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3 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

4 Electronically Filed
5 Oct 11 2016 07:47 a.m.
6 Dorey K. Lindeman
7 Clerk of Supreme Court

8 DIANA V. ORROCK, BLAIN K. JONES, MARY ROSE

9 Petitioners

10 vs.

11 THE HONORABLE MICHELLE LEAVITT, Eighth Judicial District Court of Clark County,
12 Nevada

13 Respondent.

14 DAVID GARDNER, DERECK W. ARMSTRONG, AND NICHOLAS D. PHILLIPS, Real Parties
15 in Interest,

16 Respondents.

17 And

18 The Clark County Registrar of Voters, JOE P. GLORIA, and the Clark County Clerk, LYNN
19 GOYA, Real Parties in Interest,

20 Respondents.

21
22 From the Eighth Judicial District Court, Clark County, Nevada
23 Case No.: A-16-739146-C

24 **APPENDIX TO REPLY IN SUPPORT OF EMERGENCY PETITION FOR WRIT OF**
25 **MANDAMUS**

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TABLE OF CONTENTS FOR APPENDIX

EXH.	DESCRIPTION	DOC. NOS.
10	Affidavit of Colonel Robert Eugene Frank with Attachments	0188-0277
11	Affidavit of Robert Frank dated October 10, 2016, With Exhibit A	0278-0285
12	Las Vegas Review Journal Article dated October 8, 2016	0286-0287
13	Letter from Congress of the United States to Hon. Todd Valentine dated September 18, 2016	0288
14	Affidavit of Tony Dane in Support of Petition for Writ Of Mandamus	0289-0291

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on October 10, 2016, a true copy of the foregoing APPENDIX TO
3 REPLY IN SUPPORT OF EMERGENCY PETITION FOR WRIT OF MANDAMUS was filed and
4 served electronically via the Court's E-Flex system and/or deposited in the U.S. Mail to the
5 following as noted:

6 Steven B. Wolfson
7 District Attorney
8 CIVIL DIVISION
9 By: Mary-Anne Miller
10 County Counsel
11 500 S. Grand Central Pkwy.
12 Las Vegas, NV 89155-2215
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16 9525 Hillwood Dr. #140
17 Las Vegas, NV 89134
18 *Attorneys for Derek Wayne Armstrong, David Gardner, Nicholas Phillips*

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/s/ Lisa M. Sabin
An Employee of Cooper Levenson, P.A.

EXHIBIT 10

EXHIBIT 10

EXHIBIT 10

VERIFICATION
STATE OF NEVADA
COUNTY OF CLARK

Colonel Robert Eugene Frank, USAF (Retired) living at 2374 Sandstone Cliffs Drive, Henderson, NV 89044 under penalties of perjury, being first duty sworn, deposes and says:

That he is the Chairman of the Citizen Task Force for Voter Rights (CTFVR) organization, knows the contents of this affidavit, and believes them to be true because he has personally experienced the about 50 years of relevant lifetime computer systems technical expertise described in Exhibit A, conducted the research for this statement, accumulated the included information, and individually arrived at the expert opinions included in this affidavit.

GENERAL DECLARATION: This affidavit is submitted from a computer systems expert witness to assist CONTESTANTS explain why the NV election system is highly vulnerable to machine failures/malfunctions, cannot be accepted to be secure, and to demonstrate that only through a manual verification of sealed records with electronic reports can the truth of the 2016 Republican Primary Election be known. Relevant statute provisions are:

“NRS 293.410 Dismissal of statement of contest; grounds for contest.

“NRS 293.410.1 A statement of contest shall not be dismissed by any court for want of form if the grounds of contest are alleged with sufficient certainty to inform the defendant of the charges the defendant is required to meet.”

and,

“NRS 293.410.2. An election may be contested upon any of the following grounds:

...

(f) That there was a possible malfunction of any voting or counting device.”

In this case, the primary defendant is the Clark County Registrar of Voters concerning possible malfunctions of voting devices and the following affidavit and exhibits are submitted as providing why the CONTESTANTS believe election system hardware, software, memory cards and/or networking components appear to have failed to provide accurate data due to possible malfunctions or other reasons that can only be detected once the sealed records are opened and inspected.

There have been previous actions to open sealed election records under this statute. One case was about eight years ago in Nye County where a District Judge approved the opening

of the sealed records for those candidates and citizens investigating the results in the US Senate primary race in Nye County between Harry Reid and Sharon Angle. Another case was the 2015 Petition to the 7th District Court in White Pine County concerning a malfunction or fraud case of CD4 Candidate Michael Monroe. (Exhibit B)

In general, electronic election systems of all types are known to be insecure, unreliable, and vulnerable to many types of fraud and corruption. Unlike most other business machines, election system machines have been found to be exceptionally easy to attack and vulnerable to malfunctions, tampering and fraud.

The rights to contest the reported electronic reported results of elections are found in NRS293.410 and based on Opinions and Beliefs. Proof of allegations is not required. Only information and belief that such proof can only be found by opening the sealed election records and manually attempting to match them with electronic reports.

This Affidavit Submits Factual Evidence And Expert Opinions On Behalf Of All Contestants To Support And Substantiate Allegations Of Possible Machines And Related Systems Components Including Proprietary Software, Machine Memory Cards And Personal Computer Components Used In The NV 2016 Primary Election.

DETAILS: There many reported cases nationally and in Nevada where electronic voting machines, scanners and memory cards similar to (or exactly like) those used in Nevada have been suspected and/or found unreliable and/or rejected by states or counties as undesirable. Paper ballots counted at the precinct levels are often considered the safest and most reliable way to count elections of all sizes.

Computer processing of election records is normally due to the relatively recent management trend to consolidate counting at the county level where there can be millions of ballots accumulated vs. only a few hundred or few thousand at the precinct level. Manual counting of paper ballots is considered feasible at the precinct level; but, high volume electronic processing is where fraud can be found. Manual counting is the only way to get to the truth.

A major contributor to this vulnerability problem is that election system vendor software and hardware used by Nevada are controlled as “proprietary” by the manufacturer and vendors. In addition, systems are not claimed by vendors to be “secure or trusted”; and so, no one but the vendor is allowed to inspect, verify, modify or audit the source code. There also appears to be no tools or procedures for election system workers to be able to verify machine integrity before, during or after an election. In short, the candidate-requested joint verification is both “fair and reasonable” to ensure the reported results can be acceptable.

At this time, no one in Nevada seems to have the ability to honestly confirm system elements are actually performing as originally certified in prototype form by the manufacturer and National Institute of Standards when delivered almost a decade ago. Even if the hundreds of components were considered reasonably safe a decade ago, because components are frequently accessed by humans (where few, if any individuals undergo background clearances or even simple local checks) there have been many opportunities to tamper with components with little chance of detecting some types of system failures, tampering or fraud.

This should be considered a seriously flawed contract to be re-negotiated so qualified state employees can verify the integrity of voting system components. There are ways to effectively protect proprietary vendor software without the state having to forfeit its urgent need to certify the end-to-end system integrity.

And, if malicious code were to be illegally installed by anyone with access to one or more voting machines, scanners, person computers or memory cards, there appears to be no way for County or State employees to detect it or prevent it.

Nevada's electronic elections components are claimed by county authorities to be "secure," but that simply cannot be true. There are official definitions of secure electronic devices. Election system components are not designed, certified or capable of becoming "Secure or Trusted" according to the Federal Government.

Despite vigorous election manager claims to the contrary, and frequent demands for blind trust of the electronically manipulated tallies, both candidates and citizens are exposed to unreported machine failures, tampering and fraud. This management practice of operating in secrecy without independent audits or fraud examinations tends to create suspicions and stimulates the need for contests.

Are there allegations that all races, or even most races in Nevada counties are believed to be untrustworthy? No, but there is national evidence that machines like those in use in Nevada are easily hacked and/or corrupted. Today, the only reliable way to verify any race in any county is for a district judge to order opening of the sealed election records for the race being contested, and to require a joint manual comparison with the electronic reports at County expense.

One would expect election managers at all levels to share the intense interest by candidates to ensure the ballot records perfectly match machine tallies. It is difficult to appreciate why there is strong opposition to knowing the truth.

After the verification action for the districts involved are completed, the winner from the manual count must be declared the final winner with the votes found since those are the

official source records for the election. It should be recognized that no other known procedure will produce the election verification requested by CONTESTANTS. Meanwhile, extensive delays in conducting such verifications seriously deny candidate rights to fair campaigns.

Election System managers sometimes claim their systems are highly secure because they design, audit and control everything themselves in secret. But, that is wrongful thinking.

High risks of cyber warfare at all levels of government and business require today's secure systems managers to be constantly upgrading their own expertise and their hardware, software, policies, procedures and subordinate training to cope with global threats.

Such government employees are usually ignorant of what they must know because it is impossible for the typical manager to stay abreast of all the latest info on how to deal with the cyber threats of the 21st Century. Such managers need to use a variety of exceptionally qualified outside professionals to augment staff expertise. Government managers also need access to independent professionals to verify their staff work and certify the trustworthiness of complex elections. Unfortunately, Nevada is apparently not using these proven management methods. They become more urgent every day as cyber attacks expand.

During the past decade, there have been dozens of Internet-reported ways to hack into poorly designed and highly vulnerable election systems—like the ones used by Nevada. Some of the best known fraud threats to electronic election systems are found in the video clips mounted on a web site provided by the Citizen Task Force for Voter Rights.

<http://citizentaskforce.org/> and 2015 legislative testimony video clips at

<https://www.youtube.com/channel/UC2Xg01Ngr86a7t9yJUaDBIA>

When Citizen Task Force for Voter Rights began its investigation into this NV cases in 2014, it conducted a high level analysis of the NV election system and quickly discovered many serious system vulnerabilities to errors, tampering and fraud. The top 10 vulnerabilities of Nevada's Election System are included towards the end of this statement. The Clark County Registrar of Voters and Secretary of State have refused to reject or clear up those issues.

The obvious conclusion is that under no circumstances could the Nevada Election System be considered "secure" or even somewhat invulnerable to tampering and fraud. In fact, some could consider it something of a miracle if no one has ever exploited the easily observable weaknesses to change some past NV election outcomes. A healthy respect for what hackers and crackers can do is the first management step for working to reduce the threats of fraud.

To illustrate just a few examples of what must be done in Nevada to implement a secure election system, we have included a few quotes from the massive, multidisciplinary studies performed in recent years for The Congress by the famous Brennan Center for Justice at the

New York University School of Law. These selected quotes about voting system security and post-election audits have been included as some basic evidence for why we feel it is so important for District Courts to approve the requests to seek the truth.

While important audit process changes are required now to detect tampering and criminal fraud, it is a totally different situation to consider what needs to be done in the future to re-engineer the NV election system to make it reasonably "secure" and capable of passing a rigorous audit by a professional fraud examiner--as is done in banks, major corporations, casinos, and federal government agencies.

In my opinion, the NV election system is unacceptable until it implements independent audits aligned with public standards. And, I believe sufficient public policy may exist to allow basic audit management to be modernized without waiting for statutes to be changed.

With this in mind, the following introductory comments are quoted from the NY Brennan Center Task Force and its decades of work to become a global leader in systems security and auditing expertise.

"In 2005, in response to growing public concern over the security of new electronic voting systems, the Brennan Center assembled a task force (the "Security Task Force") of the nation's leading technologists, election experts, and security professionals to analyze the security and reliability of the nation's electronic voting machines. One of the key findings of the Security Task Force is by now widely accepted by computer scientists, many election officials, and much of the public: all of the major electronic voting systems in use in the United States have serious security and reliability vulnerabilities.

Many have advocated mandating voter-verified paper records as a solution to these vulnerabilities. In fact, voter-verified paper records by themselves will not address the security and reliability vulnerabilities the Brennan Center and many other groups have identified. To the contrary, as the Brennan Center Security Task Force noted in *The Machinery of Democracy: Protecting Elections in an Electronic World*, voter-verified paper records, by themselves, are "of questionable security value." Paper records will not prevent programming errors, software bugs, or the insertion of corrupt software into voting systems.

Voter-verified paper records will only have real security value if they are regularly used to check electronic tallies. It is for this reason that the Brennan Center urges Congress to adopt meaningful post-election audit legislation as soon as possible. Currently, only thirteen states require both voter-verified records and regular audits of those records."

...

"The Brennan Center has concluded that, among other things, an effective audit scheme that addresses these questions will do the following:

- **Use Transparent and Random Selection Processes for All Auditing Procedures.** Audits are much more likely to prevent fraud, and produce greater voter confidence in the results, if the ballots, machines or precincts to be audited are chosen in a truly random and transparent manner.
- **Allow the Losing Candidate To Select Precinct(s) or Machine(s) To Be Audited.** In addition to conducting random audits, jurisdictions should allow a losing candidate to pick at least one precinct to be audited. This would serve two purposes: first, it would give greater assurance to the losing "side" that the losing candidate actually lost; second, it would make it much more likely that anomalous results suggesting a programming error or miscount were reviewed.
- **Place an Independent Person or Body in Charge of the Audits.** To increase public confidence that the audit can be trusted, it will be helpful to ensure that the person or persons supervising the audit are viewed as independent of the State's chief election officer, vendors who may have sold machines being audited, and any candidate running in an audited race.
- **Implement Effective Procedures for Addressing Evidence of Fraud or Error.** If audits are to have a real deterrent effect, jurisdictions must adopt clear procedures for dealing with audit discrepancies when they are found. Detection of fraud will not prevent attacks from succeeding without an appropriate response. Such procedures should also ensure that outcome-changing errors are not ignored.
- **Encourage Rigorous Chain of Custody Practices.** Audits of voter-verified paper records will serve to deter attacks and identify problems only if states have implemented solid chain of custody and physical security practices that will allow them to make an accurate comparison of paper and electronic records.
- **Audit a Minimum Percentage of Precincts or Machines for Each Election, Including At Least One Machine or Precinct for Each County in the State.** An audit that targets a fixed percentage (e.g. 3 percent) of machines or precincts to audit in each Congressional District is an efficient method for catching broad-based error or fraud. By auditing at least one machine or precinct in every county, jurisdictions will greatly increase the likelihood that they will find discrepancies caused by fraud

or error at the county level.

- **Record and Publicly Release Numbers of Spoiled Ballots, Cancellations, Over-votes and Under-votes.** Audits that record the number of over-votes, under-votes, blank votes and spoiled ballots (including in the case of DREs, cancellations) could be extremely helpful in uncovering software attacks and software bugs and point to problems in ballot design and instructions.
- **Audit Entire System, Not Just the Machines.** History has shown that incorrect vote totals often result from mistakes when machine totals are aggregated at the tally server. Accordingly, good audit protocols will mandate that the entire system - from early and absentee ballots to aggregation at the tally server - be audited for accuracy.
- **Increase Scrutiny in Close Elections.** Software bugs and/or tampering that affect the software of a small number of machines will generally not affect the outcome of federal elections. In extremely close races, of course, such problems can change the outcome of a race. In such cases, a 3 percent audit is unlikely to uncover a software bug, programming error or malicious attack that might alter the results of the race. Accordingly, the Brennan Center recommends that exceptionally close races receive heightened scrutiny.”

-----End of Brennan Center Quotations-----

TOP 10 VULNERABILITIES TO ERRORS & TAMPERING IN NEVADA ELECTION SYSTEM

Prepared By CTFVR Chair, Robert E. Frank

Citizens must not blindly trust our Nevada government to certify its own results, election system components, and processes because of the below listed vulnerability areas.

Concerned parties need to view the video evidence of systemic election system defects listed on CitizenTaskForce.Org. For example, Nevada’s election system indicates that:

1. End-to-end, election system “chain-of-custody” records and “audit trails” are not in place;
2. Fraudulent election results can come from not implementing independent audits and security oversight by licensed audit/fraud professionals outside of government agencies;

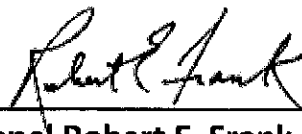
4. Insider tampering is possible due to insufficient background checks and failures to require a comprehensive, disciplined buddy system for such a critical, secure data system;
5. External tampering threats exist due to not nurturing effective security practices and cultures within the full range of election employees, contractors and volunteers;
6. Internal and external hardware and software inspections and testing cannot be conducted by County employees on systems components before, during and after elections;
7. Locks on machines, magnetic devices, and transport vaults appear easily defeated;
8. Seal and tamper detection training for workers appears inadequate;
9. Chain of custody records for storage and transport drivers and ballot handlers are not part of the "Post Election Audit process" and other relevant security procedures; and
10. Election managers appear insufficiently trained and not held accountable for systems under their authority when they are found vulnerable to tampering or criminal violations.

NV election system statutes, policies, procedures, vulnerabilities and operating deficiencies urgently need to be inspected, repaired and/or replaced. Secret self inspections of electronic systems must not be acceptable in this complex world of massive cyber threats and rapidly expanding forms of vulnerable electronic nanotechnologies. Manual verifications of sealed election records will be needed unless or until truly secure systems are implemented.

Exhibit A: Expert Experience of Robert Eugene Frank

Exhibit B: White Pine County Petition to District Court

Exhibit C: Why NV Election System Security Claims Must Be Rejected

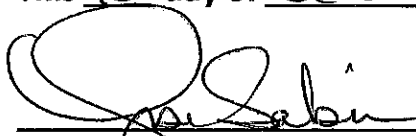


Colonel Robert E. Frank, USAF (Ret.)

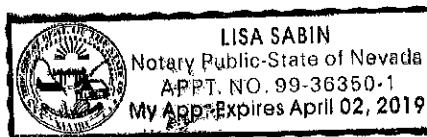
2374 Sandstone Cliffs Drive, Henderson, NV 89044

Subscribed and Sworn before me:

This 10 day of October, 2016



Notary Public



Blank

Summary of Colonel Robert Frank's Qualifications to Critically Comment on Cyberwar Dangers of the Nevada Smart Meter/Smart Grid Programs

- **Now:** Retired and living in Henderson, NV. Former VP of 7,000+ age-restricted, single story, Homeowner Association.
- **Small Business Ownership:** Founder, CEO & Chief Scientist for Internet transaction exchange services company using Electronic Data Interchange (EDI) standard formats within secure email.
- **Department of Energy R&D Software Development Leader:** By-name selected Lawrence Livermore National Laboratory Chief Scientist for Electronic Commerce with years of national experience supervising Internet Security and public-to-private competitive business internet transaction exchanges using secure email. Government member of the CommerceNet consortium that pioneered business use of the Internet.
- **Fortune 500 Executive & Product Developer:** Successful profit and loss Division Director (VP Selectee) for Control Data Corporation managing development of UNIX-based systems and Internet/TCP-IP-based products and sales to global private and public sector customers. Products offered included micro, mini, mainframe and supercomputer systems.
- **Air Force Military Officer:** Retired USAF Colonel with 22 years command and management experience in Supply, Procurement, Computers and Logistics in US, European and Asian areas for 4 different USAF Commands, the USAF Air Staff (Pentagon), Defense Logistics Agency, and NATO.
- **Prior to USAF Service:** Raised on a family dairy farm in Midwest. Self-taught to become a professional photographer earning most highschool and all college expenses for over 6 years.

Education: High School graduate with honors, Bachelor of Business Administration Degree from Oklahoma University, Master of Business Administration Degree from Auburn University, graduate of numerous USAF and NATO technical and leadership schools, and by-name selected to attend both of the 1-year AF executive programs (the mid-level "Air Command and Staff College", and senior officer-level "Air War College").

Overview of USAF Retired Colonel Robert E. Frank's Career Experiences

2016: Retired and living in Henderson, NV since 2004. Elected 2007-2009 Director of 7,144 age-restricted, upscale, Sun City Anthem Homeowner Association (HOA). Chair, Citizen Task Force for Voter Rights (.Org) and Chair, NV Secure The Grid Coalition. NV Governor appointed to HOA Commission. Provides expert services on HOA policies and Public Election Systems.

Past: Dept. of Energy R&D Software Development Leader: By-name selected by Lawrence Livermore National Laboratory as Chief Scientist for E-Commerce based on AF-wide success in the 1980s supervising public-to-private competitive business internet transaction exchanges via secure email. Managed design and developed an intelligent transaction gateway for secure internet back office business transactions used by federal agencies in the 1990s. Served as a founding CommerceNet.com consortium leader pioneering business use of the Internet.

Fortune 500 Executive & Internet Product Developer: Successful profit and loss Division Director (VP Selectee) for Control Data Corporation. Managed development of UNIX/TCP-IP based products. Helped lead public sector Open Systems marketing programs. Products delivered to global customers included micro, mini, mainframe and supercomputer systems.

Air Force Military Officer: Retired USAF Colonel in 1985 with 22 years active service. Served in key Supply, Procurement, Computers and Logistics positions in US, European and Asian areas for 4 USAF Major Commands, USAF Air Staff (Pentagon), Defense Logistics Agency, and NATO. While serving 3 years as a Captain in Vietnam theater supporting AF combat from 1967 to 1969, awarded The Legion of Merit, The Bronze Star Medal, Two Awards of The AF Commendation Medal, and designated the world-wide Military Airlift Command Junior Officer for 1969. Selected as a national semi-finalist for the 1972 White House Fellows Program. Also, chosen as 1 of 10 Outstanding Young Men in 1972 by the (Capital City) Columbus, OH Jaycees.

Small Business Ownership: Founder and CEO for 8 years in Northern California prior to retirement to Henderson, NV of Internet transaction translation exchange services company using private and public Electronic Data Interchange (EDI) formats within secure email.

Prior to AF Officer Service: Raised on a family dairy farm in Norman, Oklahoma. Represented Oklahoma at the 1958 National Science Fair in Flint, MI. Self-taught to be a free lance professional photographer in high school. Earned 100% of college and living expenses.

Education: High School Honor graduate. Oklahoma University Bachelor of Business Administration degree with chemistry minor (BBA). Air Force Commissioned from AFROTC. Auburn University Master of Business Administration (MBA) degree. Selected for numerous US and NATO technical and leadership programs. Among the top 5% promoted ahead of field grade officer peers. Graduated with honors from 1-year executive programs for mid-level "Air Command and Staff College" and senior-level "Air War College" officers.

Exh 2

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WHITE PINE COUNTY CLERK
BY: Du

1 Case No. CV-1603028

2 Dept. No. 2

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4
5 **IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,**
6 **IN AND FOR THE COUNTY OF WHITE PINE**

7 * * * * *

8 MICHAEL KNEESE
9 JEAN KNEESE
10 JEB PEELER,

Petitioners,

ORDER DISMISSING PETITION UNDER
NRS 293.391

11 vs.

12 WHITE PINE COUNTY CLERK,

Respondent.

13
14
15 **PROCEDURAL HISTORY**

16
17 On June 10, 2014, Mike Monroe won the White Pine republican primary election.
18 Petitioners filed a petition under NRS 293.391 ("petition") on March 16, 2016, requesting that they
19 be allowed to inspect the ballots under the supervision of and in cooperation with the White Pine
20 County Clerk to determine if there was a possible malfunction of any voting or counting device.
21 Respondent filed a non-opposition on April 11, 2016.

22
23 **DISCUSSION**

24
25 Petitioners filed a petition under NRS 293.391, which states, "The voted ballots deposited
26 with the county clerk are not subject to the inspection of anyone, except in cases of a contested

SEVENTH JUDICIAL DISTRICT COURT
GARY D. FAIRMAN
DISTRICT JUDGE
DEPARTMENT 2
WHITE PINE, LINCOLN AND EUREKA COUNTIES
STATE OF NEVADA





1 election..."¹ However, petitioners cite no legal authority supporting their petition to inspect the
2 ballots. The petition states, "they have no interest in contesting the primary or general election
3 winner. Nor do they seek any information pertaining to the identity of any voter and their ballot.
4 Petitioners' purpose is limited to identifying any system malfunction or illegal tampering."² The
5 plain language of the statute does not provide relief for petitioners because petitioners' reason for
6 inspection is limited to only identifying any system malfunction or illegal tampering, and they are
7 not contesting the election.
8

9 If petitioners were contesting the election, NRS 293.410(2)(f) allows a contest upon
10 grounds of possible malfunction of any voting or counting device. Even so, petitioners did not file
11 their petition within the statutorily allowed time. "A statement of contest shall be filed with the
12 clerk of the district court no later than 5 days after a recount is completed, and no later than 14
13 days after the election if no recount is demanded."³ Petitioners had until June 20, 2014, to file
14 their statement of contest.
15

16 Respondent does not oppose petitioners' request, and in fact encourages it.⁴ "The
17 Respondent's position is that only good will come from this court's order granting access to these
18 records."⁵ The court disagrees. In spite of the apparent good faith purpose for the ballot
19 inspection request, petitioners' failure to follow the strict statutory scheme fixing the time within
20 which their petition can be filed bars the court granting relief. Allowing petitioners to file this
21 challenge under NRS 293.410(2)(f) without statutory compliance will open the floodgates for
22
23

24 _____
25 ¹ NRS 293.391(5).

² Petition at 1.

³ NRS 293.413(1).

⁴ Non-opposition at 2-4.

⁵ Non-opposition at 2.

1 every disenchanting voter to make a similar untimely request. Petitioners' petition must be
2 dismissed.

3 Good cause appearing,
4

5 **IT IS HEREBY ORDERED** that petitioners' petition under NRS 293.391 is
6 **DISMISSED.**

7
8 DATED this 12th day of May, 2016.

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12 _____
13 DISTRICT JUDGE
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SEVENTH JUDICIAL DISTRICT COURT
GARY D. FAIRMAN
DISTRICT JUDGE
DEPARTMENT 2
WHITE PINE, LINCOLN AND EUREKA COUNTIES
STATE OF NEVADA



COPY

FILED

1 Case No. CV-1603028

2 Dept. 2

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MARGIE SALOWIN
WHITE PINE COUNTY CLERK

BY: [Signature]
CLERK

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6 IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN
7 AND FOR THE COUNTY OF WHITE PINE

8 | | | | |

9

10 MICHAEL KNEESE
11 JEAN KNEESE
12 JED PEELER,
13 PETITIONERS,

NON-OPPOSITION TO PETITION

13 VS.

14 WHITE PINE COUNTY CLERK,
15 RESPONDENT.

16 COMES NOW THE WHITE PINE COUNTY CLERK, Respondent, by and through its
17 attorney, Michael A. Wheable, White Pine County District Attorney, and files this Non-Opposition
18 to Petitioner's request seeking a Court Order to inspect certain voting records, on the basis of the
19 attached Affidavit in support of this Motion, the Memorandum of Points and Authorities attached,
20 and all the pleadings and evidence contained in the court file.

21 Date: April 11, 2016

[Signature]

Michael A. Wheable
White Pine County District Attorney
801 Clark Street #3
Ely, Nevada 89301

District Attorney • White Pine County, Nevada
801 CLARK STREET, SUITE 3 • ELY, NEVADA 89301



25

District Attorney • White Pine County, Nevada
801 CLARK STREET, SUITE 3 • ELY, NEVADA 89301

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MEMORANDUM OF POINTS AND AUTHORITIES

FACTUAL BACKGROUND

Respondent stipulates to all the facts as alleged in Petition, and relies on them in its Non-
Opposition.

LEGAL AUTHORITY

At the Outset, Respondent recognizes the general affect of a strict reading of NRS 293.391
which allows access to sealed records only by Court order *and* only in cases of election contest.
NRS 293.391(5). However, Respondent believes that when read with other provisions of this
chapter and subsequent chapters relating to Mechanical Voting Systems, such an interpretation
leads to absurd results, and a general violation of the Legislative intent and the statutory policy
identified in NRS 293.127:

- 1) This title must be liberally construed to the end that:
[...]
- (c) The real will of the electors is not defeated by any informality
or by failure substantially to comply with the provisions of this
title [...].

As was made abundantly clear in the Petition, the Petitioners explained that they are neither
contesting the election results (NRS 293.407), or asking for an official recount (NRS 293.403). The
nature of their request is to open and publically verify the accuracy of the voting machine results at
their own cost, with no harm to the identity or privacy of the electorate. The Respondent's position
is that only good will come from this Court's order granting access to these records. Either the
Petitioners will discover that the system was accurate and concerned voters in White Pine County
will be assured that there is integrity in our local system, or Petitioners will discover a flaw in the
mechanical system that went undetected during the course of ordinary integrity audits. Either way,
this process will ensure that "the real will of the electors" is protected.





1 The Court has the implied authority to order access to election records even after the time to
2 contest has expired. NRS 293.480. As briefly explained above, the provisions of NRS 293.391(5)
3 which limit access to records after the time for contest has expired, are in conflict with the
4 provision of NRS 293.480 which infers that there are limitations on inspection only “[u]ntil the
5 **time for contest has expired.**” NRS 293.480 (Emphasis added).

6 If the election records can only be inspected within a brief two week period following an
7 election, how could the voting citizenry organize a rational challenge to the results, hire an
8 attorney, or gather empirical data for a challenge? Why would the Clerk be required pursuant to
9 NRS 293.391(1) to maintain these records for 22 months, and have to publish a notice of
10 destruction to the general public prior to destroying the records? A statute should not be read to
11 make another provision in the same chapter meaningless. Yet, if NRS 293.391(5) is read to mean
12 records can only be inspected during a timely filed contest, maintaining records for 22 months and
13 notifying the public of destruction, when the public cannot do anything to act on that information,
14 are meaningless provisions.

15 Further, NRS 293.755(3) gives the District Attorney of any county the authority to
16 prosecute individuals for tampering with mechanical voting devices. If the only time these voting
17 machine records can be accessed is during an election contest, how would a prosecutor gain access
18 to inspect and gather evidence of these felonious crimes. How could law enforcement even know if
19 a crime occurred? Petitioners raise more than “probable cause” that a serious felony or other error
20 may have occurred, yet as this County’s Prosecutor, I am powerless to investigate lest this Court is
21 able and willing to grant petitions like Petitioner’s request here.

22 Finally, in LaPorta v. Broadbent, the Nevada Supreme Court interpreted NRS 293.465
23 liberally when it issued its writ of mandamus to a County Commission for a new election. (It is
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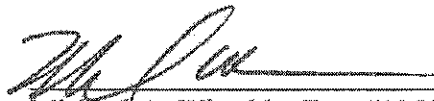
1 worth noting that there are NO timeframes for a remedy in NRS 293.465) The Court reasoned that
2 a malfunction in the voting machine prevented a fair election and opined that “[t]he fundamentals
3 of suffrage require that electors shall have the opportunity to participate in elections and that the
4 real will of the electors should not be defeated by errors in the conduct of an election.” LaPorta v.
5 Broadbent, 91 Nev. 27 (1975). Similarly, there is a real possibility that there was an error in voting
6 machines in this case, and while it is too late to order a new election, the time is right to protect the
7 integrity of the next. A writ of mandamus is not sought in this case, because it is not yet the proper
8 remedy.

9 **CONCLUSION**

10 While Respondent did not bring this action, Respondent has an affirmative duty to protect
11 the integrity of White Pine County election process. Petitioners have revealed serious facts, which
12 if true, warrant a Court Order despite any legislative oversight in providing a mechanism for
13 review. Voting is a fundamental right guaranteed by the Constitution and Nevada Statutes. Where
14 there may be mechanical or human error despite current mechanisms to prevent such, fraud, and/or
15 felonious criminal agency that interferes with this right, Petitioners, Respondent, and undersigned
16 acting as the District Attorney of White Pine County, should have an avenue to address, protect,
17 and uphold this sacred democratic principle. Respondent therefore, does not oppose this Petition.

18 Date: April 11, 2016



19
20 
21 Michael A. Wheable, Esq. #12518
22 White Pine County District Attorney
23 For Respondent White Pine County Clerk
24 801 Clark Street #3
25 Ely, Nevada 89301

CERTIFICATE OF SERVICE

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Pursuant to NRCP 5(b), I am an employee of the office of Michael A. Wheable and on the date below I served a copy of the foregoing Non-Opposition to Petition by delivering a copy via mail to

Petitioners:

Michael Kneese
Jean Kneese
1379 Mill Street
Ely, Nevada 89301

Jed Peeler
201 E. Ogden Avenue
Ely, Nevada 89301

Date: 4-11-10

Rachael Luce

Dierker Attorney • White Pine County, Nevada
801 CLARK STREET, SUITE 3 • ELY, NEVADA 89301



Case No. CV1603028

Department No. 2

FILED

2016 MAR 16 PM 2:33

NICHOLE B. BRADY
WHITE PINE COUNTY CLERK
BY 
DEPUTY
NEVADA

IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WHITE PINE

MICHAEL KNEESE

JEAN KNEESE

JED PEELER,

PETITIONERS

vs.

WHITE PINE COUNTY CLERK

RESPONDENT

PETITION UNDER NRS 293.391

1. The Petitioners are residents of the City of Ely and White Pine County and, at all times relevant here, were registered voters in the jurisdiction.
2. The Petitioners each voted in the 2014 White Pine County Republican Primary ("Primary").
3. The Petitioners seek permission to inspect certain Congressional District Four ("CD4") sealed election records of the 2014 White Pine Republican Party Primary.
4. For reasons stated in the attached AFFIDAVITS (Exhibits 1 and 2), the Petitioners each and independently believe that the official results reported for the Primary were not accurate.
5. On information and belief, the Petitioners allege that there was a malfunctioning of some unknown cause of the voting machinery used.
6. Petitioners aver that they have no interest in contesting the primary or general election winner. Nor do they seek any information pertaining to the identity of any voter and their ballot. Petitioner's purpose is limited to identifying any system malfunction or illegal tampering.

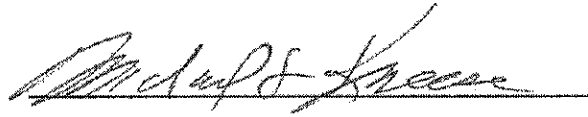
7. The Petitioners seek an Order of this Court pursuant to NRS 293.391(5). Specifically, Petitioners seek to inspect the ballots cast under the supervision of and in cooperation with the White Pine County Clerk.

8. NRS 293.410(2) (f) confers jurisdiction over this Petition where "there was a possible malfunction of any voting or counting device."

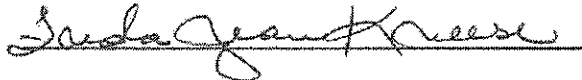
RELIEF SOUGHT

Wherefore, the Petitioners seek an Order from this Court allowing said inspection of the records of the 2014 White Pine County Republican Primary.

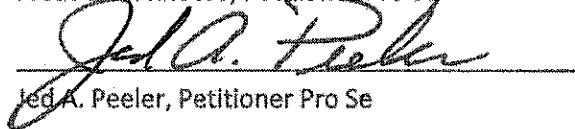
Dated this 13th day of March 2016.



Michael F. Kneese, Petitioner Pro Se



Freda Jean Kneese, Petitioner Pro Se



Jed A. Peeler, Petitioner Pro Se


VERIFICATION

STATE OF NEVADA

COUNTY OF WHITE PINE

Michael F. Kneese, under penalties of perjury, being first duly sworn, deposes and says:

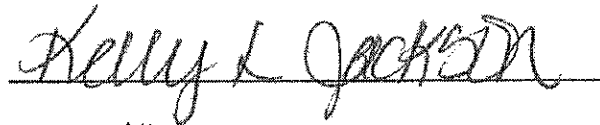
That he is a Petitioner in the above action; that he has read the foregoing PETITION UNDER NRS 293.391 and knows the contents thereof; that the same is true of his own knowledge, except as for those matters stated as upon information and belief, and as to those matters, he believes them to be true.



Michael F. Kneese

Subscribed and Sworn before me

This 12th day of March 2016



Notary Public



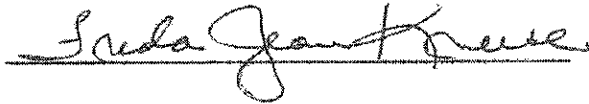
VERIFICATION

STATE OF NEVADA

COUNTY OF WHITE PINE

Freda Jean Kneese, under penalties of perjury, being first duly sworn, deposes and says:

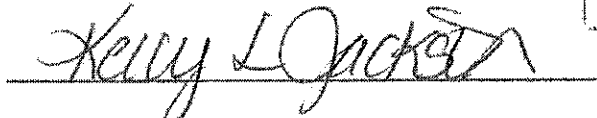
That she is a Petitioner in the above action; that she has read the foregoing PETITION UNDER NRS 293.391 and knows the contents thereof; that the same is true of her own knowledge, except as for those matters stated as upon information and belief, and as to those matters, she believes them to be true.



Freda Jean Kneese

Subscribed and Sworn before me

This 16th day of March 2016



Notary Public

VERIFICATION

STATE OF NEVADA

COUNTY OF WHITE PINE

Jed A. Peeler, under penalties of perjury, being first duly sworn, deposes and says:

That he is a Petitioner in the above action; that he has read the foregoing PETITION UNDER NRS 293.391 and knows the contents thereof; that the same is true of his own knowledge, except as for those matters stated as upon information and belief, and as to those matters, he believes them to be true.



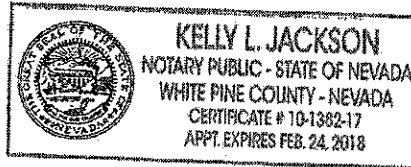
Jed A. Peeler

Subscribed and Sworn before me

K 13th 16th
This 13th day of March 2016



Notary Public



I will fix the spacing following your examples.

Need three affidavits, clear and brief.

Case No. _____

Department No. _____

IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WHITE PINE

MICHAEL KNEESE

JEAN KNEESE

JED PEELER,

PETITIONERS

vs.

WHITE PINE COUNTY CLERK

RESPONDENT

AFFIDAVIT IN SUPPORT OF PETITION UNDER NRS 293.391

I, the below signed affiant, state as follows in support of my petition under NRS 203.391:

1. I am a resident of White Pine County, a registered voter in the County reflecting my choice of party as Republican, and did vote in the 2014 Republican Primary election.
2. I believe that an improper number of votes were reported for Mike Monroe in the official results of the primary election.
3. The reported number of total votes in the Primary election ballots was 764. The reported number of votes for Mike Monroe was 259.
4. These results seem inaccurate to me based on pre-ballot polling and post-ballot investigations.
5. Pre-ballot (polling or sampling in the report)
6. Post ballot (phone survey or sampling in the report)

7. For these reasons, I believe there was a failure of the voting machine to accurately records votes actually cast and that, given such an apparent mechanical failure, the Nevada Revised Statute permits application for inspection of the ballots cast, and I seek that from the Court.

VERIFICATION

STATE OF NEVADA

COUNTY OF WHITE PINE

Michael F. Kneese, under penalties of perjury, being first duly sworn, deposes and says:

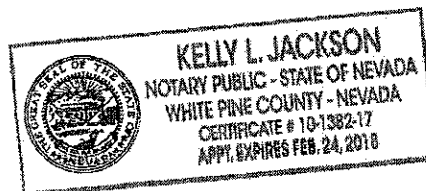
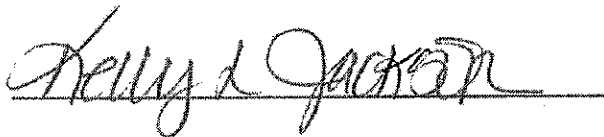
That he is a Petitioner in the above action; that he has read the foregoing PETITION UNDER NRS 293.391 and knows the contents thereof; that the same is true of his own knowledge, except as for those matters stated as upon information and belief, and as to those matters, he believes them to be true.



Michael F. Kneese

Subscribed and Sworn before me

This 16th day of March, 2016



VERIFICATION

STATE OF NEVADA

COUNTY OF WHITE PINE

Freda Jean Kneese, under penalties of perjury, being first duly sworn, deposes and says:

That she is a Petitioner in the above action; that she has read the foregoing PETITION UNDER NRS 293.391 and knows the contents thereof; that the same is true of her own knowledge, except as for those matters stated as upon information and belief, and as to those matters, she believes them to be true.

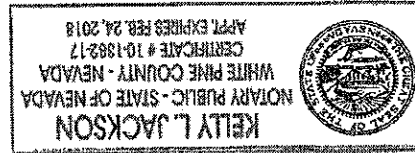
Freda Jean Kneese

Freda Jean Kneese

Subscribed and Sworn before me

This 16th day of March, 2016

Kelly L Jackson



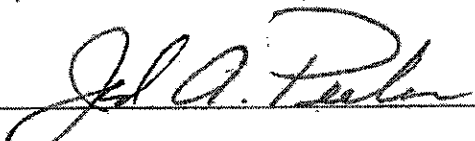
VERIFICATION

STATE OF NEVADA

COUNTY OF WHITE PINE

Jed A. Peeler, under penalties of perjury, being first duly sworn, deposes and says:

That he is a Petitioner in the above action; that he has read the foregoing PETITION UNDER NRS 293.391 and knows the contents thereof; that the same is true of his own knowledge, except as for those matters stated as upon information and belief, and as to those matters, he believes them to be true.

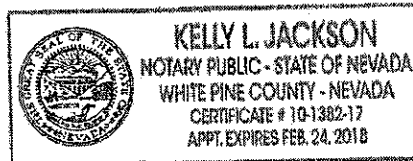


Jed A. Peeler

Subscribed and Sworn before me

This 16 day of March, 2016





Case No. _____

Department No. _____

IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WHITE PINE

MICHAEL F. KNEESE

FREDA JEAN KNEESE

JED A. PEELER,

PETITIONERS

CERTIFICATE OF SERVICE

Vs.

WHITE PINE COUNTY CLERK

RESPONDENT

I certify that I am a party to this action and that on this 16 day of March 2016, I served a copy of the attached PETITION UNDER NRS 293.391 on the following as noted below.

Nichole Baldwin, White Pine County Clerk, by hand delivery to her office at 501 Clark Street, Ely, Nevada,

Michael Wheable, White Pine County District Attorney, by hand delivery to his office at 501 Clark Street, Ely, Nevada, and

Barbara Cegavske, Nevada Secretary of State, by USPS Certified mail, to 101. N Carson Street, Suite 3, Carson City, NV 89701.



Freda Jean Kneese, Petitioner Pro Se

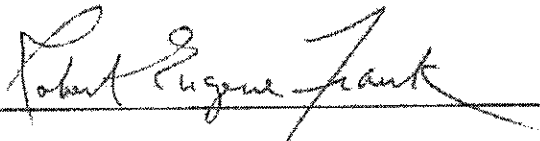
VERIFICATION

STATE OF NEVADA

COUNTY OF WHITE PINE

Colonel Robert Eugene Frank, USAF (Ret.) under penalties of perjury, being first duly sworn, deposes and says:

That he is the Chairman of the Citizen Task Force for Voter Rights (CTFVR) organization, who under the direction of the foregoing PETITION members researched, prepared and provided technical and document services support to the Petitioners; that he and his CTFVR organization members have prepared all of the Exhibits attached, knows the contents thereof, and believes them to be true.



Colonel Robert Eugene Frank, USAF (Ret.)
2374 Sandstone Cliffs Drive, Henderson, NV 89044

Subscribed and Sworn before me

This 14 day of March, 2016



Notary Public

Exhibit 1: Administrative Documents

Section A: Introduction and Summary of Findings Affidavit

Section B: List of Joint Review Team Members and details about the Citizen Task Force for Voter Rights (CTFVR) leaders

Section C: List of Sealed Records to Be Opened

Exhibit 1 Contains 3 Sections With a Total of 10 Pages.

Exhibit 1, Section A: Summary of Findings Affidavit

Prepared By CTFVR Chair, Robert E. Frank, Colonel, USAF (Ret.) For White Pine County Petitioners

1. Purpose, Authority, Summary of Rationale and Procedures: The purpose of this Introduction and Summary of Findings Affidavit is to highlight some important evidence, findings and ground rules expected after over a year of research and analyses by a half dozen Nevada citizens in response to the unreasonable voting results from the 2014 Congressional District 4 (CD4) Republican Primary Election.

Official sources at all levels have been respectfully asked and been unable to explain how a homeless, penniless, unknown Las Vegas street person who spent nothing, and did nothing to get elected in the 2014 CD4 race received over 5,000 votes in 7 mostly rural counties. Even more inexplicable in rural White Pine County is that he reportedly received more votes than the two outstanding Nevada Republicans who had conducted very aggressive and expensive (over \$200k) grassroots campaigns.

Exhibit 2 contains a letter dated October 7, 2014 to the previous NV Deputy Secretary of State requesting information on how to explain the unreasonable voting in the CD4 primary race. Despite many follow up phone calls and conversations, no reply to our questions was received. So, our group had to conduct our own investigation from open sources and submit this petition.

Strangely, many state executives and legislative leaders do not share our high concern for explaining this bizarre situation. The typical response is that people often vote in mysterious ways, and that is probably what happened in this case.

But, anyone who has ever worked hard and spent precious time and money in a hotly contested primary race knows how difficult and expensive it is to earn hundreds of votes. But, we wonder how anyone with extensive elections experience could easily believe that many thousands of valid votes could come to an unknown man initiating zero efforts in a 7-County Congressional Primary?

As more fully explained below, and in Exhibits 2 and 3, our joint team findings have revealed there is solid evidence to question the accuracy of the 5,353 reported votes for candidate Mike Monroe in 2014, and to petition for a manual inspection of the sealed records for this particular CD4 race.

Briefly, this Petition is to investigate the inexplicable and unreasonable voting results reported for the 2014 CD4 Republican Party Primary Election in White Pine County. There is no intent or interest to contest the primary winner or general election winner. The purpose is to identify causes of mysterious system malfunctions or possible illegal tampering of the distribution of Republican primary votes in that CD4 race, and to try to anticipate and prevent such from happening again in the future.

One election manager has objected to the need for a review claiming the NV election system is totally secure and we should just accept their opinion. But, we show that is not possible since independent audit and comprehensive chain-of-custody rules of evidence are not being used to detect election system malfunctions and fraud.

Some documents have been included under Exhibit 2 to respond to some state and county election officials who have contended that no evidence exists showing the Nevada election system contained errors or that votes were illegally modified.

Of course, that is a key reason why we believe the Petition for actions to compare the sealed records votes with the certified electronic votes is required--before any other actions can be contemplated.

Overview of Evidence in the Exhibits: Exhibits attached to this petition show why Petitioners are saying the reported 2014 primary election results were “mysterious”, “inexplicable”, “unreasonable” and “unacceptable”.

For example, White Pine was 1 of 2 Counties out of 7 in CD4 where candidate Mike Monroe, an unknown, penniless, homeless, unemployed, and unkempt Las Vegas street person was reported as winning the Republican Primary. (See Exhibit 2, Section A for details.)

Also reported in Series 2 Exhibits is that the NV electronic election system claimed Mr. Monroe received 22.18% (5,393 votes) in the 4th Congressional District primary. That was compared to Crescent Hardy’s 42.59% (10,339 votes) and Niger Innis’ 33.08% (8,030 votes). A fourth candidate, Mr. Carlo Poliak conducted a token campaign and received 2.15% (522 votes) of the total.

If protest votes in a Congressional race were actually cast by Republicans for an unknown man with no campaign efforts, ballots for Mike Monroe could have been around 2% of the total—not 22%.

Meanwhile, although Mr. Monroe did nothing to earn a single vote, he was credited with winning the White Pine County Republican Party Primary election. In WPC alone, Mr. Monroe’s 259 votes (33%) exceeded Niger Innis’ 256 votes (32.5%) and Crescent Hardy’s 249 votes (31.7%). Monroe even won more votes than Hardy and Innis in Precinct #1 in Ely where Republicans find it impossible to believe an unknown, homeless man could earn any votes. (See Exhibit 2-series documents for more details.)

In July 2015, the 259 reported WPC votes for Mr. Monroe were called into question by a paid professional phone survey contracted by the Citizen Task Force for Voter Rights (CTFVR) on behalf of Petitioners. The survey called a statistically valid number of primary election voters by phone and found none who had heard of or voted for Mr. Monroe—even in protest. (See Exhibit 2, Section D for detailed phone survey evidence and Exhibit 1, Section B for details on the CTFVR and its leaders.)

2. Full Verification Of Hardware and Software: Exhibit 2, Section C and other 2-Series Sections provides some evidence on why one cannot accept unsubstantiated opinions from state government its electronic election system is invulnerable to physical and/or electronic tampering.

Exhibit 2, Section C cites details from a leading source of global election systems expertise, the New York Brennan Law Center Security Task Force, who has researched commercially available voting machine products. The Center has openly stated “all of the major electronic voting systems in use in the United States have serious security and reliability vulnerabilities.”

Without government or professional access to the ballot data, and tools to verify the integrity of stored and contractor-calibrated election hardware and software before, during and after elections, claims of superior election system security for this vital foundation must be rejected until trustworthy status can be verified and shown capable of being sustained over the long-term.

Such public trust might be established using independent audits by specially qualified, professional fraud examiners. But, NV is not using certified audit records, chain of custody records, and other standard business practices required of secure IT systems used for such as banking, publicly-traded corporations and national security. As a result, the Nevada election system appears to be exceptionally vulnerable to most types of tampering and corruption as described in Exhibit 2, Section C.

Below is a high-level summary list quoted from Exhibit 2, Section C for an “effective audit scheme” developed for state governments about a decade ago by a national task force on election system audits and security led by professor/attorney Lawrence Norden of The Brennan Center for Justice at the New York University School of Law. This is particularly relevant since CD4 was a federal election primary.

- *Use Transparent and Random Selection Processes for All Auditing Procedures*
- *Allow the Losing Candidate To Select Precinct(s) or Machine(s) To Be Audited*
- *Place an Independent Person or Body in Charge of the Audits*
- *Implement Effective Procedures for Addressing Evidence of Fraud or Error*
- *Encourage Rigorous Chain of Custody Practices*
- *Audit a Minimum Percentage of Precincts or Machines for Each Election*
- *Record/Publicly Release Numbers of Spoiled Ballots, Cancellations, Over-votes and Under-votes*
- *Audit Entire System, Not Just the Machines*
- *Increase Scrutiny in Close Elections*

There is no evidence that Nevada has considered implementing anything like the decade-old, national audit process. This appears to be a policy matter as there has been plenty of time to budget for and implement such an audit plan using HAVA (Federal Help American Vote Act) funds. In fact, there seems to be no understanding of why independent audits are required for secure IT systems.

We also understand that even basic commercial computer system malware defenses and practices are not being used on election system components. For example, we understand that virus protection software is not used on State-provided, election system laptop personal computers running under the obsolete and highly vulnerable Windows XP operating system.

Such vote-processing/analyzing PCs are reportedly state-provided for use by counties during elections to merge and process votes uploaded manually from old-fashioned PCMCIA cards (now called PC Cards) containing the ballot tallies from insecure voting machines. The PCs reportedly use undisclosed and possibly uncertified software to consolidate, process and display voting results by race before reporting them to the Secretary of State via vulnerable modem and file transfer protocol applications over public networks. If confirmed, this is a dangerous, highly vulnerable system architecture.

While the risks of malware attacks can be reduced if such a PC is not routinely connected to the internet, it is a management problem if it is not recognized how an employee, janitor, visitor or contractor passing by with a flash/thumb drive or access to a counterfeit PC memory card could infect such a machine in seconds--without being discovered.

Also, without using modern tools and services to detect fraud on the PC, associated PC memory cards, and voting machines, they all could be infected with a virus or other malware by a previous PC software "update" or counterfeit PC card.

In the meantime, there are many tools and services in the commercial markets capable of being used by the NV Election System leadership to achieve the higher levels of trust used in other secure government and industry applications. Some are mentioned in the 2-Series Sections.

Regardless, in this cyber warfare age, without using independent fraud examiners to detect system vulnerabilities, it is essential to use volunteers to inspect the records and compare the results with electronic votes.

National reports have also indicated the procedures used in Nevada's "Post Election Audit" (PEA) processes are not likely capable of accomplishing its audit goals. For example, a PEA could not be expected to detect the inexplicable voting results in this case. 2-Series Sections explain some aspects of this audit issue. More is available if needed.

It is alarming that State authorities have not already adopted widely recognized "independent" system audit methods to help protect our citizens and government from election errors and fraud.

3. Massive Republican "Protest Votes" Are Not A Credible Excuse For CD4 Results. Some political leaders and media have often claimed the bizarre rural district voting for a Las Vegas homeless guy in the 2014 CD4 primary was probably due to "Republican protest voting". But, it is not reasonable to believe such an unfounded, seemingly frivolous claim. Occasional protest votes in general elections can occur, but were not a factor in this Republican primary. But, the hard evidence about the thousands of unsubstantiated votes in the CD4 primary shows such a claim is not relevant to this case.

Common sense alone suggests a man like Mr. Monroe could not (a) have received over 5,000 "Republican protest" votes in mostly rural CD4, or (b) fairly win the White Pine County Republican Congressional Primary with 259 votes when the opposition offers such highly competent, well-known, Republicans as Crescent Hardy and Niger Innis. Claims of protest votes insult the WPC CD4 voters.

Republicans in CD4 who take their very valuable time to vote in primaries are not the kinds of people who cast thousands of protest votes for unknown persons. Furthermore, it is impossible for us to accept that one-third of Ely and other WPC Republicans would vote for a LV street person like the one described in Exhibit 2, Section A. Something had to be critically wrong with that primary race report.

4. Sole Option: It now seems clear there were either serious system errors or corrupt tampering during the 2014 WPC CD4 Republican primary. Again, we believe the only way to clear up otherwise unanswerable questions about system integrity is to compare sealed records to the electronic reports.
5. County Clerk Authority: Basic authority and the Legislative intent for White Pine County elected officials to conduct this special review are embedded in the Title 24 series of statutes and regulations found in Exhibit 3. For example, a variety of boards and special processes are described in those statutes with the apparent legislative intent for County Clerks to anticipate and prevent election system components from failing, or from being tampered with, prior to certification of elections. But, those processes appeared to be ineffective in 2014 for detecting and explaining the thousands of questionable votes. The problems need to be identified and the processes made to work in the future.
6. Special Duty: Since the Title 24 authorized election boards and related processes failed to handle the election system problems identified in 2-series Exhibits, we believe White Pine County elected officials have the special duty to resolve this mystery for WPC citizens. The statutes appear intended to empower County Clerks to act at any time to detect and correct all kinds of election system problems.
7. WPC Property & Authority: This inspection request is limited to reviewing sealed 2014 Republican White Pine County CD4 primary election records. We believe the election records stored in WPC are owned by White Pine County, and that jointly investigating possible system problems as allowed by a local court order are within the duty, responsibilities, and authorities of county officials as described under Title 24 and other Nevada statutes. No one else has such authorities and responsibilities.
8. Joint Inspection/Review Team: Under the requested court order, the WP County Clerk is authorized to open and make jointly accessible for manual verification certain sealed election records from the June 2014 Republican Primary Election. The Joint Review Team is recommended formed by the WPCC with WPCRCC Representatives and individuals with having special technical assistance coming from the nonpartisan Citizen Task Force for Voter Rights (CTFVR). CTFVR members and their backgrounds are described in Exhibit 1, Section B.
9. Post Election Audit Processes Unsuccessful: We believe that normal County Clerk election processes under NAC 293.255 for Post Election Audits (PEAs) using sample verifications could not detect the type of irregular voting results identified by our petition. Normal system monitoring capabilities did not/could not detect the abnormalities during the election period or at post-election time. And, the losing candidate's immediate objections to the Secretary of State over the inexplicable election results

were summarily rejected without an effective appeal process by state authorities. There seems to be a lack of reasonable due process methods for this kind of situation involving electronic voting systems.

Since the open 2014 evidence has been discovered and analyzed, there is compelling rationale for questioning the previously reported electronic results for that race, and to consider independent audit and chain of custody procedures to comply with standards recommended in 2-Series Exhibits. For now, only a manual review could reveal what might have caused such unacceptable results.

10. Records To Be Opened: The limited list of records to be unsealed are found in Exhibit 1, Section C.
11. Physical Matching: Review results should confirm or deny that the reported election system tallies are matched by the stored and sealed records from the June 2014 election. Based on the phone survey results, even if the sealed records match the electronic records, further investigations will be needed.
12. Rapid Action Needed: Early completion of the requested action is needed to quickly permit the return of election records to sealed storage. The records to be reviewed are routinely scheduled for destruction 22 months after the election – in April 2016. This requested inspection and report on findings needs to be completed in March 2016. If the review cannot be completed by the normal destruction date, we request the court to order the delay of destructing these records for one year.
13. Authority To Copy: As provided under NRS293B and other statutes, members of the review team will be permitted to make digital copies of records and activities at their own expense to support the subsequent joint reporting of results. Voter privacy rules will be enforced by the WPCC.
14. Safeguarding Opened Records: The opened records will be protected by the WPCC and made available daily for the joint review team as needed for a period not less than five (5) and not more than fifteen (15) working days. WPCC will ensure that if any voter privacy data is found on records selected for review and copying, such data will be appropriately redacted. WPCC shall also provide maximum security for the opened records to avoid tampering prior to completion of the inspection and reports.
15. Costs: All costs to comply with implementing the requested order will be absorbed by the various participants with the exception that the Petitioners may be required to pay a standard filing fee.

The Petitioners, in Proper Person, under penalties of perjury, being first duly sworn, say they have read all pages in Exhibit 1, Section A, know the contents thereof; that the same is true of their own knowledge, except as for those matters stated as upon information and belief, and as to those matters, they believe them true.

Michael F. Kneese

Freda Jean Kneese
Petitioners

Jed A. Peeler

VERIFICATION

STATE OF NEVADA

COUNTY OF WHITE PINE

Michael F. Kneese, under penalties of perjury, being first duly sworn, deposes and says:

That he is a Petitioner in the above action; that he has read the foregoing Summary Statement and knows the contents thereof; that the same is true of his own knowledge, except as for those matters stated as upon information and belief, and as to those matters, he believes them to be true.



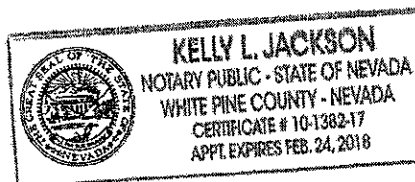
Michael F. Kneese

Subscribed and Sworn before me

this 19th day of February, 2016

Kelly L Jackson

Notary Public



VERIFICATION

STATE OF NEVADA

COUNTY OF WHITE PINE

Freda Jean Kneese, under penalties of perjury, being first duly sworn, deposes and says:

That she is a Petitioner in the above action; that she has read the foregoing Summary Statement and knows the contents thereof; that the same is true of her own knowledge, except as for those matters stated as upon information and belief, and as to those matters, she believes them to be true.

Freda Jean Kneese

Freda Jean Kneese

Subscribed and Sworn before me

This 19th day of February, 2016

Kelly L Jackson

Notary Public



VERIFICATION

STATE OF NEVADA

COUNTY OF WHITE PINE

Jed A. Peeler, under penalties of perjury, being first duly sworn, deposes and says:

That he is a Petitioner in the above action; that he has read the foregoing Summary Statement and knows the contents thereof; that the same is true of his own knowledge, except as for those matters stated as upon information and belief, and as to those matters, he believes them to be true.

Jed A Peeler

Jed A. Peeler

Subscribed and Sworn before me

This 19th day of February, 2016

Kelly L Jackson

Notary Public

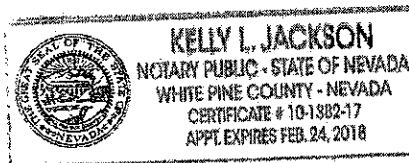


Exhibit 1, Section B: Members of the White Pine County Joint Review Team

Nicole Baldwin, White Pine County Clerk, Joint Review Committee Chair

Michael F. Kneese, WPCRPPC Designated Petitioner

Freda Jean Kneese, WPCRPPC Designated Petitioner

Jed A. Peeler, WPCRPPC Designated Petitioner

Robert E. Frank, Colonel, USAF (Ret.), Henderson,

Technical Advisor & Chair, Citizen Task Force for Voter Rights

Julie Hereford, Las Vegas,

Technical Advisor & Co-Chair, Citizen Task Force for Voter Rights

Lisa Mayo-DeRiso, Las Vegas,

Technical Advisor & Co-Chair, Citizen Task Force for Voter Rights

Nic Alfonsetti, Mesquite,

Technical Advisor & Co-Chair, Citizen Task Force for Voter Rights

Notes:

- 1. WPCRPPC = White Pine County Republican Party Central Committee**
- 2. WP District Attorney Oversees Legal Processes and Advises the County Clerk**

CITIZEN TASK FORCE FOR VOTER RIGHTS (CTFVR) TEAM EXPERTISE:

Julie Hereford, Las Vegas, NV. Co-Chair/Co-Founder of CTFVR. A Principle Partner of NV Grassroots Strategies. Julie has been very active in political campaign efforts since the 2004 Bush-Cheney re-election. Some political positions held include: Campaign Finance Director for Niger Innis for Congress (CD4), State Director for 60 Plus Association of NV, Chair of Candidate Recruitment for both State and Clark County Republican Parties, Active Member of NV Federation of Republican Women, Chair of Community Outreach for Romney 2012, State Chair of Coalitions for McCain-Palin 2008, Founder of the Asian American Leadership Council of NV, Director of Outreach for NV Republican Party, and Coalition Director for Clark County Republican Party. Prior to retiring in 1998, she was President/Owner of Tai-Pan International, Inc. and Pecor Steel Engineering for 16 years. Selected SBA Exporter of Year for Mid-Atlantic Region.

Lisa Mayo-DeRiso, Las Vegas, NV. Co-Chair/Co-Founder of CTFVR. President of Mayo & Associates for 23 years—a LV consulting company with expertise in strategic planning, new business development, marketing and public relations. Lisa is also a partner in First Tuesday, a political consulting company where she consults to candidates as they run for office. She handles city, county, state and national races with a 75% win rate for clients. Lisa serves on the boards for LV USO and Scenic NV. Her many public service awards include Teacher of the Year, National University, 1992, and Distinguished Women in Nevada in 1991 and 2014. Lisa earned a BS in Economics from Colorado University and MBA from Pepperdine University

Nic Alfonsetti, Mesquite, NV. Co-Chair/Co-Founder of CTFVR. Nic is a retired serial entrepreneur after over 30 years experiences with seemingly unlimited interests in technology and machines. He has personally launched more than a dozen companies in just as many markets, sold them for profit, and started over in many different geographical areas throughout the USA. His most recent interest has been in computer technologies where he specializes in personal computers and networks. He has served for years in the Mesquite/Clark County Election Center where he was responsible for voting machines and related system operations and security. He joined the initial cadre of founders of CTFVR to be of service in helping to discover the causes of the apparent CD4 election system failures and to help prevent such problems in future elections.

Robert E. (Bob) Frank, Colonel, USAF (Ret.), Henderson, NV. Chair/Co-Founder of CTFVR. <https://www.linkedin.com/pub/robert-e-frank-colonel-usaf-ret/16/9a5/955> Bob specialized for over 40 years in data systems analysis, design, development and operations in the USAF, NATO, Defense Supply Agency, Energy Department, and for such major financial institutions as Wells Fargo Bank and Fidelity Investments. He served 22 years in military logistics, contracting and computer leadership positions. Before retirement he was USAF Chief of Supply Policies and Procedures in the Pentagon, and Chief Technical Officer for Logistics Systems in Air Force Logistics Command in Dayton, Ohio. His over 20-year civilian career positions have included Control Data Corporation Director of Open Systems, Chief Scientist and Project Leader for Electronic Commerce at Lawrence Livermore National Laboratory, and Founder/CEO of an Internet secure transaction exchange company. He received a BBA from Oklahoma University, MBA from Auburn University and graduated from masters-level Air Command & Staff College and Air War College programs.

EXHIBIT 1, Section C: Items Requested from Sealed Records Of 2014 Republican White Pine County Primary Election

Prepared By Nic Alfonsetti, CTFVR Co-Chair & Clark County Edge Systems Election Volunteer
For The White Pine County Petitioners

These items are requested from sealed records for this review:

1. Team Leader Log. This record should contain all accounting of votes, machine performance from start to the end of the day of voting, and the records of workers. This should include the number of workers used each day at each poll and their time sheets. If an EDGE Machine or its printer fails, that fact should be written in the LOG. If a Card Activator fails and is changed out, that fact should also appear on the daily report. If a Computer fails or has reliability problems, that should be reflected in the same report.
2. All Printer Rolls. (Edge Printer and Scanner), intact, as seen at the County Election Certification before the results were sent and certified by the Nevada Secretary of State.
3. All Paperwork Produced. (including backup disks) used by Computer Clerk(s) for all voters including Provisional Voters.
4. Voter Signature Log. Indicates the number of Voters for Primary and General Elections.
5. Poll Team Leader Log for the numbers of machines. It is used to account for memory cartridges and the reported numbers of votes.
6. Poll Team Leader Log showing any changes of printers, number of printer rolls used, and serial numbers of printers.
7. Poll Leader Log that indicates Voter Walk Outs, failures to vote, etc.
8. Poll Leader Log that indicates signatures of all staff and the oath signatures of all pole workers.

9. Poll Leader Log reporting the total of votes taken from the Edge Machines at close of each day.
10. Team Leader Log Indicating the number of voters that applied for an Absentee Ballet that chose to personally vote and properly surrendered their Absentee Ballet
11. Poll Leader Log indicating number of voters that needed assistance, (Importance: some health care workers try to vote for patients.)
12. Team Leader Log indicating the Chain of Custody of the Edge Machine Cartridges and storage over night with SEAL numbers when transported offsite.
13. Poll Team Leader Log containing the Log of Seals used for the entire time the Edge Machines are at the voting sites.
14. Detailed Report of Service performed on any Edge Machine, Scanner, other machine, or software to include; Company/Technician name, what service performed, and report of services completed.

Notes:

A review of the items that go to the County Election Department should be confirmed to be certified to follow the Chain of Custody of the Cartridge data transfers, numbers of signature checkers, and counts to verify the Machine counts are correct to the Poll Team Leaders paper work.

The Team Leader LOG should also be inspected for (1) reporting the vote count to the Secretary of State, (2) certifying the final count to the SOS, and (3) obtaining the IP address for the PC modems used to report vote tallies, (4) report the numbers modems dialed to make reports, and (5) identify what secure software and protocols were used to transfer the election numbers and data to Secretary of State Office before election certification is completed.

Exhibit 2: White Pine County Evidence

Section A An Unreasonable Outcome In White Pine County CD4 Primary.pdf

Section B High Level White Pine County Statement of Vote for June 2014 Primary.pdf

Section C White Pine County Voter Phone Survey Report Finds None For Monroe.pdf

Section D Electronic Election Systems Are Vulnerable to Fraud.pdf

Section E Independent Audits of Elections Are Needed.pdf

Section F Handyman Mike Monroe's Strong Showing-- Las Vegas Review-Journal.pdf

Section G Ely Times Asks Who Is Mike Monroe.pdf

Section H CD4 Primary Results Raises Questions by Thomas Mitchell.pdf

Section I Candidate Innis Calls on Sec. of State to Investigate Results in CD4 Primary.pdf

Exhibit 2, Section A: Unreasonable Outcome In WPC CD4 Primary

Prepared by CTFVR (Lisa Mayo-DeRiso & Robert E. Frank) for White Pine County Petitioners

Mike Monroe, a homeless handyman of apparent African American decent who appears in his photo to be in his 40s and who registers to vote as a Clark County Republican, has claimed to run for elected office three times; twice in Congressional District 1 (2006, 2010) and once in Congressional District 4 (2014). But, this paper reveals serious doubts about that person.

Mr. Monroe has apparently never been required by the Nevada Secretary of State to verify his identify and legal domicile and he seems to have improperly had his name placed on ballots for federal office. Since he seems to be a street person, this former candidate for Congress has been hard to find since the 2014 primary for personal interviews. Moreover, our research of the FEC Campaign Finance and Report site (<http://www.fec.gov/disclosure.shtml>) was unable to locate any lawful past campaign reporting for claimed aliases Mike Monroe, Michael Ace Monroe, or even Mike A. Monroe.

Something is very wrong when such a person can be permitted to claim to continue to run campaigns for federal offices and consistently fail to comply with state and federal registration and reporting rules. For example, Mr. Monroe has no proof of ever having a hired campaign manager, nor has he posted a single sign or distributed any flyers in any of the three federal races he is reported to have entered in recent years. He appears to be a fraud.

The 2014 Congressional District 4 (CD4) primary race held four debates, but candidate Mike Monroe never showed up for any of them. His alleged campaign had no web site, no email, no social media sites, no press releases and no media stories before the primary election. As a result, the CTFVR and White Pine County Petitioners claim the votes reported for Mr. Monroe in that primary election in the district and county are suspect and require an in depth review to determine if the voting system malfunctioned or if election fraud was involved.

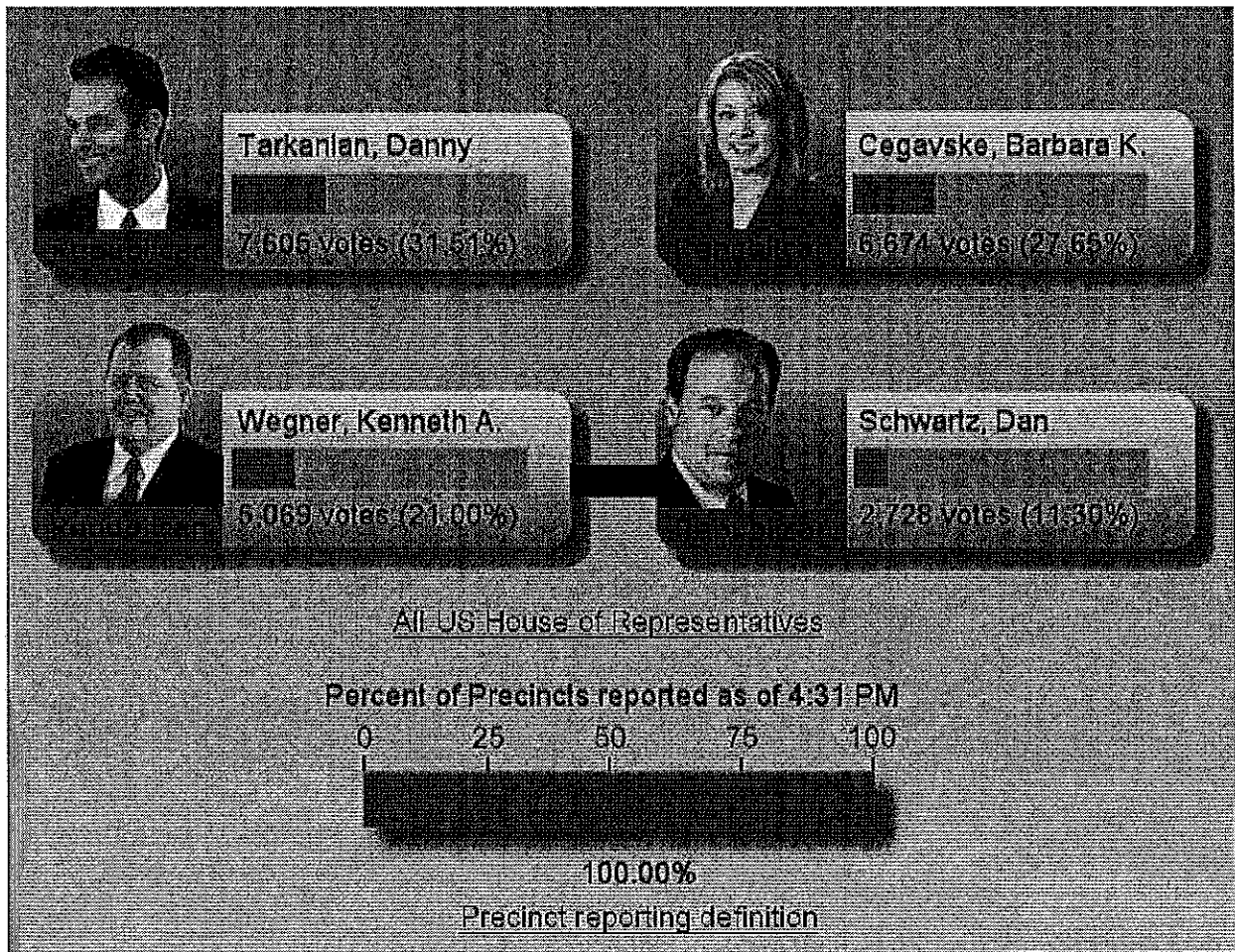
For example, how could the complete lack of effort by Mr. Monroe result in the following:

Crescent Hardy	42.59%	10,339 Votes
Niger Innis	33.08%	8,030 Votes
Mike Monroe	22.18%	5,384 Votes
Carlo "Mazunga" Poliak	2.15%	522 Votes

In 2006, it is said that the same Monroe ran for Congress in Congressional District 1. But, his name listed on the primary ballot was Michael Ace Monroe. That Monroe candidate in District 1 received 2,193 votes, or 10.6% in a three person race, where strong primary campaigns by Kenneth Wagner won with 10,615 votes, and Russ Michelson received 7,907 votes.

In 2010, a Mike A. Monroe ran as a Republican in Congressional District 1 in the primary. There were 8 names on the ballot, with Kenneth Wagner winning with 7,216 votes, and Michele Fiore coming in second with 5,923 votes. That Mike A. Monroe received only 457 votes, or 1.7% of the vote total.

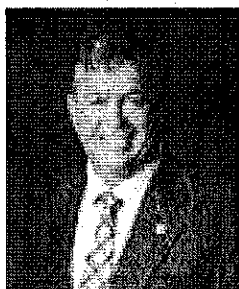
2012 CD4 (R) primary candidates and results are shown below. How could a homeless, no campaign, unemployed, unknown street person receive more Congressional votes by rural Republicans in 2014 than well-known, active candidates Wegner and Schwartz in 2012?



In 2014 the record also shows a Mike Monroe filed with the SoS to run in Congressional District 4 as a Republican. Also on the ballot were National Civil Rights Leader Niger Innis, Nevada Assemblyman Cresent Hardy and unknown Carlo "Mazunga" Poliak. Carlo Poliak ran a minimal campaign and had his photo on the ballot. But, unknown, zero-campaigner Mike

Monroe spent nothing and showed no photo while receiving over 10 times the votes. We have inserted Mr. Monroe's official Secretary of State photo in the below space to reflect what SoS ballots, election reports and other election materials should have shown, but did not reveal.

(Blank During Election)



REP

**Hardy,
Crescent**



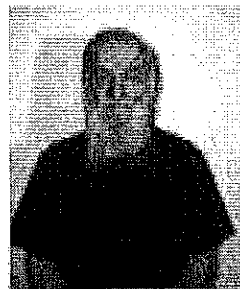
REP

**Innis,
Niger**



REP

**Monroe,
Mike**



REP

**Poliak,
Carlo "Mazunga"**

So, while Monroe and Poliak ran similar campaigns, the results were strikingly different:

<i>Mike Monroe</i>	<i>22.18%</i>	<i>5,384 Votes</i>
<i>Carlo "Mazunga" Poliak</i>	<i>2.15%</i>	<i>522 Votes</i>

Niger Innis and Crescent Hardy both employed professional teams with their campaigns for fund raising and spending over \$200,000 for campaign materials and travel. Credible, winning campaigns also sponsor polls. Niger Innis conducted several polls throughout the campaign, and consistently polled ahead of Crescent Hardy

Jerry Dorchuck | Chairman, CEO | P.M.I., Inc. of PMI Polling in Marianna, FL, a well respected polling firm conducted polling in the CD4 race for Niger Innis. The following poll was run for Niger Innis from May 27-29, 2014—just before the primary election in early June.

Hello, we are conducting a brief 2 question survey about the Republican primary election for Congress here in District 4 and the Lt. Governor's race. This survey will take less than 60 seconds of your time and is brought to you by PMI.

State of Nevada
Congressional District 4
Republican Primary

May 27-29, 2013

****Question 2.** In the race for Congress do you intend to support Crescent Hardy or Niger Innis?

Press 1 for Crescent Hardy POLL = 43.01% -- ACTUAL PRIMARY VOTES RECEIVED = 42.63%

Press 2 for Niger Innis POLL = 56.99% -- ACTUAL PRIMARY VOTES RECEIVED = 33.11%

Polling numbers had Niger Innis leading Cresent Hardy by 8-14 points heading into the CD4 primary election period.

The actual election results confirm the accuracy of the polling as it relates to Cresent Hardy; but, Niger Innis' actual results show a 23.91% variance between polls and primary voting.

Cresent Hardy	42.59%	10,339 Votes
Niger Innis	33.08%	8,030 Votes
<u>Mike Monroe</u>	<u>22.18%</u>	<u>5,384 Votes</u>
Carlo "Mazunga" Poliak	2.15%	522 Votes

It was reasonable to expect Mike Monroe to perform more closely to Carlo Poliak with 2.15% of the vote; but, unreasonable to expect Monroe to receive 22.18% of the total vote.

It is also not believed to be a random occurrence for Mike Monroe to perform within 1.73% (23.19 – 22.18) of the actual variance between Niger Innis pre-election polling numbers, and the actual percentage of votes Mike Monroe received. These data suggest that about 5,000 of the votes tallied for Mr. Monroe should have been received and reported for Mr. Innis. Such a high variance is not random. The cause must be investigated.

To provide additional support of our position that the CD4 results were "unreasonable" and must be investigated, this Las Vegas Review Journal story ran immediately after the election:

Las Vegas Review Journal Posted June 12, 2014 - 4:33 pm Updated June 12, 2014 - 5:32 pm

"Handyman Mike Monroe's strong show in congressional primary has everyone asking why"

"The election over, Mike Monroe was hard at work Thursday, fixing a water heater in Las Vegas. Actually, Monroe never stopped his handyman and construction jobs and never really campaigned much in the highly competitive race for the vast 4th Congressional District covering northern Clark County and six rural counties.

Despite that laissez-faire attitude, Monroe won two counties and swept up 22 percent of the GOP primary vote Tuesday, finishing third behind the winner, Assemblyman Cresent Hardy, R-Mesquite, and Niger Innis, a conservative civil rights activist. Hardy will face incumbent U.S. Rep. Steven Horsford, D-Nev., in the Nov. 4 election."

"I get around," Monroe said, noting he has traveled every county in the district, including Esmeralda and White Pine, where he beat Hardy and Innis. "I'm from Nevada. I've been traveling all these counties for years and people know me. I'm a people person. I'm out there with the people. I have a platform. They (Hardy, Innis) don't have a platform." Monroe has a low opinion of Innis as a Nevada candidate. "Niger Innis is a carpetbagger," Monroe said. "I was born here. This is my state."

-----End of R-J Quote-----

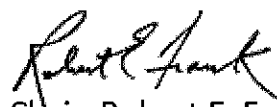
In that R-J post-election story Mike Monroe speaks of a "platform", but there is no evidence Monroe ever provided any written or verbal support for any issues or arguments for any manner of governing at the federal or state levels. In addition, he professes that he "traveled all the counties" but he seems to have never walked a precinct in any of the counties nor attended any organized political or GOP functions in the years he claimed to live in Nevada.

It should also be noted that Mike Monroe never met Niger Innis, nor was Niger Innis a "carpetbagger", having lived and been highly active in the district for three years.

Finally, significant research efforts have been invested in the two rural counties (White Pine and Esmeralda) where Mr. Monroe was reported to have won the primaries. We have tried to discover evidence on why 33% of registered Republican voters who voted in the primary would favor Mr. Monroe over the two, well-known leading candidates, Innis and Hardy. But, after investing significant efforts in White Pine County, professional political callers could find no voters claiming to know or to have voted for Monroe in the 2014 Primary.

It seems clear that something went seriously wrong in the Nevada 2014 CD4 Republican Primary election process. We submit there are compelling reasons for district judges to authorize County Clerks to open and inspect the sealed election materials for that 2014 Republican CD4 race to determine how the inexplicable results could be understood. The root causes must be identified and fixed before the beginning of the 2016 election cycle.

FOR THE CITIZEN TASK FORCE FOR VOTER RIGHTS AND WHITE PINE COUNTY PETITIONERS:


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and

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EXHIBIT 2, Section B: Summary of 2014 White Pine Republican Primary Voting

HIGH LEVEL SUMMARY OF THE 3 KEY CANDIDATES FROM THE
 WHITE PINE STATEMENT OF VOTE
 BY LISA MAYO-DERISO
 PROVIDING FOCUSED EVIDENCE SUPPORTING THE NEED TO
 OPEN, REVIEW AND ANALYZE WHITE PINE COUNTY
 2014 REPUBLICAN PARTY CD4 PRIMARY ELECTION MATERIALS

The below Summary of the Citizen Task Force for Voter Rights Summary of the Statement of Vote for 11 White Pine County Precincts Was Completed on 11/19/14

Precinct	Crescent Hardy	Niger Innis	Mike Monroe
#1 Absentee Ballots	7	2	8
Early Vote	11	18	14
#2 Election Day	7	9	7
Early Vote	5	7	6
#3 Election Day	16	8	13
Absentee	5	0	5
#4 Election Day	7	21	22
Absentee	7	3	5
Early Vote	21	9	15
Total:	35	33	42
#5 Election Day	15	39	25
Early Vote	21	20	26
#6 Election Day	6	14	11
Absentee	2	2	3
Early Vote	7	4	8
#7 Election Day	8	11	16
#8 Early Vote	0	0	1
#9 Election Day	2	9	11
#10 Election Day	12	19	15
Total White Pine Votes:	249	256	259
	Crescent Hardy	Niger Innis	Mike Monroe

EXHIBIT 2. SECTION C: SUMMARY OF PROFESSIONAL PHONE SURVEY OF WHITE PINE COUNTY 2014 REPUBLICAN PARTY VOTERS

Prepared by CTFVP Co-Chair Julie Hereford for WPC Petitioners

A White Pine County (WPC) Phone Survey of 2014 Republican Primary Voters was conducted in April 2015 by a professional survey contractor under the sponsorship of the WPC Republican Party and supervision of CTFVR Co-Chair **Julie Hereford**.

The survey found **"NO ONE"** who voted for or remembered **Candidate Mike Monroe**. It seems reasonable to conclude from this effort that evidence does not exist to verify the 259 votes (33% of total) that the homeless, penniless, Las Vegas street person, Mike Monroe, reportedly received when the NV Secretary of State certified he won the 2014 White Pine County Republican Primary against two highly experienced, well-funded career Republicans with professional campaign staffs.

The technical back up to this summary includes such items as the survey form, detailed tables from which the phone calls were made, and recordings of the related conversations. These extensive records are available to the court if desired. Although CTFVR only had 444 phone numbers available, 1,660 calls (4 rounds) were made at different times of day to increase the chances of contacting voters.

1. **Project: Phone Survey in WPC by Citizen Task Force for Voter Rights (CTFVR)**
2. **Purpose: Surveying Republican Primary Voters who voted during 2014 CD4 Primary Election for Congressional candidate Mike Monroe.**
3. **Targeted Universe: 786 Republican Voters with 444 phone numbers available.**
4. **Dates of Survey: 4/24/2015 - 4/29/2015**
5. **Total phone numbers dialed: 1,660 (4 rounds)**
6. **Number of calls connected: 180 (10.8% of 1,660)**
7. **Replies to Survey -- For 50 completed calls (28% of 180 or 11.3% of 444)**
 - 42 **NO -- meaning don't know Mike Monroe or didn't vote for MM**
 - 8 **Others -- meaning don't remember or do not want to complete survey.**
8. **Answering Machines: 6**

Special Remarks:

Note #1 on Survey Success Rate: National average for phone survey is 5 to 10%

Note #2 on National Post Election Audit sampling rate: Average of 3% to 5%

Note #3 While most of the remaining WPC Republican Voters could be called, no one believes many of the 256 votes certified for Monroe could be found.

Project Detail Report for: 4/24/2015 - 4/30/2015

Account Name: maffatt.com
 Campaign Name: New Project

System Dispositions	04/24/2015	04/25/2015	04/26/2015	04/27/2015	04/28/2015	04/29/2015	04/30/2015	Total	%
drop	0	12	0	9	0	23	0	44	2.7%
human	0	43	0	49	0	88	0	180	10.8%
machine	0	66	0	82	0	359	0	507	30.5%
no answer	0	266	0	309	0	337	0	912	54.9%
service unavailable	0	3	0	7	0	7	0	17	1.0%
System Dispositions	0	390	0	456	0	814	0	1,660	100.0%

Agent Dispositions	04/24/2015	04/25/2015	04/26/2015	04/27/2015	04/28/2015	04/29/2015	04/30/2015	Total	%
answering machine	0	0	0	1	0	5	0	6	3.3%
dnc	0	1	0	1	0	3	0	5	2.8%
hit	0	18	0	13	0	19	0	50	27.8%
hungup before hello	0	14	0	14	0	34	0	62	34.4%
not available	0	2	0	10	0	16	0	28	15.6%
not interested	0	4	0	6	0	8	0	18	10.0%
wrong party	0	4	0	4	0	3	0	11	6.1%
Agent Dispositions	0	43	0	49	0	88	0	180	100.0%

sp01-sp01	04/24/2015	04/25/2015	04/26/2015	04/27/2015	04/28/2015	04/29/2015	04/30/2015	Total	%
No	0	16	0	12	0	14	0	42	75.0%
Other	0	4	0	5	0	5	0	14	25.0%
sp01	0	20	0	17	0	19	0	56	100.0%

Affidavit

This is the sworn affidavit of Linda Nickels
of Clark County, Nevada

STATE OF NEVADA
COUNTY OF WHITE PINE

I, the undersigned, Linda Nickels, being duly sworn, herby depose as follows:

1. I personally contacted by telephone each person on the attached survey form and following the attached script did ask and determine if each said person voted for Mike Monroe in the Republican Primary Election held in White Pine County on June 10, 2014, and if called as a witness could testify completely thereto.
2. I am over the age of 18 and I am a resident of the State of Nevada. I suffer no legal disabilities and have personal knowledge of the facts set forth in the attachments hereto.

I declare that, to the best of my knowledge and belief, the information on the attached documents is true, correct and complete.

Executed this 19th day of May 2015.
Linda Nickels

NOTARY ACKNOWLEDGEMENT

STATE OF NEVADA, COUNTY OF WHITE PINE,

This Affidavit was acknowledged before me on this 19th day of May, 2015
By Linda Nickels, who being first duly sworn on oath according to law,
deposes and says he/she has read the foregoing Affidavit subscribed by him/her, and that the matters stated
herein are true to the best of his/her information, knowledge and belief.

Estela A. Moreno
Notary Public

Notary Public
Title (and rank)



My commission expires August 30, 2016

ATTACHMENT 1 - PHONE SURVEY
AFFIDAVIT By LINDA NICKLES
DATED MAY 19th, 2015

**SCRIPT FOR PHONE SURVEY TO DETERMINE VOTES CAST FOR MIKE
MONROE**

in the Republican Primary Election for CD-4 held in White Pine County on June 10, 2014

Hello, this is LINDA NICKLES calling. As you are probably aware, we had a shocking result here in the White Pine County CD-4 Republican primary election last June.

Mike Monroe, an unknown, homeless and apparently penniless man with no campaign activity received more votes in White Pine County than two very well known Republicans with high profile campaigns. A second unknown candidate received almost no votes.

It is a mystery and statistical improbability how such an unknown candidate with no campaign activity could have earned the majority of votes in this Republican election in mostly rural, White Pine County.

We are asking to have the election records opened for review by county and public election experts to find out what caused this inexplicable outcome. To have rationale for opening the sealed records, we need to discover via a phone survey how many registered Republicans voted for this candidate for Congress.

Will you share with me if you voted for this candidate so we can gather data to determine if the sealed election results should be opened for review?

Did you vote for Mike Monroe in this election? _____

Thank you for your assistance!



(Note: Only if they ask, give them the names of the other three candidates to refresh their memory. If they mention "secret ballots", tell them we do not need to know WHO else they might have voted for. We only need to know IF they voted for Mike Monroe, and only to determine if election results need to be opened and examined for possible irregularities.)

Exhibit 2, Section D: Electronic Election Systems Highly Vulnerable To Fraud

Prepared By CTFVR Chair, Robert E. Frank for the White Pine County Petitioners

Election System managers sometimes claim their systems are highly secure because they design, audit and control everything themselves in secret. But, that is wrongful behavior.

High risks of cyber warfare at all levels of government and business require today's secure systems managers to be constantly upgrading their own expertise and their hardware, software, policies, procedures and subordinate training to cope with global threats.

Such government employees are usually ignorant of what they must know because it is impossible for the typical manager to stay abreast of all the latest info on how to deal with the cyber threats of the 21st Century. Such managers need to use a variety of exceptionally qualified outside professionals to augment staff expertise. Government managers also need access to independent professionals to verify their staff work and certify the trustworthiness of complex elections. Unfortunately, Nevada is apparently not using these proven management methods that become more urgent every day.

During the past decade, there have been dozens of Internet-reported ways to hack into poorly designed and highly vulnerable election systems—like the ones used by Nevada. Some of the best known fraud threats to electronic election systems are found in the video clips mounted on a web site provided by the technical consultants to WPCRCC, the Citizen Task Force for Voter Rights. <http://citizentaskforce.org/>

When Citizen Task Force for Voter Rights began its investigation into the bizarre, inexplicable 2014 voting results in this case, it conducted a high level analysis of the NV election system and quickly discovered many serious system vulnerabilities to errors, tampering and fraud. The top 10 vulnerabilities of Nevada's Election System are included at the end of this Exhibit 2c. After access to the internal processes and hidden components in the future, there are many more major defects likely to be disclosed in Nevada's election system.

The obvious conclusion is that under no circumstances could the Nevada Election System be considered "secure" or even somewhat invulnerable to tampering and fraud. In fact, some could consider it something of a miracle if no one has ever exploited the easily observable weaknesses to change some past NV election outcomes. A healthy respect for what hackers and crackers can do is the first management step for working to reduce the threats of fraud.

To illustrate just a few examples of what must be done in Nevada to implement a secure election system, we have included a few quotes from the massive, multidisciplinary studies performed in recent years for The Congress by the famous Brennan Center for Justice at the New York University School of Law. These selected quotes about voting system security and

post-election audits have been included as some basic evidence for why we feel it is so important for the 7th District Court to approve this petition to seek the truth.

While important audit process changes are required now to detect tampering and criminal fraud, it is a totally different situation to consider what needs to be done in the future to re-engineer the NV election system to make it reasonably "secure" and capable of passing a rigorous audit by a professional fraud examiner--as is done in banks, major corporations, casinos, and federal government agencies.

In our opinion, the NV election system is unacceptable until it implements independent audits aligned with public standards. And, we believe sufficient public policy exists to allow basic audit management to be modernized without waiting for statutes to be changed.

With this in mind, the following introductory comments are quoted from the NY Brennan Center Task Force and its decades of work to become a global leader in systems security and auditing expertise. (Highlighting in red and underlining are inserted for emphasis.)

"In 2005, in response to growing public concern over the security of new electronic voting systems, the Brennan Center assembled a task force (the "Security Task Force") of the nation's leading technologists, election experts, and security professionals to analyze the security and reliability of the nation's electronic voting machines. One of the key findings of the Security Task Force is by now widely accepted by computer scientists, many election officials, and much of the public: all of the major electronic voting systems in use in the United States have serious security and reliability vulnerabilities.

Many have advocated mandating voter-verified paper records as a solution to these vulnerabilities. *In fact, voter-verified paper records by themselves will not address the security and reliability vulnerabilities the Brennan Center and many other groups have identified. To the contrary, as the Brennan Center Security Task Force noted in The Machinery of Democracy: Protecting Elections in an Electronic World, voter-verified paper records, by themselves, are "of questionable security value."* Paper records will not prevent programming errors, software bugs, or the insertion of corrupt software into voting systems.

Voter-verified paper records will only have real security value if they are regularly used to check electronic tallies. It is for this reason that the Brennan Center urges Congress to adopt meaningful post-election audit legislation as soon as possible. Currently, only thirteen states require both voter-verified records and regular audits of those records."

...

"The Brennan Center has concluded that, among other things, an effective audit scheme that addresses these questions will do the following:

- **Use Transparent and Random Selection Processes for All Auditing Procedures.** *Audits are much more likely to prevent fraud, and produce greater voter confidence in the results, if the ballots, machines or precincts to be audited are chosen in a truly random and transparent manner.*
- **Allow the Losing Candidate To Select Precinct(s) or Machine(s) To Be Audited.** *In addition to conducting random audits, jurisdictions should allow a losing candidate to pick at least one precinct to be audited. This would serve two purposes: first, it would give greater assurance to the losing "side" that the losing candidate actually lost; second, it would make it much more likely that anomalous results suggesting a programming error or miscount were reviewed.*
- **Place an Independent Person or Body in Charge of the Audits.** *To increase public confidence that the audit can be trusted, it will be helpful to ensure that the person or persons supervising the audit are viewed as independent of the State's chief election officer, vendors who may have sold machines being audited, and any candidate running in an audited race.*
- **Implement Effective Procedures for Addressing Evidence of Fraud or Error.** *If audits are to have a real deterrent effect, jurisdictions must adopt clear procedures for dealing with audit discrepancies when they are found. **Detection of fraud will not prevent attacks from succeeding without an appropriate response.** Such procedures should also ensure that outcome-changing errors are not ignored.*
- **Encourage Rigorous Chain of Custody Practices.** *Audits of voter-verified paper records will serve to deter attacks and identify problems only if states have implemented solid chain of custody and physical security practices that will allow them to make an accurate comparison of paper and electronic records.*
- **Audit a Minimum Percentage of Precincts or Machines for Each Election, Including At Least One Machine or Precinct for Each County in the State.** *An audit that targets a fixed percentage (e.g. 3 percent) of machines or precincts to audit in each Congressional District is an efficient method for catching broad-based error or fraud. **By auditing at least one machine or precinct in every county, jurisdictions will greatly increase the likelihood that they will find discrepancies caused by fraud or error at the county level.***

- **Record and Publicly Release Numbers of Spoiled Ballots, Cancellations, Over-votes and Under-votes.** Audits that record the number of over-votes, under-votes, blank votes and spoiled ballots (including in the case of DREs, cancellations) could be extremely helpful in uncovering software attacks and software bugs and point to problems in ballot design and instructions.
- **Audit Entire System, Not Just the Machines.** History has shown that incorrect vote totals often result from mistakes when machine totals are aggregated at the tally server. Accordingly, good audit protocols will mandate that the entire system - from early and absentee ballots to aggregation at the tally server - be audited for accuracy.
- **Increase Scrutiny in Close Elections.** Software bugs and/or tampering that affect the software of a small number of machines will generally not affect the outcome of federal elections. In extremely close races, of course, such problems can change the outcome of a race. In such cases, **a 3 percent audit is unlikely to uncover a software bug, programming error or malicious attack that might alter the results of the race.** Accordingly, the Brennan Center recommends that exceptionally close races receive heightened scrutiny.”

-----End of Brennan Center Quotations-----

TOP 10 VULNERABILITIES TO ERRORS & TAMPERING IN NEVADA ELECTION SYSTEM

Prepared By CTFVR Chair, Robert E. Frank for the White Pine County Petitioners

Citizens should not blindly trust our Nevada government to certify its own results, election system components, and processes because of the below listed vulnerability areas.

Concerned parties need to view the video evidence of systemic election system defects listed on CitizenTaskForce.Org. For example, Nevada’s election system indicates that:

- 1. End-to-end, election system “chain-of-custody” records and “audit trails” are not in place;**
- 2. Fraudulent election results can come from not implementing independent audits and security oversight by licensed audit/fraud professionals outside of government agencies;**
- 3. Accurate re-counts of election results seem unattainable, and even the basic, ineffective provisions are unreasonably priced under statute limitations.**

4. Insider tampering is possible due to insufficient background checks and failures to require a comprehensive, disciplined buddy system for such a critical, secure data system;
5. External tampering threats exist due to not nurturing effective security practices and cultures within the full range of election employees, contractors and volunteers;
6. Internal and external hardware and software inspections and testing cannot be conducted by County employees on systems components before, during and after elections;
7. Locks on machines, magnetic devices, and transport vaults appear easily defeated;
8. Seal and tamper detection training for workers appears inadequate;
9. Chain of custody records for storage and transport drivers and ballot handlers are not part of the "Post Election Audit process" and other relevant security procedures; and
10. Election managers appear insufficiently trained and not held accountable for systems under their authority when they are found vulnerable to corruption or criminal violations.

NV election system statutes, policies, procedures, vulnerabilities and operating deficiencies urgently need to be repaired and/or replaced. Secret self inspections of electronic systems are not acceptable in this complex world of massive cyber threats and rapidly expanding forms of vulnerable nanotechnologies.

There appears to be overwhelming evidence for demanding Nevada election system redesign by the highest levels of specialists to ensure it is "secure" and to implement the use of truly independent, specially trained auditors and fraud examiners to certify the integrity of election results. While making voting convenient and easy for citizens is important, such criteria must not override the more vital needs for having a provably trustworthy system.

Otherwise, citizens, candidates, candidate sponsors and political parties cannot depend on the accuracy of election results and our unique American Republic could lose public support.

Exhibit 2, Section E: Independent Audits of Election Systems

Prepared By CTFVR Chair, Robert E. Frank for the WPC Petitioners

The information below has been extracted from the web link below. The executive authors and national organizations specializing in election principles and practices are listed.

Source: <http://electionaudits.org/auditprinciples>

This expert information is particularly significant since it appears that the Nevada Election System at the Legislative, State and County levels have not implemented many, if any, of the well-documented reasons and methods for independent auditing of elections.

Since secure public elections must be considered vastly more important to sustaining the integrity of our free society, NV audit standards should be more stringent than what is required for financial institutions, national security, and publicly traded corporations.

This lack of independent auditing of NV elections needs to be identified as a matter of great concern. It is must be investigated and fixed, quickly. Otherwise, the trustworthiness of Nevada elections is at high risk.

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The following election audit principles and recommendations are endorsed by the following organizations:

- Brennan Center for Justice
- Citizens Alliance for Secure Elections - Ohio
- Citizens for Election Integrity Minnesota
- Coloradans for Voting Integrity
- Common Cause
- CTVotersCount.org
- E-Voter Education Project New York
- Florida Voters Coalition
- Georgians for Verified Voting
- Iowans for Voting Integrity
- Michigan Election Reform Alliance
- SAVEourVotes-Maryland
- Verified Voting
- Voting Integrity Task Force - Coalition for Peace Action - New Jersey
- Citizens for Election Integrity Massachusetts

Also, statistical portions, principles and best practices, are endorsed by the American Statistical Association.

“Why Audit Election Results?”

No voting system is perfect. Nearly all US elections today are counted using electronic voting systems. Such voting systems have produced result-changing errors through problems with hardware, software, and procedures.¹⁰ Errors can also occur in hand counting of ballots or in the compiling of results. Even serious error can go undetected if results are not audited effectively.”

“Well-designed and properly performed post-election audits can significantly mitigate the threat of error, and should be considered integral to any vote counting system. A post-election audit in this document refers to hand-counting votes on paper records and comparing those counts to the corresponding vote counts originally reported, as a check on the accuracy of election results, and resolving discrepancies using accurate hand counts of the paper records as the benchmark. Such audits are arguably the most economical component of a quality voting system, adding a very small cost¹¹ for a large set of benefits.”

“The benefits of such audits include:

- Revealing when recounts are necessary to verify election outcomes
- Finding error whether accidental or intentional
- Deterring fraud
- Providing for continuous improvement in the conduct of elections
- Promoting public confidence in elections

Post-election audits differ from recounts. Post-election audits routinely check voting system performance in contests,¹² regardless of how close margins of victory appear to be. Recounts repeat ballot counting in special circumstances, such as when preliminary results show a close margin of victory. Post-election audits that detect errors can lead to a full recount. When an audited contest is also recounted, duplicate work can be avoided....”

“Voting systems should have reliable audit records. Best effort audits should be performed even if the technology does not support optimal audits, or even if the laws do not permit optimal remedies.¹³ No single

model for post-election audits is best for all states. Election traditions, laws, administrative structure and voting systems vary widely. Nonetheless, there are guiding principles that apply across all states. As states develop their own audit models, the public should have the opportunity to help shape those regulations.”

“The following principles were written to guide the design of high-quality post election audits. They were developed by an ad hoc group comprising many stakeholders, including election officials, public advocates, computer scientists, statisticians, political scientists and legislators.”

“ELECTION AUDITING PRINCIPLES

1. **TRANSPARENCY:** Elections belong to the public. The public must be allowed to observe, verify, and point out procedural problems in all phases of the audit without interfering with the process.
2. **INDEPENDENCE:** The authority and regulation of post-election audits should be independent of officials who conduct the elections. The actual work of postelection audits may be best performed by the officials who conduct the elections.
3. **PAPER RECORDS:** Ideally, post-election audits use hand-to-eye counts of voter-marked, voter-verified paper ballots. Where such paper ballots are not available, other forms of voter-verifiable paper records should be used.
4. **CHAIN OF CUSTODY & BALLOT ACCOUNTING:** Robust ballot accounting and secure chain of custody of election materials and equipment are prerequisites for effective post-election audits.
5. **RISK-LIMITING AUDITS:** Post-election audits reduce the risk of confirming an incorrect outcome. Audits designed explicitly to limit such risk (risk limiting audits) have advantages over fixed-percentage or tiered audits, which often count fewer or more ballots than necessary to confirm the outcome.
6. **ADDRESSING DISCREPANCIES and CONTINUING THE AUDIT:** When discrepancies are found, additional counting and/or other investigation may be necessary to determine the election outcome or to find the cause of the discrepancies.
7. **COMPREHENSIVE:** All jurisdictions and all ballot types, including absentee, mail-in and accepted provisional ballots, should be subject to the selection process.
8. **ADDITIONAL TARGETED SAMPLES:** Including a limited number of additional targeted samples of ballots can increase audit effectiveness and public confidence. Such samples may be selected by candidates, issue committees, parties, election administrators, or

others as provided by regulation.

9. BINDING ON OFFICIAL RESULTS: Post-election audits must be completed prior to finalizing official election results and must either verify the outcome or, through a 100% recount, correct the outcome.”

Notes: “[1] For example, in Pottawattamie County, Iowa, in the June 2006 primary election for County Recorder, the original optical scan count showed challenger Oscar Duran defeating the incumbent, John Sciortino. A hand count showed that Sciortino actually had won handily; the scanners had been misprogrammed. In Napa County, California, after the March 2004 primary, the 1% manual tally discovered that the optical scanners had been miscalibrated and were failing to detect the dye-based ink commonly used in gel pens. The ensuing recount recovered almost 6700 votes (but no outcomes changed).

[2] For instance, in Minnesota after the 2006 general election, the cost of the wages for election judges (pollworkers) to count votes has been estimated at \$24,500 to \$27,000 statewide, 9 to 10 cents per hand-counted vote, and about 1.2 cents per voter in the election (<http://www.ceimn.org/files/CEIMNAuditReport2006.pdf>). While audit costs will vary depending on the scope of the audits and other considerations, they can be expected to be a small fraction of election administration costs.

[3] We will use “contest” to refer to any ballot item (such as an election to public office or a ballot initiative) not to a challenge to the results, as in some states.

[4] The proposal of best practices for auditing a given system does not imply an endorsement of the system.”

Ineffective Audit Policies/Practices Create Opportunities For Fraud

The blow quotes from a 90-page, NY University School of Law document are included to illustrate what the Nevada Election System must do to reduce its high risks to errors, tampering and fraud. With no apparent system-level audit trails, no comprehensive chain-of-custody records, and no use of independent, licensed auditors and licensed fraud examiners, the NV Election System is highly vulnerable to undetected tampering and criminal corruption.

From a management perspective, Nevada does not have an official “Election System Chief Technical Officer” (highly qualified professional IT employee or contractor) who sets, monitors and enforces state election security standards and practices for the Nevada Secretary of State.

In today’s world of successful cyber crimes against government (including the White House, Defense, and Intelligence Agencies), this omission should be considered a serious, material weakness in what everyone expects to be the highest level security data system in the State.

The following are brief quotes from the Brennan Center for Justice at the NY University School of Law paper for The Federal Election Commission: www.brennancenter.org (Red letter and underline emphasis in the quotes are provided by the Petitioners.)

“Post Election Audits: Restoring Trust in Elections”

“In addition to the general recommendations for all audit models made in the “Audit Best

Practices” section and which we strongly reiterate here, we also make the following recommendation to strengthen the fixed-percentage model:

- **Implement Effective Procedures for Acting on Seemingly Small Discrepancies.** *If audits are to have a real deterrent effect, jurisdictions must adopt clear procedures for addressing audit discrepancies when they are found. As noted in “The Machinery of Democracy”, a seemingly minor discrepancy between paper and electronic records (of even just a few votes) could indicate far more serious problems. Without protocols for responding to discrepancies, the detection of fraud or error will not prevent them from occurring again. Such protocols should include a required review of system software code.”*

WPC Petitioner Note: It has been admitted by NV election system managers that Nevada has never had access to the commercial voting machinery software code, hardware testing and/or networking processes. Only uncleared vendors and service contractors appear to have had code access, and without government technically-qualified oversight.

Without government access and capabilities to inspect, test and verify the election hardware and software before, during and after elections, claims of superior security for Nevada election systems cannot be accepted by the Legislature, candidates for office, the political parties and state citizens.

Quoted from page 19 of the report:

“ENSURING OVERALL AUDIT EFFECTIVENESS

If the audit is to be effective, jurisdictions must have certain basic policies and practices in place. Principally, jurisdictions ought to:

- **Ensure the Physical Security of Audit Materials.** *Effective auditing of voter-verifiable paper records will serve to deter attacks on voting systems and identify problems only if states have implemented solid procedures to ensure the **physical security of election materials used in a post-election audit, including the paper records of the vote, voting machines, and tally servers.***
- **Implement Effective Procedures for Addressing Evidence of Fraud or Error.** *If audits are to have a real deterrent effect, jurisdictions must adopt clear procedures for addressing discrepancies between the paper records and electronic tallies when they are found. **Without protocols for responding to discrepancies, the detection of fraud or error will not prevent it from successfully altering the outcome of an election.***

*Recommended responses include making corrections where warranted, disallowing results if an appropriate remedy cannot be determined, and ensuring accountability for discrepancies. Jurisdictions should document discrepancies and any actions in response to them in **publicly available discrepancy logs**.*

*When there have been no losses or additions of paper records, a **single unexplained discrepancy** between the paper records and electronic tallies is a **strong indication of a software problem of some kind**.*

*Any such discrepancy, even if it is just one vote and can have no effect on the outcome, is grounds for a **review of voting machine software code**. Such a review need not delay certification of the election, but it should be investigated. To be effective, election officials must have the ability to audit the code, not just the votes.*

- **Audit the Entire Voting System, Not Just the Machines.** Although this study focuses only on post-election audits of voter-verifiable paper records, jurisdictions should conduct audits of the entire voting system to catch errors or fraud in other parts of the voting system. Historically, incorrect vote totals often result from aggregation mistakes at central vote tally locations.

Accordingly, good audit protocols will mandate that the entire system – from early and absentee ballots to aggregation at the tally server – be audited for accuracy. This should also include, at the very least, the ability of election officials to audit the code where they deem necessary.”

Exhibit 2, Section F: Handyman Mike Monroe's Strong Show In Congressional Primary?

RJ reviewjournal.com

http://www.reviewjournal.com/politics/elections/handyman-mike-monroe-s-strong-show-congressional-primary-has-everyone-asking-why

Handyman Mike Monroe's strong show in congressional primary has everyone asking why

By LAURA MYERS LAS VEGAS REVIEW-JOURNAL

June 12, 2014 - 4:33pm

Posted Updated June 12, 2014 - 5:32pm



Niger Innis (Erik Verduzco/Las Vegas Review-Journal)

image

The election over, Mike Monroe was hard at work Thursday, fixing a water heater in Las Vegas.

Actually, Monroe never stopped his handyman and construction jobs and never really campaigned much in the highly competitive race for the vast 4th Congressional District covering northern Clark County and six rural counties.

Despite that laissez-faire attitude, Monroe won two counties and swept up 22 percent of the GOP primary vote Tuesday, finishing third behind the winner, Assemblyman Crescent Hardy, R-Mesquite, and Niger Innis, a conservative civil rights activist. Hardy will face incumbent U.S. Rep. Steven Horsford, D-Nev., in the Nov. 4 election.

A stunned Innis, a tea party candidate who thought he had a chance for an upset, can't believe Monroe did so well. He said he is gathering information to file a complaint with the Nevada secretary of state's office.

"The mystery of the ages is 'who is Mike Monroe?'" Innis said as the election returns came in Tuesday night, showing him losing to Hardy and just beating Monroe. "He (Monroe) is siphoning off a lot of votes."

In a release sent out Thursday afternoon, Innis said an investigation needs to look at the potential of a computer error or "glitch" in the system, although he cited no evidence for such a possibility.

"But I believe until we investigate, until Secretary of State (Ross) Miller investigates, we won't know the reason for Mr. Monroe getting 22 percent of the vote," Innis said in the statement. "And believe me, there is a reason out there somewhere. We just have to work together to find it."

Innis for Congress Campaign Manager Steve Forsythe discounted suggestions that Monroe's vote total was the result of protest votes.

Forsythe said the campaign will move ahead not because they believe the overall results will be changed, but because there is an obvious flaw in the voting system in Nevada and the 22 percent vote for Mr. Monroe was either the result of a computer error or a loophole in the registration/voting process that was taken advantage of.

Monroe said he can't explain his strong showing, though he has some name recognition from two previous runs for Congress, in 2006 and 2010. Innis, who moved to Nevada in 2007, isn't widely known here, Monroe said, while Hardy is better known in Clark County and parts of rural Nevada because his family has been here for generations.

"I get around," Monroe said, noting he has traveled every county in the district, including Esmeralda and White Pine, where he beat Hardy and Innis. "I'm from Nevada. I've been traveling all these counties for years and people know me. I'm a people person. I'm out there with the people. I have a platform. They (Hardy, Innis) don't have a platform."

Monroe has a low opinion of Innis as a Nevada candidate.

"Niger Innis is a carpetbagger," Monroe said. "I was born here. This is my state."

In 2010, Monroe won only 1.7 percent of the vote in a crowded field of eight candidates vying for the GOP nomination in the 1st Congressional District in urban Las Vegas. In 2006, he got 10.6 percent of the vote in CD1, finishing last in a field of three Republican candidates.

In Tuesday's primary Monroe won 22.11 percent of the vote, finishing behind Innis at 33.12 percent, and Hardy, who prevailed with 42.63 percent of the vote. A fourth GOP candidate, Carlo Poliak, got 2.14 percent of the vote.

Hardy won Clark County, which accounts for three-quarters of the voters in CD4, and finished first in Lyon County, recording a total of 10,396 votes.

Innis won in Lincoln, Mineral and Nye counties, finishing with 8,076 votes.

Monroe won tiny Esmeralda County and vast White Pine County, for a total of 5,392 votes.

Poliak finished dead last in all seven counties, picking up just 523 votes.

In the congressional races, there's no "none of these candidates" option on the ballot, so some Monroe votes could have been a protest from Republicans who didn't like the two main contenders.

The Innis campaign said it has been unable to find any voters who cast ballots for Monroe.

But Tom Grover, an active member of the Nevada Republican Party, said Thursday he voted for Monroe because he didn't like the fact that Hardy and Innis are "social conservatives" who oppose same-sex marriage. He said he would have voted for "none" if it had been an option.

"I just couldn't vote for either of them," Grover said. "They're old school, 20th century conservatives. ... I'm definitely

an outspoken supporter for equal rights for gays and lesbians. I think it's the civil rights issue of our generation."

Pre-election polls showed Hardy and Innis both had low name recognition, around 30 percent. Early surveys also showed a high number of undecided voters, or far more than half in a primary where just over 19 percent of the Nevada electorate cast ballots.

In a low-turnout, low-information contest, some voters may have randomly ticked off Monroe's name because "it seems like a normal name," one GOP operative speculated. Neither Crescent nor Niger sound as normal as Mike. Poliak has run in nearly every election cycle since the 1970s, but this was his first congressional race.

Monroe laughed at how well he did this year, and said he plans to run again, partly for the \$174,000 salary.

He said he didn't have time this year to seriously campaign because he was too busy with work.

"Next time I'm going to put work aside," Monroe said, anticipating possible victory down the road.

Contact Laura Myers at lmyers@reviewjournal.com or 702-387-2919. Find her on Twitter: [@lmyerslvjr](https://twitter.com/lmyerslvjr).

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**Official 2014 Secretary of State Photo of
Congressional Candidate Mike Monroe for CD4**



Exhibit 2, Section G: Ely Times Asks "Who Is Mike Monroe?"

June 20, 2014 By [Garrett Estrada](#) [Leave a Comment](#) **Who Is Mike Monroe?**

While many residents of White Pine County might have followed the local races in last weeks primary election, there was one race that has some county voters scratching their heads.

On the Republican side of the ticket for Congress seat, District Four, many expected it to be a tight race between Crescent Hardy and Niger Innis. Both had campaigned hard, planted signs and visited the county on multiple occasions. Yet when the results were released, relative unknown Mike Monroe beat out both in White Pine County.

Monroe finished with 259 votes, or 32.95 percent in the county, narrowly beating Innis' 256, 32.57 percent and Hardy's 249, 31.68 percent.

While upsets are not unusual during the primary election season, Monroe's victory in both White Pine and Esmeralda counties had some voters wondering who this Mike Monroe even was.

"I've never even heard of him. I asked everyone I know and I can't even find anyone that voted for him," said Michael Kneese, an active Republican party member, of Monroe's unexpected vote total in White Pine County.

It might have something to do with the fact that Monroe never even campaigned. According to an interview with the Las Vegas Review-Journal, Monroe said he never had much time to campaign because he maintained a regular job in the Las Vegas area as a handyman and a construction worker.

Monroe finished in third place in the race, behind Hardy, who won the race with 42.6 percent of the votes, and Innis, who finished second with 33.1 percent. Despite his loss, and never even participating in a debate with the other two candidates, Monroe still finished with 22.1 percent of the votes, a substantial number. In his interview with the Review-Journal, Monroe claimed that it could've been due to some name recognition, since he had run for Nevada congressional positions twice before.

In 2006, Monroe finished in last place between in a field of three candidates with just over 10 percent of the vote and in 2010 he only received 1.7 percent in a field of eight possible party elects. While name recognition might have had some effect, conservative writer Chuck Muth chalked up the dramatic increase in votes to constituents being unhappy with either front runners.

"Those folks weren't voting for Monroe," Muth said. "They were voting against both Hardy and Innis. And since there was no 'none of the above' option on the ballot, the Monroe vote was a 'pox on both your houses' vote, not a vote for an unknown candidate."

Innis' camp thinks something else might be afoot. Unhappy that Monroe had "siphoned" off a significant amount of votes in the race, Innis released a statement claiming an investigation should look into whether Monroe's unexpectedly high number of votes had been the result of a "glitch" in the voting computers, though there has not been any evidence brought forth yet to suggest this.

For a candidate running for Congress, Monroe is not particularly easy to reach. In fact, a Google search for Monroe reveals no campaign website or even confirmed photographs of what he looks like. Even the one phone number he provided to the Nevada Secretary of State's Elections office when he filed only rings once before falling silent.

The mystery of Monroe's two rural Nevada primary wins might not have an immediate answer, but they do illustrate a larger picture about the political mindset of a growing number of rural Nevadans.

In a primary where the most voted for candidate on the Democratic side of the ticket for Governor was "none of these candidates," nothing is set in stone for general election, especially in counties like White Pine."

Exhibit 2, Section H: Ely Times on 20Jun14 by Thomas Mitchell

"District 4 Primary Results Raise Questions"

The Ely Times, June 20, 2014 By Thomas Mitchell

"In more than four decades of covering elections across four different states, half of those in Nevada, I'm not sure I've ever seen anything quite like the results this past week in the Republican primary for Congressional District 4, which covers the southern half of rural Nevada and a chunk of Clark County, where most of the district's voters reside.

Yes, Crescent Hardy won the right to advance to the general election against incumbent Steven Horsford, capturing nearly 43 percent of the votes cast, besting Niger Innis' 33 percent. But how to explain how Mike Monroe picked up 22 percent of the votes cast?

Monroe is a cipher. He did not campaign. He raised and apparently spent no money. He did not debate. He did not go door to door. He gave no media interviews. Few have even seen a photo of him.

Conservative pundit Chuck Muth dismissed it as just a protest vote, since voters did not have a choice of "None of these candidates" as they do in statewide races. He called the Monroe vote "a 'pox on both your houses' vote, not a vote for an unknown candidate."

But if so, why did Monroe get 22 percent of the vote, while Carlos Poliak, who at least submitted his photo and information about himself to the press, garnered only 2 percent? Poliak got 523 votes to Monroe's 5,392.

In fact, Monroe won the race in White Pine and Esmeralda counties. He had only two votes fewer than Innis in Lyon County. He had more votes than Hardy in Mineral County.

Innis concedes he lost the primary to Hardy, but said he plans to ask the secretary of state, the office in charge of election integrity, to audit the returns.

"Was it computer error? Was it a glitch in the system? We don't know," Innis said in a press release. "But I believe until we investigate, until Secretary of State (Ross) Miller investigates, we won't know the reason for Mr. Monroe getting 22 per cent of the vote. And believe me, there is a reason out there somewhere. We just have to work together to find it."

A Las Vegas newspaper account noted, "Although Monroe didn't campaign heavily or debate, he has run for Congress twice before, giving him greater name recognition with some voters."

Name recognition?

In 2010 a Michael A. Monroe ran as a Republican for the Congressional District 1 seat and picked up less than 2 percent of the vote. In 2006 a Michael "Ace" Monroe ran for the same seat and got just more than 10 percent of the vote.

That district is entirely within Clark County. How did his name get so much recognition in all those rural counties?

A White Pine County source said he was told that a number of Democrats switched to Republican registration just before the primary.

But why? With Horsford's huge Democrat base in Clark County, neither Hardy or Innis had much of a chance. Could it have been a demented Operation Chaos affair — like when Rush Limbaugh encouraged Republicans to register as Democrats and vote for Hillary Clinton just to keep her in the running longer so she and Obama could inflict further damage on each other during the primary?

Tracked down by a newspaper reporter, Monroe was going about his handyman's job and repairing a water heater.

Monroe couldn't explain why he got so many votes. "I get around," Monroe told the reporter. "Niger Innis is a carpetbagger. ... I was born here. This is my state."

But Innis said, "We owe it to the people of Nevada, to the voters in CD4 that supported either Cresent or myself, to take a good, hard look at these results. I know how hard we worked on this campaign and I have a pretty good idea of how hard Cresent worked on this race. To have a candidate receive 22 per cent of the vote when he did no campaigning at all — no signs, no mail, no grassroots, no walk teams, no phone banks, no advertising, no social media, basically nothing at all — raises major questions."

Or is this what happens when less than 20 percent of the state's voters bother to go to the polls? Actually, in White Pine County approximately 40 percent of registered Republicans voted and 33 percent of Esmeralda Republicans turned out — yet Monroe won both.

Nevadans have made some odd election picks before, but this is most curious. Be careful who you cast a protest vote for, because you might have to live with him as your congressman for two years."

Thomas Mitchell is a longtime Nevada newspaper columnist. You may share your views with him by emailing thomasmnv@yahoo.com. Read additional musings on his blog at <http://4thst8.wordpress.com/>.

Exhibit 2, Section I: Thomas Mitchell Writes "Candidate Innis Calls on Secretary of State to Investigate Unusual Results in CD4 Race."

Jun12 by Thomas Mitchell

Shortly after I posted a blog questioning how a candidate who did no campaigning could possibly garner 22 percent of the vote in the GOP primary for Congressional District 4, second place finisher Niger Innis sent out a press release calling for the secretary of state to investigate the outcome.

"Was it computer error? Was it a glitch in the system? We don't know ..." Innis' press release said. "And believe me, there is a reason out there somewhere. We just have to work together to find it."

The Review-Journal posted a story in the past few minutes about the unusual outcome — with a remarkable lack of incredulity — along with what might be the first known interview with candidate Mike Monroe.

Perhaps, this goes to show what might happen when the vast majority of registered voters stay home and let the few determine who will represent Nevada in Congress.

Since it does not appear Innis posted the press release online, here is the release in its entirety:

NIGER INNIS FOR CONGRESS CAMPAIGN TO CHALLENGE VOTE RESULTS IN DISTRICT 4 REPUBLICAN PRIMARY

Las Vegas, NV (June 12, 2014)— Acknowledging that the end result of the June 10th Republican Primary for Congressional District 4, in which Assemblyman Cresent Hardy won, may not change, Niger Innis and his campaign today announced that they are going to call upon Secretary of State Ross Miller to undertake an audit of the election results.

"At this point in time, Cresent Hardy has won the Republican nomination to face Steven Horsford in the November General



Niger Innis (R-J photo)

Election, and we need to move forward,” Innis said. “However, what is irrefutable is that the vote total for Mr. Monroe is, without a doubt, questionable.”

“With all due respect to Mr. Monroe, the 22 per cent of the vote he received is simply inconceivable based upon his lack of campaign activities, which quite frankly, were none,” Innis continued. “Let me be clear. I am not claiming I lost the race due to votes for me being counted as votes for Mr. Monroe. Some of his votes could very well have been cast for Mr. Hardy.”

“Was it computer error? Was it a glitch in the system? We don’t know,” Innis continued. “But I believe until we investigate, until Secretary of State Miller investigates, we won’t know the reason for Mr. Monroe getting 22 per cent of the vote. And believe me, there is a reason out there somewhere. We just have to work together to find it.”

There have been several theories of protest votes against Mr. Hardy and Mr. Innis because of what was perceived as a negative campaign. Innis for Congress Campaign Manager Steve Forsythe discounts those claims.

“There were two ‘minor’ candidates on this ballot and if roughly 24 per cent of the voters decided to cast a protest vote, it is most likely that the 24 per cent would’ve been divided relatively equally between Mr. Monroe and Mr. Poliak,” Forsythe observed. “If the voters don’t know either candidate, and both of whom have run numerous times before, why would one get over 90 per cent of that protest vote?”

Forsythe said that the campaign has decided to move ahead not because they believe the overall results will be changed, but because there is an obvious flaw in the voting system in

Nevada and the 22 per cent vote for Mr. Monroe was either the result of a computer error or a loophole in the registration/voting process that was taken advantage of.

"I'm more than a little concerned that there haven't been alarm bells going off in either the SOS office, the various county election departments or with the media that these results are highly unusual," Forsythe said. "The predictability and conformity of elections year-to-year lie in the consistency of the process. If you look at all the results from primary election evening, there are no anomalies in any race, except one, CD4. Pretty much across the ballot, 'minor' candidates received minor attention and vote totals."

"It is such a glaring departure from not just Tuesday night, but when looking back at election results for years, the fact that no one would step forward and say 'hey, let's at least take a look at these vote totals for Mr. Monroe' is very troubling.

Innis said, "We owe it to the people of Nevada, to the voters in CD4 that supported either Cresent or myself, to take a good, hard look at these results. I know how hard we worked on this campaign and I have a pretty good idea of how hard Cresent worked on this race. To have a candidate receive 22 per cent of the vote when he did no campaigning at all – no signs, no mail, no grassroots, no walk teams, no phone banks, no advertising, no social media, basically nothing at all – raises major questions."

While Innis has acknowledged that Mr. Hardy is the winner from Tuesday's election, Forsythe said that will not change the campaign team's commitment to move forward with requests for an investigation at the various levels of government, as well as conducting their own independent investigation.

"Niger has graciously accepted the results of the primary election," Forsythe said. "However, we as a team, will do everything in our power to try to come to some conclusion as to how Mr. Monroe received 5,392 votes.

"We have been contacted by our supporters throughout the district and they have urged us to investigate this matter," Forsythe said. "The fact that Mr. Hardy and Mr. Innis both worked so hard in the rurals, yet Mr. Monroe won White Pine and Esmeralda counties, beat Mr. Hardy in Lincoln and finished a strong third in Nye and Lyon counties has to give pause to the thought that something just isn't right about this election."

Exhibit 3: Reference Documents

Exhibit 3, Section A: Concerning Election System Complaints Under
NV Title 24 Provisions

Exhibit 3, Section B: 42 USC 15481 Voting System Standards

Exhibit 3, Section C: NRS References

Exhibit 3 With Its 3 Sections Constitute 11 pages.

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EXHIBIT 3, Section A: CONCERNING ELECTION COMPLAINTS UNDER NEVADA TITLE 24

Prepared by CTFVR Chair, Robert E. Frank for the Petitioners

Considerations were given to filing a formal complaint on this matter under Nevada Title 24 with the Secretary of State (SoS) as described under the policies stated on its web site:

“The Secretary of State’s Office oversees Nevada’s Elections and is constantly monitoring elections activities. However, we also rely on the help of citizens to report violations of Title 24 (Nevada’s Elections Laws) of the Nevada Revised Statutes. To facilitate this process, the Secretary of State has developed a statewide complaint system to address allegations involving a violation of any provision of Title 24.

To initiate the process, a formal complaint must be received by the Secretary of State, and identify the person making the complaint. The complaint must set forth the alleged violation of law and identify the party responsible for the violation, as well as set forth dates and times of specific occurrences, if practicable. Upon receiving the formal complaint in the Secretary of State’s office either by conventional mail, email, facsimile or hand delivery, the Secretary of State’s office shall begin the resolution process.

Under this process any person may file a complaint who believes that there has been a violation, a violation is occurring or a violation will be occurring related to any provision Title 24. These procedures shall be uniform and non-discriminatory. If under these procedures the Secretary of State determines that there is a violation, an appropriate remedy shall be provided to the extent permitted by law. If the Secretary of State determines that the complaint does not allege a violation, the Secretary of State may dismiss the complaint or refer it to the proper agency for resolution. The complainant will be notified of any action taken by the Secretary of State.”

But, it was considered impossible to file a Title 24 complaint in this case. Before being allowed to conduct a manual audit of sealed ballot records and comparison with electronic votes, there has been no way for anyone to obtain the required kinds of evidence to be able to submit a case under an administrative, criminal or civil law complaint.

Within the very few days allowed by statute, without access to the involved election records, without access to effective audit records (as described in Exhibit B10) and with limited funds, it seems that nothing can be done.

As a result, Nevada Title 24 policies and procedures for a race recount and/or validation of electronic voting reports must be considered ineffective and unaffordable. Few, if any, candidates could or would comply with such an apparently flawed process.

And, it is difficult to understand why Legislative and Executive Branch election system leaders are not more concerned with the appearance of personal conflicts of interest since they create the rules, enforce the rules, and judge the complaints. There seems to be little fear of external forces finding evidence of election system employees and contractors of being guilty of anything.

We will work with the Legislature in the future on law remedies, but for now, this petition for a manual comparison of records seems to be the only hope for discovering the truth and dealing with the unreasonable electronic results reported by that primary election. It has been concluded that if there was a system failure or fraud in that federal race primary, it can only be revealed through a joint manual review controlled by a County Clerk and authorized by a District Judge. Otherwise, methods of finding the truth appear inaccessible to voters and harmed parties.

Petitioners believe no one should oppose our basic rights to know the truth about the integrity of our elections system. What could be legitimately gained by anyone from blocking release of the whole truth? And, why would counties be required to keep the records for 22 months if not to be able to perform such important inspections and audits?

Petitioners also believe the Nevada Secretary of State and elections system managers at all levels in all counties should welcome the requested court action. If the manual records match the electronic reports, as they should, and there is no evidence of system failure or illegal tampering, everyone should rejoice.

If they fail to match, all persons should enthusiastically team together to identify the problems and get them fixed before the next election cycle. No one should stand for supporting the policy of continuing to hide the truth and allowing our election system to be considered untrustworthy by so many.

And, although some might believe the involved statutes might be considered ambiguous about specifically allowing the action requested in this petition, we believe the statutes do not prohibit such good faith efforts on behalf of elected officials and well-reasoned citizens.

We also believe that regardless of any legal objections presented by anyone, the 7th District Court has the authority and judicial duty to order the recommended joint review team to perform the county-limited tasks as we have proposed and as have been stipulated by the White Pine County Clerk.

Even if the statutes may appear unclear in some cases, we are compelled to ask for assistance. We believe NV statutes do not prohibit the good faith actions requested by a County in this case. And, there appears to be no other way to protect the rights of White Pine County voters and government officials from similar problems in future elections.

Exhibit 3, Section B: Federal Stds. for Voting Machines That NV Appears to be Ignoring.

~~SEC. 301. NOTE 42 USC 15481. VOTING SYSTEMS STANDARDS:~~

~~(a) Requirements.-- Each voting system used in an election for Federal office shall meet the following requirements:~~

~~(1) In general.--~~

~~(A) Except as provided in subparagraph (B), the voting system (including any lever voting system, optical scanning voting system, or direct recording electronic system) shall--~~

~~(i) permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted;~~

~~(ii) provide the voter with the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error); and~~

~~(iii) if the voter selects votes for more than one candidate for a single office--~~

~~(I) notify the voter that the voter has selected more than one candidate for a single office on the ballot;~~

~~(II) notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and~~

~~(III) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted.~~

~~(B) A State or jurisdiction that uses a paper ballot voting system, a punch card voting system, or a central count voting system (including mail-in absentee ballots and mail-in ballots), may meet the requirements of subparagraph (A)(iii) by--~~

[[Page 116 STAT. 1705]]

~~(i) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and~~

~~(ii) providing the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error).~~

~~(C) The voting system shall ensure that any notification required under this paragraph preserves the privacy of the voter and the confidentiality of the ballot.~~

~~(2) Audit capacity.--~~

Exhibit 3b Note 1: These few federal voting systems standards are cited in this petition because despite public expertise, many in the State do not believe there are vulnerabilities and shortcomings in its election system. NV also blocks allowing the paper ballot records from being available for all types of recounts and/or system level audits of elections. Citizens concerned about inexplicable voting reports have to ask the courts to allow the opening and manually auditing of sealed ballot records to see if they match the electronic voting reports.

The Nevada Legislature and Executive Branch also ignore recommended audit policies by federal and local experts reported in other Exhibits. NV received over \$140 Mil. for fed. elections; but, little, if any, seems to have been spent to repair the known serious defects in voting machines, obsolete memory cards and vendor proprietary software.

~~(A) In general.--The voting system shall produce a record with an audit capacity for such system.~~

~~(B) Manual audit capacity.--~~

~~(i) The voting system shall produce a permanent paper record with a manual audit capacity for such system.~~

(ii) The voting system shall provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced.

~~(iii) The paper record produced under subparagraph (A) shall be available as an official record for any recount conducted with respect to any election in which the system is used.~~

(3) Accessibility for individuals with disabilities.--The voting system shall--

(A) be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters;

(B) satisfy the requirement of subparagraph (A) through the use of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place; and

(C) if purchased with funds made available under title II on or after January 1, 2007, meet the voting system standards for disability access (as outlined in this paragraph).

(4) Alternative language accessibility.--The voting system shall provide alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a).

(5) Error rates.--The error rate of the voting system in counting ballots (determined by taking into account only those errors which are attributable to the voting system and not attributable to an act of the voter) shall comply with the error rate standards established under section 3.2.1 of the voting systems standards issued by the Federal Election Commission which are in effect on the date of the enactment of this Act.

(6) Uniform definition of what constitutes a vote.--Each State shall adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be

[[Page 116 STAT. 1706]]

counted as a vote for each category of voting system used in the State.

~~(b) Voting System Defined.--In this section, the term "voting system" means--~~

~~(1) the total combination of mechanical, electromechanical, or electronic equipment (including the software, firmware, and documentation required to program, control, and support the equipment) that is used--~~

- (A) to define ballots;
- (B) to cast and count votes;
- (C) to report or display election results; and
- (D) to maintain and produce any audit trail information; and
- (2) the practices and associated documentation used--
 - (A) to identify system components and versions of such components;
 - (B) to test the system during its development and maintenance;
 - (C) to maintain records of system errors and defects;
 - (D) to determine specific system changes to be made to a system after the initial qualification of the system; and
 - (E) to make available any materials to the voter (such as notices, instructions, forms, or paper ballots).

(c) Construction.--

(1) In general.--Nothing in this section shall be construed to prohibit a State or jurisdiction which used a particular type of voting system in the elections for Federal office held in November 2000 from using the same type of system after the effective date of this section, so long as the system meets or is modified to meet the requirements of this section.

(2) Protection of paper ballot voting systems.--For purposes of subsection (a)(1)(A)(i), the term "verify" may not be defined in a manner that makes it impossible for a paper ballot voting system to meet the requirements of such subsection or to be modified to meet such requirements.

(d) Effective Date.--Each State and jurisdiction shall be required to comply with the requirements of this section on and after January 1, 2006.

Exhibit 3b Note 2: All hardware and software components used to conduct Nevada elections are not disclosed to the public. This makes such items high risk components and makes it impossible to conduct independent audits and/or security assessments of the system. The state also does not use outside CPAs or Fraud Examiners to validate its work. Such secrecy creates distrust. This is dangerous in a claimed secure system where electronic systems are known to be vulnerable to cyber attacks and fraud. This item is included in the petition evidence because there are some state and county employees with high conflicts of interest who strongly resist manual validations by the public.

Exhibit 3, Section C: Statute References

Prepared by CTFVR Chair Robert E. Frank for Petitioners

- **NRS293 TITLE 24 ELECTIONS**

<http://www.leg.state.nv.us/nrs/nrs-293.html>

- **NRS 293.391 Disposition and inspection of ballots, lists, records and stubs of voted ballots after canvass by county commissioners.**

“5. The voted ballots deposited with the county clerk are not subject to the inspection of anyone, except in cases of a contested election, and then only by the judge, body or board before whom the election is being contested, or by the parties to the contest, jointly, pursuant to an order of such judge, body or board.”

<http://www.leg.state.nv.us/nrs/nrs-293.html#NRS293Sec391>

- **NRS 293B MECHANICAL VOTING SYSTEMS**

<https://www.leg.state.nv.us/nrs/NRS-293B.html>

- **NRS 293B 330 Processing of Ballots**

NRS 293B.355

“Responsibility for proper operation and use of computer or counting device owned or leased by State. When a computer or counting device owned or leased by the State of Nevada is used to count ballots, the county or city clerk and computer facility manager shall determine that such use complies with the provisions of this chapter. The clerk shall exercise his or her authority in a manner consistent with established procedures for the operation and use of the computer, so far as is practicable.”

Petitioner Note: Authority and responsibility for the functions required of the County Clerk in NRS293B.355 is not limited to the election period. If needed to

protect the integrity of White Pine elections, it seems the WPCC could operate through such boards whenever needed.

- NRS293B.360 & NRS293.365 Creation & Duties of Central Ballot Inspection Boards.

<https://www.leg.state.nv.us/nrs/NRS-293B.html#NRS293BSec360>

- NRS 293B.360 Creation of special election boards; appointment of members to boards.

"1. To facilitate the processing and computation of votes cast at any election conducted under a mechanical voting system, the county clerk shall create a computer program and processing accuracy board, and may create:

(a) A central ballot inspection board;

(b) An absent ballot mailing precinct inspection board;

(c) A ballot duplicating board;

(d) A ballot processing and packaging board; and

(e) Such additional boards or appoint such officers as the county clerk deems necessary for the expeditious processing of ballots.

2. Except as otherwise provided in subsection 3, the county clerk may determine the number of members to constitute any board. The county clerk shall make any appointments from among competent persons who are registered voters in this State. The members of each board must represent all political parties as equally as possible. The same person may be appointed to more than one board but must meet the particular qualifications for each board to which he or she is appointed.

3. If the county clerk creates a ballot duplicating board, the county clerk shall appoint to the board at least two members. The members of the ballot duplicating board must not all be of the same political party.

4. All persons appointed pursuant to this section serve at the pleasure of the county clerk.

(Added to NRS by 1975, 1529; A 1981, 1701; 1985, 1106; 2001, 2033)

NRS 293B.365 Duties of central ballot inspection board. The central ballot inspection board shall:

- 1. Receive the ballots in sealed containers.**
- 2. Inspect the containers, record the number indicated on each container and its seal pursuant to NRS 293.462 and remove the storage devices which store the ballots voted on mechanical recording devices which directly record votes electronically.**
- 3. Register the numbers of ballots by precinct.**
- 4. Deliver any damaged paper ballots to the ballot duplicating board.**
- 5. Receive duplicates of damaged paper ballots from the ballot duplicating board and place the duplicates with the voted ballots of the appropriate precinct.**
- 6. Place each damaged original paper ballot in a separate envelope and note on the outside of the envelope the appropriate number of the precinct.**
- 7. Reject any paper ballot that has been marked in a way that identifies the voter.**
- 8. Place each rejected paper ballot in a separate envelope and note on the outside of the envelope the appropriate number of the precinct and the reason for the board's rejection of the ballot.**

(Added to NRS by 1975, 1529; A 1985, 1107; 1995, 2791; 2007, 1169, 2608)"

- **NRS 293B.385 Computer program and processing accuracy board: Appointment; duties.**

"1. The county clerk shall appoint the members of the computer program and processing accuracy board no later than 7 days before the election in which they will serve.

2. The board shall verify that:

(a) Any invalid voting of a ballot will cause it to be rejected.

(b) Votes can be counted for each candidate and proposition.

(c) Any overvote for an office or proposition will cause a rejection of the vote for that office or proposition.

(d) Where multiple votes may be cast, the maximum number of votes permitted a voter cannot be exceeded without rejecting the vote for that selection, but any undervote will be counted.

(e) Neither a voter's omission to vote nor the voter's irregular vote on any particular office or proposition will prevent the counting of his or her vote as to any other office or proposition on the ballot.

(Added to NRS by 1975, 1530; A 1981, 1702; 1985, 1108)”

Petitioner Note: We believe this provision of NRS293B.385 could allow the County Clerk to appoint such a computer accuracy and processing board immediately after approval of this requested court order for the purpose of serving until completion of the next election process.

Such board members could be included as participants in the Joint Review Team activities to further improve the results of the review of the past election, and to establish White Pine County continuity for establishing future improvements in election system integrity and public trustworthiness.

- **NRS293B390 Accuracy Certification Board**

“NRS 293B.390 Additional duties of accuracy certification board. In addition to the duties prescribed in NRS 293B.145, 293B.155, 293B.165 and 293C.615, the accuracy certification board shall certify as to whether in their judgment the ballots were accurately counted. If they determine an inaccuracy exists, they shall furnish a written explanation for their determination.

(Added to NRS by 1975, 1531; A 1985, 1108; 1997, 3471)”

Petitioner Note: We believe this provision of NRS293B.390 is not practical.

There appears to be no effective tools provided for such an Accuracy Board to function effectively. And, it is likely that simple reviews of the digital output of machine processing are of little or no value for detecting fraud. With no hard evidence, little time available during the election period, and insufficient technical training on how to recognize election system fraud, such boards would find it normal to report “no problems” to higher authorities.

Since it appears that counties are not provided with the essential tools to accomplish accurate analyses of the results reported by electronic components of the Nevada election system, county clerks should feel free to consider developing their own tools to assist them in performing such vital functions.

A future task of a Joint Review Group might be to assist the WP County Clerk with helping to find and/or develop some of the urgently needed tools. Once the review is completed there may be clues on what went wrong. If so, the facts can be analyzed and conclusions formulated for the future by the group on a volunteer basis. CTFVR is prepared to assist with such activities, if desired.

EXHIBIT C: High Level Facts On Why The Nevada Election System Cannot Be Considered Secure Or Hacker Proof As Claimed

By: Robert E. Frank

- **WHEREAS: Hardware and Firmware** for NV Voting Machines, Memory Transfer Devices and Personal Computer Vote Consolidation components apparently have not been designed, managed nor operated to be “secure” as specified in the *National Institute of Standards & Technology (NIST) Computer Security Resource Center (CSRC)* (<http://csrc.nist.gov/>) and its *National Standard Publications*: (<http://csrc.nist.gov/publications/>)
- **WHEREAS: Software** for NV Voting system, Memory Transfer and Personal Computer Vote Consolidation components using the MS Windows XP Operating System and other software apparently have not been acquired, configured nor operated as “secure” as specified by NIST CSRC in: http://csrc.nist.gov/itsec/guidance_WinXP.html#NIST_WinXP
- **WHEREAS: Networking components** including modems, software and gateways between NV Counties and Secretary of State IT Systems apparently have not been configured nor managed as “secure”.
- **WHEREAS: Secretary of State IT Systems** used for registration, processing and reporting on NV elections have not been configured nor operated as “secure” per NIST standards.
- **WHEREAS: Nevada Elections Policies and Procedures** fail to claim that the Election System is intended to be managed or operated as “secure” at any operating level as defined by NIST, IEEE, ISO, ISA, IASME or any other agency, company or organization with the expertise and accepted authority to define “secure computer systems and operations”. Moreover, NV SoS has not demonstrated it is qualified to create its own, unique, IT security standards.

THEREFORE, IT MUST BE CONCLUDED: Contrary to its claims, Nevada election systems can not be accepted as “secure” and/or “hacker-proof”. And, considering the available facts, it is reasonable to request, as provided by NV Statutes, that certain contested precincts of sealed voting records, reports, machinery, and related documents in NV Counties be ordered by a judge to be unsealed and jointly compared to electronic summaries to determine if the reported, certified results can be validated or rejected.

EXHIBIT 11

EXHIBIT 11

EXHIBIT 11

AFFIDAVIT OF ROBERT FRANK

STATE OF NEVADA)
) ss
COUNTY OF CLARK)

Comes now, Col. Robert E. Frank (Ret.) and, being first duly sworn on oath, deposes and says:

1. That I am a secure systems expert, as shown by my other affidavit attached to this brief.


2. The I have reviewed the testimony of Registrar Gloria given to the State legislature in opposition to the bill to increase the security of Nevada's voting systems that was attached to the brief of the County Respondents after the fact, was never discussed below, and to which Petitioners never had a chance to respond.

3. That his testimony is filled with misleading statements, half truths. and outright misrepresentations.


4. That I have painstakingly reviewed his entire testimony, and attached to this affidavit as Exhibit A is a partial transcript of the legislative hearing, with my comments interspersed, demonstrating in each instance why Mr. Gloria's statements to the legislature were false and misleading.

5. That I am competent to testify about these matters due to my expertise in secure systems, as set forth in my other affidavit, and that the comments I have made in the attached Exhibit are true to the very best of my knowledge.

Further, your affiant saith naught.


ROBERT FRANK

SUBSCRIBED and SWORN to me on this
10 day of October, 2016.


NOTARY PUBLIC in and for said
County and State

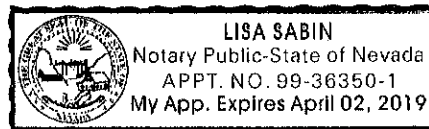


EXHIBIT A

EXHIBIT A

EXHIBIT A

**DEBUNKING RESPONDENT CLARK COUNTY REGISTRAR JOE GLORIA'S CLAIMS OF
PERFECT SECURITY OF NEVADA ELECTION SYSTEM AS SUBMITTED
IN RESPONDENTS' APPENDIX TO WRIT OF MANDAMUS DATED 27SEP2016**

**Prepared by Expert Witness, Colonel Robert E. Frank, USAF (Ret.)
October 9, 2016**

Concerning NV Supreme Court Case 71204, Document No. ERA00001-00035, Appendix Vol. 1

But, Mr. Gloria's comments are allowed in as new evidence, below are my selected responses. I have only responded briefly to the most egregious misstatements and/or seemingly willful false claims in Mr. Gloria's 2015 statements.

My comments are limited at this time to Mr. Gloria's unsubstantiated and unsworn claims on Appendix Vol. 1 pages ERA00025--ERA00029. Mr. Gloria's statement was not notarized and sworn when delivered to the Nevada Legislature Committee in March 2015. And, while he claimed his statements at that time were speaking for all Nevada Counties and the NV Secretary of State, nothing was submitted for the record to establish/confirm that claim.

Mr. Gloria also failed to submit a statement of computer systems security claims in a notarized affidavit under oath to the 8th District Court. He had admitted he has had no IT education, training or professional IT experiences. But, he has never allowed open cross examination of him or his staff concerning his highly questionable NV computer system security claims. He basically demands that citizens blindly accept his unqualified opinions. Finally, the NV Secretary of State organization has never published anything claiming its election system is secure, should be considered secure, or even complies with any basic IT security standards.

Also, contrary to the headline on this document claiming "*ELECTED RESPONDENTS' APPENDIX TO ANSWER TO EMERGENCY PETITION FOR WRIT OF MANDAMUS, VOL. 1*", the Clark County Registrar of Voters, Mr. Joe Gloria is not an "elected" official. Unlike the Clark County Clerk, Ms. Lynn Goya who is elected, Mr. Gloria is an appointed government employee and subject to employee ethical and statutory constraints.

1. Appendix Page ERA00025, Line 35, Mr. Gloria States: *"...we have had no documented incidents related to the tabulation of votes or the accuracy of our system in the state of Nevada since the implementation of direct record electronic machines."*

- Q: Is it not true there are no precise ways to detect or openly document “all vote tabulation errors” —now or during the past decade? Nor can anyone obtain current facts about election system accuracy without opening up the sealed records?

- A: It is true that despite the statute provisions for election contests, the election system has never allowed unsuccessful candidates or concerned citizens to successfully petition a Nevada Judge to order sealed records of questioned precincts to be compared to the electronic reports. But, it is clear that is the only way the truth can be learned. The statement is deceptive because during every election cycle there are many reports of apparent voting machine malfunctioning and “calibration” errors. But, as stated by the White Pine District Attorney in April 2016 (attached), if criminal tampering might be involved, without a judge allowing the opening of the sealed records it is impossible to investigate and prosecute election system fraud.

2. Appendix Page ERA00026, Lines 6-15, Mr. Gloria States: *“The reason for our level of success is because we use the direct-recording electronic voting system, which is the most accurate form of recording votes available in the industry. We have utilized this technology since 1996, and it has proven itself to be 100 percent accurate in tabulating results. There is a system of oversight provided by federal and state law which ensures the accuracy of our system. The processes and procedures put in place by every county in the state of Nevada, with oversight from the Office of the Secretary of State, provides for a transparent and reliable election process with a high degree of integrity.”*

- Q: Is it not true the Nevada DRE system components (manufactured by Diebold and now called Dominion) was acquired as insecure systems with federal funds, and such DRE systems were shown on national TV and the Internet as being easily corrupted or hacked by such credible organizations as the Princeton Department of Computer Science? ([video link](#))

- Q: Is it not also true that computer professionals will agree that no computer system composed of hundreds of devices and managed with normal controls at hundreds of sites can deliver 100% accurate results for over a decade? Even simple machine usage failures, wear and tear, and mal-calibration from frequent transport from central storage to dozens of voting sites can create a minimum of 5% to 10% machine failure rates.

- Q: And, is it not also true it is impossible for the Nevada Secretary of State with its insufficient computer security expertise and inadequate resources to provide 100% oversight with a high degree of integrity for system security in all voting sites in the state?

- A: If any or all the above is true, such bald statements must be seen as outrageously

indefensible and willfully false? And, if disputed, the Registrar and NV SoS must prove such unbelievable assertions. Blind acceptance of such claims is simply unacceptable. Meanwhile, the only way to audit suspected failures or corruption is by reviewing the sealed ballot records from suspected failing precincts with the reported summaries.

3. Appendix Page ERA00026, Lines 16-25, Mr. Gloria States: *“Starting at the federal and state level, there are standards for voting equipment. Before any system can be considered for purchase at the state level, it must pass the federal level of compliance. There are three certified laboratories that are authorized to provide this testing and scrutiny. There is a system of oversight in place also at the state level. Once they have a system certified at the federal level, the State of Nevada, in partnership with the State Gaming Control Board, puts the machine through its paces to ensure that it tabulates correctly and has redundancy. Also, each county is required to run its own certification with each machine. So there are three levels where we put these machines through their paces, starting with the federal level.”*

- Q: Is it not true that the claimed federal and state “standards” for a limited number of voting equipment types have nothing to do with end-to-end election system integrity and security of results?

- Q: Is it not also true that federal testing laboratories are only responsible for machine reliability criteria to reduce the incidence of poorly constructed equipment—not to ensure hardware, firmware and software voting results integrity and security?

- Q: Is it not also true that testing is only done on sample equipment, and that the hundreds of machines shipped to the states over the years are only tested in NV for basic functionality by the state’s contractors and a few employees?

- Q: And, is it not true that such voting machines, scanners, related PCMCIA memory cards, PC laptop consolidation systems and networking devices and all software used in the SoS election system can be easily damaged and/or software corrupted without being detected before, during and after elections?

- Q: Finally, is it not true that, regardless of how effective all of the claimed testing might be, it is possible (as recently declared by the FBI and DHS) that local, national and international hackers could corrupt any election system if modern cyber defensive expertise was not available?

A: Of course, all of the above is true. If the White House, Democratic Party, FBI, dozens of

military systems, etc. can be illegally penetrated and corrupted, how can the NV election system management claim to be smarter and more capable than everyone else?

4. Appendix Page ERA00027, Lines 4-11, Mr. Gloria States: *“There is a different set of testing before an election. There are three rounds of certification testing. It is performed prior to early voting, prior to Election Day, and after Election Day. There is a certification board made up of members of the community, and these citizens witness each round of testing, which involves the following areas, Hash code testing verifies we are using the certified version of software tested in federal laboratories as mandated by the State of Nevada. It also ensures the accuracy of the tabulation by our system, because we place a predetermined tally into it through our mail system, our early voting system, and through Election Day. This predetermined tally is run on all of the machines and tabulated to ensure that we can accurately predict the outcome. This proves that the system tabulates accurately and is the purpose of that round of testing. The testing is performed before every election, whether at the state, county, or city level.”*

- Q: Is it true the hash code testing process described could be vulnerable to a variety of well known cyber attacks? Has there been any professional risk assessment studies performed on the NV system by professionals in recent years?

- Q: Is it true the local election system testing series including hash code testing described by the Registrar could be invisibly penetrated/defeated by criminal hackers? Or, does the Secretary of State and/or Clark County Election Department follow commercial practices by secretly employing or contracting with “ethical hackers” working independently to discover and repair security weaknesses in the election system prior to elections?

- A: Since there is no public knowledge of any special cyber security and/or fraud examiner expertise available to the SoS or CC Election Department, we must conclude that allegations of high risks to corruption and tampering of votes through the NV Election System are valid.

5. Appendix Page ERA00027, Lines 13-25, Mr. Gloria States: *“I want to address the certified fraud examiner and its fiscal impact. In Clark County, the fiscal impact could reach over \$400,000 annually. As written and as reported by our internal auditor director, it would be difficult for any accounting firm to bid on the work. Any auditor who can say there is no fraud, no errors, or that all policies and procedures were followed, is misleading the client. The best we can do is attest that we have reasonable reassurance there were no material errors or deviation from policy and procedures. The amount of work is monumental. One*

full-time employee plus the majority of my staff at election time could not meet the 30-day time frame. The audit contract would cost approximately \$300,000 a year, which is 3,000 hours at \$100 an hour. It would also put requirements on the staff to provide information during the busiest times. You would have as many hours gathering the information and answering questions.”

- Q: Is it true there has been no attempt by the State of Nevada or Counties to design and implement an end-to-end, certifiably secure election system? And, is it true there has been no attempt to determine what it would cost to implement a truly secure election system or to establish independent fraud examiner services to certify operational security performances as expected?

- A: If true, then the stated cost claims are invalid as they are not based on facts. Such costs must be professionally developed based on the system characteristics and receipt of written, competitive bids from Certified Fraud Examiners. If not true, the SoS and CC Election Department must be required to openly demonstrate its end-to-end security capabilities and sincere interest in serving the public interest with an election system that is “trustworthy” and independently audited before, during and after every election (not on a 24/7, 365-day year basis).

6. Appendix Page ERA00027, Lines 34-39, Mr. Gloria States: *“...every voter is required to print from the voter-verifiable paper audit trail, known as the VVPAT, a printed record that identifies for them who they voted for in each and every contest. When their ballot is cast, a barcode is printed at the bottom of that printout that we can use to manually verify that the choices made are in fact what the voter intended.”*

- Q: Is it true that VVPAT records are only visible at the time of voting to those who vote on DRE machines and copies of the voting record are not provided to the voters?

- Q: And, is it true there is no end-to-end audit trail and chain of custody processing procedures to enable voters to be sure their ballots were counted and certified as fully processed throughout the whole system—regardless of the various formats?

- Q: Is it also true there is no way for voters, election workers and managers to know if the votes cast at the source machine are 100% faithfully carried forward through all of the handling, election system machinery and software processing until the final summary records are reported to the public?

- A: All of the above is true, and that is why such vital features as end-to-end audit trails, chain of custody records, tamper-evident seals on all components, background checks on everyone who handles voting machines and ballots, etc. are required for the future to build a trustworthy system.

7. Appendix Page ERA00027, Lines 40-43 and ERA00028, Lines , Mr. Gloria States: *“It has been discussed that it is possible to hack into our system. Our network for tabulating votes is set up on a stand-alone secure network. It is a room that requires three levels of access: a key to enter the building, access to the alarm code, and biometric security for access to the system. Every employee assigned to work in the tabulation room cannot log into the tabulation system without verifying that the fingerprints match.”*

- Q: Is it not true that while multi-layered defenses to control physical access to election facilities is vital, the security system features must not stop there? Is it not true that the Argonne National Laboratory’s Secure Computer Scientist Team (who manage security procedures for our military nuclear weapons stockpiles) showed in recent years via Internet Utube that anyone with access to common types of DRE voting machines can (within a minute or so) install a \$26 electronic component purchased from a Radio Shack retail store that provides remote radio control of a voting machine? (see link) Have SoS and County election managers responded to that threat and taken action to prevent it from happening in NV?

- Q: Is it false to claim that because the DRE/voting machines are not directly connected to the Internet they are invulnerable to hacking?

- Q: Is it true that Voting Machines can be remotely accessed through corrupted or counterfeit PCMCIA Memory/data Transfer Cards, scanning machines using the same PCMCIA data Transfer cards, Personal Computer laptop using the same PCMCIA memory/data cards and modems being used on phone lines and/or the Internet?
(Click link for video evidence.)

A: If so, why have not the problems and vital corrective actions taken for the wide variety of known electronic election system vulnerabilities been reported to our citizens?

Appendix Page ERA00027, Lines 7-18 Mr. Gloria States: *“We have audits within each early voting site, and they are electronically tied to each machine. The software has a check sum value that is written to each one of the electronic cartridges within these machines. If anyone makes an attempt to hack into the system, there is a redundant data path that has three areas of storage: the results cartridge that we tally every night, the central processing unit (CPU),*

and the printed record. I have the highest degree of confidence in the processes we use to ensure the integrity of our elections in Clark County and the state of Nevada. Our state is highly regarded in the election community, as evidenced by being named in the top five as ranked by the Pew Elections Performance Index for two years in a row. If funds are allocated to promote election integrity, it should be spent in other areas."

- Q: Since you have admitted to not having IT education, training or work experience, how can you have the "highest degree of confidence" in the ensuring the integrity of NV election systems? Have you contracted with national IT security experts to augment your lack of expertise?

- Q: Who on your staff do you delegate the system security responsibilities to, and where can we find documents detailing his professional duties and responsibilities?

- Q: What are the criteria for being selected into the top five Pew Elections Performance criteria? Is end-to-end election system security part of the criteria?

-A: Until independent audits by CFE's are accomplished, no one can consider the Nevada Election System trustworthy.

Robert E. Frank

EXHIBIT 12

EXHIBIT 12

EXHIBIT 12

ELECTION CYBERATTACKS

U.S. calls out Russia for breaches

Move 'unprecedented across the board'

By DEB RIECHMANN

THE ASSOCIATED PRESS

WASHINGTON — The U.S. bluntly accused Russia on Friday of hacking American political sites and email accounts in an effort to interfere with the upcoming presidential election.

In a one-two punch, the United States also directly accused Russia

of war crimes in Syria. Moscow dismissed the accusations, which significantly worsen U.S.-Russia relations that already had deteriorated to the lowest point in years. Russian officials called the hacking allegations "some kind of nonsense" and said the war crimes talk was simply an effort to divert attention from America's own failure to uphold a cease-fire in the bloody

Inside

WikiLeaks releases excerpts of Clinton's paid speeches, including those to Wall Street
▶ Page 6A

The White House declined to say whether the hacking accusation would trigger sanctions against Russia. A senior Obama administration official said the U.S. would respond "at a time and place of our choosing." The official said the public wouldn't necessarily know what ac-

tions the U.S. has already taken or will take against Russia involving cyberspace. The official wasn't authorized to comment by name and requested anonymity.

"This is a huge deal," said Michael Morell, the former deputy and acting director of the Central Intelligence Agency. "I can't think of any time in our history where we have blamed another government for trying to interfere with our elections. ... This is unprecedented across the board."

▶ See **RUSSIA**, Page 6A



U.S. Secretary of State John Kerry pauses during a speech Tuesday at an event hosted by the German Marshall Fund and the U.S. Mission to the EU at Concert Noble in Brussels. On Friday, Kerry called for Russia and Syria to face a war crimes investigation for their attacks on Syrian civilians, further illustrating the downward spiral in relations between Washington and Moscow.

GEERT VANDEN WIINGAERT/
THE ASSOCIATED PRESS

▶ RUSSIA

Continued from Page 1A

Late Friday, the U.S. Department of Homeland Security and the Office of the Director of National Intelligence accused Russia of hacking American political sites.

"These thefts and disclosures are intended to interfere with the US election process. Such activity is not new to Moscow," a statement by the two agencies said. "The Russians have used similar tactics and techniques across Europe and Eurasia, for example, to influence public opinion there. We believe, based on the scope and sensitivity of these efforts, that only Russia's senior-most officials could have authorized these activities."

Earlier Friday, Secretary of State John Kerry said that Russian and Syrian military strikes against civilians and medical facilities in Syria should be investigated as war crimes. The situation in Syria has dramatically worsened since the collapse of a U.S.-Russia-brokered cease-fire two weeks ago.

"These are acts that beg for an appropriate investigation of war crimes," Kerry said. "They're beyond the accidental now, way beyond, years beyond the accidental. This is a targeted strategy to terrorize civilians and to kill anybody and everybody who is in the way of their military objectives."

Kerry on Monday had cut off diplomatic discussions between Russia and the U.S. over Syria hours after Russian President Vladimir Putin suspended a U.S.-Russia agreement on disposing weapons-grade plutonium. On Wednesday, Putin suspended another agreement on research cooperation in the nuclear and energy sectors.

As for the hacking, federal officials are investigating cyberattacks at the Democratic National Committee and the Democratic Congressional Campaign Committee.

Kremlin spokesman Dmitry Peskov dismissed the U.S. statement but didn't deny Russia's involvement.

"Every day there are tens of thousands of attacks on Putin's website. Many of the attacks can be traced to the U.S.," Peskov was quoted as telling the Interfax news agency. "We're not blaming the White House or Langley every time," he added, referring to the Virginia city where the CIA is based.

Election data systems in at least two states, Illinois and Arizona, also have been breached. Intelligence officials say some states have experienced scanning or probing of their election systems, which in most cases originated from servers operated by a Russian company.

EXHIBIT 13

EXHIBIT 13

EXHIBIT 13

Congress of the United States
Washington, DC 20515

September 28, 2016

Hon. Todd Valentine
President
National Association of State Election Directors
21946 Royal Montreal Drive, Suite #100
Katy, TX 77450

Dear President Valentine:

The U.S. Constitution reserves to the states the responsibility for administering elections. In the committee report for the 2002 Help America Vote Act, Congress explained that:

This system has many benefits that must be preserved. The dispersal of responsibility for election administration has made it impossible for a single centrally controlled authority to dictate how elections will be run, and thereby be able to control the outcome. This leaves the power and responsibility for running elections where it should be, in the hands of the citizens of this country. Local control has the further added benefit of allowing for flexibility, so that local authorities can tailor their procedures to meet the demands of disparate and unique communities. Further by leaving the responsibility for election administration in the hands of local authorities, if a problem arises, the citizens who live within their jurisdictions know whom to hold accountable. The local authorities who bear the responsibility cannot now, and should not in the future be able to, point the finger of blame at some distant, unaccountable, centralized bureaucracy.

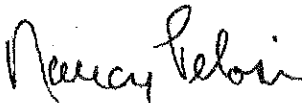
Today, the states face the challenge of malefactors that are seeking to use cyberattacks to disrupt the administration of our elections. We urge the states to take full advantage of the robust public and private sector resources available to them to ensure that their network infrastructure is secure from attack. In addition, the Department of Homeland Security stands ready to provide cybersecurity assistance to those states that choose to request it. Such assistance does not entail federal regulation or binding federal directives of any kind, and we would oppose any effort by the federal government to exercise any degree of control over the states' administration of elections by designating these systems as critical infrastructure.

For over 200 years the states have overcome every challenge to ensure the smooth function of our democracy. We trust that you will take the steps necessary to meet the new challenges of the 21st century by securing your election systems against cyberattacks.

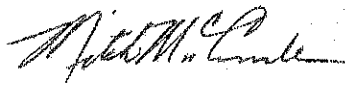
Sincerely,




Paul D. Ryan
Speaker



Nancy Pelosi
Democratic Leader



Mitch McConnell
Majority Leader



Harry Reid
Democratic Leader

EXHIBIT 14

EXHIBIT 14

EXHIBIT 14

b. Mr. Dane's report is unreliable

These were math equations.

1. Work files were included in the exhibits.
2. Simple math equations need no authority. The county's math does not equal their reports.
3. We did not rely on exit polls. We relied on:
 - a. The county Database
 - b. Election night results published by the county.
 - c. County Published abstracts.
 - d. We also looked at data the County Submitted as evidence and that didn't add up either.
4. This is a red herring. No baseline data is needed to check to see if the county's math added up.
5. This is another red herring. I am analyzing the actual election by precinct. Not my exit poll as they are claiming. Many precincts had no one voting by mail, some had 1 or 2. So when you are looking at the abstracts you are looking at how many people voted per precinct, and the way they voted either by mail, early or on election day. This has nothing to do with an exit poll which looks at the district as a whole. This also contradicts a previous allegation that I did not include back up in my report, because they know how many was polled for the exit poll.
6. This is another misinterpretation of the data. When you have a 75% swing from early voting to election day voting, targeted voters will not cause this swing unless it is in one direction. In this case the swing was going both ways. For example if precinct 1234 has in early voting Candidate A getting 365 votes and Candidate B getting 724 votes, then on election day in the same precinct Candidate A gets 521 votes and Candidate B gets 142 votes but in the precinct next door the opposite happens, there is something wrong. This is not a case of the candidate targeting voters.
7. That was never said in the report. I only analyzed the Assembly races. I did not analyze other races going on in those districts.

v. Petitioners are actually alleging human malfeasance rather than machine malfunctions

That is not true. We concluded a malfunction took place. It really makes no difference if it is human or machine. It is a malfunction in the voting system.

Respondents try to state that this my report is based on my Exit Polls. This means they either didn't read the report or they just do not understand it. The exit polls are a symptom, but by its self proves nothing. My report is based on County Data. There are several points that prove a malfunction occurred, but the most

obvious malfunction is over votes. An over vote occurs, when you have more votes in a precinct than you have voters. This is a possibility on mail ballots, but is impossible when using a machine. The Machine shouldn't allow an over vote, and if it does that is a malfunction. Just in the 2 districts analyzed there were several over votes. Just ONE is a malfunction.

Further, your affiant saith naught.

DATED this ___ day of _____, 2016.

Tony Dane

SUBSCRIBED AND SWORN by me
On this ___ day of _____, 2016.

Notary Public in Said County and State