

Emergency Measures to Protect the 2004 Vote Count

I. INTRODUCTION:

Another questionable Federal election is certain to precipitate a national crisis, regardless of who is declared the winner. Yet, recent events have made the following scenario very likely.

There will be election "anomalies". We know this; there always are. Then there will be lawsuits. Then delays, recounts, and more lawsuits when recounts can't be done on electronic machines. Then, at some point, a winner will be announced, but the country is not likely to accept a winner announced after lawsuits, delays, and who-knows-what basis for the decision. Not after 2000.

This is not conspiracy theory. It's not a statement for or against electronic voting. It's a probability based on facts: the extreme polarization in our country, the rapidly growing skepticism about electronic voting, the legions of attorneys being amassed by both major parties, and the abundance of election lawsuits that have already been filed in recent months.

The remedy is within reach:

Hand counted paper ballots for FEDERAL offices in the 2004 election!

Growing numbers of Americans are expressing grave concern about the secrecy, invisibility and lack of accountability that characterize electronic vote counting and tabulation. More and more people are hearing about the expert reports discrediting electronic voting and watching the "hacking" demonstrations showing that virtually *any* input or outcome may be manipulated entirely without detection.

Regardless of a person's position on electronic voting, it is indisputable that this country is facing a crisis of confidence in our elections because of the unresolved questions surrounding electronic ballots, invisible ballot-counting, invisible tabulation and aggregation, secret "proprietary" source code, hidden bugs and non-published bug fixes, secret audit trail failures, and impossible recounts.

Thousands of articles have been printed in the nation's newspapers. News programs have focused on the problems of electronic voting, and "60 Minutes" is preparing an expose for fall airing. The People *are frightened* that something is very wrong in America's elections.

The country is waking up to the lack of local public oversight and realizing it is a critical component of safeguarding our right to free and fair elections. People of all political persuasions are concerned that the opposition will gain offices for their candidates by manipulating the invisible votes. Once the election is over, there will be no way to assure the American people that such a manipulation did not take place, **even if it didn't**.

The outcry against electronic voting is often perceived as a Democrat concern. But it is not. The concern crosses all political boundaries. A conservative newspaper (NewsMax) recently published an article entitled "Political Passion Counts - But Your Vote for Bush Might Not!." The article claimed:

No American can now trust that anyone in charge of electronic technology, including manufacturers of electronic voting machines who may have their own political agenda) will not skew the election - through fraud - toward the candidate they favor. Nor, for that matter, can anyone trust the machines themselves!

Congress, too, is becoming acutely aware of the dangers that the lack of proper oversight presents for the upcoming election. In a recent hearing of a House Science subcommittee, all those present, both the Congressmen and the expert witnesses, gave assent to the following statement made by Michael I. Shamos, Ph.D., J.D. Distinguished Career Professor, School of Computer Science, Co-Director of the Institute for eCommerce, Carnegie-Mellon University, statutory examiner of electronic voting systems for the states of Pennsylvania (1980-2000) and Texas (1987-2000):

"The system we have for testing and certifying voting equipment in this country is not only broken, but is virtually nonexistent.

This is a troubled time in our country. Congress, the people, and the press are more politically polarized than we have been in decades. A questionable election in November is certain to polarize us even more, **possibly more than the nation can endure.**

Whether or not electronic votes are secure, whether or not they are tallied accurately, the fact is that the American people are skeptical of electronic votes, and that skepticism is sufficient to cast serious doubt on the outcomes, whether or not they are fair and accurate.

For democracy to survive, the electorate must accept that the election outcomes reflect the will of the people. The only way to assure Americans of this in November is to do as the Election Assistance Commission has recommended to election officials: "take steps to make every component of administering your voting system as transparent as possible."

In order to avert a national crisis of confidence in November, we must implement maximum transparency. We must ensure that all votes for Federal offices are cast on paper and counted by hand at the precincts, and that those precinct counts are used for the official tally.

II. DESCRIPTION OF EMERGENCY MEASURES

To ensure that the American people overwhelmingly accept and support the results of the 2004 election. VotersUnite! in partnership with the National Ballot Integrity Project proposes the following Emergency Measures to Protect the 2004 Vote Count for Federal races:

- All votes for Federal Office are cast on paper ballots, including optical scan and punch-card ballots as well as voter-verified paper ballots produced by Direct Record Electronic machines (DRE).
- All such paper ballots must be counted by hand, in public view, at the polling place before they are transmitted or transported to a central facility.
- Touch-screen machines without voter verified paper ballots may not be used in races for Federal office in the November 2004 General Election.
- The results of the hand-counts are posted prominently at the polling place and used to tally the final results.
- Ballots may be counted and aggregated electronically, in addition to the hand-count. However, in all cases, the manually counted results will be the official counts and used for the official tally.

If ballots are counted or tabulated electronically, the manual count will serve as a parallel audit to document the accuracy and reliability of the electronic systems used in the election.

This plan can be implemented very rapidly because no additional equipment needs to be purchased or personnel hired to implement the Emergency Measures. Approximately two-thirds of all votes are already currently cast on paper ballots. And even in jurisdictions that do not use paper ballots on Election Day, paper ballots are used for absentee voting. So all jurisdictions already have methods in place for creating and processing paper ballots.

Counties using DREs can easily remove the Federal offices from the electronic ballot and print simple, inexpensive ballots with the two or three Federal races. Or they could use absentee ballots at the polls instead of the DREs.

As an example of the speed with which paper ballots can replace electronic systems under emergency conditions, consider the Miami Herald's August 20 report of Jeb Bush's response to the impact of Hurricane Charley on preparations for the August 30 Florida primary:

"With election equipment potentially damaged by Hurricane Charley and poll workers hard to find, Gov. Jeb Bush declared an election emergency Thursday in 10 counties. The move gives state election officials power to modify procedures so the Aug. 31 primary can be conducted.

In Charlotte County, where the devastation was greatest, early voting will begin today with paper and pencils, rather than touch-screen voting machines, for 12 hours a day until the day before the election.

Among our many approaches to implement this solution, we are proposing that the following Federal legislation be introduced and enacted immediately after Congress resumes its session.

Federal Paper Ballot Emergency Act of 2004

- (1) All votes for Federal offices – President, Vice President, U.S. Senators, and U.S. Representatives – shall be cast on paper ballots for the November 2004 general election.
- (2) All such votes cast on November 2, 2004 shall be hand counted in public view from the original ballots at the polling places where the votes were cast, and the manual count shall constitute the official count of the votes.
- (3) Hand-counted, polling place totals for all Federal offices shall be prominently posted at the polling places before the ballots are transported to the central facility.
- (4) In any jurisdiction where votes for Federal office are cast on punch card or optical scan ballots and also counted by machine, the machine totals for Federal offices shall also be prominently posted at the location where the votes are machine-counted.
- (5) All absentee votes and early voting votes for Federal offices shall be cast on paper and hand counted in public view from the original ballots at a predetermined, publicly-announced place and time, and the totals shall be prominently posted at the central election office immediately on completion of the counting.
- (6) Precinct results shall be tallied manually or using off-the-shelf products, such as calculators or standard spreadsheets.

In short, our nation need not endure the looming crisis, unnecessarily, with this simple, low-cost, reasonable remedy within reach. To ensure the security and success of the impending election, let us all partner immediately to implement EM2004.

Note: More information, including responses to anticipated concerns, is available on request.