# General Election State And County November 2006 Precinct Report — Official
## Nueces County — Joint Election 11/7/2006
## Official Ballot — November 07, 2006

## Precinct 025 (Ballots Cast: 136)

### Straight Party, Vote For 1

<table>
<thead>
<tr>
<th>Party</th>
<th>Candidate</th>
<th>Absentee</th>
<th>Early</th>
<th>Election</th>
<th>Total</th>
</tr>
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<tbody>
<tr>
<td>REP</td>
<td>Republican Party</td>
<td>0 0.00%</td>
<td>6 66.67%</td>
<td>16 55.17%</td>
<td>22 56.41%</td>
</tr>
<tr>
<td>DEM</td>
<td>Democratic Party</td>
<td>1 100.00%</td>
<td>3 33.33%</td>
<td>13 44.92%</td>
<td>17 43.99%</td>
</tr>
<tr>
<td>Lib</td>
<td>Libertarian Party</td>
<td>0 0.00%</td>
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<td>0 0.00%</td>
<td>0 0.00%</td>
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### U.S. Senator, Vote For 1

<table>
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<th>Candidate</th>
<th>Absentee</th>
<th>Early</th>
<th>Election</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>REP</td>
<td>Kay Bailey Hutchison</td>
<td>0 0.00%</td>
<td>25 83.67%</td>
<td>74 74.06%</td>
<td>100 75.76%</td>
</tr>
<tr>
<td>DEM</td>
<td>Barbara Ann Radnofsky</td>
<td>1 100.00%</td>
<td>5 16.13%</td>
<td>21 21.00%</td>
<td>27 20.45%</td>
</tr>
<tr>
<td>Lib</td>
<td>Scott Lanier Jameson</td>
<td>0 0.00%</td>
<td>0 0.00%</td>
<td>5 5.00%</td>
<td>5 3.79%</td>
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</table>

### U.S. Representative, District 27, Vote For 1

<table>
<thead>
<tr>
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<th>Candidate</th>
<th>Absentee</th>
<th>Early</th>
<th>Election</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>REP</td>
<td>Vln. &quot;Willie&quot; Vaden</td>
<td>0 0.00%</td>
<td>17 56.67%</td>
<td>60 61.22%</td>
<td>77 59.68%</td>
</tr>
<tr>
<td>DEM</td>
<td>Solomon P. Ortiz</td>
<td>1 100.00%</td>
<td>12 40.00%</td>
<td>32 32.86%</td>
<td>45 34.88%</td>
</tr>
<tr>
<td>Lib</td>
<td>Robert Powell</td>
<td>0 0.00%</td>
<td>1 3.33%</td>
<td>6 6.12%</td>
<td>7 5.43%</td>
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### Governor, Vote For 1

<table>
<thead>
<tr>
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<th>Candidate</th>
<th>Absentee</th>
<th>Early</th>
<th>Election</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>REP</td>
<td>Rick Perry</td>
<td>0 0.00%</td>
<td>20 64.52%</td>
<td>51 49.51%</td>
<td>71 52.59%</td>
</tr>
<tr>
<td>DEM</td>
<td>Chris Bell</td>
<td>1 100.00%</td>
<td>3 9.68%</td>
<td>19 18.45%</td>
<td>23 17.04%</td>
</tr>
<tr>
<td>Lib</td>
<td>James Werner</td>
<td>0 0.00%</td>
<td>0 0.00%</td>
<td>0 0.00%</td>
<td>0 0.00%</td>
</tr>
<tr>
<td>IND</td>
<td>Richard &quot;Kinky&quot; Friedman</td>
<td>0 0.00%</td>
<td>3 9.68%</td>
<td>18 16.53%</td>
<td>19 14.07%</td>
</tr>
<tr>
<td>IND</td>
<td>Carole Keeton Strayhorn</td>
<td>0 0.00%</td>
<td>5 16.13%</td>
<td>17 16.56%</td>
<td>22 16.30%</td>
</tr>
<tr>
<td>IND</td>
<td>James &quot;Patriot&quot; Dillon (W)</td>
<td>0 0.00%</td>
<td>0 0.00%</td>
<td>0 0.00%</td>
<td>0 0.00%</td>
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### Lieutenant Governor, Vote For 1

<table>
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<tr>
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<th>Early</th>
<th>Election</th>
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<tbody>
<tr>
<td>REP</td>
<td>David Dewhurst</td>
<td>0 0.00%</td>
<td>25 80.65%</td>
<td>68 68.89%</td>
<td>93 70.99%</td>
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<tr>
<td>DEM</td>
<td>Maria Luisa Alvarado</td>
<td>1 100.00%</td>
<td>5 16.13%</td>
<td>27 27.27%</td>
<td>33 25.19%</td>
</tr>
<tr>
<td>Lib</td>
<td>Judy Baker</td>
<td>0 0.00%</td>
<td>1 3.23%</td>
<td>4 4.04%</td>
<td>5 3.82%</td>
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### TDP

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<td>Early</td>
<td>Election</td>
<td>Total</td>
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<tr>
<td>REP</td>
<td>Republican Party</td>
<td>12 80.00%</td>
<td>138 65.70%</td>
<td>155 73.31%</td>
<td>303 70.14%</td>
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<tr>
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<td>Democratic Party</td>
<td>3 20.00%</td>
<td>99 33.33%</td>
<td>53 25.24%</td>
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<tr>
<td>LIB</td>
<td>Libertarian Party</td>
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<td>2 0.37%</td>
<td>2 0.95%</td>
<td>4 0.83%</td>
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<td>15 50.00%</td>
<td>207 29.15%</td>
<td>210 31.56%</td>
<td>432 30.92%</td>
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<td>0 0.00%</td>
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<tr>
<td>Under Votes:</td>
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<tr>
<td>REP</td>
<td>Kay Bailey Hutchison</td>
<td>22 73.33%</td>
<td>501 72.09%</td>
<td>495 77.71%</td>
<td>1,018 74.74%</td>
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<tr>
<td>DEM</td>
<td>Barbara Ann Radnofsky</td>
<td>7 23.33%</td>
<td>187 26.91%</td>
<td>136 21.35%</td>
<td>330 24.23%</td>
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<tr>
<td>LIB</td>
<td>Scott Lanier Jameson</td>
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<td>7 1.01%</td>
<td>6 0.94%</td>
<td>14 1.03%</td>
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<tr>
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<td>Vern &quot;Willie&quot; Vafer</td>
<td>20 66.67%</td>
<td>395 55.14%</td>
<td>370 57.98%</td>
<td>773 59.07%</td>
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<tr>
<td>DEM</td>
<td>Solomon P. Ortiz</td>
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<td>302 43.14%</td>
<td>244 38.48%</td>
<td>555 40.69%</td>
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<tr>
<td>LIB</td>
<td>Robert Powell</td>
<td>1 3.33%</td>
<td>12 1.71%</td>
<td>23 3.53%</td>
<td>36 2.64%</td>
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<tr>
<td>Cast Votes:</td>
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<td>30 100.00%</td>
<td>700 98.59%</td>
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<td>Under Votes:</td>
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<td>10 1.41%</td>
<td>23 3.50%</td>
<td>33 2.36%</td>
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</tr>
<tr>
<td>REP</td>
<td>Rick Perry</td>
<td>18 60.00%</td>
<td>330 46.74%</td>
<td>363 55.50%</td>
<td>711 51.15%</td>
</tr>
<tr>
<td>DEM</td>
<td>Chris Bell</td>
<td>5 16.67%</td>
<td>172 24.36%</td>
<td>108 16.51%</td>
<td>285 20.50%</td>
</tr>
<tr>
<td>LIB</td>
<td>James Werner</td>
<td>0 0.00%</td>
<td>2 0.28%</td>
<td>1 0.15%</td>
<td>3 0.22%</td>
</tr>
<tr>
<td>IND</td>
<td>Richard &quot;Kinky&quot; Friedman</td>
<td>4 13.33%</td>
<td>85 12.04%</td>
<td>76 11.47%</td>
<td>164 11.80%</td>
</tr>
<tr>
<td>IND</td>
<td>Carole Keeton Strayhorn</td>
<td>3 10.00%</td>
<td>117 16.57%</td>
<td>107 16.36%</td>
<td>227 16.33%</td>
</tr>
<tr>
<td>IND</td>
<td>James &quot;Patriot&quot; Dillon (W)</td>
<td>0 0.00%</td>
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<td>0 0.00%</td>
<td>0 0.00%</td>
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<tr>
<td>Cast Votes:</td>
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<td>30 100.00%</td>
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<td>0 0.00%</td>
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<tr>
<td>Under Votes:</td>
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<td>0 0.00%</td>
<td>4 0.56%</td>
<td>3 0.46%</td>
<td>7 0.50%</td>
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<tr>
<td>Lieutenant Governor, Vote For 1</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>REP</td>
<td>David Dewhurst</td>
<td>22 73.33%</td>
<td>475 67.76%</td>
<td>464 72.73%</td>
<td>961 70.20%</td>
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<tr>
<td>DEM</td>
<td>Maria Luisa Alvarado</td>
<td>7 23.33%</td>
<td>209 29.81%</td>
<td>164 25.17%</td>
<td>380 27.76%</td>
</tr>
<tr>
<td>LIB</td>
<td>Judy Baker</td>
<td>1 3.33%</td>
<td>17 2.43%</td>
<td>10 1.57%</td>
<td>28 2.05%</td>
</tr>
<tr>
<td>Cast Votes:</td>
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<td>30 100.00%</td>
<td>701 98.73%</td>
<td>638 97.11%</td>
<td>1,369 99.00%</td>
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<tr>
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<td>0 0.00%</td>
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<tr>
<td>Under Votes:</td>
<td></td>
<td>0 0.00%</td>
<td>9 1.27%</td>
<td>19 2.89%</td>
<td>28 2.00%</td>
</tr>
</tbody>
</table>
## General Election State And County November 2006 Precinct Report — Official
### Nueces County — Joint Election 11/7/2006

### Official Ballot — November 07, 2006

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### Precinct 027 (Ballots Cast: 231)

<table>
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<tr>
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<th>Candidate</th>
<th>Absentee</th>
<th>Early</th>
<th>Election</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>REP</td>
<td>Republican Party</td>
<td>0 0.00%</td>
<td>7 22.58%</td>
<td>13 20.00%</td>
<td>20 17.88%</td>
</tr>
<tr>
<td>DEM</td>
<td>Democratic Party</td>
<td>10 100.00%</td>
<td>24 77.42%</td>
<td>49 75.38%</td>
<td>89 79.46%</td>
</tr>
<tr>
<td>LIB</td>
<td>Libertarian Party</td>
<td>0 0.00%</td>
<td>0 0.00%</td>
<td>3 4.82%</td>
<td>3 2.68%</td>
</tr>
</tbody>
</table>

**Cast Votes:**

- 16 72.73% 31 39.74% 65 49.62% 112 48.48%
- 0 0.00% 0 0.00% 0 0.00% 0 0.00%
- 8 27.27% 47 60.26% 66 50.38% 119 51.52%

**U.S. Senator, Vote For 1**

<table>
<thead>
<tr>
<th>Party</th>
<th>Candidate</th>
<th>Absentee</th>
<th>Early</th>
<th>Election</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>REP</td>
<td>Kay Bailey Hutchison</td>
<td>2 9.52%</td>
<td>37 50.00%</td>
<td>44 35.20%</td>
<td>83 37.73%</td>
</tr>
<tr>
<td>DEM</td>
<td>Barbara Ann Radnofsky</td>
<td>10 55.71%</td>
<td>37 50.00%</td>
<td>61 48.00%</td>
<td>126 61.82%</td>
</tr>
<tr>
<td>LIB</td>
<td>Scott Lanier Jameson</td>
<td>1 4.76%</td>
<td>0 0.00%</td>
<td>0 0.00%</td>
<td>1 0.45%</td>
</tr>
</tbody>
</table>

**Cast Votes:**

- 21 95.45% 74 94.67% 126 95.42% 220 95.24%
- 0 0.00% 0 0.00% 0 0.00% 0 0.00%
- 1 4.55% 4 5.33% 6 4.58% 11 4.76%

**U.S. Representative, District 27, Vote For 1**

<table>
<thead>
<tr>
<th>Party</th>
<th>Candidate</th>
<th>Absentee</th>
<th>Early</th>
<th>Election</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>REP</td>
<td>Vm. &quot;Willie&quot; Vaden</td>
<td>1 4.55%</td>
<td>24 31.17%</td>
<td>26 20.97%</td>
<td>51 22.87%</td>
</tr>
<tr>
<td>DEM</td>
<td>Solomon P. Ortiz</td>
<td>21 95.45%</td>
<td>52 68.63%</td>
<td>97 79.03%</td>
<td>170 77.13%</td>
</tr>
<tr>
<td>LIB</td>
<td>Robert Powell</td>
<td>0 0.00%</td>
<td>1 1.30%</td>
<td>1 0.81%</td>
<td>2 0.90%</td>
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**Cast Votes:**

- 22 100.00% 77 98.72% 124 94.68% 223 96.54%
- 0 0.00% 0 0.00% 0 0.00% 0 0.00%
- 0 0.00% 1 1.28% 7 5.34% 8 3.48%

**Governor, Vote For 1**

<table>
<thead>
<tr>
<th>Party</th>
<th>Candidate</th>
<th>Absentee</th>
<th>Early</th>
<th>Election</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>REP</td>
<td>Rick Perry</td>
<td>2 9.08%</td>
<td>21 27.63%</td>
<td>28 22.05%</td>
<td>51 22.67%</td>
</tr>
<tr>
<td>DEM</td>
<td>Chris Bell</td>
<td>17 77.27%</td>
<td>30 39.47%</td>
<td>61 48.03%</td>
<td>108 49.90%</td>
</tr>
<tr>
<td>LIB</td>
<td>James Werner</td>
<td>0 0.00%</td>
<td>1 1.32%</td>
<td>0 0.00%</td>
<td>1 0.00%</td>
</tr>
<tr>
<td>IND</td>
<td>Richard &quot;Kinky&quot; Friedman</td>
<td>14 12.91%</td>
<td>10 13.56%</td>
<td>12 3.94%</td>
<td>23 10.99%</td>
</tr>
<tr>
<td>IND</td>
<td>Carole Kenton Stayhorn</td>
<td>2 9.09%</td>
<td>14 18.42%</td>
<td>26 20.47%</td>
<td>42 18.63%</td>
</tr>
<tr>
<td>IND</td>
<td>James &quot;Patio&quot; Dillon (W)</td>
<td>0 0.00%</td>
<td>0 0.00%</td>
<td>0 0.00%</td>
<td>0 0.00%</td>
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</table>

**Cast Votes:**

- 22 100.00% 75 97.44% 127 98.86% 225 97.40%
- 0 0.00% 0 0.00% 0 0.00% 0 0.00%
- 0 0.00% 2 2.56% 4 3.56% 6 2.60%

**Lieutenant Governor, Vote For 1**

<table>
<thead>
<tr>
<th>Party</th>
<th>Candidate</th>
<th>Absentee</th>
<th>Early</th>
<th>Election</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>REP</td>
<td>David Dewhurst</td>
<td>1 4.55%</td>
<td>32 42.67%</td>
<td>38 29.92%</td>
<td>71 31.70%</td>
</tr>
<tr>
<td>DEM</td>
<td>Maria Luisa Alvarado</td>
<td>21 95.45%</td>
<td>41 54.67%</td>
<td>88 69.08%</td>
<td>160 66.30%</td>
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<tr>
<td>LIB</td>
<td>Judy Baker</td>
<td>0 0.00%</td>
<td>2 2.67%</td>
<td>1 0.78%</td>
<td>3 1.34%</td>
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</table>

**Cast Votes:**

- 22 100.00% 75 96.15% 127 96.95% 224 96.97%
- 0 0.00% 0 0.00% 0 0.00% 0 0.00%
- 0 0.00% 3 3.85% 4 3.05% 7 3.03%
## General Election_StateAndCounty_November 2006_Precinct Report — Official
Nueces County — Joint Election 11/7/2006
Official Ballot — November 07, 2006

### Precinct 028 (Ballots Cast: 98)

#### Straight Party, Vote For 1

<table>
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<th>Party</th>
<th>Candidate</th>
<th>Absentee</th>
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<tbody>
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<td>0 0.00%</td>
<td>1 33.33%</td>
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<td>Democratic Party</td>
<td>1 100.00%</td>
<td>2 66.67%</td>
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<tr>
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<td>Libertarian Party</td>
<td>0 0.00%</td>
<td>0 0.00%</td>
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<td>0 0.00%</td>
</tr>
</tbody>
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**Cast Votes:**
- 1 100.00%
- 3 13.64%
- 18 24.00%
- 22 22.45%

**Over Votes:**
- 0 0.00%
- 0 0.00%
- 0 0.00%
- 0 0.00%

**Under Votes:**
- 19 86.36%
- 57 76.00%
- 76 77.55%

#### U.S. Senator, Vote For 1

<table>
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<th>Candidate</th>
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<th>Early</th>
<th>Election</th>
<th>Total</th>
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<tbody>
<tr>
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<td>Kay Bailey Hutchison</td>
<td>0 0.00%</td>
<td>17 60.95%</td>
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<tr>
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<td>Barbara Ann Rednfsky</td>
<td>1 100.00%</td>
<td>4 19.05%</td>
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<td>15 15.46%</td>
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<tr>
<td>LIB</td>
<td>Scott Lanier Jameson</td>
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<td>0 0.00%</td>
<td>0 0.00%</td>
<td>0 0.00%</td>
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</table>

**Cast Votes:**
- 1 100.00%
- 21 95.45%
- 75 100.00%
- 97 98.98%

**Over Votes:**
- 0 0.00%
- 0 0.00%
- 0 0.00%
- 0 0.00%

**Under Votes:**
- 1 4.55%
- 0 0.00%
- 1 1.02%

#### U.S. Representative, District 27, Vote For 1

<table>
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<th>Candidate</th>
<th>Absentee</th>
<th>Early</th>
<th>Election</th>
<th>Total</th>
</tr>
</thead>
<tbody>
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<td>REP</td>
<td>Vln. &quot;Willie&quot; Valden</td>
<td>0 0.00%</td>
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<td>1 100.00%</td>
<td>7 33.33%</td>
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<td>32 32.99%</td>
</tr>
<tr>
<td>LIB</td>
<td>Robert Powell</td>
<td>0 0.00%</td>
<td>0 0.00%</td>
<td>0 0.00%</td>
<td>0 0.00%</td>
</tr>
</tbody>
</table>

**Cast Votes:**
- 1 100.00%
- 21 95.45%
- 75 100.00%
- 97 98.98%

**Over Votes:**
- 0 0.00%
- 0 0.00%
- 0 0.00%
- 0 0.00%

**Under Votes:**
- 1 4.55%
- 0 0.00%
- 1 1.02%

#### Governor, Vote For 1

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<th>Candidate</th>
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<tr>
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<td>1 100.00%</td>
<td>2 9.09%</td>
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<tr>
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<td>James Werner</td>
<td>0 0.00%</td>
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<td>0 0.00%</td>
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**Cast Votes:**
- 1 100.00%
- 22 100.00%
- 73 97.33%
- 98 97.98%

**Over Votes:**
- 0 0.00%
- 0 0.00%
- 0 0.00%
- 0 0.00%

**Under Votes:**
- 1 4.55%
- 0 0.00%
- 2 2.67%
- 2 2.04%

#### Lieutenant Governor, Vote For 1

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**Cast Votes:**
- 1 100.00%
- 20 90.91%
- 74 95.57%
- 95 98.94%

**Over Votes:**
- 0 0.00%
- 0 0.00%
- 0 0.00%
- 0 0.00%

**Under Votes:**
- 0 0.00%
- 2 9.09%
- 1 1.33%
- 3 3.08%
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**Precinct 030 (Ballots Cast: 78)**

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<th>Early</th>
<th>Election</th>
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<td>9 18.00%</td>
<td>12 15.38%</td>
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<td>Rick Perry</td>
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<td>0 0.00%</td>
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<td>8 28.00%</td>
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<tr>
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<tr>
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<td>3 11.54%</td>
<td>8 16.00%</td>
<td>11 14.47%</td>
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EXHIBIT

“G”
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

TEXAS DEMOCRATIC PARTY
and BOYD L. RICHIE, in his
capacity as Chairman of the
Texas Democratic Party,
Plaintiffs,

VS.                                         C.A. NO. 1:07-CV-00115

ROGER WILLIAMS, in his
capacity as Secretary
for the State of Texas,
Defendant.

* * * * *

ORAL DEPOSITION OF ANN McGEEHAN

On the 10th day of July, 2007, between
the hours of 9:59 a.m. and 1:24 p.m., in the Office of
the Attorney General, 300 W. 15th Street, 14th Floor,
Austin, Texas, before me, CYNTHIA VOHLKEN, a Certified
Shorthand Reporter for the State of Texas, appeared
ANN McGEEHAN, who, being by me first duly sworn, gave
an oral deposition at the instance of the Plaintiffs
in said cause, pursuant to the Federal Rules of Civil
Procedure.
ANN McGEEHAN,

having been first duly sworn, testified as follows:

EXAMINATION

BY MR. BRAZIL:

Q. Please state your full name.
   A. Ann McGeehan.

Q. And how are you employed?
   A. I'm Director of Elections for the Texas Secretary of State's office.

Q. Are you also an attorney?
   A. Yes.

Q. And how long have you been an attorney in the state of Texas?

Q. Have you ever been in private practice?
   A. Yes.

Q. When was that and what type of practice?
   A. That was for a short time in 1988 in Houston and I worked for a solo practitioner attorney in Houston who did commercial litigation.

Q. And after that where did you go?
   A. The Secretary of State's Office.

Q. So you have been with the Secretary of State how many years?
   A. It will be 18 years in September.

Q. What position or positions have you held with the Secretary of State's Office?
   A. I have been -- I was originally employed as a staff attorney and then I became the director of the legal section and then I became the director of the division in 1995.

Q. So you became the director of -- you got your current position in what year?

Q. You have given your deposition before, I assume?
   A. Yes.

Q. And you have taken a deposition, I assume?
   A. I personally have not, no.

Q. In private practice you never took a deposition?
   A. No. I was really only in private practice for about six months.

Q. How many times have you given a deposition?
   A. Maybe five, six.

Q. So this is not something new to you?
   A. No.

Q. What have you reviewed in the way of documents in preparation for your deposition today?
   And I want that to be a broad question. Everything
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1 from e-mails to statute to correspondence, anything of
2 that sort.
3 A. Well, to respond to the request for
4 production I reviewed, you know --
5 MS. WILSON: Wait, wait, wait. This is
6 for deposition?
7 MR. BRAZIL: Correct.
8 MS. WILSON: Okay. For the deposition.
9 What did you --
10 THE WITNESS: The deposition?
11 MS. WILSON: -- review for the
12 deposition.
13 A. I reviewed the Motion for Summary Judgment,
14 the State's Motion for Summary Judgment, and I
15 reviewed our responses to the interrogatories.
16 Q. (BY MR. BRAZIL) Whose responses?
17 A. The State's.
18 Q. Anything else? Any e-mails, any other type
19 of correspondence, any statutory authority, case
20 authority, anything of that sort?
21 A. Not in preparation for this deposition.
22 Q. Any studies, any organizational materials,
23 anything of that sort?
24 A. (Shakes head negatively).
25 Q. Other than the attorney representing you,

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1 have you discussed the nature of this deposition with
2 anybody in preparation for your deposition?
3 A. Also with our general counsel.
4 Q. Other than the general counsel. Anybody
5 outside the general counsel's office?
6 A. No.
7 Q. Such as someone with Hart?
8 A. No.
9 Q. Anybody else that you might have consulted
10 with in preparation for your deposition?
11 A. No.
12 Q. What do you do or what are your job
13 responsibilities and duties in your current position?
14 For those members of the public that don't even know
15 your office exists, can you tell them what you do?
16 A. Well, I oversee all the activities in the
17 elections division, and that includes -- our primary
18 duty is to assist and advise election officials. So
19 we have a group of attorneys, we have six attorneys,
20 that provide that advice and assistance. I oversee
21 that group, oversee their written communications and
22 work product. We have a voter registration division
23 that's responsible for maintaining the official list
24 of registered voters. I oversee that process. We
25 have an education and outreach department. I oversee

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1 State's Office as a person with knowledge of the
2 election process. You understand that?
3 A. Yes.
4 Q. Did you help prepare the State's response to
5 the request for production of documents?
6 A. Yes.
7 Q. Did you and your staff assist in gathering
8 those documents?
9 A. Yes.
10 Q. Are there a group of documents that the State
11 is keeping confidential at the request of Hart?
12 A. There are a group of --
13 MS. WILSON: Okay. I'm going to allow
14 this question. It's not on the list of questions
15 you -- that you wanted us to prepare on, okay. I
16 mean, I'm happy to give you this information. I
17 just --
18 MR. BRAZIL: The reason I'm asking,
19 since we're not going to get the documents today, I'm
20 trying to get some understanding of what documents we
21 will receive and what documents we will not receive
22 because we won't have those documents today, nor will
23 we have those tomorrow with the Hart representative.
24 MS. WILSON: Okay. All right. And
25 let's have this conversation on the record. Like I

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1 that department. We have an election funds management
2 division that administers limited funds for election
3 activities to the locals and I oversee that
4 department.
5 Q. And who do you report to? Who's your
6 immediate superior?
7 A. Well, we have a -- we just had a change in
8 transition, so the immediate supervisor is probably
9 Jay Dyer, or if we -- when we get an assistant
10 Secretary of State appointed, it will probably be that
11 person. Ultimately it's the Secretary.
12 Q. What was the last part? Ultimately --
13 A. Ultimately it's the Secretary.
14 Q. Secretary of State?
15 A. Uh-huh.
16 Q. Is that a "yes"?
17 A. Yes.
18 Q. Okay. I may remind you --
19 A. Okay.
20 Q. -- to give verbal responses. And if any time
21 during this deposition you do not understand one of my
22 questions, just say, "Scott, stop. Back up. Repeat.
23 Rephrase." Okay?
24 A. Okay.
25 Q. You've been designated by the Secretary of

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<td>1. MR. DUNN: It just seems to me, you know, why would we want the documents -- 2. MS. WILSON: I'm sorry. I said June 29th before. I meant July the 2nd. 3. Yeah. I said this week and -- and I was trying to tell you this is when you can expect the documents. If you have a problem with it, let me know. And now I'm being told that there's a problem with not having the documents here at the deposition. 4. It's -- I just feel like you're kind of hamstringing me here. I want you to be able to take the deposition that you're -- that the rules allow you to take.</td>
<td>1. MR. BRAZIL: Okay. Well, that answers my questions. So you're not -- 2. MS. WILSON: Please go ahead. 3. MR. BRAZIL: -- going to produce the documents today and you're not going to reproduce her on another date with the documents. 4. MS. WILSON: I'm suggesting that the questions that you have of the agency representative, I'm suggesting that you go on and ask them. 5. MR. BRAZIL: Okay. And you don't believe those areas are broad enough to inquire into those documents and the subject matter of those documents? 6. MS. WILSON: Mr. Brazil, I have told you I'm allowing the questions. I don't know what your problem is right now.</td>
<td>1. MR. BRAZIL: Okay. Well, that answers my questions. So you're not -- 2. MS. WILSON: Please go ahead. 3. MR. BRAZIL: -- going to produce the documents today and you're not going to reproduce her on another date with the documents. 4. MS. WILSON: I'm suggesting that the questions that you have of the agency representative, I'm suggesting that you go on and ask them. 5. MR. BRAZIL: Okay. And you don't believe those areas are broad enough to inquire into those documents and the subject matter of those documents? 6. MS. WILSON: Mr. Brazil, I have told you I'm allowing the questions. I don't know what your problem is right now.</td>
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<td>Q. (BY MR. BRAZIL) Okay. Would you please answer the question? 7. A. Could you repeat the question? I want to make sure I understand. 8. Q. Certainly. Did you assist in preparing the State's response to the plaintiffs' request for production of documents in this case? 9. A. Yes, I did. 10. Q. Okay. Do you have personal knowledge of the</td>
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1. **Q.** Okay. Can you tell me, first of all, generally what type of documents will ultimately be produced by the State?
   2. **A.** Yes.
   3. **Q.** You want to see the request for production?
   4. **A.** That would help. That would help. I might have it in here somewhere.
   5. **Q.** Here's a copy (tenders document).
   6. **A.** Okay. We do have some correspondence with Hart InterCivic. We have -- now, Hart has asserted some privilege on some of those documents, so some of the information we collected, I believe Hart has asserted a privilege on it. I believe that includes -- I think they've asserted privileges on manuals and technical data.
   7. **Q.** Okay. The manuals and technical --
   8. **A.** And programming information.
   9. **Q.** -- data and programming, are being held back at the request of Hart?
   10. **A.** Yes.

1. **Q.** Okay.
2. **MS. WILSON:** You have the list of documents that's being held back by the way. I gave you the log.
3. **MR. DUNN:** I haven't seen that.
4. **MR. BRAZIL:** Huh-uh.
5. **MS. WILSON:** I sent it to you.
6. **MR. BRAZIL:** I haven't seen it either.
7. **MS. WILSON:** I'll make sure you get another copy of it before you leave today. In fact, if you want it now, I'll go get it now.
8. **A.** We also have documents that show other direct recording electronic voting systems that have been certified that record straight party votes similarly.
9. **Q.** (BY MR. BRAZIL) And you're referring to other voting systems other than the Hart system?
10. **A.** Correct.
11. **Q.** Okay.
12. **A.** And for many of these requests we didn't have any responsive document. We have a copy of the election contest filed in Madison County. That's about it.
13. **Q.** What about complaints that the Secretary of State's Office may have received from any of the recent elections or past elections from citizens, from precinct chairs, anything of that sort?
14. **A.** Not that was responsive to this request.
15. **Q.** I'm sorry. I'm not sure I understand your answer.
16. **A.** Well, the request for production -- well, I guess the thing -- the way you're asking the question right now is broader than the way I recall the request for production. As I recall your request, whether it was in the production request or interrogatory, was complaints about how a straight-party vote is cast and the only complaint that we could find was no written complaints, but there was recollection of a conversation between Buck Wood and a staff member after the November 2006 election.
17. **Q.** After the --
18. **A.** After the November 2006 election.
19. **Q.** No other written complaints in that regard?
20. **A.** Correct.
21. **Q.** Okay. And you were reading that in the narrowest sense?
22. **A.** The way it was -- the way you asked it.
23. **Q.** Okay.
24. **MS. WILSON:** May I interrupt you? This is -- this is attached to the response to request for production. That's my copy. I will make you a copy today. Those -- that is a list of the documents that Hart has asked us to hold back.
25. **MR. BRAZIL:** On a break I'll ask you to make me a copy.
26. **MS. WILSON:** Be happy to.
27. **Q. (BY MR. BRAZIL.)** Is this my copy?
28. **A.** Yes.
29. **Q.** When you gave me the category of certification documents, will those be certification documents for the Hart system, or systems, or for all the systems that the Secretary of State has approved?
30. **A.** It's going to be the certification documents for all the versions of the Hart eSlate that have been certified, and then the certification documents of the two other vendors who have DRE certified in the state.
31. **Q.** That's ES&S?
32. **A.** Yes. And Diebold.
33. **Q.** I'm sorry.
34. **A.** ES&S and Diebold. That's the name of the two other vendors.
35. **Q.** Okay. Does the Secretary of State have any documents, such as studies, audits or surveys, concerning the effectiveness of the warning screens used by the eSlate machines?
36. **A. No.**
Q. Has the Secretary of State ever conducted any studies or audits in that regard?
A. No.
Q. Have they ever requested an outside agency or an outside independent company perform such study or audit?
A. No.
Q. Do you know if Hart themselves have done any audits or surveys?
A. No. I do not know if they have.
Q. What involvement, if any, has the Secretary of State had with the Madison County election contest?
A. The only involvement that we've had, that I'm aware of, is that the law requires that a copy of the election contest be filed with our office. So that was filed -- I know Buck Wood called Melinda and had a conversation after the election questioning the process of straight-party voting. And that's -- that's all we're aware of.
Q. Who is your contact, if any, with Hart, person or persons?
A. In what respect? I mean, in terms of voting systems?
Q. Yes. I mean, if you had to get some information from that corporation, who would you contact?
A. Jerry Meadows.
Q. What's the last name?
A. Meadows, M-e-a-d-o-w-s.
Q. Do you know what his title or job duties and responsibilities are?
A. I believe he's a vice president. I don't know his exact title.
Q. Anyone else with Hart that you might contact for information?
A. He would be my primary contact.
Q. Does the Secretary of State have any contracts with that corporation, with Hart?
A. Yes.
Q. And how many contracts, to your knowledge?
A. One.
Q. Do you know the date and substance of that contract?
A. Yes.
Q. Can you share that with us?
A. Yes. It is a -- it's a license agreement for eRegistry, which is a voter registration application, and that was signed in October of 2004.
Q. You said that was eRegister?
A. eRegistry.
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1. A. Not with any voting system issues.
2. Q. What about --
3. A. You mean an office in the Secretary of
4. State's Office or --
5. Q. Well, an office close by that the Secretary
6. of State can -- can contact that person with Hart for
7. problems that may arise with any of the license
8. agreements, the voting machines, anything of that
9. sort. Is there a requirement in the contract for a
10. person to be here in Austin?
11. A. Well, the contract concerns voter
12. registration system, which is a completely different
13. project.
14. Q. I understand, but it's still with Hart.
15. A. Right.
16. Q. Okay. Does that contract require Hart to
17. have an employee here in Austin?
18. A. No. The contract doesn't require that.
19. Q. Do they, to your knowledge, have a person
20. here in Austin?
21. A. Yeah. They have several people in Austin.
22. Q. Is it Mr. Meadows?
23. A. He's the vice president. He's not -- you
24. know, the contract and voter registration has nothing
25. to do with voting system issues.

1. Q. I understand. I'm now asking you if Hart has
2. any employees here in the Austin area?
3. A. They have an office in Austin --
4. Q. Okay.
5. A. -- or north Austin.
6. Q. So they do have employees?
7. A. Yes.
8. Q. And do you know the names of any of those
9. employees?
10. A. Some of them, yes.
11. MS. WILSON: We're going way past what
12. you asked us to --
13. MR. DUNN: Well, there's no rule --
14. MS. WILSON: -- supply. I'm going to
15. let her answer the question, but I'm just -- I'm just
16. telling you, if this goes too far afield, I'm going to
17. try to bring us back to the knowledge that you asked
18. us to bring here today.
19. MR. BRAZIL: This is a discovery
20. deposition.
21. MS. WILSON: It's a discovery deposition
22. of the agency representative of specific areas. It's
23. not a discovery deposition of Ann McGeehan, Director
24. of Elections. She is -- she is the person that we
25. have specified to answer your questions. If you had

1. Q. What about investigation or research
2. concerning crossover voters?
3. A. No.
4. Q. To your knowledge, has there ever been a
5. request by the Secretary of State for any person or
6. any entity to conduct a study of emphasis votes,
7. emphasis voters, crossover voters, anything of that
8. sort?
9. A. No.
10. Q. Do you have any information that has been
11. gathered by the Secretary of State's Office from any
12. other source, another state, an independent group that
13. may have done a study?
14. A. I do not. We do not.
15. Q. Okay. You do, obviously, have information
16. about the procedure used to design, test and submit
17. for certification the Hart eSlave voting machine.
18. A. I have information about the State's process
19. to certify. I don't have information what Hart does
20. to prepare.
21. Q. Okay. Can you tell us generally how a
22. company goes about getting their machine certified by
23. the state or authorized by the State?
24. A. They have to make application 45 days in
25. advance of a scheduled examination date, and we have
Q. What do the examiners physically do during their investigation or their certification process?
A. It varies. At a minimum they cast ballots. Sometimes they open up the machine or -- you know, we have been conducting voting system examinations since 1988, and so different systems are tested different ways, but their main goal is that it meets the requirements of Chapter 122 of the Election Code.

Q. Do you know what they did with regard to the Hart eSlate machines, what they physically did, how they tested them?
A. I don't recall. There -- there may have been some changes on font size, to increase the font size. That's all I recall right now.

Q. And that report goes to you?
A. Yes. Initially goes to me.

Q. Are these reports public record?
A. Yes.

Q. How many versions of the Hart eSlate machines have there been since 2000-2001?
A. We've produced those -- or we will be producing those documents. We're up to, I think, Version 6.0. I would say probably at least three. At least three versions have been certified.

Q. Just generally how have they changed?
A. The version -- from my perspective, the version changes have been fairly minor. Now, some of it, from a technical standpoint, may be more significant. There's been a new set of federal standards that have come into existence since the eSlate was first certified, so they've had to upgrade to meet those requirements. And those are a very technical nature that I wouldn't be able to readily explain.

Q. The visual changes, can you describe those? What would the voters see as a change between the different versions?
A. I don't recall. There -- there may have been some changes on font size, to increase the font size. That's all I recall right now.

Q. Fair enough. Are there any instruction manuals or any testing manuals that are given to the examiners before they examine one of the machines?
A. Yes.

Q. And what are they provided? What type of documentation do they receive?
A. They receive the user manuals, any training manuals that the vendor has prepared.

Q. User manual, training manual from the vendor.
A. Uh-huh.

Q. Is that a "yes"?
A. Yes.

Q. Okay. Are they given or provided anything else from the vendor?
A. Some vendors will provide additional documentation that explain the system. It's not -- it's not required. And I don't recall with Hart if they have provided additional information or not.

Q. Are the examiners given anything by your office, by the Secretary of State's office?
A. The way the process works is the vendor sends it in -- sends in all their information, including source code, to the Secretary of State and then we...
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<td>Q. How many -- generally how many sample ballots can the examiner utilize if he or she wishes?</td>
<td>Q. Anything other than that background or information that you can recall?</td>
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<td>A. The examiner can vote as many as they want. We don't do volume testing, though, at the state level. So if an examiner wanted to do, you know, a hundred thousand ballots, that's not something we are set up to do. That's tested at the federal level.</td>
<td>A. I think the statute was amended in '05 regarding conflicts of interest that they -- the examiners -- if I can check the code.</td>
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<td>Q. That was my next question. Is there a set number of votes they need to cast in order to --</td>
<td>Q. Not have any interest in the vendor whose --</td>
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<tr>
<td>A. No.</td>
<td>A. Yes.</td>
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<td>Q. -- make their decision?</td>
<td>Q. -- machine they're testing.</td>
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<tr>
<td>A. No.</td>
<td>A. Right. Something like that.</td>
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<td>Q. One, 10, it's up to them.</td>
<td>Q. Now, do either the examiners --</td>
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<tr>
<td>A. It's up to them.</td>
<td>MS. WILSON: I'm sorry. Are you through answering the question?</td>
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<td>Q. What type of certification or education, what type of background do these examiners have in performing this type of certification?</td>
<td>Q. Okay. But there's no certification that these examiners have to have?</td>
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<td>A. Three are required to have experience in technical issues, computer science, computer engineering. And three of the Secretary of State's examiners are required have technical background. One of the examiners is required to have a background in election law. And then the attorney general appoints two. And I'm not sure that the attorney general's examiner has to have any specified. I would have to check the statute on that.</td>
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<td>Q. Do either the examiners, or anybody with the Secretary of State's Office, do any mass testing of a particular type of machine? And let me explain what I mean by that. Take it down to some office and, say, let two or 300 people vote on it. Just submit it to the public for random voting. Is that done by anybody, the examiners or the Secretary of State's Office?</td>
<td>Q. Do you know if any of the counties have ever done that, take a new machine that the State has certified and just randomly tested it?</td>
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<tr>
<td>A. No.</td>
<td>A. No.</td>
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<tr>
<td>Q. Do you know if any of the counties have ever done that, take a new machine that the State has certified and just randomly tested it?</td>
<td>Q. I don't know.</td>
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Q. Do the examiners have the ability to modify the machine?
A. No.
Q. Okay. Let me make sure that I'm clear on that. Meaning making suggestions to the vendor for modification. Like you need to make this easier or you need to make this screen easier to read or you need to change the font or anything of that sort.
A. Sometimes the examiners do make recommendations to the vendor and that's part of their report. Sometimes the vendors accept it, sometimes they don't. Sometimes that may be a condition of certification.
Q. That was my next question. Okay. So the Secretary of State could take the examiner or examiners' suggestions and then tell Hart, or someone else, that with this modification your machine will be certified or accepted.
A. Yes.
Q. To your knowledge, has that been done with any of the Hart machines, any of the versions, any of the Hart machines?
A. I really don't remember. I would have to review each certification. The certification documents that you're going to receive will have a copy of each examiner's report, so you would see it in there. It's in the certification. I don't recall.
Q. So that certification for a particular machine may actually have what condition they need to meet or what modification needs to be made to conform to the request by the Secretary of State?
A. Yes.
Q. The -- they must be 45 days in advance of the -- would you call it an examination date?
A. Yes, examination date.
Q. And is the examination done by all six of the examiners on one day?
A. Yes.
Q. All right. And do they have to do it in one day? Can they do it over a week period or ... A. It's usually done in one day, but there's nothing that requires that it be done in one day if they need to go over to the next -- that has happened occasionally where an exam will continue on the next day.
Q. Can an examiner bring someone from the outside to assist in the examination?
A. No.
Q. So they couldn't bring five or 10 friends in to just practice voting on the machine if they wanted to?
1. Q. And would all of the configuration be what we would see at an individual precinct?
   A. No. You would not see the Tally or the central count accumulation. You would just see the eSlate and JBC.

2. Q. Is the JBC part of the eSlate machine or is it a separate stand-alone device?
   A. It's a separate device.

3. Q. Okay. And it holds, I assume, the votes.
   A. Right. From each eSlate --

4. Q. So if you had --
   A. -- in that polling place.

5. Q. -- 10 eSlates in a precinct, you would have, what, one JBC?
   A. Yes.

6. Q. And then the JBC would feed to -- would you call it an accounting station?
   MR. WOOD: JBC or JBS?
   THE WITNESS: JBC.

7. Q. (BY MR. BRAZIL) And then that would feed to -- what did you call the next device, an accounting station?
   A. Central counting station.

8. Q. Central counting. Okay. And where would that be?
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1. A. No.
2. Q. Phone line.
3. A. You take a piece of media out of the JBC and then that's brought to the central counting station and loaded.
4. Q. Okay. So it's physically taken from the JBC to the central counting station.
5. A. Yes.
6. Q. Similar, I assume, to taking a CD out of your hard drive and taking it to another computer.
7. A. Yes.
8. Q. Okay. Will the eSlate — is the eSlate capable of making a hard copy of each individual vote?
9. A. Yes.
10. Q. And how is that done? If I wanted — if I saw the eSlate number one machine in a precinct and I wanted to know — I wanted to see hard copies from that voting booth number one, let's say, how would that be accomplished?
11. A. It contains a cast vote record that's
12. that's capable of printing that cast vote record for every vote cast. Procedurally you may need to get that through the JBC. I'm not sure. I don't know if you can get it directly out of the eSlate. I would have to look into that, but -- we have that information back at the office, but --
13. Q. So we go into a precinct and there are 10 voting booths. You call them eSlates. There are 10 eSlates. Do you know whether or not if I wanted a hard copy of the votes on number one, could I get that distinguished from the votes on number nine or number 10?
14. A. I believe you can.
15. Q. But you're not sure exactly where I would go to get that?
16. A. Correct.
17. Q. Once it goes to the central counting station, can you do that at that point, also?
18. A. Yes.
19. Q. Is there any requirement by the Secretary of State that hard copies be maintained? And I'm using that in the broad sense of the votes cast.
20. A. The system, in order to be certified, has to be capable of printing those --
21. Q. I understand.
22. A. -- but we do not have any requirement that requires the counties to print them out just for purposes of printing them out and keeping them. Only in terms of a re-count.
23. Q. So just in the case of a re-count.

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1. A. Right.
2. Q. Is there any requirement, either in the directive or with -- in the certification process, that the eSlate maintain its memory for a certain period of time?
3. A. Not in the certification process.
4. Q. Okay. Anywhere in the process, in the directive, is there anything that tells Hart, or the other vendors, that each eSlate or each voting machine must maintain that memory for X number of days or X number of months?
5. A. That may be in the federal voting system standards. And I'm not positive if it's in the 2002 standards, but I believe it's in the 2005 standards.
6. Q. And this is a federal standard?
7. A. This is the -- they are called the Federal Voluntary Voting System Guidelines.
8. Q. And do you know how long that requirement is?
9. A. No.
10. Q. Will the information on the Hart machines have the names of the examiners?
11. A. Yes.
12. Q. And were the same six examiners, to your knowledge, used for each version of the Hart machine or machines?
13. A. No. There have been some changes since 2000.
14. Q. Are there any of the examiners who have been through each of the changes, to your knowledge?
15. A. I believe so.
16. Q. So there may be one or more --
17. A. One or two.
18. Q. Okay. One or two that may have been from beginning to current.
19. A. Correct.
20. Q. Okay. Now, other than the Federal Volunteer System Guidelines, what state regs or state law governs the certification process? Is it the Election Code in the chapter that you cited earlier?
21. A. Yes. And there are a couple of administrative rules that the Secretary of State has adopted.
22. Q. Do you have those memorized by number or anything?
23. A. I can tell you they're in Chapter 81.
24. Q. Okay. What about any AG opinions that might reflect on that area?
25. A. Not that I'm aware of.
26. Q. Does the TBC have a copy of -- the JBC, I'm sorry, the JBC have a copy of each ballot?
27. A. I don't know that I would call it a copy of...
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1. each ballot, but it has a record of each vote cast on
each eSlate machine.
2. Q. Does the Secretary of State after a general
election ever do any random studies on the machines
throughout the state? And I'm including Hart and the
other companies.
3. A. I wouldn't -- no, not a study.
4. Q. Or investigation or just randomly go out
throughout the state and pull the machines in, see how
they're working, things of that sort?
5. A. No. There is a requirement that there be a
manual count after an election and -- that's in
Chapter 127 of the Election Code and it requires the
Secretary of State to randomly pick three precincts.
The Secretary of State randomly picks three precincts
in each county and picks an office that is required to
be re-counted by that county.
6. Q. Three precincts of each county --
7. A. Yes.
8. Q. -- for a manual count.
10. Q. Using the Hart eSlate, how would that be
accomplished?
11. MS. WILSON: Can you tell me which of
these areas of information we're on at this point?

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MR. BRAZIL: Just about all of them.
2. How the system works, how they record the votes,
whether or not there has been any research, analysis
or investigation into how the systems operate.
3. A. For the eSlate, the -- let's say the
Secretary of State chose that the office of AG would
be re-counted. And we tell Travis County, "You need
to re-count precincts 101, 202 and 303." The county
would have to generate the cast vote records for the
Office of Attorney General for those three precincts
and then hand count them.
4. Q. (BY MR. BRAZIL) Okay. So they would go to
the JBC of each precinct and print out the votes cast.
5. A. Uh-huh. Yes.
6. Q. Is that a "yes"? Okay. And then what would
they do with the printouts?
7. A. What the law requires is that they record
their hand count and then they also report again their
electronic count and they submit that information to
the Secretary of State.
8. Q. So they get the printouts from the three
precincts and they count the number of votes, let's
say, for the governor.
9. A. Uh-huh.
10. Q. Is that a "yes"?

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Q. Okay. Do we have paper ballots?
2. A. We have paper ballots.
3. Q. What other types? DRE, optical scan, paper
ballots.
4. A. That's it.
5. Q. Is that pretty much it?
6. A. Uh-huh.
7. Q. Is that a "yes"?
8. A. Yes. That's yes.
9. Q. Okay. Under the DRE how do you divide the
systems?
10. A. There are three certified DRE systems.
11. Q. You divide them by vendor?
12. A. By vendor.
13. Q. Okay. Now, how -- how does the optical scan
differ from the DRE?
14. A. There are also two kinds of optical scan
system. There's a precinct count optical scan system.
15. Q. I'm sorry, what was --
16. A. Precinct count optical scan and a central
count optical scan. But an optical scan is a piece of
paper. The voter marks the ballot by filling in the
oval or filling in the arrow, similar to standardized
testing, and then that is tabulated by a machine.
17. Q. And what's the difference between precinct

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13 (Pages 46 to 49)
Q. (BY MR. BRAZIL) And what do you mean by overvote?
A. If the -- if the election requires that a voter cast one vote for each office on the ballot and the voter casts more than one vote, then that vote wouldn't count, so the voter is given an opportunity to correct their ballot.

Q. And that happens at the precinct?
A. Precinct count optical scan.

Q. Would not happen at the central, I assume.
A. Right.

Q. What would happen to that ballot in the central count system?
A. In a central count system the vote would not be counted for that race.

Q. The remainder of the votes would be?
A. Yes.

Q. Paper ballots, how are they distinguished between optical scan and DRE?
A. Paper ballots are, again, marked -- piece of paper marked by the voter, but they are counted by human beings at the precinct level.

Q. Such as overseas ballots?
A. Well, that's one kind of paper ballot, overseas ballots, mailed ballots. Some mailed ballots or overseas ballots are optical scan ballots.

Q. Are punch cards currently used --
A. No.

Q. -- in any situation that you can think of?
A. They are illegal in the state right now.

Q. The three precincts in each county that are manually counted, the process begins within 72 hours, what happens to the hard copies?
A. Those would be retained with the election records and the current requirement in state law is that any records associated with an election have to be saved for 22 months.
A. Right.

Q. How often does that have to take place?

A. Any time there is a change.

Q. All right. And do you know when the last time a change was submitted to the DOJ?

A. Yes. That would have been in 2005 in response to some state legislative changes on the process of certification.

Q. Did the DOJ approve that or did they make suggested changes or --

A. They approved it.

Q. Let's go back and specifically talk about the Hart eSlate, okay?

A. Okay.

Q. Have you personally ever performed any investigation of this type of machine?

A. No.

Q. And, I mean, not just -- not just performed it yourself, but had -- asked a staff member to investigate this type of machine, whether it be generated by a complaint from anyone. For example, okay, you seem puzzled, you get a call from Madison County or Tarrant County, whatever, somebody is making a complaint. Have you ever got on the phone and sent one of your staff members to that precinct, to that county to investigate those complaints?

A. If we would receive a call like that, about a voting system not working properly, let's say that was the complaint, we would initiate a call first to the county to see what their explanation was. And then depending on what the result of that was, that would -- that would determine, you know, what further action we would take.

Q. Have you received, your office, Secretary of State, anybody under your supervision, received any complaints about the Hart eSlate voting system?

A. We have, but not about straight party, which is what your discovery concerned.

Q. Okay. What -- generally what complaints have you received about the Hart eSlate system?

A. There have been complaints about voters that are concerned that their vote wasn't recorded as they wanted, that they -- a complaint has been they attempted to vote, let's say, straight-party Republican, but instead the machine recorded a vote for straight-party Democrat.

Q. And how are these complaints logged or maintained?

A. We log them. The person -- the employee that takes that complaint logs it on a -- we call it a voting irregularity form and we log the date, the time, the name of the person complaining, and then we also document what action was taken in response to that, if we called the county, or whatever.

Q. And that's maintained -- those records are maintained by the Secretary of State?

A. Yes.

Q. For what period of time?

A. Three years.

Q. And would those forms indicate the type of system in place where the complaint was made?

A. Generally they would.

Q. Say whether it was Hart or Diebold or one of the others.

A. Yes.

Q. And it would also tell us what was done in response to that complaint.

A. Yes.

Q. Do you ever involve Hart or the other manufacturers in resolving the complaint?

A. Usually not. Now, the county might, but we don't, usually.

Q. To your knowledge, has the Secretary of State received any complaints about the Hart eSlate voting system with regard to straight-party votes?
Q. And is there some reason why the Secretary of State in Texas has not instituted that type of system here?
1. MS. WILSON: Objection, assumes facts not in evidence.
2. A. We have not certified a voter verified paper audit trail, is what it's called, in Texas.
3. Q. (BY MR. BRAZIL) Has any system been submitted that was not certified?
4. A. Yes.
5. Q. Can you tell me how many systems have been submitted?
6. A. Two.
7. Q. Two that created a paper trail?
8. A. Yes.
9. Q. And do you recall the manufacturers?
10. A. Hart and Diebold.
11. Q. And do you know why those systems were not certified?
12. A. There are several reasons. The examiners recommended against it. They had concerns about preserving secrecy of the ballot. I think our Secretary had concerns as well about certifying something in the absence of any standards. The legislature has prescribed no standards for what a voter verified paper audit trail needs to be and how-- the legislature has considered such legislation twice and has failed to pass it in 2005 and 2007.
13. Q. And these systems were submitted twice, you said?
14. A. Two versions -- I believe two versions of voter verified paper ballot have been submitted for verification.
15. Q. Do you recall what year or years?
17. Q. Did the systems, to your knowledge, operate generally the same as the current systems with the exception of creating a paper trail?
18. A. That's my general understanding.
19. Q. Has the Secretary of State's Office received any complaints about the warning screens when an error may have been made by a voter?
20. A. No.
21. Q. Are there any requirements in the directives, anything else published by the Secretary of State with regard to signage or signs that are to be posted in the polling places for operation of the machines?
22. A. Yes.
23. Q. Can you generally give me what those are?
24. A. They're generally consistent with state law.
Q. Generally if a voter makes a mistake on the DRE system, how is it corrected?

MS. WILSON: I'm --

Q. (BY MR. BRAZIL) If they've completed their ballot and they realize after they've hit selection that they've made a mistake, is there a way for them to correct that?

A. Well, the way the system is designed is they're informed of any mistakes before they cast that ballot. They are given a summary screen that tells them every vote cast and any votes that they failed to cast. If they change their mind after hitting cast ballot, it's just the same as if they had dropped a paper ballot in the ballot box. You can't change it once you voted it.

Q. Okay. So the answer to my question is there is no way of correcting that type of mistake?

A. After you've cast your ballot --

Q. Yes.

A. -- that's correct, there's no way to correct it after you've cast it.

Q. And is there some requirement by the Secretary of State as to how often a warning screen must be displayed?

A. No.

Q. Have you investigated or has your office investigated the problems alleged in this lawsuit with regard to straight-party voting and crossover votes, things of that nature?

A. We've reviewed the pleading and analyzed it and didn't -- and determined that there was no problem.

Q. And how did you determine -- how did the Secretary of State determine there was no problem?

A. There's no evidence that voters' votes aren't being recorded as they cast them.

Q. And how did the Secretary of State determine that? Did he just make that decision on his own, did he investigate it, did he pull paper ballots? What did he do, if you know?

A. Just reviewing your pleadings. That's the only evidence we've ever heard about it.

Q. All right. So he reviewed the pleadings and made a determination that no investigation was necessary.

A. Correct.

Q. And in his opinion there was no problem.

A. Correct.

Q. Is that the same for the past Secretary of State as well as the present?

A. I don't know that our current Secretary of State has had a chance to review these pleadings yet.

Q. So you are speaking with the past Secretary of State. Speaking for.

A. Basically speaking for the Office of the Secretary of State.

Q. Okay. So you don't know if the current Secretary of State has reviewed this information or not?

A. I do not.

Q. But to your knowledge, there has been no investigation by the Secretary of State's Office into the complaints that have been made in this lawsuit.

Other than --

A. Other than --

Q. -- just reviewing the petition; is that correct?

A. Correct.

MR. BRAZIL: Could we take a short break?

THE WITNESS: Sure.

(Recess from 11:14 to 11:32)

MS. WILSON: Mr. Brazil, Ms. McGeehan would like to add to her last answer before you ask another question.

A. Concerning your last question about our investigation of the complaint that's the basis of this lawsuit. We analyzed the complaint and then analyzed how the Hart eSlate was designed and concluded that its design was in compliance with state law.

Q. (BY MR. BRAZIL) And who analyzed the eSlate?

A. Myself, Jay Dyer, Kathy Wilson.

Q. And you analyzed it to see if it complied with state law?

A. Correct.

Q. Did the Secretary of State's Office, anyone under your direction, analyze it for any other purpose or reason other than to see if it was in compliance with state law?

A. No.

Q. Anybody suggest doing an analysis of whether or not it was user friendly, whether or not the screens were easy to understand, warnings were easy to
understand, anything of that sort?
A. No.
Q. Has that been suggested by anyone at the Secretary of State's Office that they conduct that type of investigation?
A. No.
Q. The examiners that you spoke of earlier, do you know the names of the two examiners who have been through each of the eSlate machines or versions?
A. I know one is Tom Watson. I know he's been involved in all of them. And possibly Jim Sneeringer.
Q. I'm sorry?
A. His name is Jim Sneeringer, and he's the attorney general's examiner. It's S-n-e-e-r-i-n-g-e-r, I believe.
Q. The court reporter thanks you.
Do you recall any of the other examiners who examined the eSlate machine?
A. I would have to review the certification documents.
Q. Now, I got off track a little while ago when we were talking about the memory system of the machines. Now, as I understand it, there are three -- I'm using this term loosely, three components to the configuration of the Hart eSlate. We have the eSlate, the JBC and the central counting station.
A. The central counting station is the generic term in the Election Code. The eSlate uses software called Tally at the central counting station to accumulate returns.
Q. What does JBC, what does that mean?
A. I forget. I think B stands for ballot, but I can't remember. I don't remember.
Q. So we have the component of the configuration is eSlate, JBC and Tally.
A. Yes.
Q. All right. And the Tally is at the county clerk's office of that particular county.
A. Right.
Q. And then we have -- at the voting precinct we have the eSlate machines and then we have one JBC.
A. Right.
Q. Okay. Will the individual eSlate machines, are they capable of making a paper ballot or capable of a paper printout?
A. I believe they are, but I'm not a hundred percent positive.
Q. Fair enough. Fair enough. Now, what is it that you remove physically from each eSlate to input into the JBC?
A. I believe that's called an MBB, mobile ballot box. MBB.
Q. MBB?
A. Mobile ballot box.
Q. Okay. Can you describe what it looks like? Is it --
A. It's just a little, you know, piece of electronic media. You know, it's maybe three inches wide, or something, and it records all the votes cast on that eSlate and it's inserted into the JBC to -- so the JBC can collect the totals off of that eSlate unit.
Q. So it's not like a CD or a flash disk, it's a --
A. It's not that same shape.
Q. Okay. And there's one of those, this MBB, in each of the eSlates.
A. Correct.
Q. After you physically remove the MBB, input that or put that into the JBC, it downloads, I assume, into the JBC memory.
A. That's my general understanding. I mean, if you -- I feel a little uncomfortable trying to go into details on that because I'm not a technical expert on how that -- that's my general understanding.