

October 12, 2022

Mr. Ray D'Agostino, Chairman
Lancaster County Government Center
150 N. Queen St
Lancaster, PA 17603

Sent via email to: RDAgostino@co.lancaster.pa.us

Dear Mr. D'Agostino,

You asked me to write my concerns regarding the May primary in the form of a letter, prior to having a conversation. I realized that my letter would be a public record, and therefore I thought it warranted to take some time to prepare a record.

As you know, I was a candidate in the PA State Senate Race District 36 primary election, May 17, 2022, against Sen. Ryan Aument. My desire to communicate about this subject is not driven by political aspirations. Rather, I seek to preserve a constitutional right of the people outlined in PA Constitution Article 1, Section 5, which states: ***"Elections shall be free and equal; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage."***

Since Election Day, I have analyzed the data Lancaster Board of Elections (BOE) provided me and considered what it requires me to believe about how citizens voted. The report I relied upon most heavily for statistical analysis is one I obtained by a public records request. It is a precinct-level breakdown of the number of certified votes by vote method. I recommend citizens analyze this report for all elections. Unfortunately, my study has led me to believe there was interference and maladministration of the May primary election, and I am not alone in my concerns. I hope the BOE will use my report to help answer citizens' questions.

I do not assume the burden of trying to 'prove' that my election, or *any* election, was 'rigged', nor to 'prove' any assertion I make herein. No citizen has an ability to 'prove' anything is wrong with our elections because the government does not allow citizens enough information about our elections to 'prove' that. Along with more than 150 citizens, I requested additional information that would provide evidence for the validity of citizens' concerns, but the BOE, the county solicitor, two judges, and one legislator have all been resisting disclosure.

My citizen-duty is to attend to the information the BOE has provided in a reasonable timeframe and to alert the authorities of my concerns, since it they who possess the election materials and have the authority to investigate, as provided by 25 P.S. 2642. I cannot force public officials to honor their oath. However, we should agree that it is the

duty of the BOE to assure citizens that Lancaster County's elections are free, fair and without interference, not the burden of citizens to prove they are not.

The points I make are not exhaustive, but in the interest of time, below are a few of the items that concern me and many Lancastrians:

1. The BOE admitted on election day that it used thousands of bad ballots in the May 17, 2022 primary election. See **Exhibit 1**. The BOE reported that approximately 16,000 of the 22,000 mail-in ballots received back from voters had to be reprinted and transcribed by volunteers onto new ballots. However, this did not remedy the problem because there were original ballots that did not have the Miller/Aument race printed on the ballots. A poll-watcher observed county officials disenfranchising voters due to this issue. Her affidavit also indicates that county election officials conspired to falsify the reporting of these ballots as 'undervotes', meaning that voters mis-voted their ballot or chose not to vote in the race) when, in fact, it was county officials who denied their right to vote in the race. **Exhibit 2** is her affidavit.
 - a. How will the BOE remedy this situation?
 - b. Why were 6,000 ballots scannable but 16,000 were not?
 - c. Will the County hire a 3rd party to conduct a forensic audit of all ballots in the interest of public accountability?
 - d. Does the BOE plan to give the voters who received bad ballots an opportunity to cast a vote for Senate District 36?
2. I believe the computation of votes in the 2022 Miller/Aument primary is 'irregular' and indicative of interference. Precinct-level tallies have an element and appearance of natural voting, but aggregated tallies indicate that there is an invisible hand that steers the overall race. **Exhibits 4 through Exhibits 16** describe this.
3. Within days of the May 2022 primaries, nearly 150 voters in 45 precincts across Lancaster County filed petitions in the Court of Common Pleas to request a hand-tally of the paper ballots because they believed error or fraud occurred in the tally of votes. Rep. Bryan Cutler protested a hand-count for his race, arguing that the recount must involve tallying ballots using scanners and software, rather than by hand. See **Exhibit 21** attached. Finally, a single Commonwealth Court denied citizens' request for a hand-tally by ruling that the Chief Clerk may simply recount the ballots using a different voting machine, which was a dismissive response to petitioners' request.
 - a. The elected judge for each precinct has the lawful authority to hand-tally the precinct's ballots. However, the BOE has put 'software' in total control of computing the tally and has locked citizens out of the ability to hand-tally their ballots. Will the BOE support and defend a precinct judge's lawful right to conduct manual tallies of paper ballots, as a double-check to software tallies?

4. Since June, the BOE has been denying my request to inspect the mail-in ballots and envelopes used in the election. 25 P.S. 3150.17 plainly states: **“All official mail-in ballots, files, applications for ballots and envelopes on which the executed declarations appear, and all information and lists are designated and declared to be public records...”** On October 4th, the Pennsylvania Open Records ordered to allow inspection within 30 days. However, the county solicitor immediately proposed conditions for my inspection which are outside the law.

a. Why are county officials so reluctant to allow the public to see our original ballots, but they readily accept the machine tallies created by election software?

I also requested to review the Cast Vote Records (CVRs). Analyzing CVRs are like watching a vote-by-vote replay of each ballot's tabulation, in sequence, instead of just looking at the 'box score' we see on media. A CVR report is readily generated by election software, and they are public records according to 25 PS 2648, which states: **“The records of each county board of elections, general and duplicate returns, tally papers, affidavits of voters and others, nomination petitions, certificates and papers, other petitions, appeals, witness lists, accounts, contracts, REPORTS and other documents and records in its custody...”**. Counties nationwide, are providing CVRs to citizens. The BOE's denial is a violation of statute, and a violation of my 1st Amendment right to inspect public records. PA House reps, including Lancaster's Dave Zimmerman, co-signed a letter to a judge explaining that county officials who deny this request are acting unlawfully (**Exhibit 20**).

a. Why is the BOE denying citizens their lawful rights to public records regarding our elections?
b. Why is the BOE claiming it is protecting voter secrecy when no voter is identifiable on ballots and CVRs?

5. I have analyzed two (2) reports provided by the BOE. One is a report of the voters who voted. Another is a report of the certified votes. In more than half the precincts, the number of certified votes in a precinct do not reconcile with the number of voters that voted. If true, this may an indication of a systemic issue in the tallying of votes. The BOE was requested to send clarifying documentation, but it has not done so. An unreconciled tally is noted for the 2020 election in Douglas Frank's attached affidavit also.

6. The County's report of certified votes reveals many mysterious statistics pertaining to mail-in voting. For instance:

o There are large disparities in the candidate preference of *in-person* voters compared to *mail-in voters*. The county's report of certified votes shows that, among Republican voters, in the same precinct, the average disparity

in candidate preference between in-person voters and mail-in voters is approximately 40%. How do officials explain that, among Republicans in the same precinct, the method of voting would make such a dramatic difference in candidate preference?

- Mail-in votes accounted for an average of 10% of all votes, but in some precincts mail-voting was as high as 41%, such as East Hempfield Twp - Pleasantview. Act 77 law makes mail-in voting a matter of public record because of the greater risk of fraud. Yet, the BOE doesn't publish a break-out tally of each precinct's mail-in voting on the website. Instead, it combines the mail-in vote tallies with in-person tallies, which renders the tabulator tally tapes useless as an oversight tool for precinct teams and citizens. Then, it denies citizens' lawful right to inspect the ballots and envelopes. Will the BOE provide transparency regarding mail-in voting?
 - The teams at each precinct took a less than one (1) day to scan some 36,000 election-day ballots. In contrast, it took county officials nearly seven (7) extra days beyond election day to count/scan just 4,000 mail-in ballots, with the count changing in small increments, day-after-day. Why did the BOE delay the final tallying of votes? Please provide specifics about what the BOE and Hart/InterCivic officials were doing between May 17th and May 25th in relation to the changing vote count.
7. Dr. Douglas G. Frank, Ph.D. has sworn an affidavit that was filed in Lancaster County, Pennsylvania, June 10, 2022. He claims to possess information that Lancaster County Pennsylvania's election equipment is easily hacked and was hacked in the 2020 General Election and that the election suffered interference. This affidavit is attached as **Exhibit 18**.
- a. Are citizens to suspect this vulnerability existed for the 2022 primaries as well?
 - b. Will the BOE prompt an investigation to respond to the claims in this affidavit?
 - c. Why should citizens believe that our elections are secure from interference?

EXHIBIT 1: County Officials Admitting They Used Bad Ballots



Commissioner Josh Parsons



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LANCASTER COUNTY

OFFICE OF THE COUNTY COMMISSIONERS

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Lawrence George, County Administrator/Chief Clerk • Jacquelyn Pfursich, Esquire, County Solicitor

Ray D'Agostino • Joshua G. Parsons • John Trescot
BOARD OF COMMISSIONERS

MEDIA ADVISORY
May 17, 2022

CONTACT: Larry George, Chief Clerk – 717-299-8300

MEDIA ADVISORY

From the Lancaster County Board of Elections:

At 7:00 AM this morning, in accordance with the Pennsylvania Election Code, the Lancaster County Board of Elections began the prec canvass process for mail ballots already received by the County Elections Office. This is the process of opening and scanning of mail ballots.

Upon opening and scanning the first batch of ballots it became immediately apparent that a significant number of the mail ballots did not scan. Upon further inspection of the ballots, the County identified the ballots were printed by the mail ballot vendor, NPC, with the wrong identification code. This error prevents the ballots from being scanned on the County's central scanners.

The incorrect printing by the vendor was after the Elections staff approved NPC's test ballots, which had the correct ID code. Those ballots scanned properly during the County's logic and accuracy testing prior to the mailing of any ballots to voters. Thus, there was no way for the County to discover this vendor error prior to 7:00 am on election day, when the law requires mail ballots to be first opened.

In a previous election the County had a similar problem with another vendor, who the County subsequently fired and replaced with this current vendor, which serves many Pennsylvania counties. These types of errors are unacceptable and we hold the vendors responsible.

Let us be clear – this problem and the ongoing problems with the logistics of elections flows directly from the mail ballot law, Act 77 – 2019. Counties must run elections based on state law. This law is too complicated. It has too many short deadlines. It forces counties to use mail ballot vendors where counties used to be able to do absentee ballots internally. It does not allow prec canvass prior to 7:00am on election day, thus, counties cannot find vendor errors prior to that. It causes significant delays. It causes citizens to question why it takes so long to get results.

As we have said repeatedly since it was passed, Act 77-2019 must be repealed. We must stop these problems and have clear, simple election laws again.

After conferring with both major political parties, the staff recommended process to correct the issue will be remarking and scanning all affected ballots. This is the process used in the 2021 Primary Election when the previous mail ballot vendor printed the ballots incorrectly.

Running fair and secure elections is a sacred trust. The Board of Elections will do everything possible to ensure this problem is resolved in a transparent, secure way. Any steps taken will be transparently observed by both major political parties, representatives from the campaigns, and by the media.

The Board of Elections will hold a press conference on this matter at 1:00 p.m. in room 701 of the Lancaster County Government Administration Center, 150 N. Queen St., Lancaster.



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BOARD OF COMMISSIONERS

MEDIA ADVISORY/JOINT STATEMENT
May 18, 2022

CONTACT: Larry George, Chief Clerk – 717-299-8300

MEDIA ADVISORY/JOINT STATEMENT

From the Lancaster County Board of Elections and NPC CEO Chip Gallaher:

NPC takes full responsibility for the file processing error that occurred when printing Lancaster County's initial absentee and mail in ballots. As a result, NPC printed the wrong identification code on approximately 22,000 Lancaster County ballots. This error occurred even though a rigorous testing process, which included testing sample ballots for each voting precinct, was completed prior to the election without incident.

Unfortunately, such an error could not have been identified or corrected prior to the ballots being opened and scanned. Once the error was identified by Lancaster County Election Officials, NPC immediately coordinated with the County Officials to send replacement ballots. NPC will continue working with the County Officials to ensure the impact to the election process is minimalized. Going forward, NPC's version control practices have been revised to ensure only approved identification codes can be printed to avoid this situation from occurring again.

EXHIBIT 2: Pollworker Affidavit Regarding Maladministration of Ballots

AFFIDAVIT OF FACT

BALLOT ERRORS FOR LANCASTER COUNTY PRIMARY ELECTION

(Notice to Agent is Notice to Principal, Notice to Principal is Notice to Agent)

Before me, the undersigned authority, personally appeared Sonia Skolnick, who being by me duly sworn, deposed as follows: "I, Sonia Skolnick, a woman and a creation of God-Almighty, am over the age of consent, am of sound mind, and have personal knowledge of the matters stated herein. I have created this Affidavit to establish the true facts of this matter, because this matter lacks the standard of regularity. I declare under the penalty of perjury and under the laws of the United States of America, that I will testify in open court that the facts stated herein are the truth, the whole truth, and nothing but the truth, so help me God."

I, a woman, have personal knowledge of, and asseverate the following:

1. I, Sonia Skolnick, hereinafter I, me, my, myself, reserve all of my God-given rights, secured and protected by the Constitution of Pennsylvania and the Constitution of the United States of America. I waive none of my rights, EVER.
2. I served as a poll watcher for the Republican Party on Tuesday, May 17, 2022, and Wednesday May 18th, 2022, in Lancaster County, Pennsylvania, where mail-in ballots were being processed.
3. On election day, county officials declared publicly that they were unable to scan a significant number of mail-in ballots. When I arrived, county officials told me that approximately 16,000 out of the 21,000 original mail-in ballots received from voters could not be scanned due to a misprint of an identification code on the ballots.
4. On May 18, 2022, the County Election board issued a media advisory which stated that the wrong identification code was printed on approximately 22,000 absentee and mail-in ballots.
5. Soon after I arrived on election day, I observed the last of the original mail-in ballots being separated from their envelopes. The signatures on the envelopes were not being verified.
6. As soon as the newly printed ballots arrived, the election board set up teams of three people per table to transfer the information from the original marked ballots to the newly printed ballots. One person would read off the voter's selection from the original ballot. A second person would mark the new ballot, and a third person would check the work of the first two persons.

7. The number of teams varied from time to time. At the most, there were 21 teams transferring ballot information at once.
8. I watched the teams transfer voters' selections from the original ballots to the new ballots. I was free to wander from group to group to observe. There were other poll watchers in the room, also. Some represented candidates, some represented the Republican Party.
9. In addition, there were election officials, commissioners, and party officials present. On Wednesday, lawyers and the media were notably present also.
10. The process of transferring the information on the ballots was orderly and the teams were careful. The rare mistake was corrected immediately when it was pointed out.
11. At one point, I observed an issue that concerned me. I saw original ballots on which the race for PA Senate District 36 between Ryan Aument and Mike Miller was missing.
12. I questioned the team that was transferring the information from the original ballots that were missing the Senate District 36 race. The team told me the people in charge had already been notified that the race was missing from the ballots.
13. After I saw a third ballot that was missing the Senate District 36 race, I notified an on-site official and he walked me to Ms. Christa Miller, Chief Clerk / Chief Registrar of Voter Registration.
14. Ms. Miller told me she was aware that ballots were missing the Senate District 36 race because of another issue with the printing of the original ballots. Ms. Miller told me that there were only eight Republican ballots missing the race in that precinct. She told me that "Since the error didn't favor either candidate, we decided to just let it go." I presume by 'we' that Ms. Miller referenced the county election board. I noted that the ballots were Manheim Township ballots.
15. Later that day I asked Ms. Miller if the County had run test runs on the ballots before sending them to voters. She told me they had run 700 test ballots.
16. I am not an expert in the law, however, I do know right from wrong. If there is any man or woman damaged by any statements herein, if they inform me by facts, I will sincerely make every effort to amend my ways. I hereby and herein reserve the right to amend and make amendment to this document as necessary in order that the truth may be ascertained, and proceedings justly determined. Provide me a VERIFIED CLAIM from the man or woman claiming that I have done them wrong, and explaining how I have damaged them, and I will fully compensate that man or woman for their damages.
17. If the parties given notice by means of this document have information that would controvert and overcome this Affidavit of Fact, please advise me "In written affidavit

form" within fourteen [14] days from receipt. Provide me with your counter-affidavit, proving with particularity by stating all requisite actual evidentiary fact and all requisite actual law, and not merely the ultimate facts or conclusions of law, proving that this Affidavit of Fact is substantially and materially false sufficiently, to change materially my status and factual declarations. Silence stands as consent to, and tacit agreement of, the claim and factual declarations made herein being established as matters of fact and matters of law.

18. I, declare under penalty of perjury, that all herein be true, and will testify viva voce in open court, that all herein be, true, so help me God.

Verification

I hereby declare, certify, and state, pursuant to the penalties of perjury under the laws of the United States of America, and by the provisions of 28 USC § 1746 that all of the above and foregoing representations are true and correct to the best of my knowledge, information and belief.

Executed in Quarryville, Pennsylvania on this 30th day of September in the Year of Our Lord Two Thousand and Twenty-Two.

Sonia E. Skolnick
SONIA E. SKOLNICK Affiant

Notary used without prejudice to Affiant's rights:

BE IT REMEMBERED, That on this 30th day of September

in the year of our Lord, Two Thousand and Twenty-Two, personally appeared before me, the Subscriber, a Notary Public for the State of Pennsylvania, Sonia Skolnick, party to this document, known to me personally to be such, and she acknowledged this document to be her act and deed. Given under my hand and seal of office, the day and year aforesaid.

Joanne M. Bitterman
Notary Public Sitting in, and for, The State of Pennsylvania

Commonwealth of Pennsylvania - Notary Seal
JOANNE M BITTERMAN - Notary Public
Lancaster County
My Commission Expires December 20, 2025
Commission Number 1411514

EXHIBIT 3A: Undervotes by Precinct

The BOE reported a total of 1,242 undervotes. An undervote means a voter cast a ballot but no vote was counted in the Miller/Aument race. How many of the undervotes below were ballots that did not afford the voter the right to vote because the Miller/Aument race was not printed on the ballot?

3903 West Donegal Twp.-3	42	5005 West Hempfield Twp.-	
3700 Conoy Twp.	40	Oyster Point	11
3902 West Donegal Twp.-2	32	5003 West Hempfield Twp.-	
6201 Penn Twp.-Junction	32	Ironville	11
6002 Mt. Joy Twp.-Fairview	31	4914 East Hempfield Twp.-	
6202 Penn Twp.-South Penn	30	Pleasant View	11
3803 East Donegal Twp.-Maytown		6901 Warwick Twp.-	
W	26	Brunnerville	10
6504 Rapho Twp.-Elm Tree 2	26	6904 Warwick Twp.-Woodcrest	10
6503 Rapho Twp.-Union Square	25	6903 Warwick Twp.-Rothsville	10
6501 Rapho Twp.-Sporting Hill	24	5715 Manheim Twp.-15	10
3802 East Donegal Twp.-Springville	24	5703 Manheim Twp.-03	10
5701 Manheim Twp.-1-D	24	5722 Manheim Twp.-22	10
4202 Earl Twp.-New Holland	22	1603 E-town Boro 3-1	9
6003 Mt. Joy Twp.-Cloverleaf	22	2503 New Holland Boro-3	9
1601 E-town Boro-1	22	6001 Mt. Joy Twp.-Milton	
3904 West Donegal Twp.-4	21	Grove	9
4600 Elizabeth Twp.	19	5718 Manheim Twp.-18	9
2501 New Holland Boro-1	19	5002 West Hempfield Twp.-	
1604 E-town Boro 3-2	19	Farmdale	9
1701 Ephrata Boro-1	18	5712 Manheim Twp.-12	9
1602 E-town Boro-2	18	1702 Ephrata Boro-2	8
5720 Manheim Twp.-20	18	5710 Manheim Twp.-10	8
2301 Mt. Joy Boro-East	18	5717 Manheim Twp.-17	8
5721 Manheim Twp.-21	17	1306 Columbia Boro-6	8
5706 Manheim Twp.-06	17	1805 Lititz Boro-3-1	8
5716 Manheim Twp.-16	17	2001 Marietta Boro-1	8
5723 Manheim Twp.-23	17	5007 West Hempfield Twp.-	
4906 East Hempfield Twp.-Spring	17	Salunga	8
4402 West Earl Twp.-Farmersville	16	5001 West Hempfield Twp.-	
5714 Manheim Twp.-14	16	Chestnut Hill	8
6910 Warwick Twp.-Southwest	16	1101 Akron Boro-East	7
2303 Mt. Joy Boro-West	16	1605 E-town Boro 3-3	7
4702 Ephrata Twp.-Murrell	15	4911 East Hempfield Twp.-	
5702 Manheim Twp.-02	15	Landisville	7
6905 Warwick Twp.-Clay Newport	15	5719 Manheim Twp.-19	7
6203 Penn Twp.-Penryn	15	6502 Rapho Twp.-Elm Tree 1	7
		1902 Manheim Boro-2W	7

6902 Warwick Twp.-Kissel Hill	15	4912 East Hempfield Twp.- Millcreek	7
4915 East Hempfield Twp.- Rohrerstown	15	1806 Lititz Boro-3-2	6
4902 East Hempfield Twp.- Centerville	15	1704 Ephrata Boro-4	6
4401 West Earl Twp.-Earlville	14	2400 Mountville Boro	6
5713 Manheim Twp.-13	14	5707 Manheim Twp.-07	6
6505 Rapho Twp.-Willow Creek	14	4901 East Hempfield Twp.- Barrcrest	6
6909 Warwick Twp.-Newport West	14	1304 Columbia Boro-4	6
5711 Manheim Twp.-11	14	1307 Columbia Boro-7	6
4913 East Hempfield Twp.- Petersburg	14	5004 West Hempfield Twp.- Silver Spring	6
1102 Akron Boro-West	13	1803 Lititz Boro-2-1	5
4403 West Earl Twp.-North	13	1801 Lititz Boro-1-1	5
2302 Mt. Joy Boro-Florin	13	1804 Lititz Boro-2-2	5
3801 East Donegal Twp.-Maytown	13	4905 East Hempfield Twp.- Friendly	5
1901 Manheim Boro-1W	12	4701 Ephrata Twp.-Lincoln	4
5705 Manheim Twp.-05	12	6906 Warwick Twp.-Hilltop Manor	4
5704 Manheim Twp.-04	12	1802 Lititz Boro-1-2	4
3901 West Donegal Twp.-1	12	4904 East Hempfield Twp.- Chestnut Ridge	4
4916 East Hempfield Twp.- Scotland	12	4908 East Hempfield Twp.- Indian Springs	4
5709 Manheim Twp.-09	12	1301 Columbia Boro-1	4
1703 Ephrata Boro-3	11	4909 East Hempfield Twp.-Kings	4
4201 Earl Twp.-Martindale	11	4703 Ephrata Twp.-Trout Run	3
2502 New Holland Boro-2	11	6004 Mt. Joy Twp.-Hershey Road	3
2002 Marietta Boro-2	11	6908 Warwick Twp.-Millport	3
		4903 East Hempfield Twp.- Cherry Hill	3
		5708 Manheim Twp.-08	3
		1502 East Pete Boro-West	3
		5006 West Hempfield Twp.- Highland Park	3
		1305 Columbia Boro-5	3
		1309 Columbia Boro-9	3
		1500 East Pete Boro-North	3
		4907 East Hempfield Twp.- Hempland	2
		1501 East Pete Boro-South	2

EXHIBIT 3B. Undervote Trend by Precinct: The chart below shows each precinct's undervotes (the gray bars) in relation to its support for Miller as expressed by the percentage of in-person vote for Miller (the blue line). An undervote means a voter cast a ballot but no vote was counted in the Miller/Aument race. The precincts are ordered from left to right in descending level of support for Miller. Note that the undervotes were not evenly dispersed across 120 precincts. Rather, they trended higher in precincts that preferred Miller, and lower in precincts that preferred Aument, as shown by the red trendline.

- a. Why is there a defined trend in undervotes that seems to favor one candidate over the other?
- b. Does the BOE get an explanation from the precinct's judge regarding undervotes?

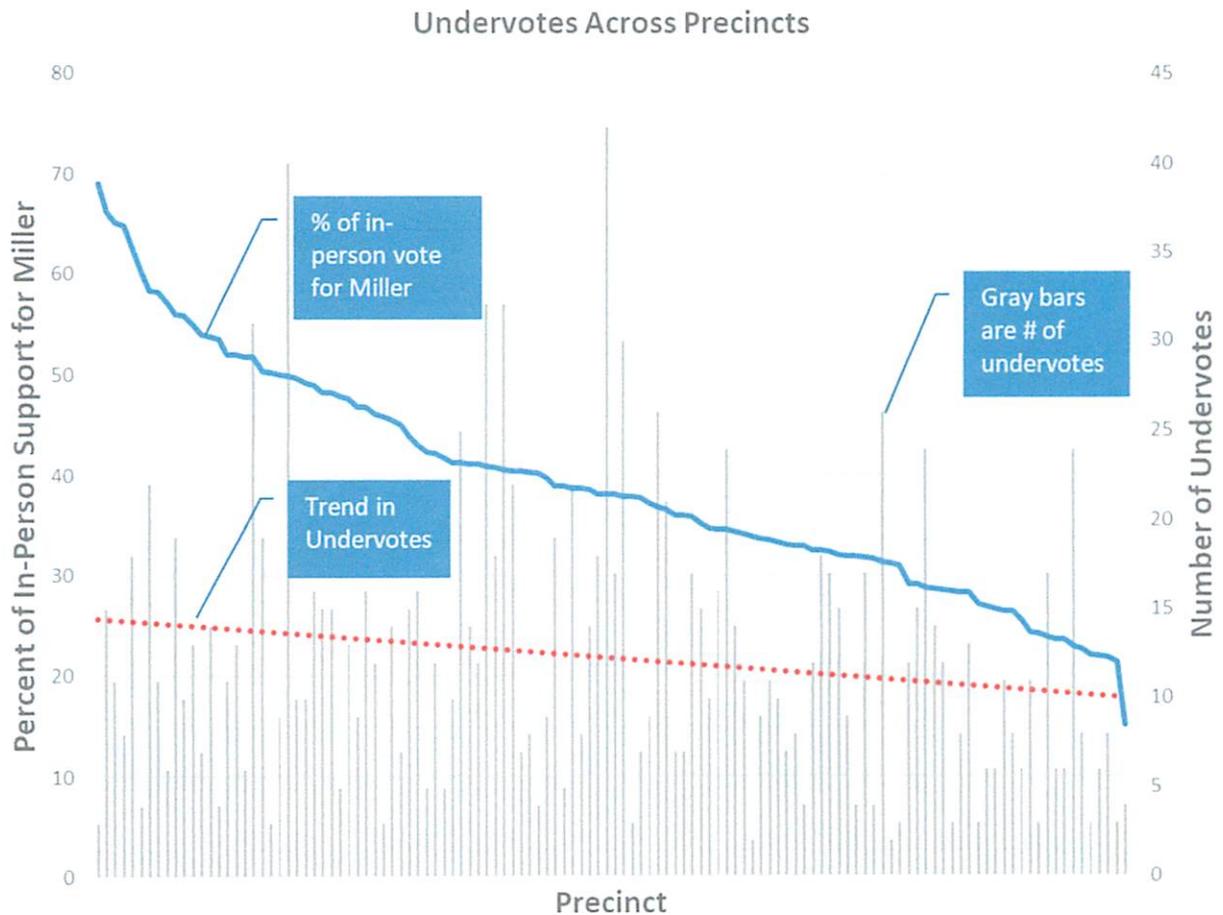


EXHIBIT 4: Edison Reporting on WGAL: PA Senate District 36, May 17th, 9:19pm.
The screenshot below was taken of the WGAL broadcast on election night. Note the timestamp on the cable box. The County reports 1,620 votes reported as “4% Reporting”.

- a. What does ‘4% Reporting’ mean, i.e. 4% of *what*?
- b. Which precincts delivered their drives and ballots to the county before 9:19pm? Are these ‘election-day’ votes?
- c. Who manages/controls the process reporting out to the media?
- d. Are multiple precincts bundled together as a single voting block? Why? Who at the county controls this process?

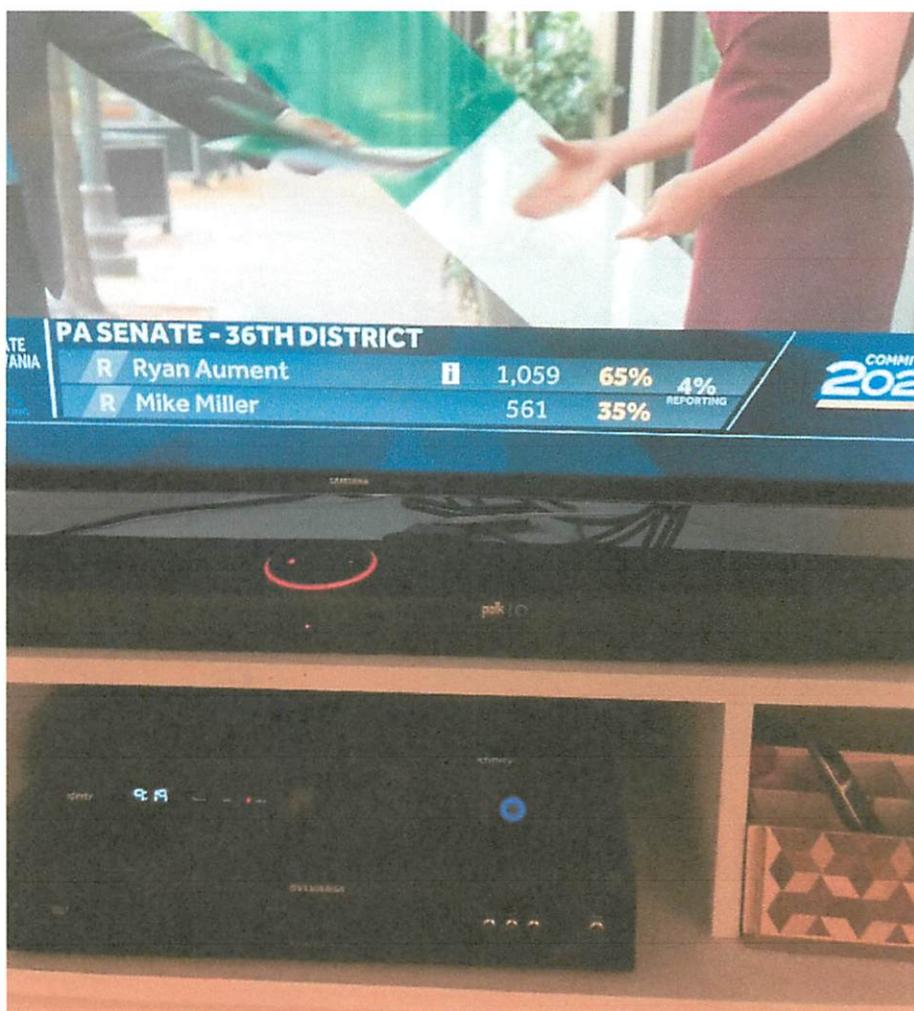


EXHIBIT 5: Edison Reporting on WGAL: PA Senate District 36, May 17th, 10:51pm. The screenshot below was taken 90 minutes later. Note the timestamp on the cable box. The County reports 18,794 votes, and reports this count as “99% Reporting”. This would suggest that nearly all ballots have been scanned, but in fact this count was less than 50% of the final total.

Why did the county report “99% Reporting” to the public when there was still 50% of the final votes not yet reported?

Also, note that the split of votes between Aument and Miller is reported to be approximately 60%/40% in favor of Aument.

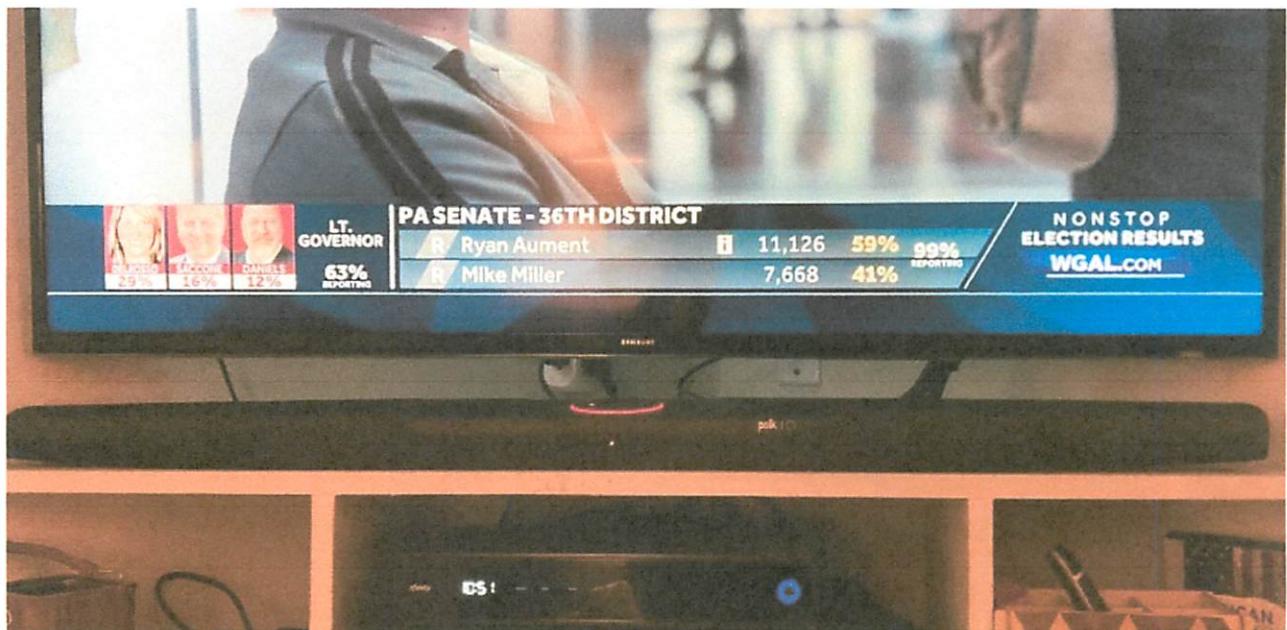


EXHIBIT 6: Edison Reporting on WGAL: PA Senate District 36, May 17th, 11:26pm.
 The snapshot below shows that 9,652 more election-day votes came in since the last report, 40 minutes prior. The total count is now 28,446 votes. As in the last exhibit, the BOE represents this count as “99% Reporting”.

Why did the BOE report “99% Reporting” to the public when there was still 30% of the final votes not yet reported?

Also, note that even after a 50% increase in the vote count from Exhibit 5, the County is still reporting an aggregate vote-ratio of 60% Aument, 40% Miller. This would mean that this group of 9,652 voters voted almost identically to the earlier group of 18,794 voters reported in Exhibit 5.



EXHIBIT 7: PA Senate District 36, May 18th, 10:54am. The screenshot below shows the County reporting on the morning after the election. It shows that the BOE reported an additional 9,411 votes coming in some time after the 11:26pm reporting shown in Exhibit 6.

Polls closed at 8pm, so why was this election-day voting so late in reporting?

Which precincts reported election-day votes this late?

The County reports total votes counted as 37,857. This is a 33% increase over the 11:26pm report, which indicates the “99% Reporting” at 11:26pm was, again, highly inaccurate. Why is that?

The aggregate vote-ratio below is 60% to 40%. It’s the same ratio as reported in Exhibit 5 and 6. Is that irregular? See graphs in the following Exhibits to compare what appear to be normal returns to what appear to be ‘controlled’ returns.

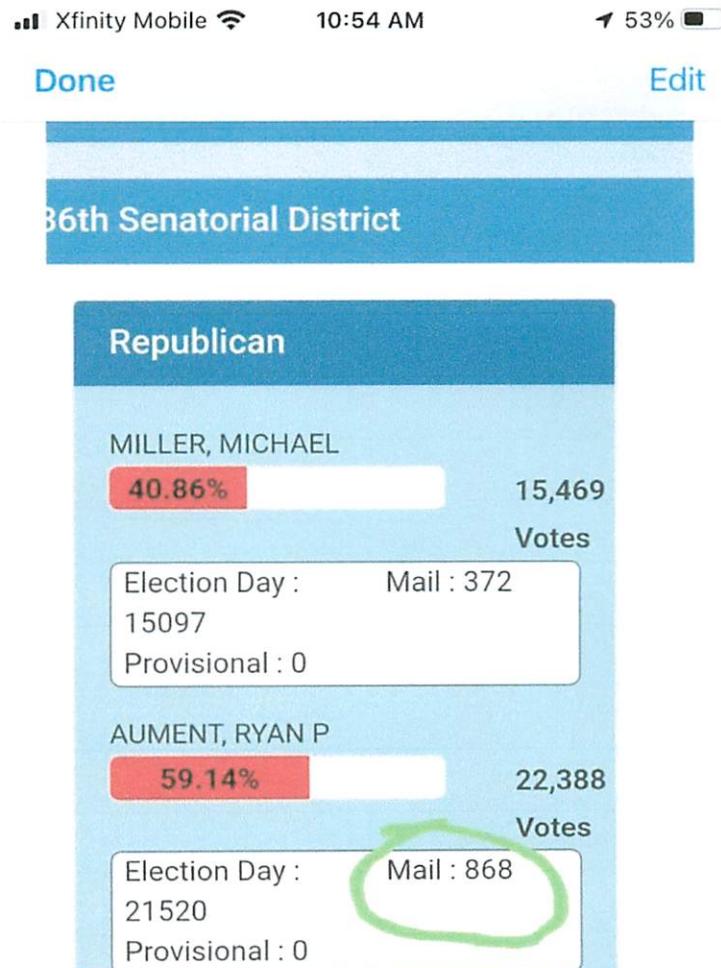


EXHIBIT 8: PA Senate District 36, WGAL website, May 18th, 7:00am. Note the “93% Reporting” in the bottom right of the screenshot below. What does this mean, i.e. “93% Reporting” of what number? Why did reporting go down, from 99% to 93%? Who is making these changes and overseeing this calculation and reporting process?

36th District		
Candidate	Votes	Percent
GOSSERT / R	11,912	32.15%
Updated: just now 95% reporting		
PA SENATE - 36TH DISTRICT		
36th District		
Candidate	Votes	Percent
AUMENT / R	22,388	59.14%
MILLER / R	15,469	40.86%
Updated: just now 93% reporting		

EXHIBIT 9: Percentage of Total Vote for Each Candidate, in Sequence Reported

The chart below shows the percentage of vote reported for each candidate in the sequence and increments the County reported them. Each bar's height shows the percentage of total vote each candidate had. From left to right, each new bar shows incremental vote blocks reported. If this is really what happened, citizens must believe that 40,914 people across Lancaster County voted, in sequence and without cooperating with each other, in such a way as to maintain an aggregate vote-ratio of 60% Aument to 40% Miller, from the start of voting to the end, since this became the final ratio.

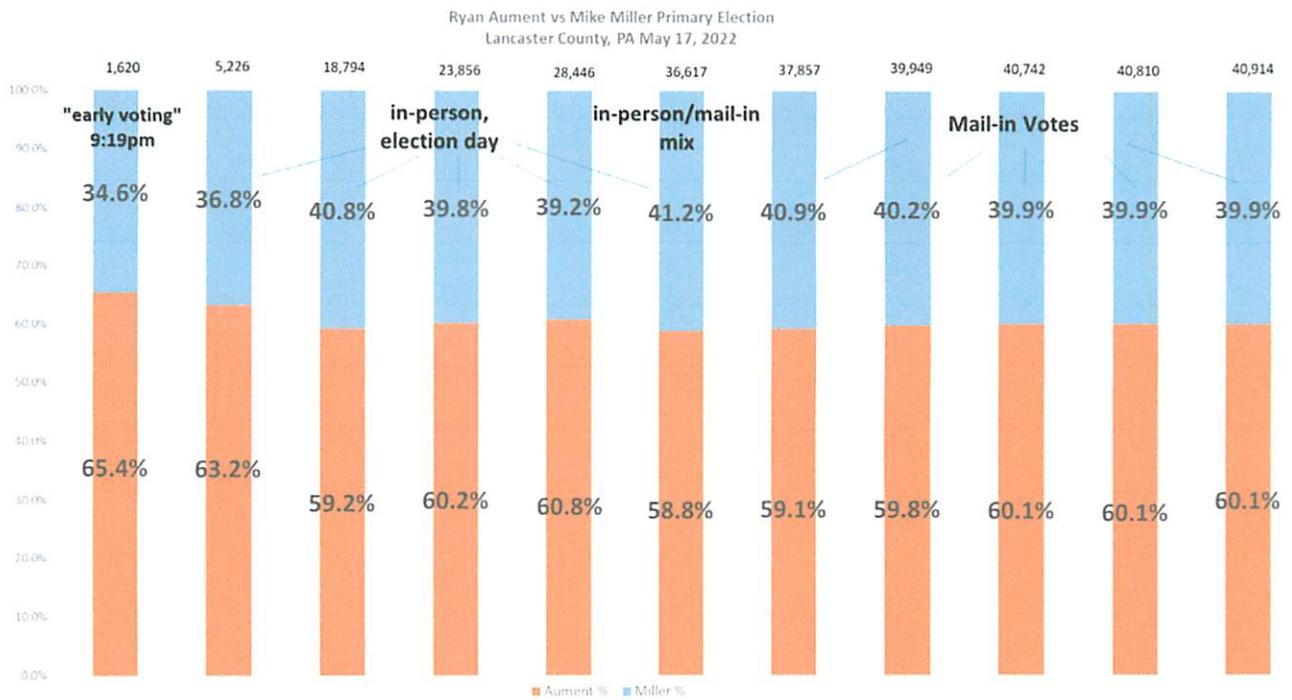


EXHIBIT 10: Edison Reporting Data for the Republican Gubernatorial Race: May 17, 2022

By way of comparison with Exhibit 9, the chart below shows reporting for the Republican gubernatorial race on May 17th. Each bar's height shows the percentage of total vote each candidate had. From left to right, each new bar shows incremental vote-blocks reported. Notice there is significant variation in each candidates' percentage as new blocks are reported, especially early in election-day reporting. This variation reflects a relatively smaller number of votes compared to the end of the race, and the diversity of candidate preference in the underlying precincts. Contrast this with the Miller/Aument race on the last page.

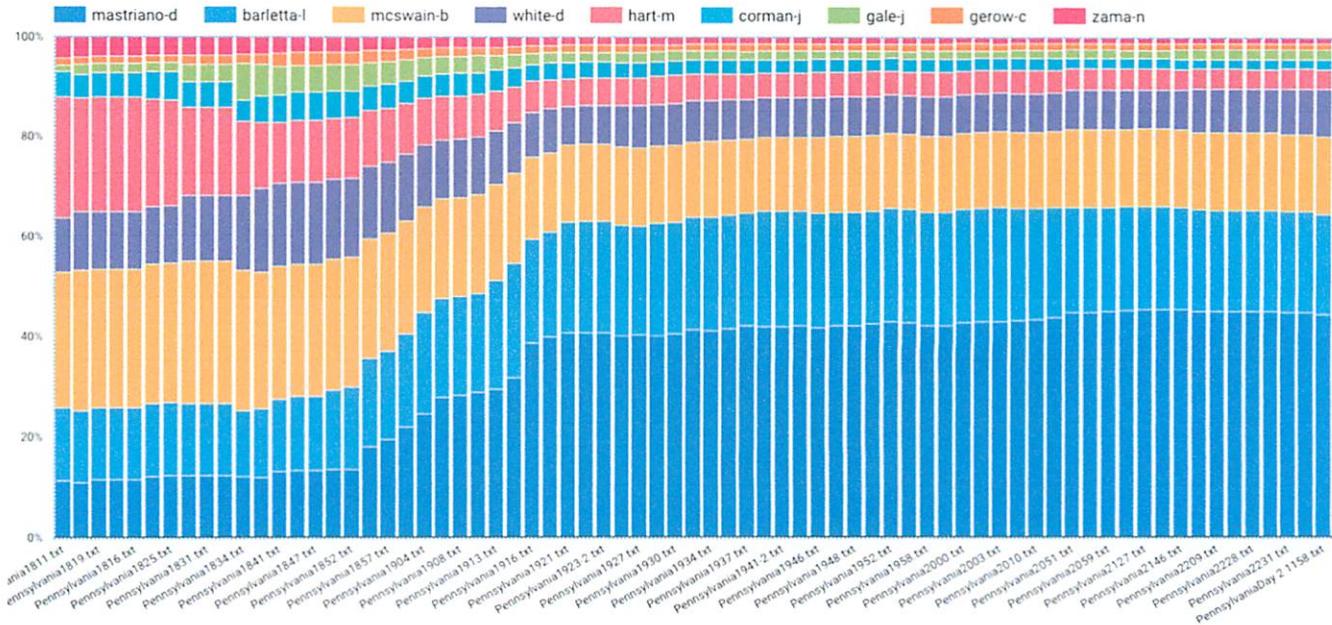
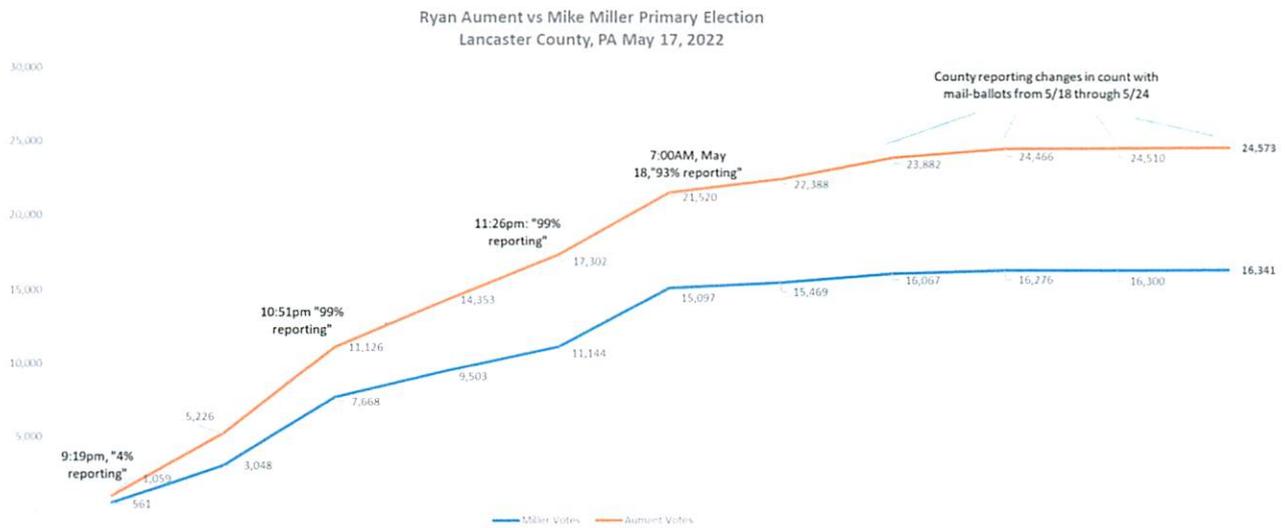


EXHIBIT 11: Total Votes for Each Candidate, in Sequence Reported

The chart below shows the increase in total votes reported for each candidate in the sequence and increments the County reported them. Notice how the slopes of the two lines move 'lock-step' with each other. For example, look at the slopes between May 17th 11:26pm and the next block. Look at the mail-in ballot tallies, post-election day. Across 120 precincts, each new count of mail-in ballots maintains the 60/40 ratio.

Will the county provide the cast vote records (CVR) so that citizens can see this phenomenon, vote by vote, instead of blocks of votes from undisclosed precincts?



FINAL SCORE:

Aument 24,573 (60%)

Miller 16,341 (40%)

Source: Lancaster County website: https://vr.co.lancaster.pa.us/ElectionReturns/May_17_2022_-_General_Primary/13ByPrecinct.html

Hart/InterCivic Inc. Electronic Voting System

Lancaster County contracts with Hart/InterCivic Inc. to provide election management services system at a cost of ~\$600,000 per year.

Attached Exhibits 17 through 19 are documents that address vulnerabilities at great length and depth. They are summarized below.

Ben Cotton, a cyber expert, swears by affidavit that the same Hart/InterCivic voting equipment used by Lancaster County allows for wireless/wired connectivity of voting equipment/software, as per his inspection and Hart/InterCivic's manuals.

Fulton County, PA commissioners filed a federal complaint in September. They claim that their tabulation drives are *"interconnected in a system to one another"* and that *"this would be required to share data and counts between devices, and unauthorized access to any one device allowed unauthorized access to any device connected to the network of devices"* and that *"at least one of the network devices has connected to an external device on an external network....in direct violation of and failure of the conditions required for certification"*.

Dr. Douglas Frank, Ph.D., swears by affidavit that he is in possession of username/password combinations that afford access to Lancaster County's election systems, *'exposing the fact that Lancaster County's election system are exploitable by means of the internet'*.

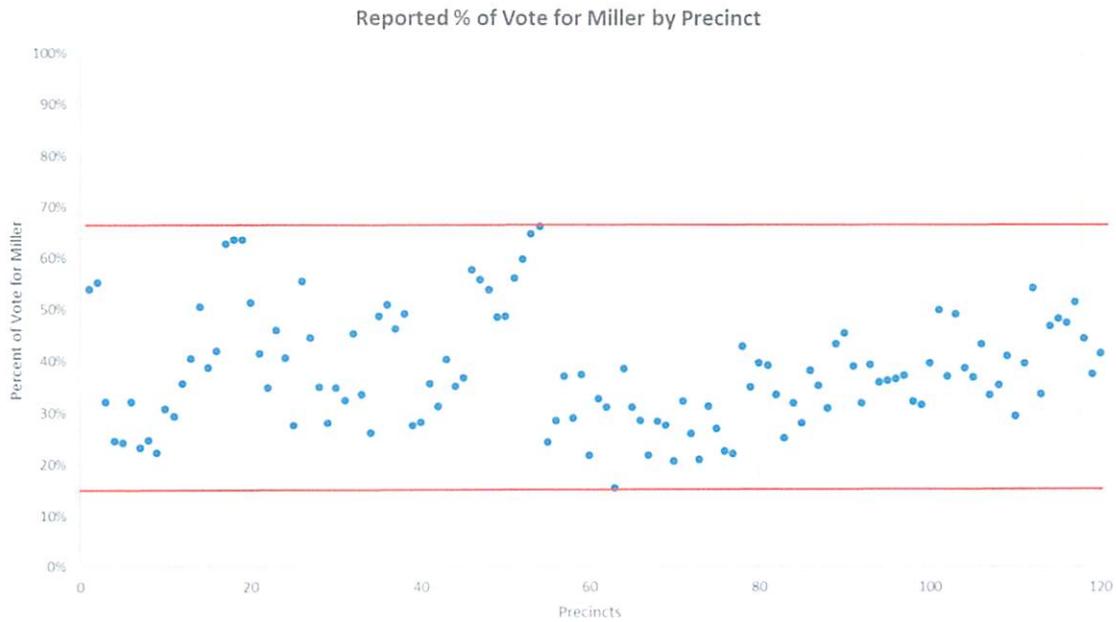
Systemic Issues in the Hart InterCivic and Premier Voting Systems:

https://www.usenix.org/legacy/events/evt08/tech/full_papers/butler/butler_html/index.html

- a. Has the BOE investigated these claims?
- b. What is your response to each of these claims?
- c. What technical/cyber expertise does the BOE have to prove to citizens that you are qualified to respond to these claims?
- d. What expertise do you have to manage the vulnerabilities in this system?
- e. Does the BOE consider these features to be acceptable and desirable?

EXHIBIT 12: Precinct-Level Reporting by Candidate. The public (and perhaps the BOE) may not realize how easy it is to manipulate vote tallies in an electronic voting system that does not hand-tally paper ballots. This exhibit and the following one connect to make this point.

The precinct-level return chart below shows the percentage of vote for Miller, by precinct. The precincts show a wide range of candidate preference, from as high as 66% for Miller in one precinct to as low as 15% for him in another. This range is noted by the red border lines. Candidates fared better certain regions and precincts, etc. so that anecdotal factors create natural variation and nuances between precincts, so that citizens can readily believe that the precinct returns below show free and fair voting. As the county website tally shows, Aument wins this race, 60% to 40%, but see the continuation in Exhibit 13.



The scatterplot above reflects data from the Voter Registration & Board of Elections website, sampled below.

Warwick Twp - Kissel Hill Dist	144	282		426
Warwick Twp - Rothsville Dist	177	199		376
Warwick Twp - Woodcrest Dist	131	139		270
Warwick Twp - Clay Newport Dist	212	233		445
Warwick Twp - Hilltop Manor Dist	148	138		286
Warwick Twp - Millport Dist	131	163		294
Warwick Twp - Newport West Dist	141	234		375
Warwick Twp - Southwest Dist	235	328	2	565
Totals	16341	24573	44	40958
	Mike Miller	Ryan P. Aument	Write In	

Source: https://vr.co.lancaster.pa.us/ElectionReturns/May_17,_2022_-_General_Primary/13ByPrecinct.html

EXHIBIT 13: Precinct-Level Reporting by Candidate. This exhibit accompanies the prior exhibit. If I were a bad-actor and could see and act upon each precinct's digital ballot box before its tally was finalized, I could manipulate the tallies in a way that neither the election officials nor the public could detect.

For example, for the chart below, I simply used the precinct tallies from the race shown in Exhibit 12 and multiplied Miller's count in each precinct by a multiple of 1.2, and Aument's count for each precinct by a multiple of .666. In other words, I used software and a simple math formula to change each precinct's tally. The public can't notice the change because I did it in a manner and method the public can't see. The chart below looks the same as the chart in Exhibit 12, but the race has a much different outcome. This time, Miller wins the race, 54% to 46%.

How can that be? Look at the change in the range of returns (the red lines). Compared to Exhibit 12, the *range* in percent of the vote for Miller at a precinct adjusted up to 80% from 66%, and up to 19% from 15%. Citizens are fooled because the *pattern* (the dots) hasn't changed. The variation of returns in precincts still "seems about right" as the interference in the overall tally was spread across many precincts. Lastly, the public only gets to see the 2nd outcome; they don't get to compare it with the first.

More complex formulas can be used to interfere with tallies to make vote counts to approximate the pollbook count and 'create' a final vote ratio of 60/40 or 70/30, etc.

This example is why it is critical to tally original ballots without software. Precinct teams should do a hand-tally of all the original ballots, to be sure this kind of interference can't succeed.

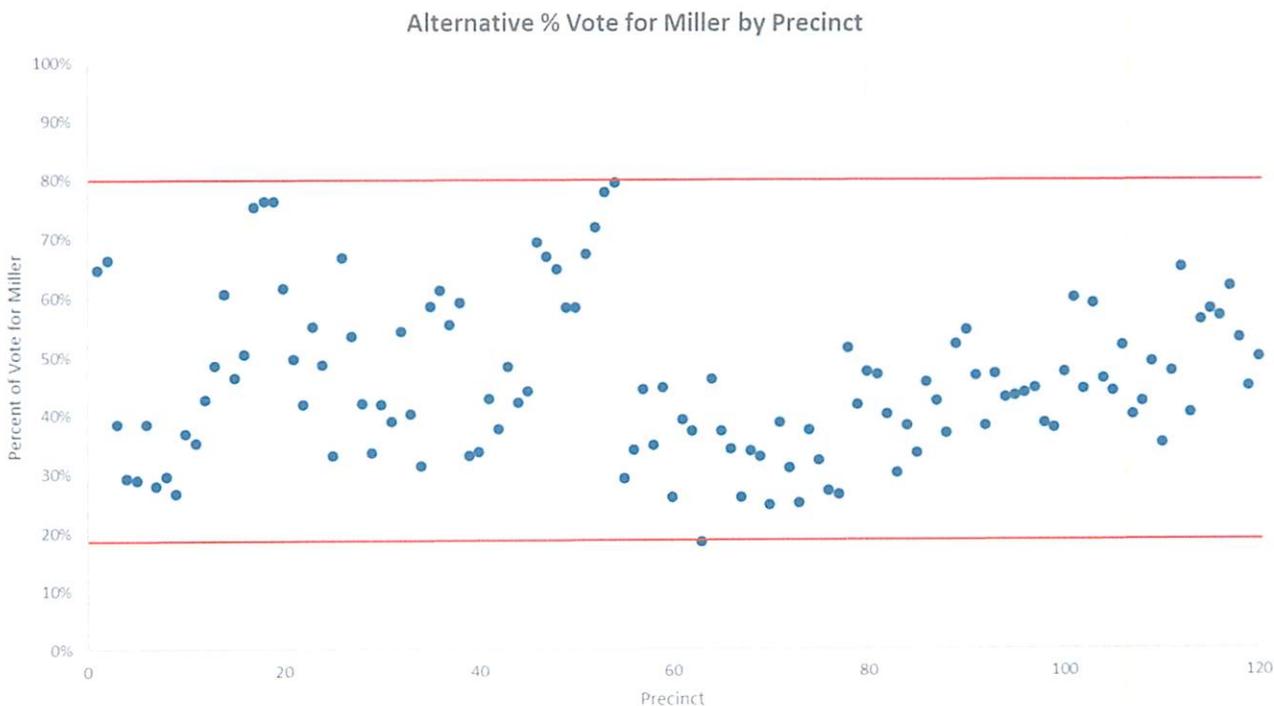


Exhibit 14: The County’s process of reporting ‘blocks’ of votes at once, without identifying which precincts are in the block, makes it impossible for citizens to validate what they’re seeing on election night. It’s like taking the tally of 20 unidentified precincts, putting them in a locked box, and then only showing the public the total for the box. Unfortunately, it also makes an analysis of reported returns more complex.

With that as preface, the left side of the chart below shows features of the aggregate count. On the right are the 11 increments of vote blocks that ‘built’ the aggregate total, and the percentage of vote each candidate received for each block.

Green is early ballots. Yellow is in-person votes, and Gray is mail-in votes.

% of Vote	Vote Method	AGGREGATE VOTES					Vote Block #	INCREMENTAL VOTES / VOTE BLOCK				
		Miller	Aument	Total	Aument %	Miller %		Miller #	Aument #	Total	% Aument	% Miller
4%	early voting	561	1,059	1,620	65.4%	34.6%	1	561	1,059	1,620	65.4%	34.6%
20%	in-person	3,048	5,226	8,274	63.2%	36.8%	2	2,487	4,167	6,654	62.6%	37.4%
46%	in-person	7,668	11,126	18,794	59.2%	40.8%	3	4,620	5,900	10,520	56.1%	43.9%
58%	in-person	9,503	14,353	23,856	60.2%	39.8%	4	1,835	3,227	5,062	63.7%	36.3%
70%	in-person	11,144	17,302	28,446	60.8%	39.2%	5	1,641	2,949	4,590	64.2%	35.8%
89%	in-person	15,097	21,520	36,617	58.8%	41.2%	6	3,953	4,218	8,171	51.6%	48.4%
93%	mail-in	15,469	22,388	37,857	59.1%	40.9%	7	372	868	1,240	70.0%	30.0%
98%	mail-in	16,067	23,882	39,949	59.8%	40.2%	8	598	1,494	2,092	71.4%	28.6%
100%	mail-in	16,276	24,466	40,742	60.1%	39.9%	9	209	584	793	73.6%	26.4%
100%	mail-in	16,300	24,510	40,810	60.1%	39.9%	10	24	44	68	64.7%	35.3%
100%	mail-in	16,341	24,573	40,914	60.1%	39.9%	11	41	63	104	60.6%	39.4%

Exhibit 15: ‘Attack of the Clones’: The only tally that matters in this election is the overall tally, not the individual precinct tallies. As we aggregate the *precinct* tallies into larger blocks of votes (just as the county reported them) and approach the overall tally, we begin to see unusual patterns which indicate that the underlying precinct tallies may not have been as ‘natural’ as they appear to be, as follows.

The chart below shows each of the 11 reported vote-blocks. Each bar’s height indicates the percentage of vote for Miller for that block. From left to right, the bars are in the sequence of reporting. As with the prior exhibit, Green is early ballots, Yellow is in-person votes, and Gray is mail-in votes. The number above each bar is the total number of votes in the block. Below the bar is the voting method. The red line is the *aggregate/overall* percentage of vote for Miller.

Notice how the blocks lack variation from each other in terms of candidate preference, especially with respect to reporting sequence and voting method (in-person vs mail-in). Some blocks are even statistically identical. For instance, a group of 4,590 voters (#5) voted the same as another group of 5,062 voters (#4), who voted the same as another group of 6,654 voters (#2). Also, a group of 793 mail-in voters (#9) voted the same as a group of 2,090 mail-in voters (#8), who voted the same as another group of 1,240 mail-in voters (#7). All the while, the voting pattern of successive groups moved the *overall* vote ratio closer to 40% for Miller, like an invisible hand.

Is this a coincidence, or is there interference to ‘construct’ the overall tally?

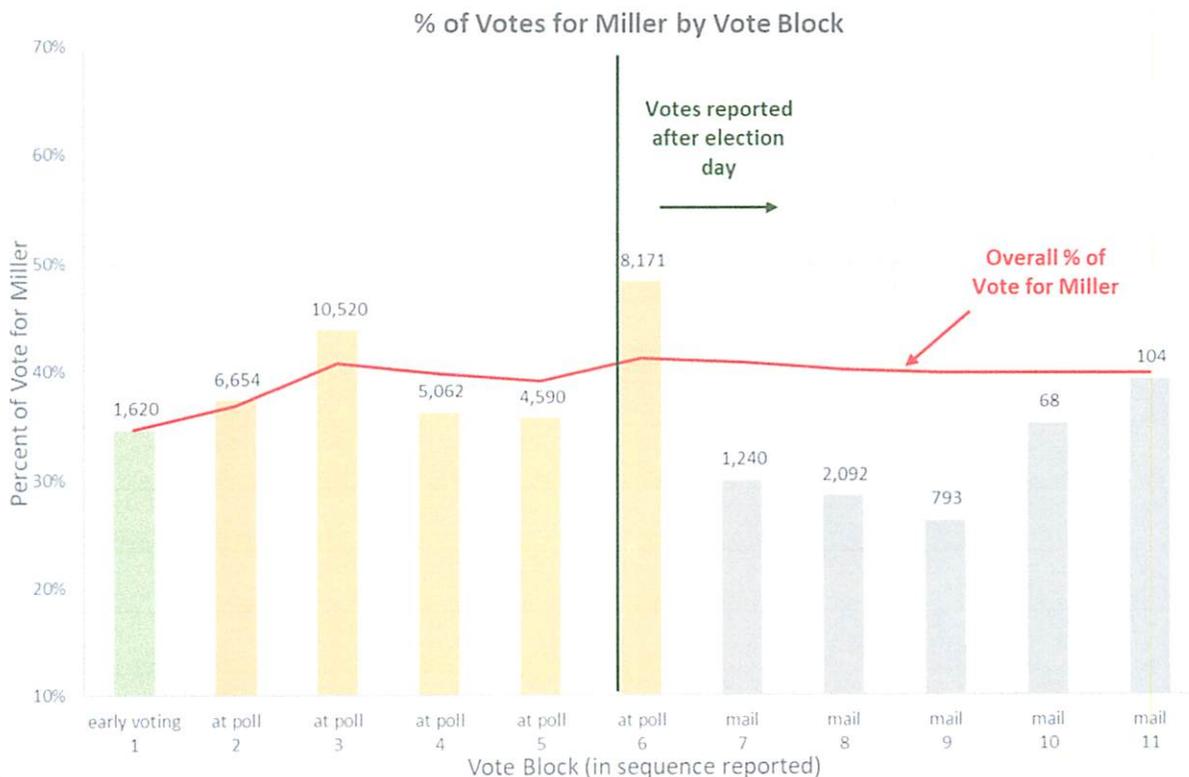
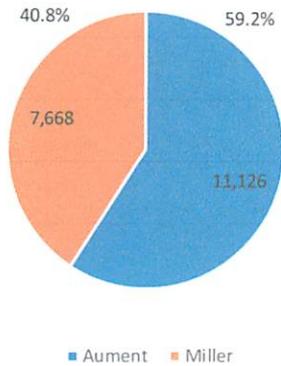


Exhibit 16: Building on the theme of the last exhibit, note that the BOE reported a total of 36,617 ‘election-day’ votes. It reported them in sequence I will refer to them as blocks 1 through 6, as shown in Exhibit 13 and 14. On the left, I combined blocks 1,2 and 3 to represent the 1st half of election-day voters. On the right, I combined blocks 4, 5, and 6 to comprise the 2nd half of election-day voting.

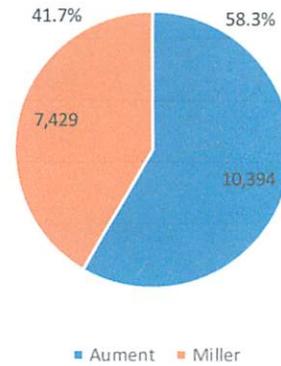
The chart shows that the BOE reported that the 2nd half of election-day voters voted 99% identical to the 1st group of election-day voters. The second half of election-day voters was essentially a ‘clone’ of the first half.

Is it a coincidence that the seemingly random returns at the precinct level created this phenomenon, or is it an indication of interference in the tallies?

1st Half of In-Person Voters



2nd Half of In-Person Voters



	<u>Aument</u>	<u>Miller</u>	<u>% Aument</u>	<u>% Miller</u>	<u>Total</u>
1st Half of In-Person Voters	11,126	7,668	59.2%	40.8%	18,794
2nd Half of In-Person Voters	10,394	7,429	58.3%	41.7%	17,823

Exhibit 17: Ben Cotton Affidavit Regarding Hart/InterCivic Connectivity

AFFIDAVIT OF BENJAMIN R. COTTON 11 JULY 2022

I, Ben Cotton, being duly sworn, hereby depose and state as follows:

- 1) I am over the age of 18, and I understand and believe in the obligations of an oath. I make this affidavit of my own free will and based on first-hand information and my own personal observations.
- 2) I am the founder of CyFIR, LLC (CyFIR).
- 3) I have a master's degree in Information Technology Management from the University of Maryland University College. I have numerous technical certifications, including the Certified Information Systems Security Professional (CISSP), Microsoft Certified Professional (MCP), Network+, and Certified CyFIR Forensics and Incident Response Examiner.
- 4) I have over twenty-five (25) years of experience performing computer forensics and other digital systems analysis.
- 5) I have over eighteen (18) years of experience as an instructor of computer forensics and incident response. This experience includes thirteen (13) years of experience teaching students on the Guidance Software (now OpenText) EnCase Investigator and EnCase Enterprise software.
- 6) I have testified as an expert witness in state and federal courts and before the United States Congress.
- 7) I regularly lead engagements involving digital forensics for law firms, corporations, and government agencies and am experienced with the digital acquisition of evidence under the under the Federal Rules of Evidence.
- 8) I reviewed the Administrator manual for the Hart Verity system for the version of software that was purchased by the State of Michigan under contract number #071B7700128.

9) I reviewed the State of Michigan contract number #071B7700128, which is specific to the State of Michigan acquisition, deployment and operation of the Hart voting systems from March 1, 2017 to February 28, 2027 and was in effect during the November 3, 2020 general election.

10) I reviewed the Voting System Examination of Hart InterCivic Verity Voting 2.4 report dated May 16, 2020 the was conducted by Brian Mechler on behalf of the State of Texas.

11) The analysis and review of the Hart InterCivic contract, administrative and user manuals state the following:

- a) State Michigan contract number #071B7700128 documents the inclusion of the State of MI Qualified Voter Files (QVF) loaded onto the tabulators on page 59 and are illustrated in the diagram on page 60.
- b) This download of QVF occurs 4-5 weeks prior to election via the Verity Drive USB stick (V-Drive). This data is loaded onto the tabulator prior to the Public Accuracy Test and not modified by the clerk prior to election day.
- c) The Verity drive is provided by the County to the township clerk.
- d) The Hart InterCivic tabulator includes WIFI and ethernet local area network (LAN) network support coupled with an automatic transmission process to connect to the internet. (Page 61)
- e) The ballot images are stored on the tabulator in PNG format. (page 77)
- f) The time stamp of the ballot insertion into the tabulator is removed per paragraph 1.1.A.24 of Hart contract.
- g) Ballot information is recorded in 3 physically separate locations: internal memory, the paper ballot itself and on the V-drive.
- h) Given that the ballot images are stored on the tabulator, the QVF is stored on the tabulator, the ballot images are stored on the tabulator and the tabulator has multiple

modes of internet connectivity with few if any cyber security protections, a huge vulnerability to the integrity of the voting process exists. If an unauthorized person were to gain remote access to the tabulators the vote as recorded on the tabulator could be modified or additional votes entered into the system.

- 12) The Adams Township tabulator was confiscated by MI State Police and remains in their custody. Since maintenance was not performed prior to the seizure, the ballot information from the 2018 thru March 2021 elections should remain on the device.
- 13) I have had the opportunity, with the permission of Adams Township, Michigan officials, to examine the contents of the Electronic Poll Book (EPB) USB drive from the November 2020 General Election.
- 14) I have reviewed the letter from Jonathan Brater, Director of Elections, dated 15 October 2021 to Stephanie Scott.
- 15) I have reviewed a series of emails between Stephanie Scott and Abe Dane dated 23 February 2021 through 24 February 2021.
- 16) I have reviewed the Memorandum dated 12 February 2021 named 2021.02.12 Final Release of Security Memo Nov 2020.pdf. This memorandum is unsigned but is written on Michigan Bureau of Elections letterhead.
- 17) I have had the opportunity to review the reports that are generated and printed by the Secretary of State following the submission of precinct results for a given election. These reports are referenced in the Jonathan Brater document dated 15 October 2021.
- 18) The administrative and operator manuals for the Hart InterCivic voting system clearly state that the Qualified Voter Record is stored on the voting machines and poll books..
- 19) The epb.accdb file on the EPB USB is a password-protected data base that contains the election definition data as well as qualified voter data. At the point that these files are utilized in

the course of the election, the data contained in these files becomes unique to that machine and election. For example, when a qualified voter casts a vote the exact date and time that the vote is cast is added to the voter's record. At this point, the data on the devices and the EPB USB becomes original evidence for the voting process.

20) Under the Federal Rules of Evidence Rule 902 paragraph 14, data copied from an electronic device, storage medium or file is admissible if authenticated by a process of digital identification and certified by a qualified person. This presumes that all data contained on the device is copied and reproduced. I saw no evidence that there is any such certification attesting to the completeness of the copied data associated with the conversion of the electronic EPB USB to the printed format that is produced by the Secretary of State. Without this certification, the original evidence must be preserved. In this case that would require that the systems involved in the election and the removable media used in the election be preserved in their digital state following the closure of the polls. There are forensic preservation processes that could have preserved the data, but there are no current processes or procedures approved by the Secretary of State to perform these operations.

21) The EPB USB is original evidence. The basic principle governing the preservation of electronic data and ensuring that digital evidence is admissible in court is that original evidence is the best evidence. Preserving a digital device in an original state ensures that the evidence is reliable, dates and times are factual, and that the data has not been altered. Failure to preserve digital evidence in a forensically sound manner can result in charges of spoliation and the inadmissibility of that evidence in court. Based on my review of the Hart InterCivic manuals and the Secretary of State's instructions to the municipality election officials, I do not see any

method or procedure to forensically preserve the voting systems or the digital media used in a Michigan election.

22) The EPB USB contains data that is unique to that specific EPB USB and to the equipment that the USB is plugged into. The following items are not recorded anywhere else in the night-end reporting:

- a. Same Day Voting Data. The quantity of same-day in-person registrations is not summarized on night-end reports.
- b. Same Day Voting Data. The voter identification/ information is not recorded in the printed total votes cast nor is this information delineated in the end-of-night voter list.
- c. Same Day votes. These votes are not separated out on the night-end ballot summary report.
- d. The reports produced at the closing of the polls will reconcile the voting numbers, but there is no method to separate out the same-day registers without the original EPB USB.

23) I have analyzed reports produced by the Secretary of State for the preservation of voting data and materials under the Federal Statute and have determined that those reports do not capture and preserve all the data contained on the EBP USB. The following data elements for and Electronic Pollbook and other voting equipment used in the election are not part of these reports:

- a) Computer Name that the Vote was Conducted On
- b) The Domain of the Computer
- c) Manufacturer of the Computer
- d) The Model of the Computer
- e) Processor Name

- f) Total Virtual Memory Size
- g) Free Virtual Memory
- h) Free Physical Memory
- i) Internet Connection Status
- j) Internet Connection Type
- k) Cable Internet Speed
- l) Cable Internet MAC Address
- m) Wifi Internet Speed
- n) Wifi Internet Mac Address
- o) Windows Operating System Version
- p) AntiVirus Program and Status
- q) Firewall Type and Status
- r) Bit Locker Disk Encryption Status
- s) Bitlocker Hard Disk Status
- t) Bitlocker Removeable Drive Status
- u) .Net Version
- v) Dymo Lable Version.

Once again, these data elements are not part of the reports that are produced for preservation by the Secretary of State, but would be data that should be preserved under the Federal statutes. Should an audit of the election or should the voting records be produced in support of a legal action, the above components would be critical to prove compliance with election law, validate voting system configurations and the demonstrate the fairness of the election. Failure to

forensically preserve the EPB USB would have effectively deleted and wiped these elements of information, as they are not present or preserved on any other component of the voting system.

24) The following data fields for voter information from election day are not part of the night end reports:

- a) VOTERID
- b) BALLOTTYPE
- c) PRECINCT
- d) CREATE DATE -- Recorded date of election.
- e) ADDRESS_ID
- f) LICENSE_NUMBER
- g) IDENTIFICATION_STATUS_ID
- h) DISTINCT_POLITICAL_AREA_ID
- i) CODE
- j) PARTYID

25) I had the opportunity to review FOIA documents produced by the Secretary of State's office to Scott Aughey. These documents included the official vote totals for Adams Township. Analysis of these official totals revealed some significant deviations from the data contained on the voting media at the local Township level.

- a) The Electronic Poll Book USB data for Adams Township recorded 1,362 voters in night end reporting. This includes the same-day registered voters.
- b) The Hillsdale County Canvassing Board confirms the quantity of 1362 votes in Adams Twp
- c) The State records indicate 1332 votes recorded in Adams Township. This is short 30 votes from the end-of-day totals in the Adams Township data. These numbers do not include the fourteen (14) same-day registration voters.

- d) A comparison of names between the two data sources illustrates seventy-nine (79) unique names on the Electronic Poll Book data for Adams township that are not listed on the State's official records.
- e) Conversely, there are sixty-four (64) names unique to the State's records that are not represented on the Adams Township Electronic Poll Book records.
- f) The combination of these report discrepancies documents an 11.5% difference in votes between township and state.

Without the data contained on the EPB USB data there is no manner by which these discrepancies could be investigated and reconciled. The EPB USB data is essential to any audit or reconciliation.

I have had the opportunity to review two reports created by Scott Aughney. The first report titled "BALLOTS CAST HILLSDALE COUNTY ADAMS TOWNSHIP ELECTION DATE 2020-11-03" was printed on 1/13/2022. The second report titled "BALLOTS CAST HILLSDALE COUNTY ADAMS TOWNSHIP ELECTION DATE 2020-11-03" was produced on 1/13/2022 as well. Both reports were produced in an Adobe Acrobat .pdf format document. Highlighting was applied to the "BALLOTS CAST HILLSDALE COUNTY ADAMS TOWNSHIP ELECTION DATE 2020-11-03" document on 1/17/2022. This was done to highlight voters, who according to the report, voted in the November 3, 2020 election but were not registered until after that date. In some cases these voters data of registration reflects registering to vote 7 months after the election. Figure one is a screen capture of this report. Voter identification data has been blocked to preserve privacy. The original document is available for review.

Report Prepared by: Scott Aughney Jackson, Michigan seaof7@gmail.com		BALLOTS CAST HILLSDALE COUNTY ADAMS TOWNSHIP ELECTION DATE 2020-11-03 SORT BY VOTER IDENTIFICATION NUMBER, LAST NAME, FIRST NAME			Print Date: 1/19/2022	Total Ballots cast: 1332		
Please request permission to receive a copy of reports, request a query report or to be included on the distribution list								
VOTER IDENTIFICATION NUMBER	LAST NAME	FIRST NAME	REGISTRATION DATE	ELECTION DATE	IS ABSENTEE	IS PERMANENT ABSENTEE VOTER	YEAR OF BIRTH	GENDER
			2020-11-03	2020-11-03 00:00:00	V	V	1984	F
			2020-10-21	2020-11-03 00:00:00	V	V	1959	M
			2020-12-31	2020-11-03 00:00:00	V	V	1956	F
			1997-12-05	2020-11-03 00:00:00	V	N	1982	M
			1997-11-12	2020-11-03 00:00:00	V	N	1959	F
			1997-11-30	2020-11-03 00:00:00	V	V	1974	M
			2020-03-29	2020-11-03 00:00:00	N	N	1953	F
			2020-03-28	2020-11-03 00:00:00	N	N	1955	M
			1978-04-10	2020-11-03 00:00:00	N	N	1948	F
			1976-04-10	2020-11-03 00:00:00	N	N	1950	F

Figure 1 - Voter Registration After the Election

It is evident that the election date column reflects the date of the November 2020 general election and it is also apparent that on this one snippet of the report four (4) individuals registered well after the election date. A search was conducted on the QVR from the EPB.acddb file and none of these individuals were shown to have been registered before the election. A review of the total information contained in this report indicates that thirteen (13) individuals are recorded as successfully voting in the November 2020 general election that were not registered to vote until well after the election.

26) I have had the opportunity to examine multiple voting systems from multiple software vendors. It is clear from my experience that there is a blatant lack of cyber security protection within the election systems. In the case of Adams Township I have had a limited opportunity to examine the complete voting system, but the items that I have been able to examine confirmed that there are shared passwords utilized by the personnel supporting the election process. Specifically the primary data base that is utilized on the EPB USB is a Microsoft Access database named epb.acddb. This file is password protected, which is sound security practices, but Microsoft Access only support a single password for multiple users. Each person using this

data base would have had to have possession of this single password. This is known as a shared password. Sharing passwords is a violation of one of the basic tenants of sound cyber security practices.

27) It is clear from my examination of the materials, the Secretary of State's election reports and the digital EPB USB data that had Ms. Scott followed the directive from the Secretary of State's to delete the EPB USB data, none of these discrepancies could have been detected or substantiated.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 14th DAY OF July
2022.



Benjamin R. Cotton

NOTARIAL CERTIFICATE

Acknowledgment

State of Montana

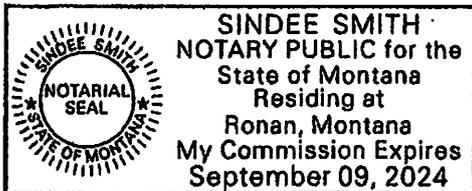
County of Lake

The attached record was acknowledged before me on 7.16.2012

(Date)

by Benjamin Richard Cotton

(Name of signer(s).)



[Signature]
(Notary Signature)

[Affix stamp above]

This certificate has been attached to the Affidavit of Benjamin Richard Cotton

(Type of record or document)

consisting of 10 page(s), dated July 11, 2012

Any evidence that this certificate has been detached or removed from the above described document may render the notarization invalid or unacceptable.

Exhibit 18: Dr. Douglas Frank Affidavit Regarding Lancaster County Election Interference

AFFIDAVIT OF DOUGLAS G. FRANK, Ph.D.

STATE OF KENTUCKY :
COUNTY OF Hardin : ss.

Douglas G. Frank, Ph.D., under oath, deposes and states that he is an adult individual, self-employed, a physicist, who provides statistical and analytical professional consultancy services related to election integrity, compliance and oversight to businesses, individuals, grass-roots groups, political organizations, state legislators and officials. My current biography is attached hereto as Exhibit "A".

1. I hold a Ph.D. in Surface Electroanalytical Chemistry, with sixty peer-reviewed scientific publications, including feature cover articles on the world's leading scientific journals (*Science*, *Nature*, *Naturwissenschaften*, etc.). I have thirty years of professional experience as an industry consultant, specializing in surface analysis (laser scanners, electron microscopes) and precision manufacturing. I also have twenty-five years of service as the Math & Science Chair at the Schilling School for Gifted Children, a school for extraordinarily intelligent youngsters, where I have taught statistical analysis and modeling (including electoral analysis) amongst other advanced course work.

2. I began working with members of the Pennsylvania General Assembly in December 2020 to investigate election anomalies beginning in Montgomery County, and then throughout the state. After completing my initial work in Pennsylvania, I began consulting with Mike Lindell's legal team, where I was given access to large data files comprised of contemporaneous recordings of internet activity surrounding the November 2020 general election, from which we derived selected subsets for closer analysis. Amongst other data collected, these files contained usernames and passwords for county

election systems which were being hacked throughout the 2020 general election. Because of my continuing work in Pennsylvania, and to demonstrate the authenticity of the internet recordings, I requested a sample list of usernames and passwords for several Pennsylvania counties. This list included one-hundred nineteen username/password pairs for Lancaster County, Pennsylvania, exposing the fact that Lancaster County elections were not secure during the 2020 general election and that Lancaster County's election systems are exploitable by means of the internet.

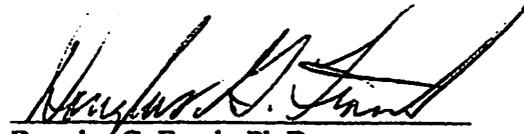
3. By way of example of how the insecurity of the Lancaster County election system could contribute to significant election anomalies, the official number of ballots recorded for Lancaster County, Pennsylvania for the 2020 general election is 282,557 (see <https://www.pavoterservices.pa.gov/Pages/PurchasePAFULLVoterExport.aspx>) only shows 280,742 voted. Thus, there were 1,815 ballots received in the 2020 general election that are not assigned to a specific voter. In other words, Lancaster County tallied in excess of 1,815 ballots which were not reconcilable within the SURE system.

4. Based on the foregoing, it is my professional opinion to a reasonable degree of professional certainty, that the election system in Lancaster County, Pennsylvania, was not secure during the 2020 general election in that (a) the user names and passwords for Lancaster County election officials were discoverable on the internet and could therefore be used to hack into their election system and databases, including election results and the electronic devices used to tabulate the results that were internet capable, and (b) there were 1,815 excess votes not tied to registrations in the SURE system that were identified through official public sources in the votes tallied in Lancaster County.

5. I have performed in-depth analyses of 2020 general election data for forty states, presenting the results at public events, online and at legislative hearings. I have reviewed my analyses with hundreds of county and state election officials and legislators across the country.

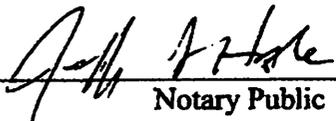
I understand that the statements in this Affidavit are subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Date: 6/10/2022



Douglas G. Frank, Ph.D.

The foregoing affidavit was sworn to and subscribed before me, a Notary Public, by Douglas G. Frank, Ph.D., who having been satisfactorily proven to be the same, did say he executed this affidavit as his own free will act, without coercion, and that the contents thereof are true and correct to the best of his knowledge, information, and belief.



Notary Public

My commission expires: 02/06/2025

(SEAL)

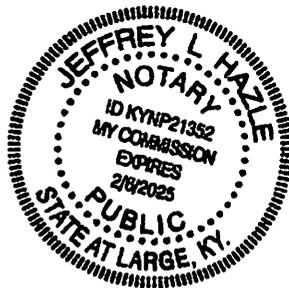


Exhibit 19: Fulton County Commissioners' Complaint

LAW OFFICE OF THOMAS J CARROLL

Attorney for Plaintiffs

Attorney ID: 53296

Thomas J. Carroll

224 King Street

Pottstown, PA, 19464

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(610)419-6981

IN THE 39TH JUDICIAL DISTRICT
COURT OF COMMON PLEAS
FOR FULTON COUNTY, PENNSYLVANIA

COUNTY OF FULTON, FULTON COUNTY BOARD OF ELECTIONS, AND STUART L. ULSH, IN HIS OFFICIAL CAPACITY AS COUNTY COMMISSIONER OF FULTON COUNTY AND IN HIS CAPACITY AS A RESIDENT, TAXPAYER AND ELECTOR IN FULTON COUNTY, AND RANDY H. BUNCH, IN HIS OFFICIAL CAPACITY AS COUNTY COMMISSIONER OF FULTON COUNTY AND IN HIS CAPACITY AS A RESIDENT, TAXPAYER AND ELECTOR OF FULTON COUNTY,

Plaintiffs,

v.

DOMINION VOTING SYSTEMS, INC. and U.S. DOMINION, INC.,

Defendants.

Case No. _____

September 2022

CIVIL LAW COMPLAINT
JURY TRIAL DEMANDED

NOTICE TO DEFENDANTS

You have twenty (20) days to respond to the Complaint presented herein, or a judgment may be entered against you.

Attorney for Plaintiffs

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney, and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE, IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Pennsylvania Lawyer Referral Service
Pennsylvania Bar Association
100 South Street, P.O. Box 186
Harrisburg, PA 17108
(800) 692-7375

COMPLAINT AND JURY DEMAND

Now comes Plaintiff, Fulton County, Pennsylvania, by and through its attorneys, and for their Complaint states as follows.

PARTIES

1. Plaintiff, Fulton County, Pennsylvania (“Fulton County”) Board of Elections, is the governmental agency and representative of the citizens of Fulton County, Pennsylvania, and all municipalities and precincts located within its boundaries with respect to the conducting of elections within Fulton County.

2. Fulton County’s headquarters are located at 116 W. Market Street, Suite 203, McConnellburg, Pennsylvania, 17233.

3. Upon information and belief, Defendant, Dominion Voting Systems, Inc. (“Dominion”), is a Delaware corporation with its principal place of business in Colorado, at 1201, 18th Street, Suite 210, Denver, CO, 80202. Dominion Voting Systems Corporation is an Ontario corporation with its principal place of business in Ontario, Canada. Dominion Voting Systems, Inc. and Dominion Voting Systems Corporation are wholly owned subsidiaries of US Dominion, Inc., which is also a Delaware Corporation, which also has or had its principal place of business at 1201, 18th Street, Suite 210, Denver, CO, 80202.

JURISDICTION AND VENUE

1. Fulton County is first party to a contract (a “Voting System and Managed Services Agreement”, hereafter “Agreement”) with Dominion, which

Agreement was executed for and within Fulton County, Pennsylvania, on or about August 20, 2019, for equipment and services to be provided to Fulton County.

(EXHIBIT A-1 through A-34).¹

2. Defendant, Dominion Voting Systems, Inc., is second party to the Agreement with Fulton County, which Agreement, on information and belief, was signed and executed by Dominion on or about August 14, 2019. **(EXHIBIT A-11).**

3. Both parties to this lawsuit live, reside in, or do business in Fulton County in the State of Pennsylvania.

4. Therefore, jurisdiction in this Court is proper.

5. Venue is proper in the county or counties in which the act or occurrence that is the subject of this complaint took place.

6. Therefore, venue in this Court is proper.

7. The Agreement provides that its “[i]nterpretation of this Agreement shall be governed by the laws the Customer’s State [Pennsylvania], and the courts of competent jurisdiction located in the Customer’s State [Pennsylvania] will

¹ **EXHIBIT A** to this Complaint consists of the Managed Services Agreement entered into by and between Fulton County and Dominion on or about August 20, 2019, and the attachments to that Agreement (Exhibits A and B); a Revision (Amendment 1) entered into on or about September 15, 2019; and a subsequent revision (Amendment 2), entered into on or about February 15, 2020. This exhibit in its entirety, is identified for ease of reference in this Complaint by an added footer: **FULTON COUNTY V. DOMINION, EXHIBIT A-1, et seq.**

have jurisdiction to hear and determine questions related to this Agreement.”
(EXHIBIT A-9).

GENERAL ALLEGATIONS

8. In 2019, Fulton County sought to purchase voting system services and software for the running of its elections.

9. On information and belief, Dominion held itself out as an entity that “designs, manufactures, licenses, and provides services for its voting systems.”
(EXHIBIT A-1)

10. Fulton County thereafter entered in the Agreement with Dominion for the latter to provide “voting system services, software licenses and related services” to Fulton County for the conducting of elections held within Fulton County. *Id.*

11. The Agreement was signed by Fulton County on or about August 20, 2019 and expires on December 31, 2026. **(EXHIBIT A-11; EXHIBIT A-2)**

12. In the agreement, Fulton County is referred to as the “Customer”.
(EXHIBIT A-1).

13. On information and belief, the initial agreement contained two exhibits (Exhibits A and B), which are described therein as a “Pricing / Payment Summary and Deliverable Description” and “Software License Terms and Conditions,” respectively. *Id.*

14. The Agreement contained several terms and conditions upon which the performance of the Agreement by Dominion was based.

15. The Agreement defined the term “Acceptance,” as applied to and by Fulton County in terms that were entirely dependent upon events and occurrences dictated by and controlled by Dominion.

16. According to the Agreement, the term “Acceptance” was defined, in pertinent part, as

“...successful completion by the Customer of the acceptance testing performed on each component of Dominion Hardware and Software, after delivery in accordance with testing criteria *developed and agreed to by the parties, or the occurrence of other events defined in Section 8.*” **EXHIBIT A-1** (emphasis supplied).

17. Section 8 of the Agreement further explained that such “testing” would only be conducted via “*criteria developed, updated, and delivered to Customer...by Dominion.*” **EXHIBIT A-4, ¶ 8.1** (emphasis added).

18. The Agreement’s requirement that Fulton County accept Dominion’s “testing,” contained a further condition that Fulton County agree to have this testing performed no later than 10 days after installation. *Id.*

19. The Agreement goes on to state that any other testing “to the extent not tested as part of the testing pursuant to Subsection 8.1” would also be conducted according to “the Acceptance test procedures developed and updated...*by Dominion.*” **EXHIBIT A-4 and A-5, ¶ 8.2** (emphasis added).

20. Further to this onerous, indeed, unilaterally imposed condition, Dominion gave Fulton County only 5 days to notify Dominion in writing if this *testing* of the Dominion Hardware, or the System did not “conform to user documentation or Dominion provided Acceptance criteria...” **EXHIBIT A-5, ¶ 8.3** (emphasis added).

21. A final paragraph in this “Section 8” further onerously and unilaterally provides that regardless of whether “the System, in whole or in part...*fails to conform with the specifications, requirements and functions set out in the Agreement* in a manner that does not affect the performance of the System,” Fulton County “*will not refuse to grant Acceptance* of the System”. *Id.*, ¶ 8.4 (emphasis added).

22. Another section of the Agreement requires Fulton County to conduct acceptance testing “as required by Section 8.” **EXHIBIT A-3, ¶ 5.3.**

23. The Agreement defines “System” to include a combination of Dominion and non-Dominion components and integral parts, including, “the combination of Dominion Software, Dominion Hardware and EMS Hardware.” **EXHIBIT A-2, ¶ 2.8.**

24. Non-Dominion component or integral parts of the “System” include “Election Management System Hardware” or “EMS Hardware” defined further by the Agreement as “third party hardware required for operating Dominion Software as used in conjunction with the Dominion Hardware.” *Id.*, ¶ 2.6.

25. The Agreement contains an additional reference to “non-dominion” components or integral parts of the “System” not encompassed within the meaning of the Dominion System as defined, including, “Third Party Software,” which means “*manufacturer supplied software, or firmware owned by third parties, which Dominion provides to Customer pursuant to sublicenses or end user license agreements with the owners of such Third Party Software, Third Party Software includes, but is not limited to, various operating systems, software drivers, report writing subroutines, and firmware.*” **EXHIBIT A-2, ¶ 2.9** (emphasis added).

26. With respect to such “Third Party Software,” the Agreement contained a unilateral, no-choice, trigger provision that constituted “acceptance” of the “terms and conditions” of such Third Party Software “imposed by the owners of such Third Party Software” wherein Fulton County is said to have consented to the terms and conditions of the third party License Agreements “by Customer’s first use of the System.” **EXHIBIT A-4, ¶ 7.2.**

27. Fulton County is not and never has been in privity with, and has not signed or become a party to, any agreement, license, or other convention, by or with any owner of any third-party software or third-party hardware used in the Dominion System.

28. The Agreement also contains a “Title and Risk of Loss” Section, Section 6, wherein it is provided that “[t]he System shall be provided by Dominion to the Customer as part of the managed services described herein” and

that “[t]itle to the System or any portion thereof, shall not pass to the Customer and shall remain with Dominion.” **EXHIBIT A-4, ¶ 6.1.**

29. The Agreement further provides that “Dominion Software and Third Party Software is licensed, not sold” and “[t]he original and any copies of the Dominion Software, or other software provided pursuant to this agreement, in whole or in part, including any subsequent improvements or updates, shall remain the property of Dominion, or any third party that owns such software.” *Id.*, ¶ 6.2.

30. The Agreement contains a “warranties” section, Section 9, which lays out several ostensible terms and conditions respecting warranties of Dominion and non-Dominion components or integral parts of the Dominion System. **EXHIBIT A-5.**

31. The Agreement states that the Dominion Software warranty is also subject to terms and conditions in an attached exhibit “B”. *Id.*, ¶ 9.1.

32. The Agreement provides that “[t]he warranties in this Sections[sic] 9 do not apply to any third party products”. **EXHIBIT A-5, ¶ 9.2.**

33. Paragraph 9.2 further provides: “However, to the extent permitted by the manufacturers of third party products, Dominion shall pass through to Customer all warranties such manufacturers make to Dominion regarding the operation of third party products.” *Id.*

34. In the Agreement, “Dominion warrants that when used with the hardware and software configuration purchased through or approved by Dominion, each component of Dominion Hardware will be free of defects that

would prevent the Dominion Hardware from operating in conformity in all material respects with its specifications as documented by Dominion. The Dominion Hardware Warranty shall remain in effect during the Agreement Term.” *Id.*, ¶ 9.3.

35. The Agreement purports to contain a “disclaimer” of warranty, which provides:

DOMINION DISCLAIMS ALL OTHER WARRANTIES, AND REPRESENTATIONS, WHETHER WRITTEN, ORAL, EXPRESS, OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTY BASED ON A COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE. [EXHIBIT A-6, ¶ 9.5.]

36. The Agreement also contains a “Limitation of Liability” provision, which purports to limit Dominion’s liability to 200 percent of the cost of the contract, but explicitly exempts “damages caused by Dominion’s gross negligence or willful misconduct” from such limitation. EXHIBIT A-6, ¶ 12.

37. Exhibit B to the Agreement (EXHIBIT A-17 to A-20), which further provides and defines certain information and warranties respecting Dominion Systems, including Dominion Software and other “Third-Party Products”, which the Agreement defines as “any software or hardware obtained from third-party manufacturers or distributors and provided by Licensor [Dominion Voting Systems, Inc.] hereunder.” EXHIBIT A-17, ¶ 1.6.

38. Fulton County is not and never has been in privity with, and has not signed or become a party to, any agreement, license, or other convention, by or with any owner of any third-party software or third-party hardware used in the Dominion System, including any manufacturer or distributor of “Third-Party Products” as defined in the Agreement.

39. In the Agreement, “Dominion warrants that when used with the hardware and software configuration purchased through or approved by Dominion, each component of Dominion Hardware will be *free of defects that would prevent the Dominion Hardware from operating in conformity in all material respects with its specifications as documented by Dominion*. The Dominion Hardware Warranty shall remain in effect during the Agreement Term.” **EXHIBIT A-5, ¶ 9.3** (emphasis added).

40. The Agreement further warrants that “the Software will function substantially in accordance with the Specifications during the Term”. **EXHIBIT A-19, ¶ 7.1**.

41. In January and February of 2019, a certification report was created concerning the Dominion voting systems (Democracy Suite 5.5A with ImageCast Ballot Marking Device (ICX-BMD)), inter alia. (**EXHIBIT B**, Certification Report Concerning Examination Results for Dominion Democracy Suite 5.5A with ImageCast Ballot Marking Device (ICX-BMD), ImageCast Precinct Optical Scanner (ICP), ImageCast Central Station (ICC), and Democracy Suite EMS (EMS) (Dominion Certification Report)).

42. The Dominion Certification Report contains a Section IV entitled Conditions for Certification. *Id.*, pp. 40-50.

43. These conditions for certification were required to be met before the voting system could be implemented. *Id.*, p. 52.

44. The conditions included a required “final EAC certification” to be performed and approved after the initial certification, which was done in December 2018. *Id.*, p. 40, ¶ A.

45. The Dominion Certification Report provides that “[n]o components of any of the Democracy Suite 5.5A shall be connected to any modem or network interface, including the Internet, at any time, except when a standalone local area wired network configuration in which all connected devices are certified voting system components.... Any wireless access points in the district components of Democracy Suite 5.5A, including wireless LAN cards, network adapters, etc. must be uninstalled or disabled prior to delivery or upon delivery of the voting equipment to a county board of elections.” *Id.*, ¶ C.

46. On or after November 2020, Fulton County became aware of severe anomalies in the Dominion Voting Systems due to the inaccuracy and/or inability to reconcile voter data with votes actually cast and counted, i.e., tabulated, by the System in Fulton County.

47. On or after November 2020, Fulton County became aware of certain factors and aspects of the Dominion Voting Systems that did not meet the

“conditions” for certification set forth in the January 2019 / February 2019 certification report (**EXHIBIT B**).

48. Fulton County subsequently sought additional information pertaining to the hardware, software, and integral components and parts, of the Dominion System used in conducting its elections.

49. In addition, Fulton County was informed of additional anomalies and problems in Dominion’s “voting” systems via an expert report written by J. Alex Halderman in July 2021. (**EXHIBIT C**, the Halderman Declaration, September 21, 2021).

50. In his declaration, Halderman described numerous security vulnerabilities in Dominion’s ICX software, including flaws that would allow attackers to install malicious software on the ICX, either with temporary or physical access (such as that of voters in polling places) or remotely from election management systems. **EXHIBIT C**, p. 1, ¶ 2.

51. In other words, the Halderman Declaration describes that the Dominion Voting System used by Fulton County and purportedly tentatively certified in January of 2019 was vulnerable to remote internet access and did not in fact meet the Dominion Certification Report conditions as guaranteed and as warranted by Dominion, see **EXHIBIT B**, p. 40, ¶ C.

52. At the time of that report, the author described that these vulnerabilities still existed, and could be mitigated, but that such mitigation would “take months for Dominion to assess the problems, develop responsive software

updates, test them, obtain any necessary approvals from the EAC and state-level certification authorities, and distribute the new software....” **EXHIBIT C**, p. 3, ¶ 3.

53. The author further concluded that the ICX is likely to contain other, equally critical flaws, which are yet to be discovered, and that while jurisdictions might mitigate this, “[e]lection officials cannot make an informed decision about such urgent policy changes or any other mitigations until they have assessed the technical findings” in the report. *Id.*, p. 3, ¶ 4.

54. The report also notes that the ICX is set to be used in 2022 in at least parts of 16 states, including Pennsylvania, with these vulnerabilities and faults still in place.

55. After determining that Dominion had not provided a product or a system as guaranteed and as warranted, and that fulfilled the requirements of a voting system that ensured integrity, safety, security, and accuracy in the conduction of elections and the tabulation of votes thereafter, Fulton County undertook actions to determine what remedy or remedies it might have to protect its own contractual rights and to ensure the integrity of elections so that the rights of Fulton County Citizens would not be infringed upon or otherwise compromised.

56. Wake TSI conducted a report on February 19, 2021. (**EXHIBIT D**).

57. Importantly, that report found, inter alia, as follows;

- a. There were errors in the ballot scanning;

- b. There was a failure of Dominion Voting to meet Commonwealth Certification requirements;
- c. There were non-certified database tools installed on the Dominion Voting System;
- d. There were changes made to EMS three weeks before the 2020 election; and
- e. There was a lack of commonwealth L&A inspections of the Dominion Voting Systems. *Id.*, p. 5.

58. As the Wake TSI Report pointed out, the Commonwealth required the Pennsylvania Department of State (DOS) to perform and collect the L&A testing results. *Id.*

59. In mid-2021, the Secretary of the Commonwealth subsequently “decertified” the Dominion Voting System machines in Fulton County, purportedly because Fulton County had used “a third-party consultant” to inspect its electronic voting devices as part of Fulton County’s inquiry into the integrity of the system’s performance during the 2020 election.

60. On or about August 18, 2021, Fulton County sued the Secretary of the Commonwealth challenging the Secretary’s decertification of Dominion’s voting machines. Case No. 277 MD 2021.

61. Fulton County filed an amended petition on September 17, 2021.

62. Fulton County’s lawsuit contained five counts: (1) the Secretary unlawfully decertified Fulton County’s two electronic voting machines; (2) the Pennsylvania Election Code (Election Code) expressly authorized the County to inspect its electronic voting devices as part of its statutory duty to ensure the safe

and honest conduct of elections in the County; (3) a directive of the Secretary, which purported to prohibit all county boards of elections from inspecting their electronic voting devices with the assistance of a third-party consultant, violated Section 302 of the Election Code, 25 P.S. §2642; (4) the Secretary unlawfully withheld funding from the County that it needs to acquire replacement electronic voting devices; and (5) a request for injunctive relief to restore the status quo that existed prior to the Secretary's unlawful decertification of the county's voting machines.

63. On or about January 1, 2022, Fulton County subsequently stopped using Dominion Voting Systems and contracted with another provider.

64. On or about January 3, 2022, Dominion sought to "intervene", claiming that it was intervening "*for the limited purpose of securing a protective order to enforce the terms of its contract*" with Fulton County.

65. Dominion did not file a counter-claim or cross-claim, or otherwise file any affirmative pleadings in these proceedings containing legal claims as against any other party.

66. Further after it stopped using Dominion, and further to its due diligence in protecting its contractual and legal rights and that of its citizens, on September 15, 2022, a commissioned report revealed several deficiencies and the absence of information and data that directly implicated and contradicted the contractual terms, conditions, promises, and warranties provided to Fulton County by Dominion in the Agreement and the conditions required for

certification in the Dominion Certification Report. (**EXHIBIT E**, Speckin Forensics, LLC, September 2022 Report).

67. The September Report reveals the results of analysis performed on six hard drives in Fulton County, which images were created in July 2022. (*Id.*, p. 1).

68. The September Report revealed that contrary to the terms of the Agreement, “security measures necessary to harden and secure” the Dominion machines was not completed; showing the last update or security patch to have been performed in April 2019. *Id.*, p. 1.

69. The September Report showed that external USB hard drives had been inserted in the machines on several occasions, and that there is no known list of approved external drives that could have been or were used or inserted into the machines. *Id.*, p. 2, ¶ 2. In this regard, the report concluded that there was no way to determine whether and to what extent these unauthorized drives compromised the data or the system. *Id.*

70. The September Report further concluded that there had been “substantial changes” to the drives as seen with the inclusion of over 900 .dll files and links created since the date of installation of the Dominion software and these pathways constituted a security breach due to the introduction of an unauthorized “script” into the Dominion voting systems used in Fulton County. *Id.*, ¶ 3.

71. The September Report found that a “python script” had been installed *after the certification date* of the system” and not only should such a script not have been added to the system, but “[t]his python script can exploit and create

any number of vulnerabilities including, external access to the system, data export of the tabulations, or introduction of other metrics not part of or allowed by the certification process.” *Id.*, ¶ 5. Among other findings, this constituted a direct violation of and failure of the conditions required for certification in the Dominion Certification Report, see **EXHIBIT B**, pp. 40-50.

72. Each of the drives are “interconnected in a system to one another” and that this would be required to share data and counts between devices. *Id.*, ¶ 6. However, “[b]ecause of this networking, unauthorized access [to] any one device, allowed unauthorized access to any device connected to the network of devices.” *Id.* Among other findings, this constituted a direct violation of and failure of the conditions required for certification in the Dominion Certification Report, see **EXHIBIT B**, pp. 40-50, ¶ C.

73. The September Report further determined that “[a]n external IP address that is associated with Canada is found on the Adjudication01 [workstation]” and “[t]his shows that at least one of the network devices has connected to an external device on an external network” and that this was the same device that the post-certification python script was found on. *Id.*, ¶ 7. Among other findings, this constituted a direct violation of and failure of the conditions required for certification in the Dominion Certification Report, see **EXHIBIT B**, pp. 40-50, ¶ C.

74. The log files for the Adjudication device showed an IP address of 172.102.16.22, which derives from a location in Quebec, Canada and that this

revealed a serious issue to be connected remotely to a Canadian system. *Id.* at p. 4. The report cannot determine when this connection occurred nor what data was transmitted, but this remote access did occur. *Id.* Among other findings, this constituted a direct violation of and failure of the conditions required for certification in the Dominion Certification Report, see **EXHIBIT B**, pp. 40-50, ¶ C.

75. The machines and devices only had Windows Defender dating to July 2016 and that no other updates had been made. *Id.*, p. 3. The report concluded that “viruses or malicious software” created after that date would not be combated by the systems without proper updates. *Id.* Among other findings, this constituted a direct violation of and failure of the conditions required for certification in the Dominion Certification Report, see **EXHIBIT B**, pp. 40-50.

76. The September Report findings confirmed that many of the “conditions” in the certification report which were required to be met for certification were not met and were not present before, during and after the November 2020 election and up to the present. Among other findings, this constituted a direct violation of and failure of the conditions required for certification in the Dominion Certification Report, see **EXHIBIT B**, pp. 40-50.

77. In addition to the facts alleged herein, to wit, that Dominion Voting Systems products did not function correctly, had faults and defects, and did not meet conditions required during and after the November 2020 election in Fulton County, and in addition to the aforementioned analyses, described herein, Fulton

County has become aware of additional information demonstrating the existence of anomalies, defects, and faults in the Dominion Voting Systems products before, during and after the November 2020 election.

78. On March 31, 2022, the United States Election Assistance Commission (EAC) conducted an investigation and issued a report (the EAC Report). (**EXHIBIT F**, EAC Report of Investigation, March 31, 2022).

79. The EAC Report concerned an investigation performed on Dominion Voting Systems used during a municipal election held in October 2021 in Williamson County, Tennessee. *Id.*, p. 2.

80. The EAC Report concluded that 7 out of a total of 18 image cast precinct (ICP) tabulators used during the election “did not match the number of ballots scanned.” *Id.* This anomaly was confirmed and reproduced during investigation, but “the root cause of the anomaly was not determined.” *Id.*, p. 3.

81. The EAC Report further discovered that the Dominion Voting System “was installed with outdated versions of two configuration files when the system was upgraded....” *Id.*, p. 3.

82. The EAC Report noted that “[b]allots were printed from the ICX and tabulated through the ICP scanners. Multiple ICP scanners were used for tabulation including some that originally exhibited the anomaly during the election and some that did not. Following tabulation, close poll reports and audit logs from the ICP scanners were examined. Results showed that the anomaly was recreated on each of the ICP scanners. This process was repeated several

times to understand and isolate the details of exactly when the anomaly occurred and circumstances that may have led to the anomaly occurring.” *Id.*

83. The EAC Report further concluded that “[a]nalysis of audit log information revealed entries that coincided with the manifestation of the ‘anomaly; a security error ‘QR code signature mismatch’ and a warning message ‘Ballot format or id is unrecognizable’ indicating a QR code misread occurred. When these events were logged, the ballot was rejected. Subsequent resetting of the ICP scanners and additional tabulation demonstrated that each instance of the anomaly coincided with the previously mentioned audit log entries, though not every instance of those audit log entries resulted in the anomaly.” *Id.*

84. The EAC Report concluded that once the anomaly was triggered, “ballots successfully scanned and tabulated by the ICP were not reflected in the close poll reports on the affected ICP scanners.” *Id.*, pp. 3-4.

85. The EAC Report further noted that “[o]n February 11, 2022, Dominion submitted a Root Cause Analysis (RCA) to the EAC. The report indicates that erroneous code is present in the EAC certified D-Suite 5.5-B and D-Suite 5.5-C systems. The RCA report states that when the anomaly occurs, it’s due to a misread of the QR code. If the QR code misread affects a certain part of the QR code, the ICP scanner mistakenly interprets a bit in the code that marks the ballot as provisional. Once that misread happens, the provisional flag is not properly reset after that ballot’s voting session. The result is that every ballot

scanned and tabulated by the machine after that misread is marked as provisional and thus, not included in the tabulator's close poll report totals.”

86. As alleged in this Complaint, and as demonstrated by these aforementioned allegations and the reports and analyses conducted and discussed herein, Dominion required in its contract that Fulton County (and whatever party contracted to use their machines), accept its certification and testing parameters, where Dominion was largely responsible for ensuring that Dominion Voting Machine Systems passed certification requirements and logic and accuracy testing, and Dominion Voting Machines did not meet the conditions required for basic certification and testing sufficient to ensure the integrity of the elections for the citizens of Fulton County.

COUNT I – BREACH OF CONTRACT

87. To establish an action for breach of contract, a party must demonstrate the existence of a contract, a breach of a duty imposed by the contract, and damages. *J.F. Walker Co. v. Excalibur Oil Group, Inc.*, 2002 PA Super 39, 792 A.2d 1269, 1272 (Pa. Super. 2002).

88. The Agreement between Fulton County and Dominion constituted a contract whereby for consideration and according to the schedule of payments and its terms, Fulton County paid Dominion to provide equipment and services.

89. Under the Agreement, Dominion had a duty to, inter alia, ensure that the System was secure and compliant, and in a condition fit for use and purpose

and the service it was held out to provide to Fulton County (“voting system services, software licenses and related services”), in consideration for Fulton County’s signing onto the terms and conditions of the Agreement. (**EXHIBIT A-1**).

90. Sufficient product delivery and services were dependent on successful completion of the acceptance testing and the failure of the conditions to certification described above constituted a failure in and impossibility of the Acceptance provision in the Agreement. **EXHIBIT A-1, A-4, ¶ 8.1.**

91. Acceptance terms in the Agreement that made it impossible for Fulton County to refuse to grant Acceptance based on a failure of the System to conform with the specifications, requirements and functions set out in the Agreement were onerous and against public policy, and in any event constituted a breach of Dominion’s obligations to provide “voting system services, software licenses and related services” fit for use and purpose as promised and held out to Fulton County by Dominion.

92. Prior reports, including the Wake TSI Report (**EXHIBIT D**) and the September Report (**EXHIBIT E**) confirmed that many of the “conditions” in the certification report which were required to be met for certification and proper functioning of the Dominion Voting System were not met and were not present before, during and after the November 2020 election and up until the time Fulton County ceased using the Dominion Voting System. See, **EXHIBIT B**, pp. 40-50

93. Based on information and belief and the allegations herein, Dominion breached that part of the Agreement in which warranted that when used with the hardware and software configuration purchased through or approved by Dominion, each component of Dominion Hardware would be free of defects that would prevent the Dominion Hardware from operating in conformity in all material respects with its specifications as documented by Dominion.”
EXHIBIT A-5, ¶ 9.3.

94. Dominion breached this duty because it failed to provide a system that was free from defects and compliant.

95. As a result of Dominion’s breach, Fulton County (and Fulton County’s citizens) suffered damages including, the inability to ensure compliance with the requirements of state and federal law, and the constitutional rights of Fulton County’s voters.

96. As a result of Dominion’s breach, Fulton County (and Fulton County’s citizens) suffered damages, including capital outlay and expenditures that were borne by Fulton County citizen taxpayers, which outlay and expenditures were made in consideration and reliance upon a voting system that did not maintain and ensure the integrity and sanctity of the voting process and protect and preserve the constitutional rights of all Fulton County citizens.

COUNT II – BREACH OF WARRANTY

97. Based on information and belief and the allegations herein, Dominion breached that part of the Agreement in which warranted that when used with the hardware and software configuration purchased through or approved by Dominion, each component of Dominion Hardware would be free of defects that would prevent the Dominion Hardware from operating in conformity in all material respects with its specifications as documented by Dominion.”

EXHIBIT A-5, ¶ 9.3.

98. Dominion breached this duty because it failed to provide a system that was free from defects and compliant.

99. As a result of Dominion’s breach, Fulton County (and Fulton County’s constituents) suffered damages including, the inability to ensure compliance with the requirements of state and federal law, and the constitutional rights of Fulton County’s voters.

100. As a result of Dominion’s breach, Fulton County (and Fulton County’s citizens) suffered damages including, the inability to ensure compliance with the requirements of state and federal law, and the constitutional rights of Fulton County’s voters.

101. As a result of Dominion’s breach, Fulton County (and Fulton County’s citizens) suffered damages, including capital outlay and expenditures that were borne by Fulton County citizen taxpayers, which outlay and expenditures were made in consideration and reliance upon a voting system that

did not maintain and ensure the integrity and sanctity of the voting process and protect and preserve the constitutional rights of all Fulton County citizens.

RELIEF REQUESTED

WHEREFORE, as alleged in this Complaint, and Fulton County claims breach of contract and breach of warranty, and breach of other common-law and statutory duties, by Dominion, which entitles Fulton County to Damages as alleged herein, including, but not limited to all fees, expenditures and costs made in reliance upon and in consideration for the provision by Dominion of a serviceable product that was fit for its intended purpose and use.

WHEREFORE, Fulton County reserves the right to amend this Complaint to add allegations and claims and parties that Fulton County may become aware of through the ordinary course of this litigation and/or through additional discovery.

WHEREFORE, Fulton County prays that this Court enter judgment against Dominion on the claims and counts herein presented, and award any other damages, including costs and attorneys fees, which justice requires.

Respectfully submitted,

/s/ Thomas J Carroll
Attorney ID: 53296
Attorney for Plaintiffs
LAW OFFICE OF
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tom@thomasjcarrolllaw.com

Date: September 20, 2022

VERIFICATION

I, Thomas J. Carroll, Esquire, hereby verify that I represent Plaintiffs, Fulton County, in this action and that the statements made in the foregoing pleadings are true and correct to the best of my knowledge, information, and belief. The undersigned understands that the statements therein are made subject to the penalties of 18 Pa. C.S. section 4904 relating to unsworn falsification to authorities.



THOMAS J. CARROLL

Date: September 20, 2022

CERTIFICATE OF SERVICE

I, Thomas J. Carroll, hereby certify that a true and correct copy of the foregoing document was served upon or sent to the following via First Class Mail to Dominion Voting Systems, Inc. and U.S. Dominion, Inc., 1201, 18th Street, Suite 210, Denver, CO, 80202.

**EXHIBIT 20: Letter from PA Lawmakers Regarding Citizens' Right to Access
Election Records**

FRANCIS X. RYAN, MEMBER
101ST LEGISLATIVE DISTRICT

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(717) 783-1815



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Palmyra, PA 17078
(717) 838-3823

House of Representatives
Commonwealth of Pennsylvania
Harrisburg

Email: fryan@pahousegop.com
www.RepFrankRyan.com

May 5, 2022

The Honorable Eric R. Linhardt, Judge
Court of Common Pleas of Lycoming County
48 West Third Street
Williamsport, PA 17701

RE: Heather Honey v. Lycoming County Office of Voter Services (No. 22-0115)

Your Honor:

We, the undersigned members of the General Assembly, write in support of Petitioner, Heather Honey, in her appeal from the determination of the Office of Open Records and for the public release of the cast vote record (CVR) report in the above-captioned litigation.¹

I. Introduction:

As members of the General Assembly, we have an oversight responsibility with regard to the application of Pennsylvania law, the operation of the Department of State and the administration of elections. The authority to enact laws is specifically reserved to the Legislature. See Pa.Const.Art. II, § 1. Oversight, including the power to investigate, "is an essential corollary of the power to legislate. The scope of this power of inquiry extends to every proper subject of legislative action." *Com. ex rel. Carcaci v. Brandamore*, 327 A.2d 1, 3-4 (Pa.1974) (citations omitted); *McGinley v. Scott*, 164 A.2d 424, 429 (Pa. 1960).

The questions before this Court involve consideration of the legislative intent of the General Assembly in adopting the Election Code and the Right-to-Know Law to discern whether the CVR report requested by Ms. Honey should be disclosed to her. Therefore, this Court may benefit from our perspective as particularly germane to this dispute.

II. Argument:

The Right-to-Know Law (RTKL) and the Election Code were both enacted to achieve substantially similar public policy goals.

"The objective of the Right to Know Law... is to empower citizens by affording them access to information concerning the activities of their government." *SWB Yankes L.L.C. v.*

¹ No other person or entity other than the undersigned Members of the General Assembly or their counsel paid, in whole or in part, for the preparation of this correspondence or authored, in whole or in part, this letter of support.

EXHIBIT B

Wintermantel, 45 A.3d 1029, 1041 (Pa. 2012). Further, this important open-government law is "designed to promote access to official government information in order to prohibit secrets, scrutinize the actions of public officials and make public officials accountable for their actions." *Bowling v. Office of Open Records*, 990 A.2d 813, 824 (Pa. Commw.Ct. 2010), *aff'd* A.3d 453 (Pa. 2013). In other words, the RTKL promotes trust in the operation of government through the ability of the citizenry to see what its government is doing.

"To advance the goal of free and fair elections, the legislature enacted the Election Code..." *Dayhoff v. Weaver*, 808 A.2d 1002, 1006 (Pa. Commw.Ct. 2002). The Election Code was enacted "to regulate the electoral process so that it is both orderly and fair." *Commonwealth v. Wadzinski*, 492 Pa. 35, 422 A.2d 124 (1980). *Com. v. Beck*, 810 A.2d 736, 746 (Pa. Commw.Ct. 2002). Obviously, there can be no faith in an electoral process where the material aspects of such process are kept secret. Thus, the legislature enacted the provisions of the Election Code implicated here (25 P.S. § 2648) to promote faith in the Commonwealth's elections through public access to election records.

In short – both the RTKL and the Election Code were enacted to promote trust through the ability of the citizenry to verify that its government is functioning with fidelity to the law.

Pennsylvania law designates that any records [documenting a transaction or activity of an agency] in the possession of a Commonwealth agency or local agency shall be presumed to be a "public record." 65 P.S. § 67.305. The RTKL provides a clear definition to the term "public record," which is codified as follows:

- A record, including a financial record, of a Commonwealth or local agency that:*
- (1) is not exempt under section 708;*
 - (2) is not exempt from being disclosed under any other Federal or State law or regulation or judicial order or decree; or*
 - (3) is not protected by a privilege.*

65 P.S. § 67.102. There are 30 exemptions in the RTKL to the presumption and each exemption is for a very specific reason. See 65 P.S. § 67.708. The CVR report does not fall within any of the enumerated exceptions in the RTKL. Further, these records are not protected by a privilege, nor are they exempt from being disclosed under a judicial order or decree. More importantly, state law specifically requires their disclosure.

According to the Election Code, virtually every record related to elections that could be in possession of the board of elections shall be open to public inspection. Here again, there are very narrowly drawn exceptions. One such exception is "the contents of ballot boxes."

The principal rule of statutory construction demands that "[w]hen the words of a statute are clear and free from all ambiguity, the letter of it is not to be disregarded under the pretext of pursuing its spirit." 1 Pa.C.S.A. § 1921. Giving the words of the statute their clear and unambiguous meaning, this court can only conclude that the phrase "the contents of ballot boxes" means "that which is contained inside a ballot box." It should not be lost on this court that there is no reference in the Election Code (or elsewhere) to "the digital equivalent."

The purpose of the law, and the "mischief to be remedied," is obvious - to prevent the public from requesting to open a ballot box or voting machine *during the course of an election*.

The Election Code provides that:

[G]eneral and duplicate returns, tally papers, affidavits of voters and others, and all other papers required to be returned by the election officers to the county board sealed, shall be open to public inspection only after the county board shall, in the course of the computation and canvassing of the returns, have broken such seals and finished, for the time, their use of said papers in connection with such computation and canvassing.

25 P.S. § 2648. Said differently, once computation and canvassing of the votes is complete, there are no "contents of a ballot box." The box is empty. The CVR report more credibly falls within the meaning of "reports and other documents and records in [the county board of elections'] custody," which are subject to public disclosure. *Id.*

We are particularly disturbed by the error made by the OOR Appeals Officer in her conflation of "individual voting event" (which is not protected from disclosure) and the *identity* of a particular voter (which, in some instances, may be protected).

Certainly, the CVR report can be fairly described as showing how each ballot is cast during the election. It does not, however, connect the record of the vote cast to the face, name, address, social security number or any other personal identifying information of the voter. Even assuming *arguendo* that it did, the agency's remedy to this dilemma (i.e. a report which may contain personal identifying information of a voter) was excessive. The RTKL demands a remedy that is akin to a "scalpel" not a "plow sheer."

If the information which is not subject to access is an integral part of the public record, legislative record or financial record and cannot be separated, the agency shall redact from the record the information which is not subject to access, and the response shall grant access to the information which is subject to access. The agency may not deny access to the record if the information which is not subject to access is able to be redacted. Information which an agency redacts in accordance with this subsection shall be deemed a denial under Chapter 9.

65 P.S. § 67.706. (emphasis added).

III. Conclusion:

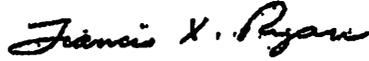
For the foregoing reasons, the denial of access to the CVR report was improper. The CVR report is a public record that should have been produced in response to Honey's RTK request.

To the extent that the agency believed that entries on the report are protected by the Election Code, federal law, or one of the 30 exceptions contemplated by the RTKL, the agency should have redacted such entries prior to providing the requested records to Ms. Honey.

The Honorable Judge Linhardt
May 5, 2022
Page 4.

We, the undersigned Members of the Pennsylvania General Assembly, respectfully submit this correspondence for your consideration and urge you to reverse the decision of the OOR and grant access to the CVR report.

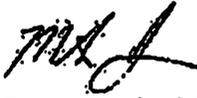
Sincerely,



Representative Francis X. Ryan
101st Legislative District



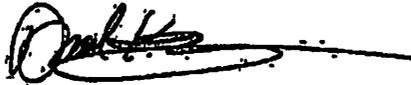
Representative Kathy L. Rapp
65th Legislative District



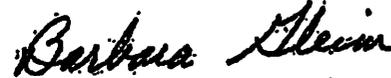
Representative Mike Jones
93rd Legislative District



Representative Joseph Hamm
84th Legislative District



Representative David H. Zimmerman
99th Legislative District



Representative Barbara Gleim
199th Legislative District



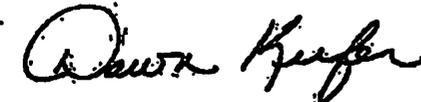
Representative David M. Maloney
130th Legislative District



Representative Dan Moul
91st Legislative District



Representative David Rowe
85th Legislative District



Representative Dawn Keefer
92nd Legislative District

cc: Heather Honey, Petitioner
Lycoming County Office of Voter Services, Respondent

EXHIBIT B

Exhibit 21: Bryan Cutler's Brief Opposing Citizens' Petition for a Hand-Recount

10 JUN 2022 12 32

**IN THE COMMONWEALTH COURT
OF PENNSYLVANIA**

In Re: Petition to Open Ballot Box	:	
Pursuant to 25 P.S. §3261 (a) and for	:	No. 553 C.D. 2022
a Correct Count of the Republican Primary	:	
Election for the Pennsylvania House of	:	
Representatives, Representative for the 100th	:	
District	:	
	:	Election Matter
Petition of: Stephen Robert Smith, John	:	
Norman Holtman, Warren Keeney and	:	
Robert T. Rohr, all of the Election District of	:	
Drumore, East Township, Polling Place #4100	:	
	:	
Appeal of: Stephen Robert Smith, John Norman:	:	
Holtman, Warren Keeney, and Robert T. Rohr :	:	

BRIEF OF REPRESENTATIVE BRYAN D. CUTLER

Candidate for Reelection, 100th Legislative District

**APPEAL FROM THE ORDER OF JUNE 2, 2022 OF THE COURT OF
COMMON PLEAS OF LANCASTER COUNTY, CIVIL DIVISION,
DOCKET NO. CI-22-03163**

NICHOLAS J. WACHINSKI, ESQUIRE
Attorney I.D. No. 205195

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OF PENNSYLVANIA
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I. ARGUMENT

- A. The Pennsylvania Election Code clearly states that ballots to be recounted following a petition for recount and recanvass may be counted electronically.

Appellants raise essentially a single issue for review by this Honorable Court, namely whether the plain language interpretation of the clause “to be correctly counted by persons” contained in 25 P.S. §3261 (a) requires a manual hand recount of every paper ballot. Concise Statement of Matters Complained Of On Appeal Of Appellats¹ Pursuant to Pa. R.A.P. 1925. Appellants challenge requires statutory interpretation of the Election Code which is a question of law subject to a de novo standard of review and a plenary scope of review. *Banfield v. Cortes*, 110 A.3d 155 (Pa. 2015), citing *Sch. Dist. of Philadelphia v. Dep't of Educ.*, 92 A.3d 746, 751 (2014). Statutory interpretation requires the Court ascertain and effectuate the intent of the Legislature. *Id.*

As the *Banfield* court discussed:

“the best indication of legislative intent is the plain language of the statute. *Bowling v. Office of Open Records*, 621 Pa. 133, 156, 75 A.3d 453, 466 (2013). **The plain language of each section of a statute must be read in conjunction with one another**, construed with reference to the entire statute. *Id.* When the words of a statute are clear and free from all ambiguity, the letter of the statute is not to be disregarded under the pretext of pursuing its spirit. 1

¹ Misspelling intentionally included as the document served upon submitting party contained a similar unintentional spelling error.

Pa. C.S. § 1921(b). Accordingly, only when the words of a statute are ambiguous should a reviewing court seek to ascertain the intent of the General Assembly through consideration of the various factors found in Section 1921(c). *Id.* at § 1921(c).

Id. 166-167.

Here, Appellants claim that the clause “to be correctly counted by persons” 25 P.S. §3261 misapprehends the plain language of the all the statutory sections relevant to a recount and recanvass in conjunction with one another. A recount and recanvass ordered as a result of a party satisfying the requirements of 25 P.S. §3261 is made subject to the provisions of 25 P.S. §3031.18. *Banfield* at 163, highlighting a footnote adopted by the Commonwealth Court making clear that any recanvass or recount is subject to the provisions of 25 Pa. C.S. § 3031.18. The provisions of 25 P.S. §3031.18 require any recanvass or recount that has been ordered shall be completed in accordance with “section 1404 of the election code.” Section 1404 of The Election Code addresses “computation of returns by county board(s)” and at section 1404 (e)(3) specifically speaks to the provisions for a recount and recanvass of the vote. *Section 1404 of the Act of June 3, 1937, P.L. 1333, No. 320.* Section 1404(e)(3) states:

“In a county in which an election district uses an electronic voting system utilizing paper ballots (such as Lancaster County), all of the following apply:

- (i) The county board shall recount all ballots using manual, mechanical or electronic devices of a different type used for the specific election.

(ii) All ballots containing overvotes shall be counted manually.”

The June 6, 2022, letter report of Christa Miller, Chief Clerk of the Lancaster County Board of Elections located in the Reproduced Record at Document 5 clearly states election day ballots counted from the May 17, 2022, primary election were scanned using a Canon DG-1100 (scanner) and the absentee, mail, UMOVA and provisions ballots were scanned using a Canon DG-1130 (scanner). Her letter report to the Court of Common Pleas also clearly states that these scanners were not the scanners used originally in the specific election for this specific precinct. Finally, and most importantly, her letter report states that the results matched the original (results) and she attached an election management system report to confirm the details of the recount, which demonstrates the exact same result with no overvotes.

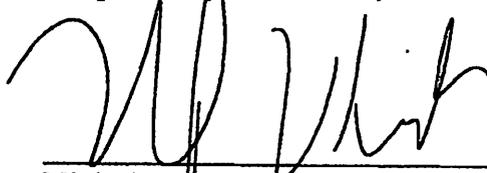
II. CONCLUSION

While the citizens of this Commonwealth can and should demand accurate tabulation of any vote cast in any elections, that tabulation must be done in accordance with the law. In this instance, the law provides a mechanism to uncover fraud or mistake inasmuch as section 1404 (e) requires the use of a different electronic device than the device used for the election and requires a manual count of any overvotes, overvotes being an indication of fraud or mistake.

The law balances the need for timely results with the need for accuracy and provides a mechanism for both.

WHEREFORE, the Court should uphold the ruling of the Court of Common Pleas of Lancaster County because such ruling was consistent with the plain language reading of all the statutory provisions relating to recanvass and recount of ballots following a petition requesting a recount and recanvass by interested and concerned elector citizens.

Respectfully Submitted,



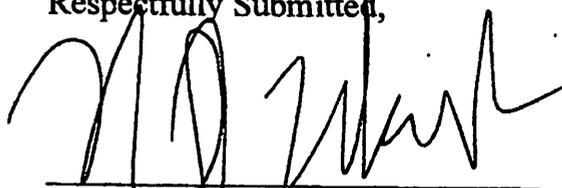
Date: June 10, 2022

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Word Count Certification

I certify that this brief complies with the word count limit. This certificate is based on the word processing system -Microsoft Word- used to prepare this brief for submission which reflects that there are 799 words herein.

Respectfully Submitted,



Date: June 10, 2022

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IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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	:	Election Matter
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Norman Holtman, Warren Keeney and	:	
Robert T. Rohr, all of the Election District of	:	
Drumore, East Township, Polling Place #4100	:	
	:	
Appeal of: Stephen Robert Smith, John Norman	:	
Holtman, Warren Keeney, and Robert T. Rohr	:	

CERTIFICATE OF SERVICE

I do hereby certify and depose that I have caused a true and correct copy of the foregoing Brief to be delivered electronically through the PAC File System and First-Class Mail, Postage prepaid upon the following individuals:

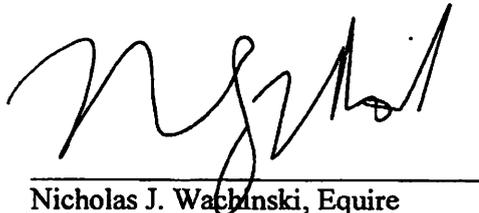
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Hon. David Ashworth, President Judge
Lancaster County Court of Common Pleas
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Lancaster PA 17603



Nicholas J. Wachinski, Esquire

Date: June 10, 2022