

<p style="text-align: right;">86</p> <p>1 Q. And who is the they that you are 2 referring to?</p> <p>3 A. Well, we've got the voter registration 4 team in the office that has a help desk sort of 5 thing for both the counties, the poll workers and 6 voters, and all those calls that come in, am I a 7 registered voter, they don't record each one of 8 those, but they tick off. I know Diebold has a help 9 desk, both in my office on Election Day as well as 10 some other location, and they are required to keep 11 Election Day logs. And then the rest of the office 12 is required to keep, as everybody is receiving 13 calls, to keep a record of what comes in on Election 14 Day.</p> <p>15 Q. Is Plaintiff's Exhibit 1 a reflection of 16 at least some of the calls that were received by the 17 State Board of Elections?</p> <p>18 A. Well, it's indicating that the caller was 19 Diebold SBE help desk, on some of them Diebold 20 warehouse help desk. That's where their other 21 location is. So. And it indicates the date and the 22 time of the call.</p>	<p style="text-align: right;">88</p> <p>1 A. I don't know.</p> <p>2 Q. Plaintiff's Exhibit 67 at the bottom is 3 an e-mail from a Martha Strange to a Ms. Nordaas and 4 Mr. Mickley. Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. And she talks about a problem she is 7 having with the Democratic ballot for Howard County. 8 Do you see that?</p> <p>9 A. Yes. I don't know who Martha Strange is.</p> <p>10 Q. Now, Martha Strange -- strike that. 11 Betty Nordaas forwards this e-mail onto 12 Donna Duncan and Patrick Strauch. Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. Is Mr. Strauch a member of your staff?</p> <p>15 A. He is.</p> <p>16 Q. Did Mr. Strauch, as far as you know, make 17 you aware of the e-mail that Ms. Strange sent to 18 Betty Nordaas and Mr. Mickley?</p> <p>19 A. I don't recall this.</p> <p>20 Q. I beg your pardon?</p> <p>21 A. I don't recall this.</p> <p>22 Q. This meaning the e-mail or the issue</p>
<p style="text-align: right;">87</p> <p>1 Q. Right. So my question is Plaintiff's 2 Exhibit 1 a reflection of the calls received by the 3 State Board of Elections on March 2nd, 2004 for the 4 Primary Election?</p> <p>5 A. It looks like it's a reflection of the 6 call received by Diebold.</p> <p>7 Q. Well, the column that you are referring 8 to says caller?</p> <p>9 A. I know. And I think that's confusing.</p> <p>10 Q. And sometimes the caller is identified as 11 a voter, and certainly no one was calling a voter 12 with problems; is that right?</p> <p>13 A. True. I don't know whose log this is.</p> <p>14 Q. Okay. Put that document aside.</p> <p>15 MR. FLORENZO: I would like to mark this 16 Plaintiff's Exhibit 67. 17 (Plaintiff's Exhibit No. 18 67 was marked for 19 identification.) 20 BY MR. FLORENZO: 21 Q. Ms. Lamone, have you ever seen 22 Plaintiff's Exhibit 67 before?</p>	<p style="text-align: right;">89</p> <p>1 involved?</p> <p>2 A. The issue.</p> <p>3 Q. Okay. You can put that document aside. 4 This is a document that's been previously 5 marked as Plaintiff's Exhibit 28. Have you seen 6 Plaintiff's Exhibit 28 before?</p> <p>7 A. Yes.</p> <p>8 Q. Could you tell me what Plaintiff's 9 Exhibit 28 is?</p> <p>10 A. It's an e-mail that started from Susan 11 Campbell to Margaret Jurgensen in Montgomery County 12 and Margaret Jurgensen forwarded something to Gilles 13 Burger and Gilles Burger forwarded it to Mark Davis 14 and Mark Davis sent it to Ross Goldstein, who then 15 sent it to Joe Torre.</p> <p>16 Q. You must have received at least the 17 e-mail from Susan Campbell in some other way, 18 because your name is not mentioned on here.</p> <p>19 A. No, it's not. I saw this document for 20 the first time yesterday.</p> <p>21 Q. This is one of the documents that Mr. 22 Davis showed you?</p>

90	<p>1 A. Correct.</p> <p>2 Q. Okay. All right. So the -- well, let's</p> <p>3 go down to the bottom e-mail there, the December</p> <p>4 5th, 2006 e-mail from Susan Campbell. Do you see</p> <p>5 that?</p> <p>6 A. Yes.</p> <p>7 Q. And if turn to the next page, it's the</p> <p>8 text of her e-mail. Could you read that e-mail out</p> <p>9 loud, please?</p> <p>10 A. Please find attached a preliminary</p> <p>11 breakdown of the voting units deployed for the 2006</p> <p>12 General Election. To summarize, 21 voting units</p> <p>13 were returned red tagged. Using the GEMS</p> <p>14 AccuVote-TS floppy status report, an additional 23</p> <p>15 voting units have been identified as containing no</p> <p>16 votes -- no cast votes. Because of our high voter</p> <p>17 turn out in the reported lines at the polling</p> <p>18 places, I suspect performance issues with these 23</p> <p>19 voting units. We will inspect these more closely</p> <p>20 when the voting units are released from lock-down</p> <p>21 and we'll report our finding.</p> <p>22 Q. And Ms. Campbell is referring to the</p>	92	<p>1 units are all in the lock-down after the election;</p> <p>2 correct?</p> <p>3 A. They always are. Every voting unit is.</p> <p>4 I mean every system is.</p> <p>5 Q. And they can't be examined until they</p> <p>6 have been released; correct?</p> <p>7 A. Correct.</p> <p>8 Q. When were the AccuVote-TS units used in</p> <p>9 the 2006 Election released from the lock-down?</p> <p>10 A. They are being released in stages as we</p> <p>11 roll out the maintenance plan. Two counties were, I</p> <p>12 think Baltimore County, and I want to say Charles</p> <p>13 County, were done a week or so ago. And that they</p> <p>14 were our sort of beta test runs for the maintenance</p> <p>15 plan to make sure that we had covered everything in</p> <p>16 there.</p> <p>17 Q. Who does the maintenance? Strike that.</p> <p>18 Who executes the maintenance plan?</p> <p>19 A. My whole staff, working with Diebold.</p> <p>20 Q. And do they -- do they just go one county</p> <p>21 at a time?</p> <p>22 A. Generally, no. Once they get the plan</p>
91	<p>1 performance of the AccuVote-TS voting units in the</p> <p>2 recent 2006 Election?</p> <p>3 A. I assume.</p> <p>4 Q. Isn't that right?</p> <p>5 A. I assume.</p> <p>6 Q. Were you aware of the issues that Ms.</p> <p>7 Campbell raises in this is e-mail prior to</p> <p>8 yesterday?</p> <p>9 A. No.</p> <p>10 Q. So Mr. Goldstein knew in December;</p> <p>11 correct?</p> <p>12 A. I assume he did.</p> <p>13 Q. Mr. Torre knew?</p> <p>14 A. Right.</p> <p>15 Q. Mr. Davis knew?</p> <p>16 A. Yes.</p> <p>17 Q. But you didn't know?</p> <p>18 A. I didn't see it, no. It's not surprising</p> <p>19 though, because we have not yet started the -- oh,</p> <p>20 excuse me. We have just started the post-election</p> <p>21 evaluation and maintenance process.</p> <p>22 Q. That's what I was going to ask next. The</p>	93	<p>1 finalized, then we'll release all the counties to</p> <p>2 start the maintenance plan.</p> <p>3 Q. Okay. So why is it that only one or two</p> <p>4 counties have been released now?</p> <p>5 A. Because they've revised the maintenance</p> <p>6 plan. They are always learning new stuff and they</p> <p>7 revised it and they didn't get it done and they</p> <p>8 wanted to make sure that the local election staff</p> <p>9 understood everything, so they went actually, my</p> <p>10 staff went to those counties to roll it out, to see</p> <p>11 that it was okay, they brought it back, did some</p> <p>12 tinkering and now I think they're ready to go full</p> <p>13 force with it.</p> <p>14 Q. What are they tinkering? Are they</p> <p>15 tinkering the maintenance plan?</p> <p>16 A. Yeah.</p> <p>17 Q. What is required of these voting units</p> <p>18 after an election as far as the maintenance?</p> <p>19 A. You will have to ask the staff.</p> <p>20 Q. Do you have any idea?</p> <p>21 A. Well, I know they are looking for broken</p> <p>22 equipment, those kinds of things. She reports here</p>

94

1 that there were no votes cast on some or low votes  
 2 casts on some voting units. They looked to see at  
 3 the logs to see why; were they not used at all?  
 4 Because sometimes the judges don't open all the  
 5 voting units, even though they are supposed to.  
 6 If it was a unit designated, for example,  
 7 for the visually impaired and the blind and nobody  
 8 showed up and used it. I mean they are looking at  
 9 all of the things associated with, from the time the  
 10 ballots were and the L&A is done to when we release  
 11 the units.  
 12 Q. Now, this plan of locking down the voting  
 13 units and then coming up with a maintenance plan and  
 14 then once the maintenance plan is finalized for  
 15 releasing the voting units, is that something that  
 16 was come up, that the State Board of Elections came  
 17 up with after the 2006 Election?  
 18 A. No. No. No. We've been using this for  
 19 years.  
 20 Q. You knew going into the 2006 Election  
 21 that you were going to lock down the units after the  
 22 election and then you were going to put together a

95

1 final maintenance plan and then you were going to  
 2 release the units from the lock-down and execute the  
 3 maintenance plan; isn't that right?  
 4 A. Yes. You would have to ask Joe Torre  
 5 this but I believe that's been the process for years  
 6 and years and years.  
 7 Q. That's because you know that not all  
 8 these voting units are going to work perfectly?  
 9 A. Well, we know that any voting system is  
 10 not going to work properly and we've had the same  
 11 process in place before we even used this voting  
 12 system.  
 13 Q. And so you think it would be prudent to  
 14 anticipate that not all the voting units are going  
 15 to work properly and that after the election you  
 16 have to do some maintenance on them?  
 17 A. Absolutely.  
 18 Q. I don't think we have any dispute on  
 19 that.  
 20 A. We did the same thing with the other  
 21 systems that we used though.  
 22 Q. Okay. I would like to show you a

96

1 document that's been previously marked as  
 2 Plaintiff's Exhibit 17.  
 3 Ms. Lamone, have you seen Plaintiff's  
 4 Exhibit 17 before?  
 5 A. I'm sure I have.  
 6 Q. Do you know what Plaintiff's Exhibit 17  
 7 is?  
 8 A. Well, it's what it says it is. A  
 9 preliminary assessment of the reliability of the  
 10 existing voting equipment dated February 1, 2001.  
 11 Q. And this was -- I'm sorry.  
 12 A. And I know that this report was  
 13 subsequently updated several times. But I'm not  
 14 sure I read it in its entirety.  
 15 Q. So is this what's commonly referred to as  
 16 the Caltech report?  
 17 A. The original one, yes.  
 18 Q. The original Caltech report. So  
 19 Plaintiff's Exhibit 17 is the original Caltech  
 20 report; correct?  
 21 A. I think it is.  
 22 Q. If you could turn to page 2 of

97

1 Plaintiff's Exhibit 17, the original Caltech report,  
 2 if you could read the first sentence in the second  
 3 paragraph, please, out loud?  
 4 A. Careful statistical analysis shows that  
 5 there are systematic differences across these  
 6 technologies and that paper ballots, optical  
 7 scanning devices and lever machines have  
 8 significantly lower residual voting rates than punch  
 9 card systems and DREs.  
 10 Q. Now, if you could turn to page 7 of  
 11 Plaintiff's Exhibit 17, the original Caltech report,  
 12 there is section there entitled, Residual Votes, A  
 13 Yardstick of Reliability. Do you see that?  
 14 A. I do.  
 15 Q. And if you could read that first  
 16 paragraph there under that section title I would  
 17 appreciate it?  
 18 A. Our measure of reliability is the  
 19 fraction of total ballots cast for which no  
 20 Presidential preference was counted. We call this  
 21 the residual vote.  
 22 Q. That's the residual vote that was being

98	<p>1 referenced on page 2 that you just read; correct?</p> <p>2 <b>A. Yes.</b></p> <p>3 <b>Q.</b> And then if you could turn to page 12 of</p> <p>4 Plaintiff's Exhibit 17, the original Caltech report,</p> <p>5 under conclusion, could you read the conclusion.</p> <p>6 <b>A. Paper ballots, lever machines and</b></p> <p>7 <b>optically scanned ballots produce lower residual</b></p> <p>8 <b>vote rates on the order of one to two percent of all</b></p> <p>9 <b>ballots cast over punch card and electronic methods</b></p> <p>10 <b>over the past four Presidential Elections.</b></p> <p>11 <b>Q.</b> Okay. And, and, just to be sure,</p> <p>12 Plaintiff's Exhibit 17 was not a study of the</p> <p>13 Diebold AccuVote-TS unit; is that right?</p> <p>14 <b>A. I don't know.</b></p> <p>15 <b>Q.</b> It was just looking at DREs generally?</p> <p>16 <b>A. Right. All I know is they issued</b></p> <p>17 <b>subsequent reports that differ significantly from</b></p> <p>18 <b>what was included in this one.</b></p> <p>19 <b>Q.</b> If you could take a look now at what was</p> <p>20 previously marked as Plaintiff's Exhibit Number 4 --</p> <p>21 you didn't get your call yet, did you?</p> <p>22 <b>A. No. It hasn't buzzed.</b></p>	100	<p>1 the Rubin report; right?</p> <p>2 <b>A. I take your word for it.</b></p> <p>3 <b>Q.</b> Do you have any reason to dispute that</p> <p>4 Plaintiff's Exhibit 4 is the Rubin report?</p> <p>5 <b>A. I do not.</b></p> <p>6 <b>Q.</b> You did not read the Rubin report?</p> <p>7 <b>A. No.</b></p> <p>8 <b>Q.</b> If you could look at page 4 of</p> <p>9 Plaintiff's Exhibit 4, and if you could look at the</p> <p>10 third full paragraph entitled, Summary Results. Do</p> <p>11 you see that?</p> <p>12 <b>A. Uh-huh.</b></p> <p>13 <b>Q.</b> Could you read that paragraph for me, the</p> <p>14 Summary of Results from the Rubin report from July</p> <p>15 of 2003?</p> <p>16 <b>A. It speaks for itself. I don't know why I</b></p> <p>17 <b>have to read it: Summary of Results. We discovered</b></p> <p>18 <b>significant and wide reaching security</b></p> <p>19 <b>vulnerabilities in the version of the AccuVote-TS</b></p> <p>20 <b>voting system terminal found in nine, I guess that's</b></p> <p>21 <b>a footnote, see Table 1. Most notably, voters can</b></p> <p>22 <b>easily program their own smart cards to simulate the</b></p>
99	<p>1 <b>Q.</b> Have you seen Plaintiff's Exhibit Number</p> <p>2 4 before?</p> <p>3 <b>A. I have.</b></p> <p>4 <b>Q.</b> What is Plaintiff's Exhibit Number 4?</p> <p>5 <b>A. It's titled, Analysis of an Electronic</b></p> <p>6 <b>Voting System dated February 27, 2004. I'm not sure</b></p> <p>7 <b>I've seen this.</b></p> <p>8 <b>Q.</b> This is -- if you could just read the top</p> <p>9 part of Plaintiff's Exhibit 4 to yourself? That</p> <p>10 might refresh your recollection.</p> <p>11 <b>MR. DAVIS:</b> Right here?</p> <p>12 <b>MR. FLORENZO:</b> Yes.</p> <p>13 <b>A. I have never read this document in its</b></p> <p>14 <b>entirety.</b></p> <p>15 <b>Q.</b> Okay. Are you familiar with a Johns</p> <p>16 Hopkins University Information Security Institute</p> <p>17 Technical report dated July 23, 2003?</p> <p>18 <b>A. I read about it.</b></p> <p>19 <b>Q.</b> Are you familiar with the Rubin report?</p> <p>20 <b>A. That's the -- I assume that's the report</b></p> <p>21 <b>that you are talking about.</b></p> <p>22 <b>Q.</b> It is. And this Plaintiff's Exhibit 4 is</p>	101	<p>1 <b>behavior of ballot smart cards used in the election.</b></p> <p>2 <b>With such homemade cards a voter can cast multiple</b></p> <p>3 <b>ballots without leaving any trace. A voter can also</b></p> <p>4 <b>perform actions that normally require administrative</b></p> <p>5 <b>privileges, including reviewing partial results and</b></p> <p>6 <b>terminating the election early.</b></p> <p>7 <b>Similar undesired modifications could be</b></p> <p>8 <b>made by malleable -- this is not a very good copy, I</b></p> <p>9 <b>apologize.</b></p> <p>10 <b>Q.</b> Malevolent?</p> <p>11 <b>A. Malevolent coworkers or janitorial staff</b></p> <p>12 <b>with access to the voting terminals before that</b></p> <p>13 <b>start of an election. Furthermore, the protocols</b></p> <p>14 <b>used when the voting terminals communicate with</b></p> <p>15 <b>their home base, both to fetch election</b></p> <p>16 <b>configuration information and to report final</b></p> <p>17 <b>Election results, do not use cryptotappic techniques</b></p> <p>18 <b>to authenticate either in connection nor do they</b></p> <p>19 <b>check the integrity of the data in transit. Given</b></p> <p>20 <b>that these voting terminals could potentially</b></p> <p>21 <b>communicate over insecure phone lines or even</b></p> <p>22 <b>wireless Internet connections, even unsophisticated</b></p>

102

1 **attackers can perform untraceable man-in-the-middle**  
 2 **attacks.**  
 3 Q. You can stop there. That's a Summary of  
 4 Results from the Rubin report; is that right?  
 5 **A. Well, that's his opinion. It's all**  
 6 **fiction.**  
 7 Q. And you know he that firsthand, because  
 8 you have examined the AccuVote-TS voting unit; is  
 9 that right.  
 10 **A. No. But I know what our processes are.**  
 11 **They don't match what he says.**  
 12 Q. You rely on what other members of the SBE  
 13 staff have told you about the AccuVote-TS voting  
 14 units; isn't that right?  
 15 MR. DAVIS: I'm sorry. I don't  
 16 understand the question.  
 17 THE WITNESS: I don't either.  
 18 BY MR. FLORENZO:  
 19 Q. Okay. Your assessment of Plaintiff's  
 20 Exhibit 4, the Rubin report is based upon what you  
 21 were told by members your staff and vendors --  
 22 **A. No. Not --**

103

1 Q. Hold on. Let me finish the question.  
 2 You have not personally examined from a security,  
 3 accuracy and vulnerability standpoint the  
 4 AccuVote-TS voting unit system, have you?  
 5 **A. No, but Mr. Rubin himself has repudiated**  
 6 **some of those statements in that that I just read.**  
 7 Q. Which of those statements has he  
 8 repudiated?  
 9 **A. What page was it on?**  
 10 Q. Two. No. Four.  
 11 **A. Voters can easily program their own smart**  
 12 **cards. That has never been done and he now says it**  
 13 **can't be done.**  
 14 Q. When did he say that?  
 15 **A. I don't remember. But it's one of his**  
 16 **statements. A voter can also perform actions that**  
 17 **normally require administrative privilege, including**  
 18 **viewing partial results and terminating the Election**  
 19 **early. That's not true.**  
 20 Q. Did he repudiate that it?  
 21 **A. I think he might have.**  
 22 Q. But you don't know?

104

1 **A. I don't know.**  
 2 Q. But you only know whether these things  
 3 are true or not based upon reports that are provided  
 4 to you by either other staff members of the State  
 5 Board of Elections --  
 6 **A. That's true.**  
 7 Q. -- or vendors that the State Board of  
 8 Elections has hired; isn't that right?  
 9 MR. DAVIS: You mean those are her only  
 10 sources of knowledge as to her opinion regarding the  
 11 report.  
 12 BY MR. FLORENZO:  
 13 Q. Yeah. My question is: The basis on  
 14 which you dispute the findings of Mr. Rubin are what  
 15 you are told and presented by members of your staff  
 16 on the State Board of Elections and findings and  
 17 reports that are provided to you by vendors that are  
 18 hired by the State of Maryland and Diebold itself?  
 19 **A. I'm sure there are other sources.**  
 20 Q. But you don't have any firsthand  
 21 knowledge from actually having on your own, tested  
 22 the AccuVote-TS voting units --

105

1 **A. No.**  
 2 Q. -- that would give you the ability to  
 3 dispute what's in Mr. Rubin's report; is that  
 4 correct?  
 5 **A. No. I have never physically tested.**  
 6 Q. Okay. Now, if you could take a look at  
 7 what's been previously marked as Plaintiff's Exhibit  
 8 13?  
 9 And Ms. Lamone, have you seen Plaintiff's  
 10 Exhibit 13 before?  
 11 **A. I must have. I'm copied on it.**  
 12 Q. Okay. Could you tell us what Plaintiff's  
 13 Exhibit 13 is?  
 14 **A. It is a August 7, 2003 letter from James**  
 15 **T. Smith, Jr., Baltimore County Executive, to**  
 16 **Governor Robert L. Ehrlich.**  
 17 Q. If you could read the first -- well, I  
 18 will just read it myself. If you look at the first  
 19 sentence of Plaintiff's Exhibit 13, Mr. Smith  
 20 writes: I applaud your decision to order an  
 21 Independent Security Review of the touch screen  
 22 voting machines that are proposed for use throughout

106	<p>1 Maryland in the 2004 Elections. Do you see that?</p> <p>2 <b>A. Yes.</b></p> <p>3 <b>Q.</b> And are you familiar with the Independent</p> <p>4 Security Review of the touch screen voting machines</p> <p>5 that Governor Ehrlich ordered --</p> <p>6 <b>A. Yes.</b></p> <p>7 <b>Q.</b> -- around August 2003?</p> <p>8 <b>A. Yes.</b></p> <p>9 <b>Q.</b> Is that what's called the SAIC report?</p> <p>10 <b>A. Yes.</b></p> <p>11 <b>Q.</b> Okay. You can put that document aside.</p> <p>12 Ms. Lamone, I would like to show you a</p> <p>13 document that's been previously marked as</p> <p>14 Plaintiff's Exhibit 8.</p> <p>15 <b>MR. DAVIS:</b> Thank you.</p> <p>16 <b>BY MR. FLORENZO:</b></p> <p>17 <b>Q.</b> Have you seen Plaintiff's Exhibit 8</p> <p>18 before?</p> <p>19 <b>A. I have.</b></p> <p>20 <b>Q.</b> Plaintiff's Exhibit 8 is a redacted</p> <p>21 version of the SAIC report; isn't that right.</p> <p>22 <b>A. It appears to be.</b></p>
107	<p>1 <b>Q.</b> Okay. And I would like to -- well, in</p> <p>2 your own words, what is the SAIC report?</p> <p>3 <b>A. It is an examination of the AccuVote-TS</b></p> <p>4 <b>voting system, risk assessment, as they characterize</b></p> <p>5 <b>it in the Executive Summary.</b></p> <p>6 <b>Q.</b> Who prepared the SAIC report?</p> <p>7 <b>A. SAIC.</b></p> <p>8 <b>Q.</b> Did they do it alone?</p> <p>9 <b>A. No. They did -- they were -- they did</b></p> <p>10 <b>operate pretty independently but they were working</b></p> <p>11 <b>fairly closely with the Governor's Office of Budget</b></p> <p>12 <b>and Management.</b></p> <p>13 <b>Q.</b> Did anybody other than people in the</p> <p>14 Office of Budget and Management and SAIC provide</p> <p>15 input into the SAIC report?</p> <p>16 <b>A. My staff did at the beginning to try to</b></p> <p>17 <b>educate them a little bit about some of the</b></p> <p>18 <b>processes in conducting an election. I remember</b></p> <p>19 <b>that they met with the -- I have forgotten the guy's</b></p> <p>20 <b>name that wrote this -- and then when it was issued.</b></p> <p>21 <b>Q.</b> Did they meet with anybody else other</p> <p>22 than the Department of Management and Budget and the</p>
108	<p>1 State Board of Elections and the people at SAIC</p> <p>2 themselves?</p> <p>3 <b>A. I have no idea.</b></p> <p>4 <b>Q.</b> Did they meet with folks at Diebold?</p> <p>5 <b>A. I don't know. I would assume they did,</b></p> <p>6 <b>but I don't know that.</b></p> <p>7 <b>Q.</b> Have you ever prepared -- regardless of</p> <p>8 elections and when you were back as an attorney,</p> <p>9 have you ever prepared written reports? It's a</p> <p>10 simple question.</p> <p>11 <b>A. Yeah.</b></p> <p>12 <b>Q.</b> Yeah. And you prepared -- and before you</p> <p>13 finalize a report you have drafts of a report; isn't</p> <p>14 that right?</p> <p>15 <b>A. Probably.</b></p> <p>16 <b>Q.</b> Okay. Were there drafts of the SAIC</p> <p>17 report that existed prior to the creation of a final</p> <p>18 SAIC report?</p> <p>19 <b>A. Not that I recall.</b></p> <p>20 <b>Q.</b> Were you, yourself, individually involved</p> <p>21 at all in the drafting of the SAIC report?</p> <p>22 <b>A. I sat in on one Saturday meeting where</b></p>
109	<p>1 <b>the gentleman that was heading this up came to --</b></p> <p>2 <b>and I believe it was Saturday -- came to the office</b></p> <p>3 <b>and sat there and listened to the staff, explained</b></p> <p>4 <b>to them how an election is conducted.</b></p> <p>5 <b>I don't remember -- there were other</b></p> <p>6 <b>meetings but I do not remember that -- I think they</b></p> <p>7 <b>were after the report was issued.</b></p> <p>8 <b>Q.</b> Did you ever see a draft of the SAIC</p> <p>9 report?</p> <p>10 <b>A. I don't believe I did.</b></p> <p>11 <b>Q.</b> Did you ever see a final unredacted</p> <p>12 version of the SAIC report?</p> <p>13 <b>A. I did see the unredacted version.</b></p> <p>14 <b>Q.</b> Were you a -- strike that.</p> <p>15 Was there a decision made to redact the</p> <p>16 SAIC report?</p> <p>17 <b>A. By the Department of Budget and</b></p> <p>18 <b>Management.</b></p> <p>19 <b>Q.</b> Were you a participant in that decision?</p> <p>20 <b>A. I wouldn't say participant is quite the</b></p> <p>21 <b>right word.</b></p> <p>22 <b>Q.</b> Were you consulted?</p>

110	<p>1     <b>A. I was consulted.</b></p> <p>2     Q. And the Department of Budget and</p> <p>3 Management made that decision?</p> <p>4     <b>A. I was consulted.</b></p> <p>5     Q. Did you participate in the act of</p> <p>6 redacting the SAIC report.</p> <p>7     <b>A. Not really.</b></p> <p>8     Q. What do you mean by not really? That</p> <p>9 suggests to me that you were a little bit but not</p> <p>10 entirely.</p> <p>11    <b>A. I think I was a little bit only in the</b></p> <p>12 <b>very beginning, because they were -- the issue was,</b></p> <p>13 <b>was there anything in here, if it was released to</b></p> <p>14 <b>the public, that could pose a greater security risk</b></p> <p>15 <b>than not.</b></p> <p>16    Q. Were you asked is there anything in here</p> <p>17 that could pose a security risk if it's released to</p> <p>18 the public?</p> <p>19    <b>A. My staff was.</b></p> <p>20    Q. Were you asked?</p> <p>21    <b>A. I probably was consulted.</b></p> <p>22    Q. By whom?</p>	112	<p>1 you read those two sentences there?</p> <p>2     <b>A. That whole paragraph?</b></p> <p>3     Q. Just the first two sentences of that</p> <p>4 second paragraph, This risk assessment.</p> <p>5     <b>A. This risk assessment has identified</b></p> <p>6 <b>several high risk vulnerabilities in the</b></p> <p>7 <b>implementation of the managerial, operational and</b></p> <p>8 <b>technical controls for AccuVote-TS voting system.</b></p> <p>9 <b>If these vulnerabilities are exploited, significant</b></p> <p>10 <b>impacts could occur on the accuracy, integrity and</b></p> <p>11 <b>availability of Election results.</b></p> <p>12    Q. That was a finding of the SAIC report,</p> <p>13 wasn't it?</p> <p>14    <b>A. I think that's -- you could characterize</b></p> <p>15 <b>it that way.</b></p> <p>16    Q. You think it's fair to characterize it</p> <p>17 that way?</p> <p>18    <b>A. Yeah.</b></p> <p>19    Q. Okay. Now if you could look at Roman</p> <p>20 Numeral IV, if you look at the top test page, the</p> <p>21 first full sentence there, it begins with the</p> <p>22 sentence, SAIC recommends. Do you see that?</p>
111	<p>1     <b>A. DBM.</b></p> <p>2     Q. Did your staff consult with you?</p> <p>3     <b>A. Probably.</b></p> <p>4     Q. Did you ever provide a copy of the SAIC</p> <p>5 report with markings indicating portions that you</p> <p>6 thought should be redacted?</p> <p>7     <b>A. I don't think I made those decisions. I</b></p> <p>8 <b>mean I didn't know enough about some of the issues</b></p> <p>9 <b>and I was relying -- we were being driven by DBM,</b></p> <p>10 <b>the security people over there. There is a very</b></p> <p>11 <b>strong policy, as I understand it, in the State of</b></p> <p>12 <b>Maryland about releasing security sensitive</b></p> <p>13 <b>documents.</b></p> <p>14    Q. Did you ever provide a copy of the SAIC</p> <p>15 report with notations or markings indicating what</p> <p>16 you suggested should be redacted?</p> <p>17    <b>A. I don't think so.</b></p> <p>18    Q. If you could take a look at page Roman</p> <p>19 Numeral III, and if can you see under Findings and</p> <p>20 Recommendations; do you see that section?</p> <p>21        If you could look at the second full</p> <p>22 paragraph that begins, This risk assessment? Could</p>	113	<p>1     <b>A. Yes.</b></p> <p>2     Q. That sentence reads -- let me know if I</p> <p>3 read it incorrectly. SAIC recommends that a new</p> <p>4 risk assessment be performed prior to the</p> <p>5 implementation of a major change to the AccuVote-TS</p> <p>6 voting system. Additionally, SAIC recommends a</p> <p>7 similar assessment be performed every three years</p> <p>8 regardless of system modification. Do you see that?</p> <p>9     <b>A. I do.</b></p> <p>10    Q. This report was dated December 2nd, 2003;</p> <p>11 correct?</p> <p>12    <b>A. Correct.</b></p> <p>13    Q. So three years from then would have been</p> <p>14 September 2nd, 2006; correct?</p> <p>15    <b>A. Yes. Right before the Primary.</b></p> <p>16    Q. Right before the Primary. Was this</p> <p>17 recommendation that this similar assessment be</p> <p>18 performed at least every three years implemented by</p> <p>19 the State Board of Elections?</p> <p>20    <b>A. Not entirely.</b></p> <p>21    Q. Are there plans to implement this</p> <p>22 recommendation?</p>

114	<p>1 A. Yes.</p> <p>2 Q. Okay. And what are those plans?</p> <p>3 A. <b>You would have to ask the voting system</b></p> <p>4 <b>team of the specifics. I know they are working on a</b></p> <p>5 <b>plan.</b></p> <p>6 Q. Can I get the generals from you?</p> <p>7 A. <b>Hire a firm and do a risk assessment.</b></p> <p>8 Q. Do you know who the candidates are for</p> <p>9 doing this?</p> <p>10 A. <b>No. It would have to be put out to bid.</b></p> <p>11 Q. Is there a time line when this needs to</p> <p>12 be done?</p> <p>13 A. <b>Probably sometime in 2008 at the soonest.</b></p> <p>14 <b>We have Baltimore City Elections to run this fall.</b></p> <p>15 <b>The problem we found when we had this assessment</b></p> <p>16 <b>done, and then I'm sure you are going to ask me</b></p> <p>17 <b>about the RABA report -- in making the suggested</b></p> <p>18 <b>changes that they recommended, it created incredible</b></p> <p>19 <b>pressures on everybody involved because this came</b></p> <p>20 <b>out in, when? I have forgotten.</b></p> <p>21 Q. September 2003.</p> <p>22 A. <b>September. So we immediately started</b></p>	116	<p>1 it's not really going to be any problem implementing</p> <p>2 the recommendations because there really aren't</p> <p>3 going to be any?</p> <p>4 A. <b>Well, that's not only the problem. The</b></p> <p>5 <b>problem is the amount of time it takes away from my</b></p> <p>6 <b>staff, who normally have to run these elections,</b></p> <p>7 <b>from participating in all these kinds of studies. I</b></p> <p>8 <b>assume then if we do another one, it will be one</b></p> <p>9 <b>that's contracted for from my office, which</b></p> <p>10 <b>necessarily will involve a significant amount of</b></p> <p>11 <b>staff time from my people who are now preparing, in</b></p> <p>12 <b>fact, for the March 2008 Presidential election.</b></p> <p>13 Q. Have you asked for more staff to help you</p> <p>14 so that some of these investigations can be done?</p> <p>15 A. <b>Oh, yeah. We have asked for staff, but</b></p> <p>16 <b>our budget gets decreased every year instead of</b></p> <p>17 <b>increased.</b></p> <p>18 Q. Have you asked for staff so these</p> <p>19 investigations can be done?</p> <p>20 A. <b>No.</b></p> <p>21 Q. So is this investigation -- do you think</p> <p>22 this investigation is going to -- excuse me, do you</p>
115	<p>1 doing stuff to pick up what they recommended. And</p> <p>2 then we had the RABA report come out in what,</p> <p>3 January of the next year, with a March Primary</p> <p>4 Election.</p> <p>5 <b>And if you do another reassessment and</b></p> <p>6 <b>they find other things, holes in our procedures,</b></p> <p>7 <b>whatever, you can't -- it's physically impossible to</b></p> <p>8 <b>get those all implemented right prior to an</b></p> <p>9 <b>election.</b></p> <p>10 Q. You would anticipate that if somebody did</p> <p>11 another assessment, like SAIC and like RABA, that</p> <p>12 they would find additional, they would make</p> <p>13 additional recommendations not made by the RABA</p> <p>14 report or the SAIC?</p> <p>15 A. <b>Not necessarily. Not necessarily.</b></p> <p>16 <b>Because I think that the State of Maryland has</b></p> <p>17 <b>reacted heroically to these reports and, and made</b></p> <p>18 <b>Diebold address a lot of them and we addressed a lot</b></p> <p>19 <b>of them.</b></p> <p>20 Q. Well, I'm not following then what the</p> <p>21 problem would be then in having another assessment</p> <p>22 done because you seem to be indicating to me that</p>	117	<p>1 think this assessment is going to occur or not?</p> <p>2 A. <b>Oh, I think it will occur.</b></p> <p>3 Q. Okay. But do you know when?</p> <p>4 A. <b>At least not until after the Presidential</b></p> <p>5 <b>Primary Election.</b></p> <p>6 Q. So not until after, say early spring of</p> <p>7 2008?</p> <p>8 A. <b>Correct.</b></p> <p>9 Q. And then the assessment might occur in</p> <p>10 between the Primary Election of 2008 and the General</p> <p>11 Election of 2008?</p> <p>12 A. <b>Well, the process would be begun then.</b></p> <p>13 Q. Okay. All right. So the process, you</p> <p>14 mean the process of going out and securing a vendor</p> <p>15 to actually carry out the assessment?</p> <p>16 A. <b>Correct. But you have to ask the voting</b></p> <p>17 <b>system team. It's their time and effort that will</b></p> <p>18 <b>go into this.</b></p> <p>19 Q. Right. But I can get some information</p> <p>20 from you. I mean, it's your administration.</p> <p>21 A. <b>That's what they told me.</b></p> <p>22 Q. It's your administration and I can get a</p>



<p style="text-align: right;">118</p> <p>1 lot of this from you. So do you anticipate that  2 this assessment itself is not actually going to  3 occur until after the Presidential Election in 2008?  4 <b>A. That's not only my assessment, that's my  5 decision.</b>  6 Q. Okay. So you've decided that, that the,  7 that the similar assessment to the SAIC report is  8 not going to occur until sometime after September  9 2nd, 2008?  10 <b>A. Correct.</b>  11 Q. Okay.  12 <b>A. But we're also doing other things, so I  13 have confidence that the staff is on top of things.</b>  14 Q. And that would be five years after the  15 SAIC report was issued?  16 <b>A. If they say three years, it doesn't mean  17 it's absolutely correct.</b>  18 Q. I didn't ask you if it was correct. My  19 question was simply, has the State implemented this  20 recommendation --  21 <b>A. No.</b>  22 Q. -- as set forth in the SAIC report?</p>	<p style="text-align: right;">120</p> <p>1 start until after the March 2008 Primary; is that  2 right?  3 <b>A. Correct.</b>  4 Q. Is it possible, following your decision,  5 that the report issued from that assessment will be  6 released to the public prior to the General Election  7 in 2008?  8 <b>A. I don't know.</b>  9 Q. So it's possible?  10 <b>A. It's possible.</b>  11 Q. Okay. So you haven't decided that that's  12 not going to happen before --  13 <b>A. That's correct.</b>  14 Q. -- the General Election in 2008. Okay.  15 <b>A. Well, we have a lot of things going on.  16 We don't know what voting system we are going to be  17 using in 2008 because the General Assembly has got  18 legislation before them. I, you know, we have to  19 weigh all these different considerations. We don't  20 have the money to do it and we don't have the staff  21 to do it. So.</b>  22 THE VIDEOGRAPHER: Excuse me. I have to</p>
<p style="text-align: right;">119</p> <p>1 <b>A. No.</b>  2 Q. And the State is not going to implement  3 that recommendation until at least September 2008 at  4 the earliest?  5 <b>A. I didn't say September. I said after the  6 March Primary.</b>  7 Q. You said that -- correct me if I'm wrong.  8 I don't want to put words in your mouth. I think  9 what you told me is that the process for  10 coordinating the assessment wasn't going to begin  11 until after the March 2008 Primary, but that the  12 actual assessment itself was not going to occur  13 until after the General Election of 2008. Is that  14 what you're telling me?  15 <b>A. The completion of it may not occur until  16 after the Presidential General Election in 2008.</b>  17 Q. So what was your decision?  18 <b>A. My decision was not to start it now  19 because I don't have the staff to do everything that  20 they've got to do.</b>  21 Q. Is it possible that -- and. And so your  22 decision was that that process was not going to</p>	<p style="text-align: right;">121</p> <p>1 pause to change tapes here.  2 MR. FLORENZO: Sure.  3 THE VIDEOGRAPHER: This is the end of  4 tape 1. The time is 1:47:30.  5 - - -  6 (There was a pause in the proceedings.)  7 - - -  8 THE VIDEOGRAPHER: This is tape two of  9 the deposition. The time is 11:48:28.  10 BY MR. FLORENZO:  11 Q. So just to sum up before we can move off  12 the SAIC report, Ms. Lamone, the recommendation on  13 page Roman Numeral IV on the SAIC report,  14 Plaintiff's Exhibit 8, that a similar assessment be  15 performed at least every three years regardless of  16 system modification, that recommendation has not yet  17 been implemented by the State Board of Elections; is  18 that right?  19 <b>A. Not fully, no.</b>  20 Q. Okay. Now I'd like you to take a look at  21 a document that's been marked as Plaintiff's Exhibit  22 5. And I want to ask you if you have seen</p>

<p style="text-align: right;">122</p> <p>1 Plaintiff's Exhibit 5 before, Ms. Lamone?</p> <p>2 <b>A. I'm sure I have.</b></p> <p>3 Q. Okay. What is Plaintiff's Exhibit 5?</p> <p>4 <b>A. My recollection is the staff created this</b></p> <p>5 <b>as a document for the Local Boards to hand out when</b></p> <p>6 <b>they were doing voting system, voter education.</b></p> <p>7 Q. Have you ever taken a look at Plaintiff's</p> <p>8 Exhibit Number 5?</p> <p>9 <b>A. I'm sure I did.</b></p> <p>10 Q. Did you read it before it was finalized?</p> <p>11 <b>A. I'm sure I did.</b></p> <p>12 Q. Did you sign off on it?</p> <p>13 <b>A. I'm sure I did.</b></p> <p>14 Q. Okay. I would like you to turn to page</p> <p>15 2, because I think that the pages are out of order.</p> <p>16 It starts with myth number five rather than myth</p> <p>17 number one. So if you can turn to page 2, we can go</p> <p>18 in order. Okay?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. Let's take a look at myth number three,</p> <p>21 it says a single person can cast multiple votes. Do</p> <p>22 you see that?</p>	<p style="text-align: right;">124</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. But you don't believe it would be</p> <p>3 impossible, do you?</p> <p>4 <b>A. Somebody could, who didn't mind violating</b></p> <p>5 <b>the criminal statutes of the State of Maryland, go</b></p> <p>6 <b>and represent that he or she is someone else and</b></p> <p>7 <b>gain access to the voting system under fraudulent</b></p> <p>8 <b>means.</b></p> <p>9 Q. I wasn't asking how somebody could cast</p> <p>10 multiple votes, I was just asking whether it was</p> <p>11 impossible for somebody to cast multiple votes using</p> <p>12 the AccuVote-TS voting unit?</p> <p>13 <b>A. Well, your question is misleading.</b></p> <p>14 Q. I don't think it's misleading. You</p> <p>15 believe that casting multiple votes is highly</p> <p>16 unlikely?</p> <p>17 <b>A. It is.</b></p> <p>18 Q. But it's not impossible, is it?</p> <p>19 <b>A. Not if somebody wants to vote twice, no.</b></p> <p>20 Q. You didn't write here that making -- you</p> <p>21 did not write here that casting multiple votes would</p> <p>22 be impossible, did you?</p>
<p style="text-align: right;">123</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. And then there are four facts that I</p> <p>3 believe are set forth by the State Board of</p> <p>4 Elections that are intended to dispute the reported</p> <p>5 myth here that a single person could cast multiple</p> <p>6 votes. Do you see that?</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. Could you just read for me the second</p> <p>9 fact?</p> <p>10 <b>A. A combination of physical security (and</b></p> <p>11 <b>visual oversight of the voting process at the</b></p> <p>12 <b>precinct) software and system features would make</b></p> <p>13 <b>casting multiple votes extremely difficult and</b></p> <p>14 <b>highly unlikely.</b></p> <p>15 Q. Okay. So casting multiple votes would be</p> <p>16 extremely difficult and highly unlikely; correct?</p> <p>17 <b>A. Correct.</b></p> <p>18 Q. That's what you believe?</p> <p>19 <b>A. Absolutely.</b></p> <p>20 Q. Absolutely. You believe that casting</p> <p>21 multiple votes would be extremely difficult and</p> <p>22 highly unlikely?</p>	<p style="text-align: right;">125</p> <p>1 <b>A. Because it isn't.</b></p> <p>2 Q. You wrote extremely difficult and highly</p> <p>3 unlikely; is that right?</p> <p>4 <b>A. Correct.</b></p> <p>5 Q. Now, if you could look at the third fact,</p> <p>6 and if you could read that to me, please?</p> <p>7 <b>A. Throughout the day Election Judges</b></p> <p>8 <b>reconcile the number of voters who have checked in</b></p> <p>9 <b>at the polling place against the number of votes</b></p> <p>10 <b>recorded on each voting unit. Any discrepancy would</b></p> <p>11 <b>be identified immediately.</b></p> <p>12 Q. Okay. So the -- there is two numbers</p> <p>13 that are being kept track of at the polling place;</p> <p>14 is that right?</p> <p>15 <b>A. Three, yeah, basically. There is</b></p> <p>16 <b>actually three.</b></p> <p>17 Q. Okay. There is the number of voters who</p> <p>18 have checked in; correct?</p> <p>19 <b>A. Correct.</b></p> <p>20 Q. And then there is the number of votes</p> <p>21 recorded on each unit; correct.</p> <p>22 <b>A. Through the public count.</b></p>

<p style="text-align: right;">126</p> <p>1 Q. And they are supposed to match and the  2 beauty of the AccuVote-TS voting system is that if  3 they don't match, we'll know; is that right?  4 A. Yeah.  5 Q. So what happens if there is a  6 discrepancy?  7 A. Well, unfortunately, always is, you're  8 going to find somewhere a discrepancy, because the  9 election workers don't always reconcile things  10 correctly. But for the most part it is -- the  11 number that check in. What you have, you see  12 occasionally is a voter will come in and check into  13 the polling place, go to the voting unit, and this  14 occurs with any voting system, and decide not to  15 vote, and they simply walk away.  16 Q. In which case the number of registered  17 voters would be --  18 A. One more than the public counter.  19 Q. -- than the public count. But this, this  20 myth is that a single person could cast multiple  21 votes. Do you see that? That's the myth that's  22 being contested; correct? Myth number three? A</p>	<p style="text-align: right;">128</p> <p>1 Q. But not definitely unlikely, period?  2 A. Well, because you can't prevent against  3 fraud and people voting twice. If the procedures  4 are followed, a single voter is given access to one  5 voting unit and one time to vote and once that  6 person has completed that process, there is no way  7 to get another ballot up on the screen for that  8 voter to vote twice.  9 Q. But if there is fraud, if there has been  10 a fraud and there's a discrepancy, what happens  11 after there's a discrepancy?  12 A. But the only fraud that can exist if  13 someone goes in and misrepresents to the election  14 workers and they accept it that the person is  15 someone else.  16 Q. Right.  17 A. And that, and so your numbers are still  18 going to match.  19 Q. Fact number three indicates that a  20 discrepancy in the voting numbers would be  21 identified immediately, doesn't it.  22 A. You and I are talking about two different</p>
<p style="text-align: right;">127</p> <p>1 single person could cast multiple votes?  2 A. Right.  3 Q. So if a single person would cast multiple  4 votes, then the number of votes would be higher than  5 the number of voters who checked in; correct?  6 A. It would. But how are they going to cast  7 the second ballot.  8 Q. So if the number of votes on the voting  9 unit is higher than the number of voters who checked  10 in, that's a discrepancy, isn't it?  11 A. It would be, but it wouldn't happen that  12 way because the voter doesn't have access to the  13 second card or to a reprogrammed card in order to  14 vote again.  15 Q. It would be highly unlikely for that to  16 happen; is that right?  17 A. That's what this says. But this was  18 written several years ago. I would suggest to that  19 today it is not only highly unlikely, it is probably  20 unlikely period.  21 Q. Probably unlikely, period?  22 A. Absolutely.</p>	<p style="text-align: right;">129</p> <p>1 things.  2 Q. No. I'm talking about the fact number  3 three, under myth number three where you wrote, any  4 discrepancy would be identified immediately. Do you  5 see that?  6 A. Okay.  7 Q. But you don't indicate what the State is  8 going to do if it identifies a discrepancy.  9 A. Okay.  10 Q. Well, you've got -- if, if -- if you've  11 got a certain number of votes on the voting unit and  12 you've got a different number for people who have  13 checked in, isn't that a red flag that hey,  14 something went wrong in this precinct?  15 A. Okay.  16 Q. And how do you figure out what the  17 accurate number of votes are?  18 A. By the number of votes that have been  19 cast in the voting unit.  20 Q. But what if somebody has voted twice?  21 A. Somebody can't vote twice.  22 Q. But you had indicated that it's only</p>