John Gideon
Ellen Theisen
Co-Directors

www.VotersUnite.org

Statement to the House Subcommittee on Information Policy, Census and National Archives of the House Committee on Oversight and Government Reform, House of Representatives
by John Gideon. May 7, 2007

[Note: Please include in the record of the subcommittee hearing of May 7, 2007 held in New York City]

My statement gives one fully documented example of the failure of both NASED and the EAC to fulfill the goal of assisting the states through the voting system certification programs. This example touches both the previous program (called "qualification"), administered by the National Association of State Election Directors (NASED), and the current program, administered by the Election Assistance Commission (EAC).

After the mid-term election debacle in Sarasota County, Florida, the State hired a team of eight computer scientists to examine the software source code of the ES&S iVotronic electronic voting system (software version 8) used in the election. On February 23 of this year, they released their report. Nine of the 67 pages in the report (13%) are devoted to a detailed explanation of a single software bug in the system that causes a "dangerous" security vulnerability. Specifically, the report states:

> "It is possible that an outsider could trigger an attack and that once one machine is infected, the virus would spread from machine to machine through removable storage media without further attacker involvement."[1]

Three separate ES&S iVotronic systems containing this flaw were approved by NASED: N-1-02-12-11-001, approved in February 2004; N-1-02-21-21-002, approved in August 2004; and N-1-02-21-21-003, approved in March 2006.[2]

Whether the cause of such a mistake is the inadequacy of the federal standards or the inadequacy of the NASED testing process, it cannot be denied that the NASED qualification process for voting systems failed to accomplish its goal of ensuring the integrity of voting systems.

But NASED's failure is only half the story. As of January 2007, the Election Assistance Commission assumed its HAVA-mandated duty of certifying and decertifying voting equipment. Yet, the EAC refuses to take any action at all to decertify this system or even notify the jurisdictions using the systems that their voting equipment is severely flawed.

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[1] http://election.dos.state.fl.us/pdf/FinalAudRepSAIT.pdf, page 37.

[2] http://www.nased.org/Copy of NASED Qualified Voting Systems FINAL 030907.pdf, pages 15 and 18.

In a two-month email exchange between EAC personnel and myself, I discovered that:

♦ One of the authors of the Florida report contacted EAC Commissioner Gracia Hillman's office immediately after the report was issued to warn of the severe flaw in the iVotronic and to offer to give the Commissioners a presentation and explanation of the problem. Yet, the EAC never followed up with him. [See Email #18 in the appendix.]

♦ The EAC refuses to take any responsibility for decertifying or re-evaluating equipment that was qualified by NASED, regardless of the flaws found in the system, unless the system is resubmitted for certification under the EAC's program. [See Email #3.]

♦ The EAC refuses to fulfill its mandate to be an information clearinghouse for problems found in voting systems qualified by NASED. [See Email #6.]

Respectfully submitted,

John Gideon
3417 NW Donida Drive
Bremerton, WA 98312
360-377-4925

Appendix — Email Exchange in Chronological Order

Email #1

Subject: Re: ES&S iVotronic Security Concerns
Date: Thu, 05 Mar 2007 11:55
From: John Gideon <jgideon@votersunite.org>
To: Brian Hancock <bhancock@eac.gov>
CC: Jeannie Layson <jlayson@eac.gov>, twilkey@eac.gov, sandy@sos.state.ia.us, hiter@gao.gov

Brian,

The following information was submitted by a computer security expert after reviewing the report written by the Florida State University team. I would like to know what action, if any, the EAC will take to investigate this issue and to warn the ES&S iVotronic 8 and 9 users across the country?

[Note: after the EAC refused to publicize the information and instructions provided to them in this email, we posted it at our site at http://www.votersunite.org/info/ES&SInsecurity.asp. Details are not repeated here.]

John Gideon
Executive Director
VotersUnite.Org
 www.votersunite.org

Email #2

Subject: Re: ES&S iVotronic Security Concerns
Date: Thu, 08 Mar 2007 14:44:08 -0800
From: John Gideon <jgideon@votersunite.org>
To: Brian Hancock <bhancock@eac.gov>
CC: Jeannie Layson <jlayson@eac.gov>, twilkey@eac.gov, sandy@sos.state.ia.us, hiter@gao.gov

Brian,

I know you have only had the below for three days but I want to make sure you see it and have a chance to respond, especially in light of the recently released GAO Report, "ELECTIONS: All Levels of Government Are Needed to Address Electronic Voting System Challenges".

[Previous email was repeated here.]

John Gideon
Executive Director
VotersUnite.Org
 www.votersunite.org

Email #3

Subject: your question
Date: Thu, 29 Mar 2007 15:50:00 -0400
From: jlayson@eac.gov
To: jgideon@votersunite.org
CC: bhancock@eac.gov

Mr. Gideon, As we have discussed before, EAC's voting system certification program was implemented in January of this year. Until that time, voting systems were evaluated by NASED, which is not a federal agency. When the Commission adopted its certification program, it decided not to grandfather or transfer any voting systems that had been qualified by NASED. The Commission felt it was important to conduct its own evaluation of voting systems that had been qualified by NASED. That's why any NASED-qualified voting system, including the one you referenced, that wants an EAC certification must be submitted for end-to-end testing. The system you referenced has not been through EAC's certification program. If and when it does, it will be our responsibility to make sure the manufacturer adheres to the terms of our program. Also, when a system comes to us for certification, relevant substantiated reports or reviews of the voting system may be taken into account. And if an instance such as this were to arise regarding an EAC-certified system, we would certainly investigate.

In addition, we will make public the systems that have received EAC certification upon completion of the appropriate review process, as well as those manufacturers that have registered with EAC and those voting systems that have been submitted for certification. Go _here _ <http://www.eac.gov/eac_vsc2.htm>to see this list of information we will post.

Please let me know if I can be of further assistance. Thanks again for your interest in the certification program. You requested that I also send my response to all of the people you copied in your original email. Since I did not receive a request directly from them, I do not feel it's appropriate to include them in my response. I will leave that up to you if you want to distribute this information to those email addresses, and if they ask for this information, I will certainly send it to them as well.

Jeannie Layson
U.S. Election Assistance Commission
1225 New York Ave., NW Suite 1100
Washington, DC 20005
Phone: 202-566-3100
www.eac.gov

Email #4

Subject: Re: your question
Date: Thu, 29 Mar 2007 13:15:53 -0700
From: John Gideon <jgideon@votersunite.org>
To: jlayson@eac.gov, bhancock@eac.gov
CC: sandy@sos.state.ia.us, twilkey@eac.gov, hiter@gao.gov

Jeannie and Brian,

I'm sorry but it seems that you may not have read or understood my concern. My concern is NOT that the system was NASED qualified or EAC certified. My concern is that a problem was found with two versions of a voting system and there are mitigating solutions to these problems that were given in my original email which I have added again, below.

The EAC is supposed to be a "clearing house" of information. Ms. Davidson pointed out recently that the EAC's middle name is "Assistance". It seems that the EAC is neither acting as a "clearing house" nor "assisting" when it ignores reports from prominent computer scientists about a large security issue with a voting system that is being used in many, many jurisdictions around the country.

So, again I ask what the EAC will do to investigate this issue and inform the ES&S users across the country?

The original report is below:

[Note: the content of the original email was repeated here in this email.]

John Gideon
Executive Director
VotersUnite.Org
www.votersunite.org

Email #5

Subject: EAC Article
Date: Mon, 9 April 2007 21:04
From: John Gideon <jgideon@votersunite.org>
To: jlayson@eac.gov

Ms. Layson,

It seems that the concern about what has been identified by a respected computer scientist as a serious security vulnerability with two ES&S voting systems, is not shared by the EAC. Your response to my query did not answer the concerns of the scientist and certainly did not respond to my questions.

With that lack of concern in mind I would like to ask some questions on the record:

1. How does the EAC see their position as a "clearinghouse" of information as required by HAVA?

2. What responsibility does the EAC have with regard to warning states about what may be security vulnerabilities in specific voting systems?

3. Chairwoman Davidson has said that the EAC's middle name is "Assistance". How does ignoring potential security issues fit into that theme?

I would appreciate a timely response as I am on deadline. Thank you --

John Gideon
Co-Director and Information Manager
VotersUnite.Org
www.votersunite.org

Email #6

Subject: Re: EAC Article
Date: Wed, 11 Apr 2007 13:56:30 -0400
From: jlayson@eac.gov
To: jgideon@votersunite.org

1. How does the EAC see their position as a "clearinghouse" of information as required by HAVA? We follow the mandates of HAVA regarding our responsibilities to conduct studies about election administration issues. The results of those studies make up the "clearinghouse."

2. What responsibility does the EAC have with regard to warning states about what may be security vulnerabilities in specific voting systems? The EAC certification program will collect anomaly reports (go here <http://www.eac.gov/docs/Voluntary%20Anomaly%20Reporting%20Form%201-2.pdf> to view the form), which we will then investigate and share with election officials and the public.

3. Chairwoman Davidson has said that the EAC's middle name is "Assistance". How does ignoring potential security issues fit into that theme? As I mentioned above, monitoring anomalies is part of our certification program. As we've discussed before, the system you are referring to was not certified by EAC. If the manufacturer of this system wants an EAC certification for this system, it would have to successfully complete our certification process and adhere to all of its rules. EAC did not grandfather any systems already in use (meaning that we did not automatically issue certifications or transfer NASED qualifications to existing systems), including the one you referenced.

Jeannie Layson
U.S. Election Assistance Commission
1225 New York Ave., NW Suite 1100
Washington, DC 20005
Phone: 202-566-3100
www.eac.gov

Email #7

Subject: Re: EAC Article
Date: Wed, 11 April 2007 14:25
From: John Gideon <jgideon@votersunite.org>
To: jlayson@eac.gov

Ms. Layson,

Thank you for this response. I'm amazed that instead of answering the questions you conflate the certification of voting systems with a security vulnerability that is in existence across the country. This issue has nothing to do with the EAC certification program. It has to do with the EAC recognizing that there may be a problem and then taking action to ensure states and local jurisdictions are aware of that problem. Whether the states take any action is up to them.

Until July of 2006 the EAC, via Brian Hancock, served as the ITA Secretariat. The simple solution to this issue would be for Mr. Hancock to ask NASED to send out the warning. Has that been considered?

Again, I am amazed at the lack of concern on the part of your agency.

Also, so you understand the security vulnerability is on 8 (eight) ES&S voting systems; not one. That is every ES&S voting system that is in use today and qualified by NASED for use.

John Gideon
Co-Director and Information Manager
VotersUnite.Org
www.votersunite.org

Email #8

Subject: Re: EAC Article
Date: Wed, 11 Apr 2007 15:18:31 -0400
From: jlayson@eac.gov
To: jgideon@votersunite.org

Mr. Gideon, I answered your questions. The very fact that we have set up a system to track voting system anomalies is evidence that we think monitoring performance is very important. Again, as we have discussed many times, we did not certify this voting system. If it successfully completes EAC's certification program in the future, then it would be subject to our rules and conditions, and if a problem occurs we would notify the election community and the public.

Jeannie Layson
U.S. Election Assistance Commission
1225 New York Ave., NW Suite 1100
Washington, DC 20005
Phone: 202-566-3100
www.eac.gov

Email #9

Subject: Re: EAC Article
Date: Thu, 12 Apr 2007 07:26:47 -0700
From: John Gideon <jgideon@votersunite.org>
Organization: VotersUnite.org
To: jlayson@eac.gov
CC: twilkey@eac.gov, Brian Hancock <bhancock@eac.gov>, ddavidson@eac.gov, hiter@gao.gov

Ms. Layson,

On follow-up to your answer to question #1. You mention the "mandates of HAVA regarding our responsibilities to conduct studies about election administration issues" and make it seem that this is the totality of the EACs clearinghouse responsibilities.

Apparently the EAC now disagrees with the findings of the GAO? It is my understanding that when the GAO released their 2005 report the EAC had no disagreement with the GAO.

To refresh your memory the GAO stated in their report: "The continued absence of a national clearinghouse for voting system problems means that segments of the election community may continue to acquire and operate their systems without the benefit of critical information learned by others regarding the security and reliability of those systems."

Accordingly the GAO recommended that the EAC: "Improve management support to state and local election officials by collaborating with TGDC and NIST to develop a process and associated time frames for sharing information on the problems and vulnerabilities of voting systems."

And after spending $3.5M of taxpayers money on "research and study" the EAC still does not have this essential clearinghouse in place. This echo of the 2005 GAO study is from the 2007 GAO report: "Accordingly, we have recommended that the EAC develop a process and associated time frames for sharing information on voting system problems and vulnerabilities across the election community. ... Not yet defined are the mechanisms to collect and disseminate information on problems and vulnerabilities that are identified by voting system vendors and independent groups outside of the national certification process."

With all of the above in mind; it is still unclear to me as to why the EAC has not taken the step to warn every jurisdiction in the nation that uses ES&S voting systems that there is a serious security vulnerability.

Will you comment please?

John Gideon
Co-Director and Information Manager
VotersUnite.Org
www.votersunite.org

[No comment ever received from Ms. Layson].

Email #10

Subject: Ensure Improvements In Administration of Federal Elections
Date: Tue, 17 Apr 2007 15:47:10 -0700
From: John Gideon <jgideon@votersunite.org>
To: ghillman@eac.gov

Commissioner Hillman

I read your statement with regard to the release of the voter fraud report on VoteTrustUSA. Thank you for your work and your clarifying statement. In your statement you said the following:

"EAC was established under the Help America Vote Act of 2002 to help ensure improvements in the administration of federal elections so that all eligible voters will be able to vote and have that vote recorded and counted accurately. In other words, HAVA seeks to restore public confidence in our election processes."

Commissioner, with the above in mind and the following from the EAC's website: "The Election Assistance Commission is designed to serve as a national clearinghouse and resource for the compilation of information and review of procedures by....Maintaining a clearinghouse of information on the experiences of State and local governments in implementing the guidelines and in operating voting systems in general."

and this from the GAO: "The continued absence of a national clearinghouse for voting system problems means that segments of the election community may continue to acquire and operate their systems without benefit of critical information learned by others regarding the security and reliability of those systems."

I'm sure you will agree that it is most imperative that when a severe security vulnerability is revealed in a voting system that the EAC has the responsibility to warn users of that voting system. Yet, your organization has refused to take any action.

Voter confidence in elections and their knowledge that their vote will be counted accurately seems, in this case, to have taken a back seat.

http://www.bradblog.com/?p=4396 for the complete story. --

John Gideon
Co-Director and Information Manager
VotersUnite.Org
www.votersunite.org

Email #11

Subject: Re: Ensure Improvements In Administration of Federal Elections
Date: Thu, 19 Apr 2007 09:17:50 -0400
From: ghillman@eac.gov
To: jgideon@votersunite.org

Mr. Gideon:

In your April 17 email, you refer to EAC's responsibility to warn users of "a severe vulnerability...in a voting system." This implies that EAC has explicit information about such a situation.

In order for me to be responsive, it would be most helpful if you could tell me the following information:

What voting system and what vulnerability?

Is there a specific written report that contains this information? If so, what is the report? (Specific citations in particular report(s) will be most helpful.)

I realize that you may have had exchanges with others about this very same information, however it will be useful if you could respond to my questions directly and succinctly so that I can target the specific concern you raise.

Thank you,
Gracia M. Hillman
Commissioner U.S. Election Assistance Commission
1225 New York Avenue, NW, Suite 1100
Washington, DC 20005
Tel: 202-566-3100
Fax: 202-566-1392
www.eac.gov <http://www.eac.gov>

Email #12

Subject: Re: Ensure Improvements In Administration of Federal Elections
Date: Thursday, 19 Apr 2007 07:09 -0700
From: John Gideon <jgideon@votersunite.org>
Organization: VotersUnite.org
To: ghillman@eac.gov

Commissioner,

Thank you for the response. The voting system is the one used in Sarasota County, Florida and many other counties across the US. It is all of the firmware version 8.xxxxx ES&S iVotronic DREs. According to experts, there is no reason to think that this same vulnerability cannot be found on all ES&S iVotronic DREs used in the United States and France.

This information was given to Brian Hancock on March 5. I waited until March 29, and two phone calls, to finally get a response from Jeannie Layson that the EAC would take no action.

Ms. Layson knows the name of the computer scientist who wrote this report: http://www.votersunite.org/info/ES&SInsecurity.asp However, it should be made clear that the information was directly taken from the Florida State University report of the inspection of the machines that were used in Sarasota Co. last November. That report can be found here: http://election.dos.state.fl.us/pdf/FinalAudRepSAIT.pdf The specific information of concern is in Section 7, pg. 37 and Appenix B.

I sincerely hope that the EAC will do the right thing and warn all states and counties across the country who use iVotronic v. 8.XXXXXX DREs that there is a serious security vulnerability on their voting machines and all who use iVotronic v. 9.xxxxx machines that they may have a serious security vulnerability and should investigate this issue.

Thank you

John Gideon
Co-Director and Information Manager
VotersUnite.Org
www.votersunite.org

Email #13

Subject: Re: Ensure Improvements In Administration of Federal Elections
Date: Friday, 20 Apr 2007 08:01
From: John Gideon <jgideon@votersunite.org>
Organization: VotersUnite.org
To: ghillman@eac.gov

Commissioner Hillman,

I know that the wheels of government turn slowly but the serious security vulnerability identified in the FSU report is important. Using jurisdictions must be made aware of the potential danger in using their voting systems without safeguards.

I would like your assurances that action is being taken, or will be taken, very quickly. The questionable voting systems are being used in elections as we speak. I hope the EAC will due its duty and warn the users of all ES&S iVotronic DREs that there is, in the case of users of systems with firmware version 8, an identified security vulnerability in their system. The users of ES&S iVotronic DREs with firmware version 9, should also be warned that there is no reason to believe that their systems are not affected by this vulnerability and that they should also take appropriate actions.

I look forward to hearing of your actions.

John Gideon
Co-Director and Information Manager
VotersUnite.Org
www.votersunite.org

Email #14

Subject: Re: Ensure Improvements In Administration of Federal Elections
Date: Mon, 23 Apr 2007 10:06:45 -0700
From: John Gideon <jgideon@votersunite.org>
To: ghillman@eac.gov

Commissioner,

Pardon my impatience but the EAC has turned their backs on this warning for well over a month and a half now. You asked for further information which I passed on to you. Is this to be ignored again or is the EAC finally going to step up and act upon its mandate as a clearinghouse of information?

How do you expect voters to have confidence in the election process when they are required to use voting systems that are proven to be vulnerable to security attacks? How does the EAC respond in agreement with the GAO when the GAO points out that you have failed in your responsibility to set-up a clearinghouse for information that can be shared among the states regarding "the security and reliability of those [voting] systems"? Failure to take action on this warning is another failure to follow your mandate.

If action is being taken with regards to this warning, please let me know. If it is to be ignored, please let me know that also.

John Gideon
Co-Director and Information Manager
VotersUnite.Org
www.votersunite.org

Email #15

Subject: Re: Ensure Improvements In Administration of Federal Elections
Date: Mon, 23 Apr 2007 14:33:53 -0400
From: ghillman@eac.gov
To: jgideon@votersunite.org

Mr. Gideon:

I have received your follow up emails. It has been less than three business days since I began my first direct inquiry into this matter. I am gathering information from several different sources, all of which takes time.

Best Regards,

Gracia M. Hillman
Commissioner U.S. Election Assistance Commission
1225 New York Avenue, NW, Suite 1100
Washington, DC 20005
Tel: 202-566-3100
Fax: 202-566-1392
www.eac.gov <http://www.eac.gov>

Email #16

Subject: Re: Ensure Improvements In Administration of Federal Elections
Date: Mon, 23 Apr 2007 13:10:10 -0700
From: John Gideon <jgideon@votersunite.org>
Organization: VotersUnite.org
To: ghillman@eac.gov

That's all I needed to know. Thank you for your response. Please keep me informed and if I can provide any assistance please let me know.

John Gideon
Co-Director and Information Manager
VotersUnite.Org
www.votersunite.org

Email #17

Subject: Re: Ensure Improvements In Administration of Federal Elections
Date: Thu, 03 May 2007 09:03:23 -0700
From: John Gideon <jgideon@votersunite.org>
To: ghillman@eac.gov
CC: Alec Yasinsac <yasinsac@cs.fsu.edu>, David Wagner <daw@cs.berkeley.edu>, Barbara Simons <simons@acm.org>

Commissioner,

I understand that you need time to research the report of the serious security vulnerability that was found on ES&S iVotronic voting machines by the Florida State University team. I only want to point out to you that I first notified your organization two months ago. In the meantime, elections are being held using those very same vulnerable voting machines.

If there is any doubt that this is serious I suggest you communicate with Alec Yasinsac and David Wagner who were both involved in the research and writing the Florida State Report. Barbara Simons has also studied the report and finds this issue to be serious. All three of these noted computer scientists are cc'd for your convenience.

John Gideon
Co-Director and Information Manager
VotersUnite.Org
www.votersunite.org

Email #18

Subject: RE: Ensure Improvements In Administration of Federal Elections
Date: Thu, 3 May 2007 12:24:58 -0400
From: Alec Yasinsac <yasinsac@cs.fsu.edu>
To: John Gideon <jgideon@votersunite.org>
CC: David Wagner <daw@cs.berkeley.edu>, Barbara Simons <simons@acm.org>

Thanks John.

After we released the report, I contacted Ms. Hillman's office and personally offered my assistance. She referred me to the group that your original email went to. I did not pursue it further and was never called.

Glad you continue to keep the pressure on. Will do the same from here through other channels.

Alec Yasinsac
850.644.6407
yasinsac@cs.fsu.edu

[No response has yet been received from Commissioner Hillman.]