

**HIT Policy Committee  
Privacy & Security Tiger Team  
Transcript  
January 24, 2013**

**Presentation**

**MacKenzie Robertson – Office of the National Coordinator**

Thank you. Good afternoon everybody. This is MacKenzie Robertson in the Office of the National Coordinator for Health IT. This is a meeting of the HIT Policy Committee's Privacy & Security Tiger Team. This is a public call and there is time for public comment built into the agenda. The call is also being recorded, so please make sure you identify yourself when speaking. I'll now go through roll call. Deven McGraw?

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Here.

**MacKenzie Robertson – Office of the National Coordinator**

Thanks Deven. Paul Egerman?

**Paul Egerman – Businessman/Software Entrepreneur**

Here.

**MacKenzie Robertson – Office of the National Coordinator**

Thanks Paul. Dixie Baker?

**Dixie Baker, MS, PhD – Martin, Blanck and Associates – Senior Partner**

I'm here.

**MacKenzie Robertson – Office of the National Coordinator**

Thanks Dixie. Neil Calman? Judy Faulkner? Leslie Francis? Gayle Harrell?

**Gayle Harrell, MA – Florida State Legislator**

Here.

**MacKenzie Robertson – Office of the National Coordinator**

Thanks Gayle. John Houston? David McCallie?

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

Here.

**MacKenzie Robertson – Office of the National Coordinator**

Thanks David. Wes Rishel? Latanya Sweeney? Micky Tripathi? Kitt Winter?

**Kitt Winter – Social Security Administration – eHealth Exchange Coordinating Committee Chair**

Here.

**MacKenzie Robertson – Office of the National Coordinator**

Thanks Kitt. And any ONC staff members, if you could please identify yourself?

**Kathryn Marchesini – Office of the National Coordinator**

Kathryn Marchesini.

**MacKenzie Robertson – Office of the National Coordinator**

Thanks Kathryn. I believe we have David Holtzman and Linda Koontz on the line as well.

**Linda Koontz, CIPP – The MITRE Corporation**

Yes.

**David Holtzman, JD, CIPP/G – Office for Civil Rights**

Hi.

**MacKenzie Robertson – Office of the National Coordinator**

Thanks. I'll turn it back over to Paul.

**Judy Faulkner – EPIC Systems – Founder and Chief Executive Officer**

Hi, this is Judy.

**MacKenzie Robertson – Office of the National Coordinator**

Oh, great; thanks Judy. Okay Paul.

**Paul Eggerman – Businessman/Software Entrepreneur**

Great. Thank you very much, MacKenzie, and I want to thank everybody for participating in our Tiger Team conference all this afternoon. We have a fascinating topic that we are going to be talking about which is the entire issue of query and response, and what are the privacy and possibly security policy issues related to query and response that need to be addressed. And we had a previous meeting in which we made some progress on some issues relating to consent, so in our agenda for this afternoon, first we're going to review and discuss the progress that we've made including the key assumptions that we made as part of our consensus and Deven will go over that.

And then we are going to go through a list of what we call outstanding topics, and so, the outstanding topics is based on the idea that when you look at query response, issues related to consent are not the only issues, there are many other policy issues that needed to be discussed. There is, in the slide deck, some additional background information that we're not going to go through during this meeting, but is useful information. There is information about DURSA, its evolution and requirements, existing practices of HIE organizations and also there is a brief summary of a PCAST workgroup discussion that occurred on this topic of query response. So that is also in your slide deck.

And our expectation is to wrap up the discussion of query response during Q1 of calendar year 2013. In other words, to translate what it says on the slide, by the end of March is what our goal is. And so, by the end of March, what we are hoping for is that we have a consensus so that we can ... on a whole series of issues, and then hopefully present that during the April Policy Committee meeting. That means we have six meetings, including today, to discuss these topics. As MacKenzie said, this meeting is an open meeting and at the end of the meeting, there will be an opportunity for public comment. The public comments are very important to us. And so that's basically the agenda and Deven is going to...unless there are questions about the agenda, Deven will start by taking us through the issues and remind everybody what we've already decided, have already discussed.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Thanks a lot Paul. Yeah, this is just to sort of bring everybody back up to speed on sort of what we had covered in our previous meeting, so that we can move forward from there. In our last call, we reminded ourselves of what we had previously said on the issue of consent and when there ought to be consent for information exchange above and beyond what law might already require. And we noted that our previous recommendations really did assume that there would be a decision-maker at the receiving end of the query and that that decision-maker would have some discretion regarding whether to provide the requested records or not. And in a circumstance like that, where the decision-maker holds, still holds that authority, the provider that the patient typically trusts, we didn't see a reason necessarily to say that additional consent above and beyond what might be required by law should necessarily be required.

We also noted that at least that the certification recommendation that was issued as part of the most recent Request for Comment for the next stage of meaningful use in the EHR certification program also seems to assume that there is, in fact, a decision-maker. So, that RFC criterion really focuses on the capability of the EHR systems to execute a decision by the record holder to release data in response to a query. But we also noted that not all query models that exist out there necessarily leave room for this discretion. We also noted that query models put, of course, entities into a position of reaching out and collecting information and that HIPAA doesn't really establish rules or boundaries around when information can be collected and instead focuses on permitted uses and disclosures once the information has been collected. Of course any information collected has to be disclosed by the receiving party, so in some respects, it's not as though there's a complete absence of rules. But certainly in terms of what are the circumstances under which you as a provider or you as any entity covered by HIPAA would be able to actually go and collect information, that's not necessarily addressed by the rules.

Okay, next slide.

**Judy Faulkner – EPIC Systems – Founder and Chief Executive Officer**

Deven?

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Yes.

**Judy Faulkner – EPIC Systems – Founder and Chief Executive Officer**

When it says decision-maker, last time we spoke about the decision-maker could be a human being or a software system, is that still correct?

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Well, what we said last time, yes, in terms of sort of clarifying what we said previously, which is where we are in the discussion right now, we said that the decision maker could, in fact, program their software system to make some decisions automatically. But they would still be making a decision to do that.

**Judy Faulkner – EPIC Systems – Founder and Chief Executive Officer**

Okay. And as this gets written up, that should be clarified because otherwise people won't know it.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Sure. I mean, it is actually very clear in the full document.

**Judy Faulkner – EPIC Systems – Founder and Chief Executive Officer**

Oh, okay. Great.

**Deven McGraw, JD, MPH – Director – Center for Democracy & Techno**

Yes. These are the recommendations from two years ago that we're trying just to sort of highlight, so we can bring the discussion up to present day. But ...

**Judy Faulkner – EPIC Systems – Founder and Chief Executive Officer**

Thank you.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

... you are right. So then that leaves some remaining questions for us, in terms of sort of the query response model that is now sort of on the table as part of the RFC and other models that are out there. Are there any revisions that we want to make, based on our previous recommendations, or are there ways that we want to build on what we said previously. And then in particular, what would we want to say from a policy standpoint about the intersection of the technical recommendations for certification that came out of the Information Exchange Workgroup and what we've previously said on consent. Or even frankly, what we might decide to say on consent and other issues related to query as part of the discussions that we're having today. So now I want to just...

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

Deven?

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

... refresh everyone's memory where we thought we got in our previous discussions on this topic.

**Dixie Baker, MS, PhD – Martin, Blanck and Associates – Senior Partner**

What – Deven, the last slide, what recommendations are you talking about, the IEWG recommendations?

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

That's the RFC certification.

**Dixie Baker, MS, PhD – Martin, Blanck and Associates – Senior Partner**

Oh, oh, okay, got it.

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

Deven, this is David, I have a question.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Uh huh.

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

On your issue slide, I think it may be in the previous, no, wait a minute, the issue slide, is that the previous one, I'm not looking at the live thing – yeah, okay. You say query model puts entities in a position of collecting information. Are you referring to the treating provider who's collecting information by querying remote systems or are you referring to the remote systems, which may have collected data to be queryable?

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

The former.

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

Okay. So the notion of the treating provider collecting information to treat the patient, you think that's not addressed by HIPAA.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

HIPAA does not put parameters around the collection of information. It does put parameters around the release of information. So, if you as a provider want to make a query for any purpose whatsoever, there isn't anything in HIPAA that guides you in terms of what purposes you can query for. But, HIPAA does control the entity on the receiving end of that query, assuming it's a HIPAA covered entity, in terms of whether or not they can release it. So what you can ask for, not covered; what you can release, covered.

**Dixie Baker, MS, PhD – Martin, Blanck and Associates – Senior Partner**

Now if ...

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

Okay, thank you.

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

But there's also, this is Wes, I got here late, there's also a – in every one of these transactions, there is a disclosing party.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Yes.

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

Right. Okay, so I guess what is surprising that there's any thought that HIPAA should establish rules around what you can ask for.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Well...

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

Yeah, that's kind of my question as well, why is this considered an issue, because ...

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

I don't know that it is, it's part of background information – all right, so maybe we shouldn't have called this slide issue, part of background information. I mean, because essentially, as you'll see in a second, we're getting here, what we're talking about is, in fact, the circumstance – some of the sort of factors that ought to be in place for people who are doing the asking, the querying party. What are their responsibilities? And then subsequently, what are the responsibilities of the record holder when they receive the query. So this is just a background fact. You're right, it's not an issue.

**Dixie Baker, MS, PhD – Martin, Blanck and Associates – Senior Partner**

Deven, this is Dixie.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Yes.

**Dixie Baker, MS, PhD – Martin, Blanck and Associates – Senior Partner**

The HIPAA does, in fact, in the latest update the Omnibus Bill, the – it does in fact say, and this is the only thing I can think about, is that it does say that the person asking for information needs to limit their request to the minimum necessary.

**Joy Pritts – Office of the National Coordinator for Health Information Technology – Chief Privacy Officer**

That's right, this is Joy, that's right Dixie, with the exception of a health care provider and asking for information for treatment purposes.

**Dixie Baker, MS, PhD – Martin, Blanck and Associates – Senior Partner**

Oh, that's an exception.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Yes.

**Dixie Baker, MS, PhD – Martin, Blanck and Associates – Senior Partner**

Oh, I did not realize that. I didn't realize that. But that's the only point I can think of where it actually constrains collection ... or even addresses collection.

**David Holtzman, JD, CIPP/G – Office for Civil Rights**

And this is David, and just to be clear that provision that is an exception for minimum necessary for treatment purposes, that is not a new provision, that's a provision that has been with the rule since its inception.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Yup.

**Dixie Baker, MS, PhD – Martin, Blanck and Associates – Senior Partner**

But didn't the update put the onus on both ends and before it was just on one end?

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

No.

**Dixie Baker, MS, PhD – Martin, Blanck and Associates – Senior Partner**

Ah, huh. Okay.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Okay, can we move on, because we're getting a little off track here.

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

Yes.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Thank you.

**Dixie Baker, MS, PhD – Martin, Blanck and Associates – Senior Partner**

I – getting things was off track.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Okay. All right, so one – here's where we were beginning to lay groundwork last time. We sort of assumed, in order to get to sort of the critical question of whether or not, under what circumstances should – what should be represented in a query and under what circumstances – what's the record-holder's response? That's sort of what we're aiming to address. We sort of felt in order to reach those questions that we needed to get comfortable around a set of assumptions. And one was that we were sort of dealing with what someone might call lower hanging fruit, which is, we're dealing with adult patients, not minors, and we're dealing with treatment queries and we're dealing with queries not for more sensitive information, right. So, we're trying to solve for the easier, relatively easier case first with the aim of trying to get back to some of the more difficult questions once we have done that.

And we also wanted to make a note for ourselves that in fact, there is this concept in HIPAA, of the indirect treatment relationship where – that's sort of like a provider consulting opportunity, where one provider might ask another provider to provide some, an opinion or some feedback on care for a patient, but that patient is not a patient of the provider who's being asked. So, we need to go back and sort of pressure test our recommendations against that scenario too, because as you'll see, much of what we've been talking about presumes that there's a treatment relationship between the provider who's asking for the data and the patient who is the subject of that data. So, we've, again, we've sort of assumed that we have an environment that's easier to solve for, relatively speaking, and that there's some sort of trust environment in place where there's a mechanism for vetting the providers, at least from an identity and authentication standpoint.

So, two ways where this trust might be established, that currently exist or that are in the planning stages to exist, are the use of the direct protocol to transmit information where the participants have a direct certificate. And then membership in some sort of trusted network, like an HIO, where the participants have been identity proofed and has authentication measures in place, and often have signed participation agreements. And there may be others, but those were the two environments. We sort of assumed that that was in place.

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

Deven?

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Yes.

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

David. I think it may be the case that even in the context of a direct network, you could imagine that the ability to support query responses, particularly if it's an automated, algorithmic kind of response, might require more than just the trust of the direct protocol. I don't know that you mean to imply that that is sufficient, but it's...you're just saying it's a context.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Yeah. No, I think that's exactly right David and I think that's a really good point.

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

Yeah, I was going to make the same, slightly different comment which is that particularly the word direct in the protocol in the first bullet, sub-bullet in key assumptions two, is questionable. Certainly the trust framework that has been established, that is, comes about in several ways, but one of them is in the ability to know that you can trust the direct, something that uses a direct address, is critical. I'm not sure that I would like the kind of delayed response push mechanism for queries, particularly queries to automated systems.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Okay. Yeah, I mean we can go back and revisit this for sure. I mean I think we were mostly, when we kind of landed on this assumption previously, I think we were focusing a little bit more on just the identity and authentication aspects of trust ...

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**  
Right.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**  
... which is only one slice. But yeah, but we – I think more concerns will probably bubble up as we sort of talk about this further.

**Gayle Harrell, MA – Florida State Legislator**  
Deven, this Gayle. I also have a question.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**  
Yeah, Gayle, we can't hear you very well, I'm sorry.

**Gayle Harrell, MA – Florida State Legislator**  
Okay, hang on, let me see if I can fix it. Hear me better now?

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**  
Um, no.

**Paul Egerman – Businessman/Software Entrepreneur**  
Not much.

**Gayle Harrell, MA – Florida State Legislator**  
Well, I'm on a cell phone ...

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**  
That's better.

**Gayle Harrell, MA – Florida State Legislator**  
Is that better?

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**  
Yeah.

**Gayle Harrell, MA – Florida State Legislator.**  
I'll go closer to the window. I have a question on the second point, on membership in a trusted network participants have been identity proofed and authenticated, authentication measures are in place. What – this does not address authorization, not only is there authentication, but there's also authorization as to whether that member was in that trusted network is an authorized party to access that information.

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**  
I think that's implied by membership.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**  
Yeah.

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**  
I mean, membership in a trusted network, you are a member if you are authorized.

**Dixie Baker, MS, PhD – Martin, Blanck and Associates – Senior Partner**  
I think she's asking about authorization for the information that they're asking for.

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**  
You mean for the specific ...

**Gayle Harrell, MA – Florida State Legislator**  
... specific information.

**Dixie Baker, MS, PhD – Martin, Blanck and Associates – Senior Partner**  
Yeah.

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

So, in that case, aren't we relying on the HIPAA exception right now, that if you allege that you're a provider with a relationship, and you have patient consent, then the authorization is assumed.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Well, that's exactly what we're getting to ...

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

Okay.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

... that's exactly what we're getting to, in other words, we're jumping the gun a little bit I think.

**Gayle Harrell, MA – Florida State Legislator**

I'm sorry.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

That's okay Gayle.

**Paul Egerman – Businessman/Software Entrepreneur**

This is Paul. Wes, could I just ask you to identify yourself when you speak?

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

I'm sorry.

**Paul Egerman – Businessman/Software Entrepreneur**

You're saying some val – making valuable comments and I want to make sure the record has the...

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

Well I'll ... to anyone.

**Gayle Harrell, MA – Florida State Legislator**

This is a key issue is on the authorization because ... they're under ... you may have many parties in a trusted network, but there are only specific ones who are authorized to access that information.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Yes. So here's where we were sort of, here's where we were starting to land in our previous discussion, although certainly something I think that we need to discuss further. So, we were coalescing around a view that certainly a provider who's making a query for patient information for treatment purposes in the low-hanging fruit scenario that we just described, really needs to provide at least one of the following. They need to attest that they have established or they're in the process of establishing a treatment relationship with the subject patient or they have to have an authorization and that in such situations, possibly there ought to be some sort of safe harbor or other sort of regulatory blessing that would insulate them from liability ...

**M**

Hello

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

... okay, hold on, we've got lots to talk about here, can I just get through the slide? You know, we were sort of talking about creating an environment where when the right conditions are in place, when you've got either a treatment relationship with the patient or the patient's authorization in a query, that provides the impetus for the requestor in terms of sort of what they're responsibility is; again, assuming proper ID proofing and credentialing. And of course, they have to have the legal authority under their own jurisdiction to even be asking for the information.

Now the piece that we were starting to try to dig in deeper on and come to some consensus on, but that I think we need to discuss further as we really need to chew on all of this a little bit more is; what are the responsibilities of the record holder or the data holder when they get a query, where there is an attestation of the treatment relationship, or the patient's consent, or both and, you've at least got the ID proofing and authentication pieces tied up through some trusted mechanism, either direct or a network agreement. And what are the responsibilities of the data holder in that context, in terms of sort of should they respond, if we would say they would be required to respond, how would that be enforced, what's the content of the response and what's the timeliness of the response.

And then, of course, we've identified a number of other issues that you guys put on the table over the last couple of discussions that we've had about this topic, what's the form of consent, should there be standard consent, if it's possible to do so. What about interstate queries and navigating legal requirements and then, sort of the use of audit trails and accounting for disclosures in order to create some accountability mechanisms around all of this, both with respect to the patient as well as to the providers. And that's a big list of topics, but I think we're hoping really to try to make some progress on the issues of what you have to present when you make a query, what are the responsibilities of the data holder and maybe what are the mechanisms in which to sort of enforce or provide incentives for the sort of policies we'd like to see. And with that, we can open the floodgates, I think. Paul, is there anything else you want to add?

**Paul Egerman – Businessman/Software Entrepreneur**

Well, I think before we – I don't know what you mean by open the floodgates. I think the first thing to ask is, is this the correct list of topics. Are there any topics that are missing? So rather than ... before we dive into any of these topics, are there any issues, topics that we want, that people want to discuss that aren't on this list?

**Kitt Winter – Social Security Administration – eHealth Exchange Coordinating Committee Chair**

This is Kitt Winter, is it okay for me to ask something now?

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Yeah.

**Paul Egerman – Businessman/Software Entrepreneur**

Yes, absolutely.

**Kitt Winter – Social Security Administration – eHealth Exchange Coordinating Committee Chair**

One of the issues related to Social Security, and may be a topic that we can include in this is, the whole issue of interoperability and how the consent and authorizations are shared. I mean, from the Social Security point of view, we are a trusted third party, so we don't actually relate to a treatment relationship, and we're also not covered under HIPAA, but we want to make sure in this consent authorization that we're included in that process as a trusted third party.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Okay. So I think initially – this is Deven. So, part of your comment Kitt, I thought we, you know, in terms of sort of the interoperability of the consent, I think we ... the bullet on form of consent was sort of where we would tuck that issue in, and maybe it's better framed as interoperability, quite frankly. But, that's where we intended that to go. In terms of sort of the Social Security Administration as a trusted party, umm ...

**Kitt Winter – Social Security Administration – eHealth Exchange Coordinating Committee Chair**

Because we were included in the whole Meaningful Use 1 and kind of the specification of us was dropped out of Meaningful Use 2, but we want to make sure that we're that type of, and not just for us, but that type of trusted third party when it's not related to an actual treatment, it's more administrative ...

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Right, but don't you guys always have the consent of the subject of the record before you get them?

**Kitt Winter – Social Security Administration – eHealth Exchange Coordinating Committee Chair**

Yes, we do have a consent form that's signed by the claimant that's provided that we then send with it, but sometimes based on state regulations or local policy; there can be concerns, particularly when it's related to electronic transfers. That wasn't always included in the legislation as being an automated process and then it ends up being a process that has to be stopped and somebody has to put eyes on. So, if we're included in this part of the standards and policies, it would be helpful moving forward.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Okay.

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

This is Wes. I'd like to add two comments to that if I can.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Sure.

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

One, and I think it goes to the assumption we've made about scope earlier on that we're talking about, requests between a treating provider and another treating provider. I think that it's a really important issue because it gets to the right of the patient to request release of information. That we know that patients often have difficulty getting information for third parties or for other reasons when they want it and we're going to go back and vigorously approach that issue. I think that – I hope we will come out with a set of policy positions that support automated response, where possible, and sort of a fail-over position to non-automated responses where there are issues.

And I have a big concern about interoperability of consent because I think that it can easily run from the sublime to the ridiculous in the sense of the number of different roles and operational roles that you describe your consent for, and the kinds of data that you provide consent for and a number of things. So, if necessary, I'd like us to at least first approach a framework that enables automated responses for the most common consent cases and fails-over where ... rather than getting everybody to understand and encode their system to a very complicated consent model. I know that there are consent engines out there that can do that, I'm trying to avoid the necessity of having the necessity of building a configuration into all systems to work with the consent engine.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Okay.

**Paul Egerman – Businessman/Software Entrepreneur**

So, this is Paul, so, this issue about form of consent and interoperability related to consent, is that covered with our second bullet or can we just expand that to make sure that that's discussed as part of that issue.

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

This is David. I think Wes is saying something that I was going to say as well which is, Deven carved out the common use case of direct care and we agreed to come back and revisit different use cases like indirect care. And I would consider the Social Security use case to be one of those different cases that we should come back to and visit, after we've optimized on the common case.

**Paul Egerman – Businessman/Software Entrepreneur**

Yes. This is Paul. I agree with that. If I've heard it right, there were two different issues on the table, one was consent interoperability and the second to try to generalize what I heard from Social Security was administrative or non-treatment requests.

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

Right.

**Paul Egerman – Businessman/Software Entrepreneur**

I look at non-treatment requests and I ask is that either outside of our scope or is that something we deal with when we're all done with the treatment.

**Kitt Winter – Social Security Administration – eHealth Exchange Coordinating Committee Chair**

And this is Kitt. I just want to clarify that we are really not different, I totally agree with Wes' comment. But we do see this today, some automate their consent, some others don't, some kind of, some review another's consent, like for example, a provider, if it's a person is 18 or under, they might need to review it differently. So this is something that is occurring today, but we don't really consider ourselves as different.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Well, but we consider you different from a provider Kitt.

**Kitt Winter – Social Security Administration – eHealth Exchange Coordinating Committee Chair**

Yes. Okay, that would make sense.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

But there are a set of scenarios, I think, where you're talking about the patient being able to get the information to someone who needs to get it, of which the Social Security Administration is one actor and you can probably think of some other scenarios. So, I think it is closer to sort of Wes' maybe bigger category of ...

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

Yeah, and I ...

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

... data for which it is advantageous for the patient to have it be able to be released.

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

Right. This is Wes again. I think it's important we recognize it's an important expansion in scope and that we consider these expansions as we set the policy around the original case set. That is, I don't want us to come up with a policy approach that isn't readily expandable to cases like Social Security or even applying for life insurance or all kinds of different cases like that.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Right.

**Paul Egerman – Businessman/Software Entrepreneur**

And this is Paul. That makes sense, so the way we could look at this is, we need to keep that in mind, but it is...if we get through all this by the end of March for the treatment situation, and we keep the administrative or non-treatment situations in mind, that will be a good accomplishment. I don't think we can get through the administrative side by the end of March.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

We'll see, but you never know. I'm always optimistic. But yeah, we need to be mindful of these circumstances, even as we set the policy around the easier case.

**Paul Egerman – Businessman/Software Entrepreneur**

That's absolutely right. Are there any other comments about this list of topics before we dive into the first one?

**John Houston, JD – University of Pittsburgh Medical Center; National Committee on Vital & Health Statistics**

This is John Houston. My apologies, I just wanted to tell you I'm on the phone, I got on late...

**Paul Egerman – Businessman/Software Entrepreneur**

Great, welcome.

**Dixie Baker, MS, PhD – Martin, Blanck and Associates – Senior Partner**

This is Dixie. I would suggest adding as a sub-bullet to the first bullet, the responsibility for checking consent.

**Paul Egerman – Businessman/Software Entrepreneur**

Okay.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Okay.

**Gayle Harrell, MA – Florida State Legislator**

And Deven, this is Gayle, I'm assuming we're going to talk about the authorization aspect, too.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Well, I mean essentially...so authorization is, I think, part and parcel of what we're talking about now, Gayle. So, you have sort of what does the requestor have to present, when making a request and then what's the response of the data holder is part and parcel of authority to receive information.

**Gayle Harrell, MA – Florida State Legislator**

Okay.

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

This is Wes. I don't think it would hurt to call out authorization specifically in these bullets that frame our work for the next few months, even if we think it's implicit already.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Okay.

**Gayle Harrell, MA – Florida State Legislator**

I would agree with that.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

That's fine.

**Paul Egerman – Businessman/Software Entrepreneur**

Okay, any other comments? So, hearing no other comments, why don't we dive into the very first one, which is responsibilities of the data holder?

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Right. And here – so, where we sort of seemed to be headed on the last call was almost a proposal to say, hey, if you've got a treatment relationship with the patient that you're attesting to, you are a provider who's been ID proofed and authenticated, and you've got either that or you've got the patient's consent that you're presenting for the release of the data, or you happen to have both; what's then the responsibility of the data holder? And where we seem to be heading on some of our previous conversations is that we wanted the data holder to release the information. Again, assuming the low hanging fruit case of regular data not in any particular sensitive data category, and the legal authority to release that data; a sort of HIPAA can release for treatment set of circumstances.

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

I think, Deven, this is David, didn't we add the caveat that unless there was any supervening law that prohibited that, such as say a court order or something.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Yes. So obviously it would have to be consistent with law. If you've got an intervening law that says you can't, you must abide by that. We had something to that on the previous slide, but it may not have been crystal clear.

**Paul Egerman – Businessman/Software Entrepreneur**

Yeah. And so, this is Paul, that is, as I understand it, that is what was discussed before and what I wanted to do was to challenge that and to say, that's a little bit different than what we've done in the past in that everything we've done in the past has been voluntary. And to say something is mandatory, and you have to release information, has me concerned. The reason I was concerned is, in a voluntary program, if you say providers have to release information in response to all queries, is it possible that that would cause some providers to choose not to participate in our program.

**Judy Faulkner – EPIC Systems – Founder and Chief Executive Officer**

This is Judy and our experience has been – well, my fundamental philosophy is, it's the patient's data and that if the patient goes somewhere and wants that data brought over there, that's the patient's right to do that. And if, in fact, someone doesn't want to send the data, most likely reason is because they don't want that patient going there, they don't want to lose the patient to that situation. And, my concern is that if it is allowed, we're going to see these turf wars being fought.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Yeah. I think, this is Deven, I think my own feelings differ between the scenario where you have the patient's consent versus when the basis for the query is coming from a treatment relationship, in terms of sort of whether or not the response of the record holder is in some way required. Because, but I also – I understand the anti-competitive concerns, I think they're significant, but I'm not sure that we even have the tools to be able to force people to release things from their record, even in the ideal circumstance where, yes you've got a treatment relationship, we've done all that is possible to do in terms of sort of attestation and ID proofing and authentication, you know ...

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

Deven?

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

... you have, even under HIPAA, information is only required to be shared in certain scenarios and treatment, payment and operations disclosures are permissible and not required. When you're legally required to release something, you have to do so. When a patient asks for data, you have to give it to them. But there are otherwise sort of few mechanisms where you're required to release and I think, you know, and as Paul pointed out, we don't even in meaningful use necessarily have tools to say, thou shalt do "X" beyond saying well, for a certain percentage of patients you need to share. I'm just really struggling with one, whether it makes sense to have a forced requirement here and two, whether even if we wanted one, we could actually create a mechanism to enforce it.

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

Deven, a legal question here.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Sure.

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

This is Wes. Isn't a request made by a provider with patient consent the equivalent of a patient request?

**Joy Pritts – Office of the National Coordinator for Health Information Technology – Chief Privacy Officer**

No. This is Joy.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Thanks Joy. I was going to have think about that for a minute.

**Joy Pritts – Office of the National Coordinator for Health Information Technology – Chief Privacy Officer**

It's a little different. Under the HIPAA privacy rule, well, it depends on how it is formatted, but the privacy rule is permissive for almost all disclosures, except to a patient upon their request. So, if I, Joy Pritts, asked my doctor for a copy of my medical records, they are required under HIPAA to give them ... a copy to me, except under very limited circumstances. On the other hand, if I sign a consent form, which is not required at all under HIPAA, or an authorization form under HIPAA, the provider may, but is not required to, abide by that request.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Right.

**Joy Pritts – Office of the National Coordinator for Health Information Technology – Chief Privacy Officer**

That's the way it's written.

**Judy Faulkner – EPIC Systems – Founder and Chief Executive Officer**

This is Judy. And the problem with that is, if I go to an ED and I want my data brought over, what you're saying is, because I'm not the one to request it of my healthcare provider, I have to go through the ED that I'm in, then my healthcare provider could deny that.

**Joy Pritts – Office of the National Coordinator for Health Information Technology – Chief Privacy Officer**

It is, under current law, a matter of their discretion that is the way. It is permissive, it is not mandatory.

**Judy Faulkner – EPIC Systems – Founder and Chief Executive Officer**

Well one of the things that I think we should consider is not saying, in what we do, either direction; we should just leave it as an untouched thing and that way, the different – like, we as a vendor, our rules of the road say, it's the patient's decision, if the patient says yes to the ED, I want that data brought over, then you have to agree to participate in that. I would like to see that not made legal.

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

So I think we all agree that what we're talking about is much more than desirable, it's a really important issue, that we can both facilitate that happening and so forth, but ultimately this issue of the obligation to respond, and particularly the obligation to respond in less than 30 days, is something that needs new law or new rules, or something.

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

This is David. I think that ... somebody coined the phrase the moral equivalent of safe harbor, which ...

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

I think it might have been you.

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

We can't change the law, obviously, in the Tiger Team, but we can create a clear understanding of expected behaviors that is considered appropriate, more than appropriate, laudatory, and then there are incentive measures that can of course reward physicians who do it. And, the lever arm of Meaningful Use Stage 3 could reward, and obviously punish if they don't collaborate, by responding to these properly formed requests. So, I agree, we can't change the law, obviously, but we can make it so that it's really clear that it's expected that you respond and that if in fact you do respond under these specific circumstances, you won't get into trouble, you're doing the right thing.

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

I think that's the best we can do. I think the kind of hard-nosed decisions that Judy is describing won't be intimidated by moral statements, but, we can certainly make it much easier, we can avoid a lot of misinformation and confusion by creating the moral equivalent of a safe harbor, by pushing for the moral equivalent of a safe harbor. There are things we can do along the way, but ultimately it's going to go back, ultimately the requirement, as described, isn't supported by the current legal framework.

**Paul Egerman – Businessman/Software Entrepreneur**

This is Paul. And so, I see ... sort of concluding that we can't add a new requirement to disclose the information, but one of the things that I understand in the DURSA...

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Yeah.

**Paul Egerman – Businessman/Software Entrepreneur**

... is that you do have to respond, give an acknowledgement you received the request.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Yeah, I'm just skipping to that slide for folks who are looking online, and it's on slide ten, and for those who aren't familiar with the DURSA, it is the agreement that is signed by participants in the Network that's now called eHealth Exchange and that used to be called NwHIN Exchange. It has a number of participants in it.

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

But isn't that a contractual constraint that is voluntary by members of the network...

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Yeah. No, absolutely, absolutely it is. It's just interesting where they landed on this question, that's all, that they required a response, but that you have to say, okay I got this request, but you're not required to release the data. So, I think we are arguably pushing for a statement that people really should respond when ...

**Paul Egerman – Businessman/Software Entrepreneur**

They should respond, but if they don't, they have to at least acknowledge the request.

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

Yeah, I like that.

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

Yeah, it has several valuable things. One, it isolates and makes clear where in the process they've got the client and I guess the question is, currently at DURSA there's a question about how the DURSA works downwards towards HIE members, that is, the agreement between the HIE organization and a member must implement the DURSA, but not necessarily completely. So I think it's important that we understand that these folks are including that in the downward revision of DURSA for memberships.

**Paul Egerman – Businessman/Software Entrepreneur**

Yes. And this is Paul, and I was just citing the DURSA simply as an example of how an existing operational network or information exchange network has done something that seems like a good idea ...

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

Yeah, no, I agree.

**Paul Egerman – Businessman/Software Entrepreneur**

... that we can borrow.

**W**

Yeah.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

So Gayle, are you still on?

**Gayle Harrell, MA – Florida State Legislator**

Yes, very much so.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Does this get to your authorization question or do we need ...

**Gayle Harrell, MA – Florida State Legislator**

It does to some degree, it still begs the question on the consent in that it is not clear that consent is required. Hello?

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Yeah. No, I'm – so, I think what we're saying is certainly, where the law requires consent you would need to have consent. And certainly in the sort of exchange scenario ...

**Gayle Harrell, MA – Florida State Legislator**

Yeah, in the ... scenario ... do you know how will computer to computer know that a ... requires consent?

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Well. Okay, so taking the computers off the table for a second ...

**Paul Eggerman – Businessman/Software Entrepreneur**

Oh no. Sorry Deven, that's just an interesting thing.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Okay, everybody put them on the floor.

**Paul Eggerman – Businessman/Software Entrepreneur**

Taking them off your lap for a second.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Take them off the table – it's okay, I didn't really intend to be funny, but I guess it was kind of funny. I'm talk – I guess I'm sort of exploring just from a policy standpoint Gayle, the sort of automated functionality that we might want ...

**Gayle Harrell, MA – Florida State Legislator**

Correct.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

... let the computers do. Is it enough to say either I've got the consent of the patient or I'm attesting that there's a treatment relationship, and maybe there's a third prong of this which is, and I'm authorized, let's say it's the nurse and not the doctor. I'm someone who is authorized to be getting this data for treatment purposes, I've got either the treatment relationship either for who I work for or myself, or I've got the consent, or I've got both. Those are sort of the policy conditions ...

**Gayle Harrell, MA – Florida State Legislator**

Correct.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Okay. Then it sounds like what you're getting to is how the computers know that.

**Gayle Harrell, MA – Florida State Legislator**

Correct. There needs to be a mechanism by which the automated response acknowledges that in the audit trail or whatever, that there was indeed that relationship.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Okay.

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

Which – this is David – which I think addresses the form of consent required notion, you know, how does the requesting system declare that those hoops have been jumped through.

**Gayle Harrell, MA – Florida State Legislator**

Right.

**Paul Eggerman – Businessman/Software Entrepreneur**

That's right.

**Gayle Harrell, MA – Florida State Legislator**

There needs to be some mechanism to acknowledge that.

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

Or to declare it.

**Gayle Harrell, MA – Florida State Legislator**

Declare it, audit trail and whatever, and declared back.

**Dixie Baker, MS, PhD – Martin, Blanck and Associates – Senior Partner**

... yeah.

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

Yup. And in our previous calls we discussed – well, I'll save it until we get to that point. Never mind.

**Paul Egerman – Businessman/Software Entrepreneur**

I think we're jumping ahead a little bit the form of consent.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Right.

**Paul Egerman – Businessman/Software Entrepreneur**

I just wanted to make sure that we finish up with responsibilities of the record holder.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Right.

**Paul Egerman – Businessman/Software Entrepreneur**

Because we talked about ...

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

This is David. What about timeliness, we didn't say anything about that.

**Paul Egerman – Businessman/Software Entrepreneur**

That was what I was about to get to. We talked about the responsibility to respond, we said that the content of the response could simply be an acknowledgement without the actual information. But what about the issue of timeliness, I mean, I see what Judy says, Judy says she'd like this to be automatic, which it certainly could be and should be in most cases. But one could envision a computer system that does like an automatic response when there's a request for emergency departments in their state, but at the same time, clinicians or medical groups or something, has human intervention before a record is released. And so the question is, if there's human intervention, do we need to make a policy about timeliness or is that something that we don't need to discuss at all?

**Gayle Harrell, MA – Florida State Legislator**

I think the law requires, in most states, that there's a certain timeliness to release records.

**Paul Egerman – Businessman/Software Entrepreneur**

This is not – again, this is query response in relationship to an attestation of a treatment relationship, it's not a release of records. I think the law may not apply to this, if I understood Joy correctly.

**W**

The HIPAA Privacy Rule doesn't specify it. There may be – there surely is an ethical obligation, one would think, for a healthcare provider to respond to another healthcare provider's response for health information in a somewhat timely fashion.

**W**

Yeah.

**W**

We could probably – let me think about this ...

**Kitt Winter – Social Security Administration – eHealth Exchange Coordinating Committee Chair**

And this is Kitt Winter. Today, right now there is a SAML header in the query message that indicates the policy assertion, which consists of the requestor, the patient and the purpose of use. And the eHealth Exchange transactions allow for synchronicity or synchronous and a sync request or response to occur. So this allows the automation between them, if there needs to be a pause or review of the authorization or consent.

**Paul Egerman – Businessman/Software Entrepreneur**

Okay.

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

So, this is Wes. I think it's important that we go beyond the DURSA – well, let me rethink that. I mean, we're talking about policy here ...

**W**

Yup.

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

My concern in part is that the policy is implementable and supports real-time responses or near real-time responses, even though we can't require that. So, I would argue that it's worth looking at how the mechanisms associated with the predecessor to ... the successor to the NwHIN had worked. I think we are aware that it's worked better in some cases than others and that other parts, particularly on the Standards Committee, may want to look at protocol issues as well. But, I think my biggest goal with policy is to make it clear that a responder can respond or when they can respond and to not accidentally disable real-time response. We certainly – I think most state rules that have any requirements for responses are written in terms of a manual response ...

**Kitt Winter – Social Security Administration – eHealth Exchange Coordinating Committee Chair**

I would definitely agree with that. I think that...I do think you have to be somewhat prescriptive, so that they know what's allowed.

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

Right. So I think there's a lot to be learned from looking at the actual accomplishments that SSA has achieved and other aspects of NwHIN. I think we need to be careful where we want to learn that, whether it's in policy or whether it's in other Standards Committee deliberations.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Right.

**Dixie Baker, MS, PhD – Martin, Blanck and Associates – Senior Partner**

I also – this is Dixie – I also think it's important that we be overly prescriptive.

**Kitt Winter – Social Security Administration – eHealth Exchange Coordinating Committee Chair**

Right, and just to be clear, this is not just SSA, but treating sources are doing this on the eHealth Exchange today.

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

Right. This is David. I think Wes' point is that's one particular implementation, there could be others. We wouldn't write policy specific to things like SAML headers.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Right.

**Paul Egerman – Businessman/Software Entrepreneur**

So, this is Paul, so on this issue of timeliness, are we sort of saying well, there's a responsibility and it's already being handled and we don't really need to say anything?

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Well, not necessarily. I mean, I think we want a timely response, right. But what it's sounding to me like is that the sort of technical capabilities for having the computers take on more of the response capability and the ... creates a dynamic around timing that is slightly ... it goes beyond just mere, you know, when you get the request, you should send it.

**Paul Egerman – Businessman/Software Entrepreneur**

Yes, but the example that I – this is Paul. The example I was trying to give is, suppose you develop a computer system that says, for these requestors, it's going to be automatic, but for this other category of requestors, there's going to be human intervention and physician's going to do a review before the content is sent over.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Right.

**Paul Egerman – Businessman/Software Entrepreneur**

And so if you have that, is – do you have to make a comment about timeliness? Is it okay if the physician takes a week to decide or a month or a day or an hour?

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

Yeah. Concretely I think we want a set of policy recommendations that if adopted, would enable real-time response for the maximum number of cases possible, but not require an entire different approach to requesting data when real-time response wasn't possible. I ... abstractly, in terms of what we put into our goals for this effort or our scope definition for this effort, I think we need to at least say that much. As far as going beyond and saying specific time requirements and things like that, I think, it's less important than us describing a policy that has uniform treatment for different kinds of response capabilities. That is, it identifies those that can be done untouched by human hands and those that require human hands.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Right.

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

But the goal...this is David. The goal, the normal case would be that this could be used in the process of actually providing care, it's not so asynchronous that you can't use it in an emergency room when you needed it or in a caring ... if needed.

**Paul Egerman – Businessman/Software Entrepreneur**

Right, that's right.

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

Or – yeah, in a clinic for the first time, review with a complex notation, I mean ...

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

Right, and that should be the goal.

**Gayle Harrell, MA – Florida State Legislator**

There also – this is Gayle. I think there also has to be, it has to be ... but there are times when there needs to be human intervention and that the provider may choose not to release records under certain circumstances.

**Kitt Winter – Social Security Administration – eHealth Exchange Coordinating Committee Chair**

Right, and this is Kitt. I do think that a policy needs to be asserted from the req – that from the request to the responder and how that's formatted may be dependent on the transport, but a policy does need to be in place overall.

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

Yeah, I think ...

**Kitt Winter – Social Security Administration – eHealth Exchange Coordinating Committee Chair**

Timeliness might be dependent on the workflow. When they say real-time, we need to be careful about, do we start to set a legal, a service level agreement ...

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

No, I think we want not to disable the possibility for people to do that. I don't think we're in a position of creating SLA. We just want to create a mechanism here, or create the policy that supports the creation of a mechanism that allows real-time response and doesn't say, well, if you want real-time response you do it this way, otherwise you fax the consent form or something like that. I mean, we want some sort of continuity.

**Kitt Winter – Social Security Administration – eHealth Exchange Coordinating Committee Chair**

Yeah, I agree.

**Gayle Harrell, MA – Florida State Legislator**

Yeah.

**Paul Egerman – Businessman/Software Entrepreneur**

This is Paul. And the comment about the service level agreement is an interesting insight, because again, we're talking about the responsibilities of the data holder or the record holder ...

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Right.

**Paul Egerman – Businessman/Software Entrepreneur**

... and so, the question is, are they responsible for having like the bandwidth to do this stuff, you know, to respond to the queries, are they responsible to – are they required to have adequate availability uptime, to make sure that they can respond? I mean ...

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

So far, we only know of an ethical requirement, right.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Yeah. Well here's, here's, well, although if you have them, if you're holding records, like say you're in a network environment that isn't completely federated, is either centralized or hybrid, you will have backup requirements under the law, in terms of sort of maintaining the capability to access in real-time or absent extreme circumstances. But you can't have the one copy of the record be in the HIE that gets swept up off the map by Hurricane Sandy. So, but I, there are some thoughts rolling around in my mind, based on some of the work that Linda Koontz did for us that's been the backup materials, not just around the DURSA, but around what other sort of HIOs are sort of doing about this issue. And what seems to be interesting is that where you have networks of folks coming together and coming to agreement around a set of policies for access, use and disclosure and what the patient's options are for consent. The access to the data that's permissible is real-time, or near real-time, and though policies differ somewhat, in terms of sort of how they have dealt incrementally with the policy issues, but they've all dealt with these policy issues in some way, shape or form.

Where we don't have the policies necessarily is potentially in the directed exchange environment, where the query may come in outside of the network by somebody who's using the direct protocols and reaching out asking for a patient record, perhaps using an RLS. But perhaps because the patient said, "well, I used to get treated at "X" facility," and a query comes in. You know, you don't have the sort of benefit of the rules of the road having been sort of laid down and you agreeing to them and the way that this whole question even got teed up to us in the first place was through discussions about a mechanism in an EMR that would allow for response...

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

Yeah, which I think ...

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

... whether it would be automated or not. So are we really just trying to solve for this situation where there isn't a reasonable network agreement?

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

Say that question again Deven?

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

I said, I'm really wondering if the circumstances that we're trying to solve for are those where there aren't, where there isn't the opportunity for a network agreement to be in place.

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

Hmm.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

I mean not that we wouldn't say that, you know, that anything that a network does would be just fine. But certainly based on the bit of research that we've done and what I think those of us who work in this space know is that when you have an HIO or some sort of ... or RHIO or some sort of network that has come together, even Judy's network with CareAnyware, decisions are made, people are aware of them, they agree to participate and there are rules of the road that are set and for which there's some mechanism of accountability. We don't have that necessarily in direct, what we have is a mechanism for potentially vetting providers with respect to are they who they say they are in a digital certificate. But beyond that, when a request for patient information comes in and the expectation is to transmit it back using direct specs, do we want the EHR to be able to be programmed to automatically respond for treatment requests, or requests that come in with a consent from the patient, or both?

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

This is David. I think we do want to enable that, that's our – hopefully our happy path common use case. I think the question is, what about implementations that aren't capable of near real-time response, like an asynchronous request via direct.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Right.

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

And we don't want to penalize those, we do want to encourage a response of some kind, but we don't, I think, want to say in policy level, there's an SLA. That's really a constraint of the network itself. So as long as it's capable of a response and it follows these rules of safe harbor, we're...then the response time is a function of the implementation and the network that you choose to join.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Right. But I'm think...is it a human-mediated response?

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

Well it could be in some implementations, you wouldn't rule that out. That's not going to be optimal because people would be swamped.

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

Deven, I think that – this is Wes – I think that you, we definitely want a set of policies that enables a smooth transition between handling requests automatically and handling requests manually and supports the requests being formulated in a similar fashion for both kinds of responses. But I think you really have also just created a fundamental “ah ha” here in this discussion when you raised the point about are we most concerned about transactions not supported by an agreement similar to an HIE membership agreement. And, I would rephrase it somewhat differently, based on the experience with direct. And let me just comment, the experience with direct is that we paid little attention to sort of operating agreements and certification of HISPs up front, and that ... but we weren't able to scale without going back and putting considerable energy into those efforts. The analog for our situation is that the question is not really whether there is a way of doing this without any networking agreement, it is more, how simple is the minimum network agreement that's necessary. So, if we envision policies that support query, where people, they're only connection is, in terms of policy, is the level, is agreements that are associated with direct now ...

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Right.

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

Then we have to be sure the policies don't, can't be implemented at that level. If we think there's a new entity, a QHISP, a query hospital...healthcare information service provider, that has some more requirements, but is still less than the typical requirements of an HIE and therefore more scalable nationally, then we need to go there. But, fundamentally our goal is to make sure that it is clear what is the minimum requirement necessary of the information service provider, whatever we care to provide, that supports the two entities that are involved. It's a common agreement between the two information service providers that support the two entities, and I should have said internet service providers, but I don't mean...but I mean HISPs or HISP plusses.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Okay.

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

So, this is David. Wes, I got kind of lost in that. I mean, it seems like we're setting the policy constraints for this moral equivalent of safe harbor for query response, and we recognize that there will be many different implementations that fall under this policy in the market. There are some already out there up and running, like Health Exchange, Surescripts; there are some new ones that will be coming onto the market, there are things we probably haven't dreamed of yet.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Yeah.

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

So we just want to say, "What are the broad constraints that they all should meet if they want to take advantage of this notion of moral equivalent of safe harbor?" And it sounds to me like response time is something that's not a part of our policy, it's that you must respond and acknowledge the request, but beyond that, it's going to be hard to say that there's a time limit, it really is a function of the network you choose to join. You may choose to join a network that's ... real time ...

**Paul Egerman – Businessman/Software Entrepreneur**

And this is Paul. It also may be a function of the treatment circumstance and ...

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

That's true as well. There are certain circumstances ...

**Paul Egerman – Businessman/Software Entrepreneur**

... could be a lot of things. So, the conclusion I'm coming to is, on this issue of timeliness we either say nothing or we say something that's like, "You have to respond in a timely way." That is open, but you know, so you put in a few sentences ... timely way that's responsive to the treatment requirements or something like that.

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

Yeah. As I understand, the purpose of this call is to set our scope ...

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Yup.

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

... for the following discussions. I think that our scope includes a discussion of timeliness, recognizing there are limitations at the policy level of what can ...

**Paul Egerman – Businessman/Software Entrepreneur**

What we're doing – this is Paul. What we're doing, Wes, is we're actually entering that first topic, so we're not just setting the ...

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

Oh really?

**Paul Eggerman – Businessman/Software Entrepreneur**

... topic.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Yes.

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

This topic are we entering, I'm going back to the front of the ...

**Paul Eggerman – Businessman/Software Entrepreneur**

Responsibilities of the data holder, the very first bullet that you see here, this is a discussion of that bullet and ...

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

... slide ...

**Paul Eggerman – Businessman/Software Entrepreneur**

So if ... want to say something more about timeliness, it would be timely to do it now.

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

Okay. All right, well then I think what Paul said sounds like a good starting point for draft.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Yeah, we're filling in the details here.

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

Okay, I didn't understand that, so, I'll withdraw my comment.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Oh, okay.

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

Let the record show I didn't say anything.

**Paul Eggerman – Businessman/Software Entrepreneur**

So, this is Paul again. So again to be clear, we're talking about responsibilities of the record holder or data holder and, I think we've talked about these three issues, the responsibility to respond, the content of the response and now the timeliness. Are there any other responsibilities of the record holder from a policy standpoint that we need to discuss.

**Kitt Winter – Social Security Administration – eHealth Exchange Coordinating Committee Chair**

This is Kitt. Is it – are we talking about acknowledging the request, did I get the request, but if I respond to that, do I have the patient, but the patient has restricted the data, is that being considered a disclosure that was restricted or – we should probably be clear as to what level of the response we're talking about.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Yeah, we haven't gone into that at all Kitt. That's a good point.

**Kitt Winter – Social Security Administration – eHealth Exchange Coordinating Committee Chair**

And so, from what we were talking about before, I just want to make sure I'm clear. You can use an exchange to make queries or direct to push a query and push a response back and is that going to be a challenge for the implementers of the policy. So do you think of type of transactions could be done either way.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

I...framing it slightly differently Kitt...

**Kitt Winter – Social Security Administration – eHealth Exchange Coordinating Committee Chair**

Sure, thank you.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Lessen it sort of a little more technical mode is a policy that says when you get a query for patient data, when you've got the patient's consent or you've got their authorization, you've got their consent or authorization or you've got a provider who's attesting to a treatment relationship with the patient, and absent a legal requirement or some operation of a court order, which would prevent you from releasing the data, you should release the data in a timely way, or at least provide a response that indicates that the request was received, but no information is going to be provided.

Then I think you're sort of pushing us to the next stage, in terms of content of response, in terms of well, what does the response look like, either when it's providing data of any type whatsoever, or the response that the request is not going to be responded to specifically. Like, you know, is it sufficient to say, I'm just not going to respond, I'm not even going to acknowledge to you whether or not the patient has been here or not. And if you are going to release information, is it sufficient to release a list of documents or do you release what's asked for, you know, given that no restriction on minimum necessary for treatment purposes. You know, is it your responsibility to respond with all of the data you have, some of the data, just to what's requested. I mean, I guess there's sort of multiple permutations, but we might be able to say something general about it, both in terms of when you're saying "yes" to the request and when you're saying "no," for whatever reason, even given the strong preference of the policy that when one or both of the pre-conditions are present, you should release the data, absent a legal requirement not to.

**Dixie Baker, MS, PhD – Martin, Blanck and Associates – Senior Partner**

This is Dixie. I have one more suggestion here ...

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Sure.

**Dixie Baker, MS, PhD – Martin, Blanck and Associates – Senior Partner**

... is that, as we discuss the responsibilities of the data holder, that in that context we discuss the accounting of the disclosure.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Oh yeah, that's why it's on the topic list.

**Dixie Baker, MS, PhD – Martin, Blanck and Associates – Senior Partner**

I know, but I would move it up. I would discuss that topic within the context of responsibilities of the data holder.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Ah, so in other words, to have that be part of say, an auditable ...

**Dixie Baker, MS, PhD – Martin, Blanck and Associates – Senior Partner**

Well no, not audit, I don't think audits relevant at all, I would just – I mean, worth discussion, you know system audit, but I do think that the accounting of the disclosure should be a sub-bullet of the number one, because as we discuss these other topics, it will just naturally fall in there, I think.

**Paul Egerman – Businessman/Software Entrepreneur**

So, this is Paul, so it's sort of like right here you say Dixie is one of the responsibilities of the data holder should be to keep an audit trail of the disclosures.

**Dixie Baker, MS, PhD – Martin, Blanck and Associates – Senior Partner**

No ...

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

... account ...

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

Well, I think it's more than keeping an audit trail, it's also providing access to the information about a patient to that patient ...

**Dixie Baker, MS, PhD – Martin, Blanck and Associates – Senior Partner**

And it's not the audit trail, it's not – the audit trail is a system thing, it's really the accounting of the disclosure, you know, and what they need.

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

Yeah.

**Dixie Baker, MS, PhD – Martin, Blanck and Associates – Senior Partner**

For example, do they need to put in there what consent they received, I mean, that kind of thing, what needs to be in that accounting of the disclosure.

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

Yeah. So, that's a good point, is that the term audit trail is one of those terms that's used by different people to mean different information content and we need to be specific about the obligation, both to be able to and actually to disclose to the patient ...

**Dixie Baker, MS, PhD – Martin, Blanck and Associates – Senior Partner**

Um hmm.

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

... what the data holder did in terms of responding to requests under this policy. I think it's important because we don't have any final rule on accounting for this ...

**Gayle Harrell, MA – Florida State Legislator**

I think it's – I want to add a little medical-legal issue here as well. When you are releasing information, there are, and you need to have some kind of a legal trail on that, that this information was released, based on consent, to whomever it was released to.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

I think that's essentially what people are talking about Gayle when they talk about accounting for the disclosure, and we'd have to talk ...

**Gayle Harrell, MA – Florida State Legislator**

Absolutely.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

... about what it would look like.

**Gayle Harrell, MA – Florida State Legislator**

That is very, very essential.

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

Is that our domain? Isn't that covered under rules that are in the process of being finalized?

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Well, that's a very good question David and that's the reason why that asterisk on the slide. Because at the time when we made the slides, we wanted to do a check-in with the Office for Civil Rights to make sure that there, that we were not sort of taking on an issue that it would be not desirable to take on because there is a pending rulemaking on this topic. But we've been assured that we, if we want to consider this issue, we can do so. Joy, is that the right way to frame it? She may not be on the phone anymore. We ...

**Kathryn Marchesini – Office of the National Coordinator**

Deven, this is Kathryn. Yes, you are correct.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Okay. Thanks Kathryn. We're allowed to do this is the short answer. I mean, you know, our recommendations on this issue are recommendations, they don't have the force of law, but this is a complicated topic and if we can make some multi-stakeholder consensus progress on it, I think that would be a good thing.

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

Yeah. I'd like to ...

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Yeah.

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

I'd like to say that there are two issues of importance to the record holder, the data holder here. One is, what does the policy recommendation say they should disclose to the patient. The other is, what do they need for their own medical-legal purposes.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Right.

**Wes Rishel – Vice President & Distinguished Analyst – Gartner, Incorporated**

I would say that that second sub-issue is not a topic for us unless we can give them some kind of safe harbor in that regard, which I doubt we can.

**Dixie Baker, MS, PhD – Martin, Blanck and Associates – Senior Partner**

What we might want to do, I totally agree with Wes on that. This is Dixie. But we might want to just in the sub-bullet not label it accounting of disclosures, but rather an accounting of the...something that's not so explosive.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

...as the accounting of the transaction.

**Dixie Baker, MS, PhD – Martin, Blanck and Associates – Senior Partner**

Yeah, accounting of the transaction.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Record of the transaction.

**Dixie Baker, MS, PhD – Martin, Blanck and Associates – Senior Partner**

Perfect. Perfect, yes.

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

This is David. I'll just go forward and say that I think that absolutely that should be a requirement under our notion of safe harbor.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Yeah.

**Gayle Harrell, MA – Florida State Legislator**

Absolutely, it becomes a very important medical-legal issue.

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

Discloseable, to the patient – eventually to the patient, via means not specified by policy, but to be dealt with by implementation.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Right. I mean, I would think at a minimum it would be very helpful for organizations in order to both take advantage of a moral equivalent of a safe harbor, as well as to have some assurance that there is a legal justification for the release of the record, to be able to document in some way in the system that they were relying on the attestation of a treatment relationship or they had the patient's consent, or both.

**David McCallie, Jr., MD – Cerner Corporation – Vice President**

Right.

**Gayle Harrell, MA – Florida State Legislator**

Um hmm.

**Paul Egerman – Businessman/Software Entrepreneur**

So, this is Paul. I'm just looking at the clock ...

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Oh, yes. That darned clock.

**Paul Egerman – Businessman/Software Entrepreneur**

Yes. In just a few minutes we have to – we're going to be asking for public comment. So, let me, again look at this first topic, responsibilities of the data holder. We've had a discussion about accounting for disclosures, it's one of those responsibilities and I know we need to have more discussion on that topic.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Yeah. I think we got a consensus from Dixie's suggestion that we move that up into the bucket of data holder responsibilities.

**Paul Egerman – Businessman/Software Entrepreneur**

Yeah. Okay. Now, other than the accounting for disclosures though, do we feel we've completed this responsibility for the data holder?

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

I think we need to – frankly, I think we need to write this up, you know, work with Linda Koontz from MITRE, as we always do, to write up where we think we landed and circulate that to folks. Because I think sometimes when people sort of see it, they ...

**Paul Egerman – Businessman/Software Entrepreneur**

Okay.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

... we don't want to forget anything, the points that people made or there might be recon – other thoughts triggered as you sort of see it in print. So we have to write that up, but I think we made a lot of progress on it.

**Paul Egerman – Businessman/Software Entrepreneur**

So, it seems to me our next step then is to write it up, to circulate it to make sure that there's consensus and that we've got it right. And then, tell me if I've got this right, then at our next meeting, we're going to dive into the next bullet, form of consent required.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Well, I don't know because I think we still – since we moved up the ...

**Paul Egerman – Businessman/Software Entrepreneur**

So you want to do accounting for disclosure ...

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

Yeah, record of the transaction, as part of the bucket of responsibilities of the data holder.

**Paul Egerman – Businessman/Software Entrepreneur**

Okay.

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

And since one of those responsibilities might be, when you get the consent how are you confident that it's the right one, it leads to the form of consent discussion. So, it might bleed into that too.

**Paul Egerman – Businessman/Software Entrepreneur**

Okay, so we have a direction for where we're going. So, before we open ourselves for public comment, does anybody have any other comments or reactions to today's discussion? Deven, are we ready to do public comment?

**Deven McGraw, JD, MPH – Center for Democracy & Technology – Director**

We are. We are. Good call everyone, thank you.

## Public Comment

### MacKenzie Robertson – Office of the National Coordinator

All right. Operator, can you please open the line for public comment?

### Rebecca Armendariz – Altarum Institute

If you would like to make a public comment and you are listening via your computer speakers, please dial 1-877-705-2976 and press \*1. Or if you are listening via your telephone, you may press \*1 at this time to be entered into the queue. We have no comment at this time.

### Deven McGraw, JD, MPH – Center for Democracy & Technology – Director

Okay.

### Paul Egerman – Businessman/Software Entrepreneur

Okay. Well thank you everybody for a warm discussion on a hot topic.

### W

Good call.

### Deven McGraw, JD, MPH – Center for Democracy & Technology – Director

On a cold day.

### Paul Egerman – Businessman/Software Entrepreneur

On a cold day. And our next meeting is when Deven?

### Deven McGraw, JD, MPH – Center for Democracy & Technology – Director

Umm, hang on, it's coming up actually.

### MacKenzie Robertson – Office of the National Coordinator

...February 4.

### Deven McGraw, JD, MPH – Center for Democracy & Technology – Director

February 4?

### MacKenzie Robertson – Office of the National Coordinator

Yes, at 2 p.m.

### Deven McGraw, JD, MPH – Center for Democracy & Technology – Director

Okay, thank you MacKenzie.

### Paul Egerman – Businessman/Software Entrepreneur

February 4 at 2 p.m. Great, thank you.

### Deven McGraw, JD, MPH – Center for Democracy & Technology – Director

See you then.