

Subject: SF Voting System Task Force Comments

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To: voting.systems.task.force

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These comments were drafted by members of the State Audit Working Group, which is composed of election integrity leaders from around the country. This group has convened a weekly conference call for the past three years to discuss ways to improve current audit laws and to help draft new audit laws.

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1. Use of collective buying from multiple jurisdictions to obtain “ideal” voting system. This concept is the most important recommendation of the task force and, if successful, will make the biggest difference in getting high quality, affordable voting systems for the future.

A) The report has mentioned some of the shortcomings of the current voting system industry structure, but it should make the points clearer and stronger:

- i) The industry is highly concentrated
- ii) Most purchase decisions are made by small jurisdictions which have a very weak negotiating position with the vendors since they have no market power and little technical sophistication.
- iii) The barriers to entry are very high:
 - (1) Development costs are high
 - (2) Development lead times are long
 - (3) Federal certification lead-times have been long
 - (4) The market has a limited size
 - (5) The market is very fragmented and expensive to penetrate – the vendors have to market to many decentralized jurisdictions

B) The report mentions possible collaboration with LA and other CA counties which makes great sense.

i) What about other states poised to make a new purchase in the next 2-4 years such as Maryland, Georgia, South Carolina, North Carolina... These states would have fairly large markets. Maybe such collaboration would be too complicated given different state purchasing rules and requirements but it would be worth exploring and SF seems to be in the perfect position to do it.

C) The report should go further in making a recommendation on the next steps to make such a collaboration a reality. It requires agreement on the system requirements and agreement to put up funds. There should be some coordination with NIST/EAC so whatever joint system is developed can be fast-tracked through the testing process.

2. Voter privacy/ballot anonymity:

It is important to balance the access to and verifiability of election records including ballots with the need to maintain voter privacy. Although the report mentions "secret ballots" or "ballot secrecy" twice, it does not address this important public policy issue head on. The principal quality of our election system that guarantees this privacy is described more constructively as "ballot anonymity" rather than "ballot secrecy". Ballot anonymity means that voters cannot provably be associated with their vote data. It does not mean that ballots should be kept secret after casting. Incidental recognition of a ballot image or a vote pattern by the voter is probably unavoidable without closing off access in a dramatic and irrevocable way. Even so, there are means available to reduce the likelihood that personal identities will be associated with otherwise anonymous records.

Ballot anonymity should be recognized as an essential part of any existing or future voting system. There is concern that coercion and vote buying/selling might occur when specific ballots can be linked to specific voters. (See recent cases of vote buying and selling in Kentucky for an example.) This danger however should not be over-interpreted in a way that leads to the loss of necessary transparency in the counting of ballots or the verification of counts. At the same time, it is important to consider dangers inherent in selective access to election records e.g. for officials only.

A) It is worth noting that increased access to absentee or mail-in

ballots or ballot envelopes opens up many new opportunities for coercion or vote buying/selling as well as for theft of absentee ballots from mail or from trash and fraudulent submission thereof. This is a problem often overlooked in the desire to increase voting convenience.

B) Access to "cast ballot records" confusingly also sometimes referred to as "ballot image records" is desirable for auditing and verification and quality improvement purposes. "Publishing text files of "cast ballot records", as suggested under "Near Term Recommendations" p.13, adds a risk (the magnitude of which is difficult at present to determine) of a voter attempting to use "pattern voting" in an effort to prove the identity of their own ballot. It is a matter of public policy how to balance this risk with the benefits of transparency as well as how to mitigate the risk. This risk might depend on the number of unused patterns available in

the election, where RCV ballots offer many additional unique patterns. On the other hand, access to "cast ballot records" is almost essential for auditing a RCV election.

C) Allowing academic organizations to "obtain paper ballots and scan them for the sole purpose of digitally scanning the ballots and analyzing the scanned images to independently verify election results, and to publish their findings from such verification" involves chain of custody and ballot protection concerns. These are solvable but must be considered and planned for. While a voter might recognize his or her own ballot, it must not be possible for a voter to prove the authorship of marks on a ballot. Duplication of problematic ballots is one possible remedy, but such duplication needs to be done under public observation and not by election officials in private.

In any case system requirements should specifically mention that there must not be any link to the voters name or identity in the vote collection/interpretation/counting system.

D) Page 12 line 8 and page 14 line 9: Post election audits using

individually randomly selected single ballots rather than entire precincts are much more efficient. It is not, however, necessary to mark each ballot with a unique identifier to gain the benefit of single ballot audit methods and should not necessarily be a system requirement. Some election audit systems that exploit the efficiency of samples based on individual ballots use the order in which the ballots are stacked in a batch as the means to pair ballots with their digital counterparts. If this non numerical method is used, it is essential that the order not be the same as the order in which public records show the voters casting their votes. Another option is a printed unique identifier that is added to the ballot after it is cast. This method satisfies California and is used in Humboldt County.

Recent developments in digital records handling make possible transparency at a scale never before possible. Existing methods have survived by providing "pretty good" anonymity without needing to fully consider the implications of very easy or large scale access to ballots or vote patterns. It is time for those making decisions about guiding future technologies for mark interpretation/vote tabulation to consider the potential benefits of full transparency in the context of the necessity to maintain excellent voter privacy. The Humboldt County experience provides valuable evidence to inform such a discussion.

3. Other

A) Centralized count machines should be able to track votes by batch.

B) Balloting Systems and Services: Phase P15, line 17 – was “phase” meant to be “phrase”?

C) There should be a mechanism for verifying the voter for absentee ballots, especially for blank ballots downloaded from a computer; traditional absentee ballots are sent in the mail to a voter’s address so there is limited access to them, but downloaded ballots can be accessed all over the world. Are the signatures being checked? How accurate is the signature check?

D) The vendor selling the equipment should not have exclusive rights to support or program it or to print the ballots.

E) Strong physical chain of custody should not be compromised.