

Cuyahoga Board of Elections Will Not be Posting Election Results at the Polling Place
History of their “Decision” - Their “Rationale”
CCBOE “agents” and their role in putting up Election Integrity “road blocks”

Sept 17, 2004 [meeting of Elections Directors in Painesville, OH-Organized by Jan Clair, Lake County BOE Director] Matt Damschroeder, Director of Franklin County board of elections, told me that “*Posting of precinct results was one of the benefits of DRE voting devices.*”

Feb 8, 2005, [board meeting] I learned that Cuyahoga County planned to implement Diebold DRE technology. Adele Eisner and I began actively opposing the CCBOE’s Diebold DRE decision, and began attending the board meetings regularly.

Oct 17, 2005 [CCBOE-sponsored town-hall meeting] All citizens who had an opportunity to speak, with the exception of one, were extremely concerned about CCBOE’s Diebold DRE’s implementation and about their vote being counted. See <http://www.ohiovigilance.org/Cuyahoga/Oct17PublicHearing/Index.htm> for transcripts of the testimony from citizens.

CCBOE proceeded to purchase Diebold TSx machines and planned to roll them out for the May 2, 2006 primary election.

Meanwhile, more and more reports came out, proving the vulnerability and security risks of electronic voting machines, in particular Diebold DRE’s.

I assumed that, given the low voter-confidence and the ever-increasing reports about e-voting problems, Cuyahoga County would surely be posting precinct-level election results—especially since they now had the technology to easily post results (with punch-card machines, because they didn’t have the ability to accumulate election results at the polling place, they made no attempt to do so.)

April 11, 2006 [public demonstration of Diebold TSx] I asked about posting of the election results, printed from the Diebold TSx.

The woman conducting the demo did not know anything about posting election results. **I was very surprised and alarmed!**

April 13, 2006, I sent a public-records request to the board, requesting information about their “posting procedure.”

I began corresponding with Jane Platten about the “Accumulation Process” and studied the poll-worker and EDT training manuals, noting that two or three small steps added to the EDT training tasks would be sufficient, documenting the changes in my training manual. See <http://www.ohiovigilance.org/ProjectPost/PostingResultsCuyahogaProcedures.pdf>

May 1, 2006 [board meeting]

Bob Bennett (*Chairman of the CCBOE*) “...*The booth officials will print this accumulated summary totals and have four booth officials sign it....My question is that they pull this off, which*

is a summary of the ballots ... and yet we have no provision, and I noticed the Secretary of State's provision or the director didn't provide it, to post any results at the precinct level."

Director Vu: *"That's correct."*

Bob Bennett : *"I have a problem with that because it seems to me it's very easy to run off another copy of this, and if they will post it at the precinct level as an additional step, security step, that I think would benefit the general public to be able to see posted – We used to always post the results until we got to punch card voting at the precinct location. So that anybody in the neighborhood could go to that precinct and look at the election results. Notwithstanding the Secretary of State directive is I would hope that this Board would go on record that in the future elections that we actually run off a separate report, and we post it at the precinct level as an additional security for the voters to know what is cast."*

Director Vu: *"We could very well easily accommodate that, and we can add that into our instructions to our poll worker's manual as well as instruct them."*

Mr. Reno Oradini (*special counsel*): *"Unless the director just says you're not required if it doesn't say that. You can still do it."*

Director Vu: *"It was just a special notice."* (I presume he was referring to Blackwell's Special Notice of Oct 4, 2005 – see below.)

Bob Bennett: *"I don't want to change the procedures now that would create more confusion, but I would like the Board to consider it in the future."*

Director Vu: *"For November's election or any other future elections."*

Ms. Florkiewicz: *"Make sure Reno—"*

Mr. Bennett: *"And I think that we raise up a good point that says it's not mandatory that we not."*

Mr. Oradino: *"Right. So you can still do it."*

...

(later, during the "public" portion of the meeting--)

Dr. Lovegren: *"The other thing is about the fact that precinct totals could be posted very easily with just a tiny little instruction to the poll workers. We talked about – I heard you talk about it earlier. It is very easy to do, and I appreciate your suggestion to do that, Mr. Bennett. I think that given the uncertainty and some of the concerns that the public has about electronic voting machines that it would be a very good thing to do to give us more assurance that our vote is counted. So I heard you – to do that I sent e-mail about three weeks ago asking about this, and I understand that the Secretary of State does not require you, and it specifically says you don't have to do that, but I think it's something that you should do. And especially given some of the other things I heard today about the difficulty of reconciliation – how that can only be done at a polling-place level, or at least immediately because of the fact that you're using the same voting machines for multiple precincts. So you're also increasing the threshold level of tolerance of error, and that's concerning to me as well. ..."*

I experienced, first hand, many of them, and wrote a lengthy summary of the problems I experienced as an Election Day Technician. I was particularly concerned with the fact that some Memory Cards were not put into the appropriate machines, and there was probably no way to track which memory cards were in which machines. I later learned that many memory cards were missing. See CERP and ESI reports, discussed below.

Early May, 2006 - The Cuyahoga Election Review Panel (CERP) was commissioned to investigate the cause of the many problems experienced by Cuyahoga Board of Election during the May 2nd primary.

CERP was headed by Judge Ronald Adrine, Candice Hoke and Tom Hayes. Another investigation project was awarded to Election Sciences Institute (ESI) and paid for by the Cuyahoga County Commissioners.

June 5, 2006 [board meeting] I asked if they were planning to post results during the Nov election.

They said that it was a good idea, but were not sure. They were thinking about it. (awaiting transcript for exact words)

June 19, 2006 [board meeting] I asked again if they were planning to post results during the Nov election.

They said they wanted to see what the CERP report said before they would commit to a procedural change. (awaiting transcript for exact words)

June 20, 2006, I posted on the Ohio Vigilance website
<http://www.ohiovigilance.org/ProjectPost/Index.html>

<http://www.ohiovigilance.org/ProjectPost/PostingResultsCuyahogaProcedures.pdf> - --page from training manual showing the two additional steps

July 6, 2006 - I sent an email to CERP, recommending the "CCBOE post a second copy of the Accumulator Report at the polling place on election night.

"I hope that the panel will make the "posting" recommendation, in light of the many problems that were experienced on May 2nd and the increased public awareness and concern about the vulnerabilities of electronic voting machines."

July 20st, 2006 - CERP report was published. http://www.votingintegrity.org/pdf/cerp_rpt06.pdf The **report recommended that the CCBOE post results at the polling place.**

*"3.13 Recommendation: We also recommend that the **DRE results be posted at each polling location** on a VVPAT printout. This combination of data would allow interested parties or voters to verify that the results posted at the polling location are the results that the CCBOE uses in its official and unofficial tallies. ... Maximum public accountability should be sought in the planning and reporting of election results." (Pg 73)*

A related recommendation -- *"2.79 Recommendation: The CCBOE should take immediate steps to eliminate accumulation and transmission of election results, and all memory cards should be transported directly to the BOE for direct uploading. ... DESI Election Media Processors (EMP)*

will eliminate the need to accumulate memory cards at the polling location...” was also documented (Pg 52)

I assumed that CCBOE would follow those recommendations.

Aug 7th, 2006 - The CCBOE Administrators and Managers responded to the recommendations made by CERP (http://boe.cuyahogacounty.us/pdf/CERP_Recommendations_ALL.pdf)

The document shows, for each CERP Recommendation, an Action Plan, the individuals responsible for the Action Plan, and whether the recommendation was “Feasible/Critical” for November. (It is unwise to create a category called “Feasible/Critical” as those Feasible and Critical are two independent attributes.) See page 96 for the Action Plan relative to 3.13 Recommendation.

The “Feasible/Critical” status was “NO,” implying “posting” was neither Feasible nor Critical. Posting results is clearly critical for voter confidence and adherence to the “checks and balances” fundamental to the democratic ideals of our nation. It is also feasible according to the opinion of Jacqui Maiden and Lou Irizarry, quoted as saying:

“Some of the recommendations can be accomplished by the November Elections. Others cannot. Posting the DRE results at the locations on election night can be accomplished by simply printing another report from the VVPAT and posting the results on a door or window.”

Aug 15th, 2006 - The ESI report was released http://boec.cuyahogacounty.us/GSC/pdf/esi_cuyahoga_final.pdf, citing that “the machines’ four sources of vote totals did not agree with one another.

“The current election system appears to provide some of its promised benefits at potentially great cost; namely, that the election system, in its entirety, exhibits shortcomings with extremely serious consequences, especially in the event of a close election.”

In addition to the two Cuyahoga-specific investigations which cited many serious problems, more reports came out about the dangers of electronic voting machines. Surveys of voter confidence showed large numbers doubted the integrity of the election. 92% of the public distrust electronic voting machines and feel that election results should be accumulated “in public.”

I assumed that these events would provide undisputable rationale to post election results.

Early September - Candice Hoke and the Center for Election Integrity at CSU was appointed to serve as Public Monitor, to ensure that the CERP recommendations were followed.

Sept 1, 2006 - Tom Hayes, one of the three panel members of the CERP, began working as a consultant to the CCBOE.

Sept 8, 2006 - Ron Olson met with Tom Hayes, and Ron was told that CCBOE was NOT going to post results.

Sept 10, 2006 - Ron Olson told me that CCBOE was NOT going to post results. I was shocked.

Sept 11, 2006 - I emailed Tom Hayes, asking about the “posting decision”, and he replied:

Victoria Lovegren, Ph.D.

10/15/2006

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*"I told Ron that we would not be posting election results in each precinct for November. I told Ron that the matter is still under review for future elections, but it would **not be possible for November.**"*

Sept 11, 2006 - I replied to Tom Hayes:

*"I have been awaiting CCBOE's decision re: whether to post precinct-level results at the polling place, and learned, from Ron Olson, that CCBOE would NOT post such results. I believe that the CERP recommended that the results be posted, and am wondering why the "NOT POST" **decision** was made, in spite of the recommendations of the panel.*

Ron Olson told me that CCBOE had decided NOT to accumulate at the polling place, and that meant there would be no "precinct-specific" totals. If that is the case, the machine-precinct-level election result could still be posted. Please let me know how I might reach you to talk about this very important issue. Given the problems Cuyahoga has had with their e-voting implementation, and the inability for various totals to agree, it is more imperative than ever that precinct-totals be provided to the public."

Sept 11th, Tom replied:

*"I did **not say it was impossible.** I said we would not be doing it in November. Our goal for November is to conduct a **successful election.** There are a number of recommendations in the CERP report that were not intended to be implemented by November but rather were matters that should be considered in future elections. In my view this recommendation fell into that category.*

*Posting results by precinct on election night will necessitate finding **a place at each voting location so the public can view the results from outside the building.** We have locations that may not have an outside window is **accessible** to the public or **illuminated** so the results are readable. If the results are posted for every location we may need to **move out locations that are not conducive to reading posted results.** Certainly these are not issues we will be able to address in the 56 days before Election Day."*

Sept 11th, Candice weighed in with the following:

"I asked Tom and Michael if they can try to fashion some middle ground that will not be cumbersome but will achieve the goal of public accountability for the accuracy of the reported totals. It seems that there are some possibilities.

Let's give them a bit of time to see if they can come up with something that might be workable for November. It won't be exactly what you want, but let's hope that the objective can be achieved even if in a different manner."

Sept 11th, I replied to Tom Hayes:

"I guess it comes down to what "success" is. In my view, a "successful" election is not one that is "efficient", but one in which each eligible voter can cast his/her vote, have that vote be counted, and have the confidence that vote is counted. Precinct-level results, posted at the polling place, is necessary for auditing the vote. With e-voting, the need for auditing is much greater than ever,

and with Cuyahoga's incidences of differing totals, there should be no question that results be posted.

Isn't it a state law to post precinct-level results?

We could post the results outside the building, and people who wish to view the results would have to provide their own light, and would have to be there when the polls close, or shortly thereafter..."

Sept 11th - Tom Hayes sent an email to Michael Vu, Director of Cuyahoga County Board of Elections, asking:

"Are we required by law to post the results by precinct at the voting location?"

Sept 11th - Tom Hayes sent the following reply to me:

*"A special notice sent out by the Secretary of State on October 4, 2005 references ORC 3505.27 in stating that poll workers are not required to post results on at polling places on Election Night. I will be glad to talk to you, but it is a matter that we will be able to address for November. I agree that it is a matter that the CCBOE should consider doing in the future once they can determine that it is possible to post the results in a **readable, assessable** location at every polling place. I am going to forward you a copy of the notice published by the SOS which is attached to an email I received from Michael Vu."*

Sept 11th - Tom Hayes sent me a copy of the **Blackwell Special Notice, from Oct 4th, 2005** (forwarded to him from Michael Vu), saying that:

"Re: Summary Statements--Pursuant to R.C. 3505.27, all boards of elections shall accumulate all vote totals at the board of elections' office or its designation tabulation site. Therefore poll workers will not be required to post summary statements at the polling place."

Sept 11th - I replied to Tom Hayes:

"Thanks much, Tom. I'm sorry to be so adamant about this, but I began asking them this question BEFORE the May election. You can check the transcript. It is not a request that they can pretend was just sprung upon them at the last minute.

This is not just a minor request. This is ESSENTIAL to promoting public confidence in our election, and, given Cuyahoga's performance, should be of primary interest to them. For them to rely upon Blackwell's directive as an excuse for them to avoid public scrutiny is shameful. Blackwell's track record speaks for itself!"

Sept 11th - Ron Olson sent a summary of his meeting with Tom Hayes, including the following paragraph:

"He recommended regular VVPAT audits, using a certified testing agency, of which ESI is not.

He confirmed that no accumulation of memory cards will be done ...

*Regarding **posting precinct results**, he said that would **not be done in November**. With no accumulation done and perhaps 6,000 DRE's, that would be 6,000 **long (why?)** reports which*

could be 10 feet long. They could *run out of paper printing*. *Where to post* them can be a problem. Will they be *torn down or not visible from outside*? He mentioned possibly exporting the data to the internet quickly. I pointed out that reporting after the memory cards get to the BOE does not address security concerns, but the **decision** to not post in November **seems very firm.**”

Sept 11th - John Burik sent the following email to me:

“Well of course, it’s bothered me terribly for some time. While Blackwell, through an underling, let the boards off the hook, there’s still on the books:

§ 3505.30. *Summaries of results; transmission to board; certification to secretary of state.*

When the results of the ballots have been ascertained, such results shall be embodied in a summary statement to be prepared by the judges in duplicate, on forms provided by the board of elections. One copy shall be certified by the judges and posted on the front of the polling place, and one copy, similarly certified, shall be transmitted without delay to the board in a sealed envelope along with the other returns of the election. The board shall, immediately upon receipt of such summary statements, compile and prepare an unofficial count and upon its completion shall transmit prepaid, immediately by telephone, facsimile machine, or other telecommunications device, the results of such unofficial count to the secretary of state, or to the board of the most populous county of the district which is authorized to canvass the returns. Such count, in no event, shall be made later than twelve noon on the day following the election. The board shall also, at the same time, certify the results thereof to the secretary of state by certified mail. The board shall remain in session from the time of the opening of the polls, continuously, until the results of the election are received from every precinct in the county and such results are communicated to the secretary of state.

HISTORY: GC § 4785-146; 113 v 307(376), § 146; 114 v 679(697); Bureau of Code Revision (Eff 10-1-53); 146 v H 99. Eff 8-22-95.”

Sept 12, 2006 - I did some research and found the following post:

<http://www.votetrustusa.org/phpBB/viewtopic.php?p=370> from Joyce McCloy

▣ Posted: Mon May 29, 2006 2:28 pm Post subject: Public Posting of Precinct Totals 

from
http://groups.yahoo.com/group/CASE_OH/

The main theme is that *Ohio gives the SOS the right to issue directives that counter the law.*

CASE is a public list of several hundred people (found here at http://groups.yahoo.com/group/CASE_OH/) :

Legislative "Overlooking"/ Blackwell Backing
Regarding the first point, it seems clear in Ohio, that Mr. Blackwell can get "legislative backing" or "overlooking" - not oversight for the people - for

many things he wants to do, even after he goes ahead and does them, such as:

- removing the TEL amendment from the ballot,
- and state "legislatures" "overlooking" Mr. Blackwell's unilaterally made election "directives/memos/advisories" that actually unilaterally change election law, though he's not even a "unilateral" legislator, such as:

o no results posting at the polls at election close, which could allow citizens some transparent estimable proofs that final state tabulations are truly in concert with poll location results, or not. The Memo 10-4-05 from Judy Grady of SoS office, overturned election law ORC3505.30 and certainly the spirit of it:

ORC3505.30 begins

§ 3505.30. Summaries of results; transmission to board; certification to secretary of state.

When the results of the ballots have been ascertained, such results shall be embodied in a summary statement to be prepared by the judges in duplicate, on forms provided by the board of elections. One copy shall be certified by the judges and posted on the front of the polling place, and one copy, similarly certified, shall be transmitted without delay to the board in a sealed envelope along with the other returns of the election. ...

The following Judy Grady memo, you will note refers to ORC 3505.27, however, which conveniently begins:

§ 3505.27. Counting of votes.

Unless otherwise ordered by the secretary of state or the board of elections, the counting and tallying of ballots shall be conducted according to procedures prescribed by the board of elections that assure an accurate count of all votes cast and that include all of the following:

(A) The counting and tallying of ballots at the appropriate office, as designated by the board, in the full view of members of the board and witnesses; ...

Note that here "Unless otherwise ordered by the secretary of state or the board of elections" becomes operative for Mr. Blackwell to mix and match the laws, and find the authority to overturn 3505.30. Although much reconciliation and accumulation does go on at the polling places, and totals are gotten though they're not broken out by precinct the following SoS memo advises to not post even the poll location results at the polls. *Why would he take such pains to remove any residue of citizen transparency in this "proprietary" atmosphere?*

The memo:

"Special Notice

TO: All County Boards of Elections

FROM: Judy Grady, Director of Elections

DATE: October 4, 2005

SUMMARY STATEMENTS Pursuant to R.C. 3505.27, all boards of elections shall accumulate all vote totals at the board of elections? office or its designated tabulation site. Therefore, poll workers will not be required to post summary statements at the polling place. If you have any questions, please call the Elections Division at 614-466-2585."

o Mr Blackwell has also unilaterally removed the random selection of ballots requirements for recount sampling, (Directive 2005-32) (previous ORC not looked up, and that too may have been changed with a legislative change to match 2005-32) It is unconscionable to term any "sample" a valid sample of anything, if it is not chosen randomly, and there are not impartial witnesses there to affirm that random selection.;

o and Mr. Blackwell has also allowed reduction election material retention requirements, for memory cards to 60 days rather than 22 months. (Advisory 2005-04)
- While superficial logic says that these memory cards could be transferred to CD, and this advisory says to do that if the BOE chooses the shorter than federally mandated 22 months;
- and while superficial logic might support that from a cost/re-use standpoint, since Diebold charges a whopping \$135 per memory card for each of these more than 5,000 memory cards, (they've said they need to get them manufactured since they're becoming obsolete!!) ;
- and since superficially this transfer is to be done with public notice for public witness, this directive may seem superficially logical.

But

- since no such public notice has ever been given to my knowledge, and I've asked for such notice and copies of those notices, for the supposed publicly witnessed machine logic and accuracy testing;
- and since the BOE can set its own "security procedures"and distances for such witnessing including vantage points, etc;
- and since, even if fairly close, no public could have any idea of what is actually being transferred to the disks that are then to be retained to revisit election questions after only 2 months - this is very dangerous to any transparent election process.

The above are just a few of the many examples of no legislative oversight, but lots of legislative "overlooking."

Sept 13, 2006 - I forwarded a link to the Princeton Study, "Security Analysis of the Diebold AccuVote-TS Voting Machine <http://itpolicy.princeton.edu/voting/>" to Tom Hayes, saying that it emphasized the importance of precinct-level posting.

Sept 13, 2006 -Tom Hayes replied:

"I understand and agree that some means of precinct, location or machine based audit must be enabled and proposed the same to the County Commissioners after November. Just because it is not possible to accomplish your goal in the next 55 days does not mean that I don't think it is a good idea."

Sept 13, 2006 - I emailed Tom Hayes, saying:

"I didn't mean to imply you didn't think it was a good idea. It is a matter of priorities. And the board had 6 months, not 55 days, to think about this. I guess, without understanding the other more important goals, I'm not content to push it off to another election. THIS election is CRITICAL to have audit capability! Maybe you've put in place another audit mechanism that can

substitute for precinct-level auditing, but I've not yet heard of it. Blackwell, Diebold and our legislature made sure that meaningful recounts will not occur.

Thanks for responding. I know I'm being a pain in the butt, and have long since abandoned the role of "advocate", unless I'm permitted to say I'm an advocate of fair and honest elections and democracy. I have been fighting against these machines for two years now, and I see a bigger picture than "fixing Cuyahoga's embarrassing operational problems with implementing Diebold DRE's." To me, it is an issue of restoring the public's trust and restoring democracy. That should be at the top of all of our priority lists. That is what I call "Success."

Sept 13, 2006 - Tom Hayes said, "I understand."

Sept 13, 2006 - I replied:

"Maybe you can explain to me why the ability to audit these Diebold DRE's is not a high priority? What's the purpose of having the paper trails if they are not audited?"

Sept 15, 2006 [board meeting] I reiterated that voter confidence was extremely fragile, and urged them to post results, reminding them that I had been asking for this since before the May election. After I left for my appointment, Dan Kozminski and Adele Eisner inquired about this posting.

Sept 16, 2006 – An email from Dan said:

"After learning of Bev Harris' success in removing and replacing tamper tape without leaving a trace and of how the Princeton report has shown that machines very similar to those used in Cuyahoga County can be hacked also without leaving a trace I am now convinced more than ever that our entire election process needs to be even more transparent. This includes some form of public posting of each precinct's election results.

*By the time I was able to address the Board on Friday you had already left. But, like you, I asked the Board flat out what additional measures they were going to implement in order to assure the citizens of Cuyahoga County that the elections results are accurate and fair, especially in light of this new damning evidence regarding the lack of TSX security. You know their answer, **nothing!***

*The Board had previously stated that because of all the new policies and procedures that were being implemented for this November's election it was **not feasible** to add **another item to the list**, that is, the public posting of the election results at each precinct. They, again, offered the same flimsy excuses: **not all precincts have windows, if you post them outside they will get wet, the poll workers would have to be trained** (isn't that why they hired CCC?), etc."*

Sept 17, 2006 – An email from Phil Fry said:

"First, I thought that the purpose of wanting BOEs to post at the precinct level and wanting activists to record those records was to have a base to work from. There are a lot of reasons why the record might need to be corrected later, but every change to the original posting should have a good reason with it. I presumed there would be corrections to the original count, but everything would need to be documented and available for later review.

Second, my understanding is that the law requires the posting of the summary results for the precinct.

Sec. 3506.12

*(B) Except as otherwise provided in this division, shall establish one or more **counting stations** to receive voted ballots and other precinct election supplies after the polling precincts are closed. Those stations shall be under the supervision and direction of the board of elections. Processing and counting of voted ballots, and the preparation of summary sheets, shall be done in the presence of ~~witnesses~~ observers approved by the board. A certified copy of the summary sheet for the precinct shall be posted at each counting station immediately after completion of the summary sheet.*

I remember seeing somewhere that the individual machine results were not to be made public. I am not sure of the reason, but I would really like the machine results to be available. It would really help to isolate problems.

Third, when I visited the Director at Miami county, Steve Quillen, he was explaining that his method was to combine cards somehow. I really don't remember the details. I think there may have been a physical connection. He was proud of his method as though it was something different from what others were doing. I can go back to get details if we see a need."

Sept 20, 2006 - Dan Kozminski released the results of his study of polling books vs. ballot counts:

SUMMARY for worksheet titled "Location- Ballots vs Signatures:"

In a physical voting location comparison there were 458 out of 577 (79%) voting locations that reported more total ballots than the total number of voters who signed in at that physical location, representing a potential for 5,363 suspect ballots;

145 locations had more than a 10 ballot discrepancy resulting in a potential for 4,071 suspect ballots

17 locations had more than a 50 ballot discrepancy resulting in a potential for 1,819 suspect ballots

7 locations had more than a 100 ballot discrepancy resulting in a potential for 1,134 suspect ballots, and

1 location had 202 more ballots than voters who signed in

conversely –

18 locations had 10 or more signatures than ballots recorded resulting in a potential for 739 lost ballots

5 locations had 50 or more signatures than ballots recorded resulting in a potential for 386 lost ballots

So what does this show us? I think several things:

- 1. The poll workers (as already known) are not properly following procedures relative to voters signing the poll books*
- 2. It is very possible that the electronic machines are not accurately reporting ballots and may even be generating vote totals on their own or losing votes*
- 3. The BoE needs to improve upon its data gathering and reporting procedures.*

4. *Some poll workers voted a BLANK ballot instead of canceling a ballot.*
5. _____ (you fill in the blanks)

*All of these prospects are of concern, but the 2nd is a **serious threat and further points out the need for posting precinct level results and random auditing of the voting machines.***

Sept 20, 2006 - Adele Eisner sent an email to the County Commissioners:

"I have passed this along in part, to the County Commissioners who can contract and fund such an audit.

Sept. 20, 2006

Dear Commissioners,

Last Thursday, I asked you

- 1. to contract -now - for a complete and immediate audit of the upcoming November election results, with an ITA, like SysTest, (who did a study for the CERP report);*
- 2.that you and the County Prosecutor make sure that the CCBOE follows election law 3505.30, and directs poll workers to post all raw election results on election night at each voting location - before results go into the central tabulator - an additional vulnerability; and*
- 3. that county records retention laws are followed and designed regarding election records too, to allow citizens full access for complete review of election materials, in their original forms of memory cards, paper trails, machine archive's and poll books, so we can ascertain with full certainty the wholeness and matching of all.*

A recent further analysis of May's discrepancies between voter signatures at the polls and ballots reported, which were reported originally by the CCBOE as "plus or minus 10 per precinct" at election certification on May 20, has recently been completed by Dan Kozminski a citizen activist who has just gotten the necessary records from the CCBOE."

His thorough report clearly demonstrates the sore need for both the audit and the posting results at the polls.

Sept 27, 2006 – [City Club Panel in which Vu, Adrine and I were panelists: "Will Our Votes Be Counted?"]

I read from my Op Ed submitted to the PD (and not published), urging the CCBOE to post election results. Judge Adrine said something to the effect that he was more concerned about electronic voting since the May 2nd primary, but did not feel that the "posting" function was important enough for the poll workers to be **trained** to do for the November election. Michael Vu, according to the article in Scene Magazine, said the board wouldn't be posting results on Election Day in November because *"it would be too complicated to tape paper sheets to the doors of polling places. It could be a steel door and not a windowed door."*

Sept 28, 2006 - I was sent a Security Document from CCBOE and was asked to provide comment by Sept 29th.

Sept 29-30, 2006 – “We Count” conference was held in Cleveland at Tri-C Metro. I was the main organizer.

230 concerned citizens from around the nation gathered to express their concerns about our electoral systems, the danger of electronic voting, and the state of our democracy. Dennis Kucinich spoke to us, saying that he had introduced a new bill, H.R. 6200, with 20 sponsors, calling for paper ballots to be hand-counted for presidential elections. (To see the video of his speech, along with others’ go to the conference website: www.wecount2006.org)

Oct 1, 2006 - I received an email from Norman Robbins, saying that he, Candice, Chris Nance (and perhaps others?) met to draw up some proposals for security. (I was not invited to participate in the drafting of the auditing recommendations, even though I had been asking for “posting” since April and had been one most outspoken critics, along with Adele Eisner, of electronic voting.)

*“Just a heads up. Have been working with Candice (and she with others) over the weekend to develop a multi-prong proposal to address election security, and which she has forwarded to BOE folks (We don't know their response). It may be practical given the late date before the election. Just so you know, it consists of: 1. Posting **and audit** of "long reports" of the paper trail votes from DREs by a team assembled by the Center for Election Integrity; 2. Parallel testing of a random sample of election-ready DRE's on election day; 3. Public posting of paper trail vs. **DRE counts** done for automatic or candidate-triggered recounts (This will be an earlier indicator if there are disparities between DRE and VVPAT, and in effect is an audit by the BOE); and 4. Independent testing agency audit of VVPAT vs. DRE's on 5 close countywide races (but by law this could not be done until all recounts are finished, which gets us into perhaps mid-December/early January for the actual audit).”*

Posting of short reports wasn’t even one of their ”prongs.” They discuss “posting and auditing of long reports” and “public posting of paper trail vs. DRE counts for recounts”.

Oct 2, 2006 [board meeting]. I heard about Candice, Norman and Chris’s “prongs.” I again, urged the CCBOE to post results, an action simpler, by far, than the “audit schemes” proposed by the “Audit Team” (I was dismayed that the “Audit Proposals” seem to obfuscate the fact that we need real-time verification for THIS ELECTION! They had apparently dismissed the simple, doable, critical “posting” request.). Dan Kozminski presented a petition with names of people who wanted to see results posted. He was collecting signatures at the “We Count” conference.

Oct 2, 2006 - Roslyn Talerico sent an email to Candice saying:

*“So if we can't have a full or partial audit (comparison of machine and paper counts) at the polling place after it closes on November 7, the next best thing would be the **posting of the machine results** by precinct. I don't know exactly what people mean by posting, but the poll worker could post the results on the door of the polling place as well as make the results available by email (?) to the BOE, press, and any public that requested it. (I recall that many years ago a TV station hired the League of Women Voters to have its members go to specific polling places to get the precinct election results and call them in to the station. So getting the results from individual precincts on election night is **not a new concept**). Then these results could be used for the audit where the paper trail canisters are opened.*

*The Technical workers the BOE recruits could perform this task before packing up the memory cards and machines. I really do not **think it is such an onerous task** as the BOE seems to think it is.*

*The BOE should be concerned that the public has lost its trust in them. Collecting the counts from those machines before they leave the polling place and saving the information for comparison purposes later is the **very least the Board can do.**” (You go girl!)*

Oct 2nd, Candice sent an email to Roslyn Talerico, in which she cc'd Adele and me, and attached the “Audit Team’s” Audit –Verification Proposal Oct 1st. Candice said:

*“For us to work with the original summary paper trails (that report vote totals by precinct), we **need for them to be sealed at the polling place** (why?), and opened only with witnesses who are verifying that they are **present in the envelope**. These would be printed on Election night as the polls are closing. More details will have to be determined, **but this is as good as we can do.** (Says who?) It may not be optimal, but I hope all will recognize that it is close to **irresponsible** to ridicule “the good first step” because it is not the maximum, most complete and optimal set of steps that might be taken. It's a toehold. It is valuable for certain purposes and not for others. No one is claiming it is the optimal or complete or best approach. But **feasible** this election and providing public access?? (but too late!) -- yes. I urge that we all recognize that the **Ohio statutory law presents serious impediments** (what?) to most of the steps and auditing strategies that you -- or even Board members --might wish to take.*

*People can differ but I am convinced that these steps are **impossible** for the November election, even if wise & necessary for the future:*

*--tacking on any additional duties for pollworkers now-- whether the hand recording of vote totals on separate reporting forms to be submitted somewhere, **the running of additional vote summary reports**, or **posting that would require training and the development of special forms** (and the recording of election vote results by hand is prone to error even if there were time). The poll workers already need an additional hour for training on ID, provisional ballots etc. (we can thank the Ohio General Assembly and Blackwell for that obfuscation and voter-suppression tactic) and they won't get it. At least for this election, making sure that poll workers don't wrongfully interfere with people exercising their rights to vote accurately seems **far more crucial** (according to whose criteria? Those who don't understand the dangers of electronic voting?) **than whether we post precinct totals on election night.** (Why must we choose?) Given the scarce resource of training time this fall-- I vote for making sure that the poll workers know what suffices as ID & how to ensure a complete provisional ballot application/affirmation and then running the audit during the next several days after the election (when it is too late to challenge and election result). Yes, in the future, let's make sure that the posting is available and a part of poll worker training. But it is way **too late** now to add this in.”*

The Audit – Verification Proposal from Oct 1st began by saying:

Achieving Public Accountability for E-Voting Election Results

A primary objective for any election administration is for its managers/staff and its technological systems to receive the broad public's trust for the election results that are reported. Given the range of recent information in the media about possible problems

with e-voting technologies, and some of the problems the CCBOE experienced in May's primary election, the Cuyahoga County Board of Election desires to create opportunities for independent public verification of election results. We want to verify that the results the e-voting technology has generated are accurate. Additionally, we need to learn, as does the public at large, whether the voting units' programming maintained its integrity after the units passed the pre-election testing and were deployed to the polling locations. (This statement underscores the lack of understanding of electronic voting's vulnerability. It is impossible to determine whether 6000 machines have maintained their integrity after having "passed" a pre-election test.) Reliable information on both of these points is crucial, for us as well as for the public at large, so that we can make sound decisions as to the voting and database technologies we use (you are going to make those decisions? You don't have the expertise nor the concern for democracy to be put in that position of authority) and any corrections in administrative or other systems that may be required for verifiably accurate elections.

*Some audit or verification approaches that have been proposed by others have been barred as a matter of State statutory law. For instance, we considered conducting a public audit of several races during the period that an automatic recount was conducted but this is barred by O.R.C. section 3515.04. Other requests, such as posting all touchscreen machine paper trail reports on the doors of the polling locations **cannot be adopted at this point** for a *variety of reasons (including that such rights are not part of the rental contracts with the entities that own the voting locations, and that there would be no supervision for access (you've got to be kidding!))*. But we believe that auditing procedures need to be introduced and become a regularized part of election administrative processes, not only here but in all jurisdictions.*

Oct 3, 2006 - I sent an email to Candice saying it was inexcusable for the CCBOE NOT to post results, given the level of confidence in electronic voting machines, and in Cuyahoga's dismal record, and that posting-related poll-worker activity was of utmost importance to checks and balances for otherwise secret vote counting.

Oct 4, 2006 - Candice replied, in part:

- *Posting of DRE reports at the polling place election night is needed. Had it been my **decision**, I would have planned for posting of all Long (why?) Reports from the May 2d primary forward.*
- *Far more needs to be done for verification of election results in all jurisdictions nationwide (so abandon the easy and doable verification method that was used so effectively in the past?) until a reassessment of the voting technology occurs. (The assessment by experts has been made over and over again. E-voting has been proven to be vulnerable, unreliable, risky, expensive, and time consuming to use. How much more proof do the "decision makers" need?) The lack of high quality, reliable, public and scientifically sound election verification policies and procedures (so use something simple, in the mean time!) is one of the most troubling areas of election regulation nationwide.*
- *As valuable as posting would be, verification of e-voting election results cannot be achieved by posting alone (no one said it was!)...*

*By state law, there is no access by the public into the polling places after they have closed. (so?) And hence, no way for the public to view the long (who said it had to be "long?") reports on election night unless an **extra is printed and some mechanism were created for posting outside the polling place.** (Lots of counties do it!) Each DRE report is reportedly **20-30 feet long** (only need the top part) The BOE **decided** not to post this election. The proposal I submitted was for an audit, per the Brennan Center recommendations, relying on DRE reports posting at the Public Monitor offices, since **NO OTHER POSTING WOULD HAVE OCCURRED.** (Why?) And when would we have "Candice's Audit?" 2012?*

*By Ohio state law, election results can be changed **within 81 days of the election**-- see the bottom of the attached proposal for the statute. It is **wrongheaded** to reject verification steps that can be achieved in the first week after the election before certification, or thereafter that could generate the verification desired well within the 81 days. (Timing is critical, and week later is way too late!) I have zero power over the actual **decisions** that are made at the BOE on this and any other matter.*

Oct 4 2006 - I replied, saying:

*"Why didn't the public get to weigh in on this important **decision**? Next to the **decision** to purchase these "election rigging machines", the **decision** NOT to post is almost as important! Why was I not involved? I've been asking for it, month after month, and then am told "they **decided**" and am given no justification for their **decision**.*

*I want to know WHO made the **decision**, if you had "Zero" input into it. And I want to know on what basis they made "their" **decision**. The excuses cited thus far are lame and pretentious! And don't hold a candle to the "democracy" that it sacrifices. Just because CEI or Adrine or Hayes are not "sufficiently" concerned about e-voting (their ignorance is being used to defend this horrible **decision**), they shouldn't make the **decisions** for the public who are (92% of the public distrust these machines). I resent the fact that you "advocacy groups" step in and say "Here we come to save the day. We've got it covered. We'll handle it from here." "*

Oct 5, 2006 - Candice replied:

*"I do not know who made the **decision**, only that it is **final** and will not be reopened. Given the active number of issues that remain and a small staff, we have to be focused on those that are still somewhat open for redress. "*

Oct 5, 2006 - I called Jan Clair, Director of Lake County Board of Elections. Jan Claire runs a tight ship!

I knew that Jan was going to be posting results. She has been posting results for a long time. She posts precinct-total election totals on windows or doors, some of which are "outside". In her county, she has made it a policy to assign voting machines to a particular precinct. So, even though it might be frustrating to a voter whose precinct has a long line while another precinct has a short line, it makes it much easier to reconcile "ballots cast" with the "number of signatures in the polling books". Her procedure is for each machine in a precinct to have its memory card read into a designated accumulator machine so that machine can accumulate all the election results for machines in that precinct. That machine then prints out a precinct-specific totals report. One copy of that report is posted at the polling place. I asked her if this procedure was in the training manual for the poll-workers, and she said that it was. She said that she would send me a copy of the procedures and the poll-worker manual. I have not yet received anything. I thought she was

going to be emailing me the procedures. She did not want to criticize any other county's policy re: accumulation or posting.

On Oct 6, 2006 - I asked Tom Hayes who made the **decision**, when the **decision** was made, on what basis, and other questions.

On Oct 8, 2006 - Tom Hayes replied:

1) When was the **decision** made NOT to post results of the November elections at the polling places?

*Per the Secretary of State Special Notice in 2005, the BOE is not required to post results at the polling place so there was **no need to make a decision**. Further the CCBOE had not published results at the polling place for over 20 years.*

2) Who made the **decision**? (Candice says that she had "zero" input into the **decision**.) Was a vote taken?

*There was no change in the current policy or the Special Notice from the SOS so there was **no need for a vote** of the CCBOE. Candice and I discussed the matter and she was attempting to fashion an alternative solution to posting at the polling place.*

3) When was the decision FINAL?

See #1 and #2

4) On what basis was the decision made? Is there something in writing listing the pro's (democracy) and con's ("successful election")?

See #1 and #2

5) Was the decision made in a public meeting? If so, who, from the public, was present at the meeting?

See #1 and #2. I believe there was a discussion or testimony about posting at the polling place on 9/5, 9/15 and 10/2 (by way of your testimony)

6) Is there a tape recording or minutes or transcript of the discussion re: "post" or "not to post"?

There is a transcript of all meetings of the CCBOE

7) Do you feel that the "posting" decision is of importance to those seeking a fair and honest election, especially given the a) growing public distrust in electronic voting machines in general, b) the deplorable performance of Cuyahoga Board of Elections in particular, c) the numerous conflicts of interest of Blackwell re: his own candidacy, d) the conflicts of interest of Bob Bennett, chairman of Ohio Republican Party, and driving force behind Cuyahoga's Diebold e-voting decision, e) and the numerous cases where CCBOE has withheld public information, denied access to public information, provided information in formats which is difficult to analyze?

I personally agree that there should be a means to make machine or memory card level results available to the public as soon as possible after the election. It should be done in a manner that is consistent across precincts. The CCBOE passed a resolution saying the same thing at their last meeting.

8) When the decision was made, were you aware that the "posting" decision was very important to me, personally?

See #1 and #2. I became aware since my arrival on 9/1/06 that posting results at the polling location was important to you.

9) Were you aware that I had been asking about this policy as early as April (I will forward an email sent to CCBOE) and that I had asked the board at least three times about the board's "posting" policy before the CERP report was published?

No

10) Was any "collaborative" attempt made to bring me into the discussion, to notify me that the decision was being made, or that the decision was made, or that the decision was FINAL?

*There was **no decision** and I believe you were part of the discussion at the CCBOE meeting. I do not participate in any meetings with the CCBOE that are not part of the public session.*

11) Was any attempt made to notify the public that this decision would be made on a certain date?

*See #1 and #2. There was **no decision** by the Board other than charging staff to move toward posting at the polling place as soon as possible.*

12) Were other counties' "post" procedures evaluated? e.g. Lake County's posting procedures? Franklin county's?

Per the resolution passed on 10/2 I am sure those Counties will be contacted.

13) Are you aware that Lake County sometimes has to post results on the outside of the door, and that it is the responsibility of "interested parties" to be there at the appropriate time to be able to "see" the posted results?

No

Oct 9, 2006 – I left, for Tom Hayes, an audio tape of Dennis Kucinich's and Bruce O'Dell's speeches at "We Count" and a film entitled: "Stealing America: Vote By Vote"

Dennis described the sense of alarm that people all over the country are feeling about the integrity of our elections. Bruce is a computer security expert who apologized for his industry for not adequately warning the uninformed public of the dangers of electronic voting. I hope he watches the film because it will blow him away. He and the other "advocacy groups" need to see the bigger picture – to get a sense of the state of our electoral process. Our Democracy is in shreds, and might not survive another "suspect" election.

Oct 10-11, 2006 - I called 11 counties who are using Diebold TSx machines.

- Adams, Butler, Greene, Jefferson and Lucas will NOT post – reasons given were "since we moved to DRE's, because it is now no longer required, poll workers complained, DRE report is complicated to read and understand"
- Belmont, Darke, Guernsey, Hancock, Hardin, Harrison WILL post machine-level election results on the doors/windows, posting outside if necessary. None of these counties accumulate results at the polling place, and thus would be printing, for each DRE, a machine report, and then posting those reports on the polling-location doors.

I have listed the summary of excuses made, or implied, by CCBOE Director Michael Vu and the “spokespeople” for the CCBOE: Tom Hayes, Candice Hoke, Judge Ronald Adrine.

Summary of Excuses

- Blackwell (who is running for Governor and is behind in the polls) says we are not required to post results
- Blackwell says we are supposed to accumulate at central BOE or designated tabulation location, not at the polling location
- We haven’t been posting for a long time, and aren’t required to, so what’s the problem?
- Ohio statutory law presents serious impediments
- It is too late to change procedures
- Other recommendations in the CERP report are more important, and we just can’t get “posting” done THIS election.
- We can just wait until another election
- We need to find new polling locations
- Would need to have a change in polling-location rental agreement re: posting
- Would have to post outside of building, since people are not allowed inside.
- Reports would not be accessible from outside of the building
- Outside of building might not be illuminated
- Reports might get wet
- Reports might blow off
- Supervised access would be required
- Reports would need to be put in envelope and opened only under the supervision of a public monitor
- Reports might not be readable
- Poll workers would have to learn too much
- Poll workers would have to sacrifice knowledge of Voter ID to learn how to post
- Poll workers would have to print another copy of the report
- Poll workers would have to post the results – would need to develop a mechanism to do that
- Poll workers would have to work too long
- Posting isn’t sufficient to verify election results anyway
- Audits by certified ITA’s, after the fact, are better than posting results
- Would have to print long report (vs. short report)
- Would have to print too many reports, one for each machine
- Each report is too long—10, 20, 30 feet
- Might run out of paper
- It is not important to post results on election night since we have 81 days in order to change an election results. What’s the hurry?
- We should be thankful to be able to see the reports, opened by a designated public monitor, whenever they get around to it.
- Forms would have to be developed to record the election results
- Recording of election vote results by hand is prone to error
- Voters should trust that CCBOE will tally the results from the memory cards correctly
- Posting would not necessarily contribute to the “success” of election

- Secret vote counting is okay with me. I'm comfortable enough with Diebold's touch-screen devices and the GEMS tabulators that I don't think the public should be concerned with secret vote counting.
- Impossible
- Not feasible
- Not critical

Note:

This is the summary of my communication re: posting of election results. There are other activists who have also been speaking out about the dangers of electronic voting machines and advocating for the simple posting of election results at the polling place. They will undoubtedly have additional correspondence. I only presented what I found in my email history and things that I actually said or knew about. Those individuals are: Adele Eisner, Dan Kozminski, Roslyn Talerico, John Burik, Phil Fry and others.