



# It's not who votes that counts; it's who counts the votes.



## Summary Of This Lawsuit: The Clear & Present Danger To Our Democracy

Based on facts known from the three other lawsuits involving the Pima County Democratic Party and Pima County, the Libertarian Party alleges that Pima County, through the direction and control of County Administrator Charles Huckelberry, has systematically subverted critical controls required to protect the purity of elections. The elimination of those controls has permitted county management to take advantage of the ability to cheat presented by defects in our computerized election system. **As a result, county management fraudulently rigged the Regional Transportation Authority (RTA) election on May 16, 2006 and has the ability to manipulate the outcome of any Pima County election, including not only bond elections but the elections of members of the Board of Supervisors themselves.**

**“As long as I count the votes, what are you going to do about it?”**

— William “Boss” Tweed of Tammany Hall

At the present time, it is easy to cheat using our election computers and impossible to challenge a rigged election. And because it is illegal in Arizona to hand count paper ballots, the computer results must be accepted. **The ease of cheating when matched with the impossibility of challenging any specific election requires court intervention to protect the purity of elections and public confidence in election results — a cornerstone of our democracy.**

## Proposed New Requirements For All Local & County Races

**Our primary choice of remedy is independent graphic scanning of all ballots** — scanning of early ballots as they are tabulated and scanning of precinct ballots at a receiving station after the polls close. These ballot images would then be posted on a public website starting no earlier than one hour after the polls close so anyone could count the ballots via the images. Fast turnaround is necessitated by Arizona’s tough requirement that challenges to an election occur within 5 days of the final canvas.

This scanning must be publicly observable and done by an “independent” system — not by the same system that generated the original tally. In addition, the scanning station’s capability should be limited to “taking pictures of pieces of paper” and not interpreting the meaning of ballot marks. That way, the graphic scanner cannot be programmed to cheat. Arizona law requires that voter anonymity be preserved but does not require ballot secrecy. Posting the ballot images publicly does not violate this requirement and is the best way to achieve election transparency.

**In short, graphic scanning is a cheap add-on that helps boost the security of the existing secretive and flawed systems.**

See details in the “Initial Disclosure Statement” filed January 2012

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**See 10-point Fact Pattern on other side...** 

# Where There's Smoke, There's Fraud!

## Fact Pattern of Fraud in the RTA Election of May 16, 2006

### 1 The Smoking "Crop Scanner"

Pima County Elections Division purchased and practiced with a "Crop Scanner" computerized hacking tool ten months before the RTA election. Outside of its intended agricultural use, this tool enables illegal altering of the memory card program so precinct voting machines print false results, as demonstrated in the HBO movie "Hacking Democracy."

### 2 Memory Card Fails & Reloads

When legally programmed, memory cards rarely "fail." Sloppy use of the Crop Scanner, however, will cause such failures. At least 75 and as many as 149 out of 368 precinct scanners failed on the very simple RTA ballot. For several days after election day, 85 memory card vote results were downloaded at least twice, replacing the original vote totals. Contrary to normal practice, the election database was not backed up until after the reloads — three days after the election.

### 3 The Missing Poll Tapes

At the close of every election, each precinct's scanner prints a poll tape of the election results, which must be signed and sealed into the official ballot envelope. If the Crop Scanner hack is not done carefully, poll tapes can reveal memory cards were programmed to print false results. After much resistance from Pima County Elections and lengthy litigation, the poll tapes were produced, but 112 were missing and 50 failed to match the final Statement of Votes Cast — that's a whopping 44%! Those missing poll tapes strongly correlate with the memory cards that were reloaded.

### 4 Suspicious Homework

Pima County Elections' computer technician regularly took home backup CDs of early voting election data. Diebold's Global Elections Management System (GEMS) suffers from a well-known and serious security defect, namely its Microsoft Data Base (mdb) format files can easily be opened and manipulated away from the election computer using Microsoft Access. The manipulated backup copy can be written over the original database files and the audit logs erased, thereby leaving no trace of tampering. It's a system "designed to cheat."

### 5 Conflict Of Interest & Data Mining

As a supporter of the RTA tax increase, Mr. Huckelberry hired a consultant to analyze precinct data from prior failed bond elections — data that would be essential to ensure rigged numbers appeared plausible.

### 6 The Forbidden "Access" Manual

A Microsoft Access manual was photographed in the vote tabulation room on RTA election night as it was being used by a Pima County Elections' computer operator. Because GEMS Software is built on a Microsoft Access base, use of Microsoft Access on an election computer was and is illegal because it enables "back door" manipulation of data — something the computer technician had been trained in since 1996.

### 7 Illegally Printing Early Vote Totals

To prevent unfair advantage from knowledge of early ballot vote totals, it is a felony to print a "Summary Report" of actual vote totals until one hour after the polls close on election day. Pima County Elections' computer technician was seen regularly printing and sharing unlawful Summary Reports, including during the RTA election. An "unofficial/unaudited" rubber stamp was even purchased and used to distinguish these illegally printed reports.

### 8 Broken Chain Of Custody

After lengthy litigation and finally being awarded access to the RTA election database, the plaintiff was told by the court clerk that the two hard drives were already picked up. Turned out they were in the unlocked file cabinet of one of the "suspects."

### 9 Suspects Run The Investigation

Attorney General Terry Goddard teamed up with the "suspects" for a limited study of part of their database. "Tests" were suggested by Pima County Elections — obviously "tests" the suspects knew they could pass. Other logical and useful tests were not run. The report was then intentionally kept away from everyone but the suspects until Attorney General Goddard released it at his press conference.

### 10 Attorney General Grabs Ballots

Just as the plaintiff was about to be awarded release of the official poll tapes from the ballot boxes, Attorney General Goddard suddenly secured a secret court order to transport the RTA paper ballots to Maricopa County. His hand count audit was a dog-and-pony show orchestrated to produce the desired result. Ballots were not counted by precinct or checked against the poll tapes. Nor was there a forensic examination of the paper and ink to determine if the ballot boxes were later stuffed with "print-on-demand" ballots.

See details of these key points in the "Initial Disclosure Statement" filed January 2012  
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**See Overview & Proposed Remedy on other side...**

