

MANIPULATING THE 2002 MIDTERM ELECTION

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

PLRC-150125 – “Controlling Public Activities and Political Outcomes” – describes how the 2002 midterm election was affected by the Anthrax attacks, the assassination of Missouri Governor Mel Carnahan, and the assassination of Minnesota Senator Paul Wellstone. I refer the reader to that paper and will not repeat the information here.

Since the 2000 election, electronic voting machines, especially the touch-screen technology, became more prominent. High-tech voting was launched in 200 more counties. That brought the total to 510 counties nationwide – 16% of all counties, or 20% of all registered voters – that had computerized voting systems.

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

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

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

for all the offices on the ballot.

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

Florida – Nothing Much Changed.

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

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

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

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

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

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

Two candidates on the ballot in Palm Beach County sued because of glitches with the

new touch-screen machines. When voters inserted the plastic cards needed to actuate the ATM-type machine, they got a reading on the screen saying “invalid.” No one knew how to fix the problem. Nevertheless, “Palm Beach County elections chief Theresa LePore said she faced few problems. Some poll workers didn’t show up, so some polls had minimum staffing levels, but all opened on time. ... So far, so good.” (Associated Press, 10 September 2002)

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

Janet Reno complained to Governor Jeb Bush about the delays at the polls. Bush ordered the polls to stay open two hours longer to compensate. Some precincts complied but others refused and closed promptly at 7:00 PM. But of course not all the voters knew about this extension of voting hours, and many would simply not return. An election protection coalition comprising the National Association for the Advancement of Colored People (NAACP), the People for the American Way, and other civil rights groups, said it documented dozens of problems in at least four counties. Regarding Governor Bush’s extension of voting hours, Elliot Minberg, vice president of People for the American Way, said: “It’s not going to solve the problem because a lot of people won’t be able to come back or will be discouraged from coming back.” (Quoted in Associated Press, 10 September 2002)

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

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

All of this sounds very reminiscent of November 2000. It sounds like not too much has been remedied. *USA Today* reports that “election officials stepped up poll worker training and added hundreds of workers to troubleshoot the new machines.” (Associated Press, in *USA Today*, 5 November 2002) How much good did that do? Let me continue to the general election on November 5th.

During the general election, three touch-screen voting machines in Miami-Dade county

were found to be misprogrammed.¹ These are the ones that were *found*. How many others had been misprogrammed that didn't come to public attention is not known.

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

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

Georgia and Its Touch-Screens.

Of all the new touch-screen voting machines introduced nationwide, Georgia received the most. In May 2002, Georgia's Secretary of State Cathy Cox signed a \$54-million contract with Diebold to install 19,000 new ones, bringing the state's total to 22,000. Ironically, Diebold's "bid was the highest among nine competing vendors."² (Kennedy)

Chris Hood, a former consultant to Diebold turned whistleblower, related an astounding story for *Rolling Stone* magazine. (See Kennedy) After Georgia's purchase of another 19,000 Diebold touch-screens, there was almost an impossibly short time to install them and train poll workers. The only way everything could be up and running by November, Hood reported, is if Diebold controlled everything. So in late July Secretary of State Cox signed an agreement that authorized Diebold, without supervision, to assemble the ballots, program the machines, and train the poll workers across the state. Hood said it "essentially privatized Georgia's entire electoral system." Then he added: "We ran the election. We had 356 people that Diebold brought into the state. Diebold opened and closed polls and tabulated the votes. Diebold convinced [Secretary of State] Cox it would be best if the company ran everything ..." (Quoted in Kennedy)

Diebold technician called Rob Behler reported after the election that two patches were applied to voting machines just before they were shipped to Georgia. This was during June and July of 2002. These patches will be discussed further in a later chapter.

A third Diebold patch was required on the Georgia touch-screens after delivery. It was ostensibly to fix the interior clock but didn't do that. Former Diebold employee turned whistleblower, Chris Hood, told how in mid-August 2002 he was instructed to insert information from a memory card. He said: "The curious thing is the very swift, covert way it was done. ... It was an unauthorized patch and they were trying to keep it secret from the

¹The county manager says no voters were turned away. Paper ballots were issued until the machine was fixed.

²Cox's predecessor as secretary of state in Georgia, Lewis Massey, was at that time a lobbyist for Diebold.

state. ... We were told not to talk to county personnel about it. I received instructions directly from [Diebold President Bob] Urosevich. It was very unusual that a president of the company would give an order like that and be involved at that level.” (Quotations in Kennedy)

This action was hidden from the state because Georgia law says that any change to voting machines requires re-certification. Hood described how they entered warehouses at 7:30 in the morning to escape detection, and altered 5,000 machines in Hood and DeKalb Counties, described as “the state’s largest democratic strongholds.” (Kennedy)

Georgia’s 2002 election held the usual November surprises. Wrong county commissioners were listed in three precincts of one county. An unknown number of votes were cast before the error was rectified. In another county, dozens of machines were misprogrammed and cards needed to access the machines malfunctioned.

Polls just days before the election showed incumbent democratic US Senator Max Cleland leading his republican challenger by 2-5 percentage points. But Saxby Chambliss won the Senate seat with 53% of the vote tally – a differential shift of up to 12 percentage points in favor of the republicans.

Likewise in the contest for governor, democrat Roy Barnes was leading republican Sonny Perdue by a whopping 9-11 percentage points in the polls. But on election night Purdue had captured 51% of the vote. Again a differential shift of up to 16 percentage points in favor of the republicans. For the highly-finessed opinion polls to miss by that wide a margin was unprecedented. It was particularly suspicious since the machines “had been ‘patched’ at the last minute following a major software breakdown.” (Gumbel) With no paper trail, however, this vote could not be contested.

Secretary of State Cathy Cox submitted to Urosevich a list of “issues and concerns related to the statewide voting system that we would like Diebold to address,” as well as a separate letter about “Diebold’s use of substitute memory cards and defective equipment [and] widespread problems that caused machines to freeze up and improperly record votes.” (Kennedy) Diebold’s answer was never made public but those machines remained in place for later elections.

Maryland’s Corporate Election Management.

Maryland officials also granted Diebold control over the states election system. Former Diebold consultant Chris Hood also relates a scary tale about that state. On election night he accompanied Diebold’s president and marketing director to the tabulation room in Montgomery County. Shocked at finding the room empty, Hood comments: “Not a single Maryland election official was there to retrieve the memory cards. As cards containing every vote in the county began arriving in canvas bags, the Diebold executives plugged them into a group of touch-screen tabulators linked to a central server, which was also controlled by a Diebold employee. ... We had absolute control of the tabulations. We could have fixed the election if we wanted. ... every election I saw with Diebold in charge was compromised – if

not in the count, at least in the security.” (Quoted in Kennedy)

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

New Hampshire’s Phone-Jamming Scheme.

A phone-jamming scheme was used on election day 2002 to jam labor union and democratic party phone banks making get-out-the-vote calls for Senate candidate Jeanne Shaheen. The phone bank lines were overwhelmed by repeated hang-up calls. Ultimately Shaheen lost to republican John Sununu. Charles McGee, a New Hampshire GOP official, and Allen Raymond, owner of a telemarketing firm, were arrested and plea bargained for a lesser sentence. Their testimony led to charging James Tobin with four felonies in federal court. His federal grand jury indictment read: “The object of the conspiracy was to deprive inhabitants of New Hampshire and more particularly qualified voters ... of their federally secured right to vote.” (Quotation cited in Solomon)

Tobin was at the time the Republican Party’s New England regional director. Later he became Bush’s presidential campaign manager in New England for the 2004 election. Seeing the handwriting on the wall, Tobin stepped down from that position just before the November election and was arrested a month after the vote.

McGee testified that he told Tobin about the plan and asked his help in finding a firm to make the flood of jamming calls. Raymond revealed that Tobin, in his official capacity as the top Republican National Committee official in the region, requested him (Raymond) to have his telemarketing firm make the calls to the democrat’s phone bank. All three were convicted but the Justice department “hasn’t accused the White House or national republican officials of wrongdoing, nor made any allegations suggesting party officials outside New Hampshire were involved.” (Margasak) Yet, there is evidence of possible White House involvement.

Phone records introduced at Tobin’s trial, but not used, indicate that between September 17th and November 22nd Tobin made 115 outgoing telephone calls to the White House political affairs office. Two dozen of those calls were made from the day before the election, through election day, and into the early hours of the day following the election. The democrats have filed a civil lawsuit, saying they feel entitled to know more about the purpose of all the calls “at the time of the planning and implementation of the phone-jamming conspiracy,” and in particular “the timing of the phone calls made by Mr. Tobin on election day.” (Quotation cited in Margasak)

There is more to add suspicion. Despite touting a zero-tolerance policy regarding vote tampering, the Republican National Committee [RNC] has paid millions of dollars to a high

profile Washington DC law firm to defend Tobin in court. Paul Twomey, a lawyer working *pro bono* for New Hampshire democrats, said he was surprised the RNC was willing to pay Tobin's legal bills and that it suggested more people may be involved." (Solomon) Twomey added: "It originally appeared to us that there were just rogue elements in the republican party who were willing to do anything to win control of the US Senate ... But now that the RNC is actually bankrolling Mr. Tobin's defense, coupled with the fact that it has refused some discovery in the civil case, really raises the questions of who are they protecting, how high does this go and who is in on this." (Quotation cited in Solomon)

On 1 December 2006, three days before it was to go to trial, state and national republican committees announced they would pay \$135,000 to settle the phone-jamming lawsuit. Criminal proceedings continue.

Glitches In Other States.

Voting machine irregularities and polling station problems were also encountered in other states during the 2002 elections. I will address those that garnered media attention.

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

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

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

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

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

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

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

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

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

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

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Many of the troubles listed here could be chalked up to normal computer glitches and human failure. Nevertheless, when placed alongside of ATM machines for banks, or computers used for health care, – all of which operate beautifully at all times – one is forced to question why voting machines are so unpredictable. Was what had been experienced merely the bugs being worked out, or was it the result of intentional computer programming

CONCLUSION

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

One thing that points to fraudulent experimentation with computerized voting technology is the discrepancy between exit polls³ and election results. From 1964 until 2000, the exit polls were pretty accurate in predicting the eventual winner. In Florida in 2000, the exit polls showed Gore as the projected winner, but events didn't turn out that way. That was because "the voting system in Florida collapsed under the weight of voting machine failure, election day chicanery, and outright disenfranchisement of thousands of black voters by republican state officials." (Landes, 9 November 2002)

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

³Exit polls are taken of the voters as they leave the polling station, asking how they voted.

I blew that too.” (Quoted in Landes, 9 November 2002.)

The Zogby Poll apparently stood alone. Since 1964 when computers started being used to tabulate poll results, the major television news networks used exit polls to predict the eventual winners. In 1993 six news services combined their efforts to form Voter News Service (VNS). “VNS is a top-secret private consortium owned by *ABC News*, *The Associated Press*, *CBS News*, *CNN*, *Fox News*, and *NBC News* ...” (Landes, 9 November 2002.) VNS folded up on election day 2002, claiming they had technical difficulties.

Two months later, on January 13th, the six news networks announced that VNS would be discontinued. They offered technical reasons which, they say, caused them to mis-predict the 2000 presidential election and a the failure of the system on election day in November 2002 before it could hardly be used – a system on which the major news networks had just spent \$10-15 million to upgrade. Something doesn’t sound right here. VNS couldn’t be messed up that badly “after a half-century of fine-tuning exit polling to such a science that it’s now sometimes used to verify how clean elections are in Third World countries ...” (Hartmann, 31 January 2003) It is more likely that VNS found some unclean electioneering in the United States and had to back off.

Let us look at the 2000 election first. The VNS projection was correct. VNS did predict the rightful winner – Al Gore. The reason the results were different was because of Florida’s “uncounted ‘overvotes,’ the notorious butterfly ballot, and the illegal removal of 91,000 names of mostly black and democratic registered voters ...” (Landes, 20 January 2003) This has all been discussed in a previous chapter. VNS did not mis-predict the 2000 election as the participating news agencies contend.

Regarding the 2002 general election, the VNS consortium has conjured up all kinds of technical glitches that surfaced on election day. It is symptomatic, though, that when election anomalies do occur, it is the republicans that come out the winner. Take, for instance, the example used to illustrate that VNS was not working in 2002 – the North Carolina senatorial race. Early exit polls showed that democratic candidate Erskine Bowles was ahead. As the day progressed, Bowles’ lead widened according to exit polls. But when the vote tally was recorded, republican Elizabeth Dole won by a whopping 200,000 votes. Perhaps there is a reason that exit polls backed off. Let me address that.

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

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

newspapers.

With the possible exception of Associated Press, I'm sure all these corporations are enjoying the pro-business atmosphere under the Bush administration. Then they realize they have a polling system that is so fine-tuned that it can detect vote rigging which is putting the republicans, including the Bush administration, in power. It seems likely that the consortium decided it had to stand down with these accurate projections of a democratic lead

With touch-screens lacking a paper trail, the collapse of VNS effectively removed the last check on possible fraud. Paperless voting and a lack of exit polls assures that no red flags will be raised. As Dr. Mercuri asks with full justification: "Why are the mechanics of the systems so critical to democracy being hidden from public view?" (Manjoo, 5 November 2002) It may be best for the faint-hearted to consider that a rhetorical question, because an answer could be extremely disturbing.

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