

TESTIMONY for the GAE February 18, 2009
Submitted by Christina Spiesel

To the Honorable Co-Chairs Slossberg and Spallone and members of the committee:

My name is Christina Spiesel and I am a member of the board of True Vote Connecticut. I live in New Haven where I am, among other things, a scholar who writes about digital technologies and their relationship to the law. I hasten to add that while I have law school appointments, I am not a lawyer and cannot represent the profession. I want to make a few general observations about values that should guide you.

When the Help America Vote Act became law, it had laudable goals to provide for accessible voting for all Americans. What it didn't have was any idea at all about what makes for a good voting system. I would suggest that there are four obvious criteria against which any voting system must be measured to provide for free and fair elections, the foundation of our democracy.

1) Any system of voting must be transparent. Citizens should know how their votes are cast and what is done with them to come to a common decision in an election. The more different systems there are of casting ballots, the more difficult it becomes to realize this goal because no one can see the whole picture of what is happening.

2) Ballots must be cast with privacy. We've all seen pictures of third world elections where people put their ballots in one box or another with soldiers guarding them. That is not a free election process.

3) Elections must be capable of being recounted in a manner that includes voter intent in the event of controversy or malfunction. We've had plenty of recent history on the importance of both of these.

4) Any system used for voting must be audited for performance – and this function is separate from recounts. This could relate to machine factors and human factors which may have nothing whatsoever to do with corruption or deliberate efforts to alter electoral outcomes. This is a new one for many but it arises when we are using the kinds of technologies that have electronic components which Connecticut's optical scan machines do.

All of these pieces need to be in place for citizens to have confidence that their votes count and that the outcome of the election will reflect the will of the people. In the last eight years we have seen in the news many examples of problems and examples of citizens showing that they do indeed care about their rights to vote. So I urge you to examine any proposed voting law in the light of these criteria.

By all of them, any Internet voting schemes (and many electronic technologies) fail to pass the test. Why is this? Because they are not transparent, they cannot guarantee a private ballot once the send button has been pushed; they cannot provide for a recount of the actual ballot (receipts won't cut it) and the whole system cannot be observed because of the way digital data is passed around the world through many servers – and all information technology sites have human operators with full access to that which passes through them.

Here's the problem. Most of us now use computers to accomplish our daily lives, to give us pleasure, communicate with others. But buying things we want, donating to candidates, and joining on-line communities, even doing our banking on line are different from exercising power over communities. A different standard of scrutiny needs to be applied. Everything else we do we can verify one way or another because we have our own record of it. With voting, which leads to state power, there are more incentives for people to try to capture the election. Internet voting would confer that power – not on all of us but on those with access to servers and transmissions. All it took was a couple of technicians and a closet for ATT to cooperate with a dubious request from the highest levels of our government to capture, through automatic copying, all electronic communications traffic passing through its lines.* On Election Day, it would be possible to do the same thing, to alter the vote before it arrives at its destination, so that the voters at one end and the counters at the other would have no idea that there was an attack in the middle.** This is a risk that ought not be run even if the reasons, such as increased voter participation, are laudable.

You, members of the GAE, are charged with the obligation to choose those paths that will make our democracy real and to defend it against private self interest. I understand that there are many pressures from many sides and that this new age requires you and me to learn things we never thought we would have to learn about the guts of machines. All of this acknowledged, decisions become clearer if you are guided by basic principles.

Two useful references:

*On the ATT matter: See John Markoff and Scott Shane, "Documents Show Link Between AT&T and Agency in Eavesdropping Case," *New York Times* (April 13, 2006); Ryan Singel, "Spying in the Death Star: The AT&T Whistle-Blower Tell His Story," <http://www.wired.com/politics/onlinerights/news/2007/05/kleininterview>

**On the "man in the middle attack" described above: outlined by security expert Bruce Schneier with reference to a hostage rescue operation in Columbia (http://www.wired.com/politics/security/commentary/securitymatters/2008/07/securitymatters_0710)

REGARDING SPECIFIC BILLS:

Committee Bill No. 5903: AGAINST. Given current technology, Internet voting is insecure, not private, inappropriate until major technological advances have occurred to make its use both secure and verifiable.

Bill 909: I have no problem with much of this bill, but it should not be passed without changes in the following sections:

AGAINST Sec. 23. Section 9-242 : the official and legally binding ballot should be the **paper**, not the information in the tabulator. The paper ballot is the only one that can be truly linked to voter intent.

AGAINST Sec. 24. Section 9-242b: Direct Electronic Recording (DRE) machines ought to have **no** place in our elections due to their fundamental flaws.

Sec. 44. Section 9-309: in principle, the paper printout should be the official total but only if the ballot of record is, finally in the event of a controversy or an audit not the printout but the paper ballots themselves.

HB 6441: RECOMMEND PASSAGE. All voting systems involve a combination of means and people who administer. This bill helps to refine obligations and creates needed penalties.

In addition:

I support the creation of an independent audit board to carry out the mandated (and very necessary) audits. This would remove a fundamental conflict of interest when the same person contracts for equipment and services and then oversees their use.

