

# **RESOLUTION: TRANSPARENCY NEEDED IN THE VOTING PROCESS TO INSURE ELECTION INTEGRITY**

## **League of Women Voters of the Monterey Peninsula**

### **RESOLUTION**

1. Whereas, the League of Women Voters has been an active champion of openness and transparency in government throughout our history, and
2. Whereas, problems arising from the use of electronic voting systems led to the LWVUS adoption of the SARA Resolution that our voting systems be Secure, Accurate, Recountable and Accessible, and
3. Whereas, the principle of Transparency will improve the current SARA Resolution and enhance public confidence in elections, which are the basis of our democracy, and
4. Whereas, election transparency means full public access to all election procedures in order to allow meaningful verification of ballot handling, tabulating, auditing and related election records, and
5. Whereas, furthermore in January 2009, the LWVUS Election Audit Task Force issued its Report on Election Auditing which repeatedly emphasized the critical need for transparency; therefore be it

Resolved That the LWVC support the principle of Transparency in all election procedures; and

That the LWVC urge the LWVUS to add the principle of Transparency to the SARA Resolution.

## **RATIONALE FOR THIS RESOLUTION** (documents and sources included)

In our working democracy, no one questions the right to vote in private. In addition, no one has questioned the right to count votes under public scrutiny until recently.

In the last few years, as electronic voting systems have become common, so have malfunctions, false counts and other irregularities. In addition, security vulnerabilities exist from both outsider and insider manipulation. There is a large body of evidence documenting the failures of electronic voting. As a result, public confidence in the integrity of our elections has fallen.

Electronic voting systems are inherently not transparent. Important election data and procedural records produced by software cannot be publicly verified since they are within proprietary software unavailable to the public. Various convoluted procedures, machine-produced paper trails, and audit protocols have been instituted to attempt to compensate for the secrecy, but the secrecy still remains.

Without a vigorous commitment to the principle of transparency and the practice of public verification, a basic tenant of our democracy is absent. Election integrity should not be solely dependent upon technical specialists and government or vendor official validation. It should be grounded in transparency of the entire voting system.

**Our voting systems must be designed such that they can be both TRUSTED and VERIFIED, and only transparency in the systems fulfills these two requirements.**

### **TRANSPARENCY:**

Election transparency requires full public access to review all election system procedures in order to allow meaningful public scrutiny and verification of ballot security, casting, handling, tabulating, auditing and related election records and tabulations.

### **2004 and 2006 LWVUS SARA RESOLUTIONS ARE INADEQUATE WITHOUT TRANSPARENCY**

SECURITY is compromised when secrecy surrounds the internal processing of votes and ballot tabulations. The security of the vote and voting systems cannot be assured without transparency and public verification.

ACCURACY cannot be assumed if the counting process is performed unobserved and outside of public scrutiny and verification.

RECOUNTABILITY has traditionally depended upon voter marked ballots. Machine generated paper trail systems are not voter marked ballots. There is no assurance that these systems accurately reproduce or tally the vote that was cast. Without voter marked ballots, verification is not assured.

ACCESSIBILITY is required by the Help America Vote Act but HAVA does not require the use of direct recording electronic (DRE) systems to support voters with disabilities. Other acceptable alternative (ballot-marking) devices are available.

## **RECENT IMPORTANT ELECTION INTEGRITY REPORTS**

### **CA Secretary of State: Report of Post Election Audits (7/07)**

“None of the pre-scored punch card and lever systems in use in 1965 are still in use today. They have been replaced by an array of complex, computerized systems including precinct-based and centralized optical scan systems, ballot marking devices, DREs augmented with verified voter paper audit trails (VVPATs), and with the InkaVote system used in Los Angeles County. There has also been an enormous increase in the number of votes cast by mail. The complexity of these systems means there are many more ways in which voting systems can fail to capture votes correctly, lose votes, miscount votes, and be manipulated to yield incorrect results.” (pg 4-5).

[http://www.sos.ca.gov/elections/peas/final\\_peaswg\\_report.pdf](http://www.sos.ca.gov/elections/peas/final_peaswg_report.pdf)

### **CA Secretary of State--Top to Bottom Review (8/07)**

The California Secretary of State (SOS) led the nation in a top-to-bottom review (TTBR) of all electronic voting systems by teams of computer specialists. The August 2007 report documented security vulnerabilities and accuracy failures, most dominantly with DRE touch screen systems. As a result, the SOS decertified three electronic voting systems in California, including optical scan systems. The SOS allowed continued use of these voting systems pending mitigations specified in the August 2007 report. [http://www.sos.ca.gov/elections/elections\\_vsr.htm](http://www.sos.ca.gov/elections/elections_vsr.htm)

### **LWVUS Report on Election Auditing (1/09):**

It promoted transparency as follows: "Verify that public, bipartisan or third-party monitoring of sensitive election procedures has occurred." and "All sensitive procedures should be open to monitoring..." and "the process of counting any ballot received and comparing should be done publicly..." and "...post-election audits should be independent of officials who conducted the elections." (Pgs 5, 16, 18)

[www.lwv.org/Content/ContentGroups/Membership/ProjectsTaskforces/Report\\_ElectionAudits.pdf](http://www.lwv.org/Content/ContentGroups/Membership/ProjectsTaskforces/Report_ElectionAudits.pdf)

## **RECENT EVENTS IN CALIFORNIA PROVIDE EVIDENCE THAT PROBLEMS CONTINUE DESPITE REUSE CONDITIONS**

**Riverside County:** A 2008 independent \$315,000 audit found the Registrar of Voters (ROV) out of compliance in 8 of 41 state mandated conditions required for the use of Sequoia Voting Systems equipment.

**Humboldt County:** During the November 2008 election, the ROV allowed the first-of-a-kind election transparency project to scan all paper ballots after counting for online public review. The project found 197 vote-by-mail ballots had disappeared from the final tally tabulated on Diebold equipment after that incorrect tally had been certified.

**Monterey County:** In the November 2008 election about one third of the ballots in precincts subject to the 1% random audit were excluded because they were processed after 8pm on election night. The validity of random audits is defeated with such omissions.

## **WHAT INTERFERES WITH PUBLIC CONFIDENCE**

Electronic voting systems have a history of errors, glitches, malfunctions, inaccuracies and failures and have not proven to be secure from hacking, fraud or corruption.

All electronic voting systems are controlled by corporate vendors, and are certified by private laboratories under the authority of U.S. Elections Assistance Commission. However there are problems. Vendors sell uncertified equipment. One testing lab was decertified for undocumented testing procedures. A recent study found another lab's accuracy test unable to measure machine accuracy or error rates.

Machine produced paper trails are not ballots, are not original and valid voting records, and therefore cannot be verified for accuracy. They are nothing more than a report produced by an internal, private and unverifiable computer source. Recounts of touch screen DRE tabulations are meaningless, since there are no original voter-marked ballots to review for voter intent or count accuracy.

Audits are a check on accuracy and are expected to inspire confidence. However, the California requirement for a 1% manual tally audit is not statistically relevant since some ballots can be excluded (mail-in and provisional ballots not processed by election night). In the Humboldt County November 2008 presidential election, the required audit failed to reveal the loss of 197 votes from the final tally.

One issue seldom addressed is the tremendous potential for actual corruption and fraud in the manipulation of secret and proprietary electronic voting systems. There are enormous sums of money washing through special interests that want to influence the outcome of some elections (both candidates and ballot measures). Money and power are huge inducements to corruption and fraud. Secrecy invites crime.

## **RELEVANT DOCUMENTS, SOURCES AND QUOTES**

**1. CRS Report to Congress: Election Reform and Electronic (DREs); Analysis of Security Issues (11/03)** Library of Congress, Congressional Research Service. "While there are some differences of opinion among experts about the extent and seriousness of those security concerns, there appears to be an emerging consensus that in general, current DREs do not adhere sufficiently to currently accepted security principles for computer systems, especially given the central importance of voting systems to the functioning of democratic government."(Pg 2) <http://epic.org/privacy/voting/crsreport.pdf>

**2. GAO Report: Federal Efforts to Improve Security and Reliability of Electronic Voting Systems Are Under Way, but Key Activities Need to Be Completed (9/05)** This report concludes that electronic voting systems are deficient in security and reliability, and confirms that many irregularities in the 2004 presidential election could have affected its outcome. [www.gao.gov/new.items/d05956.pdf](http://www.gao.gov/new.items/d05956.pdf)

**3. OHIO Secretary of State Study: Voting Systems Vulnerable (12/07)** "The Evaluation & Validation of Election-Related Equipment, Standards & Testing report, known as EVEREST, is a comprehensive review of voting systems revealing startling findings on voting machines and systems used in Ohio and throughout the country. Ohio's electronic voting systems have "critical security failures" which could impact the integrity of elections in the Buckeye State, according to a review of the systems commissioned by Secretary of State Jennifer Brunner." <http://www.sos.state.oh.us/sos/text.aspx?page=4512>

**4. Ohio official sues e-voting vendor for lost votes (8/08)** E-voting machines from Premier Election Solutions, formerly known as Diebold dropped hundreds of votes in 11 Ohio counties during the primary election.

[http://www.computerworld.com/action/article.do?command=viewArticleBasic&articleId=9112041&source=rss\\_topic17](http://www.computerworld.com/action/article.do?command=viewArticleBasic&articleId=9112041&source=rss_topic17)

**5. State Files Claim Against Premier, formerly Diebold (12/08)** “Company Should Repay Money Spent to Fix Machines”, Maryland Attorney General Says. The claim against Texas-based Premier, formerly Diebold, alleges that state elections officials were forced to spend \$8.5 million to address a host of security flaws in the machines from 2003 through the November election.

<http://www.washingtonpost.com/wpdyn/content/article/2008/12/24/AR2008122401449.html?hpid=sec-metro>

**6. CIA Expert says most electronic voting isn't secure (3/24/09)**

<http://www.mcclatchydc.com/227/story/64711.html>

**7. Federal Certification Test for Count Accuracy Cannot Determine Error Rate (3/21/09)**

“The test, which was designed by a federally-accredited test lab for the sole purpose of testing the accuracy of the vote-counting equipment, cannot prove whether or not the system accurately counts votes, nor can the test yield any measure of the accuracy rate. Such testing provides false assurance that a federally-certified vote-counting machine meets the accuracy requirements of federal law.”

[www.votersunite.org/](http://www.votersunite.org/)

**8. Election Problem Log, 2004 to Date:** Log of news reports about election problems.

<http://www.VotersUnite.org/>

**9. Secretary of State Debra Bowen Sues ES&S Over Sale of Unauthorized Equipment to California Counties (11/19/07)** Secretary Bowen is suing Election Systems & Software, Inc. (ES&S) for \$9.72 million in penalties for selling 972 machines that contained hardware changes that were never submitted to, or reviewed by, the Secretary of State. Furthermore, she is seeking nearly \$5 million to reimburse the five counties that bought the machines believing they were buying certified voting equipment. “ES&S ignored the law over and over and over again, and it got caught,” said Bowen, the state’s top elections officer.

<http://www.verifiedvotingfoundation.org/article.php?id=6530>

**10. KY: Several Clay County Officials Arrested On Federal Charges (3/19/09):** Five Clay County officials, including the circuit court judge, the county clerk, and election officers were arrested after they were indicted on federal charges accusing them of using corrupt tactics to obtain political power and personal gain. In addition to charges of conspiracy, the defendants were also indicted for extortion, mail fraud, obstruction of justice, conspiracy to injure voters' rights and conspiracy to commit voter fraud, including changing votes at the voting machine and showing others how to do it.

[http://www.lex18.com/Global/story.asp?S=10037216&nav=menu203\\_2](http://www.lex18.com/Global/story.asp?S=10037216&nav=menu203_2)

**11. “Missing Pieces” - A Citizens’ Review of the November 2008 Presidential Election in Riverside County, California (4/09).** Save R Vote Report documents violations of election law and egregious failures by the Riverside County Registrar of Voters. She failed to conduct a 100% manual tally of all votes cast on the touch screen machines prior to certification of the November 2008 election. [http://www.electiondefensealliance.org/Riverside\\_Missing\\_Pieces%20](http://www.electiondefensealliance.org/Riverside_Missing_Pieces%20)

**12. Riverside election officials contend the costs to hand-count more than 72,000 e-ballots are not reimbursable (2/09).** The registrar reports that Sequoia Voting System will not reimburse the county for the cost of the manual tally although they are mandated by the Top-to-Bottom-Review re-approval use conditions to do so.

<http://earc.berkeley.edu/news/2009/February/StateCountyElection.php>

**13. Humboldt Transparency Project (3/09)** Hundreds of Lost Ballots and Illegal Voting System Illustrated by Simple Citizen Oversight, Free Open-Source Voting System in One California County...

<http://www.pubrecord.org/nationworld/546-humboldt-transparency-project-reveals-diebold-us-federal-voting-systems-failures.html>

<http://www.pewcenteronthestates.org/uploadedFiles/wwwpewcenteronthestatesorg/Reports/ElectionlineReports/electionlineWeekly03.05.09.pdf>

**14. SoS hearing reveals audit log unreliable in all GEMS versions (3/18/09).**

[http://www.sos.ca.gov/elections/voting\\_systems/premier/gems11819-hearing-transcript.pdf](http://www.sos.ca.gov/elections/voting_systems/premier/gems11819-hearing-transcript.pdf)

**15. U.S. Bars Lab From Testing Electronic Voting (1/04/07)** A laboratory that has tested most of the nation's electronic voting systems has been temporarily barred from approving new machines after federal officials found that it was not following its quality-control procedures and could not document that it was conducting all the required tests.

[http://www.nytimes.com/2007/01/04/washington/04voting.html?pagewanted=1&\\_r=2#secondParagraph](http://www.nytimes.com/2007/01/04/washington/04voting.html?pagewanted=1&_r=2#secondParagraph)

**16. Center for Democracy and Election Management, American University.** The 2007 Carter-Baker Commission on Federal Election Reform Progress Report notes "... national failure of election laws and practices to allow independent observers to be present during crucial parts of the process." ... "This limits transparency and public confidence in the election process. Above all, elections take place for the American people, rather than for candidates and political parties. Interested citizens, including those not affiliated with any candidate or party, should be able to observe the entire election process." [http://www1.american.edu/ia/cdem/usp/np/cbc\\_progress\\_2007\\_06\\_12.pdf](http://www1.american.edu/ia/cdem/usp/np/cbc_progress_2007_06_12.pdf)

**17. Voting System Companies Fail to Meet New York State's Requirements for "Responsible Contractors" (7/07)** This paper provides fully documented evidence revealing ethical violations include criminal indictments and convictions, civil fines, formal complaints and investigations, as well as consideration of past performance. All of the vendors are guilty of multiple infractions of any notion of responsibility. <http://www.votersunite.org/info/IrresponsibleVendors.pdf>

**18. Are Your Votes Really Counted? Testing the Security of Real-world Electronic Voting Systems (2008)** <http://www.cs.ucsb.edu/~seclab/projects/voting/>

**19. Computer Scientists take over Electronic Voting Machine with New Programming Technique (2009)** [http://www.jacobsschool.ucsd.edu/news/news\\_releases/release.sfe?id=873](http://www.jacobsschool.ucsd.edu/news/news_releases/release.sfe?id=873)

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**"Findings are not accepted by scientists unless they can be verified"** Norman L. Munn, (noted author on evolution of intelligence) from American Heritage Dictionary

**"Those who cast the votes decide nothing. Those who count the votes decide everything."** Josef Stalin

**"Trust, but verify".** Ronald Reagan