

EXHIBIT 21

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

IN RE: PETITION FOR EMERGENCY
RELIEF BY THE MARYLAND STATE
BOARD OF ELECTIONS TO
ADDRESS ISSUES WITH PROCESSING
ABSENTEE BALLOTS

Case No.: _____

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AFFIDAVIT OF ALYSOUN N. MCLAUGHLIN

I, **Alysoun N. McLaughlin**, am over eighteen years of age, am competent to testify, and have personal knowledge of the matters to which I testify below.

1. I am the Acting Election Director of the **Montgomery County Board of Elections** (“County Board”). I have held that position since January, 2022. Previously, I served as the Deputy Election Director, beginning in 2012. I am a past Chair of the Board of Advisors to the U.S. Election Assistance Commission, a past Vice President of the Maryland Association of Election Officials, and currently serve as co-chair of the Metropolitan Washington Council of Governments’ Election Officials Technical Committee.

2. As the Acting Election Director, I manage all election operations in Montgomery County, under the oversight of the County Board and the State Board of Elections (“State Board”). My responsibilities include (but are not limited to) managing the \$10 million budget of the department; hiring and supervising more than 30 permanent

and 100 temporary staff; and the overall administration of federal, state and county elections in Montgomery County, including the voter registration list maintenance, the voting by mail process, arranging for the equipping and staffing of more than 250 in-person voting locations, and managing the tabulation of results and the canvassing of mail-in and provisional ballots after the election.

3. This year is my fifth election cycle in the State of Maryland. I also served in a management position for one election cycle with the District of Columbia Board of Elections.

A. Background on Mail-In Ballots and Ballot Canvassing

4. Mail-in ballots, also known as absentee ballots, are one of the ways to vote in Maryland. A voter who requests a mail-in ballot can have it delivered to them in one of several ways, including by mail, via the Internet, or by picking it up in person at the local board of elections office. After filling out the ballot, the voter then has several ways to return it, including by mailing it back to the local board, depositing it in a ballot drop box, or returning it to an in-person voting location.

5. The process for verifying that mail-in ballots are acceptable for counting and tabulating, known as “canvassing”, is time and labor intensive, because every ballot envelope must be processed by hand by a bipartisan two-person team, either onsite or at an off-site canvass location where the process can occur at scale and in a manner that is suitable for public observation.

6. Batches of timely ballot envelopes, usually 50 at a time, are opened by our staff using our envelope-opening machine and then delivered to each two-person canvass team. The team must verify that the voter's oath is signed. If the oath is not signed, County Board staff must attempt to contact the voter to give them a chance to "cure" their signature (provide a signature so their vote can be counted).

7. The team then removes the ballot from the envelope, separates it from the envelope to preserve the secrecy of the voter's votes, and checks for any additional issues such as multiple ballots in the same envelope or cuts or marks on the ballot that might prevent it from being scanned. If there are any issues that might require the rejection of the ballot or raise a question about the voter's intent, the ballot must be set aside and referred to the local Board of Canvassers (which has the same membership as the County Board) for a decision.

8. After counting the ballots to ensure the number of ballots matches the number of envelopes in the batch, the team packs and transports the ballots back to the Board of Elections facility to be scanned. The County Board has four high-speed ballot scanners, which are used for both the canvass of mail-in ballots and the separate canvass of provisional ballots.

9. If the scanner cannot read a ballot, it must be set aside to be duplicated by hand by another two-person team (representing two different political parties). The team will copy the voter's votes onto a new ballot, and only the new ballot will be scanned.

10. Web-delivered ballots present additional challenges. “Web delivery” allows the voter to fill out their ballot online, print it, and mail it to the local board. However, because these ballots are printed on standard printer paper—which our ballot scanners cannot read—the ballot must be copied onto ballot paper before it can be scanned. This again requires a two-person duplicating team. In the 2022 Gubernatorial Primary, almost 16% (18,136 requests) of mail-in ballot requests in Montgomery County were for web delivery.

11. Under current law, this canvassing process cannot begin until the Thursday after Election Day. However, I expect this rule to create significant problems in the 2022 Gubernatorial General Election.

B. Levels of Mail-In Voting Have Increased Substantially in Montgomery County

12. The number of mail-in ballots cast in Montgomery County has increased substantially, beginning with the 2020 election cycle. This is due to several factors, primarily the COVID-19 pandemic and steps taken to increase access to mail-in voting as a result of the pandemic.

13. The COVID-19 pandemic has caused many voters to decide to vote by mail rather than visit an in-person polling place.

14. Since the pandemic began, the Maryland General Assembly, the State Board, and the local boards have taken steps to increase access to mail-in voting. In 2020, the

County Board was authorized to place ballot drop boxes throughout the County, allowing voters to deposit their mail-in ballot in a secure drop box rather than return it by mail. For the 2022 election cycle, Montgomery County has 55 ballot drop box locations.

15. This year, the State Board of Elections sent a mail-in ballot application to every eligible voter. This application gave voters the option to request a mail-in ballot for the primary election, the general election, for both the primary and the general election or for all future elections (“Permanent Vote By Mail”). Voters can also request a mail-in ballot online. The State Board and local boards have also increased efforts to educate voters about their option to vote by mail.

16. In the 2016 Presidential Primary, the Montgomery County Board of Elections received 19,358 mail-in ballots. In the 2018 Gubernatorial Primary, the Montgomery County Board of Elections received 10,610 mail-in ballots. In the 2020 Presidential Primary, the Montgomery County Board of Elections received 242,530 mail-in ballots.

17. In the 2016 Presidential General Election, the Montgomery County Board of Elections received 50,552 mail-in ballots. In the 2018 Gubernatorial General Election, the Montgomery County Board of Elections received 37,449 mail-in ballots. In the 2020 Presidential General Election, where in-person voting was an option, the Montgomery County Board of Elections received 348,255 mail-in ballots.

18. For the 2022 Gubernatorial Primary, the County Board returned to using in-

person neighborhood polling places as in 2018 and increased the number of early voting centers from eleven to fourteen. However, despite the return to full availability of in-person voting, the Montgomery County Board of Elections still received 74,986 mail-in ballots. This represents a **seven-fold increase in returned mail-in ballots** compared to the last, pre-pandemic gubernatorial primary in 2018.

19. Voting by mail has become a preferred and convenient option for many Montgomery County voters. Even as Maryland elections return to normal, pre-pandemic operations, I expect levels of mail-in voting in the 2022 General Election to be much higher than before the pandemic, consistent with what we saw in the primary. Historically, voting by mail increases significantly between any primary and general election, and Montgomery County also now has 72,774 voters placed on the new Permanent Vote By Mail list by their request (10,935 of which are permanent requests for a web delivery ballot, which requires labor and time-intensive duplication in the canvass process).

C. The 2022 Primary Election Canvass

20. Montgomery County's canvass of mail-in ballots from the 2022 Primary Election took place in two stages. The first stage began on the Thursday after Election Day, July 21, and continued into the following week, canvassing all mail-in ballots that had been received by Election Day. The second canvass, which commenced the following Friday, July 29, included all mail-in ballots that were postmarked on or before Election Day but that had not been received by the start of the first canvass.

21. To perform the work of removing the ballots from their envelopes, counting them, checking them for issues that might affect scanning, and duplicating them in cases where the original could not be scanned, we relied primarily on Election Judges along with the Board's permanent and temporary staff, varying from forty to sixty total individuals serving on canvass teams on any given day. Permanent and temporary staff were paid their regular hourly rate. Election Judges were paid \$130 per day, the same stipend as an eight-hour shift at the polls on Election Day.

22. During the primary mail-in ballot canvass, we were able to canvass regular mail-in ballots at a rate of approximately 10,000 per day and web delivery ballots at a rate of approximately 3,000 per day. The rate at which ballots can be canvassed depends on many factors including how many web delivery ballots need to be manually duplicated and the availability of both labor and a facility to accommodate the overall canvass operation. Once all vote by mail ballots were canvassed, the County Board canvassed 8,323 provisional ballots. Canvassing provisional ballots required an additional two days.

D. Far More Mail-In Ballots Expected in the 2022 General Election

23. Voter turnout in the general election is always higher than in the primary election. For example, in 2016, turnout in Montgomery County was 38.94% in the primary election and 73.62% in the general election. In 2018, turnout was 24.58% in the primary election and 63.03% in the general election. In 2020, turnout was 40.68% in the primary election and 79.91% in the general election. In 2022 Gubernatorial Primary election the

turnout was 27.04%.

24. The general election tends to have a higher profile and thus attracts more voter interest. Also, while participation in the primary election is (except for one nonpartisan contest) restricted to voters affiliated with the Republican Party or Democratic Party, the general election is open to all registered voters.

25. I expect that trend will continue and that we will receive significantly more mail-in ballots in the 2022 general election than in the 2022 primary election.

26. As noted above, the number of mail-in ballots returned in the 2022 primary election was seven times greater than the number of mail-in ballots returned in the 2018 primary election. At this time, I am forecasting and the Board staff is preparing for receiving approximately 150,000 vote by mail ballots in the 2022 Gubernatorial General Election.

27. In 2020, the County Board was able to begin early canvassing for both the Presidential Primary and Presidential General Election under the authority of an emergency declaration issued by the Governor. We have never conducted a general election canvass, at post-2020 levels of mail-in voting, *without* early canvassing.

E. Challenges If Early Canvassing Is Not Possible in the General Election

28. If our rate of ballot canvassing after the general election is comparable to our rate of ballot canvassing after the primary election, and if we receive around 150,000 mail-in ballots, then the County Board may need three weeks or more of continuous canvassing

(depending on the number of web delivery vote by mail and provisional ballots) just to complete the canvass part of the election process.

29. This does not factor in the time need to process provisional ballots, which are more time-consuming than mail-in ballots. Before a provisional ballot may be processed, our staff must review the provisional ballot application to determine whether the voter is eligible to cast a provisional ballot, and the provisional ballot must be accepted by the Board of Canvassers. We processed 8,323 provisional ballot applications in the 2022 Primary Election, and, as with mail-in ballots, we expect to receive a greater number of provisional ballots in the General Election.

30. Several logistical factors limit the extent to which we can simply hire additional staff to process ballots more quickly. For example, physical space is a challenge. We have limited space for canvassing in our office building and since the 2020 election cycle, we have had to locate and secure suitable offsite locations for the canvass. Since each two-person canvass team requires a separate table, each additional team increases the space requirements for the canvass.

31. Until envelopes can be opened in the canvass process, we are unable to determine whether a web delivery ballot voter signed their oath. Therefore it is not possible to initiate the curing process for web delivery voters until after the canvass begins.

32. Mail-in and provisional ballots must be tabulated separately. Logistically, this means both that we must prepare equipment separately for each canvass and that in

order to properly accept the absentee ballot and reject the provisional ballot when a voter both returns their ballot by mail and goes to the polls, it is best to wait to begin the provisional canvass until after the vote by mail canvass is completed.

33. The number of permanent County Board staff we have available to supervise the canvass—and perform tasks that our short-term canvass workers cannot perform, such as operating the ballot scanners—is limited, given the variety of other tasks that must be performed in a very short period of time after Election Day. These other tasks include researching whether provisional ballots should be counted or not in advance of the separate canvass of provisional ballots, researching and investigating any complaints or concerns that were received regarding the election, responding to information requests, conducting the post-election audits required by State law, and conducting other time-pressing tasks such as finalizing and processing stipend payments for Election Judges.

34. Lengthy canvasses also place a strain on our limited budget, including the wages of temporary canvass workers and the cost of overtime pay for our permanent staff. An earlier start to the canvass, and a less compressed canvass timeline, could reduce costs by reducing the amount of mandatory overtime we must ask County Board employees to perform.

35. Another concern is that new and more infectious variants of COVID-19 are constantly emerging. Any COVID outbreak among the canvass teams or County Board staff can significantly delay the process. An earlier start to the canvass would help mitigate

this concern by giving us more scheduling flexibility.

36. For all these reasons, I am concerned that if we cannot begin canvassing mail-in ballots until Thursday, November 10, there may be a lengthy delay before results can be reported in Montgomery County, which could lead to substantial confusion, unjustified doubts among voters as to the legitimacy of the results or the integrity of the process, and risks that we might miss deadlines imposed by State or federal law to identify the winners of certain races. It could also impact when certain elected officials are sworn into office. Simply by way of example, members of the Montgomery County School Board are sworn in on December 1. This is a deadline that we have historically struggled to meet in terms of certifying election results before the Board's swearing in date. I have serious concerns that if we are not permitted to start canvassing before election day, we may not be able to certify our election results before the swearing in date for the Board of Education.

37. Recount requests or judicial challenges could further delay the results, especially if a candidate requests a County-wide recount, which could take several more days. In the primary election, Montgomery County had a County-wide recount in the Democratic County Executive race. The Board certified election results on August 13, 2022. The recount occurred from August 19, 2022 until August 22, 2022. The Board thereafter recertified its election results for the Democratic County Executive race on August 24, 2022.

38. There is very little downside to beginning the mail-in vote canvass before

Election Day. I understand the main concern is that preliminary vote counts could be leaked before Election Day and so affect election results. To prevent such a leak from occurring, we have physical controls in place to restrict access. Aggregate vote data is not readily available even to our own staff during an early canvass. To the limited extent that vote data is able to be aggregated prior to Election Day, it is both physically restricted and observers and participants are required to sign confidentiality agreements. Also, while the public may observe the canvass, they are not given access to any results. In 2020, when Montgomery County conducted early canvassing for the primary and general elections, there were no pre-Election Day leaks of results.

I solemnly swear (or affirm) under the penalties of perjury that the contents of the foregoing affidavit are true to the best of my knowledge, information, and belief.

September 1, 2022

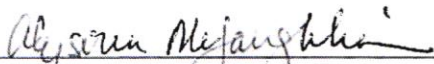

Alyson McLaughlin

EXHIBIT 22

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY

IN RE: PETITION FOR EMERGENCY
REMEDY BY THE MARYLAND STATE
BOARD OF ELECTIONS TO
ADDRESS ISSUES WITH PROCESSING
MAIL-IN BALLOTS

Case No.: _____

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AFFIDAVIT OF ARMSTEAD B. CRAWLEY JONES, SR.

I, **Armstead B. Crawley Jones, Sr.**, am over eighteen years of age, am competent to testify, and have personal knowledge of the matters to which I testify below.

1. I am Election Director of the **Baltimore City Board of Elections** (“City Board”). I have held that position since 2006. Previously, I served on the City Board for 15 years, both as a Board Member appointed by the Governor and as Board President. I have been certified by the National Election Center as a Certified Elections/Registration Administrator.

2. As Election Director, I manage all election operations in Baltimore City, under the oversight of the City Board and the State Board of Elections (“State Board”). My responsibilities include (but are not limited to) hiring and supervising the City Board’s permanent staff; recruiting, training, and supervising election judges and canvassing workers for each election; and managing the tabulation of results and the canvassing of mail-in and provisional ballots after the election.

3. This year is my fifth gubernatorial election cycle as Election Director. I

Affidavit of Armstead B. Crawley Jones, Sr.

have also overseen four presidential elections and multiple mayoral and special elections.

A. Background on Mail-In Ballots and Ballot Canvassing

4. Mail-in ballots, also known as absentee ballots, are one of the ways to vote in Maryland. A voter who requests a mail-in ballot can have it delivered to them in one of several ways, including by mail, via the Internet, or by picking it up in person at the local board of elections office. After filling out the ballot, the voter then has several ways to return it, including by mailing it back to the local board, depositing it in a ballot drop box, or returning it to an in-person voting location.

5. The process for counting and tabulating mail-in ballots, known as “canvassing,” is time-intensive, because every ballot envelope must be processed by hand by a two-person team at the City Board’s counting center, located in our voting equipment warehouse.

6. Batches of timely ballot envelopes, usually 25 at a time, are opened by our staff using our envelope-opening machine and then delivered to each two-person canvass team. The team must verify that the voter’s oath is signed. If the oath is not signed, City Board staff must attempt to contact the voter to give them a chance to “cure”—provide a signature so their vote can be counted.

7. The team then removes the ballot from the envelope, separates it from the envelope to preserve the secrecy of the voter’s votes, and checks for any additional issues such as multiple ballots in the same envelope or cuts or marks on the ballot that might

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prevent it from being scanned. If there are any issues that might require the rejection of the ballot or raise a question about the voter's intent, the ballot must be set aside and referred to the local Board of Canvassers (which has the same membership as the City Board) for a decision.

8. After counting the ballots to ensure the number of ballots matches the number of envelopes in the batch, the team hands the ballots over to be scanned. The City Board has two high-speed ballot scanners, which are used for both the canvass of mail-in ballots and the separate canvass of provisional ballots.

9. If the scanner cannot read a ballot, it must be set aside to be duplicated by hand by another two-person team (ideally representing two different political parties). The team will copy the voter's votes onto a new ballot, and only the new ballot will be scanned.

10. Web-delivered ballots present additional challenges. "Web delivery" allows the voter to fill out their ballot online, print it, and mail it to the local board. However, because these ballots are printed on standard printer paper—which our ballot scanners cannot read—the ballot must be copied onto ballot paper before it can be scanned. This again requires a two-person duplicating team. In the 2022 Gubernatorial Primary, slightly more than 10% of mail-in ballot requests in Baltimore City were for web delivery.

11. Under current law, this canvassing process cannot begin until the Thursday

Affidavit of Armstead B. Crawley Jones, Sr.

after Election Day. However, this rule could create significant problems in the 2022 Gubernatorial General Election.

B. Levels of Mail-In Voting Have Increased Substantially in Baltimore City

12. The number of mail-in ballots cast in Baltimore City has increased substantially, beginning with the 2020 election cycle. This is due to several factors, primarily the COVID-19 pandemic and steps taken to increase access to mail-in voting as a result of the pandemic.

13. The COVID-19 pandemic has caused many voters to decide to vote by mail rather than visit an in-person polling place.

14. Since the pandemic began, the Maryland General Assembly, the State Board, and the local boards have taken steps to increase access to mail-in voting. In 2020, the City Board was authorized for the first time to place ballot drop boxes throughout the City, allowing voters to deposit their mail-in ballot in a secure drop box rather than return it by mail. We work with the State Board to make sure that the locations of the drop boxes will be convenient to the greatest number of voters. For the 2022 election cycle, Baltimore City has 34 ballot drop box locations.

15. This year, we sent a mail-in ballot application to every eligible voter. This application gave voters the option to request a mail-in ballot for both the primary and the general election. Most voters can also request a mail-in ballot online. The State Board and local boards have also increased efforts to educate voters about their option to vote

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by mail.

16. In the 2016 Presidential Primary, the City Board received 5,100 mail-in ballots. In the 2018 Gubernatorial Primary, the City Board received 2,642 mail-in ballots. In the 2020 Presidential Primary (which was conducted entirely by mail), the City Board received 156,164 mail-in ballots.

17. In the 2016 Presidential General Election, the City Board received 12,292 mail-in ballots. In the 2018 Gubernatorial General Election, the City Board received 7,740 mail-in ballots. In the 2020 Presidential General Election, where in-person voting was an option, the City Board still received 138,217 mail-in ballots.

18. For the 2022 Gubernatorial Primary, the City Board returned to using the same number of in-person polling places and early voting centers as in 2018. However, despite the return to full availability of in-person voting, the City Board still received 34,486 mail-in ballots. This represents a **1200% increase in returned mail-in ballots** compared to the last, pre-pandemic gubernatorial primary in 2018.

19. Even as Maryland elections return to normal, pre-pandemic operations, then, I expect levels of mail-in voting in the 2022 General Election to be much higher than before the pandemic, consistent with what we saw in the primary.

C. The 2022 Primary Election Canvass

20. Baltimore City's canvass of mail-in ballots from the 2022 Primary Election took place in two stages. The first stage began on the Thursday after Election Day, July

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21, and continued into the following week, canvassing all mail-in ballots that had been received by Election Day. The second canvass, which took place the following Friday, July 29, included all mail-in ballots that were postmarked on or before Election Day but that had not been received by the start of the first canvass.

21. To perform the work of removing the ballots from their envelopes, counting them, checking them for issues that might affect scanning, and duplicating them in cases where the original could not be scanned, we hired a number of temporary canvassing staff members, varying from ten to twenty individuals on a typical day. These temporary workers, who were mostly drawn from our pool of trained election judges, were paid \$250 per day.

22. During the primary mail-in ballot canvass, we were able to count mail-in ballots at a rate of approximately 10,000 per day. Whether we can maintain this rate in future elections, however, depends on factors including how many web-delivery ballots are received and how many ballots need to be manually duplicated.

D. Far More Mail-In Ballots Expected in the 2022 General Election

23. Voter turnout in the general election is always higher than in the primary election. For example, in 2016, turnout in Baltimore City was 45% in the primary election and 62% in the general election. In 2018, turnout was 26% in the primary election and 48% in the general election. In 2020, turnout was 48% in the primary election and 61% in the general election.

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24. The general election tends to have a higher profile and so attracts more voter interest. Also, while participation in the primary election is (except for one nonpartisan contest) restricted to voters affiliated with the Republican Party or Democratic Party, the general election is open to all registered voters.

25. I therefore expect we will receive significantly more mail-in ballots in the 2022 general election than in the 2022 primary election.

26. As noted above, the number of mail-in ballots returned in the 2022 primary election was 1200% greater than the number of mail-in ballots returned in the 2018 primary election. If mail-in voting in the general election grows by a similar amount, as compared to the last gubernatorial general election, then we could receive **more than 90,000 mail-in ballots** in this year's general election.

27. In 2020, the City Board was able to begin early canvassing for both the Presidential Primary and Presidential General election under the authority of an emergency declaration issued by the Governor. Thus, we have never conducted a general election canvass, at post-2020 levels of mail-in voting, *without* early canvassing.

E. Challenges If Early Canvassing Is Not Possible in the General Election

28. If our rate of ballot counting after the general election is comparable to our rate of ballot counting after the primary election, and if we receive around 90,000 mail-in ballots, then the City Board may need nine full days or more just to complete the mail-in ballot canvass. And, given the other tasks we must perform at the same time, it may not

Affidavit of Armstead B. Crawley Jones, Sr.

be possible to devote nine consecutive days solely to mail-in ballot canvassing.

29. For example, we must also process provisional ballots, which are more time-consuming than mail-in ballots. Before a provisional ballot may be processed, our staff must review the provisional ballot application to determine whether the voter is eligible to cast a provisional ballot, and the provisional ballot must be accepted by the Board of Canvassers. We processed approximately 5,000 provisional ballot applications in the 2022 Primary Election, and, as with mail-in ballots, we expect to receive a greater number of provisional ballots in the General Election.

30. While there is a possibility we could hire additional staff to process ballots more quickly, several logistical factors could make that difficult. For example, we have limited space for canvassing in our warehouse counting center, which is primarily used to store election equipment for the City's 296 precincts. Since each two-person canvass team requires a separate table, each additional team increases the space requirements for the canvass.

31. We also have only one machine for opening ballot envelopes and only two ballot scanners, which limits the rate at which we can provide ballots to canvassing teams and the rate we scan ballots once the canvassing teams have processed them.

32. A related problem is that mail-in and provisional ballots must be tabulated separately. This means that, if we are not finished counting mail-in ballots by the time the provisional canvass begins, we may need to set aside one scanner for provisional

Affidavit of Armstead B. Crawley Jones, Sr.

ballots and use only one scanner for mail-in ballots.

33. Also, the number of permanent City Board staff we have available to supervise the canvass—and perform tasks that our short-term canvass workers cannot perform, such as operating the ballot scanners—is limited, given the variety of other tasks that must be performed after Election Day. These other tasks include reviewing provisional ballot applications in advance of the separate canvass of provisional ballots (which is conducted between the two mail-in ballot canvasses, on the second Wednesday after the election), and conducting the post-election audits required by State law.

34. Lengthy canvasses also place a strain on our limited budget, including the wages of temporary canvass workers and the cost of overtime pay for our permanent staff. An earlier start to the canvass, and a less compressed canvass timeline, could reduce costs by reducing the amount of mandatory overtime we must ask City Board employees to perform.

35. Another concern is that new and more infectious variants of COVID-19 are constantly emerging. We require all participants in the canvass (and public observers) to wear masks. However, each additional day of canvassing increases the risk of a COVID outbreak among the canvass teams or City Board staff, which, in addition to the health risks involved, could further significantly delay the process. An earlier start to the canvass would help mitigate this concern by giving us more scheduling flexibility.

36. For all these reasons, I am concerned that if we cannot begin canvassing

Affidavit of Armstead B. Crawley Jones, Sr.

mail-in ballots until Thursday, November 10, there may be a lengthy delay before results can be reported in Baltimore City, which could lead to substantial confusion, doubts among voters (even if not justified) as to the legitimacy of the results or the integrity of the process, and risks that we might miss deadlines imposed by State or federal law to identify the winners of certain races.

37. Recount requests or judicial challenges could further delay the results, especially if a candidate requests a City-wide recount, which could take several more days.

38. When we conduct an early canvass, we take steps to ensure that preliminary totals will not be released or leaked before Election Day. To prevent such a leak from occurring, we require all observers and participants at an early canvass to sign confidentiality agreements, and we emphasize the importance of keeping the results secret until after Election Day. Also, while the public may observe the canvass, they are not given access to any results. In 2020, when Baltimore City conducted early canvassing for the primary and general elections, there were no pre-Election Day leaks of results.

I solemnly affirm under the penalties of perjury that the contents of this document are true to the best of my knowledge, information, and belief.

August 30, 2022

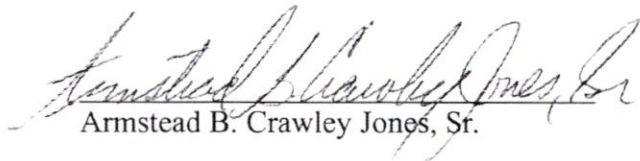

Armstead B. Crawley Jones, Sr.

EXHIBIT 23

IN RE: PETITION FOR
EMERGENCY RELIEF BY THE
MARYLAND STATE BOARD OF
ELECTIONS TO ADDRESS ISSUES
WITH PROCESSING ABSENTEE
BALLOTS

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AFFIDAVIT OF THE
BALTIMORE COUNTY BOARD OF ELECTIONS

We, the members of the Baltimore County Board of Elections, solemnly affirm under the penalties of perjury that the contents of this document are true to the best of our knowledge, information, and belief.

Our board recently concluded the canvass of the 2022 Maryland Primary Election in Baltimore County. We make the following observations regarding the processing of mail-in ballots in support of a Petition to permit canvassing of mail-in ballots in advance of Election Day:

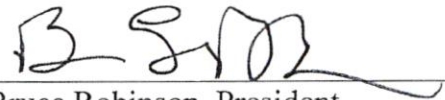
1. Canvassing mail-in ballots in advance of Election Day, while still sequestering the results until after 8 p.m. on Election Day, will provide a more complete unofficial tally of votes cast.
2. Election staff and board members must commit a significant amount of time and resources to process mail-in ballots, the volume of which has increased dramatically in recent years. If not permitted to canvass prior to Election

Day, that time gets compressed into the statutory 10 days in which to certify the election. During the recent primary, that meant that Baltimore County worked every day, including Saturday and Sunday, to meet this deadline.

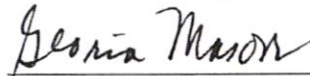
3. The process of duplicating web-requested ballots, the volume of which has also increased substantially, is very time-intensive and slows the canvass down, in that a relatively small percentage of the total mail-in ballots requires a much longer time to process.
4. Baltimore County experienced several very close races, at least one of which qualified for a recount, had the candidate so chosen. The final unofficial count deciding one of these races was not manifested until the last day of the canvass. To be able to process ballots in advance of Election Day would make results in contests like this available sooner, which would engender more public confidence in the reliability and integrity of the election.
5. Based upon turnouts in prior election cycles, it is anticipated that voter turnout will be much higher in the General Election than it was in the Primary, thereby increasing the workload. At present, the number of mail-in ballots requested at this point prior to the General exceeds the number requested at the same point prior to the Primary.
6. Although Baltimore County faces some logistical challenges about the availability of physical space in its headquarters in which to perform a

canvass prior to Election Day, the inability to count at least some ballots early could create delays in reporting and certifying results.

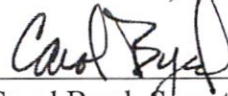
Respectfully submitted,



Bruce Robinson, President



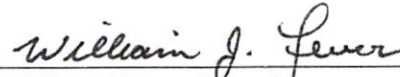
Gloria Mason, Vice President



Carol Byrd, Secretary



Bruce Harris, Member



William Feuer, Member

EXHIBIT 24

IN RE: PETITION FOR EMERGENCY *
RELIEF BY THE MARYLAND
STATE BOARD OF ELECTIONS TO *
ADDRESS ISSUES WITH
PROCESSING ABSENTEE BALLOTS * CIVIL CASE NO.:

*

* * * * *
*

**AFFIDAVIT
OF BARBARA WAGNER**

I, Barbara Wagner, solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true.

1. I am over eighteen (18) years of age and am competent to testify to the matters and facts set forth in this affidavit.

2. I am the Election Director for the Frederick County Board of Elections ("Board"). I am familiar with Maryland elections, its processes and in particular with mail-in ballots, canvassing and tabulations.

3. The Frederick County Board has approved my submission of this Affidavit and endorses early canvassing for the General Election this November 8, 2022.

4. In the Primary Election, Frederick County had a 26% voter turnout with over 15,500 returned mail-in ballots. It is my belief, based on experience that voter turnout in the general election is always higher than in the primary election, coupled with the fact that there is so much national and local media attention on the upcoming midterm election in November, we could have a 75% turnout (or, approximately triple the turnout from the Primary) which could result in approximately 45,000 returned mail-in ballots to canvas.

5. Because of this predicted higher volume of mail-in ballots, early canvassing is necessary and critical for the General Election in November. The inability to have early canvassing could create delays in reporting and certifying results. Such delays could jeopardize Maryland's ability to timely and efficiently run elections. This would not be fair to the candidates, voters and citizens in general.

6. With early canvassing, we would be able to enter voter information in a timely manner to inform the voter on whether their ballot was received thus avoiding the voter going to a polling place and voting a provisional ballot. In other words, with early canvassing, voters would be able to receive notice that their ballots were received and processed. Without early canvassing, those voters who voted by mail and not knowing if their ballots were indeed received, would go vote in-person with the intention of ensuring that their ballot was cast and counted. As it is now, we cannot give that notice to the voter. Stated differently, the voter, not knowing whether his or her ballot was received and processed, has to go to the polling place and vote a provisional ballot. This would not only undermine voter certainty, confidence and trust in the system but also create exacerbating long lines outside the polling places and inside at the provisional voting areas. This also consumes a lot of time and canvassing work by the staff in processing the provisional ballots. (It should be noted that processing provisional ballots is more time consuming than processing mail-in ballots).

7. Early canvassing also helps the election staff. The canvassing process is an exhausting and time intensive process. Some forget the dedication and commitment from our staff. They put in extraordinary long hours and early canvassing can help eliminate those long days and hours by the unsung election workers.

8. Early canvassing also gives more time for curing to allow more ballots to be approved for counting and thus fewer voters possibly being disenfranchised.

9. In 2020, early canvassing was implemented and it worked. It can work now for the November General Election.

August 29, 2022
DATE

Barbara Wagner
BARBARA WAGNER
ELECTION DIRECTOR
FREDERICK COUNTY
BOARD OF ELECTIONS

EXHIBIT 25

IN THE CIRCUIT COURT FOR _____

*

IN RE: PETITION FOR EMERGENCY
RELIEF BY THE MARYLAND STATE
BOARD OF ELECTIONS TO
ADDRESS ISSUES WITH PROCESSING
ABSENTEE BALLOTS

Case No.: _____

*

* * * * *

AFFIDAVIT OF ALISHA L. ALEXANDER

I, **Alisha L. Alexander**, am over eighteen years of age, am competent to testify, and have personal knowledge of the matters to which I testify below.

1. I am Elections Administrator for the **Prince George's County Board of Elections**. I have held that position since 2007. Prior to that, I was the Deputy Elections Administrator (2001-2007). I hold both a bachelors and master's degree and am an active member of the Maryland Association of Election Officials.

2. As Elections Administrator, I manage all election operations in Prince George's County, under the oversight of the County's Elections Board and the State Board of Elections ("State Board"). My responsibilities include (but are not limited to) overseeing voting equipment programming and maintenance, maintaining the County's voter registration rolls, hiring and supervising the County's Board's permanent and temporary staff; recruiting, training, and supervising election judges and canvassing workers for each election; processing mail-in and provisional ballot applications and

managing the tabulation of results and the canvassing of mail-in and provisional ballots.

3. This year marks the fourth gubernatorial election cycle under my direction in Prince George's County. I have also overseen four presidential elections, as well as several special elections.

A. Background on Mail-In Ballots and Ballot Canvassing

4. Mail-in ballots, previously referred to as absentee ballots, are one of the ways to vote in Maryland. A voter who requests a mail-in ballot can have it delivered to them in one of several ways, by mail, via email, or by picking it up in person at the local board of elections office. After filling out the ballot, the voter has several ways to return it, including by mailing it back to the local board, depositing it in an official ballot drop box, or returning it to an in-person voting location.

5. The process for counting and tabulating mail-in ballots, known as "canvassing," is time-intensive, because every ballot envelope must be processed by hand by a two-person team at the County's canvassing center, which could occur at one of many locations since the County Board of Elections does not have enough space to conduct the canvass "in-house".

6. Batches of timely ballot envelopes, usually 25 at a time, are opened by our staff using our envelope-opening machine and then delivered to each two-person canvass team. The team must verify that the voter's oath is signed. If the oath is not signed, County Board staff must attempt to contact the voter to give them a chance to "cure" the

ballot deficiency—meaning that the voter provide a signature so his/her vote can be counted.

7. The team then removes the ballot from the envelope, separates it from the envelope to preserve the secrecy of the voter's votes, and checks for any additional issues such as multiple ballots in the same envelope, rips or marks on the ballot that might prevent it from being scanned. If there are any issues that might require the rejection of the ballot or raise a question about the voter's intent, the ballot must be set aside and referred to the local Board of Canvassers (which has the same membership as the County's Board of Elections) for a decision.

8. After counting the ballots to ensure the number of ballots matches the number of envelopes in the batch, the canvassing team forwards the ballots to the scanning teams. The County Board utilizes three high-speed ballot counting scanners, which are used for both the canvass of mail-in ballots and the separate canvass of provisional ballots.

9. If the scanner cannot read a ballot, it must be set aside to be duplicated by hand by a bi-partisan, two-person team. The team will duplicate the voter's votes onto a new ballot, and only the newly duplicated ballot will be scanned.

10. Web-delivered ballots present additional challenges. "Web delivery" allows the voter to fill out their ballot online, print it on regular 8 ½ X 11 inch paper from a home printer, and mail it to the local board. However, because these ballots are printed

on standard printer paper—which our ballot scanners cannot read—the ballot must be duplicated on the official ballots before it can be scanned. This again requires a two-person, bipartisan duplicating team.

11. Under current law, this canvassing process cannot begin until the Thursday after Election Day. This will create many logistical and timing issues after the 2022 Gubernatorial General Election.

B. Mail-In Voting Has Increased Substantially in Prince George’s County

12. The number of mail-in ballots cast in Prince George’s has increased substantially, beginning with the 2020 election cycle. This is due to several factors, primarily the COVID-19 pandemic and steps taken to increase access to mail-in voting as a result of the pandemic.

13. The COVID-19 pandemic prompted many voters to vote by mail rather than visit an in-person polling place.

14. Since the pandemic began, the Maryland General Assembly, the State Board, and the local boards have taken steps to increase access to mail-in voting. In 2020, the County Board was authorized for the first time to place ballot drop boxes throughout the County. This allowed voters to deposit their mail-in ballot in a secure drop box rather than return it by mail. The County collaborated closely with the State Board to make sure that the locations of the drop boxes were convenient to the greatest number of voters. For the 2022 election cycle, Prince George’s County has 38 ballot

drop box locations.

15. This year, we sent a mail-in ballot application to every eligible voter. This application gave voters the option to request a mail-in ballot for both the primary and the general election, and all future elections. Voters can also request a mail-in ballot online. The State Board and local boards have also increased efforts to educate voters about their option to vote by mail.

16. In the 2016 Presidential Primary, the County Board counted 6,425 mail-in ballots. In the 2018 Gubernatorial Primary, the County Board received 3,697 mail-in ballots. In the 2020 Presidential Primary (where in-person voting was limited), the County Board received 224,628 mail-in ballots.

17. In the 2016 Presidential General Election, the County Board received 22,290 mail-in ballots. In the 2018 Gubernatorial General Election, the County Board received 12,353 mail-in ballots. In the 2020 Presidential General Election, where in-person voting was an option, the County Board received 236,435 mail-in ballots.

18. For the 2022 Gubernatorial Primary, the County Board utilized the pre-COVID Election Day model by opening the same number of in-person polling places that it did in 2018. In addition, the County Board went from opening 11 early voting centers to opening 13 sites. However, despite the return to full availability of in-person voting, the County Board still received 44,260 mail-in ballots (which does not include the 2,408 ballots that were counted with the provisional ballots). This represents almost four times

the number of ballots **returned mail-in ballots** compared to the last, pre-pandemic gubernatorial primary in 2018.

19. Even as Maryland elections return to normal, pre-pandemic operations, it is expected that the number of mail-in voting in the 2022 General Election will be significantly higher than the numbers prior to the pandemic and will be consistent with the higher figures when the Primary of 2022 and 2018 were compared.

C. The 2022 Primary Election Canvass

20. The 2022 Primary Election canvass of mail-in ballots took place in two stages. The first stage began on the Thursday after Election Day, July 21, and continued into the following week, canvassing all mail-in ballots that had been received by Election Day. The second canvass, which took place the following Friday, July 29 and included all mail-in ballots that were postmarked on or before Election Day but that were not received by the start of the first canvass.

21. To perform the work of removing the ballots from their envelopes, counting them, checking them for issues that might affect scanning, and duplicating them in cases where the original could not be scanned, we hired a number of temporary canvassing staff members, varying from twenty to twenty-five individuals on a typical day. These temporary workers, who were mostly drawn from our pool of trained election judges, were paid \$16 per hour.

22. During the primary mail-in ballot canvass, we were able to count mail-in

ballots at a rate of approximately 12,000-15,000 per day. Whether we can maintain this rate in future elections depends on factors including the number of web-delivery ballots are received and how many ballots need to be manually duplicated.

D. Far More Mail-In Ballots Expected in the 2022 General Election

23. Voter turnout in a general election is always significantly higher than in the primary election. For example, in 2016, turnout in Prince George's County was 36% in the primary election and 68% in the general election. In 2018, turnout was 26% in the primary election and 55% in the general election. In 2020, turnout was 44% in the primary election and 70% in the general election.

24. General elections tend to have more media and other coverage. As a result, they attract more voter interest. Also, while participation in the primary election is (except for one nonpartisan contest) restricted to voters affiliated with the Republican Party or Democratic Party, the general election is open to all registered voters.

25. I anticipate that Prince George's County will receive significantly more mail-in ballots in the 2022 general election than it did in the 2022 primary election.

26. As noted above, the number of mail-in ballots returned in the 2022 primary election was almost four times greater than the number of mail-in ballots returned in the 2018 primary election. If mail-in voting in the general election grows by a similar amount, as compared to the last gubernatorial general election, we could receive **more than 120,000 mail-in ballots** in this year's general election.

27. In 2020, the County Board was able to begin early canvassing for both the Presidential Primary and Presidential General election under the authority of an emergency declaration issued by the Governor. Thus, we have never conducted a general election canvass, at post-2020 levels of mail-in voting, *without* early canvassing.

E. Challenges If Early Canvassing Is Not Possible in the General Election

28. If our rate of ballot counting after the general election is comparable to our rate of ballot counting after the primary election, and if we receive approximately 120,000 mail-in ballots, the County Board may need eight days or more of continuous canvassing just to complete the mail-in ballot canvass.

29. This does not factor in the time need to process provisional ballots, which are more time-consuming than mail-in ballots. Staff must review the provisional ballot application to determine whether the voter is eligible to cast a provisional ballot, and the provisional ballot must be accepted by the Board of Canvassers. We processed approximately 6,000 provisional ballot applications (not including the over 2,000 mail-in ballots that were counted with the provisional ballots) in the 2022 Primary Election, and, as with mail-in ballots, we expect to receive a greater number of provisional ballots in the General Election.

30. While there is a possibility that additional staff can be hired to process ballots more quickly, several logistical factors could make that difficult. For example, we have limited space in our office. Since each two-person canvass team requires a separate

table, each additional team also increases the space requirements for the canvass.

31. A related problem is that mail-in and provisional ballots must be tabulated separately. This means that, if we are not finished counting mail-in ballots by the time the provisional canvass begins, we may need to set aside one scanner for provisional ballots and use only one scanner for mail-in ballots.

32. Also, the number of permanent County's Board staff we have available to supervise the canvass—and perform tasks that our short-term canvass workers cannot perform, such as operating the ballot scanners—is limited, given the variety of other tasks that must be performed after Election Day. These other tasks include reviewing provisional ballot applications in advance of the separate canvass of provisional ballots (which is conducted between the two mail-in ballot canvasses, on the second Wednesday after the election), and conducting the post-election audits required by State law.

33. Lengthy canvasses also place a strain on our limited budget, including the wages of temporary canvass workers and the cost of overtime pay for our permanent staff. An earlier start to the canvass, and a less compressed canvass timeline, could reduce costs by reducing the amount of mandatory overtime we must ask County Board employees to perform.

34. Another concern is that new and more infectious variants of COVID-19 are constantly emerging. While mask wearing is no longer mandatory, we encourage all participants in the canvass (and public observers) to wear masks. However, each

additional day of canvassing increases the risk of a COVID outbreak among the canvass teams or County's Board staff, which, in addition to the health risks involved, could further significantly delay the process. An earlier start to the canvass would help mitigate this concern by giving us more scheduling flexibility.

35. For all these reasons, I am concerned that if we cannot begin canvassing mail-in ballots until Thursday, November 10, there may be a lengthy delay before results can be reported in Prince George's County, which could lead to confusion, concerns from voters (even if not justified) regarding the legitimacy of the results or the integrity of the process, we might also miss deadlines imposed by State or federal law to certify the candidates with the highest vote counts.

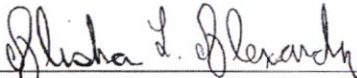
36. Recount requests or judicial challenges could further delay the results, especially if a candidate requests a County-wide recount, which could take four or more additional days to conduct.

37. From my perspective, there aren't any disadvantages to beginning the mail-in vote canvass prior to Election Day. I understand the main concern is that preliminary vote counts could be leaked before Election Day and so affect election results. To prevent such a leak from occurring, we require all observers and participants at an early canvass to sign confidentiality agreements, and we emphasize the importance of keeping the results secret until after Election Day. Also, while the public may observe the canvass, they are not given access to any results. In 2020, when Prince George's County

conducted early canvassing for the primary and general elections, there were no pre-Election Day leaks of results.

I solemnly swear (or affirm) under the penalties of perjury that the contents of the foregoing affidavit are true to the best of my knowledge, information, and belief.

August 30, 2022


Alisha L. Alexander

Monthly Statistical Report

Last Transaction Date From: 08/01/2022 To: 08/31/2022

ADDITIONS TO COUNTY REGISTRATION

METHOD	DEM	REP	GRN	LIB	WCP	UNA	OTHERS	TOTAL	EXACT	DUPES
By Mail	4	3	0	0	0	1	0	8	8	2
Confirmation Notice	0	0	0	0	0	0	0	0	0	2
Correction	1	0	0	0	0	0	0	1	1	0
ERIC Report	3	7	0	0	0	5	0	15	15	0
In Person	1	1	0	0	0	3	0	5	5	57
Jury Notice	1	0	0	0	0	0	0	1	1	0
Motor Vehicle Administration	348	274	3	13	5	356	14	1013	1013	7
Online Mail In Request	1	2	0	0	0	0	0	3	3	1
Online Voter Registration	10	14	0	0	0	4	0	28	28	0
Petition	0	0	0	0	0	1	0	1	1	0
Provisional Ballot Change	0	0	0	0	0	0	0	0	0	2
Social Security Administration	2	5	0	0	0	0	0	7	7	0
Social Services Agencies	0	1	0	0	0	0	0	1	1	0
State Designated Agencies	6	2	0	0	1	8	1	18	18	3
USPS Sticker	21	8	0	0	0	4	0	33	33	12
Voter Notification Card	3	0	0	0	0	0	0	3	3	5
TOTAL	401	317	3	13	6	382	15	1137	1137	91

SUBTRACTIONS FROM COUNTY ACTIVE STATUS

REASON	DEM	REP	GRN	LIB	WCP	UNA	OTHERS	TOTAL
Confirmation Mail Process-NVRA	242	232	0	11	0	164	5	654
Criminal Conviction/Infamous Crime	3	2	0	0	0	2	0	7
Death Notice	23	52	0	0	0	17	3	95
Death Notices Other than DHMH	4	0	0	0	0	0	0	4
Moved Out of State	7	10	0	0	0	1	0	18
Voter Request	0	2	0	0	0	1	0	3
Duplicate/Merged	0	0	0	0	0	0	0	0
County Transfer Out	-87	-51	0	-2	0	-48	-2	-190
TOTAL	366	349	0	13	0	233	10	971

Monthly Statistical Report

Last Transaction Date From: 08/01/2022 To: 08/31/2022

AFFILIATION CHANGES

CHANGE	DEM	REP	GRN	LIB	WCP	UNA	OTHERS	TOTAL
From	183	61	2	9	3	306	21	585
To	123	340	2	6	2	99	13	585
TOTAL	-60	279	0	-3	-1	-207	-8	0

CURRENT ACTIVE REGISTRATION

ACTIVITY	DEM	REP	GRN	LIB	WCP	UNA	OTHERS	TOTAL
BEGINNING OF REPORT	31410	43728	159	616	109	22313	934	99269
ADDITIONS (+)	401	317	3	13	6	382	15	1137
REINSTATED (+)	15	25	1	2	1	18	0	62
CANCELLED (-)	-33	-66	0	0	0	-21	-3	-123
COUNTY TRANSFER OUT (-)	-87	-51	0	-2	0	-48	-2	-190
AFFILIATION CHANGES (+ OR -)	-60	279	0	-3	-1	-207	-8	0
* INACTIVATED (-)	-246	-232	0	-11	0	-164	-5	-658
* REACTIVATED (+)	62	69	1	5	0	35	2	174
END OF REPORT TOTALS	31462	44069	164	620	115	22308	933	99671

Last Transaction Date From: 08/01/2022 To: 08/31/2022

**INACTIVE REGISTRATION
 SUBTRACTIONS FROM COUNTY INACTIVE STATUS**

REASON	DEM	REP	GRN	LIB	WCP	UNA	OTHERS	TOTAL
By Mail	1	0	0	0	0	0	0	1
Confirmation Notice	0	1	0	0	0	0	0	1
Death Notice	10	2	0	0	0	0	0	12
Jury Notice	0	3	0	0	0	0	0	3
Motor Vehicle Administration	52	37	2	3	0	27	1	122
Moved Out of State	16	33	0	0	0	10	1	60
Online Mail In Request	0	1	0	0	0	0	0	1
Online Voter Registration	0	1	0	0	0	1	0	2
Petition	0	1	0	0	0	2	0	3
State Designated Agencies	4	1	0	0	0	1	0	6
USPS Sticker	1	1	0	0	0	0	0	2
Duplicate/Merged	0	0	0	0	0	0	0	0
County Transfer Out	-16	-8	0	0	0	-10	0	-34
TOTAL	100	89	2	3	0	51	2	247

CURRENT INACTIVE REGISTRATION

ACTIVITY	DEM	REP	GRN	LIB	WCP	UNA	OTHERS	TOTAL
BEGINNING OF REPORT	3578	4024	27	120	8	2856	100	10713
* INACTIVATED (+)	246	232	0	11	0	164	5	658
* REACTIVATED (-)	-72	-65	-2	-3	0	-31	-1	-174
COUNTY TRANSFER OUT (-)	-16	-8	0	0	0	-10	0	-34
AFFILIATION CHANGES (+ OR -)	0	0	0	0	0	0	0	0
CANCELLED FROM INACTIVE (-)	-26	-35	0	0	0	-10	-1	-72
PENDING FROM INACTIVE (-)	0	0	0	0	0	0	0	0
TOTAL INACTIVE	3710	4148	25	128	8	2969	103	11091

**TOTAL REGISTRATION RECORDS
 ACTIVE AND INACTIVE REGISTRATION**

ACTIVITY	DEM	REP	GRN	LIB	WCP	UNA	OTHERS	TOTAL
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Monthly Statistical Report

Last Transaction Date From: 08/01/2022 To: 08/31/2022

ACTIVE REGISTRATION	31462	44069	164	620	115	22308	933	99671
INACTIVE REGISTRATION	3710	4148	25	128	8	2969	103	11091
TOTAL RECORDS	35172	48217	189	748	123	25277	1036	110762

Address Changes Within Jurisdiction _____ 1451
 Address Changes Statewide _____ 47336
 Name Changes _____ 664
 Number of current Statewide voter registration application on hand _____
 Signature of person who prepared the report _____
 Other = Those individuals designating affiliation with a party that is not established under Maryland Law. _____
 Confirmation Mailings Sent _____ 851
 Confirmation Responses _____ 14
 Number of NVRA Agency voter registration Applications on hand _____
 Date report completed _____
 Unaffiliated = those individuals declining to affiliate with a party. _____

OFFICE OF THE ATTORNEY GENERAL

Civil Division

200 Saint Paul Place, 20th Floor
Baltimore, Maryland 21202
dkobrin@oag.state.md.us
(410) 576-6472
(410) 576-6955 (facsimile)

MEMORANDUM

To: State Board of Election and Local Boards of Election

From: Daniel M. Kobrin
Assistant Attorney General

Re: **LITIGATION HOLD** – *Louis Ann Gibson, et al. v. Frederick County Maryland, et al.*, United States District Court for the District of Maryland, 1:22-cv-01642-GLR

Date: September 1, 2022

This is a litigation hold notice for information that may be relevant to litigation currently pending in the United States District Court for the District of Maryland, *Louis Ann Gibson, et al. v. Frederick County Maryland, et al.*, 1:22-cv-01642-GLR, (the “Litigation”).

The Litigation alleges that 21 counties and Baltimore City engaged in a federal RICO conspiracy to defraud the 2020 Presidential Primary and General Elections. The Litigation seeks to preserve all records associated with the 2020 elections past the federally mandated deadline of September 3, 2022. The defendants in the case are 21 named counties, their local boards of elections, the State of Maryland, the State Board of Elections, and the Office of the State Prosecutor.

Your office has been identified as one that may have possession of records of the 2020 primary and general election. You do not need to gather or identify documents related to this request at this time. **You do, however, need to do the following:**

1) Initiate a litigation hold with respect to potentially relevant information, including but not limited to

- a. **immediate termination of any other automatic deletion or destruction of identified custodians' documents and files, including e-mails;**
- b. **immediate termination of any recirculation of computers/devices of ex-employees who have been identified as custodians, including current employees who may leave during the course of the litigation hold period;**
- c. **secure storage of old computers/devices containing relevant information that may be replaced during the course of the litigation hold period;**
- d. **keep and maintain all records regarding the 2020 Presidential Primary and General Election.**

2) **Because the lawsuit was filed after the deadline for destruction of materials for the 2020 primary election, records from that election may have already been destroyed. Please provide me with notice if those records have already been destroyed. If not, please retain those records while this lawsuit remains active.**

3) **Please identify all State employees, past and present, who may have information concerning the storage and access to 2020 election records, and electronically mail, return-receipt requested, each employee a litigation hold notice in the form substantially similar to this one. In addition, please provide me with a list of all State employees and officials to whom you have delivered the notice.**

It is imperative that you please copy me on all communications with respect to initiating this hold. Routine deletion procedures and document destruction should be suspended to the extent necessary to preserve evidence relating to the 2020 election records.

If you have any questions, please contact me.

OFFICE OF THE ATTORNEY GENERAL

Civil Division

200 Saint Paul Place, 20th Floor
Baltimore, Maryland 21202
dkobrin@oag.state.md.us
(410) 576-6472
(410) 576-6955 (facsimile)

MEMORANDUM

To: State Board of Election and Local Boards of Election

From: Daniel M. Kobrin
Assistant Attorney General

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- c. secure storage of old computers/devices containing relevant information that may be replaced during the course of the litigation hold period;
- d. keep and maintain all records regarding the 2020 Presidential Primary and General Election.

2) Because the lawsuit was filed after the deadline for destruction of materials for the 2020 primary election, records from that election may have already been destroyed. Please provide me with notice if those records have already been destroyed. If not, please retain those records while this lawsuit remains active.

3) Please identify all State employees, past and present, who may have information concerning the storage and access to 2020 election records, and electronically mail, return-receipt requested, each employee a litigation hold notice in the form substantially similar to this one. In addition, please provide me with a list of all State employees and officials to whom you have delivered the notice.

It is imperative that you please copy me on all communications with respect to initiating this hold. Routine deletion procedures and document destruction should be suspended to the extent necessary to preserve evidence relating to the 2020 election records.

If you have any questions, please contact me.



22- Washington County - Post-Election Tabulation Audit – 2022GP – Phase 2 Ballots

1 message

Tracey E. Hartman -SBE- <traceye.hartman@maryland.gov>

Thu, Aug 11, 2022 at 10:59 PM

To: Kaye Robucci -SBE- <kaye.robucci@maryland.gov>, Barry Jackson <barry.jackson@maryland.gov>

Hi Kaye and Barry,

As you know, we hired Clear Ballot to perform an automated tabulation of all ballot images from the 2022 Primary Election. This tabulation serves to verify the accuracy of the voting system and provide confidence in the election results.

Over the last two weeks, Clear Ballot has tabulated all ballot images including those in person during early voting and on election day, and all mail-in and provisional ballots. These ballots were provided on the Phase 2 Hard drive your office shipped to Clear Ballot, which included an updated EL30a report.

After Clear Ballot tabulated all ballots and compared their results to the updated EL30a report, they compared: (1) the number of "cards cast" reported by the voting system against the number of ballot images provided to Clear Ballot; and (2) the results of its tabulation against the results from the voting system.

Clear Ballot finished comparing its data against the voting system's data and generated five reports for your county (attached).

1. *Comparison of Cards Cast with Counter Groups (COCC3)*: This report compares - at the counter group level - the number of cards cast from the voting system against the number of cards cast in Clear Ballot's tabulation. Matching numbers means that the voting system and Clear Ballot counted the same number of cards. For the 2022 Primary Election, the counter groups are Early Voting, Election Day, Mail-in Ballot 1, Provisional, and Mail-in Ballot 2. Phase 1 Counter groups include only Early Voting and Election Day.
2. *Comparison of Cards Cast with Precincts (COCC1)*: This report compares - at the precinct level - the number of cards cast from the voting system against the number of cards cast in Clear Ballot's tabulation. Matching numbers mean that the voting system and Clear Ballot counted the same number of cards.
3. *Comparison of Votes Cast (COVC1)*: This report compares - at the candidate level - the election results from the voting system against the election results from Clear Ballot's tabulation. The number in the "Difference" column under the "Votes" heading shows - for each candidate - the difference in election results between the two systems.
4. *Comparison of Votes Cast with Precincts (COVC2)*: This report compares - at the candidate level and then at the precinct level - the election results from the voting system against the election results from Clear Ballot's tabulation. The number in the "Difference" column under the "Votes" heading shows - for each candidate in each precinct - the difference in election results between the two systems.
5. *Audit Threshold Report (ATR)*: This report shows the percentage difference in election results between the two systems. No action is required if the percentages are less than 0.5%.

These reports show:

1. That Clear Ballot tabulated the same number of ballots (cards cast) as was tabulated by the voting system.
2. Any differences in the results between the two systems are less than 0.5%.
3. Clear Ballot's tabulation verified the accuracy of the voting system's results.

This information will be presented to the State Board of Canvassers when it convenes to certify the election, this Monday, August 15, 2022.

More information on this audit and process can be found at: http://elections.maryland.gov/voting_system/ballot_audit_plan.html.

If you have any questions about this process or these reports, please let me know.

Thank you,

Tracey

* Please note that because of the total size of the reports, they are attached as Google Drive links. Please use your Maryland.gov email to access these files. If Google requires you to request access, please do so and I will grant access as soon as I can.

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Tracey Hartman

Director of Special Projects

State Board of Elections

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 [ATR - md_22_washington_2022p.pdf](#)

 [COCC1 - md_22_washington_2022p.pdf](#)

 [COCC3 - md_22_washington_2022p.pdf](#)

 [COVC1 - md_22_washington_2022p.pdf](#)

 [COVC2 - md_22_washington_2022p.pdf](#)