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August 30, 2006

VIA HAND DELIVERY

Kevin J. Kennedy
Kristofer Frederick
Ross Hein
State Elections Board
17 West Main Street, Suite 310
Madison, WI 53703

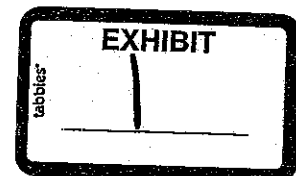
Dear Mr. Kennedy, Mr. Frederick and Mr. Hein:

Thank you for taking the time to meet with us yesterday to discuss the use of direct recording electronic voting systems ("DREs") in Wisconsin and our work on behalf of Voter Action Wisconsin.¹ We look forward to continuing a dialogue with you and the Elections Board on this important topic.

As has been demonstrated in other states, the use of DREs raises significant security and reliability vulnerabilities which pose a danger to the integrity of our national, state and local elections. Moreover, as stated in a Brennan Center for Justice report released earlier this year, "there is a substantial likelihood that the election procedures and countermeasures currently in place in the vast majority of states would not detect a cleverly designed software attack program." See "The Machinery of Democracy: Protecting Elections in an Electronic World," *Brennan Center Task Force on Voting System Security's Final Report* (2006).

More recently, the Election Science Institute released a comprehensive report on the use of DREs in Cuyahoga County, Ohio during the May 2006 primary election. A \$300,000 study paid for and commissioned by Cuyahoga County itself, the report provides an in-depth analysis of the functioning of DREs in an actual election setting and concludes that "the election system, in its

¹ Voter Action Wisconsin is a project of Voter Action (www.voteraction.org), a not-for-profit organization that provides legal, research and organizing support to ensure election integrity in the United States. Voter Action is working to identify the causes of election irregularities and providing strategic and legal support to ensure verifiable, accurate and transparent voting systems across the United States. In accomplishing this objective, Voter Action has been involved with lawsuits filed in seven states challenging the use of DREs.



entirety, exhibits shortcomings with extremely serious consequences, especially in the event of a close election." See "DRE Analysis for May 2006 Primary, Cuyahoga County, Ohio" *Election Science Institute* (Aug. 2006).

Because of the problems experienced in other jurisdictions and highlighted in these reports and other studies, we will be monitoring the September 12 fall primary election for issues arising out of the use of DREs in Wisconsin. Voter Action will also be monitoring the use of DREs in other states during their respective elections this fall. And, based on our discussion today, it appears that the Board and its staff will be engaged in similar observations and a review of the DREs' performance. The results of this monitoring as well as any other developments with the use of DRE's will determine the course of our work in Wisconsin and possible efforts to decertify the use of certain DREs.

We appreciate the time that each of you took yesterday to meet with us and look forward to working with you on these issues in the coming months.

LA FOLLETTE GODFREY & KAHN

Mike B. Wittenwyler
Rea Holmes

cc: Pam Porter

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