

# **The 2004 Presidential Election: Who Won The Popular Vote? An Examination of the Comparative Validity of Exit Poll and Vote Count Data**

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## **Executive Summary**

- There is a substantial discrepancy—well outside the margin of error and outcome-determinative—between the national exit poll and the popular vote count.
- The possible causes of the discrepancy would be random error, a skewed exit poll, or breakdown in the fairness of the voting process and accuracy of the vote count.
- Analysis shows that the discrepancy cannot reasonably be accounted for by chance or random error.
- Evidence does not support hypotheses that the discrepancy was produced by problems with the exit poll.
- Widespread breakdown in the fairness of the voting process and accuracy of the vote count are the most likely explanations for the discrepancy.
- In an accurate count of a free and fair election, the strong likelihood is that Kerry would have been the winner of the popular vote.

## **The Significance of a Popular Vote Victory**

Although it is the Electoral College and not the popular vote that legally elects the president, winning the popular vote does have considerable psychological and practical significance. It is fair to say, to take a recent example, that had Al Gore not enjoyed a popular vote margin in 2000, he would not have had standing in the court of public opinion to maintain his post-election challenge for more than a month up until its ultimate foreclosure by the Supreme Court.

In the 2004 election now under scrutiny, the popular vote again has played a critical role. George Bush's apparent margin of 3.3 million votes clearly influenced the timing of John Kerry's concession. Although the election was once again close enough that yet-to-be-counted votes offered at least the mathematical possibility of a Kerry electoral college victory—and although, once again, concerns about vote counting were beginning to emerge from early post-election reports and analyses—Kerry apparently believed that, unlike popular vote-winner Gore, he did not have effective standing to prolong the race.

As ongoing inquiries continue to raise serious vote counting issues, Bush's apparent popular vote margin has loomed large as a rationale for minimizing these issues, at least as far as their impact on the outcome of the race. While much concern has been expressed about "counting every vote," even the Kerry camp has issued disclaimers to the effect that their candidate does not expect that so doing will alter the outcome.

With the results in Ohio currently subject to both recount proceedings and legal contest, dramatic developments compelling a reversal of the Ohio result cannot be ruled out at this time. Yet to overturn the Ohio result, giving Kerry an electoral college victory (or even to disqualify the Ohio electors via challenge in Congress, which would deprive Bush of an electoral college majority and throw the election to the House of Representatives), would likely be regarded as unjust and insupportable by a populace convinced that Bush was, by some 3.3 million votes, the people's choice.

Thus, although the popular vote does not legally determine the presidency, its significance is such that we must give due consideration to any evidence which puts the popular vote count itself at issue.

## Sources of the Exit Poll and Vote Count Numbers

As the analysis which we undertake below is based upon the conflict between two sets of numbers, one generated by the exit polls for the presidential race and the other generated by the vote counting equipment, it is necessary to review the nature of the two sources of results. Exit polling, since its invention several decades ago, has performed reliably in the projection of thousands of races, both here at home and, more recently, abroad.<sup>1</sup> The record of exit polling from the 1970s through the 1990s was essentially free of controversy, except for the complaint that publication of exit poll results prior to poll closings dampened voter turnout by discouraging late-in-day voters from bothering to vote, the race having already been “called.”<sup>2</sup> Voters could be so influenced because they had come, indeed, to regard exit poll projections as all but infallible. Significant exit polling problems began to appear along with the development and spread of computerized vote counting equipment, since which time exit polls have had a notably poorer track record in spite of improvements in polling methodology.

Compared to standard pre-election polling, exit polling has certain advantages and disadvantages. On the plus side, exit polls sample actual rather than just “likely” voters and do not fail to include voters who are not attached to a conventional phone line or who screen their calls.<sup>3</sup> This results in significantly greater accuracy. On the minus side, exit polls employ a cluster sampling technique, grouping respondents by precinct, rather than a fully homogenized random sample of the target venue. This results in somewhat less accuracy. On the whole, the advantages in accuracy an exit poll enjoys over a pre-election poll of the same sample size tend to outweigh the disadvantages.

The exit polling in Election 2004 was performed by the combined firms of Mitofsky International and Edison Media Research, under exclusive contract as “official provider” of exit poll data to six major media organizations (CBS, NBC, ABC, CNN,

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<sup>1</sup> See *Polling and Presidential Election Coverage*, Lavrakas, Paul J, and Holley, Jack K., eds., Newbury Park, CA: Sage; pp. 83-99.

<sup>2</sup> This problem was theoretically resolved by a gentleman’s agreement to withhold release of exit poll calls until the polls had closed.

Fox News Channel, and the Associated Press), which collectively formed the National Election Pool.<sup>4</sup> Exit polling operations were under the principal direction of Warren Mitofsky, credited as the inventor of exit polling and recognized throughout the world as the leading expert in the field. With over 35 years of exit polling experience, encompassing nearly 3,000 electoral contests in the United States and abroad, Mitofsky has achieved consistent success in the field and has continued throughout his career to refine and improve the methodologies and protocols of exit polling.<sup>5</sup> In 1999 Mitofsky received the Award for Lifetime Achievement from the American Association for Public Opinion Research.

Election 2004 presented a particular challenge and opportunity for Mr. Mitofsky, whose exit polling operation was hampered in 2002 by a massive computer breakdown.<sup>6</sup> It has been reported that preparations for Election 2004 were especially thorough, entailing increased staff numbers and training, upgraded computer hardware and software, expanded surveys of absentee and early voters, and dry runs beginning in July to prepare analysts for the full spectrum of possible election night scenarios.<sup>7</sup> It may fairly be said that the exit polling for Election 2004 was a more advanced, sophisticated, and meticulous operation than any previously undertaken.

In contrast to the uniform methodology of the exit polls, a variety of methods are employed to record votes on election day, including optical scan devices, direct electronic recording (DREs or “touchscreens”), punch cards, paper ballots, lever machines, and data-point devices, in that order of prevalence. An additional variety of

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<sup>3</sup> Because only actual voters are included, these might more accurately be referred to as “exit samples” rather than “exit polls.”

<sup>4</sup> As described in the National Election Pool Edison Media Research/Mitofsky International homepage: [www.exit-poll.net/index.html](http://www.exit-poll.net/index.html).

<sup>5</sup> Exit polling has been relied upon as a check mechanism for the vote counting processes in numerous foreign elections. Indeed Mitofsky himself received public commendation from Mexican President Carlos Salinas for his contribution to the credibility of that nation’s 1994 election. Most recently, exit polling has been instrumental in the overturning of election results and the ordering of a new election in the Ukraine.

<sup>6</sup> As a result exit polls were not employed in the projection of election outcomes in 2002.

<sup>7</sup> Newark *Star-Ledger*, 10/28/2004, page 1, “Networks Will Look to Somerville of Tuesday.” See also, Bauder, D., “TV Networks to Test New Exit Polling System,” The Associated Press, Oct. 13, 2004, reprinted at

[http://aolsvc.news.aol.com/elections/article.adp?id=20041013122209990005&\\_ccc=6&cid=946](http://aolsvc.news.aol.com/elections/article.adp?id=20041013122209990005&_ccc=6&cid=946). The specific methodologies and protocols employed are detailed on the websites for Mitofsky International ([www.mitofskyinternational.com](http://www.mitofskyinternational.com)), Edison Media Research ([www.edisonresearch.com](http://www.edisonresearch.com)), and the National Election Pool ([www.exit-poll.net](http://www.exit-poll.net)).

methods are then employed to transmit these votes to central locations and tally them at the county and state levels. Ownership and operation of this mosaic of machinery is fully privatized and is concentrated predominantly in the hands of four corporations: Diebold, ES&S, Sequoia, and Hart Intercivic. The partisan proclivities and activities of each of these corporations are a matter of public record.<sup>8</sup> Because of the proprietary nature of the election system throughout the United States, these vendors of the voting equipment design, program, operate, maintain, and repair it at every level, most often without outside or public scrutiny, and with at best a minimal process of testing and certification.<sup>9</sup> Boards of Election and state level authorities over election protocols have often accepted financial support from the equipment vendors<sup>10</sup> and have also been seen at times to act under the influence of partisanship, appearing to elevate outcomes over fairness of process.<sup>11</sup> Such systemic conflicts of interest do little to enhance the integrity or credibility of the vote counting system.

Computer experts have documented the susceptibility of both the recording and tabulating equipment to undetected errors, hacking, and deliberate fraud.<sup>12</sup> A substantial component of the system (DREs, which are responsible for recording approximately 30% of the vote) generates no paper record and is effectively immune to meaningful recount. Central tabulators responsible for compiling over 50% of the vote employ an operating system that has been demonstrated to be vulnerable to entry and manipulation through a

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<sup>8</sup> See, e.g., Smyth, J., *Cleveland Plain Dealer*, August 28, 2003, reprinted at:

<http://www.commondreams.org/headlines03/0828-08.htm> ; see also <http://blogs.salon.com/0002255/> .

<sup>9</sup> See Zeller, T., "Ready or Not, Electronic Voting Goes National," *The New York Times*, Sept. 19, 2004 (reprinted at <http://aolsvc.news.aol.com/elections/article.adp?id=20040918145609990001&cid=842>).

<sup>10</sup> See "On the Voting Machine Makers' Tab," *The New York Times*, Sept. 12, 2004, Editorial Page.

<sup>11</sup> See, e.g., Welsh-Huggins, A., "The Next Katherine Harris?" Associated Press Report Oct. 27, 2004, reprinted at <http://aolsvc.news.aol.com/news/article.adp?id=20041027161309990012> (detailing actions taken by Ohio Secretary of State J. Kenneth Blackwell).

<sup>12</sup> See, e.g., Rubin, A., "An Insider's View of Vote Vulnerability," *Baltimore Sun*, March 10, 2004 (reprinted at [www.commondreams.org/views04/0310-02.htm](http://www.commondreams.org/views04/0310-02.htm)); Levy, S., "Black Box Voting Blues," *Newsweek*, Nov. 3, 2004 (reprinted at <http://msnbc.msn.com/id/3339650/>)

standard laptop PC.<sup>13</sup> In spite of these vulnerabilities of the counting system, few if any questions about the accuracy of the numbers it produced were raised on election night.<sup>14</sup>

### **Election Night 2004: The Exit Poll/Vote Count Differential**

On election night 2004, the exit polls and the vote counting equipment generated results that differed significantly. In the early morning of November 3, 2004, a CNN.com website screenshot entitled “U.S. PRESIDENT/NATIONAL/EXIT POLL” posted national exit poll results updated to 12:23 A.M., broken down by gender as well as a variety of other categories.<sup>15</sup> The time of the update indicates that these results comprised substantially the full set of respondents polled on election day, but were free from the effects of a subsequent input of tabulated data used to bring about ultimate congruence between the exit poll and vote count results.<sup>16</sup>

The CNN posting indicates the number of respondents (13,047), the gender breakdown of the sample (male 46%, female 54%), and the candidate preferences by gender (males: 52% Bush, 47% Kerry; females: 45% Bush, 54% Kerry). For the national exit poll taken as a whole, therefore, the result was 48.2% Bush, 50.8% Kerry.<sup>17</sup> The vote

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<sup>13</sup> The GEMS system, employed by Diebold in central tabulators serving about half the venues, is particularly susceptible to entry and manipulation (hacking or preprogramming) as was dramatically demonstrated on national television (CNBC: “Topic A With Tina Brown”) when critic Bev Harris led Howard Dean through the necessary steps in less than two minutes (see Hartmann, T., “Evidence Mounts That The Vote May Have Been Hacked,” at <http://www.commondreams.org/headlines04/1106-30.htm>).

<sup>14</sup> Such unquestioning acceptance may be portrayed in a positive light. As Warren Mitofsky himself has said: “In a democracy, it’s the orderly transfer of power that keeps the democracy accepting the results of elections. If it drags on too long, there’s always a suspicion of fraud.” The perils of unquestioning acceptance of what may, given the vulnerabilities of our vote counting system, be falsified results should, however, be self-evident.

<sup>15</sup> The time-stamped screenshot was printed out by Simon at 1:29 A.M. on Nov. 3, 2004, and is attached for reference as Appendix A. This *printout* time stamp appears at the bottom right of Simon's screen shot, but was obscured in the scanning process. The data derived from the CNN screenshots printed by Simon for the individual states may also be referenced at <http://www.scoop.co.nz/mason/stories/HL0411/S00142.htm>.

<sup>16</sup> This practice is referenced in “Methods Statement: National Election Pool Exit Polls Nov. 2, 2004,” (.pdf) at <http://www.exit-poll.net/>.

<sup>17</sup> The totals for the full sample are computed by combining the candidate preferences of male and female respondents: Bush = [(males)46% x 52%] + [(females)54% x 45%] = 48.2%; Kerry = [(males)46% x 47%] + [(females)54% x 54%] = 50.8%. Alternatively, if Kerry's exit poll share is minimized by assuming minimal female and male shares and minimal Kerry vote shares out to four decimal places (as low as it can get subject to the indivisibility of whole voters), his absolute minimal vote share would be:  $0.5345 \times 0.5345 + 0.4545 \times 0.4645 = 49.68\%$ . In this case the reported actual Kerry vote of 48.1% is still far

counting equipment produced a markedly different result: 50.9% Bush, 48.1% Kerry, .<sup>18</sup> The differential between the two counts, which were virtually mirror images of each other, was 5.4% overall (see Chart 1).

**Chart 1: Exit Poll vs. Popular Vote Comparison (National)**

	<b>Bush %</b>	<b>Kerry %</b>	<b>Bush Margin%</b>
<b>National Exit</b>	48.2%	50.8%	-2.6%
<b>Popular Vote Count</b>	50.9%	48.1%	2.8%
<b>Difference</b>	2.7%	-2.7%	5.4%

The reaction of election night analysts interpreting this differential was immediately to query what had “gone wrong” with the exit polls. This was a curious approach both in light of standard accounting practice, which compels independent examination of *both* sets of numbers that are found to be in conflict, and in light of much-voiced pre-election concerns about the accuracy and security of the computerized vote counting systems. We offer an alternate approach to the conflicting data, based on fundamental statistical and accounting principles.

### **Statistical Analysis Of Exit Poll Results**

Steven F. Freeman of the University of Pennsylvania has analyzed Election 2004 exit poll results for battleground states,<sup>19</sup> and has drawn certain conclusions regarding the significant discrepancies between exit poll results and vote counts for several critical

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outside of the 95% confidence interval of  $\pm 1.1\%$  and has just a one in 364 chance of occurrence (see analogous calculations for a Kerry exit poll result of 50.8% in text).

Finally, if we change our cluster sampling adjustment to its maximal possible value of 1.8 (as reportedly stated by Mitofsky in a personal communication (see: <http://stones-cry-out.blogspot.com/2005/01/simon-and-baimon-on-exit-polls.html>) the Kerry actual reported vote of 48.1% still has only a one in 45 chance of occurring, i.e. well less than a 1% chance (0.0027 probability).

<sup>18</sup> Approximately 1% of the total vote went to minor candidates. Therefore a vote percentage of 49.54% rather than 50.0% constitutes a winning margin for either Bush or Kerry. It is important to bear this in mind in reading the analysis below.

<sup>19</sup> Freeman, S., “Was the 2004 Presidential Election Honest? An Examination of Uncorrected Exit Poll Data,” Working Paper #04-10, rev. Nov. 23, 2004; <http://www.buzzflash.com/alerts/04/11/Expldiscrpv00oPt1.pdf>.

states. In particular, the odds against the discrepancies in Ohio, Florida, and Pennsylvania occurring together are computed at 662,000-to-one, or a virtual statistical impossibility that they could have been due to chance or random error. Receiving somewhat less emphasis is the overall pattern of discrepancy in the state polls—again with the vote counts turning in Bush’s favor, though less dramatically in the nonbattleground states, as will be discussed below. The national popular vote is not addressed in that paper, but the same statistical principles are applicable, and will be employed in this analysis.

While the individual state samples totaled 73,678 reported respondents,<sup>20</sup> a national sub-sampling was undertaken by Edison/Mitofsky, which comprised 13,047 reported respondents, chosen as a representative random sample of the nation as a whole. This sample was drawn from 250 targeted polling places and from 500 individual telephone interviews with absentee and early voters.<sup>21</sup>

What is remarkable about this national sample of 13,047 is its size. When compared with more familiar pre-election poll samples of about 2000 - 2200 respondents, it is approximately six times as large. Such augmentation of sample size reduces a poll’s margin of error (MOE) from the  $\pm 3\%$  to which we have become accustomed, down to  $\pm 1.1\%$ .<sup>22</sup>

The  $\pm 1.1\%$  MOE tells us that, barring specific flaws in the design or administration of the poll and in the absence of significant mistabulation of the vote count itself, the exit poll result for the selected candidate will fall within  $\pm 1.1\%$  of his vote count 95% of the time. In this case it tells us that we can be 95% certain that

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<sup>20</sup> For the 47 states and District of Columbia for which data was captured by Simon, see: <http://www.scoop.co.nz/mason/stories/HL0411/S00142.htm>

<sup>21</sup> See “Methods Statement: National Election Pool Exit Polls: National/Regional Exit Poll,” available from the National Election Pool in .pdf format at [www.exit-poll.net/index.html](http://www.exit-poll.net/index.html)

<sup>22</sup> *Ibid*, p. 2, Table. Calculation of the margin of error may be checked as follows: Calculate the standard error of a random sample using the formula  $\sqrt{\frac{p(1-p)}{N}} = 0.00437$ , where p = Kerry percentage of the vote (0.481) and N = the sample size (13,047). The fact that an exit poll is a cluster sample, grouping respondents by precinct, rather than a fully homogenized random sample of the target venue, increases the standard error by 30% to 0.00568 (see Merkle, D. and Edelman, M. “A Review of the 1996 Voter News Service Exit Polls from a Total Survey Error Perspective,” in *Election Polls, the News Media and Democracy*, ed. P.J. Lavrakas, M.W. Traugott, New York: Chatham House, pp. 68 - 72). Ninety-five percent of the time, a result predicted on the basis of a random sample will be within 1.96 standard errors, or  $\pm 0.011$  (1.1%) for a sample of this size.

Kerry's popular vote percentage would fall in the range 49.7% to 51.9%; that is, it would fall outside that range only once in 20 times. Kerry's reported vote count of 48.1% falls dramatically outside this range.<sup>23</sup>

To carry our analysis further, we can employ a normal distribution curve (see Figure 1) to determine—again assuming proper poll methodology, no discriminatory voter suppression<sup>24</sup>, and an accurate and honest popular vote count—that the probability that Kerry would have received his reported popular vote total of 48.1%, or less is one in 959,000—a virtual statistical impossibility.<sup>25</sup>

### **The Popular Vote Winner**

We can proceed one helpful step further and calculate the likelihood, based on the exit poll results, that Kerry would receive more popular votes than Bush. The break-even point would be 59,024,629 votes, or 49.54% of the total.<sup>26</sup> This percentage lies, significantly, outside the MOE of the national exit poll and in fact we find that Kerry would receive fewer votes than Bush only 1.3% of the time. Put another way—given the exit poll results, proper poll methodology, and an accurate and fair voting process—Kerry would be the popular vote winner of Election 2004 98.7% of the time.

### **Is Something Wrong With The Exit Poll Results?**

The clear implication of our analysis is that neither chance nor random error is responsible for the significant incongruence of exit poll and tabulated vote results, and

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<sup>23</sup> It is dramatic because a 2.7% “miss” at these levels of precision is extremely unlikely to occur. The statistician's measure of such likelihood is known as a “standard deviation.” A result which is off, as in this case, by 4.7 standard deviations is without question “dramatic:” the odds against its occurrence are 959,336 to one (see text below).

<sup>24</sup>“Discriminatory voter suppression” refers to methods that disproportionately reduce voter turnout in precincts that favor one candidate, for example through disproportionate allocation of voting machines. Because state level exit polls are weighted sums of precinct voting shares, disproportionate changes in turnout can contribute to a discrepancy in state exit polls relative to the actual vote.

<sup>25</sup> Probability of a 48.1% vote share assuming an exit poll vote share of 50.8%:  $P(0.481) = 1 - \text{NORMDIST}(0.481, 0.508, 0.005686, \text{True}) = 0.0000010424$  (where NORMDIST is an Excel spreadsheet function that gives the probability of obtaining 0.481 for a normal distribution with a mean of 0.508 and a standard deviation of 0.005686).  $1/0.0000010424 = 959,336$ .

that we must look either to significant failings in the exit poll design and/or administration or to equally significant failings in the accuracy and/or fairness of the voting process itself to explain the results. Given the dramatic implications of our analysis, we of course must consider carefully any argument that has been put forward suggesting that the exit polls failed as an accurate measure of voter intent. We examine the two least implausible hypotheses that have been put forward.

The first deals with the proportion of respondents by gender. The composition of the national sample by gender was 46% male, 54% female, which prompted a claim that females were over-represented, skewing the results towards Kerry. While it is not proven that this is in fact the case, if it is taken as stipulated and the sample is reweighted to reflect a “normal” gender breakdown of 52% female, 48% male, the effect is to increase Bush’s exit poll percentage by 0.2% to 48.4% and decrease Kerry’s to 50.6%. The effect on the bottom line is minimal: Kerry would be the popular vote victor 96.9% of the time.<sup>27</sup>

The second hypothesis put forward is the “reluctant Bush responder” hypothesis. It suggests that Bush voters were for some reason less willing to fill out an exit poll questionnaire, and therefore were undercounted in the poll results. If such a phenomenon could be proven, it would be a source of significant skewing and effectively invalidate the polls. The proponents of this hypothesis, however, have yet to offer any supportive evidence for their theory.<sup>28</sup> The hypothesis also does not explain the nonuniformity of

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<sup>26</sup> Based on final election numbers from the *Washington Post*, Nov. 24, 2004.

<sup>27</sup> For reference, even a clearly “male-skewed” 50% male, 50% female sample would have resulted in a Kerry victory 93.5% of the time.

<sup>28</sup> There is some intriguing evidence to the contrary, drawn from an analysis performed by William Kaminsky, a graduate student at MIT. Kaminsky finds that in 22 of 23 states which break down their voter registrations by party ID the ratio of registered Republicans to registered Democrats in the final, adjusted exit poll was larger than the ratio of registered Republicans to registered Democrats on the official registration rolls. In other words, the adjustments performed on the exit polls in order to get them to agree with the official tallies would, if valid, require Republicans to have won the get-out-the-vote battle *in essentially every state*. We find this requirement implausible, and indeed observational evidence pointed to just the opposite: massive new voter turnout, which virtually always cuts in favor of the challenger; huge lines in Democratic precincts; unadjusted exit poll data showing apparently greater Democratic turnout; etc. Exit polls appropriately stratified to official party ID percentages, which would effectively neutralize any suspected “reluctant Bush responder” phenomenon by including the expected proportions of Republican and Democratic voters, would on the basis of Kaminsky’s analysis have yielded results at least as favorable to Kerry as those upon which we have relied in our calculations.

the pattern of state-by-state discrepancies.<sup>29</sup> In fact, one could equally well imagine that a “reluctant Kerry responder” phenomenon was at work, and that the exit polls systematically underrepresented Kerry’s vote.<sup>30</sup>

## Conclusion

In light of the history of exit polling and the particular care that was taken to achieve an unprecedented degree of accuracy in the exit polls for Election 2004, there is little to suggest significant flaws in the design or administration of the official exit polls. Until supportive evidence can be presented for any hypothesis to the contrary, it must be concluded that the exit polls, including the national mega-sample with its  $\pm 1.1\%$  margin of error, present us with an accurate measure of the intent of the voters in the presidential election of 2004.

According to this measure, an honest and fair voting process would have been more likely than not—at least 95% likely, in fact—to have determined John Kerry to be the national popular vote winner of Election 2004.<sup>31</sup> Should ongoing or new investigations continue to produce evidence that, to an extent determinative of the electoral college outcome, votes have not been counted accurately and honestly or

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<sup>29</sup> A complete analysis of all 45 states and the District of Columbia for which comparable exit poll data is available shows that four out of the 11 battleground states had exit poll/vote count discrepancies that were outside of a standard 5% (one-tail) margin of error, whereas this was the case for only one of the 35 non-battleground states. Moreover, all of these statistically significant discrepancies were in favor of Bush. This data is at odds with claims of “systemic” pro-Kerry exit poll skew. See Baiman, R. Dec. 19, 2004 at: <http://www.freepress.org/departments/display/19/2004/997> (some figures have been updated by the author to reflect more recent data).

<sup>30</sup> It is by no means self-evident that either candidate’s supporters were systemically more likely to be intimidating or more easily intimidated. While it might be more reasonably argued that voters finding themselves in a dwarfed minority in their communities might have been less willing to be exit poll respondents, in light of the even division of the national electorate, any such tendencies would have resulted in a wash, with no net effect on the validity of the national exit poll. We would of course welcome the release by Edison/Mitofsky and/or the National Election Pool of the data which would facilitate further analysis of these and other factors.

<sup>31</sup> It should be clear that more is at stake than the presidency itself. Use of computerized vote counting will only increase, as mandated by law. Vote counting is the bedrock protocol of a democracy and meaningful reform of a broken counting system is dependent on an expression of public will ultimately exercised *at the ballot box* and fairly, accurately, and honestly tabulated. If the system has broken down and is no longer counting accurately and honestly, there is no effective democratic mechanism to bring pressure upon a governing majority to reform a vote counting *status quo* which is seen to work in its favor. This is, as may be seen, a potentially crippling catch-22 for a democracy.

discriminatory vote suppression has occurred, the re-examined popular vote outcome may well be deemed relevant to the question of what remedies are warranted.

Figure 1:



