



29 May 2008

Kurt S. Browning, Secretary of State
Florida Department of State
R. A. Gray Building
500 South Bronough Street
Tallahassee, Florida 32399-0250

Re. Electronic transmission of elections materials, Operation Bravo, and related matters

Mr. Secretary,

We know you share our desire to improve the effectiveness and efficiency of voting opportunities for Florida's uniformed and overseas voters. Whether serving in the military or otherwise abroad, these voices deserve an equal chance to be heard in Florida's elections. We believe this presents unique challenges and deserves substantial improvement.

All That Glitters Is Not Gold

What is proposed in Okaloosa County's pilot program, Operation Bravo, is a high-tech cyberspace solution to accept votes over the Internet and count them into Florida's election results. We believe the program is illegal and dangerous and call on you to ensure it is not certified or allowed to go forward.

Similar technology was abandoned in 2004 after the Department of Defense spent \$22 million failing to get it to work securely.¹ Reasons for that failure have not changed fundamentally.

There is persistent pressure to address this issue with slick solutions. Vendors wrap their wares in the flag and play on our sympathy for those serving abroad. Neither their flags nor their wares change the fundamental security flaws in the Internet and related technologies. They're here to sell stuff. Their market potential is huge. Florida must be careful.

¹ www.servesecurityreport.org, has links to both DoD reports and Security Peer Review Group's reports for 2004 & 2007

Taxpayers are still reeling from the costly mistake of allowing DRE touchscreen voting before that technology was secure. We mustn't repeat that mistake by allowing cyberspace voting when that technology is not secure.

In the case of touchscreens, a less expensive, more secure solution existed when half of Florida's voters were switched to touchscreens. Now Florida has required that simpler solution – paper ballots – and we're tripping over our worthless touchscreens before we're even finished paying for them.

Less expensive, more secure solutions may exist for overseas voting too. We should consider them carefully before grabbing another shiny, high-tech solution. Regardless, security must remain a non-negotiable prerequisite.

One possibility is [HR 5673](#) The Military Voting Protection Act of 2008, a bi-partisan bill introduced last month in Congress. It requires the United States Department of Defense to return overseas military ballots to their proper destinations in state elections offices by express mail by election day. It allows Florida's overseas uniform services voters to cast legal paper ballots up to four days before election day, and then it returns those ballots where they belong in time to be counted on election day like other Florida ballots.

That would be a big improvement over the current provisions in Florida election code and the Uniformed and Overseas Citizens Absentee Voting Act ([UOCAVA](#)) that HR 5673 amends.

We honor those overseas, serving to keep democracy secure, by doing our job at home to keep their votes secure, and we abandon our post if we confuse fancy technology with secure technology.

Details, Details, Details

Beyond these conceptual issues, there are a number of serious problems specific to the Operation Bravo pilot in Florida.

1. **LEGALITY:** § [101.697](#), F.S. *Electronic transmission of election materials*, passed in 2005, which provides a mechanism that can allow electronic transmission of ballots if a number of steps are taken, is in conflict with § [101.56075](#), F.S. *Voting methods*, passed in 2007, which requires paper marksense ballots as defined in § [97.021](#)(3)(a).²

² § [97.021\(3\)\(a\)](#) "Marksense ballots" means that printed sheet of paper, ..., on which sheet of paper an elector casts his or her vote.

- 1.1. Please confirm that § 101.56075 renders moot the provision for allowing electronic transmission of voted ballots per § 101.697 unless a marksense ballot is the actual ballot of record and returned in a timely manner.
 - 1.2. Please confirm the error committed by the Department in promulgating rule [1S-2.030](#), Florida Administrative Code, inasmuch as it allows ballots to be received by electronic transmission, decrypted, duplicated, and scanned into the canvass, without requiring a marksense ballot, in violation of § 101.56075 F.S. This rule, which is subordinate to statute, was filed 17 August 2007 and became effective 9 September 2007, several months after legislation requiring marksense ballots was signed into law on 21 May 2007.³
 - 1.3. How does the Department intend to remedy this error?
 - 1.4. Please provide assurance that that the Department will not certify any system, approve any plan, or allow any ballot into Florida's elections, supported by § 101.697, F.S. and/or 1S-2.030, F.A.C in violation of § 101.56075, F.S., requiring marksense ballots.
 - 1.5. Please confirm that subsections (2) and/or (3) of § 101.56075 are not construed by the Department to provide an exception to the marksense ballot requirement in subsection (1) of § 101.56075, for the purpose of allowing electronically transmitted ballots without their marksense ballot originals delivered timely to the appropriate election office, to be counted into any Florida election.
 - 1.6. Please confirm that the Department does not consider audit records, or some form of paper "receipt" that might be a part of the Operation Bravo plan, to be a legal substitute for a marksense ballot.
2. **CONFLICTS OF INTEREST AND OPERATION BRAVO:** There are two conflicts of interest, or conditions with the appearance or potential for conflict of interest, associated with Operation Bravo, that rise to the level of attracting your intervention in your capacity as Florida's Chief Election Officer.
- 2.1. The Okaloosa County Supervisor of Elections, Pat Hollarn, where Operation Bravo intends to deploy this year, is also the President of the Operation Bravo Foundation⁴.

³ [H537](#) – 2007 Legislative Session, [signed](#) by Governor Crist on 21 May 2007. Rule [1S-2.030](#), filed in August and effective in September 2007.

⁴ From the Operation Bravo Foundation, [About Us](#), website: "Pat Hollarn, President Ms. Hollarn was elected Supervisor of Elections for Okaloosa County FL in 1988 and went on to transform the office into a model of voter service and conduct of elections that was based on her theme of experience, ability, and integrity. She has made great use of technology, and as a

Paul Lux, the Assistant Supervisor of Elections in Okaloosa County is also a “Pilot Proponent” of the Operation Bravo Foundation according to its website. However well-intentioned, Ms. Hollarn and Mr. Lux are attempting to serve two masters at the same time: Operation Bravo – an outside private interest – and Okaloosa County, The State of Florida and The United States – the public interest, where they are previously obligated to conduct elections, without conflict, according to Florida law, including the provisions and codes of ethics Article II, Sections [5](#) and [8](#) of the Florida Constitution and [§ 112.311](#), F.S.

By example, Operation Bravo’s website states:

“The Foundation’s initial project will be conducted in Okaloosa County, Florida, in partnership with the Supervisor of Elections.”⁵

In her role as President of Operation Bravo Foundation, it is reasonable to place responsibility for the statement with Ms. Hollarn. It conflicts with her sworn obligation to protect the public interest in Okaloosa County by showing a clear bias in pre-supposing that the program will pass the formidable tests that both she and the Department have not yet conducted to vet the Operation Bravo program.

2.1.1. Please confirm that a conflict of interest exists, or a sufficiently serious appearance or potential of conflict exists, where Ms. Hollarn and Mr. Lux, and any other personnel of the Okaloosa County Elections Department, also hold positions, whether paid or unpaid, with the Operation Bravo Foundation, which can be described as a voting system vendor or potential vendor, or agent or partner thereof. If you disagree that such conflict exists, please defend your position so that Florida voters might understand how they should have confidence in the process.

2.1.2. Please confirm what actions your office, as Florida’s Chief Election Officer and under [§ 97.012](#)(14), F.S. and other authority, will take, and when, to ensure such conflict is not allowed to persist.

former teacher, created a premier school district wide Kids Vote Too program. As the wife of a retired Air Force pilot, she can relate to the needs of UOCAVA voters on every level.” And from the Operation Bravo Foundation, [Our Solutions](#), webpage: “**The OKALOOSA DISTANCE BALLOTING PILOT (ODBP)** is being planned and implemented through close cooperation by the following **Operation BRAVO** partners:

Pat Hollarn (CERA), Supervisor of Elections, and **Paul Lux** (CERA), Assistant Supervisor, Okaloosa County, Florida, are the **Pilot Proponents**. Ms. Hollarn and Mr. Lux have participated in a number of demonstration projects to examine technological alternatives for overseas military and civilian absentee voting. Ms. Hollarn is also a Director of the **Operation BRAVO** Foundation.”

⁵ http://www.operationbravo.org/our_solutions.html, paragraph two.

2.2. The Security and Assurance in Information Technology (SAIT) Laboratory at Florida State University (FSU) and all personnel, including its Lead Principal Investigator, Alec Yasinsac,⁶ have a conflict of interest if serving in any capacity in the State's review of Operation Bravo's security plan, or otherwise vetting the program. The SAIT website has numerous references to its partnership with Operation Bravo. SAIT refers to itself as "a contributing partner" among other terms. Dr. Yasinsac states in a News video featured on the website that "our hypothesis is that this can be more accessible and more secure to overseas voters..."

The issue here is that the entire SAIT department, including all its personnel, and Dr. Yasinsac while he is there and after he leaves, is compromised for the purposes of any independent review given SAIT's partnership role at Operation Bravo and its stated bias favoring the success of the program. SAIT must be excluded from any review of Operation Bravo.

2.2.1. Please confirm that a conflict of interest exists, or a sufficiently serious appearance or potential for conflict exists, between the SAIT laboratory, all its personnel, and also Dr. Yasinsac whether at SAIT or not, and any role at all in review of Operation Bravo components, including SCYTL, all software, all electronic transmission security, etc. If you disagree that such conflict exists, please defend your position so that Florida voters might understand how they should have confidence in the process.

2.2.2. Please confirm what actions your office, as Florida's Chief Election Officer and under § [97.012](#)(14), F.S. and other authority, will take, and when, to ensure such conflict does not occur.

3. **NATIONAL SECURITY:** It is indeed a matter of national security – the same security our military is defending far from home – that Florida does its due diligence to ensure its elections are safe. This state knows best of all that federal elections can come down to a handful of Florida votes. We have a duty to ourselves, to our service men and women, and to the rest of the nation, to make Florida's elections successful. You have set the bar high yourself, saying, "Failure is not an option."

*"The current Internet and PC architectures are both such highly insecure platforms that it is essentially impossible to develop a secure system for voting in federal elections on them"*⁷

–David Jefferson, Avi Rubin, Barbara Simons

⁶ Dr. Yasinsac is moving to a new position at University of South Alabama as of 1 June 2008, according to SAIT's [website](#).

⁷ [A comment on the May 2007 DoD report on Voting Technologies for UOCAVA Citizens](#)

As these three highly respected computer scientists wrote in June 2007, commenting on the Department of Defense report released a month earlier, there is a real question whether any assurance of adequate security for Internet voting, offered by vendors or anyone else, is even possible given current architecture. An abundance of caution is appropriate. Particular care to obtain authoritative, independent technical review is appropriate. Looking beyond purely technical review is appropriate.

Allowing votes from the Internet is dangerous. To assess threat and threat mitigation, Florida must be holistic and not consider security questions in isolation. For instance, the Operation Bravo voting technology comes from SCYTL, a Spanish company financed by two venture capital firms, WebCapital and Spinnaker, themselves funded in part by private equity. It appears difficult, and may be impossible, to determine who in the world funds SCYTL.⁸

We must know exactly who holds keys to our ballot box. As we consider their technology and security protocols, it is important to investigate those protocols beyond Virtual Private Networks and software code, more thoroughly to who owns, controls, and has access to the technologies we consider allowing into the core of our democratic process. It is our duty to ensure systems are not compromised ethically, financially or politically as well as technically.

- 3.1. Please confirm that the Department includes in its security review for electronic transmission of voting materials, reviews of ethics, financial ties, political ties, as well as authoritative and independent technical review. Please cite each major area of review and the authority for it – whether federal, state, or discretionary.
 - 3.2. Please confirm what federal agencies the Department looks to for complementary review of plans for electronic transmission of voting materials. How are state and federal reviews coordinated?
 - 3.3. Please provide a thorough explanation of, and document, how the Department satisfied its statutory obligation to “...determine whether secure electronic means can be established for receiving ballots from overseas voters...” **prior to promulgating rule**, per § [101.697](#), F.S.
4. **THE REVIEW PROCESS AND TRANSPARENCY:** Legality of Operation Bravo notwithstanding, we urge the Department to improve the transparency of this and other voting systems review

⁸ From SCYTL’s website: [FAQ’s](#):

10 – Who are Scytl’s shareholders?

Scytl is a privately-owned corporation. Scytl’s shareholders are two Spanish venture capital funds, Spinnaker and WebCapital, and a group of individuals, including Scytl’s founders and management team. None of Scytl’s shareholders or senior management members has any political affiliations in order to comply with Scytl’s strict political neutrality policy.

processes. A more open and transparent process will help the Department ensure that systems are safe and good for Florida, and will increase public confidence.

To our understanding, there is no public hearing, no technical peer review independent of the State's review, and no automatic notice to interested parties as the review process proceeds. This is no way to treat Florida voters, the owners of elections, and we hope you'll use your discretion and authority, as well as support legislation, to improve transparency in the future.

As of today, there is no notice of review schedules for Operation Bravo posted on the Department's website. We were informed by your staff that review of Operation Bravo plans would be treated as a voting system certification and that regularly checking the Department's website was the only way to learn of the testing schedule. Of course knowing the schedule has limited value when Florida voters are excluded from the process of reviewing their own voting systems review in your Department.

4.1. Please confirm the details of the Department's review of Operation Bravo:

4.1.1. What will the process test or review?

4.1.2. When will it take place?

4.1.3. Where will it take place?

4.1.4. How will it be conducted?

4.1.5. Who will participate in the review?

5. **PUBLIC RECORDS REQUEST:** Per Chapter 119 F.S. please provide the following public records, in digital form whenever possible:

5.1. Blank and executed copies of any and all agreements between any entity party to the review of Operation Bravo's security plan further to 1S-2.030(8), Florida Administrative Code, including but not limited to: RFP's, contracts, non-disclosure agreements, conflict of interest statements and waivers.

5.2. A complete copy of the Operation Bravo security plan submittal further to 1S-2.030(8), Florida Administrative Code, and related correspondence between DoS, Okaloosa County including its Elections Department, all vendors involved in the program, and FSU's SAIT laboratory or its personnel relating to Operation Bravo - for the period June 2006 to present.

5.3. All correspondence relating to Florida lawmaking or rule-making or both, relating to electronic transmission of election materials, including but not limited to: 2007 or 2008 Florida legislation, § 101.56075 F.S., § 101.697 F.S., 1S-2.030 Electronic Transmission of Absentee Ballots, Florida Administrative Code: within DoS or between DoS, the office

of the Governor, Okaloosa County including its Elections Department, all vendors involved with electronic transmission of election materials, and FSU's SAIT laboratory or its personnel - for the period June 2006 to present.

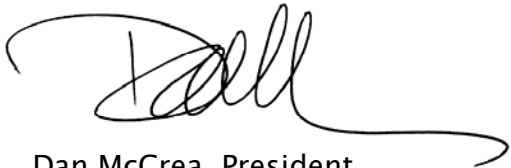
Finally, there is a stalled public records request from me in your office aging since August 2007. I'll communicate under separate cover regarding the Department's failure to comply with lawful procedures for redaction and exclusion of records under Chapter 119, F.S. I alert you to it here so the Department doesn't have to do duplicate work where records may have already been assembled in that request, and in the hope that we needn't further repeat our discussion of lawful application of Chapter 119 regarding redaction and exclusion.

Please advise by Friday, 30 May 2008:

- The status and schedule of Operation Bravo security plan testing
- When I can expect fulfillment of this public records request

Please advise regarding other inquiries made here at your earliest opportunity and don't hesitate if I can answer any questions further to these matter.

Very truly yours,



Dan McCrea, President
Florida Voters Coalition

cc Governor Charlie Crist
Senator Lee Constantine, Chairman, Senate Ethics and Elections Committee
Senator Charlie Justice, Vice Chair, Senate Ethics and Elections Committee
Representative Pat Patterson, Chairman, House Committee on Ethics and Elections
Representative Keith Fitzgerald, Ranking Minority Member, House Committee on Ethics and Elections
Pat Hollarn, Okaloosa County Elections Department
Alec Yasinsac, SAIT Laboratory, FSU