CONGRESSIONAL ELECTION SECURITY TASK FORCE
TESTIMONY OF
EDGARDO CORTÉS
COMMISSIONER
VIRGINIA DEPARTMENT OF ELECTIONS

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I.   Introduction

Good afternoon. I truly appreciate the invitation to speak with you today. My name is Edgardo Cortés, and I am the Commissioner of Elections in Virginia. In this role, I serve as the Chief Election Official for the Commonwealth and lead the Department of Elections. Virginia has 133 local election jurisdictions and over 5 million active registered voters. During my tenure, the Department has focused on using technology to create a better voting experience for eligible Virginians and reduce the workload for local election officials while increasing security and accountability in our processes. We have done much work in this area; however, as I have been asked to discuss the recent voting equipment decertification, I will focus my introductory remarks on that topic.

One aspect of this focus on modernization has been an effort to strengthen the security and reliability of voting systems. As you know, Virginia decertified all paperless Direct Record Electronic voting equipment ("DREs") on September 8, 2017, just 59 days prior to our November general election, and required the use of optical or digital scan voting equipment for future Virginia elections.

This step was not taken lightly, and it placed financial and administrative stress on the election system. It was, however, an essential step to maintain the public's trust in the integrity of Virginia elections. This administration, and the Virginia election community, have faced many less than ideal situations in the past four years. We addressed this situation in a similar manner to all of the others – with a solid determination to ensure that eligible Virginians were able to vote with confidence.

II.   Virginia Election Administration Ecosystem Overview and Background

The Virginia election administration ecosystem is structured comparably to several other states in that local officials administer and mostly pay for elections, and the state supervises and coordinates this work and ensures uniformity. Regarding voting equipment specifically, the state is responsible for certifying voting equipment, such as DREs; local officials are responsible for choosing their equipment from the state menu of certified options. Our state certification requirements rely on the existing federal criteria, and once a system is certified, no additional testing is currently required by the state to retain certified status.

The first efforts to curtail the use of paperless DREs in Virginia began in 2007– when a new state law prohibited localities from subsequent purchases of DREs. This allowed localities to continue using their existing DREs (which remained certified), but forced them to select a paper-based voting system when replacing their equipment. Seven years later, when I was appointed Commissioner, approximately 114 of our 133 localities were still using antiquated DREs, as the 1st map you have shows. The 2014 general election experienced significant issues throughout the state due to the continued use of old voting equipment and highlighted the need for an expedited transition away from paperless systems. As part of our efforts to address the problems, Governor McAuliffe proposed $28 million in the state budget for new voting equipment during the 2015 legislative session. Unfortunately, the General Assembly refused and left financial responsibility for new voting equipment with local officials.

III.   WINVote Decertification

Not surprisingly, as the DREs grew older, complaints related to them began to increase: some that you may remember – in which voters attempting to vote for your former colleague Congressman Rigell experienced issues in 2014, and some that didn't make headlines, such as one machine which the local board was unable to acquire results from until the Saturday after the election.

The Department conducted a full review of voting equipment issues related to the 2014 general election. During that review, the Department discovered that one of the certified DRE machines, the WINVote, was operating while its' wireless network was turned on. With no prior history to rely on, I asked the Virginia Information Technologies Agency (VITA) to assess the equipment's security. Even with no voting equipment experience, a staff member was able to manipulate a WINVote machine, which was located in one office, while she was sitting in a different office down the hall. This discovery necessitated immediate action – even though the June Primary Election was a few short months away, and the approximately 30 localities using WINVote machines, which accounted for about 20% of precincts in the state, had no money in their local budgets for the immediate procurement of new voting equipment.

The Department contacted the affected localities and informed them of the potential impending decertification. We also contacted the organizations representing local officials, and the voting equipment vendors which promptly confirmed sufficient inventory and capacity to immediately equip the localities with new machines. The vendors, in competing for each affected locality's business, offered creative financial incentives.

In response to VITA's findings, the WINVote was decertified 55 days prior to the 2015 June Primary in spite of many comments predicting "certain failure," which I assume are similar to comments you've received about concerns with transitioning voting equipment in general. With lots of teamwork between the state and affected localities, the June Primary Election in 2014 was administered without issue related to the new voting equipment. The most important

factors in this successful transition were the partnerships with the individuals and entities mentioned above and the ongoing and constant communications with all interested parties.

IV.   September 2017 Decertification

As part of the entire McAuliffe administration's focus on cybersecurity, the Department has been focused on strengthening the security of our voting processes during the past 4 years, including encouraging remaining localities using paperless DREs to transition to new equipment as quickly as possible. The Department learned that DEF-CON, the annual hacker conference held in Las Vegas, planned a "Voting Village" exhibit at their July conference. The public reporting from DEF-CON created substantial security concerns. When my CIO alerted me that an attendee posted the password for one of the voting systems in use in Virginia, I knew immediate action was necessary in advance of the upcoming election. The 2nd map you have represents DRE usage at that point.

As you can see, there were only about 30 localities that had not updated their voting equipment and were still using one of 5 old DRE voting systems, such as the Sequoia Edge and the TSX Accuvote. What this map also shows are the real consequences of the decision to not provide federal or state funding for equipment: generally, only the poorer and more rural localities were forced to continue to use antiquated and problematic voting machines because they couldn't afford new ones.

While we knew that the transition was possible because of prior experience, this decertification faced some slightly different challenges. For example, we now needed testing done on 5 *different* voting systems - yet the state had no way to compel the vendors or localities to provide equipment for VITA testing. Through relationships with the locals, we obtained equipment for all but one type of system: the Hart eSlate. The vendor also refused to provide the equipment. This was a big problem.

On the other hand, we also had additional helpful partners for this decertification. While the equipment was being tested, but before the official decertification, the state association of election officials ("VRAV") wrote to its membership. VRAV expressly acknowledged that any voting equipment almost two decades old was unlikely to withstand any review under today's IT security standards, and officially recommended that all localities move forward immediately with obtaining new equipment. Verified Voting also served as a resource and provided the Department and VITA, under exceptionally tight timelines, with helpful information about the equipment's vulnerabilities.

Approximately 10 weeks prior to the 2017 November General Election, VITA provided preliminary information related to the machines which was very concerning. When conducting a preliminary analysis, the Department asked whether VITA would be willing to confirm the accuracy of results cast on any of the machines in the event that future election results were called into question. In response, VITA asserted that they would not, at that time, be willing to

provide unqualified statements of support. The next week, 59 days prior to the election, all DREs were decertified by the State Board of Elections. Today, exactly two weeks from the election, all affected localities have their new voting equipment. In-person absentee voting began, as scheduled, approximately 2 weeks after the decertification – and has continued through today without any incident of note related to the use of paper voting systems.

None of this would have been possible without the great work of our local election officials, who struggle with a consistent lack of financial resources; my Deputy Commissioner, Liz Howard; my Chief Information Officer, Matt Davis; VITA, especially Mike Watson, the Commonwealth Chief Information Security Officer; and so many others, including Tracy Howard, Former VRAV President; Katie Boyle, Virginia Association of Counties Director of Government Affairs; Verified Voting; Pro V&V Labs; and last but certainly not least, the EAC. Our experiences with voting equipment decertification have gone smoothly because of the teamwork between state and local officials, national organizations, state organizations, voting equipment vendors, and the veritable army of officers of election who assist with administering our elections with little pay every year.

Although it's clearly possible to transition quickly, doing so is less than ideal. As the voting equipment issue is far from resolved, I request that you consider the following recommendations which, I believe, will make these issues much easier to manage in the future:

1) Funding elections is a shared responsibility at the local, state, and federal level. Congress needs to ensure sufficient federal funding is available for states to procure and maintain secure voting equipment and increase security of all election systems.

2) The EAC has been critical to ensuring that a baseline set of standards for voting systems, adequate testing protocols, and certified test labs are available to states and Congress should retain and fully fund this exceptionally important resource to states. Further, in order to ensure the use of secure voting equipment in the future, Congress should require federal certification of all voting systems used in federal elections. This federal certification protocol would ensure a security baseline – and allow for states to require additional and state specific testing. In addition, it would address the need for ongoing and periodic testing without subjecting the vendors to 50 different periodic testing schedules, and mandate that the vendors provide equipment for testing upon request. Federal certification should also be required for electronic pollbooks which are not currently subject to any federal guidelines. If required federal certification is not a realistic solution, then, at minimum, Congress should empower and fund the EAC to expand their current voluntary voting system guidelines to include guidelines applicable to electronic pollbooks and incorporate periodic security testing as a prerequisite to maintain certification.

3)   Congress should establish an accreditation system for election administrator training to ensure that the individuals responsible for this most fundamental American right are equipped with the appropriate skill and knowledge set.

Thank you again for inviting me to share our experiences with voting equipment decertification in Virginia. I am happy to answer questions related to this or any other election security issues from the members of the Committee.