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ONE HUNDRED EIGHTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON THE JUDICIARY

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December 2, 2004

The Honorable J. Kenneth Blackwell  
Ohio Secretary of State  
180 East Broad Street, 16th Floor  
Columbus, OH 43215

Dear Secretary Blackwell:

We write to request your assistance with our ongoing investigation of election irregularities in the 2004 Presidential election. As you may be aware, the Government Accountability Office has agreed to undertake a systematic and comprehensive review of election irregularities throughout the nation. As a separate matter, we have requested that the House Judiciary Committee Democratic staff undertake a thorough review of each and every specific allegation of election irregularities received by our offices.

Collectively, we are concerned that these complaints constitute a troubled portrait of a one-two punch that may well have altered and suppressed votes, particularly minority and Democratic votes. First, it appears there were substantial irregularities in vote tallies. It is unclear whether these apparent errors were the result of machine malfunctions or fraud.

Second, it appears that a series of actions of government and non-government officials may have worked to frustrate minority voters. Consistent and widespread reports indicate a lack of voting machines in urban, minority and Democratic areas, and a surplus of such machines in Republican, white and rural areas. As a result, minority voters were discouraged from voting by lines that were in excess of eight hours long. Many of these voters were also apparently victims of a campaign of deception, where flyers and calls would direct them to the wrong polling place. Once at that polling place, after waiting for hours in line, many of these voters were provided provisional ballots after learning they were at the wrong location. These ballots were not counted in many jurisdictions because of a directive issued by some election officials, such as yourself.

We are sure you agree with us that regardless of the outcome of the election, it is imperative that we examine any and all factors that may have led to voting irregularities and any failure of votes to be properly counted. Toward that end, we ask you to respond to the following allegations:

### **I. Counting Irregularities**

A. **Warren County Lockdown** – On election night, Warren County locked down its administration building and barred reporters from observing the counting.<sup>1</sup> When that decision was questioned, County officials claimed they were responding to a terrorist threat that ranked a “10” on a scale of 1 to 10, and that this information was received from an FBI agent.<sup>2</sup> Despite repeated requests, County officials have declined to name that agent, however, and the FBI has stated that they had no information about a terror threat in Warren County.<sup>3</sup> Your office has stated that it does not know of any other county that took these drastic measures.<sup>4</sup>

In addition to these contradictions, Warren County officials have given conflicting accounts of when the decision was made to lock down the building.<sup>5</sup> While the County Commissioner has stated that the decision to lockdown the building was made during an October 28 closed-door meeting, emailed memos – dated October 25 and 26 – indicate that preparations for the lockdown were already underway.<sup>6</sup>

This lockdown must be viewed in the context of the aberrational results in Warren County. In the 2000 Presidential election, the Democratic Presidential candidate, Al Gore, stopped running television commercials and pulled resources out of Ohio weeks before the election. He won 28% of the vote in Warren County.<sup>7</sup> In 2004, the Democratic Presidential candidate, John Kerry, fiercely contested Ohio and independent groups put considerable resources into getting out the Democratic vote. Moreover, unlike in 2000, independent candidate

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<sup>1</sup>Erica Solvig,, *Warren County Still Counting*, CINCINNATI ENQUIRER, Nov. 3, 2004.

<sup>2</sup>Erica Solvig, *Warren Co. Defends Lockdown Decision*, CINCINNATI ENQUIRER, Nov. 10, 2004.

<sup>3</sup>*Id.*

<sup>4</sup>*Id.*

<sup>5</sup>Erica Solvig,, *No changes in final Warren Co. vote count, Emails released Monday show lockdown pre-planned*, CINCINNATI ENQUIRER, Nov. 16, 2004.

<sup>6</sup>*Id.*

<sup>7</sup>Ohio Secretary of State 2000 Presidential Vote Results, [www.sos.state.oh.us/sos/results/2000/gen/pres.htm](http://www.sos.state.oh.us/sos/results/2000/gen/pres.htm). Gore received 19,142 votes out of a total of 69,078 cast (27.71%).

Ralph Nader was not on the Ohio ballot in 2004. Yet, the tallies reflect John Kerry receiving exactly the same percentage in Warren County as Gore received, 28%.<sup>8</sup>

We hope you agree that transparent election procedures are vital to public confidence in electoral results. Moreover, such aberrant procedures only create suspicion and doubt that the counting of votes was manipulated. As part of your decision to certify the election, we hope you have investigated these concerns and found them without merit. To assist us in reaching a similar conclusion, we ask the following:

1. Have you, in fact, conducted an investigation of the lockdown? What procedures have you or would you recommend be put into place to avoid a recurrence of this situation?
2. Have you ascertained whether County officials were advised of terrorist activity by an FBI agent and, if so, the identity of that agent?
3. If County officials were not advised of terrorist activity by an FBI agent, have you inquired as to why they misrepresented this fact? If the lockdown was not as a response to a terrorist threat, why did it take place? Did any manipulation of vote tallies occur?

**B. Perry County Election Counting Discrepancies** – The House Judiciary Committee Democratic staff has received information indicating discrepancies in vote tabulations in Perry County. For example, the sign-in book for the Reading S precinct indicates that approximately 360 voters cast ballots in that precinct.<sup>9</sup> In the same precinct, the sign-in book indicates that there were 33 absentee votes cast.<sup>10</sup> In sum, this would appear to mean that fewer than 400 total votes were cast in that precinct. Yet, the precinct's official tallies indicate that 489 votes were cast.<sup>11</sup> In addition, some voters' names have two ballot stub numbers listed next to their entries creating the appearance that voters were allowed to cast more than one ballot.<sup>12</sup>

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<sup>8</sup>Ohio Secretary of State 2004 Presidential Vote Results, [www.sos.state.oh.us/sos/results/2004/gen/pres.htm](http://www.sos.state.oh.us/sos/results/2004/gen/pres.htm). Kerry received 25,399 votes out of 92,251 cast (27.53%).

<sup>9</sup>Sign-In Book, Reading S Precinct, Perry County Board of Elections, 11/02/04 General Election, copy on file with House Judiciary Committee Democratic Staff.

<sup>10</sup>*Id.*

<sup>11</sup>Copy of Signed Printout of Initial Perry County Voting Tallies, on file with House Judiciary Committee Democratic Staff.

<sup>12</sup>*Supra* note 9.

In another precinct, W Lexington G AB, 350 voters are registered according to the County's initial tallies.<sup>13</sup> Yet, 434 voters cast ballots.<sup>14</sup> As the tallies indicate, this would be an impossible 124% voter turnout.<sup>15</sup> The breakdown on election night was initially reported to be 174 votes for Bush, and 246 votes for Kerry.<sup>16</sup> We are advised that the Perry County Board of Elections has since issued a correction claiming that, due to a computer error, some votes were counted twice.<sup>17</sup> We are advised that the new tallies state that only 224 people voted, and the tally is 90 votes for Bush and 127 votes for Kerry.<sup>18</sup> This would make it appear that virtually every ballot was counted twice, which seems improbable.

In Monroe Township, Precinct AAV, we are advised that 266 voters signed in to vote on election day,<sup>19</sup> yet the Perry County Board of Elections is reporting that 393 votes were cast in that precinct,<sup>20</sup> a difference of 133 votes.

4. Why does it appear that there are more votes than voters in the Reading S precinct of Perry County?
5. What is the explanation for the fluctuating results in the W Lexington AB precinct?
6. Why does it appear that there are more votes than voters in the Monroe Township precinct AAV?

**C. Perry County Registration Peculiarities**

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<sup>13</sup>*Id.*

<sup>14</sup>*Supra* note 11.

<sup>15</sup>*Id.*

<sup>16</sup>*Id.*

<sup>17</sup>Staff Interview with Election Volunteer, Dec. 1, 2004.

<sup>18</sup>*Id.*

<sup>19</sup>*Id.*

<sup>20</sup>*Supra* note 11.

In Perry County, there appears to be an extraordinarily high level voter registration, 91%; yet a substantial number of these voters have never voted and have no signature on file.<sup>21</sup> Of the voters that are registered in Perry County an extraordinarily large number of voters are listed as having registered in 1977, a year in which there were no federal elections.<sup>22</sup> Of these an exceptional number are listed as having registered on the exact same day: in total, 3,100 voters apparently registered in Perry County on November 8, 1977.<sup>23</sup>

7. Please explain why there is such a high percentage of voters in this County who have never voted and do not have signatures on file. Also, please help us understand why such a high number of voters in this County are shown as having registered on the same day in 1977.

#### **D. Unusual Results in Butler County**

In Butler County, a Democratic Candidate for State Supreme Court, C. Ellen Connally received 59,532 votes.<sup>24</sup> In contrast, the Kerry-Edwards ticket received only 54,185 votes, 5,000 less than the State Supreme Court candidate.<sup>25</sup> Additionally, the victorious Republican candidate for State Supreme Court received approximately 40,000 less votes than the Bush-Cheney ticket.<sup>26</sup> Further, Connally received 10,000 or more votes in excess of Kerry's total number of votes in five counties, and 5,000 more votes in excess of Kerry's total in ten others.<sup>27</sup>

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<sup>21</sup>*Id.*

<sup>22</sup>Spreadsheet of Ohio Secretary of State Voter Registration Database, on file with the House Judiciary Committee Democratic Staff.

<sup>23</sup>*Id.*

<sup>24</sup>Election Results, *Cincinnati Enquirer*, Nov. 4, 2004.

<sup>25</sup>*Id.*

<sup>26</sup>*Id.*

<sup>27</sup>Unofficial Results, Ohio Secretary of State website, Nov.30, 2004. There are a number of peculiar results that appear to run counter to the established principle that downballot party candidates receive far less votes than the presidential candidate of the same party. These results also are counter to the statewide trend in Ohio, where Kerry received 48.5% of the vote to 46.6% for Connally. In Adams County, John Kerry barely received more votes than Connally, 4189 to 4010. In Auglaize County, Connolly received more votes than Kerry, 7312 to 5729. Similar results were tallied in Brown County, with Kerry receiving 7058 votes to Connally's 7407; in Clermont County, Connally received 29,464 to Kerry's 25,318; in Darke County, Connally

It must also be noted that Republican judicial candidates were reportedly “awash in cash,” with more than \$1.4 million and were also supported by independent expenditures by the Ohio Chamber of Commerce.<sup>28</sup>

While you may have found an explanation for these bizarre results, it appears to be wildly implausible that 5,000 voters waited in line to cast a vote for an underfunded Democratic Supreme Court candidate and then declined to cast a vote for the most well-funded Democratic Presidential campaign in history. We would appreciate an answer to the following:

8. Have you examined how an underfunded Democratic State Supreme Court candidate could receive so many more votes in Butler County than the Kerry-Edwards ticket? If so, could you provide us with the results of your examination? Is there any precedent in Ohio for a downballot candidate receiving on a percentage or absolute basis so many more votes than the Presidential candidate of the same party in this or any other presidential election? Please let us know if any other County in Ohio registered such a disparity on a percentage or absolute basis.

**E. Unusual Results in Cuyahoga County**

Precincts in Cleveland have reported an incredibly high number of votes for third party candidates who have historically received only a handful of votes from these urban areas.<sup>29</sup> For example, precinct 4F in the 4<sup>th</sup> Ward cast 290 votes for Kerry, 21 for Bush, and 215 for Constitution Party candidate Michael Peroutka.<sup>30</sup> In 2000, the same precinct cast less than 8 votes for all third party candidates combined.<sup>31</sup>

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received 8817 to Kerry’s 6683; in Highland County, Connally received 6119 to Kerry’s 6012; in Mercer County, Connally received 6607 to Kerry’s 4924; in Miami County, Connally received 17,206 to Kerry’s 17,039; in Putnam County, Connally received 4,785 votes to Kerry’s 4,348.

<sup>28</sup>T.C. Brown, *Republicans sweep in state high court*, CLEVELAND PLAIN DEALER, Nov. 3, 2004.

<sup>29</sup>Juan Gonzalez, *Ohio Tally Fit for Ukraine*, NEW YORK DAILY NEWS, Nov. 30, 2004.

<sup>30</sup>*Id.*

<sup>31</sup>*Id.*

This pattern is found in at least 10 precincts through throughout Cleveland in 2004, awarding hundreds of unlikely votes to the third party candidate.<sup>32</sup> Notably, these precincts share more than a strong Democratic history: the use of a punch card ballot. In light of these highly unlikely results, we would like to know the following:

9. Have you investigated whether the punch card system used in Cuyahoga County led to voters accidentally voting for third party candidates instead of the Democratic candidate they intended? If so, what were the results? Has a third party candidate ever received such a high percentage of votes in these precincts.

10. Have you found similar problems in other counties? Have you found similar problems with other voting methods?

#### **F. Spoiled Ballots**

According to post election canvassing, many ballots were cast without any valid selection for president. For example, two precincts in Montgomery County had an undervote rate of over 25% each – accounting for nearly 6,000 voters who stood in line to vote, but purportedly declined to vote for president.<sup>33</sup> This is in stark contrast to the 2% of undervoting county-wide.<sup>34</sup> Disturbingly, predominantly Democratic precincts had 75% more undervotes than those that were predominantly Republican.<sup>35</sup> It is inconceivable to us that such a large number of people supposedly did not have a preference for president in such a controversial and highly contested election.

Considering that an estimated 93,000 ballots were spoiled across Ohio,<sup>36</sup> we would like to know the following:

11. How many of those spoiled ballots were of the punch card or optical scan format and could therefore be examined in a recount?

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<sup>32</sup>*Id.*

<sup>33</sup>Ken McCall and Jim Bebbington, *Two precincts had high undercounts, analysis shows*, DAYTON DAILY NEWS, Nov. 18, 2004.

<sup>34</sup>*Id.*

<sup>35</sup>*Id.*

<sup>36</sup>Scott Hiaasen, *Like clinging chads, Kerry faithful hang on*, THE PLAIN DEALER, Nov. 6, 2004.

12. Of those votes that have a paper trail, how many votes for president were undercounted, or showed no preference for president? How many were overcounted, or selected more than one candidate for president? How many other ballots had an indeterminate preference?

13. Of the total 93,000 spoiled ballots, how many were from predominantly Democratic precincts? How many were from minority-majority precincts?

14. Are you taking steps to ensure that there will be a paper trail for all votes before the 2006 elections so that spoiled ballots can be individually re-examined?

**G. Franklin County Overvote** – On election day, a computerized voting machine in ward 1B in the Gahanna precinct of Franklin County recorded a total of 4,258 votes for President Bush and 260 votes for Democratic challenger, John Kerry.<sup>37</sup> However, there are only 800 registered voters in that Gahanna precinct, and only 638 people cast votes at the New Life Church polling site.<sup>38</sup> It was since discovered that a computer glitch resulted in the recording of 3,893 extra votes for President George W. Bush.<sup>39</sup>

Fortunately, this glitch was caught and the numbers were adjusted to show President Bush's true vote count at 365 votes to Senator Kerry's 260 votes.<sup>40</sup> However, many questions remain as to whether this kind of malfunction happened in other areas of Ohio. To help us clarify this issue, we request that you answer the following:

15. How was it discovered that this computer glitch occurred?

16. What procedures were employed to alert other counties upon the discovery of the malfunction?

17. Can you be absolutely certain that this particular malfunction did not occur in other counties in Ohio during the 2004 Presidential election? How?

18. What is being done to ensure that this type of malfunction does not happen again in the future?

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<sup>37</sup>Jim Woods, *In one precinct, Bush's tally was supersized by a computer glitch*, THE COLUMBUS DISPATCH, Nov. 5, 2004.

<sup>38</sup>*Id.*

<sup>39</sup>*Id.*

<sup>40</sup>*Glitch gave Bush extra votes in Ohio*, THE ASSOCIATED PRESS, Nov. 5, 2004.



H. **Miami County Vote Discrepancy** – In Miami County, with 100% of the precincts reporting on Wednesday, November 3, 2004, President Bush had received 20,807 votes, or 65.80% of the vote, and Senator Kerry had received 10,724 votes, or 33.92% of the vote.<sup>41</sup> Miami reported 31,620 voters. Inexplicably, nearly 19,000 new ballots were added after all precincts reported, boosting President Bush's vote count to 33,039, or 65.77%, while Senator Kerry's vote percentage stayed exactly the same to three one-hundredths of a percentage point at 33.92%.<sup>42</sup>

Roger Kearney of Rhombus Technologies, Ltd., the reporting company responsible for vote results of Miami County, has stated that the problem was not with his reporting and that the additional 19,000 votes came before 100% of the precincts were in.<sup>43</sup> However, this does not explain how the vote count could change for President Bush, but not for Senator Kerry, after 19,000 new votes were added to the roster. To help us better understand this anomaly, we request that you answer the following:

19. What is your explanation as to the statistical anomaly that showed virtually identical ratios after the final 20-40% of the vote came in? In your judgment, how could the vote count in this County have changed for President Bush, but not for Senator Kerry, after 19,000 new votes were added to the roster?
20. Are you aware of any pending investigations into this matter?

I. **Mahoning County Machine Problems** – In Mahoning County, numerous voters reported that when they attempted to vote for John Kerry, the vote showed up as a vote for George Bush. This was reported by numerous voters and continued despite numerous attempts to correct their vote.<sup>44</sup>

21. Please let us know if you have conducted any investigation or inquiry of machine voting problems in the state, including the above described problems in Mahoning County, and the results of this investigation or inquiry.

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<sup>41</sup>Bob Fitrakis, *None dare call it voter suppression and fraud*, THE FREE PRESS, Nov. 7, 2004.

<sup>42</sup>Ohio Secretary of State 2004 Presidential Vote Results, [www.sos.state.oh.us/sos/results/11-02-04.htm](http://www.sos.state.oh.us/sos/results/11-02-04.htm).

<sup>43</sup>Bob Fitrakis, *And so the sorting and discarding of Kerry votes begins*, THE FREE PRESS, Nov. 10, 2004.

<sup>44</sup>Bob Fitrakis and Harvey Wasserman, *New Ohio Voter Transcripts Feed Floodtide of Doubt about Republican Election Manipulation*, THE FREE PRESS, Nov. 25, 2004.

## **II. Procedural Irregularities**

### **A. Machine Shortages**

Throughout predominately Democratic areas in Ohio on election day, there were reports of long lines caused by inadequate numbers of voting machines. Evidence introduced in public hearings indicates that 68 machines in Franklin County were never deployed for voters, despite long lines for voters at that county,<sup>45</sup> with some voters waiting from two to seven hours to cast their vote.<sup>46</sup> The Franklin County Board of Elections reported that 68 voting machines were never placed on election day, and Franklin County BOE Director Matt Damschroder admitted on November 19, 2004 that 77 machines malfunctioned on Election Day.<sup>47</sup> It has come to our attention that a county purchasing official who was on the line with Ward Moving and Storage Company, documented only 2,741 voting machines delivered through the November 2 election day.<sup>48</sup> However, Franklin County's records reveal that they had 2,866 "machines available" on election day.<sup>49</sup> This would mean that amid the two to seven hour waits in the inner city of Columbus, at least 125 machines remained unused on Election Day.

Franklin County's machine allocation report clearly states the number of machines that were placed "By Close of Polls."<sup>50</sup> However, questions remain as to where these machines were placed and who had access to them throughout the day. Therefore, what matters is not how many voting machines were operating at the end of the day, but rather how many were there to service the people during the morning and noon rush hours.

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<sup>45</sup>Bob Fittrakis, *Document reveals Columbus, Ohio voters waited hours as election officials held back machines*, THE FREE PRESS, Nov. 16, 2004.

<sup>46</sup>Bob Fittrakis, *Is there inner-city election suppression in Franklin County, Ohio?* THE FREE PRESS, Nov. 2, 2004.

<sup>47</sup>Bob Fittrakis, *How the Ohio Election Was Rigged for Bush*, THE FREE PRESS, Nov. 22, 2004.

<sup>48</sup>*Id.*

<sup>49</sup>Franklin County Board of Elections 2004 Election Abstract, [www.co.franklin.oh.us/boe/content/electionAbstract.htm](http://www.co.franklin.oh.us/boe/content/electionAbstract.htm)

<sup>50</sup>*Id.*

An analysis revealed a pattern of providing fewer machines to the Democratic city of Columbus, and more machines to the primarily Republican suburbs.<sup>51</sup> At seven out of eight polling places, observers counted only three voting machines per location.<sup>52</sup> According to the presiding judge at one polling site located at the Columbus Model Neighborhood facility at 1393 E. Broad St., there had been five machines during the 2004 primary.<sup>53</sup> Moreover, at Douglas Elementary School, there had been four machines during the spring primary.<sup>54</sup> In one Ohio voting precinct serving students from Kenyon College, some voters were required to wait more than eight hours to vote.<sup>55</sup> There were reportedly only two voting machines at that precinct. The House Judiciary Committee staff has received first hand information confirming these reports.<sup>56</sup>

Additionally, it appears that in a number of locations, polling places were moved from large locations, such as gyms, where voters could comfortably wait inside to vote to smaller locations where voters were required to wait in the rain.<sup>57</sup> We would appreciate answers to the following:

22. How much funding did Ohio receive from the federal government for voting machines?
23. What criteria were used to distribute those new machines?
24. Were counties given estimates or assurances as to how many new voting machines they would receive? How does this number compare to how many machines were actually received?

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<sup>51</sup>*Id.*

<sup>52</sup>*Id.*

<sup>53</sup>*Id.*

<sup>54</sup>*Id.*

<sup>55</sup>Don Lothian, CNN.com, "All Eyes on Ohio," Nov. 3, 2004, [www.cnn.com/2004/ALLPOLITICS/BLOG/11/02/ELECTION.BLOG/INDEX.HTM](http://www.cnn.com/2004/ALLPOLITICS/BLOG/11/02/ELECTION.BLOG/INDEX.HTM).

<sup>56</sup>Emails on file with House Judiciary Committee staff. A sampling include information about four hour waits at Precincts 35B and C in Columbus; seven hours waits for one voting machine per thousand voters, where the adjacent precinct had one station for 184 voters (this pattern was replicated in predominately African-American areas and areas with colleges); lines of four to five hours were "the order of the day in African American neighborhoods."

<sup>57</sup>*Id.*

25. What procedures were in place to ensure that the voting machines were properly allocated throughout Franklin and other counties? What changes would you recommend be made to insure there is a more equitable allocation of machines in the future?

### **B. Invalidated Provisional Ballots**

As you know, just weeks before the 2004 Presidential election, you issued a directive to county election officials saying they are allowed to count provisional ballots only from voters who go to the correct precinct for their home address.<sup>58</sup> At the same time, it has been reported that fraudulent flyers were being circulated on official-looking letterhead telling voters the wrong place to vote,<sup>59</sup> phone calls were placed incorrectly informing voters that their polling place had changed,<sup>60</sup> “door-hangers” telling African-American voters to go to the wrong precinct,<sup>61</sup> and election workers sent voters to the wrong precinct.<sup>62</sup> In other areas, precinct workers refused to give any voter a provisional ballot.<sup>63</sup> And in at least one precinct, election judges told voters that they may validly cast their ballot in any precinct, leading to any number of disqualified provisional ballots.<sup>64</sup>

In Hamilton County, officials have carried this problematic and controversial directive to a ludicrous extreme: they are refusing to count provisional ballots cast at the correct polling place if they were cast at the wrong table in that polling place.<sup>65</sup> It seems that some polling places

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<sup>58</sup>Mark Niquette, *Ohio won't count ballots cast at incorrect precincts*, COLUMBUS DISPATCH, Sept. 25, 2004.

<sup>59</sup>Grant Segall, *Voters Told to Ignore Hoax*, THE PLAIN DEALER, Oct. 29, 2004.

<sup>60</sup>David Finkel, *Now They're Registered, Now They're Not*, WASHINGTON POST, Oct. 31, 2004.

<sup>61</sup>Email from Cincinnati-area election volunteer, on file with the House Judiciary Committee Democratic Staff.

<sup>62</sup>Connie Mabin, *Buzzing Bees, Long Lines Among Hurdles at Ohio Polls*, THE ASSOCIATED PRESS, Nov. 2, 2004.

<sup>63</sup>Email from Cleveland-area election volunteer, on file with the House Judiciary Committee Democratic Staff.

<sup>64</sup>Jon Craig, *Election day Aftermath*, THE COLUMBUS DISPATCH, Nov. 25, 2004.

<sup>65</sup>Tony Cook, *Final ballots offer no changes*, CINCINNATI POST, Nov. 27, 2004.

contained multiple precincts which were located at different tables.<sup>66</sup> Now, 400 such voters in Hamilton county alone will be disenfranchised as a result of your directive.

26. Have you directed Hamilton County and all other counties not to disqualify provisional ballots cast at the correct polling place simply because they were cast at the wrong precinct table?

27. While many election workers received your directive that voters may cast ballots only in their own precincts, some did not. How did you inform your workers, and the public, that their vote would not be counted if cast in the wrong precinct? How many votes were lost due to election workers telling voters they may vote at any precinct, in direct violation of your ruling?

28. Your directive was exploited by those who intentionally misled voters about their correct polling place, and multiplied the number of provisional ballots found invalid. What steps have you or other officials in Ohio taken to investigate these criminal acts? Has anyone been referred for prosecution? If so, what is the status of their cases?

29. How many provisional ballots were filed in the presidential election in Ohio? How many were ultimately found to be valid and counted? What were the various reasons that these ballots were not counted, and how many ballots fall into each of these categories? Please break down the foregoing by County if possible.

**C. Directive to Reject Voter Registration Forms Not Printed on White, Uncoated Paper of Not Less Than 80 lb Text Weight**

On September 7, you issued a directive to county boards of elections commanding such boards to reject voter registration forms not “printed on white, uncoated paper of not less than 80 lb. text weight.”<sup>67</sup> Instead, the county boards were to follow a confusing procedure where the voter registration form would be treated as an application for a form and a new blank form would be sent to the voter.<sup>68</sup> While you reversed this directive, you did not do so until September 28.<sup>69</sup> In the interim, a number of counties followed this directive and rejected otherwise valid voter

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<sup>66</sup>*Id.*

<sup>67</sup>Ohio Secretary of State Press release, “Blackwell Issues Voter Registration Directive,” Sept. 9, 2004, <http://www.sos.state.oh.us/sos/news/release/09-09-04.htm>.

<sup>68</sup>*Id.*

<sup>69</sup>Catherine Candisky, *Blackwell ends paper chase, Some could be unable to vote because of flap over registration forms*, COLUMBUS DISPATCH, Sept. 29, 2004.

registration forms.<sup>70</sup> There appears to be some further confusion about the revision of this order which resulted in some counties being advised of the change by the news media.<sup>71</sup>

30. How did you notify county boards of elections of your initial September 7 directive?

31. How did you notify county boards of elections of your September 28 decision to revise that directive?

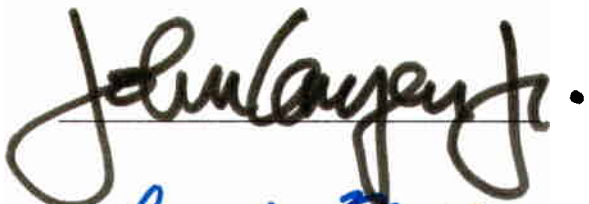
32. Have you conducted an investigation to determine how many registration forms were rejected as a result of your September 7 directive? If so, how many?



33. Have you conducted an investigation to determine how many voters who had their otherwise valid forms rejected as a result of your September 7 directive subsequently failed to re-register? If so, how many?

34. Have you conducted an investigation to determine how many of those voters showed up who had their otherwise valid forms rejected to vote on election day and were turned away? If so, how many?

We await your prompt reply. To the extent any questions relate to information not available to you, please pass on such questions to the appropriate election board or other official. Please respond to 2142 Rayburn House Office Building, Washington, DC 20515 by December 10. If you need more time to investigate and respond to some of these inquiries, we would welcome a partial response by that date and a complete response within a reasonable period of time thereafter. If you have any questions about this inquiry, please contact Perry Apelbaum or Ted Kalo of the House Judiciary Committee Democratic Staff at (202) 225-6504.

Sincerely,

  
\_\_\_\_\_  
Judith Nadler

  
\_\_\_\_\_  
  
\_\_\_\_\_

<sup>70</sup>*Id.*

<sup>71</sup>*Id.*

Kevin J. Smith  
Mike Johnson  
Patent Weyler  
Mary Mahan

Maxine Waters



William D. Alford

