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REPLY TO: Miami

October 19, 2018

Ken Detzner, Secretary of State
R.A. Gray Building
500 South Bronough Street
Tallahassee, Florida 32399

Re: Request for Access to and Preservation of Digital Scanning
Voting Information

Dear Secretary Detzner:

We represent several Florida voters who have concerns about practices and procedures related to digital scanning voting equipment used throughout the State of Florida. As you know, Florida counties use digital scanners manufactured by Election Systems and Software (ES&S) or Dominion systems. This equipment counts voter-marked paper ballots. These digital scanners generate ballot images that provide an audit trail critical in verifying vote counts and voter intent.

It has come to our attention that some county election supervisors intend to allow the destruction of these ballot images in violation of federal and state law, both of which require the preservation of election materials and data for 22 months following a federal election. Perhaps these officials are unaware of or misunderstand the legal requirements to preserve all election materials and data, including digital ballot images.

We respectfully request that you and Florida Director of Elections Maria Matthews instruct the election supervisors in each of Florida's counties using ES&S DS200 and/or the DS850 or any equivalent digital voting equipment made by the above referenced vendors of their legal obligation to preserve all ballot images. Such instruction must be in writing and sent immediately to ensure compliance during the

Florida general election voting period. A simple instruction on how this can be accomplished is contained in the ES&S manual.

These digital scanners do not count the original ballot. Instead, the scanners count votes on the digital image and are therefore an integral part in the chain of custody. Whatever local election officials believe may be the purpose or use of such ballot images, 52 U.S.C. Section 20701 mandates that any and all election materials and data in the chain of custody must be preserved for a minimum of 22 months following a federal election.

We have surveyed a number of Florida counties that use digital equipment. Our survey found only a very few that are preserving ballot images for 22 months as required by law. Most are using procedures that, if unchanged, will result in the unlawful destruction of those ballot images. Several counties are preserving "Write-Ins" only which is inconsistent with federal law.

The public is depending upon the Florida Secretary of State and the Director of Elections to lawfully execute your duties. The Secretary and Director should immediately instruct the appropriate county supervisors of elections to comply with the legal requirements to preserve all election materials and data, including digital ballot images.

Please provide us with written documentation that you have instructed appropriate county election officials to comply with the legal requirements to preserve all election materials and data, including digital ballot images.

Your failure to do so may cause litigation to compel such compliance. I believe this is something that all parties would prefer to avoid.

Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in blue ink that reads "Benedict P. Kuehne". The signature is written in a cursive style.

Benedict P. Kuehne
Chris Sautter

Copy: David Fuggett David.Fugett@dos.myflorida.com