



**Statement of Professor Mark C. Miller
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Before
The Committee of the Judiciary
Subcommittee on Commercial and Administrative Law
and the
Subcommittee on Crime, Terrorism, and Homeland Security
on
"Allegations of Selective Prosecution Part II: The Erosion of Public
Confidence in Our Federal Justice System"
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My name is Mark Crispin Miller. I am a professor of media, culture and communication at New York University, and a longtime analyst of media and politics. Lately my work has focused on the growing dangers of election fraud and vote suppression in this country. My books include *Foiled Again: The Real Case for Electoral Reform* (2005), and, more recently, *Loser Take All: Election Fraud and the Subversion of Democracy, 2000-2008*.

I am not a Democrat or a Republican, but an Independent dedicated to the promise of American democracy as envisioned by Tom Paine. I believe, with him, that the right to vote is the basis on which all our other rights depend. And so the issue here is ultimately not the victory or defeat of either party, but the people's right to choose their government, and thereby live, and rule, in freedom.

Such was once the view of the US Justice Department, whose Voting Rights Section strongly championed the individual right to vote, by prosecuting all forms of illegal disfranchisement. But things have changed since 2001, as the Department now turns a blind eye toward illegal vote suppression, as long as such blocked votes would not advantage the Republicans.

Take the case of Sproul & Associates, an Arizona firm hired by the Republican National Committee to run stealth voter registration drives throughout the nation prior to the 2004 election. Starting in the summer, Sproul's troops haunted public areas, posing as non-partisan opinion pollsters, or petitioners for liberal causes. Through such deception, the firm worked to inflate the number of registered Republicans, by any means necessary.

Closely following a script, the operatives asked leading questions—a form of "push polling"—in order to identify Republican respondents, and then asked *them* to fill out registration forms.

The teams had been instructed *not* to register Democrats or Independents. Nevertheless, many Democrats filled out the forms—and those forms were destroyed: "We caught [my supervisor] taking Democrats out of my pile, [and] hand [ing] them to her assistant, and he ripped them up right in front of us," said one Sproul worker in Las Vegas.

More frequently, however, Sproul's troops bamboozled thousands of Democrats and Independents into registering as Republicans, either by altering the registration forms, or by misleading people into thus re-registering themselves.

Such service was expensive. According to their filings with the Federal Election Commission, the Republican National Committee paid Sproul well over \$8 million—making it the RNC's eighth-largest expenditure of the 2004 campaign. And what did

the party get for it? Aside from disenfranchising those Democrats whose forms were ripped up by Sproul's staff, the company created thousands of unwitting faux-Republicans, in Ohio, Florida, Nevada, Pennsylvania, West Virginia, Minnesota, Michigan and Oregon.

Thanks to those inflated numbers, there appeared to be more registered Republicans than there were in reality—a misimpression that would seemingly explain the party's unexpected victories in those places where the exit polls predicted otherwise. In Ohio, for example, countless Democratic votes were stolen through the tactics documented in the full committee's excellent report on the election there: voter "caging," thwarted registration drives, broad refusal of provisional ballots, organized disinformation, blunt intimidation tactics, shortages of functioning machines in Democratic districts only, and numerous "machine irregularities" undoing only Democratic votes. Those tactics were used also in those other states where the exit polls predicted a Republican defeat—and where Sproul's firm had also helped inflate the number of grass-roots Republicans.

Thus Sproul's firm not only broke the law, but may also have assisted in a larger plan to block the vote. (There are oddities, moreover, in the RNC's filings with the FEC, with nine expenditures, totaling well over \$1 million, incurred somehow in 2005, suggesting an attempt to minimize the sum spent on Sproul's services.)

Thus Sproul & Associates clearly merited a full investigation by the Justice Department; and yet the DoJ did nothing. If there has been a federal probe of Sproul's activities, I've never heard of it. Far from coming under federal suspicion, Nathan Sproul, the firm's director, was invited to the Christmas party at the White House two months after the election.

And while the DoJ has winked at practices that disenfranchise tens of thousands of Americans, that now wholly partisan Department focuses obsessively on "voter fraud," which numbers in the tens. Between 2002 and 2005, 24 people were convicted of illegal voting, with another 62 convicted since. Those low numbers reconfirm the scholarly consensus that "voter fraud" is actually quite rare. It is, in fact, a highly serviceable myth, and/or delusion, that helps to justify the actual vote suppression, and *election* fraud, that Sproul and others carry out to benefit their party. Today the fantasy of "voter fraud" preoccupies the managers at Justice, and the Supreme Court. It is therefore up to Congress to return us to reality, and redirect this nation toward democracy.