

To: CA Secretary of State, Debra Bowen and Voting Systems
From: Judy Alter, President of Protect California Ballots
Re: Public Comment, written testimony for Hearing on March 17, 2009 on GEMS 1.18.19

The Humboldt County transparency project shows the need for this kind of citizen "double-check" in every California county. I urge the Secretary of State to decertify GEMS 1.18.19 and consider a fine or more serious consequences for Diebold/Premier Voting Systems such as barring them from doing business in California for three years, for the serious breach of contract demonstrated in their tabulator's failure to accurately tabulate the Nov. 2008 election results.

I observe elections in Los Angeles County with a team of technical experts. We still have not been able to "check and review the election machinery and programming" specified in CA EC 15004. We have no way to ascertain if our LA voting precinct results are tabulated accurately.

We have asked for audit logs/back-up files so we could add up the totals ourselves, attempting to check, in a limited way, what the Humboldt County transparency project actually achieved.

We have asked for a monitor of the tabulator screen so we could video the precinct totals to attempt to add the totals ourselves.

This unsatisfied need, to check the addition of the precinct totals, must be understood in the context of the mandatory 1% manual tally results. The insufficient CA "audit" of 1% of precincts did not uncover the uncounted ballots that the Humboldt County transparency project found.

In Los Angeles, our 1% manual tally was conducted on 51 precincts. No hand count matched the computer count completely in all the 23 contests in each precinct. 25% of the Vote By Mail precinct results matched completely; 75% did not. And our 1% manual tally of precincts does not let us know if these results were tabulated correctly.

Los Angeles County and all the other CA counties need a full and thorough method to double-check the accuracy of the vote count. This is what, I believe, we, in the Election Justice movement, mean by "transparency."

On computers we do not have public counting of the votes on our ballots. A democratic election requires public counting.

Further, our election officials need to be held accountable when they do not follow CA Election Code as in the items listed above. In contrast, our thanks go to Humboldt County Registrar of Voters Carolyn Crnich for her extraordinary assistance and cooperation in facilitating the citizen's transparency project. Her actions exemplify the checks and balances built into our California and United States constitution.

Subject:

RE: Elections Division Web Form - Diebold/Premier Voting machines

-----Original Message-----

From: [REDACTED] [mailto:[REDACTED]]
Sent: Thursday, March 05, 2009 1:52 PM
To: Elections Web Mail
Cc: Webmaster
Subject: Elections Division Web Form - Diebold/Premier Voting machines

Submitted: 3/5/2009 1:51 PM

Customer's Message:

I just read with some shock Wired's summary of your report on the Diebold voting systems, complete with the "Clear" button. Based on the material in your report, I think it is more than apparent that Diebold/Premier as a company have exhibited gross negligence concerning the accuracy of election data. I would encourage you to not only decertify the equipment in question, but to bar all counties from utilizing any Diebold/Premier systems in the future.

Customer Name: Matthew Friedman
Organization:
Street Address: [REDACTED]
City: Los Angeles
State: CA
Zipcode: [REDACTED]
Telephone Number: [REDACTED]
Email Address: [REDACTED]

Where did you hear: Google
Section liked:
Section didnt like:

=====
Customer's Web browser - Mozilla/5.0 (Macintosh; U; Intel Mac OS X 10.5; en-US; rv:1.9.0.6) Gecko/2009011912 Firefox/3.0.6 GTB5

Form was accessed from Web page <http://www.sos.ca.gov/webcontact/general/question.aspx>

[REDACTED]

From: Richard Tamm [REDACTED]
Sent: Friday, March 20, 2009 12:39 AM
To: Voting Systems
Subject: My public comments on Diebold's GEMS Ver.1.18.19

To the staff of the Office of the CA Secretary of State on the occasion of the March 17th Public Hearing on the problems discovered in Diebold's GEMS v.1.18.19, I humbly submit the following comments, questions, and suggestions.

1. If, in the future, you again have a public meeting with such a small group in attendance, please consider allowing much more than 2 minutes per person to speak. When first confronted with that short a time, I immediately flashed on the talking speed of a tobacco auctioneer.
2. A. Is there information available anywhere re. total cost/county/year for electronic voting machine systems - upgrades, maintenance, storage, tech support, etc.?
 B. Is the minimum requirement of HAVA 1 DRE/polling place for handicapped? If that is all, could a county eliminate all expenses associated with scanners and possibly also the central tabulator and its software system by employing local people at about \$100 each for "election duty" as hand-counters in each precinct starting at 8 PM, after the polls close, a minimum group of 4 people with no more than 2 Democrats and 2 Republicans, and with as many citizen observers as can be accommodated? This could possibly save a county a great amount of money while allowing an election to be much more open and transparent. And the payments to the local citizens would be a stimulus to the local economy vs. sending the money to some distant e-voting machine company. Can this be tested in one county if an ROV is willing?
3. Any totals as important as election totals should be counted two different ways to verify correctness. Back up all central tabulators with something similar to the Humboldt Transparency Project's off the shelf duplex high-speed scanner and open-source software to recount all ballots.
4. Diebold: less reliable than a light bulb, less accurate than a pocket calculator, less truthful and forthcoming than....
 A. Decertify all Diebold systems(? or only 1.18.19?), or forbid them from doing business in the state for 1 - 3 years?
 B. For counties that will still need to use Diebold systems in the next 6 months, v.1.18.19 (or all versions?), as with all DRE's currently being used, require ROV's to recount all ballots to verify numbers. This does not have to be done the way it's always been done - by ROV staff in ROV offices for weeks after the election. It can be done either by citizen hand-counting, as in 2.B., above, or by independent scanners and software, as in 3, above.
 C. fines? At minimum, have Diebold pay for expenses of additional work described in 4.B., above, needed to assure accuracy.
5. What power does the SOS have to force ROVs' compliance with her regulations?

Thank you for your ongoing great efforts to protect and improve our elections processes.

--
 Richard Tamm
 [REDACTED]

Macias, Ryan

From: John Tyler [REDACTED]
Sent: Tuesday, March 17, 2009 1:41 AM
To: Voting Systems
Subject: Premier Election Solutions' Global Election Management System (GEMS) version 1.18.19 Voting System Integrity.

To The Secretary of State and All Concerned Citizens;
Premier Election Solutions' (formerly Diebold) systems were examined by computer experts and were able to show that it was possible in a very short period of time (minutes) to access the memory cards used in voting machines to show a ZERO starting count but the memory card could CHANGE votes depending on how the election fixed to "report".

Given the importance of the data being counted, even more important than MONEY, that the source code for this voting system version 1.18.19 should be examined by multiple forensic computer experts. They should be looking for flaws in both the hardware and software or ways to surreptitiously change the results. My concern is the secrecy that Premier Election Solutions' has clamped on their voting system. They seem very afraid that someone will find out the dirty secrets in these voting systems. Access to the databases on the voting server systems appear not to be encrypted and vulnerabilities exist in the Windows Operating system that would allow intruders to change the voting database in such a way as to appear the information came from only voting machines and not from "hackers"

As a veteran, I fought for the rights of Americans to have a fair and unbiased election system. I went thru a lot of difficulty to get absentee ballots while stationed outside the country. I hope that my votes were counted fairly and unbiasedly.

JOHN TYLER
PALM SPRINGS CA.

[REDACTED]

From: Eva Waskell [REDACTED]
Sent: Friday, March 20, 2009 3:17 PM
To: Voting Systems
Cc: [REDACTED]
Subject: Rebuilding Trust

To trust or not to trust. That is the question.

Testimony at the March 17, 2009 hearing highlighted serious vulnerabilities and fundamental design flaws in Diebold's voting systems. Any *one* of the well-documented deficiencies cited that day in Sacramento would *never ever* be allowed in software used in *any* legitimate banking and/or financial system.

QUESTION: Should we trust a voting system that audits itself? Should we trust a voting system that produces election results that *cannot be audited* in accordance with basic bookkeeping principles?

ANSWER: No one should trust a voting system to audit itself. And no one should blindly trust an inauditable system. Independent verification of election results is essential, and long over due.

So what does a trusted election system look like? At a minimum there must be full transparency, genuine accountability (including enforcement of election laws), auditability of election results (including a proven chain of custody), election observer access, and timely access to public election data. Most people would agree that, in theory, these features are characteristic of democratic elections. However, all of these elements—each and every one of them—are virtually nonexistent in California's election system. All of these elements are also intimately *interconnected*. You cannot have one without the others and still maintain the integrity of the election.

Citizens have been proactive in rebuilding trust in election results and restoring meaningful checks and balances in at least three ways. First, citizens working closely with a local election official on the Humboldt County Transparency Project demonstrated that access to voted ballots can be used for independent verification of election results. This pilot project needs to be further refined and replicated in additional counties. Election law also needs to clearly state that ballots are public records.

Second, citizens have recognized that two kinds of access are vitally important. Observer access is critical to verifying the integrity of election procedures, especially the vote counting process. Access to public election data in a timely manner is also critical. This includes obtaining precinct totals *on election night*.

Third, citizens have the tools and time to cost-effectively collect public election data (precinct totals, interim vote totals, overvotes, undervotes, summary reports, unofficial/official results, etc.) which can then be analyzed, evaluated, and shared with others, including election officials, political parties, watchdog groups, and a wide range of academics. The election community needs to tap into these citizen-based resources. This type of public data collection can assist election officials whose job it is to prove that election results are accurate. Note: This data collection effort would represent *the very first time* that such a comprehensive set of election data was collected and subjected to scrutiny.

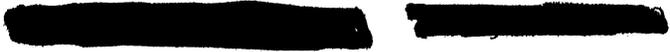
In sum, California has an opportunity to provide leadership in election reform and restore trust in election results by focusing on replication of the Humboldt County Transparency Project, citizen-

based data collection, independent verification of election results, observer access, access to public election data, and enforcing election laws. Hopefully, the SoS will heed the call to action.

Eva Waskell
San Rafael, CA

Testimony - March 17, 2009

Gail Work, Chair - Election Integrity Committee, San Mateo County
Democratic Party, *Founder-Grassroots for Bowen PAC*



Before I start I wish to thank Secretary Bowen and her staff for their courage and hard work to improve election integrity in our great state. I also wish to thank the election officials in Humboldt county for opening up the election process and allowing the Transparency Project to do their excellent work. This is the kind of transparency we need across the state. And finally a word of gratitude and thanks for Dave Berman and others with the Transparency Project for the hundreds of hours of time given in pursuit of an accurate vote count. Your work is ground breaking and should be replicated across the country.

I am here to address election security, the security of the vote. Specifically I will speak to the need for improved transparency, the need for Observer access and protection, and the current lack of enforcement of the law.

It appears that the Diebold "clear button" does not consider security

in response to the Diebold comments, I suggest that we don't want more unreliable proprietary software & devices

For many years voters have been uneasy trusting their vote to voting machines run on secret, proprietary software by companies that are controlled by wealthy, partisan owners. Because lines of programming code are so easy to hide, malicious code, or faulty code is very hard if not impossible to find. These private vendors have far too much control and influence over our elections and this needs to be addressed head on to prevent abuse of our democratic system.

want version 118.24

The fact that the Transparency Project was able to do such an excellent job of documenting the faulty vote count in Humboldt County gives us reason to look more closely at all the proprietary systems in California, there are serious security problems documented in all these voting machines. It is time to decertify these systems.

faulty

Secretary of State Bowen's top-to-bottom review was a good start however we have no way to know if the conditions of recertification she required are being complied with due to the lack of transparency and the lack of Observer access. This lack of information greatly concerns those of us who give our time to provide election monitoring for the community.

The American people are feeling very betrayed by Wall Street at this point due to the lack of government oversight, the lack of regulation, the lack of transparency, the lack of security of their investments -- obviously.

Government has a critical job to do in assuring that the public interests are upheld and not stolen or manipulated. This role of protecting the public interest is needed now more than ever as we see more and more daily evidence of the vast abuse of our financial system and the profound lack of oversight.

Now is the time to learn from this financial disaster and apply those lessons to ask what protections are in place for our elections. Let us not allow our elections to be privatized and controlled by special interests as we did with our hard earned savings on Wall Street, we have the responsibility to protect the security of the vote for the sake of our country. We need to be able to elect strong, courageous, smart leaders to save our country from the many crises we face. Only through accurate, transparent elections can those good candidates win.

The Transparency Project in Humboldt County was successful in collecting data because the election officials allowed them access as Observers. This is the first step to gaining independent verification, the citizen Observers must have access to see and hear what is going on in all election processes.

Why is this is critical? **Because Observers are our country's unprotected whistleblowers.** They give their time and energy to provide that independent voice to watch carefully and point out problems and security gaps where abuse could occur. These Patriots are not being given the access or the protections they need to continue providing this needed service to their country. We should be concerned because so much is at stake. California's voting weight is critical to the presidential election, and as California votes, so votes the nation.

Here is an example of what is going on -- in Santa Clara county the Democratic Party sent official Observers to monitor the election there on Nov. 4th and they were barred from seeing or hearing what was going on. The Registrar blocked access, I ask all of us here today, the media, the public here in the chamber, **what is he hiding?? What is he afraid of Observers seeing and documenting?? What is so secret and why is he permitted to abuse his office as Registrar of Santa Clara county?** The Board of Supervisors there needs to wake up and smell the coffee -- something is not right in elections there and it's time for hope and change in Santa Clara county elections.

When representatives of a party can't even get in to see how elections are conducted, we are in a very precarious situation of abdicating election results to a few individuals in positions of authority. This puts our democracy at risk; elections are the foundation for a healthy democracy. When the integrity of elections can't be substantiated by third party Observers, something is terribly wrong. **We call on the Secretary of State to correct this imbalance of power and open up the process to public scrutiny and improvement, and enforcement of the law, specifically enforcement of Election Code 15004.** For too long the county elections officials and private vendors have controlled access and the election results without transparency or adequate oversight.

I personally contacted the Secretary of State's hotline on election night to report that the Santa Clara elections office was blocking Observer access. I've been told my call was not recorded and nothing was done to respond to this completely unacceptable, illegal situation. Please, follow up on the illegal blocking of Observers in Santa Clara county and violation of EC 15004 and make sure it doesn't happen again. And if it's not your job then pass legislation to provide adequate oversight, we need your leadership Secretary Bowen. We worked hard to get you elected and we are counting on you to come through.

Those Democratic Party Observers also requested access to do a mid-stream audit on election night in Santa Clara. This access was also denied by the Registrar. Apparently he thinks he operates above the law and without respect to the Democratic Party. Who will address these violations?

If Observer Rights were upheld in California, along with all the other election laws, we could make some progress to collect data and highlight the areas where problems exist. However we are not seeing enforcement, we are not seeing investigation and there is a lack of transparency so it is not clear that anything is being done to improve on transparency and Observer access.

We have situations in California where Observers are spending literally thousands of volunteer hours to collect information to prove even felony level violations of election law. However we aren't seeing enforcement and this permits election officials to do whatever they wish with the vote without adequate oversight or independent verification. We cannot allow this to continue, we need far more oversight and vigilance. The grassroots wants to see results from this hard work and diligent data collection after years and years of vigilance.

I urge Secretary of State Bowen to actively support Observer access and to provide transparency for all counties, such as we saw in Humboldt county, so independent verification can happen anywhere. The election officials produce public records requests so late that the data has lost any chain of custody security by the time an Observer gains access to the report. Information comes too late, access is barred, evidence collected seems to lead to little investigation.

Elections officials are harassing, intimidating and even physically assaulting some Observers across the state. This abuse of power needs to come to a halt. This situation is not acceptable and shouldn't be tolerated by Bowen's office or any legislator in California. **I urge Secretary of State Bowen to take an active lead to assure the public that enforcement of the law is a priority and is being pursued by her office and whatever other entities can lend their authority to improving enforcement of the elections laws.**