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Response to the July 25th Senate Rules Committee Hearing on Election Reform and “The Ballot Integrity Act of 2007” (S1487)

Kathy Dopp, kathy@electionarchive.org, July 25, 2007

SLANTED PANEL

The Senate Rules Committee election reform hearing panelists today, July 25th, were weighted with opponents of voter verified paper ballots. Respected voting system experts in computer science and mathematics were not included but Michael Shamos who is noted for saying, "...I believe I and the republic will survive if a president is elected who was not entitled to the office." was a panelist.

SMALL FACTUAL ERRORS OF PANELISTS

Michael Shamos, voting system examiner for Pennsylvania and faculty member at Carnegie Mellon U., claimed that ballot boxes were found floating in San Francisco following the 2004 election. While there is a long history of ballot tampering and stuffing, most often by election officials, due to lack of any independent audits of election results, there were no ballot boxes found floating in the San Francisco Bay in 2004. Perhaps Shamos is referring to the tops of ballot boxes which were found floating in the San Francisco Bay shortly after the 2001 election?

Mary Wilson (LWVUS President) asserted that the right to vote is a federal right guaranteed by the US constitution. We wish it were true. It would be great to have a Voting Rights Act that applied to all voters of any political party, not just minority groups.

REBUTTALS TO PANELISTS' TESTIMONY

Most of the panelists seemed to base their testimony on the assumption that they would continue to use electronic ballot touch-screen digital recording electronic (DRE) voting machines and that paper ballot based opti-scan precinct-based voting systems are non-existent.

NACo's representative, Wendy Norin, County Clerk of Boone County, MO claims HAVA was under-funded by Congress. That was due to the choice Wendy Norin made to purchase digital recording electronic (DRE) voting systems rather than opti-scan voting systems. Norin also claimed that election administration costs doubled, That is also due to her choice to use DREs computers in each poll booth. Opti-scan systems are much cheaper to use. See <http://electionmathematics.org/> and click on "Voting Systems".

Shamos, Doug Lewis (Founder of The Election Center), and other panelists used misdirection by raising issues of new voting system standards-setting, development, testing and implementation which are *not pertinent* to S1487's requirements.

Because of the underlying assumption which these DRE-supporting panelists made about continuing to use electronic ballot DRE voting machines, much of their testimony focused on showing that development, certification, & implementation times for new DRE equipment takes 6 to 7 years. This is irrelevant. Equipment is available today which meets the requirements of S1487 and no new testing & certification (that could take 2 years) nor development and implementation (that could take 5 years) is needed.

Shamos is pushing for a paperless electronic system with two components, programmed by separate vendors, one which checks the other. (Very costly of course)

Markowitz (NASS President and Vermont Secretary of State), Shamos, Lewis, and Gilbert George of the Guilford County, NC Board of Elections, all misdirected and incorrectly claimed that S1487 requires unavailable new equipment – neglecting to mention that existing opti-scan equipment and ballot marking devices for voters with disabilities meet S1487's requirements. Also they claimed that standards would take two years to set first – misdirection again since PBOS systems are available now which are certified federally and are automatically certified in many states.

Gilbert George of Gilbert County Board of Elections incorrectly claimed that:

- * It would take hundreds of people 3 weeks to conduct the election audits (maybe if you found the slowest boat to China way to count voter verifiable paper ballots – Utah found a very efficient way to count reel-to-reel voter verifiable trails), and
- * eliminating DREs would hurt the disabled, and
- * eliminating DREs would waste taxpayer dollars.

All three statements are incorrect. Fiscal analysis shows that even with adding the cheapest (\$600) add-on printers to DRE machines, that within 4 years, it is much less expensive to use paper ballot opti-scan systems. This calculation includes the costs of purchasing new opti-scan voting equipment with ballot marking devices for voters with disabilities. See this chart:

http://electionmathematics.org/em-voting-systems/cost-DRE-vs-OpScan/CumulativeCostscolor11_27_05.pdf

REBUTTAL TO SENATORS CHAMBLISS, R-GA AND BENNET, R-UT

Senator Chambliss R-GA spoke (whose 2002 election data shows that he may have been rigged into the Senate by paperless Diebold DREs because the swing from the opinion polls leading up to the election was so great, beating Max Cleland in 2002) interestingly said "Election officials are doing the Lord's work". Organized rings of church groups were discovered to be rigging Arizona elections in 2004 by substituting their ballots for those of the voters. Many election fraudsters claim that they are "doing the Lord's work" and most of the historical vote count fraud has been done by election officials who have access to ballots and voting systems. [This comment is not meant to reflect personally on Chambliss. The beneficiary of vote count fraud may not even know about it; and Chambliss' election may not have been rigged, despite its looking very suspicious. The problem

with existing DREs is that no evidence would be left on the DRE to detect fraud and the fraudster is safe from detection.]

Senator Bennet R-UT – claimed that Utah's elections worked fine. Utah has secreted all data that one could use to determine if its elections ran fine. Utah is probably the most secretive state in the U.S. with respect to election records. Utah election audits are also a sham. The Diebold voting system is not auditable on the machine level because its central management system is incapable of reporting the individual counts for each candidate on each DRE machine. Yet Utah counts the voter verifiable reel to reel rolls and never compares those counts with the unofficial vote tallies used to tally the votes. Utah had significant ballot programming errors revealed in three counties in the Nov 2006 which disenfranchised many voters in these counties. Diebold had assigned the wrong ballot definitions to the wrong precincts in some precincts. The extent of the problem in other counties is unknown due to Utah's clamp down on all access to election records. Utah's election statute and practices are in violation of the NVRA because Utah keeps voter registration records secret. Investigators cannot even find out how many voters were disenfranchised by not having their provisional ballots cast in Utah and Utah refuses to publicly post polling place vote tallies so that the vote tallies can be tampered with anywhere in the process. See this decision and order of the Utah state records cmte: <http://utahcountvotes.org/UT/UT-Election-Records-07-02DoppOrder.pdf> and this description of election and voter registration records which are all judged to be secret in Utah: <http://utahcountvotes.org/docs/Dopp-v-SummitCountyHearingBrief2.pdf>

IN THE REALLY BAD ADVICE COLUMN:

Wendy Norin (NACo) wants to see election audits conducted internally by the same people who conduct elections and have motive to cover up any evidence of problems. This would be acceptable in no other field. Norin congratulated Feinstein for making S1487's audits internal with procedures and processes controlled & administered by election officials.

LACKING ANY EXPERT PANELIST IN ELECTRONIC VOTER REGISTRATION ROLL ISSUES

The issue for the second panel was voter registration databases - yet the panel had no experts on voter registration databases - they should have invited Barbara Simons of the ACM.org

WHY ELECTRONIC BALLOT VOTING MACHINES SHOULD NOT BE USED

Digital recording electronic (DRE) touch-screen voting machines:

1. Use uncertified software. With opti-scan paper ballots able-bodied voters mark and inspect the ballot before it is cast. With DRE voting machines the ballot is produced by software and the records of voter choices, whether on a hard drive or on a paper-trail, is produced by software. Research indicates that 60% to 100% of voters never review the paper trail before casting the ballot. Advocates of DREs observe that the software which produces the ballot in a DRE machine is certified by a so-called independent testing authority (ITA). However, the DRE ballot definition files which actually create the ballot for each precinct are not subject to certification and are never

reviewed or certified by an ITA. This means that, contrary to popular misconception, every DRE voting machine in the country uses uncertified software.

2. Are more expensive to use than opti-scan machines. DRE paper-printers come at a price tag of up to \$2000 apiece. DREs w/ printers cost much more than paper ballot opti-scan systems. The costs for adding even cheap \$600 cash-register receipts to current DRE voting systems exceeds the costs of replacing DRE voting systems with opti-scan paper ballot voting systems within 4 years.

3. Do not provide accessibility for as many disabilities as ballot marking devices like the AutoMARK and other assistive devices; and DRE touch-screen machines also do not provide sufficient ability to verify the accuracy of paper ballot records for disabled voters.

4. Create longer lines.

5. Violate all voters' privacy by storing ballot records in sequential order, the same order as voters enter each polling booth. It particularly violates the privacy of voters with disabilities who must all vote on the same DRE machine outfitted for voters with disabilities and have all their ballots stored on the same DRE paper roll.

6. Subject voters to Denial of Service attacks such as machines crashing or failing to boot up.

7. Are vulnerable to touch-screen calibration and touch-screen delay problems which switch votes to the wrong candidates and cause under-votes.

8. Provide ways to undetectably switch votes that manual audits cannot detect.

9. Make elections vulnerable to electronic failures, power outages, and hacking.

10. Inaccurately record votes as shown in every independent audit so far.

11. Paper-roll ballot records fail to accurately record votes according to recent tests in New Jersey, as reported by Verified Voting in "Tests Find Flaws in Printer Performance, Could Jeopardize Election Accuracy". "If a mechanical error or malfunction occurs (such as a paper jam, running out of paper, paper torn in half, or paper inserted improperly), the DRE displays an error message on the screen to the voter, but no warning signals are sent to notify the election officials at the polling place. The DRE does not suspend voting operations. The voter has the opportunity to continue voting and cast the vote but the paper record is not printed. The vote is, however, electronically recorded.

DRE paper-rolls also have a "print-and-disappear-from-view" feature. A DRE machine can print erroneous paper records to match erroneous electronic records, despite every effort of voters to ensure that it does not. Here is how it works in practice on New Jersey: When you are just about ready to cast your vote after marking your choices on the electronic voting machine, the system prints a voter-verifiable paper record -- so that you can review it, and affirm that your choices were accurately recorded. If you felt it was incorrect, you can "cancel" that record and go back to any of the contests on the ballot using the electronic machine, and re-select.

Ready again to cast your ballot? Checking the paper record, you see it still doesn't reflect what you want. You cancel a second time. Now you're on your last try, so you mark your choices carefully. You're ready to cast, but the voter-verified paper record prints -- and then quickly drops into the locked receptacle, too quickly for you to have the opportunity to review it." See article by Verified Voting <https://www.verifiedvotingfoundation.org/article.php?id=6488>

12. Increase under-vote rates.

Why should taxpayers pay for a computer to do something that takes able-bodied voters perhaps 10 minutes once/year? Not requiring paper ballots because some voters with disabilities cannot verify their paper ballots would be like not requiring fire hydrants because fire hydrants are not accessible for all persons with disabilities. All voters benefit when elections are verifiably accurate. There are many ballot marking devices (BMDs) available today which provide voters with disabilities better service and handle more types of disabilities than DRE voting machines do.

We need 2008 deadlines for replacing paperless DRE voting machines and for requiring independent manual audits; and all DRE machines need to be replaced with optical scan paper ballot systems by 2010.

There are several available options that are better for voters with disabilities and foreign language needs than DREs which are already certified and tested.

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This release is posted on-line:

<http://electionarchive.org/ucvInfo/US/S1487/Rebuttal2Panelists-S1487.pdf>

MORE INFORMATION

Shamos Rebuttal by the Open Voting Consortium
http://electionarchive.net/docs_other/dopp/Shamos-rebuttal.pdf

Testimony for Submission into the Congressional Record For The S1487 Hearings
<http://electionarchive.org/ucvInfo/US/NEDA-S1487-Testimony.pdf>

Amendment Suggestions for the Ballot Integrity Act of 2007
<http://electionmathematics.org/em-legislation/S1487Amendments.pdf>

We also analyzed S1487 and found weaknesses in some of its current provisions:
<http://electionmathematics.org/em-legislation/BallotIntegrityActAnalysis.pdf>

The Ballot Integrity Act of 2007
<http://thomas.loc.gov/cgi-bin/bdquery/z?d110:s.01487:>

A reliable, verifiable vote in 2008, Governor Bill Richardson
<http://thehill.com/op-eds/a-reliable-verifiable-vote-in-2008-2007-06-19.html>

HR 811: Separating Truth from Fiction in E-voting Reform, Electronic Frontier Foundation, June 13, 2007
<http://www.eff.org/deeplinks/archives/005308.php#005308>

The Campaign for Secure Elections (HR811), Lawrence Norden, June 13, 2007
http://www.huffingtonpost.com/lawrence-norden/the-campaign-for-secure-e_b_51986.html

The "Ballot Integrity Act" Sponsor is Feinstein, Dianne, D-CA,
<http://feinstein.senate.gov/public/index.cfm?FuseAction=ContactUs.Home>

National: Hearing to receive testimony on S. 1487, the Ballot Integrity Act by David Kibrick
<http://www.verifiedvotingfoundation.org/article.php?id=6486>

Costs Comparison for Maryland: The costs for adding cash-register receipts to current DRE voting systems exceeds the costs of replacing DRE voting systems with opti-scan paper ballot voting systems within 4 years.
http://electionmathematics.org/em-voting-systems/cost-DRE-vs-OpScan/CumulativeCostscolor11_27_05.pdf
<http://electionmathematics.org/em-voting-systems/cost-DRE-vs-OpScan/>

Letter to Congress asking for publicly verifiably accurate election outcomes that is signed by over 200 citizens:
<http://electionarchive.org/ucvInfo/US/Letter2Congress.pdf>

Experts who can provide details and answer questions regarding "Recommendations for Federal Legislation to Ensure the Integrity of our Democracy"
<http://electionarchive.org/ucvInfo/US/ExpertsList.pdf>

Concept Proposal for Federal Election Reform
<http://electionarchive.org/ucvInfo/US/EI-FedLegProposal-v2.pdf>

Disability advocacy leaders co-signed this pro-paper statement on Voter Action.
http://www.voteraction.org/Accessible_AND_Secure_Voting.htm

How Long Does it Take to Change a Voting System? By Verified Voting
<http://electionmathematics.org/em-voting-systems/VotingSystemChange.pdf>
<http://verifiedvoting.org/downloads/VotingSystemChange.pdf>

Accessibility Isn't Only Hurdle in Voting System Overhaul

By Christopher Drew The New York Times Saturday 21 July 2007

http://www.truthout.org/docs_2006/printer_072107E.shtml

Overhaul Plan for Vote System Will Be Delayed By Christopher Drew The New York Times,
Friday 20 July 2007

http://www.truthout.org/docs_2006/printer_072007M.shtml

Congress puts off fixing touch-screen voting, Salon.com blog by Farhad Manjoo

http://machinist.salon.com/blog/2007/07/21/voting_machines/index.html

ESI Audit Shows 10% of cash-register-receipt type ballot records compromised "The Coming Paper-Trail Debacle?" by Dan Seligson, electionline.org August 18th, 2006

<http://www.verifiedvotingfoundation.org/article.php?id=6383>

First U.S. Scientific Election Audit Reveals Voting System Flaws But Questions Remain Unanswered - Critique of the "Collaborative Public Audit" of Cuyahoga County Ohio's November 2006 Election. May 7, 2007 by Kathy Dopp

<http://electionarchive.org/ucvAnalysis/OH/CuyahogaElectionAudit.pdf>

New Jersey: Tests find flaws in printer performance, could jeopardize election accuracy by Pamela Smith, Verified Voting Foundation, July 22nd, 2007

<https://www.verifiedvotingfoundation.org/article.php?id=6488>