

**Written Testimony of Terry Jarrett
General Counsel to the Honorable Matt Blunt, Missouri Secretary of State
Before the
House Committee on Government Reform
Subcommittee on Technology, Information Policy,
Intergovernmental Relations and the Census
July 20, 2004**

Thank you Mr. Chairman and distinguished members of the Subcommittee. It is an honor to have the opportunity to testify at today's hearing on "The Science of Voting Machine Technology: Accuracy, Reliability and Security." I am Terry Jarrett, General Counsel to Missouri Secretary of State Matt Blunt. Secretary Blunt's schedule would not allow him to be here today, and he asked me to express his regrets. He wants me to convey to this Subcommittee his appreciation in allowing me to testify on his behalf. Secretary Blunt specifically asked that I thank a distinguished member of this Subcommittee—Congressman William Lacy Clay from our home state of Missouri—who has been a leader in election reform efforts in the City of St. Louis. He has been particularly interested in the City's compliance with a Consent Decree between St. Louis City and the Department of Justice relating to the handling of the City's inactive voter list. Secretary Blunt appreciates his concern and his efforts to ensure that the 2004 elections in St. Louis will be free from many of the problems that occurred during the November 2000 election.

Secretary Blunt has asked me to address the security of Direct Recording Electronic (DRE) voting machines – also known as "touch screen" machines – specifically, whether to require DREs to produce a voter verified paper ballot. Secretary

Blunt has worked over the past three years that he has been Missouri's Secretary of State to ensure that our elections are above reproach, and that our citizens have confidence in the process and, most importantly, the results. That is why he decided earlier this year that he would only certify DRE voting machines that produce a voter verified paper ballot. This will provide voters with the peace of mind they deserve on Election Day by enabling them to review their ballots prior to casting them and ensure that paper ballots are available for review should a recount be necessary or an election result challenged.

One of Secretary Blunt's first acts as Secretary of State was to appoint and convene a bipartisan commission of election experts to recommend changes and improvements in our elections laws and procedures. The commission met several times and conducted a series of public hearings in which 18 Missouri communities participated. During the hearings, over 125 Missourians voiced their opinions with many also providing written testimony. In addition, many Missourians submitted their thoughts on the election process via e-mail, fax and regular U.S. mail. Out of this very open process came many recommendations for improvements that have since been implemented in Missouri. One of the commission's recommendations was to amend Missouri law to allow for the use of touch screen voting systems so long as safeguards are in place to ensure the integrity of votes cast and create a paper audit trail in case of a contested election. Secretary Blunt heard from many Missourians who expressed their preference that touch screen voting machines produce a paper ballot so that they can verify their votes before they are cast. At this point in time Secretary Blunt is convinced that a voter

verified paper ballot is the only “paper audit trail” that can provide voters with a reasonable assurance that their vote will not be lost, destroyed or otherwise not counted.

Computers have opened up a whole new array of technical possibilities for the casting and counting of votes. Manufacturers are moving quickly to embrace innovation. Secretary Blunt believes that technology can and should be used by government to improve efficiency and service as well as provide cost savings for taxpayers. This new technology promises to open up voting to people who have not been able to participate fully in the voting process—the disabled. Yet, in our urgency to improve and upgrade voting systems, we must not certify equipment and systems that have the potential to cast doubt on the integrity of an election. Effective security standards and procedures must be considered and implemented.

Secretary Blunt has also heard from a number of local election officials, and I want to say a word about them. They eagerly await the opportunity to provide voters with the benefits that technology can provide. Local election officials are on the “front lines” of voting, and I urge this subcommittee to seek their input as it addresses the important issues raised by today’s hearing.

There is a growing consensus of computer science experts, elections officials, voter advocacy groups and political leaders that touch screen voting systems should produce a voter verified paper ballot so voters can inspect their ballots before they are cast to ensure they were marked as intended. Almost daily, reports in the newspaper and other media outlets support this view. For example, recently the following events have occurred:

- On May 5, 2004, the Election Assistance Commission held a public hearing on the present status of computerized voting systems.
- On April 30, 2004, California Secretary of State Kevin Shelley banned the use of touch screen voting systems in four counties and decertified all touch screen systems in California until they could produce a voter-verified paper trail.
- On April 22, 2004, a lawsuit was filed in Maryland challenging use of certain DREs that do not create a voter verified paper trail. On June 25, the plaintiffs in that case filed a motion for preliminary injunction barring Maryland from using certain DREs in the November 2004 election.

A voter verified paper ballot providing local election officials and the courts with access to actual ballots for recounts if one is necessary or in the event that the electronic equipment is damaged or malfunctions would be just as important. There are bills now pending in Congress that would require a voter verified paper ballot for electronic voting systems. Representative Clay is a co-sponsor of just such a bill, H.R. 2239, the Voter Confidence and Increased Accessibility Act. Perhaps at some point in the future technological advances will be such that electronic voting system security can be assured without voter verified paper ballots. However, that does not appear to be the case today. Until we can be positive that electronic voting systems are secure, a voter verified paper ballot is the best way to make voters feel confident in the legitimacy of elections.

I appreciate that this Subcommittee recognizes the importance of this issue by having this public hearing. Thank you again for the opportunity to share Secretary Blunt's views with the Subcommittee.