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PLRC-040825

This paper is current only to 25 August 2004

## **UNDERSTANDING THE “WAR ON TERRORISM”: MANIPULATING ELECTIONS**

### **Part-1: Nightmares of Elections past<sup>1</sup>**

Compiled by Bob Aldridge

*The right to vote freely for the candidate of one's choice is of the essence of a democratic society and any restrictions on that right strike at the heart of representative government.*

– Chief Justice Earl Warren (1964)

In this paper I will address how elections in the past have been manipulated to put neoconservatives in control of government. This manipulation of votes and election outcomes was conducted in several ways. They will be discussed in detail below with regard to two elections – the 2000 presidential election and the 2002 mid-term election, as well as events in between.

### ***ELECTION 2000 – THE COUP THAT STOLE THE WHITE HOUSE***

Manipulation of votes started long before election day in 2000. Many people who registered never made the list of registered voters – their registration cards were simply thrown out. Investigative journalist Greg Palast explains: “Millions of minority citizens registered to vote using what are called motor-voter forms. ... You should not be surprised to learn that the Commission on Civil Rights found widespread failures to add these voters to the registers. My sources report piles of dust-covered applications stacked up in election offices.”<sup>2</sup>

Even if one succeeds in getting registered, that doesn't mean that his or her vote will be counted. Nationwide, 1.9 million voters cast ballots in the 2002 presidential election that were not counted. About

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<sup>1</sup>This paper is part of a series on understanding why we are fighting terrorism. There is nothing new in it that hasn't been published elsewhere, and of course the coverage is not comprehensive. The purpose of this paper is to compile some pertinent information together so that a pattern can be seen. BA

<sup>2</sup>Palast, 17 May 2004.

one million of these “spoiled votes,” as they are designated, were cast by black people.<sup>3, 4</sup> That calculates out to about half of those spoiled votes coming from only 12% of the electorate. And, as politicians well know, over 90% of African Americans vote democratic. Plugging that into the equation reveals that some 900,000 votes cast for democrats by black people were not counted. To that is added about half of the remaining spoiled votes, which were also cast for democrats.

Then there is the purge list. Seven states currently (in 2004) do not automatically restore voting rights when a felon completes his sentence and parole.<sup>5</sup> Nationwide, about 1.4 million African Americans who have paid their debt to society have not been allowed to vote. Of that number, 1.26 million (about 90%) would have voted democratic.

Before Florida’s vote was counted, Gore had a lead of 20 electoral votes.<sup>6</sup> Whoever got Florida’s 25 electoral votes would win the election. Florida became the swing state crucial to determining the next US President. As we all know, Bush got Florida’s electoral vote which gave him the election. The final nationwide electoral vote tally was Bush 271, Gore 266.<sup>7</sup> The outcome of the Florida election, however, is still being debated amid outcries of fraud, voter disenfranchisement, and unconstitutional procedures. Most of the remaining discussion of the 2000 election in Florida is based on the report of the US Commission on Civil Rights (USCCR) which investigated the complaints.

### ***Disenfranchised Voters in the Sunshine State.***

In the end, Bush won Florida by 537 popular votes out of the state’s 5.9 million cast. The chain of events, however, was so suspicious that the US Commission on Civil Rights (USCCR) saw fit to look into the matter.<sup>8</sup> In its preliminary investigation, the USCCR found widespread allegations of voter disenfranchisement, and determined that a more extensive investigation was warranted. The commissioners soon

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<sup>3</sup>The Voting Rights Act of 1965 requires that racial identification be provided on the voter registration card.

<sup>4</sup>A vote can be “spoiled” for many irregularities. A stray mark, a ballot punched twice, a machine malfunction, or writing in Gore’s name instead of checking it. Sometimes when voters marked the wrong candidate, they would try to correct the error by writing in the candidate of their choice. Although ballots have a space for write-in candidates, the optical scanner didn’t recognize the “Al” in Gore’s name and it was considered a stray mark.

<sup>5</sup>In addition to Florida, these states are Alabama, Iowa, Kentucky, Mississippi, Nebraska, and Virginia. (Moyers, 30 July 2004) There were probably three more during the 2000 election.

<sup>6</sup>Each state has the number of delegates to the Electoral College as it has in the US Congress (House and Senate combined). Each delegate has one electoral vote. The delegates in each state are determined by the popular vote – winner take all. These delegates are pledged to vote for the popular vote winner in their state for the first vote. If no candidate receives a majority of electoral votes during the first vote, the delegates are free to vote as they see strategically proper for succeeding votes.

<sup>7</sup>Ironically, the national popular vote favored Gore by 543,895 votes.

<sup>8</sup>The USCCR was founded in 1967 pursuant to the Voting Rights Act of 1965, and has the core responsibility of addressing voting rights issues. Its broad authority on that issue gives it “general jurisdiction to examine allegations regarding the right of US citizens to vote and to have their votes counted.” (USCCR Report)

discovered that. “Potential voters confronted inexperienced poll workers, antiquated machinery, inaccessible polling locations, and other barriers to being able to exercise their right to vote. The USSCCR’s final report make one thing clear: widespread voter disenfranchisement – not the dead-heat contest – was the extraordinary feature in the Florida election.”<sup>9</sup>

Defining voter disenfranchisement and its worst abuses, the USSCCR explained that these are people entitled to vote, want to vote, or attempt to vote, but who are deprived of either voting or having their votes counted. The most dramatic undercount in the Florida election was the uncast ballots of countless eligible voters who were wrongfully turned away from the polls. Statistical data, reinforced by credible anecdotal evidence, point to the widespread denial of voting rights,” and added: “The disenfranchisement of Florida’s voters fell most harshly on the shoulders of black voters.”<sup>10</sup>

The USSCCR concluded that the “problems Florida had during the 2000 presidential election were serious and not isolated. In many cases they were foreseeable and should have been prevented. The failure to do so resulted in an extraordinarily high and inexcusable level of disenfranchisement, with a significantly disproportionate impact on African American voters.”<sup>11</sup> And remember again, over 90% of those African Americans vote democratic.

Disenfranchisement started long before election day in November 2000. It started with Florida’s “Purge List” and sequentially spread to other aspects of the election. A summary of events follows.

### ***Florida’s “Purge List.”***

Prior to the 2000 election, Florida had its registered voter roster computerized. Florida Secretary of State Katherine Harris (also co-chairperson of George W. Bush’s election campaign) and Governor Jeb Bush (George Bush’s brother) ordered local election officials to purge their rosters of any ex-convicts who had committed a felony. It didn’t matter how serious the felony, or if the ex-con had served his/her prison time and finished probation. If they had any record of having committed a felony at any time in their lives, they were scrubbed. Texas officials, where George W. Bush was still governor, was generous enough to provide the names of 8,000 people who had become Florida residents but who had allegedly committed felonies in the Lone Star State. As the *Washington Post* pointed out, that list “inaccurately contained 8,000 people who had committed misdemeanors – not felonies – in Texas.”<sup>12</sup>

Data Base Technologies (now Choice Point, Inc.) was paid \$4 million by the state to compile a list of *probable felons* – the “purge list.” This was the list which local election officials were to use for purging their voter rosters of ex felons. Because Florida doesn’t record Social Security numbers in their records, the *probable felons* could only be identified by name and date of birth. Close but not exact matches were

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<sup>9</sup>USSCCR Report, Executive Summary.

<sup>10</sup>USSCCR Report, Executive Summary.

<sup>11</sup>USSCCR Report, Executive Summary.

<sup>12</sup>Pierre, 11 May 2001.

required. The director of Florida's division of elections, Clay Roberts, confirmed the policy: "The decision was made to do the match in such a way as not to be terribly strict on the name."<sup>13</sup> Data Base Technologies warned from the start that innocent people could be identified on the list. And they were – people such as judges and the father of a county election official. "We warned them," said James E' Lee, vice president of communications for Data Base Technologies. The list "was exactly what the state wanted. They said, 'The counties will verify the information, so you don't have to'."<sup>14</sup> As it turned out, 57,700 voters were removed from the voting roster. Some 54% of them were black or Hispanic. In all, 31% of Florida's black men were prevented from voting because of the purge list.

What the counties did to verify the purge list was haphazard or nothing at all. Many counties sent a registered letter to *probable felons* to notify them they were barred from voting. If they did not respond, they were removed from the voting roster. Voters wrongly placed on the purge list in other counties – Escambia County, as an example – had to prove their innocence to election officials and present photo identification. Meanwhile, Supervisor Emogene Stegall of Lake County said the purge list was so flawed that she didn't use it. She said: "They're not sending us what the statute requires them to do, so I feel we're not bound to process those. They're not sure. There are so many people who have the same name, same date of birth."<sup>15</sup>

It turned out that 90.2% of those on the purge list were innocent of any felony. If a felon had a name identical or close to one on the voter roster, the name on the roster would be scratched. For example, several Thomas Butlers were purged in Florida because they were tagged as a possible Ohio felon named Thomas Butler Cooper, Jr. Another example is the case of Willie Steen. Willie works in a hospital and that would not be possible if he had a criminal record. The name close to Willie's on the scrub list was O'Steen.<sup>16</sup> Secretary of State Harris and Governor Jeb Bush made a written promise to the civil rights group that wrongly scrubbed voters would be returned to the list. But that was too late for the presidential election. Also, a year later, Willie Steen could still not register to vote.

Still others that were purged from the roster were ex-felons who had paid their debt to society. Unlike most states in the Union which automatically restore voting rights once the prison and parole time is completed, Florida is one of several states which permanently bars ex-felons from voting unless they receive clemency from the governor and re-register to vote. This is not something that is well-advertised at the time a felon is released. It is also such a hassle that few bother to apply for such a pardon.

Many like Kelvin King were turned away at the polls because he was on the purge list. Election officials discovered after the election that his civil rights had been restored by the governor eight months earlier. But the list was compiled before that happened. In addition, at least 2,000 ex felons who moved to Florida from states that automatically restore voting rights were scrubbed from the voting roster and could not cast a ballot.

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<sup>13</sup>Quoted in Pierre, 11 May 2001.

<sup>14</sup>Quoted in Pierre, 11 May 2001.

<sup>15</sup>Quoted in Pierre, 11 May 2001.

<sup>16</sup>The information on Willie Steen was reported in Palast, 17 May 2004.

As stated in the USCCR Report: “The purge system in Florida proceeded on the premise of guilty until proven innocent. ... Once on the list, the process places the burden on the eligible voter to justify remaining on the voter rolls.” The report attributed the resulting widespread disenfranchisement to “encouraging an error-laden strategy that resulted in the removal of a disproportionate number of eligible African American voters from the rolls.”<sup>17,18</sup>

One journalist remarked: “You can argue all night about the number ultimately purged, but there’s no argument that this electoral racial pogrom ordered by Jeb Bush’s operatives gave the White House to his older brother.”<sup>19</sup>

### ***Florida’s “Spoiled” Votes.***

During the 2000 election, there were 179,855 spoiled ballots which Florida refused to count. The US Commission on Civil Rights estimated that 54% (97,121) of these spoiled ballots were cast by black people, of whom some 90% would have been for Gore. Of the remaining 82,855 spoiled votes, the USCCR estimated that half, or 41,400, would have been for democrats. So of the 179,855 votes not counted, Gore lost 138,521 but Bush only lost 41,334. Gore, by these votes alone had they been counted, would have sailed way past Bush’s 537 popular vote lead in Florida.<sup>20</sup>

Professor Christopher Edley Jr., then of Harvard Law School and now head of Boalt School of Law at UC Berkeley, and also a member of the USCCR, became suspicious of the spoiled ballots and started examining them. His findings are in the USCCR’s report: 14.4% (one in seven) of Florida’s votes from predominantly black counties were not counted. In comparison, only 1.6% (one in 63) of the votes from predominantly white counties were trashed. According to the USCCR’s estimates, black voters in Florida were almost 10 times more likely than others to have their ballots rejected.

Some may say that the ballot spoilage rate for blacks is because they are less educated. The USCCR has investigated this aspect, also. Its report states: “Statistical analysis shows that the disparity in ballot spoilage rates ... between black and nonblack voters is not the result of educational or literacy differences. This conclusion is supported by Governor Jeb Bush’s Select Task Force on Election Procedures, Standards and Technology, which found that error rates stemming from uneducated, uninformed, or disinterested voters account for less than 1 percent of the problems.”<sup>21</sup>

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<sup>17</sup>USCCR Report, Executive Summary.

<sup>18</sup>The USCCR Report’s Executive Summary also stated: “The Commission questions Florida’s onerous and infrequently rendered clemency process. Former offenders who have paid their debt to society should have their citizenship rights restored, which is already done in 36 states.” It states further the commissioners expressed “disappointment” that legislation recently enacted “failed to address the issue of automatic restoration of voting rights for former felons and asks that the governor recommend reform in this area of state law.”

<sup>19</sup>Palast, 17 May 2004.

<sup>20</sup>The Executive Summary of the USCCR Report states that these “statewide estimates were corroborated by the results in several counties based on actual precinct data.

<sup>21</sup>USCCR Report, Executive Summary.

Probably the biggest cause of spoiled ballots was antiquated voting machines like those using the punch card ballot. Of Florida's 67 counties, 26 used the punch card ballot. The other 41 used ballots that could be counted with an optical scanner. The US Commission on Civil Rights reported that outmoded, error-prone, and defective voting equipment were most likely to be found in the poorer areas which are predominantly black. The counties which had mainly white voters were more inclined to have modern equipment. In the more affluent counties, with the optical scanner located at the polling station, voters could feed their own ballots into the machine. Those who had ballots rejected by the machine were given another ballot and their votes were not spoiled. Where punch card ballots were used, or where there was no optical scanner at the polling station, the ballots were counted later. Votes that were rejected at that time were spoiled.

There are allegations that these antiquated voting machines had been used for a long time, and for other purposes such as union elections, and were worn out. That would account for all the "hanging chads" and "dimpled chads." That also introduces the Butterfly Ballot.

The Butterfly Ballot for Palm Beach County is shown in Appendix A. It can be construed as purposely designed to confuse. The confusion comes from having candidates listed on both pages – hence the name Butterfly Ballot. A voter would normally go down the left-hand page first. The republican candidate is listed first and the hole to punch is the top one. There is no confusion there. But if one wished to vote for the democratic candidate, Al Gore, that is the second name down on the left page. However, if the second hole down is punched, that would be for Pat Buchanan of the reform party, and that is where many people made a mistake. They should have punched the third hole down for Gore.

Journalist Greg Palast, who has studied the Florida election extensively, said: "Whacky butterfly ballots caused thousands in this democratic town to accidentally mess up and they were refused replacement ballots promised them by the state."<sup>22</sup> An election worker said she had come across hundreds of people who had made that mistake and that she had seen over 13,000 complaints filed in Palm Beach County alone.

Palm Beach residents who testified that they mistakenly voted for Buchanan instead of Gore denounced accusation of voters in that area being ignorant or senile. Olga Gideon, an elderly black woman said: "The consensus is that people down here were dumb. I graduated from Tuskegee Institute and then went on to get further degrees at teachers college and elsewhere. I don't think I'm illiterate or made a mistake. There was something wrong with that ballot."<sup>23</sup>

Another voter, Hope Ellis, said: "I'm a children's librarian, 43 years old, with a university degree. I'm not senile now, haven't played bingo in 20 years. I've lived in five states and I have never seen a ballot like that in my life. I was totally confused. And when I asked the pollster for help and indicated that I wanted to vote for Al Gore, she immediately turned ugly. I know she saw me punch Buchanan and she didn't say a word."<sup>24</sup>

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<sup>22</sup>Quoted in BBC News, 16 February 2001.

<sup>23</sup>Quoted in White, 30 November 2000.

<sup>24</sup>Quoted in White, 30 November 2000.

Michael Ryan was a vote count observer in Palm Beach County. He said “if the 3,400 ballots that were mostly miscast for Buchanan were added to 5,000 that were rejected because they were punched for both Buchanan and Gore, there would be more than 8,000 additional votes for the democratic candidate.”<sup>25</sup>

### ***Problems at the Polling Station.***

Problems started with voters having problems getting to the polling station. Some stations in the poorer areas of Florida changed their location without timely notice to the voters. Others were in inconvenient locations. There was no adequate access provision for the handicapped. People in wheelchairs were faced with steps and unreachable polling machines. People with impaired vision found no provisions to help them read the ballot. Some precincts not equipped for the handicap merely turned disabled people away, thus denying them their right to vote.

Other problems encountered were long lines and short hours. In at least three counties – Miami-Dade, Orange, and Osceola – confusion and delays at polling stations caused some voters to leave before they cast their ballots, to get to work or for some other important appointment. Poll workers did not understand that voters who arrived prior to the 7PM closing time should be allowed to vote, even if they don’t get through the line by 7PM. A poll worker in Miami-Dade County with 15 years experience testified before the US Commission on Civil Rights: “By far this was the worst election I have ever experienced. After that election I decided I didn’t want to work as a clerk anymore.”<sup>26</sup>

One reason for the long lines and the delays was to verify registration mix-ups, mostly because of voters being improperly removed from the roster. Poll workers would attempt to call the supervisor of elections to clear up mistakes. Calls regularly took hours, if they got through at all. One former poll worker caught in the melee testified that she had never seen anything like it during her 18 years as a poll worker. Another poll worker in Palm Beach County testified that she had to use her own cell phone in attempts to contact the election supervisors office, and, she said, although she was calling continuously, she only got through three times during the 12 hour shift.

There were more witnesses for the USCCR investigation. A Broward County poll worker testified that in previous elections it only took about ten minutes to reach the election supervisor. But in the 2000 election she had to turn away somewhere between 40-50 voters because she couldn’t reach the supervisor by phone. And a poll worker at Boynton Beach said his crew had to turn away some 30-50 people because they could not reach the supervisor of elections. He, personally, could only get through once.

Voters also testified at the USCCR hearings. They told about waiting in long lines and ultimately being denied the right to vote because the precinct workers couldn’t contact their election supervisors. Florida’s Division of Elections did not implement the same procedure in 2000 as it did for the 1998 election. In the earlier election, precinct workers were told to examine the exclusion lists with the greatest of care. If any excluded people made a credible challenge to their being removed from the voter roster, they were to be

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<sup>25</sup>White, 30 November 2000.

<sup>26</sup>Quoted in USCCR Report, Executive Summary.

offered an affidavit ballot. No such procedure existed in 2000. The USCCR attributed this vacuum to Florida's "Inadequate supervision of Division of Elections staff [which] allowed irresponsible decisions to be made ..." and added that "State officials should have provided adequate training to supervisors of elections in purge verification procedures."<sup>27</sup>

Other problems encountered were:

- There was a lack of guidance from state officials to insure adequate voter education and poll worker training.
- There was insufficient instruction at the polls for voters who were unfamiliar with the voting process.
- Black voters were intimidated by state police roadblocks.
- In some cases, election information and instructions were not provided in Spanish. In other cases poll watchers were denied permission to help voters who requested bi-lingual assistance.
- Poorer counties, which often had the highest percentage of black voters, were often adversely affected by the state's resource allocation system.
- Florida's election system was not prepared for the large turnout of black voters. (The African American communities did a lot of canvassing to get a large turnout.)

### ***Recreating Absentee Ballots.***

Another tussle arose over the "recreation" of absentee ballots based on the decision of vote counters on what the voter intended. Republicans statistically hold a 2-to-1 advantage in absentee ballots. It may have been even better odds for Bush during the 2000 election because Florida republicans "mounted an aggressive absentee-ballot effort and targeted voters with personal appeals from Gov. Jeb Bush and other GOP luminaries."<sup>28, 29</sup> An *Orlando Sentinel* analysis of "the absentee-duplicating process across Florida found it was concentrated in the 26 counties with the ... optical-scan voting technology ..." <sup>30</sup> – the higher-income counties in which live predominantly republican voters.

Absentee ballots sent by mail often arrive at the counting station folded, creased, or torn. The machine rejects them, sometimes mangling and shredding them in the process. To recreate them, that is create a

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<sup>27</sup>USCCR Report, Executive Summary.

<sup>28</sup>Damron and Roy, 7 May 2001.

<sup>29</sup>Republican committees sent out some 2 million letters to Florida's republican residents asking if they wanted to vote on an absentee ballot. Democrats sent out about 150,000 letters. Over 10% of the votes cast in Florida's 2000 election were by absentee ballot – 400,000 were registered republican and 260,000 democrat.

<sup>30</sup>Damron and Roy, 7 May 2001.

duplicate ballot that reflects the voter's intent, shredded and mangled ballots must be pieced together. Duplicate and stray marks as well as write-in names must also be resolved. Although this process is legal in Florida, it means that those 10,000 ballots counted in the 2000 election were never filled in by a voter. This practice definitely opens the door to fraud.

One big item of contention was that, although legal to recreate absentee ballots, there was no set standard for doing so. Procedures varied widely among the 26 counties involved. Orange County officials rarely looked for voter intent but did accept machine-rejected write-in overvotes if they agreed with a single candidate chosen from the list. Columbia County refused to count write-in overvotes of any kind, although state law makes them legal. Seminole and Alachua Counties scrupulously looked for the voter's intent, but the definition of clear intent varied across the state. Bay County had 1,478 absentee ballots duplicated, but election officials sealed the original ballots in envelopes and refused to let anyone see them.

Escambia County had a double standard – write-in overvotes on absentee ballots (which were mostly republican) were counted whereas they were thrown out in polling places (which were mostly democratic), although the ballots were identical. Bush won Escambia County's absentee votes by a whopping 3-to-1 margin.

Escambia precincts, however, rejected 167 legally valid votes – 118 for Gore and 49 for Bush. Had they been counted it would have pruned 69 votes off of Bush's 537 popular vote lead in Florida. Election officials opted not to program the optical scanning machines to give voters a second chance if the first ballot was rejected. They claimed it would cause longer lines and waste too many ballots (which cost 23 cents each).

Democrats in Seminole and Martin Counties filed lawsuits against those counties, charging that republican election workers were “altering absentee ballot applications , by adding or fixing missing information ...”<sup>31</sup> The suit contested 15,000 ballots in Seminole County and 10,000 in Martin County, and called for all of them to be thrown out. The vast majority of these ballots went to Bush and throwing them out would have given Gore a significant lead. Technical violations of the law were acknowledged but fraud was not proved in these cases. The ballots remained valid.

### ***Recounts, Lawsuits, and a Court-appointed President.***

The day after the election, 8 November 2000, Bush had a lead of 1,700 votes out of nearly 6 million cast.<sup>32</sup> According to Florida law, such a narrow margin of victory requires a recount. The automated recount was complete on November 10<sup>th</sup> and Bush's margin of victory is trimmed to a mere 327 votes.

Meanwhile, the Gore faction was becoming suspicious about the abnormally high vote for Pat Buchanan in Palm Beach County, which used the butterfly ballot, and the high rate of spoilage votes in predominantly democratic counties. On November 9<sup>th</sup>, Gore asked for a hand recount of some 1.8 million votes in four democratic strongholds – Palm Beach, Miami-Dade, Broward, and Volusia Counties. On November 11<sup>th</sup>,

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<sup>31</sup>The US Constitution Online, 17 December 2003.

<sup>32</sup>Some sources say that Bush led Gore by 1,210 votes before the first automated recount.

Bush filed a federal lawsuit to block Gores request for a hand recount. The judge refused, and Bush appealed to the US circuit court of appeals which also refused to halt the recount.

On November 14<sup>th</sup>, Florida Secretary of State Harris postponed certification of the vote to the next day so Palm Beach, Miami-Dade, and Broward Counties could explain why they should recount their ballots by hand. But on the 15<sup>th</sup> Harris claimed no explanations were forthcoming to justify the recount. But on that same day the Florida Supreme Court denied Harris' request to stop the recount and again postponed certification of the vote.

There was also hanky panky going on concerning overseas absentee ballots, the counting of which were due by November 18<sup>th</sup>. Gore lawyers, recognizing that most overseas military votes favored republican candidates, conjured up a strategy that would disqualify all overseas votes that failed to meet minimum requirements of Florida law. Bush spokeswoman, Karen Hughes, responded: "No one who aspires to be commander-in-chief should seek to unfairly deny the votes of men and women he would seek to command."<sup>33</sup> But it turned out that Bush was only selectively defending overseas votes, depending on the political makeup of the county in which they were cast. In three heavily democratic counties – Miami-Dade, Broward, and Palm Beach – 362 overseas ballots were rejected out of a total of 572. And with regard to ballots rejected because they had no postmark or dated signature, as required by Florida law to show they were cast by election day, 62% were deemed valid in counties favoring Bush, but only 18% were counted in counties favoring Gore. Nevertheless, by November 18<sup>th</sup>, the legal deadline for overseas absentee ballots to be counted, Bush's uncertified lead rose to 930 votes.

On November 21<sup>st</sup> the Florida Supreme Court ruled that hand recounts of Miami-Dade, Palm Beach, and Broward Counties must be included if completed by 5PM on November 26<sup>th</sup>. However, since the 26<sup>th</sup> fell on a Sunday, the Court allowed an extension until 9AM on Monday, the 27<sup>th</sup>, *if Harris' office were not open on Sunday*.

The hand recount of Palm Beach and Broward Counties continued. Miami-Dade County faced an overwhelming task of recounting in 654,000 ballots in a few days. That county also faced another problem. Cuban radio stations had urged Cuban voters, who are preponderantly republican, to march on the county canvassing boards to protest the recount. County officials had to prematurely end the recount "under pressure from a marauding band of republican protestors. ... the mob tactics succeeded in doing what the Bush campaign had been unable to in the courts – they stopped the hand recount of Miami-Dade's 654,000 ballots and terminated Al Gore's best chance of wiping out George W. Bush's narrow lead in the state."<sup>34</sup>

On November 26<sup>th</sup>, Florida's Secretary of State Harris was in her office on Sunday for business, and she certified Bush the winner of the state's 25 electoral votes. He had a mere 537 popular-vote lead over Gore.<sup>35</sup> This victory put Bush ahead in the nationwide electoral vote count.

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<sup>33</sup>Quoted in Dionne.

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<sup>35</sup>The certified popular vote in Florida was 2,912,790 for Bush and 2,912,253 for Gore.

The battle was not over, however. Palm Beach County, not expecting the secretary of state's office to be open on Sunday, was a few hours late in submitting its recount figures. Consequently they were not counted. Miami-Dade County, of course, failed to complete its recount because of the riot.

On November 27<sup>th</sup>, Gore contested the vote certification in the state circuit court in Tallahassee, Florida's Capital city. A flurry of lawsuits and counter-suits followed, covering everything from over votes and under votes to dimpled ballots, from voter intent to hanging chads. However, the legal controversy eventually narrowed down to two main issues: (1) the legality of some counties doing a manual recount of ballots, and (2) the legality of the secretary of state rejecting recount numbers after the statutory deadline for vote certification had passed.

On December 1<sup>st</sup>, the Florida Supreme Court rejected Gore's request to begin manually recounting ballots. Three days later, on December 4<sup>th</sup>, the state circuit court ruled against Gore's contesting of the election certification. But on that same day, the US Supreme Court ordered the state supreme court to issue a new ruling on why the election certification was extended beyond the statutory deadline of November 14th.<sup>36</sup> The ball was now back in the state's courts.

A week later, on December 8<sup>th</sup>, the Florida Supreme Court handed down a new ruling that ordered manual recounts in certain counties where there were large numbers of disputed ballots. It noted that Bush's "substantial and dramatic change of position after oral argument in the case" is "in stark contrast to his position both in this case and in the prior appeal."<sup>37</sup> But on that same day the state circuit court handed Bush a victory regarding absentee ballots. Bush promptly appealed the Florida high court's decision to the US Supreme Court.

The US Supreme Court stopped the recount the next day and set a hearing for December 11<sup>th</sup>. On December 12<sup>th</sup>, the day set by federal law that electoral college delegates must be elected, the US Court ruled 7-2 that the Florida Supreme Court's ruling to recount only certain ballots did not treat all ballots the same and violated the Constitution's equal rights and due process provisions. But the justices split 5-4 in ruling that corrections must be implemented before the Midnight December 12<sup>th</sup> deadline for certifying electoral votes – a deadline just hours away. The impossibility of complying with the deadline meant that Bush won the election. In a scathing dissent, Justice John Paul Stevens wrote: "Although we may never know with complete certainty the identity of the winner of this year's presidential election, the identity of the loser is perfectly clear. It is the nation's confidence in the judge as an impartial guardian of the rule of law."<sup>38</sup>

The 537 popular vote lead in the State of Florida gave Bush the presidency while his opponent had a 543,895 vote lead in the national tally.<sup>39</sup>

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<sup>36</sup>On November 14<sup>th</sup> Bush led Gore by 930 votes. On the 26<sup>th</sup> that lead had dwindled to 537.

<sup>37</sup>Van Bergen, 26 May 2002.

<sup>38</sup>Quoted in Infoplease, 2 January 2004.

<sup>39</sup>One of the jokes going around after the Bush v. Gore decision of the US Supreme court had Bush saying: "I want to thank those who voted for me for president: Rehnquist, O'Connor, Scalia, Kennedy, and Thomas." (Quoted in Posner, Chapter 1)

## ***BETWEEN ELECTIONS – ACCIDENTS OF ASSASSINATIONS?***

**E**lection 2000 proved it can happen here. Of course we are aware of rigged elections and voter fraud in corrupt regimes such as the Philippines under Marcos and Southeast Asia at times. But we have always deluded ourselves that it just couldn't happen in democratic America. Then we had the 2000 presidential election.

Likewise, we have heard of coups and assassinations in other countries. Well, we have had assassinations in America, too – some recorded as historical fact and others that have yet to be uncovered. One convenient assassination weapon is the hard-to-trace airplane or helicopter crash. It is suspicious, however, that after many attempts on his life, controversial Palestinian leader Yasser Arafat's plane crashed in the Libyan desert on 8 April 1992. He did survive but three others died.

Iraq: In 1968 a military coup put General Ahmad Hassen Al-Bakr in power as president of Iraq. Bakr chose his younger cousin, Saddam Hussein, as his number two man. Saddam was given a general's title, appointed deputy secretary general of the Iraqi Regional Baath Party, and as vice chairman of the Revolutionary Command Council effectively ran the country. By 1973, internal Baath rivalry became more violent than ever. Key officers who threatened the regime were assassinated, or died mysterious deaths, some in unexplained helicopter accidents. In 1979, with Bakr in ill health, Saddam took over as president.

Pakistan: In 1977, General Muhammad Zia ul-Haq became prime minister of Pakistan after he unseated Zulfikar Ali Bhutto in a military coup. Bhutto's daughter, Benazir, became a strong political opponent of Zia's. She went into exile for a while and was later arrested for advocating free elections. In 1988 Zia finally announced that elections would take place the following November. How fair they would have been we'll never know because, less than three months after that announcement, Zia was killed in a plane crash. Benazir Bhutto won that November election which she would not have done had Zia been alive.

Panama: On 31 July 1981, General Omar Torrijos died in a mysterious plane crash. As dictator of Panama, he had negotiated the Panama Canal Treaty with US President Jimmy Carter, which would return ownership of the canal to Panama. Ronald Reagan, who opposed the Treaty because it violated US sovereignty, defeated Carter in 1980. Torrijos was not cooperative with Reagan, and then he had an accident. Manuel Noriega, who was on the CIA payroll from the late 1950s until 1986, eventually took over.

Could assassinations by airplane and helicopter occur in the US? I used to think, no, Americans value human life too much. But I have now come to realize that people harboring evil intents are not all foreigners. We breed them right here at home. How suspicious do the following two examples look?

On 16 October 1972, three weeks before the election, a Cessna 310C disappeared in a flight between Anchorage and Juno. It was carrying Alaska's democratic representative, Nick Begich, and House Majority Leader Hale Boggs, a democrat from Louisiana, on a campaign junket. The weather was foggy with low clouds and a drizzle, nothing unusual for Alaska. A massive 39-day search involving over 60 aircraft ensued. A Freedom Of Information Act request in 1992 – 20 years later – by *Roll Call Magazine*, which reports on Capitol Hill, uncovered three FBI telexes that revealed credible information from a

company testing advanced surveillance technologies. The FBI knew the location of the crash and the equipment was tracking two survivors. Officially, the plane was never found.

Boggs had served on the Warren Commission investigating President John F. Kennedy's assassination. He signed the Commission's report, but, according to Dr. Nick Begich Jr., the Alaska congressman's son who was killed with Boggs, had some interest in reopening the investigation. Boggs' daughter, television journalist Cokie Roberts, later said her father was comfortable with the Commission's findings and was not pushing for the investigation to be reopened. But Boggs' wife, Lindy Boggs, who succeeded her husband in Congress, explained to a congressional committee that "there were obvious feelings of wanting to know more about certain areas of the investigation, wanting to have filled in some of the unanswered questions, and of course, that is why it was so necessary for Hale to be able to say that *according to the testimony admitted to the Commission*, that Oswald was the assassin."<sup>40</sup> (Emphasis added) Apparently Hale Boggs was never satisfied with just what was admitted to the Warren Commission. He might not have yet been pushing to reopen the investigation, as his daughter pointed out, but he may have been seriously entertaining such action. Boggs is quoted as saying: "Hoover lied his eyes out on Oswald, on Ruby, on their friends, you name it."<sup>41</sup> Boggs had for some time been at odds with the FBI director and had openly called for his resignation on the House floor.

The second example is a crash on 3 August 1976. After four years in the House, Congressman Jerry Litton from Missouri decided to run for the Senate. He had just won the democratic nomination on August 3<sup>rd</sup>. He, his wife, and two children climbed into a plane at Chillicothe Airport for a short flight to Kansas City and a victory celebration. Shortly after takeoff the plane crashed into a field and burned. All aboard were killed. House majority leader Thomas P. "Tip" O'Neal said that in his 20 years in Congress he had never encountered a freshman congressman with more honesty and political incorruptibility than Litton. Republican Jack Danford won the election.

Possibly all of these tragedies were truly accidents.<sup>42</sup> But, again, they might not have been. Wouldn't it be prudent for us Americans to be aware of events of this type and what they might imply? That seems especially wise when we consider that, per capita, air travel kills fewer people than automobiles. How many political luminaries have been killed by auto accidents? Now I will address some events which have taken place since the turn of the millennium.

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<sup>40</sup>Boggs,

<sup>41</sup>Quoted in Spartacus.

<sup>42</sup>This discussion does not exhaust the list of politicians killed in plane accidents. Texas democratic representative, Mickey Leland, outspoken against apartheid in South Africa, died travelling in Ethiopia. Commerce Secretary Ron Brown was killed in a plane crash in the Balkans. Former Senator John Tower, chairman of the Tower Commission investigating the Iran-Contra Scandal, was killed in a small plane crash. Liberal republican Senator John Heinz was killed when his plane collided with a helicopter. His landing gear failed to go down and the helicopter was dispatched to look at it. Heinz was outspoken against the Vietnam war and urged reconciliation with Cuba. Also, though not a plane crash, was the mysterious death of staff member John Foster in the Clinton White House.

## ***The Death of Missouri Governor Mel Carnahan.***

Late in the evening of 16 October 2000, three weeks prior to the presidential election, a twin engine Cessna crashed in a wooded area amid rain and fog. Reminiscent of the Litton tragedy in 1976, the Cessna went down near Goldman, Missouri, about 35 miles south of Saint Louis. All three occupants were killed. They were Governor Mel Carnahan, his son and pilot Randy Carnahan, and campaign advisor Chris Sifford. This was the night before a presidential debate at Washington University in Saint Louis. Carnahan was on his way to a political campaign meeting.

For this event I will revisit the November 2000 election and what led up to the crash. Carnahan started his political career in the Missouri legislature and then as state treasurer. He was elected lieutenant governor in 1998 when his long-time political rival, John Ashcroft was in his second term as governor. Ashcroft was “termed out” after two stints as governor and Carnahan was elected to that office in 1992. He was re-elected in 1996. In the meantime, Ashcroft was elected to his first term as Missouri senator in 1994.

Unable to run for a third term as governor, Carnahan decided to try for the US Senate seat held by John Ashcroft. It was a very contentious campaign. Ashcroft had a very conservative voting record in the Senate. Carnahan, on the other hand, had established his reputation as a traditional democrat. He raised taxes to pay for public school improvements and backed an initiative that would require a popular vote for any tax increase exceeding \$50 million. He proposed legislation requiring insurance companies to disregard pre-existing conditions, but it failed in the legislature. He did push through wider-than-average coverage for children’s health insurance and, during his second term, got 26,000 people off of welfare with his welfare-to-work program.

In addition, Carnahan’s victory over Ashcroft was considered a key democratic step to regain control of the US Senate. And as will be shown below, did eventually allow regaining control. Nevertheless, Ashcroft had a lead in the polls until Carnahan’s tragic death threw the election into chaos.

Missouri election law would not allow Carnahan’s name to be removed from the ballot. Lieutenant Governor Roger G. Wilson, who succeeded Carnahan as governor until January 2001, named Jean Carnahan, his widow, as the unofficial democratic candidate for senator. Wilson said he would appoint her as senator if Carnahan won the election. The campaign continued with the slogan “I’m still for Mel.”<sup>43</sup>

Carnahan won the election. This was the first time in history that a dead man had been elected to the Senate. Likewise, John Ashcroft earned the dubious distinction of being the first man to lose a Senate race to a dead man. Exit polls showed that Ashcroft was supported heavily by those who thought the federal budget surplus should be used to cut taxes. But the majority that voted for Carnahan thought the surplus should be used to reduce the national debt.

True to his word, Governor Roger G. Wilson named Jean Carnahan as the junior senator from Missouri until a special election during the mid-term 2002 election.<sup>44</sup> New senators have to be approved by the

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<sup>43</sup>Cited in WordIQ.

<sup>44</sup>Jean Carnahan lost the special Senate election in November 2002 to republican James Talent.

Senate and republicans contested the acceptance of Jean Carnahan. They used the atrocious argument that the election was invalid because Missouri law required a candidate to be a resident of the state. They claimed that a dead man could not be considered a resident. Nevertheless, the governors appointee was accepted by the Senate.

### ***Shifting Chairs in the Senate.***

After the 2000 election, the republicans had a semi-comfortable lead of 223 to 211 democrats in the House of Representatives. The Senate was a different matter. It was split 50-50, literally, 50 republicans and 50 democrats. Had Ashcroft been elected from Missouri there would have been a more comfortable 51 republicans to 49 democrats. But that was not the case

Nevertheless, the evenly-divided makeup did give the republicans precarious control because the US Vice President is a republican and he is also President of the Senate. Although he can only vote in case of a tie, he does weigh in when there is a 50-50 split in membership.

Then another event happened. Senator James Jeffords, republican from Vermont, announced on 24 May 2001 that “I will leave the republican party and become an independent.”<sup>45</sup> This threw Capitol Hill into an uproar. The republicans lost their majority in the Senate and the democrats took control – 49 republicans, 50 democrats, and 1 independent. To make matters worse for the republicans, the independent leaned more toward being aligned with the democrats. This takeover would never have happened had Carnahan lost and Ashcroft won in Missouri.

### ***Anthrax.***

Remember the anthrax attacks of 2001? ... in the aftermath of the 9/11 attack when people were still numb with shock? The deadly bacteria was mailed in letters delivered by the US Postal Service. The first batch was sent to media people, the second to US senators. Then it was discovered that the white anthrax powder contained in the second-wave letters was a much higher grade than terrorists could produce.<sup>46</sup> It was weapons grade and bore the genetic signature of what is made right here in the US. Dr. Barbara Hatch Rosenberg alleged in late 2001 that a government insider, or someone connected to a government insider, was responsible for the attack.<sup>47</sup> Some law enforcement officials gave her theory much credibility – one called it “the most likely hypothesis.”<sup>48</sup>

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<sup>45</sup>Quoted in *The Green Papers: Midterm Election 2002*, 10 December 2003.

<sup>46</sup>William C. Patrick III, one of the nation’s top bioterrorism experts had studied the possibility of terrorist sending anthrax through the mail. In his February 1999 report, he predicted that the anthrax powder used by terrorists for such an attack would be one-20<sup>th</sup> the concentration of military grade. What was sent through the mail during the autumn of 2001 was far deadlier than terrorists could produce.

<sup>47</sup>Dr. Barbara Hatch Rosenberg is director of the biological warfare division of the Federation of American Scientists. Her thesis on the anthrax concentration used in the attack on the US was circulated on 29 November 2001 at the Stockholm International Peace Research Institute in Sweden.

<sup>48</sup>Quoted in Broad and Miller, 2 December 2001.

Manufacture of germ warfare weapons in the US started during World War II. Anthrax was a top agent. Theoretically, one gallon of weapons-grade anthrax bacteria could kill 8 billion people. But President Richard Nixon stopped the program for offensive biological weapons in 1969. However, unknown to the public, the Army's Life Sciences Division at the Dugway Proving Grounds in Utah had been quietly condensing the Ames<sup>49</sup> strain of anthrax to a weapons grade concentration of 1 trillion spores per gram. That is more concentrated than what was produced in either the old US offensive weapons program or its Soviet counterpart.<sup>50</sup>

The first wave of anthrax-laced letters directed to media organizations – NBC and ABC in New York, the *New York Post*, and a tabloid newspaper in Palm Beach County, Florida – was mailed from New Jersey on September 18th. Postal workers and other employees who handled the contaminated mail were also infected.

The second wave was mailed October 9<sup>th</sup> and at least two letters reached Capitol Hill. One was opened in the office of Senator Tom Daschle on October 15<sup>th</sup>. Another was found unopened in the mail of Senator Patrick Leahy on October 16<sup>th</sup>.

Later, after running tests on the anthrax powder recovered from the various letters, it was determined that the anthrax in the first wave of letters to news media offices was relatively crude compared to the second wave. The powder in the first wave contained many dead cells which are harmless and was heavily contaminated.

The anthrax in the second-wave letters to Daschle and Leahy was of higher quality, having smaller spores of more uniform size in a concentration of 1 trillion spores per gram – identical to that produced in Utah. A conservative estimate is that 10,000 of those microscopic spores is a lethal dose. That being so, the estimated two grams of powder found in Senate envelopes had the theoretical possibility of killing 200 million people. Genetic studies show that only five laboratories, including the US Army Medical Research Institute of Infectious Disease (USAMRIID) at Fort Detrick, Maryland, use anthrax with perfect genetic matches to that mailed to the Senate, and their sources all apparently lead back to Dugway.<sup>51</sup>

The FBI investigation had narrowed down to the CIA, which had a program to defend against bioterrorists using anthrax. By mid-2002 the FBI says it was looking at about 30 germ warfare experts and has searched the homes of a couple dozen. Nevertheless, the agency has been criticized for foot dragging.

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<sup>49</sup>The Ames strain of anthrax was originally produced by a Department of Agriculture laboratory in Ames Iowa in 1980. It has been supplied to many laboratories where it is used for various purposes. Only the Army's Dugway Proving Ground is believed to have the capability of milling the strain to such a high concentration.

<sup>50</sup>Anthrax powder containing 1 trillion spores per gram being more concentrated than what was produced in the old US offensive weapons program or the old Soviet germ warfare program is the assessment of Dr. Richard O. Spertzel who worked 18 years at Fort Detrick and later served as a UN bioweapons inspector in Iraq. (Cited in Shane, 12 December 2001.)

<sup>51</sup>Cited in Weiss and Schmidt. Of the five laboratories with genetic matches, two government laboratories are involved: the Army's Dugway Proving Ground in Utah, which mills the bacteria to a very high concentration, and the US Army Medical Research Institute of Infectious Disease (USAMRIID). USAMRIID in turn furnishes the bacteria to a British military laboratory called Porton Down, which in turn provides the material to microbial depositories at Louisiana State University and Northern Arizona University.

Dr. Barbara Rosenberg wrote a scathing report in February 2002 with so much detail of the perpetrator that it fit only one person. She says she knows who it is, and so do the FBI, the CIA, and the White House. Rosenberg said a number of government agencies have a vested interest in masking the truth, and added: “Either the FBI is under pressure from the Pentagon or CIA not to proceed because the suspect knows too much and must be controlled forever from the moment of arrest, or the FBI is sympathetic to the views of the biodefense clique, or the FBI really is as incompetent as it seems.”<sup>52</sup>

Nicholas Kristof of *The New York Times* has also castigated the FBI for its lack of progress in the investigation. In July 2002 he wrote “the bureau’s lackadaisical ineptitude in pursuing the anthrax killer continues to threaten America’s national security ... Almost everyone who has encountered the FBI anthrax investigation is aghast at the bureau’s lethargy.”<sup>53</sup> In August 2002 he identified Dr. Steven Hatfill as a suspect, and wrote: “The authorities’ interest in Dr. Hatfill arises from a range of factors, including his expertise in dry biological warfare agents, his access to Fort Detrick labs where anthrax spores were kept ..., and the animus to some federal agencies that shows up in his private writings. He has also failed three successive polygraph examinations ...”<sup>54</sup> Kristof then points out that bloodhounds have connected Hatfill’s scent to scent packets preserved from the anthrax letters.

Hatfill, lives in Frederick, Maryland, and was put on the short list of “persons of interest” by Attorney General John Ashcroft, although the FBI contends he is not a suspect.<sup>55</sup> Hatfill worked for Science Applications International Corporation in 1999 when he and another employee commissioned a report on how police and civil authorities would respond to a bioterrorism attack through the mail. Prior to that he has worked for USAMRIID at Fort Detrick in Frederick, Maryland. Earlier in his life, Hatfill had been in paramilitary forces of Rhodesia and apartheid South Africa.<sup>56</sup>

In July 2002 Hatfill took a job as associate director of Louisiana State University’s National Center for Biomedical Research and Training, but was given administrative leave on 2 August 2002, ostensibly because of being on the FBI’s “persons of interest” list and under constant surveillance. Hatfill has adamantly and publicly denied any connection with the anthrax attacks. On 26 August 2003 he sued Attorney General Ashcroft and other government officials for destroying his reputation and “using him as a scapegoat for their failure to make an arrest in the case.”<sup>57</sup> On 13 July 2004 Hatfill sued *The New York Times* because of the defamatory columns by Nicholas Kristof and the paper’s refusal to print letters and rebuttals that Hatfill submitted.

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<sup>52</sup>Quoted in Peters, 16 June 2002.

<sup>53</sup>Kristof, 2 July 2002.

<sup>54</sup>Kristof, 13 August 2002.

<sup>55</sup>Gugliotta and Eggen, 28 June 2002.

<sup>56</sup>Kristof, 19 July 2002.

<sup>57</sup>Hananel, 27 August 2003.

For almost three years the investigation staggered on with about 30 FBI agents and 13 postal workers full time. They have, “according to the FBI, conducted more than 5,280 interviews, issued more than 4,480 grand jury subpoenas, and contracted out thousands of hours of lab work ...”<sup>58</sup>

Then in August 2004 another physician made the short list. Authorities searched the home and former apartment of Dr. Kenneth Berry in Wellsville, NY, as well as his parents’ summer home in Dover Township, New Jersey. They also searched his car at a Pittsburgh airport, where he kept it garaged because he flew his private plane back and forth for his job as an emergency room physician. Like Hatfill, Berry had a passion for protecting against bioterrorism and he founded PREEMPT<sup>59</sup> to train medical professionals for responding to chemical or biological attacks. He holds three patents related to bioterrorism. Berry has not been charged and he asserts his innocence. His father says his son “is just the latest scapegoat in an inept federal probe.”<sup>60</sup>

Why am I presenting this anthrax attack in such detail? Because, at least the second wave of anthrax letters may have been an assassination attempt. Both Daschle and Leahy, to whom the second-wave letters containing high-potency anthrax were sent, are democratic senators. Daschle is from South Dakota and Leahy from Vermont. Both are highly influential and their seats do not come up for reelection until 2004. The anthrax attacks occurred in October and, had the Senators been fatally stricken, the state governors would have appointed replacements.

Daschle was prominent as the Senate majority leader. At that time the governor of his home state was Bill Janklow, a republican. Had Daschle succumbed from the anthrax, Governor Janklow would certainly have appointed a republican to take his place. That would have an overwhelming political shock. The republicans would again have 50 seats in the Senate to the democrats’ 49. The republicans would again control both houses of Congress. Remember, these anthrax attacks came within weeks of the 9/11 tragedy. Terrorism was at the forefront of America’s consciousness. It was a good cover.

Leahy was chairman of the Senate Judiciary Committee. In the case of his demise, another democrat would likely have been chosen. However, Leahy’s influence would be removed and a republican candidate in the next election would not have a powerful incumbent to face. If a special election for his seat were held in 2002, that would make republican control of the Senate more possible.

The entire investigation – three years of probing and massaging evidence with insinuations but no charges – bears the signs of a coverup. One must question, as I do, if there were more sinister motives behind the anthrax attack. It appears that someone definitely tried to assassinate the two senators, the question is: Who? Was the second wave of letters, containing a more deadly poison, mailed by a copycat perpetrator with a political agenda? Conspiracy theory, yes, but with all the conspiracy and shady deals taking place nowadays, one must ask.

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<sup>58</sup>Lengel, 18 July 2004.

<sup>59</sup>Planned Response Exercises and Emergency Medical Preparedness Training.

<sup>60</sup>*Seattle Times*, 9 August 2004.

## *The Death of Senator Paul Wellstone.*

On 25 October 2002 on the approach to Eveleth-Virginia Municipal Airport, landing gear down and wing flaps extended, a Beechcraft King Air A-100 lost radio contact with the tower at 10:21 AM. It crashed two miles short of the runway. The wreckage was scattered and burning. There were no survivors. Aboard were Senator Paul Wellstone, his wife Sheila, his daughter Marcia, three staff members, and two pilots. Wellstone was flying the 175-mile trip from St. Paul to attend the funeral of a state lawmaker, and to make a campaign speech.

There are conflicting reports about the weather at the time of the crash. Reports varied from freezing drizzle to freezing rain and light snow. All seemed to indicate some fog. Fox News was the only report that said the plane was making an instrument approach. However, other reports indicate good visibility. Joe Kovacs, executive news editor of WorldNet Daily, reported that a pilot who witnessed the crash said “the twin-engine craft seemed to veer away from the usual approach to the runway.”<sup>61</sup> He would not have seen that in poor visibility. Fox News reports that Gary Ulman, a pilot on duty at the airport, said the plane called the tower for clearance to land when it was about seven miles out, but: “When the plane didn’t land, Ulman said he took off in another plane to search for it. About two miles southwest of the airport he saw the smoke.”<sup>62</sup> Again, that doesn’t indicate that visibility was bad enough to contribute to the crash.

Paul Wellstone has been described as the foremost liberal senator on Capitol Hill. Earlier in October he voted against the bill that would allow the use of force in Iraq – “the only democrat facing a tough re-election to go against Bush on the issue. ... Wellstone had also been an advocate of any bills that would help disadvantaged Americans. He crusaded for homeless veterans and rallied against a bankruptcy reform measure ... that he said would benefit banks, credit card issuers, automobile finance companies and retailers at the expense of people ‘who now find themselves in brutal economic circumstances.’”<sup>63</sup> <sup>64</sup> The Minneapolis *Star Tribune* add that “Wellstone was a champion of progressive and liberal causes, a firebrand in the Senate who was unafraid to stand alone in fighting for the poor and down and out.”<sup>65</sup> In short, Wellstone was pretty much on the opposite end of what the Bush administration stands for.

Wellstone was killed just 11 days before the election. Prior to his death the democrats had control of the Senate by one seat. Now the score was 49 republicans, 49 democrats, 1 independent, and 1 vacancy.

Wellstone was running against former St. Paul Mayor Norm Coleman. There were conflicting reports on who the polls indicated was ahead – conservatives said Coleman had a slight lead and liberals touted Wellstone as ahead. It was widely reported in the news that the outcome in Minnesota could decide who

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<sup>61</sup>Kovacs, 31 October 2002.

<sup>62</sup>Fox News, 25 October 2002.

<sup>63</sup>Fox News, 25 October 2002.

<sup>64</sup>There is a rumor that a high White House official threatened Wellstone with severe ramifications if he didn’t vote in favor of the legislation to allow war on Iraq.

<sup>65</sup>*Star Tribune*, 25 October 2002.

controlled the Senate.<sup>66</sup> After Wellstone's death, former democratic Senator Walter Mondale agreed to run in his place. Mondale's name appeared on the ballot in the polling places. But absentee ballots had been mailed out earlier and Wellstone's name was on those. Minnesota election law requires says that absentee ballots marked for deceased candidate must be destroyed and the voters required to vote again. Of course, not all do. About, Inc. points out: "It's very difficult to say that it's a fair election when they've already said that anyone who voted absentee with the name 'Paul Wellstone' won't be counted, and anyone who voted absentee with the name 'Norm Coleman' will be counted. That to me right there creates an unfair election."<sup>67</sup>

Norm Coleman won the Minnesota Senate seat. After the election, the lineup in the Senate was 51 republicans, 48 democrats, and 1 independent aligned with the democrats.

There is one very important point to consider. Had Paul Wellstone lived, he would undoubtedly been a very strong obstacle to the Bush administrations ambitions for Iraq.

Another very important point: Had both Paul Wellstone and Mel Carnahan lived, they would very likely be occupying those two seats in the Senate that are presently giving the republicans control.

### ***MID-TERM ELECTION 2002 – MORE OF THE SAME***

**E**lectronic voting machines, especially the touch-screen technology, became more prominent in the 2002 mid-term election. High-tech voting was launched in 200 more counties. That brought the total to 510 counties nationwide – 16% of all counties, or 20% of all registered voters – that had computerized voting systems. Of all the new touch-screen voting machines introduced nationwide, Georgia received the most – 19,000 new ones which brought its total to 22,000.

Comments from most voters indicate no problem using the new touch-screen machines. It's as easy as using an ATM, some exclaim. Many applaud the simplicity, saying it only takes a few seconds.. That is all true, but what happens inside the machine after a vote is so simply cast? That is the catch.

Dr. Rebecca Mercuri, computer science professor and election technology expert at Bryn Mawr College, points out that a "lot of these products have been rushed to market"<sup>68</sup> Analysts say the machines have been put on the market more quickly than reasonable. Mercuri warns that "some problems with the new touch-screen systems may never be known because they lack paper backups for double-checking ballots."<sup>69</sup> She was worried because misprogramming isn't always obvious. "so there's no way to prove that [a machine] didn't cast a vote for Candidate B when you cast for Candidate A."<sup>70</sup> Diebold Election Systems, who

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<sup>66</sup>For Instance, see Fox News, 25 October 2002 and *Star Tribune*, 25 October 2002.

<sup>67</sup>About, Inc., 1 November 2002.

<sup>68</sup>Quoted in Sims, 6 November 2002.

<sup>69</sup>Sims, 6 November 2002.

<sup>70</sup>Quoted in Sims, 6 November 2002.

makes the machines for Maryland and Georgia, said elections officials in those states didn't ask for a paper trail.

Machines weren't the only difficulty during the 2002 elections. Often the machines just didn't work and the polling places had to open late, or close early, depriving hundreds of people from voting. Other voters complained that the machines did not allow them to vote for all the offices on the ballot.

I will review the voting problems which surfaced to media awareness during the 2002 primary and general elections. Many of these may have been accidental, or understandable – but then they might also have been part of a sinister plot to manipulate votes. It seems that no one can really tell for sure. I will first re-visit Florida.

### ***Florida – Nothing Much Changed.***

After the 2000 election debacle, Florida outlawed all punch-card ballots and spent \$32 million to reform its election system. Touch-screen machines made their debut while the optical scanner devices remained in place. Let me first address the primary election on September 10th.

In spite of all this new technology, problems persisted. The rush to install touch-screen machines, poorly trained poll workers, and inadequate planning for the technical support help were blamed for the glitches during the primary election. Most of the difficulties were encountered in the poorer, southern counties which voted overwhelmingly democratic. In some cases voters were turned away illegally because they did not show photo identification. Frustrated poll workers – as many as 150 in Miami-Dade, Broward, and Palm Beach Counties – walked off the job.

In Miami-Dade, Janet Reno, who ran unsuccessfully for the democratic candidacy for governor, was delayed from voting. In this heavily African American county, one polling place was not able to open until 11:45 AM, because of touch-screen problems, and an estimated 500 voters were turned away. Another polling station did not open until nearly 5:00 PM, the normal closing time.

In Miami-Dade, votes from 25 precincts could not be counted due to problems with the electronic tabulation devices. Data from the actual touch screen machines had to be manually sent to the county elections office for counting. With this many known glitches, one must wonder what went undiscovered. In addition, Miami-Dade County had 1,000 absentee ballots which had to be recreated by hand because of voter error, with all the possibility for fraud that introduces.

Some precincts in Broward county, another major African American county with the most registered voters of any in Florida, didn't open on time because poll workers were late. Another opened almost two hours late because of incorrect equipment. There was also a huge discrepancy in votes counted – one precinct showed 0% turnout of more than 800 registered voters. Between 40-50 of the 5,000 touch-screens in the county had to be shut down because of software loaded incorrectly or the wrong ballot.

Miami-Dade and Broward Counties were by far the worst for election glitches in the 2002 primary. Other counties were not immune, however.

Two candidates on the ballot in Palm Beach County sued because of glitches with the new touch-screen machines. When voters inserted the plastic cards needed to actuate the ATM-type machine, they got a reading on the screen saying “invalid.” No one knew how to fix the problem. Nevertheless, “Palm Beach County elections chief Theresa LePore said she faced few problems. Some poll workers didn’t show up, so some polls had minimum staffing levels, but all opened on time. ... So far, so good.”<sup>71</sup>

Orange County was having trouble with its optical scanning machines ripping the ballots. Some 42% of the county’s almost 426,000 votes had to be counted by hand. There were also reports that scanners were not working in at least two polling stations in Brevard County and Seminole County.

Janet Reno complained to Governor Jeb Bush about the delays at the polls. Bush ordered the polls to stay open two hours longer to compensate. Some precincts complied but others refused and closed promptly at 7:00 PM. But of course not all the voters knew about this extension of voting hours, and many would simply not return. An election protection coalition comprising the National Association for the Advancement of Colored People, the People for the American Way, and other civil rights groups, said it documented dozens of problems in at least four counties. Regarding Governor Bush’s extension of voting hours, Elliot Minberg, vice president of People for the American Way, said: “It’s not going to solve the problem because a lot of people won’t be able to come back or will be discouraged from coming back.”<sup>72</sup>

Three days after the election, Janet Reno, who was edged out of the democratic candidacy for governor by a mere 8,000 votes, called for a statewide manual recount. The Florida elections board rejected the request. However, Reno contended that “there were discrepancies in at least 80 Miami-Dade County precincts and perhaps elsewhere.”<sup>73</sup> Those 80 precincts had 31,375 registered democrats but only registered 1,952 votes. Using the average county voter turnout of 32.7%, there should have been about 10,260 votes tabulated.

David Leahy, the county’s election chief, pointed out that four polling stations originally showed only 96 votes total. A review showed the total was really 1,914 – a jump of 1,118 votes. In other errors, one precinct recorded 900% more votes than voters, while other precincts with thousands of voters registered zero votes. Shadowlawn Elementary School Precinct had 1,416 registered democrats but no votes were recorded from that school. Another precinct in Miami’s predominantly black Liberty City neighborhood had 1,406 registered democrats but the machines initially showed only 87 votes. Later the total was raised to 610 votes. Something is sure rotten in Florida.

All of this sounds very reminiscent of November 2000. It sounds like not too much has been remedied. *USA Today* reports that “election officials stepped up poll worker training and added hundreds of workers to troubleshoot the new machines.”<sup>74</sup> How much good did that do? Let me continue to the general election on November 5<sup>th</sup>.

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<sup>71</sup>Associated Press, 10 September 2002.

<sup>72</sup>Quoted in Associated Press, 10 September 2002.

<sup>73</sup>Breed, 13 September 2002.

<sup>74</sup>Associated Press, in *USA Today*, 5 November 2002.

During the general election, three touch-screen voting machines in Miami-Dade county were found to be misprogrammed.<sup>75</sup> These are the ones that were found. How many others had been misprogrammed that didn't come to public attention is not known.

There was a power outage in one Broward County precinct and voters were reportedly marking paper ballots to be counted later. It is unclear whether these ballots would be counted and then preserved for verification, or if they would be entered into the computer later by someone else. The later could raise questions of misconduct.

Three counties in central Florida reported problems with optical scanner machines. One Orange County precinct opened 20 minutes late and many prospective voters drove off. Yes, there were problems aplenty in Florida. Now I will move on to the rest of the nation.

### ***Glitches In Other States.***

Florida was probably being watched the closest because of the disenfranchisement of voters in 2000. However, voter machine irregularities and polling station problems were also encountered in other states during the 2002 elections. I will address those that garnered media attention.

Texas. A computer chip glitch in Scurry County caused an optical scanner to give republicans a landslide victory in two county commissioner races. Poll workers became suspicious about the margin of victory. After two hand counts and another count with a repaired machine, the democrats won by wide margins. How many other chip glitches were there that remained undiscovered? How many other election officials did not become suspicious of landslide victories?

Also in Texas, television station WFAA reported programming errors in voting machines that cause errors when straight party-line voting is registered.

South Dakota: A faulty computer chip in Davison County held up counting some 7,000 votes until a replacement chip could be obtained from Omaha.

Maryland: Montgomery County, with over 100,000 Latino residents, violated the federal Voting Rights Act by not providing Spanish-speaking assistance and having some written information only in English. There were also discriminatory remarks uttered. Law student observer Leslie Lobos quotes one voting official as saying: "These people are here. They're voting. Why don't they speak English?"<sup>76</sup>

Arkansas: Voting was held up in Pulaski County, which is heavily democratic, because a number of precincts were running out of ballots, and people were complaining about not being able to vote.

Georgia: Georgia has the largest deployment of touch-screen voting machines – 22,000. Wrong county commissioners were listed in three precincts of one county. An unknown number of votes were cast before

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<sup>75</sup>The county manager says no voters were turned away. Paper ballots were issued until the machine was fixed.

<sup>76</sup>Quoted in Gowen, 22 October 2002.

the error was rectified. In another county, dozens of machines were misprogrammed and cards needed to access the machines malfunctioned.

Minnesota: Ballot shortages were reported in some precincts. There was concern that not enough were printed.

Colorado: Two-thirds of Jefferson County's absentee ballots told voters to mail in by Saturday, November 5<sup>th</sup>. However, Saturday was November 2<sup>nd</sup>. November 5<sup>th</sup> was election day and a ballot mailed then would be disqualified.

New Jersey: Some 34 voting machines in one township malfunctioned because of a computer glitch. Voters had to use paper ballots.

Missouri: Rainy weather caused a power outage in one town when the polls opened at 6:00 AM. Some voters were turned away and others had to vote by flashlight.

Connecticut: Name of the democratic candidate for state treasurer was misspelled.

Tennessee: Some precincts in Knox County didn't have the paperwork to fill out in order for voters to get their ballot. When the paperwork finally did arrive, many voters had been turned away. In the state as a whole, the democratic party sued the republican party for sending an e-mail urging republican poll workers to watch for election problems and challenge suspicious persons. The democrats say this is "illegally trying to depress voter participation."<sup>77</sup>

Many of the troubles listed here could be chalked up to normal computer glitches and human failure. Nevertheless, when placed alongside of ATM machines for banks, or computers used for health care, – all of which operate beautifully at all times – one is forced to question why voting machines are so unpredictable. The answer could be that it is intentional and for a very specific purpose. What is being experienced publicly may be the bugs being worked out of more sinister computer programming. The plague of glitches which turned voters away is so widespread that it smells of disenfranchisement.

## ***Conclusion.***

On 22 May 2001, Dr. Rebecca Mercuri, a leading expert on electronic voting technology, told the Subcommittee on Environment, Technology, & Standards of the US House of Representatives Committee on Science that "present and proposed computer-based solutions are not able to resolve (and in some cases even increase) the likelihood of vote-selling, coercion, monitoring, disenfranchisement, and fraud in the election process. And regarding the computerized voting machine itself, Mercuri testified: "Fully electronic systems do not provide any way that the voter (or election officials) can truly verify that the ballot cast corresponds to that being recorded, transmitted, or tabulated. Any programmer can write code that displays one thing on a screen, records something else, and prints yet another result. There is no known way to ensure that this is not happening inside of a voting machine."<sup>78</sup>

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<sup>77</sup>Lowe, Christi, 5 November 2002.

<sup>78</sup>Mercuri, 22 May 2001.

One thing that points to fraudulent experimentation with computerized voting technology is the discrepancy between exit polls<sup>79</sup> and election results. From 1964 until 2000, the exit polls were pretty accurate in predicting the eventual winner. In Florida in 2000, the exit polls showed Gore as the projected winner, but events didn't turn out that way. That was because "the voting system in Florida collapsed under the weight of voting machine failure, election day chicanery, and outright disenfranchisement of thousands of black voters by republican state officials."<sup>80</sup>

In 2002, John Zogby, of the Zogby International polling company, when asked if he had noticed an increasing variation between polling predictions and actual results over the years, said there had been none until 2002. He said things were very different this time: "I blew it in Colorado (and Georgia). And never in my life did I get New Hampshire wrong, but I blew that too."<sup>81</sup>

The Zogby Poll apparently stood alone. Since 1964 when computers started being used to tabulate poll results, the major television news networks used exit polls to predict the eventual winners. In 1993 these six news services combined their efforts to form Voter News Service (VNS). "VNS is a top-secret private consortium owned by *ABC News*, *The Associated Press*, *CBS News*, *CNN*, *Fox News*, and *NBC News* ..."<sup>82</sup> VNS folded up on election day 2002, claiming they had technical difficulties.

Two months later, on January 13<sup>th</sup>, the six news networks announced that VNS would be discontinued. They offered technical reasons which, they say, caused them to mis-predict the 2000 presidential election and a the failure of the system on election day in November 2002 before it could hardly be used – a system on which the major news networks had just spent \$10-15 million to upgrade. Something doesn't sound right here. VNS couldn't be messed up that badly "after a half-century of fine-tuning exit polling to such a science that it's now sometimes used to verify how clean elections are in Third World countries ..."<sup>83</sup> It is more likely that VNS found some unclean electioneering in the United States and had to back off.

Let us look at the 2000 election first. The VNS projection was correct. VNS did predict the rightful winner – Al Gore. The reason the results were different was because of Florida's "uncounted 'overvotes,' the notorious butterfly ballot, and the illegal removal of 91,000 names of mostly black and democratic registered voters ..."<sup>84</sup> This has all been discussed above.

Regarding the 2002 general election, the VNS consortium has conjured up all kinds of technical glitches that surfaced on election day. It is symptomatic, though, that when election anomalies do occur, it is the republicans that come out the winner. Take, for instance, the example used to illustrate that VNS was not working in 2002 – the North Carolina senatorial race. Early exit polls showed that democratic candidate

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<sup>79</sup>Exit polls are taken of the voters as they leave the polling station, asking how they voted.

<sup>80</sup>Landes, 9 November 2002.

<sup>81</sup>Quoted in Landes, 9 November 2002.

<sup>82</sup>Landes, 9 November 2002.

<sup>83</sup>Hartmann, 31 January 2003.

<sup>84</sup>Landes, 20 January 2003.

Erskine Bowles was ahead. As the day progressed, Bowles' lead widened according to exit polls. But when the vote tally was recorded, republican Elizabeth Dole won by a whopping 200,000 votes. Perhaps there is a reason for this difference between exit poll data and voting machine tabulation. Let me address that.

First we should look at who owns the news networks which have formed the VNS consortium. The owners are:

- ABC News – owned by Walt Disney Company.
- CBS News – owned by Viacom.
- CNN – owned by Time Warner/AOL.
- Fox News – owned by Rupert Murdoch's News Corporation.
- NBC News – owned by General Electric Company.
- The Associated Press – a not-for-profit cooperative owned by 1,550 US daily newspapers.

With the possible exception of Associated Press, I'm sure all these corporations are enjoying the pro-business atmosphere under the Bush administration. Then they realize they have a polling system that is so fine-tuned that it can detect vote rigging which is putting the republicans, including the Bush administration, in power. It seems likely that the consortium decided it had to stand down with these accurate projections of election results. Consequently, VNS is no more.

With touch-screens lacking a paper trail, the collapse of VNS effectively removed the last check on possible fraud. Paperless voting and a lack of exit polls assures that no red flags will be raised. As Dr. Mercuri asks with full justification: "Why are the mechanics of the systems so critical to democracy being hidden from public view?"<sup>85</sup> It may be best for the faint-hearted to consider that a rhetorical question, because the answer could be very disturbing.

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<sup>86</sup>If the links don't work, key the URL into your browser address bar.

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# APPENDIX B

## FLORIDA COUNTIES MAP

Source: Snob Hollow Designs (used with permission)

