

# Chapter 13

# Black Box Voting

Ballot Tampering in the 21st Century

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with

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## 13

### Practical Activism

“MoveOn should take this issue on.”

“What about contacting the ACLU?”

“Have you thought about calling Bill Moyers?”

“Congress should launch an investigation.”

All great ideas, but they are missing something. Taking back our vote is not something we can depend on others to do for us. Our ability to control our own voting system is one of the most important issues there is, therefore it requires that we apply the *top* talent we have. Nothing less will do. This job needs *you*.

What are we fighting for?

Simply this, and we must accept nothing less: We want voting systems to produce voter-verified paper ballots, and those ballots must be considered the legal record when used for recounts and audits. Audits of the voter-verified paper ballot against machines, if machines are to be used, must be robust and routine. Such systems are the only way to restore confidence in our voting machines.

**We need to get to work immediately on two things:**

**1. Emergency solution:** We need an interim solution that will give us confidence in our voting system for upcoming elections.

**2. Long-Term solution:** We need a bulletproof bill passed by Congress to solve the problems revealed in this book.

We also need to block new legislation designed to protect and encourage flawed election systems, identify public officials who allow such systems to grow or refuse to support sensible reforms, and re-educate those who are open to it.

For the most intransigent, toss them out of office. And we need to spread the word as widely and quickly as we can. Let's get started:

**THINK chads  
were BAD?**

### **A little conceptual work**

(Now look what's happened)

Some of us have a stereotyped impression of activism. We think it means joining some group marching down Main Street or standing in front of a building, holding signs and chanting.

There will be opportunities for that, and I know some people who understand exactly how to organize these kinds of public demonstrations and, if necessary, train activists to prepare for overzealous police action. But that isn't what I'm asking you to do. The following information demonstrates how we can *all* get involved, even those of us who are not inclined to march down the freeway in the rain.

### **Swarms work better than centralized power**

A powerfully organized group formed around a single charismatic person can be stopped in its tracks simply by attacking its head. Regaining a voting system that inspires confidence can more readily be achieved by a loosely organized set of allies, coming at the problem from different angles in unpredictable ways. It's impossible to decapitate a swarm, and a series of stings tends to provoke reactions which in turn attract interest from new hives. We'll see many examples of this concept in action in this chapter.

In the swarm method, those who show leadership and tenacity are encouraged to form their own followings. There are no requirements that groups share information about their doings with any central authority, nor should everyone use the same approach. Now and then we meet at the water cooler, but only if we feel like it.

We need not even get along or agree completely on what the solution should be, though that would be nice. Indeed, our opposition may try to wedge us apart, but we're quite capable of bickering and internal drama even without that. If one group of activists becomes irritated with another, as long as both keep coming

after the issue without pause, the strategies of each group — because they are different — become all the more unpredictable to the opposition.

A diverse and somewhat chaotic approach to the voting machine problem has proven effective so far. Ordinary citizens have had a real impact with almost no financial backing, applying different talents and using the Internet. Opponents of auditable, safe paper ballot voting systems have had great difficulty neutralizing such tactics.

Now we need to increase the number of people in the swarm and build more hives. At [www.BlackBoxVoting.org](http://www.BlackBoxVoting.org),\* you will find a growing list of resources that you and other activists can use.

It is up to you to decide what your role will be in this movement. For my part, I know that I am not by nature an organizer or a schmoozer or a political strategist. I have a knack for research and communications, so my goal has been to provide others with documentation, writing and a voice in the media. I offer the following suggestions to help you define your own role:

1. Take stock of what you like to do already. You'll be more effective if you invest your time doing things you enjoy.
2. Look at your skill set and apply your talents to this cause.
3. Create a group of friends, using the Internet, the telephone or face-to-face meetings, so that you can enjoy socializing as part of your activism.

The remainder of this chapter will illustrate how ordinary people like you have used their talents to make a difference. If you're not sure where to start, begin by visiting the activism forums at [www.BlackBoxVoting.org](http://www.BlackBoxVoting.org).

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\*Following a 30-day takedown triggered by a Diebold demand, [BlackBoxVoting.org](http://BlackBoxVoting.org), a site owned by the author, was nearly decapitated itself and had to start all over on Oct. 23, 2003. In a demonstration of the effectiveness of the swarm strategy, when it shut down people migrated to other activism sites, and the movement did nothing but grow.

When we began posting chapters of this book online for free, the “.org” site was unavailable and [BlackBoxVoting.com](http://BlackBoxVoting.com) was the main distribution point. Owned by Plan Nine Publishing's David Allen, the “.com” site has different ownership and hosting than the “.org” site. Each time new chapters were published, the “.com” site was attacked and disabled with hacking and bogus spam complaints.

While both Web sites were taken out, citizens began systematically spreading Black Box Voting chapters through the Internet via IndyMedia and blogs and also hosted chapters of the book themselves, chattering loudly about these suppression efforts and drawing even more people into the swarm.

\* \* \* \* \*

David Elliott is assistant director of elections for the state of Washington. One day, he answered a phone call from a concerned citizen about a Washington State requirement for prior certification. In Washington, voting systems will be accepted only if they have first been certified and used elsewhere (in addition to NASED certification). The caller, Linda Franz, thought that requirement stifled state options for voting equipment. Elliot suggested she support pending legislation that would delete those requirements.

I suppose he didn't expect her to look up the legislation and read all of it, because that set off alarms and a call to action — and this quite often happens when you fight for legislative change.

After looking more closely, she found that the *only* positive aspect of the bill in question was dropping those prior use/certification requirements. The rest of the bill eliminated the requirement for a separate ballot, enhanced the legality of the electronic vote record and gave the secretary of state free rein to accept voting system changes, certified or not. Franz, along with other concerned citizens such as computer consultant Marian Beddill (Finance Committee chair for Whatcom County Democrats), stopped the bill — and its various incarnations — in its tracks.

Never underestimate the power of one or two determined people.

Linda Franz is not a very public person, and, though she is one of the driving forces on voting activism, she does it so quietly that few people outside the elections industry even know who she is.

Why would a private individual such as Franz decide to take on voting legislation and the public officials who are promoting it?

“All I know is that I'm 50 years old, and I never expected to have to spend the second half of my life fighting for my son's right to vote,” she says.

But fight she has, and with the help of Beddill and a local group called Whatcom Fair Voting, she has stopped legislation designed to promote unauditible, paperless voting in Washington State.

Since those initial steps, and thanks to referrals from Dr. David Dill, a state group, called Citizens for Voting Integrity—Washington (CVI), has been formed.

CVI has a singular goal: to insure that voting systems produce voter-verified paper ballots and that those ballots are used for recounts and audits as the legal ballot. Such systems are the only way to produce tangible evidence of true voter intent.

I would add: “Audits of the voter-verified ballot against machines, if machines are to be used, must be robust and routine.”

With Beddill, Franz began attending meetings explaining the dangers of auditless voting, and she has been remarkably effective. She provided many of the suggestions in this chapter.

### **What are *your* talents and interests?**

New York City’s Jeff Matson has a knack for coming up with slogans and sound bites. He put out a call on the Internet for ideas on quick, appealing messages to help all of us spread the word.

What followed over the next 48 hours was a flurry of ideas for public awareness tools that you may find useful. Volunteers offered their own contributions and made them available for you to use on bumper stickers, pins, billboards, posters, flyers, T-shirts and ads.

**no paper?  
no proof.**  
ask me about your vote



This voter chose to highlight the failure of the Help America Vote Act (HAVA) to mandate proper accounting:

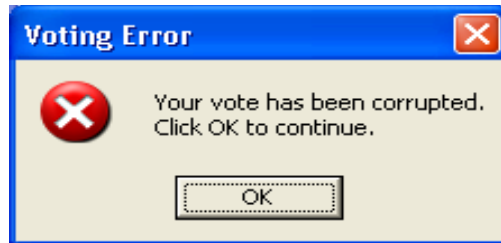
**H**elp **A**merica **V**ote **A**ct?  
**H**ow **A**bout **V**oting **A**ccountability!

David Allen weighed in with an ingredient label:

**Diebold Black Box Voting Ingredients**

Taxpayer money .....	\$5000
Security Flaws .....	328
Critical Security Flaws .....	26
CEO commitments to deliver election to GOP .....	1
Tamper-proof Paper ballots .....	0
Your vote .....	None of your business

One voter suggested a play on words using the term “corrupted”:



You can pick up images for many of these in the “Gallery” forum at [www.BlackBoxVoting.org](http://www.BlackBoxVoting.org).

Matson got such an enthusiastic response to his request that we can pepper the rest of this chapter with ideas that grew from his simple activism request, and you can use these concepts as needed. (If you like the feeling you’re getting while you read this chapter — I believe this feeling is called “democracy” — compare it with the feeling you get while you read the next chapter, “The Men Behind the Curtain.”)

## What other skills can you bring to the table?

How about these:

**Dogged determination** — Keep the message up front and let your elected officials know you are not going away and that you expect to defend your right to vote. Call them, write them, email them, FAX them and by all means, visit them.

**Number crunching** — One of the propaganda points used by vendors is this: *The election went smoothly and no one reported any problems.*

Of course not. In Chapter 2, you read about dozens of documented voting machine miscounts, *yet hardly any of them were discovered while people were voting on the machines.* Problems with electronic voting machines are found when auditing procedures uncover numbers that don't match, and that happens after the election — often days later, when media interest has died down.

One of the most valuable skills a voter can bring to the table is the ability to hunt out vote totals as they are coming in, catch anomalies, report them and join others in analyzing them. Skills with spreadsheets and statistics are badly needed, especially around election time. If you know how to work with numbers, hop online on election night and flag discrepancies, then post them in the “Number Crunching” forum at [www.BlackBoxVoting.org](http://www.BlackBoxVoting.org), where you can compare notes with other voters.

A citizen volunteer who goes by the screen name “SirRhino” reported these numbers after returns came in for the 2003 California recall election:

“After printing the spreadsheet out, taping it to a wall and contemplating it for a while, There are 3 counties that give me pause, Alameda and Tulare, and possibly Humbolt.

### **In Tulare**

“- Jerome Kunzman (Ind) - got 694 votes while he got only 56 in LA. (the county with by far the highest voter turnout). Jerome's second highest was in Fresno (366) and third highest in Humbolt (240).”

I  
**VOTED!**  
*Or did I?*



This citizen wanted to take a look at why Kunzman got 14 times as many votes in a small county like Tulare, and noted that Tulare, Fresno and Humbolt are Diebold counties.

Other volunteer number-crunchers joined in to examine the numbers, suggesting an explanation:

“Thanks for pointing out the Tulare ballot - don’t know how the heck you found it, but it seems to answer the Palmieri/Kunzman issue. Wouldn’t you know it – those blasted BUTTERFLY-type ballots are back.”

— “Harmony Guy”

# BBV

Black Box Voting =  
Blind Faith Vote?

<input type="checkbox"/>	CHERYL BLY-CHESTER Businesswoman/Environmental Engineer	Republican	<input type="checkbox"/>	PETER V. DASSAROSH Businessman/Cyberlaw Attorney	Republican	<input type="checkbox"/>	GINO MAROTTA Real Estate Owner	Republican
<input type="checkbox"/>	M.C. SMYTH Lecturer	Independent	<input type="checkbox"/>	GILL PROBY Television Editor/Producer	Democrat	<input type="checkbox"/>	PAUL BARBARO Attorney	Democrat
<input type="checkbox"/>	DAVID RONALDO SAMS Businessman/Producer/Writer	Republican	<input type="checkbox"/>	DASH PRICE University Chemistry Instructor	Independent	<input type="checkbox"/>	ROBERT E. MANNING Retired Businessman	Democrat
<input type="checkbox"/>	JANIE ROSEMARY BIFFORD Business Owner	Republican	<input type="checkbox"/>	GREGORY J. FARLIN Radio/Businessman	Republican	<input type="checkbox"/>	FRANK R. MACGILLIS, JR. Physician/Medical Doctor	Democrat
<input type="checkbox"/>	CHRISTOPHER STEVEN STRAUSS Landscape Architect/Student	Democrat	<input type="checkbox"/>	LEONARD PRADILLA Law School Professor	Independent	<input type="checkbox"/>	PAUL "CHIP" MALKIN Golf Professional	Democrat
<input type="checkbox"/>	ARNOLO SCHWARZENESSER Actor/Businessman	Republican	<input type="checkbox"/>	NORALEE JASON PALMERI Gay Rights Activist	Democrat	<input type="checkbox"/>	DEBRAE EUGENIA MCCARTON Dancer	Republican
<input type="checkbox"/>	GEORGE B. SCHWARTZMAN Businessman	Republican	<input type="checkbox"/>	CHARLES "CHUCK" PRIDEA, JR. State Housing Officer	Democrat	<input type="checkbox"/>	MIKE MCCRELLY Artist	Republican
<input type="checkbox"/>	MIKE SCHMIDT Athlete	Democrat	<input type="checkbox"/>	HEATHER PETERS Musician	Republican	<input type="checkbox"/>	MIKE P. MCCARTHY Used Car Dealer	Republican

From the 2003 Tulare County, California recall ballot.

**Web design and Internet skills** — If you can volunteer to put together simple Web sites, you’ll find many takers in the activism community.

Some high-profile activism sites also need help with security and cracking-prevention. Many become targets for segments of society that disagree with their message and feel such views must be suppressed. A little security help can frustrate these attempts at censorship.

**Computer programming** — A 28 year-old computer programmer named Jeremiah Akin decided to show up at a public Logic and Accuracy (L&A) test in Riverside County, California. He was shocked when he was told to sign off on the test before it was completed. He wrote a 22-page report about various anomalies he spotted during testing of the Sequoia machines and submitted it to

BlackBoxVoting.com and to reporters. Akin’s story was featured in the online magazine *Salon.com*, exposing important problems with the certification process.

If you have computer programming knowledge, your presence is needed at public testing and certification meetings.

Also, you can write excellent letters to the editor and call in to talk shows when you see things that don’t make sense. Some public officials make statements that are ridiculous, like this one: “[Election Center Director R. Doug] Lewis says that if you have ‘malicious code in the system’ — such as a simplistic virus, perhaps, designed to change a vote cast for one candidate into one for his opponent — the code will be caught in the testing phase of the certification process.” According to Lewis: “It will not compile right.”<sup>1</sup>

This foolish answer, provided by one of the most powerful “experts” in the voting industry, was quickly debunked by computer programmers. A software compiler is simply a tool. It translates computer code into a machine language. It does not make moral judgments.

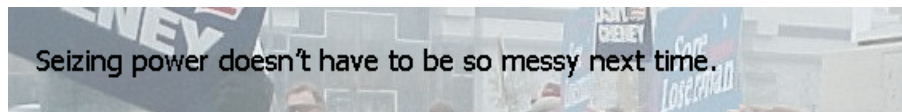
As we move forward with reform, we will need input from computer scientists to develop and critique open-source voting system software, and to speak out publicly when vendors and election officials get it wrong.

**Writing** — If you are a good writer, you can help other activists hone their message into concise, clear, credible handouts and assist candidates by providing material they can use in speeches and position statements.

These days citizens can collaborate on project like this using online public forums.

#### **A word about how forums work:**

If you have not used an Internet forum before, now is the time to learn. The BlackBoxVoting.org forum is “self-serve.” You simply go to the Web page, log in, and you can ask for resources, request research, post your own documents and



artwork for others to use, and even use private meeting rooms to discuss strategy out of the public eye.

We have used these private forums to assist candidates who are assembling tools for their voting platform and even to help investigative reporters who are working on a story. Activists who contribute quality work are invited into the private forums for special projects.

Other self-serve resources at BlackBoxVoting.org include a public library filled with voting machine articles and documents, a calendar that lets you enter your own events and a contact database where you can post contact information for public officials, groups and media.

Several public forums are available, each with a different style. I designed ours to be a “roll up your sleeves and get to work” format; others provide discussions, or focus on specific states. Among the sites that have forums for voting issue activists:

From Black Box Voting:

**[www.BlackBoxVoting.org](http://www.BlackBoxVoting.org)** — Participatory activism

**[www.BlackBoxVoting.com](http://www.BlackBoxVoting.com)** — News & Comment

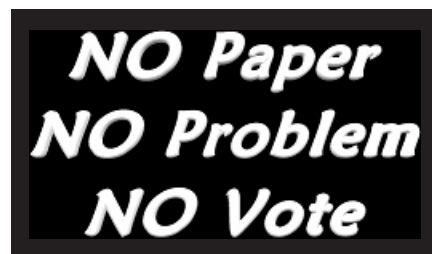
**Others:**

**[www.VerifiedVoting.org](http://www.VerifiedVoting.org)** — Discussion; also has very good resources for congressional tracking. Founded by Dr. David Dill.

**[www.OpenVoting.org](http://www.OpenVoting.org)** — Open Voting Consortium: A non-profit org dedicated to the development and delivery of an open voting solution.

**[www.VoteWatch.us](http://www.VoteWatch.us)** — Voting issue discussion and election discussions. Founded by Steven Hertzberg, it is the first live-time election reporting site.

**Desktop Publishing** — Visuals are important for demonstrations and to create powerful communications that tell the story through imagery. If you enjoy creating brochures, posters, hand-outs, and other educational materials, you can contribute your ideas to the Gallery section in the



E-voting system flaws risk election fraud  
New Scientist, UK - Jul 25, 2003

Election fraud risks attract wide notice  
The Inquirer, UK - Jul 25, 2003

US researchers critical of electronic voting systems  
The Age, Australia - Jul 24, 2003

Voting machine fails inspection  
CNET News.com - Jul 24, 2003

Security Of E - Voting Systems Seriously Questioned  
Information Week - Jul 24, 2003

High-Tech Votes Can Be Hacked, Scientists Say  
Reuters, UK - Jul 24, 2003

Study finds computer voting system vulnerable to tampering  
San Jose Mercury News, CA - Jul 24, 2003

E-voting flaws risk ballot fraud  
MSNBC - Jul 24, 2003

## **Does it count accurately? What do you base that 'yes' on?**

BlackBoxVoting.org forum. Your contributed work may very well end up at rallies, in libraries and at town meetings.

**Printing** — Contributing at-cost printing is an important activism activity, to get newsletters and fliers into as many hands as possible.

**Organizing** — If you are a good organizer and like to get on the phone and work with the media, your help is needed both for events and to corral creative talents into applying their skills where they are most needed.

**Public speaking** — If ever there was an issue that begged for town meetings, this is it. You are a voter and therefore have a stake in telling people about the problems and what needs to be done. Feel free to draw from this book to

## ***WHERE'S MY BALLOT?!?***

develop your speeches, and you'll find much more information in the "Use This" forum and the "Public Library" at [BlackBoxVoting.org](http://BlackBoxVoting.org).

Sometimes we are blessed with a person who has organizing, writing and public speaking skills all rolled into one, and when such a person also has tenacity and media skills, she can influence an entire state — even one as vast as the state of California.

Kim Alexander, president of the California Voter Foundation, is such a person. With degrees in political science and philosophy, Alexander cut her teeth in activism while working with the powerful citizen lobby Common Cause. She then breathed life into the California Voter Foundation in 1994.

Alexander has led successful efforts to mandate electronic filing and Internet disclosure of California campaign-finance data. For nearly a decade, she has been at the forefront of efforts to make our political system more accountable, with voting machines and other efforts. Alexander brought this experience to the fight for trustworthy voting systems, and she has been a powerful and effective advocate for your rights.

**Telephone work** — If you are organized and unafraid of the telephone, your talents are badly needed.

Andy Stephenson is one such person. On many occasions he helped me track down information that could only be obtained through telephone work.

"Hey, Bev," he said, "I am really committed to this issue. I'm willing to call anyone and ask them anything." Stephenson turned out to be very skilled; he was the only researcher I allowed to assist me with calling sources insideDiebold it-



self. He takes excellent notes, but more than that, he seems to be able to get people to do things for him. He called the secretary of state's office in Georgia and somehow persuaded it to fax him certification documents that had eluded Georgia activists even after two public records requests.

Though you may not have Stephenson's formidable skills, if you are not shy about calling, you'll find that most leaders need people to help them locate information by phone. *Where is that meeting? How do I find the rules and regulations for records requests? Can you send them to me?*

**Political and lobbying skills** — If you have the ability to read legislative law, which can be daunting to some, we need you. We need citizens who can go into current and pending legislation, interpret and make a concise translation.

Your mission, should you choose to accept it: An examination of state laws needs to be done, to identify which states need new legislation to correct obvious errors, such as not allowing paper ballots to be recounted. We need this so that activists can urge legislative correction.

Legislative activism requires people who refuse to let stubborn officials shake them loose. Linda Franz is such a person. She has a knack for figuring out other people's alliances and positions, so she can quietly maneuver around (or at least intelligently predict reactions). Franz admits she's still learning about the legislative process from others; a lobbyist for other issues gave her valuable help. If you are new to this, try to find someone to work with who already knows the system.

Here are some of Franz's suggestions:

- When naming a group, make sure it encompasses a broad region, like a state. Franz found that once citizens statewide learned there was an organization working on the voting issue, they wanted to join. Also, if you tie the name to a specific county, representatives from other areas might not listen, because they assume your group would only represent that area. The group uses e-mail to communicate and sends out regular communiqués to state legislators.

- Don't forget ethics complaints. Many elections officials seem to skate very close to the line when it comes to mixing private and public business. In some states, ethics allegation can be filed *after* the official's time in office, allowing redress long after elections have become old news.

## Ask ME About YOUR Vote!

- You'll often hear Franz telling people to be careful how they use language because she has learned that clever lobbyists will weasel around any words they can.

“Voter verifiable” ballot sounded good, until we learned that companies like VoteHere proposed to use printers at the polling place, not for printing a ballot that you can look at and authorize, but to print a receipt with a code on it, which you can take home, look up on the Internet, and “verify” your vote. Of course, this defeats the purpose of checking the ballots against the

machine count because to do that, you need all the ballots in one place. And if we can have a printer produce a receipt with a secret code, why not just have it print a *ballot*?

With the advent of new systems, further refinement may be necessary. One system proposes to print bar code on a paper ballot that is then read back to the voter via a bar code reader. Not acceptable. Can the average voter read bar code? How do you verify what was “read” vs. what the machine — and even the bar code — might actually say? This leads to an addition:

“Voter-verified paper ballot, that the voter can read without an interface (except for certain disabled individuals who need such help), said ballot deposited in a secure ballot box at the polling place.”

While you are watching your language, train your tongue to say “ballot,” not “receipt,” because opponents have been passing laws to make the electronic record (not the paper ballot) become the legal representation of the vote. Call it a ballot because a ballot has legal standing. Avoid calling it a “paper trail” and never call it a “receipt.”

More language lessons: Affix the words “voter-verified” to the words “paper ballot,” because if you don't, opponents will tell you the machines do produce a “paper trail.” What they are talking about is the machine's ability to print individual pages from its internal data, which of course the voter never gets to check when he casts his vote.

Franz also researched why Avante and AccuPoll (manufacturers that produce a touch screen with a paper ballot) were not being chosen for purchase in





OR



### **THE CHOICE should BE YOURS !!!**

her state. Accupoll is close to meeting Washington State requirements, but she discovered that Avante, which *is* qualified, appears blocked from even beginning the Washington State certification process.

Avante meets qualifications for Washington certification, but for some reason Washington doesn't act on its certification documents and issues statements that conflict with the truth. Assistant Elections Director David Elliott told listeners on the Dave Ross radio show January 3, 2003, "...and if anybody comes to market with something like that, we'll certify it for use in Washington State. No one has presented a system like that for certification yet."<sup>2</sup>

Franz looked it up: Indeed, Avante had applied for certification in December 2002 and has made repeated attempts since then. Elliott surely knew about Avante before the Dave Ross Show because he sits on NASED's Voting Systems Board, which certifies voting machines. There have been only two vendors making touch-screens with voter-verified paper ballots, and Avante has been around since 2001, so it does not seem plausible that Elliott is not aware of them.

You, like Franz, can start pursuing questions like this. Find out what's going on with certification of vendors who already produce a voter-verified paper ballot with their machines. Investigate. Don't take answers at face value.

A citizen who goes by the moniker "larry1" unearthed the request for sales proposal for Ohio, and reports that Ohio will not allow any machine with a paper ballot that can be removed from the polling place. What is the purpose of such a law? We have been voting with paper ballots for 230 years, and this is the first I've heard of some diabolical urge on the part of voters to remove their ballots from the polling place instead of placing them in a ballot box. AccuPoll's ballot could, I suppose, be crumpled up, stuck in a pocket and removed — but why? However,

**Think YOUR  
vote counts?  
- NO PAPER  
- NO PROOF**



with Avante, you can look but not touch. Such a law seems designed to protect and encourage flawed election systems.

**Jim March** is an entirely different kind of lobbyist. He decided in August 2003 to apply his bespectacled, 6-foot-4 inch presence to voting issues. March, a computer programmer, noticed that the San Luis Obispo (SLO) County, California, vote database found on the Diebold FTP site contained real votes, and he decided to get involved in voting issues.

In “real life” he is a Republican/Libertarian gun lobbyist who lives near the Capitol in Sacramento. March thinks nothing of crossing the street (and party lines) to talk to Democrats, pulling out CDs he created which contain a certified version of GEMS software, used in actual elections, with step-by-step instructions for how to slip by passwords and change the audit log. He brings this CD to reporters and public officials and demonstrates the GEMS software’s flaws to them.

His style differs markedly from that of Franz; he does not focus on specific legislative language, but on influencing lawmakers' willingness to tackle the issue. He is flamboyant and makes some activists uncomfortable, but in just twelve weeks, he managed to get two national news articles focused on voting machine security problems, and he has met with many California politicians.

March collars legislators on their way to the Capitol to update them on voting machine problems and shows up at state certification meetings, asking sticky questions about failure to certify Diebold’s customized underlying operating system, Windows CE.

(This issue is likely to unplug the Diebold touch-screen machines if it is taken into a court of law.)

He posted the SLO County vote database and some of the most important Diebold memos on his Web site

```
*AcPa' ELECTION RESULTS REPORT' E=8aace0ac60aaLbqLahLafobbt' PRI'
*NTING LABEL' XWfy' *' B1XbWfy' *' LAIPb (8bc' ' ) B1ENDSbdPb(S
"bd' ' ) B1Xb(' DATE: 9/15/98 TYPE: %bbbbsba)Xb(' POLL CT
"R:' %bppsbe)EQbXb('Xb('VERSION:} %bdkYSaba' COPY:' %bckYSab
"b)Xb('COUNT: %bdkYSbp' SIZE:' %bfkYSabd)Xb('ACCU-VOTE
RELE" xNfI' 6AD8GDii|p'PB. @lyfA: -0"aaaPa' ZERO TOTAL
REPORT' QaaBqLAdPa' TEST ZERO REPORT' QaaBqLae""
"ASE:' %bggSaaa)Xb('PRECINCT CHECK: %bgkY+8aca8acc)Xb('COUNT
"ER CHECK: %bgkYSacb)LESadaXb' PCT DATA ERROR DETECTED' LESa
"dbXb' COUNTER ERROR DETECTED' LESadcXb' TEXT ERROR DETECTED' LLaG
"PLICATE VOTES %bddrb)Xb' 'E=sabbaXb('COPIES MADE
" %bdkYSabc)LXb('ABS TALLY OPTION %bbkYSdi)Xb('MESSAGE
^_0"gdYAcE' DU_w+ Ad080088AU0k'Ut' SNO@ Ni: -"p, 4*if4-D-A' ddi,+°e
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**VERIFY THIS**  
(Did your vote count?)

## DEMAND PAPER BALLOTS (Voting should not be a touchy subject)

and then dared Diebold to challenge his right to do so, saying, “Make my day.” Diebold tried: The company served March with a cease- and-desist order, the first in a series of Diebold legal maneuvers that ultimately resulted in a 1,500-word article about Diebold’s copyright-waving in *The New York Times*.

March filed a counternotice to Diebold, explaining why he believes he has a right to post the documents. At the time of this writing, Diebold had not taken action against March, who now holds the record for the longest Web site to remain intact after a Diebold pulldown demand.

**Filming and videotape production** — There’s nothing like seeing an employee of the state election division literally turn tail and run when you show up with a camera. That’s what happened to Greg Palast when he attempted to question Clay Roberts about the Florida felon purge.<sup>3</sup>

Another videotaper caught New Orleans voting machines giving Susan Barnecker’s votes to the wrong candidate.

A California activist who goes by the screen name “ParanoidPat” took to the streets in Alameda County on October 7, 2003, during the California recall election. He has been preparing a documentary about this issue, applying his considerable skills in computer technology (and a wonderful sense of humor) to an exposé. He’s just an ordinary guy with a talent who is applying it to something meaningful. You can, too.

**Flash Media and Shockwave productions** — Michael Stinson, of TakeBackTheMedia.com, created a powerful presentation about voting machine problems which has been making the rounds through the Internet. His presentation, set to “Revolution” by the Beatles, is politically charged and quite powerful.<sup>4</sup>

An entertaining presentation done with animation was created for TooStupidToBePresident.com, featuring Arnold Schwarzenegger quizzing Wally

**STAND**

and be counted

**DEMAND**

your paper ballot

*Should your vote be kept secret*  
*from YOU?*

O'Dell, CEO of Diebold, about the Georgia patches and other matters. It is quite funny and makes a powerful point.<sup>5</sup>

You can participate in easy activism by e-mailing links to such efforts to all your friends and posting links on your Web site. If you have talent, create your own presentation!

**Research** — Faun Otter, concerned about the lack of any exit polling in the November 2002 general election, decided to research the campaign contributions made by Diebold executives — mind you, this was before the Diebold files were found on the Web, at a time when Diebold was receiving almost no scrutiny. He discovered that Diebold's campaign contributions were decidedly lopsided towards the Republican Party.

Now, this might not be surprising — one might expect to see a Republican leaning among CEOs — but the trend was rather dramatic, and included sponsorship of politicians on the radical right, like former Republican senator, Lauch Faircloth. Otter published his findings on a Web site called Bartcop.com; they were later picked up by Scoop Media.

Following Otter's line of inquiry, Julie Carr-Smyth, a reporter for *The Cleveland Plain Dealer*, later discovered that a Diebold director named W. H. Timken is listed among the "Bush Pioneers and Rangers," an elite group of fund raisers, and uncovered the explosive story that Diebold CEO Wally O'Dell visited George W. Bush at his Crawford ranch in early August 2003 along with other Pioneers and Rangers. Days later, O'Dell wrote a letter to Ohio Republicans promising to "deliver the vote" to Bush, a revelation that has now been heard 'round the world.

We don't know what triggered Smyth to start investigating Republican ties, but it may very well have been curiosity about the story on skewed Republican fund-raising written by Faun Otter, or a tip from someone who had read Otter's work on the Internet.

Because this story is complex, we need people who can do good research on the Internet. Who knows — perhaps the the next “scoop” that *Scoop Media* breaks will be your own.

**Legal** — If there is one group of citizens who have shown a disappointing performance on this issue — yet whose skills are badly needed — it is attorneys.

The American Civil Liberties Union has been fighting for the wrong side of the issue (yes, really). They have been fighting *against* paper ballots.

We need lawyers. We also need people who can do legal research.

To date, only the Electronic Frontier Foundation has taken on work on the voting issue, and that has been limited to fighting Diebold copyright-violation claims.

What we need more than copyright lawyers are lawyers willing to work on three things:

1) Creating a template for a citizens' initiative. This can be distributed via the Internet to other states and citizens' groups.

2) Participating in legislative processes and helping write good legislation at the state and national level.

3) Filing public litigation.

One such suit, brought by Susan Marie Weber in California, takes the position that forcing voters to vote without a ballot (and therefore without auditability) is a violation of civil rights. The judge ruled against Weber; she appealed but lost the appeal, and as of this writing she is preparing another appeal. This is an important suit, and had the original been filed at this point in time, the verdict might have been different. Weber was not allowed any information about how the Sequoia machines work, and at the time she filed her suit very little information was available to help her prove her case.

**Here are some of the issues that speak to the need to file lawsuits:**

1) Fraudulent claims: We now know that not only have these machines miscounted elections (without producing any error messages), but that they also are insecure and may be prone to tampering. I believe there is ample reason by now to demand that the machines be retrofitted with a paper ballot (at manufacturer's expense) or demand a refund of monies paid.

# Make Your Vote Count GET IT IN WRITING

**There are a number of other potential causes for action. Among them:**

- Use of uncertified, unsworn technicians to evaluate vote data. In circumstances in which there are questions with the voting data, I believe that nothing in the law actually allows temporary workers from Canada to pop over the border and help call an election. Some voting machine techs are hired only for the day, and we know little or nothing about their backgrounds.

- Another fruitful area for litigation will be the failure to follow our own regulations. Use of uncertified software, failure to certify key parts of the software, installation of last-minute program modifications that have not been certified and use of unauthorized data transmission methods such as cell phones all fit into this category.

In each case, decisions need to be made as to who the plaintiff will be (The voter? The county? The state?), what harm can be claimed, what remedies will be requested and what venue (county? federal?) will receive the complaint.

If we are looking at an emergency short-term solution that will force officials to provide us with a trustworthy voting system, filing for injunctions may be our best bet. I will commit my time, expertise and resources to any who will join this effort. Now, how about it, lawyers: Will you?

It all starts with finding a few good men and women in the legal profession, willing to do what the rest of us have been doing for a year now: Like the computer programmers, like the citizen lobbyists, like the artists and the freelance reporters, it is time for some attorneys to step up to the plate to help protect democracy.



## ACTIVISM STRATEGIES

We've talked about how your skills can be used. We know what we want (voter-verified paper ballots, with those ballots being used for recounts and audits as the legal ballot, with audits of the voter-verified paper ballot against machines, if machines are to be used. Audits must be robust and routine.)

Here are some strategies, but remember that it all needs to end up on one doorstep: effective legislative change.

- Set up events and participate in meetups
- Pay visits to public officials
- Communicate with others by with e-mail lists
- Help the media do its job — Call and remind reporters to cover voting stories and ask for corrections if they omit important information about voting security.
- Advertise — Buy a TV ad. Print bumper stickers. Rent a billboard.
- Become the Johnny Appleseed of election reform. Put this book in people's hands. If you can't afford it, print a free copy off the Internet.
- Enter politics yourself — Andy Stephenson, who assisted in running down some of the information for this book, decided to do just this. The most powerful position controlling voting machines in your state is the secretary of state position. Sam Reed, Washington secretary of state, has been doing everything he can to promote un-auditable voting. He even has a tour (paid for by the taxpayer, of course) where high schoolers are indoctrinated into the "blessings" of improperly audited touch-screen voting.

Stephenson announced his candidacy for secretary of state, campaigning exclusively on a Take-Back-the-Vote platform. Perhaps elections officials don't see the problem, but clearly, ordinary citizens do.

**If you didn't see a ballot  
you might not have voted**

“They hug me,” he says. “They are so worried about this, and no one is listening to them. I tell them, ‘It is *not* a done deal — This is *our* vote. It belongs to *us*. And I’m going to help you take it back.’”

- Monitor elections — Quietly become a vote watcher or poll worker during upcoming elections. If you have the right equipment, you might also want to monitor for wireless transmissions during and after the election.

- Get involved with your community, especially if you have connections with the people most likely to be disenfranchised — ethnic groups, people with disabilities and senior citizens.

### **The whack-a-mole story**

If you have been in an arcade, you’ve seen the game in which you take a big foam sledge and whack moles that pop out of holes, faster and faster until the moles (usually) win.

Brent Beletsky saw that I was sniffing around the voting machine story in November 2002. He called to tell me his doings.

Now Beletsky is a Canadian, and he has taken it upon himself to fight the voting machine proliferation in Canada. This surprised me — isn’t Canada famous for its cool, calm, deliberate and speedy all-paper, all-hand-counted elections?

Yes, but that hasn’t stopped companies like Diebold from selling their machines, which are used in local Canadian elections. He has made it a mission to locate voting machines in Canada, which he told me he has found hiding in back rooms in various cities. Each time he finds one, he goes to bat against its use, fighting to get rid of it. No sooner does he whack one down than another pops up.

***I vote.  
The Machine decides?  
Not in any democracy!***



This one-man voting machine-whacker captured my imagination. While you might call him eccentric — some do — it’s also kind of heart-warming that we have someone out there finding the machines in the back rooms, fighting against their use, standing up for your right to an honest vote.

### **Diebold gets a taste of its own medicine**

I’ve been referring to “memos” here and there; they were provided to *Wired News* in August 2003, and to me in September, by someone who has inside access, who reportedly used an employee I.D. number to enter the Web site that contained them. There are 15,000 of them, and they are devastating. I believe we will be studying these memos for years to come because they contain so much information.

The first Diebold whack was delivered to a server in New Zealand;

The next went out to a DemocraticUnderground.com participant who goes by the screen name “Zhade.” Another followed, to Jim March.

I got the next one, for posting an article containing memos about Diebold's use of uncertified software.

The whacks started coming faster. An activist named “Trogl” received one. “bpilgrim,” a programmer, created a search engine that could find things in the Diebold memos. Perhaps Diebold didn’t like the suggested search terms that came with it, which recommended trying terms like “boogie man,” “fake” “hack” and “what good are rules,” which led to some of Diebold’s greatest hits.

*Whack.*

*IndyMedia*, with Web sites all over the world, started posting links to the memos and soon Diebold memos were popping up faster than mushrooms after a spring rain.

*Whack! Whack! Whack!*

The ISP for *IndyMedia*, Online Policy Group, decided to fight the takedown orders. The Electronic Frontier Foundation agreed to fight the case.

*Whack! (Oof.)*



Then, students at Swarthmore College decided to engage in electronic civil disobedience, and Diebold memos began to erupt like a bad rash on student Web sites all over the Swarthmore campus.

*WHACKWHACKWHACK!*

But you don't whack college kids without drawing a little attention to yourself. Within a week, students at eleven more colleges were posting Diebold memos.



Indymedia kept a running tally of cease and desists and memo locations. People began selling "I Got a Diebold Cease & Desist too!" bumper stickers.

Soon, students at 32 colleges had posted the memos, and on November 2, 2003, the *New York Times* did a feature on the memos and Diebold's dilemma.

I received a call from presidential candidate Dennis Kucinich's office.

"Might we get some memos?" One of his staffers asked. "The congressman might want to post them on his Web site."

At least two "greatest hits" memo sets were prepared for the honorable Rep. Kucinich, who at this writing is preparing new legislation to help us take back the vote.

\* \* \* \* \*

Folks, we must do this thing. There is no choice. Because if *we* don't define our own voting system, someone else will do it for us.

And in the next chapter, David Allen will introduce you to them.

## Chapter 13 footnotes

- 1 – 20 Feb. 2003, Salon.com: “Hacking Democracy” by Farhad Manjoo.  
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- 2 – 3 Jan. 2003, The Dave Ross Show, KIRO radio
- 3 – *Counting on Democracy*. Powerful investigative reporting into the Florida election fiasco by Greg Palast. Globalvision. <http://www.gregpalast.com>
- 4 – *Voterevolution*, by Micheal Stinson. TakeBackTheMedia.com  
<http://www.takebackthemedias.com/voterevolution.html>
- 5 – *Term-Eliminator 3 – Total Davis Recall: Rise of the Digital Voting Machines*.  
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your vote should be a **FACT**  
**NOT AN** opinion.  
www.blackboxvoting.com

**X-Rated Voting:  
I'd rather have my chad hanging  
than my screen touched**

**PAPER BALLOTS  
not  
VAPOR BALLOTS**