

This is the written version of my testimony at the California Secretary of State's February 8th hearing on The "Future of Voting in California: The People, the Equipment, the Costs."

I have slightly edited my oral response and added a few comments and clarifications. Here are the points in brief:

- "Open Source" gaining currency
- Discerning voter intent was a key issue in 2000, and that issue remains unresolved
- We need machine-marked printed ballots to eliminate the voter intent issue. The federal program for military and overseas voters embodies this concept.
- Progress correcting voting system faults has been very slow
- The need for a common data format is now recognized. OVC has been promoting the Election Markup Language (EML). We continue to advocate for adoption of EML (now EML v6). Sequoia says they are starting to use EML.
- Accessible voting booth at each poll site: high cost, high maintenance, and low usage. This is causing jurisdictions to want to eliminate poll sites. We need a different approach, especially for accessible voting at home, which is where people with disabilities tend to vote.
- Officials need to be more proactive to get the job done. We've heard talk of "banding together," and that's the basis of the consortium idea. Interested parties should be joining a consortium (like the Open Voting Consortium) to solve these problems.

I'm Alan Dechert, the founder of Open Voting Consortium and also glad to hear the term "open source" getting into the talk about election systems fairly regularly.

But it's actually *not* how I got involved in elections. When I watched the 2000 process, the thing that got me going was the fact that we had election officials trying to discern voter intent on ballots. And this is an age when technology should be available so that we're not asking election officials to discern voter intent. In fact, they should not be required to discern voter intent; they should not be allowed to discern voter intent.

The only thing I heard today that really addressed that at all was the fellow with the federal project for absentee ballot where he's talking about the machine marked or the fillable PDF file for absentee voting. That's where we want to go with all systems. That is the issue that we see with ballots (ambiguous marks). Even though the percentage is small, we know that sometimes elections are decided by incredibly small percentages. And then you're left with election officials discerning voting intent, which turns out to be how the election is decided.

Or in the case of 2000, thrown to the Supreme Court. We should never see that again, and there is no excuse. The technology is available to have machine-marked unambiguous ballots.

Now there will have to be some transition, of course, because right now people are used to hand marking ballots. But the population is changing. Our recent college graduates, they grew up with computers. The people in the 50 to 90 age range right now, maybe some of them aren't quite comfortable with it. But over time -- the kids growing up today -- they grow up with computers. It's going to make perfect sense for them to fill out their choices on a computer screen and print out their ballots. And that's where you're going to get to the most accurate systems and get to a point where you have real voter confidence in the result of the election.

We had an election in Minnesota (2008 U.S. Senate contest). And Mark Richie is claiming this was so great because it proves how well the election worked, but it took six months to count the vote and seat a Senator. And even at that, you have complaints on the other side that, well, some of those ballots weren't counted right.

So we have no excuse for continuing with hand-marked ballots indefinitely. We need to move to a system of machine-marked ballots.

I also want to point out that I've seen four Secretaries of State now. I got involved in this right when the ink was dry on the Supreme Court decision. In fact, Jill LaVine is here. It was nine years ago, February 13th, that we pulled together a meeting in the registrar's office in Sacramento County that I started talking about this. People said, well, what are you talking about? Where's your system? So we had to build a system to show people.

We're still a long way from having the kind of system that is a really transparent and can instill voter confidence.

Another thing I heard today was the need for a standard data format. Well, it's there. I mean, the EML -- I think the fellow from Sequoia mentioned it. But we're moving toward greater acceptance of the EML, which there is an international group called Oasis that has created this standard.

I think part of the reluctance is that standard was developed in Europe, so some of it is kind of shoe horned for U.S. elections. But it can be adapted. It is being adapted. We're up to EML 6 now. And there shouldn't be any more confusion about what standard to go to. It's the election markup language, the EML. And I hope to hear that in the future as well that we're moving to a real standard here.

Another thing that I did not hear today and I've asked to -- I've brought up this question

before. I never heard an answer. And that is, where I vote, for example, there are 230 poll sites. What I heard from our election officials is that in February (2008, Placer County) there were a total of nine ballots cast on the accessible voting machines. That means that 95 percent of poll sites that have these systems, *nobody* -- nobody used them.

And I think that we need to look at why these systems aren't being used. I mean, the fact is we need to own up to the fact that disabled voters by and large, vote at home. And we need to have accessible voting that is -- for example, the fillable PDF file -- usable at home. For example, blind people have special readers so the computer can read the text to them. They use these systems at home. And there should be much greater concentration on accessible voting at home. Because that's where they vote. And we're just denying the reality of the situation.

Now, part of the reason is that the accessible voting machines have made setting up poll sites very cumbersome. As we've heard from some professionals here that it's hard to train people. It's hard to get people to learn how to work these systems. That's driving us to absentee voting, and it shouldn't. We should look at, for example, maybe the voting centers for accessible voting and to work on making more accessible voting systems use at home.

Right now, what I see election officials in California doing is waiting for the federal government and the EAC and the vendors to provide solutions. And I think that the government needs to be much more proactive, much more aggressive in being prescriptive for what they want. And I'm of the view that a consortium of the state and the counties and hardware makers, vendors, and consultants is the way to go.

Thank you.

[end of oral testimony... addition written comments follow]

In 2000, the serious flaws in the U.S. voting system were revealed to the world. This hearing was at once, both discouraging and encouraging. Discouraging because we seem to be no closer to a solution than we were nine years ago. But we have to be encouraged because there has been some progress.

From OVC's perspective, a durable solution will meet three requirements:

1. A good inexpensive voting machine that is accessible, secure, easy-to-use, and that prints an unambiguous paper ballot. We call this an Electronic Ballot Printer (EBP).

2. All software used in the voting system -- for tabulation, election management as well as for the EBP -- should be open source. This means peer-reviewed and non-proprietary. Disclosed proprietary software code is a step in the right direction but does not quite get us where we need to be.
3. Open Standards: All election data should use a common data format.

So, when I say it seems we're no closer to a solution than we were nine years ago, it's because we have none of these three things in the voting system today.

We have phased-out punch card voting systems, lever machines, and paperless electronic voting machines. This is progress. We also see steps toward achieving the three requirements OVC has been working for: the EBP, open source, and open standards.

From the transcript, I counted 30 instances of "open source" before the public comments. It used to be we would only hear "open source" during the public comments. This is encouraging. Interestingly, the date of this hearing, Feb 8th, is four years to the day from the first government public hearing anywhere on open source for election systems. That hearing (8 Feb 2006) was held at the behest of OVC by the State Senate's elections committee led by Senator Debra Bowen. I worked with Senator Bowen's staff (now Secretary of State Bowen's staff) -- especially Evan Goldberg and Jenny Bretschneider -- to make that hearing happen.

Perhaps the most encouraging thing I heard this day was that the federal government is moving forward with the Electronic Ballot Printer (EBP) concept. Bob Carey, Director of the Federal Voting Assistance Program (FVAP), explained how overseas and military voters will be able to make their selections using a computerized interface and then print out their finished ballot. This EBP concept is the very thing we want to see employed in all absentee voting as well as poll site voting. Hurray for this important step in the right direction!

I brought up some issues about accessible voting that need to be aired. Nobody is talking about the fact that almost all voters with disabilities vote at home. All the focus on accessible voting has been on the need to provide an accessible voting machine at the poll site. These systems are currently very expensive and are driving the cost of having poll sites. We use DREs (with VVPAT) and Electronic Ballot Markers (EBM) for this purpose, which run between \$4000 and \$6000 per machine. The EBP is potentially a small fraction the cost and will work as well or better than the DRE or EBM. The EBP should be implemented as soon as possible at the poll sites. And we need to look at how to make voting at home more accessible to voters with disabilities, because that's where almost all of them fill out their ballots.

The idea of "banding together" to create solutions was mentioned a few times at the hearing. This too is something I have been advocating over the past nine years. This concept is embodied in the consortium. Finally, it was good to hear that Sequoia is starting to use the Election Markup Language (EML).

Alan Dechert  
Open Voting Consortium  
Granite Bay, California