

COUNTY CLERK / REGISTER OF DEEDS

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TO: Interested Parties

FROM: Lisa Posthumus Lyons, Kent County Clerk/Register

DATE: November 10, 2020; Last updated October 19, 2022

RE: Kent County Elections 101 – Ensuring Secure, Transparent, Fair, & Accurate Elections

Thank you for your interest in the integrity of our election in Kent County. All Kent County voters should be familiar with, and understand the basics of our elections process, and how the various measures of checks and balances work together to ensure that every legally cast vote is counted, and that our elections are secure, transparent, fair, and accurate.

Following the November 2020 General Election, I was asked to provide testimony to the Joint Michigan Senate and House Oversight Committee as to how we administer elections in Kent County, and to provide any recommendations for improving upon Michigan's elections laws. My testimony may be found here: <https://tinyurl.com/39jajn2>

Several months later, on February 2, 2021, I was asked to provide testimony to the Michigan Senate Oversight Committee focusing on our post-election procedures – the county canvass of votes; recounts; and post-election procedural audits - that we administer to ensure the accuracy of our elections. That testimony is available here: <https://tinyurl.com/mpt4e4mv>

I would encourage you to watch these testimonies as an introductory overview of our election administration process. What follows further highlights the processes we employ to administer your elections:

UNDERSTANDING MICHIGAN'S HOME RULE AND DECENTRALIZATION OF ELECTIONS:

In order to understand how our elections are administered, you must first understand Michigan's "Home Rule" governing structure. "Home Rule" means that many of our government functions are handled at the local city or township level rather than centrally at the statewide or county level. Elections are no different, and there are similarities and differences even between jurisdictions within Michigan as to the administration of elections. Additionally, when considering a national election, it is important to keep in mind that all 50 states administer their elections and cast their votes, in unique ways according to that state's laws. What is legal election practice in one state, may not be in Michigan – or vice versa.

Michigan's decentralized elections structure serves as an effective firewall against attempts to defraud the process.

Unlike most states, Michigan's elections are "decentralized" by design. Our elections are not run centrally by the state, or even at the county level. The work of maintaining our voter rolls, processing absentee votes, managing the voting process at the polls on Election Day, and tabulating ballots is undertaken by Michigan's 1,500+ clerks at the city or township level, assisted by thousands of citizens - your co-workers, friends, family, and neighbors who serve as election workers. In order to "hack", or defraud a decentralized election system like Michigan's, an individual or entity would need to coordinate an attack between the Qualified Voter File (the database administered by the state and each local clerk), and thousands of electronic poll books and tabulating equipment stored, maintained, programmed, and regularly tested by 1,500+ jurisdictions across the state - thirty separate offices in Kent County alone.

UNDERSTANDING THE QUALIFIED VOTER FILE:

Michigan's Qualified Voter File (QVF) is the database of all voters in the state of Michigan. It is the tool that is used to generate the e-pollbook used at a polling location to ensure that those who attempt to vote are registered; vote at correct polling location (if voting in person); confirm the signature of an absentee voter; and ensure that every eligible voter can cast only one ballot. The data in the QVF is managed and maintained by the state Bureau of Elections and municipal (city or township) clerks. County Clerks have limited access to the QVF and must coordinate with city or township clerks to edit voter records in instances of new registrations or the death of a voter.

UNDERSTANDING OUR ELECTION EQUIPMENT:

Since 2017, equipment that is used to administer elections has been deemed by the federal government as "critical infrastructure" – the same classification as the nation's energy or military installations. Our election management system, tabulators, etc., is protected, monitored, and maintained in accordance with standards respective of that critical designation. The entire state of Michigan, in 2017 and 2018, purchased and implemented new voting equipment which replaced obsolete equipment used since the early 2000s. After an extensive, years-long testing and certification process by both the Federal Elections Assistance Commission (EAC) and the Joint Evaluation Committee (JEC) at the state level, the state approved the use of voting equipment from three separate vendors: ES&S; Hart InterCivic; and Dominion Voting Systems. Michigan law provides that county clerks choose the system to be utilized within their county, in consultation with their municipal clerks. In Kent County, after thorough demonstration, vetting, and testing, Dominion Voting Systems was chosen as our election equipment vendor. Since implementation in 2017, we have conducted 19 elections using Dominion equipment, the results of which have repeatedly been verified by our canvass, recounts (if requested), and post-election audits.

UNDERSTANDING PRE-ELECTION TESTING:

Prior to each election, every municipal clerk participating in that election holds a Public Logic & Accuracy Test that is open to the media and the public at which time the city or township clerk use a series of marked test ballots to test every tabulator and device that will be used in the forthcoming election. This ensures that the tabulators are reading the ballots correctly and tabulating results accurately. It also ensures that the tabulator is "zeroed-out" before counting any ballots on Election Day. The machines are then sealed, and the number of those seals is recorded in the precinct materials that is later reviewed by the Board of County Canvassers. It is unfortunately very rare for a member of the media or public to attend to observe the testing process. While turnout percentages prove that many voters only participate in, and pay attention to, gubernatorial or presidential elections, **between local school and municipal elections and countywide ballot proposals, we administer a minimum of three elections every year in Kent County. That is three times every year that our equipment is tested, used, and the results verified and audited.**

UNDERSTANDING MICHIGAN PAPER BALLOTS:

In Michigan we don't vote electronically, we mark our votes on paper ballots that are tabulated electronically. This ensures that there is always a paper trail that can be recounted in the event of a legally requested recount, and hand-tallied during post-election procedural audits. Voters vote a secret ballot, that means no one can tell how you voted, however your voting history - whether you voted or not, and in which elections - *is* public record available to anyone who requests that information. **Any assertion that election tabulators "switch votes" can be quickly and easily disproven by performing a hand tally of the paper ballots.**

UNDERSTANDING ABSENTEE VOTING AND THE TABULATION OF ABSENTEE VOTES:

In recent years, the percentage of voters who chose to vote by absentee ballot has increased from an average of 20% prior to 2018 to nearly 60% in the November 2020. For election held in Kent County in 2021 and 2022 elections, the rate has ranged from 50-78%. Certainly, the pandemic contributed to this rapid increase, however, the percentage of absentee votes has been steadily increasing due to the successful passage of Proposal 2018-3 which amended Michigan's Constitution to give every Michigan voter the right to vote absentee without providing an excuse. While the number of absentee voters has changed, the secure process by which we issue and count absentee ballots remains in place. Unlike the 9 states and the District of Columbia that automatically send eligible voters an actual ballot, **Michigan voters must first submit an application or written request before receiving an absentee ballot. Ballots are never automatically sent to voters without being requested.** A signed application is used to verify the voter's information and signature with the voter's registration and signature on file with the municipal clerk. When returning the ballot, voters must sign the return ballot envelope and it must be received by their municipal clerk's office by 8:00 P.M. on Election Day to be counted. Once received by the clerk, the voter's record in the Qualified Voter File is updated so that voter is not able to also cast a ballot in-person on Election Day. Before tabulation, voter signatures are matched and verified against the signature on file for a

second time, and if the signature does not match – which occurs most often with aging voters, or younger voters whose signatures change from when they first registered – the ballot is not counted. Whenever possible, the clerk tries to contact that voter so that they have an opportunity to remedy any issues and confirm their identity.

Absentee ballots are most often tabulated at an Absentee Counting Board (AVCB) in each city or township. The ballots are processed by election workers who represent both Republicans and Democrats, and the process is transparent and open to poll challengers, media, and the public. In Gubernatorial or Presidential elections, most AVCBs work from 7am on Election Day until finished - often well after midnight and into the following day, to all legally cast and received ballots. **It is important to remember that the tabulation of absentee ballots never “delays” the results process because counting every legal vote accurately is the process.**

UNDERSTANDING ELECTION DAY VOTING AND THE TABULATION OF IN-PERSON VOTES:

Election Day polling locations are managed by several election workers officially designated as “Election Inspectors”, equally representative of both major political parties – and any time a voter is assisted, they are to be assisted by a Republican and a Democrat. Upon arriving at the polling location, the voter’s identity is confirmed using photo identification (or an affidavit under the penalty of perjury if the voter is not in possession of photo identification), and the poll book is updated with the number of the ballot issued to them as a measure to ensure that voter may only vote once. After the voter completes the marking of their ballot, the numbered stub on the ballot is removed to ensure anonymity and the ballot is feed into the precinct tabulator. In that instant, so long as the voter made no errors, the ballot is accepted by the machine and the vote is tabulated and stored until the polls close. If there were a problem with the voter’s selection, the machine would alert the voter so that they have an opportunity to correct or ignore the error. How a voter votes is known only to that voter, and the results in a precinct tabulator are not known to anyone until after the polls close at 8:00 p.m.

UNDERSTANDING ELECTION NIGHT REPORTING:

After the polls close at 8:00 p.m., the tabulators are closed-out by an election inspector so that no more ballots may be accepted. Three copies of the results tape of every tabulator are printed to maintain the paper trail explained previously. After the paper is in hand, an Election Inspector removes the digital memory device (“memory card”) from the tabulator and it is secured in a transport bag and delivered to the city or township receiving board. Once received, the local clerk reads and reports the results to the county using a secure file transfer program so that the *unofficial* results may be reported to the public via our county website, www.KentCountyVotes.com. However, we don’t simply rely on the electronically-transmitted results – those are double-checked during the County Canvass against the paper tabulator reports that are hand-delivered to the county clerk and the Chief Probate Judge by the municipal clerks to verify accuracy.

It's important to understand that the reporting of unofficial election results is a manual, human-driven process, not one conducted automatically by technology, and that the timing of unofficial results reporting is not indicative of the timing of tabulation. You’ll notice that results are always referred to as “unofficial results” until they are certified by the Board of Canvassers. This is because results can, and often do, change once reported for a variety of legal reasons.

UNDERSTANDING THE BOARD OF COUNTY CANVASSERS AND THE COUNTY CANVASS:

After each election, the County Board of Canvassers, composed of two Republicans and two Democrats, meets to review the materials compiled by election inspectors within each precinct and absentee counting board. Those materials include the list of voters, tabulator tapes, election worker notes, and reports used to canvass. The canvassers double check the results of each precinct tabulator tape against the results electronically submitted to the county and the poll book to ensure balance between the number of votes reported vs. the number of ballots issued. The Board also verifies that the results in our election management system (EMS) matches the results printed by each tabulator. During this process, the Board works with the city or township clerk to re-tabulate any out-of-balance precincts within the legal allowable framework. After the Canvass is concluded, the results are certified by the Board, signed by the county clerk as official, and are then forwarded to the state for inclusion into the statewide canvass conducted by the Board of State Canvassers. All Board of Canvassers meetings are open to the public and media.

UNDERSTANDING RECOUNTS:

After the conclusion of the Official Canvass and the certification of results, Michigan law affords any aggrieved candidate who believes there is reason to, may challenge the results of an election by requesting that a recount of the paper ballots be conducted, in any or all precincts. The cost to the candidate ranges from \$125 - \$250 per precinct, with the fee refunded if the outcome of the election changes. A clerk does not have the authority to conduct a recount on his/her own volition.

Candidates who believe there to be reason to question our election results have a legal recourse to do so, and it is not uncommon for a recount to be conducted. Interestingly, not one candidate requested a recount of the November 2020 election results.

UNDERSTANDING POST-ELECTION PROCEDURAL AUDITS:

As a final check-and-balance measure, every county clerk's office conducts post-election procedural audits. In Kent County, these audits occur in approximately 10-12 randomly selected precincts, roughly 5% of the total precincts. Kent County was the first county in the state to invite the public to observe it's the audit process – a practice we started with the November 2020 election. **During post-election audits, the county audit teams use a nearly 70-point checklist that confirms whether the municipal clerk, his or her staff, and election inspectors, conducted all election processes and protocols properly, and a complete hand-tally of the ballots is conducted as well in two or three separate races to ensure that the tabulators functioned accurately, and the election was performed in accordance with all state laws.**

For the most recently statewide General Election (November 2020), over 16,000 ballots we hand-tallied to confirm the accuracy of our tabulating equipment. The results of those audits, and all post-election audits are available online at www.KentCountyVotes.com.

COMBATING VIRAL DIS/MISINFORMATION:

Claim: “Sharpie or felt-tip markers invalidate votes” or “bleed-through marks cast unintended votes”:

Michigan law requires that ballots be filled out in blue or black ink. Our equipment vendor recommends that a blue or black ink Sharpie or Flair type marker be used for in-person voting because there is limited time from when the voter completes their ballot until it is run through the tabulator. Sharpies and Flair markers dry very quickly, and do not leave wet ink on the ballot that can smear the glass on the inside of the tabulator. Sharpies and Flair markers create a crisp, clear marking rather than a lighter pen mark which can sometimes be hard to decipher during a recount if the voter does not fill-in the oval correctly or completely. Regarding concern with ink bleed-through from markers: this is not a valid concern as the ballots are designed, and the tabulator is programmed to only read where there is an oval, and ballots are intentionally formatted so that no oval on the front of the ballot will ever align with an oval on the back of the ballot. If there was any problem with reading a ballot, the tabulator would reject the ballot and provide instructions to the voter and the election worker as to what error occurred. For absentee ballots, ink pen ink is less of a concern because of the amount of time from the marking until it is tabulated hours, days, or even weeks later.

Claim: Numerous false allegations against Dominion Voting Systems:

Elections are administered by certified elections officials and trained election inspectors with the assistance of rapidly, and ever-changing technology. While we rely on technology to *aid* the process, technology does not *run* the process. **Following the November election, Internet dis/misinformation campaigns spread rapidly, accusing Dominion Voting Systems tabulators of “switching” or “fractioning” votes. These accusations do not align with the facts as to how we program, test, or utilize the equipment and have repeatedly been proven false by recounts elsewhere throughout the state and nation, and by the canvass, audit, and hand-tallies of Kent County's paper ballots.**

Despite the claims made by disinformation campaigns, not one statewide candidate petitioned the state or Kent County for a recount. **Dominion Voting Systems has regularly updated their website to address misinformation being spread about its equipment. You may find that information at: <https://tinyurl.com/3awmn3hr>**

Additionally, Dominion Founder and CEO John Poulos provided testimony **under oath** to the Michigan Senate Oversight Committee on December 15, 2020 which dispelled allegations against the company. You can view the hearing and his testimony at: <https://tinyurl.com/yuwuz4y6>.

For more reading on the false claims made against Dominion Voting Systems:

National Review: “A Whopper of an Election-Rigging Claim” | December 19, 2020

Andrew C. McCarthy: No, there is not a 68 percent error rate in Dominion voting machines.

Link: <https://tinyurl.com/ys5uhvwh>

Detroit News: “Fox, Newsmax shoot down own election claims on air.” | December 22, 2020

David Bauder (AP): “No evidence has been offered that Dominion or Smartmatic used software or reprogrammed software that manipulated votes in the 2020 election,” Newsmax said.

Link: <https://tinyurl.com/ymkuyc2v>

Associated Press: “Dominion Voting Systems sues Giuliani over election claims.”

Colleen Long: “Dominion Voting Systems filed a defamation lawsuit on Monday against Donald Trump’s personal lawyer Rudy Giuliani, who led the former president’s efforts to spread baseless claims about the 2020 election.

Link: <https://tinyurl.com/3scej6k8>

Washington Post: “Dominion sues pro-Trump lawyer Sidney Powell, seeking more than \$1.3 billion”

Emma Brown: “Dominion Voting Systems on Friday filed a defamation lawsuit against lawyer Sidney Powell, demanding more than \$1.3 billion in damages for havoc it says Powell has caused by spreading “wild” and “demonstrably false” allegations, including that Dominion played a central role in a fantastical scheme to steal the 2020 election from President Trump.”

Link: <https://tinyurl.com/3bexkcj7>

NBC News: “Sidney Powell’s legal defense: ‘Reasonable people’ wouldn’t believe her election fraud claims”

Jane C. Timm: “Ex-Trump attorney Sidney Powell’s weekslong campaign to invalidate the results of the 2020 election was not based in fact, her lawyers said Monday. “No reasonable person would conclude that the statements were truly statements of fact,” Powell’s attorneys said in a court filing defending her against a billion-dollar defamation lawsuit from Dominion Voting Systems, the manufacturer of the election equipment she claimed was involved in the conspiracy to steal the election.”

Link: <https://tinyurl.com/bdfazc9z>

INDEPENDENT REVIEWS OF THE NOVEMBER 2020 ELECTION:

On December 1, 2020, the **United States Attorney General William Barr** told the Associated Press that U.S. attorneys and FBI agents have been working to follow up specific complaints and information they’ve received relating to the conduct of the November 3, 2020 election, but “*we have not seen fraud on a scale that could have effected a different outcome in the election.*”

Link: <https://tinyurl.com/yc8df7jx>

On June 23, 2021, the **Michigan Senate Oversight Committee** released its “Report of the November 2020 Election in Michigan. Link: <https://www.misenategop.com/oversightcommitteereport/>

Here is the press release that accompanied the report. Link: <https://tinyurl.com/yckpy49u>

Senate Oversight Committee releases report on November 2020 General Election

LANSING, Mich. — Sen. Ed McBroom, chairman of the Senate Oversight Committee, on Wednesday announced the publication of the panel’s report on the November 2020 General Election in Michigan.

“As chair of the Senate Oversight Committee, I made it clear from the start that the investigation into the November 2020 General Election would be taken with a firm commitment to truth and a goal of reassuring the citizens of this state that their votes counted,” said McBroom, R-Waucedah Township. “People are, understandably, confused by recent changes to election laws, as well as by practices, orders and determinations made by state and local governments in response to the pandemic.

They are right to demand answers and deserve nothing less than the truth amidst so much shouting and misrepresentation from both sides of the political spectrum.

“This investigation was lengthy, thorough, and revealing. We found both real vulnerabilities and resiliency within the state’s elections system. We also discovered the extent to which our elections officials go to facilitate them. The committee’s report goes into considerable detail on many of these issues, and I hope the public is reassured by the security and protections already in place, motivated to support necessary reforms to make it better, and grateful for our fellow citizens who do the hard work of conducting our elections.

“After innumerable hours over many months, watching, listening, and reading both in-person testimony and various other accounts, I am confident in asserting that the results of the November 2020 General Election in Michigan were accurately represented by the certified and audited results. However, if genuine issues arise from continued investigation, I will not hesitate to ask the committee to consider recommending an audit or amending this report in the future.

“I sincerely thank all who participated in this process — especially the concerned voters who want nothing but the best for our state and its people. An active and passionate citizenry is critical to maintaining our republic and the public’s participation has been reassuring that our system of government is alive and well in our state.”

The committee began its investigation into allegations of fraud and security failures just days after the November 2020 General Election. To date, the committee has:

Conducted nearly 30 hours of public hearings;

Heard from 87 eyewitnesses, experts and concerned citizens, many under oath;

Reviewed over 400 pages of testimony; and

Subpoenaed key documents from the secretary of state and cities of Detroit and Livonia.

Every major concern about the election was closely investigated, including compromised voting tabulators, incidents at the TCF Center in Detroit, misreporting of results from Antrim County, deceased people voting, and many more.

Vulnerabilities identified through the committee’s work are addressed in many of the 39 bills included in the election reform package that seeks to ensure the integrity of Michigan elections for generations to come.

The Senate Oversight Committee report on the November 2020 General Election may be read in its entirety at <https://www.misenategop.com/oversightcommitteereport/>

With the Michigan Senate Oversight Committee Report, we now have a definitive analysis of what did, and more importantly what did not, happen in Michigan’s 2020 General Election. Having previously served in the Legislature with Chairman McBroom, I knew to expect a thorough and impartial investigation that would seek the truth by separating fact and reality from speculation and conspiracy. That is exactly what the committee provided to the Legislature, my colleagues around the state, and all Michigan voters.

As you can see, Michigan is unique in that our election laws require many checks and balances throughout the entire process. **I have full faith in our elections process in Kent County because we follow the law and operate transparently. Kent County elections are secure, transparent, accurate, and fair.**

Finally, I want to be very clear: irregularities and concerns of fraud should be, and are taken seriously and investigated; information disseminated about our elections and the process should be factual; and every voter legally cast must be counted. In all of this, transparency is key. **I swore an oath to uphold the laws of our Constitution and the laws of our state and will abide by that oath as your clerk.**

I invite you to be a part of our secure elections process – either as an Elections Inspector or simply by participating in one of the many opportunities for observation by the public that I mentioned above. You can reach out to the Elections Department at any time for details: www.KentCountyVotes.com or 616-632-7650.

Thank you for your interest. I hope this information is helpful to understand the lengths that we go to ensure that every legally cast vote is counted accurately.