

The Virgin Islands Consortium

Elections Board And ES&S Knew Of DS200 Dysfunction Long Before Primary Election

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With the clock ticking closer to the General Election on November 4, it was revealed in Tuesday's emergency Board of Elections meeting on St. Croix that the issue of cross voting currently hampering the use of the DS200 voting machines to correctly tabulate ballots marked with a Straight Party symbol, was known to Elections Systems & Software (ES&S), the company that issues the machines, as well as all members of the St. Croix Board of Elections way in advance of the August 2 Democratic Primary Elections.

According to Board Chairman Adelbert Bryan, and corroborated by Board member Roland Moolenaar and Administrative Assistant Terrell Alexandre, when a cross-voting test was conducted on the DS200 demo machine this summer in preparation for the

November 4 General Election, the test indicated that the machine recorded valid votes for ballots containing both a Straight Party symbol mark, as well as selections of candidates of other parties--an action that violated Virgin Islands election laws.

"When that demo machine came here, the first thing we did was cross voted on it," Moolenaar said.

He went on to say that, again, while conducting a community demonstration with the machine on July 17 at the Roatery on St. Croix, another person deliberately tested the machine for cross voting, without prodding from Board members, and found that the machine had cross voted and made it known to the elections team.

Moolenaar said when he, Bryan and Alexandre made the observation of the machine's dysfunction, they reported it to the other Board members and immediately notified Alexia Scott Morrison, customer service manager at ES&S.

"When we reported it here to the Board that this is what was going on, members picked up their phone and called ES&S and let them know the issue that this portion of the program is not working in accordance to election law," Moolenaar said.

However, Bryan said it is unclear why ES&S never corrected the problem, adding that as of two weeks or so ago, when the machines were tested again prior to early voting, the problem of cross voting persisted.

"There is not one member of this Board that can tell you that they didn't know before the Primary that the machine was cross voting," Bryan said. "If they tell you so, they're lying, because they had known. So, if they told Mrs. Fawkes and they convinced her to talk to Alexia by herself, we don't know what she talked to Ms. Alexia about."

However, at Tuesday's meeting, which was only attended by Board members Bryan, Moolenaar and Glen Webster, Elections Supervisor Caroline Fawkes provided local media outlets, including the *VI Consortium*, with a detailed correspondence from Morrison dated October 22, stating that the "DS200's handling of Straight Party functionality" has been "federally tested and approved."

As a result of the ongoing problems with the DS200 as it relates to Straight Party symbol voting, Bryan said the St. Croix District Board voted to feed ballots marked without Straight Party votes into the machine themselves, in addition to manually tabulating ballots with Straight Party symbol votes after the polls close on November 4.

"On Election Day, unless ES&S comes here and corrects that cross-voting list, the Board already decided, with seven of us present, that we would separate the symbol ballots away," he said, "and on Election Day, when the polls are closed, take them out of the ballot box bin that is secured and feed only those ballots that don't have a symbol vote on it."

He continued, "We will have a judge watch us and the candidates at each polling place would be able to see how each ballot is cast by the judge, except symbol-mark ballot, because the Board has the responsibility, according to law to determine intention and eligibility of votes by the whole, not by nobody else."

When asked for clarification by a concerned citizen, Bryan confirmed that individual voters will not be able to verify their votes on Election Day.

"You will not be able to insert your ballot in the machine, you will put it back in the storage bin," he said.

Moolenaar added, "You won't be able to verify your vote using the DS200, but you are a responsible voter and you can look at that paper ballot, understand and know the rules to each category and read, 'select no more than 1' and be able to know for yourself."

There was no issue of cross voting with the DS200 machine during the August 2 Democratic Primary Election because voters were only required to vote for the Democratic candidates they wished to advance to the General Election on November 4. The problems with the machine were discovered when preparing for the General Election, with the addition of other party symbols to the ballot.

On Tuesday, [Sen. "Nellie" O'Reilly sent a letter to the Department of Justice](#) calling for an investigation of the Virgin Islands Board of Elections.