

OPEN LETTER TO RUTHERFORD COUNTY

September 20, 2019

Dear Rutherford County Board of Elections and County Commissioners:

Times have changed. Recent coverage by North Carolina and national news media¹ makes it clear that the public is beginning to understand how much is at stake in your purchase of a new voting system.

On September 17, 2019, Colorado became the first state to ban ballot-marking devices with barcodes. They did this because they know that barcodes are not defensible, contestable, or auditable. The barcode/QR banned in Colorado is similar to the barcode/QR in the system you are considering for your county!

Cyber security experts are recommending that ALL states move to hand-marked paper ballots. In this new modern age when electronics are easily hacked, returning to hand-marked paper ballots is **NOT** a step backward but the smartest way forward.

You have the critical responsibility of selecting a voting system for your county that is defensible and contestable -- a voting system that can be secured, prevents long lines, and is auditable in the event of a voting system failure or election fraud. It is your obligation to examine all available information provided by computer security experts and voting rights advocates. **If you fail to do your due diligence, voters will rightfully hold you accountable.**

Election Systems & Software (ES&S) is presenting **misleading and confusing information** to election officials and to the public in order to pressure them into purchasing ballot-marking devices for all voters, resulting in a huge profit for ES&S. To achieve this sales goal, the company is resorting to deceptive scare tactics. For example, they are telling counties that **timing tracks** are the same as **barcodes**, which is contradicted by their own manual. Timing tracks are used by optical and digital scanners to align paper ballots for accurate counting. Barcodes are completely different than timing tracks! Voters cannot read or verify a vote printed in a barcode, and yet the barcodes are the only thing that is actually counted. Therefore, in a manual recount, the ExpressVote ballot summary cards cannot be relied upon because no one has been able to verify that they reflect the will of the voters. The unique value in hand-marked paper ballots is that voters are able to verify their selections as part of the process, not an additional and optional step that is impossible to perform because humans cannot read barcode. Hand-marked paper allows for the ability to recover an election if there are miscounts, machine failures, hacking, or other problems.

The bombshell report by well-respected statisticians and computer security experts Philip Stark, Andrew Appel, and Robert DeMillo, "Ballot-Marking Devices (BMDs) Cannot Assure the Will of the Voters" makes the following statements:

1. **"No** commercially available EAC-certified ballot-marking device (BMD) is contestable or defensible."
2. "The **only** known practical technology for a contestable, defensible, strongly software independent voting system is **hand-marked paper ballots**, kept physically secure, counted by machine, audited manually, and recountable by hand."
3. "To reduce the risk that computers undetectably alter election results by printing erroneous votes on the official paper audit trail, the use of **BMDs should be limited to voters who require assistive technology to vote independently.**"

As recent public testimony at three different meetings of the North Carolina State Board of Elections makes clear, North Carolinians want transparent, verified, auditable elections. They do NOT want their votes counted by hackable bar codes that are not transparent, not human readable, not verifiable, and not auditable.

In addition to the people's testimony, multiple white papers and written comments were provided from election security computer experts with experience serving on county, state, and federal election and advisory boards warning that ballot-marking devices are insecure, hackable, and cannot be audited.

The Problems:

1. Election security computer experts agree that ballot-marking devices are not secure, not really auditable, not contestable, and not defensible:
 - a. "Ballot-Marking Devices (BMDs) Cannot Assure the Will of the Voters;" <https://tinyurl.com/y5trcpmd>
 - b. "There Is No Reliable Way Detect Hacked Ballot-Marking Devices;" <https://tinyurl.com/yxs5h865>
 - c. "The Malware Election: Returning to paper ballots only way to prevent hacking"
<https://tinyurl.com/yyw46otp>

2. We agree that ballot-marking devices should be provided for the disability community. But the ExpressVote has already caused a discrimination lawsuit recently filed in Maryland because the ExpressVote summary card is a different size than the hand-marked paper ballots used by other voters. The AutoMark, on the other hand, uses the same ballot as used by all voters and is preferred by many in the disability community, as expressed in the following letter and short video:
 - a. Letter in favor of the AutoMark from Lawrence Carter, President of the Raleigh/Wake County Council of the Blind: <https://tinyurl.com/y5vt93xc>
 - b. Testimony to the State Board of Elections in support of the AutoMark by Robert Parish of the Wake Federation of the Blind (short 2-minute video): <https://youtu.be/SDDqXoLssG0>

3. Lobbying and sales-driven efforts by ES&S to force all voters to use a ballot-marking could cost counties two to four times more than tried-and-true hand-marked paper ballots, depending on the size of the county.

4. Forcing every voter to use the limited supply of ballot-marking devices a county purchases will inevitably create long lines and disenfranchise voters. Voters arrive at the polls in clusters (on their way to work, after work, etc.) and not evenly every 6 minutes throughout the day. The long lines are caused by having to wait for a Ballot-Marking machine to be available in the same way that long lines are caused by the DRE touchscreens.
 - a. New York Times article regarding the causes and effects of long lines: <https://tinyurl.com/y6gw63sa>
 - b. Study by Dr. Stephen Pettigrew on the cause and effect of long lines at polling places, including waiting for a machine to be available. One of his findings is that a percentage of people who have to wait in a long line to vote will never try to vote again, and how minority voters are particularly impacted: <https://tinyurl.com/y3ua76nm>

ES&S has created a dead-end, problematic product with the ExpressVote. It is **unacceptable** for the disabled community because its so-called "ballot" (vote summary card) is a different size than the ballots used by other voters and therefore potentially violates ballot secrecy. It is **unacceptable** for all voters because it is exorbitantly expensive and counts votes using an unreadable, unverifiable and un-auditable barcode. It is **unacceptable** that the ExpressVote would cause long lines in many polling places because voters would have to wait for a machine to become free to be able to vote. And lastly, the cost is **unacceptable** to North Carolina taxpayers to enrich a vendor

at the expense of efficient, verifiable, and credible elections. ES&S pricing is cost-prohibitive to many counties who would be unable to purchase more than a minimal number of such machines.

Why would your county pay MORE to make your voting system LESS secure?

The Solution:

1. This coalition opposes the ES&S ExpressVote and is advocating for optical scanners (now called digital scanners) that tabulate hand-marked paper ballots, with the ES&S AutoMark for voters in the disability community. Election-security computer experts agree that a voting system using hand-marked paper ballots is the ONLY voting method that is truly auditable.
2. Hand-marked paper ballots are far less expensive than ballot-marking devices for all voters, despite lobbyist and vendor propaganda.
3. If voters are only waiting for a pen to become available, not a \$4,000 machine, long lines are far less likely to occur. A county can buy voting booths and pens for FAR LESS than multiple \$4,000 machines for every polling place. Why do you need an expensive and hackable machine to mark a paper ballot when a pen works just as well?
4. The AutoMark is the device preferred by many in the disability community. Of vital importance is the fact that the ballot marked by the AutoMark is the same ballot being used for all voters, avoiding discrimination lawsuits such as the one recently filed in Maryland for the ES&S ExpressVote.
5. Ease of auditing and adjudication. The digital scanning machines that are the newest generation of optical scanners make it easy for election administrators to audit and adjudicate an election.
 - a. Maryland - New Technology Allows Election Officials to Verify Votes Like Never Before—Will It Be Widely Used In 2018: <https://www.prwatch.org/news/2018/05/13348/new-technology-allows-election-officials-verify-votes-never-%E2%80%94will-it-be-widely>
 - b. PowerPoint on Post-Election Audits in Maryland using ballot images August 2018: <http://bit.ly/2MtaFUK>
 - c. Journalist Steven Rosenfeld explains ballot-image auditing in video: https://youtu.be/JXABSh5w_Xw?t=3092
 - d. Video **shows the process of auditing and adjudication** (we are not endorsing a specific vendor but this video gives a nice summary of the auditing and adjudication procedure using a digital scan system): <https://youtu.be/vbeUCqjPjxs?t=88>

Americans have increasingly lost trust in election procedures and outcomes. It is critical that the 2020 presidential primaries and general elections produce results that can be fully and properly verified if the public is going to trust the outcome.

The 2020 election is going to be very controversial; we need to prove to the loser that he really lost, otherwise things could get very dangerous in this country. We are all working hard to prevent that.

The County Board of Elections and the County Commissioners face a clear choice with regard to this challenge. Will your county be part of the problem of a continued decline in trusting our election systems? Or will it be a leader the solution to making our elections more accurate, reliable, and worthy of public trust?

In summary, we are writing to strongly urge that your county reject voting systems that are not fully transparent, that lack the capacity to properly verify results, that do not permit meaningful public oversight, that create long lines, and are exorbitantly expensive. We respectfully submit that the only way to prevent questionable elections is to make them transparent, trackable, and publicly verified, and that a system that is primarily hand-marked paper is the only solution that meets these requirements.

We appreciate your consideration and diligence in this critical matter. You have the responsibility and obligation to put voters in your county over the interest of the vendors.

Respectfully,

Lynn Bernstein
Transparent Elections NC
email: TransparentElectionsNC@gmail.com
303.884.4423

John Brakey, Director
AUDIT Elections USA
Email: JohnBrakey@gmail.com
520.339.2696
www.AUDITElectionsUSA.org

CC: Chris Sautter, Special Counsel
AUDIT Elections USA
Email: Sauttercom@aol.com

Following are just a few of the recent North Carolina newspaper articles and editorials on the certification and purchase of new voting systems, where it is clear that the media is amazed that North Carolina would approve voting systems despite security concerns:

"NC Election Officials vote against new election-security rules" <https://www.newsobserver.com/news/politics-government/article234315442.html>

"Keep the human factor in counting NC votes," News Observer Editorial <https://www.newsobserver.com/opinion/article233421682.html> Anti-hacking plan fails <https://www.charlotteobserver.com/news/politics-government/article234315442.html>

Board of elections certifies despite security concerns:

<https://carolinapublicpress.org/29234/nc-certifies-barcode-ballot-voting-systems-despite-security-concerns/>

NC Election Officials vote against new election-security rules

<https://www.newsobserver.com/news/politics-government/article234315442.html>