



Tuesday, February 06, 2007

Dear Honorable

One of the key methods to ensure integrity of our elections is citizen oversight of manual audits of election results. Audits are effective to ensure integrity *only where there is citizen oversight* over the voting process. We assert that while the identity of the voter who casts a specific ballot must be secret, the “vote counts”, the manual audits, and the election records to verify the audits, should not be secret.ⁱ

Electronic voting machines were supposed to fix the problem of errors or fraud in elections. But consider these revelations: the 18,000 missing votes in Sarasota FL in 2006ⁱⁱ; the introduction of new voting technology that many reputable scientists insist is flawedⁱⁱⁱ; the decertification by the U.S. Election Assistance Commission of Ciber Inc., the testing lab that certified a majority of US voting machines;^{iv} and the conviction of Ohio election officials Jacqueline Maiden and Kathleen Dreamer for rigging the 2004 presidential recount.^v Voters understandably want a full return to citizen oversight over the integrity of elections, and manual audits are a key part of this oversight.

Votes are usually not tallied all at once, but in smaller groupings that are then added together. A “vote count” is a group of ballots that are counted at one place and time. These vote counts are often loaded into a database, from which the overall results are computed.

U.S. voting systems use a variety of types of vote counts including:

- Precinct or polling location vote counts (counted by precinct op-scan machines, by hand counting, or by DRE voting machines), where each count is associated with all the paper ballots or voter-verifiable paper records cast at a precinct or polling location, or
- DRE voting machine vote counts, where each vote count is associated with the voter-verifiable paper records of ballots cast on one DRE voting machine, or
- Batches of ballots (counted by hand or by central count optical scan voting systems), where each vote count is associated with a batch of ballots maintained as a group.

We believe it is critical to the integrity of elections for sufficient^{vi} manual counts of voter verifiable paper ballots to occur, and for these audits to be done with citizen oversight by a separate and distinct group of auditors^{vii} using one of these methods:

- 1) Manual counts of 100% of all vote counts,^{viii} or
- 2) Manual counts of sufficient numbers of randomly selected vote counts
 - as determined exactly using a program,^{ix} or
 - as looked up in a table (called a “tiered” audit),^x or
 - as estimated by a formula,^{xi} or
- 3) Manual counts of 10% of randomly sampled ballots of all vote counts.^{xii}

Representative Rush Holt’s proposed “Voter Confidence and Increased Accessibility Act of 2007” (HR811) proposes a tiered audit^{xiii}. However HR811’s tiers were not calculated to ensure a fixed high probability of success.

For example, *over half the time HR811's audit will not detect even one corrupt vote count (a vote count with errors) whenever there are sufficient corrupt counts to alter an outcome for a US House race:*

- with 440 precincts or less, and ½% or less margins between candidates, and many states do not require any manual counts even when the margin between candidates is less than ½%^{xiv}, or
- with 400 precincts or less and a margin between candidates is a little over 1%, or
- with 300 precincts or less and a margin between candidates of about 2% to 3%.^{xv}

If the goal is to ensure the integrity of the election outcomes, then a minimum audit amount, not just an audit percentage must be specified for particular margins between candidates.^{xvi} Improper or insufficient audit procedures would leave federal races open to undetected problems, including vote fraud. Intuitively, the closer the race, the easier it is to change the outcome of the race, and the more auditing is required to ensure that the outcome of a race was not changed, regardless of how many total vote counts are involved.

We urge Congress to propose and support a bill requiring that

“federal elections are subjected to manual audits of sufficient voter verifiable paper ballots to provide 90% or better probability of detecting at least one corrupt vote count in the case that there were enough corrupt vote counts to wrongly alter the election outcome”.

Independent audits may also be used to detect voter disenfranchisement if public release is required of reports on such things as the number of registered and “active” voters assigned to each polling location, the number of different ballot types and precincts, the number of voting machines allocated to each polling location, equipment failure rates, under-votes, over-votes, uncounted ballots, absentee and provisional ballot rates, supply shortages, maximum wait time for voting; and whether polls were open for the entire voting period.

To assure the integrity of election outcomes, the manual counts must be timely, mathematically sufficient, and then used to correct election results.^{xvii} To ensure election integrity, the audit process must involve these steps:

- Commit the data before the audit. Publicly post all polling place vote counts on Election Day and publicly release the vote counts for every race and ballot contest for each audited vote count, prior to the random selection of the manual counts, so that the public can ascertain the correctness of the original counts as compared to the manual recounts.
- Randomly select which vote counts or ballots are manually counted whenever fewer than 100% of all vote counts are audited. Randomly assign auditors to each vote count audit.
- Make publicly available the election records used to verify all manual counts, including security procedures, ballot-handling procedures, seals and records necessary to verify ballot integrity
- Permit the public to effectively view both the random selections of which vote counts to audit and then all the manual counts.
- Election officials must take all actions needed to uncover the full extent of errors and to correct the election results whenever vote miscount is detected,^{xviii} before the election results are made official.

Kathy Dopp of the National Election Data Archive and other experts^{xix} are available to testify or to speak with members of your staff to explain the technical details involved in verifying election outcomes.



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ⁱ Representative Rush Holt's "Voter Confidence and Increased Accessibility Act of 2007", HR811, is a major improvement over HR550. However, it does not provide for sufficient citizen oversight, so that the manual audits could conceivably be manipulated without detection. Election records must be publicly available and the public must be permitted to view the manual counts. Candidates cannot adequately judge the integrity of their election outcomes when access to election records is lacking.

ⁱⁱ "Questions remain in D-13 under-vote controversy" by Duane Marsteller Herald Staff Writer
<http://www.bradenton.com/mld/bradenton/news/local/16538437.htm>

ⁱⁱⁱ "The Machinery of Democracy: Protecting Elections in an Electronic World" by Brennan Voting System Security Task Force
http://brennancenter.org/dynamic/subpages/download_file_39288.pdf

^{iv} Ciber owners sold off their stock while the US EAC failed to publicly release the paperwork showing that Ciber, which had federally tested a majority of US voting systems, was not following quality control procedures and was not recertified. <http://www.bradblog.com/?cat=159> or
http://www.opednews.com/articles/opedne_michael_070124_eac_s_22new_york_brot.htm

^v "2 election workers convicted of rigging '04 presidential recount", M.R. Kropko, Associated Press
<http://www.ohio.com/mld/beaconjournal/news/state/16536269.htm>

^{vi} Sufficient means that legislation must specify an exact confidence level of at least 50% or greater and preferably of 99% or greater, for detecting at least one corrupt vote count if there were enough corruption to alter an election outcome.

^{vii} An independent funding source for auditors shall be used. Independent auditors could be extra poll workers; volunteers appointed by political parties, candidates, or ballot issue organizers; accounting firms; or state auditing offices. Auditors shall *not* include:

- (a) any employees or elected officials from any election jurisdiction's office
- (b) any employees or elected officials from the state election office
- (c) any employee or person affiliated with any voting system vendor or supplier
- (d) anyone who maintains or has special access to the voting system that a voter would not normally have, prior to, or during the auditable election
- (e) persons who acted as election judges during the auditable election

^{viii} "The New Hampshire Election Procedure Manual: 2006-2007" describes two procedures for hand-counting. See pp. 144-150 and pp. 110-112 <http://www.sos.nh.gov/FINAL%20EPM%208-30-2006.pdf>

^{ix} "The Election Integrity Audit" Dopp and Stenger - gives a numerical program to exactly calculate election audit amounts. <http://electionarchive.org/ucvAnalysis/US/paper-audits/ElectionIntegrityAudit.pdf>

"Random Auditing of E-Voting Systems: How Much is Enough?" gives an algorithm to calculate election audit amounts. <http://www.votetrustusa.org/pdfs/VTTF/EVEPAuditing.pdf>

^x "Tiered Election Audits" Dopp - allows easy look up of election audit amounts in a table
<http://electionarchive.org/ucvAnalysis/US/paper-audits/FourTierAudit/TieredElectionAudits.pdf>

^{xi} "On Estimating the Size of a Statistical Audit" Rivest - gives a formula to calculate the election audit amount.
<http://theory.csail.mit.edu/%7Erivest/Rivest-OnEstimatingTheSizeOfAStatisticalAudit.pdf>

"How Big Should an Election Audit Be?" Dopp - provides another explanation of the formula for calculating election audit size. <http://electionarchive.org/ucvAnalysis/US/paper-audits/ElectionAuditEstimator.pdf>

^{xii} "An End to Faith-Based Voting: Universal Precinct-based Handcount Sampling" O'Dell and Simon - a ballot sampling method <http://electiondefensealliance.org/files/UPSEndFaithBasedVoting.pdf>

^{xiii} Rush Holt's HR811 requires a 10% audit when the margin between leading candidates is under 1%; a 5% audit if the margin between leading candidates is between 1% and 2%; and a 3% audit if margins between leading candidates are over 2%.

^{xiv} HR811 has loophole in Section 327 that exempts states from manual audits whenever there are state recounts. Many states such as Utah and Florida have defined recounts such that little or no manual counts of voter verifiable paper ballots are conducted; or such that the electronic vote counts are not publicly released so that there is no comparison between the manual and electronic tallies; or such that fewer than the 10% of precincts are manually counted, as required by the current HR811. This loophole would also permit states to avoid audits by redefining when recounts occur and then defining recount procedures to avoid any meaningful manual counts. We believe that the legislation should say that "States shall meet these minimum standards, but that states are free to impose strictly tougher standards." Lesser state recounts should not be exempt from these requirements. (HR811 also seems to be under-funded because there are approximately 185,000 U.S. polling places and all remedial locations would need both a ballot marking device that allows voters with disabilities to verify their ballots and a precinct-based optical scan machine.)

^{xv} Calculations are based on a 0.15% maximum wrongful vote shift per vote count. A free spreadsheet is available for calculating election audit probabilities here:

<http://electionarchive.org/ucvAnalysis/US/paper-audits/ThreeTierAudit/ThreeTierAuditHolt.xls>

^{xvi} See “Tiered Election Audits”

<http://electionarchive.org/ucvAnalysis/US/paper-audits/FourTierAudit/TieredElectionAudits.pdf>

^{xvii} The random selection method should be easily understood by the public. Some transparent methods for randomly selecting vote counts are given by Cordero, Wagner, and Dill:

<http://www.cs.berkeley.edu/~daw/papers/dice-wote06.pdf>

^{xviii} The voter-verifiable paper records shall be the true and correct record of the votes cast, except in the case where evidence exists that indicates that the paper record has been tampered with or damaged, in which case, if an outcome is in question, a court will decide.

^{xix} “Experts are available 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>