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## **Was the 2004 Election Stolen?**

**Republicans prevented more than 350,000 voters in Ohio from casting ballots or having their votes counted -- enough to have put John Kerry in the White House.**

ROBERT F. KENNEDY JR.

Like many Americans, I spent the evening of the 2004 election watching the returns on television and wondering how the exit polls, which predicted an overwhelming victory for John Kerry, had gotten it so wrong. By midnight, the official tallies showed a decisive lead for George Bush -- and the next day, lacking enough legal evidence to contest the results, Kerry conceded. Republicans derided anyone who expressed doubts about Bush's victory as nut cases in "tin foil hats," while the national media, with few exceptions, did little to question the validity of the election. *The Washington Post* immediately dismissed allegations of fraud as "conspiracy theories,"(1) and *The New York Times* declared that "there is no evidence of vote theft or errors on a large scale."(2)

But despite the media blackout, indications continued to emerge that something deeply troubling had taken place in 2004. Nearly half of the 6 million American voters living abroad(3) never received their ballots -- or received them too late to vote(4) -- after the Pentagon unaccountably shut down a state-of-the-art Web site used to file overseas registrations.(5) A consulting firm called Sproul & Associates, which was hired by the Republican National Committee to register voters in six battleground states,(6) was discovered shredding Democratic registrations.(7) In New Mexico, which was decided by 5,988 votes,(8) malfunctioning machines mysteriously failed to properly register a presidential vote on more than 20,000 ballots.(9) Nationwide, according to the federal commission charged with implementing election reforms, as many as 1 million ballots were spoiled by faulty voting equipment -- roughly one for every 100 cast.(10)

The reports were especially disturbing in Ohio, the critical battleground state that clinched Bush's victory in the electoral college. Officials there purged tens of thousands of eligible voters from the rolls, neglected to process registration cards generated by Democratic voter drives, shortchanged Democratic precincts when they allocated voting machines and illegally derailed a

recount that could have given Kerry the presidency. A precinct in an evangelical church in Miami County recorded an impossibly high turnout of ninety-eight percent, while a polling place in inner-city Cleveland recorded an equally impossible turnout of only seven percent. In Warren County, GOP election officials even invented a nonexistent terrorist threat to bar the media from monitoring the official vote count.(11)

Any election, of course, will have anomalies. America's voting system is a messy patchwork of polling rules run mostly by county and city officials. "We didn't have one election for president in 2004," says Robert Pastor, who directs the Center for Democracy and Election Management at American University. "We didn't have fifty elections. We actually had 13,000 elections run by 13,000 independent, quasi-sovereign counties and municipalities."

But what is most anomalous about the irregularities in 2004 was their decidedly partisan bent: Almost without exception they hurt John Kerry and benefited George Bush. After carefully examining the evidence, I've become convinced that the president's party mounted a massive, coordinated campaign to subvert the will of the people in 2004. Across the country, Republican election officials and party stalwarts employed a wide range of illegal and unethical tactics to fix the election. A review of the available data reveals that in Ohio alone, at least 357,000 voters, the overwhelming majority of them Democratic, were prevented from casting ballots or did not have their votes counted in 2004(12) -- more than enough to shift the results of an election decided by 118,601 votes.(13) In what may be the single most astounding fact from the election, *one in every four* Ohio citizens who registered to vote in 2004 showed up at the polls only to discover that they were not listed on the rolls, thanks to GOP efforts to stem the unprecedented flood of Democrats eager to cast ballots.(14) And that doesn't even take into account the troubling evidence of outright fraud, which indicates that upwards of 80,000 votes for Kerry were counted instead for Bush. That alone is a swing of more than 160,000 votes -- enough to have put John Kerry in the White House.(15)

"It was terrible," says Sen. Christopher Dodd, who helped craft reforms in 2002 that were supposed to prevent such electoral abuses. "People waiting in line for twelve hours to cast their ballots, people not being allowed to vote because they were in the wrong precinct -- it was an outrage. In Ohio, you had a secretary of state who was determined to guarantee a Republican outcome. I'm terribly disheartened."

Indeed, the extent of the GOP's effort to rig the vote shocked even the most experienced observers of American elections. "Ohio was as dirty an election as America has ever seen," Lou Harris, the father of modern political polling, told me. "You look at the turnout and votes in individual precincts, compared to the historic patterns in those counties, and you can tell where the discrepancies are. They stand out like a sore thumb."

## **I. The Exit Polls**

The first indication that something was gravely amiss on November 2nd, 2004, was the inexplicable discrepancies between exit polls and actual vote counts. Polls in thirty states weren't just off the mark -- they deviated to an extent that cannot be accounted for by their margin of error. In all but four states, the discrepancy favored President Bush.(16)

Over the past decades, exit polling has evolved into an exact science. Indeed, among pollsters and statisticians, such surveys are thought to be the most reliable. Unlike pre-election polls, in which voters are asked to predict their own behavior at some point in the future, exit polls ask voters leaving the voting booth to report an action they just executed. The results are exquisitely accurate: Exit polls in Germany, for example, have never missed the mark by more than three-tenths of one percent.(17) "Exit polls are almost never wrong," Dick Morris, a political consultant who has worked for both Republicans and Democrats, noted after the 2004 vote. Such surveys are "so reliable," he added, "that they are used as guides to the relative honesty of elections in Third World countries."(18) In 2003, vote tampering revealed by exit polling in the Republic of Georgia forced Eduard Shevardnadze to step down.(19) And in November 2004, exit polling in the Ukraine -- paid for by the Bush administration -- exposed election fraud that denied Viktor Yushchenko the presidency.(20)

But that same month, when exit polls revealed disturbing disparities in the U.S. election, the six media organizations that had commissioned the survey treated its very existence as an embarrassment. Instead of treating the discrepancies as a story meriting investigation, the networks scrubbed the offending results from their Web sites and substituted them with "corrected" numbers that had been weighted, retroactively, to match the official vote count. Rather than finding fault with the election results, the mainstream media preferred to dismiss the polls as flawed.(21)

"The people who ran the exit polling, and all those of us who were their clients, recognized that it was deeply flawed," says Tom Brokaw, who served as anchor for NBC News during the 2004 election. "They were really screwed up -- the old models just don't work anymore. I would not go on the air with them again."

In fact, the exit poll created for the 2004 election was designed to be the most reliable voter survey in history. The six news organizations -- running the ideological gamut from CBS to Fox News -- retained Edison Media Research and Mitofsky International,(22) whose principal, Warren Mitofsky, pioneered the exit poll for CBS in 1967(23) and is widely credited with assuring the credibility of Mexico's elections in 1994.(24) For its nationwide poll, Edison/Mitofsky selected a random subsample of 12,219 voters(25) -- approximately six times larger than those normally used in national polls(26) -- driving the margin of error down to approximately plus or minus one percent.(27)

On the evening of the vote, reporters at each of the major networks were briefed by pollsters at 7:54 p.m. Kerry, they were informed, had an insurmountable lead and would win by a rout: at least 309 electoral votes to Bush's 174, with fifty-five too close to call.(28) In London, Prime Minister Tony Blair went to bed contemplating his relationship with President-elect Kerry.(29)

As the last polling stations closed on the West Coast, exit polls showed Kerry ahead in ten of eleven battleground states -- including commanding leads in Ohio and Florida -- and winning by a million and a half votes nationally. The exit polls even showed Kerry breathing down Bush's neck in supposed GOP strongholds Virginia and North Carolina.(30) Against these numbers, the statistical likelihood of Bush winning was less than one in 450,000.(31) "Either the exit polls, by and large, are completely wrong," a Fox News analyst declared, "or George Bush loses."(32)

But as the evening progressed, official tallies began to show implausible disparities -- as much as 9.5 percent -- with the exit polls. In ten of the eleven battleground states, the tallied margins departed from what the polls had predicted. In every case, the shift favored Bush. Based on exit polls, CNN had predicted Kerry defeating Bush in Ohio by a margin of 4.2 percentage points. Instead, election results showed Bush winning the state by 2.5 percent. Bush also tallied 6.5 percent more than the polls had predicted in Pennsylvania, and 4.9 percent more in Florida.(33)

According to Steven F. Freeman, a visiting scholar at the University of Pennsylvania who specializes in research methodology, the odds against all three of those shifts occurring in concert are one in 660,000. "As much as we can say in sound science that something is impossible," he says, "it is impossible that the discrepancies between predicted and actual vote count in the three critical battleground states of the 2004 election could have been due to chance or random error."

Puzzled by the discrepancies, Freeman laboriously examined the raw polling data released by Edison/Mitofsky in January 2005. "I'm not even political -- I despise the Democrats," he says. "I'm a survey expert. I got into this because I was mystified about how the exit polls could have been so wrong." In his forthcoming book, *Was the 2004 Presidential Election Stolen? Exit Polls, Election Fraud, and the Official Count*, Freeman lays out a statistical analysis of the polls that is deeply troubling.

In its official postmortem report issued two months after the election, Edison/Mitofsky was unable to identify any flaw in its methodology -- so the pollsters, in essence, invented one for the electorate. According to Mitofsky, Bush partisans were simply disinclined to talk to exit pollsters on November 2nd(34) -- displaying a heretofore unknown and undocumented aversion that skewed the polls in Kerry's favor by a margin of 6.5 percent nationwide.(35)

Industry peers didn't buy it. John Zogby, one of the nation's leading pollsters, told me that Mitofsky's "reluctant responder" hypothesis is "preposterous."(36) Even Mitofsky, in his official report, underscored the hollowness of his theory: "It is difficult to pinpoint precisely the reasons that, in general, Kerry voters were more likely to participate in the exit polls than Bush voters."(37)

Now, thanks to careful examination of Mitofsky's own data by Freeman and a team of eight researchers, we can say conclusively that the theory is dead wrong. In fact it was *Democrats*, not Republicans, who were more disinclined to answer pollsters' questions on Election Day. In Bush strongholds, Freeman and the other researchers found that fifty-six percent of voters completed the exit survey -- compared to only fifty-three percent in Kerry strongholds.(38) "The data presented to support the claim not only fails to substantiate it," observes Freeman, "but actually contradicts it."

What's more, Freeman found, the greatest disparities between exit polls and the official vote count came in Republican strongholds. In precincts where Bush received at least eighty percent of the vote, the exit polls were off by an average of ten percent. By contrast, in precincts where Kerry dominated by eighty percent or more, the exit polls were accurate to within three tenths of

one percent -- a pattern that suggests Republican election officials stuffed the ballot box in Bush country.(39)

"When you look at the numbers, there is a tremendous amount of data that supports the supposition of election fraud," concludes Freeman. "The discrepancies are higher in battleground states, higher where there were Republican governors, higher in states with greater proportions of African-American communities and higher in states where there were the most Election Day complaints. All these are strong indicators of fraud -- and yet this supposition has been utterly ignored by the press and, oddly, by the Democratic Party."

The evidence is especially strong in Ohio. In January, a team of mathematicians from the National Election Data Archive, a nonpartisan watchdog group, compared the state's exit polls against the certified vote count in each of the forty-nine precincts polled by Edison/Mitofsky. In twenty-two of those precincts -- nearly half of those polled -- they discovered results that differed widely from the official tally. Once again -- against all odds -- the widespread discrepancies were stacked massively in Bush's favor: In only two of the suspect twenty-two precincts did the disparity benefit Kerry. The wildest discrepancy came from the precinct Mitofsky numbered "27," in order to protect the anonymity of those surveyed. According to the exit poll, Kerry should have received sixty-seven percent of the vote in this precinct. Yet the certified tally gave him only thirty-eight percent. The statistical odds against such a variance are just shy of one in 3 billion.(40)

Such results, according to the archive, provide "virtually irrefutable evidence of vote miscount." The discrepancies, the experts add, "are consistent with the hypothesis that Kerry would have won Ohio's electoral votes if Ohio's official vote counts had accurately reflected voter intent."(41) According to Ron Baiman, vice president of the archive and a public policy analyst at Loyola University in Chicago, "No rigorous statistical explanation" can explain the "completely nonrandom" disparities that almost uniformly benefited Bush. The final results, he adds, are "completely consistent with election fraud -- specifically vote shifting."

## **II. The Partisan Official**

No state was more important in the 2004 election than Ohio. The state has been key to every Republican presidential victory since Abraham Lincoln's, and both parties overwhelmed the state with television ads, field organizers and volunteers in an effort to register new voters and energize old ones. Bush and Kerry traveled to Ohio a total of forty-nine times during the campaign -- more than to any other state.(42)

But in the battle for Ohio, Republicans had a distinct advantage: The man in charge of the counting was Kenneth Blackwell, the co-chair of President Bush's re-election committee.(43) As Ohio's secretary of state, Blackwell had broad powers to interpret and implement state and federal election laws -- setting standards for everything from the processing of voter registration to the conduct of official recounts.(44) And as Bush's re-election chair in Ohio, he had a powerful motivation to rig the rules for his candidate. Blackwell, in fact, served as the "principal electoral system adviser" for Bush during the 2000 recount in Florida,(45) where he witnessed firsthand the success of his counterpart Katherine Harris, the Florida secretary of state who co-chaired Bush's campaign there.(46)

Blackwell -- now the Republican candidate for governor of Ohio(47) -- is well-known in the state as a fierce partisan eager to rise in the GOP. An outspoken leader of Ohio's right-wing fundamentalists, he opposes abortion even in cases of rape(48) and was the chief cheerleader for the anti-gay-marriage amendment that Republicans employed to spark turnout in rural counties(49). He has openly denounced Kerry as "an unapologetic liberal Democrat,"(50) and during the 2004 election he used his official powers to disenfranchise hundreds of thousands of Ohio citizens in Democratic strongholds. In a ruling issued two weeks before the election, a federal judge rebuked Blackwell for seeking to "accomplish the same result in Ohio in 2004 that occurred in Florida in 2000."(51)

"The secretary of state is supposed to administer elections -- not throw them," says Rep. Dennis Kucinich, a Democrat from Cleveland who has dealt with Blackwell for years. "The election in Ohio in 2004 stands out as an example of how, under color of law, a state election official can frustrate the exercise of the right to vote."

The most extensive investigation of what happened in Ohio was conducted by Rep. John Conyers, the ranking Democrat on the House Judiciary Committee.(52) Frustrated by his party's failure to follow up on the widespread evidence of voter intimidation and fraud, Conyers and the committee's minority staff held public hearings in Ohio, where they looked into more than 50,000 complaints from voters.(53) In January 2005, Conyers issued a detailed report that outlined "massive and unprecedented voter irregularities and anomalies in Ohio." The problems, the report concludes, were "caused by intentional misconduct and illegal behavior, much of it involving Secretary of State J. Kenneth Blackwell."(54)

"Blackwell made Katherine Harris look like a cupcake," Conyers told me. "He saw his role as limiting the participation of Democratic voters. We had hearings in Columbus for two days. We could have stayed two weeks, the level of fury was so high. Thousands of people wanted to testify. Nothing like this had ever happened to them before."

When ROLLING STONE confronted Blackwell about his overtly partisan attempts to subvert the election, he dismissed any such claim as "silly on its face." Ohio, he insisted in a telephone interview, set a "gold standard" for electoral fairness. In fact, his campaign to subvert the will of the voters had begun long before Election Day. Instead of welcoming the avalanche of citizen involvement sparked by the campaign, Blackwell permitted election officials in Cleveland, Cincinnati and Toledo to conduct a massive purge of their voter rolls, summarily expunging the names of more than 300,000 voters who had failed to cast ballots in the previous two national elections.(55) In Cleveland, which went five-to-one for Kerry, nearly one in four voters were wiped from the rolls between 2000 and 2004.(56)

There were legitimate reasons to clean up voting lists: Many of the names undoubtedly belonged to people who had moved or died. But thousands more were duly registered voters who were deprived of their constitutional right to vote -- often without any notification -- simply because they had decided not to go to the polls in prior elections.(57) In Cleveland's precinct 6C, where more than half the voters on the rolls were deleted,(58) turnout was only 7.1 percent(59) -- the lowest in the state.

According to the Conyers report, improper purging "likely disenfranchised tens of thousands of voters statewide."(60) If only one in ten of the 300,000 purged voters showed up on Election Day -- a conservative estimate, according to election scholars -- that is 30,000 citizens who were unfairly denied the opportunity to cast ballots.

### **III. The Strike Force**

In the months leading up to the election, Ohio was in the midst of the biggest registration drive in its history. Tens of thousands of volunteers and paid political operatives from both parties canvassed the state, racing to register new voters in advance of the October 4th deadline. To those on the ground, it was clear that Democrats were outpacing their Republican counterparts: *A New York Times* analysis before the election found that new registrations in traditional Democratic strongholds were up 250 percent, compared to only twenty-five percent in Republican-leaning counties.(61) "The Democrats have been beating the pants off us in the air and on the ground," a GOP county official in Columbus confessed to *The Washington Times*.(62)

To stem the tide of new registrations, the Republican National Committee and the Ohio Republican Party attempted to knock tens of thousands of predominantly minority and urban voters off the rolls through illegal mailings known in electioneering jargon as "caging." During the Eighties, after the GOP used such mailings to disenfranchise nearly 76,000 black voters in New Jersey and Louisiana, it was forced to sign two separate court orders agreeing to abstain from caging.(63) But during the summer of 2004, the GOP targeted minority voters in Ohio by zip code, sending registered letters to more than 200,000 newly registered voters(64) in sixty-five counties.(65) On October 22nd, a mere eleven days before the election, Ohio Republican Party Chairman Bob Bennett -- who also chairs the board of elections in Cuyahoga County -- sought to invalidate the registrations of 35,427 voters who had refused to sign for the letters or whose mail came back as undeliverable.(66) Almost half of the challenged voters were from Democratic strongholds in and around Cleveland.(67)

There were plenty of valid reasons that voters had failed to respond to the mailings: The list included people who couldn't sign for the letters because they were serving in the U.S. military, college students whose school and home addresses differed,(68) and more than 1,000 homeless people who had no permanent mailing address.(69) But the undeliverable mail, Bennett claimed, proved the new registrations were fraudulent.

By law, each voter was supposed to receive a hearing before being stricken from the rolls.(70) Instead, in the week before the election, kangaroo courts were rapidly set up across the state at Blackwell's direction that would inevitably disenfranchise thousands of voters at a time(71) -- a process that one Democratic election official in Toledo likened to an "inquisition."(72) Not that anyone was given a chance to actually show up and defend their right to vote: Notices to challenged voters were not only sent out impossibly late in the process, they were *mailed to the very addresses that the Republicans contended were faulty*.(73) Adding to the atmosphere of intimidation, sheriff's detectives in Sandusky County were dispatched to the homes of challenged voters to investigate the GOP's claims of fraud.(74)

"I'm afraid this is going to scare these people half to death, and they are never going to show up on Election Day," Barb Tuckerman, director of the Sandusky Board of Elections, told local

reporters. "Many of them are young people who have registered for the first time. I've called some of these people, and they are perfectly legitimate."(75)

On October 27th, ruling that the effort likely violated both the "constitutional right to due process and constitutional right to vote," U.S. District Judge Susan Dlott put a halt to the GOP challenge(76) -- but not before tens of thousands of new voters received notices claiming they were improperly registered. Some election officials in the state illegally ignored Dlott's ruling, stripping hundreds of voters from the rolls.(77) In Columbus and elsewhere, challenged registrants were never notified that the court had cleared them to vote.

On October 29th, a federal judge found that the Republican Party had violated the court orders from the Eighties that barred it from caging. "The return of mail does not implicate fraud," the court affirmed,(78) and the disenfranchisement effort illegally targeted "precincts where minority voters predominate, interfering with and discouraging voters from voting in those districts."(79) Nor were such caging efforts limited to Ohio: The GOP also targeted hundreds of thousands of urban voters in the battleground states of Florida,(80) Pennsylvania(81) and Wisconsin.(82)

Republicans in Ohio also worked to deny the vote to citizens who had served jail time for felonies. Although rehabilitated prisoners are entitled to vote in Ohio, election officials in Cincinnati demanded that former convicts get a judge to sign off before they could register to vote.(83) In case they didn't get the message, Republican operatives turned to intimidation. According to the Conyers report, a team of twenty-five GOP volunteers calling themselves the Mighty Texas Strike Force holed up at the Holiday Inn in Columbus a day before the election, around the corner from the headquarters of the Ohio Republican Party -- which paid for their hotel rooms. The men were overheard by a hotel worker "using pay phones to make intimidating calls to likely voters" and threatening former convicts with jail time if they tried to cast ballots.(84)

This was no freelance operation. The Strike Force -- an offshoot of the Republican National Committee(85) -- was part of a team of more than 1,500 volunteers from Texas who were deployed to battleground states, usually in teams of ten. Their leader was Pat Oxford, (86) a Houston lawyer who managed Bush's legal defense team in 2000 in Florida,(87) where he warmly praised the efforts of a mob that stormed the Miami-Dade County election offices and halted the recount. It was later revealed that those involved in the "Brooks Brothers Riot" were not angry Floridians but paid GOP staffers, many of them flown in from out of state.(88) Photos of the protest show that one of the "rioters" was Joel Kaplan, who has just taken the place of Karl Rove at the White House, where he now directs the president's policy operations.(89)

#### **IV. Barriers to Registration**

To further monkey-wrench the process he was bound by law to safeguard, Blackwell cited an arcane elections regulation to make it harder to register new voters. In a now-infamous decree, Blackwell announced on September 7th -- less than a month before the filing deadline -- that election officials would process registration forms only if they were printed on eighty-pound unwaxed white paper stock, similar to a typical postcard. Justifying his decision to ROLLING STONE, Blackwell portrayed it as an attempt to protect voters: "The postal service had recommended to us that we establish a heavy enough paper-weight standard that we not

disenfranchise voters by having their registration form damaged by postal equipment." Yet Blackwell's order also applied to registrations delivered in person to election offices. He further specified that any valid registration cards printed on lesser paper stock that miraculously survived the shredding gauntlet at the post office were not to be processed; instead, they were to be treated as *applications* for a registration form, requiring election boards to send out a brand-new card.(90)

Blackwell's directive clearly violated the Voting Rights Act, which stipulates that no one may be denied the right to vote because of a registration error that "is not material in determining whether such individual is qualified under state law to vote."(91) The decision immediately threw registration efforts into chaos. Local newspapers that had printed registration forms in their pages saw their efforts invalidated.(92) Delaware County posted a notice online saying it could no longer accept its own registration forms.(93) Even Blackwell couldn't follow the protocol: *The Columbus Dispatch* reported that his own staff distributed registration forms on lighter-weight paper that was illegal under his rule. Under the threat of court action, Blackwell ultimately revoked his order on September 28th -- six days before the registration deadline.(94)

But by then, the damage was done. Election boards across the state, already understaffed and backlogged with registration forms, were unable to process them all in time. According to a statistical analysis conducted in May by the nonpartisan Greater Cleveland Voter Coalition, 16,000 voters in and around the city were disenfranchised because of data-entry errors by election officials,(95) and another 15,000 lost the right to vote due to largely inconsequential omissions on their registration cards.(96) Statewide, the study concludes, a total of 72,000 voters were disenfranchised through avoidable registration errors -- one percent of all voters in an election decided by barely two percent.(97)

Despite the widespread problems, Blackwell authorized only one investigation of registration errors after the election -- in Toledo -- but the report by his own inspectors offers a disturbing snapshot of the malfeasance and incompetence that plagued the entire state.(98) The top elections official in Toledo was a partisan in the Blackwell mold: Bernadette Noe, who chaired both the county board of elections and the county Republican Party.(99) The GOP post was previously held by her husband, Tom Noe,(100) who currently faces felony charges for embezzling state funds and illegally laundering \$45,400 of his own money through intermediaries to the Bush campaign.(101)

State inspectors who investigated the elections operation in Toledo discovered "areas of grave concern."(102) With less than a month to go before the election, Bernadette Noe and her board had yet to process 20,000 voter registration cards.(103) Board officials arbitrarily decided that mail-in cards (mostly from the Republican suburbs) would be processed first, while registrations dropped off at the board's office (the fruit of intensive Democratic registration drives in the city) would be processed last.(104) When a grass-roots group called Project Vote delivered a batch of nearly 10,000 cards just before the October 4th deadline, an elections official casually remarked, "We may not get to them."(105) The same official then instructed employees to date-stamp an entire box containing thousands of forms, rather than marking each individual card, as required by law.(106) When the box was opened, officials had no way of confirming that the forms were

filed prior to the deadline -- an error, state inspectors concluded, that could have disenfranchised "several thousand" voters from Democratic strongholds.(107)

The most troubling incident uncovered by the investigation was Noe's decision to allow Republican partisans behind the counter in the board of elections office to make photocopies of postcards sent to confirm voter registrations(108) -- records that could have been used in the GOP's caging efforts. On their second day in the office, the operatives were caught by an elections official tampering with the documents.(109) Investigators slammed the elections board for "a series of egregious blunders" that caused "the destruction, mutilation and damage of public records."(110)

On Election Day, Noe sent a team of Republican volunteers to the county warehouse where blank ballots were kept out in the open, "with no security measures in place."(111) The state's assistant director of elections, who just happened to be observing the ballot distribution, demanded they leave. The GOP operatives refused and ultimately had to be turned away by police.(112)

In April 2005, Noe and the entire Board of Elections were forced to resign. But once again, the damage was done. At a "Victory 2004" rally held in Toledo four days before the election, President Bush himself singled out a pair of "grass-roots" activists for special praise: "I want to thank my friends Bernadette Noe and Tom Noe for their leadership in Lucas County."(113)

#### **V. "The Wrong Pew"**

In one of his most effective maneuvers, Blackwell prevented thousands of voters from receiving provisional ballots on Election Day. The fail-safe ballots were mandated in 2002, when Congress passed a package of reforms called the Help America Vote Act. This would prevent a repeat of the most egregious injustice in the 2000 election, when officials in Florida barred thousands of lawfully registered minority voters from the polls because their names didn't appear on flawed precinct rolls. Under the law, would-be voters whose registration is questioned at the polls must be allowed to cast provisional ballots that can be counted after the election if the voter's registration proves valid.(114)

"Provisional ballots were supposed to be this great movement forward," says Tova Andrea Wang, an elections expert who served with ex-presidents Jimmy Carter and Gerald Ford on the commission that laid the groundwork for the Help America Vote Act. "But then different states erected barriers, and this new right became totally eviscerated."

In Ohio, Blackwell worked from the beginning to curtail the availability of provisional ballots. (The ballots are most often used to protect voters in heavily Democratic urban areas who move often, creating more opportunities for data-entry errors by election boards.) Six weeks before the vote, Blackwell illegally decreed that poll workers should make on-the-spot judgments as to whether or not a voter lived in the precinct, and provide provisional ballots only to those deemed eligible.(115) When the ruling was challenged in federal court, Judge James Carr could barely contain his anger. The very purpose of the Help America Vote Act, he ruled, was to make provisional ballots available to voters told by precinct workers that they were ineligible: "By not even mentioning this group -- the primary beneficiaries of HAVA's provisional-voting provisions

-- Blackwell apparently seeks to accomplish the same result in Ohio in 2004 that occurred in Florida in 2000."(116)

But instead of complying with the judge's order to expand provisional balloting, Blackwell insisted that Carr was usurping his power as secretary of state and made a speech in which he compared himself to Mohandas Gandhi, Martin Luther King Jr. and the apostle Paul -- saying that he'd rather go to jail than follow federal law.(117) The Sixth Circuit Court of Appeals upheld Carr's ruling on October 23rd -- but the confusion over the issue still caused untold numbers of voters across the state to be illegally turned away at the polls on Election Day without being offered provisional ballots.(118) A federal judge also invalidated a decree by Blackwell that denied provisional ballots to absentee voters who were never sent their ballots in the mail. But that ruling did not come down until after 3 p.m. on the day of the election, and likely failed to filter down to the precinct level at all -- denying the franchise to even more eligible voters.(119)

We will never know for certain how many voters in Ohio were denied ballots by Blackwell's two illegal orders. But it is possible to put a fairly precise number on those turned away by his most disastrous directive. Traditionally, anyone in Ohio who reported to a polling station in their county could obtain a provisional ballot. But Blackwell decided to toss out the ballots of anyone who showed up at the wrong precinct -- a move guaranteed to disenfranchise Democrats who live in urban areas crowded with multiple polling places. On October 14th, Judge Carr overruled the order, but Blackwell appealed.(120) In court, he was supported by his friend and campaign contributor Tom Noe, who joined the case as an intervenor on behalf of the secretary of state.(121) He also enjoyed the backing of Attorney General John Ashcroft, who filed an amicus brief in support of Blackwell's position -- marking the first time in American history that the Justice Department had gone to court to block the right of voters to vote.(122) The Sixth Circuit, stacked with four judges appointed by George W. Bush, sided with Blackwell.(123)

Blackwell insists that his decision kept the election clean. "If we had allowed this notion of 'voters without borders' to exist," he says, "it would have opened the door to massive fraud." But even Republicans were shocked by the move. DeForest Soaries, the GOP chairman of the Election Assistance Commission -- the federal agency set up to implement the Help America Vote Act -- upbraided Blackwell, saying that the commission disagreed with his decision to deny ballots to voters who showed up at the wrong precinct. "The purpose of provisional ballots is to not turn anyone away from the polls," Soaries explained. "We want as many votes to count as possible."(124)

The decision left hundreds of thousands of voters in predominantly Democratic counties to navigate the state's bewildering array of 11,366 precincts, whose boundaries had been redrawn just prior to the election.(125) To further compound their confusion, the new precinct lines were misidentified on the secretary of state's own Web site, which was months out of date on Election Day. Many voters, out of habit, reported to polling locations that were no longer theirs. Some were mistakenly assured by poll workers on the grounds that they were entitled to cast a provisional ballot at that precinct. Instead, thanks to Blackwell's ruling, at least 10,000 provisional votes were tossed out after Election Day simply because citizens wound up in the wrong line.(126)

In Toledo, Brandi and Brittany Stenson each got in a different line to vote in the gym at St. Elizabeth Seton School. Both of the sisters were registered to vote at the polling place on the city's north side, in the shadow of the giant DaimlerChrysler plant. Both cast ballots. But when the tallies were added up later, the family resemblance came to an abrupt end. Brittany's vote was counted -- but Brandi's wasn't. It wasn't enough that she had voted in the right *building*. If she wanted her vote to count, according to Blackwell's ruling, she had to choose the line that led to her assigned table. Her ballot -- along with those of her mother, her brother and thirty-seven other voters in the same precinct -- were thrown out(127) simply because they were, in the words of Rep. Stephanie Tubbs Jones (D-Ohio), "in the right church but the wrong pew."(128)

All told, the deliberate chaos that resulted from Blackwell's registration barriers did the trick. Black voters in the state -- who went overwhelmingly for Kerry -- were twenty percent more likely than whites to be forced to cast a provisional ballot.(129) In the end, nearly three percent of all voters in Ohio were forced to vote provisionally(130) -- and more than 35,000 of their ballots were ultimately rejected.(131)

## **VI. Long Lines**

When Election Day dawned on November 2nd, tens of thousands of Ohio voters who had managed to overcome all the obstacles to registration erected by Blackwell discovered that it didn't matter whether they were properly listed on the voting rolls -- because long lines at their precincts prevented them from ever making it to the ballot box. Would-be voters in Dayton and Cincinnati routinely faced waits as long as three hours. Those in inner-city precincts in Columbus, Cleveland and Toledo -- which were voting for Kerry by margins of ninety percent or more -- often waited up to seven hours. At Kenyon College, students were forced to stand in line for eleven hours before being allowed to vote, with the last voters casting their ballots after three in the morning.(132)

A five-month analysis of the Ohio vote conducted by the Democratic National Committee concluded in June 2005 that *three percent* of all Ohio voters who showed up to vote on Election Day were forced to leave without casting a ballot.(133) That's more than 174,000 voters. "The vast majority of this lost vote," concluded the Conyers report, "was concentrated in urban, minority and Democratic-leaning areas."(134) Statewide, African-Americans waited an average of fifty-two minutes to vote, compared to only eighteen minutes for whites.(135)

The long lines were not only foreseeable -- they were actually created by GOP efforts. Republicans in the state legislature, citing new electronic voting machines that were supposed to speed voting, authorized local election boards to reduce the number of precincts across Ohio. In most cases, the new machines never materialized -- but that didn't stop officials in twenty of the state's eighty-eight counties, all of them favorable to Democrats, from slashing the number of precincts by at least twenty percent.(136)

Republican officials also created long lines by failing to distribute enough voting machines to inner-city precincts. After the Florida disaster in 2000, such problems with machines were supposed to be a thing of the past. Under the Help America Vote Act, Ohio received more than \$30 million in federal funds to replace its faulty punch-card machines with more reliable systems.(137) But on Election Day, that money was sitting in the bank. Why? Because Ken

Blackwell had applied for an extension until 2006, insisting that there was no point in buying electronic machines that would later have to be retrofitted under Ohio law to generate paper ballots.(138)

"No one has ever accused our secretary of state of lacking in ability," says Rep. Kucinich. "He's a rather bright fellow, and he's involved in the most minute details of his office. There's no doubt that he knew the effect of not having enough voting machines in some areas."

At liberal Kenyon College, where students had registered in record numbers, local election officials provided only two voting machines to handle the anticipated surge of up to 1,300 voters. Meanwhile, fundamentalist students at nearby Mount Vernon Nazarene University had one machine for 100 voters and faced no lines at all.(139) Citing the lines at Kenyon, the Conyers report concluded that the "misallocation of machines went beyond urban/suburban discrepancies to specifically target Democratic areas."(140)

In Columbus, which had registered 125,000 new voters(141) -- more than half of them black(142) -- the board of elections estimated that it would need 5,000 machines to handle the huge surge.(143) "On Election Day, the county experienced an unprecedented turnout that could only be compared to a 500-year flood," says Matt Damschroder,(144) chairman of the Franklin County Board of Elections and the former head of the Republican Party in Columbus.(145) But instead of buying more equipment, the Conyers investigation found, Damschroder decided to "make do" with 2,741 machines.(146) And to make matters worse, he favored his own party in distributing the equipment. According to *The Columbus Dispatch*, precincts that had gone seventy percent or more for Al Gore in 2000 were allocated seventeen fewer machines in 2004, while strong GOP precincts received eight additional machines.(147) An analysis by voter advocates found that all but three of the thirty wards with the best voter-to-machine ratios were in Bush strongholds; all but one of the seven with the worst ratios were in Kerry country.(148)

The result was utterly predictable. According to an investigation by the *Columbus Free Press*, white Republican suburbanites, blessed with a surplus of machines, averaged waits of only twenty-two minutes; black urban Democrats averaged three hours and fifteen minutes.(149) "The allocation of voting machines in Franklin County was clearly biased against voters in precincts with high proportions of African-Americans," concluded Walter Mebane Jr., a government professor at Cornell University who conducted a statistical analysis of the vote in and around Columbus.(150)

By midmorning, when it became clear that voters were dropping out of line rather than braving the wait, precincts appealed for the right to distribute paper ballots to speed the process. Blackwell denied the request, saying it was an invitation to fraud.(151) A lawsuit ensued, and the handwritten affidavits submitted by voters and election officials offer a heart-rending snapshot of an electoral catastrophe in the offing:(152)

From Columbus Precinct 44D:

*"There are three voting machines at this precinct. I have been informed that in prior elections there were normally four voting machines. At 1:45 p.m. there are approximately eighty-five voters in line. At this time, the line to vote is approximately three hours long. This precinct is*

*largely African-American. I have personally witnessed voters leaving the polling place without voting due to the length of the line."*

From Precinct 40:

*"I am serving as a presiding judge, a position I have held for some 15+ years in precinct 40. In all my years of service, the lines are by far the longest I have seen, with some waiting as long as four to five hours. I expect the situation to only worsen as the early evening heavy turnout approaches. I have requested additional machines since 6:40 a.m. and no assistance has been offered."*

Precinct 65H:

*"I observed a broken voting machine that was not in use for approximately two hours. The precinct judge was very diligent but could not get through to the BOE."*

Precinct 18A:

*"At 4 p.m. the average wait time is about 4.5 hours and continuing to increase?. Voters are continuing to leave without voting."*

As day stretched into evening, U.S. District Judge Algernon Marbley issued a temporary restraining order requiring that voters be offered paper ballots.(153) But it was too late: According to bipartisan estimates published in *The Washington Post*, as many as 15,000 voters in Columbus had already given up and gone home.(154) When closing time came at the polls, according to the Conyers report, some precinct workers illegally dismissed citizens who had waited for hours in the rain -- in direct violation of Ohio law, which stipulates that those in line at closing time are allowed to remain and vote.(155)

The voters disenfranchised by long lines were overwhelmingly Democrats. Because of the unequal distribution of voting equipment, the median turnout in Franklin County precincts won by Kerry was fifty-one percent, compared to sixty-one percent in those won by Bush. Assuming sixty percent turnout under more equitable conditions, Kerry would have gained an additional 17,000 votes in the county.(156)

In another move certain to add to the traffic jam at the polls, the GOP deployed 3,600 operatives on Election Day to challenge voters in thirty-one counties -- most of them in predominantly black and urban areas.(157) Although it was billed as a means to "ensure that voters are not disenfranchised by fraud,"(158) Republicans knew that the challengers would inevitably create delays for eligible voters. Even Mark Weaver, the GOP's attorney in Ohio, predicted in late October that the move would "create chaos, longer lines and frustration."(159)

The day before the election, Judge Dlott attempted to halt the challengers, ruling that "there exists an enormous risk of chaos, delay, intimidation and pandemonium inside the polls and in the lines out the doors." Dlott was also troubled by the placement of Republican challengers: In Hamilton County, fourteen percent of new voters in white areas would be confronted at the polls, compared to ninety-seven percent of new voters in black areas.(160) But when the case was appealed to the Supreme Court on Election Day, Justice John Paul Stevens allowed the challenges to go forward. "I have faith," he ruled, "that the elected officials and numerous

election volunteers on the ground will carry out their responsibilities in a way that will enable qualified voters to cast their ballots."(161)

In fact, Blackwell gave Republican challengers unprecedented access to polling stations, where they intimidated voters, worsening delays in Democratic precincts. By the end of the day, thanks to a whirlwind of legal wrangling, the GOP had even gotten permission to use the discredited list of 35,000 names from its illegal caging effort to challenge would-be voters.(162) According to the survey by the DNC, nearly 5,000 voters across the state were turned away at the polls because of registration challenges -- even though federal law required that they be provided with provisional ballots.(163)

## **VII. Faulty Machines**

Voters who managed to make it past the array of hurdles erected by Republican officials found themselves confronted by voting machines that didn't work. Only 800,000 out of the 5.6 million votes in Ohio were cast on electronic voting machines, but they were plagued with errors.(164) In heavily Democratic areas around Youngstown, where nearly 100 voters reported entering "Kerry" on the touch screen and watching "Bush" light up, at least twenty machines had to be recalibrated in the middle of the voting process for chronically flipping Kerry votes to Bush.(165) (Similar "vote hopping" from Kerry to Bush was reported by voters and election officials in other states.)(166) Elsewhere, voters complained in sworn affidavits that they touched Kerry's name on the screen and it lit up, but that the light had gone out by the time they finished their ballot; the Kerry vote faded away.(167) In the state's most notorious incident, an electronic machine at a fundamentalist church in the town of Gahanna recorded a total of 4,258 votes for Bush and 260 votes for Kerry.(168) In that precinct, however, there were only 800 registered voters, of whom 638 showed up.(169) (The error, which was later blamed on a glitchy memory card, was corrected before the certified vote count.)

In addition to problems with electronic machines, Ohio's vote was skewed by old-fashioned punch-card equipment that posed what even Blackwell acknowledged was the risk of a "Florida-like calamity."(170) All but twenty of the state's counties relied on antiquated machines that were virtually guaranteed to destroy votes(171) -- many of which were counted by automatic tabulators manufactured by Triad Governmental Systems,(172) the same company that supplied Florida's notorious butterfly ballot in 2000. In fact, some 95,000 ballots in Ohio recorded no vote for president at all -- most of them on punch-card machines. Even accounting for the tiny fraction of voters in each election who decide not to cast votes for president -- generally in the range of half a percent, according to Ohio State law professor and respected elections scholar Dan Tokaji -- that would mean that at least 66,000 votes were invalidated by faulty voting equipment.(173) If counted by hand instead of by automated tabulator, the vast majority of these votes would have been discernable. But thanks to a corrupt recount process, only one county hand-counted its ballots.(174)

Most of the uncounted ballots occurred in Ohio's big cities. In Cleveland, where nearly 13,000 votes were ruined, a *New York Times* analysis found that black precincts suffered more than twice the rate of spoiled ballots than white districts.(175) In Dayton, Kerry-leaning precincts had nearly twice the number of spoiled ballots as Bush-leaning precincts.(176) Last April, a federal

court ruled that Ohio's use of punch-card balloting violated the equal-protection rights of the citizens who voted on them.(177)

In addition to spoiling ballots, the punch-card machines also created bizarre miscounts known as "ballot crawl." In Cleveland Precinct 4F, a heavily African-American precinct, Constitution Party candidate Michael Peroutka was credited with an impressive forty-one percent of the vote. In Precinct 4N, where Al Gore won ninety-eight percent of the vote in 2000, Libertarian Party candidate Michael Badnarik was credited with thirty-three percent of the vote. Badnarik and Peroutka also picked up a sizable portion of the vote in precincts across Cleveland -- 11M, 3B, 8G, 8I, 3L.(178) "It appears that hundreds, if not thousands, of votes intended to be cast for Senator Kerry were recorded as being for a third-party candidate," the Conyers report concludes.(179)

But it's not just third-party candidates: Ballot crawl in Cleveland also shifted votes from Kerry to Bush. In Precinct 13B, where Bush received only six votes in 2000, he was credited with twenty percent of the total in 2004. Same story in 9P, where Bush recorded eighty-seven votes in 2004, compared to his grand total of one in 2000.(180)

### **VIII. Rural Counties**

Despite the well-documented effort that prevented hundreds of thousands of voters in urban and minority precincts from casting ballots, the worst theft in Ohio may have quietly taken place in rural counties. An examination of election data suggests widespread fraud -- and even good old-fashioned stuffing of ballot boxes -- in twelve sparsely populated counties scattered across southern and western Ohio: Auglaize, Brown, Butler, Clermont, Darke, Highland, Mercer, Miami, Putnam, Shelby, Van Wert and Warren. (See The Twelve Suspect Counties) One key indicator of fraud is to look at counties where the presidential vote departs radically from other races on the ballot. By this measure, John Kerry's numbers were suspiciously low in each of the twelve counties -- and George Bush's were unusually high.

Take the case of Ellen Connally, a Democrat who lost her race for chief justice of the state Supreme Court. When the ballots were counted, Kerry should have drawn far more votes than Connally -- a liberal black judge who supports gay rights and campaigned on a shoestring budget. And that's exactly what happened statewide: Kerry tallied 667,000 more votes for president than Connally did for chief justice, outpolling her by a margin of thirty-two percent. Yet in these twelve off-the-radar counties, Connally somehow managed to outperform the best-funded Democrat in history, thumping Kerry by a grand total of 19,621 votes -- a margin of ten percent.(181) The Conyers report -- recognizing that thousands of rural Bush voters were unlikely to have backed a gay-friendly black judge roundly rejected in Democratic precincts -- suggests that "thousands of votes for Senator Kerry were lost."(182)

Kucinich, a veteran of elections in the state, puts it even more bluntly. "Down-ticket candidates shouldn't outperform presidential candidates like that," he says. "That just doesn't happen. The question is: Where did the votes for Kerry go?"

They certainly weren't invalidated by faulty voting equipment: a trifling one percent of presidential ballots in the twelve suspect counties were spoiled. The more likely explanation is

that they were fraudulently shifted to Bush. Statewide, the president outpolled Thomas Moyer, the Republican judge who defeated Connally, by twenty-one percent. Yet in the twelve questionable counties, Bush's margin over Moyer was *fifty* percent -- a strong indication that the president's certified vote total was inflated. If Kerry had maintained his statewide margin over Connally in the twelve suspect counties, as he almost assuredly would have done in a clean election, he would have bested her by 81,260 ballots. That's a swing of 162,520 votes from Kerry to Bush -- more than enough to alter the outcome. (183)

"This is very strong evidence that the count is off in those counties," says Freeman, the poll analyst. "By itself, without anything else, what happened in these twelve counties turns Ohio into a Kerry state. To me, this provides every indication of fraud."

How might this fraud have been carried out? One way to steal votes is to tamper with individual ballots -- and there is evidence that Republicans did just that. In Clermont County, where optical scanners were used to tabulate votes, sworn affidavits by election observers given to the House Judiciary Committee describe ballots on which marks for Kerry were covered up with white stickers, while marks for Bush were filled in to replace them. Rep. Conyers, in a letter to the FBI, described the testimony as "strong evidence of vote tampering if not outright fraud." (184) In Miami County, where Connally outpaced Kerry, one precinct registered a turnout of 98.55 percent (185) -- meaning that all but ten eligible voters went to the polls on Election Day. An investigation by the Columbus *Free Press*, however, collected affidavits from twenty-five people who swear they didn't vote. (186)

In addition to altering individual ballots, evidence suggests that Republicans tampered with the software used to tabulate votes. In Auglaize County, where Kerry lost not only to Connally but to two other defeated Democratic judicial candidates, voters cast their ballots on touch-screen machines. (187) Two weeks before the election, an employee of ES&S, the company that manufactures the machines, was observed by a local election official making an unauthorized log-in to the central computer used to compile election results. (188) In Miami County, after 100 percent of precincts had already reported their official results, an additional 18,615 votes were inexplicably added to the final tally. The last-minute alteration awarded 12,000 of the votes to Bush, boosting his margin of victory in the county by nearly 6,000. (189)

The most transparently crooked incident took place in Warren County. In the leadup to the election, Blackwell had illegally sought to keep reporters and election observers at least 100 feet away from the polls. (190) The Sixth Circuit, ruling that the decree represented an unconstitutional violation of the First Amendment, noted ominously that "democracies die behind closed doors." But the decision didn't stop officials in Warren County from devising a way to count the vote in secret. Immediately after the polls closed on Election Day, GOP officials -- citing the FBI -- declared that the county was facing a terrorist threat that ranked ten on a scale of one to ten. The county administration building was hastily locked down, allowing election officials to tabulate the results without any reporters present.

In fact, there was no terrorist threat. The FBI declared that it had issued no such warning, and an investigation by *The Cincinnati Enquirer* unearthed e-mails showing that the Republican plan to declare a terrorist alert had been in the works for eight days prior to the election. Officials had

even refined the plot down to the language they used on signs notifying the public of a lockdown. (When ROLLING STONE requested copies of the same e-mails from the county, officials responded that the documents have been destroyed.) (191)

The late-night secrecy in Warren County recalls a classic trick: Results are held back until it's determined how many votes the favored candidate needs to win, and the totals are then adjusted accordingly. When Warren County finally announced its official results -- one of the last counties in the state to do so (192) -- the results departed wildly from statewide patterns. John Kerry received 2,426 fewer votes for president than Ellen Connally, the poorly funded black judge, did for chief justice. (193) As the Conyers report concluded, "It is impossible to rule out the possibility that some sort of manipulation of the tallies occurred on election night in the locked-down facility." (194)

Nor does the electoral tampering appear to have been isolated to these dozen counties. Ohio, like several other states, had an initiative on the ballot in 2004 to outlaw gay marriage. Statewide, the measure proved far more popular than Bush, besting the president by 470,000 votes. But in six of the twelve suspect counties -- as well as in six other small counties in central Ohio -- Bush outpolled the ban on same-sex unions by 16,132 votes. To trust the official tally, in other words, you must believe that thousands of rural Ohioans voted for both President Bush *and* gay marriage. (195)

### **IX. Rigging the Recount**

After Kerry conceded the election, the Green and Libertarian parties launched a recount of all eighty-eight counties in Ohio. Under state law, county boards of election were required to randomly select three percent of their precincts and recount the ballots both by hand and by machine. If the two totals reconciled exactly, a costly hand recount of the remaining votes could be avoided; machines could be used to tally the rest.

But election officials in Ohio worked outside the law to avoid hand recounts. According to charges brought by a special prosecutor in April, election officials in Cleveland fraudulently and secretly *pre-counted* precincts by hand to identify ones that would match the machine count. They then used these pre-screened precincts to select the "random" sample of three percent used for the recount.

"If it didn't balance, they excluded those precincts," said the prosecutor, Kevin Baxter, who has filed felony indictments against three election workers in Cleveland. "They screwed with the process and increased the probability, if not the certainty, that there would not be a full, countywide hand count." (196)

Voting machines were also tinkered with prior to the recount. In Hocking County, deputy elections director Sherole Eaton caught an employee of Triad -- which provided the software used to count punch-card ballots in nearly half of Ohio's counties (197) -- making unauthorized modifications to the tabulating computer before the recount. Eaton told the Conyers committee that the same employee also provided county officials with a "cheat sheet" so that "the count would come out perfect and we wouldn't have to do a full hand-recount of the county." (198) After Eaton blew the whistle on the illegal tampering, she was fired.

(199) The same Triad employee was dispatched to do the same work in at least five other counties. (200) Company president Tod Rapp -- who contributed to Bush's campaign (201) -- has confirmed that Triad routinely makes such tabulator adjustments to help election officials avoid hand recounts. In the end, every county serviced by Triad failed to conduct full recounts by hand. (202)

Even more troubling, in at least two counties, Fulton and Henry, Triad was able to connect to tabulating computers remotely via a dial-up connection, and reprogram them to recount only the presidential ballots. (203) If that kind of remote tabulator modification is possible for the purposes of the recount, it's no great leap to wonder if such modifications might have helped skew the original vote count. But the window for settling such questions is closing rapidly: On November 2nd of this year, on the second anniversary of the election, state officials will be permitted under Ohio law to shred all ballots from the 2004 election. (204)

## **X. What's At Stake**

The mounting evidence that Republicans employed broad, methodical and illegal tactics in the 2004 election should raise serious alarms among news organizations. But instead of investigating allegations of wrongdoing, the press has simply accepted the result as valid. "We're in a terrible fix," Rep. Conyers told me. "We've got a media that uses its bullhorn in reverse -- to turn down the volume on this outrage rather than turning it up. That's why our citizens are not up in arms."

The lone news anchor who seriously questioned the integrity of the 2004 election was Keith Olbermann of MSNBC. I asked him why he stood against the tide. "I was a sports reporter, so I was used to dealing with numbers," he said. "And the numbers made no sense. Kerry had an insurmountable lead in the exit polls on Election Night -- and then everything flipped." Olbermann believes that his journalistic colleagues fell down on the job. "I was stunned by the lack of interest by investigative reporters," he said. "The Republicans shut down Warren County, allegedly for national security purposes -- and no one covered it. Shouldn't someone have sent a camera and a few reporters out there?"

Olbermann attributes the lack of coverage to self-censorship by journalists. "You can rock the boat, but you can never say that the entire ocean is in trouble," he said. "You cannot say: By the way, there's something wrong with our electoral system."

Federal officials charged with safeguarding the vote have also failed to contest the election. "Congress hasn't investigated this at all," says Kucinich. "There has been no oversight over our nation's most basic right: the right to vote. How can we call ourselves a beacon of democracy abroad when the right to vote hasn't been secured in free and fair elections at home?"

Sen. John Kerry -- in a wide-ranging discussion of ROLLING STONE's investigation -- expressed concern about Republican tactics in 2004, but stopped short of saying the election was stolen. "Can I draw a conclusion that they played tough games and clearly had an intent to reduce the level of our vote? Yes, absolutely. Can I tell you to a certainty that it made the difference in the election? I can't. There's no way for me to do that. If I could have done that, then obviously I would have found some legal recourse."

Kerry conceded, however, that the widespread irregularities make it impossible to know for certain that the outcome reflected the will of the voters. "I think there are clearly states where it is questionable whether everybody's vote is being counted, whether everybody is being given the opportunity to register and to vote," he said. "There are clearly barriers in too many places to the ability of people to exercise their full franchise. For that to be happening in the United States of America today is disgraceful."

Kerry's comments were echoed by Howard Dean, the chairman of the Democratic National Committee. "I'm not confident that the election in Ohio was fairly decided," Dean says. "We know that there was substantial voter suppression, and the machines were not reliable. It should not be a surprise that the Republicans are willing to do things that are unethical to manipulate elections. That's what we suspect has happened, and we'd like to safeguard our elections so that democracy can still be counted on to work."

To help prevent a repeat of 2004, Kerry has co-sponsored a package of election reforms called the Count Every Vote Act. The measure would increase turnout by allowing voters to register at the polls on Election Day, provide provisional ballots to voters who inadvertently show up at the wrong precinct, require electronic voting machines to produce paper receipts verified by voters, and force election officials like Blackwell to step down if they want to join a campaign. (205) But Kerry says his fellow Democrats have been reluctant to push the reforms, fearing that Republicans would use their majority in Congress to create even more obstacles to voting. "The real reason there is no appetite up here is that people are afraid the Republicans will amend HAVA and shove something far worse down our throats," he told me.

On May 24th, Sen. Mitch McConnell (R-Ky.) tried unsuccessfully to amend the immigration bill to bar anyone who lacks a government-issued photo ID from voting (206) -- a rule that would disenfranchise at least six percent of Americans, the majority of them urban and poor, who lack such identification. (207) The GOP-controlled state legislature in Indiana passed a similar measure, and an ID rule in Georgia was recently struck down as unconstitutional. (208)

"Why erect those kinds of hurdles unless you're afraid of voters?" asks Ralph Neas, director of People for the American Way. "The country will be better off if everyone votes -- Democrats and Republicans. But that is not the Blackwell philosophy, that is not the George W. Bush or Jeb Bush philosophy. They want to limit the franchise and go to extraordinary lengths to make it more difficult to vote."

The issue of what happened in 2004 is not an academic one. For the second election in a row, the president of the United States was selected not by the uncontested will of the people but under a cloud of dirty tricks. Given the scope of the GOP machinations, we simply cannot be certain that the right man now occupies the Oval Office -- which means, in effect, that we have been deprived of our faith in democracy itself.

American history is littered with vote fraud -- but rather than learning from our shameful past and cleaning up the system, we have allowed the problem to grow even worse. If the last two elections have taught us anything, it is this: The single greatest threat to our democracy is the insecurity of our voting system. If people lose faith that their votes are accurately and faithfully

recorded, they will abandon the ballot box. Nothing less is at stake here than the entire idea of a government by the people.

Voting, as Thomas Paine said, "is the right upon which all other rights depend." Unless we ensure that right, everything else we hold dear is in jeopardy.

**EDITOR'S NOTE:** This story has been updated to clarify a statement in the published version. The article originally stated that John Kerry's campaign "helped the Libertarian and Green parties pay for a recount of all eighty-eight counties in Ohio." In fact, the Green Party paid the state recount fee, and the Kerry campaign paid for its own attorney as a party to the litigation surrounding the recount.

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- 11) Facts mentioned in this paragraph are subsequently cited throughout the story.
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