



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

October 25, 2021

Stephanie Scott, Clerk
Adams Township
5675 Knowles Road
P.O. Box 336
North Adams, MI 49262
Via U.S. Mail and email: stephiedscott@gmail.com

Dear Clerk Scott:

As of this date, you have not responded sufficiently to my previous letter directing you to confirm by October 22, 2021, that you would fulfill your legal responsibilities and comply with instructions from the Bureau of Elections. I previously directed you, in a letter dated October 15, 2021 (attached for your reference), to confirm that you would do the following:

- Permit Hart Intercivic, Inc. to perform preventative maintenance on your voting equipment.
- Conduct Public Accuracy Testing and sign required certificates.
- Conduct all future elections in Adams Township using certified Hart Intercivic, Inc. voting equipment, until such time as the Hillsdale County Clerk chooses a different certified voting system vendor.

On October 17, 2021 you responded by email stating that Public Accuracy Testing had been scheduled for October 27, 2021; however, in response to a follow-up email you did *not* confirm that you would sign certificates confirming Public Accuracy Testing had been completed, which you, as Township Clerk, are required to do. You also did not respond to either of the other two matters raised in the directive.

Your past statements, detailed in prior letters, indicate that you are unwilling to fulfill your responsibilities as clerk, and you have failed to confirm that you will fulfill them in response to recent correspondence. Accordingly, in order to ensure public trust and confidence in the integrity and security of elections, and to ensure that elections in Adams Township are conducted in accordance with the Michigan Election Law, I am directing you to refrain from administering any elections held in Adams Township, including the upcoming November 2, 2021 election. These functions will be fulfilled by the Hillsdale County Clerk or her designee until further notice.

Under the Michigan Election Law, 1954 PA 116, as amended, MCL 168.1 *et seq.*, the Secretary of State is the Chief Election Officer of this State and "shall have supervisory control over local election officials in the performance of their duties under the provisions of this act." MCL 168.21. The Secretary of State is required by law to "issue instructions" and "[a]dvice and

direct local election officials as to the proper methods of conducting elections." MCL 168.31(1)(a),(b). County clerks and Boards of Commissioners are required to comply with the instructions given by the Secretary of State. *Secretary of State v Berrien Co Bd of Election Comm'rs*, 373 Mich 526, 530-531 (1964). The Director of Elections is authorized to act at the Secretary's behest "with respect to the supervision and administration of the election laws." MCL 168.32.

In accordance with my authority under the Michigan Election Law, you are directed to refrain from any election administration activities, including the duties described below pertaining to voter registration and routine list maintenance; preparation, issuance, and processing of ballots (including absent voter ballots) and absent voter ballot applications; ordering or assembling election supplies and precinct supply kits; recruiting, placing, and training election inspectors; logic and accuracy testing; voter registration before the 14th day prior to Election Day and the close of polls; handling any Election Day issues that may arise; generation of unofficial election results, and responsibilities related to the post-election canvass process.

- **Performing Voter Registration and Routine List Maintenance.** You must refrain from any duties associated with processing voter registration applications and performing routine list maintenance. These functions must be performed by the Hillsdale County Clerk or an individual designated by her or the Bureau of Elections.
- **Ordering Election Supplies and Ballots.** You are prohibited from ordering election supplies and ballots; the Hillsdale County Clerk or an individual designated by her or the Bureau of Elections must order supplies and prepare the precinct materials. You are prohibited from handling any ballots, including blank ballots. The Hillsdale County Clerk or an individual designated by her or the Bureau of Elections must secure and track all ballots, including blank ballots, that are ordered or delivered to your office.
- **Processing Absent Voter Ballot Applications and Issuing Absent Voter Ballots.** You are barred from issuing, handling, and processing any absent voter ballot applications, and prohibited from preparing, issuing, delivering, receiving, and handling any absent voter ballots, including the recording of issuance and receipt of ballots in the Qualified Voter File (QVF). Only the Hillsdale County Clerk or an individual designated by her or the Bureau of Elections are permitted to perform any of these functions.
- **Preparing Polling Locations.** You must not set up (or supervise the set up of) polling locations. The Hillsdale County Clerk or an individual designated by her or the Bureau of Elections must perform (or supervise) the set up.
- **Recruiting, Assigning and Training Election Inspectors.** You must refrain from performing any tasks associated with poll worker recruitment, placement and training. Training must be conducted by an individual who is certified to train election inspectors. If supplemental training is necessary, it may be taught by the Hillsdale County Clerk or an individual designated by her or the Bureau of Elections.
- **Membership on the Election Commission.** The Hillsdale County Clerk or an individual designated by her or the Bureau of Elections shall replace you as a member

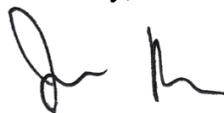
of the Township Election Commission.

- **Role in Logic and Accuracy Testing.** You must not perform any duties in relation to logic and accuracy testing. Individuals designated by the Election Commission (other than yourself) may be authorized to complete the test decks, ballot charts, and initial testing for the preliminary logic and accuracy testing. The public accuracy test shall be conducted by the Election Commission, which is also responsible for sealing the equipment, recording seal numbers, and completing the required paperwork. Duties that would otherwise be performed by you will be performed by the Hillsdale County Clerk or an individual designated by her or the Bureau of Elections.
- **Addressing Election Day Issues.** Issues that arise on Election Day must be addressed by the Hillsdale County Clerk or an individual designated by her or the Bureau of Elections as appropriate.
- **Compiling Unofficial Results/ Post-Election Canvass.** The Hillsdale County Clerk or an individual designated by her or the Bureau of Elections will act as the Township's point of contact regarding involving all duties related to the compiling of unofficial results and the 14-day post-election canvass process.

You are directed to provide immediate access to all election equipment and records, including tabulators, voter assist terminals, absent voter ballot applications and ballot envelopes, and polling place materials, to the Hillsdale County Clerk or her designee at a time and place specified by the County Clerk or her designee. Your access to the Qualified Voter File will be suspended until further notice. Adams Township will be billed for all costs incurred by Hillsdale County and the State of Michigan, including staff time, for administering elections in Adams Township.

This directive remains in effect until further notice. Be advised that willfully failing to comply with a lawful order from the Secretary of State is a misdemeanor. MCL 168.931(h). Please contact my office if you require additional information or clarification regarding these instructions.

Sincerely,



Jonathan Brater
Director of Elections

- c: Marney Kast, Hillsdale County Clerk
Heather Meingast, Michigan Department of Attorney General
Adams Township Board



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

October 15, 2021

Stephanie Scott, Clerk
Adams Township
3571 State Road
Hillsdale, MI 49242
Via email: stephiedscott@gmail.com

Dear Clerk Scott:

I write to advise and instruct you on your obligations under the Michigan Election Law, to correct numerous false statements you have made about the conduct of elections in Michigan, and to inform you of the consequences should you continue to fail to perform your statutory duties. If you continue to ignore correspondence from the Bureau of Elections, this will be the final letter you receive before legal action is taken.

The Bureau of Elections (Bureau) understands that you have continued to refuse to allow a technician from Hart Intercivic, Inc. (Hart) to perform preventative maintenance on your voting machines. Not only is preventative maintenance a service that Hart is contractually required to provide, it is also essential to ensure your tabulator and voter assist terminal (VAT) continue to be in good working condition and perform properly so that you can serve your voters on election day. For more information about the importance of the preventative maintenance, please see my letter of September 8, 2021, attached for your reference.

The Bureau also understands that you have refused to perform the responsibilities required of you with regard to Public Accuracy Testing of your voting equipment. Under the Michigan Election Law, 1954 PA 116, MCL 168.798, and administrative rules promulgated by the Department of State, R 168.771, your election commission is required to conduct testing no later than October 28, 2021, following posting of public notice of the meeting. Upon completion of the testing, you are required to sign a certificate verifying that testing has been conducted.

The Bureau understands that you intend to use certified Hart tabulators for the conduct of the November 2, 2021, election in Adams Township as required by law, but public statements indicate that you may refuse to use them for future elections. Neither you nor the township may conduct elections by counting ballots in any method other than the use of a certified electronic system in which tabulators count paper ballots. Decades ago, the Michigan State Legislature enacted provisions of the Michigan Election Law that expressly require that ballots be counted by a certified electronic system. MCL 168.37, 795, 795a. The Michigan Election Law does not allow local, county or state officials to waive these requirements. For further information, see my September 8, 2021 letter.

Based on your public statements, I am concerned that your refusal to perform your legally mandated duties is connected to numerous false claims you have made about the conduct of elections in Michigan, which have been repeatedly debunked by election officials and experts of both political parties.

At a recent public meeting in your township, you made the following statements:

- You claim that the test deck for the Logic and Accuracy Test (L&A Test) was “incomplete” for the March 2021 election, and you do not believe the tabulators were properly tested for the November 2020 election because in your estimation, in order to do so the test deck would have had to include over 200 million ballots. You also claim that the test decks were prepared by Election Source, which you found concerning.

Although Election Source is an accredited election contractor in Michigan, Hillsdale County does not contract with Election Source for any election-related services. The county uses Spectrum as their election service vendor. The test deck created by Spectrum for the March election (attached, along with invoices for the test decks for November 2020 and March 2021), did, indeed, meet the requirements of the Michigan Administrative Rules and the Michigan Election Law. You seem to mistakenly assume that a test deck must include every single possible combination of votes on a ballot in order to be sufficient, but that is not the case. Instead, for a special election, the test deck must test that the programming follows the applicable rules for undervotes, overvotes, and stray marks, and also correctly awards votes in properly marked races or questions.

A review of your transcript in the Elections eLearning Center suggests you have never reviewed our instructional materials regarding the creation of test decks. The link to our module on L&A Testing for a Special Election can be found [here](#) and the manual can be found [here](#).

- You do not wish to participate in L&A Testing for the November 2021 election because you believe it could somehow destroy information that is on the tabulator now.

Michigan Administrative Rule 168.778 requires the election commission, of which you are a part, to conduct a public L&A Test prior to each election. You are also required to be present at the test and certify the accuracy of the test. The data from both the November 2020 election and March 2021 election are currently stored in the Election Management System (EMS) retained by Hillsdale County. No election information from those elections is retained on the tabulator following the election.

Instead, information is sent to the county. The *unofficial* election night results are sent via secure modem transmission to the county after the election is completed and the tabulator tape has been printed, at which point the data is entered into the EMS. Additionally, it is the V-drive (what you refer to as the USB stick), not the tabulator, that contains the programming and results for the election. That drive is also returned to the county after each election. The Hillsdale County Board of Canvassers then compares the electronic results to the paper tabulator tapes and pollbooks. There is no election information retained on the tabulator once the V-drive is removed.

- You do not want to allow preventative maintenance to be performed on your tabulator because you claim not to know who will be doing it and it might be Election Source. You are also concerned that, during preventative maintenance, data on the tabulator may somehow be erased.

You have already been repeatedly informed that preventative maintenance is mandatory and does not delete data. You were informed in a July 27, 2021 email from Abe Dane (attached) that Hart and a Hillsdale County employee would be performing the preventative maintenance. As I previously explained, preventative maintenance is routinely performed every two years and is a necessary security and maintenance process and does not destroy any records required to be maintained under federal or state law.

- You claim you were instructed by the Bureau of Elections to destroy the electronic pollbook “data.”

All electronic pollbook data is printed in paper form on election night. That information is then placed in the paper poll book and retained for 22 months after the certification of the election. Clerks are instructed to delete the *electronic version* of the *already-printed* data to safeguard the personal information contained in the file.

- You are concerned with using a Hart tabulator because of a 2007 report you found online regarding the Hart Intercivic Rally voting system. You further stated that you did not know if the software had been upgraded since then.

A 14-year-old report on a voting system that is no longer used has no bearing on the current voting system. The bipartisan U.S. Election Assistance Commission certified the most recent version of the Hart Verity voting system used in Michigan on February 21, 2020, after it was tested by a Voting System Test Laboratory, and the bipartisan Board of State Canvassers approved it on April 20, 2020.

- You are concerned that the modem is somehow turned on and the machine is somehow connected to the internet on election day.

While your tabulator has a modem physically attached, the modem is disabled while polls are open. Tabulator programming does not allow any modem communications to occur while voting is in progress; the secure transmission can occur only after the election is complete and the tabulator tape has been printed. Additionally, data transmission is one-way. Data (unofficial results) is sent from the tabulator to the host, and no data is transferred from the host to the tabulator. The official results are compiled based on the tabulator tape that is printed, not the unofficial results. The actual paper ballots are also retained.

- You claim the Bureau of Elections instructed clerks to destroy the chain of custody of ballots and said that ballots can be stored anywhere. Additionally, you claim you are reluctant to review the paper ballots from November 2020 so as not to “break” chain of custody of the ballots.

On February 12, 2021 the Bureau instructed clerks as follows:

If the office of President, U.S. Senator or U.S. Representative in Congress appears on the ballot (all appeared on the November 3, 2020 general election ballot), federal law requires that all documents relating to the election -- including optical scan ballots and the programs used to tabulate optical scan ballots -- be retained for 22 months from the date of the certification of the election. To comply with the requirement, the Bureau of Elections recommends that optical scan ballots and the programs relating to federal elections be stored in **sealed ballot bags** in a secure place during the 22-month retention period. The documents subject to the federal retention requirement must not be transferred to ballot bags for extended retention until after they are released under Michigan election law as detailed in this memo (emphasis added).

You and other clerks were clearly instructed to retain ballots and other election materials in sealed ballot bags in a secure place. This is to ensure the chain of custody. However, as the custodian of these records, you are allowed to open the sealed ballot bag to review the ballots yourself. Additionally, you are *required* to access the ballots if you receive a Freedom of Information Act Request to review the voted ballots from a member of the public. The Bureau has provided detailed instructions (attached) to clerks to ensure the chain of custody is maintained during the process. Chain of custody does not mean you, as the custodian, cannot access the records. It means that you must remain in control of them at all times.

In a recent text message to an election inspector you made the following statement:

- You would be reaching out to all the election inspectors appointed for the November 2021 election to share your concerns about the tabulator.

As you know, Michigan conducted more than 250 audits following the 2020 election, the majority of which were conducted by county clerks of both political parties all across the state. The audits results are publicly available,¹ as is a report by the Michigan Senate Oversight Committee that found that claims of voting equipment being compromised were baseless.²

If you truly have concerns about whether voting tabulators accurately counted ballots, you can review the paper ballots from the November 3, 2020 election in your jurisdiction, which are in your possession. Any other clerk in Michigan can do the same, and any member of the public can inspect the paper ballots by submitting a Freedom of Information Act request.

If you truly have concerns about the accuracy or integrity of pollbooks used on election day, you can review the paper record of the electronic pollbook used on election day, which is in the county's possession, and compare it to the Qualified Voter File, to which you have access. Any other clerk in Michigan can do the same. There is no voter information or record on the electronic copy of the electronic pollbook that is not also retained on the paper copy, and it has been standard practice for many years to delete the electronic copy to safeguard the personal identifying information on the file.

¹ https://www.michigan.gov/documents/sos/BOE_2020_Post_Election_Audit_Report_04_21_21_723005_7.pdf.

² <https://www.misenategop.com/oversightcommitteereport/>.

The Bureau of Elections has already provided extensive information explaining why the claims you and others have made are not accurate. I sincerely hope that you will take the time to review this information and correct your misperceptions and misstatements on these issues. By communicating false or misleading information about elections in Michigan, you risk not only undermining confidence in democracy in your community, but also amplifying threats and intimidation of your fellow election officials across our state which, fueled by misinformation, continue unabated.

Regardless of your reasons for failing to fulfill your responsibilities, the Bureau of Elections will not allow noncompliance with the Michigan Election Law or failure to conduct needed security safeguards to continue. Therefore, in order to ensure public trust and confidence in the integrity and security of upcoming elections in your community, I am directing you to comply with the Michigan Election Law and instructions from the Bureau of Elections.

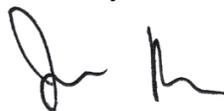
Under the Michigan Election Law, the Secretary of State is the Chief Election Officer of this State and “shall have supervisory control over local election officials in the performance of their duties under the provisions of this act.” MCL 168.21. The Secretary of State is required by law to “issue instructions” and “[a]dvice and direct local election officials as to the proper methods of conducting elections.” MCL 168.31(1)(a),(b). County clerks and Boards of Commissioners are required to comply with the instructions given by the Secretary of State. *Secretary of State v Berrien Co Bd of Election Comm’rs*, 373 Mich 526, 530-531 (1964). The Director of Elections is authorized to act at the Secretary’s behest “with respect to the supervision and administration of the election laws.” MCL 168.32.

In accordance with my authority under the Michigan Election Law, you are directed to:

- Permit Hart Intercivic, Inc. to perform preventative maintenance on your voting equipment.
- Conduct Public Accuracy Testing and sign required certificates.
- Conduct all future elections in Adams Township using certified Hart Intercivic, Inc. voting equipment, until such time as the Hillsdale County Clerk chooses a different certified voting system vendor.

Please confirm that you will comply with these instructions no later than Friday, October 22, 2021. If you fail to do so, you will be instructed to refrain from administering any elections in Adams Township and legal action will be taken as necessary to enforce this instruction. Be advised that willfully failing to comply with a lawful order from the Secretary of State is a misdemeanor. MCL 168.931(h).

Sincerely,



Jonathan Brater
Director of Elections

c: Marney Kast, Hillsdale County Clerk
Heather Meingast, Michigan Department of Attorney General



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

September 8, 2021

Stephanie Scott, Clerk
Adams Township
3571 State Road
Hillsdale, MI 49242
Via email: stephiedscott@gmail.com

Dear Clerk Scott:

It is the Bureau of Elections' (BOE) understanding that you have refused to allow a technician from Hart Intercivic, Inc. (Hart) to perform preventative maintenance on your voting machines. Not only is preventative maintenance a service that Hart is contractually required to provide, it is also essential to ensure your tabulator and voter assist terminal (VAT) continue to be in good working condition and perform properly so that you can serve your voters on election day.

BOE reminds you that the Grant Agreement into which the township entered (attached for your convenience) requires the township to develop adequate maintenance procedures to keep your machines in good condition. This agreement dates from November 15, 2017—it is not a new procedure, and several elections have passed since that date.

As noted in our July 14, 2021, letter to clerks (also attached for your convenience), the contract between the State of Michigan and Hart requires that Hart perform service and preventative maintenance every two years.¹ Further, the Department's administrative rules obligate you to maintain custody of voting equipment and be responsible for their maintenance, repair, and preparations for elections. R 168.772(3), (4).

Preventative maintenance includes various function, accuracy, and diagnostic tests. You must allow the routine preventative maintenance to be performed or you potentially jeopardize the functionality and security of your machines, including potentially making them vulnerable to failures in your future elections.

During preventative maintenance, Hart will inspect your tabulator and VAT to ensure they are not broken, dented, or cracked. For your tabulator, Hart will clean the display and scanner, calibrate the touchscreen, check the condition of your screen protector if you have one installed, check the calibration of your scanner, replace the coin battery in the tablet, and may replace the rechargeable backup battery if necessary. For your VAT, Hart will clean the display, calibrate the touchscreen, check the condition of the screen protector if you have one installed, replace the

¹ The contract can be found at [this link](#). Requirements for preventative maintenance are in Schedule A, 1.6.B.

coin battery in the tablet and may replace the rechargeable backup battery if necessary. Many of these tasks are ones you should be performing periodically yourself, such as cleaning the display and scanner.

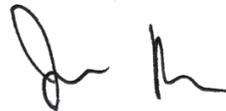
While the Bureau understands that individuals have circulated false claims asserting the actions listed above would somehow destroy data or violate federal record retention laws, these claims are not accurate. Preventative maintenance is routine and designed to ensure the proper function and accuracy of your machines for future elections. This preventative maintenance is critical to ensuring the accuracy, integrity, and security of elections and has occurred every other year for more than a decade.

You should contact Hart immediately and schedule a date and time for preventative maintenance.

It is also our understanding that you intend to ask your township board to approve a motion to hand count ballots for the November 2, 2021, election in Adams Township. Decades ago, the Michigan State Legislature enacted provisions of the Michigan Election Law that expressly require that ballots be counted by a certified electronic system. MCL 168.37, 795, 795a. They did not include any provision that authorizes a hand count of ballots in determining official results, outside of a recount. The Michigan Election Law does not allow local, county or state officials to waive these requirements.

Nor does the Election Law permit a township board to direct clerks on which voting equipment they can use. MCL 168.37a states that “a *county clerk*, in consultation with each city and township clerk in the county” will “determine which electronic voting system will be used in the county[.]” (emphasis added). The township board is without legal authority to determine how votes will be counted.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jonathan Brater', written in a cursive style.

Jonathan Brater
Director of Elections

cc: Marney Kast, Hillsdale County Clerk



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

July 14, 2021

Dear Clerks:

It has come to the Bureau of Elections' (BOE) attention that several clerks have received correspondence regarding the performance of the biannual preventative maintenance of voting equipment. We have also been informed that clerks have received communications or threats claiming that they should not conduct preventative maintenance. I write to address the false claims being made regarding preventative maintenance and reiterate that this process should move forward.

As you are aware, the contract between the State of Michigan and the voting equipment vendors requires that each vendor perform service and preventative maintenance every two years. Further, the Department's administrative rules obligate you to maintain custody of voting equipment and be responsible for their maintenance, repair, and preparations for elections. R. 168.772(3), (4).

Recently, vendors and authorized contractors sent communications to schedule preventative maintenance on voting equipment. In response, individuals have circulated false claims asserting that the conduct of routine preventative maintenance would somehow destroy data or violate federal record retention laws.

Neither of the above claims is accurate. Preventative maintenance is routine and designed to ensure the proper function and accuracy of the machines for future elections. During preventative maintenance, your vendor or an authorized contractor will first inspect the tabulators and ensure they are not broken, dented, or cracked. They will also ensure the equipment powers on properly and that all necessary components, such as the power adapter, paper roll, and ink cartridge, are present and functioning properly. They then test the diagnostics and functionality of the tabulators to ensure that all ballots are properly counted. For specifics on what will be performed, you may refer to your specific contract.

Preventative maintenance includes various function, accuracy and diagnostic tests. By failing to conduct this preventative maintenance on the tabulators, you potentially jeopardize the functionality and security of the machines, including potentially making them vulnerable to failures in your future elections. Going forward, you should work with your vendor to determine the best possible date and location for preventative maintenance to occur.

This preventative maintenance is critical to ensuring the accuracy, integrity, and security of the election and has occurred every other year for more than a decade. While any clerk who has received a "cease and desist" communication should consult with their local counsel, it is the BOE's position that preventative maintenance performed by authorized personnel such as your

July 14, 2021

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elections vendor or contractor is a necessary security function, and does not constitute any destruction of records required to be retained by federal law.

It is unfortunate that, yet again, false information is being spread about Michigan's secure election process and about the hard work that each of you do. If you have received any threats of violence against you or your staff, you should report this to law enforcement and also inform BOE. You should also contact law enforcement if you have any concerns about physical safety while performing preventative maintenance or other election functions.

As always, we thank you for your hard work and dedication to Michigan's voters and are here to support you. Please do not hesitate to reach out to our office with any questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jonathan Brater', with a stylized flourish at the end.

Jonathan Brater, Director
Bureau of Elections