

## 20231120 Comments of Michael Fletcher to Montgomery County BOE

1. In October, a PIA request was submitted to the Montgomery County Board of Elections for copies of reports that are generated by the electronic tabulators used in our elections. These reports are system logs and error logs that document the machine set up and performance. I have not received a response to this PIA request, but I am aware that several counties have said that these reports are not available. I would like to draw the attention of the Board to Maryland Administrative Code §33.10.01.02. <https://casetext.com/regulation/maryland-administrative-code/title-33-state-board-of-elections/subtitle-10-voting-systems-system-requirements-and-procedures/chapter-331001-evs-voting-solution/section-33100102-system-description> . That section it states that the reports requested in the PIA are created in the Election Reporting Manager which collects and tabulates votes from the tabulators and produces various result reports and audit logs. In §33.10.01.03 <https://casetext.com/regulation/maryland-administrative-code/title-33-state-board-of-elections/subtitle-10-voting-systems-system-requirements-and-procedures/chapter-331001-evs-voting-solution/section-33100103-system-specifications-in-general> , it says that changes to hardware, software, or firmware are documented in internal audit logs and shall be capable of being printed. This section also states that, for auditability purposes, the tabulators shall provide **cast vote records** and an audit log of alerts to voters and tabulator events and errors. In the past, cast vote records have been provided in response to PIA requests. The records requested in the current PIA are generated in the same manner as cast vote records and should be available for public review. Therefore, the claim that these reports are not available for production under a PIA request is false.
2. At the October Board meeting, I presented information about the large number of blank ballots that were cast in Montgomery County in 2020 and 2022. Since then, the SBE has tried to change the definition of “Blank Ballot” in order to justify these very large numbers. However, the new definition (that a blank ballot is actually a blank page of a ballot) is in conflict the definition of a ballot provided in Maryland election law §9-203 <https://casetext.com/statute/code-of-maryland/article-election-law/title-9-voting/subtitle-2-ballots/section-9-203-standards>, the term “ballot” from the Voting Operations Judge Training booklet for the 2022 Primary, and the definition provided in the ES&S tabulator manuals. Mr. Brajkovic provided information from the manual audit of the 2022 election which compiled “Blank votes” in addition ballots cast for various races in several precincts. However, when the numbers of “Blank votes” is compared to the number of “Blank Ballots” reported by the tabulators, i.e., the EL52 Report, “Ballots Cast by Precinct/Party,” the numbers reported by the tabulators are many times larger than the numbers from the hand audit. I am concerned about blank ballots because if a voter inserts a ballot into a scanner, but the scanner counts the ballot as blank, that voter has had his voting rights infringed. I hope that you would agree that the large number of blank ballots in Montgomery County’s

elections should be investigated to assure that the machines are counting votes accurately. This issue could be easily resolved by hand counting the ballots from a few tabulators and comparing the results to the blank ballot count registered by the machines. Would the Montgomery County BOE consider performing such an audit?

1	County	2020 Blank	2022 Blank
2	Montgomery	41,680	20,098
3	Baltimore County	26,845	19,678
4	Prince Georges	16,684	22,453
5	Baltimore City	12,796	6,506
6	Howard	12	1,770
7	Frederick	12	1,187
8	Anne Arundel	11	4,157
9	Carroll	11	3
10	Harford	10	1,892
11	Charles	8	436
12	Washington	4	871
13	Worcester	4	0
14	St Mary's	4	320
15	Talbot	3	476
16	Wicomico	2	911
17	Cecil	2	680
18	Allegheny	2	271
19	Dorchester	2	3
20	Garrett	2	357
21	Calvert	1	85
22	Queen Anne's	0	80
23	Caroline	0	0
24	Kent	0	121
25	Somerset	0	1
		<b>98,095</b>	<b>82,356</b>

3. And Happy Thanksgiving to the Board and staff.