

Official States Electronic Voting System Added Votes Never Cast  
In 2004 Presidential Election; Audit Log Missing

By Peter Peckarsky, Ron Baiman, and Robert Fittrakis

Copyright 2006 by Peter Peckarsky

An electronic vote counting system included votes never cast in the total vote count reported for the 2004 Presidential election according to an official directly in charge of conducting the election, the Republican Director of the Miami County (Ohio) Board of Elections. The audit log for the system is missing all information for the 2004 Presidential election.

The statement of this official is supported by the records of the election obtained pursuant to law from the Miami County (Ohio) Board of Elections and from the office of the Ohio Secretary of State, Kenneth J. Blackwell, Chair of the Bush-Cheney 2004 campaign in Ohio.

The votes involved were reported as having been cast on optically scanned ballots. Under state law, the records (including the audit log) were to be available to the public at 8:00 a.m. Eastern Standard Time the morning after the election.

This exclusive article is the first published report disclosing the manner in which, according to the directly responsible election official, an electronic vote counting system whose audit log is missing relevant information caused votes never cast to be included in the officially certified result of the 2004 Presidential election.

When asked during a scheduled in-person interview in the Board's offices about the matter of the votes never cast which were apparently added to the reported total by the electronic vote counting system, the Democratic Chair of the Miami County Board of Elections, attorney Robert Luring, for his complete on the record response, said: "We thank you very much for the information and the Board of Elections will consider it."

An audit log provides an internal but not tamper-proof check on the operation of an electronic vote counting system. The portion of the audit log which should have been generated by the electronic voting system for the November, 2004, election is missing. The audit log contains no information from July 24, 2004, through and including April 13, 2005. This means the

information was either deleted or was never generated.

Director of the Miami County (Ohio) Board of Elections Republican Steve Quillen stated the audit log information for the November 2, 2004 election should have been generated by the system.

Former Deputy Director of the Miami County (Ohio) Board of Elections Democrat Diane Miley referred to the absence of the audit log information as "mysterious" and indicated the audit log for the 2004 general election should have been generated by the system.

Neither Mr. Quillen, the current Director of the Miami County (Ohio) Board of Elections, nor Ms. Miley, the former Deputy Director of the Board, had any explanation for the fact that the audit log information for the November 2, 2004 election was completely missing. Mr. Quillen has been Director of the Board since February, 2002. Ms. Miley was Deputy Director of the Board for over three and one-half years (from February, 2002, to November, 2005).

When asked during a telephone interview about the missing portion of the audit log and for any information he had which might explain how and why the audit log information was deleted (or never generated), Board Chair Roger Luring said he had nothing to add beyond what Director Quillen said about the missing audit log.

In the Ohio system of public election administration, a bipartisan balance of major party supporters is theoretically maintained at each level of the system. If the Chair of the four member county Board of Elections is a Democrat, the other members of the Board will be a Democrat and two Republicans. If the Chair of a county Board of Elections is a Democrat, the Director is typically a Republican and the Deputy Director is typically a Democrat.

Miami County, Ohio, used a central count optical scan voting system for the November, 2004, election.

The scanning hardware portion of the electronic vote counting system (two Model 550 Central Ballot Scanners) was manufactured by American Information Systems, Inc., of Omaha, Nebraska (a corporate predecessor of Election Systems and Software, Inc. ("ES&S"), of Omaha, Nebraska); the application

computer programming for the election was performed by ES&S. According to records reviewed in the Miami County Board of Elections office, the application software and certain hardware for the November 2, 2004, election was not shipped to the BOE until Friday, October 29, 2004.

According to the minutes of the Special Meeting of the Miami County BOE which was called to order at 2:00 p.m. on Monday, November 1, 2004, the Media Test (sometimes referred to as a logic and accuracy test) of the recently received hardware and software commenced some time after 2:00 p.m. the day before the election and was concluded sometime before 4:00 p.m. the same day.

The electronic vote counting system used in Miami County included a desktop computer used to tabulate the votes and prepare reports. The system also included two vote scanning machines (Model 550 Central Ballot Scanners) whose output on Election Night was a series of twelve floppy disks containing information from the scanned ballots.

The data from the floppy disks was read by an internal floppy drive on the tabulating desktop computer running the Windows 98 operating system manufactured by the Microsoft Corporation of Redmond, Washington. The vote counting application software being run on the tabulating desktop computer was Election Reporting System version 1.6.1 manufactured and then programmed for the election by ES&S.

While the Board of Elections designated (using paper signs) the scanning machines as Machine 1 and Machine 2, the ES&S software recognized the scanner designated as "Machine 1" as "Scanner 2." The software recognized the scanner designated as "Machine 2" as "Scanner 1."

In the November 2, 2004 election in Miami County, Ohio, there were three types of ballots which could lawfully be counted.

The first type of lawful ballot was a regular ballot cast by a voter at the polls on election day.

The second type of lawful ballot was a provisional ballot cast by a voter either at the polls on election day or at the office of the Board of Elections before the polls closed on Election Day. After Election Day and before the official vote

total was certified on December 1, 2004, the staff members of the BOE decided which provisional ballots to count. The decisions of the staff members were approved by the BOE when the BOE approved the certified results.

The third type of lawful ballot was an absentee ballot.

To be counted, an absentee ballot from a person registered to vote in Miami County and with a mailing address in the United States was due at the BOE office by the time the polls closed.

To be counted, an absentee ballot from a person registered to vote in Miami County but with a mailing address outside the United States had to be postmarked on or before Election Day and had to be received at the BOE office by November 12, 2004.

According to Director Quillen, all absentee ballots had to be returned to the office of the Board of Elections; absentee ballots were not accepted at the precinct polling locations.

The regular ballots were marked at a precinct voting location and deposited in a ballot box by the voter. After the polls closed, the ballot boxes were transported to the office of the Board of Elections by the Presiding Judge, the chief of the four election officials at each voting location. The votes were not counted at the precinct voting locations. There was no means to scan the ballots at the precinct voting locations.

Thus, the only non-provisional votes available to be counted at the office of the Board of Elections as soon as the polls closed were the absentee ballots received at the BOE office by the time the polls closed. These absentee ballots were the first ballots counted by the electronic vote counting system on Election Night.

The absentee ballots had two numbered stubs attached which indicated the ballots were to be used as absentee ballots. The regular and provisional ballots had two numbered stubs attached which did not indicate whether the ballots were to be used as regular or provisional ballots. Regular ballots were used for voters casting a provisional ballot. Once the stubs were removed from the ballots, the absentee, provisional, and regular ballots were indistinguishable.

According to Director Quillen, each scanning machine produced six disks on election night. When the twelve disks

produced by the scanners on Election Night were provided by Director Quillen for inspection by a reporter each disk was marked with a machine number ("1" or "2") and a disk number ("1," "2," "3," "4," "5," or "6").

According to Director Quillen and former Deputy Director Miley, the absentee ballots were scanned in the first scanning run on each of the two machines. This means the absentee ballots from all 82 precincts were scanned in the first run on each machine. In total, there were six different sets of ballots scanned on the 6 scanning runs on Scanner 1 (Machine 2) and six different sets of ballots scanned on the six scanning runs on Scanner 2 (Machine 1). Each set of ballots was comprised of ballots from a different set of precincts.

On Election Night, the ballots from somewhere between 6 and 11 precincts were scanned on each scanning run after the first run on each machine.

(Director Quillen recalled that there was an informal handwritten paper log made indicating which precinct's ballots were scanned on each of the last 5 scanning runs on each of the two scanning machines. The Board of Elections was unable to produce any copy or original of the log.)

According to Director Quillen, those ballots which could not be read by the scanners and were thus rejected by the scanners were immediately referred to Resolution Boards (each Board consisted of an equal number of Republicans and Democrats). A Resolution Board met immediately in the office of the Board of Elections and marked a new replacement ballot containing the same votes as those marked on any ballot which could not be scanned. According to Director Quillen, these new ballots were scanned through the appropriate scanner before the ballots from any other precinct were scanned through the same scanner.

According to Director Quillen, on all scanning runs after the first scanning run on each scanner (in which first scanning run absentee ballots from all precincts were scanned according to the reports generated by the electronic voting system) all ballots from one precinct were scanned as a group by a given scanner.

According to former Deputy Director Miley, the replacement ballots (sometimes referred to as "remakes" of ballots which

were "remade") were not always scanned through the appropriate scanner before the ballots from any other precinct were scanned through the same scanner and were not always scanned on the same scanning run as the ballots from the same precinct which did not need to be replaced. Deputy Director Miley said she did not recall what actually happened but that it was possible that all of the replacement ballots were run through the scanner on the last scanning run.

According to Director Quillen and former Deputy Director Miley, if ballots from 9 precincts were scanned on a given run, the system should show a large block of votes from each of the 9 precincts and no votes from any other precinct. In the case of the computer generated reports from some of the scanning runs, this is what the records show.

However, on several runs, including the second run on Scanner 2 and the last scanning run on Scanner 2, the records show that there were not just a large block of votes from the several precincts whose ballots were scanned but also relatively small numbers of votes from many precincts.

The fifth scanning run on Scanner 1 contained large blocks of votes from 7 precincts and 4 extra votes from 2 other precincts.

The second scanning run on Scanner 2 contained large blocks of votes from 9 precincts and 87 extra votes from 47 other precincts.

The fourth scanning run on Scanner 2 contained large blocks of votes from 11 precincts and 4 extra votes from 3 other precincts.

The last set of ballots scanned through Scanner 2 (the sixth scanning run on Scanner 2) and read by the tabulating computer represented the last opportunity for the software to add votes not actually cast to the election night results. In fact, on the last set of ballots scanned through Scanner 2 there were votes reported from every one of the 82 precincts in the county.

The sixth and last scanning run on Scanner 2 contained large blocks of votes from 9 precincts and small blocks of votes from every one of the other 73 precincts. The number of extra votes in small blocks on the sixth scanning run on Scanner 2 was

522.

The four scanning runs referred to immediately above (the fifth run on Scanner 1 and the second, fourth, and sixth runs on Scanner 2) produced a total of 617 extra votes. In the view of BOE Director Steve Quillen, these votes were added by the ES&S electronic vote counting system.

Of these 617 ballots, 357 contained a vote for the George W. Bush/Richard Cheney ticket and 225 contained a vote for the John F. Kerry/John Edwards ticket. Thus, these ballots provided an additional margin of 132 votes for George W. Bush and Richard W. Cheney. Thirty-five of these 617 ballots contained a vote for a third party candidate, an undervote (i.e., no vote), or an overvote (attempted votes for two or more tickets or candidates) for the Presidential/Vice Presidential election of electors.

Because of the manner in which the votes now deemed improper by Republican Director Quillen were detected, it is possible that additional, as yet undetected, unlawful blocks of votes were added when a large block of votes was scanned from a precinct.

If most or all of the replacement ballots were scanned on the last scanning run as former Deputy Director Miley suggested was possible, this would explain the presence of ballots from each precinct in the last scanning run on Scanner 2.

About 9:30 a.m. Central Standard Time on November 1, 2006, a telephone call was placed to Mr. Aldo Tesi, President of Election Systems and Software, Inc., in Omaha, Nebraska, to ask whether ES&S hardware and software added votes never cast by a voter to the total vote count reported for the November 2004 election. The telephone call was referred to Mr. Rob Palmer, Marketing/Communications Director for ES&S.

Mr. Palmer asked that questions be sent to him by e-mail but was unwilling to promise a response by any specific time or date. The e-mail was sent to Mr. Palmer on the morning of November 1, 2006, and a prompt response was sought. In a later telephone call on the morning of November 1, 2006, Mr. Palmer confirmed that he had received the e-mail and said he would attend to the questions in the e-mail as soon as he completed a few telephone calls. At mid-afternoon on November 1, 2006, Mr. Palmer said in a telephone conversation that he had not yet turned his attention to the questions. Mr. Palmer said he might

possibly be able to give some attention to the questions on the evening of November 1, 2000, but offered no assurances of a response on November 1, 2006, or on any other specific date. A reporter requested that Mr. Palmer respond before the close of business on November 1, 2006. As of 9:30 p.m. Central Standard Time on November 1, 2006, no response to the questions in the e-mail to Mr. Palmer had been received.

There were supposed to be several types of documents available against which the results of the counting process could be checked. These types of additional documents included for each precinct a signature book, a pollbook, and a Report Accounting for Ballots certified by all four precinct election judges. In addition a countywide absentee database, countywide report of provisional ballots cast and counted, and a list of the precincts within the county indicating how many ballots of each type (absentee or regular) were ordered for each precinct.

For various as yet unexplained reasons some of these records are incomplete or unavailable from the Board. In addition, a leak in the building where the ballots and other records were stored required that these records be moved. The records are now in a smaller space than before the leak and somewhat disorganized.

The essential information on the Report Accounting For Ballots ("RAB") for each precinct is required by Ohio Revised Code section 3505.26 and was supposed to be certified by the four election judges at each polling place immediately following the closing of the polls.

The RAB lists: 1) the number of blank ballots received, 2) the number of ballots counted in the ballot boxes, 3) the number of "walk-in" (i.e., provisional) ballots cast, 4) the number of ballots spoiled, 5) the number of ballots not used, 6) the total number of ballots used and unused, and 7) the total number of voter signatures in the signature book.

If properly completed, an RAB provides a means to check the results written on the floppy disks produced by the scanning machines which are part of the ES&S electronic voting system.

However, in 5 precincts (in which the BOE certified 3,655 votes were cast) all entries on the RAB certificates were not completed. In 72 other precincts, the number of votes reported by the ES&S electronic voting system on Election Night does not



match the number of voters listed on the certified RAB as having cast regular ballots on Election Day.

Each election judge certified by the judge's signature, under penalty of perjury, that the judge would "discharge to the best of my ability the duties of Judge of Election" and that the judge would "endeavor to prevent fraud." Thus, there is reason to believe the numbers entered on each completed Report Accounting For Ballots are correct.

### Audit Logs

The ES&S system produces an audit log which, if it were present, might allow an observer to determine whether there were anything reflected in the log indicating an irregularity in the operation of the vote counting hardware and software.

The audit log for the November 2, 2004 election is completely missing. This means the information was either deleted or was never generated. Director Quillen and former Deputy Director Miley have stated that as far as they know the audit log should have been generated. Neither was able to offer any explanation as to why the audit log information for the November 2, 2004, election is missing. The audit log contains entries beginning on July 8, 2004 and ending on July 23, 2004, and then beginning again (one line after the last July 23, 2004 entry) on April 14, 2005, and ending in 2006.

According to Director Quillen and former Deputy Director Miley, the only elections in Miami County, Ohio in 2004 were a primary in March, 2004 and a general election in November, 2004.

Former Deputy Director Diane Miley said the absence of the audit log information for the November 2, 2004, election was "mysterious."

When asked about the missing audit log information, Miami County Board of Elections Chair Roger Luring said he did not have anything to add to the comment of Director Quillen who had no idea why the information is missing.

About 9:30 a.m. Central Standard Time on November 1, 2006, a telephone call was placed to Mr. Aldo Tesi, President of Election Systems and Software, Inc., in Omaha, Nebraska, to ask why all information concerning the November, 2004, election is missing from the audit log. The telephone call was referred to

Mr. Rob Palmer, Marketing/Communications Director for ES&S.

Mr. Palmer asked that questions be sent to him by e-mail but was unwilling to promise a response by any specific time or date. The e-mail was sent to Mr. Palmer on the morning of November 1, 2006, and a prompt response was sought. In a later telephone call on the morning of November 1, 2006, Mr. Palmer confirmed that he had received the e-mail and said he would attend to the questions in the e-mail as soon as he completed a few telephone calls. At mid-afternoon on November 1, 2006, Mr. Palmer said in a telephone conversation that he had not yet turned his attention to the questions. Mr. Palmer said he might possibly be able to give some attention to the questions on the evening of November 1, 2006, but offered no assurances of a response on November 1, 2006, or on any other specific date. A reporter requested that Mr. Palmer respond before the close of business on November 1, 2006. As of 9:30 p.m. Central Standard Time on November 1, 2006, no response to the questions in the e-mail to Mr. Palmer had been received.

#### Recount Day

The ballots were counted three times: on Election Night (November 2, 2004), to prepare an official certification of the results (signed on December 1, 2004), and at a recount (on December 16, 2004).

An understanding of the disarray in the official records (and the consequent difficulty of determining exactly how many extra votes were added to the vote totals) may be gained from considering the events on Recount Day - December 16, 2004.

The three recounted precincts were Precincts 004 ("Piqua 2-A"), 030 ("Troy 3-E"), and 063 ("Bradford").

At the recount, the ballots from each of the 3 recounted precincts were counted by hand. Then the ballots from each of the recounted precincts were run through the scanning equipment and counted again. This was the first machine count on recount day.

In two of the precincts, the hand count matched the machine count. In the third precinct, the hand count was one less than the machine count. The BOE decided the difference could be disregarded.

Then, all of the ballots from the entire county were run through the scanning equipment as a group and counted yet again in the second machine count on recount day.

The vote total for each of the three recounted precincts obtained during the second machine count on recount day differed from the total for each of the three precincts obtained during the first machine count on recount day.

In Precinct 004, the difference between the hand recount total of 558 and the second machine recount total of 566 (which matched the officially certified total) was 8 votes.

In Precinct 030, the difference between the hand recount total of 661 (the first machine count total was 662) and the second machine recount total of 675 (which matched the officially certified total) was 14 votes.

In Precinct 063, the difference between the hand recount total of 440 and the second machine recount total of 443 (which matched the officially certified total) was 3 votes.

The total difference between the hand recount totals and the certified results was 25 ballots or an average of just over 8 ballots per precinct. A shift of just less than 6 votes per precinct statewide from the officially certified total for the Bush/Cheney ticket to the Kerry/Edwards ticket would have been enough to change the outcome of the election in Ohio and the nation.

The first machine count was compared to the hand count number rather than to the certified vote total for each precinct. This action amounts to a test of the vote tabulator rather than a comparison of the recount totals with the certified totals in the recounted precincts.

After verifying for himself in 2006 the difference between the hand recount vote totals (and first machine count totals) for the 3 recounted precincts and the certified vote totals for the same 3 recounted precincts, Director Quillen remarked that the vote counting machines must have added votes to reach the certified totals.

When asked why the BOE at the recount compared the hand counted number for each precinct to the first machine count conducted that day rather than to the certified vote total for

each recounted precinct, Miami County BOE Chair Roger Luring's comment was: "We thank you very much for the information and the Board of Elections will consider it."

On Election Day 2004, the members of the Miami County BOE were Democrats Roger Luring and Miami County Democratic Party Chair Kelly Gillis and Republicans Dr. Richard Adams and Attorney Robert Huffman, Sr. Attorney Huffman died a few weeks after the election of atypical pneumonia according to his son, Robert Huffman, Jr., who succeeded his father as a member of the Miami County BOE in 2005.

In a telephone interview, Robert Huffman, Jr., indicated that, as far as he knew, his deceased father and former Member of the Miami County Board of Elections Robert Huffman, Sr., thought the November, 2004, election was conducted properly and the votes were counted accurately.

In an in-person interview, Board member Kelly Gillis, indicated he did not know why extra ballots appeared to have been added to the vote total by the electronic vote counting system. In this regard, Mr. Gillis mentioned that he was a member of a Resolution Board and that he did not know what happened to the new ballots made by the Resolution Board to replace ballots which could not be scanned by the scanning machines.

After Mr. Gillis mentioned that he did not know what happened to the replacement ballots made by the Resolutions Board, Director Quillen was asked about the matter. According to Director Quillen, the new ballots (or replacement ballots) made by a Resolution Board were scanned through the appropriate scanner before the ballots from any other precinct were scanned through the same scanner.

According to former Deputy Director Miley, the replacement ballots (sometimes referred to as "remakes" of ballots which were "remade") were not always scanned through the appropriate scanner before the ballots from any other precinct were scanned through the same scanner and were not always scanned on the same scanning run as the ballots from the same precinct which did not need to be replaced. Deputy Director Miley said she did not recall what actually happened but that it was possible that all of the replacement ballots were run through the scanner on the last scanning run.

Former Deputy Director Miley's observations about the replacement ballots were not obtained until mid-October, 2006. When Director Quillen was contacted to ask whether replacement ballots accounted for the extra votes he said were added by the ES&S system and to seek access to the replacement ballots, Mr. Quillen said he was too busy with the 2006 election to discuss the 2004 election or to provide access then to records from 2004 but would be pleased to discuss the matter and provide access to records after the 2006 election. In compliance with Ohio law and when not faced with an impending election, Director Quillen and the entire BOE staff typically provided prompt access to public records requested.

With respect to the recount, Mr. Gillis said he did not know why the Board failed to compare the hand counted vote total for each of the three recounted precincts to the certified vote total for each of the three recounted precincts.

Due to scheduling difficulties, it was not possible to arrange an in-person interview with Dr. Adams. In a telephone interview, Dr. Adams said BOE Chair Roger Luring was the spokesperson for the Board and that Dr. Adams would let Chair Luring's comments be the comments of the entire Board.

#### ABSENTEE BALLOTS

There were discrepancies in the handling of absentee ballots. For example, about 59 voters registered to vote in precincts other than Precinct 030 were issued (and returned) absentee ballots from Precinct 030 which was one of the recounted precincts.

In mid-September, 2006, two boxes of absentee ballots were counted in the Miami County BOE storage facility. The first box had 2,338 ballots and the second box (which was found in September, 2006, through the extraordinarily diligent efforts of Miami County Board of Elections Deputy Director Pam Calendine) had 2,268 ballots for a total of 4,606 ballots.

The Board certified to the Secretary of State that it supplied 5,630 absentee ballots to voters asking for an absentee ballot. The Board's absentee ballot database indicates that the Board received requests for 5,687 absentee ballots.

The Board of Elections certified that the number of absentee ballots cast as of the time the polls closed on

Election Night was 5,191. Thus the total number of absentee ballots counted on Election Night should have been 5,191.

In fact, according to the reports generated by the electronic voting system, the total number of absentee ballots counted on Election Night was 4,667. In the three recounted precincts, 134 absentee ballots were counted on the scanners on Election Night. In order to facilitate the recount, the absentee ballots cast in the three recounted precincts were removed from the absentee ballots in storage and placed with the other ballots from the appropriate precinct according to Director Quillen.

Thus, if the Election Night count of 4,667 were correct, there should be 4,533 absentee ballots in storage instead of 4,606. Director Quillen had no explanation for this difference.

If the BOE certification that 5,191 absentee ballots were cast by the time the polls closed on Election Night were correct, there should be 5,057 absentee ballots in storage, not 4,606. Director Quillen had no information as to where the missing 451 absentee ballots were.

Because of the theoretical possibility that the extra 617 (or more) votes may have been due to misplaced absentee ballots, a detailed examination and count of 4,606 absentee ballots contained in two boxes was conducted beginning in September, 2006, by a reporter and various assistants.

A detailed examination, count, and analysis of the available absentee ballots on a precinct-by-precinct basis indicates the extra votes were not the result of misplaced absentee ballots.

#### The 2006 Outlook

In 2004, only about 15 Ohio counties used a central count optical scan electronic voting system.

In 2006, about 29 Ohio counties will use a precinct count optical scan electronic voting system. The remainder of the 88 counties will use Direct Recording Electronic (DRE) voting systems.

One advantage of some precinct count optical scan systems is that they can alert the voter to an undervote or an overvote

before a vote is cast irrevocably. This allows the voter to change the ballot to avoid an undervote or an overvote.

However, essentially the same counting process is used by a precinct count optical scan system as by a central count optical scan system. Instead of the central count method of scanning ballots at a central location and putting scanning data in electronic form at the central location for input into a tabulating computer at the central location, the precinct count optical scan systems involve scanning the ballots at the precinct and putting the scanning data in electronic form at the precinct. Then the electronic form of the data is carried (instead of across a room, across a county) to the central location for input into the tabulating computer at the central location.

When using either system, the ballots are typically transported from the precinct voting location to the central counting location. When the ballots become available for inspection or a recount, the vote totals generated by the optical scan electronic voting system can be compared to the vote totals obtained by hand counting the optical scan ballots.

In Ohio, the ballots did not become available for a recount until after the results were officially certified on December 6, 2004. United States Senators John Kerry and John Edwards, the 2004 Democratic nominees for President and Vice President, respectively, ended their campaign and any official inquiry on their part into the accuracy of the 2004 vote count in Ohio over a month earlier about 1:00 p.m. Eastern Standard Time on November 3, 2004.

Another advantage of precinct count optical scan systems over central count optical scan systems is that precinct count optical scan voting systems can produce a vote total which can be posted at the precinct voting location after the polls close. The central count optical scan systems do not have this capability because they have no means to scan the ballots at the precinct voting location.

The posting of the results at each precinct can provide protection against error or fraud in the vote counting process.

Under one reading of Ohio Revised Code section 3505.30, the results are supposed to be posted at each precinct on election night before the election judges leave the polling place.

Inquiries at various Ohio Boards of Election indicate that some counties will post the results at each voting location and others will not.

Once the results are posted and copied by the public at a given precinct, the vote for a given precinct should not be able to be changed on Election Night at the central counting point without explaining how extra votes were cast (or how votes counted at a given precinct were removed from the total of votes cast) between the time the votes were counted and the results were posted at the precinct (after the polls closed) and the later time when the results were tabulated and announced at the BOE's offices.

In 2006, in Miami County, Ohio, according to Director Quillen, voters will use a Diebold TSX Model 100 DRE system with a voter verified paper audit trail at the precinct voting locations on Election Day. Absentee voters who wish to cast their absentee ballots in the BOE office may do so either on the DRE system or on a paper absentee ballot. Absentee ballots cast on paper will be counted by a Diebold Absentee Voter Optical Scan (AVOS) Accuvote system according to Director Quillen.

So-called independent testing authorities are paid by the electronic voting machine vendors to inspect and certify the software sold by the electronic voting machine vendors. Such software certification is required by most state and local authorities before they will authorize the use of electronic voting equipment.

When asked whether he or the Miami County Board of Elections had any way to verify physically or electronically that the software on the Diebold DRE voting system and the Diebold optical scan voting system being used in Miami County in November, 2006, was the same as the software certified by so-called independent testing authorities, Director Quillen indicated neither he nor the BOE had any way to make such a verification.

*This article was reported by Peter Peckarsky, Ron Baiman, and Robert Fittrakis. The article was written by Mr. Peckarsky, who was lead trial counsel for the contestants (plaintiffs) in Bill Moss, et al., v. George W. Bush, et al., the only judicial contest of the 2004 Presidential election in Ohio. Dr. Ron*



Baiman was an expert witness for the contestants in Moss v. Bush. Prof. Robert Fitrakis was co-counsel for the contestants in Moss v. Bush and is executive editor of The Free Press. Prof. Fitrakis is also an independent candidate in 2006 for Governor of Ohio. Mr. Peckarsky does not support Prof. Fitrakis' candidacy and has not had any involvement in the Fitrakis campaign.