

THE COMPLETE INVESTIGATION OF
THE 2000 PRESIDENTIAL ELECTION
INCLUDING RESULTS OF
THE INDEPENDENT RECOUNT

The Miami Herald REPORT



**DEMOCRACY
HELD HOSTAGE**

MARTIN MERZER
AND THE STAFF OF THE
PULITZER PRIZE-WINNING
MIAMI HERALD

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REPORT

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This book is the dividend of an enormous investment of energy and expertise, talent and toil by the staff of the *Miami Herald*. The effort began during the run-up to the election of 2000, and it intensified on Election Day, and it expanded and deepened during the thirty-six-day interregnum between the vote and the outcome. And then, when many newspaper staffs packed up and went home, the finest instincts of journalism trumped the natural instincts that demanded rest, and the staff of this newspaper redoubled its labor. It shouldered tedious and rigorous investigations and a statewide, county-by-county ballot review and finally the additional demands of this book.

No finer, more dedicated group of professionals exists anywhere in journalism, and it has been an honor to work with my colleagues at the *Miami Herald* on this project.

That said, some people merit particular gratitude. Among them: *Miami Herald* publisher Alberto Ibarguén, who found and provided the resources that fueled this enterprise and never wavered, even when the expense accounts began arriving; Tony Ridder, chairman of the *Herald's* parent company, Knight Ridder,

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Also, mention must be made of the reporters who spent long days reviewing ballot after ballot in the farthest reaches of the state: Steve Bousquet, Paul Brinkley-Rogers, Lesley Clark, Tina Cummings, Anabelle de Gale, Lisa Fuss, Jasmine Kripalani, Larry Lebowitz, Phil Long, Shari Rudavsky, Charles Savage, and Andres Viglucci. Their efforts were expertly coordinated by Lila Arzua.

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—MARTIN MERZER

Miami, Florida
March 2001



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1

“I CAME OUT OF THE BALLOT BOX TOTALLY CONFUSED”

They've hit a rhythm now.

Front. Pause. Back. Pause.

Next.

Front. Pause. Back. Pause.

Next.

Like a dealer at a blackjack table, Miami-Dade County elections worker Jesus Arrechea is ready with another ballot. He holds it up for inspection by a two-person team. One is a reporter for the *Miami Herald*; the other, an independent accountant.

Following a now routine pattern, Arrechea shows the ballot front side first. He holds it steady with two hands. Then he flips it over for a look at the more revealing back side. He angles it ever so slightly, and now it leans at a precise position they have arrived at through laborious trial and error, a posture that allows light to catch the smallest of dimples. The team jots notations on special forms. The ballot joins others in a pile.

Already, Arrechea has another ready for inspection.

Scan, flip. Scan, put it down. All performed at high speed, mostly in utter silence. They toil to achieve a balance between

speed and accuracy. They cannot relax. They must not be lulled into inattention. It is intense, tedious work.

They are detectives, these three people and dozens more around the state, searching for dimples and hanging chads, pinpricks and clean punches, seeking clues and clarity, striving to divine the intent of thousands of citizens, determined to unravel a mystery unlike any other: Who really collected the most votes in Florida's presidential election of 2000? Would the outcome have been different if the nation's highest court had not terminated a recount?

Pinpricks, dangling tabs of cardboard, pen marks.

The intent was often obvious; it was the execution that so frequently failed. On November 7, 2000, the most basic privilege and responsibility of American citizenship—voting—proved unrewarding for about 174,000 Floridians and countless residents of other states. Thwarted by antiquated technology whose defects had long been recognized by experts but concealed from voters, undermined by indifferent or incompetent election workers, hindered by their own inexperience or haste, many people exercised the right to vote, but their ballots—often cast emphatically, unambiguously, but also imperfectly—did not count. Some other citizens wouldn't even get a chance, despite their best efforts.

Normally this would provoke scant notice or comment. Most Americans gave little thought to their electoral system. They voted and they assumed that their vote was counted. If not, what difference did it really make? Most elections were won by large margins. A lost vote here or there? No big deal.

In fact, few Americans knew it, but most of their electoral systems were designed to accommodate voter apathy rather than voter enthusiasm. These systems were based on the premise that turnout would always be low, margins of difference would always be high, and the exact vote count would never really matter.

"Every time we have an election, we basically say a little prayer," said Sanford Minkoff, county attorney in Florida's Lake County. "It has nothing to do with our partisan interests. No matter who wins or loses, we pray that it's by a very wide margin."

But in 2000, in the presidential election between Republican George W. Bush and Democrat Al Gore, all three assumptions proved mistaken and the nation endured thirty-seven days of unprecedented electoral drama.

Motivated by the closeness of the race, if not the personalities and policies of the candidates, Floridians turned out in relatively high numbers—70 percent of a rapidly growing electorate, and many were rookies or were otherwise inexperienced with the mechanics of democracy.

Voters spoiled ballots in scores of ways that rendered them unreadable by the machines that were supposed to count them. At times you had to admire voters' creativity. Among the many bizarre examples found by the *Herald*: A Tampa resident used clear nail polish to paste a tab back into an absentee ballot. Other voters used tape. Some scrawled unfathomable notes on their ballots. To some extent the arguments made by Republicans during the various recounts were justified: many ballots indicated no clear vote for president.

But at the same time, counting machines discarded thousands of ballots that—upon closer inspection—revealed the intent of voters and their determination to have their voices heard. In Bay County, one voter wrote only this on the bottom of the ballot, and in large letters too: "I forgot my glasses and can not see this please put Bush down for my vote." Unfortunately, no state law required Florida election supervisors to promptly examine ballots like these by hand and attempt to redeem them. If that had occurred, the result of the election might have been different.

The official margin of difference was agonizingly tight in many states, but was especially so in Florida. There, in a state that became vital to both candidates, the presidential election was ulti-

mately decided by an official margin of 537 votes—0.0091 percent of the 5.9 million votes cast.

So the exact vote count proved critically important—and the deficiencies of a system mirrored by most others in the nation were finally exposed.

“There was failure in voter technology and failure in training the voters in technology and a failure in administration,” said Ion Sancho, supervisor of elections in Leon County, which includes the state capital, Tallahassee. “The state doesn’t spend money telling folks how to vote. This is a state that spends thirty-five million dollars to tell people how to play Lotto.”

As a result, the United States, the world’s most luminous icon of democracy, suddenly resembled a banana republic. Many thousands of people—citizens who heeded calls to participate in participatory democracy—were disenfranchised. Democrats felt robbed of the presidency. Republicans felt robbed of legitimacy. Millions of Americans worried that the dysfunctional electoral system could strike again, and much closer to home, and they were right.

And the presidency of George W. Bush commenced under a cloud of doubt, shadowed by several tangled questions: What happened in Florida? What went wrong there? Who actually attracted the most votes in the decisive state in the closest presidential election in 124 years?

It is important to note at the outset that this may not be the same as asking who won Florida. That answer is now definitive and firm. Five weeks of political gamesmanship and unrestrained legal combat ended with Bush winning Florida and thus the presidency. The U.S. Supreme Court essentially made that decision, the result was ratified by Congress, and Bush was inaugurated on January 20. History will show that Gore won the popular balloting by 540,000 votes nationwide, but Bush triumphed in the all-

important Electoral College, where he held 271 votes, one more than the minimum required for victory. And that was that.

But many people still wondered: If the U.S. Supreme Court had not halted a recount ordered by the Florida Supreme Court and already frantically under way, what would the ballots have shown?

The *Miami Herald*, which overturned a corrupted city election in 1998 and won a Pulitzer Prize for its investigation of voter fraud, sought an answer. It believed that the 2000 electoral debacle in Florida merited intense scrutiny, and it had already embarked on a comprehensive, impartial investigation to determine what went wrong and how the system could be improved.

Among the *Herald's* findings, explored in detail later in this book:

- Florida election officials knew for decades that punch-card balloting was so obsolete and unreliable that thousands of votes were routinely discarded. Counties that modernized their systems enjoyed marked improvements in accuracy, but most larger counties ignored repeated warnings and retained punch-card systems that often silenced or misled voters.

Typically, around the country, 2 percent of votes in presidential elections don't count—because voters either spoil their ballots somehow or, more rarely, make no selection in that race. In fact, a loss rate of 2 percent had become the unspoken but accepted standard for most election supervisors. That means that in the election of 2000, 2 million American voters would have been disenfranchised—and that would have been considered perfectly satisfactory.

And it was getting worse. In Florida's presidential election of 1992, 2.3 percent of all ballots could not be counted. In 1996 that rose to 2.5 percent. In 2000 it jumped again, this time to 3 percent. About 174,000 ballots were tossed out statewide—largely because residents of twenty-four Florida counties, including many

of the most populous, still used punch-card systems. So did other voting districts across America, which were home to one-third of all voters.

“People had no idea that so many people could screw up a ballot,” said Jim Smith, a former Florida secretary of state, two-time candidate for governor, and cochairman of a new state task force on electoral reform. “For whatever reason, there has always been an acceptance of a fairly large error rate in elections. But when you have the situation we did, where the error rate all of a sudden exceeded the margin we had in our election, and you have a world with the technology we have, people are saying, ‘We are not going to accept that.’”

- Optical scan systems—in which voters make marks in lottery-card-type ovals or connect the ends of arrows—are not foolproof either. The *Herald* found that discard rates were relatively minimal in precincts where electronic machines immediately scan ballots and alert people to spoiled votes so they can correct them. But those precinct scanners are critically important. Optical scan systems in counties that count votes in a central location and thus lack the error-notification feature had discard rates *higher* than those in punch-card counties.

- In an unguarded moment, Republican Florida Secretary of State Katherine Harris, the state’s chief elections official, who was reviled by Democrats and praised by Republicans for her actions during the post-election chaos, revealed that she saw herself in Biblical terms. In response to an e-mail from a supporter who praised her as a protector of the unborn, Harris wrote in an e-mail obtained by the *Herald*: “This was the exact conversation and prayer that I shared with my sister last night. I re-read a book about Esther. She has always been the specific character in the Bible that I have admired.”

In addition, the examination of e-mail showed that Harris’s aides could not contain their partisan zeal, even as they worked in an office that was supposed to be politically neutral.

Months after the election, Harris took her case to network television audiences, but she also absorbed punishing new criticism. After she rejected responsibility for the botched election, the U.S. Civil Rights Commission scolded her for marooning county election supervisors. "I feel as if I'm on this merry-go-round called denial," commissioner Victoria Wilson told Harris during a hearing. "Supervisors were desperate for your help, and you abandoned them. They wanted money, they wanted guidance. Voters ended up having to pay the price."

- Voters in Palm Beach County were 100 times more likely than those elsewhere in South Florida to spoil their ballots by voting for both Al Gore and Pat Buchanan. In addition, that county was the only one in Florida to use a knock-off version of the already questionable Votomatic punch-card machine. Many people had trouble properly casting votes on those cheaper machines.

Theresa LePore, the Palm Beach County election supervisor who authorized use of that machine, who helped design and who ultimately approved the controversial butterfly ballot that cost Gore thousands of votes, required police protection at one time and ended up losing twenty-two pounds as a result of her trial by media.

- Statewide, ballots in majority-black precincts were discarded at a rate three times higher than that in nonblack precincts. In rural Gadsden County, Florida's only predominantly black county, an astonishing 12.4 percent of all ballots were thrown out.

Angered by the policies of Florida Gov. Jeb Bush, brother of the Republican candidate, the NAACP, other black organizations, and union leaders had sponsored massive drives to register new voters. But no one had shown these often elderly, poorly educated citizens how to cast votes, resulting in shocking numbers of ruined ballots.

In addition, voters in large urban counties and some small, poverty-stricken counties—both with relatively large concentra-