

U.S. SENATE COMMITTEE ON RULES AND ADMINISTRATION HEARING ON VOTER VERIFICATION IN THE FEDERAL ELECTORAL PROCESS

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Thank you for the opportunity to appear before you today to offer testimony on the issue of voter verification in the federal election process. My name is Conny McCormack and I have 23 years of experience as an election official at the County level. For the past nine+ years I have served as Registrar-Recorder/County Clerk of Los Angeles County, California. Previously I served as Registrar of Voters in San Diego County, California for over seven years and as Elections Administrator in Dallas, Texas for six years. Los Angeles County is the largest electoral jurisdiction in the U.S. with over four million active registered voters and 5,000 voting precincts. For the November 2, 2004 Presidential Election a record-high 3,085,582 voters cast ballots in Los Angeles County (a voter turnout of 79%). This constituted more ballots than were cast statewide in 41 of the 50 states.

A key lesson I have learned after 23 years in this profession is that elections are fragile. Under the best of circumstances, election administration is a difficult endeavor. The challenge is now compounded as thousands of local election officials across the United States strive to install new voting equipment to meet the requirements of the federal Help America Vote Act by the impending January 1, 2006 deadline. My remarks today will describe the reasons why I believe that adding another federal requirement for Direct Record Electronic (DRE) voting systems to be retrofitted with a voter verified paper audit trail (VVPAT) component invites a number of problems that could, unintentionally, shatter the system and significantly erode public confidence in the process. My opinion on this issue is based on my election administration background as well as my personal observation of Clark County, Nevada's experiment introducing VVPAT at their September 2004 Primary Election.

As soon as DRE systems were certified for use in California in 1999, Los Angeles County began the process of introducing this new technology to voters. Our first use of DREs was in conjunction with the "early voting" period at multiple locations throughout Los Angeles County in conjunction with the November 2000 Presidential Election. Any of our County's four million registered voters could choose the option of voting on the DRE equipment at any of the established early voting locations. Due to extremely positive voter response, over the past four years we have expanded the availability of DRE voting to include additional early voting sites in conjunction with all federal elections.

Our experience confirms that the popularity of DRE/touchscreen voting has continued to grow. Los Angeles County's DRE system has never included a contemporaneous voter verified paper audit trail (VVPAT). Each standalone DRE unit does include an internal

printer as a component of the triple redundancy of medium on which vote totals are retained. Los Angeles County's survey responses continually show that voters overwhelmingly express great enthusiasm and preference for voting on electronic equipment. Equally important is the fact that we have experienced no technical problems with the tabulation of votes with the DRE equipment. Electronic voting has proven to be reliable, accurate and well-accepted by our voters.

Los Angeles County's DRE experience echoes the similar positive experiences of other counties nationwide that have replaced paper-based voting systems with modern DRE technology. Some of these jurisdictions have amassed 15+ years of positive, successful experiences with DRE technology. With the exception of Nevada in their 2004 elections, none of the other jurisdictions used DRE systems that produced a contemporaneous paper ballot receipt for voters to review/verify. Nevada's ballots represented less than 2% of the 30+ million ballots cast electronically in the November 2004 Presidential Election.

It goes without saying that all of the members of Congress seek the same overriding goal for election administration – the accurate casting, tabulation and reporting of all votes in accordance with the voters' intentions. The fact is that existing DRE systems without VVPAT have the proven track record of doing the best job of all available voting systems in achieving that goal. This should come as no surprise. It is the very reason why modern society continually and progressively relies less upon manual processes and paper records and more upon computers and electronic storage to manage myriad aspects of our lives.

The suppositions and theories espoused by critics contending that DRE systems are more susceptible to tampering are completely unfounded. There is not one scintilla of evidence to support such claims. By contrast, there is ample, documented evidence that fraud has been perpetrated with paper-based voting systems. DRE tabulation software must be installed in each individual touch screen unit which entails thousands of standalone units in large electoral jurisdictions. Such decentralization down to each unit makes DRE systems less vulnerable to tampering than paper-based ballot systems.

The focus of this debate needs to remain on the facts including:

- DRE systems are extensively tested by vendors
- DREs undergo federal qualification testing by Independent Testing Authorities
- DREs are re-tested/certified by States' chief electoral officers
- DREs undergo acceptance testing by procuring local jurisdictions
- DREs undergo pre and post election testing prior to each use
- DREs are self-contained units unconnected to the Internet
- DREs have redundant memory medium and include the capacity to print ballot images for recount/auditing purposes
- DREs have back-up battery capacity in the event of power outage
- DRE source code software is placed in escrow by most States' chief electoral officer

This debate also needs to recognize practical considerations including:

- Significant Costs – The initial cost of attaching printers to DREs adds 25-30% to the already significant DRE purchase price. This does not take into consideration the ongoing costs to purchase paper for every election and the cost of storage (22 months is required for federal elections) of tens of thousands of paper ballot receipts. Talk about trees dying in vain!
- Paper Jams/Malfunctioning Printers - Mechanical equipment is prone to failure/outage. Voting equipment is subjected to 12-13 hours of continuous usage on election day– undoubtedly this will result in printer/paper jams. Even if such problems are miniscule, a small percentage of equipment failure will impact the ability to use the VVPAT for auditing or recount purposes and undermine confidence in the accuracy of election results.
- Voter Delays – Adding another step to the voting process will require additional time to print out the results for each voter even if the voter does not glance at or review the printout. Anecdotal evidence in Nevada indicates that very few voters looked at the printout as voter review occurs conveniently and more easily on the DRE screen. The voting process needs to be streamlined, not delayed.
- Difficulty for Poll Workers - Simplicity, not complexity, assures successful elections. Additional poll worker training requirements invites problems.
- Receipts are Meaningless - If DRE programming can be manipulated, that same logic dictates that the programming could be surreptitiously altered to change election results after the paper ballot receipt is printed.

While Nevada’s experiment with VVPAT has been hailed as an unqualified success, it is instructive to take a closer look at that state’s limited experience both in terms of scope and the measurements used to gauge “success.” The scope was small as less than 3/4 of a million ballots were cast in Nevada on VVPAT-equipped DREs for the November 2004 election. As mentioned earlier, this represented less than 2% of the total votes cast on DREs nationwide during the November 2004 election.

A key assumption regarding VVPAT is that voters will use the paper record to verify their electronic selections. However, my personal observation of Nevada’s experiment, as well as reports from many other observers, clearly revealed that the vast majority of voters did not exhibit this behavior. A visual portrayal of Clark County, Nevada voters ignoring the printed record of their DRE votes was captured on videotape in an 11-minute DVD produced by my office which has been provided to your Committee as a component of my testimony. The video confirms that while VVPAT has been highly promoted and heavily lobbied, very few voters even glanced at the paper printout. The most commonly observed and reported voter behavior involved voters asking “why can’t I take the printed receipt with me?” Printing the paper record adds more time to the voting experience. Everyone is in agreement that it is anathema to voters to add waiting time to the voting experience.

Additionally, Nevada’s election escaped the crucible of election scrutiny that only occurs when election results are close and recounts are held in the glare of the election spotlight. The cumbersome nature of small rolls of paper under glass – the Nevada VVPAT model – would be painfully evident if a recount occurred and tabulation of the paper printouts was ordered. The Elections Administrator for Clark County, Nevada reported that his internal audit to recount the paper ballots inside 20 VVPAT cartridges following the

November 2004 election required 30 employees in order to count 900 ballots in an eight-hour day or ¼ hour per ballot.

Also, attaching mechanical printers to electronic voting equipment in Nevada resulted in significant additional cost. This is true both in terms of dollars - the price of already expensive electronic voting equipment increases by 25-30% with the addition of VVPAT printers - and in evoking questions and confusion regarding why voters could not take the paper “receipts” home with them. Whether or not poll workers were instructed how to answer such inquiries, I observed various, inconsistent responses. This Q&A between poll workers and voters consumed additional time to process these voters.

HAVA requires DRE voting systems to produce a permanent paper record with a manual audit capacity but does not require DREs to generate a contemporaneous record at the time of voting or a VVPAT. Indeed, the principal authors of HAVA in a March 3, 2004 letter to congressional colleagues expressed their concerns that pending federal legislative proposals mandating VVPAT would “undermine essential HAVA provisions, such as the disability and language minority access requirements, and could result in more, rather than less, voter disenfranchisement and error.” While experiments such as Nevada’s offer states the opportunity to act as laboratories of change, it would be a mistake to lock into place a specific technology that remains largely unproven and that has not withstood the spotlight of scrutiny in a close election.

In conclusion, overwhelming evidence exists throughout the United States that DRE voting systems without VVPAT are accurate, reliable, secure, accessible, easy-to-use, popular with voters and effectively address voting equipment mandates of the federal Help America Vote Act of 2002. If the federal government were to require the unnecessary expense of purchasing or retrofitting DRE voting systems with a contemporaneous voter verified paper ballot capacity it would constitute a regression of progress. The resulting practical problems (mentioned above) have the real potential of undermining, not enhancing, voter confidence in DRE systems.

States and local governments need the authority to retain flexibility of choice among types of voting equipment. One size does not fit all. Diversity of equipment strengthens the electoral system and fosters innovation. Nothing precludes individual states that wish to experiment with DRE systems including a VVPAT component from doing so. However, without fully vetting the likely consequences, it is unclear whether VVPAT systems will actually add more security, or alternatively more risk, to the process. The unintended consequence of a VVPAT mandate could diminish, rather than enhance, voter confidence in the accuracy and security of election equipment. Additionally, a federal mandate would discourage States from experimenting with other mechanisms that may result in less risky and more effective, efficient and secure voting systems. Congress should instead stay the course it charted when enacting HAVA. Congress can do this by providing the U.S. Election Assistance Commission with the resources that agency needs to develop voting system standards and to assist local jurisdictions in the transition to HAVA-compliant voting technology.

