

STATEMENT OF BRAD FRIEDMAN
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FOR

**THE U.S. ELECTION ASSISTANCE COMMISSION'S
"VOTING ADVOCATE" ROUNDTABLE DISCUSSION
ON PROPOSED 2007 VOLUNTARY VOTING SYSTEM GUIDELINES
THURSDAY, APRIL 24, 2008**

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I wish to thank the EAC for extending an invitation to The BRAD BLOG to participate in today's roundtable discussion. The effort to reach out to citizen election integrity advocates is long overdue for this commission. I hope that this meeting will be just the first step, as long as this body remains commissioned, towards an increased effort to begin welcoming the most important stakeholders in our elections – the citizens themselves – into a process that has, since the EAC was convened via the Help America Vote Act of 2002, remained far too long as the near-exclusive domain of those who profit from it, and those who have been tasked with administrating our elections as servants on behalf of those citizens.

While being asked to offer input, from a "Voting Advocate" standpoint, on the proposed 2002 federal [Voluntary Voting System Guidelines](#) (VVSG), I was immediately struck by the 598 pages of technical specifications for new electronic voting systems. While nearly complex enough to ensure safe passage to the moon and back, the proposed standards, unfortunately, fail to offer the simplicity and transparency necessary for the simple task of adding one plus one plus one, in such a way that *every* American citizen can enjoy confidence that their voting system works, and that every vote has been counted -- *and counted accurately* – to each voter's intent.

I should note that counting votes accurately, in and of itself, is not enough if only a select group of privileged corporate insiders, elected or selected government officials, or computer scientists, engineers and security "experts", are granted permission to review data unavailable to the general public.

Accurate vote counts are ultimately meaningless if we, the people, are unable to know that they are, indeed, accurate.

Confidence in the accuracy and security of voting systems, as attested to by only selected, privileged individuals, cannot -- and must not -- ever be tolerated as a substitute for the rights of we, the people, to ensure our government is truly one selected of the people, by the people, and for the people.

To that end, while I applaud the assiduous and exacting attempts of the scientists, engineers and security experts of the Technical Guidelines Development Committee (TGDC) who have worked on with the National Institute of Standards and Technology (NIST) to develop the proposed 2007 VVSG, I feel it necessary to trumpet the clear and unambiguous message of all of the American citizens who are *not* computer scientists, not computer technicians, not computer security experts, not election administrators and not "election industry" corporate insiders.

While the currently proposed VVSG makes a valiant effort at dealing with crucial, yet unaddressed or poorly-addressed issues in previous sets of voluntary federal voting system standards, ultimately, the latest update serves to do little more than encourage and enable the continued use of voting devices and machinery which overcomplicate our voting process. The blizzard of technical specifications serves only to obscure the fact that, even if such specifications are followed to the satisfaction of federal testers, it will likely continue to remain next to impossible for *citizen voters* to determine for *themselves* whether or not reported election results are truly accurate.

Just as previous voluntary federal standards have enabled Election Officials around the country to point to their selected voting systems and proudly (if often cynically) declare them to be “secure and accurate”, simply because they reportedly met such standards during secret testing, I am concerned that these “new and improved” standards will similarly be used to offer a *chimera* of “security and accuracy” to voting systems which, nonetheless, require blind faith in the system itself. Therefore, the message I hope deliver to you today, on behalf of election integrity advocates – otherwise known as citizen voters -- on the ground, from across the entire country is that *if we cannot see it, we cannot trust it*.

As I am unable to attend the roundtable in person, I’ve asked Dr. Rebecca Mercuri to represent the interests of The BRAD BLOG today, and am confident she will be able to expound on the details – specific, technical and otherwise – of how that idea translates into practical standards for any voting system worthy of our representative democracy.

In this statement, I hope to deliver the crystal-clear, unambiguous, no-uncertain-terms demand that America deserves nothing less than a transparent, secure voting system, which *every* citizen can oversee, *every* step of the way – whether or not they happen to be a computer expert, election officials, or voting machine vendor or employee -- so that we, the people, may have a fighting chance for an election system, and election results, in which we, the people, can truly grant our confidence.

I recognize that the administration of such systems, particularly at the federal level, with so many jurisdictions and legal requirements in fifty different states and thousands of counties across the country, is no simple task. I also recognize the responsibilities of the citizenry in participating in, and overseeing, the often-complicated processes and exacting standards which are necessary to ensure the private, secure, and accurately counted ballot of every citizen who wishes to exercise their franchise in an American election.

Similarly, I appreciate that various, yet limited, concessions and compromises in full voting system transparency may have to be sacrificed in order to offer accommodations for blind and disabled voters who may choose to vote “privately and independently,” as HAVA requires, without the aid of a human assistant.

But while the process to accomplish all of the above may be often-complicated, it needn’t be overly-complicated.

Neither must it be allowed to forever become the private property of private corporations who have alarmingly subverted the *public* process of American democracy by converting it into their own exclusive, privileged, proprietary domain.

Neither must our public servants, granted the privilege of administering our public elections on behalf of the people, continue to enable and serve those private, proprietary interests over the public interests and rights of we, the people.

In that light, I call for an immediate end to the dangerous path this commission continues to enable in their support of the fully faith-based, privatized, proprietary, non-transparent voting systems which have disabled and deprived us -- we, the people -- from being able to assure that elections results indeed represent the consent of the governed.

The Election Assistance Commission has overseen and enabled a federal process which, up until now, has granted a federal blessing to voting systems such as Direct Recording Electronic (DRE/touch-screen) devices for which it is literally impossible for *anyone* to prove that *any* single vote, ever cast on such a system during *any* actual election, for *any* candidate or initiative on the ballot, has *ever* actually been cast and recorded accurately to the intent of *any* voter.

I extend the invitation -- to *any* vendor or official, including any member or employee of this commission -- to prove otherwise, and to demonstrate that any such vote was *ever* recorded accurately during *any* American election. Even as I well understand that that proof, the minimum any citizen could ever ask for in regard to their voting system, will never come.

That such unverifiable systems are in use today -- and will be used again by *millions of voters* this November -- is an unmitigated disgrace, and underscores a massive collective failure of common-sense oversight and a nearly-unforgivable delinquency by those charged with that task at the federal level.

Such a failure is also the result of previous collective efforts by federal commissions and enabled bodies which have preceded this one, and of anyone who would allow or encourage the use of such systems in our democracy, be it this week, this November, or in any American election to come.

The very basis for our Constitutional system is one of checks and balances. Yet without the ability to apply such checks and balances, such as with the DRE systems used to record millions of votes in this year's election cycle alone, the citizens have been completely blinded and robbed of their right and ability to assure the consent of the governed.

We have been forced, for too many years now, to merely accept the pronouncements of election officials -- who themselves have been forced to accept the pronouncements of flawed, error-prone, under-tested, easily-manipulated computer systems and processes which purport to count ballots, often invisibly, and almost always secretly -- without having the ability to perform our constitutional right and duty of oversight for every step of the process. Without such a paramount ability, it has become nearly impossible to carry out anything that has a chance at being seen as a truly successful election.

Following the 2004 Presidential Election debacle, Green Party Presidential candidate David Cobb declared, at a citizen's hearing in Ohio: "Either every vote is sacred, or our democracy is a sham."

Unfortunately, with electronic voting and tabulation systems such as those in use across our country today -- and assured for continued use tomorrow, and for decades to come, should the mind-numbingly technical,

absurdly over-complicated, and dangerously flawed VVSG be approved and used as a basis for federal voting system certification – American democracy is certain to continue its ill-conceived sprint straight over a treacherous and damnable cliff.

We, the people, cannot possibly succeed in our efforts, and duty, to assure the sacredness of every vote, if the *secret-ness* of the very processes of counting those votes, and counting them accurately, has taken precedence over the right of we, the people (not we, the computer scientists, or we, the corporate insiders) to assure the integrity of that process and the accuracy of each and every ballot tabulated.

Without that ability, democracy surely, as Mr. Cobb stated, becomes little more than “a sham.”

To that end, it’s my hope that the process embarked on today will begin to lead us to back *away* from the precipice we have been sprinting toward, with alarming speed, for far too long. I hope the simple benchmark of “if we can’t see it, we can’t trust it,” will become a siren song for all of those entrusted with the privilege of developing, creating, implementing, adopting, testing, approving and overseeing “voting technology” and systems worthy of our representative democracy.

While both Dr. Mercuri and I recognize the necessity of ensuring we, the people, *can* observe every step of the voting process (with the exception of the citizen’s privileged moment while filling in, and casting their ballot), we also realize that such transparency, alone, does not necessarily translate into an automatic grant of “trust” in the system. But in the use of systems which afford such transparency, at least, we, the people, will then have a fighting chance of gaining trust in their use.

Coupled with transparent, well-documented, publicly available and fully-observable security processes and chains-of-custody for every element of the voting system, we, the people may once again be able to work to ensure that every vote *is* sacred and American democracy will no longer be seen around the world – as it too-frequently now is -- as little more than a sham.

It is with those principles in mind that we offer input towards the specific questions that you’ve given to us, in regard to the proposed 2007 VVSG. And it is in that spirit that we hope you, the commission, and the other esteemed “Voting Advocates” might join us in careful consideration of the questions posed, concerning the new, proposed technical specifications for voting systems, as presented by the document in question.

As mentioned, we find the document ultimately lacking in many respects, upon which Dr. Mercuri will elaborate in additional technical detail, both in her written testimony and via her personal participation at the roundtable itself.

But I’d like to offer just two concrete examples of flaws immediately noticeable, from a citizen voter’s point of view, in the proposed guidelines.

The first example is found in the “Purpose” of the standards, as defined in section 3.1.1 describing the “challenge” hoping to be met by the 2007 VVSG. That challenge is said described as one “to provide a voting system that voters can use comfortably, efficiently, and with justified confidence that they have cast their votes correctly.”

While such objectives are certainly worthy, the statement itself, as with much of the rest of the document, fails to even consider the simple question of whether voters can have “justified confidence” that their votes have been *counted* accurately by federally approved systems.

Comfort, efficiency and confidence in having *cast* a vote -- without the appropriate attention to whether or not “justified confidence” can be obtained by every voter that such comfortable, efficiently cast ballots have accurately been tabulated – leaves our electoral system in the same alarming shambles that it has become. How such an egregious oversight could find its way into such a document is simply beyond me.

Another example of where the VVSG falls far short of what citizens require from any federal voting system standards, is the lack of definition for the concept of “transparency” itself.

Though the word is used a precious few times throughout the 598 pages of proposed technical standards, and even though the first-named subcommittee established by the TGDC in 2004 was the “Security and Transparency” subcommittee, the concept or definition of a voting system, fully *transparent* to the *voter* for whom its designed, is nowhere to be found in the voluminous document.

While Dr. Mercuri will offer more such insight and concerns to you today, I must stress, however, that our involvement and participation in this process, may not be offered or used by the EAC or any of its subcommittees or representatives thereof – in any way, shape or form – as representing approval of this process, or endorsement of its ultimate outcome, including any version of the VVSG which may become approved for federal use by this commission.

Both Dr. Mercuri and I have extensive, and noteworthy, technical backgrounds, with considerable joint expertise in computer programming, design, security and other related issues. But today, we come to this panel in hopes of representing the voice of the *citizenry* for whom this body has been commissioned to serve.

Therefore, the concerns expressed in this statement, in initial response to your submitted technical questions, are approached of...

...the more than 12,000 citizen voters whose legally and accurately cast votes were discarded because it was inconvenient to count them after the *federally qualified* optical-scan systems, marketed by the ES&S corporation, were programmed in such a way that they could not tabulate ballots correctly during the 2008 Democratic Primary in Los Angeles County;

...the 18,000 citizen voters who were most-assuredly disenfranchised when the *federally qualified* ES&S iVotronic touch-screen systems in Sarasota County’s 13th Congressional District election failed to record their votes properly in 2006;

...the thousands of disenfranchised citizen voters who saw their votes flip before their very eyes on *federally qualified* touch-screen voting systems made by Diebold and Sequoia and ES&S and other vendors all across the country in 2004, only to be told when they attempted to alert officials and media, that they were crazy, sore losers, conspiracy theorists or that it didn’t really matter anyway;

...the 4,500 citizen voters who had no idea that their votes would be completely lost by the *federally qualified* UniLect Patriot voting system in Carteret County, NC that same year.

...And as importantly, if not more so, those citizens who have sacrificed their lives, over decades of American history, on these shores, and overseas, to assure that every American citizen could exercise their right to cast their legal vote, privately and independently, that every vote would be sacred, counted and counted accurately, and that American democracy might be seen the world over as anything but a sham.

In closing, I'd like to draw your attention to the mission statement constructed by a small, but diverse group of citizen election integrity advocates, including members of the media, an election official and even a vendor, who gathered recently in Northern California. Our hope in crafting the statement (I was honored to be one of the attendees) was to find common ground, and prepare for the continued, long, and eternally vigilant fight we all face to ensure the United States meets its promise as "the world's greatest democracy."

In eight simple words, certainly far fewer than 598 pages, or even the 6 pages of this document, we defined the heart of the mission I challenge all Americans – whether public servant, advocate, vendor or elected official – to join. The mission, officially adopted as "[The Creekside Declaration](#)" on March 22, 2008, as reported by both Robert Koehler in his [syndicated Tribune Media Services column](#), and by myself [at The BRAD BLOG](#), is simply: "To encourage citizen ownership of transparent, participatory democracy."

That ideal must underscore every effort we take today, tomorrow, and in the months and years ahead, as we all work to ensure the continued citizen ownership of a transparent, participatory democracy.

That must become *your* mission at the EAC. Meeting that ideal must underscore your adoption of any new federal voting system guidelines. "*If we can't see it, we can't trust it.*" If it does not aid in the mission to "*encourage citizen ownership of transparent, participatory democracy,*" it must not be adopted or implemented.

America deserves standards no lower, and we hope you will pledge to join me and millions of citizens towards those ends.

I thank you again for allowing The BRAD BLOG into this process, along with the millions of concerned citizens who follow, support and share in our work on a regular basis, and to whom we feel duty bound to give voice to today. I hope that more opportunities will arise to bring more of the stakeholders together (and we consider the *voters*, on whose behalf I hope to write today, to be the primary, yet most-ignored, stakeholders of all in this process) in hopes of finding a more productive, more constructive and less divisive path on which we can all proceed towards what I hope is the shared goal of a clean, fair, open, accurate, secure and *transparent, participatory* democracy in which we can all, one day – hopefully very soon -- have full confidence.

Brad Friedman
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