



Senators Feinstein Seeks Answers from EAC On Unreported Failures at Voting Equipment Test Lab

January 12, 2007

Washington, DC – *U.S. Senator Dianne Feinstein (D-Calif.), Chairman of the Senate Rules Committee, today sent a letter to the U.S. Election Assistance Commission seeking answers as to why the Commission failed to notify election officials or the public about a serious problem with Ciber Labs of Colorado, one of three major labs that tests much of the nation's software used in voting equipment.*

Senator Feinstein also asked for information regarding what went wrong at Ciber Labs to warrant its loss of accreditation.

According to recent news reports, the U.S. Election Assistance Commission refused to accredit one of the three major voting equipment test labs in July or August, but did not notify the public, election officials, or Congress that it had significant reservation about the lab. The certification process to accredit these test labs was established by the Help America Vote Act.

The following is the text of Senator Feinstein's letter to Donetta Davidson, Chair, U.S. Election Assistance Commission:

Dear Chair Davidson:

As the incoming Chairman of the U.S. Senate Committee on Rules and Administration, I am writing about the failure of the Election Assistance Commission to provide timely information to election officials and the public about your Commission's decision to withhold accreditation to Ciber Labs.

Until the *New York Times* published an article on January 4 about the denial, election officials and the public were generally in the dark about the apparent failure by Ciber Labs to properly test electronic voting systems. This raises questions about the security and accuracy of our nation's voting equipment.

I request information from the Commission that answers the following questions:

COMMISSION LAB ACCREDITATION PROCESS

- 1. Would you please identify any communications to the Commission based on lab recommendations from the National Institute of Standards and Technology (NIST)? What was the process that NIST undertook to evaluate the independent, non-federal laboratories, as specified in Section 231(b)(1) of the Help America Vote Act of 2002(HAVA)?**
- 2. What were the efforts the EAC undertook to investigate the labs for either its “interim accreditation process” or the accreditation process specified by HAVA? Please explain the Commission’s activities with regard to:**
 - a) general review of the recommended labs;**
 - b) hiring and qualifications of government-paid contractors assigned to assess the labs;**
 - c) the type of documents requested by the Commission in consideration for accreditation;**
 - d) the dates that the Commission received information it requested by the labs;**
 - e) any communication, preliminary or otherwise, regarding the contractors’ assessment of the labs; and**
 - f) any communication from the Commission to the labs indicating accreditation decisions.**

CIBER LABS INVESTIGATION PROCESS

- 1. What are the problems that emerged with Ciber Labs that led the Commission or staff to determine not to accredit (interim or otherwise) Ciber Labs? Please explain the Commission’s actions, including, but not limited to:**
 - a) information that Ciber labs had erred in testing procedure or protocol;**
 - b) information that Ciber labs had not followed proper procedures or failed to properly document testing or test results;**
 - c) reports, letters or other communications (preliminary or otherwise) from Commission employees, contractors or consultants that assessed problems and made recommendations regarding Ciber Labs, Wyle Labs, and SysTest Labs;**
 - d) the identity of who received these materials and when they received them; and**
 - e) responses from Ciber to the Commission’s determination not to accredit Ciber labs.**

2. **What was the basis for the decision(s) to withhold accreditation to Ciber Labs, formally or informally? What was the rationale or explanation for not accrediting Ciber labs when the Commission determined to provide interim accreditation to the other major test labs, Wyle and SysTest? Could you identify the individuals that Commission or staff informed of the problems at Ciber?**
3. **Which jurisdictions' electronic voting systems and software has been tested by Ciber Labs (under both the Commission's and the National Association of State Election Director's certification process)?**
4. **Can you provide the test report(s) Ciber submitted to the Commission or the National Association of State Election Directors on testing of systems running "Unity" software (that the Commission has in its possession)?**
5. **Did the Commission or staff have knowledge that states, under their state certification processes, were using Ciber Labs for review of voting system software? If the Commission knew that states were using Ciber for state certification testing, did the Commission inform the state(s) of the reservations it had granting accreditation to Ciber?**

I would appreciate your personal attention to this matter, and look forward to your response. I expect this will be a significant issue in upcoming Rules and Administration Committee oversight hearings about electronic voting and the role of the Election Assistance Commission in helping to ensure that every vote is accurately counted.

If you have any questions, please don't hesitate to contact Howard Gantman, the Staff Director at the Rules Committee. I also look forward to meeting with you personally in the near future so we can work together to address these issues.

**Sincerely,
Dianne Feinstein
U.S. Senator**

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