



**Pima County Election, May 16, 2006:
Regional Transportation Authority Question 2**

**Significant Discrepancies Between
the County's Canvass
and the Attorney General's Hand Count
Require Further Investigation**

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Audit AZ**

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"We had to preserve this situation so that if, in fact, we were to determine that a major difference was found between the hand count and the previously reported count, that we'd be able to proceed to trial without damaging the evidence involved."

~ Attorney General Terry Goddard

*April 21, 2009 Press Conference announcing that the hand count of ballots
affirmed the results of 2006 Pima County Special Election
<http://blip.tv/file/2022123> Time 5:16*

Executive Summary

In the May 16, 2006 election, Pima County citizens voted on two questions regarding a "Regional Transportation Authority" (RTA) plan proposed for Pima County. This report focuses on Question 2:

"Do you favor the levy of a transaction privilege (sales) tax for regional transportation purposes in Pima County?"

On February 23, 2009, Attorney General Terry Goddard took possession of the paper ballots as evidence in a criminal investigation. On April 2, 2009, he announced that he would oversee a hand count of both RTA questions as part of the investigation.

On April 21, 2009, he announced the results of the hand count and stated, "I can find no evidence that there was tampering with the election."

After the hand count, the Pima County Democratic Party examined the precinct-by-precinct results for Question 2. They compared results from the official canvass with results of the Attorney General's hand count.

The comparison of details revealed many severe discrepancies that cannot be seen in a comparison of the totals. The extent of the discrepancies indicates that:

- ◆ The attorney general's report contains significant errors,
- ◆ The county's canvass reports and ballot records contain significant errors,
- ◆ And/or the ballots hand counted were not the same ballots that were canvassed.

Discrepancies include:

- A. 1,152 fewer pollsite/provisional ballots and 642 more early ballots were counted in the attorney general's examination than in the canvass.
- B. In 285 (70%) precincts, the number of pollsite/provisional ballots examined by the attorney general differs from the number reported by the county.
- C. Pollsite/provisional ballots from 9 precincts are missing from the county's report of election-material boxes stored with Iron Mountain. The attorney general counted ballots from 7 of those precincts.
- D. The attorney general counted one pollsite or provisional ballot from Precinct 400 in which the county reported no pollsite or provisional ballots were cast.
- E. Entire precincts were missing from the attorney general's examination of pollsite/provisional ballots.

Precinct poll tapes and poll worker reports (known informally as "yellow sheets") would assist in answering questions raised by these discrepancies, but the attorney general has declined to examine them and the Pima County Democratic Party has been unable to obtain them.

Without examining these documents, the discrepancies revealed in this report cannot be resolved and the possibility of ballot tampering remains an open issue.

Background

In the May 16, 2006 election, Pima County citizens voted on two questions regarding a "Regional Transportation Authority" (RTA) plan proposed for Pima County.

Question 1 was: "Do you approve the regional transportation plan for Pima County?"

Question 2 was: "Do you favor the levy of a transaction privilege (sales) tax for regional transportation purposes in Pima County?"

On February 23, 2009, Attorney General Terry Goddard – acting on concerns about the election brought to his attention by the Pima County Democratic Party – took possession of the paper ballots as evidence in a criminal investigation. In a press conference on April 21, 2009, he explained the concerns that convinced him "there was reasonable suspicion that a crime might have been committed."¹ Those reasons included:

- ◆ In violation of election rules, the county printed results of early voting five days before the actual polling date. The attorney general said the explanation he was given was "not sufficient."
- ◆ Pima County had on the premises a programming instrument known to be able to reprogram memory cards. The attorney general was not satisfied with the county's explanation, which was that "they were trying to check it out and see if it was possible to change the results using this particular piece of equipment."
- ◆ During the tabulation the county had an MS Access database user manual open. Access is the backdoor into the Diebold results, and as the attorney general said, the fact that this manual "was there in a place where it shouldn't have been was highly problematic."
- ◆ In the summer of 2008, "there was an allegation in an affidavit raised which said that that one of the individuals involved in the Pima County elections process had in fact said that he'd flipped the election."

On April 2, 2009, the attorney general announced that he would oversee a hand count of both RTA questions as part of the investigation.

On April 21, 2009, the attorney general announced the results of the hand count and stated, "I can find no evidence that there was tampering with the election."²

This report focuses on Question 2. The following table compares the totals of the official canvass and the hand count. The data is from information Attorney General Goddard presented at the April 21, 2009 press conference. ³

Question 2	Official Canvass		AG's Hand Count		Diff Votes
	Votes	Percentage	Votes	Percentage	
Yes	68,773	57.64%	68,420	57.63%	353
No	50,551	42.36%	50,306	42.37%	245
Total	119,324		118,726		598

Reference Documents

The documents used to prepare this report are listed below.

- ◆ **“Arizona Attorney General’s Office Examination of the May 2006 Pima County Special Election Ballots Regional Transportation Authority Election.”**⁴
Slides presented by Attorney General Goddard at the April 21, 2009 press conference.
- ◆ **“Iron Mountain Transmittal Sheets.”**⁵
A list of the boxes of election material stored with Iron Mountain and delivered to the attorney general along with the boxes prior to the hand count. Pima County staff completed the sheets by entering details about the contents of each box before the boxes were sent to Iron Mountain. The Pima County Democratic Party received the transmittal sheets from Pima County in response to an open records request. They were scanned into an Acrobat Reader file.
- ◆ **“Pima County Canvass Database. Consolidated Election, May 16, 2006.”**
The Pima County Democratic Party received this database of official election results from Pima County in response to a court order instructing the county to provide the database.
- ◆ **“Statement of Votes Cast. Consolidated Election, May 16, 2006.”**⁶
A detailed precinct-by-precinct report of the election results, with the results for each precinct reported separately for polling place ballots, provisional ballots, and early ballots. The report was printed on September 4, 2009 using the **“Pima County Canvass Database. Consolidated Election, May 16, 2006.”**
- ◆ **“Vote Centers With Cards By ID. Consolidated Election, May 16, 2006.”**⁷
A list of Pima County vote centers for pollsite voting, early voting, and provisional voting. The list of vote centers for pollsite voting allowed us to identify the box in which each precinct’s ballots were stored with Iron Mountain. The list was printed on September 4, 2009 using the **“Pima County Canvass Database. Consolidated Election, May 16, 2006.”**
- ◆ **“Early Ballots Question 2.”**⁸
Tables showing the batch-by-batch results of the hand count of early ballots. The data was obtained from the attorney general’s office via open records request by Mari Herrera at the Tucson Weekly newspaper and passed on to the Pima County Democratic Party.
- ◆ **“Polling Place Question 2.”**⁹
Tables showing the precinct-by-precinct results of the hand count of pollsite and provisional ballots. The data was obtained from the attorney general’s office via open records request by Mari Herrera at the Tucson Weekly newspaper and passed on to the Pima County Democratic Party.
- ◆ **Video of Attorney General Goddard’s April 21, 2009 Press Conference.**¹⁰

Excel File Generated for this Report

In order to compare the canvass results to the hand count results, we used information from the documents listed above to prepare a single MS Excel file containing five worksheets.¹¹ The worksheets are listed and explained below.

- ◆ **“Comparison Detail.”**
Lists all 409 precincts in Pima County. For each precinct, the worksheet shows the number of the box in which the ballots were stored with Iron Mountain, all the detailed results from the canvass, and all the detailed results from the hand count.
- ◆ **“Precincts Not in Boxes.”**
Details for the eight precincts whose pollsite and provisional ballots – according to the Iron Mount Transmittal Sheets – were not in any of the boxes delivered to the attorney general for hand counting.
- ◆ **“AG PCTS Missing & Added.”**
Details for the three precincts whose pollsite and provisional ballots – according to the attorney general’s **“Polling Place Question 2”** document – were not included in the hand count; details for the one precinct for which the attorney counted only three of the 329 pollsite and provisional ballots counted in the official canvass; and details for the one precinct in which the attorney general counted a provisional ballot not present in the canvass.
- ◆ **“AG PCTs with Fewer Ballots.”**
Details for the 159 precincts in which the attorney general counted a total of 1,541 fewer pollsite and provisional ballots than the number of ballots counted in the canvass for those precincts.
- ◆ **“AG PCTs with More Ballots.”**
Details for the 126 precincts in which the attorney general counted a total of 389 more pollsite and provisional ballots than the number of ballots counted in the canvass for those precincts.

Methodology

We used the following process to generate the “Comparison Details” worksheet, which we provided the information necessary to conduct a detailed comparison of the canvass and hand count.

1. From the **“Pima County Canvass Database**, we extracted the details for each precinct and inserted them into an Excel spreadsheet. Details included:
 - ◆ Precinct number
 - ◆ Number of registered voters
 - ◆ Number of pollsite ballots counted
 - ◆ Number of provisional ballots counted
 - ◆ Number of early ballots counted
 - ◆ Number of pollsite “Yes” votes
 - ◆ Number of provisional “Yes” votes

- ◆ Number of pollsite “No” votes
 - ◆ Number of provisional “No” votes
 - ◆ Number of pollsite + provisional undervotes (voter made no selection)
 - ◆ Number of pollsite + provisional overvotes (voter selected both choices)
2. From the **“Pima County Canvass Database**, we extracted the totals for each of the following and inserted them into the worksheet:
- ◆ Total number of early “Yes” votes
 - ◆ Total number of early “No” votes
 - ◆ Total number of early undervotes
 - ◆ Total number of early overvotes

We included only the totals, not the details for each precinct, because the number of early “Yes” votes, “No” votes, undervotes, and overvotes for each precinct are not available for the hand count. (See Item 4.)

3. The attorney general’s **“Polling Place Question 2”** document does not distinguish between the numbers for pollsite and provisional ballots for each precinct; rather it gives a single number for the pollsite + provisional total. From the attorney general’s **“Polling Place Question 2”** document, we hand-copied the details for each precinct into the same Excel worksheet. Details included:
- ◆ Number of pollsite + provisional ballots counted
 - ◆ Number of pollsite + provisional “Yes” votes
 - ◆ Number of pollsite + provisional “No” votes
 - ◆ Number of pollsite + provisional undervotes
 - ◆ Number of pollsite + provisional overvotes
4. The attorney general’s **“Early Ballots Question 2”** document does not give the detailed results by precinct, but by batch, so we were unable to include precinct-by-precinct results for early ballots in the worksheet. From the attorney general’s document, we hand-copied the following totals into the worksheet.
- ◆ Total number of early “Yes” votes
 - ◆ Total number of early “No” votes
 - ◆ Total number of early undervotes (voter made no selection)
 - ◆ Total number of early overvotes (voter selected both choices)
5. We double-checked all values hand-entered in Items 3 and 4 and confirmed that the attorney general’s totals for each of the precinct details listed in Item 3 matched the totals calculated by MS Excel.
6. From the **“Iron Mountain Transmittal Sheets”** we entered, for each precinct, the number of the box in which ballots were stored.
7. We arranged and color-coded columns for presentation clarity and added columns for calculations to assist in the comparison.

Findings

In Attorney General Goddard's press conference, he stated that 120,888 ballots were examined. However, the attorney general's detailed reports of the hand count indicate that only 120,311 ballots were examined. We attempted to obtain an explanation of this discrepancy from Meg Hinchey, the attorney general's special agent who oversaw the hand count. She referred us to Anne Hilby, who spoke with us and then referred us to Steve Wilson. Neither of them was able to explain the discrepancy. Since the detailed reports of the hand-count results were obtained from the attorney general's office through an open records request, we have based our analysis on those reports.

Discrepancies are listed below and described in the pages that follow.

- A. 1,152 fewer pollsite/provisional ballots and 642 more early ballots were counted in the attorney general's examination than in the canvass.
- B. In 285 (70%) precincts, the number of pollsite/provisional ballots examined by the attorney general differs from the number reported by the county.
- C. Pollsite/provisional ballots from 9 precincts are missing from the county's report of election-material boxes stored with Iron Mountain. The attorney general counted ballots from 7 of those precincts.
- D. The attorney general counted one pollsite or provisional ballot from Precinct 400 in which the county reported no pollsite or provisional ballots were cast.
- E. Entire precincts were missing from the attorney general's examination of pollsite/provisional ballots.
- A. 1,152 fewer pollsite/provisional ballots and 642 more early ballots were counted in the attorney general's examination than in the canvass.**

The following table shows the number of ballots of each type canvassed and the number of each type hand counted. (See MS Excel file¹², Worksheet 1)

	Ballots		
	# Canvassed	# Hand counted	Difference
Pollsite/provisional ballots	86,895	85,743	- 1,152
Early ballots	33,926	34,568	+ 642
Total	120,821	120,311	-510

- B. In 285 (70%) precincts, the number of pollsite/provisional ballots examined by the attorney general differs from the number reported by the county.**

The attorney general's report shows 159 precincts in which a total of 1,541 fewer ballots were hand counted than the number of ballots counted in the canvass for those precincts; and 126 precincts in which a total of 389 more ballots were hand counted. This means that the number of ballots in 69.68% of the precincts did not match, and the attorney general counted 1,152 (nearly 0.1%) fewer ballots than the county reported as cast. (See MS Excel file¹³, Worksheet 1)

	Fewer Pollsite & Prov Ballots Counted by Attorney General			More Pollsite & Prov Ballots Counted by Attorney General		
	Canvass	AG	Diff	Canvass	AG	Diff
# Ballots	35,326	33,785	1,541	30,668	31,057	389
# Pcts	159	156	159	125	126	126

- C. Pollsite/provisional ballots from 9 precincts are missing from the county's report of election-material boxes stored with Iron Mountain. The attorney general counted ballots from 7 of those precincts.

Ballots from 5 precincts and 2 two-precinct voting centers were not included in the county's report of ballot boxes stored with Iron Mountain. The attorney general counted 1,693 ballots from 7 precincts whose ballots the county did not report storing with Iron Mountain. In only two cases (Precincts 198 and 351) did the number of ballots counted by the attorney general match the number counted by the county. (See MS Excel file¹⁴, Worksheet 2)

Precinct	Storage Box #	Ballots Counted	
		Canvass: Pollsite & Prov	Attorney General: Pollsite & Prov
99	None	325	377
108	None	224	220
116	None	230	3
174	None	318	0
183	None	259	255
198	None	282	282
207	None	285	286
351	None	270	270
380	None	77	0
Total		2,270	1,693

- D. The attorney general counted one pollsite or provisional ballot from Precinct 400 in which the county reported no pollsite or provisional ballots were cast.

The canvass reported no ballots at all cast in Precinct 400. The attorney general counted one "phantom" ballot from that precinct as an undervote.

Precinct	Total Ballots Counted		Undervotes Counted	
	Canvass	Attorney General	Canvass	Attorney General
400	0	1	0	1

E. Entire precincts were missing from the attorney general’s examination of pollsite/provisional ballots.

The attorney general counted no pollsite/provisional ballots from 3 precincts in which the county reported 470 ballots were cast and only 3 of 230 pollsite/provisional ballots the county reported cast in one precinct. (See MS Excel file¹⁵, Worksheet 3)

Precinct	Ballots Counted	
	Canvass: Pollsite & Prov	Attorney General: Pollsite & Prov
116	230	3
174	318	0
236	75	0
380	77	0
Total	700	3

Conclusion

Comparing the number of ballots hand counted and the number canvassed revealed severe discrepancies that require further investigation. The extent of the discrepancies indicates that:

- ◆ The attorney general’s report contains significant errors,
- ◆ The county’s canvass report and transmittal sheets contain significant errors,
- ◆ And/or the ballots hand counted were not the same ballots that were canvassed.

The questions raised by these discrepancies could be answered by examining the election-night precinct poll tapes and poll worker reports from the RTA election. These documents are still available in the boxes in which the ballots are stored.

A precinct poll tape is printed by each optical scanner at the end of election day. It shows the number of ballots cast and the results for each contest on the ballot.

A poll worker report (informally known as a “yellow sheet”) is completed by poll workers in each precinct at the end of election day. It shows the number of voters who signed in and an accounting of the ballots.

A sample poll worker report and the top portion of a corresponding precinct poll tape are shown on the following page.

The attorney general did not examine poll tapes or poll worker reports as part of his criminal investigation, and as yet the Pima County Democratic Party has been unable to obtain them through open records requests.

Examining the poll tapes and poll worker reports would answer these questions:

- ◆ How many ballots were scanned by each machine in each precinct?
- ◆ How many “yes” selections, “no” selections, undervotes, and overvotes were recorded by each machine in each precinct?

- ◆ Did the number of ballots cast in each precinct match the number of voters that signed in?

Without definitive answers to these questions – answers that the poll tapes and poll worker reports could provide -- the discrepancies revealed in this report cannot be resolved.

In his April 21, 2009 press conference Attorney General Goddard said of the ballots:

“We had to preserve this situation so that if, in fact, we were to determine that a major difference was found between the hand count and the previously reported count, that we’d be able to proceed to trial without damaging the evidence involved.”

This report establishes a “major difference” that requires an examination of the poll tapes and poll worker reports. Especially in light of the irregularities that convinced Attorney General Goddard that “there was reasonable suspicion that a crime might have been committed,” the possibility of ballot tampering remains an open issue.



OFFICIAL BALLOT REPORT AND CERTIFICATE OF PERFORMANCE

VOTING AREA # 271

ELECTION DATE November 2, 2004

Color of Ballots or Color Stripe with Number of Ballots Issued	
NONE 1700	TOTAL ISSUED 1700

***** FILL IN THE FOLLOWING ON ELECTION NIGHT AFTER THE POLLS ARE CLOSED *****

BALLOT TRANSFER BAG SEAL # 24241

- 1. TOTAL NUMBER OF BALLOTS ISSUED (From above TOTAL ISSUED) 1700
- 2. COUNT OF NAMES WRITTEN IN THE POLL LIST(S) 658
- 3. *TOTAL BALLOTS CAST* FROM TOTALS TAPE 605
- 4. PROVISIONAL BALLOTS 53
- 5. COUNT OF SPOILED BALLOTS - VOTER ISSUED A REPLACEMENT 17
- 6. COUNT OF UNUSED BALLOTS 1025

DISCREPANCY STATEMENT: _____

NO 02

 ELECTION RESULTS REPORT

 Pima General 110204
 DATE: 11/02/04
 TYPE: G
 POLL CTR: 271A00
 TIME: 17:42:47 11/02/04

 ** PRECINCT: 271 **

 BALLOTS CAST 605

 PRESIDENTIAL ELECTORS
 RACE # 5

 KERRY, JOHN 384
 BUSH, GEORGE 216
 BADNARIK, MICHAEL 2
 # WRITE-INS 0

 U.S. SENATOR
 RACE # 10

 STARKY, STUART 187
 MCCAIN, JOHN 386
 HANCOCK, ERNEST 14
 # WRITE-INS 0

 U.S. REPRESENTATIVE DIST

CERTIFICATE OF PERFORMANCE

For the General Election held on the 2 day of Nov

We hereby certify that all voters whose signatures appear upon the Precinct Signature Roster voted in th after signing the Signature Roster, failed to vote or were challenged and denied the right to vote as indicated on the voters who voted in this election in this voting area is as indicated in the statement below.

We further certify that the total number of Official Ballot Cards received, voted, or spoiled as indicated be and correct in every way.

We further certify that the Challenge List shows a complete list of all persons challenged, together with th

Therese Villavicencio
 Inspector
Alice Shumaker
 Judge
John D. ...
 Judge

 Special Assistant

Jean E. ...
 Clerk
Robert C. Strand
 Clerk

 Marshal

 Special Assistant

WHITE COPY - UNOFFICIAL BAG, YELLOW COPY - BALLOT TRANSFER BAG

PLT# 3110

Sample poll worker report and the top portion of a corresponding precinct poll tape

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- ¹ Video of Attorney General Goddard's April 21, 2009 press conference. <http://blip.tv/file/2022123>. Time 18:10.
- ² <http://blip.tv/file/2022123>. Time 11:25.
- ³ http://www.azag.gov/press_releases/april/2009/RTA%20investigation%20results%201.pdf
- ⁴ http://www.azag.gov/press_releases/april/2009/RTA%20investigation%20results%201.pdf
- ⁵ <http://www.votersunite.org/info/IronMountainTransSheets.pdf>
- ⁶ <http://www.votersunite.org/info/RTA-SOVC.pdf>. See pages 36 through 72 for details about the results of Question 2.
- ⁷ <http://www.votersunite.org/info/RTAVoteCentersWithCardsByID.pdf>
- ⁸ <http://www.votersunite.org/info/EarlyVotingQuestionTwoExcel.pdf>
- ⁹ <http://www.votersunite.org/info/PollingPlaceQuestionTwoExcel.pdf>
- ¹⁰ <http://blip.tv/file/2022123>. Time 18:10.
- ¹¹ <http://www.votersunite.org/info/RTAElectionComparisonCanvass&AGHandCount.xls>
- ¹² <http://www.votersunite.org/info/RTAElectionComparisonCanvass&AGHandCount.xls>
- ¹³ <http://www.votersunite.org/info/RTAElectionComparisonCanvass&AGHandCount.xls>
- ¹⁴ <http://www.votersunite.org/info/RTAElectionComparisonCanvass&AGHandCount.xls>
- ¹⁵ <http://www.votersunite.org/info/RTAElectionComparisonCanvass&AGHandCount.xls>