

# Black Box Voting

Ballot Tampering in the 21st Century

by Bev Harris

with  
David Allen

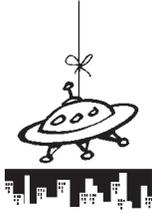
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# Dedication

First of all, thank you Lord.

I dedicate this work to my husband Sonny, my rock and my mentor, who has tolerated being ignored and bored and galled by this thing every day for a year, and without fail, stood fast with affection and support and encouragement. He must be nuts.

And to my father, who fought and took a hit in Germany, who lived through Hitler and saw first hand what can happen when a country gets suckered out of democracy. And to my sweet mother, whose ancestors hosted a stop on the Underground Railroad, who gets that disapproving look on her face when people don't do the proper thing.

And to the kids, Megan and CJ and David IV and of course, Casey, who supplied me with constant encouragement and located some hackers to provide a point of view. And Erika, the nosiest child on earth who grew up to become a successful reporter for a major news outlet, for telling me sternly, "Mom, that is not a story. You have to prove it." And when I did prove it, for saying "Mom, that is B section. Get some more if you want it on A-1."

# Introduction

When we started digging around on this story, we expected to find the odd body part or two. Little did we know — we were digging in a graveyard. Suddenly, the dead bodies were piling up so fast that activists everywhere were screaming “Enough, enough we can’t take any more!”

The first six chapters were written B.D., “before Diebold.” The rest were written afterwards, making for a somewhat schizophrenic book, a handy little activism tool that begins with history, archive searches and interviews about theoretical vote-rigging, but suddenly becomes a little too real even for us. So hurry, c’mon over with your own merry little band. We have a democracy to defend.

Bev Harris  
David Allen

## *Preface*

# **Why is verifying the accuracy of electronic voting machines forbidden?**

Do you want your government to be subject to the “consent of the governed?” Well, we are all in danger of losing our say and if you have any doubt about that, pick up a highlighter, dive into this book, and find out as much as you can about the machines upon which the sanctity of your vote depends. Putting the integrity back into our voting system is going to require a fight, and we don’t have much time. That’s what this book is all about: Prepare to engage!

In an effort to avoid a rerun of the Florida 2000 fiasco, well-meaning but uninformed legislators enacted a sweeping election reform bill. Unfortunately, the bill turned out to be a danger, instead of a safeguard to our democracy.

The bill, called the Help America Vote Act (HAVA), rushes us into subtle changes in the way our electoral system works, undermining the very fabric of our voting system.

The HAVA bill was intended to modernize our election process, moving us from the world of subjectively interpreted ballots with their hanging chads to the precision world of digital computers. However, rather than solving the problem, our legislators made it worse.

## **Why is it *illegal* to verify the accuracy of electronic voting machines?**

To accommodate computerized vote-counting, many states passed legislation designed to streamline elections, laws which specify how our votes are counted. These laws focus on ballot-handling procedures, and they appear benign — until they are used! Try this:

“I would like to find out whether the machine counted accurately, by comparing the actual ballots to the computer count.”

Take two blank stares and a copy of the rulebook, please. That is called a “hand recount,” and it is not allowed except in very special circumstances and, in many states, only in an exceptionally close race and with a court order.

Or try asking this:

“Who *does* compare the actual ballots to the computer tally in my precinct?”

Counting at the precinct? We don’ need no steenkin’ *precinct* counts! Nowadays we like to merge ‘em, consolidate ‘em, and have *big* counting going on in the fewest possible places. How can we take time for a little thing like comparing the ballots with the computer? We’ve got bigger, better things to do — and did you see the new modems? Heck, these machines are even hooked up for wireless!

“But do they *count* accurately?”

(Doublespeak alert! Know the talking points or go down in flames!) Oh-these-machines-are-tested-and-tested-and-we-do-a-logic-and-accuracy-test-and-they-have-internal-redundant-systems-and-are-specially-certified-and-we-hold-the-code-in-escrow-and-the-federal-government-has-officially-endorsed-them-and-these-are-state-of-the-art-and-hearings-were-held-on-this-and-we’ve-never-had-any-problems-and—

“But do they count accurately?”

*Sometimes you just have to trust.* Okay?

“Well...can they be rigged?”

*That is asking to us prove a negative.* I think we have gone about as far as we can go with this.

Satisfied?

I wasn’t.

But it gets better: Of course, it is very modern not to look at the actual ballots, but now we’ve decided not to *have* any ballots. Now we’ve got the Black Box!

Black Box Voting. All I want to know is this:

Does it COUNT accurately?

# 1

## Why Vote?

Does anyone really care about voting anymore? Only about half of the eligible U.S. voters even bother to vote in federal elections. The percentage ranges from around 49 percent (1996) to 63 percent (1960). In the 2000 U.S. national election, only 51.3 percent of eligible voters chose to go to the polls.<sup>1</sup>

Now, if you live in a country like Australia, where the law requires that you vote, you might find our lackadaisical voting behavior here in the U.S. to be shocking. Perhaps we should be taken to the woodshed for our frequent failure to vote, but — although it's certainly true that we are a bit cavalier about exercising our voting rights — have you ever heard of anyone who doesn't want the *right* to vote?

I've been told that voting machines are a “non-issue” and the issue is a “sure loser,” not because the machines have been proven to count properly, but because supposedly no one cares. Well, explain that to my e-mail server, which has become so jammed with incoming messages from concerned citizens that I had to get help to deal with it! Explain that to my telephone, because suddenly my voicemail fills up every two hours. Citizens are upset. They want to know what's going to be done about this issue. People everywhere are talking, writing, mailing, meeting, agitating, complaining and volunteering about the voting machine problem.

Voting machine accuracy is only a “non-issue” when you don't know very much about it. As a publicist, I've pitched hundreds of issues, but I've never seen one that upsets people like this one. We may not always choose to exercise our vote, but we absolutely insist on being *able* to vote, and we demand a voting system that can be trusted!

*“I like to see the people awake and alert. The good sense of the people will soon lead them back if they have erred in a moment of surprise.”*

— **Thomas Jefferson to John Adams, 1786**

## Which do you think we are (which do you want to be?)

Correct answer may depend on your point of view

**Communism** — Political system under which the economy, including capital, property, major industries and public services, is controlled and directed by the state and in that sense is "communal."

**Democracy** — Government by the people, directly or through elected representatives. There is no precise definition of democracy on which all agree, but in a true democracy: Citizens have a say in decisions that shape their lives; the government is run by majority rule, with recognition of minority rights; citizens are guaranteed freedom of speech, press and assembly, can run for office and form opposition political parties and are entitled to privacy, individual dignity and equal opportunities.

**Dictatorship** — Government whose final authority rests in the hands of one supreme head. Dictatorships are rarely benevolent and often have scant regard for human rights. Also called an autocracy.

**Feudalism** — A medieval form of social, economic and political organization featuring a pyramidal structure. The lowest part of the pyramid is occupied by an underclass which is obliged to work for the property owners. Traditional feudalism had no middle class; however, in modern versions, a middle class manages the underclass and functions to fuel consumerism for the owner.

**Kleptocracy** — Representatives of the people, through their appointment of unelected government employees and ties to favored business entities, gradually transfer the public commons to cronies through privatization for the purpose of increasing personal wealth and power.

**Fascism** — The main elements of fascism are pride in the nation, emphasis on the military, strong government and loyalty to a strong leader. **Nazism**, modeled on fascism, adds specific targeting of various minority groups, and an intense focus on "protecting" citizens from perceived threats. Benito Mussolini, the founder of fascism said that fascism might also be described as "**corporatism**," as it merges state and corporate power. **Corporate Fascism** is not the same thing as **capitalism**. Capitalism emphasizes entrepreneurship and small to medium-sized businesses, rejects monopoly, does not marry corporations into government, and regulates businesses that provide water, power and communications infrastructure. Some describe corporate fascism as "socialized costs, privatized profits."

**Monarchy** — Government by a single sovereign, whereby a queen or king, empress or emperor holds absolute or limited power, usually inherited. In this century most European monarchies have become constitutional or limited, meaning political power is vested in elected officials and the monarch's duties are largely ceremonial.

**Oligarchy** — Government that is controlled by a small group of individuals, who

## What the founders had in mind

When the United States was formed, our founders had a clear idea what government should and should not be. The purpose of the government was to provide for the common good. As Benjamin Franklin wrote, “In free governments the rulers are the servants and the people their superiors and sovereigns.”

Our founders intended that the ultimate power in our society should rest in the people themselves. They set it up so that we should exercise those powers either directly or through representatives.

*“Government is instituted for the common good; for the protection, safety, prosperity, and happiness of the people; and not for profit, honor, or private interest of any one man, family, or class of men; therefore, the people alone have an incontestable, unalienable, and indefeasible right to institute government; and to reform, alter, or totally change the same, when their protection, safety, prosperity, and happiness require it.”*

— **John Adams, Article VII, Massachusetts Constitution**

*“There is only one force in the nation that can be depended upon to keep the government pure and the governors honest, and that is the people themselves. They alone, if well informed, are capable of preventing the corruption of power, and of restoring the nation to its rightful course if it should go astray. They alone are the safest depository of the ultimate powers of government.”*

— **Thomas Jefferson**

govern in their own interests.

**Plutocracy** — Government by the wealthy. A plutocracy can also describe a government on which a group of wealthy people control or influence the government.

**Republic** — Government by representatives of an established electorate who rule in behalf of the electors. A republic is founded on the idea that every citizen has a right to participate, directly or indirectly, in affairs of state, and the general will of the people should be sovereign.

**Theocracy** — Government run by priests or clergy.

## Why voting is so important

If our government is set up so that our rulers are our servants and we are their sovereigns, the method devised for us to exercise our sovereignty is through the vote.

If we, collectively, are the source of authority for our government, we must have a way to communicate our instructions. We must be able to select the representatives we think can best implement our will; we need to be able to change them, reorganize them if need be, and decide how they will conduct our business.

Most importantly, we must reach some approximate agreement about what we want, and that is done by placing people, initiatives and referenda on the ballot and casting our votes on them. In some situations, a vote is literally a voice (“aye” or “nay”). When it is impractical to shout out our vote, we cast votes by ballot, and the loudest “voice” wins.

We are a nation of laws, but if our laws conflict with our collective will, there will be little incentive to follow them. It is only because our representatives were chosen by our own voice that we agree to abide by the laws they vote upon, on our behalf.

Because our representatives must return to us from time to time, asking for permission to represent us again, we have a way to encourage them to behave the way we want them to.

*“Nothing so strongly impels a man to regard the interest of his constituents, as the certainty of returning to the general mass of the people, from whence he was taken, where he must participate in their burdens.”*

— George Mason, speech, Virginia Ratifying Convention, June 17, 1788

*“Governments are instituted among men, deriving their just powers from the consent of the governed.”*

Declaration of Independence

## Why trust in our voting system is so important

Trust is the element that keeps us from taking to the streets every time we disagree with something our government does. As long as we feel our repre-

sentatives are deciding most things, and the very important things, the way we would ask them to, we are content. If we elected them in an election that all agreed was fair, but they make an egregious choice, one that many of us feel we cannot live with, our governmental system sanctions our protest. We reserve such behavior for unusual circumstances, knowing that when the next election rolls around, we can always vote them out.

Perceived lack of integrity in the voting system is guaranteed to produce shouts of indignation, but because *most* elections are perceived to be fair, we can still show some patience with the situation.

If, however, we come to perceive that most elections cannot be trusted, we've got a huge problem. Suddenly, these people don't have our permission to do anything. Why follow laws that they passed, if we don't believe they were fairly elected? Why should we accept anything they do? Why should we follow the law if *they* didn't? Why should we cooperate with our government at all?

*“That love of order and obedience to the laws, which so remarkably characterize the citizens of the United States, are sure pledges of internal tranquility; and the elective franchise, if guarded as the ark of our safety, will peaceably dissipate all combinations to subvert a Constitution, dictated by the wisdom, and resting on the will of the people.”*

— **Thomas Jefferson to Benjamin Waring, 1801**

As you can see, Thomas Jefferson understood what really makes the system tick. But take away trust in the voting system, and all bets are off. This is what the architects of the new unauditable voting systems have never understood: The vote is the underpinning for our authorization of every law, every government expenditure, every tax, every elected person. But if we don't *trust* the voting system, we will never accept that those votes represent our voice, and that kind of thing can cause a whole society to quit cooperating!

## **Not Everyone Has Your Best Interest At Heart**

Americans prefer to feel good. They want to believe that elections are fair and machines count right, and that people don't cheat.

And yet, there are scholars even within our own country who might advocate, if not subverting the system, at least lying to the voters.

## **Democracy is for suckers?**

According the late University of Chicago professor Leo Strauss, all city states are based on fraud. He believed that ordinary people can't handle this truth.<sup>2</sup> “[Strauss] argued that Platonic truth is too hard for people to bear,” writes political columnist William Pfaff...“Hence it has become necessary to tell lies to people about the nature of political reality. An elite recognizes the truth, however, and keeps it to itself...The ostensibly hidden truth is that expediency works.”<sup>3</sup>

Such a philosophy, when applied by radicals, might lead to considerable dissarray in our society. In fact, when writers like Pfaff and Seymour Hersh exposed the Straussian studies of Deputy Defense Secretary Paul Wolfowitz, Abram Shulsky of the Pentagon's Office of Special Plans, and writer William Kristol, a great hue and cry arose. Some of the writings of Strauss appear sinister indeed. Have his followers put our democracy at risk?

Strauss is complex, and to select only those writings that can form a rationale for evildoing and then apply them to anyone who studied under him is a bit disingenuous. Besides, many other philosophers provide fodder for those who will do wrong.

But I bring up Strauss, and the powerful men in public office who studied under Strauss and his protegés, to show you that simply wanting to feel good about our political systems, wanting to trust and have faith, is not always wise. While you are feeling comfortably safe, someone may very well be out there rationalizing the elitism and greed that can eliminate your freedom. Whatever your opinions on current political figures, our founding fathers would tell you to expect and prepare for a usurpation of power by people who care not a fig about your comfort. It is not inconceivable that at some point, someone in power will believe that his agenda is more important than your vote.

It's just a matter of time, our founders said, before you'll need to rein in your leaders. Thomas Jefferson, especially, foresaw many of the dangers we face today and exhorted us toward constant vigilance. I give you his words:

*“Unless the mass retains sufficient control over those entrusted with the powers of their government, these will be perverted to their own oppression, and to the*

*perpetuation of wealth and power in the individuals and their families selected for the trust.”*  
—**Thomas Jefferson to M. van der Kemp, 1812**

*“No other depositories of power [but the people themselves] have ever yet been found, which did not end in converting to their own profit the earnings of those committed to their charge.”*

—**Thomas Jefferson to Samuel Kercheval, 1816**

*“If once [the people] become inattentive to the public affairs, you and I, and Congress and Assemblies, Judges and Governors, shall all become wolves. It seems to be the law of our general nature, in spite of individual exceptions.”*

—**Thomas Jefferson to Edward Carrington, 1787**

*“[We] should look forward to a time, and that not a distant one, when corruption in this as in the country from which we derive our origin will have seized the heads of government and be spread by them through the body of the people; when they will purchase the voices of the people and make them pay the price. Human nature is the same on every side of the Atlantic and will be alike influenced by the same causes.”*

—**Thomas Jefferson: Notes on Virginia Q.XIII, 1782**

*“How long we can hold our ground, I do not know. We are not incorruptible; on the contrary, corruption is making sensible though silent progress.”*

—**Thomas Jefferson, 1799**

### **And for a current take on our situation:**

*“We basically now have intellectuals who have justified imperialism, who have legitimated wealth inequality, and they are intellectuals ...who are using their gifts on behalf of power rather than truth...But I really believe we’re about to lose our democracy, if we don’t speak out.”*

—**Cornell West**

### **When things go wrong**

Through your right to vote, you exercise your power over those who govern you. Maybe you have never written a letter to your legislator. Perhaps you think that no matter what you do, they’ll just do what they want anyway. The last chapter in this book focuses on practical activism; this section is about your responsibility to

engage.

Our founders did not promise to be the caretakers for their gift of democracy to us. They told us that if we don't feed it, our democracy will die. They warned us that it would get sick sometimes and explained that it was up to us to administer the right medicine.

If things are not going right, let your elected officials know. If you have to, remind them that they'll soon need to return to you for a vote! What good is your voice if you don't use it? If you believe that government has taken the wrong course, educate your legislators, and if they won't listen, throw them out and elect someone who promises a revision of the course. If you conclude, after reading this book, that your vote might not be counted correctly, then you have decisions to make.

Why vote?

Whether or not you choose to vote, do you demand the *right* to vote?

Is your country what you want, or is it becoming something else?

How important is voting?

Is your vote in danger?

What would the founders of this country ask you to do?

Will you choose to engage?

*"The liberties of our country, the freedom of our civil Constitution, are worth defending at all hazards; and it is our duty to defend them against all attacks. We have received them as a fair inheritance from our worthy ancestors: they purchased them for us with toil and danger and expense of treasure and blood, and transmitted them to us with care and diligence. It will bring an everlasting mark of infamy on the present generation, enlightened as it is, if we should suffer them to be wrested from us by violence without a struggle, or to be cheated out of them by the artifices of false and designing men."*

— **Samuel Adams**

## Chapter 1 footnotes

1 – InfoPlease.com: History and Government, U.S. Elections, Election Statistics: “National Voter Turn-out in Federal Elections: 1960–2000” *Source*: Federal Election Commission. Data drawn from Congressional Research Service reports, Election Data Services Inc., and State Election Offices.  
<http://www.infoplease.com/ipa/A0781453.htmls>

2 – WNYC radio interview: with Jeet Heer, graduate student at York University in history and frequent contributor to the Boston Globe on American culture, explaining the influence of the intellectual icon Leo Strauss. May 22, 2003

3 – International Herald Tribune , 15 May 2003; “The long reach of Leo Strauss Neoconservatives.” According to Pfaff, Deputy Defense Secretary Paul Wolfowitz, and Abram Shulsky of the Pentagon’s Office of Special Plans took their doctorates under Strauss. Another neoconservative, William Kristol, studied under Strauss protégé Allan Bloom. Jeet Heer disputes this, saying that while Wolfowitz may have taken classes with Strauss, he took his main influence from Allan Bloom.