



County Administrator

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M E M O

TO: County Commissioners
FROM: Robert W. Wilson
DATE: March 31, 2022
SUBJECT: Election-Related Open Records Follow-Up

Mr. Auddie Cox made several open records requests of Cass County over the last six months related to elections records from the 2020 General Election. The Finance, State's Attorney, and Administration Offices reviewed these requests and provided most of the material requested. A handful of the requested documents that directly related to ballots were not provided because they were exempt from open records requirements.

Based presumably on the records provided, Mr. Cox produced a document related to the chain-of custody of Cass County ballots and ballot-related equipment during the 2020 General Election. That document is included as **Attachment A**.

Mr. Cox provided that document to Cass County with a follow-up open records request for more information related to what he considered specific examples of breakdowns in County chains of custody. That request was reviewed by the Administration, Finance, and State's Attorney's Offices. I met with Mr. Cox and explained these records could not be provided because they do not exist.

My understanding is Mr. Cox went directly from my meeting to the Cass County Law Enforcement Center and requested a meeting with Sheriff Jahner about these concerns. Sheriff Jahner assigned Detective Joe Gress to meet with Mr. Cox. Following that meeting Detective Gress and Sheriff Jahner agreed Mr. Cox's information warranted further review. Detective Gress, with the assistance of an agent with the ND Bureau of Criminal Investigation, conducted a formal review of Mr. Cox's information.

Detective Gress' report that found no criminal violations and is provided as **Attachment B**. The North Dakota Bureau of Criminal Investigation also produced a report in response to Mr. Cox's document. The BCI also found no criminal violation.

Mr. Cox was provided both reports and has followed up with a letter (**Attachment C**) to Detective Gress and County Commissioners suggesting Cass County may have violated federal law with respect to retention and management of elections related documents. State's Attorney Burdick has reviewed this letter. My understanding is Mr. Burdick does not share Mr. Cox's assessment.

At the Board meeting on Monday, April 4th, this series of open records requests and follow-up information will be reviewed so the Commission may have a full understanding of how these question and concerns have been addressed.

2020 Citizen Review/Chain of Custody
Pertaining to
Cass County, North Dakota Election Process



By

Auddie L. Cox

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Fargo, North Dakota 58104

coxnewz@hotmail.com

Summary

This report is an analysis of the Chain of Custody documentation as provided through a Freedom of Information request submitted to Cass County on 08/09/2021 under Open Records Statute N.D.C.C. 44-04-18 et seq.

North Dakota Century Code prohibits the citizenry from being able to review voter ballots unless they are evidentiary to a court case involving a contested election, N.D.C.C. 16.1-15-12. Chain of Custody pages were all that was evaluated.

Using the "Best Practices: Chain of Custody" documentation provided by the U.S. Election Assistance Commission and my professional experience with chain of custody activities while in military service, I am offering the following pages as my evaluation of the Chain of Custody activities taken by Cass County.

I want to thank the District Attorney's Office and the Cass County Elections Officer for their support in this effort.

In summary of this investigation the following are potential discrepancies:

Some entries are illegible.

No witness initials to verify actions taken.

Lack of specific time notations for actions that were taken.

No listed inspected condition of related equipment.

No data on early or absentee voting activities were made available.

No Docs to show the whereabouts of ballots after final poll closure.

Please answer the questions raised on each page as it relates to that specific voting location. Upon receipt and review of the answers to the questions the conclusion will be completed. I am requesting the answer to these questions be returned to me via email no later than 11/24/2021. If it will take longer than this, please contact me and let me know when it may be available.

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Election Warehouse, Program Card Seals

There were 4 pages provided for review that are related to the election warehouse, program card seals. The date of 10/14/2020 is consistent throughout the 2 pages. No actual times are listed on any of the 2 pages. There are no witness initials to validate any of these activities. No inspection of the program card seals was conducted, if an inspection was conducted it was not annotated. Changes to serial numbers listed on the sheets were not initialed and no justification was provided.

Questions:

Are the seals removed prior to initial movement?

Are the seals applied prior to the initial movement?

Was an inspection of the seals and the equipment that the seals were used on conducted?

Do these pages meet a legal threshold, and could they be used as chain of custody evidence if requested in a court challenge?

Election Warehouse, Cage Seals

There were 3 pages provided for review that are related to the election warehouse cage seals. The date of 10/16/2020 is consistent throughout the 3 pages. No actual times are listed on any of the 3 pages. There are no witness initials to validate any of these activities. No inspection of the Cage Seals was conducted, if an inspection was conducted it was not annotated.

Questions:

Are the Cage Seals applied only when equipment is in the cage or at all times to restrict entry?

Do these pages meet a legal threshold, and could they be used as chain of custody evidence if requested in a court challenge?

Hilton Garden Inn

There were 4 pages provided for review that are related to the Hilton Garden Inn. The dates vary between 10/26/2020 and 11/03/2020. There are no witness initials to validate any of these activities. Corrections were made to the serial numbers listed, there are no initials at the place of the change or an explanation for the change. No inspection of the equipment that has the seal applied to it was conducted, if an inspection was conducted it was not annotated.

Questions:

On the first line of serial number 2522489 the initials of the election official are the same in both box's, why?

The polls closed at 7:00pm on 11/03/2020. There are no election officials initials on this sheet, why?

At 7:00pm on 11/03/2020 the polls closed what happened to the ballots after that?

How were these ballots secured and accounted for after 7:00pm on 11/03/2020?

Do these pages meet a legal threshold, and could they be used as chain of custody evidence if requested in a court challenge?

Double Tree

There were 7 pages provided for review that are related to the Doubletree Inn. The dates vary between 10/19/2020 and 11/03/2020. There are no witness initials to validate any of the listed activities. No inspection of the equipment that has the seal applied to it was conducted, if an inspection was conducted it was not annotated. Under, Type of Seal – Wire or Plastic, there is no reference to wire or plastic. Corrections were made to the serial numbers listed, there are no initials at the place of the change or an explanation for the change.

Questions:

The opening of the polls is not annotated in a manner similar to the other locations, why?

Where are the initials, times and listed serial numbers to validate the opening of the polls?

At 7:00pm on 11/03/20 the polls closed what happened to the ballots after that?

How were these ballots secured and accounted for after 7:00pm on 11/03/20?

Do these pages meet a legal threshold, and could they be used as chain of custody evidence if requested in a court challenge?

Ramada Early

There were 23 pages provided for review that are related to the Ramada. The dates vary between 10/15/2020 and 11/3/2020. There are no witness initials to validate any of the listed activities. No inspection of the equipment that has the seal applied to it was conducted, if an inspection was conducted it was not annotated. Corrections were made to the serial numbers listed, there are no initials at the place of the change or an explanation for the change. On the 26th of October there were 20 boxes opened and there were 25 boxes closed. On the 27th there were 24 boxes opened and only 23 were closed. There are no initials or reason for removal on the last page.

Questions:

Why were there 20 boxes opened and then 25 boxes closed on the 26th?

Why were there 24 boxes opened and then 23 boxes closed on the 27th?

How were these ballots secured and accounted for after 7:00pm on 11/03/20?

Do these pages meet a legal threshold, and could they be used as chain of custody evidence if requested in a court challenge?

Days Inn, Casselton

There were 3 pages provided for review and related to the Days Inn at Casselton. The dates vary between 10/26/2020 and 11/03/2020. There are no witness initials to validate any of the listed activities. No inspection of the equipment that has the seal applied to it was conducted, if an inspection was conducted it was not annotated. The logs don't show notation accounting for the closing of any equipment used. There are two blank pages.

Questions:

Why are there two blank pages?

Where is the documentation accounting for the closing of any poll boxes?

How were these ballots secured and accounted for after 7:00pm on 11/03/20?

Do these pages meet a legal threshold, and could they be used as chain of custody evidence if requested in a court challenge?

Civic

There were 7 pages provided for review and related to the Civic. The dates vary between 10/26/2020 and 11/03/2020. There are no witness initials to validate any of the listed activities. No inspection of the equipment that has the seal applied to it was conducted, if an inspection was conducted it was not annotated. Changes were made on the sheets and none of the corrections are initialed, and no explanation was provided. Unable to determine the actual times that many of the boxes were opened or closed. On 11/02/2020 there are no annotations reflecting the opening of any equipment. 4 thumb drives were removed on 11/03/2020, there is no notation as to where they went or who is in control of them. 1 serial number on 11/02/2020 is not listed for a thumb drive #13.

Questions:

How were these ballots secured and accounted for after 7:00pm on 11/03/20?

Do these pages meet a legal threshold, and could they be used as chain of custody evidence if requested in a court challenge?

What happened on the morning of 11/02/2020 when the boxes that were opened were never logged?

What happened to thumb drive #13 on the evening of 11/02/2020?

Fargo Dome

There were 11 pages provided for review and related to the Fargo Dome. The dates vary between 10/19/2020 and 11/03/2020. There are no witness initials to validate any of the listed activities. No inspection of the equipment that has the seal applied to it was conducted, if an inspection was conducted it was not annotated. Initials are missing from page 1, page 2, and page 4. Corrections were made to the several areas on these pages, there are no initials at the place of the change or an explanation for the change.

Questions:

Who was responsible for the 11 boxes listed on page 4, dated 10/22/2020?

Who was responsible for the 14 boxes listed on page 2, dated 10/19/2020?

On 10/19/2020, 8:00am, 19 boxes were opened, at what I am assuming is 7:00pm, 22 boxes were closed. Please explain the discrepancy.

Why are there no opening entries starting on 10/20/2020 and going through 11/03/2020?

How were these ballots secured and accounted for after 7:00pm on 11/03/2020?

Do these pages meet a legal threshold, and could they be used as chain of custody evidence if requested in a court challenge?

CONCLUSION

To be written after the receipt and evaluation of the answers to the listed questions on each polling place. Thank You



Cass County Incident Report

Summary



Print Date/Time: 02/15/2022 13:47
Login ID: casscounty\ridderingb
Case Number: 2021-00027913

CASS COUNTY SHERIFF'S OFFICE
ORI Number: ND0090000

Case

| | | | |
|------------------------------|------------------------------------|--------------------------|----------------------------------|
| Case Number: | 2021-00027913 | Incident Type: | Miscellaneous Public Information |
| Location: | 1612 23RD AVE N FARGO, ND 58102 | Occurred From: | 11/18/2021 15:27 |
| Reporting Officer ID: | 233 - Gress | Occurred Thru: | 11/18/2021 15:27 |
| | | Disposition: | Closed |
| | | Disposition Date: | 02/15/2022 |
| | | Reported Date: | 11/18/2021 15:27 Thursday |

Offenses

| No. | Group/ORI | Crime Code | Statute | Description | Counts |
|-----|-----------|------------|---------|-------------|--------|
| 1 | ND0090000 | 86T | OTHER | OTHER | 1 |

Subjects

| Type | No. | Name | Address | Phone | Race | Sex | DOB/Age |
|-------------|-----|-----------------|------------------------------------|---------------|-------|------|------------------|
| Complainant | 1 | COX, AUDDIE LEE | 3228 39TH AVE S FARGO, ND 58104 | (719)492-3264 | White | Male | 02/07/1957 64 |

Arrests

| Arrest No. | Name | Address | Date/Time | Type | Age |
|------------|------|---------|-----------|------|-----|
|------------|------|---------|-----------|------|-----|

Property

| Date | Code | Type | Make | Model | Description | Tag No. | Item No. |
|------|------|------|------|-------|-------------|---------|----------|
|------|------|------|------|-------|-------------|---------|----------|

Vehicles

| No. | Role | Vehicle Type | Year Make | Model | Color | License Plate | State |
|-----|------|--------------|-----------|-------|-------|---------------|-------|
|-----|------|--------------|-----------|-------|-------|---------------|-------|



Cass County Incident Report

Summary



Print Date/Time: 02/15/2022 13:47
Login ID: casscounty\ridderingb
Case Number: 2021-00027913

CASS COUNTY SHERIFF'S OFFICE
ORI Number: ND0090000

Routing:

- LaserFiche Documents Exist
- LaserFiche Documents - Not Sent
- LaserFiche Documents - Sent
- State Medical Examiner
- Probation & Parole
- Probation - Juvenile
- Other Agency
- Coroner
- Rape & Abuse
- Juvenile Court
- Social Services
- States Attorney
- Sheriff
- Chief Deputy/Deputy Chief
- NTF
- File

INITIAL - GRESS

1

CASS COUNTY SHERIFF'S OFFICE
211 9th St S, Fargo, ND 58107-0488
Phone (701) 241-5800 Fax (701) 241-5805

OFFICER: GRESS DATE: 02/15/22
UNIT #: 3529 CASE: 2021-27913

Type of Report: INITIAL
Nature of Case: OTHER-INFORMATION ONLY
Offense Date: 11/03/20
Activity Date: 11/18/21
Location: 1612 23 AVENUE NORTH, FARGO, ND

Personnel Assigned:

1. DETECTIVE JOE GRESS, CASS COUNTY SHERIFF'S OFFICE
2. SHERIFF JESSE JAHNER, CASS COUNTY SHERIFF'S OFFICE
3. DETECTIVE SERGEANT TONYA JAHNER, CASS COUNTY SHERIFF'S OFFICE
4. DETECTIVE JAKE WIEDENMAN, CASS COUNTY SHERIFF'S OFFICE
5. SUPVISORY SPECIAL AGENT (SS/A) ARNIE RUMMEL, ND BCI
6. SPECIAL AGENT (S/A) KELLY WIMER, ND BCI
7. COMMISSIONER CHAD PETERSON, CASS COUNTY, ND
8. COUNTY ADMINISTRATOR ROBERT WILSON, CASS COUNTY GOVERNMENT
9. STATE'S ATTORNEY BIRCH BURDICK, CASS COUNTY STATE'S ATTORNEY'S OFFICE
10. DEPUTY STATE'S ATTORNEY TRACY PETERS, CASS COUNTY STATE'S ATTORNEY'S OFFICE
11. HUMAN RESOURCES DIRECTOR CINDY STOICK, CASS COUNTY GOVERNMENT
12. FINANCE DIRECTOR BRANDY MADRIGGA, CASS COUNTY GOVERNMENT
13. ELECTION COORDINATOR DEANN BUCKHOUSE, CASS COUNTY GOVERNMENT
14. FINANCE DIRECTOR MICHAEL MONTPLAISIR (RETIRED), CASS COUNTY GOVERNMENT

Details (All times approximate):

1. There is Body Worn Camera (BWC) footage of different aspects of this case.
2. On 11/18/21, AUDDIE LEE COX, DOB 02/07/57, came to the Cass County Sheriff's Office (CCSO) Law Enforcement Center (LEC) and asked to speak with SHERIFF JESSE JAHNER. SHERIFF JAHNER was in a meeting, so DETECTIVE JOE GRESS was asked to speak with AUDDIE. DETECTIVE JAKE WIEDENMAN accompanied DETECTIVE GRESS to the LEC lobby, to speak with AUDDIE (DETECTIVE GRESS' note: Only the latter portion of this conversation was captured with DETECTIVE GRESS' BWC. Although DETECTIVE GRESS wore the BWC for the duration of conversation, when DETECTIVE GRESS initially thought DETECTIVE GRESS had activated the BWC, DETECTIVE GRESS had not).
3. When AUDDIE spoke with DETECTIVE GRESS and DETECTIVE WIEDENMAN, AUDDIE said with the controversy surrounding the 2020 General Election, AUDDIE wanted to make sure nothing like that happened in Cass County, North Dakota (ND). AUDDIE compiled a list of, "Potential discrepancies" in relation to information obtained by AUDDIE through two (2) different Freedom of Information Act (FOIA) requests to the Cass County Government. AUDDIE provided Detectives with a report that AUDDIE created, containing questions Cass County Government Officials were unable to answer (see attached). AUDDIE told Detectives if the CCSO feels AUDDIE'S information warrants an investigation, that is great, but AUDDIE would like to know one (1) way or the other. Prior to coming to the LEC, AUDDIE had been at the Cass County Courthouse and shared AUDDIE'S concerns with COUNTY ADMINISTRATOR ROBERT WILSON.

4. AUDDIE provided Detectives with a physical copy of AUDDIE'S twelve (12) page report, outlining the, "Potential discrepancies" AUDDIE found during AUDDIE'S examination of the FOIA material. The following is the report's 'Summary:'

"This report is an analysis of the Chain of Custody documentation as provided through a Freedom of Information request submitted to Cass County on 08/09/2021 under Open Records Statute N.D.C.C. 44-04-18 et seq.

North Dakota Century Code prohibits the citizenry from being able to review voter ballots unless they are evidentiary to a court case involving a contested election, N.D.C.C. 16.1-15-12. Chain of Custody pages were all that was evaluated.

Using the 'Best Practices: Chain of Custody' documentation provided by the U.S. Election Assistance Commission and my professional experience with chain of custody activities while in military service, I am offering the following pages as my evaluation of the Chain of Custody activities taken by Cass County.

I want to thank the District Attorney's Office and the Cass County Elections Officer for their support in this effort.

In summary of this investigation the following are potential discrepancies:

- Some entries are illegible.
- No witness initials to verify actions taken.
- No listed inspected condition of related equipment.
- No data on early or absentee voting activities were made available.
- No Docs to show the whereabouts of ballots after final poll closure.

Please answer the questions raised on each page as it relates to that specific voting location. Upon receipt and review of the answers to the questions the conclusion will be completed. I am requesting the answer to these questions be returned to me via email no later than 11/24/2021. If it will take longer than this, please contact me and let me know when it may be available."

5. After AUDDIE left the LEC, DETECTIVE GRESS called ROBERT. DETECTIVE GRESS told ROBERT that DETECTIVE GRESS had just spoken with AUDDIE COX about the 2020 General Election. DETECTIVE GRESS asked if ROBERT wanted to speak with SHERIFF JAHNER about the situation and decide how it should be handled. ROBERT asked DETECTIVE GRESS to speak with SHERIFF JAHNER and make an independent decision on what course of action should be taken.
6. After SHERIFF JAHNER'S meeting concluded, DETECTIVE GRESS briefed SHERIFF JAHNER on AUDDIE'S report. SHERIFF JAHNER called SS/A ARNIE RUMMEL with the ND Bureau of Criminal Investigation (BCI). SHERIFF JAHNER explained the situation to SS/A RUMMEL. SHERIFF JAHNER wanted the investigation into this inquiry, done by the CCSO, to be transparent, as it involved another facet of Cass County Government. SHERIFF JAHNER requested the assistance of the ND BCI. SS/A RUMMEL said that would not be an issue and assigned S/A KELLY WIMER to assist the CCSO.

7. SHERIFF JAHNER and DETECTIVE GRESS spoke with DETECTIVE SERGEANT TONYA JAHNER, who oversees the CCSO Investigations Division. DETECTIVE GRESS briefed DETECTIVE SERGEANT JAHNER on the situation involving AUDDIE. SHERIFF JAHNER informed DETECTIVE SERGEANT JAHNER that SHERIFF JAHNER had requested the assistance of the ND BCI. SHERIFF JAHNER asked DETECTIVE SERGEANT JAHNER to assign a member of the Investigations Division to this inquiry. DETECTIVE SERGEANT JAHNER assigned DETECTIVE GRESS to this inquiry.
8. After being assigned this inquiry, DETECTIVE GRESS called and let AUDDIE know the CCSO would be following up on AUDDIE'S report and would be assisted by the ND BCI. AUDDIE emailed (coxnewz@hotmail.com) DETECTIVE GRESS the eight (8) Security Seal logs received from ELECTION COORDINATOR DEANN BUCKHOUSE (see attached). DETECTIVE GRESS emailed AUDDIE back with DETECTIVE GRESS' contact information and asked for copies of AUDDIE'S FOIA requests. Later that evening, AUDDIE provided DETECTIVE GRESS with eleven (11) different PDFs that contained FOIA requests and attachments received (see attached).
9. On 11/19/21, DETECTIVE GRESS emailed ROBERT and DEANN to inform ROBERT and DEANN the CCSO was asked to investigate, "Allegations of questionable procedures involved in the Cass County 2020 election process." DETECTIVE GRESS also informed ROBERT and DEANN that SHERIFF JAHNER had requested the assistance of the ND BCI, to maintain transparency. DETECTIVE GRESS requested a meeting with ROBERT and DEANN for the week of November 29th, due to the upcoming Thanksgiving Holiday. DETECTIVE GRESS emailed AUDDIE and let AUDDIE know DETECTIVE GRESS would contact AUDDIE after Thanksgiving to meet.
10. On 11/23/21, DETECTIVE GRESS and S/A WIMER met with STATE'S ATTORNEY BIRCH BURDICK and DEPUTY STATE'S ATTORNEY TRACY PETERS. The purpose of the meeting was to get BIRCH'S opinion on this situation due to BIRCH'S previous involvement in responding to AUDDIE'S FOIA requests. In AUDDIE'S report, AUDDIE cited the 'U.S. Election Assistance Commission, Best Practices: Chain of Custody' documentation (See attached), as well as AUDDIE'S experience with, "Chain of Custody" during military service (DETECTIVE GRESS' note: On 11/18/21, when AUDDIE dropped off AUDDIE'S report, AUDDIE said AUDDIE was a member of the US Airforce Security Police for nine (9) years) as the knowledge base for AUDDIE'S, "...evaluation of the Chain of Custody activities taken by Cass County." It was discussed that the, "Best Practices" document AUDDIE relied on as fact was nothing more than best practices. Best practices are a go-by if one (1) chooses to use some or part of them; there are several different portions of this document that Cass County Government utilizes. At the conclusion of the meeting, it was determined nothing criminal had taken place. It was agreed by all that different aspects of the election process could be tightened up, meaning made stricter, in the future.
11. After meeting with BIRCH and TRACY, DETECTIVE GRESS and S/A WIMER went to the Human Resources Office at the Cass County Courthouse. DETECTIVE GRESS saw ROBERT and told ROBERT about the meeting that had just occurred with BIRCH and TRACY. ROBERT told DETECTIVE GRESS that AUDDIE had applied for a job with Cass County Government, as the Director of Elections. ROBERT said AUDDIE had not gotten the job. DETECTIVE GRESS spoke with HUMAN RESOURCES DIRECTOR CINDY STOICK and obtained the information filed by AUDDIE when applying for the Director of Elections position (DETECTIVE GRESS' note: If the reader would like any items referencing AUDDIE'S application for this position, said items must be procured through Cass County Government Human Resources, per FOIA guidelines).
12. The following is a timeline of AUDDIE'S FOIA requests, FOIA responses and AUDDIE'S application process for employment with Cass County Government:
 - 08/06/21 - Cass County Government posts Director of Elections position.

- 08/09/21 - AUDDIE files the first FOIA request with former FINANCE DIRECTOR MICHAEL MONTPLAISIR ("MIKE"). AUDDIE requested 'Tabulation Tapes' (DETECTIVE GRESS' note: Tabulation Tapes are the only legal record of the votes and serve as a hardcopy source document of the computer memory card) and 'Voter Rolls' (DETECTIVE GRESS' note: Electoral Rolls, previously called Voter Rolls, are a compilation that lists persons who are entitled to vote for elections in a particular jurisdiction) for the 2020 National Election held in Cass County, ND on 11/03/20. AUDDIE wanted to be informed if the cost would exceed Fifty Dollars (\$50.00), but requested all fees be waived. AUDDIE requested prompt response to this request.
 - 08/24/21 - AUDDIE files a second FOIA request; this time, with the Office of Cass County Auditor. AUDDIE requested, "Copies of, or access to the ballot images as created by the tabulation machines used in the 2020 elections held on 11/03/2020 in Cass County, N.D. I am also requesting access to, or copies of the actual paper ballot used by each voter in Cass County, N.D. for the 2020 national election."
 - 08/24/21 - Cass County Government receives AUDDIE'S job application for the Director of Elections at 1918 hours.
 - 09/02/21 - A letter from BIRCH to AUDDIE, addressing the two (2) FOIA requests. For AUDDIE'S first FOIA request, the Tabulation Tapes have an estimated cost of Eight Hundred Forty Dollars (\$840.00) to prepare, the Voter Rolls will be provided digitally, and the Chain of Custody Documentation will need more of a description prior to being fulfilled. For AUDDIE'S second FOIA request, under N.D.C.C. §16.1-15-13, there is a prohibition against being able to provide AUDDIE the Ballot Images from the 2020 General Election.
 - 09/03/21 - A letter from BIRCH to AUDDIE; BIRCH found that Legislature addressed the concept of 'digital images of the ballot captured by the voting system' is also defined under the term, "Ballot" under N.D.C.C. §16.1-06-12. BIRCH also included a paper copy of this portion of the Century Code.
 - 09/09/21 - A letter from AUDDIE to BIRCH and DEANN. AUDDIE requested the Voter Rolls for Cass County and provided some further guidance as to 'Chain of Custody' records.
 - 09/13/21 - A letter from BIRCH to AUDDIE. BIRCH told AUDDIE that DEANN is working on compiling the Voter Rolls for AUDDIE and should have those completed by the end of the week. BIRCH said BIRCH and DEANN are still unclear as to what AUDDIE means by, "Chain of Custody Documentation."
 - 09/15/21 - A letter from BIRCH to AUDDIE. BIRCH told AUDDIE the Voter Rolls would be emailed to AUDDIE by Friday, in an Excel spreadsheet. BIRCH said the information on, "Chain of Custody Documentation" provided by AUDDIE, in AUDDIE'S 09/09/21 letter, would be reviewed by DEANN, and DEANN would determine what records Cass County has that will comply with AUDDIE'S request.
 - 10/29/21 - Interviews for Director of Elections position.
 - 10/30/21 - CINDY contacted candidates to inform them Cass County Government would no longer be moving forward with recruitment for this position.
 - 11/18/21 - AUDDIE brings, "2020 Citizen Review/Chain of Custody Pertaining to Cass County, North Dakota Election Process" packet to both ROBERT and the CCSO.
13. On 11/24/21, DETECTIVE GRESS and S/A WIMER met with ROBERT, DEANN and FINANCE DIRECTOR BRANDY MADRIGGA (DETECTIVE GRESS' note: The job of the Cass County Government Finance Director is the Chief Financial Officer of the County, Elections Administrator, Property Tax Administrator and Executive Secretary

to the Board of County Commissioners. BRANDY was recently hired as the Finance Director with Cass County Government, in October, 2021. BRANDY replaced longtime Finance Director and former elected Cass County Auditor MIKE MONTPLAISIR, who retired in August, 2021). The following is DETECTIVE GRESS' paraphrased summary (this meeting was not recorded):

- DETECTIVE GRESS told all in attendance that DETECTIVE GRESS would like to go through each set of Seal Logs and answer each question AUDDIE provided, so AUDDIE could be presented with appropriate findings (DETECTIVE GRESS' note: Paragraphs 14-21 discuss, in detail, the potential discrepancies and the answers put together from this meeting).
- When asked about DEANN'S role in the election process, DEANN said it is the job of the Election Coordinator to make it as easy as possible for qualified North Dakotans to vote. DEANN said the election workers are paid a nominal fee and attend a two (2) hour training session.
- DEANN said the 2020 General Election was the first time the State of North Dakota used the new Election Systems and Software (ES&S) DS200 Precinct Scanner and Tabulator (DETECTIVE GRESS' note: www.essvote.com lists the following description of this machine: "The DS200 is a precinct-based ballot scanner and vote tabulator that combines the flexibility and efficiency of digital-imaging technology to support paper-based voting - taking traditional optical-scan ballot vote tabulation into the twenty-first century").
- DEANN said until the 2020 General Election, the biggest thing tracked were the seal logs. The seal used on the cages is plastic, and the seal used on the tabulator is wire. DEANN said the Program Cards AUDDIE is referring to would be a Flash Drive, as it is also known (DETECTIVE GRESS' note: www.essvote.com lists the following description for their 'Proprietary Flash Drives' under 'Security facts:' "The DS200 will only accept certified and approved USB flash drives that contain encrypted data sealed with the correct, FIPS-compliant, signed data key. As such, once an election official installs election programming, it is not possible for a separate device to interface with the DS200 in order to overwrite or change the election definition or system firmware"). DEANN said there has never been written documentation for a Flash Drive once it is out of a tabulator. The Flash Drives would be brought back to the Cass County Courthouse and given to the Cass County Recorder. The keys for both cages and tabulators are in the possession of the Election Official Inspector for each polling location.
- BRANDY and DEANN had previously discussed AUDDIE'S report and had been able to answer most of the questions pertaining to the potential discrepancies outlined by AUDDIE. Having reviewed the potential discrepancies in AUDDIE'S report, BRANDY determined there were no, "Red flags," indicating a violation of law. BRANDY said there were standard practices in place that needed better documentation. Both BRANDY and DEANN agreed the potential discrepancies were largely in part due to human error and a lack of consistency with election poll officials. BRANDY and DEANN also said there were some election officials who were more thorough when completing the logs than others. DEANN explained that ideally, the Election Official Inspector was supposed to initial the Security Seal Log, then the Election Official Judge was supposed to initial as a witness, and while this is how the process was intended to be completed, it was not always the case.
- DETECTIVE GRESS brought up the job vacancy for the Director of Elections, as DETECTIVE GRESS wanted to discuss this and learn more about what happened. There were originally four (4) finalists for this job opening. One (1) candidate missed the interview due to vehicle

trouble, and one (1) candidate withdrew during the interview process; this left DEANN and AUDDIE as the two (2) candidates.

- During AUDDIE'S interview, AUDDIE brought up some of the potential discrepancies AUDDIE had discovered when reviewing the FOIA material. AUDDIE told the interview panel that AUDDIE felt the potential discrepancies were not intentional, but more incompetency than anything.
- As a brand-new Finance Director and still trying to figure out this position and all it entails, BRANDY recommended postponing recruitment for this position.
- On 10/30/21, when CINDY was notifying candidates of the decision to postpone recruitment, AUDDIE remarked that Cass County Government should've made this decision prior to interviews.
- At the conclusion of the meeting, BRANDY provided a copy of BRANDY and DEANN'S notes, referencing AUDDIE'S report, to both DETECTIVE GRESS and S/A WIMER (see attached).

14. The following is AUDDIE'S summation of potential discrepancies, AUDDIE'S questions about said discrepancies and the answers to said questions for the Election Warehouse Program Card Seals:

Summation:

- "There were 4 pages provided for review that are related to the election warehouse, program card seals. The date of 10/14/2020 is consistent throughout the 2 pages. No actual times are listed on any of the 2 pages. There are no witness initials to validate any of these activities. No inspection of the program card seals was conducted, if an inspection was conducted it was not annotated. Changes to serial numbers listed on the sheets were not initialed and no justification was provided."

Questions:

- "Are the seals removed prior to initial movement?"
 - a) No, the flash drive (Program Card) seal is only removed after early voting.
- "Are the seals applied prior to the initial movement?"
 - a) Yes, the seals are applied after public ballot testing.
- "Was an inspection of the seals and the equipment that the seals were used on conducted?"
 - a) Seals were recorded when applied. Ballot testing is completed twice; once internally and once during a public test.
- "Do these pages meet a legal threshold, and could they be used as chain of custody evidence if requested in a court challenge?"
 - a) There is no legal standard.

Further information based on AUDDIE'S summation:

- The program cards are removed at the end of early voting. A new program card is put into the machine for election day, to report separately. Unless there is a malfunction, the seal will only be removed one (1) time. The original seal is applied at the end of the public test, at the election warehouse. Once packed, the checklist for the equipment and items are stored in the empty ballot box. The machine is then rolled into a cage, locked and sealed again. The seal number is recorded on the seal log (not initialed because the form with the public test is initialed).

15. The following is AUDDIE'S summation of potential discrepancies, AUDDIE'S questions about said discrepancies and the answers to said questions for the Election Warehouse Cage Seals:

Summation:

- "There were 3 pages provided for review that are related to the election warehouse cage seals. The date of 10/16/2020 is consistent throughout the 3 pages. No actual times are listed on any of the 3 pages. There are no witness initials to validate any of these activities. No inspection of the Cage Seals was conducted, if an inspection was conducted it was not annotated."

Questions:

- "Are the Cage Seals applied only when equipment is in the cage or at all times to restrict entry?"
 - a) Cages are only sealed when equipment is in the cage.
- "Do these pages meet a legal threshold, and could they be used as chain of custody evidence if requested in a court challenge?"
 - a) There is no legal standard.

16. The following is AUDDIE'S summation of potential discrepancies, AUDDIE'S questions about said discrepancies and the answers to said questions for the Hilton Garden Inn:

Summation:

- "There were 4 pages provided for review that are related to the Hilton Garden Inn. The dates vary between 10/26/2020 and 11/03/2020. There are no witness initials to validate any of these activities. Corrections were made to the serial numbers listed, there are no initials at the place of the change or an explanation for the change. No inspection of the equipment that has the seal applied to it was conducted, if an inspection was conducted it was not annotated."

Questions:

- "On the first line of serial number 2522489 the initials of the election official are the same in both box's, why?"
 - a) The inspector's job is to initial with the judge witnessing. This may not have occurred in this instance.
- "The polls closed at 7:00pm on 11/03/2020. There are no election officials initials on this sheet, why?"
 - a) The last page was not initialed because there is no information on the machine, i.e., empty. Still sealed for equipment security.
- "At 7:00pm on 11/03/2020 the polls closed what happened to the ballots after that?"
 - a) All ballots are sealed in an evidence-like bag (tamper-proof), placed in boxes and transported by Cass County Government Finance Staff to the custody of the Cass County Recorder's Office at the Cass County Courthouse, where the ballots are secured in a vault.
- "How were these ballots secured and accounted for after 7:00pm on 11/03/2020?"
 - a) All ballots are sealed in an evidence-like bag (tamper-proof), placed in boxes and transported by Cass County Government Finance Staff to the custody of the Cass County Recorder's Office at the Cass County Courthouse, where the ballots are secured in a vault.
- "Do these pages meet a legal threshold, and could they be used as chain of custody evidence in requested in a court challenge?"
 - a) There is no legal standard.

17. The following is AUDDIE'S summation of potential discrepancies, AUDDIE'S questions about said discrepancies and the answers to said questions for the Double Tree Inn:

Summation:

- "There were 7 pages provided for review that are related to the Doubletree Inn. The dates vary between 10/19/2020 and 11/03/2020. There are no witness initials to validate any of the listed activities. No inspection of the equipment that has the seal applied to it was conducted, if an inspection was conducted it was not annotated. Under, Type of Seal - Wire or Plastic, there is no reference to wire or plastic. Corrections were made to the serial numbers listed, there are no initials at the place of the change or an explanation for the change."

Questions:

- "The opening of the polls is not annotated in a manner similar to the other locations, why?"
 - a) This polling location should follow the same procedures as other locations.
- "Where are the initials, times and listed serial numbers to validate the opening of the polls?"
 - a) On the first page, dated 10/19, Serial Number 2522326, stating, "Open" and initialed by, "MS."
- "At 7:00pm on 11/03/20 the polls closed what happened to the ballots after that?"
 - a) All ballots are sealed in an evidence-like bag (tamper-proof), placed in boxes and transported by Cass County Government Finance Staff to the custody of the Cass County Recorder's Office at the Cass County Courthouse, where the ballots are secured in a vault.
- "How were these ballots secured and accounted for after 7:00pm on 11/03/20?"
 - a) All ballots are sealed in an evidence-like bag (tamper-proof), placed in boxes and transported by Cass County Government Finance Staff to the custody of the Cass County Recorder's Office at the Cass County Courthouse, where the ballots are secured in a vault.
- "Do these pages meet a legal threshold, and could they be used as chain of custody evidence in requested in a court challenge?"
 - a) There is no legal standard.

18. The following is AUDDIE'S summation of potential discrepancies, AUDDIE'S questions about said discrepancies and the answers to said questions for the Ramada (Early):

Summation:

- "There were 23 pages provided for review that are related to the Ramada. The dates vary between 10/15/2020 and 11/3/2020. There are no witness initials to validate any of the listed activities. No inspection of the equipment that has the seal applied to it was conducted, if an inspection was conducted it was not annotated. Corrections were made to the serial numbers listed, there are no initials at the place of the change or an explanation for the change. On the 26th of October there were 20 boxes opened and there were 25 boxes closed. On the 27th there were 24 boxes opened and only 23 were closed. There are no initials or reason for removal on the last page."

Questions:

- "Why were there 20 boxes opened and then 25 boxes closed on the 26th?"
 - a) Likely human error.

- "Why were there 24 boxes opened and then 23 boxes closed on the 27th?"
 - a) Likely human error.
- "How were these ballots secured and accounted for after 7:00pm on 11/03/20?"
 - a) All ballots are sealed in an evidence-like bag (tamper-proof), placed in boxes and transported by Cass County Government Finance Staff to the custody of the Cass County Recorder's Office at the Cass County Courthouse, where the ballots are secured in a vault.
- "Do these pages meet a legal threshold, and could they be used as chain of custody evidence in requested in a court challenge?"
 - a) There is no legal standard.

Further information based on AUDDIE'S summation:

- For the sake of answering AUDDIE'S questions, DETECTIVE GRESS will assume that by, "Boxes," AUDDIE means cages. Records show that fifteen (15) cages, possibly six (6) to nine (9) bins, with up to two (2) seals each were sent to the Doubletree Inn. Bins are not recorded prior to being sent to a location. Cage seals are recorded, but seals on ballot boxes are not. There is a possibility some seals were opened and not recorded.

19. The following is AUDDIE'S summation of potential discrepancies, AUDDIE'S questions about said discrepancies and the answers to said questions for the Days Inn - Casselton:

Summation:

- "There were 3 pages provided for review and related to the Days Inn at Casselton. The dates vary between 10/26/2020 and 11/03/2020. There are no witness initials to validate any of the listed activities. No inspection of the equipment that has the seal applied to it was conducted, if an inspection was conducted it was not annotated. The logs don't show notation accounting for the closing of any equipment used. There are two blank pages."

Questions:

- "Why are there two blank pages?"
 - a) Blank pages were excess sheets at this voting location, i.e., unused log sheets. The pages were possibly not removed when scanning was completed. Each site is given ample logs, not knowing how many persons will vote.
- "Where is the documentation accounting for the closing of any poll boxes?"
 - a) The Days Inn - Casselton did not record closing, just opening the next morning.
- "How were these ballots secured and accounted for after 7:00pm on 11/03/20?"
 - a) All ballots are sealed in an evidence-like bag (tamper-proof), placed in boxes and transported by Cass County Government Finance Staff to the custody of the Cass County Recorder's Office at the Cass County Courthouse, where the ballots are secured in a vault.
- "Do these pages meet a legal threshold, and could they be used as chain of custody evidence in requested in a court challenge?"
 - a) There is no legal standard.

20. The following is AUDDIE'S summation of potential discrepancies, AUDDIE'S questions about said discrepancies and the answers to said questions for the Civic Center:

Summation:

- "There were 7 pages provided for review and related to the Civic. The dates vary between 10/26/2020 and 11/03/2020. There are no witness initials to validate any of the listed activities. No inspection of the equipment that has the seal applied to it was conducted, if an inspection was conducted it was not annotated. Changes were made on the sheets and none of the corrections are initialed, and no explanation was provided. Unable to determine the actual times that many of the boxes were opened or closed. On 11/02/2020 there are no annotations reflecting the opening of any equipment. 4 thumb drives were removed on 11/03/2020, there is no notation as to where they went or who is in control of them. 1 serial number on 11/02/2020 is not listed for a thumb drive #13."

Questions:

- "How were these ballots secured and accounted for after 7:00pm on 11/03/20?"
 - a) All ballots are sealed in an evidence-like bag (tamper-proof), placed in boxes and transported by Cass County Government Finance Staff to the custody of the Cass County Recorder's Office at the Cass County Courthouse, where the ballots are secured in a vault.
- "Do these pages meet a legal threshold, and could they be used as chain of custody evidence in requested in a court challenge?"
 - a) There is no legal standard.
- "What happened on the morning of 11/02/2020 when the boxes that were opened were never logged?"
 - a) The opening did not appear to be logged this day; likely human error.
- "What happened to thumb drive #13 on the evening of 11/02/2020?"
 - a) The inspector for the Civic Center may have decided to number the flash drives. Flash drives are not normally labeled. There were four (4) DS200 tabulators at the Civic Center with recorded seals removed from the early voting flash drive, and the flash drive was added for the following day. DEANN believed MIKE may have taken custody of the flash drives and locked the flash drives in the Cass County Auditor's vault; this cannot be said with certainty.

21. The following is AUDDIE'S summation of potential discrepancies, AUDDIE'S questions about said discrepancies and the answers to said questions for the Fargo Dome:

Summation:

- "There were 11 pages provided for review and related to the Fargo Dome. The dates vary between 10/19/2020 and 11/03/2020. There are no witness initials to validate any of the listed activities. No inspection of the equipment that has the seal applied to it was conducted, if an inspection was conducted it was no annotated. Initials are missing from page 1, page 2, and page 4. Corrections were made to the several areas on these pages, there are no initials at the place of the change or an explanation for the change."

Questions:

- "Who was responsible for the 11 boxes listed on page 4, dated 10/22/2020?"
 - a) The Election Official Inspector for the Fargo Dome site.
- "Who was responsible for the 14 boxes listed on page 2, dated 10/19/2020?"
 - a) The Election Official Inspector for the Fargo Dome site.

- On 10/19/2020, 8:00am, 19 boxes were opened, at what I am assuming is 7:00pm, 22 boxes were closed. Please explain this discrepancy?"
 - a) Likely human error.
 - "Why are there no opening entries starting on 10/20/2020 and going through 11/03/2020?"
 - a) Likely human error.
 - "How were these ballots secured and accounted for after 7:00pm on 11/03/2020?"
 - a) All ballots are sealed in an evidence-like bag (tamper-proof), placed in boxes and transported by Cass County Government Finance Staff to the custody of the Cass County Recorder's Office at the Cass County Courthouse, where the ballots are secured in a vault.
 - "Do these pages meet a legal threshold, and could they be used as chain of custody evidence in requested in a court challenge?"
 - a) There is no legal standard.
22. On 11/17/21, DETECTIVE GRESS and S/A WIMER met with DEANN and BRANDY at the Election Warehouse. DEANN provided DETECTIVE GRESS, S/A WIMER and BRANDY with an overview of the election equipment, election equipment seals and election equipment storage procedures. The election equipment included the new ES&S DS200 Tabulator, the original tabulators and the new/early voting ballot bins. DEANN demonstrated how the election equipment was secured and sealed during official elections. DEANN provided DETECTIVE GRESS with the following seals:
- Uline plastic seal (4602775) for election machine cage.
 - Intab plastic seal (0754998) for blue bucket.
 - Intab wire seal (414615) for voting machine flash drive.
- DETECTIVE GRESS photo documented the election equipment and demonstrated sealing procedures. S/A WIMER asked if DEANN could provide election equipment inspection documentation for the 2020 General Election (DETECTIVE GRESS' note: When the election equipment is tested, it is done so in the presence of a local member of the Republican Party and a local member of the Democratic Party). DEANN said DEANN would have to look for these forms, but thought MIKE may have filed the forms in an unknown location. DETECTIVE GRESS did get a blank copy of a 'DS200 Testing and Packing Receipt' (see attached). On 12/29/21, DEANN informed S/A WIMER that DEANN was unable to locate the requested forms.
23. On 12/14/21, DETECTIVE GRESS called AUDDIE and gave AUDDIE an update. AUDDIE told DETECTIVE GRESS that as of 11/03/22, Cass County Government could, if they choose, get rid of ballots from the 2020 General Election. DETECTIVE GRESS assured AUDDIE that DETECTIVE GRESS would meet with AUDDIE prior to 11/03/22. During the week of 12/27/21, DETECTIVE GRESS contacted AUDDIE to set-up a meeting for the week of 01/03/22, to discuss DETECTIVE GRESS' findings. AUDDIE was unable to make that work due to COVID quarantine. DETECTIVE GRESS told AUDDIE that DETECTIVE GRESS would contact AUDDIE during the week of 01/10/22, to set-up a meeting. DETECTIVE GRESS did not contact AUDDIE as discussed. DETECTIVE GRESS contacted AUDDIE on 01/21/22, and set-up a meeting for DETECTIVE GRESS, S/A WIMER and AUDDIE on 01/26/22, at 1300 hours, at the CCSO LEC. After that date was set, DETECTIVE GRESS had to COVID quarantine and cancelled the meeting for 01/26/22. On 01/24/22, DETECTIVE GRESS emailed AUDDIE to schedule a new meeting. A meeting was set-up for 02/03/22, at 1000 hours, at the CCSO LEC.

24. On 01/31/22, S/A WIMER contacted DETECTIVE GRESS and said due to the recent death of the ND Attorney General, S/A WIMER would be unable to meet with DETECTIVE GRESS and AUDDIE on 02/03/22. DETECTIVE GRESS spoke with AUDDIE, and AUDDIE agreed to meet that day, at 1500 hours.
25. At 1500 hours, DETECTIVE GRESS and S/A WIMER met with AUDDIE. What follows is a summary of AUDDIE'S interview. DETECTIVE GRESS condensed the interview for ease of the reader, and it is not necessarily in the order in which it was discussed. The reader is referred to the BWC footage for a verbatim account of the interview. After being advised the interview was being recorded and introductions, AUDDIE provided the following information to DETECTIVE GRESS and S/A WIMER:
- It should be noted, S/A WIMER recorded the interview with an audio recorder.
 - It should be noted, AUDDIE also audio recorded the interview with AUDDIE'S cellular phone.
 - DETECTIVE GRESS told AUDDIE that DETECTIVE GRESS would like to go over the findings DETECTIVE GRESS and S/A WIMER ascertained through DETECTIVE GRESS and S/A WIMER'S investigation into the questions presented in AUDDIE'S report. DETECTIVE GRESS asked AUDDIE if AUDDIE could give S/A WIMER a background of how AUDDIE'S report came about.
 - S/A WIMER asked AUDDIE if there had been something that sparked AUDDIE'S interest in the election or if there was some type of flag that was raised to bring this to the attention of Cass County Government. AUDDIE said there was a chain of events that went back to 2016.
 - When AUDDIE and AUDDIE'S wife voted in 2016, a bus of New Americans or refugees and interpreters was brought to the voting site AUDDIE was at. AUDDIE said the interpreters assisted each New American or refugee cast their ballot. AUDDIE said that seemed odd to AUDDIE and AUDDIE'S wife. AUDDIE contacted the election office about this incident and was told that everybody has the right to vote. AUDDIE said that is not legally correct; not everybody has the right to vote because Constitutionally, you must be a US Citizen. Due to other activities, AUDDIE didn't have the time to pursue this any further.
 - In 2020, AUDDIE went to the Doubletree to vote with AUDDIE'S wife and one (1) of AUDDIE'S sons. AUDDIE voted first, had no issues and was asked no questions by the election worker. AUDDIE showed an ID, got a ballot and voted. AUDDIE'S wife was next in line to vote, and the election worker asked if AUDDIE'S wife had already voted using an absentee ballot (DETECTIVE GRESS' note: AUDDIE said AUDDIE'S wife had previously received three (3) absentee ballots in the mail, for the 2020 General Election. Each of the absentee ballots were shredded, as AUDDIE and AUDDIE'S wife wished to vote in person). AUDDIE said the election worker asked this question of AUDDIE'S wife two (2) or three (3) times. AUDDIE'S wife asked to see the screen that showed AUDDIE'S wife had already voted. AUDDIE said the election worker typed something and offered no resolution to the question. It was clarified with AUDDIE, at no time did the election worker accuse AUDDIE'S wife of previously voting. AUDDIE said because this question was not asked of every voter, something keyed the election worker into asking this question to AUDDIE'S wife. AUDDIE said something was a little different and didn't quite pass the, "Sniff test." AUDDIE said these were no accusations, something just wasn't right. The same election worker also asked AUDDIE'S son if he had previously mailed in an absentee ballot.
 - After the 2020 General Election, AUDDIE was waiting for Cass County to validate that everything with the election went well and proper. AUDDIE thought this would be public knowledge and saw no notification of that.

AUDDIE was looking for what AUDDIE referred to as an After-Action Report (AAR), to show what went well or what didn't.

- In early August [2021], AUDDIE began making phone calls to try to find out what happened. AUDDIE said AUDDIE called the ND Secretary of State's Office to see if AUDDIE could canvass certain voting precincts to validate everything. AUDDIE said there was no validation of the election; after saying this, AUDDIE appeared to believe that Cass County Government took a very cavalier approach to the election being finished. DETECTIVE GRESS asked if AUDDIE was aware of some type of AAR being issued by Cass County Government following previous elections, and AUDDIE was not.
- AUDDIE said North Dakota Century Code prevented AUDDIE from being able to review actual ballots that AUDDIE then wanted to cross-reference with the public information. An example AUDDIE gave would be that if voting records showed twenty (20) people lived at a specific residence, AUDDIE would then go to that residence and ask if there were really twenty (20) people living there.
- AUDDIE said AUDDIE was able to get, "Chain of custody" forms through AUDDIE'S FOIA request. AUDDIE said during AUDDIE'S ten (10) years of Law Enforcement experience, AUDDIE didn't do a lot with chain of custody, but when AUDDIE did, it didn't look like these forms. The questions from these forms were listed in AUDDIE'S report. AUDDIE said poor chain of custody practices can open the door for fraud.
- S/A WIMER told AUDDIE that at this time, S/A WIMER had not seen any evidence of a crime being committed nor the intent of a crime being committed. S/A WIMER asked AUDDIE what type of a result AUDDIE is looking for. AUDDIE said AUDDIE doesn't know what that looks like in the distance, but there are a lot of different things it could look like.
- AUDDIE said once chain of custody is broken, nothing would be valid in court. AUDDIE said from a layman's standpoint, none of the forms obtained by AUDDIE through the FOIA request would stand up in court. AUDDIE said there are a lot of questions about the 2020 General Election, and people can play the National game if they want, but AUDDIE only cares about Cass County. AUDDIE said there is a definite lack of leadership.
- S/A WIMER explained that S/A WIMER had previously reached out to the ND Secretary of State's Office as the oversight body for elections, to ask some questions about some of the potential discrepancies in AUDDIE'S report. The Secretary of State's Office referred S/A WIMER to DEANN, as an expert in the field. S/A WIMER said DEANN being referred to as an expert tells S/A WIMER that Cass County is doing their jobs, but are there things that could be handled differently, always.
- S/A WIMER said the chain of custody documents AUDDIE is referring to are not necessarily law; rather, guidelines for government agencies to use.
- S/A WIMER said S/A WIMER had requested the tabulator testing forms from the 2020 General Election, but at this time, DEANN was unable to locate them. DETECTIVE GRESS explained the testing is done publicly and in front of a member of the Republican and Democratic parties.
- DETECTIVE GRESS said to remember the election workers are almost volunteers, they are paid so little, and there also gets to be a lack of consistency with the election workers.
- DETECTIVE GRESS asked AUDDIE who the lack of leadership was on the part of, and AUDDIE said whoever oversees the overall process and program. DETECTIVE GRESS asked who that would be, and AUDDIE said MIKE or whoever was running the show at the time. AUDDIE believes some of this is a lack of oversight and can't believe anybody would do this

intentionally. AUDDIE believes there is a lack of attention to detail, and if Cass County Government went through a dry run of the election, they would've caught these issues.

- DETECTIVE GRESS then read through all the questions AUDDIE had in the report and the answers DETECTIVE GRESS and S/A WIMER ascertained through the course of the investigation (refer to Paragraph 14 through Paragraph 21).
- AUDDIE said what AUDDIE is trying to do is show that we [Cass County] had a proper and secure election in 2020. AUDDIE said if we can't prove we did the right thing, how do we know we did the right thing. AUDDIE said chain of custody is the only way you can keep track of these things.
- DETECTIVE GRESS told AUDDIE, the way those of us who have been in law enforcement view chain of custody and its importance is different than a person who is essentially a volunteer. DETECTIVE GRESS said the election workers probably don't realize the importance of signatures on a piece of paper, like DETECTIVE GRESS, S/A WIMER or AUDDIE would, having been in law enforcement.
- DETECTIVE GRESS said at the end of the day, we can, "What if" these things to death. DETECTIVE GRESS said in the 2020 General Election, there weren't any huge upsets in the State of ND, and the elections went as they normally do, as for the specific parties being elected to specific offices.
- When discussing missing Flash Drive #13, it was explained to AUDDIE the flash drives weren't supposed to be numbered, and the election worker who numbered this flash drive stepped outside of protocol to do so.
- S/A WIMER explained there appeared to be some election workers that were very meticulous about the way things were done, and other election workers were not.
- S/A WIMER said the potential discrepancies brought to light by AUDDIE have made Cass County Government workers want to make things better and have better documentation. AUDDIE said that was AUDDIE'S goal.
- DETECTIVE GRESS said DETECTIVE GRESS believes AUDDIE'S report has caused BRANDY to take a much deeper look into election related items, as a new Finance Director.
- AUDDIE asked if the #13 flash drive was accounted for yet. DETECTIVE GRESS said DEANN was unaware of what MIKE did with the flash drives. AUDDIE asked if anyone currently knew the physical location of the flash drives.
- While DETECTIVE GRESS was going through the questions from AUDDIE'S report, with the answers DETECTIVE GRESS and S/A WIMER had ascertained, AUDDIE had some additional questions that needed further research on the part of DETECTIVE GRESS. These questions, along with DETECTIVE GRESS' answers, are detailed in Paragraph 26.
- DETECTIVE GRESS told AUDDIE, an additional question DETECTIVE GRESS wanted an answer for is, what would flag a voter to be asked by an election worker if the voter has previously received an absentee ballot. AUDDIE said that was outside the scope of what AUDDIE was trying to do. DETECTIVE GRESS told AUDDIE that DETECTIVE GRESS felt the answer to that question could give AUDDIE some piece of mind.
- AUDDIE said the thing that troubles AUDDIE the most is, once the polls close, the ballots are put under lock and key, transported to a secure location and secured; there is no documentation stating who is taking charge of the ballots or whose responsibility it is. AUDDIE said by not documenting this properly, how can a person prove something didn't happen. AUDDIE stated if we are looking to prove nothing happened, something potentially could've happened or something did happen. AUDDIE said those are the three (3) things we must look at. AUDDIE said these

are not wonderful things to look at, but necessary things to look at since there is no documentation to say this is how it went.

- DETECTIVE GRESS said DETECTIVE GRESS would also ask how an election is validated and if the validation is made public.
- AUDDIE said Cass County Government was not trying to hide anything and was very forthcoming with their documentation. AUDDIE said AUDDIE was appreciative.
- AUDDIE said the documentation provided to AUDDIE does not make AUDDIE think Cass County has a secure voting environment, where a person can trust that things are done properly.
- AUDDIE said AUDDIE had spoken with CASS COUNTY COMMISSIONER CHAD PETERSON on 01/28/22. COMMISSIONER PETERSON told AUDDIE on 02/04/22, ROBERT would brief AUDDIE on AUDDIE'S questions and anything else ROBERT could assist AUDDIE with. AUDDIE said it would probably be appropriate for both DETECTIVE GRESS and S/A WIMER to attend the briefing, if possible.
- DETECTIVE GRESS told AUDDIE that DETECTIVE GRESS had seen AUDDIE applied for the 'Director of Elections' position with Cass County Government, a position Cass County decided to forgo hiring at this time. AUDDIE said AUDDIE did apply for the position. DETECTIVE GRESS asked if any of that plays into AUDDIE'S report. DETECTIVE GRESS did not believe AUDDIE understood the question, so DETECTIVE GRESS redirected and asked if Cass County Government's postponement of the 'Director of Elections' position is what prompted AUDDIE to turn in AUDDIE'S report. AUDDIE said AUDDIE waited for Cass County Government to make a decision about the 'Director of Elections' position before AUDDIE turned in AUDDIE'S report. AUDDIE said this was done out of respect.
- AUDDIE said during AUDDIE'S job interview for the 'Director of Elections' position, the interview panel wanted to talk about AUDDIE'S report. AUDDIE told the interview panel the report is not what AUDDIE and the interview panel were here to talk about, so AUDDIE didn't talk about the report.
- AUDDIE said ROBERT knew well before AUDDIE'S job interview that AUDDIE was putting together a report about the 2020 General Election. AUDDIE said the FOIA requests had also been made prior to the job interview.
- AUDDIE, again, said the report was brought up during AUDDIE'S job interview. AUDDIE said AUDDIE told the interview panel: this report isn't what they were here to discuss, the report was not complete at that time, and AUDDIE thought the panel should just focus on the job interview.

26. DETECTIVE GRESS has listed the questions below that arose from the interview with AUDDIE on 01/31/22. On 02/04/22, DETECTIVE GRESS conducted a telephonic interview with MIKE. DETECTIVE GRESS condensed the interview for ease of the reader, and it is not necessarily in the order in which it was discussed. The reader is referred to the BWC footage for a verbatim account of the interview. After being advised the interview was being recorded, MIKE provided the following information to DETECTIVE GRESS (DETECTIVE GRESS' note: The bullet points in Paragraph 26 are AUDDIE'S questions, and the lettering are MIKE'S answers):

- What did MIKE'S job as Finance Director entail, in reference to elections held in Cass County?
 - a) MIKE'S job was to oversee the entire election, i.e., planning and execution.
 - b) MIKE said DEANN handles election worker training and prepares all training materials. Once DEANN'S training materials are all prepared, MIKE looks over all training materials. MIKE said DEANN

- also handles all direct contact with election workers and polling sites.
- What did MIKE do with the flash drives (Program Cards) used in the 2020 General Election?
 - a) MIKE said several of the program cards used by Cass County Government are also owned by Cass County Government.
 - b) Once an election is concluded, Cass County uploads the information from the program cards to two (2) separate computers.
 - c) The first computer is known as an Isolation Machine and kept in the Auditor's Office Vault. The information from the program cards is uploaded to this computer. This computer is not and has never been connected to the internet; any updates to this computer must be done manually.
 - d) The second computer is a stand-alone laptop with a direct connection to Bismarck, ND. This connection allows Cass County to update Bismarck's website.
 - e) Once the uploading has taken place, the program cards are kept for an unspecified time and then sent to Seachange, a subcontractor of ES&S.
 - f) Seachange reconditions the program cards for the next election and sends the same program cards back to Cass County. If there is a bad program card or extra program cards are needed, Seachange will send Cass County loaner program cards.
 - g) The program cards are essentially "recycled."
 - Where did the testing sheets go for the testing of the tabulator machines that was done prior, in preparation for the 2020 General Election?
 - a) MIKE said the Cass County Recorder's Office would have the testing forms from the 2020 General Election, for the tabulators, until such time as Record Keepers picks up the forms for destruction.
 - b) MIKE believed access to the testing sheets for the tabulator machines could only be accessed through a court order.
 - c) MIKE said before any public testing of tabulation machines are conducted, the Cass County Finance Office runs their own tests of the machines. This extensive testing is done to make sure all program cards are in working order prior to the public test.
 - d) MIKE said very seldom does anyone show up to the public test. No matter the turnout, the public test is still conducted, and all records are saved.
 - e) When asked how people are notified of the public test, MIKE said that normally, a notice is put into the newspaper, and the district party chairpersons are notified of the test by DEANN. MIKE said this was done for the 2020 General Election.
 - f) After speaking with MIKE, DETECTIVE GRESS spoke with DEANN about contacting the Recorder's Office to see if the tabulator testing sheets were available. DEANN was told on 11/02/21, everything from the 2020 General Election was picked up by Record Keepers for destruction.
 - i. If there were no physical testing sheets saved from the 2020 General Election, will MIKE go on-record and say this testing was done?
 - a) N/A
 - ii. If MIKE will not go on-record and say this testing was done, DETECTIVE GRESS will find out which representatives were present for the public test, from the district parties, and get written statements from them about witnessing said testing.
 - a) N/A

- What, "Flags" a person who is voting to be asked if they have previously sent in an absentee ballot?
 - a) The machine used by the election worker to check-in perspective voters will say if the perspective voter has been mailed an absentee ballot or if the perspective voter has mailed in an absentee ballot.
 - b) If an absentee ballot has been sent out but not returned, the perspective voter is eligible to vote.
 - c) If someone were to mail in an absentee ballot and vote in-person prior to the absentee ballot being received, once received, the absentee ballot would be discarded in lieu of being sent to the Absentee Board.
 - d) DETECTIVE GRESS explained to MIKE that AUDDIE'S wife and one (1) of AUDDIE'S children were asked by an election worker if they had mailed in an absentee ballot. MIKE said the machine being used by the election worker would have said if an absentee ballot had been received or not.
 - e) When asked, MIKE said it could be an issue of an election worker seeing an absentee ballot had been mailed to a perspective voter, the election worker thinking they are doing the right thing and asking the perspective voter about their absentee ballot.
 - f) MIKE said the only two (2) questions asked to every perspective voter are if the perspective voter is a United States citizen and if the perspective voter is at least Eighteen (18) years of age.
 - g) Every perspective voter is supposed to be asked these two (2) questions by the election worker so there is no discrimination.
 - DETECTIVE GRESS asked MIKE if Cass County Government does an AAR or anything to say if this election went well or if there were issues to work on.
 - a) MIKE said the Canvassing Board meets approximately fifteen (15) days after an election. It is during this meeting that any issues experienced during an election would be discussed.
27. AUDDIE was contacted by DETECTIVE GRESS via email and informed this investigation into AUDDIE'S inquiry was concluded. DETECTIVE GRESS told AUDDIE that AUDDIE would need to go through the FOIA process with the CCSO to receive a copy of this report.
28. This ends DETECTIVE GRESS' report. After speaking with the Cass County State's Attorney's Office and reviewing all information as it pertains to this inquiry, it has been determined no criminal charges will be filed at this time due to lack of criminal activity. This case can be considered exceptionally closed.

Attachments:

1. 2020 CITIZEN REVIEW/CHAIN OF CUSTODY PERTAINING TO CASS COUNTY, NORTH DAKOTA ELECTION PROCESS BY AUDDIE L. COX, PAGES 1 THROUGH 12.
2. SECURITY SEAL LOG - 2020 GENERAL ELECTION - ELECTION WAREHOUSE - PROGRAM SEAL CARDS, PAGES 1 THROUGH 4.
3. SECURITY SEAL LOG - 2020 GENERAL ELECTION - ELECTION WAREHOUSE - CAGE SEALS 1 THROUGH 6.
4. SECURITY SEAL LOG - 2020 GENERAL ELECTION - HILTON GARDEN INN, PAGES 1 THROUGH 7.
5. SECURITY SEAL LOG - 2020 GENERAL ELECTION - DOUBLE TREE INN, PAGES 1 THROUGH 14.
6. SECURITY SEAL LOG - 2020 GENERAL ELECTION - RAMADA - EARLY, PAGES 1 THROUGH 46.
7. SECURITY SEAL LOG - 2020 GENERAL ELECTION - DAY'S INN CASSELTON, PAGES 1 THROUGH 5.
8. SECURITY SEAL LOG - 2020 GENERAL ELECTION - CIVIC CENTER, PAGES 1 THROUGH 14.
9. SECURITY SEAL LOG - 2020 GENERAL ELECTION - FARGO DOME, PAGES 1 THROUGH 22.
10. U.S. ELECTION ASSISTANCE COMMISSION - BEST PRACTICES: CHAIN OF CUSTODY, PAGES 1 THORUGH 29.
11. CASS COUNTY GOVERNMENT VACANCY NOTICE - DIRECTOR OF ELECTIONS, 08/06/21, PAGES 1 THROUGH 3.
12. AUDDIE L. COX LETTER TO MICHAEL MONTPLAISIR, 08/09/21, PAGES 1 OF 1.
13. AUDDIE L. COX LETTER TO OFFICE OF CASS COUNTY AUDITOR, 08/24/21, PAGES 1 OF 1.
14. CASS COUNTY STATE'S ATTORNEY'S OFFICE LETTER TO AUDDIE L. COX, 09/02/21, PAGES 1 OF 1.
15. BIRCH BURDICK LETTER TO AUDDIE L. COX, WITH ATTACHEMENT, 09/03/21, PAGES 1 THROUGH 4.
16. AUDDIE L. COX LETTER TO BIRCH BURDICK AND DEANN BUCKHOUSE, 09/09/21, PAGES 1 OF 1.
17. BIRCH BURDICK LETTER TO AUDDIE L. COX, 09/13/21, PAGES 1 OF 1.
18. BIRCH BURDICK LETTER TO AUDDIE L. COX, 09/15/21, PAGES 1 THROUGH 2.
19. BRANDY MADRIGGA AND DEANN BUCKHOUSE NOTES, PAGES 1 THROUGH 16.
20. CASS COUNTY SHERIFF'S OFFICE EVIDENCE LIST, PAGES 1 OF 1.
21. DS200 TESTING AND PACKING RECEIPT, PAGES 1 OF 1.
22. ND BCI INITIAL REPORT 'BCI21-00633/1,' PAGES 1 THROUGH 4.
23. ND BCI SUPPLEMENTAL REPORT 'BCI21-00633/2,' PAGES 1 THROUGH 4.
24. ND BCI SUPPLEMENTAL REPORT 'BCI21-00633/3,' PAGES 1 THORUGH 18.

Exhibits:

ALL BODY WORN CAMERA FOOTAGE, RECORDED AUDIO AND PICTURES HAVE BEEN UPLOADED TO THE CASS COUNTY SHERIFF'S OFFICE EVIDENCE.COM SYSTEM, UNDER: CSO 2021-27913.

Distribution:

1. SHERIFF JESSE JAHNER
2. CHIEF DEPUTY DEAN HAALAND
3. CAPTAIN TIM BRIGGEMAN
4. DETECTIVE SERGEANT TONYA JAHNER
5. COUNTY ADMINISTRATOR ROBERT WILSON
6. FINANCE DIRECTOR BRANDY MADRIGGA
7. ELECTION COORDINATOR DEANN BUCKHOUSE
8. SPECIAL AGENT KELLY WIMER
 - a. kw430@nd.gov

DETECTIVE JOE GRESS
INVESTIGATIONS DIVISION
JG/br

Attachment C

To: Cass County Commission Chair Chad Peterson and Commission members:

Utilizing information provided by the Cass County Elections Office pertaining to the chain of custody documentation used during 2020 election and the completed investigation by Detective Gress of the Cass County Sheriff's Department I believe that there are gaps of responsibility and accountability in the handling of ballots and election related equipment as well as a potential violation of 52 USC 20701.

A proper chain of custody provides the public with one way to authenticate the security of the election process. Election equipment and ballots, from the time they are first removed from secure storage to the time they are returned to secure storage should be under a proper and documented oversight process. This activity was not documented and therefore cannot be verified as actually taken place. This violates the faith and trust the people have placed in our elected officials and those they appoint to ensure that our elections are free from any opportunity to be tampered with. The Cass County elections staff have provided answers to my original questions. There is also no way to validate that the actions mentioned in the response to my questions took place. This is not to say that any one is lying but a statement as to what can and cannot be proven.

Detective Gress has identified in his investigation a potential violation of Federal Election Law. This activity is mentioned on page 16 in paragraph 2, line f, stating that everything from the 2020 election was picked up by Records Keepers for destruction on 11/02/21. I was also informed by Ms. Buckhouse on 08/17/2021 that on 08/04/2021 that election system maintenance had been completed on the Cass County election machines and that all data had been deleted as it relates to the 2020 election and no backup drives were created. 52 USC 20701 states election related materials must be retained for a period of 22 months when the election involves federal positions. This maintenance activity on election equipment took place throughout the state. I did paraphrase the actual USC code mentioned here. A direct reading of 52 USC 20701 is encouraged.

The lack of proper accountability of these items based on the chain of custody documents provided by the county and a subsequent investigation conducted by the Cass County Sheriff's Office has brought me to the conclusion that there is a condition of **Incurable Uncertainty** as it relates to the 2020 election in Cass County, North Dakota.

I am not an attorney, the statements I have made here should not be considered as a legal opinion. This letter reflects my interpretation of the information that the county has presented to me. I am making no accusations of wrongdoing by any person or agency.

I am available to meet with any of the members of the board as it relates to this letter. Please respond by 03/25/2022. I await the decision of the Board of County Commissioners on how the board will chose to respond to this situation.

Respectfully Yours

Auddie L. Cox

719-492-3264