

DREs, Magic and other Sleights of Hand

Recount-Audit Observations
Franklin County, Ohio
December 2006
By Rady Ananda

I could have been in Vegas watching sleight-of-hand experts, or enjoying one of David Copperfield's stunts of mass deception, for all I knew as we observed Ohio's "recount" of DRE-touch screen tapes, which began in Franklin County, Ohio on December 8th.

What corporate media fails to report is that there is no difference between any of those three skills. Orwellian speak rears its head once more (the "Clear Skies" Act enables dirtier air; the "Healthy Forests" Initiative allows eco-destruction with fewer Best Management Practices, and the "Patriot" Act dismantles portions of the Bill of Rights).

In non-Orwellian speak, a recount is actually a reprint, now that we use electronic voting systems.

Where e-voting systems

- **record and tabulate the vote**
- **on software that is secret from the public**
- **in election systems that**
 - fail to maintain chain of custody of mission critical assets
 - fail to facilitate public oversight
 - treat and recount different classes of votes differently,

we have no basis for confidence in reported election results. A recount is merely a reprint of what the computer says it said, since all reports generate from the same memory.

Investigations into Franklin County's midterm election revealed:

- Use of uncertified election equipment, rendering the vote illegal and the results uncertain;
- Loss of chain of custody of mission critical assets including memory cards and PEBs (the master memory card for a precinct on which machines upload their totals);
- Over 10,000 more votes than voters in two thirds of the precincts;
- Nearly a third of all precincts reported fewer votes than voters, amounting to nearly 3,000 votes that the machines did not record or report;
- Illegal obfuscation by election officials of provisional and absentee ballot processing. Over 2600 provisional votes were rejected for reasons not revealed to official Observers (preventing them from determining if these votes were properly disallowed);
- Results tapes from the machines were often not signed by election workers, as required by law. Does their refusal to sign precinct level results indicate an unwillingness to associate their name with those reported results?

Franklin County judicial candidate Carole Squire filed suit on December 22nd. The complaint concludes: “These inexplicable numerical irregularities, use of uncertified and thus unlawful voting equipment, documented security violations, and the number of votes affected, is such that the outcome of the November 6, 2006 election is uncertain.”

The judge’s attorney-husband, Percy Squire, represents her. He goes on:

“The evidence adduced during post election review of the results demonstrate(s) unequivocally that by reason of stunning violations of Ohio law and complete disregard of mandatory election procedures established by the Ohio Secretary of State and the Ohio General Assembly, over 16,000 votes are in question... The deviations are so pronounced that the results of the election are uncertain.” (p. 1 of Memorandum and Declaration in Support of Election Contest.)

The “official” difference between the Squire-Geer race amounts to 13,069 votes. Anomalous results amount to at least 15,600 votes – and that’s just from an initial investigation. Imagine what a full investigation would turn up. Imagine all the records open to us, including “proprietary code.”

The Franklin County Board of Elections (BOE) further violated Ohio Revised Code §3515 when it accepted payment from Squire to recount 35 precincts, but only recounted two.

The BOE allowed Observers to read the Real Time Audit Logs (RTALs) produced by the machines on Election Day for precincts Reynoldsburg 2B and Hilliard 2A. RTALs are known in the election integrity community as thermal paper rolls, and can be 300 feet long.

For the remaining 33 precincts, the BOE decided to provide observers with the “end report” totals printed by each machine, supposedly on Election Day. We observed print dates beyond November 7th, so this illegal, suddenly-constructed, version of the “recount” as ordered by BOE Director Matt Damschroder and Deputy Director Denny White, was completely meaningless and outside Ohio law.

Reasonable dispute by seasoned attorney Percy Squire yielded no quarter from Damschroder.

It’s like ordering and paying for 35 jelly beans, but only getting 2 beans, on the grounds that election officials only have to prove the accuracy of 3% of all precincts to be recounted. Nowhere in ORC §3515 is that interpretation justified.

This is akin to the audits we may soon “win” legislatively. Audits will allow election officials to verify only 3% (or 5 or 10%, whatever’s finally agreed on) of all votes cast. Where electronic systems are used, this gives a degree of confidence in only 3% of officially reported results. (See my e-Voting Exit Strategy at _____).

Expert Observation

Squire prepared for the official recount by hiring computer expert, Dr. Rebecca Mercuri, who has been studying electronic voting systems since 1989. She successfully defended her

dissertation, “Electronic Vote Tabulation: Checks and Balances,” in October of 2000. She has two Harvard Fellowships in advanced study and served as a computer consultant for various local, state and federal agencies. Her credentials go on, and there is no doubt a better expert could not have been hired.

She spent one day observing the “recount” and one day assisting with the Signature Audit. Her observations reveal a complete lack of basis for confidence in reported election results, and include some of the following in her affidavit filed in court:

- Tamper proof seals not used
- Mission critical election assets housed in a county warehouse used by other county agencies
- Several RTALs:
 - were removed from canisters (if canisters were even used, as required by law) outside the sight of Observers;
 - were torn, and some re-taped;
 - failed to contain result totals, as if the tape were removed from the machine without following close down procedures;
 - failed to note when paper rolls were replaced in a machine on Election Day;
 - noted “password override” code indicating someone had entered the machine, altho the BOE refused to provide an explanation;
 - noted “PEB failure” code, altho the BOE refused to provide an explanation;
 - were sometimes collected from voting machines by a single person, rather than by two people of different political parties.

One complaint Recount Observers shared was that official Recounters called out the information so quickly that Observers found it difficult to keep complete and accurate notes. Several times, they were asked to slow down and once complied, at least for a few moments, until the breakneck speed was resumed.

BOE Administrator Karen Cotton, who said she has 27 years of experience, began the Absentee “recount” without all Observers present. She seemed to consider speed more important than our legally required observation. The point of this exercise was so that we could verify what the RTALs said, in comparison to other information we have. Her goal seemed to be to get her workers out of the warehouse and back into the BOE office.

Another complaint Recount Observers shared was that the recount process was not well explained, in advance, so that we were not sure what we were being shown. The BOE’s lack of clear instruction extended to poll workers, as well, given that most precincts failed to complete the Precinct Workbook and/or failed to post printed results at the polling site.

In a democracy, when citizens are involved in oversight, I imagine that our trusted servants take time to explain to us what is about to happen and what we are seeing. None of us had ever witnessed a recount of an electronic voting system. It is incumbent upon public servants to properly inform those engaged in citizen oversight.

It’s like asking David Copperfield to slowly show us his trick – slowly enough that we non-computer techies can understand it, so we can explain it to our peers, our neighbors and our

families. As long as election integrity advocates are shut out of the process, we can't report what we can't understand and what we can't verify.

Given the speed and confusion of the "recount," Observers continue to have no basis for confidence in reported election results. We couldn't see them, most of the time. I can see no difference between the RTAL, for example, and the reprint of a voting machine's memory card, except its size and shape. RTAL's are about 5" by 300 feet long, whereas the reprints occurred on 8½ x 11" sheets of paper. Reprints were made when an RTAL was deficient as described above. Both reports generate from the same memory card.

The Importance of RTALs

These "real time audit logs" serve as the ballot of record for Ohio elections. When they are torn, we do not know if votes are missing. When the paper runs out, and there is no closing information, we do not know if other votes were recorded on the machine but not printed on an RTAL. Ohio elections are required by law to have a paper ballot; voting systems with easily jammed paper have no place in the public sector.

Ohio Observers reported that machines ran out of paper on Election Day, and that voters continued to vote on them. Election officials deny this is even possible. Dr. Mercuri refutes this. "Oh, yes they can" continue to vote on a machine that runs out of paper.

When an RTAL jammed, the voting machine continued to print over the same line until the paper was fixed or replaced. All those votes are lost and only exist on the memory card, assuming it is accurately and honestly programmed. This assumption is not reasonable, given that chain of custody was broken.

The only way to verify RTAL totals (but not individual ballots) is thru the signature books. Individual ballots cast on an electronic system amount to vapor – we simply have to trust the printed ballot is exactly as each and every elector voted. Research indicates that voters only catch 3% of all errors on a "voter verified paper audit trail" (VVPAT). Three percent.

Signature Audit

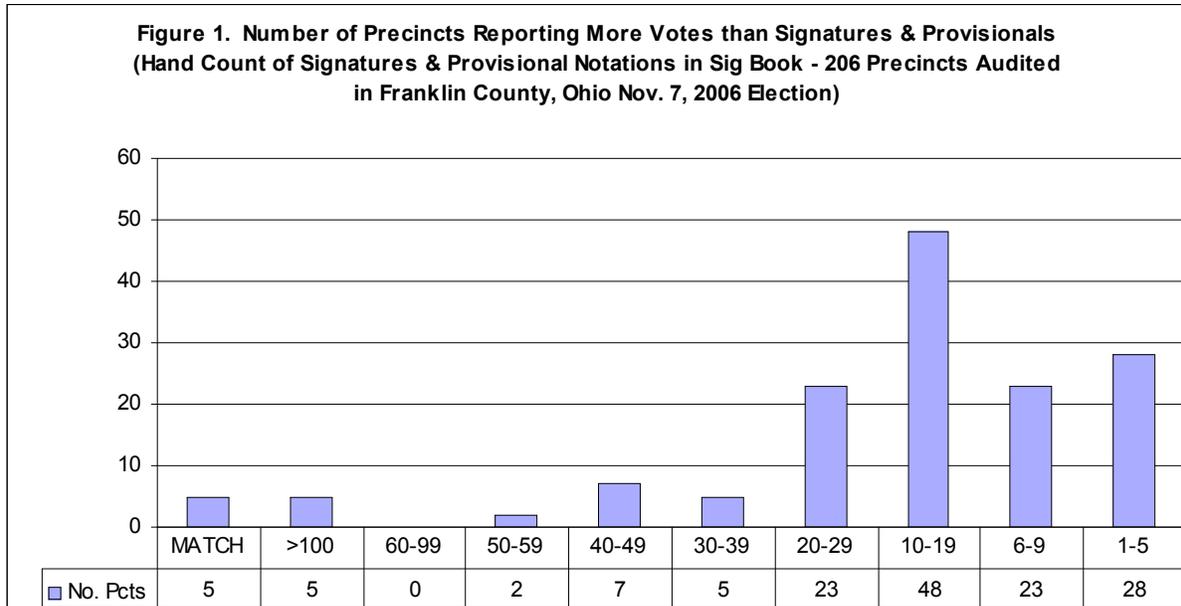
The real business is the Signature Audit. There are two sets of data regarding our vote: electronic memory and paper signed signatures. No one can verify any election results, without an audit of the signatures. Dr. Mercuri states, with emphasis, in her Affidavit:

"[I]t should not be possible for there ever to be more votes recorded on the machines than there are voters who collectively signed the polling books. Nor should it be possible to have fewer numbers of ballots cast in a precinct than there were numbers of voters who signed the polling books."

The election contest allowed us to audit one-fourth of Franklin County's Signature Books – 206 precincts. Two glaring anomalies surfaced: the machines reported more votes than voters in 141 precincts; and the machines reported fewer votes than voters in 60 of those precincts. Only five precincts matched our audit, balancing to zero (machine total minus number of signatures and provisionals noted).

Below is a chart that just considers those precincts where the machine reported more votes than voters. The range of overage has been segregated. From the official results posted on December 4, 2006, we subtracted the number of signatures in the poll books, and subtracted the number of provisional voters noted in the poll books. We used a mechanical hand-counting device when counting signatures.

Of the 206 audited precincts, our audit matched official results five times. There were five precincts where official results exceeded signatures by over 100 votes. At the large spike, official results from 48 precincts exceeded number of signatures by 10-19 votes.



The category “more votes than voters” amounts to 68% of all precincts randomly audited. In several precincts the difference is over 100 more votes than voters. In other precincts, the number of machine-reported votes is over 100 less than the number of voters who signed in that day. Clearly, prima facie evidence of machine fraud exists.

While conducting our Audit, we requested entire wards at a time, so that all precincts in a ward could be audited. BOE election workers brought us wards that excluded most of the 37 precincts specifically recounted for Squire. For example, we requested Ward 23, and the BOE provided precinct data for 23A, 23B, and 23C, but not 23D – one of the precincts Squire paid to have recounted. This pattern of obfuscation was repeated throughout our Audit.

Given this obfuscation, and that Franklin County used uncertified election equipment, failed to maintain chain of custody of mission critical assets, and allowed voters to vote on paperless machines, we continue to have no basis for confidence in reported election results.

Election Integrity is a Non Partisan Issue

Montana’s Republican Secretary of State, Brad Johnson, and Maryland’s Republican Governor, Bob Ehrlich, share activist concerns about electronic voting, specifically with

regard to secure, paper back up systems, and with the huge maintenance costs associated with this technology.

During the recount, when I complained, “Four billion dollars spent on machines we can’t trust,” one of the BOE recounters responded with, “That’s ONE opinion.” Then she stormed away from the recount table. This was no small act. The other three BOE workers looked at her in silent astonishment, because all work had to cease until she returned from her temper tantrum over anyone having the audacity to voice criticism of electronic voting.

I said nothing. What do you say to that, in that environment? “Do you trust Princeton University?” Do I go on and cite my sources? “Do you trust the Department of Homeland Security? How about MIT? Or, Election Science Institute? The Brennan Center?”

Mine isn’t just “one opinion” – it’s the expert opinion of governmental agencies, of world-renowned universities and computer experts. Who am I to argue with computer experts? Who is she?

Election Contests

One avenue for restoring honest elections is to hold our public servants accountable each and every time they violate state and federal laws. As activist Dan Gutenkauf expressed, “Tyranny ends where the law begins.”

The beauty of the Squire complaint is that it submits an expert’s conclusions that indications of fraud exist. Dr. Mercuri does not shy from the “F” word. The only prayer for relief is an evidentiary hearing, through which our evidence can be memorialized in the public record. As we continue to build this body of evidence throughout the nation, we approach the tipping point – when public officials can no longer feign ignorance of the absolute failure of electronics to accurately count or record the public vote.

The day a hand-counted paper ballot system is restored to public elections will be when democracy is restored in the U.S.