraud are probably inevitable in a
3 democratic system, and given what's at stake, I
4 guess it's -- if I worry, if anything, that people

1
5 are going to claim that problems exist even when
6 nothing do exist. Fortunately, I think many of the
7 perceived concerns are relatively easy to prove,
8 conspiracy theories that developed about computer
9 voting machines after the 2004 election in Ohio. I
10 think with the Edison, Media Research Project, and
11 others have been fairly easily dealt with. But I
12 think the Commission, even though it's kind of
13 outside its main bailey wig [phonetic], so to
14 speak, indirectly addresses these type of
15 conspiracy type stories, as well as allays people's
16 fears generally about how the election system
17 works, simply by issuing the Guidelines. We hear
18 discussions about paper trails, such as just what
19 was being brought up. I think the very effect of
20 the guidelines go through and explicitly talk about
21 that there are different ways that you can go and
22 achieve the same type of ends that you can achieve
23 with paper trails. It helps overcome a lot of the
24 debates that have been publically made in the media
25 where it seems like there is something unique or

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1 magical about paper trails that aren't be
2 accomplished through other types of technology. And
3 one can go and talk about that more. One thing I do
4 think is very important is the voluntary nature of
5 the Guidelines. And I think there are very strong
6 reasons for encouraging the voluntary nature.
7 First, not all the jurisdictions are the same.
8 Paper ballots, for example, seem to work very well
9 and relatively rural areas, though obviously they'd
10 probably be a disaster if they were used in urban
11 areas, we have some elections where you have a huge
12 number of items on the ballot, where others where
13 there's relatively few. My own research that I've
14 talked about before in front of the Commission
15 indicates that some types of methods of voting tend

16 to work very well for some races, and other types
17 of voting, other types of machines may work better
18 for other races, even down the ballot in the same
19 election. So there are a lot of trade offs that
20 exist there. The second point to make is that
21 there is a value to experimenting. You would never
22 learn or never be able to improve things without
23 experiments. And you ran -- run into practical
24 problems in real world settings, that would not be
25 encountered in laboratory settings. Even diversity

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1 within states is important, not just across states.
2 It makes it much easier to test the cost and
3 benefits of different types of voting machines. In
4 fact, it's really only possible to do certain
5 tests. If you have variations within states who
6 you can control for the same people, running for
7 the same offices, across different types of
8 machines that are being used. Third thing to bring
9 up is that allowing diversity and experiments, I
10 think, raises the probability that mistakes will
11 occur. But at the same time, diversity also lowers
12 the cost of any given mistake that occurs. With
13 many different machines and setups being used in a
14 state, it is likely that a state in one county will
15 be sufficiently important, and then it will effect
16 -- affect the results in the entire state. It is
17 even rarer that the mistake will affect the result
18 in the key state and it could swing the
19 presidential election. Let me just give you some
20 numbers just to kind of illustrate this. Just take
21 a very simple example. Let's say we had 20
22 jurisdictions and all 20 were using some different
23 type or method of voting, whether it be -- whether
24 it's central count, or local count, or different
25 types of machines, or just the organization of the

1 ballot. And let's assume, just make up some simple
2 numbers here to illustrate this, that there's a
3 five percent chance that any one of those types of
4 voting methods will experience a problem. And
5 let's also assume that there's a five percent
6 chance that the results in any one of those
7 jurisdictions would be small enough that the
8 differences between the winners and losers would be
9 small enough that the type of election machine
10 problem could affect the outcome. Well, the
11 probability that you're going to have a problem in
12 any given year is essentially one. You know,
13 you're going to have -- there's a five percent
14 chance, and you have 20 counties, and it's very
15 likely in an year you'll have a problem. But the
16 probability that you're going to have a problem and
17 it's likely to affect the outcome of the election
18 is extremely small. It's five percent times five
19 percent. It's going to be .025 percent, a very
20 small number there. Now, you can imagine if
21 instead you were to have some type of national
22 guidelines that everybody had to follow, if there's
23 still a five percent chance that they'll have a
24 problem, that means that one in every 20 years
25 you'll going to have a problem. It's a lot less

1 frequently than if you have each one of the
2 jurisdictions all have their own method of doing
3 it. Because you'll have some problem, but it will
4 be located in one of those 20 jurisdictions. The
5 difference is that whenever that problem comes up
6 once every 20 years it's going to be a disaster
7 because it's going to affect all the jurisdictions
8 there. And it's very likely going to affect one of
9 the jurisdictions where it would've close enough

10 that it's going to affect the outcome of the
11 election. So once every 20 years you're going to
12 have a result that's going to create a big problem,
13 whereas if you look at the first case where
14 everybody is doing their own thing, so to speak,
15 it's really only one every 400 years. You know,
16 it's five percent times five percent. Now, there's
17 one thing to take into account here and that is, we
18 made these percentages up, how can we change them
19 to get some idea, because it's possible by using
20 the best information you'll lower the probability
21 that you'll have a bad event when everybody is
22 using the same system from five percent down to one
23 percent. That would be a huge change if you could
24 reduce the probability of a problem occurring by
25 five fold. But it would still more likely that

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1 you'd have a disaster occurring, you know, if it's
2 one percent, that's one out of every 100 elections
3 there, versus this other cases where you allow
4 diversity where disaster would be occurring one out
5 of every 400 elections. And so you could still
6 have a big massive improvement in how well you're
7 able to run elections when you do things centrally
8 and yet still have a much higher probability that
9 you're going to end up having an election that's
10 contested when you actually have a problem, then
11 you would under a unified system, let's say. The
12 fourth point that I'd like to bring up is setting
13 rigid guidelines is very difficult and it's also
14 very costly. There's lots of references in the text
15 to having best practices. It's one thing to go --
16 or saying that machines are going to be setup so
17 voters can easily identify something. You know,
18 it's one thing to go and mention those things, a
19 thing to explicitly set them up and make them
20 extremely well defined, and that's very difficult,
21 and I'll mention something later on about that. The

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22 proposed guidelines are advisory, and that is
23 emphasized at different points in the draft. My
24 only concern is that rules that frequently start
25 off as advisory end up becoming the required

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1 standard. And on way that this could occur is
2 through legal challenges; for example, it's
3 possible that judges at some point are going to go
4 and use the guidelines as a yard stick for which
5 they're going to go and judge the behaviors of
6 individual jurisdictions. And what you may want to
7 try to think about doing, I think in order to try
8 to solve this problem, if you're concerned about it
9 also, is by having some discussion in there about
10 why it's voluntary. You know, not an explicit
11 listing out of all the reasons why it's voluntary,
12 but at least some type of benefits that can exist
13 from having a voluntary system, so that if a court
14 were to go and rely on this as some type of
15 guideline in the future that it's going to look at
16 deviations from there as being the basis of making
17 a ruling. It would then have to explicitly take
18 into account that you would have -- have not only
19 said that these were voluntary, but also at the
20 time -- same time offer arguments for why you
21 believe it's good to have a voluntary system. One
22 thing that I noticed when I was reading through is
23 that some of the rules seem arbitrary, at least to
24 me. And there could've been explanations that I
25 missed to some extent. For example, you know, one

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1 of the cases on page 3.24, the guidelines states
2 that machines must have a 99 percent, at least,
3 up-time. You know, there's no explanation for why

1
4 the standard or where it comes from. One percent
5 of a twelve hour period of time essentially means
6 seven minutes. Now, I don't know, seven minutes
7 seems like a relatively short period of time for
8 me. You know, it could be ten minutes or fourteen
9 minutes. It seems like there should be some type of
10 recognition there, at least if you've done
11 empirical work it would be interesting to try to
12 see some type of trade off of the cost and benefits
13 of choosing different amounts of time. If you have
14 something open for 11 hours, you're talking about
15 an error of only six minutes of length. And there
16 might be some unintended consequences from these
17 types of rules. For example, you want the vendors
18 to go and come up with a list of procedures and
19 what have you to try to ensure this one percent
20 error rate. Well, one thing that could happen, for
21 example, is that what might have happened is a
22 precinct would put all of its machines on the
23 floor, in some sense, to be used, but if you have
24 these types of rules, you may want to keep one off
25 the floor, you know, just so you can quickly

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1 replace it and try to keep the downtime to a
2 minimum at that point. It seems like if I have 12
3 machines and I were to have them running I could
4 have voting occur more quickly during the day and
5 just simply remove one from the floor and move down
6 to 11, than rather have 11 up during the entire day
7 and keeping 1 as something that would be saved in
8 reserve. But it seems like the way the guidelines
9 are written up, in terms of the language, you'd
10 always want to keep one in reserve rather than put
11 all your machines on the floor that you have there
12 at the time. There are just little things like
13 that, that when you're reading through it -- again,
14 I could be misreading what the intent is. But the
15 security issues I think are generally well done.

16 Indeed, a lot of it is following what has been
17 current practice within the industry. One safeguard
18 that I think is there, but it might be useful just
19 to make explicit, is that if you have problems in
20 terms of things being transmitted over public
21 telecommunications networks, you have a backup
22 that's there in any of these DREs or other types of
23 machines, and that is you have CDs or other things
24 that you can go back and double check whatever
25 information was transmitted publicly there, in

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1 order to double check -- to recount things. So
2 you're not -- even if some type of fraud were to
3 occur in terms of the telecommunications, the
4 original data is still there and still able to be
5 checked. I appreciate the time that you all have
6 and I appreciate you all inviting me coming to talk
7 to you. Thank you.

8 CHAIR HILLMAN: Thank you very much.
9 Commissioners, unfortunately, we don't have much
10 time here. We've got about five minutes per
11 Commissioner for Q&A with the panelist. And,
12 Commissioner Martinez?

13 MR. MARTINEZ: Thank you, Madame Chair.
14 I'll just ask a couple of quick questions. Thank
15 you both for your testimony and for you time and
16 efforts to get here and provide the testimony. Ms.
17 Coney, in your written testimony I do want to help
18 clarify for me some of the statements that you
19 made. On page ten of your submitted written
20 testimony --

21 MS. CONEY: Okay.

22 MR. MARTINEZ: -- you talked about the
23 certification process.

24 MS. CONEY: Right.

25 MR. MARTINEZ: And the differences in

1 languages from the initial recommendations that
2 were submitted to by the TGDC to the EAC, and then
3 some language where we amplified what we see as our
4 role in the certification process.

5 MS. CONEY: Right.

6 MR. MARTINEZ: And I'm trying to figure
7 out from your group's perspective, are you reading
8 section 231 different from how we're reading it. In
9 other words, it seems to me from your comments that
10 perhaps you don't feel we are the entity that
11 should be certifying, decertifying, and
12 recertifying? Go ahead.

13 MS. CONEY: Okay, let me be clear. It
14 doesn't matter what we think. It's the authorizing
15 committee and the people who wrote the -- HAVA, and
16 passed it. Those are the peoples whose opinions
17 about what the intent of the legislation are most
18 important. What I -- we were reading this for is
19 are we sticking with the current certification
20 process where we have the ITA's, and then NASED in
21 the process, or are we going to keep that same
22 process but take NASED out and the EAC is going to
23 be in that process? Now I know the law -- HAVA
24 says six months after you finally get through with
25 this you start on next phase of an auditor's task,

1 which is NIST will compile a list of laboratories
2 that they feel will be suitable for certification
3 of voting technology. That list will come to you.
4 You will look at that list. You can add to that
5 list or you can determine whatever list that you're
6 going to have as those labs that will be certifying
7 voting technology within the United States. When I
8 read this -- when we looked over it and we went
9 back and forth on it, it sounded like the ITA's,

10 the de facto labs that will be used, and whatever
11 that curtain list, labs and others that are on that
12 list, and that the EAC would replaced NASED's role
13 in doing this. That's the thing that I wanted --
14 you know, we looked at it and said, okay, it's an
15 opportunity to clarify that before the guidance
16 gets out. If this is your intent, okay, if it's
17 not, then there's an opportunity to revisit that.

18 MR. MARTINEZ: And I appreciate that,
19 yeah, and I think that's what we're looking for in
20 the testimony and the comments is for all of us to
21 all get on the same page.

22 MS. CONEY: Yeah, yeah.

23 MR. MARTINEZ: And I think that's what
24 we're trying to do.

25 MS. CONEY: Yeah.

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1 MR. MARTINEZ: And so, yeah, and the
2 reason I bring it up is I've never had a discussion
3 with anybody who says, you know, it's the job of
4 the EAC to accredit labs, and then the labs go off
5 and do the certification without any governing
6 entity, or without any umbrella entity, and NASED
7 serves that role right now.

8 MS. CONEY: Right, you've --

9 MR. MARTINEZ: But the way we read
10 Section 231 --

11 MS. CONEY: Yeah.

12 MR. MARTINEZ: -- Congress intends for us
13 --

14 MS. CONEY: Yes.

15 MR. MARTINEZ: -- to take over --

16 MS. CONEY: Yes, absolutely.

17 MR. MARTINEZ: -- that certification
18 process. So it sounds like we're in agreement about
19 that.

20 MS. CONEY: Absolutely, we're in an

1
21 agreement on that. What we're looking at the
22 current process with the ITA's is it's not working.
23 And the assessment is that it is not only broken
24 but it is virtually non-existent.
25 MR. MARTINEZ: I understand.

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1 MS. CONEY: That process -- those labs
2 have -- that component of that process got to be
3 revisited, and to the extent that the resources
4 would allow you to find the best labs to look at
5 voting technology. That would be a great
6 improvement over the current process.

7 MR. MARTINEZ: Got you, and I appreciate
8 that clarification. The other issue I wanted to
9 explore with you just very quickly is the issue of
10 verification --

11 MS. CONEY: Okay.

12 MR. MARTINEZ: -- under the security,
13 proposed security section.

14 MS. CONEY: Um-hmm.

15 MR. MARTINEZ: And is it your position,
16 your organization's position that verification must
17 occur through a VVPAT mechanism, or are you also,
18 as we had some testimony previously from a local
19 election administrator who's saying, look, there's
20 other ways to verify; we may not have that
21 technology fully matured enough that we can write
22 requirements or guidelines for it. But are you
23 wedded to VVPAT or wedded to the idea generally of
24 simply that DRE systems ought to have some method
25 of verification?

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1 MS. CONEY: The one thing that EPIC has a
2 resources is some of the vast technologist
3 available, especially people that have worked in

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4 this field. When you look at the issue of how do
5 you make sure that this particular thing happened
6 at this particular point in time, the only reason
7 paper is mentioned, and the only reason paper has
8 been around for over 5,000 plus years is it has a
9 unique quality. If you bend it, if you make a mark
10 on it, you can't hide that, it can't be undone.
11 That's the security feature that all technologists
12 who are very concerned about, not just voting
13 technology and being able to verify whatever took
14 place is in fact what took place, but a lot of
15 other areas as well. There are other applications
16 -- other technologies that are out there,
17 cryptographic schemes that are out there, write
18 once medium technology that's out there, but it
19 hasn't been put into voting technology. That's
20 going to take time, because once someone comes up
21 with a method that they say this is absolutely the
22 sure fire method to do this, the technology
23 community will pick it a part and it will either
24 prove itself to be actually that or it will fail.
25 And in the meantime, we're in an evolutionary

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1 process where we're trying to find out how do we
2 get from point A to point B right now, the best
3 medium for doing all of those things that we've
4 talked about is this. Everything else might
5 present itself to actually do that, but in fact can
6 you prove it? That's how come we talk about audit
7 capacity, even with paperless systems you have a
8 ballot image, you're going to have to do a random
9 -- a representative sample recount of those images
10 to compare with what the DRE actually said it did,
11 in order to have some kind of way to evaluate how
12 good it is at actually doing that.

13 MR. MARTINEZ: Okay, I appreciate that.
14 I think my times is just about up. Mr. Lott, would

15 you agree that the role of the EAC is to set
16 benchmarks for performance and reliability, and
17 that we ought to allow states the latitude and the
18 discretion to be able to meet those benchmarks
19 based upon the decisions that they make at the
20 state and local level?

21 MR. LOTT: Yes, I believe the EAC can
22 perform a very important role of being a
23 clearinghouse for the best information that's
24 there, and helping to use that to set those type of
25 standards. And I agree with the second part of

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1 your statement too.

2 MR. MARTINEZ: Yeah, no, and I wanted to
3 just express my agreement with the spirit of your
4 testimony, quite frankly, that the discretion is
5 within state and local governments and how we're
6 going to administer our elections, and yet there is
7 a service that can be provided I think by an entity
8 like the EAC, and I think you've captured that
9 pretty well in your comments. The other thing I
10 also want to say is that Congress clearly said that
11 these are voluntary guidelines, so I also
12 appreciate your suggestion that perhaps we ought to
13 make that clear in case it doesn't look so clear in
14 the process of litigation. I think that's
15 something that we perhaps ought to consider. My
16 time is up otherwise I'd explore some other
17 questions with you. Thank you, Madame Chair.

18 CHAIR HILLMAN: Okay, Mr. Vice-Chairman?

19 MR. DEGREGORIO: Thank you, Madame Chair.
20 Ms. Coney, I'm glad that you brought up the
21 humidity issue. I was in Ohio on August 2 for a
22 special election there for Congress, and of the
23 seven counties one of the counties was using
24 optical scan equipment for the very first time;
25 they had switched over from punch card --

1 MS. CONEY: Um-hmm.

2 MR. DEGREGORIO: -- but the vendor of the
3 folks who sold them the equipment didn't explain to
4 them that when you have high humidity, you have to
5 calibrate it differently to take those ballots in.
6 And so, the result was the final returns from that
7 county didn't come in to close to midnight --

8 MS. CONEY: Oh, yeah.

9 MR. DEGREGORIO: -- because of the
10 machines. And I'm glad that you brought this to our
11 attention because I do think it's something that we
12 ought to take a look at before we finalize these
13 guidelines and to make sure that these are tested
14 under real life conditions. And I know that many
15 counties -- many states have elections in August,
16 Missouri used to have them, and I know that punch
17 cards used to swell and we used to have problems
18 with it. You mentioned the DRE paper trail.

19 MS. CONEY: Um-hmm.

20 MR. DEGREGORIO: And you have a problem
21 with the paper roll issue.

22 MS. CONEY: Yeah.

23 MR. DEGREGORIO: And I recognize that the
24 State of Nevada that mandated the voter verified
25 paper audit trail uses equipment that has such

1 paper rolls in them. Would you have a problem if a
2 polling place had more than one of these devices
3 within the polling place, and therefore voters
4 would be directed to either one of those machines
5 randomly so therefore you couldn't keep track on a
6 voter roll because they'd be going from one to the
7 other, and the roll then -- we have two different
8 rolls and two different machines, would that be

9 acceptable?

10 MS. CONEY: That's the kind of question I
11 would definitely pose to the Committee itself, the
12 National Committee for Voting Integrity. I'd
13 suspect that you would need a statistician and poll
14 place procedures to try to figure out how to keep
15 the ballots secret, which might make still the
16 application of that so much more expensive to do
17 that it'd just be cheaper to figure out how to
18 separate each vote at ballot and randomize them, so
19 that if it's a need for a recount you can do that
20 without having to worry about compromising voter
21 privacy. In the testimony it gives you a lot of
22 legal precedence for how important voter privacy
23 has been throughout the history of our nation, not
24 just on federal -- in federal elections, but also
25 local elections and state elections. It is

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1 paramount, and anything that threatens that should
2 definitely be discouraged. And as additional aid
3 to the Commission, there are other things that --
4 regarding ballot marking procedures and things of
5 that issue that we can provide you some guidance
6 on, and I'll leave this with you.

7 MR. DEGREGORIO: I appreciate that.
8 Thank you. Mr. Lott, you mentioned the Harris Poll
9 that indicated that six percent of people who voted
10 in November of 2004 did not have confidence, no
11 confidence at all in the voting system. That
12 translates into seven million people. What can be
13 done at the federal level and at the local level to
14 help instill confidence in votes and in these seven
15 million people who don't have confidence at all.
16 What can we do? We can local election officials do
17 to instill confidence?

18 MR. LOTT: Well, my guess -- I mean
19 obviously they are real concerns that people have.
20 But I fear that a sizeable portion of that six

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21 percent are based upon kind of conspiracy theories
22 and other things that just simply aren't born out,
23 whether it be the constant discussions about some
24 DRE's being used to throw the election in Ohio, or
25 nationwide, or whether it be claims about how you

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1 can only trust the results if you have a paper
2 trail there. And I think the federal government
3 can do things, in particular, your Commission,
4 simply by educating people that there's nothing
5 unique about one particular type of paper trail,
6 you know, for keeping track of the records. Or
7 it's providing some type of standards, hopefully,
8 that people will believe. I mean, I think they do
9 a pretty good job anyway, but it still -- that
10 doesn't take anything away from the fact that
11 having some type of National Certification
12 Commission wouldn't help. And my only concern is
13 that the push to have national certification on
14 some of these things may eliminate some of the
15 experimentation that we would normally get, and
16 some of the learning that we would get about
17 different types of voting machines over time. And
18 to the extent that this push towards the national
19 standard isn't really based on real events; it's
20 just based on incorrect perceptions that people
21 have. I think that would be too bad if we lost
22 that type of experimentation.

23 MR. DEGREGORIO: Thank you. Thank you,
24 Madame Chair.

25 CHAIR HILLMAN: Commissioner Davidson?

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1 MS. DAVIDSON: I have one question that
2 I'd like, really for both of you to answer, because

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3 you took two different kinds of perspectives on
4 your presentation. On -- but, obviously these are
5 voluntary standards, and we can't do anything to
6 change that. But do you see that the best practices
7 that the EAC will be putting out will help improve
8 even those states that don't accept our standards.
9 Do you feel that they would do that, and I'll start
10 with you, Ms. Coney?

11 MS. CONEY: I think that the interest in
12 improving elections and responsiveness to public
13 concerns regarding the elections are evident by the
14 amount of legislative activity that's taking place
15 across the nation, not just in states where they've
16 had very close elections, like Washington State, or
17 states like Nevada that have been very proactive
18 and trying to work on the cutting edge of
19 addressing those concerns. I don't think that is
20 going to change anytime soon. I think the
21 standards will give a benchmark for states and
22 those who are interested in how to improve
23 elections, how to make sure they're as good as they
24 possibly can be, a starting point. But they should
25 be encouraged to go beyond that because a lot of

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1 the ideas for how to make improvements will come
2 from the local and state governments. And they'll
3 kind of go up to the federal level and be adopted,
4 which is typically the process that we've seen in a
5 lot of policy areas, and it's beneficial to be able
6 to do that. I think it will have an impact, but
7 making sure states understand they should look
8 beyond, not just at the issues of what they can do,
9 but what can they do securely? And being able to
10 justify those situations where they decide to
11 pursue avenues that may pose some kind of risk just
12 to find the cost, the benefit, the tradeoff for
13 making those kind of decisions.

14 MS. DAVIDSON: Mr. Lott?

15 MR. LOTT: Well, I think the guidelines
16 will hopefully encourage discussion. My concern is
17 that they will be more than just voluntary, just as
18 somebody who has been involved in litigation, I
19 have seen the types of rules that judges adopt over
20 time and what they rely on, and again I mentioned
21 this before, I think it would be beneficial if
22 someplace in the guidelines you explained why
23 Congress or why you think it was important to have
24 a voluntary system. There must be some arguments
25 that you have in your mind about what you would be

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1 using if everybody were to go to the same system.
2 I've listed some things; you probably could come up
3 with some yourself. But I think as long as there's
4 something there, you know, some argument, even if
5 it's like one, you saying there are other ones,
6 we're just going to mention a couple of them here,
7 that would force any judge who is going to be
8 relying on that to recognize the tradeoff that's
9 there. And I think it would make a difference in
10 terms of what types of rules would end up, whether
11 it would end up being kind of -- end of really
12 being voluntary or something much more than that.

13 MS. DAVIDSON: Do you think the courts
14 would also look at our best practices in the same
15 light?

16 MR. LOTT: Yeah, I think all those things
17 fall in to that. I mean, I think anything you
18 write in the guidelines you have to be cognizant
19 that litigation, other things in the future will
20 point to that saying, you know, you guys are the
21 experts, probably have more expertise than
22 individual states will be the claim, and that an
23 individual state then that's going to deviate from
24 that is going to have to justify, or at least,
25 going to have to realize that there's a strong

1 likelihood that a judge is going to say justify to
2 me why you're deviating in any direction from these
3 federal guidelines.

4 MS. DAVIDSON: Thank you.

5 CHAIR HILLMAN: Ms. Coney, I have a
6 question for you about -- I think it's on page 12
7 of the testimony that we received.

8 MS. CONEY: Okay.

9 CHAIR HILLMAN: You have a paragraph in
10 there where you talked about other weaknesses in
11 the draft version of the guidelines that in their
12 totality would present serious complications for
13 achieving reliable, secure, transparent, and
14 accurate, and then you made a suggestion about
15 cross-referencing?

16 MS. CONEY: Right.

17 CHAIR HILLMAN: Could you talk a little
18 bit more about in their totality would present
19 serious complications?

20 MS. CONEY: Well, there appears to be
21 gaps like, for instance, when you talk about
22 whether you should -- about telecommunication
23 systems, whether you were talking about only land
24 lines, or you're talking about wireless, or you're
25 talking about internet. If you leave that vague,

1 then as states move to interpret what that means or
2 fill in the blanks themselves, they may present
3 themselves with problems that they had not
4 considered. The other issue is contingency
5 planning. No matter how well you plan for the
6 election to go as you intend for it to go, what
7 happens if something unexpected happens? Whether
8 -- certainly a polling place is not available on

9 the day of election without notice, what do you do?
10 What happens if the power outage exceeds the
11 battery life or the counting technology, what do
12 you do? What happens if poll workers are not -- I
13 mean, in large numbers are not showing up on
14 election day, what do you do to continue on the
15 election that's already begun? What about a
16 natural disaster that happens in the midst of an
17 election? Some states, California I'm sure, have
18 contingency plans for that, but do they have
19 contingency plans that deal with something like
20 that on election day. All these areas that are not
21 being covered are maybe mentioned but not given
22 much guidance on how states should proceed are
23 things that if they're tweaked a little bit, if at
24 least states, at a minimum, were told that you need
25 to assess the elections from your perspective, from

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1 where you live on the ground, implementation on
2 election day, is it required that you complete the
3 election day once it starts? Is it not required
4 that you try to complete an election day once it
5 starts? At what point in time do you have to make
6 a decision about that, and is it your decision
7 making process that needs to deal with those
8 issues? And also looking at advances in
9 technology, Dr. Lott is very correct, technology
10 will continue to march forward. How will different
11 types of technology interact with electronic voting
12 systems, ballot counting -- automatic ballot
13 counting systems. When you look at optical scan
14 systems, even giving details about the ballot
15 marking device. If you use an optical scan,
16 optical scan infrared ballot counting technology
17 with optical scan, if you use the wrong based ink
18 to mark the ballot, that ballot is not going to get
19 counted. So being able to make sure that inside

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20 the guidelines states look at those details, that
21 they look at transparency issues, how do you
22 communicate that to voters, especially in an
23 election environment where most of the ballots come
24 in through mail? Do you separate out ballots that
25 cannot be machine read? Do you take the time to

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1 look at those ballots to see if there's any
2 discerning mark? Are there laws in place that
3 determines what constitutes a -- what will
4 constitute a valid mark on that ballot or not.
5 Those are the issues that kind of like are there.
6 Some of them are touched on, some of them aren't,
7 that would definitely strengthen the document to be
8 able to give direction to states, that even if you
9 don't provide the details that they need to think
10 in terms of these things in order to make sure the
11 elections take place as they ought and that they're
12 auditable, and that they're accountable for their
13 events on election day.

14 CHAIR HILLMAN: And my final question,
15 and it's for both of you, and we only have a couple
16 of minutes so if you could succinct, short answer
17 it would be helpful. But that is, if you were
18 speaking to a community group today, non-election
19 officials, whether it's a church group, Rotary
20 Club, Lions, fraternity, sorority, just use your
21 imagination, and you were addressing this topic,
22 what is the one thing that you would say to the
23 group about these guidelines, if you were speaking
24 to them as voters that would transmit to them what
25 you think they should know about these guidelines?

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1 Ms. Coney?

2 MS. CONEY: I would tell them that it's

1
3 an iterative process; this is the first stage in
4 what will be other opportunities to approve the
5 elections process in the United States, that they
6 should use this as an opportunity to communicate
7 with local elected officials, their desires, their
8 expectations, to educate themselves about the
9 elections process, not only to be observers, but
10 participants, because a lot of the issues that take
11 place on election day happen inside the polling
12 location. We need more poll workers; we need
13 people to participate, not just to observe and
14 critique, but also get involved in the process.
15 That the -- the first avenue I would use is
16 opportunity for them to educate themselves on what
17 the guidelines say, on what the local governments
18 are doing to implement the guidelines, how they are
19 trying to improve on areas of the guidelines that
20 may be -- have particular challenges for their
21 localities, and how they can get engaged in the
22 process --

23 CHAIR HILLMAN: Thank you.

24 MS. CONEY: -- and be a part of the
25 solution.

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1 CHAIR HILLMAN: Mr. Lott?

2 MR. LOTT: I guess I would say that the
3 guidelines have served as -- or the Commission has
4 served as the central clearinghouse for
5 information, kind of the best knowledge that we
6 have from around the country about how different
7 aspect of voting machines and how you count the
8 ballots work. And the guidelines have been trying
9 to systematize that information that's been brought
10 in. You don't have a lot of local officials; they
11 may spend some time looking at it, but they
12 probably haven't looked at it systematically or
13 spent as much time as the Commission has. So

14 that's basically what I would explain to them, what
15 the role of the Commission has been. And hopefully
16 that information can serve as a starting point for
17 their own local election officials to fill in some
18 gaps and their own knowledge. If they're doing
19 something different to at least cause in their mind
20 to ask questions about why they're doing it
21 differently possibly than the guidelines may
22 suggest. You know, they still may decide that they
23 want to do it differently, but hopefully the types
24 of questions and the perimeters and what have you
25 raised by the guidelines will at least cause them

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1 to reexamine what they're doing and maybe come up
2 with a different solution, maybe with the
3 guidelines, or maybe different than what they were
4 doing differently, but we'll just help educate them
5 on the issue.

6 CHAIR HILLMAN: Thank you both very much.
7 I appreciate the time and the information that
8 you've shared with us. And we are now ready for
9 panel three. We are on this kind of grueling
10 schedule where we don't get a seventh inning
11 stretch. So Commissioners, if you need to take a
12 short break, I suggest you do it. But we do need
13 to have panel three set up, and we'll be ready to
14 go at 3:15, which is three minutes from now. Okay,
15 we are ready to begin with panel three, on the
16 Accessibility Guidelines of the proposed Voluntary
17 Voting System Guidelines. We have four people
18 making presentations this afternoon. Welcome and
19 thank you, all of you for coming. In order of
20 making the presentations, we have Lee Page,
21 Associate Advocacy Director, Paralyzed Veterans of
22 America, Diane Golden, Director, Missouri Assistive
23 Technology Council, Ms. Johnnie McLean, Deputy
24 Director, North Carolina State Board of Elections,
25 and Jill LaVine, Registrar of Voters, Sacramento,

1 California. Just as a reminder to the audience to
2 please make sure that your cell phones and other
3 electronic devices have been turned off. The
4 hearing is being broadcast live via webcam, webcast
5 rather, and so while nobody has pulled me up on it,
6 I think it would be helpful if each of you would
7 just restate your name when you start your
8 presentations so our viewers, through the Internet,
9 can know who's talking. Thank you very much, and
10 when you conclude we do have your written
11 testimony, so if you would just take a few minutes
12 and summarize the highlights of what you would like
13 us to know so there will be ample times for
14 questions and answers with the Commissioners. And
15 Mr. Page, if you would begin.

16 MR. PAGE: Great. Thank you, Madame
17 Chairman and the fellow Commissioners of the US
18 EAC. It's an honor for me to be here today to
19 talk, to testify, on the Voluntary Voting System
20 Guidelines, specifically section 2.2.7, Human
21 Factors Section, which deals with accessibility,
22 accuracy, and secrecy in the voting process. My
23 name is Lee Page, and I am an Associate Advocacy
24 Director for PVA, which is Paralyzed Veterans of
25 America. We are a national non-profit veterans

1 service organization chartered by the Congress, and
2 all of our members are persons with disabilities,
3 as defined by the Americans with Disabilities Act.
4 Overall, I'm very encouraged by the Voluntary
5 Voting System Guidelines that the Commission has
6 put forth for comment. These guidelines reflect
7 the work and the commitment of the Technical

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8 Guidelines Development Committee, which took into
9 consideration the Voting Systems Standards of 2000
10 and also 1990. But the Commission did not just
11 rubber stamp these recommendations. In a letter
12 that is dated July 5, 2005 that you all wrote to
13 Mr. -- Dr. Simmerjam [phonetic], who was Chairman
14 of the TGDC at the time, and Chairman of NIST also,
15 you acknowledged in the letter a few differences
16 and explained the need to enhance the guidelines,
17 the recommendations that came forward.
18 Specifically, your letter mentioned compliance with
19 section 301 of HAVA. The EAC staff and legal team
20 recognized after a legal analysis of the
21 recommendations provided against the mandates of
22 the law, that to ensure compliance with HAVA,
23 several of the accessibility recommendations had to
24 be made mandatory rather than permissive.
25 Basically, the gist of -- as stated in your letter,

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1 for example, Human Factors Requirements 226
2 provides "an accessible voting station should
3 provide features to enable voters who are blind to
4 verify their ballot choices". Basically, this has
5 already been mentioned already today, but what this
6 part of the letter talks about is that the -- you
7 know, talking about the should's versus the shall's
8 of the way the recommendations came from the
9 Technical Guidelines, and how the fact that staff
10 recognized that shall was what was actually needed
11 to be addressed in the situation to make it more
12 compliant with HAVA. Basically what it -- in the
13 letter and this Commission recognized is the
14 differences in the meanings of the words should and
15 shall, and what it will mean to regard to provide
16 accessibility to voters who are blind. However, the
17 Voluntary System Guidelines are inconsistent in the
18 use of shall and should in some of its
19 recommendations, specifically in section,

20 subsection three, of the proposed guidelines. I
21 think page 2 through 22, which pertains to voters
22 with lack of fine motor control or use of their
23 hands. This section is a little bit inconsistent
24 of the language which makes it appear that one
25 disability is entitled to more access to vote than

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1 another. As you note, section 301 of HAVA
2 specifically says that individuals with
3 disabilities, including those with non-visual
4 accessibility, for the blind and visually impaired,
5 by that definition term individuals with
6 disabilities include voters with dexterity
7 disabilities. According to the Commissions
8 rationale set forth in this July 5 letter to the
9 TGDC and NIST regarding the need to change the
10 Voluntary Voting System Guidelines pertaining to
11 the votes, who are blind and visually impaired,
12 must also apply to the guidelines pertaining to
13 voters with lack of fine motor control or use of
14 the hands. The use of the terms should leaves no
15 room for interpretation as to whether a feature is
16 required. The term shall clearly indicates that a
17 requirement exists. I guess one of the things that
18 I am extremely -- it says that with the past,
19 people with disabilities now have the same rights
20 to privacy, security, and independence as voting in
21 the general public. Additionally, I want to go back
22 to some of the things that Mr. Martinez mentioned
23 earlier in the first panel, talking about, which
24 was in the section under the guidelines principles,
25 page 2 through 10, lines 30 through 36 talks about

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1 the standards that the guidelines meet in your

1
2 principles. Basically that says that, one, all
3 eligible voters shall have access to the voting
4 process without discrimination. That's one of
5 three principles that the Voting Guidelines put
6 forward, which I commend completely. The voting
7 process shall be accessible to individuals with
8 disabilities. Note that the voting process
9 includes access to the polling place, instructions
10 on how to vote, initiating the voting section,
11 choosing candidates, getting help as needed and to
12 review the ballot, verify the VVPAT paper audit
13 trail, if applicable, and then final submission of
14 the ballot. Basically, access to the voting process
15 means accessible parking with a path to travel to
16 an accessible entrance, to the registration table,
17 and to the voting booth, clearly indicated by
18 correct and accessible signage, instructions on how
19 to vote, and initiating the voting session are to
20 be delivered by the volunteer poll worker to the
21 person with the disability without paternalistic
22 attitude or personal biased based on disability.
23 Choosing the candidate, review of the ballot, and
24 submission of the ballot are functions of the
25 voting system that, when accessible, should allow

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1 the voter with a disability to cast an independent
2 vote in total secrecy. The VVPAT is not a required
3 function of the voting system under HAVA; however,
4 many states have passed laws requiring that it be
5 used to certify an election in case of a recount.
6 Requirements of HAVA state that a voter must be
7 able to review the ballot privately and
8 independently before cast and is counted. The
9 state determines the use of the VVPAT at the final
10 ballot counting certificate, then HAVA requires
11 that it must be accessible to voters with
12 disabilities, including those who have lack of fine
13 motor control and use of their hands, and those who

14 are blind and visually impaired. I guess also what
15 I'd like to say is throughout the document it talks
16 about different areas where the accessible voting
17 systems -- you have designers that need to conduct
18 realistic usability tests, and I encourage that
19 they do access the disability community to assist
20 them in that period when it comes to evaluating the
21 product that they will be working towards in the
22 future. Again, it's -- thank you very much to
23 express my views; you've got the written testimony
24 on record. And I look forward to any other
25 questions you have.

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1 CHAIR HILLMAN: Thank you, Mr. Page. Ms.
2 Golden?

3 MS. GOLDEN: I'm really short, so is this
4 all right? I usually have to pull a microphone in
5 my face. Thank you. I'm Diane Golden. I'm the
6 Director of Missouri Assistive Technology. We are
7 a very, very tiny unit of State Government in
8 Missouri, and as the name implies, we do adaptive
9 equipment for people with disabilities. That's all
10 we do. And I've been working in the field of
11 assistive technology for about 30 years, anyway, a
12 long, long time. So I come at this with a very
13 narrow focus; I will acknowledge right up front. I
14 don't know security. I don't know a lot of other
15 issues that have to do with the voting process. I
16 know accessibility and I know people with
17 disabilities, and I know adaptive equipment when it
18 comes to computer access, things that are very
19 similar to what's being designed in the way of
20 voting system accessibility. So clearly, I have a
21 very narrow focus, but I do have a passion for
22 insuring that the voting process and the equipment
23 that's used is fully accessible with people with
24 disabilities. Just as an introduction, I don't

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25 think anybody in this field is expecting, and I've

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1 heard people say it today, we can't deliver
2 accessibility for everybody, granted. I don't
3 think anybody in the field of assistive technology
4 ever dreamed that a set of voting system
5 accessibility standards would deliver accessibility
6 in a public use piece of equipment to every
7 possible combination of people with disabilities.
8 It's just -- you're not going to set up refreshable
9 braille outputs on voting equipment. Trust me, you
10 don't want to do something that complicated. So
11 those in the field understand that. We are very
12 used to working with accessibility standards that
13 provide a minimum level of accessibility for a
14 reasonable range of disabilities. That's what the
15 ADAG [phonetic] does for building accessibility,
16 the door width that's required under the
17 Architectural Guidelines doesn't mean that a
18 supersized wheelchair will necessarily be able to
19 use -- get through the doorway, use that turning
20 radius, but it does mean that the vast majority of
21 the people using wheelchairs will be able to use it
22 effectively. So that's what we're looking for in
23 the VVSG standards, what we would be looking for in
24 any set of accessibility standards of voting
25 equipment. Just as another preference, the other

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1 thing that we are definitely expecting in the VVSG
2 is we don't lose ground and we don't actually turn
3 the clock back, in terms of accessibility. And I
4 need to say right up front, unfortunately, that's
5 what we feel has happened with the version of the
6 VVSG that's out, as compared to the FEC 2002
7 standards. And it's sort of an artifact of what's

1
8 happened between the time that the FEC 2002
9 standards were developed and adopted and where we
10 are currently, in terms of voting systems. When the
11 2002 standards were adopted for accessibility, and
12 again, I'm just talking about accessibility, they
13 applied only to DREs, where the vote was
14 electronic. There was no paper in the process when
15 it came to the accessible voting system. It was a
16 DRE without a VVPAT. So the 2002 standards
17 delivered a certain level of accessibility for
18 people with a wide range of disabilities through an
19 accessible "DRE". Now the VVSG allows for a DRE
20 with a VVPAT, and it also allows for ballot marking
21 devices. And I assuming that term is commonly used
22 for things like the auto mark and the populect
23 [phonetic] systems, the ones that it's not an
24 electronic ballot. The ballot starts paper, ends
25 paper, is always paper, and there's just an

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1 electronic interface between the voter and the
2 paper. With the introduction of paper back into
3 voting systems, you have created a whole other set
4 of accessibility issues. In my line of work,
5 electronic information is our friend, paper is not.
6 Paper always has to be converted into something
7 else to make it accessible. It, in and of itself,
8 paper is not accessible. So what has happened is
9 in the current version of the VVSG is
10 unfortunately, without a few tweaks and changes, it
11 actually allows for a decrease in the level of
12 accessibility to certain groups of people with
13 disabilities. In particular, voters who have
14 vision disabilities, late in the game there was a
15 sentence added to the VVSG requiring that a VVPAT
16 be accessible for voters with vision disabilities.
17 Unfortunately that sentence, and I think it reads
18 something about if it's the official vote of record

19 or something to that effect, unfortunately that's a
20 second sentence in a standard that's underneath a
21 standard that's just for blind folks, problem one.
22 And then secondly, the discussion underneath that
23 says something to the affect of -- it talks about
24 an audio reader. That's been interpreted to mean
25 then that in order to make a VVPAT accessible, if

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1 you just provide audio output, you're done. What
2 that means for a voter with a vision disability
3 who's not using audio output, who needs large
4 print, which is going to be a much larger group of
5 people with vision disabilities than those using
6 audio, all your elderly folks with macular
7 degeneration and all of those diseases are going to
8 use large print. They're not going to use audio.
9 What it means for them is they've lost
10 accessibility. They had a good level of
11 accessibility, now you've added an inaccessible
12 VVPAT to the process, that they can't get to
13 without using an audio ballot which they just flat,
14 won't do. You have the same situation with the
15 ballot marking devices and people with dexterity
16 devices, as Lee just mentioned. Because you
17 introduced paper back into the process, unless you
18 change that standard that is currently a should to
19 a shall, which says that those people can submit
20 their ballot independently on the back end, then
21 those people again have lost ground. With a plain
22 DRE they had absolutely independent secret vote,
23 now they're back to well, it was independent until
24 I got to the end, not it's not anymore. So I would
25 encourage you, and I'm assuming you have this

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1 information in my testimony, but I tend to think in

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2 boxes and tables, and I put together tables that
3 just compares the FEC 2002 standards applied to a
4 plain DRE, and what you've gained and lost when you
5 apply to a DRE with a VVPAT or a ballot marking
6 device. And I would just encourage you, if at all
7 possible, to look at the standards and make sure
8 that we don't, as a disability community, lose
9 ground. That's a very difficult thing to explain
10 to people with disabilities, that we had something
11 within our reach, we could see it, touch it, feel
12 it, we knew it was going to work, and now we've
13 lost ground. And again, I'm not a security expert.
14 I have no adverse reaction to paper. If that's
15 what it takes to make the election secure, so be
16 it, but then we need to make the paper accessible.
17 There's -- you should have two different kind of
18 pieces of paper. That analysis table and then
19 there's a longer discussion that actually walks
20 through very specific recommendations in standards,
21 trying to point out places where should's are going
22 to need to be shall's and trying to clarify some of
23 this language. The last point I would like to
24 leave with you is there has been a lot of
25 discussion with these being voluntary standards,

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1 and I realize linguistically they are, because they
2 are called VVSG; however, when it comes to
3 accessibility, because section 301 requires an
4 accessible voting system in each voting system, I'm
5 afraid these standards are going to be way beyond
6 voluntary when it comes to the accessibility
7 standards, regardless of any preface you put in
8 them. Courts are going to use these as the
9 benchmark for what is and is not accessible. So
10 that's why it's so, you know, deathly important to
11 us to get them right, get them right the first time
12 so that we have an appropriate level of

13 accessibility to start with for that legal
14 benchmark. I appreciate the opportunity to testify
15 and will be glad to answer questions later. Thanks.

16 CHAIR HILLMAN: Thank you very much. Ms.
17 McLean?

18 MR. MCLEAN: I'm Johnnie McLean with the
19 North Carolina State Board of Elections. Thank you
20 to the Commission and to Tom Wilkey for the
21 opportunity to share a few observations and
22 thoughts that we have in North Carolina about the
23 Voluntary Guidelines. It comes to no great
24 revelation to any of us in this room today that
25 when it comes to change, humans in general and

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1 elections officials in particular tend to view
2 change as suspect. Most of us in the vernacular of
3 my area of the country believe that if it ain't
4 broke, don't fix it. It's been proven that many
5 people see that our elections process is broken.
6 We do need to fix it and the Voluntary Guidelines
7 go a long way toward that. By way of example about
8 the way elections officials tend to view any sort
9 of change, I was thinking about what was
10 encountered when it became clear to us that the
11 National Voter Registration Act would become law
12 and we would have to implement it. We all believed
13 that it would be the end of any reasonable
14 administration of voter registration as we had
15 known it. I for one was personally surprised and
16 amazed to learn that the voter applicant, him or
17 herself, could complete the voter registration
18 application accurately and completely and did a
19 better job of it than the special registration
20 commissioners that had been appointed for that
21 purpose. One observation that I did have is with
22 the North Carolina Department of Motor Vehicles
23 Driver's License Examiners. We had had a form of
24 motor voters if you will in place for a number of

25 years; unfortunately, it did not work as

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1 effectively as it could have. The National Voter
2 Registration Act, as implemented by our North
3 Carolina General Assembly and the State Board of
4 Elections made it clear that these driver's license
5 examiners were to offer voter registration to every
6 client that they met. What we observed is that
7 those who had been driver's license examiners for a
8 number of years, like me who had been there for a
9 long time, took it as an additional task and they
10 didn't see the importance of it, whereas those
11 examiners who were newly hired had no problem
12 taking this new task; they saw it simply as their
13 job and performed their jobs in that manner. Sure,
14 we added software to their computers to ensure that
15 the question was asked of each applicant, but it
16 took a change in the attitude of those examiners to
17 make this process work. It seems to me that the
18 accessibility requirements for voters with
19 disabilities and language challenges is
20 encountering the same kind of mind set. Those
21 precinct officials who have experienced other
22 changes in their terms of service, i.e. those who
23 are older and have been there and have done it
24 their way for a long time will be more resistant to
25 the changes that are being implemented. Our State

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1 Board of Elections Executive Director, Gary
2 Bartlett [phonetic] has worked with the National
3 Accessibility Task Force for many years and has
4 developed and implemented programs in our State
5 that had its priority then and continuing focus now
6 to change the manner in which precinct officials

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7 look at voters with disabilities. Rather than
8 concentrating on their disabilities, they are now
9 trained to view them as voters, and to treat them
10 with the dignity and respect that all voters
11 deserve. There have been training videos developed
12 in this area by the State Board of Elections. It
13 is available on our website. They have been
14 distributed widely across the State, as well as the
15 nation. Anyone can go to our website to view
16 these, dealing with accessibility requirements,
17 sensitivity training, that sort of thing. Our
18 State Board staff also developed a checklist survey
19 for each of the polling places in our State. The
20 County Board of Elections was directed to conduct
21 this survey, along with the expertise of the
22 county's coordinator that had been designated for
23 accessibility issues. This gave them a different
24 perspective when they were completing the survey.
25 We directed that they were to take pictures of

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1 various areas of the polling places with a digital
2 camera. These pictures are now available on our
3 website so that any voter in the State may go to
4 our website, check their voter registration
5 records, and also view the digital pictures of the
6 polling place where they would be going on election
7 day. One of the attitudes that we encountered at
8 the beginning of this process from the County
9 Boards of Elections was that we have curbside
10 voting available and some even bragged that they
11 had magnifying glasses available in each of the
12 voting booths. The State Board of Elections took
13 the position that curbside voting and magnifying
14 glasses alone would not satisfy the ADA Compliance
15 Requirements. To date, the State Board has issued
16 just over \$2 million in grants to the County Boards
17 of Elections to be used in the improvement of the
18 voting place itself. The funds were not to be used

19 for voting equipment, but rather to upgrade the
20 physical location of the polling place. The State
21 Board of Elections maintains communication with
22 disabilities advocacy groups. We conduct annual
23 meetings with this -- with these groups to help us
24 maintain a dialogue and to be certain that the
25 issues that they think should be in the forefront

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1 are those that are also on the forefront of the
2 State Board of Elections. We are fortunate to have
3 a few County Board of Elections members who are
4 actually members of the disabilities community
5 themselves, and their input in this process is
6 invaluable to us. Like so many states in our
7 nation, North Carolina is experiencing a change in
8 the predominant language of its citizens. The
9 fastest growing community is that of the Hispanic
10 community, and we are fortunate to have on staff a
11 member of that community who is a special projects
12 coordinator. One of the primary responsibilities
13 of this position is to maintain contact with
14 various Hispanic organizations and to also provide
15 a translation service to our County Boards of
16 Elections for the ballot instructions, regardless
17 of the percentage of population that the Hispanic
18 community represents in that individual area. In
19 North Carolina, we continue to develop various
20 areas to comply with HAVA and the Voluntary Voting
21 System Guidelines. However, I believe that our
22 greatest challenge will be a change in the attitude
23 of election administrators, polling place
24 officials, and voters. I believe it will receive
25 the least amount of attention from the media, but I

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1 think it has the potential of having the greatest
2 impact on our voting process, which is far to
3 precious for us to have any way, other than
4 available and accessible, to all voters. Thank you
5 again for the opportunity.

6 CHAIR HILLMAN: Thank you very much. And
7 Jill Lavine or Lavine?

8 MS. LAVINE: Lavine.

9 CHAIR HILLMAN: Lavine, okay.

10 MS. LAVINE: Thank you for this
11 opportunity. My name is Jill Lavine. I am the
12 Registrar of Sacramento County. At the present
13 time we have approximately 650,000 registered
14 voters and we conduct our election in two
15 languages, English and Spanish. And until November
16 2004 we were using the punch card ballots, but we
17 introduced at that election what we cause phase one
18 of our new voting system, which was optical scan.
19 And for the upcoming November election, November 8,
20 2005, we plan to introduce phase two, which is our
21 ballot marking system for voters with disabilities.
22 In order to get to this point, we worked with our
23 County Chief Disability Compliance Officer and his
24 staff at the time. And they were part of the RFP
25 process and part of the testing process, and we

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1 relied on them to help us find the best system for
2 Sacramento County. And they relied on me to come
3 monthly to their meeting and to present the
4 progress reports to let them know what was
5 happening. I can honestly say that each one of
6 these meetings I learned something new from this
7 group. So many different disabilities were
8 represented there and each of them had a concern,
9 and I would take these back to our vendor and
10 express their needs and continue to work on the
11 accessibility issue. At the present time I'm also
12 a member of the Statewide California Association of

13 Clerk and Election Officials Committee. We call it
14 voters with specific needs. We have those voters
15 with blind, visual disabilities, physical
16 disabilities, and those with language requirements.
17 Today I divided my comments into three areas to
18 cover the three principles addressed in these
19 standards. One, all eligible voters shall have
20 access to the voting process without
21 discrimination. I'm very pleased that the
22 guidelines offer or require the vendor to have the
23 necessary connections to their equipment for voters
24 who wish to bring their own assistive devices. This
25 will make the voter much more comfortable, and at

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1 ease when using the voting equipment. And while we
2 may provide headphones and other equipment, the
3 voter will have the opportunity to use what they're
4 most familiar with. I would encourage each county
5 or jurisdiction to have an extensive outreach
6 program to educate the voters about what is
7 available. Not all voters are literate in English,
8 but there are some that are able to speak but not
9 read it. I've seen voters start to vote in the
10 English language and then request to change to the
11 Spanish language where they are more comfortable.
12 My suggestion here is to have the Spanish language,
13 or the other required languages, depending on your
14 jurisdiction, available to the voter at all times
15 through the voting process, by means of a toggle
16 switch. On some voting systems if the voter wishes
17 to change language at that point, they use all
18 their selections and they have to start over again.
19 This is causing a delay and frustration on the
20 voter, so I would encourage vendors to have
21 incorporate that type of toggle feature into their
22 systems, if possible. In HAVA 301 it states that a
23 voter -- a State can use -- a State using a paper

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24 ballot voting system can meet the requirements of
25 notifying the voter of an overload by an outreach

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1 program. My concern about an education program
2 that is only a poster at a polling place. A voter
3 that is blind, visually disabled, or those that
4 need assistance in other language will also need an
5 alternate format for this information. And this
6 requirement is not a directive in the guidelines.
7 My youngest son is dyslexic; I worked with him for
8 12 years in school. I know what it is to not be
9 able to read anything very complicated. This type
10 of a disability would also benefit from this
11 alternate format. My suggestion is to have this
12 alternate format, such as a CD, DVD, tape,
13 something available at the polling place on
14 election day, and it could include instructions not
15 only on over-voting, but also on replacement ballot
16 and how to cast a write-in ballot. Two, each cast
17 ballot shall actively capture the selections made
18 by the voter. This next area of concern is the
19 requirement for the voting system to support a
20 process so the voter doesn't select the maximum --
21 selects fewer than the maximum number permitted,
22 the opportunity to change the ballot before it is
23 cast. I suggest that this is done very carefully,
24 as to not to intimidate the voter to vote for
25 candidate or contests they don't want to vote on.

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1 In one of my outreach programs I was talking to a
2 brand new citizens about voting, and he was
3 concerned he didn't know all the candidates on our
4 quite lengthy ballot. And when I informed him he
5 was not required to vote on every single issue, he
6 was amazed. He said, you mean I have the freedom

1
7 not to vote. While I considered the freedom to
8 vote, where he had come from, it had been
9 mandatory, and he was enjoying this new freedom of
10 voting for only those contests that he truly wanted
11 to select. Three, the voting process shall
12 preserve the secrecy of the ballot. No voting
13 method should single out a voter, even while they
14 were voting or after the ballot was cast. The
15 requirement that all voting stations that are using
16 paper ballots should make provisions with reading
17 vision -- poor reading vision suggests that a
18 ballot with large print would be an option. While
19 it is addressed later in the section that a large
20 print paper ballot unavoidably addresses
21 accessibility feature used by the voter, I am
22 concerned that the voter's right to privacy and a
23 secret ballot have been compromised. I agree that
24 the instructions should be available in large
25 print. I feel that a magnifying glass would be a

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1 better option to preserve the secrecy of this
2 ballot. Throughout the guidelines, vendors are
3 encouraged to conduct some tests, realistic
4 usability tests on the final product, using
5 subjects representative of the general population.
6 From these test results, they are to put together
7 requirements, performance benchmarks. This is a
8 concern. I have learned that no two people, with
9 or without disabilities, can agree anything 100
10 percent. As these tests are being done and as
11 these performance benchmarks are made, it is the
12 person with the loudest voice that will be heard,
13 and not always the loudest person is the one with
14 the best answer. My suggestion is to make sure
15 that there is a cross-section, a consideration, a
16 representation of all types of disabilities. Take
17 the time to consider and measure the disability

18 needs when finding solutions, and do not just
19 depend on those with the loudest voice that have
20 the best answer. Under the section that requires a
21 voting system to be accessible to the blind voter,
22 this is a suggestion or requirement for the audio
23 system to provide this information by way of the
24 human speech rather than the synthesized speech,
25 because according to the guidelines, most users

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1 prefer real human speech over synthesized speech.
2 Many blind voters do use computer programs on their
3 computers and they are very familiar with the
4 synthesized speech. If the voter wants to speak at
5 the rate that they're speaking, a human voice will
6 come out sounding more like the chipmunks when
7 accelerated whereas the synthesized voice goes
8 faster. I would encourage more research on that
9 requirement. In conclusion, in the proposed
10 Voluntary System Guidelines is the following
11 statement: voting must be accessible to all
12 eligible citizens, whatever their physical
13 disabilities, language skills, or experience with
14 technology. I believe this goal can and will be
15 accomplished with the help of these guidelines.
16 Thank you again for inviting me to be here today.

17 CHAIR HILLMAN: Thank you, panelists,
18 very much. Commissioners, we have about seven
19 minutes a piece, so if we want to begin with Mr.
20 Vice-Chairman?

21 MR. DEGREGORIO: Thank you, Madame Chair.
22 An thank you for the excellent testimony that we've
23 heard. I know this is an issue that we have focused
24 upon at other hearings, and we've heard from other
25 folks through either e-mail or letter on ensuring

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1 the access to, not just the polling places, but the
2 voting devices for people with disabilities. Let
3 me first ask Mr. Page and Ms. Golden who are
4 involved in technology for people with disabilities
5 on a daily basis, Mr. Page, you personally and Ms.
6 Golden, you professionally, have you seen equipment
7 out there -- technology out there in the voting
8 area where voters who lack fine motor control or
9 use of their hands can vote using those devices. I
10 know, Lee, if you've seen that, if you got to see
11 it at Iacreat [phonetic] or other places, are there
12 devices out there that address the needs that you
13 have discussed in your testimony?

14 MR. PAGE: Well, it's come a long way in
15 a lot of different ways, you know, since HAVA
16 passed and even pre-HAVA beforehand. And when it
17 comes to a person who does have lack of mobility
18 with his hands or whatever, you've got a person
19 with high injury levels, people who use a
20 sip-and-puff [phonetic] apparatus and stuff like
21 that, I'm not an expert in this area, but I would
22 assume -- I believe there are -- I'll let her talk
23 about it, but I believe there are machines that
24 have that adaptability capability.

25 MS. GOLDEN: I said I live and breathe in

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1 charts and tables and I brought my handy dandy
2 table with all of the pieces of equipment that
3 Missouri has looked at to certify. There are -
4 yeah, there's a number of pieces of equipment
5 currently on the market that provide dual switch
6 input. There are a number of them -- even though
7 one of the standards that has to do with tactile
8 input tends to be associated with people who are
9 blind because it goes with the audio ballot, it's
10 the one that talks about the tactile input being
11 large and distinguishable by shape, that also is

12 terribly helpful with fine motor disabilities, so
13 that you've seen the piece of equipment that have a
14 forward, backward arrow and then an enter, and
15 that's how you navigate the whole system, is
16 forward, back, enter, and the buttons are fairly
17 large on the tactile input. As long as the screen
18 stays live when that tactile input can be used,
19 then actually for a lot of high level quadriplegic,
20 that's a great way of accessing the system other
21 than a separate switch access like a sip- and-puff.
22 And one of the standards that's in the current WVSG
23 asks the screen to be able to be live when the
24 tactile input is used, and that's a huge step
25 forward. So yes, quite frankly there are some

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1 pieces of equipment in bits and pieces on the
2 market currently that do provide a good level of
3 access for people with mobility, physical
4 limitations. The problem is, and some of them
5 don't provide access for --

6 MR. PAGE: Transportation?

7 MS. GOLDEN: Yeah, and for other kinds of
8 disabilities. They'll have a VVPAT that only
9 provides no accessibility, so you've taken care of
10 the -- you know, it has tactile input, it has maybe
11 even switch access, but then VVPAT isn't accessible
12 for someone who is low vision or blind. So, I mean
13 literally I have a table with all of these pluses,
14 minuses, it's like if we could just get somebody to
15 get it all together at the same time we'd be in
16 business.

17 MR. DEGREGORIO: Thank you. Ms. McLean
18 and Ms. Lavine, at the state level, local level,
19 January 1 is coming and your state has to be in
20 compliance and you have to be in compliance in
21 Sacramento, with HAVA and certainly with section
22 301 that deals with voters with disabilities and
23 their access. Do you feel, at this point, and with

24 the guidelines that we have provided, these draft
25 guidelines, are these guidelines helpful to you in

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1 your goal to be in compliance on January 1, and
2 will you be in compliance on January 1?

3 MS. MCLEAN: Yes, sir, I believe that we
4 will be in compliance. Our General Assembly just
5 recently, within the last two weeks, ratified
6 legislation requiring the verified paper trail that
7 has altered the direction that we thought we were
8 going, but we will work toward that and see that it
9 does meet the requirements, the guidelines, as well
10 as the HAVA requirements, yes, sir.

11 MS. LAVINE: Yes, we feel that we will be
12 compliant. In fact, with this rollout of our
13 ballot marking device for November, it's going to
14 be kind of a testing round in hoping we get all the
15 bugs out of the delivery, and setup, and any other
16 training so we will be ready to roll by our primary
17 election in June.

18 MR. DEGREGORIO: Now let me ask you the
19 question that Ms. Page and Ms. Golden have brought
20 up. Will your devices serve voters who lack fine
21 motor skills and the ability to use their hands?

22 MS. LAVINE: We are using the ballot
23 marking device. It does have the dual switch that
24 will allow the sip-and-puff. The question of
25 course came up with the paper issue, and that is a

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1 concern that they are working on other options at
2 this point, so hopefully everything will be just
3 fine. I know there are several people that have
4 threatened to sue concerning that system that we're
5 going to use, and we're moving forward at this

6 point.

7 MR. MCLEAN: We are closely communicating
8 with the various vendors who are following all of
9 the hearings carefully. It is my expectation that
10 there will be at least one type system that will
11 have that capability.

12 MR. DEGREGORIO: Well, I appreciate your
13 comments because this is an issue that we know that
14 the TGDC grappled with, the should's and the
15 shall's on this particular issue. And we as a
16 Commission are dealing with it ourselves. We did
17 change some of the should to shall's as we reviewed
18 with the TGDC gave us, but we know in the next few
19 weeks as we finalize these guidelines and adopt
20 them, we'll be looking at this issue very closely,
21 so thank you for your testimony.

22 CHAIR HILLMAN: Commissioner Davidson?

23 MS. DAVIDSON: My question goes right
24 along with what has just been asked by the
25 Vice-Chair. One of the issues is we all want to be

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1 ready by January 6 - - January `06, but some of the
2 vendors are telling us now that it's gotten so late
3 that meeting all of the requirements that is in the
4 shelf is virtually impossible for them be able to
5 meet it, and have it certified, and then have it
6 for sale, and be able to make the delivery. Are
7 your vendors telling you anything like this, or
8 have you really asked that type of question? I
9 guess the two county people is who I'm directing my
10 question to.

11 MS. LAVINE: Sacramento County has
12 already received 300 units, so we will have enough
13 for the November election. But yet considering
14 this is Sacramento County and we were number one to
15 get in, statewide, my fellow registrars in
16 California they're not as ready and there is a big
17 concern about being able to have enough systems and

18 enough vendor support for this. So, it's like --
19 it just depends where you are in the process. We
20 started this process a year and a half ago and
21 tried to phase in the system. So that's how we are
22 ready now, but not everybody, you know, some of us
23 waited for these Guidelines and needed more
24 information. And in California the rules change
25 quite a bit, so it was really hard to hit that

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1 moving target.

2 MR. MCLEAN: I wish I could say that
3 North Carolina had already placed an order for
4 voting equipment; unfortunately I can't say that.
5 As I stated earlier, our General Assembly just
6 changed the direction that we were going in. There
7 are pieces of equipment in North Carolina that we
8 believe can be upgraded to meet these standards so
9 that we're not looking at all 100 counties maybe
10 having to initially purchase voting equipment. But
11 we have just -- we have just begun in this process
12 of locating the voting equipment that has this
13 verified paper trail because only, currently, only
14 our optical scan counties would have that.

15 MS. DAVIDSON: Well, just so you know, I
16 think we're hearing that throughout the United
17 States. So it's not issues that just affect your
18 states, I just wanted to see how you felt about
19 your own states. Mr. Page and Ms. Golden, in
20 listening to the disability community, in which I
21 take a real strong emphasis that we all should be
22 listening very closely, but there's not always an
23 agreement amongst all of you. Can -- is there
24 anything that can be done that you really -- I
25 don't know if we can say that you can get an

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1 organization that meets together that we can get
2 one viewpoint? Because that guidance would be very
3 important to us. Mr. Page or either one of you or
4 both of you?

5 MS. GOLDEN: Do you want to take it
6 first?

7 MR. PAGE: Yeah, I was going to say that
8 the image of hurting cats comes to mind because,
9 you know, wrangling the disability community is
10 pretty tough. And I work -- like I say, I am a
11 person who works with Washington DC. I'm a person
12 inside the beltway, and yet there's that mind set
13 and there's the mind set of the grass roots
14 disability organizations. And it's very -- it's
15 trying to hold water in your hands at times, but
16 that's the way the community is as a whole. And
17 that's because, well, there's a lot of reasons
18 because of that. But one of the things that --
19 there was a time that we had a unison voice, and
20 I'll just go ahead and throw that out, and that was
21 when the passage of the American's with
22 Disabilities Act passed. That was a very unique
23 time in our history; 1990 you had George Bush the
24 first in office and at that time it was a major
25 piece of Civil Rights legislation that came across.

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1 And it was a very unique time in Congress, and a
2 very unique time as a whole. And all of the
3 disability community basically sang from the same
4 song page, and it was great, but the thing of the
5 matter is a lot of our voices and opinions rely on
6 -- I'm kind of digressing from my point, but
7 anyway, it is tough to get a consensus in the
8 group, and I'm glad that you're listening to the
9 disability community as a whole because it is
10 there. It can only be beneficial in the long run.

11 MS. GOLDEN: One of the things that I

12 always point out to people, I'm the techno-nerdy
13 side of things within the disability community and
14 there is a vast difference between usability by
15 people with disabilities and a legal benchmark for
16 accessibility. And unfortunately, what always
17 happens in the beginning, and I say this with all
18 love and affection to the vendors who many of them
19 went to somebody when they designed their system,
20 and so they got input from one blind constituency
21 who told them a 10-keypad was the best tactile
22 input on the face of the earth, and that represents
23 the view of that group of blind people who are
24 fairly sophisticated telephone keypad users and
25 like a 10-keypad. That doesn't necessarily

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1 represent the universe of, people again, elderly
2 people with macular degeneration who can't use a
3 telephone at all and mis-dial all the time and have
4 no orientation on a 10-key pad. So one of the
5 things that I know has happened in this process is
6 it's the good news of listening to disability
7 groups and grassroots organizations, but it's also
8 not a good thing because it's not necessarily a way
9 to develop a legal benchmark for accessibility.
10 That's a good way to get information about what's
11 usable for different kinds of people with
12 disabilities in their particular situation, given
13 their background, so I think that's part of what's
14 complicated this issue tremendously.

15 MS. DAVIDSON: Thank you.

16 CHAIR HILLMAN: Thank you. Commissioner
17 Martinez?

18 MR. MARTINEZ: Thank you, Madame Chair.
19 I don't know if I have a lot of questions, but I do
20 -- I have a couple. But I do want to say that this
21 is an issue that I, you know, of all the new
22 material in the proposed guidelines, this is the

23 one that I think, clearly, we have spent a great
24 deal of time and rightly so, and will continue to
25 spend a great deal of time as a Commission and as

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1 individual Commissioners try to get educated. And
2 I'm so appreciative of the candid testimony and I
3 encourage it to continue because, I have to tell
4 you, I still don't know what the answer is and at
5 some point I guess I'm supposed to know as a
6 Commissioner. At least take a -- make a decision
7 at some point in time as to what these guidelines
8 should say in final form, but this is one issue
9 that, clearly, is very challenging. I also want to
10 say that I think we have been very well served by
11 the folks who, on a voluntary basis, served on the
12 Technical Guidelines Development Committee, and the
13 folks at NIST who were the technical experts in
14 developing the initial recommendations. I think
15 they are truly committed to the same principles
16 that we all are, and that is to ensure that every
17 voter has access to the polling place and can cast
18 a ballot privately and independently as Congress
19 asked us to achieve. And even in making our
20 decisions about what we would change or not change
21 from the initial recommendations, they were not
22 done in a vacuum. They were done in consultation
23 not just with disability advocates both from inside
24 the beltway and outside the beltway, but also in
25 consultation with our partners at NIST and with our

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1 partners on the TGDC who gave us the first set of
2 recommendations and who are equally committed to
3 the same principles. So I think we're all striving
4 for the same thing and the question is how exactly
5 do we get there. And that's where, you know, I

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6 guess my question or -- you know, if Congress
7 would've said in section 301 A-3 that to meet the
8 goal of privacy and independence for persons with
9 disabilities in the voting process should be done
10 by the use of a DRE machine, this might be a little
11 easier. But they didn't say that. Congress by no
12 means outlawed paper based voting systems. They
13 went out of their way to say they didn't. And they
14 also went out of their way in Section 301 A-3 to
15 say you can meet this federal statutory mandate by
16 the use of one DRE per polling place, or, and they
17 go on and say, and I have it here in front of me,
18 other similarly equipped voting system that would
19 also allow personal disabilities to achieve this
20 type of independence and privacy. And that's where
21 we're getting tripped up. I mean that's the bottom
22 line. There is the market -- ballot marking
23 devices, one certainly that has achieved
24 certification. I'm not going to do marketing for
25 that particular vendor, but we probably know which

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1 one we're talking about, that allows a voter to
2 interface with this device like a DRE, that allows
3 a voter, if I'm not mistaken, to interface, even if
4 you lack fine motor skills, with a sip-and-puff
5 device. But that ultimately does not allow a voter
6 that lacks fine motors skills to be able to cast
7 the ballot, the physical act of casting. He can do
8 everything up to the final step of actually casting
9 the ballot, because the voter at that point would
10 need some help to get the ballot to either a
11 secured ballot box or a precinct count reader. I
12 mean that's really where we're at. And Ms. Golden,
13 if in your chart you can answer that question as to
14 what's out there, I'd be most interested?

15 MS. GOLDEN: See, I'm telling you that
16 you can look down the chart and it's, you know, if

17 I had one, if I could just put a couple of them
18 together or merge them or something, then we --

19 MR. MARTINEZ: I wish we could.

20 MS. GOLDEN: Yeah, no, that's it. The
21 two issues that -- you have a lot of should's in
22 the standards that quite honestly you could make
23 shells and somebody might say it's going to be a
24 problem, but it's really not. The issue of
25 digitized, synthesized speech, most of these

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1 systems, if they're electronically faced, they can
2 interchange synthesized speech with a WAV file and
3 that's not a huge technological change; it's an
4 internal working. So to not bore you to tears, may
5 of the issues are not that big of a deal. There
6 are two that are a big deal. With ballot marking
7 devices it's exactly what you described; it's the
8 back end of the process. It's the marked ballot
9 going in to the ballot box. And unless - - and
10 until those design a system where it automatically
11 drops, it's a paper feeder add-on. Something to
12 that -- that's what it's going to take --

13 MR. MARTINEZ: Let me ask you a question
14 there if I could. I don't mean to interrupt.

15 MS. GOLDEN: No problem.

16 MR. MARTINEZ: But that is exactly right.
17 I have not seen a system that is currently on the
18 market that is even close to achieving
19 certification that allows for an automatic drop,
20 even by using sip-and-puff technology to get it to
21 the point where it automatically drops either into
22 a secured ballot box or into a precinct count
23 reader. Do you agree with that?

24 MS. GOLDEN: Correct. And literally
25 there's only a couple kind of true ballot marking

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1 devices out there.

2 MR. MARTINEZ: That's right.

3 MS. GOLDEN: And they're brand new.

4 MR. MARTINEZ: That's correct.

5 MS. GOLDEN: I mean so they don't have
6 much of a track record.

7 MR. MARTINEZ: Right.

8 MS. GOLDEN: The second problem you have
9 with DRES when you put a VVPAT on them is making
10 the VVPAT accessible.

11 MR. MARTINEZ: Right.

12 MS. GOLDEN: And truly taking the print
13 off the paper and delivering it back in alternative
14 format. And quite frankly, that's closer now to
15 being resolved because so many of the VVPATs have
16 added bar codes because people don't want to hand
17 count necessarily. They want -- if the VVPAT is
18 going to be the official vote of record they want
19 some way of machine reading it. By putting the bar
20 code back on there, the information is back on
21 electronic form.

22 MR. MARTINEZ: Right.

23 MS. GOLDEN: So literally then, adding --
24 it sounds, you know, but there are some systems
25 that have a prototype adding the standard back onto

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1 the VVPAT to read the bar code means you could
2 automatically send it bak and produce audio and
3 large print output.

4 MR. MARTINEZ: Right.

5 MS. GOLDEN: So that solution is probably
6 closer, in terms of where --

7 MR. MARTINEZ: Right.

8 MS. GOLDEN: -- the vendors are in
9 research and development.

10 MR. MARTINEZ: Right. Mr. Page, any

11 comments about this particular discussion?

12 MR. PAGE: I just -- I don't know the
13 technical aspects of the machinery as well as Diane
14 does, but the other thing is, and I understand the
15 dilemma you're in, and I understand more about
16 section 301, especially because I was in the room
17 when it got written, up on the Hill --

18 MR. MARTINEZ: Sure, yeah. Yeah.

19 MR. PAGE: -- and you're right, some of
20 the exit, the little extra line in there, really
21 does cause a pain in reference to a lot of things.
22 But the other fact of the matter is you've got to
23 remember, and of course this is -- I mean people
24 with disabilities have a little bit of
25 responsibilities in their own aspects when it comes

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1 to doing whatever we're supposed to do. And when it
2 comes to, you know, going and voting, you got to
3 realize, you know, curbside voting was the norm for
4 a very long time, if that. You know, I'm so
5 pleased with this hearing today because of the
6 first panel we had, listening to the guy from
7 Chicago who five or six years ago wasn't anywhere
8 near this level he is at right now. And I'm
9 extremely excited about that, and Tom knows that,
10 and Connie knows that, and your boss, Gary Bartlett
11 knows that. And I just really appreciate it. And
12 -- so I appreciate the hard work this Committee has
13 done, the Commission, and the Commissioners, and
14 the commitment of you guys because this is not easy
15 and it's a fair you all are working for and, you
16 know, it's come a long way. So, but the bottom
17 line is, you know, a lot of the shall's should be
18 shall and I hope they are shall.

19 MR. MARTINEZ: Okay.

20 MR. PAGE: Because we don't want to dumb
21 down something that is already voluntary.

22 MR. MARTINEZ: So I so appreciate your

23 sentiment and certainly understand your
24 prospective. And Ms. Golden, do you want to say
25 something else?

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1 MS. GOLDEN: Yeah, I certainly don't want
2 to be locked in to what's available on the market.
3 Please don't write these standards just to conform
4 with what's currently available. You know, I mean
5 quite frankly, we've missed January 1. We're not
6 -- that trains left the station and we're going to
7 have to have something on an interim basis, so
8 these standards are going to affect the next
9 generation, if there's a mandatory upgrade, however
10 you decide to do that, so please don't feel
11 constricted by the fact that what's currently on
12 the market, you know, my table, I don't have
13 somebody's system with pluses all the way down
14 right now, that I will use the words of your own
15 Advisory, that doesn't mean that it's unreasonable
16 or technologically infeasible. It is very
17 reasonable and technologically feasible for people
18 to have pluses all the way down that list.

19 MR. MARTINEZ: I appreciate that and I
20 think one last comment from me. There's many
21 nuggets throughout all of your testimony, but one,
22 Ms. Golden that you have at the back end or at the
23 end of your testimony says that perhaps a mandatory
24 upgrade date be specified for which an accessible
25 voting system must provide the current should

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1 features. I think that's very good advice,
2 personally. If, in fact, we end up with should's
3 rather than shall's in the final document. And I
4 think that's something that we can do a better job

1
5 with addressing in final form, quite frankly. The
6 other thing I want to say, Mr. Page, aside -- going
7 off the topic a bit, you also had some comments in
8 your testimony, I'm not sure if you touched on them
9 in your synopsis about NVRA and a need to ensure
10 compliance with disability offices serving as voter
11 registration agencies. As designed by NVRA, I
12 think that's an excellent point and one that --

13 MR. PAGE: Thank you.

14 MR. MARTINEZ: -- you know, I think is
15 worth getting into the spoken record here during
16 this meeting.

17 MR. PAGE: Thank you, especially since
18 under the guidelines of three principles of this
19 section, voter registration was mentioned as part
20 of the process, and that's your number one part of
21 the process.

22 MR. MARTINEZ: Right, I understand.

23 MR. PAGE: Because you can't vote if
24 you're not registered.

25 MR. MARTINEZ: Right. Ms. McLean and Ms.

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1 Lavine, thank you for -- I don't have any questions
2 for you, but I so appreciate the jobs that you do
3 on a day- to-day basis and thank you for being
4 here. Thank you, Madame Chair.

5 CHAIR HILLMAN: Thank you. Ms. Golden,
6 you raised the point about where VVPAT, the voter
7 verified paper audit trail, is now required with
8 the electronic voting machine, the DRE, and since
9 several states, many states have required that by
10 law and made it effective immediately, I mean not
11 for six years out, but right away, the guidelines
12 then do address, okay, if there's a VVPAT
13 requirement, here are the requirements. Going back
14 to your point about how it takes a visually
15 impaired voter further away from the privacy and
16 independency, what do you offer on that? I mean,

17 you know, where do states go and how does this get
18 resolved in the near future, short of litigation?

19 MS. GOLDEN: Well, I can never assure
20 anything short of litigation. I live in the
21 accessibility world where that's just kind of a
22 constant. I think that the resolution for the VVSG
23 Standard is to, for lack of a better word, cleanup
24 your current language. The standard that you have
25 relating to the accessibility of the VVPAT, and

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1 again I'm paraphrasing, says something to the
2 effect, if the state requires it to be an official
3 vote of record or something that it needs to be
4 accessible for visually impaired voters. But that
5 sentence is a second sentence under a standard that
6 only applies to blind people, and then the
7 discussion underneath it applies that an audio
8 output of the VVPAT is -- makes it fully accessible
9 to people with all kinds of vision disabilities.
10 So I think your solution is to a, pull it out from
11 underneath that standard it's under where it's kind
12 of buried, set it aside, and you also have a
13 standard in the VVPAT section that actually is
14 contradictory to that one because it just says it
15 should -- VVPAT should be accessible or something

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