

AUDIT USA

Americans United for Democracy, Integrity and Transparency in Elections

AFFIDAVIT OF JOHN ROBERTS BRAKEY

I, John Roberts Brakey being duly sworn, does hereby swear and affirm:

1. I am an elections investigator and elections transparency activist. I have been working in this field for 14-years and have investigated dozens of elections and inspected voting equipment all over the country.
2. I lead Americans United for Democracy, Integrity & Transparency in Elections USA (AUDIT USA), a non-profit, non-partisan organization comprised of individuals who dedicate their time and expertise to ensure that voting equipment and vote counting protocols at all levels are not vulnerable to manipulation and that the official election outcomes accurately reflect the will of the people who cast ballots.
3. I have substantial experience in observing voting systems. In particular, I have observed and studied the operations of the DS200 and DS850 voting machines manufactured by Election Systems and Software (ES&S). In addition, I have studied the ES&S operation manuals for these machines.
4. I am witness to this action to preserve all digital ballot images and to require that state and county officials comply with federal and state law to preserve all election materials that are related to the election of November 6, 2018, and for all elections thereafter.
5. I traveled to Florida in September of 2018 to collaborate with a longtime colleague Susan Pynchon, Director, Florida Fair Elections Coalition, to determine which Florida Counties are in compliance with federal and state laws requiring the preservation of all election materials, including ballot images.
6. On Sept 18, Attorney Chris Sautter, Bennie Smith, Emily Levy and I traveled to Miami-Dade County, the largest county in Florida. We met with Gilbert Yurubi, Miami-Dade County Assistant Deputy Director of Elections. We knew before we went to meet Mr. Yurubi, from a previous phone call, that ballot images were being destroyed. Miami-Dade County uses ES&S DS200, a Digital Scanner, at all precincts. I explained to Mr. Yurubi that ballot images from the precinct-count DS200 Digital Scanners are part of the chain of custody and requested that Miami-Dade save ballot images in the November 6 General Election. I provided him with page 54 of an ES&S document, Link below.¹ Mr. Yurubi stated that he would take our request up with his superiors.
7. Attorney Chris Sautter sent a follow-up e-mail to Mr. Yurubi but received no response.
8. On September 21, I traveled to Lee County, the 8th largest county in FL and met with Todd Putnam, Systems Administrator for the Lee County elections office. Mr. Putnam confirmed to me that they don't save the ballot images and stated, "*Why would we do that? We have the originals.*" We had a good talk. I pointed out that these digital scanners do not count the original ballot; rather, the digital scanners count votes from the digital image made of each ballot. Ballot images are therefore an integral part in the chain of custody, and the system doesn't work without the images.

¹ ES&S document called "**System Functionality Description**" on data retention see page 54 called "2.1.10 Data Retention" document source came from ES&S to the Colorado Sec. of State, site:

<https://www.sos.state.co.us/pubs/elections/VotingSystems/systemsDocumentation/ESS/EVS5203-C-D-0200-SFD.pdf>

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9. On September 21, I also went to Hendry County. They are a small county of 17,000 voters in size; they are 48th out the 67 counties. Brenda Hoots, the Supervisor of Elections was not there. I met with Sherry Taylor, Nora Ned, and Emilio Hernandez. They said that they do save the ballot images. They find the system is great for the "auditing and adjudication" process of the election. This only can be done if the images are saved and imported into the Election Management System. This is an important part of the election certification process. Verifying the results in-house by questioning anomalies such as miscounts, overvotes, undervotes. It provides the opportunity to examine the ballots without having to violate seals placed by poll-workers.
10. It's a fact in election scoring of races using digitally scanned images that voter intent is totaled from ballot images as the sole source of reporting the win/loss of a candidate for office. Destroying these records in a federal election is illegal. It violates common sense and the common law of chain-of-custody procedures; as well as undermines the integrity of any election that derives all tabulation data from these ballot images. Page 54 of the ES&S document referenced in footnote contains the following important sentence which is part of a paragraph discussing the requirements of United States Code Title 42, Section 1974: "...if a record is generated, Section 1974 comes into force and the appropriate authority must retain the record for 22 months." This sentence is found at the end of the following paragraph, on Page 54 of the ES&S document:

"Because the purpose of this law is to assist the federal government in discharging its law enforcement responsibilities in connection with civil rights and elections crimes, its scope must be interpreted in keeping with that objective. The appropriate state or local authority must preserve all records that may be relevant to the detection and prosecution of federal civil rights or election crimes for the 22-month federal retention period, if the records were generated in connection with an election that was held in whole or in part to select federal candidates. It is important to note that Section 1974 does not require that election officials generate any specific type or classification of election record. However, if a record is generated, Section 1974 comes into force and the appropriate authority must retain the records for 22 months."

FURTHER AFFIANT SAYETH NAUGHT.

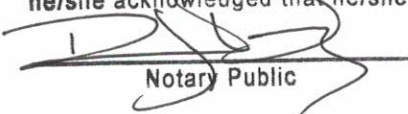
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State of Arizona }
County of Pima }

On this 21st day of DEC 2018, JOHN ROBERTS BRAKEY
personally appeared before me whose identity
I proved on the basis of satisfactory evidence
to be the signer of the above instrument and
he/she acknowledged that he/she executed it.


Notary Public



OFFICIAL SEAL
Ryan J. Day
Notary Public- Arizona
PIMA COUNTY
My Comm. Exp. April 9, 2021