

IN THE COURT OF COMMON PLEAS  
OF FRANKLIN COUNTY

State ex. rel. Ohio Democratic  
Party, et al.,

Relators,

v.

J. Kenneth Blackwell  
Secretary, State of Ohio,

Respondent.

) Case No. 06CVH0911609

) Hon. Angela P. White

) **AFFIDAVIT OF RICHARD M.**  
) **KERGER**

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)  
)  
)

Now comes Richard M. Kerger, being first fully sworn and states  
that the attached Exhibit A and B are true and accurate documents reflecting real  
and potential problems in the coming election.

  
\_\_\_\_\_  
RICHARD M. KERGER

STATE OF OHIO     )  
                              )  
                              )     SS.  
COUNTY OF LUCAS )

Sworn to before me and subscribed in my presence this 19th day of  
October, 2006.

*Brigid A. Matthews*  
NOTARY PUBLIC – STATE OF OHIO



BRIGID A. MATTHEWS  
Notary Public, State of Ohio  
My Commission Expires 09-11-07

Election Official Confidential: a scoop from Ohio

by histopresto <<http://histopresto.dailykos.com/>>

Mon Oct 16, 2006 at 09:15:54 AM PDT

After mobilizing in 2004 as an official (frustrated) observer for the Democratic Party, I decided that this time around, I would become a Precinct Election Official. That way, I could help ensure that voters got to cast a regular ballot, instead of being virtually disenfranchised into the hell of provisional ballots. This weekend, I attended the mandatory training session and oohhh doggies, did I get an earful from the trainers. How did I miss hearing about how badly the May primary election went off the rails? Oh yeah, because it was never publicized. More after the break...

\* histopresto's diary <<http://histopresto.dailykos.com/>> :: ::  
\*

In case you haven't noticed, the average age of a Precinct Election Official is 75, which means that a whole lot of our local septuagenarians are getting their very first exposure to computers this year. Of the 40 people who showed up for training with me, only a handful were under 60. One official was on an oxygen tank and kept asking the same question all day, one drove a cute lil Rascal Scooter over people's feet, and one guy in a wheelchair with only one leg kept freaking me out by standing up to reach stuff. More people in the group had buckeye shirts on for Ohio State gameday than had their own cellphones (I asked around). Several people said very loudly that the only reason they were coming back to work this election was because of its political importance, that because of the voting machines they would never work another election again.

The May primary was the first major election in Franklin County in which voters used the new ES&S Ivotronic I touchscreen machines. In public and on their website, the Franklin County Board of Elections sounds a lot like the old guy from "Are You Being Served?", telling all the local election workers and the voters that "You've all done very well!!" You can take a look at the official training video online [here <https://www.franklincountyohio.gov/boe/content/election/precoff.html>], if you're in the mood for an alternate version of reality.

In May, it was categorically proven that the Precinct Election Officials could not follow the directions shown on the screens of the voting machines, which help them open and close the polls. The acronyms used to identify memory cartridges, cords, and data ports were so counterintuitive that people were unable to figure out what steps they were to follow. The big message from the BOE trainer to prevent problems in November was "Follow the checklist and wait. Just wait, wait, wait until the machine tells you what to do."

Because of all the problems that were experienced with the first use of these machines, the manual used for the May and August elections has been thrown out and new manuals are being used to train officials for the November general election. The manual is 139 pages long and comes with a companion DVD (and how many 75 year olds have DVD players, do you think?)

Here's some of the highlights lowlights from the May primary:

-The new ES&S voting machines have two plastic doors that fold over the unit for storage. They are opened up to expose the touchscreen for use and to provide privacy for voters. In May, the doors were sealed shut by the Board of Elections with a wire security seal to prevent tampering. Before the machines were ever turned on, Precinct Election Officials attempting to remove the wire seals and open the plastic doors effectively BROKE over 600 new voting machines. The small plastic holes at the top of the doors for the seals that are supposed to provide some semblance of security are easily ripped apart. The doors will need to be replaced so that they can be sealed for future elections. The wire cutters that were provided to cut the wire seals will now be velcroed to the supply box, in plain sight.

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EXHIBIT

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-The flash memory cards (which are just like the ones used in digital cameras) that store the results for individual machines were protected from tampering by another wire seal that held the sliding access doors closed. The plastic loops that this seal was attached to were torn off the voting machines when Election Officials couldn't get the wire seals off. There went another couple hundred voting machines. A tamper-resistant security tape will be used instead in November.

-The memory card, the power cord and the data port are located at the top of the machine in plain sight, directly next to each other. Many voting machines lost power in May because the officials knocked the power cord loose when they used the data port to print out opening machine count tapes. The battery back-up for the machines will only last for an hour, if you're lucky. During the November election, Precinct Election Officials are supposed to push in the data line and power cords during the day. They're also cautioned to watch out for lively babies (!?! )yanking out the cords, thereby disrupting the election by bypassing the paper log and recorded vote.

-All Presiding Election Officials at each precinct are given a cell phone and confidential Hotline number to call for advice and technical assistance. During the May Primary, by 7:00 p.m. every single phone line used by precinct officials to call the Board of Elections for help with the new machines was out of order. ATT was blamed for the failure, according to the trainer. An entirely new phone system is currently being installed, just 3 weeks away from the big election.

-The portable printers that are used to provide official result tapes at the beginning and the end of the day failed at many precincts. Their batteries could not be charged to allow them to function for the whole day; at the end of the day they would only function after being plugged in for at least 45 minutes (which nobody knew and with all the phones down, precinct officials could not get in contact with BOE unless they used their own phones). When the officials couldn't get the tapes to print, they sent voters home.

-The voting machines have a time/date memory log which prevents Precinct Election Officials from closing down the polls until the legal 7:30 closing time. The time/date memory on many machines were set wrong, so the machines would not allow themselves to be shut down until THEY thought it was 7:30. This cannot be resolved without a technician visiting from BOE. In November, there's a new step that requires officials to call BOE for a technician to come and reset machines to the correct time so the polls can actually be closed down on time.

-The paper Real Time Audit Log is the official record of votes cast in case of a recount- it's the paper tape that's under glass so the voter can read it to verify their votes. Depending on the length of the ballot, the tape can only accommodate 50 voters before the tape must be changed and resealed in the machine by a technician visiting from BOE. Not surprisingly, the tapes ran out and voting machines had to be closed down in May. This November, Officials are supposed to check the counts and call for service during the day BEFORE all their machines run out of paper tape.

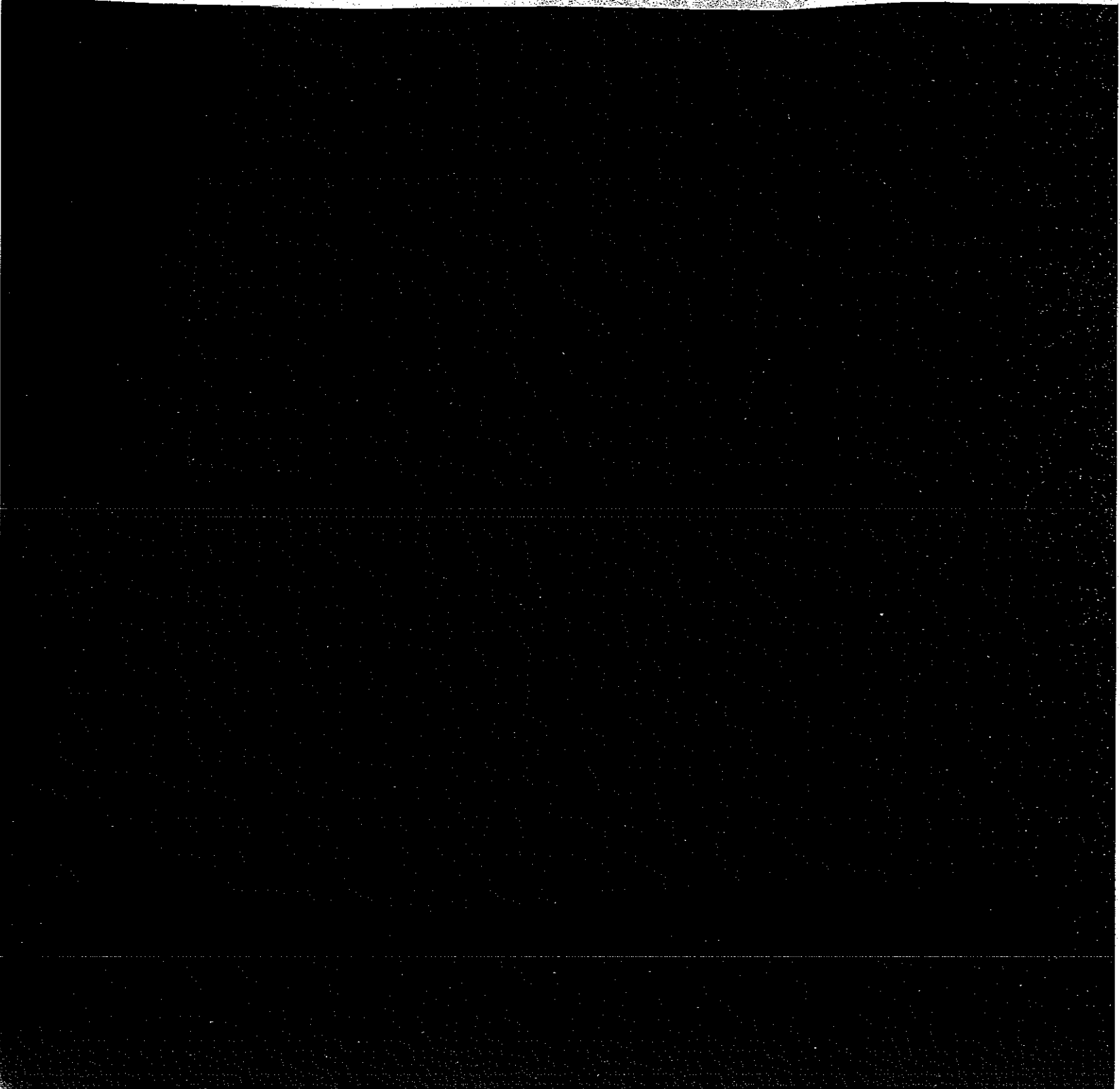
-Precinct Election Officials didn't really understand that the little flash memory cards were important, so they either left them in the machines (like the machines they couldn't use) or didn't turn them in to BOE on election night in May. According to the trainer, several Officials went out to dinner or went home to bed, thinking they could turn in the memory cards and log-books the next morning. The BOE called out the County Sheriff to roust the Officials and make them retrieve the flash memory cards, wherever they ended up. In November, the BOE has changed their procedures to force Officials to recognize that they need to turn in more than the old log-book and paper poll results.

-Finally, one problem that really has nothing to do with the Voting Machines- the provisional ballots were printed backwards, so that directions on how to complete them and how to process them at the polls were inaccurate. No word on how many voters and officials just gave up on completing the ballots, or how many were invalidated from being counted because of errors.

Amazingly enough, after all of these technical problems were addressed by various fixes, the big thing that was stressed by the trainer had NOTHING to do with voting machines. Instead, they spent most of their time talking about the new VOTER ID requirements that people are going to be encountering this November. VOTER ID law changes in Ohio mean that many, many people will have difficulty establishing their identity and legal address so that they can vote on a regular ballot, instead of a provisional ballot.

If a person doesn't have a current driver's license with an address that matches their voting registration, they are in for a world of trouble come election day. In order to avoid processing thousands of provisional ballots, the BOE wants Precinct Election Officials to send people home to get their ID, or bring back a utility bill or bank statement to prove their legal address. If you don't drive, if you don't get a paycheck with an address on it or your utility bills aren't in your name, you may be out of luck. Teen voters will have trouble providing legal ID, as will poor voters, unemployed voters, people who rent their homes, etc. To add to this mess, women who have changed their name because of marriage are now required to cast a provisional ballot if there's a variance between their voting registration and their legal ID, when previously a simple Name Change Form would have been sufficient to vote a regular ballot.

The new state Voter ID law is so flawed that the BOE has determined that these documents are NOT acceptable ID to vote, typically because they don't have an address: Social Security card, Birth Certificate, Home/Car Insurance Card, Military ID, US Passport, State Employee ID, College ID, Notices from the BOE. Thanks to Ohio House Bill 3, a parting gift from the Ohio Republican Party, it is now easier for an American citizen to enter the United States from a foreign country than it is to vote in the State of Ohio.



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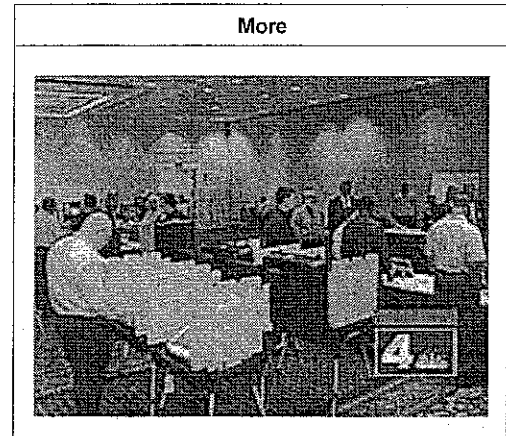
## Md. Orders Paper Ballots As Backup Plan

### *Election Officials Fear Electronic Voting Snafus*

POSTED: 10:52 am EDT October 12, 2006  
UPDATED: 10:59 am EDT October 12, 2006

**ANNAPOLIS, Md.** -- Election officials in Maryland said if there are problems with computerized voting machines in November's general election, paper ballots will be used

The same company that makes the electronic voting machines, Diebold Election Systems, has been ordered by the state to print 1.6 million paper ballots.



#### SPECIAL SECTION: Voter Resources

Although some will be used as absentee ballots, most will be reserved as provisional ballots in case of machine glitches on Election Day

Problems forced some precincts to resort to provisional ballots during September's primary, and some precincts ran out. Meanwhile, some politicians are urging voters who are skeptical about electronic voting to use absentee ballots for the election.

With more than three weeks remaining until the election, the number of requests for absentee ballots has already topped the number requested four years ago

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