

February 25, 2008

Agenda Item J, Elections Division Report

Dear Members of the Government Accountability Board:

Please direct staff to investigate the incident described in the Appleton Post Crescent.
<http://www.postcrescent.com/apps/pbcs.dll/article?AID=/20080219/APC0101/80219222/1979>

The article begins:

“Some Winnebago County voters were unable to cast a vote in the presidential primary Tuesday after they mistakenly selected the non-partisan designation on the electronic voting machines and submitted their ballots without correcting the error.”

I believe these voters were using a Diebold TSX Direct Reading Electronic (DRE) voting machine.

An immediate concern is that in a few weeks the memory cards will be erased and reprogrammed for the next election. **Please take immediate steps to preserve all data** by having one machine and two memory cards sequestered for examination. The vendor could be asked to provide for a loaner to be used at the next election. In addition to or in lieu of this, at least two memory cards should be preserved indefinitely.

The entire ballot should be carefully examined to see if it conforms to the statutory ballot requirements and where the problem occurred. The public must be notified of the time and place of the investigation and be allowed to attend and witness it.

Here are questions and issues to be to be addressed by the study.

- What is the number and rate of undervotes in DRE's in Winnebago County for this election? This should be reported for each ward: undervotes for the presidential primary, undervotes for local races, and number of contests in each ward.
- How does this compare to the rate of undervotes on the optical scan ballots for this election in Winnebago County?
- Was the problem limited to ballots that had local contests in addition to the presidential contest?
- Was the pre-election testing sufficient, or could better testing have prevented this?

- Was the ballot submitted to the GAB for pre-election review, as per statute 5.72(1)?
- Will the data on all the memory cards be backed up and retained, as per statute 7.23(g)?
- Who did the ballot programming, and did they program for other counties?

- Other counties with DRE's must be contacted and required to preserve a memory card. This includes counties with Diebold, ES&S, Sequoia, and VTI DRE voting machines.
- Did these other counties have a ballot with the same potential for problems?
- Is there potential for a similar problem in April or the fall elections?

Sincerely,

Paul Malischke and Ann Frisch