

Written by Bobby Reyes

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MAJOR VIOLATIONS OF THE LAW BY THE COMELEC IN IMPLEMENTING THE AUTOMATED ELECTION SYSTEM IN MAY 10, 2010 From the reports of Cong. Locsin's Committee and the Joint Forensic Team for the Joint Canvassing Committee of Congress; and the SC and Ombudsman petitions of Atty. Adaza and PCS President Celis, here is a summary of the major violations of the law by Comelec in implementing the Automated Election System. Hope this serves as a guide in our search for truth and justice in the exercise of our right to suffrage. Please pass to friends who care. Thanks. To view the Summary in Table Form and the Complaint-Affidavit of the Philippine Computer Society (PCS) against Comelec Officials at the Ombudsman, please check the following links and download the files:
<http://www.mediafire.com/?sharekey=c83e06e1eeda20b0d8f14848abf485dd7504ec2bc0fa63b7b16e5c9d3b204475> OBSERVATIONS / ASSESSMENTS OF THESE VIOLATIONS BY COMELEC

Comelec's non compliance with the law resulted in a completely untested and unaudited system. The only testing made was at the precinct level and used in conjunction with sporadic voter training. No system testing was made with the Boards of Canvassers for the municipal, city, provincial and national levels. No testing was also made to determine whether the voting continuity and contingency measures were realizable. As a result, it led to the following problems, diiculties, irregularities and inaccuracies during the elections: Long queues of voters waiting to vote for more than 3 hours in order to locate their precincts, resulting in 3 to 5 million disenfranchised voters. Erroneous count of 253 million registered voters in the Server of the House of Representatives. Failure to read 3 to 4 million "null" votes recorded nationwide. Printed election returns containing dates before, during and after 10 May 2010 and printed on credit cards thermal papers. Many election returns showed only 10 votes from about 500 to 600 actual voters, indicating that these returns were based on test ballots prior to Final Testing and Sealing of the PCOS machines. Electoral protests at various levels in 41 provinces and cities. The congressional inquiry at the House of Representatives (Locsin hearing) "showed that there was electoral fraud committed, and substantiated by documentary evidence, with Comelec and Smartmatic, keeping the public in the dark about the many ways one could cheat through the machines, the many irregularities and last minute changes in orders coming from Comelec that provided many opportunities to cheat and manipulate the votes for favored candidates." POINT 1. The PCOS machine uses an Ultra Violet (UV) Security Mark Sensor to determine the genuiness of a ballot. Prior to the elections, this UV Sensor was disabled by Comelec. The Locsin hearing confirmed that SMARTMATIC provided all the paper, UV ink, and several printing machines for National Printing Office (NPO) to print the ballots. Ms. Grace Enriquez of NPO and Mr. Flores of Smartmatic confirmed that the PCOS cannot read the UV ink printed ballots because of the lessened density of the UV ink due to the heightened printing speed to meet the printing deadline. Instead, Comelec immediately purchased some 76,000+ handheld UV readers that were not used during the elections. POINT 2. In the Locsin hearing, it was confirmed that the Compact Flash (CF) cards of the PCOS can allow the reinsertion and acceptance of already scanned ballots. Later, both Ms. Quimson of Navigation Information and Mr. Flores said that scanned or previously read ballots can be re-fed into the computers even without a change of CF card. There was no way to know whether the ballots read during the elections were genuine or fake. POINT 3. The Joint Forensic Team, commissioned by the Joint Canvassing Committee reported June 9, 2010 the discovery that the PCOS machines have a controlling CONSOLE PORT which allowed the unsecured vulnerability of the PCOS machines to manipulation and open to malicious control and electoral fraud. Through an unsecure (that is, with no username and password)

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connection of a laptop, the laptop was able to access the operating system of the PCOS machine. Smartmatic was not able to offer a technical explanation to this major security breach loophole. The Namfrel terminal report, released July 2, 2010, said the random manual audit of certain precincts showed that the degree of variance was less than what was the required 99.995 percent accuracy. The overall performance of the machine is 99.35 percent accuracy, which was below the required 99.995 percent. Extrapolating this percentage to 76,340 precincts, it will amount to about 345,000 ballots inaccurately read. The digital signature is the primary feature to determine the authenticity and verifiability of the election returns from the precincts. Thus, the Contract specified these as the second main deliverable of Smartmatic.

POINT 1. Comelec issued Resolution 8786 March 4, 2010 that no longer required the use of digital signatures. The Resolution stated: "WHEREAS, there is a need to amend or revise portions of Resolution No. 8739 in order to fine tune the process and address procedural gaps; SEC. 40. Counting of ballots and transmission of results f) Thereafter, the PCOS shall automatically count the votes and immediately display a message "WOULD YOU LIKE TO DIGITALLY SIGN THE TRANSMISSION FILES WITH A BEI SIGNATURE KEY?", with a "YES" or "NO" option; g) Press "NO" option. The PCOS will display "ARE YOU SURE YOU DO NOT WANT TO APPLY A DIGITAL SIGNATURE?" with a "YES" and "NO" option; h) Press "YES" option." POINT 2. The Locsin Report stated: "14. The digital signature—only of a particular PCOS—and not of the BEI person herself was conceded as being, for practical but not legal purposes, sufficient compliance with the intent of the E-Commerce and Automated Election laws. The Chair argued that a PCOS [or machine] digital signature serves equally as the digital signature of the BEI who has custody of the machine because it is possible to link one to the other." POINT 3. The Joint Forensic Report however proved that such practical purposes was not true, as there were no such digital signatures. The Report stated: "Absence of Machine Digital Signatures Examination of the PCOS machines revealed that there was no evidence found to prove the existence of digital certificates in the PCOS machines, contrary to the claims of Smartmatic. The technicians of Smartmatic were not able to show to the forensic team the machine version of the digital signature, alleging that they do not have the necessary tools to show the same. More so, they were at a quandary as to how to extract the said machine signatures--- to the dismay of the forensic team. If there are digital certificates, then these were supposed to be revealed. The forensic team tried to extract the digital signatures but to no avail. Hence, the forensic team is of the opinion that there exists no digital signature in the PCOS machine." POINT 4. Without the digital signatures (whether that of the PCOS or the BEI), there is no way to check in the CCS servers in the municipality, city, province and national to know which PCOS machine (authorized or unauthorized) is transmitting to their CCS servers.

This is crucial with the discovery of 60 PCOS machines and 2 Broadband Global Area Network (BGAN) in Antipolo in the house of a Smartmatic technician (who could not show any authority for safekeeping, back up and to which CCS he is transmitting), and the subject of the Forensic team's investigation. POINT 5. As proven above, there were no digital signatures used in all level of the AES. Therefore, the Board of Canvassers themselves, from the municipal, city, provinces and national canvassing centers, cannot authenticate, duly execute and certify the Certificates of Canvass they transmit electronically to the higher levels of canvassing. Thus, all the BOC proclamations are null and void from the beginning. The voter had no way to check whether the PCOS correctly read and recorded his vote choices. No Statement of Votes (SOV) accompanied the Certificates of Canvass (COC). The SOV is the details of the votes by precincts (indicated in the election returns) by which the summary votes

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of each candidates in the COC can be verified and checked. Comelec stated that it will take some time to print 10,000 SOV recorded in the CCS servers of the Board of Canvassers. The results of 30 RMA precincts were released and announced as of 15 May 2010. Last 20 May, Comelec announced results of about 300 RMA precincts were completed with few discrepancies. In the Locsin hearing, Amb. de Villa of PPCRV reported the partial results of the RMA. Out of the 1,145 randomly selected precincts, 845 precincts have already submitted reports, 15 precincts' results were in transit leaving 285 precincts with no results yet. As of this writing, Comelec has not published the results of this Random Manual Audit. SysTest Lab submitted a report with some 4,000 comments for action by Comelec. No official announcement by Comelec whether these SysTest comments were addressed. The lack of transparency by the Comelec made the Supreme Court to order Comelec to produce the relevant documentation on these items. Tests were conducted only at precinct level, none at the municipal, city, provincial and national. The Joint Forensic Team reported that "the hash codes for the firmware residing in the 6 PCOS machines found in Antipolo have the same SMA256 output ... However, a thorough comparison with the official document posted in the Comelec website revealed that the published hash code is not the same as the extracted one [from the PCOS machines." This indicates that the computer programs in the PCOS machines have been altered. RELATED DOCUMENTS FOR REFERENCE To access/download related files, please log on to the following links: For all documents related to the Automated Election System (AES):

<http://www.mediafire.com/?sharekey=c83e06e1eeda20b0d8f14848abf485dd1e97232231037841759e682a8cd2154a> For all documents related to Critique of the AES:

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