



Electronic Voting Systems: Risky Business?

By Laurence F. Adamczyk, Election Commissioners' Association President



First there were paper ballots, and then there were lever systems. Along came punch cards, then optical scanning systems, and most recently electronic voting systems – publicized as the most advanced technology to ever reach the voting industry, and ready to revolutionize the electoral process by making voting safe, secure and simple.

The Rubin Report

In July 2003, an alarming, some say alarmist, report by Professor Aviel D. Rubin et al. of the Information Security Institute at Johns Hopkins University concluded that the Diebold AccuVoteTS's source code contains serious security flaws. The report also implies that all electronic voting systems currently available comprise inherent high security risks.

Rubin's criticisms include:

- Significant security flaws;
- Voters can trivially cast multiple ballots with no built-in traceability;
- Administrative functions can be performed by regular voters;
- Threats posed by insiders such as poll workers, software developers, and even janitors;

- Lack of appropriate programming discipline;
- Little quality control in the process; and,
- A closed design process.

To protect against irregularities and thereby ensure the integrity of the vote, Rubin advocates a mandatory hard paper trail. Moreover, his supporters claim HAVA mandates that voters be able to verify their ballots before they are cast, that all voting machines provide a “permanent paper record with a manual audit capacity,” and that the voter be given the “opportunity to change the ballot or correct any error before the permanent paper is produced.” Proponents of electronic voting, however, claim that the HAVA requirements are already being met when the voter verifies the screen version of the ballot, and if a paper report can be printed later for audit purposes.

Diebold's Rebuttal

An executive summary by Diebold Election Systems however refutes many of Rubin's conclusions, and details flaws and inaccuracies in his report. The rebuttal charges that Rubin focused solely on the part the AccuVote-TS software plays in the voting process when developing the various election fraud scenarios, while

ignoring the other critical checks and balances present in our electoral system. Moreover, this report points out that an election is a very public event – it does not take place in a laboratory.

Diebold argues the problems with the Rubin report fall into four major categories:

- Lack of presentation and/or understanding of the full electoral process;
- Insufficient input from election experts;
- False technical assumptions; and,
- Inadequate research methodology.

Diebold points out that third parties verify every critical process throughout an election cycle and perform multiple checks and balances as well. These include equipment certification; purchase and receipt procedures; pre-election ballot and equipment preparation by election staff; post-election reporting procedures and canvassing; the physical security components of the voting hardware; the personal oversight of election

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CONFERENCE DATES

ECA Winter Conference

January 20-23, 2004

Rye Town, NY

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Buffalo, NY



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administrators and poll workers; and the vigilance of other voters, combined with the tightly restricted access to internal software code, all combine to protect the integrity of every election.

In addition to expressing an incomplete understanding of the full scope of the electoral process, Diebold faults the researchers for failing to take advantage of the vast knowledge of election oversight organizations, such as the Federal Election Commission, The Election Center, or the Independent Testing Authorities. Doing so would have helped Rubin et al. understand and present the rigorous standards voting systems are required to meet before they are put to use in real-world elections.

Diebold also contends that Rubin's methodology is explicitly based in large part on false assumptions. One such assumption made is that the system is somehow connected to the Internet during the voting process. This is absolutely not the case; hence the system is not vulnerable to hacking as Rubin suggests.

Lastly, Diebold accuses Rubin et al. of reviewing an inadequate, incomplete sample of Diebold Election Systems' voting system software and further criticizes Rubin for releasing the report directly to the press, rather than first submitting it to standard peer review by presentation to an open academic forum.

An Independent Risk Assessment

The California-based Science Applications International Corporation (SAIC) performed an independent risk assessment. According to their report, while Rubin's allegations are technically correct, most of them are irrelevant since the voting system is not connected to a network. In addition, election procedures and oversight, and openness of the voting environment

reduce or eliminate many of the vulnerabilities identified in the Rubin report.

SAIC, however, agrees with Rubin that the software security was inadequate: the unencrypted election results could be tampered with when transmitted, and results could be tampered with if the system were networked. The first weakness is easily fixed – encrypt the data; the second weakness is moot since an election network is not and never was part of the system design.

To mitigate other identified risks, SAIC recommends the development of a “formal, documented, complete, and integrated set of standard policies and procedures” applied consistently in all jurisdictions; the creation of a “formal, System Security Plan” consistent with state and FEC standards, and industry best practices; and implementation of a “formal information awareness, training, and education program appropriate to each user's level of access.”

Risky Business?

No matter what, the Rubin report has created a virtual uproar among voting reformists and computer scientists. In fact, several hundred web sites have popped up warning about the new systems' software glitches, vulnerability to hacking, use of “secret software,” and susceptibility to tampering by crooked voters and corrupt insiders. Some even purport it's all part of a vast conspiracy to deconstruct democracy as we know it. And mainstream media across this country and around the world are questioning the reliability of electronic voting.

In response to the growing chorus of concern, Congressman Rush Holt recently introduced The Voter Confidence and Increased Accessibility Act of 2003 (HR2239).

The bill in part (1) requires all voting systems to produce a voter-verified paper record for use in manual audits and recounts, (2) bans the use of undisclosed software and wireless communications devices in voting systems, and (3) requires mandatory surprise recounts in 0.5% of domestic jurisdictions.

Whether or not the bill passes, several states and counties already use electronic voting systems, and many more including New York will introduce them during the next few years.

Is electronic voting inherently high risk, or is the hubbub just a lot of hi-tech hyperbole? The answer is somewhere in the middle. Yes, the possibility of manipulating any voting process exists. But, with a comprehensive system of checks and balances and an extensive training program for election administrators, staff, and poll workers, the probability of compromising an electronic voting system is significantly less.

Nevertheless, this heated debate is likely to intensify – increasing both anxiety about the technology and cynicism of the electoral process among already disenfranchised and technophobic voters at best, and many other voters at worst.

Perhaps then our greatest challenge in relation to electronic voting will be to effectively implement a far-reaching voter education program to re-enfranchise voters.

Rubin's report in its entirety can be accessed at:
<http://avirubin.com/vote.pdf>,
the Diebold rebuttal at:
<http://www2.diebold.com/checksandbalances.pdf>,
and the SAIC Risk Assessment at:
http://www.dbm.maryland.gov/dbm_search/technology/toc_voting_system_report/votingsystemreportfinal.pdf

Part of the Team

By Elizabeth W. Cree, First Vice-President

A problem we have in the election business is we don't seem to be a part of the "county team." Many county departments interact with each other on a daily basis. The Board of Elections may not have that interaction due to our unique mission and rules. We do not hire the same as other departments, our budget constraints are different, and the makeup of staffing is **always** bi-partisan. Sometimes when we get "lumped" together for county business purposes, it just doesn't fit us. Not because we don't want to be part of the team, not because we don't want any outside interference, and especially not because we just want to be difficult. Boards must perform at a very high level of service because we are in the election business. Sometimes we must separate ourselves because we are defined by the New York State Constitution, and the New York State Election Law specifies exactly what kind of work we perform.

With our work, we must have the highest standard of conduct. We must always maintain a high level of confidence with the public, and we must ensure every valid vote is counted. Even though the boards are sometimes perceived as being difficult, it just isn't so. In my county, we have worked through these issues. But, it takes work for other entities to understand our laws and makeup. Our main responsibility is make sure that we are accountable when it comes to running elections.

What is accountability? I looked up the word in the computer's thesaurus and found the following: *liable*, *blamed*, *responsible for*, and *answerability*. Our job is unique in the fact that what we do affects so many areas and lives. It is not just a local effect,

but it involves races from small villages to nationwide. What happens if someone loses an election because we didn't process a voter's registration correctly and the race comes down to one ballot? Maybe an absentee voter doesn't receive their ballot. What happens if the ballot isn't certified correctly? The result is a candidate loses their job. A voter loses their inherent right to vote. Using the different definitions regarding elections, I came up with the following:

Liable: we are liable if we do not correctly print a candidate's name on the ballot, if a qualified voter gets turned away at the polls, if candidates don't file their campaign finance reports, if an absent voter doesn't receive a mail ballot, or if we don't fulfill our mandated duties.

Blamed: We get blamed for all types of things in this business that we can't control:

- A voter misses the deadline to register to vote even though the date is set months ahead of time.
- A polling place is not convenient for a voter.
- A voter fills in their absentee application to vote incorrectly, and we can't reach them to correct the mistake.
- A candidate loses their ballot position because they incorrectly processed their petition (just to name a few).

We think there is often misunderstandings because we are set up apart from other county departments. Boards of Elections are set up specifically because we cannot have any outside influences that could jeopardize the election process. We are defined by the State Constitution and must uphold the laws of this state as well as across

the nation. We are accountable for maintaining public confidence in honest and impartial elections. And, finally, we must answer to the public if there is a perception of unfair elections. Every day we perform our duties to ensure proper elections makes us part of the team.

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OF THE STATE OF NEW YORK

2003-2004



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Executive Committee Report

By Robert Brehm, Schenectady County, Executive Committee Chair



At the time this message was prepared, local board offices are just barely finishing the 2003 Election cycle, and our attention is focusing on Election 2004. We know that the 2004 Presidential Election will be the most reviewed election in our time. We will have the new requirements of the Help America Vote Act (HAVA) with its mandates on voter accessibility, voter identity verification, databases and voting systems.

The planning and implementation work that we do now may help us to keep from repeating others' missteps. The ECA Winter Conference at Westchester's Rye Hilton will show us ways to help us save time and money for our jurisdictions. The special workshops on local board experiences utilizing newer style voting systems and a workshop discussing efforts by some jurisdictions to prepare to implement HAVA will be a great benefit to all. This statewide training and

education meeting is a modest attempt to equip election administrators in New York State with important tools to face the challenges of election reform.

Important discussions will take place in 2004 to focus efforts on establishing criteria for our use throughout New York State to evaluate polling sites and voting systems for handicap accessibility. Addressing accessibility issues for voting locations and voting systems is a major component of HAVA, and it will play an important roll from fiscal appropriation, voter education and enfranchisement points of view.

Time is also set aside to discuss with State Legislative leaders and representatives of the New York State Board of Elections priorities for the upcoming 2004 Legislative Session. Before we start buying things for use by voters, or comply with items mandated by HAVA, these ECA workshops will prepare each of us to ask the right questions and to receive the right answers, saving our jurisdictions thousands of dollars.

In addition to planning for the future, we have reserved time for Questions & Answers on any topic. Discussions on

local court cases, state/federal litigation or vote counting issues are always big agenda topics at the Winter Conference. We hope you will join us at the Winter Conference.

In addition to preparing for Election 2004, word from the NYS Board of Elections indicates that we are still waiting for US Senate confirmation of President Bush's four nominees to the Election Assistance Commission (EAC). These appointments are necessary because the individuals making up the board are responsible for distributing most of the HAVA appropriations. Many individuals have worried about "if and when" local jurisdictions would receive "full funding" under HAVA. They can be reassured by news from the NYS Board of Elections that apparently the House of Representatives appears likely to approve the \$1.5 billion for HAVA in the 2004 budget. We are grateful for the positive efforts to fund as much of the HAVA mandates that are possible.

I look forward to seeing you at the Winter Conference.

Convicted Felons and Voting Rights

By Thomas S. Burke, Greene County

There seems to always have been confusion in regard to the eligibility of convicted felons to vote. The State Board, recently issued a much appreciated clarification, and some of us may feel that was "more than we wanted to know." For those of you, however, who continue to read registration forms that say you must "not be in jail or on parole for a felony conviction," and score a 9.5 on the confusion meter, here is some additional material to ponder.

Sections 701, 702, and 203 of the NYS corrections law provides for either the sentencing court or the NYS Board of Parole to issue a certificate of relief from disabilities, as well as a

certificate of good conduct, which effectively reinstates one's right to vote.

By law, a convicted felon is eligible for a certificate of relief if he or she has not been convicted of more than one felony. For this purpose, two or more felony convictions stemming from the same indictment count as one felony. Two or more convictions stemming from two or more separate indictments filed in the same court, prior to conviction under any of them, also count as one felony.

The Board of Parole may also issue a certificate of relief, if an eligible offender has been convicted in another jurisdiction and now lives in

New York State.

In contrast to a certificate of relief, a convicted felon is eligible for a certificate of good conduct even if they have been convicted of more than one felony. They would not become eligible for a certificate of good conduct, however, until a minimum period of time has elapsed from the date of unrevoked release from custody by parole or from the date the sentence expired.

So, those individuals who are eligible for either a certificate of relief or a certificate of good conduct are also eligible to have their various rights restored, including their right to vote.

A Message from the Editor

By **Carolee Sunderland, Editor**



We have, again, weathered another election year throughout the State of New York. Many counties had local elections in their towns and cities, which includes numerous offices on the ballot. It was, for some Party Reorganization – otherwise known as Member of County Committee petitions, this means, yes, more petitions on an individual election district basis. Primaries have become the norm each year and are complicated not just for candidates and voters, but for Board of Elections too.

Over the years I have been asked by many, “the General Election must be very difficult to do each year.” I usually answer with, “not so.” There is much work and a lot of preparation for all elections. However, first we must get through the Primary Election. Primary Elections in New York State each year are by far more complicated; therefore, making them much more difficult. “Why?”

Now comes the complicated part. Try explaining a “closed primary,” along with cross endorsements and keeping all tallies separated by affiliated parties, and doing this sometimes on multiple pages. Examples - poll roster books, ballot position, column numbers, absentee/affidavit/emergency ballots and envelopes. Additional Financial Disclosure filings - pre/post for this Primary Election. Complicated and

Difficult ... telling certain voters why they cannot vote in a Primary Election; however, yes you can vote in the General Election. They in turn contact candidates, other voters, the media and anyone else who will listen to them, saying they are being disenfranchised by the Board of Elections with regard to their voting.

Complicated and Difficult - try reading, interpreting, re-reading, implementing, re-reading, following through with the New York State Election Law and making all candidates, voters, clerks, technicians, election inspectors, poll watchers and the media HAPPY! Not just complicated and difficult, but downright impossible.

The best part is in 2004 we get to do this twice. Once in March and then in September.
Happy Primaries!!!!???

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*** notifies other counties

The Amazing Race!

By Robin M. St. Andrews, St. Lawrence County

Just when you think you've seen and heard it all!

Due to an unfortunate error to timely file caucus results, Democratic candidates from both the Town and Village of Potsdam found themselves with no access to the ballot! This didn't affect just one or two individuals, but rather seven (three Village and four Town) *incumbents*!

With no second line to fall back on, running as write-ins was the only option. Town offices were uncontested, but the Village Mayor and two Trustees did, indeed, have opposition! The Village of Potsdam, home of Clarkson University and SUNY Potsdam, is one of our major municipalities here in the north country. This situation was not to be taken lightly! There were many skeptics that said the incumbents could never pull off a successful write-in campaign. How many voters have ever even heard of a "write-in" let alone actually done one?

The candidates and committee had their work cut out for them and immediately began fundraising and design of an aggressive write-in campaign with major emphasis placed on voter education — "how to do a write-in." Coverage of the situation received a tremendous amount of media attention. You would have been hard pressed to find a resident who didn't know of the situation. But, could the candidates pull this off?

Were the voters really paying attention? Could the elderly operate the write-in mechanism? Would voters remember which of the seven names went with which office? How would the election inspectors deal with all of this? How would you have bet?

Well, the day came — naturally, it was cold and wet! Despite the weather, committeemen, candidates and supporters were just outside the 100' distance markers at 6 a.m., greeting the voters and handing out instructions for conducting a write-in vote. Meanwhile, inside the polls were watchers from both parties, keeping their eyes peeled for any irregularities!

To make a long story short, all seven incumbents were successful in being re-elected. Turnout was terrific, activity at the polls went without any disturbances and absolutely no complaints — it was unprecedented!

It was an experience for all involved! The Board of Elections compliments both parties for the "professional" manner in which the campaigns and election day activities were conducted, the voters for their careful attention to the situation and we were particularly proud of the fine job done by the election inspectors!

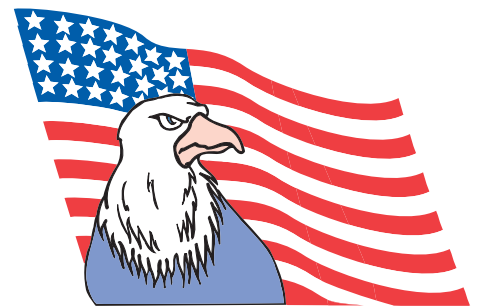
Though interest, enthusiasm and participation was the greatest we've seen in some time, we don't encourage it as a matter of practice! It will be an election long remembered — truly, an amazing race!

Custodian Training

By Sue Fries, Cattaraugus County



During a recent voting machine custodian training for Cattaraugus County Board of Elections, Woody Danielson, training technician for Voting Machine Service Center Inc., Gerry, NY., spoke on the correct procedures for strapping and setting voting machines for the 2003 ballot. Pictured with Danielson are from left: Dave Thiel, West Valley; Kathy Hatch, Town Clerk, Franklinville; David Ranke, Dayton; and Richard Ehman, Great Valley.



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