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Where There's Smoke, There's Fire: 100,000 Stolen Votes in Chicago

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> Where Chairman Mao believed that all power comes from the barrel of the gun, the late Mayor Richard J. Daley believed that all power comes from the barrel into which precinct totals have been tossed.
>
> —David Nyhan, *The Boston Globe*, December 16, 1982

The "Truth About Voter Fraud," according to activist groups like the Brennan Center, is that "many of the claims of voter fraud amount to a great deal of smoke without much fire…. The allegations simply do not pan out."[1]

Chicago, however, is known for its fires, and there was a roaring one there in 1982 that resulted in one of the largest voter fraud prosecutions ever conducted by the U.S. Department of Justice. The telltale smoke arose out of one of the closest governor's races in Illinois history; and as for the fire, the U.S. Attorney in Chicago at the time, Daniel Webb, estimated that *at least 100,000 fraudulent votes* (10 percent of all votes in the city) had been cast.[2] Sixty-five individuals were indicted for federal election crimes, and all but two (one found incompetent to stand trial and another who died) were convicted.[3]

This case of voter fraud is worth studying today because it illustrates the techniques that political machines and organized political groups use to steal elections. Even in the present day, this threat is not hypothetical: Tactics similar to those documented in the Chicago case have come to light in recent elections in Philadel-

Talking Points

- Chicago's political machine directed an enormous, decades-long voting-fraud effort responsible for at least 100,000 fraudulent votes—one-tenth of all votes cast in the city—in the hotly contested 1982 Illinois gubernatorial election.
- This fraud was accomplished by stealing the votes of the disabled and elderly, impersonating absent voters, stuffing voter registration rolls with fake or ineligible voters, registering illegal aliens, casting fraudulent absentee ballots, altering vote counts, and the outright purchasing of votes.
- These techniques are not confined to machine-era Chicago. The same tactics have come to light in recent elections in Philadelphia and in the states of Wisconsin and Tennessee, among other locations.
- Chicago's experience points toward viable solutions to the problem of voter fraud: careful vetting of voter registration lists to remove ineligible or false names, stronger voter identification measures such as an ID requirement, and bipartisan oversight of the election process.

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phia and in the states of Wisconsin and Tennessee. The Daley machine may be legendary in modern times for its election fraud prowess, but these recent cases show that the incentives and opportunities for fraud have not lessened. Guarding against these tactics can make the difference between a fair election and a stolen election, particularly where the margins of victory are narrow and just a few fraudulent votes can change the outcome.

Background

In 1982, Illinois was the setting for "a hotly contested" gubernatorial race between Democratic Senator Adlai Stevenson III, son of former governor and presidential hopeful Adlai Stevenson II, and Republican James Thompson.[4] "Big Jim" Thompson, the incumbent, was "a 15-point favorite going into the voting";[5] and yet on election day, Adlai Stevenson came within 5,074 votes of capturing the governorship out of 3.67 million votes cast statewide—a 0.14 percent margin.[6] Stevenson had carried Chicago by 3 to 1, with a winning margin of 469,000 votes, although Thompson won 60 percent of the vote in the rest of the state.[7]

After the results were in, Stevenson immediately filed suit, contesting the results of the election and asking for a recount. He conceded defeat only when the Illinois Supreme Court two months later rejected his request for a statewide recount.[8]

Stevenson claimed there was evidence of voter fraud in areas of the state outside of Chicago. Although those claims "did not pan out," it was clear that "the prospect of a close [judicial] look at the conduct of voting in Chicago did not please many of Chicago's Democratic kingpins, already under pressure because of the federal [criminal] investigation of charges of vote fraud in the [1982] election…." For that reason, "many committeemen privately had expressed a hope that Stevenson would lose his bid for a recount."[9]

Both campaigns had complained to the FBI, but the federal investigation was really sparked by a party worker from Chicago's 39th Ward who was upset by his precinct captain's broken promise to award him a city job for his participation in the vote fraud. The worker told a Chicago newspaper, and then the FBI and the U.S. Attorney's Office, "what he knew about vote fraud in that precinct."[10]

Good reporting by the local media helped fuel the investigation. One wire story concerned "a man listed as voting at a Skid Row precinct in the 27th

1. JUSTIN LEVITT, THE TRUTH ABOUT VOTER FRAUD 3 (Brennan Center for Justice 2007).
2. Douglas Frantz, *Vote Fraud in City Outlined at Hearing*, CHI. TRIB., Sept. 20, 1983, at A1; Mark Eissman, *U.S. to Probe Primary Vote Fraud—Federal Laws May Have Been Broken*, CHI. TRIB., Mar. 11, 1987. *See also* Ken Bode, *The Vote Thieves*, NBC Evening News, Jan. 31, 1984.
3. *See* IN RE REPORT OF THE SPECIAL JANUARY 1982 GRAND JURY 1, No. 82 GJ 1909 (N.D. Ill. Dec. 14, 1984) (hereinafter GRAND JURY REPORT); *U.S. v. Howard*, 774 F.2d 838 (7th Cir. 1985); *U.S. v. Olinger*, 759 F.2d 1293 (7th Cir. 1985); Interview with Ernest Locker, Jr. (Mar. 18, 2008). One of the young federal prosecutors in the case at the time was Craig Donsanto, who now heads the Election Crimes Unit in the Public Integrity Section of the Criminal Division at the Department of Justice. Today, he has more than 30 years of experience as a career prosecutor and is recognized as the foremost expert in the United States on the prosecution of election crimes. He is the author of the Justice Department handbook on the prosecution of election crimes used by all of the Offices of United States Attorneys, *Federal Prosecution of Election Offenses*, which is in its seventh edition. Ernest Locker, Jr., now retired, was the FBI agent in Chicago in charge of this investigation.
4. GRAND JURY REPORT, *supra* note 3, at 3.
5. David Nyhan, *Ballot Counting, Chicago Style*, BOSTON GLOBE, Dec. 16, 1982.
6. Associated Press, *U.S. Probes Ghost-Voting in Illinois on Nov. 2*, BOSTON GLOBE, Dec. 30, 1982.
7. *Nyhan*, *supra* note 5.
8. Daniel Egler and Michael Arndt, *Adlai Concedes Defeat—Bid for Recount Loses by 4–3 in Supreme Court*, CHI. TRIB., Jan. 8, 1983; *In re Contest of the Election for the Offices of Governor and Lieutenant Governor Held at the General Election on Nov. 2, 1982*, 444 N.E.2d 170, 93 Ill. 2d 463 (Ill. 1983).
9. *Egler and Arndt*, *supra* note 8.
10. GRAND JURY REPORT, *supra* note 3, at 3.

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Ward [who] had been dead for more than two years." He was listed as living at the Arcade Hotel, and his signature was among those of 47 other voters listed as living at the hotel. However, the "[o]perators and residents of the hotel told the Sun-Times that 41 of the 47 people did not reside at the Arcade."[11]

In its reporting, the *Chicago Tribune* discovered that the supposed home address of three voters in the 17th Precinct of the 27th Ward was a vacant lot. The paper also discovered that votes had been cast for seven residents of a nursing home who denied having voted—their signatures on the ballot applications were all forgeries. In fact, one resident had no fingers or thumbs with which to write a signature.[12] The fraud was so blatant that the resident without fingers or thumbs "was counted as having voted twice by the end of the day."[13] Not surprisingly, Stevenson easily won the 17th Precinct, by a margin of 282 to 30.[14]

These stories illustrated what was to be a recurring theme in the grand jury investigation: the theft of identities and the casting of fraudulent votes on behalf of dead voters, prison inmates, and people who had moved, as well as forged ballots cast on behalf of the elderly and the handicapped. Even fictitious voters were invented and ballots cast in their names.

Grand Jury Findings

On December 14, 1984, Chief Judge Frank McGarr of the U.S. District Court for the Northern District of Illinois publicly released the federal grand jury's report on the 1982 election—only the third time in the history of the court that a grand jury report had been made public.[15] The evidence revealed substantial vote fraud in Chicago during the November 2, 1982, election and found "that similar fraudulent activities have occurred prior to 1982."[16]

What particularly struck FBI agent Ernest Locker was how routine vote fraud was for the precinct captains, election judges, poll watchers, and political party workers he interviewed. They had been taught how to steal votes (and elections) by their predecessors, who had in turn been taught by their predecessors. Based on his investigation, Locker came to believe the claims, hotly debated among historians, that Mayor Daley threw the 1960 presidential election for John Kennedy with massive ballot stuffing in Chicago.[17] This type of voter fraud, stated Locker, "was an accepted way of life in Chicago."[18]

Soon after the investigation started, it became evident that this was not a case of isolated wrongdoing, but rather a case of extensive, substantial, and widespread fraud in precincts and wards throughout Chicago. The FBI investigators concluded that their regular tools—interviewing witnesses, obtaining documents, and using handwriting experts to analyze signatures on documents—would not be up to the task. After all, to conduct a complete investigation, they would have to review "virtually all of the 1,000,000 ballot applications submitted in the City of Chicago in the November election" as well as the voter lists maintained by the election board for all of Chicago's 2,910 precincts (comprising approximately 1.6 million voters) to check for the names of voters registered in more than one precinct, as well as registered voters who were dead.[19]

11. *Associated Press*, *supra* note 6.
12. Tim Franklin and Andy Knott, *More Election Fraud Uncovered—3 Voters Listed Vacant Lot as Their Home Address*, CHI. TRIB., Dec. 31, 1982, at A15.
13. William B. Crawford, Jr., and Tim Franklin, *U.S. Grand Jury Indicts 10 in Chicago Vote Fraud Probe*, CHI. TRIB., April 8, 1983, at B1.
14. *Franklin and Knott*, *supra* note 12.
15. William B. Crawford, Jr., *Report Says Polls, Pols Don't Mix—Grand Jury Report Links Patronage, Vote Fraud*, CHI. TRIB., Dec. 18, 1984, at A1.
16. GRAND JURY REPORT, *supra* note 3, at 1.
17. *See, e.g.*, TRACY CAMPBELL, DELIVER THE VOTE, A HISTORY OF ELECTION FRAUD, AND AMERICAN POLITICAL TRADITION 1742–2004 242–249 (Carroll & Graf Publishers 2005).
18. Interview with Ernest Locker, Jr. (Mar. 18, 2008).

So the FBI employed a new and unique tool in vote fraud investigation: a computer. Because this had never been done before, the FBI had to write a computer program that would match data between the list of registered voters, the list of individuals who had voted, and other databases. To that end, the FBI and federal prosecutors obtained death records from the Bureau of Vital Statistics; local, state, and federal prison records; the national Social Security list; Immigration and Naturalization Service records on aliens; driver's license records; and even utility (gas, electric, water, and telephone) records.[20]

Locker was shocked at the sheer magnitude of the number of fraudulent votes and the fact that fraud occurred in every single Chicago precinct.[21] More than 3,000 votes had been cast in the names of individuals who were dead, and more than 31,000 individuals had voted twice in different locations in the city.[22] Thousands of individuals had supposedly voted despite being incarcerated at the time of the election, and utility records showed that some individuals who voted were registered as living on vacant lots.

Armed with that information, Locker did something unprecedented: He convinced his supervisors to dedicate all of the agents in the FBI field office in Chicago for an entire week to nothing but reviewing all of Chicago's voter registration cards and ballot applications.[23] So many signature comparisons were needed that the FBI flew in handwriting experts from its headquarters in Washington.[24] The Justice Department and the FBI have never concentrated that much manpower and resources, before or since, on investigating a voter fraud case.

Teams of FBI agents were paired with Assistant United States Attorneys and assigned to investigate specific precincts, locating and talking to voters who had supposedly cast votes in the polling place.[25] They quickly learned that voters' signatures on ballot applications "had been forged wholesale in many precincts."[26] The investigation also "revealed that there were an extremely large number of transients, incapacitated people, and senior citizens in whose names votes had been fraudulently cast" when they did not themselves vote.[27]

The investigation uncovered a variety of voter-fraud techniques.

Preying on the Disabled and Elderly. The evidence showed that the conspirators evaded detection by casting ballots for those persons who would be the most unlikely to challenge the theft of their franchise. In the Seventh Circuit's *Olinger* decision, for example, the court described how the votes of elderly and handicapped voters who lived at a residential facility were stolen in a special absentee election:

> Hicks [the Democratic Party precinct captain] told the election judges that the residents of Monroe Pavillion were "crazy." He instructed appellant and the other election judges to ignore the wishes of the

19. GRAND JURY REPORT, *supra* note 3, at 5; Barbara Mahany, *FBI Examines Voting Lists*, CHI. TRIB., Feb. 9, 1983, at NW2; William B. Crawford, Jr., and Jerry Crimmins, *Huge Vote-Fraud Probe—FBI to Check Every Voter, All Precincts*, CHI. TRIB., Jan. 20, 1983, at 1.
20. Interview with Ernest Locker, Jr. (Mar. 18, 2008).
21. According to Locker, they could have prosecuted thousands of cases in every single Chicago precinct, something they did not have the manpower to do, so instead they concentrated on identifying the precincts and wards with the highest volume of fraudulent activity. *Id.*
22. *Bode*, *supra* note 2.
23. Interview with Ernest Locker, Jr. (Mar. 18, 2008).
24. GRAND JURY REPORT, *supra* note 3, at 5.
25. Interviewing voters is, unfortunately, something that the FBI and the Justice Department are extremely reluctant to do today because, even in the face of obvious voter fraud, they are likely to be accused by the media and certain advocacy organizations of trying to intimidate voters. The political leadership of both agencies is not usually willing to risk incurring such accusations.
26. GRAND JURY REPORT, *supra* note 3, at 5.
27. *Id.* at 5–6.

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> residents. Instead, the election judges were told to "punch 10" on the computerized ballot for every resident. Punching 10 on the ballot resulted in a vote for each of the Democratic candidates on the ballot. On October 30, 1982, appellant and the other election judges, with Hicks in attendance, conducted the special election at Monroe Pavillion. In over two hours of voting, approximately 52 residents voted. Appellant and the other election judges cast nearly all of those votes for the straight Democratic Party ticket by punching 10.[28]

As described in the *Olinger* decision, votes of the elderly and disabled were regularly stolen at the residences where they lived. Their wishes were ignored, and the judges of election, under instructions from the precinct captain, punched a straight Democratic ticket. Most significantly, several Assistant State's Attorneys served as election observers but did not detect the fraud because they "believed it was the job of the judges of election to assist the voters and accurately register their choices for candidates." They failed to realize, however, that these "assistors" were actually ignoring the voters' preferences.[29]

Impersonating Absent Voters. The dominant form of vote fraud was accomplished with ballots cast for absent voters.[30] The fraud often began with the legally required canvasses conducted in many precincts prior to the election:

> Although the canvass disclosed that a number of persons who were registered to vote in the precinct had died, moved away, or for some other reason had become ineligible to vote, these persons were not struck from the list of eligible voters. Finally on election day the defendants, either personally or by acting through others, caused numerous false ballots to be cast for the straight Democratic ticket.[31]

On the day of the general election, dishonest precinct captains kept careful track of who came to the polls to vote. Runners working for the precinct captains not only supplied rides for voters, but also noted "who would not be coming to the polls because they were too sick, were too drunk, had recently moved away, or had died."

Precinct captains supplied the names of those absent voters to other participants in the fraud, and "ballots either were punched on the voting machines by people posing as the voter, or were punched with ball point pens or other similar objects in a private place outside the polling areas by the precinct captain or his workers."[32] Some of the defendants even "went into washrooms, where they practiced forging the signatures" of those whom they believed would not vote.[33]

Registering Aliens. Aliens who were illegally registered were another source of potential votes "for the unscrupulous precinct captain." The grand jury found that many aliens "register to vote so that they can obtain documents identifying them as U.S. citizens" and had "used their voters' cards to obtain a myriad of benefits, from social security to jobs with the Defense Department."[34] In fact, three aliens were charged "with attempting to get U.S. passports by using their voter registration cards."[35]

28. *Olinger*, 759 F.2d at 1297. On election day, Hicks also distributed the names of registered voters who had moved away or died so that fraudulent ballots could be cast in "the names of the phantom voters." *Id.*
29. GRAND JURY REPORT, *supra* note 3, at 12. This is a recurring problem. In 1998, former Congressman Austin Murphy of Pennsylvania was convicted of absentee ballot fraud in a nursing home. JOHN FUND, STEALING ELECTIONS: HOW VOTER FRAUD THREATENS OUR DEMOCRACY 44 (Encounter Books 2004).
30. GRAND JURY REPORT, *supra* note 3, at 7.
31. *Howard*, 774 F.2d at 840. The type of massive investigation undertaken by the FBI and the U.S. Attorney's Office to review in detail a jurisdiction's voter registration list to check it for the names of voters who have moved, died, or registered in more than one location has also not been undertaken since the Chicago case.
32. GRAND JURY REPORT, *supra* note 3, at 8.
33. *Crawford and Franklin*, *supra* note 13.
34. GRAND JURY REPORT, *supra* note 3, at 8–9.

U.S. Attorney Dan Webb estimated that 80,000 illegal aliens were registered to vote in Chicago.[36] Dozens of aliens were indicted and convicted for registering and voting,[37] and one individual was indicted for recruiting an illegal alien to register to vote.[38]

False Registrations. Another way to obtain names that could be voted on election day was to have people falsely register to vote in a precinct. One party precinct captain, for example, had two city workers who were seeking to transfer their job locations register in his precinct even though they did not live there. Even the assistant precinct captain was falsely registered.[39] In some instances, the conspirators asked actual residents at the addresses where voters falsely claimed to reside to "place name-tags on their doors that bore the names of the non-resident registrants."[40] Other canvassers were indicted and charged with certifying the addresses of voters when no such address existed.[41]

Casting Fraudulent Absentee Ballots. Precinct captains would ask their workers "to encourage voters to apply for absentee ballots whether or not they had a valid reason to do so and to turn the blank ballots over" so that the captains could vote the ballots. One worker noticed that two of the absentee ballots he delivered to a precinct captain had already been filled out: One "was straight Democratic, but…the other contained some Republican entries. The precinct captain caused the second absentee ballot containing Republican entries to be torn up."[42]

Buying Votes. The going rate for a vote in one particular Chicago ward was two dollars, and some precinct captains kept a supply of dollar bills ready on election day solely for buying votes. Alcohol was also used as an incentive to get people to the polls, with one hotel manager ordering "the liquor in advance from the precinct captain."[43]

Altering the Vote Count. Changing the actual vote count was another method of fraud. For example, one precinct captain and his son held their own fraudulent election after the polls closed by repeatedly running two ballots through the voting machine. At that time, Chicago was using punch cards for ballots, and punch card counting machines in the precincts totaled the votes cast (similar to the way optical-scan paper ballots are totaled today by computer scanners in the precincts). One ballot was a straight Democratic "punch 10," and the precinct captain ran it through the counting machine 198 times. In order to avoid suspicion, he also ran a ballot containing some Republican votes through the machine six times.[44] All of the votes in that precinct were fraudulent except for those two original ballots.[45]

35. *Crawford and Franklin*, *supra* note 13.
36. *Frantz*, *supra* note 2.
37. Marianne Taylor, *28 Indicted on Charges of Vote Fraud*, CHI. TRIB., Apr. 7, 1983, at B13. Eighteen of the aliens were from Mexico, three from Belize, two from Costa Rica, two from Nigeria, and one from Haiti.
38. Barbara Brotman and William Recktenwald, *5 Indicted in Vote Fraud*, CHI. TRIB., Feb. 18, 1983, at 1. One alien who was born in Belize and voted in the 1982 election testified in 1985 before a state senate task force about the ease with which he and his two sisters registered to vote. None of them were ever required to show any identification when they registered, and they simply listed false birthplace information. Desiree F. Hicks, *Foreigners Landing on Voter Rolls*, CHI. TRIB., Oct. 2, 1985.
39. GRAND JURY REPORT, *supra* note 3, at 9.
40. *Howard*, 774 F.2d at 840.
41. *Taylor*, *supra* note 37.
42. GRAND JURY REPORT, *supra* note 3, at 10.
43. *Id.* One runner testified that "he was driving two winos back from the polling place when they got into a fist fight in the back seat of his car over whether to spend their pooled dollars on hamburgers or a bottle of wine." *Id.* at 11.
44. The only Republican votes on the ballot were for Governor James Thompson and former Attorney General Tyrone Fahner. *Brotman and Recktenwald*, *supra* note 38.

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Lessons Learned

Three factors, in particular, contributed to the successful electoral fraud of former Mayor Daley's political machine.

Interference by Party Officials. Precinct captains in Chicago did not work for the Chicago Board of Election Commissioners. They were political appointees of the ward committeemen and therefore answered only to the committeemen and their political party. A precinct captain's loyalty was not to running a clean and fair election but to the political party that controlled his ward. Despite not working for the election board, precinct captains often opened and supervised the polls on election day and directed or influenced the door-to-door canvasses "required by law in order to determine the accuracy of voter registration."[46]

Because the election board approved all of the individuals submitted by the precinct captains and their political party to serve as official election judges, the precinct captains controlled the polling places even though it was the election judges who were legally responsible for the administration of each polling place. This patronage system tied the administration of elections into the political system that ran the city and dispensed jobs. This structure, in turn, created the means and the incentive to "steal votes on Election Day."[47]

Lack of a Bipartisan Election System. Chicago witnessed the complete failure of its "bipartisan system [that] is meant to protect the election process from vote fraud."[48] This system assumes that there are two active political parties, each watching the other and overseeing all activities that occur during the election process, from voter registration to the administration of polling places on election day, to ensure that the law is followed and no fraud occurs.

For example, the canvasses that occurred before the election to check the accuracy of the voter registration list would provide "the intended bipartisan checks and balances only if it is conducted by two people representing opposite parties."[49] But in Chicago, the Republican Party was not strong enough in many sections of the city to function as a counterbalance to the Democratic Party. As a result, Chicago's voter registration list did not receive bipartisan scrutiny and contained many ineligible persons, including voters who had moved, were deceased, were not U.S. citizens, did not reside where they were registered, or were registered in more than one location.

Similarly, there were supposed to be both Democratic and Republican judges of election in the Chicago polling places, but many of the "Republican" slots were actually filled by Democrats masquerading as Republicans who had been chosen by the Democratic precinct captains. As a result, the "Republican" canvassers and election judges actually assisted their Democratic counterparts in committing fraud.[50]

Biased or Inexperienced Poll Watchers. Poll watchers are intended to be the guardians of a clean election "by participating as critical observers."[51] A well-trained and vigilant poll watcher should have been able to spot some of the types of voter fraud that occurred in the polling places in the 1982 Chicago election. However, many of the poll watchers in the worst Chicago precincts were individuals who had been appointed by precinct captains and were often part of the voter fraud conspiracy, even helping to cast fraudulent ballots.

There were also truly neutral poll watchers in Chicago during that election, but their lack of training and their inexperience in conducting elections allowed fraud to go on without detection. In one par-

45. GRAND JURY REPORT, *supra* note 3, at 11.

46. *Id.* at 13.

47. *Id.* at 17.

48. *Id.* at 18.

49. *Id.*

50. *Id.* at 18–19.

51. *Id.* at 19.

ticular precinct where a legitimate poll watcher was present the entire day, the grand jury found that:

> The precinct captain passed slips of paper to a cooperating judge of election who filled out ballot applications when the pollwatcher was not observing her. Various precinct workers surreptitiously went through the line multiple times. Ballots were punched outside of the polling area.[52]

The grand jury commented that the subsequent mayoral election in 1983 appeared to have occurred without substantial evidence of voter fraud and that each of the "candidate[s] had a squadron of poll watchers who observed polling place activities with an eagle eye."[53] Of course, that mayoral election may also have been free of fraud because U.S. Attorney Dan Webb enlisted U.S. marshals, agents from the Immigration and Naturalization Service, FBI agents, and more than 80 Assistant U.S. Attorneys to "patrol polling places and investigate vote fraud complaints on Election Day."[54]

According to one of the federal prosecutors in the case, the major reason that Harold Washington was elected the first black mayor of Chicago in 1983 was because the Daley machine's grip on the electoral process was broken by the federal prosecutions stemming from the grand jury investigation.[55]

Grand Jury Recommendations

In commenting on the voter fraud that occurred in Chicago, the grand jury expressed its disgust at "the flagrant disregard for our democratic system which is the hallmark of this crime." It was "shocked and dismayed at the boldness and the cavalier attitude with which these offenses have been carried out." It urged all citizens to watch for vote fraud and report irregular activities in their polling places and to "step forward and participate in the election process by becoming precinct captains, judges of election, and pollwatchers."[56]

To reduce the incidence of voter fraud, the grand jury made three concrete recommendations:

- **Sever the relationship between party precinct captains and election judges.** Judges hired by the election board to conduct canvasses and administer polling places on election day should be paid professionals whose loyalty and responsibility are to the election board, not to the local political party or elected city officials.
- **Require all voters to provide a thumbprint when registering and when voting.** Voters would place a thumbprint on a small pretreated box on the ballot application (not the ballot itself) when they vote. According to the grand jury, this was the only way to counter the widespread forgery of voters' signatures that occurred in this voter fraud conspiracy. The grand jury pointed out the virtues of this protection:

  > No fingerprint would be placed on the actual ballot; therefore, the ballot would still be totally secret as it is now. The voter would not be required to put his finger in ink in order to register his print. The process is totally clean and is not intrusive. Many banks already use this identifying process on check cashing cards to verify the identity of the card user.
  >
  > Requiring a print on every ballot application would be a tremendous deterrent to vote fraud and no more of an invasion of privacy than a handwritten signature.

52. *Id.* at 20. One of the federal prosecutors provided an amusing example of how another legitimate poll watcher was fooled. Some of the defendants supplied him with coffee all day, and every time he went to the bathroom, the defendants stuffed the ballot box with phony votes.
53. *Id.* at 21.
54. *Brotman and Recktenwald*, *supra* note 38.
55. Unfortunately, that effect may have been short-lived. By the 1987 mayoral election, there were already new claims of widespread voter fraud and allegations that Washington and his allies had opposed efforts to reform the system "by blocking legislation to hire professional [election] judges and cleanse voting rolls of illegal registration." *See* Mark Eissman, *U.S. to Probe Primary Vote Fraud—Federal Laws May Have Been Broken*, CHI. TRIB., Mar. 11, 1987.
56. GRAND JURY REPORT, *supra* note 3, at 2.

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> It is impossible to forge a print. Fingerprint experts cannot be fooled. If the precinct captain voted for absent voters using the prints of paid volunteers, for example, the print of the absent voter could be compared with the print on the ballot application. If people in the polling place participated in the fraud by placing their prints in the boxes, they would be readily identifiable.[57]

The advantages of this system are obvious, particularly since it would eliminate the difficulty of trying to determine who forged a signature and thus cast a fraudulent ballot on election day or a fraudulent absentee ballot through the mail.

- **Void ballots after counting them.** In the Chicago fraud, ballot outcomes were altered by running the same Democratic punch card ballot through a precinct tally machine multiple times. The grand jury suggested that counting machines be altered to "irrevocably mark each counted ballot" to prevent it from being run through the machine again.

  Although most jurisdictions have moved away from punch card voting machines since the 2000 presidential election, the paper ballots and precinct-based optical scanners used in many states today are subject to the same type of abuse.

National Implications

The Chicago voter-fraud conspiracy and the grand jury's report on it offer lessons that are relevant today in understanding how voter fraud works and how to combat it effectively.

Partisan Election Boards. The importance of a truly bipartisan system of checks and balances in which members of both major political parties (and minor parties to the extent that they have available membership) have representatives at every polling place is key to guaranteeing the integrity of elections. Equal representation on the boards of elections that oversee the administration of elections is just as important. In a 1993 case in Philadelphia, for example, Democratic members of the county board of elections "applied the election code in a discriminatory manner designed to favor one candidate."[58]

Unfortunately, there are still many jurisdictions—particularly large cities like Philadelphia—that are controlled by one political party and have too few members of the other party involved in the administration of elections. Transparency, as accomplished by bipartisan oversight and the work of well-trained election observers, is the hallmark of election integrity.

Voter Misidentification. While the grand jury's thumbprint recommendation has not been adopted in the United States, it has shown great success in reducing voter fraud in Mexico:

> To obtain voter credentials, the citizen must present a photo, write a signature and give a thumbprint. The voter card includes a picture with a hologram covering it, a magnetic strip and a serial number to guard against tampering. To cast a ballot, voters must present the card and be certified by a thumbprint scanner. This system was instrumental in allowing the 2000 election of Vicente Fox, the first opposition party candidate to be elected president in seventy years.[59]

This system was essential to stopping the massive voter fraud that had occurred in Mexico's elections for much of its history. Whether such a requirement could overcome civil liberties and privacy concerns in America is uncertain; however, such a requirement combined with a photo ID would eliminate many forms of voter fraud that continue to occur across the country.

Unreliable Registration Lists. The Chicago voter fraud also demonstrates the importance of maintaining voter registration lists by regularly deleting the

57. *Id.* at 23–24.

58. *Marks v. Stinson*, 19 F.3d 873 (3d Cir. 1994); *see* generally LARRY SABATO AND GLENN R. SIMPSON, DIRTY LITTLE SECRETS: THE PERSISTENCE OF CORRUPTION IN AMERICAN POLITICS 278–283 (Times Books 1996).

59. FUND, *supra* note 29, at 5–6.

names of voters who have died or moved away. Otherwise, the lists will contain a large pool of names that can be used to steal an election by the casting of fraudulent votes. Many states, such as Indiana and Missouri, have neglected the maintenance of their voter registration lists for years.

For the first decade that the National Voter Registration Act (NVRA) was in effect, the Justice Department never filed a single enforcement action against any state for failing to maintain its list and purge ineligible voters. Recent lawsuits by the Civil Rights Division of the Department of Justice against jurisdictions that had failed to purge ineligible voters as required by the NVRA have been sharply criticized as attempts to "disenfranchise" voters.[60]

New technology and readily available Internet databases could resolve another persistent problem found by the grand jury in 1982 that still exists in registration lists all over the country today: phony voter registration addresses. Election jurisdictions do not routinely run comparisons between their voter registration lists and the information that is available in tax or utility records or through geolocation services such as Google Earth.

As was demonstrated by the FBI in the Chicago case, such data matching can quickly turn up registration addresses that are vacant lots or businesses—evidence of possible registration fraud. Similarly, if 100 individuals are registered at an address that is a single-family residence, that is clear evidence of fraud. The techniques developed by the FBI in 1982 should be incorporated into the processes used by states today to verify the accuracy of the information in their voter registration lists.

Recent cases in Wisconsin and Tennessee show that the tactics used in Chicago to steal votes have not been forgotten and are still in use today, despite the election "reforms" of recent years.

In Wisconsin—a state that John Kerry won by only 11,000 votes—the technique of running comparisons between the voter registration list and other databases was employed in a 2004 investigation of possible voter fraud in Milwaukee.[61] The Milwaukee Police Department's Special Investigations Unit, working with the U.S. Attorney's Office, the local district attorney, and the FBI, used Google databases, motor vehicle records, telephone directories, Assessor's Office records, and U.S. Postal Service records to investigate allegations of voter fraud. They uncovered a variety of problems:

- 5,217 "students" who were registered to vote at a polling place located within the University of Wisconsin–Milwaukee who listed as their residence an on-campus dormitory that housed only 2,600 students;
- At least 220 ineligible felons who had voted;
- 370 addresses that were not legal residences in the city;
- Residents of other states (such as a voter from Chicago) who registered and voted in Milwaukee;
- Numerous staffers from out of state who were working for the Kerry campaign or the Environmental Victory Campaign, a political action committee, and who illegally registered and voted in Milwaukee; and
- Hundreds of homeless individuals registered as living at office buildings, at store fronts, and in multiple locations who were "able to vote in different districts and, by sheer number, *could* have an impact on a closely contested local election."[62]

60. *See, e.g.*, Greg Gordon, *Justice Department Actions Expected to Draw Congressional Scrutiny,* McClatchy, Jan. 9, 2008.

61. *See* SPECIAL INVESTIGATIONS UNIT, MILWAUKEE POLICE DEPARTMENT, REPORT OF THE INVESTIGATION INTO THE NOVEMBER 2, 2004, GENERAL ELECTION IN THE CITY OF MILWAUKEE.

62. *Id.* at 16–17, 21, 25, 27, 31, 41, and 49 (emphasis added). Although the *Milwaukee Report* does not identify which political campaign was involved, information in the report describing the individuals makes it clear that it was the Kerry campaign. For example, the description of campaign worker 6 on page 49 matches Andy Gordon, who was the Kerry campaign's Deputy Political Director in Wisconsin. *See also* Democracy in Action, Kerry General Election Wisconsin Campaign Organization, at *www.gwu.edu/~action/2004/kerry/kerrgenwi.html* (last visited May 11, 2008). Similarly, though the report does not identify the 527 organization involved, it cites a press release from the Environmental Victory Campaign that makes the connection.

In Tennessee, a state senate race in 2005 that was decided by only 13 votes led to the expulsion of the winner from the legislature after it was found that votes had been cast by individuals who were dead at the time of the election, felons whose voting rights had not been restored, voters whose residences were vacant lots, and voters who actually lived outside of the district. Three election workers in one precinct were convicted of 12 felonies for faking votes by making false entries on election documents and other misconduct, including forging the signatures of deceased voters on ballot forms and falsely certifying vote totals.[63]

These election workers engaged in the same type of fraud that was used in Chicago in 1982, and, again, this fraud could have been avoided if deceased voters had been deleted from the registration lists and registration addresses had been checked. Having bipartisan election workers and poll watchers in the polling place might have also prevented such actions.

Conclusion

Voter fraud in Chicago, in just one election, led to 100,000 phony votes,[64] bringing the defendants in this case within 5,000 votes of stealing the governorship of Illinois. This case of widespread fraud was broken wide open only because of the failed promise of a city job to one of the participants and the dogged determination of a United States Attorney who was willing to commit the time, resources, and manpower required for a massive investigation and multiple prosecutions. The Justice Department has never engaged in such an intense investigation since then, to the detriment of the electoral system.

We will never know whether, when Mayor Daley was still alive and in full control of Chicago's election machinery, he manufactured the 8,858 votes that won Illinois for John Kennedy in 1960.[65] The 1984 grand jury report certainly shows that it could easily have been done, and the fact that the indicted defendants told investigators that their predecessors had taught them how to commit fraud makes it seem likely. As retired FBI agent Ernest Locker, Jr., observed, massive voter fraud was a way of life for the city's political machine and shows that "what happens in a small area can sometimes change history."[66]

Worth quoting in full is the final comment of the Chicago grand jury's report on its voter fraud investigation:

> Every vote that is fraudulently manufactured disenfranchises the legitimate voter and makes a mockery of our political process. Vote fraud is like a cancer, and it must be treated so that it will not destroy our constitutional right to vote, the basis of our American heritage.[67]

That observation is no less true today than it was in 1982.

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63. Marc Perrusquia, *Judge: Let's Air Details of Fraud—Public Has Right, Colton Says in Ophelia Ford Election Case*, COM. APPEAL, May 22, 2007; Marc Perrusquia, *Thirteen More Votes May Be Illegal—Senate Republican Gets Data on Dist. 29 from Private Eye*, COM. APPEAL, Feb. 7, 2006; Marc Perrusquia, *Poll Boss Had Felony on Record—Not an Eligible Voter; Works for Ford Family*, COM. APPEAL, Feb. 1, 2006; *Report of Ad Hoc Comm. on Senate District No. 29, Election Contest, April 17, 2006*, Minutes of Wednesday, April 19, 2006, Seventy-Second Legislative Day, Tennessee Senate, at 2997–3001.

64. Ernest Locker says that the 100,000 fraudulent-vote estimate was actually very conservative, based on the detailed analysis and review conducted by the investigators and handwriting experts in different precincts. He believes a much larger number of phony votes was likely cast. Interview with Ernest Locker, Jr. (Mar. 18, 2008).

65. SABATO AND SIMPSON, *supra* note 58, at 277.

66. Interview with Ernest Locker, Jr. (Mar. 18, 2008).

67. GRAND JURY REPORT, *supra* note 3, at 26.