

June 4, 2014

Dear Secretary Gessler and Deputy Secretary Staiert:

It has been a while since we last spoke. We need your advice.

As a 2014 Canvass Board member, I am deeply concerned that not enough has been done to prevent a repeat of the failed 2012 election. As you will recall, the Boulder County canvass board withheld certification of the election.

Last week I "observed" the start of Boulder County's LAT. I stayed long enough to observe that the process cannot rightfully be labeled a "test". It is a tightly scripted, superficial demonstration of some, but not all, election system components.

Test board members are prohibited from deviating from the script that is written by the county clerk. As a consequence, major threats to election integrity are ignored, by design.

Boulder County's LAT does not verify that its election process is secure, accurate, transparent and verifiable, and that the voters of individual ballots will be anonymous.

The results of the LAT are used to deceive the public and the courts into trusting election outcomes.

We call upon you because the election rules are a major contributor to the problem.

As we have previously discussed, the LAT fails, by design, to address massive threats to election integrity.

Examples of when unaddressed threats to election integrity occur at the system level:

1. before a ballot is received by the voter.
2. before the voter relinquishes control of the voted ballot.
3. before the clerk receives the ballot return envelopes.
4. during ballot reception, ballot duplication, and ballot acceptance.
5. during ballot scanning, vote interpretation, and resolution.
6. during vote counting and contest reporting.
7. during post-election audit, canvass, recount, and archive.
8. between processes, places, and times.

Examples of unaddressed threats in the components that were used during the LAT:

1. Ballots containing unusual marks were not tested. (Not every unusual ballot will be caught during pre-scanning screening, and not every duplicated ballot will be correctly interpreted.)
2. Folded ballots were not tested.
3. Provisional ballots and electronic ballots were not tested.
4. Ballot anonymity was not tested.
5. There was no attempt to verify that output-data satisfy the requirements for canvass, recount, contest, official returns, and abstract of votes cast.

The “results” from Boulder County’s LAT are seriously defective. Why were they approved? The following examples of defects are based on the LAT reports located at http://www.bouldercounty.org/doc/clerk/2014p_lat_cumulative_web_final.pdf

1. Three (3) separate elections were tested, yet results are commingled. This approach hides any offsetting errors. For example, if 500 Democratic voters cast 1000 ballots, and 1000 Republican voters cast 500 ballots, the commingled number of voters is 1,500 and the commingled number of ballots is 1,500. (This is a problem.)
2. The report indicates that there were 1,739 “voters”. Where did this number come from? Rather than the number of voters, it appears to represent the number of ballots counted. And the number is commingled across elections. The number of voters is required.
3. The report indicates that no “in-person” (Early or Election Day) ballots were counted. This we know to be false. There were DRE ballots; these are commingled with absentee ballots.
4. The report indicates the number of “cast votes” by contest. Where did this number come from? And how does it differ from the number of “votes counted”. Cast votes should reflect what the voter did; votes counted should reflect what the system did.
5. For some, but not all, of the contests, the report includes a summary block showing precincts and voters. Why for only some of the contests?
6. The summary block indicates that zero (0) precincts were counted. And there is no report showing detailed precinct/style accumulations by contest.
7. The summary block reports “ballots” under “voters”. Should this not be the number of voters? And should not the block title “voters” be “electors”? There is a difference.
8. The published results do not include any of the intermediate reports, so it is assumed that these were not “tested” by the LAT. Yet, these electronic and manual reports will be relied upon by any canvass, recount, and challenge actions.
9. Etc.

We recommend that you do not accept the results of the LAT as evidence of trustworthiness, and we request that you get answers to the following questions:

1. What has been done to correct the problems leading to Boulder County’s 2012 uncertified election?
2. Key terms such as “cast ballot” and “voter” are still undefined. Who casts and when is a ballot counted as cast? When does an elector become counted as a voter?
3. Why is there no test of SCORE’s massive interactions with the election?
4. Why is there no test of enforcement against illegal ballot harvesting?
5. Why is there no test of enforcement of voter privacy and ballot anonymity?
6. Why has the signature verification process not been certified? (Commitments made by CDOS and Boulder County in response to our HAVA complaint have not been fulfilled.)
7. Etc.

Boulder County’s election system is not production ready, so please don’t use it in a live election.

My question to you is this: “What do you want us to do about these claims of election system defects and threats?”

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