



**Appendix to:**

**Monitor's Memo on CCBOE's Potential Legal Compliance Issues  
arising during the November 2006 election**

**January 8, 2007**

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**Early Scanned Absentee Ballot**

**Election Results: Tabulation & Print Commands**

**Prior to Polls Closing on Election Day**

**Recorded in Windows System Event Log**

(**Note:** relevant excerpts copied over from the System Events Log to create this document in the sequential order they are found in the original log; bold added for readers' ease; highlighting identifies editor's text additions)

Event Type: Information  
Event Source: Print  
Event Category:None  
Event ID: 10  
**Date: 11/6/2006 [Monday]**  
**Time: 6:15:02 PM**  
User: S-1-5-21-1646729641-2097598916-1825894346-1006  
Computer: GEMS-CUYAHOGA  
Description:  
Document 2, **GEMS ELECTION SUMMARY REPORT** owned by GEMSUser **was printed** on HP LaserJet 4250 - 2 PCL 6 via port DOT4\_001. Size in bytes: 144816; **pages printed: 6**

For more information, see Help and Support Center at <http://go.microsoft.com/fwlink/events.asp>.

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Event Type: Information  
Event Source: Print  
Event Category:None  
Event ID: 10  
**Date: 11/6/2006 [Monday]**  
**Time: 6:53:55 PM**  
User: S-1-5-21-1646729641-2097598916-1825894346-1006  
Computer: GEMS-CUYAHOGA  
Description:  
Document 3, **GEMS ELECTION SUMMARY REPORT** owned by GEMSUser **was printed** on HP LaserJet 4250 - 2 PCL 6 via port DOT4\_001. Size in bytes: 144816; **pages printed: 6**

....

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Event Type: Information  
Event Source: Print  
Event Category:None  
Event ID: 10  
**Date: 11/6/2006 [Monday]**  
**Time: 6:57:23 PM**  
User: S-1-5-21-1646729641-2097598916-1825894346-1006  
Computer: GEMS-CUYAHOGA  
Description:  
Document 4, **GEMS ELECTION SUMMARY REPORT** owned by GEMSUser **was printed** on HP LaserJet 4250 - 2 PCL 6 via port DOT4\_001. Size in bytes: 144792; **pages printed: 6**

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Event Type: Information  
Event Source: Print  
Event Category:None  
Event ID: 10  
Date: **11/6/2006** [Monday]  
Time: **7:01:34 PM**  
User: S-1-5-21-1646729641-2097598916-1825894346-1006  
Computer: GEMS-CUYAHOGA  
Description:  
Document 5, **GEMS ELECTION SUMMARY REPORT** owned by GEMSUser **was printed** on HP LaserJet 4250 - 2 PCL 6 via port DOT4\_001. Size in bytes: 144456; **pages printed: 6**  
....

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Event Type: Information  
Event Source: Print  
Event Category:None  
Event ID: 10  
Date: **11/6/2006** [Monday]  
Time: **7:10:39 PM**  
User: S-1-5-21-1646729641-2097598916-1825894346-1006  
Computer: GEMS-CUYAHOGA  
Description:  
Document 6, **GEMS ELECTION SUMMARY REPORT** owned by GEMSUser **was printed** on HP LaserJet 4250 - 2 PCL 6 via port DOT4\_001. Size in bytes: 144816; **pages printed: 6**  
....

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Event Type: Information  
Event Source: Print  
Event Category:None  
Event ID: 10  
Date: **11/6/2006** [Monday]  
Time: **7:17:30 PM**  
User: S-1-5-21-1646729641-2097598916-1825894346-1006  
Computer: GEMS-CUYAHOGA  
Description:  
Document 7, **GEMS ELECTION SUMMARY REPORT** owned by GEMSUser **was printed** on HP LaserJet 4250 - 2 PCL 6 via port DOT4\_001. Size in bytes: 684028; **pages printed: 27**

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Event Type: Information  
Event Source: Print  
Event Category:None  
Event ID: 10  
Date: **11/6/2006** [Monday]  
Time: **7:21:25 AM** [Note that the PM has now changed to AM]  
User: S-1-5-21-1646729641-2097598916-1825894346-1006  
Computer: GEMS-CUYAHOGA  
Description:  
Document 8, **GEMS ELECTION SUMMARY REPORT** owned by GEMSUser **was printed** on HP LaserJet 4250 - 2 PCL 6 via port DOT4\_001. Size in bytes: 684028; **pages printed: 27**  
....

## END of Print Request Records on this date ##

**Appendix**

**Election Results Print Commands Appearing in GEMS Audit Log**

**dated November 6, 2006**

11/06/06; 19:15:06 - User Admin: Printing Summary Report

11/06/06; 07:20:53 - User Admin: Printing Summary Report

page 798 of 928 **No other print commands are listed for 11/06/06**

(Monitor's software engineer was present when these records were generated)

## Appendix

### Cuyahoga County BOE November 2006 Election

#### Network Connections for Tabulations

**From GEMS Windows System Event Logs:** (relevant excerpts copied over to create this document; highlighting identifies Monitor's additional text; **bold** for reader's ease; Network Connection #2 = the scanner cable from the basement)

Event Type: Information

Event Source: Tcpip

Event Category:None

Event ID: 4201

Date: **11/5/2006** [Sunday]

Time: **11:38:48 PM**

User: N/A

Computer: GEMS-CUYAHOGA

Description:

The system detected that network adapter Intel(R) PRO/1000 MT Network Connection #2 **was connected** to the network, and has initiated normal operation over the network adapter.

.....

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Event Type: Information

Event Source: Tcpip

Event Category:None

Event ID: 4202

Date: **11/6/2006** [Monday]

Time: **8:34:19 PM**

User: N/A

Computer: GEMS-CUYAHOGA

Description:

The system detected that network adapter Intel(R) PRO/1000 MT Network Connection #2 **was disconnected** from the network, and the adapter's network configuration has been released. If the network adapter was not disconnected, this may indicate that it has malfunctioned. Please contact your vendor for updated drivers.

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Event Type: Information

Event Source: Tcpip

Event Category:None

Event ID: 4201

Date: 11/7/2006 [Tuesday, Election Day]

Time: **2:38:58 PM**

User: N/A

Computer: GEMS-CUYAHOGA

Description:

The system detected that network adapter Intel(R) PRO/1000 MT Network Connection #2 **was connected** to the network, and has initiated normal operation over the network adapter.

[next page→]

Network Connections page 2

Event Type: Information

Event Source: Tcpip

Event Category:None

Event ID: 4202

Date: 11/7/2006

[Tuesday, Election Day]

Time: 4:55:43 PM

User: N/A

Computer: GEMS-CUYAHOGA

Description:

The system detected that network adapter Intel(R) PRO/1000 MT Network Connection #2 **was disconnected** from the network, and the adapter's network configuration has been released. If the network adapter was not disconnected, this may indicate that it has malfunctioned. Please contact your vendor for updated drivers.

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## Appendix

### Monitor's Request for GEMS Activity Logs

→ relevant for assessing security and accuracy

#### Concerns:

- We have received inconsistent responses regarding the impact and overrides of various security software (including Digital Guardian) on the GEMS server. For instance, staff said that they could not change even the most minor of settings on the machine, but then Matt changed the system clock right in front of a monitor staff engineer when he pointed out that the time was 11 hours off.
- Staff also described constraints on manipulation of the file system which were inconsistent with the practice of inserting and removing a USB jump drive with Jresult files
- Passwords were changed in violation of the security policy
- Other written policies and procedures were violated during election tabulations.

Thus, we believe that a further assessment of the server activity is warranted, for the protection of the integrity of the results.

The files requested through to the current date and time

1. All GEMS audit log(s)
2. Exports of Windows event logs from GEMS server (Application, Security and System level). (Admin Tools-->Event Viewer, Action-->Save Log File As...) For each of the 3 event types.
3. Digital Guardian (DG) event log(s)

As with the other data, we need the above files in the most granular electronic format.

November 14, 2006

## Appendix

### Security Event Log

The security log maintained by the Windows operating system on the GEMS server contains but a single entry, dated 12/8/05, 12:27 PM, indicating that the audit log was cleared by “Administrator.”

Event Type: Success Audit  
Event Source: Security  
Event Category: System Event  
Event ID: 517  
**Date: 12/8/2005**  
Time: 12:27:22 PM  
User: NT AUTHORITY\SYSTEM  
Computer: GEMS-CUYAHOGA  
Description:  
**The audit log was cleared**  
Primary User Name: SYSTEM  
Primary Domain: NT AUTHORITY  
Primary Logon ID: (0x0,0x3E7)  
Client User Name: **Administrator**  
Client Domain: GEMS-CUYAHOGA  
Client Logon ID: (0x0,0xE92B)

**(Highlighting** added for convenience)

**Appendix**

**CUYAHOGA COUNTY BOARD OF ELECTIONS  
2925 EUCLID AVENUE  
CLEVELAND OHIO 44115-2497**

**Robert T. Bennett, Chairman  
Edward C. Coaxum, Jr., Board Member  
Sally D. Florkiewicz Board Member Michael Vu, Director  
Loree K. Soggs, Board Member Gwendolyn Dillingham, Deputy Director**

**BOARD MEETING AGENDA**

**MONDAY, OCTOBER 2, 2006-9:00 A.M. MEETING**

**\*\*\*\***

**SECURITY HANDLING PROCEDURES FOR NOVEMBER 7, 2006 GENERAL ELECTION:**

Information Services Administrator Lou Irizarry has developed a Security Plan and Procedure for elections. This document implements a portion of the CERP recommendations and other national reports along with addressing Chain of Custody Procedures, L&A Testing, Security Violations, Forms, Changes for 2007, Reports, Archival of Voter Data, Audits, Equipment Failure and Physical Security on Election Nights. This document has been posted on our website for 24 hours seeking public comment.

**Appendix**

**Cuyahoga County Board of Election Action Plan**

**Developing & Implementing CERP Recommendations**

November 7, 2006 General Election

Version 8.7.2006

page 75 of 259

**[Concerning implementation of security improvements]**

**FEASIBLE/CRITICAL FOR NOVEMBER?    Yes**

**CERP RECOMMENDATION**

2.105 Recommendation:

Basic security practices must be adopted and enforced for the GEMS system. Important aspects include: limiting authorized operators, limiting operators to appropriate roles, and ensuring identification of specific operators for logging and auditing purposes. These practices must be viewed as absolutely essential for the basic integrity of Cuyahoga elections and election reporting. They should be designed by security experts, have penalties for employee noncompliance, and be a part of Ballot and IS Department training.

**ACTION PLAN** New procedures are being developed. A log sheet is in use since 7/20 to track what changes will be made to database. Security policy will be applied as well.

**WHO    LOU**

**STATUS** [blank]

**COMMENTS** [blank]

[http://boe.cuyahogacounty.us/pdf/CERP\\_Recommendations\\_ALL.pdf](http://boe.cuyahogacounty.us/pdf/CERP_Recommendations_ALL.pdf)

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## Appendix

### Cuyahoga County Board of Elections

### Security Procedures

### November 2006 General Election

## CERP Security Findings and Implementation Response

\*\*\*\* [relevant excerpts below]

**2.104 Finding:** ... Considering that so many unauthorized persons were permitted to use the system and, therefore, likely to have known this password, all operators could change both the data in GEMS via the gemsuser account and reconfigure the system using the gemsadmin account. [See GAO Report#: GAO-05-956, p26] On top of this, the fact that all operators used the same, anonymous accounts (gemsuser and gemsadmin) prevents anyone examining transaction logs from determining which person made a particular modification to the system.

**2.105 Recommendation:** Basic security practices must be adopted and enforced for the GEMS system. Important aspects include: limiting authorized operators, limiting operators to appropriate roles, and ensuring identification of specific operators for logging and auditing purposes... They should be designed by security experts, have penalties for employee noncompliance, and be a part of Ballot and IS Department training.

**ANSWER:** User accounts will be utilized for November. Admin account use will be restricted to a few individuals that are competent to operate as Admins. All others will have access levels that complement their knowledge and GEMS abilities and requirements.

**ANSWER:** Log sheets binders are in place at all GEMS servers and are required to be filled in at all times by anyone making a change to a GEMS database.

**2.106 Finding:** The Secretary of State mandates the installation of Digital Guardian ("DG") software on the GEMS computer. This software, among other tasks, monitors and constrains data access and modification of a system's configuration. While DG offers a security benefit as configured in the CCBOE GEMS system, it inhibits the use and maintenance of the GEMS machine while providing only limited security benefits.

**2.108 Finding** ...GEMS relies on a Microsoft Access database.... The use of this more-limited underlying database system constrains GEMS' capacity for intrinsic security and auditability, concurrent usage, and system performance. Without the security features of a more appropriate database, GEMS' database security depends primarily on controlling access to the GEMS server.

**2.109 Finding** ... the use of only one computer (the GEMS server itself) for GEMS data entry, tabulation and reporting. At all levels, this restriction is presented as a security measure, and it does undeniably reduce to some degree the potential for tampering with the insecure GEMS database.

**2.110 Recommendation:** As part of any security evaluation, a survey of the extrinsic security measures mandated for use of GEMS should be undertaken to identify which measures properly augment security and which are required to remedy the lack of meaningful intrinsic security features in the GEMS software itself. Vendors should be required to address and remedy security holes in their software rather than over-rely on extrinsic security measures, particularly ones that burden system usability.

**2.111 Finding:** Such security measures as the CCBOE implemented (e.g. restricted access to GEMS, tamper tape and seals on DREs, etc.) were ignored or frustrated by ineffective implementation.

**2.112 Recommendation:** The CCBOE's mandated actions to be taken in response to security breaches should be established, published, and a matter of core training leaving CCBOE personnel no discretion as to what steps to take upon discovery of a breach.

**ANSWER: Digital Guardian does not protect against every security attack. Database files can be copied off, altered and replaced. DG will, however, protect against key loggers, Trojans and other hacker tools from being installed by an outsider or malicious program.**

**ANSWER: Future versions of GEMS will be installed on SQL.**

\*\*\*\*

[9-30-06 draft; was updated with additional provisions but these provisions above were not replaced ]

## Appendix

### Monitor's Proposed Additions to the CCBOE Security Policy

(approved by the Board on 11/5/06)

(Below the \*\* is the document submitted to the CCBOE Public Information office  
for their records

\*\*\*\*\*

**Monitor's Note:** I received the Director's revised proposed security document at roughly 1:15 today and left the Board offices after taking with Board members at 1:45pm. With transit times longer because of construction, and the locked Law building at CSU, I wasn't able to begin work until 2:15pm. Thus the work I present below is the best I could do in 90 minutes, and note that more and better work could have been done with more time. This document does, however, tighten security in a manner that should facilitate both transparency and public verification.

The material below the line is exactly what I presented to the CCBOE Board by email at roughly 3:45p.m. before I drove back for the Board meeting at 4:00 pm.

Under **Scanning Optical Scan Ballots** the long paragraph is not the Monitor's proposed policy recommendation but only a public disclosure of what the CCBOE policy is for the November 7<sup>th</sup> election. We thought it should be disclosed and thus took the time to type it out for inclusion. The CCBOE policy for the unofficial count should not be taken as the Public Monitor's recommendation; we were not asked or involved in any manner.

--CH, for the Monitor Nov. 5, 2006

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Dear Board Members: I had to work fast, and did not have an electronic copy of the Director's memo until 5 minutes ago. Here are suggestions from the Monitor to beef up security and have the transparency on security that the public will greatly appreciate. Some of these suggestions will also help to protect staff from any unfair or erroneous allegations of inappropriate intrusion into the server.

Material from the Director's Proposal is in italics if quoted, and my suggestions are in regular black roman like this sentence. --Candice Hoke, for the Monitor

### Absentee Ballot Processing & Handling

#### **Recommended Plan**

**Nov 7, 2006 Election**

#### OS Process Timeframe Requirements

*Monday Nov. 6 7:00 am- finish Scan OS ballots*

##### Concerns:

1. if scanning lasts more than the expected 12 hours, what is the contingency staffing plan? schedule and shifts, for permanent staff as well as for temps

### **Returned Absentee Ballots**

*Questionable ... ballots will not be processed and counted* for the unofficial count but will be held for presentation and rulings by the Board Members prior to the certified count's completion.

### **Opening Absentee Ballots**

***New paragraph to insert at end of section:*** When the workers are on break or a shift is changing, advance notice shall be given sufficiently so that no absentee ballots (whether opened or unopened) are left on the top of the work tables. For the duration of all breaks and at all times when the ballots are not in locked bins, at least three members of law enforcement shall have been trained in security procedures and be on site in the work area to ensure the protection of the ballots.

### **Scanning Optical Scan Ballots** [additional provisions suggested for insertion below]

no more than *60 optical scan units....* [need flexibility in case more scanners need to be pulled out of service]

For the unofficial count only: if the tabulation server records a number of ballot pages that is less than a difference of 10 from the number of pages the scanner indicated, the batch will not be re-scanned but a special note will be placed on the batch envelope indicating the difference. This will also be recorded on a paper and ink log at the tabulation server, and if external observers are present, witnessed in ink by non-CCBOE personnel who are serving as observers or monitors. If greater than a 10 page difference, the entire batch will be rescanned. For the certified vote totals, no differences in the number of ballot pages will be permitted; the number of ballot pages recorded by the scanner and the server must match identically or the batch must be rescanned.

**Tabulation Room:** [Additional provisions suggested for insertion]

**Required Paper Logs** Three separate paper and ink logs will be kept concerning the tabulation and tabulation room activities.

1. Log 1: notes CCBOE personnel present and operating the GEMS server in any manner. This log must record the real time and server-noted time of when GEMS server is booted up; who is present at the initiation of GEMS; and all operators of the GEMS server from any point at which the server has been turned on to begin receiving scanned absentee ballot data, or any other election voting data. It should record both the beginning and ending times at the server or in the tabulation room. If any personnel only come to the Tabulation Room door to deliver messages and do not enter the room, their visits will not be recorded.

2. Log 2: records the presence as observers or monitors any others who are not CCBOE employees. This log must have space for printed name, organization, time of entrance and departure, and initialing beside each entry.

3. Log 3 records every operator intervention that is made into the GEMS server for (a) clearing flawed AB-OS batches, (b)“backing up” the database, (c) dealing with any unexpected occurrences, and the like. There must be a space for the operator name, real time, description of the intervention, and the Monitor/other observers to verify . Scrolling through screens is not an “intervention.” Attaching and unattaching the T1 lines to the server is an “intervention” to be noted on the log.

### **Physical security for the Tabulation Room**

1. When staff/observer breaks occur, or the shifts are over for the evening, the tabulation room door is to be double-locked as specified and the door security taped with “tamper tape”. A paper and ink log is to be kept outside the door of the times the room is open, or closed with locks and security tapes. The log should also note the security number of the tape. At least one witness/observer or sheriff’s officer is to verify on the log that the tape was intact and of the same numbers when the door is reopened.

2. All observers and Monitor staff are to be seated at least 2 feet from the keyboard but so they have clear view of the GEMS screen and the keyboard.

3. The Ballot Department or other CCBOE staff will provide written instructions to the observers, Sheriff’s officers, and Monitor staff, including the instruction that they shall not touch ballots, voting equipment, scanning equipment, tabulation equipment, network hardware or election materials.

###



**J. KENNETH BLACKWELL**

Ohio Secretary of State

180 E. Broad Street, 16th Floor, Columbus OH 43215  
614.466.2655 / Toll Free: 877.767.6446 / Fax: 614.644.0649  
e-mail: blackwell@sos.state.oh.us  
www.sos.state.oh.us

## **DIRECTIVE 2006-85**

November 4, 2006

To: All County Boards of Elections  
Members, Directors and Deputy Directors

### **Procedures for Absent Voter's Ballots**

R.C. 3505.27 imposes minimum requirements for the counting of votes, and permits the Secretary or the Boards of Elections to prescribe additional procedures "that assure an accurate count of all votes cast." In order to ensure the integrity of the absentee balloting process, the Secretary of State is issuing this Directive.

For purposes of this Directive and implementation thereof, "processing" shall include the handling, examination and opening of absentee ballot identification envelopes, as well as the preparation of absent voter's ballots for scanning.

For those boards utilizing "automatic tabulating equipment" (as defined in R.C. 3506.01(C)) to scan absent voter's ballots, "scanning" shall mean the examination and counting of such ballots under R.C. 3505.27.

#### **I. Court Order Regarding Absent Voter's Ballots**

On November 3, 2006, the Cuyahoga County Court of Common Pleas issued a writ of mandamus directing the Secretary to authorize the Cuyahoga County Board of Elections and all other boards of elections in the State of Ohio to begin optical scanning of absent voter's ballots at 7:00 a.m. on November 6, 2006, without disclosing the count or any portion of the count at any time before the polling places close on November 7, 2006. A copy of the Court's Order is attached.

Due to security concerns regarding the integrity and counting of absent voter's ballots, the Office of the Secretary of State would advise the boards not to begin the scanning of absent voter's ballots prior to November 7, 2006.

## **II. Procedures for Counties Scanning Absent Voter's Ballots Prior to November 7 With Automatic Tabulating Equipment**

Before commencing the processing or scanning of absent voter's ballots, those boards electing to scan absent voter's ballots prior to November 7 with automatic tabulating equipment must have formally adopted and have implemented a security plan relating to absent voter's ballots that ensures at a minimum: (i) controlled access to the location where ballots are counted; (ii) secured, password controlled access to the automatic tabulating equipment; (iii) bipartisan (2-person) control over all absent voter's ballots at all times; and (iv) that, at no time, any person has access to the count or any portion of the count before the polling places close on November 7, 2006.

## **III. Procedures for All Counties In Handling Absent Voter's Ballots**

Regardless of when each board elects to commence the processing or scanning of absent voter's ballots, the following procedures must be followed before the board may commence the processing or scanning of absent voter's ballots to ensure sufficient security and control over the entire process regarding absent voter's ballots, as well as protecting ballot secrecy.

### **A. Appointment of Special Election Judges by the Board**

For those counties that count absent voter's ballots at the office of the board of elections or at another location designated by the board, special election judges shall be appointed by the board for the processing and scanning of absent voter's ballots. R.C. 3509.06(C). No person, other than a duly appointed special election judge, may be involved, in any manner, with the examination and opening of any absentee ballot identification envelope.

### **B. Scanning Must Be In Full View of Board**

All scanning of any absent voter's ballot by any automatic tabulating equipment shall be done in the full view of members of the board and observers. R.C. 3505.27(A).

If you have any questions, please contact the Elections Division at 614-466-2585.

Sincerely,

Monty Lobb  
Assistant Secretary of State

**[Order from Judge Gaul follows]**

**IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO**

<b>JIMMY DIMORA, ET AL.,</b>	)	<b>CASE NO. 606178</b>
	)	
<b>Plaintiffs,</b>	)	
	)	<b>JUDGE DANIEL GAUL</b>
<b>vs.</b>	)	
	)	<b><u>ORDER</u></b>
<b>J. KENNETH BLACKWELL,</b>	)	
<b>SECRETARY OF STATE,</b>	)	
	)	
<b>Defendant.</b>	)	

This matter having come before the Court on the \_\_\_\_ day of November 2006, on Plaintiffs' Amended Verified Complaint and Motion for Temporary Restraining Order and Preliminary and Permanent Injunction, and Writ of Mandamus and supporting memorandum. The Court, having been fully advised of the premises, finds that Plaintiffs motion is well taken. The Court determines that in light of circumstances of this case, including the unprecedented number of absentee ballots that will be cast in the November 7, 2006 General Election and the new and untried technology and equipment that will be utilized to process and count such absentee ballots, the failure to begin scanning absentee ballots in advance of election day would create an unreasonable risk that the results of the November 7, 2006 General Election will not be reported in a timely manner in accordance with Ohio law. Accordingly, the Court hereby orders, adjudges and decrees as follows:

This order is made in recognition of the unique and unprecedented circumstances presented by this election.

The Cuyahoga County Board of Elections may begin the processing and optical scanning of absent voter's ballots at 7:00 a.m. on November 6, 2006, provided that the

Board of Elections shall take all reasonable security precautions against any disclosure of the count or any portion of the count at any time before the closing of the polling places on November 7, 2006 as required by Section 3509.06 of the Ohio Revised Code.

In addition, it is also ordered that the Cuyahoga County Board of Elections shall appoint two (2) teams of observers, each team consisting of two (2) Republicans and two (2) Democrats, to observe the processing and optical scanning of all absentee ballots from inception to end, pursuant to Section 3505.21 of the Ohio Revised Code.

A writ of mandamus is hereby issued to compel Defendant J. Kenneth Blackwell, Secretary of State, to authorize the Cuyahoga County Board of Elections and all other boards of election in the State of Ohio to begin the processing and optical scanning of absent voter's ballots at 7:00 a.m. on November 6, 2006 without disclosing the count or any portion of the count at any time before the polling places close on November 7, 2006.

No bond required.

Further, this matter is hereby set for a hearing on Plaintiffs' requested Preliminary and Permanent Injunction relief for November 25, 2006, at 10:00am.

It is so ordered.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Judge

## Appendix

----- Original Message -----

**Subject:**thanks, log request, and more

**Date:**Fri, 05 Jan 2007 03:36:52 -0500

**From:**S Candice Hoke <shoke@law.csuohio.edu>

**To:**Lou Irizarry <belmi@cuyahogacounty.us>, Matt Jaffee <bemij@cuyahogacounty.us>, Brian Cleary <bebjc@cuyahogacounty.us>

**CC:**Kim Bartlett <bekab@cuyahogacounty.us>

Dear Lou, Matt and Brian,

Thanks for the meeting today. Attached is the set of tasks the Board assigned to the Monitor (blue reflects floor amendments from the Bd Members). Hope it helps you to help with the planning for how this process can serve to achieve the important objectives the Board and the public-- and probably you-- would like to achieve.

As you could see today, I will be frank with you about concerns, observations, and aspirations. I hope you will meet me with a similar commitment to full disclosure of the good, the bad, and the ugly. There's almost nothing that you can comment on that I have not already heard, seen, or read. I'm also well aware of the culture of the Board, the deplorable staffing and training practices, the sweatshop personnel practices, the tendencies to try to hide problems rather than flag and fix them, the failure to hold anyone accountable in a fair manner for their work performance deficiencies and to give effective guidance for improvements, etc. And that's just the tip of the difficulties.

As Monitor, we have far more to bring forward to your two departments that needs to be addressed and remedied. We will not be hiding the ball. You will hear everything that we believe raises concerns. But the saying from some sports and strength building comes into mind: **no pain, no gain**. In some respects it will be uncomfortable, as was some of the discussion today. And it will necessitate your being open minded to new approaches, just as I still have much to learn from you. Once all these issues are out and on the table for consideration and reformed practices, I believe the stress level of everyone will be going down dramatically. But getting from where the Board/your departments are now to that more positive end and trajectory will be a bit of a trek. The pending trial won't be helping.

I keep receiving more national news inquiries from TV networks who want to come back to Cuyahoga. Let's give them some good news the next time. I know lots of good things to stress. But the bad news needs to stop-- and not because of concealments. Rather, it will be because you all and the Board as a whole are engaged in pathbreaking efforts to set a high new level of election administrative performance, one that will surpass the rest of Ohio and most of the nation. That's my vision. I hope you will come to share it and we will work together to vindicate this Board's talents and abilities to run high quality elections in every way.

Warm wishes, Candice

PS, I'd be grateful if you would email a **copy of the Central Count scanner log** from the **entire month of November in csv format** instead of pdf to me **on Friday, 1/5**. And a repeat export of the Windows Logs -- all 3 of them. One of them shows that it was cleared out on Dec 8. Maybe you can recover it?? Thanks (**KIM**, this document request part is for your records! Thanks)

## **Appendix (Director Vu's submission)**

### **Absentee Ballot Processing & Handling Recommended Plan**

November 7, 2006 Election

#### **Hardware Requirements**

- 20 Optical Scan Units – Existing
- 55 Optical Scan Units – Lease from Diebold
- 150 Large Bins
- 150 Serialized Tags

#### **Personnel Requirements**

- 120 Optical Scan Temporary Staff (40 Democrats & 40 Republicans)
- 12 Material Handling Temporary Staff (5 Democrats & 5 Republicans)
- 12 Full Time Staff

#### **OS Process Timeframe Requirements**

Friday, November 3 <sup>rd</sup>	4:00 p.m. - Finish	Public Pre-Test
Saturday, November 4 <sup>th</sup>	8:30 a.m. – 5:30 p.m.	Opening Absentee Ballots
Sunday, November 5 <sup>th</sup>	8:30 a.m. – Finish	Opening Absentee Ballots
Monday, November 6 <sup>th</sup>	7:00 a.m. – Finish	Scan OS Ballots

#### **Returned Absentee Ballots**

All returned absentee ballots are submitted to the Candidate & Voter Services (CVS) Department by the Board of Elections. The CVS Department keeps all return absentee ballots under double locked doors. CVS personnel bar code scans all return envelopes containing the ballot, verifies the affirmation statement and signature and separates the ballots into precinct order.

Questionable and/or rejected absentee ballots will be segregated into corresponding bins and will not be processed and counted. Questionable ballots will be presented to the Board Members for final determination. These ballots will be stored under double lock and key until the time of the Board Meeting where they will be considered.

#### **Opening Absentee Ballots**

The Board of Elections will begin opening the CVS verified return ballots on Saturday, November 4, 2006 at 8:30 a.m. The process would entail 100 temporary workers hired by each respective Board office. These temporary workers will be trained and supervised by CVS managers and staff.

In order to secure privacy of the voter's selection, the workers will be trained to open the envelope with the name of the voter face down. In cases where the ballot is invalid (i.e. ballot stub is removed), the ballot will be segregated. Considering there is more than one page to a ballot, the absentee ballot openers will organize a deck of ballots by precinct and place them in

an envelope which will be labeled with the corresponding precinct number. The large bins will then be secured under double lock and key and will be placed on top of one another in order to flatten out the ballot.

*Note: There are no other write-in candidates other than those certified by the Secretary of State's Office (1 U.S. Senate Candidate and 2 Gubernatorial Candidates), thus only the first page of each ballot will be reviewed for write-in votes. Any ballots that include a write-in vote will be segregated and placed in envelopes that contain other write-ins.*

## **Scanning Optical Scan Ballots**

Prior to scanning of optical scan absentee ballots, the Board of Elections will train all staff that has the responsibility of processing optical scan ballots.

On Monday, November 6<sup>th</sup> teams of Republicans and Democrats will begin processing ballots in the basement of the CCBOE where 60 optical scan units are set up. The remaining 15 optical scan units will serve as backups. The layout of the room will consist of 5 rows of 6 tables. Each table will have 2 optical scan units. Each optical scan voting unit will have 1 Democrat and 1 Republican assigned as a team to scan each envelope containing the ballots for each precinct. The scanning will continue until the bin is empty.

For each envelope, the staff will record the number of pages in the envelope, the batch receipt number (actual receipt will be stapled to the outside of the envelope) and the number rejected on the envelope. The batch receipt does not identify, in any way, votes cast for candidates or issues.

After processing all of the ballots in a bin, the bin into which the processed envelopes have been placed will be secured with a serialized tag and placed in a double locked room. In order to track each envelope, staff will record each envelope and each bin in order to easily identify and retrieve ballots in case of a recount.

The expected time to complete processing of the ballots through the optical scan units will be no later than Tuesday, November 7<sup>th</sup> at 4:30 p.m. (Details of date and time of processing is located under "OS Process Timeframe").

## **Training**

The CCBOE worked with Diebold personnel, Jessica Hiner and Chris Bellis, to provide a training program for those that will be processing the OS ballots through the OS readers. Training occurred the week of October 23, 2006.

## **Tabulation Room**

*Note: The tabulation room is double-locked and two security cameras record the actions of the room 24 hours a day 7 days a week. Also, it requires physical intervention for election results to be produced on GEMS.*

While processing of optical scan ballots is occurring in the basement, in the GEMS tabulation room, personnel consisting of 1 Democrat and 1 Republicans, will be responsible for managing the incoming data. For example, if a scanner reports that 51 ballot pages were scanned when in fact 50 pages were fed-in, GEMS personnel would have the ability to clear the deck so the scanners can re-process the deck properly.

Password to the GEMS Application will be held by the Director and Deputy Director and their designated appointees. Please see the Board of Elections Security Policy for further protocols.

In order to provide sufficient security to prevent the distribution of election results prior to their release on November 7, 2006 at 7:31 p.m., the CCBOE will have a sheriff officer present during the entire process. Pursuant to Court Order, the CCBOE will also have present “2 teams of observers, each team consisting of two Republicans and two Democrats to observe the processing and optical scanning of all absentee ballots from inception to end”. Also, the Board Members have approved observation by the Public Monitor according to the “CCBOE Board Members’ Authorization for the Monitor”.

Also, to address concerns regarding the pre-release of election results, GEMS contains an audit log (see figure below) that records certain events that take place within the GEMS program, including production of a Summary Report (i.e. election results). With the audit log, the Board of Elections will be able to determine if a Summary Report was generated, when it was generated and by whom. To provide a separate record than the GEMS Audit Log, a written log will be kept to record the events and actions that required human interaction. Information required includes date, time, and nature of interaction on the GEMS Server.

