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TO: Interested Parties

FROM: Lisa Posthumus Lyons, Kent County Clerk/Register

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RE: Kent County Elections Background Info
How we ensure secure, transparent, fair, and accurate elections

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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 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 post-election procedures: the work of the Board of County Canvassers; recounts; and post-election audits that ensure the integrity and accuracy of our elections. That testimony is available here: <https://tinyurl.com/mpt4e4mv>

I 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:

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 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 federal elections, it is important to keep in mind that all 50 states administer their elections, and cast their votes, in unique ways according to varying and sometimes unique state 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. 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 and election officials at the city or township level, assisted by thousands of citizens - your co-workers, friends, family, and neighbors who serve as election workers. To "hack" or defraud a decentralized election system like Michigan's an individual or entity would need to coordinate an attack between individuals and equipment stored, maintained, programmed, and regularly tested in 1,500+ jurisdictions across the state - thirty separate offices in Kent County alone.

UNDERSTANDING THE QUALIFIED VOTERS FILE AND THE E-POLLBOOK:

Michigan's *Qualified Voter File* – referred to as the “*QVF*” is the database of voters within 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; eligible voters cast only one ballot; and voters vote at their correct polling location. The QVF is also used to verify that an absentee voter's signature on their ballot envelope match that in their voter record. 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, read-only access to the QVF but coordinate regularly with city or township clerks to update records.

UNDERSTANDING OUR ELECTION EQUIPMENT:

Since 2017, equipment that is used to administer elections has been deemed by the Department of Homeland Security as “critical infrastructure” – the same classification as the nation's energy grid or military installations. Our election management system, ballot tabulators, etc., is protected, monitored, and maintained in accordance with standards respective of that critical designation. The entire state of Michigan, in 2017, began the process of purchasing and implemented new voting equipment which replaced the obsolete equipment that had been 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 county clerks the authority to choose the system to be utilized within their county, in consultation with the county's municipal clerks. After thorough demonstrations, vetting, and testing, Dominion Voting Systems was chosen as Kent County's election equipment vendor. Since implementation in the fall of 2017 (and as of June 2024) we have conducted 25 elections using Dominion equipment, the results of which have proven and verified for accuracy by the canvassers, recounts when, and post-election audits.

UNDERSTANDING PRE-ELECTION TESTING:

Prior to each election, every tabulator and device that will be used in the forthcoming election. The clerk of jurisdictions participating in that election holds *Logic & Accuracy Testing* that is open to the public, at which time the equipment is tested using a series of pre-marked test ballots. This ensures that the tabulators are reading and tabulating the ballots correctly. It also ensures that the tabulator is “zeroed-out” before counting any ballots on Election Day. The machines are then sealed following testing and the number of the seal is recorded in the precinct materials, which is later verified by the Board of County Canvassers. **Between local school and municipal elections, we administer a minimum of three elections annually in Kent County. That means election equipment in Kent County is tested and used, and the results verified and audited, at least three times every year.**

PAPER, PAPER, PAPER:

Michigan voters mark their votes on paper ballots that are tabulated electronically. **The use of paper ballots ensures there is a paper trail that can be recounted, and hand-tallied during post-election procedural audits.** Any assertion that election tabulators “*switch votes*” can be quickly disproven by performing a hand-tally of the paper ballots. Ballots are a matter of public record and are available for public inspection following the release of security protocols following each election.

UNDERSTANDING ABSENTEE VOTING AND THE TABULATION OF ABSENTEE VOTES:

The percentage of absentee votes has steadily increased due to the 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 voters no longer need an excuse to vote absentee, the secure process by which we issue and count absentee ballots remains in place. A signed absentee ballot application is used to verify the voter's registration and identity. Absentee voters must sign the return ballot envelope, and their ballot must be received by their municipal clerk's office by 8:00 P.M. on Election Day to be counted. An exception is made for military and voters residing overseas, whose ballots are accepted for tabulation if received within six days of the election and postmarked on or before Election Day. Once received timely by the clerk, voter signatures are matched and verified against the signature on file prior to tabulation.

Cities and townships with a population of 5,000 residents or more may establish an Absentee Voter Counting Board (AVCB) to process and tabulate absentee ballots during any of the eight days before an election between the hours of 7 a.m. and 8 p.m. Cities and townships, regardless of population, can establish an AVCB to process and tabulate absentee ballots on the Monday before an election between the hours of 7 a.m. and 8 p.m. 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.

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 to ensure that voter may only vote once. After the voter completes the marking of their ballot, 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.

UNDERSTANDING EARLY IN-PERSON VOTING

With Proposal 2022-2, Michigan voters approved a constitutional amendment that gives voters the right to vote early and in-person at early voting sites for a minimum of nine days prior to Election Day for statewide and federal elections. Communities may also choose to provide early voting for local elections. Early voting allows a voter to cast a ballot before Election Day, in an experience like voting on Election Day. During the early voting period, voters are issued a ballot and can insert their voted ballot directly into a tabulator at their early voting site. No results are tabulated prior to Election Day, and early voting equipment is secured nightly to ensure no tampering occurs.

UNDERSTANDING ELECTION NIGHT REPORTING:

After the polls close at 8:00 p.m., the precinct 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 card from the tabulator, secures it in a transport bag, and delivers it to the city or township receiving board. Once received, the local clerk reads and reports the results to the county, either by hand-delivery and/or via secure file transfer program so that the *unofficial* results may be reported to the public via our county website, www.KentCountyVotes.com. Those results are called “unofficial” because we don’t simply rely on the electronically-transmitted results. The unofficial results 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 by the news media is not indicative of the timing of tabulation. Additionally, the media and other sources that may report results are not an official source for election results. News media are simply a convenient means by which results are broadcast. Media reported results often require correction. Likewise, results are always referred to as “*unofficial results*” by election officials 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 nominated by their parties and appointed by the County Board of Commissioners, 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.

UNDERSTANDING RECOUNTS:

After the conclusion of the Official Canvass and the certification of results, Michigan law affords aggrieved candidate to 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, only candidates have a legal recourse to do so. Recounts were petitioned for in Kent County following the 2016, 2018, and 2022 elections – all of which confirmed the accuracy of our tabulation equipment and the validity of the certified results.

UNDERSTANDING POST-ELECTION PROCEDURAL AUDITS:

Post-election audits are conducted following each election as the final measure of checks-and-balances. 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 its audit process – a practice started following the November 2020 election. During post-election audits, 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 in the audited precincts is conducted in two separate races to verify that the tabulators functioned accurately.

For General Elections between 15,000 and 20,000 ballots are hand-tallied to confirm the accuracy of our tabulating equipment. The results of all 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 of the limited time between when the voter marks their ballot until it is run through the tabulator. Sharpies and Flair brand markers dry very quickly, and do not leave wet ink (as ink pens do) on the ballot that can leave smear marks on the glass inside of the tabulator. These markers also create a 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 tabulator is programmed to only read where there is an oval or square, and ballots are intentionally formatted so that no oval on the front of the ballot will align with an oval on the back of the ballot. As explained earlier, if there was a problem 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, the sticky ink from an ink pen is less of a concern for smearing in a tabulator due to the length of time from the marking until it is tabulated hours, days, or weeks later.

Claim: 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 2020 election, Internet mis/disinformation campaigns spread rapidly, that accused 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 the claims have repeatedly been proven false by recounts, the canvass, audits, and hand-tallies.

Dominion Voting Systems has regularly updated their website to address misinformation being spread about its equipment. You may find that information at: <https://www.dominionvoting.com/setting-the-record-straight/>

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>

Associated Press: “Fox News agreed Tuesday to pay Dominion Voting Systems nearly \$800 million to avert a trial in the voting machine company’s lawsuit that would have exposed how the network promoted lies about the 2020 presidential election.”

Link: <https://tinyurl.com/373fv27s>

As you can see, Michigan election law requires 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.