



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
Harrisburg, Pennsylvania  
17120

DEPUTY SECRETARY OF THE COMMONWEALTH

Telephone  
(717) 787-6458

April 23, 2007

Marybeth Kuznik, Executive Director  
VotePA.us  
6093 Pleasant Valley Road  
Irwin, PA 15642

Re: Election Reform

Dear Ms. Kuznik:

Thank you for the written questions and comments regarding voting machines and technical issues presented at our April 4<sup>th</sup> meeting. Many of the concerns presented on page one of the document pertains to Allegheny County and their method of preparation for an election. Specifically, you express concern regarding the Department of State's (herein DOS) response to the issues identified in Allegheny County by indicating that no investigative action was taken. I can assure you that the Department takes every complaint filed quite seriously. My office did in fact review and investigate the issues we were made aware of and requested from Allegheny County officials explanations of the events raised in your comments.

In reviewing these explanations and in follow-up discussions between DOS staff and Allegheny County officials, we determined Allegheny County's responses to be satisfactory. Did the 2006 election in Allegheny County operate perfectly? No, there were clearly some problems and challenges. However, DOS is confident that Allegheny County officials and election staff also take their responsibility to the voters seriously. Moreover, we believe that having identified some problems in the 2006 election, the performance of the Allegheny County elections personnel will only improve with each successive election.

Your comments also raised an assertion that ES&S, a consultant for Allegheny County, had private, uncensored access to the central tabulation room, connecting the central count system with their own hardware. DOS concurs with Allegheny County that all activity was appropriate. As a consultant, ES&S is provided with access to data including tabulation results. However, such access and related activity is under the supervision of the Allegheny Board of Elections.

With regard to HAVA, Title III, you report that multiple complaints from Allegheny County were generated from systems failures and issues not recognized by pollworkers. If significant numbers of complaints were made, DOS did not receive them. From the 2006 General Election DOS received only six statewide complaints. None of these complaints came from Allegheny County. All six of the complaints were found to be invalid under Title III. There are no outstanding complaints pending at DOS.

Beyond your concerns expressed about Allegheny County, you raise issues about the verification of voting system hardware and software. DOS continues researching methods that can be used to verify such hardware and software. Logic and accuracy testing does provide a degree of verification. In addition, when systems were delivered to all counties, acceptance testing was completed on each machine. DOS staff is also exploring the possibility of using the National Software Reference Library. This option would give counties the ability to compare their software to the certified version held on file at the library.

You also expressed concerns about certifications of certain voting systems, particularly WIN vote and certifications completed by Ciber, Inc. The re-examination of WINvote was held on December 27, 2006 at the Department. A report is currently being written and will be available in the near future. Ciber, Inc. was an Independent Testing Authority (ITA) under the National Association of State Election Directors (NASED) system and at the time it was conducting examinations had the same status as SysTest Labs and Wyle Laboratories. The examinations were always done in cooperation with Wyle Laboratories, another ITA under the NASED system, and all reports were reviewed by our examiners.

In addressing your concern of the chain of custody and security issue, the Department shares your concern. Chain of custody and security of voting systems are very important components of county election duties. In our many discussions with counties last fall, DOS staff stressed the importance of the chain of custody. It is DOS's opinion that counties are continually learning about best practices and are doing a very good job ensuring fair, accurate and accessible elections.

As for the status of the Diebold TSX software, the memory card situation has been partially remediated. Diebold expects to complete an upgrade by the 2007 General Election. For the 2007 Primary Election, counties will still need to reinstall a "clean copy".

Your final issue involved the reports of vote flipping. When hearing of these reports on Election Day in November 2006, DOS contacted all counties where a problem had been reported to verify the reports. All counties indicated they had investigated the reports of vote flipping. When election officials investigated and were able to talk to affected voters in the polling place, it appeared that most vote flipping could not be duplicated or was found to be voter error. There were a few instances where a voting machine needed recalibration. Most machines in question

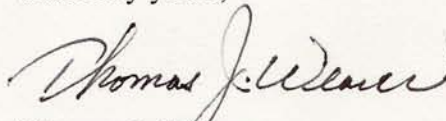
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were taken out of service until inspected by qualified personnel. The important thing is that whether the occurrence was voter error or calibration, the review screen allowed the voter to see the error and correct it before the vote was cast.

In closing, let me say that DOS believes that the new voting systems in the Commonwealth are working very well. Counties report that most voters find the new systems to be user friendly and improved over older systems. This has also been the experience of DOS staff when they have been in the field on Election Day. Be assured, however, that favorable reports to DOS do not mean that we accept that problems will not occur. To the contrary, DOS continues to be very vigilant by constantly monitoring and analyzing all aspects of voting machines, equipment, testing, and training in Pennsylvania. DOS looks forward to expanding our discussions and dialogue with you and others, as we work collaboratively to enfranchise all potential voters.

Thank you.

Sincerely yours,



Thomas J. Weaver  
Deputy Secretary for Administration

c: Pedro A. Cortés, Secretary of the Commonwealth  
Barry Kauffman, Executive Director, Common Cause Pennsylvania  
Paul W. O'Hanlon, Esquire, Disability Rights Network of PA  
(Disabilities Law Project of Pennsylvania)  
Celeste Taylor, People for the American Way & People for the American Way Foundation,  
PA State Coordinator, African American Outreach  
Bonita Hoke, Executive Director, League of Women Voters of Pennsylvania