

## AFFIDAVIT

I, Evelyn Roberson, swear that the following is true and correct.

I was born in Illinois in 1933. I graduated from the University of San Francisco with a degree in business and I am a retired election official, having supervised elections for 15 years. I served on the 2003-2004 Sonoma County Civil Grand Jury. I reside at 113 Larkspur Drive, Santa Rosa, CA 95409, phone 707-537-6760. I was present as an official observer on **Wednesday, December 15, 2004**, at the official Recount of the ballots cast in the November 2, 2004 election in Greene County, Ohio, that took place at the Board of Elections (BoE) office in Xenia, Ohio. I believe some of the occurrences below indicate a lack of compliance with Ohio Revised Code (ORC) Title 35, *Elections*.

In the Greene County BoE, all observers were held in the second floor employee break room until 9:00 a.m. and Board of Elections Director Carole Garman guided us as a group to the basement of the building where the Recount took place. At 9:05 a.m. we all entered the room that contained all ballots stacked on a single table, along with the Triad vote tabulating machines. BoE Chairman Fred Hall III introduced the other members of the Board who were seated at a table. Mr. Hall introduced Brett Rapp, President of Triad Governmental Systems, Inc. who was standing next to one of the three Triad tabulators, which were already running and upon which he ran sample cards as a test to "clear" the machines for the observers.

I questioned how the three recount precincts had been selected and Director Garman said she did it mathematically so each would have the same number of voters. I questioned why it was not a random selection, pursuant to the ORC, Elections. She admitted the selection was not random but she "did it the way she had always done it."

I challenged the ballots not being in sealed containers but rather in stacks on a table in the counting room and cited ORC Sec. 3515.04 which required the Board “in the presence of all witnesses who may be in attendance to open the sealed containers containing the ballots to be recounted and shall recount them.” Director Garman said their procedure was to just store them in a locked room, not in sealed containers. These ballots were, of course, to have been placed into the sealed containers by the precinct officials on election day as follows:

**Ohio Revised Code Sec. 3505.31:** “...precinct officials...before leaving the polling place, shall place all ballots that they have counted in containers provided for that purpose by the board of elections, and shall seal each container in a manner that cannot be opened without breaking the seal or the material of which the container is made.”

Three pairs of hand-counting Greene County BoE employees (a Republican and Democrat at each station) were seated at tables in another room along with stacks of ballot cards in front of them from the 3 pre-selected precincts. The observers were seated in a semi-circle about 8 feet away from them. It was almost impossible to see the tiny punches in the ballots from where we sat. The employees began the hand count, working in pairs, with one person reading aloud the ballot votes for President and 2 other positions and the other person making a mark by the candidate names. In order for it to be considered a true check upon both persons, the marker is supposed to look at the ballot at the same time as the reader and the reader is to watch as her partner marks down the vote, that is why the “team structure” is used, so that if one mis-reads or mis-marks a vote, the other can catch it. Otherwise, one person could just as well be reading and marking the vote unchecked. I watched all three of the teams and noticed they were not following this standard procedure, so I asked my team “reader” Barbara Burson if she was watching as the marks were being made. She said, “I can see it out of the corner of my eye”, except that I rarely

saw her eyes look to that side, even after her statement. I then asked the Director of BoE Garman how the counters check on each other. She said, “We don’t do that as there is no Code requirement for it.”

I also noted the following discrepancies:

1. The counters did not at any time display the Sample Ballot that applied to the particular set of ballots from the precinct they were counting, so the observers could see the order of candidate names on it.
2. The counters did not show the observers the sheets upon which they were entering the votes so the observers could verify that the candidate’s names were in the same order as on the applicable Sample Ballot.
3. The counters did not offer to place the punched ballot cards upon colored paper so that the holes could be more clearly seen by the observers.

After the hand count had been completed it was found that one of the sets of ballots did not match the machine count by one vote. According to Secretary of State Blackwell’s Directive and the ORC, that should have then required a full hand count of all precincts in the County. Instead, the Director of the BoE gave the precinct ballots that had been hand counted to Brett Rapp of Triad who then placed each of the three stacks of ballot cards on each of the three vote tabulating machines, which then recounted them in the presence of the observers. There was still the discrepancy but at 12:20 pm the observers were excused for lunch and we left the building. When we returned at approximately 1:30 p.m. as we had been directed to do, I was very surprised to see that the ballots from the rest of the precincts were already on the machines being recounted, but not by hand as the Directive and ORC required because of the vote discrepancy. There only explanation offered for not doing the hand

recount was that it was believed the vote difference was that one chad had simply "fallen out during the handling."

There were other small differences in votes from the reported machine count and the machine recount of the balance of the ballot cards during the afternoon. The Triad representative stated that each time the ballot punch cards were handled, some chads could fall out and that would account for the differences in the votes cast. The County staff present all seemed to agree with that statement. There was, in fact, a chad observed on the floor by the hand-count table. This reminded me that Garman had previously stated that the ballot punch cards were "placed into bags for the trip from the polls to the counting center on election night." This procedure seemed to also expose the ballots to jostling around which could cause loss of even more chads than if the ballots were kept in a locked box as required by the ORC.

My further concern for the security and integrity of the vote in Greene County was that the ballot counting machines were in operation and solely under the control of the Triad representative before, during and after the machine count of the recounted ballots. He obviously knew which precincts had been preselected for the hand count. This may be a violation of the spirit of Ohio Revised Code Sec. 3505.31 which states in part:

"In counties where voting machines are used ... the board, after giving notice to all interested parties and affording them an opportunity to have a representative present, shall open the compartments of the machines and, without unlocking the machines, shall recanvass the vote cast in them as if a recount were being held."

I declare under penalty of perjury that the above is true and correct.

Executed on 12-31-04

Evelyn Roberson *Evelyn Roberson*