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UNDERSTANDING THE “WAR ON TERRORISM”: MANIPULATING ELECTIONS Part-3: Stealing Ohio in 2004¹

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We cannot accept the results as legitimate because it does not meet international standards and because there has not been an investigation of the numerous and credible reports of fraud and abuse.

– Colin Powell, US Secretary of State
Commenting on the Ukraine 2004 presidential election²

PRELUDE

Two days after the US presidential election in November 2004, unofficial totals showed President George W. Bush ahead with 286 electoral votes and Senator John F. Kerry trailing with 252 electoral votes. 270 electoral votes are needed to win. However, Ohio with 20 electoral votes, was still a wild card. If Kerry should win Ohio the score would change to Kerry 272 and Bush 266. Like Florida in 2000, Ohio was the swing state in 2004. And like in 2000 Secretary of State Katherine Harris was co-chair of Florida’s Bush reelection campaign, so too was Secretary of State J. Kenneth Blackwell co-chair of Ohio’s Bush reelection campaign in 2004.

When Blackwell certified the Ohio vote on 6 December 2004, Bush had won the state by 118,775 votes out of 5.7 million cast. That 2% margin of victory is not close enough to trigger an automatic recount (by Ohio law it has to be within 0.25%). Nevertheless, there were thousands and thousands of complaints about voting irregularities and possible fraud. Investigations and legal actions ensued. This paper will focus on the Ohio aspect of the 2004 presidential election and discuss activities in that state immediately prior to the vote, during the vote, and the events following the vote. The body of the text will outline the main problems. Appendix-B is a county-by-county sampling of thousands of reported problems. Appendix-C is a listing of well-documented fraud warranting further investigation.

¹This 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

²Will, 30 November 2004

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EXIT POLLS

Exit polls are conducted on election day to predict the outcome of the election. A representative sampling of voters are asked how they voted as they leave the polling station. Adjustments are made using scientifically determined variables in voting patterns for demographic groups (gender, age, race, religion, income, political affiliation, etc.) which are then statistically adjusted to be representative of the entire population. These polls are considered more accurate than polls taken prior to the election because they reflect how people actually voted. Exit polls have now been so refined that they are used to detect fraud during elections in Third World countries.

The Eleven Battleground States.

On election night the exit polls showed Kerry was ahead in nine of the eleven so-called battleground states. The vote tally gave Bush a victory in six of those states and Kerry won five. In each of those eleven states, the percentage of votes for Bush increased over what was predicted by exit polls, even though Kerry won in five of them. (See chart below.) The differentials between the exit polls and the vote count were all in Bush's favor except in one state, where it remained unchanged. (See "% Shift" column in chart below.) This was true even in the states Kerry won. In the two states where Kerry had the highest predicted percentage of lead – Minnesota and New Hampshire – he did win, but in those two states there was the highest "% Shift" in Bush's favor.

State	Bush	Kerry	Predicted	Bush	Kerry	Tallied	% Shift
	<u>Predicted</u>	<u>Predicted</u>	<u>Lead (%)</u>	<u>Tallied</u>	<u>Tallied</u>	<u>Lead (%)</u>	<u>Tallied Vs Predicted</u>
Colorado	49.9	48.1	Bush 1.8	52.0	46.8	Bush 5.2	Bush 3.4
Florida	49.8	49.7	Bush 0.1	52.1	47.1	Bush 5.0	Bush 4.9
Iowa	48.4	49.7	Kerry 1.3	50.1	49.2	Bush 0.9	Bush 2.2
Michigan	46.5	51.5	Kerry 5.0	47.8	51.2	Kerry 3.4	Bush 1.6
Minnesota	44.5	53.5	Kerry 9.0	47.6	51.1	Kerry 3.5	Bush 5.5
Nevada	47.9	49.2	Kerry 1.3	50.5	47.9	Bush 2.6	Bush 3.9
New Hamp.	44.1	54.9	Kerry 10.8	49.0	50.3	Kerry 1.3	Bush 9.5
New Mexico	47.5	50.1	Kerry 2.6	50.0	48.9	Bush 1.1	Bush 3.7
Ohio	47.9	52.2	Kerry 4.2	51.0	48.5	Bush 2.0	Bush 6.2
Pennsylvania	45.4	54.1	Kerry 8.7	48.6	50.8	Kerry 2.2	Bush 6.5
Wisconsin	48.8	49.2	Kerry 0.4	49.4	49.8	Kerry 0.4	No differential

Source: Freeman, Working Paper #04-10, 21 November 2004.
 (Ohio "Tallied Lead" and "% Shift" corrected for actual vote certification figures)

This chart was prepared by Dr. Steven F. Freeman, a professor at the University of Pennsylvania's School of Arts & Sciences. He used data collected from CNN's website at 12:21 AM on 3 November 2004.³ There was an "abrupt change at 1:30 AM" in exit poll information provided as it was "calibrated" to agree with actual vote tallies.⁴

The "% Shift" column in the chart above reflects the differential between exit poll predictions and certified vote tallies. This is an enormous margin of error for any exit poll, let alone a US exit poll which is considered to be the elite. It is all the more incredible that all the differential shifts are in the same direction. Exit polls in Germany for the 1994, 1998, and 2002 elections averaged only a 0.27% shift between estimations and actual vote tallies. In the German part of the 2004 European Parliament elections, the differential shift was only 0.42%.

Students at Brigham Young University (BYU) in Utah have been conducting exit polls in that state since 1982. In the 2004 presidential election they predicted 70.8% for Bush and 26.5% for Kerry.⁵ The actual vote tally for Utah was 71.1% for Bush and 26.4% for Kerry – a differential switch of only 0.3%. Dr. Steven Freeman states: "Consistent accurate exit poll predictions from student volunteers, including in this presidential election, suggest we should expect accuracy, within statistical limits, from the world's most professional exit polling enterprise."⁶

Exit Polls Used To Detect Fraud.

During the 2004 US presidential election, pollsters took the politically-correct stance that exit polls were not being conducted to verify election results, but only to provide voting information support to their National Election Pool (NEP) subscribers. In that regard they were quick to correct and "calibrate" poll predictions to agree with vote tallies. According to Freeman, the uncorrected data were "not meant to be released directly to the public, and were reportedly available to late evening election night viewers only because a computer glitch prevented NEP from making updates sometime around 8:30 PM that night."⁷ Yet, today, hardly anyone is aware that the exit polls being presented to the public have been altered to

³CNN belongs to the National Election Pool (NEP) which is a pooled effort of leading news organizations and the Associated Press to focus on one, massive exit poll effort. NEP contracted with Edison Media Research and Mitofsky International, two respected firms, to conduct the actual polling.

⁴CNN and other websites no longer show these exit-poll figures. They have now been "calibrated" to vote tallies – assuming the polls were in error and the vote count correct. A saved screen shot of the "uncorrected" web page is shown in Freeman's Working Paper #04-10.

⁵BYU Students' Exit Poll.

⁶Freeman, Working Paper #04-10, 21 November 2004.

⁷Freeman, Working Paper #04-10, 21 November 2004.

agree with the official vote count. No one has thought of, or been paid to, question the incredible differential shifts. That has not been the case in some countries.

During the November 2003 presidential election in the former Soviet republic of Georgia, international organizations sponsored exit polls. They predicted a victory for the opposition candidate. When the vote tally was released showing that incumbent President Eduard A. Shevardnadze had won, an outrage so intense and persistent was triggered that Shevardnadze had to declare a state of emergency. The exit polls revealed voting fraud and Shevardnadze was eventually forced to resign.

The recent Ukrainian presidential runoff election on 21 November 2004 is another example. Candidates were the current prime minister, Victor Yanukovych, and a former prime minister, Victor Yushchenko.⁸ Yanukovych, who tallied 49.46% of the vote, is backed by the authoritarian regime of current President Leonid Kuchma, is aligned with Russia's President Putin, and favors closer relations with Russia. His challenger, Yushchenko, received 46.61% of the vote, has western inclinations, and hopes for Ukraine to join the European Union and NATO.⁹ Ukraine has about 48 million people. Suspecting fraud and manipulation, huge crowds gathered in the streets of Kiev, the capital city.¹⁰ Official estimates varied between 50,000 and 250,000 protesters – depending on the time of day – who maintained a persistent presence until the Ukrainian Supreme Court on December 3rd invalidated the runoff election and set the date of December 26th for a new runoff election. Perhaps the court was also influenced by the demonstrators.

The US and European Union stated they could not accept the vote as legitimate, and warned of consequences in relations with the west. Those consequences included possible interruption of \$150 million the US gives Ukraine each year, plus help from the European community and Poland. After western observers pointed out voting irregularities, US Secretary of State Colin Powell announced: “We cannot accept this result as legitimate because it does not meet international standards and because there has not been an investigation of the numerous and credible reports of fraud and abuse.” One of those “credible reports of fraud and abuse” was that exit polls predicted that Yushchenko would win with 54% of the vote. Who ran the exit polls? “The US embassy said it – together with other western embassies, including Britain's – had funded an exit poll which showed Viktor Yushchenko was ahead in the first run-off by 11

⁸Yushchenko is also a former head of the National Bank of Ukraine.

⁹Viktor Yushchenko was the victim of a recent assassination plot. He developed symptoms of dioxin poisoning, suspected to have been administered by a third party. Dioxin is an agent used in the defoliant Agent Orange during the Vietnam war. It causes severe skin disease, liver and nervous system damage, cancer, and sometimes death. If it was an assassination attempt, it backfired against Yushchenko's opponent as far as public opinion is concerned.

¹⁰Some observers believe the demonstrations in Kiev have been orchestrated and financed by the US. The opposition candidate is pro-NATO and pro-European Union, which would benefit US interests. (See Traynor, 26 November 2004. He cites a pattern developed in Serbia in 2000, Belarus unsuccessfully in 2001, Georgia in 2003, and also in Central America – particularly Nicaragua.) Actually, both Russia and the US have been contributing money to help the candidate of their choice. The US has spent about \$65 million in the last couple years to help groups promoting democracy. There are reports that Russian oil companies may have paid as much as \$200 million to help Yanukovich's campaign. (See Walsh, 13 December 2004.)

points, and helped to spark mass protests.”¹¹ And recall that that is similar to the exit poll predictions in Ohio. Here is a comparison.

Candidate	Exit Polls (predicted % of vote)	Vote Count (tallied % of vote)
Bush	47	51
Kerry	52.5	48
Yanukovych	<46	49.46
Yushchenko	54	46.61

In each case the projected winner was the loser. The Ukrainian election was invalidated because of fraud, and possibly outside pressure. The US election still stands because election polls have been dismissed as a statistical error. Disagreeing, Freeman commented: “As much as we can say in social science that something is impossible, it is impossible that the discrepancies between predicted and actual vote counts in the three critical battleground states [Ohio, Florida, and Pennsylvania] of the 2004 election could have been due to chance or random error.”¹²

The December 26th re-runoff election in Ukraine was held on schedule. Three different exit polls were conducted during this third vote for president which had a 75% turnout of registered voters turned out at 33,000 polling stations. 12,000 international observers monitored the voting – the largest number of observers ever seen anywhere. The results are as follows:

Candidate	Social Monitoring Center Poll ¹³	Razumkov Poll ¹⁴	Luntz Poll ¹⁵	Actual Vote Tally ¹⁶
Yushchenko	58.1%	56.3%	56%	54%
Yanukovych	38.4%	41.3%	41%	42%

Margin of error for the polls is two percentage points. Two of the polls were accurate within those limits.

Now this paper will narrow down to the swing state of Ohio. Exit polls only predict according to the people who actually cast votes. There are other ways to alter the vote tally, and even prevent people from

¹¹Walsh, 13 December 2004.

¹²Freeman, Working Paper #04-10, 21 November 2004.

¹³The Social Monitoring Center is funded by the non-profit “Liase With Europe” organization in France. It polled 13,500 voters at 360 polling stations.

¹⁴The Razumkov Center for Economic and Political Studies and the Kyiv International Institute of Sociology poll surveyed 30,000 voters at 360 polling stations. This poll was sponsored by the embassies of Switzerland, Sweden, Norway, Denmark, the Netherlands, Great Britain, the United States, and Canada. It was funded by the National Endowment for Democracy, the Eurasia Foundation, the Mott Foundation, and the International Renaissance Foundation.

¹⁵The Luntz Research Company was run by pollster Frank Luntz of the US republican party and Douglas Schoen of the Washington-based market research company Penn, Schoen & Berland. They polled 10,000 voters on behalf of Ukraine’s ICTV television station.

¹⁶95% of precincts reporting.

casting votes. Tens of thousands of voting irregularities have been reported nationwide, but what happened in Ohio epitomizes the country as a whole. To consolidate the most prevalent of these irregularities I have added Appendix -B to show a sampling in various counties.

IRRREGULARITIES IN COUNTING VOTES

Two series of hearings were set in motion to investigate widespread claims of vote manipulation and fraud. The Ohio Election Protection Coalition held citizen hearings to enquire into reports of voting machine malfunctions and voter disenfranchisement in poorer and minority precincts which traditionally vote democratic. These were held in Columbus (November 13th), Cincinnati (November 15th), and Cleveland (November 20th). Those who testified did so under oath.

US Representative John Conyers and other democratic representatives on the House Judiciary Committee initiated investigations of voting irregularities. This series of two hearings were held in the Rayburn House Office Building in Washington D.C. on 8 December 2004 and the Franklin County Courthouse in Columbus, Ohio, on December 13th. (Hereafter referred to as the Conyers Hearings).

These hearings produced testimony that has set off a rash of investigations and legal filings. They are the basis and source for most of the voting irregularities described in this paper. The first of two areas the democratic staff of the House Judiciary Committee was concerned about was “substantial irregularities in vote tallies,” saying it “is unclear whether these apparent errors were the result of machine malfunction or fraud.”¹⁷

Ohio has a combination of touch-screen voting machines and punch-card ballots using optical scan machines to count them. Of Ohio’s 88 counties, 20 used touch-screen voting machines and 68 used the punch-card/optical scanning system during the November 2004 election.

Downballot Candidates Receiving More Votes than Presidential of Same Party.

It is unusual for a candidate for a lower office to receive substantially more votes than the presidential candidate from the same party. The race for Ohio’s Supreme Court Chief Justice was a statewide race with as many potential voters as for president, so it is a good comparison. Incumbent Chief Justice Thomas Moyer, a republican, ran against democratic Judge C. Ellen Connally and won. Yet, in a total of 15 Ohio counties, Connally received 5,000 or more votes than the democratic presidential candidate, Kerry. In 10 of those counties the score was 10,000 or more in excess of Kerry. In all 15 counties that is more than 125,000 voters that skipped over Kerry’s name but voted for the democratic Chief Justice candidate. This phenomenon of a downballot candidate receiving so many more votes than a presidential candidate of the same party has been described as “wildly implausible that 5,000 voters [or more in each county] waited in line to cast a vote for an underfunded democratic supreme court candidate and then declined to cast a vote for the most well-funded democratic presidential campaign in history.”¹⁸

¹⁷Quotations from Conyers Letter to Blackwell, 2 December 2004.

¹⁸Conyers Letter to Blackwell, 2 December 2004..

Abnormal Number of Votes for Third-party Candidates.

Another strange voting pattern appeared in Cleveland (Cuyahoga County) which uses punch-card voting machines. Precincts in that city have reported an incredibly high number of votes for third party candidates who have historically received only a handful of votes from these urban areas. This happened in at least 10 of Cleveland's predominantly democratic precincts, raising questions of Ohio's rendition of the butterfly ballot.

A partial explanation could be the system for programming punch-card machines. For some unexplained reason the ballots for different precincts in the same county had the candidates listed in different order. Again in Cleveland, two precincts shared the same auditorium. "Voters were told to go to any machine that was open."¹⁹ But cards punched on the wrong machine gave the vote to another candidate when read on the home machine tabulator.

Similarly in Van Wert County. Poll workers had to throw out 400 ballots because election workers borrowed a punch-card voting machine from another precinct. With this mysterious "rotation" of order in which candidates are listed, combined with a pattern of poor training for poll workers, the question remains if this bungling was orchestrated.

Vote Hopping.

Vote hopping took place on touch-screen machines in several counties. In Youngstown (Mahoning County), the "machines turned an undetermined number of Kerry votes into Bush votes ..."²⁰ *The Free Press* says "In Youngstown, there were more than two-dozen election day reports of machines that switched or shifted on-screen displays of a vote for Kerry to a vote for Bush."²¹

Affidavits have also been obtained in Mahoning County describing how voting machines highlighted the choice for Bush before the voter entered a choice. "The legal team has been told by a computer expert that this may mean the machines were pre-set on a Bush vote as a default."²²

In Coshocton County, when write-in votes were run through the tabulator they automatically registered a vote for Bush.

Vote hopping is believed to have occurred in at least 36 counties. "In Ohio it is believed that at least 130,656 votes were deducted from Kerry-Edwards and added to Bush-Cheney."²³

¹⁹Quoted in Associated Press, 11 December 2004.

²⁰Quoted in Grieve, 21 December 2004.

²¹Fittrakis, Rosenfeld, and Wasserman; 3 January 2005.

²²Fittrakis, Rosenfeld, and Wasserman; 28 December 2004.

²³Saucier, 24 December 2004.

More Votes than Voters.

Other counties and precincts have tallied more votes than the number of people who actually voted. 29 precincts in Cuyahoga County registered more votes than voters. In the entire Cuyahoga County there were 93,136 surplus votes. Gahanna precinct in Franklin County tallied 4,258 votes for Bush, but only 638 people voted in that precinct. When this obvious discrepancy was corrected, the certified vote for Ohio showed Bush leading by 3,893 fewer votes than was published as the unofficial count. Monroe Township's Precinct AAV in Perry County had 266 voters signed in but the county board of elections reported 393 votes cast in that precinct. Sandusky County had thousands of ballots double-counted. Congressman Conyers observed that "many questions remain as to whether this kind of malfunction happened in other areas of Ohio."²⁴

Reports also indicate that some voters were allowed to vote twice. In Reading S precinct of Perry County, the turnout was 360 voters and 33 absentee votes – 393 votes total. The official tallies show 489 votes were cast. The sign-in book showed at least two ballot stub numbers next to some voters' names, implying they were allowed to vote twice.

Stuffing the Ballot Box.

Some precincts in Miami County showed an unbelievably high voter turnout. Two of its precincts reported voter turnouts of 94.27% and 98.55%. After 100% of the precincts had reported in Miami County, the vote total for president was 31,620. Of those Bush received 20,807 and Kerry got 10,724. Then something mysterious and inadequately-explained happened. Another 18,615 votes appeared from someplace and Bush got 16,000 of them. That would mean Kerry could not have received more than 2,615 additional. Yet Bush's certified percentage of the vote from Miami County decreased 0.03% (from 65.80% to 65.77%) and Kerry's stayed exactly the same at 33.92%. Whoever padded the votes forgot to change the percentages to agree.

Look at the math. Bush's original number of votes (20,807) is exactly 65.80% of the originally reported total (31,620). Likewise, Kerry's original 10,724 votes are exactly 33.92% of the original total.

Then the mysterious 18,615 votes raised the total to 50,232 – the new total. Bush's 16,000 new votes raised him to 36,807 which is 73.27% of the new total (not 65.77%). Kerry's votes being raised by not more than 2,615 comes to about 13,329 – that is 26.53% of the new total (not 33.92%) This discrepancy in reporting and certification, along with the ultra high voter turnout reported and certified, raises serious suspicions that someone is padding the ballot box by voting for people who did not show.

Phantom Voters.

Another perplexing incident relates to the Perry County voters list. Of the exceptionally-high 91% registration of voting age residents, many do not even have a signature on file. 3,100 of those voters registered on the 8th of November 1977, which isn't even an election that year. If it had been, November 8th would have been election day, not a time when voters could register.

²⁴Conyers Letter to Blackwell, 2 December 2004..

Terrorist Scares.

Warren County officials claimed they had received a terrorist threat rated at 10 (on a scale from 1 to 10) from the FBI, so they locked down the county administration building while tabulating the votes from all precincts. Neither media nor poll watchers were allowed to observe. No other counties saw the need for a lockdown. Compounding this contradiction is testimony from county officials indicating the lockdown was planned days before the election. Four US Congresspersons stated that “transparent election procedures are vital to public confidence in electoral results. Moreover, such aberrant procedures as practiced in Warren County only create suspicion and doubt that the counting of votes was manipulated.”²⁵

Spoiled Ballots.

Spoiled ballots are most frequently caused by punch-card machines which punch out chads to create holes in the ballots next to the voters’ choices. These perforated ballots are then processed by optical scanners. If the chad is improperly punched out (hanging chad or dimpled chad), the optical scanner rejects that ballot. Such a rejected ballot is called spoiled. Some 77,000 of Ohio’s 96,580 spoiled ballots were from punch-card machines.

If there are no votes (undervotes) or too many votes (overvotes) for candidates, the ballot is also spoiled. If there is no valid selection for president the ballot is considered an undervote. Two precincts in Montgomery County each had 25% of their ballots – about 6,000 ballots – spoiled because of undervotes. That means that 6,000 people stood in long lines at those two precincts and then failed to vote for president in this hotly contested election. Is that possible? Ohio’s total of 96,580 spoiled ballots is 1.7% of the votes cast. That is almost 1 in 50 votes spoiled.

In addition to that, looking at it from another angle, precincts that were predominately democratic had 75% more undervotes than those that were mostly republican. In ZIP code areas of Cleveland where about 85% of the people are black, there was one undervote for every 31 ballots cast. In predominantly white ZIP codes the undervotes were one in 75 votes. Black (predominantly democratic) areas had more than twice the spoilage of white areas.

DISENFRANCHISEMENT OF MINORITY VOTERS

DIn addition to vote-counting irregularities, there were apparent attempts to suppress voting in minority and poorer areas. The second area of concern expressed by the House Judiciary Committee democratic staff pertains to frustrating minority voters. They wrote: “Consistent and widespread reports indicate a lack of voting machines in urban, minority, and democratic areas, and a surplus of such machines in republican, white, and rural areas. As a result, minority voters were discouraged from voting by lines that were in excess of eight hours long. Many of these voters were also apparently victims of a campaign of deception where flyers and [phone] calls would direct them to the wrong polling place. Once at that [wrong] polling place, after waiting for hours in line, many of these voters were provided with

²⁵Conyers Letter to Blackwell, 2 December 2004..

provisional ballots after learning they were at the wrong location. These ballots were not counted in many jurisdictions because of a directive issued by some election officials ...'²⁶

Rejected Voter Registration Forms.

Ohio Secretary of State Blackwell issued another directive 7 September 2004. This one commanded county election officials to reject all voter registration forms that are not “printed on white, uncoated paper of not less than 80 lb. text weight.”²⁷ Any voter registration not printed to this specification was treated as an application form for the correct registration form. The correct form was then mailed to the applicant. How many were filled out and returned is questionable.

Blackwell rescinded this order on September 28th but in the interim the counties rejected an unknown number of valid registration forms. In addition, some counties didn't even know the directive had been rescinded until they read about it in the media.

An unknown number of voters were disenfranchised because they thought they were already registered and didn't return the new 80-lb. forms, or just never got around to it. When those voters went to vote they would have to do so on a provisional ballot that was eventually rejected and never counted because their name never got on the registration list.

Short On Voting Machines And Long On Lines.

Franklin County admits that it had 68 voting machines that were never placed in polling stations on election day. Records show that Franklin County has 2,866 voting machines. The company that delivered the machines to the polls documented 2,741 machines delivered throughout the election day. That adds up to 125 machine, not just 68, that were not placed while lines had a two to seven hour wait in the inner city of Columbus. In addition, 77 machines malfunctioned during election day, resulting in longer waits in line. And still further, Franklin County records specify the number of machines that were delivered “By Close of Polls,”²⁸ although the distribution is uncertain. Anyway, what matters is not how many voting machines were operating when the polls closed, but how many were available throughout the day, especially during to morning and noon rush hours.

An analysis of Franklin County showed a pattern of delivering fewer machines to the democratic urban areas of Columbus and more to the predominantly republican suburbs. Observers counted only three voting machines at seven out of eight polling stations. One at 1393 E. Broad Street had five machines during the 2004 primary election. Another precinct at Douglas Elementary School had four during the spring primary. Still another precinct serving Kenyon College reported only having two voting machines with the wait in line exceeding eight hours. In the Columbus area of Franklin County, the average was “4.6

²⁶Conyers Letter to Blackwell, 2 December 2004..

²⁷Quoted in Conyers Letter to Blackwell, 2 December 2004..

²⁸Quoted in Conyers Letter to Blackwell, 2 December 2004..

machines per 1,000 voters in Mr. Bush's 50 strongest precincts, compared with 3.9 in Mr. Kerry's 50 best.²⁹

Voting machines are usually allocated by the number of voters in a precinct. There are only so many hours a precinct is open and each voter takes a certain number of minutes, depending on the length of the ballot. The equation for determining the number of voting machines necessary is:

(NUMBER OF VOTING MACHINES IN PRECINCT) X (MAX. VOTES PER HOUR PER MACHINE) X (HOURS PRECINCT IS OPEN) = (TOTAL NUMBER OF VOTES PRECINCT CAN PROCESS)

Therefore, if each voter takes five minutes, that allows a machine to process 12 votes in an hour. If the polls are open 12 hours, that machine can handle 144 voters. If there are 600 voters in a precinct, that precinct should have at least 4 voting machines. The desired allocation of voting machines is one for every 150 voters.

Voting machines often break down, further aggravating the long lines. A machine in Bexley, Ohio went down and they could not get the cartridge out of it at the end of the day. But the poll records later showed that machine had 40% of the votes for Bush, the other two were at 30%.

State voter turnout in Ohio was 69.86%. In democratic counties with at least three reported long line incidents, which contain 34.34% of registered voters, the average turnout was 66.01%. Elsewhere the turnout averaged 71.87% – a difference of 5.85%.³⁰ People do not get their names on the sign-up sheet at the polls if they don't make it through the line. Their vote won't be counted because it was never cast.

Harassment, Deceptive Information, And Polling Station Deficiencies.

Dissuading potential voters from casting their vote takes many forms. There are reports of moving voting stations from large places like auditoriums and gymnasiums, where many people can fit in and stay warm, to smaller places where prospective voters had to wait outside in the rain and cold. If it takes hours in line there are some people who cannot stand the hardship. Also, in some precincts people who had not yet entered the door by the poll's scheduled closing time were told to go home because they would not be able to vote. In some locations a court order had to be obtained to make the polls stay open longer. All of this dissuaded some people from voting.

Provisions for handicapped people were often lacking, such as ramps instead of steps. Some steps were reported to be so steep that even agile elderly persons had a difficult time negotiating them. Others didn't have railings to hold onto. Voting machines were often too high for a person in a wheelchair to reach, even if there was adequate wheel chair access. At some voting stations where observers offered to help handicapped persons cast their ballot, they were ordered not to. Many handicapped people were unable to vote under these conditions.

Ohio does not have bilingual ballots. Polling station had voting instructions posted only in English, if posted at all. Instructions on the voting machines were all in English. Poll workers are usually not bilingual. Under

²⁹Dao, Fessenden, and Zeller; 24 December 2004.

³⁰Statistics from Wikipedia.

these circumstances numerous minority voters figure they can't read the ballot, and know they won't get any help, so they don't even bother going to the polling station. Cleveland has heavily-democratic Hispanic wards with abnormally low voter turnout – 8 precincts had a turnout of less than 30% of registered voters, three of them less than 20%. There were three entire wards, consisting of many precincts each, that had a turnout less than 50%. Toledo, also, had abnormally low voter turnouts in minority areas. The state average was almost 70%.

Many polling stations opened late for one excuse or another. This contributed to delays during the early rush hour and many people were unable to vote because they had to go to work or take care of other responsibilities. Electronic voting machines failed during the day resulting in lengthy waits.

Just prior to the election there was a flurry of fraudulent flyers on official-looking stationary telling democratic voters the wrong voting station to go to. They were mailed or left as doorknob hangers giving false information about polling stations being moved. Some in Franklin County told people they could vote November 3rd – the day after the election. Phone calls were also made to direct voters to the wrong polling station.

Sometimes the names weren't on the lists where they were supposed to vote. A voter in Westerville, Ohio testified that his wife's name was on the precinct voting list but his wasn't. They had both been voting at that same place for 5 years.

Harassment of voters waiting in line was another frequently reported action. *Newsday* reports that “untold thousands were deprived of their right to vote by intimidation, inequalities, and systemic problems at the polling place and decisions made by election officials that placed barriers between people and the ballot box.”³¹ One poll worker described a presiding judge at her station who was very judgmental, and turned people away if their names were not on the list for that precinct. A voter in Columbus reported a line 3 hours long and only three voting machines – this station used to have 4 or 5 machines. This voter stuck it out but reported 27 to 30 people leaving while he was there. A polling judge was rushing people through, allowing them only 5 minutes to vote and telling them when they only had a minute to go.

Some precinct workers would require extensive identification for voting. Frequently the demand to show identification was randomly applied. Sometimes used selectively against blacks and minorities. Some voters could not vote because they lacked the ID demanded.

Another instance took place in Columbus where a voting precinct – the Driving Park Rec Center – had only 50 parking places. There were hundreds of voters there and most were parked along the grass strip around the Center. Two city employees drove up and started harassing people about illegal parking. One witness said he saw at least 20% of the people leave.

Republican challengers arrived at precincts early. This was the case in two precincts in Bexley, Ohio. A democratic observer said he had to ask a woman challenger several times to remove herself from sitting at the table with election workers. She wasn't challenging anyone, she was just kibitzing and talking, and generally interfering with the poll workers.

³¹Neas, 24 November 2004.

Vote challengers and observers were often aggressive and obnoxious – trying to intimidate voters to cause delays or cause some to leave. In some places voters wore T-shirts emblazoned with the logo “Vote or Die.” They were told they could not vote if they wore that shirt. Other vote challengers told people in line outside the door that the doors would close at 7:30, so they might as well go home.

There were many complaints that absentee ballots arrived too late, or not at all. Secretary Blackwell gave orders to election officials that people who had requested absentee ballots should be turned away if they tried to cast a regular ballot. This directive was later overturned by a judge but only after an unknown number of people had been refused a regular ballot. One person in Hamilton County who did not receive his absentee ballot and was turned away from casting a regular ballot testified that after the election he checked with the county board of elections. The records showed that a counted ballot had been cast by another person on his absentee ballot.

Another person in Bexley, Ohio testified that, although he has lived at the same address for 18 years, he couldn't vote on an absentee ballot because his application showed the wrong address. Ironically, the notice that he had the wrong address was sent to the right address.

580 absentee votes were found in Trumbull County that were not logged into the poll records. In Cleveland, unknown volunteers began knocking at people's doors offering to deliver absentee ballots to the election office for them. Some absentee ballots in Hamilton County did not have Kerry's name on them – it was claimed that Kerry's name was accidentally removed when they removed Nader's name from the ballot.

A disinformation campaign was conducted before the election telling ex-felons they could not vote.

Provisional Ballots.

Provisional ballots were mandated by the Help America Vote Act of 2002, but how their use is administrated and what makes them valid has been left up to individual states. If, for whatever reason, a person's name is not on the sign-up sheet when he or she goes to the polls to vote, that person can request a provisional ballot which is sealed and held until his or her name can be checked on the voter roster. If the name is found, the ballot is counted. If not, the ballot is declared invalid. The person who cast that ballot never knows if his/her vote was counted or invalidated.

Just a few weeks before the November 2nd election, Secretary Blackwell issued an order directing election officials to only count provisional ballots that are cast in the correct precincts for the voters' home addresses. So the voters who had been fraudulently directed to the wrong polling station, and possibly after standing in line for hours, would not find their name on the voting roster. They then had the choice of standing in another line at the proper location, maybe, or asking for a provisional ballot which would never be counted because of Blackwell's directive. Some poll workers have wrongly told voters they can cast a provisional ballot at any polling station. But when these ballots were checked, if they were cast in a precinct other than the one for their home addresses, they were not counted.

Blackwell's directive, upheld by a court order, was being carried to a ludicrous extreme. Officials refused to count provisional ballots cast at the correct polling place but at the wrong table in that polling place.

Some polling places contain multiple precincts which were at different tables. 400 such voters were disenfranchised in Hamilton County alone as a result of Blackwell's directive. In excess of 300 did not have their votes counted in Athens County.

Other people who had their voter registration rejected because it was on the wrong weight of paper, could not find their name on the list when they went to vote. Consequently they made out a provisional ballot. But in checking these provisional ballots, election officials did not look at all the voter registration cards that were rejected because of the wrong kind of paper. These votes were lost.

There were reports of voting stations running out of provisional ballot forms, or not having them at all. People who went to the proper precinct but failed to find their names on the list, didn't even have the chance that their provisional ballot would be counted. They didn't get the opportunity to fill one out in the first place.

Ohio had a total of 156,977 provisional ballots from the November 2004 election. Of those, 121,598 were deemed valid and counted in the certified tally. That leaves 35,379 provisional ballots that were not counted. An unknown number of those were cast by legal voters but at the wrong precinct, to which they had been fraudulently directed.

Getting provisional ballots from the voting station to the county headquarters was another tricky endeavor. The head polling judge at one station, described as obnoxious, attempted to take the provisional ballots himself but one poll worker insisted on accompanying him. She described it as a horrible experience which eventually involved the police to escort the polling judge to the board of elections. But she was in awe at the fact that their judge, a republican, wouldn't allow a democrat to accompany him downtown.

An democratic election observer at Precinct 4A in Bexley, Ohio, said the provisional ballot box was sealed before he had a chance to count them.

When checking provisional ballots, election officials usually rely on the computerized voter list which could contain errors and misspellings. They do not go back to look for original registration cards.

There is even disparity among Ohio's counties on how provisional ballots are checked. Some check back several years to validate those ballots, others only check recent records. For instance, "Cuyahoga County, a democratic bastion that includes Cleveland, did not check older records, and its rejection rate for provisional ballots was about 35%. The state average was 27%."³²

POST-ELECTION CHALLENGES

Following the November 2nd election there were widespread cries of shock and outrage. Across the nation there were over 30,000 reports of voting irregularities and fraud. Thousands of touch-screen machines were reported to have malfunctioned in one way or another. Perhaps a million minority voters were prevented from casting a ballot through no fault of their own. The irony of all this is that virtually every election irregularity, every computer glitch, every instance of fraud changed the vote count to favor George W. Bush. People across the country are demanding explanations and rectifications.

³²Dao, Fessenden, and Zeller, 24 December 2004.

Because Ohio was the swing state and experienced so many “irregularities,” a flurry of activity has erupted in that state since Bush won its 20 electoral votes. Some of it is focused on Ohio to address problems encountered there. Others are more long-range to correct America’s election system to work as it is Constitutionally mandated. First, those focusing on Ohio.

The Ohio Vote Recount.

Since the vote in Ohio was not close enough to demand an automatic recount, only candidates in the election can request one after raising a prescribed amount of money to help defray the costs. The minor presidential candidates – David Cobb of the Green party and Michael Badnarik of the Libertarian party – have done this. Lawyers for those parties filed for a recount in Ohio’s 88 counties.

Republican election officials in Ohio were far from cooperative, even obstructive, in getting the recount started. “Supervised by Secretary of State Kenneth Blackwell, co-chair of the Bush-Cheney reelection campaign, Ohio simply ignored all challenges to the vote count and all requests for a recount. ... while every legal remedy to determine who won Ohio’s presidential election was being pursued, the state’s republican political machine blocked the rights of those seeking to verify the vote.”³³ Finally, on December 10th, Cobb and Badnarik filed a lawsuit in the US District Court for the Southern District of Ohio, moving for “a temporary restraining order and preliminary injunction requiring counter-defendant Ohio Secretary of State Blackwell to prescribe and require the eighty-eight Boards of Election to use adequate, fair and uniform standards and instructions for conducting the state-wide recount of Ohio to ensure that they adequately, fairly and finally determine the results of the 2004 election for the President of the United States.”³⁴

There were still problems with the lawsuit. To convince a judge that a recount is important the parties filing must show two things: 1) that there is irreparable harm and 2) that there is reasonable chance for success to merit the recount. The Green and Libertarian parties could show the first but hadn’t a chance to show any success from a recount because neither of them would win the presidency no matter how it came out. But then on December 27th Kerry finally came forward and filed a motion in the federal district court, as a plaintiff in the lawsuit. The motion, titled “Motion Of Intervenor-Defendant Kerry-Edwards 2004, inc. For a Preservation Order And For A Leave To Take Limited Expedited Discovery.” The preservation part was to preserve all evidence – ballots and voting machines – for the recount. The discovery part was to make available sworn dispositions from Triad technicians. Suspicions of Triad tampering with the vote will be enlarged upon below.

Kerry joining the lawsuit, albeit in one county only, changed the whole picture as far as meeting the second requirement regarding a chance of success. Kerry would have indeed won the presidency if the recount showed that he had won Ohio.

Rules for the recount in Ohio are that 3% of the votes in each county will be hand counted. If the hand count agrees with the machine count, no further recount in that county is needed. However, if there is a difference between the hand count and the machine count, then every vote in that county must be hand

³³Fittrakis, Rosenfeld, and Wasserman; 15 December 2004.

³⁴National Voting Rights Institute, et al. v. Delaware County Board of Elections and J. Kenneth Blackwell, 10 December 2004.

counted. The county boards of elections are to pick out one or two precincts in the county to comprise that 3%. As it turned out, they picked the precincts where the hand and machine counts would agree.

Several suspicious events occurred prior to the recount which began on December 14th. It should be noted that a company named Triad Government Systems Inc. (Triad) manufactures the punch-card voting machines and writes the computer program to tabulate punch card votes in 41 of Ohio's 88 counties.^{35, 36} Triad is controlled by the Rapp family. Todd Rapp, its founder, is a consistent contributor to republican causes and donated to Bush's presidential campaign.³⁷ Brett Rapp is the current president of the company.

In **Hocking County**, "Sherole Eaton, a deputy director on the Board of Elections in Hocking County" explained that on "Friday, December 10, Michael Barbian, Jr., a representative of Triad GSI unilaterally sought and obtained access to the voting machinery and records of Hocking County, Ohio, modified the computer tabulator, learned which precinct was planned to be the subject of the initial recount and made further alterations based on that information, and advised the election officials how to manipulate the machinery so that the preliminary hand recount matched the machine count."³⁸

Eaton said in her affidavit that she asked Barbian why he was visiting. He replied, "to check out your tabulator, computer and that the attorneys will be asking some tricky questions and he wanted to go over some of the questions they may ask." She hung up his coat when he arrived and remarked that it was very heavy. Possibly that was because he had brought some computer parts. Eaton relates that he then proceeded to the room where the computer and tabulator were kept and turned them on. He said the computer wouldn't boot, that the battery was dead and the stored information was gone.³⁹ But he said he could "put a patch on it and fix it." Then he proceeded to dismantle the machine and called his office "to get information to input into our computer." Barbian also took the spare computer apart. By this time Eaton was getting worried that the computer might act up during the recount. Barbian assured them that he could fix it OK,.

After finishing on the computers, Barbian asked which precincts would be counted for the 3% recount. Eaton told him Good Hope 1 #17. He then went back into the computer/tabulation room. When he came out he said the computer was ready but instructed them not to turn it off so the battery would charge up. Barbian gave them no advise on the questions attorneys might ask other than to have their prosecuting attorney present to take care of the legal information.

³⁵Triad also designed the famous butterfly ballot used in Florida during the 2000 presidential election.

³⁶The election challenge legal team is investigating ties between Triad and Tallahassee-based Datamaxx, which provides software for public safety and police agencies in Ohio. Datamaxx produces several remote-access devices for accessing mobile and hand-held computers. Such devices could be a threat to election security.

³⁷Rapp is not a large contributor by some standards. His donations range between \$250 and \$500.

³⁸Conyers Letter to Brock and Beal, 15 December 2004.

³⁹This was an older model Dell computer and the battery referred to was apparently a rechargeable battery on the motherboard that supplied power to the booting software. What Triad called a CMOS error (see Zetter, 20 December 2004). The information lost was hard drive specifications needed for the computer to boot up, not the voting data.

Before leaving, Barbian gave Eaton and Lisa Schwartz, the county director of elections, some tips on how to avoid a full recount. He pointed out that all the numbers were hard to remember in order to make the hand and machine recounts agree. “He advised Lisa and I on how to post a ‘cheat sheet’ on the wall so that only the board members and staff would know about it and what the codes meant so the count would come out perfect and we wouldn’t have to do a full hand recount of the county.”⁴⁰

This behavior appears to violate provisions of federal law⁴¹ as well as the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the U.S. Constitution. Additionally, at least four provisions of the Ohio Revised Code make it a felony to tamper with or destroy election records or machines.⁴² Another provision of the Ohio Revised Code specifies stringent provisions for witnesses and access to election materials and machines during periods of canvassing.⁴³ All of this provides a *prima facie* case for fraud.⁴⁴

Triad president, Brett Rapp, denied any vote tampering by Barbian, saying he went to Hocking County to set the tabulator to only count votes in the presidential race. “All Ohio counties had to do that,” Rapp said, not just counties using Triad software.⁴⁵ He said Barbian installed no patches (meaning in computer jargon an alteration to the software). But both Eaton and Schwartz said they definitely heard Barbian say he installed a patch. Neither was Rapp’s explanation convincing on why Barbian asked which precinct would be used for the initial recount. And the “Cheat List” was unexplained.

Iowa’s chief examiner of voting, computer scientist Doug Jones of University of Iowa, said that even if there was no vote tampering, someone having access to tabulating equipment before the recount without supervision was a violation of security provisions and possibly Ohio election laws. He said the “tabulating room should be viewed as a secure computer systems site where nobody goes in there unsupervised, ...” That was not the case. Eaton said that Barbian’s visit wasn’t unusual because Triad “ran” the primary and general elections in Hocking County this year. She explained: “A lot of the [election] boards hire the company that [makes] their program to come in on election night and do all the computer work and run

⁴⁰Unless otherwise specified, quotations and information in this section are from Eaton Affidavit, 13 December 2004.

⁴¹Title 42 U.S.C. §1973 pertains to enforcement of voting rights.
Title 42 U.S.C. §1974 pertains to federal election records..

⁴²See Ohio Revised Code Title XXXV Elections, §3599.24; (Interference with conduct of election); Ohio Revised Code Title XXXV Elections, §3599.27 (Possession of voting machine, tabulating device, or marking device prohibited; tampering; penalty); Ohio Revised Code Title XXXV Elections, §3599.33 (Fraudulent writing on ballots or election records); and Ohio Revised Code Title XXXV Elections §3599.34 (Destruction of election records before expiration of time for contest).

⁴³See Ohio Revised Code Title XXXV Elections, §3599.32 (Violation of election official not otherwise specified).

⁴⁴Again, Ohio Revised Code Title XXXV Elections; §3599.42 states in full: “A violation of any provision of Title XXXV [35] of the Revised Code constitutes a *prima facie* case of fraud within the purview of such title.

⁴⁵Quoted in Zetter, 20 December 2002.

the tabulators and do that type of thing. We pay them for that.” To that revelation Jones said: “If access is being permitted that even allows for manipulation, that’s a serious problem.”⁴⁶

Another experience with Triad occurred in **Madison County**. When county officials were asked to provide voting records, those officials had them sent directly from Triad. An e-mail dated November 29th from Brandon Sandlin of Triad read: “Hello to all in Madison County! Attached you will find the cumulative report (oh49unov.pdf) with over and under votes reported as well as the official abstract (oh49abs.pdf). These reports may be printed for your records and then mailed to the state along with your other certification reports.”⁴⁷

Congressman Conyers has asked the FBI and Ohio Attorney General to impound the tabulation computers and investigate suspicions of election tampering.

The recount of 3% in **Hocking County** was accomplished on December 14th using a different precinct. No discrepancy was found with the machine count.

A hearing was held by the Hocking County Board of Elections on December 20th in which Triad president Rapp was asked about the “cheat sheets.” He replied: “Remember, the purpose was to train people on how to conduct their jobs ... and to help them identify problems when they conduct their recount ... **If they could not hand recount the ballots correctly, they would know what they needed to look for in the hand count.**”⁴⁸

Later in the hearing an election observer asked Barbian why he felt it “was necessary to point out to a team counting ballots the number of overvotes and undervotes when the purpose of the team is to in fact locate those votes and judge them?” Barbian replied: “It’s an easy mistake as you’re hand counting ... It’s just human error. **The machine counts it right.** We’re trying to give them as much information as possible to help them out.”⁴⁹

Then another interviewer asked Barbian a clarification question: “**You were just trying to help them so that they wouldn’t have to do a full recount of the county, to try to avoid that?**” To which Barbian responded: “**Right.**”⁵⁰

The answers to the questions asked certainly indicates there was an effort to circumvent the Ohio recount law. And Hocking County is only one of the 41 counties in which Triad does business.

Another major incident occurred in **Greene County**. On Thursday, December 9th, two certified volunteers for the Ohio recount team – Joan Quinn (a retired attorney) and Evelyn Roberson (a retired election official) – made a preliminary visit to the county board of elections office in Xenia, Ohio, and discussed the

⁴⁶Quotations in this paragraph are from Zetter, 20 December 2002.

⁴⁷Quoted in Fitrakis, Rosenfeld, and Wasserman; 28 December 2004.

⁴⁸Quoted in Conyers Letter to Rapp and Barbian, 22 December 2002. (emphasis in original.)

⁴⁹Quoted in Conyers Letter to Rapp and Barbian, 22 December 2002. (emphasis in original.)

⁵⁰Quoted in Conyers Letter to Rapp and Barbian, 22 December 2002. (emphasis in original.)

recount with Carole Garman, the director of elections. They were told that the county used punch-card ballots and there had been 18,056 new registered voters since 1 January 2004. Garman also identified Central State University and four precincts (numbers 224, 275, 354, and 355) as the primarily low income areas. Quinn and Roberson paid for and received copies of a CD containing voter information and history, the county's official cumulative report, and the county's general election results by precinct. When they reviewed this information that evening they "crunched the numbers, and found a suspicious pattern. Although the average voter turnout in Greene County was almost 77%, in the four precinct that contained the largest number of minority voters, voter turnout was reported as follows: Precinct #354 (44%), #275 (44%), #355 (50%), and #224 (55%)."⁵¹

On Friday, December 10th Roberson and Quinn returned to the board of elections office and requested the voter signature books for the four low-income precincts identified the previous day. They were going over the list of voters who had not voted and broke for lunch at 3:15 pm. During that time they phoned Katrina Sumner, the recount coordinator for Greene and Clark Counties. Sumner advised them that they were entitled to free copies of the vote signature books. Upon returning to the election headquarters they requested free copies but Director Garman didn't agree. She phoned Secretary of State Blackwell's office and spoke with Pat Wolfe, the state election administrator. "After some conversation Garman hung up the phone and informed us that Secretary of State Blackwell had ruled that all voter records in the State of Ohio were 'locked down' and that they now were 'not considered public records'."⁵²

This appears to violate at least two sections of Ohio election law.⁵³ Furthermore, violations of this election code are prima facie evidence of election fraud."⁵⁴

Garman then physically removed the vote signature books from Roberson's hands and took them out of the room. When Garman finally got in touch with the county prosecutor, he agreed with Blackwell. The Ohio attorney general also tentatively agreed with Blackwell.

That is not the end. The next day, Saturday, December 11th, Quinn and Roberson returned to the board of elections office to find cars in the parking lot but nobody was in the office. Yet the office was unlocked with no security alarm, and the voting records whisked from the hands of Roberson – the vote signature books – were lying there unguarded. Joann Quinn stated that "the whole Board of Election building, which

⁵¹Quinn Declaration, 13 December 2004.

⁵²Roberson Declaration #2, 12 December 2004.

⁵³Ohio Revised Code Title XXXV Elections; §3503.26 states in part that "the board of elections shall maintain and make available for public inspection and copying at a reasonable cost all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of voter registration lists,..."

Ohio Revised Code Title XXXV Elections; §3599.161 states in part: "No director of elections, deputy director of elections, or employee of the board of elections designated by the director or deputy director shall knowingly prevent or prohibit any person from inspecting, under reasonable regulations established and posted by the board of elections, the public records filed in the office of the board of Elections."

⁵⁴Ohio Revised Code Title XXXV Elections; §3599.42 states in full: "A violation of any provision of Title XXXV [35] of the Revised Code constitutes a prima facie case of fraud within the purview of such title.

contained all the election records of Greene County, had been left totally open and unguarded. All the voting records that had been denied to us because they were 'locked down' and 'now no longer public records' were in that office totally unsecured! Absolutely incredible! The 'chain of custody' of those records had to be totally compromised!"⁵⁵

There were also locked and sealed boxes, the size of punch card ballots, sitting there unguarded. Apparently they had lain there all night in the unlocked office where anyone could have tampered with or switched them. They called Katrina Sumner, the recount coordinator, who arrived later and audio-video taped the election material and computers left unguarded. Deputy Director of Elections Lynn McCoy said "they would have their computer technician check over their computers on Monday in case they had been tampered with."⁵⁶ McCoy also indicated their computer technician was from Triad.

In **Monroe County**, Precinct 11 was chosen for the preliminary 3% hand recount because it was only four votes over that number. The hand count did not match the machine count. The cards were patted down, flexed, and shuffled to improve the feed into the machine. No two machine runs of the count were the same and none matched the hand count.

Rather than proceed with a full hand count of all the ballots, as they should have done according to Ohio law if there were such a discrepancy, the board of elections "voted to suspend the recount and 'continue meeting' tomorrow (Wednesday 12/15) at 9:30 AM with [a] fixed machine or new machine from Triad."⁵⁷

In **Lucas County**, witnesses testified at a citizens' hearing in Toledo on December 14th that a Diebold team reprogrammed the Diebold-leased opti-scan voting machine at the Lucas County (Toledo) board of elections headquarters on the day of the recount. "Catharine Buchanan, a democratic party observer, testified that one of the sample precincts – Sylvania Precinct 3 – had the programming card reprogrammed prior to the ballot testing. While the observers watched, nearly seven out of fifteen test ballots were rejected at least three times before the machine would read them."⁵⁸ While the reprogramming was going on, election observers were not allowed to look at the sheets that had target test results on them, or the reprogramming of the machines used for the recount.

On December 28th, the recount was complete. Bush had gained 449 votes and Kerry 734. Most of the additional votes came from hanging chads which broke loose when again fed through the machine. This only cut Bush's popular vote lead in Ohio by 285 votes – to 118,590. Yet only 3% of the votes had been recounted. Although Ohio law specifies the 3% of votes in each county shall be chosen at random, they were hand-picked by Blackwell. Informed observers "have noted many of the precincts selected were mostly free of the irregularities they are seeking to investigate, while many contested precincts were left uncounted."⁵⁹ Considering that those carefully-selected precincts produced 1,183 additional votes not

⁵⁵Quinn Declaration, 13 December 2004.

⁵⁶Roberson Declaration Addendum, 14 December 2004.

⁵⁷Kuznik E-Mail, 14 December 2004.

⁵⁸Fittrakis, Rosenfeld, and Wasserman; 15 December 2004.

⁵⁹Fittrakis, Rosenfeld, and Wasserman; 31 December 2004.

previously counted (734 more for Kerry and 449 additional for Bush), one wonders what a recount of contested precincts would reveal.

There is still “bitter dispute over official certification of voter turnout numbers” and “over the republican secretary of state’s refusal to testify under subpoena, over apparent tampering with tabulation machines, over 100,000 provisional and machine-rejected ballots left uncounted, over major discrepancies in certified vote counts and turnout ratios, and over a wide range of unresolved disputes that continue to leave the true outcome of Ohio’s presidential vote in serious doubt.”⁶⁰

On Monday, 13 December 2004, as members of the electoral college gathered across the nation to finalize the presidential vote, Ohio’s 20 delegates cast their votes for Bush.

Based on the results from the Conyers hearings, ten democratic US congresspersons on that same day, December 13th, sent a letter to Ohio Governor Bob Taft, the Ohio House Speaker, and the Ohio Senate President asking them to set a later date for Ohio’s electoral vote or consider it provisional until the disputes are resolved. The congressmen pointed out that Secretary of State Blackwell delayed his certification until the last possible deadline – December 6th – making it impossible to complete a recount before the electoral vote, particularly when the counties were also delaying the recount to the limit of state law. (It actually took a court order to get the recount started the day after the electoral vote.) Under these conditions the electoral vote cannot be valid.

The letter pointed out that Article II of the US Constitution “provides that ‘each state shall appoint, in such manner as the legislature thereof may direct, a number of electors,’ clearly giving the power to the Ohio legislature to finalize Ohio’s election results. It appears, unfortunately, that Secretary Blackwell may unlawfully be attempting to have his own results certified. ... Had Secretary Blackwell not postponed his results so long, it is likely that any recounts would have been completed earlier and we would not be writing to you today.”⁶¹

Furthermore: “No accounting in the count or recount has been made for voters turned away at the polls due to insufficient voting machines, computer malfunctions, tampering with registration data, mishandling of absentee ballots, misinformation and intimidation, or a wide range of other problems.”⁶² In addition, 14.6% of Ohio’s votes were cast on touch-screen machines with no verifiable paper trail. A more penetrating challenge of the election as a whole – a more profound investigation into how it was conducted and to what extent democratic principles were observed – is required to fully determine the fairness of the outcome. That was the aim of the election challenge lawsuit.

The Election Challenge Lawsuit.

Only by challenging the entire election in Ohio as a fraud, as was done in Ukraine, can the unmasking of criminal activity be accomplished. Lawyers for numerous concerned citizens filed a brief on December 13th

⁶⁰Fittrakis, Rosenfeld, and Wasserman; 31 December 2004.

⁶¹Taft Letter, 13 December 2004.

⁶²Fittrakis, Rosenfeld, and Wasserman; 31 December 2004.

with the republican-dominated Ohio Supreme Court contesting the state's vote certification of Bush and Cheney for president and vice president, and also contesting the election of Thomas Moyer as chief justice of the Ohio Supreme Court.⁶³ In the legal filing the challengers stated: "While the existence of anomalies could possibly be explained by human error or technical malfunctions, the fact that, in every case in Ohio known to contesters, the error favored the Bush-Cheney ticket, strongly indicates manipulation or fraud."⁶⁴ Petitioners identified exactly when they thought the fraud had occurred in the exit polls – at about 12:30 AM on November 3rd when Kerry's predicted win was changed to Bush leading. Petitioners also allege that 130,656 votes for Kerry, in 36 counties, by some unexplained reason jumped to Bush (based on comparing the presidential race with Moyer's state supreme court race against a democratic challenger who got more votes in several counties than did Kerry).

On December 16th, Ohio Chief Justice Thomas Moyer, his own reelection campaign involved in the lawsuit, threw out the complaint because it challenged two elections: one for the presidency and the other for Ohio's chief justice. The complaint challenging the election of Bush and Cheney was again filed on December 17th.⁶⁵

Defendants named in this case are George W. Bush, Richard B. Cheney, Karl Rove (chief strategist for the Bush-Cheney campaign and White House Special Adviser), the Bush-Cheney 2004 Committee, J. Kenneth Blackwell (Ohio Secretary of State), and the 20 Ohio electors committed to Bush and Cheney. They are being accused of being part of "the pattern of vote fraud and discrimination ... which operated to deprive numerous Ohio citizens of their Constitutional and statutory rights."⁶⁶ The Claim For Relief cites the altering of exit polls to favor Bush and the election problems listed in the body of this paper and in Appendix-B. The complaint charges further that Kerry actually won Ohio by 149,326. That is because 130,656 votes cast for Kerry throughout the state were changed and given to Bush.

Chief Justice Moyer, with an obvious conflict of interest, refused to recuse himself from the case. Moyer and others in the republican-dominated Ohio Supreme Court voted to protect Secretary of State Blackwell from giving depositions. Blackwell refused to testify under oath on how he ran the election while at the same time being a co-chair for Bush's reelection campaign, and why there are over 100,000 provisional and spoiled ballots still left uncounted. A number of GOP county election supervisors have also refused to testify.

Volunteer attorneys from all over the country went to Ohio to help in this case by serving subpoenas, taking depositions, and performing other tasks to investigate the vote. Subpoenas were sent to election officials in the 10 counties in which voting fraud seems most evident. A team of lawyers started examining election

⁶³Attorneys for the citizens in this case are Clifford O. Arnebeck, Jr. (Chairman of Ohio Honest Election Campaign of the Alliance for Democracy, and chairman of the Legal Affairs Committee of Common Cause - Ohio), Robert Fitrakis (Director/Editor of the Columbus, Ohio *Free Press*, and professor of political science at Columbus State Community College), Susan Truitt (co-founder of Citizen's Alliance for Secure Elections – Ohio), Peter Peckarsky (technology lawyer based in Washington, D.C.), and other lawyers retained by them for litigation.

⁶⁴Quoted in Associated Press dispatch, 14 December 2004.

⁶⁵The complaint challenging the election of Thomas Moyer was re-filed on December 20th.

⁶⁶Quoted in Saucier, 24 December 2004.

records at the Claremont County Board of Elections on December 22nd. Richard Conglianese, Ohio's assistant attorney general, along with county officials, have filed motions to block subpoenas in the 10 critical counties. Vote challenge attorneys have filed a response.

Notice of depositions were sent to Bush, Cheney, Rove, and Blackwell on December 21st. Blackwell failed to appear for deposition on December 27th. Assistant Attorney General Conglianese has filed for a court order to protect Blackwell from testifying under oath. Meanwhile, December 28th and 29th were set for Bush, Cheney, and Rove to be deposed. Their Ohio attorney, Kurt Tunnell, claims his clients have not been properly served by the Ohio Supreme Court as required by Ohio law.

Lawyers for the election challenge lawsuit are seeking a hearing before the Ohio Supreme Court on 4 January 2005, two days before members of congress meet to certify the results of the electoral college for president and vice president. I found no reports in the media of this hearing.

When the electoral vote came up for certification before a joint session of Congress on January 6th, Representative Stephanie Tubbs Jones (Ohio) and Senator Barbara Boxer (Calif.) challenged the vote.⁶⁷ It takes just one senator and one representative to send the issue back to both houses of Congress for debate. The issue went back to both houses for debate, and was dispensed with in short order. Bush was certified.

ONGOING ELECTION-REFORM INVESTIGATIONS

The 2004 election made it clear that the Help America Vote Act of 2002 was not adequate to make every vote count. There is a national sentiment that more drastic moves must be made, ranging from mandating paper trails on touch-screen voting machines to abolishing the Electoral College. Several agencies, departments, and branches of government are getting into the act.

Elections Assistance Commission.

The US Elections Assistance Commission, established under the Help America Vote Act of 2002, will be investigating voting problems. Its chairman, De Forest Soaries Jr., says "we don't know what we don't know."⁶⁸ The Commission expects to publish a first report on the voting in January 2005. Then it will draft recommendations for reforms by spring 2005 and hearings will follow. The outcome is to be standards for security and accountability in electronic voting. The National Institute of Standards and Technology will be working closely with the Commission.

⁶⁷An 1887 law passed by congress after the disputed election of Rutherford B. Hayes. Hayes won the presidency with a majority of the electoral vote, but he had a minority of the popular vote.

⁶⁸Quoted in Woolner, 3 December 2004.

National Institute of Standards and Technology.

The National Institute of Standards and Technology is testing electronic voting machines and writing standards for them. This institute will work with the Elections Assistance Commission to investigate machine malfunctions and look for patterns for various makes and types of machines.

Democratic National Committee Panel.

The Democratic National Committee, saying it will spend whatever it takes to do the job, appointed an expert panel to look into voter disenfranchisement in urban democratic precincts – long lines, voting machine errors, understaffed polling stations, misleading phone calls and leaflets, uncounted votes, and secretaries of state serving on election committees. That panel's report is to be completed by summer 2005.

Congressional Investigation.

Republicans and some bi-partisan groups are also suspicious about the 2004 presidential election. The chairman of the US House Administration Committee, Representative Bob Ney, a republican from Ohio, will oversee an inquiry in 2005.

The GAO Investigation.

The US Government Accountability Office (GAO – formerly the General Accounting Office) is undertaking a systematic and comprehensive review of election irregularities throughout the nation. On 5 November 2004, US Representatives John Conyers, Jerrold Nadler, and Robert Wexler wrote to the Comptroller General describing voting irregularities in several states. (15 other US Representatives added their names later.) They requested that the GAO “immediately undertake an investigation of the efficacy of voting machines and new technologies used in the 2004 election, how election officials responded to difficulties they encountered, and what we can do in the future to improve our election systems and administration.”⁶⁹

On 22 November 2004, GAO officials announced that “on its own authority, the GAO was prepared to move forward with a wide ranging analysis of systemic problems in the 2004 election.”⁷⁰ Comptroller General David Walker pointed out further that GAO's work “will focus on broad systemic election administration issues to help inform the Congress in considering potential improvements for future elections. We will not be investigating specific allegations regarding the recent election because we are not authorized to engage in enforcement efforts related to alleged voting irregularities. However, such allegations may help us to identify the broader, systemic issues to be included in our work.”⁷¹

This investigation is expected to be completed by mid-2005.

⁶⁹Conyers Letter to GAO, 5 November 2004.

⁷⁰Conyers Report, 5 January 2004.

⁷¹GAO Letter, 30 November 2004.

CONCLUSION

Several polls taken within a month after the election seem inconsistent with the percent of the vote Bush won. A Gallup poll run for CNN and *USA Today* showed 49% overall approval for Bush. ABC News and the *Washington Post* put it at 48%, and *Time* indicated 49%. That is 10-20 percentage points lower than any recently-elected sitting president since World War II (since which such data has been tabulated). These ratings mirror Bush's pre-election ratings and are at the high end of pre-"calibrated" exit poll ratings in the 11 battleground states. With evidence of vote manipulation and voter disenfranchisement, these recent polls are probably also on the high end of what an honest election would indicate.

In Ohio, the uncalibrated exit polls (47.9% for Bush) agreed almost exactly with Bush's post-election approval rating (48-49%). Those figures straddling an election tally of 51% is hard to reconcile with an honest election. In spite of this discrepancy, the public is repeatedly told that Ohio's election reflected the will of the people because democrats and republicans managed it equally. But *The Free Press* in Columbus, Ohio points out that under Ohio election law, "directors and deputy directors on all boards of election are assigned by the secretary of state. They hold those paying jobs at his discretion regardless of whether they are democrat or republican. A major argument of those who claim Ohio's 2004 presidential election was fraud-free centers on the myth that local precincts are run as bipartisan operations, deflecting charges of partisan interference while failing to account for the fact that the principles all owe their jobs to the secretary of state, who in this case served as co-chair of the state's Bush-Cheney campaign."⁷²

Manipulation can be accomplished fairly discreetly. Ohio has 88 counties (see Appendix-A) with a total of 11,360 precincts. Ohio's official vote tally before the recount put Bush ahead by 118,775 votes. It would only require that Bush be given an extra 11 votes, or Kerry lose 11 votes, in each precinct to provide that lead. Easier still, by changing only five or six votes in each precinct from Kerry to Bush, would accomplish that same thing (Kerry losing five and Bush gaining five amounts to ten extra votes for Bush per precinct). So it required no large and obvious manipulation to rig an election, just squeezing or shifting a few extra votes here and a few there, using various and assorted means so as not to look too obvious – means which have been attributed to be:

- Lack of poll worker education,
- Human mistakes,
- Poor planning,
- Misguided attempts to help,
- Unforeseeable delays,
- Obnoxious individuals acting unilaterally,
- And a host of other subtle events.

What has surfaced is likely only a fraction of what has taken place.

Of course many people still want to chalk up these irregularities to unfortunate but benign events. That would be fine except for one consideration. As was stated in the election challenge complaint: "While the existence of anomalies could possibly be explained by human error or technical malfunctions, the fact that,

⁷²Fittrakis, Rosenfeld, and Wasserman; 28 December 2004.

in every case in Ohio known to contesters, the error favored the Bush-Cheney ticket, strongly indicates manipulation or fraud.”⁷³ It all adds up to a subtle tactic of gaffes and glitches which has again allowed the Bush team to steal the White House.

We have a precedent that can be instructive. Earlier in this paper I discussed the presidential election in Ukraine. That country’s Supreme Court invalidated the November 2004 runoff election because of widespread and systemic fraud. The White House hailed that decision as “an important step in moving toward a peaceful and democratic resolution” of the political crisis in Ukraine. White House spokesman Scott McClellan added: “It is important that the will of the people prevail. And the court’s decision is part of the political and legal process for meeting that objective.”⁷⁴

Perhaps a runoff election in this country should have been conducted. However, in the long run, election manipulation happens only because people allow it. If there were in America a determined and concerned populace, as demonstrated recently in Ukraine, voting fraud would be uncovered quickly and the guilty prosecuted. Americans need to pay more attention. Although this paper has focused on the presidential election in only one state, it should be remembered that the manipulation techniques described herein can and have been used in all states and for all offices – both state and federal – which are of significance to the neoconservative agenda. The ongoing investigations by various agencies and branches of government are important. David Swanson II of the International Labor Communications Association has compiled a list entitled Well Documented Fraud and Areas for Further Investigation. That list is shown in its entirety in Appendix-C.

All of these areas must be carefully investigated and the ongoing investigations monitored. Their results must be readily available, easily understood, and widely propagated. Then, with a resounding public demand, the deficiencies can be corrected and the culprits punished. But most important, the next election in this country will accurately reflect what people want.

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GLOSSARY

BYU	Brigham Young University.
CNN	Cable News Network.
ES&S	Election Systems And Software Inc.
FBI	Federal Bureau of Investigation.
FCC	Federal Communications Commission.
GAO	Government Accountability Office. (Formerly General Accounting Office.)
GOP	Grand Old Party – the republican party.
HAVA	Help America Vote Act of 2002.
NAACP	National Association for the Advancement of Colored People.
NATO	North Atlantic Treaty Organization.
NEP	National Election Pool.

APPENDIX- B

SAMPLING FROM THOUSANDS OF VOTING-IRREGULARITY REPORTS IN OHIO⁷⁶

AUGLAIZE COUNTY – “A former employee of ES&S, ‘the company that provides the voting systems for Auglaize County, had access to and used the main computer that is used to create the ballot and compile election results ... a violation of county board of election protocol ...’”⁷⁷

BUTLER COUNTY (and 14 others) had unusual voting results. A democratic candidate for the state supreme court received 5,366 votes more than the Kerry (61,599 vs. 56,234). And the successful republican candidate for the state supreme court received 41,459 votes less than Bush (68,407 vs. 109,866). This disparity in party voting was not confined to Butler County. A total of 15 counties have reported such incidents.

COSHOCTON COUNTY – There is evidence that when running write-in votes through the tabulator they default to Bush.

CUYAHOGA COUNTY is the county which encompasses Cleveland. It was noticed that 3^d party presidential candidates received an abnormally high number of votes. Minor candidates have historically received only a handful of votes from these urban areas. For instance, predominantly black precinct 4-F at Benedictine High School tabulated 290 votes for Kerry, 21 for Bush, and 215 for Michael Peroutka of the constitution party. During the 2000 election this precinct cast a total of 8 votes for all third party candidates combined. Precinct 4-N, also at Benedictine High School, registered 318 votes for Kerry, 21 for Bush, and 163 for libertarian party candidate Michael Badnarik. Third party candidates received hundreds of unlikely votes in at least ten of Cleveland’s highly democratic precincts. This county used the punch-card ballot which raises questions of another rendition of the butterfly ballot.

Katie Daley was an observer at Benedictine High School where the two heavily-democratic precincts just mentioned were voting – about 1,000 voters in all. The machines were very close to each other. There was no distinction between precincts,” Daley reported that voters were told to go to use any machine available. For some unexplainable reason, the ballots were different for the two precincts. Why the ballots should be different in the same county smells of fraud. When cards were punched from the wrong machine and then read by the home precinct’s machine, a different candidate than intended received the vote.

Predominantly black Cleveland 6-C precinct was certified with only a 7.10% voter turnout. It had 46 votes total (one for Bush) where a normal turnout would have been 370 to 415 voters. Three minority wards in Cleveland, which vote predominantly democratic, had abnormally low voter turnout because of lack of bilingual ballots and voting instructions. Heavily Hispanic Ward 13 had three precincts with turnout under 20% (Precinct 6-C just mentioned, precinct 13-D where 13.15% voted, and precinct 13-F with 19.60% voting). Precinct 13-O was a little higher with 21.01% turnout. Four others had 21.80%, 24.72%, 28.83%, and 28.97%. Seven entire wards, consisting of numerous precincts each, had turnouts below 50%. It has been calculated that if Cleveland alone had met the state average turnout, Kerry would have garnered an additional 22,000 votes.⁷⁸ In Toledo, in the same manner, he would have gained another 7,000 votes.

A long-time poll worker said she knows a lot of people in her precinct who vote regularly and their names weren’t on the poll books.

Other: More than 10,000 voters were kept from casting a ballot because their registration was bungled up. About a third of the provisional ballots cast (8,099) were ruled invalid. Voters received fraudulent phone calls telling them their polling places had been changed. On some absentee ballots the arrow did not align correctly with the punch hole. 29 precincts tallied more votes than voters – there were 93,136 extra votes in the county. Voters testified that part of their punch-card ballots had already been punched out. Unknown volunteers showed up at people’s doors offering to deliver absentee ballots to the elections office for them.

⁷⁶For a more comprehensive list of sworn testimony at Citizen Hearings see Fittrakis, Rosenfeld, and Wasserman, 5 January 2005. Available at <http://www.freepress.org/departments/display/19/2005/1067>

⁷⁷Saucier, 24 December 2004; citing from election challenge complaint.

⁷⁸See Fittrakis, Rosenfeld, and Wasserman, 3 January 2005.

FRANKLIN COUNTY had one precinct – Gahanna precinct in Ward 1B – that tallied 4,258 votes for Bush and 260 for Kerry. The catch is that there are only 800 registered voters in that precinct and only 638 of them actually voted. This one was discovered and a computer “glitch” was found which gave 3, 893 extra votes to Bush. The final tally after correction was Bush 365 and Kerry still at 260.

Angela Greene voted at Whitehall Yearling High School. She testified that a malfunctioning voting machine was delivered without a cartridge. An unknown number of votes cast were not recorded.

An observer at Columbia Alternative High School says voters were turned away during the heavy-voting hours of 6:30-8:30 AM because all the machines were broken. Another voter at Whitehall, which has a significant youth and African American voting population, reported they usually have 5 or 6 machines at her precinct but only had 3 this year – and one did not work. It was not repaired (had been delivered without a cartridge) until 9:30 AM, after the heavy morning voting.

Franklin County Board of Elections guidelines specify one voting machine per 100 voters with 125 per machine maximum usage.. Heavily democratic precincts in Columbus reported long lines and few voting machines. Precinct 55-B with 1,338 registered voters had 3 machines – one less than in 2000 with voter registration up 17% (one machine for every 446 voters). Precinct 1-B with 1,620 registered voters had 3 machines – two less than in 2000 with voter registration up 27% (one for every 540 voters). Precinct 44-G with 1,620 registered voters was down one machine from 2000, although voter registration was up 25%. Precinct 25-B, over 90% black and with about 1,500 registered voters, had 3 machines (one for every 500 voters). One was later added but by then the line was still so long that fewer than 700 voted. Precinct 25-F with about 1200 registered voters had 3 voting machines (one for every 400 voters). Even after keeping the polls open an extra 3 hours, they only got 550 people to vote. Precinct 25-C, with 3 voting machines, had 175 people in line at 4:30 PM. They were mostly black – less than 20 were white.

Meanwhile the republican enclave of Canal Winchester with 1,255 registered voters had 5 machines – up 2 from 2000 (one for every 251 voters). Dublin 2-G had 6 machines for 1,656 registered voters (one for every 276 voters). Dublin precinct 2-C had 4 machines for 910 registered voters (one for every 227 voters). A runner between precincts 1-A, 1-B, and 1-C in Bexley reported no lines throughout the day. Precinct 1-B is one of the wealthiest in Franklin County.

A person in a neighborhood where there were many black voters said police were sitting in six police cars in the parking lot and a “well-known republican businessman in the community” was asking people to disburse, to get back into their cars.

Other: On some absentee ballots the arrow did not align correctly with the punch hole. About a dozen voters were told their polling station had been changed. Flyers were distributed telling voters they could cast a ballot on November 3^d (the day after the election). Voting machines were not fairly distributed according to the number of registered voters. There were numerous reports of vote hopping from Kerry to Bush. Reportedly because of a battery problem, the Danaher Electronic ELECTronic machines (older touch-screen machines used in Franklin County) did not boot up properly at the beginning of the day – County Elections Executive Director Matt Damschroder admitted that 77 machines malfunctioned on election day. Poll workers and officials were not properly trained – did not know how to instruct people regarding provisional ballots. Some polls did not have provisional ballots.

GREENE COUNTY – On December 10th, two certified recount volunteers requested and obtained the voting records. They were finding discrepancies, and possible evidence of minor vote suppression, when the Green County Director of Elections abruptly withdrew the records from the volunteers’ possession. The director said that all voter records for the state of Ohio were now locked down, per Secretary of State Blackwell’s direction, and not considered public records.

The next day, observers found the voting records which had been whisked from the hands of recount volunteers in an unlocked and unguarded office. They had apparently laid there all night where anyone could have tampered with or switched them. The deputy director of elections assured observers they would have their Triad computer technician check the computers on Monday to assure they hadn’t been tampered with. (See body of this paper under “Ohio Vote Recount” for more details.)

HAMILTON COUNTY – Some black precincts lacked enough voting machines while white precincts had plenty. Long lines in the rain, and confusion about the proper line to be in, caused some voters to give up and go home. Six punch-card machines, apparently damaged in transit, which would not allow the voter to insert the ballot all the way caused further delays.

One voter never received his absentee ballot and was turned away when he tried to vote in person. On November 15th he checked with the board of elections and found that someone else had cast a counted vote with his absentee ballot. A poll worker saw numerous people try to cast their absentee ballot at the precinct and were told they had to go downtown and cast their absentee ballot at the board of elections office.

Some absentee ballots did not have Kerry's name on them. It was reportedly accidentally removed while removing Ralph Nader's name. (Other counties left Nader's name on the ballot which drew votes away from Kerry.)

Voters in heavily democratic neighborhoods met hundreds of vote challengers and poll monitors early in the morning rush hours, who by crowding the polling station were causing confusion and delays.

HOCKING COUNTY – On Friday, December 10th, a representative of Triad obtained access to the voting machinery and records, modified the computer tabulator, asked which precinct was planned for the initial recount, then made further alterations, and advised the election officials how to manipulate the hand recount to agree with the machine count. (This incident is described in greater detail in the body of this paper.)

JEFFERSON COUNTY – Some voters were not notified their registration had been challenged. There was just a fine-print notice in the local newspaper.

KNOX COUNTY – Some black precincts lacked enough touch-screen voting machines while white precincts had plenty. A court order was sought to keep polls open longer. Some voters were given paper ballots to speed things along.

At Kenyon College in Gambier Precinct, with lines up to 10 hours, there were two working machines for 1,300 voters. While at Mt. Vernon Nazareth University, profiled as republican, there was no long-line problem.

LAKE COUNTY – Some voters received bogus memos from the board of elections that they were not properly registered and couldn't vote. These were the ones who registered through Democratic and NAACP get-out-the-vote drives.

LUCAS COUNTY – Witnesses testified at a citizens' hearing that a Diebold team reprogrammed the Diebold-leased opti-scan voting machine at the Lucas County (Toledo) board of elections headquarters on the day of the recount. While the reprogramming was going on, election observers were not allowed to look at the sheets that had target test results on them, or the reprogramming of the machines used for the recount. (See body of this paper for more details.)

Voting machines jammed or became inoperable throughout election day.

Some black precincts lacked enough voting machines while white precincts had plenty. People had to leave long lines to go to work, school, attending their children, etc..

MADISON COUNTY – When a request to see voting records was filed, the board of elections had them sent directly from Triad, the private company that provides vote tabulation software. This type of voting violation has been termed the privatization of elections.

MAHONING COUNTY had ES&S touch-screen machines, 26 of which had numerous voters who attempted to vote for Kerry, but the screen showed a vote for Bush (or voted for a lower-ballot democratic candidate and it hopped to the opponent). In the town of Youngstown, for instance, machines turned an undetermined number of Kerry votes into Bush votes. These machines had to be recalibrated during voting, which added to delays. In addition, about a dozen other machines froze up and had to be reset.

One precinct in Youngstown an ES&S iVotronic machine counted 25 million votes!!! Since the results were discarded, any legitimate votes cast on the machine were lost.

MERCER COUNTY – Using punch-card machines, 289 people cast ballots but there were only 51 votes tallied for president. Similarly, the county's web site showed that almost 7% of some 4,000 votes for a presidential candidate could not be accounted for.

MIAMI COUNTY – Concord Southwest Precinct was certified with a suspicious 98.55% turnout. That means only ten registered voters didn't vote. The election challenge team found 25 in that precinct that didn't vote.

Likewise, Concord South Precinct was certified with an improbable 94.27% turnout.

It appears that votes were being cast for voters that didn't show up. "After all precincts had reported, '18,615 votes came in' and are 'statistically suspicious ...'"⁷⁹ Of those, Bush got exactly 16,000. This happened in a county where precincts had voter turnouts as high as 98.55%.

MONROE COUNTY. Precinct 11 was chosen for the preliminary 3% hand recount because it was only four votes over that number. The hand count did not match the machine count. No two machine runs were the same and none matched the hand count. Rather than proceed with a full hand count of all the ballots, as required by Ohio election law, the board of elections suspended the recount until the next day so they could continue with a fixed machine or new machine from Triad. (See body of paper for more details.)

MONTGOMERY COUNTY – In two precincts, a quarter of the ballots cast showed no vote for president – a 25% undervote. Overall in Montgomery County, in the 231 precincts that supported Kerry there was an undervote of 2.8%. In the 364 precincts that supported Bush, the undervote was only 1.6%.

PERRY COUNTY also had suspicious voting irregularities. First were some peculiarities in voter registration. An extraordinarily high level increase of 91% was noticed in voter registration. Yet a substantial number of those new registrants have no signature on file. And an exceptionally high number of them, according to the records, registered in 1977 when there were no federal elections. The records also show they have not voted since then – 7 years previous. Actually 3,100 of those voters registered on the same day – 8 November 1977. Even if there had been an election that year, November 8th would have been election day, not a time when voters could register. Something is definitely fishy here.

In Reading S precinct, 360 voters cast ballots and there were 33 absentee votes, for a precinct total of 393 votes. The certified tallies show 489 votes were cast. In addition, the sign-in book shows two ballot stub numbers next to some voters' names, implying they were allowed to vote twice.

W. Lexington G AB precinct had 350 voters registered. Yet 434 people cast ballots. Of those, 174 votes were for Bush and 246 for Kerry. When discovered, the cause was blamed on a computer error which caused some votes to be counted twice. Revised tallies showed 224 votes cast with Bush getting 90 and 127 going to Kerry. The revised count helped Bush in this case.

Monroe Township, Precinct AAV had 266 voters signed in. The Perry County Board of Elections reported 393 votes cast in that precinct.

SANDUSKY COUNTY -- Thousands of ballots were double-counted. This occurred when a computer disk containing vote counts was backed up twice. Also, ballots in 9 precincts were counted twice on an ES&S optical scan machine.

SHELBY COUNTY – Election officials admitted that tabulator records critical to a recount had been thrown out. Also, in many cases the recount, rather than being done by election officials, was conducted by private corporations, many with GOP ties.

STARK COUNTY – Where polling places were shared by multiple precincts, provisional ballots cast at the right polling place but the wrong precinct were rejected.

SUMMIT COUNTY – A democratic volunteer election observer in Akron filed a complaint because he "witnessed election judges telling potential voters they could cast a provisional ballot at any table or precinct and if they did so, it would be counted." Six precincts were voting at Copley High School. He continued: "Some lines were over an hour long. At other precincts there were no lines. I believe that there were potential voters who requested provisional ballots at the incorrect precinct because it was more convenient and because they were told that casting a provisional ballot at any precinct was acceptable."⁸⁰

This same volunteer observer said he saw election judges giving incorrect information to voters in four of those six precincts at that high school.

⁷⁹Saucier, 24 December 2004; citing from election challenge complaint.

⁸⁰Quoted in Craig, 25 November 2005.

TRUMBULL COUNTY – 580 absentee votes were found for which there was no notation of absentee voting in the poll books.

Voters have testified that they received punch-card ballots with the holes already punched for Bush.

One woman arrived at the precinct to find someone else had voted in her name.

VAN WERT COUNTY – Had to throw out 400 ballots because election workers borrowed a punch-card voting machine from another precinct. For some confusing reason Ohio rotates the order in which the candidates names appear on the ballot from one jurisdiction to another within the same county. When the machine was borrowed, the poll workers did not correct the order for their own precinct.

WARREN COUNTY – Vote certification showed 68,035 votes for Bush and 26,043 for Kerry. But during the vote counting on election night, officials claimed they had received a terrorist threat rated at 10 (on a scale from 1 to 10) from the FBI. So they locked down the county administration building while counting the votes from all precincts in that county. Neither media nor poll watchers were allowed to observe. County officials decline to name the FBI person who warned them of the threat and FBI headquarters said the threat was no worse in Warren County than elsewhere. No other counties saw the need for a lockdown. Compounding this contradiction is testimony from county officials indicating the lockdown was planned days before the election.

The results of the Warren County vote count, when viewed in the context of past elections, presents further reason for question. During the 2000 presidential election, Al Gore won 28% of the Warren County vote. In 2004, Kerry won the exact same 28%. That is in spite of a huge effort to get out the democratic vote and the fact that Ralph Nader wasn't on the ballot in Ohio to divert votes from the democratic candidate.

The 94,415 presidential votes cast is 3,000 more than all the votes cast in the US Senate race. It is 20,000-24,000 more than the statewide Supreme Court Chief Justice race, and 13,000-24,000 more than various county-wide races.

APPENDIX- C

WELL DOCUMENTED FRAUD AND AREAS FOR FURTHER INVESTIGATION

Source: Swanson, 3 January 2005

1. The manufacturers of voting machines who have made them easy to hack and impossible to verify by a meaningful recount, as well as making clear their loyalty to Bush.
2. The US Congress and President who have failed to make obvious corrections to our election system following the 2000 election, including requiring paper trails and non-partisan officials.
3. The television networks that have refused to release the exit poll data and refused to cover the story, all companies with a clear – and in several cases clearly stated – interest in having Bush, rather than Kerry, control the FCC.
4. Bush-Cheney Ohio Co-Chair/Ohio Secretary of State Kenneth Blackwell, whose undisputed public actions before, during, and since the election have served to disenfranchise thousands of citizens.
5. A group of republicans, claiming to be from Texas, who made illegal calls in Ohio to scare off potential voters.
6. Ohio judges who have refused to require that evidence be preserved and have refused to admit challenges to the election, including a judge whose own election could be affected but who refuses to recuse himself.
7. Election workers in various counties, hired by Blackwell, who failed to open polling places on time, failed to equitably distribute machines and workers, directed voters to the wrong lines, resulting in elimination of their votes, wrongly required identification, wrongly denied voters provisional ballots, shut observers out on grounds of “Homeland Security.” failed to randomly select precincts for the recount, etc.
8. Activists who sought to intimidate voters outside of polls or distributed flyers sending people to the wrong polling place or telling them the election was on the wrong day.
9. Triad, a company that has admitted it tried to rig the Ohio vote recount.