



**STATE OF HAWAII
OFFICE OF ELECTIONS**

802 LEHUA AVENUE
PEARL CITY, HAWAII 96782
elections.hawaii.gov

SCOTT T. NAGO
CHIEF ELECTION OFFICER

September 12, 2022

To: Elections Commission

From: Scott T. Nago
Chief Election Officer

Re: Status of Operations

Since our last meeting on April 1, 2022, we have conducted and completed the Primary Election, and we are in the midst of preparing for the General Election.

2022 PRIMARY ELECTION

The 2022 Primary Election was the second primary election conducted by mail under Act 136, Session Laws of Hawaii 2019. It was also the first to use a new voting system and new district lines drawn by the decennial state Reapportionment Commission and the applicable County redistricting commissions. As such, the 2022 Primary Election involved a combination of routine operations from the 2020 Elections with adjustments to account for the new voting system and district lines.

Proclamation & Close of Candidate Filing

On May 10, 2022, the proclamation for the 2022 Elections was issued jointly by the Chief Election Officer and the county clerks. Approximately one month later, candidate filing closed on June 7, 2022, which had been opened in March 2022.

Ballots for Military and Overseas Voters

Following the close of candidate filing, we proofed and finalized the ballots to meet the deadline in the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) and its state counterpart, Hawaii Revised Statutes Chapter 15D, to transmit ballots at least

45 days in advance of an election. The County Elections Divisions sent ballots to these voters by June 29, 2022.

Official Observers' Test

The next milestone was conducting the official observers' test, a logic and accuracy test of the voting equipment deployed to the voter service centers. Official Observers mark test ballots and create their tally of expected results to reconcile with the voting equipment tabulated results. After confirming the voting equipment counts ballots logically and accurately, the Official Observer witnessed the sealing of the equipment for the Primary Election.

Ballot Mailing to General Public & Roll Out of Ballot Tracking Service

The next significant milestone was ensuring that ballots would be received by voters at least 18 days before the election. This deadline required coordination with the County Elections Divisions, USPS, and the mailing house vendor. Ballots for the City and County of Honolulu were delivered to USPS for mailing on July 20 & 21, 2022, while neighbor island ballots were delivered to USPS on July 22, 2022. The County Elections Divisions provided notice of the mailing dates and coordinated the opening of their ballot drop boxes.

We would also note that the ballot tracking system, BallotTrax, was launched for the 2022 Elections. Voters are eligible to sign up for text, voice, and email alerts. As of September 1, over 13,000 voters have signed up for this service. For the General Election, we will work with the County Elections Divisions to ensure their Eligibility File is uploaded to the BallotTrax system daily, as this file triggers alerts to be sent to voters.

Statewide Observers' Test

The statewide observers' test was conducted on July 30, 2022. The test involved the counting center voting equipment and tabulation application. It was conducted simultaneously at the four counting centers across the state as the test included verifying a statewide compilation report of the results from the counting centers.

Processing Voted Ballots

The counting centers were opened across the state beginning on August 2, 2022 to process voted ballots validated by the respective County Elections Divisions. The processing of voted ballots at the counting center involves opening ballot return envelopes and scanning the ballots into the voting system. We want to emphasize that no tabulation report is compiled until Election Day.

Election Results

The Office of Elections periodically published summary reports of the then-current election results on its website at <https://elections.hawaii.gov/election-results/> from the close of voting on election day to the last ballot being counted on August 25, 2022. In total, the Office of Elections published five statewide summary reports.¹

The first four reports were issued within twenty-four hours of the close of voting, along with county-specific reports.² After this, the counting centers conducted recounts,

¹ Please note that the Office of Elections also published county specific summary reports in connection with each time additional ballots were counted at a counting center. Additionally, results associated with statutorily mandated recounts were posted to the website. Finally, the Office of Elections' website includes a statewide precinct detail report that was issued at the conclusion of the counting of ballots.

² The first report entitled "PRIMARY ELECTION 2022 – State of Hawaii – Statewide, August 13, 2022, SUMMARY REPORT, Report 1" was printed on August 13, 2022, at 7:03 p.m. and published after the voter service centers were confirmed to be closed on the Office of Elections' website. This report included the majority of ballots that had been validated and provided to the counting centers up to that day prior to the close of voting.

The second report entitled "PRIMARY ELECTION 2022 – State of Hawaii – Statewide, August 13, 2022, SUMMARY REPORT, Report 2" was printed on August 13, 2022, at 10:26 p.m. and published that day on the Office of Elections' website. This report included the majority of voter service center ballots that had been counted at the voter service centers and additional ballots received by mail and places of deposit.

The third report entitled "PRIMARY ELECTION 2022 – State of Hawaii – Statewide, August 13, 2022, SUMMARY REPORT, Report 3" was printed on August 14, 2022 at 12:56 p.m. and published that day on the Office of Elections' website. This report notably included all of the ballots that had been verified by the county clerks by 6:00 a.m. on the day following the election. Ballots verified *after* 6:00 a.m. were included in the subsequent Statewide Summary Report 4. This distinction is important as the recount trigger is based on the report including all of the ballots verified by the county clerks by 6:00 a.m. (i.e., Statewide Summary Report 3)

The fourth report entitled "PRIMARY ELECTION 2022 – State of Hawaii – Statewide, August 13, 2022, SUMMARY REPORT, Report 4" was printed on August 14, 2022 at 6:34 p.m. and published that day on the Office of Elections' website. This report included the ballots verified by the City Clerk on Oahu after 6:00 a.m. the day after the election.

pursuant to HRS §§ 11-108 and 11-158, for those contests which met the statutory trigger relating to results for those ballots verified by 6:00 a.m. by the county clerks. The third statewide summary report contained the results associated with the ballots verified by the county clerks by 6:00 a.m. and was used to determine which contests were subject to a recount.

The automatic recount trigger impacted six contests. Specifically, one recount was conducted on Maui for a state representative contest, another on Kauai for a county council contest, and four on Oahu for a combination of a state senator contest and three state representative contests. The neighbor island recounts were conducted on August 15, 2022. On Oahu, the recount was conducted on August 15 and 16, 2022. The results of the recount did not impact the outcome of the election.

After the recounts were completed, the next deadline was for voters to cure any deficiency with their ballot return envelope. Affected voters are allowed up to five business days following the election to cure deficiencies with their ballot return envelope identified by the county clerks pursuant to HRS § 11-106. This year's deadline was August 22, 2022 (Monday), due to August 19, 2022 (Friday) being a state holiday.

On and in the days immediately following the deadline, we conducted the post-election audit and count in each County and released a subsequent county-specific results report.

The Oahu post-election count was completed on August 22, 2022. The post-election audit was also started on August 22, 2022, but due to the number of precincts (16) and the number of ballots to review within each precinct, the audit was completed on August 26, 2022.

As for the neighbor islands, counting the remaining verified ballots and post-election audits were conducted on August 23, 24, and 25, 2022, for Hawaii, Maui, and Kauai, respectively. For each County, a separate county summary report was printed on those dates.

The fifth statewide summary report was issued with the completion of the counting of ballots in all four counting centers on August 25, 2022. The post-election audit at the counting center at the State Capitol was completed the following day, on

August 26, 2022. Since no issues were found to undermine the election results, the fifth statewide summary report was deemed the final report.

ELECTION CONTESTS

Our laws provide that election results may be challenged before certification by election officials. For the 2022 Primary Election, eight election contests were filed with the Hawaii Supreme Court. After receiving the determinations from the Hawaii State Supreme Court dismissing these cases, the 2022 Primary Election was certified on September 6, 2022.

GENERAL ELECTION PREPARATIONS

We are already conducting operations for the General Election. The General Election ballot has been proofed and sent for printing. For the County of Maui, the ballot will be two sheets as there are 15 ballot questions for consideration by voters. Likewise, we will be conducting testing of the voting system in advance of the General Election. These and similar activities described above for the Primary Election are currently in process for the General Election.

If you have any questions, please feel free to contact me at (808) 453-VOTE (8683) or 1-800-442-VOTE (8683).

From: [Brett Kulbis](#)
To: [OE.Elections](#)
Subject: [EXTERNAL] ELECTIONS COMMISSION TESTIMONY
Date: Monday, September 12, 2022 2:41:41 PM

Chairman Anderson and Commissioners,

During this past primary election I was an observer at both Honolulu County Voting Service Center and the State Capitol Counting Center. Mahalo to Director Nago, Aulii Tenn, and their entire staff for their hard work. The level of detail and execution of the procedures identified in the "State Counting Center Manual" was appreciated and was instrumental in reducing much of the speculation about the conduct of our elections. Their team was professional and courteous, while answering my many questions.

While I remain in strong opposition to mail in voting, I will admit the procedures put in place at both locations alleviated many of my concerns. However, there was one glaring data point, turnout for this election was only 1% better than the 2018 in person election.

For the record below are the comments and recommendations I will be submitting to the State Office of Elections:

a. Cast Vote Records (CVR) is a file, either text or possible excel format, which lists on each line information about one ballot in the order processed. I understand the Hart Inter Civic hardware produces this type of report, but I also know it can be turned off. Do you have the CVR files for the 2022 Primary Election and what is the procedure to obtain this file?

b. During the pack out and move of the all primary records and ballots on September 9, I noticed what looked like Hart Inter Civic backing up each of the scanning computers to a portable hard drive. Can you confirm this, what was being backup and do you have possession of those hard drives?

c. Use of Hart Inter Civic personnel to handle ballots as part of the scanning process should be an exception not the norm. They should only be handling ballots when there is a malfunction with the scanner. Additionally, they should not be part of reviewing ballot images during the mandatory recount or the post-election audit.

d. Recommend sorting of ballots into Voted Ballot Containers (VBC) by individual legislative districts and not by grouped legislative districts of tens (i.e 18-19, 20-29, 30-39, 40-49, 50-51). While sorting ballots into VBCs by groups of ten districts may be more convenient, it makes it harder to conduct the mandatory recounts and the post-election audits because of the time consumed rescanning ballots. SD-24, HD-20, HD-35, and HD-45 all met mandatory recount threshold. This required the rescanning of essentially every VBC (approximately 480). Additionally, this would assist should the Supreme Court approve a hand count of the ballots.

e. Counting center workers need more detailed training based on the scope of work being performed and basic primary voting procedures. During the post-election audit, the workers I observed were confused on how to count ballots where the voter did not select a party preference and counted ballots that the scanner did not due to the voter checking the block near edge and outside of scanners scan area.

f. While the process at the State counting center at the capitol was conducted well and per the guide, not so much on the neighbor islands. It was reported to me that on Kauai the moving of the ballots from their signature verification location to the counting location was not conducted under the supervision of official observers per your guide.

g. For the 2024 primary election ballot, I recommend the Instructions box be placed above the Start Voting Here block. This will hopefully reduce the multi-party voting in the primary and ensure a voter's vote is counted.

v/r

Brett Kulbis

Honolulu County Chairman

"Without the right to vote, there's no American experiment. Every time we vote, we're standing up side by side with our Founding Fathers, with patriots and pioneers throughout our history. Where the right to vote is the crown jewel of American liberties, and we will not see its luster diminished." President Reagan

From: [Ralph Cushnie](mailto:Ralph.Cushnie)
To: OE.Elections
Subject: [EXTERNAL] FW: Audits/Early Counting
Date: Tuesday, September 13, 2022 5:01:51 PM
Attachments: [HRS16-42-Place of Deposit Collection v.1.pdf](#)

Please submit for Written Testimony discussions with County of Kauai missing chain of custody documentation.
Request for documentation regarding county compliance with HRS 16-42

Ralph Cushnie

From: Ralph Cushnie
Sent: Monday, September 12, 2022 2:51 PM
To: Lyndon Yoshioka <yoshioka@kauai.gov>
Cc: Jade Tanigawa <jtanigawa@kauai.gov>
Subject: RE: Audits/Early Counting

Thank you, Lyndon but I am still confused by this. Per the place of deposit collection procedure 4.1.1 that you sent me, "a place of deposit collection record form shall be completed to document the collections of ballots from each drop box". I would consider these forms to be [the chain of custody documentation], if you have the chain of custody documentation than you have the exact count from each drop box and receipt of mail in votes that came via mail. What am I missing? This is an important issue. I do not know how you can certify an election without these documents. Why bother following the place of deposit collection procedure and having official observers from both parties drive across the island carefully filling out Place of Deposit Collection Records? How do we know that ballots were not added or removed without these records?

Ralph Cushnie

From: Lyndon Yoshioka <yoshioka@kauai.gov>
Sent: Monday, September 12, 2022 7:17 AM
To: Ralph Cushnie <ralph@cushniecci.com>
Cc: Jade Tanigawa <jtanigawa@kauai.gov>
Subject: RE: Audits/Early Counting

Per our 8/26/2022 below, the counts for the days in question were taken but were misplaced so could not be recorded. Chain of custody for ballots was not lost.

From: Ralph Cushnie <ralph@cushniecci.com>
Sent: Monday, September 12, 2022 7:17 AM
To: Ralph Cushnie <ralph@cushniecci.com>
Cc: Jade Tanigawa <jtanigawa@kauai.gov>
Subject: RE: Audits/Early Counting

The updated counts are below. As noted previously, these rough manual counts are only used to gauge voter flow and to assist in locating resources.

- The "Marked Manual" count represents the number of envelopes that were added to the count because they were unopened or unsealed and had no signatures.
- The "Unmarked Manual" count represents the number of envelopes that were added to the count because they were open (i.e., missing or non-matching signatures) which likely caused the envelope to be pulled out of the voter's bag and signed and returned.
- Individual counts for 7/23/22 and 7/26/22 were misplaced as only the Total is provided for those dates.

From: Ralph Cushnie <ralph@cushniecci.com>
Sent: Thursday, September 8, 2022 8:00 PM
To: Jade Tanigawa <jtanigawa@kauai.gov>; Lyndon Yoshioka <yoshioka@kauai.gov>
Subject: RE: Audits/Early Counting

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Hello Jade and Lyndon the information I am asking for regarding HRS 16-42 documentation (email dated sept 6) should be readily available. Please provide it by Monday September 12. Also please include documentation of election certification and how missing chain of custody documents for 1905 ballots is resolved.

§11-155 Certification of results of election. On receipt of certified tabulations from the election officials concerned, the chief election officer, or **county clerk in a county election,** shall compile, certify, and release the election results by district and precinct after the expiration of the time for bringing an election contest. The certification shall be based on a comparison and reconciliation of the following:

- (1) The results of the canvass of ballots conducted pursuant to chapter 16;
- (2) The audit of records and resultant overage and underage report;
- (3) The audit results of the manual audit team;
- (4) The results of any mandatory recount of votes conducted pursuant to section 11-158; and
- (5) All logs, tally sheets, and other documents generated during the election and in the canvass of the election results.

A certificate of election or a certificate of results declaring the results of the election as of election day shall be issued pursuant to section 11-156; provided that in the event of an overage or underage, a list of all precincts in which an overage or underage occurred shall be attached to the certificate. The number of candidates to be elected receiving the highest number of votes in any election district shall be declared to be elected. Unless otherwise provided, the term of office shall begin or end as of the close of voter service centers on election day. The position on the question receiving the appropriate majority of the votes cast shall be reflected in a certificate of results issued pursuant to section 11-156. [L 1970, c 26, pt of §2; am L 1980, c 264, §1(b); am L 1986, c 305, §3; am L 1997, c 61, §2; am L 2019, c 135, §2; am L 2021, c 213, §30]

Ralph Cushnie

From: Ralph Cushnie
Sent: Tuesday, September 6, 2022 10:18 AM
To: Jade Tanigawa <jtanigawa@kauai.gov>; Lyndon Yoshioka <yoshioka@kauai.gov>
Subject: FW: Audits/Early Counting

Good morning, Jade and Lyndon per my email sent prior to the primary election please provide information on how the county complied with HRS 16-42 for using electronic voting machines specifically at the county voting center. As we know the voting machines are only allowed to be used if the chief election officer conducts a post-election, pre-certification audit of a random sample of not less than ten per cent of the precincts employing the electronic voting system, to verify that the electronic tallies generated by the system in those precincts equal hand tallies of the paper ballots generated by the system in those precincts. Please provide all documentation on how the county complied with HRS16-42. See reference e-mail below.

Sincerely

Ralph Cushnie

From: Ralph Cushnie
Sent: Thursday, August 4, 2022 7:23 AM
To: OE.Elections <elections@hawaii.gov>
Cc: Jade Tanigawa <jtanigawa@kauai.gov>; Lyndon Yoshioka <yoshioka@kauai.gov>; Katakao, Jaime N <jaime.n.katakao@hawaii.gov>
Subject: RE: Audits/Early Counting

Good morning Auli, for the 2022 primaries please keep detailed records of the audits that your office performs that comply with HRS 16-42. This should include a narrative of how the audits were performed. Please be prepared to answer how your audit complies with **HRS 16-42 section (b) (3)**. The chief election officer conducts a post-election, pre-certification audit of a random sample of not less than ten per cent of the precincts employing the electronic voting system, to verify that the electronic tallies generated by the system in those precincts equal hand tallies of the paper ballots generated by the system in those precincts.

Audits need to contain both highlighted items in each Audit:
Audits need to be random. Presetting the first ballot batch for an Audit is not random and does not comply with HRS 16-42.
They need to be performed using the original paper ballots. Using ballot images for an audit does not comply with HRS16-42. (Ballot images can be manipulated)

Please ensure that official observers are present and sign audits.

The Election Manual page 247 post-election audit states that "The Manual Audit Team, with Official Observers, review each batch to confirm it was counted as marked." "Election Officials and Official Observers confirm the results reports and certify the audit." Also, on page 247 it says that "Official Observers serve as the "eyes and ears" of the public."

We look forward to a transparent primary election.

Sincerely

Ralph Cushnie

From: Ralph Cushnie
Sent: Wednesday, August 3, 2022 5:47 AM
To: OE.Elections <elections@hawaii.gov>
Cc: Jade Tanigawa <jtanigawa@kauai.gov>; Lyndon Yoshioka <yoshioka@kauai.gov>; Katakao, Jaime N <jaime.n.katakao@hawaii.gov>
Subject: RE: Audits/Early Counting

Auli, thank you for responding. I look forward to having further discussions on this.

Ralph Cushnie

From: OE.Elections <elections@hawaii.gov>
Sent: Wednesday, August 3, 2022 5:43 AM
To: Ralph Cushnie <ralph@cushniecci.com>; OE.Elections <elections@hawaii.gov>
Cc: Jade Tanigawa <jtanigawa@kauai.gov>; Lyndon Yoshioka <yoshioka@kauai.gov>; Katakao, Jaime N <jaime.n.katakao@hawaii.gov>
Subject: RE: Audits/Early Counting

Dear Mr. Cushnie,

This is written in response to your email, dated July 31, 2022, concerning the audit of the 2020 General Election. As it relates to your question, the audit on November 19, 2022 was conducted on Kauai. In regard to your thoughts on HRS § 16-42, as we noted in our prior email, any questions or issues you may have involving the interpretation of the law are legal matters that we cannot provide you advice about. In such circumstances, we note that individuals may wish to consult with a private attorney.

Further, we are conducting the 2022 Primary Election and we may not be able to respond to emails. We will return to our desks after the Primary Election operations have concluded, around August 29, 2022.

We appreciate your cooperation and patience.

Aloha,
Auli Tenn
Counting Center Operations

State of Hawaii
Office of Elections
(808) 453-VOTE (8683)
elections@hawaii.gov

From: Ralph Cushnie <ralph@cushniecci.com>
Sent: Sunday, July 31, 2022 5:09 PM
To: OE Elections <elections@hawaii.gov>
Cc: Jade Tanigawa <jtanigawa@kauai.gov>; Lyndon Yoshioka <lyoshioka@kauai.gov>; Kataoka, Jaime N <jaime.n.kataoka@hawaii.gov>
Subject: [EXTERNAL] RE: Audits/Early Counting

Auli, after reading HRS 16-42 and your email, I have the following observations and question:

Question:

Was the Audit on November 19, 2020, done on Kauai?

Observations:

The audits spelled out in the election's manual **are not designed to catch discrepancies or fraud**.

An audit must be **random** and prove the Machines are tallying the **original paper ballots** correctly and must be done with **official observers** (that serve as the eyes and ears of the public). An Audit must contain all these components to catch discrepancies or fraud.

Election day November 3, 2020. Kauai Audit done on November 19, 2020, 9:56 am . Official state results posted November 19, 2020, 10:21am

Official state results posted 25 minutes after Kauai audit.

The Audit done on November 19, 2020, did not comply with HRS 16-42

Background:

HRS 16-42 section (b)(3) The chief election officer conducts a post-election, pre-certification audit of a **random sample** of not less than ten per cent of the precincts employing the electronic voting system, to verify that the electronic tallies generated by the system in those precincts **equal hand tallies of the paper ballots** generated by the system in those precincts.

The Election Manual page 247 post-election audit states that "The Manual Audit Team, with Official Observers, review each batch to confirm it was counted as marked." "Election Officials and Official Observers confirm the results reports and certify the audit." Also, on page 247 it says that "Official Observers serve as the "eyes and ears" of the public."

Conclusion: November 19, 2020 audit did not comply with HRS 16-42

First: There are 2 requirements per HRS 16-42; (1) they are **random** and (2) they are done using **original paper ballots**. There is no documentation for either of these components. The audit documentation is missing the Ballot Review Log, Ballot Audit Log, Batch Audit Tally, and the Results of Votes Cast. Also, it is missing a narrative of how the audit was performed.

Second: Per the elections Manual "Election Officials and Official Observers confirm the results reports and certify the audit." And that "Official Observers serve as the "eyes and ears" of the public". The language is plain, "and" means both parties need to be present. Per your response below only Oahu Election officials performed the audit. No Kauai election officials and no official observers ("eyes and ears" of the public") were present at the November 19 audit.

Solution:

Randomly Audit One Complete District with official observers (to serve as the eyes and ears of the public) to verify machines are counting original paper ballots correctly. No ballot images should be used in audits. Volunteers from both parties will hand count one randomly selected district using original paper ballots. All races will be tallied and compared to official computer results.

I look forward to your response to these questions. Let's keep in mind that Public trust in Election integrity is at an all-time low and the public is paying attention to the process. Fair elections require transparency.

Sincerely,

Ralph Cushnie
Board of Registration Kauai and Nihoa

From: OE Elections <elections@hawaii.gov>
Sent: Friday, July 29, 2022 2:25 PM
To: Ralph Cushnie <ralph@cushniecci.com>; OE Elections <elections@hawaii.gov>
Cc: Jade Tanigawa <jtanigawa@kauai.gov>; Lyndon Yoshioka <lyoshioka@kauai.gov>
Subject: RE: Audits/Early Counting

Dear Mr. Cushnie,

This is written in response to your email, dated July 27, 2022, concerning the audit of the 2020 General Election.

As a starting point, we believe the audit that was conducted complied with the law. Any questions or issues you may have involving the interpretation of the law are legal matters that we cannot provide you advice about. In such circumstances, we note that individuals may wish to consult with a private attorney.

However, we can address your general questions about the timing of the audit and who was involved. Specifically, the audit takes place over a period of time, as opposed to solely on election night. The reason for this is that the law provides that election results will not be certified "unless all ballots verified as valid by the clerk within seven days following an election day have been added to the final tabulation." HRS § 11-108. This results in the audit occurring on election night and after these additional ballots are received from the county clerk.

This window of time for the county clerks to verify additional ballots corresponds with the five business day window of time that HRS § 11-106 provides voters to cure issues with their return identification envelopes that were received by the close of voting on election day. The curing process generally involves situations in which the voter did not sign their envelope or their signature did not initially appear to match what was on file.

In terms of the logistics of resuming the audit after verification of the additional ballots, election officials from the Office of Elections on Oahu travel to each of the neighbor island counting centers across the state to participate in the audit. In other words, the audits are completed within these counties, as opposed to on Oahu. Official observers are informed of the dates of the resumption of the audit and can either participate in the audit or observe, consistent with their duties and responsibilities.

The signatures on the various audit forms reflect election officials, counting center officials, or official observers, depending on who participated in the audit. Official observers ultimately have the ability to participate in the audit or simply observe. As it relates to Kauai, assigned counting center officials constituted the audit team on November 3, 2020 and signed, while on November 19, 2020 the election officials from Oahu constituted the audit team and signed.

Finally, as it relates to your recommendations concerning the audit, we will take them into consideration. Please note that if discrepancies are found in an audit, election officials are able to authorize an expanded audit to determine the extent of any misreporting within the system.

Aloha,
Auli Tenn
Counting Center Operations

State of Hawaii
Office of Elections
(808) 453-VOTE (8683)
elections@hawaii.gov

From: Ralph Cushnie <ralph@cushniecci.com>
Sent: Wednesday, July 27, 2022 6:13 AM
To: OE Elections <elections@hawaii.gov>
Cc: Jade Tanigawa <jtanigawa@kauai.gov>; Lyndon Yoshioka <lyoshioka@kauai.gov>
Subject: [EXTERNAL] RE: Audits/Early Counting

Thank you, Auli. Does this audit comply with HRS section 16-42? It appears that one audit was done on election day the other was done 11/19/20, 2 weeks after the election. What was the reason for the time lapse? Was the second audit done on Kauai or Oahu? Are the signatures from Kauai Poll watchers?

An Audit should be able to check the actual paper ballots and compare them to the machine results. I recommend auditing one complete district after each election.

Ralph Cushnie

From: OE Elections <elections@hawaii.gov>
Sent: Tuesday, July 26, 2022 4:23 PM
To: Ralph Cushnie <ralph@cushniecci.com>; OE Elections <elections@hawaii.gov>
Cc: Jade Tanigawa <jtanigawa@kauai.gov>; Lyndon Yoshioka <lyoshioka@kauai.gov>

Subject: RE: Audits/Early Counting

Dear Mr. Cushnie,

Please see the attached audit certification from the 2020 General Election.

Aloha,
Auli Tenn
Counting Center Operations

From: Ralph Cushnie <ralph@cushniecci.com>
Sent: Monday, July 25, 2022 6:32 AM
To: OE.Elections <elections@hawaii.gov>
Cc: Jade Tanigawa <jtangawa@kauai.gov>; Lyndon Yoshioka <yoshioka@kauai.gov>
Subject: [EXTERNAL] RE: Audits/Early Counting

Good morning, Auli, I need to make a correction. I would like the documentation for the 2020 general election. Especially "Section 16-42 provides that the voting system be tested to ensure ballots are counted logically and accurately and that a random sample of not less than 10% of precincts be audited"
Also please include documentation of the election day audit, and post-election audit.
Please address my specific points on the audit process. An audit should compare the paper ballots to the machine results and it should be random.

Ralph Cushnie

From: Ralph Cushnie
Sent: Friday, July 22, 2022 4:01 PM
To: OE.Elections <elections@hawaii.gov>
Cc: Jade Tanigawa <jtangawa@kauai.gov>; Lyndon Yoshioka <yoshioka@kauai.gov>
Subject: RE: Audits/Early Counting

Auli, thank you. I will be working on a response to your reply over the weekend. In the meantime, please send me the Documentation for the 2020 primary election audit that you did that complies with Section Hawaii Revised Statutes 16-42. "This provides that the voting system be tested to ensure ballots are counted logically and accurately and that a random sample of not less than 10% of precincts be audited." Also please include the Election Day Audit, Post-Election Audit, documentation.

Sincerely

Ralph Cushnie

Board of Registration Kauai and Niihau

From: OE.Elections <elections@hawaii.gov>
Sent: Friday, July 22, 2022 2:32 PM
To: Ralph Cushnie <ralph@cushniecci.com>
Cc: Jade Tanigawa <jtangawa@kauai.gov>; Lyndon Yoshioka <yoshioka@kauai.gov>; OE.Elections <elections@hawaii.gov>
Subject: RE: Audits/Early Counting

Aloha Mr. Cushnie,

We received your email from the County of Kauai Elections Division as the State Office of Elections is responsible for the counting of ballots. We appreciate your comments and interest in the counting process. We want to note that the processes serve as checks and balances to ensure that all ballots are counted and counted correctly as well as the security and integrity of the election.

We also want to highlight, Hawaii Revised Statutes, Section 16-42 provides that the voting system be tested to ensure ballots are counted logically and accurately and that a random sample of not less than 10% of precincts be audited. These processes work together to first confirm the voting equipment is working correctly and then confirm the election results.

Mahalo for your participation in the electoral process.

Auli Tenn
Counting Center Operations

State of Hawaii
Office of Elections
(808) 453-VOTE (8643)
elections.hawaii.gov

From: Lyndon Yoshioka
Sent: Wednesday, July 20, 2022 9:02 PM
To: Ralph Cushnie <ralph@cushniecci.com>
Cc: Jade Tanigawa <jtangawa@kauai.gov>
Subject: RE: Audits/Early Counting

Received.

From: Ralph Cushnie <ralph@cushniecci.com>
Sent: Tuesday, July 19, 2022 6:22 AM
To: Lyndon Yoshioka <yoshioka@kauai.gov>; Jade Tanigawa <jtangawa@kauai.gov>
Subject: Audits/Early Counting

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Lyndon, Jade, I have read through the election manual and have the following observations:

Audits:

Background:

CISA has recently put out a report that vulnerabilities exist in election machines.

Traditionally audits are done on the terms of the auditor. The elections manual carefully dictates the terms of election audit. Therefore, the auditee is dictating the terms of the audit to the auditor.

The Election Day audit is done for the first batch of ballots run through the scanners. This is specially planned and is not random. It is possible without County Officials being aware to have different code in the machines after the first batch is run. Also, if machines are online, they can be hacked into. The post-election audit is done on ballot images. The ballot images are not compared to the actual paper ballot. Machines can change ballot images. Neither audit verifies that the votes (paper ballots) were counted correctly. On a national level primary elections were contested from both parties and hand counts of the paper ballots revealed different results from the machine count. Parameters of the machine can be changed or programmed differently without local election officials knowing. It our understanding that the election machines are proprietary and that a private contractor controls the machines themselves. It is our understanding that County officials turn them on and off and can operate different key functions. County officials do not have control of the machine programming.

Solution:

In order to maintain the Public's trust in Elections: Random and comprehensive audit should be done immediately after the election. The audit terms should be made by the auditors. (Representatives of parties involved in the election). No partial or % audits.

Recommendation:

Audit 1 full District.

Kauai has three districts with individual unique ballots. Randomly chose one district (by Auditors) Compare paper ballots (hand count all races) to official machine tally results immediately following all elections..

Early Counting:

Background: Mail in ballots are run through the machine up to a week prior to election day.
Results of early tabulation are not released to the public.

Discussion: If ballots are run through the voting machines early someone knows the results. This can give some candidates an unfair advantage over others.

Recommendation: No ballots should be run through scanners until election day.

Ralph Cushnie

Board of Registration Kauai and Niihau

PLACE OF DEPOSIT COLLECTION PROCEDURE



ELECTIONS DIVISION
OFFICE OF THE COUNTY
COUNTY OF KAUA'I

Revised June 26, 2022, v1.1

Disclaimer

This document is intended as a reference source only and should not be construed as the authority for the administration of elections or constituting legal advice.

Readers should consult the Hawai'i Revised Statutes and other sources for a complete and legal basis of the law or seek assistance from a licensed private attorney.

While every effort was made to keep this document up to date, if any item or section is outdated, the outdated material shall not affect other items or sections of this document that can be given effect without the outdated section or item, and to this end the sections of this Manual are severable.

TABLE OF CONTENTS

1	Overview	
1.1	Terms and Acronyms	1
1.2	Authority.....	1
1.3	Organization.....	2
2	Personnel	
2.1	Election Staff.....	2
2.2	Dropbox Lockers.....	2
2.3	Watchers.....	2
3	Places of Deposit	
3.1	Locations.....	3
3.2	Dropbox Deployment.....	3
3.3	Dropbox Maintenance.....	3
3.4	Dropbox Retrieval.....	3
4	Ballot Collection	
4.1	Documentation.....	4
4.2	Collection Process.....	4
4.3	Transport Container Security.....	4
4.4	Processing at Election Division.....	5
5	Election Day	
5.1	Personnel.....	5
5.2	Logistics.....	6
5.3	Close of Polls.....	6
6	Appendix	
6.1	Place of Deposit Locations.....	8
6.2	Place of Deposit Collection Record.....	9
6.3	Late Invalid Envelope.....	10

1 OVERVIEW

1.1 Terms and Acronyms.

Americans with Disabilities Act or **ADA** means the Americans with Disabilities Act of 1990 with amendments.

Ballot Dropbox or **Dropbox** means the apparatus set up by the County Clerk for receiving and securing voted ballots pursuant to HRS § 11-109.

Ballot Envelope means the envelope containing a voter's voted ballot.

County means the County of Kaua'i, State of Hawai'i.

County Clerk or **Clerk** means the County Clerk of the County of Kaua'i, State of Hawai'i.

DOJ means the U.S. Department of Justice.

Dropbox Late Invalid Envelope or **DLIE** means the envelope develop to secure ballots there were left outside a locked Dropbox.

Dropbox Locker or **DL** means a volunteer Election Day official whose responsibility is to lock the Dropbox at the close of polls on Election Day.

Elections Administrator or **EA** means the Elections Administrator of the Elections Division, Office of the County Clerk, County of Kaua'i, State of Hawai'i.

HAR means Hawai'i Administrative Rules.

HRS means Hawai'i Revised Statutes.

Place of Deposit or **POD** means the location designated by the County Clerk for the placement of a Ballot Dropbox pursuant to HRS § 11-109.

Staff means employees of the Office of the County Clerk, County of Kaua'i.

State means the State of Hawai'i.

Volunteer means an individual from the public assisting with an election process.

Watcher means an individual appointed by a political party pursuant to HRS § 11-77 to watch an election process.

1.2 Authority.

1.2.1 The Office of the County Clerk through its Elections Division is authorized to administer all official elections conducted in the County of Kaua'i, State of Hawai'i pursuant to:

- (1) U.S. Constitution;

- (2) Help America Vote Act of 2002 (HAVA);
- (3) Hawai'i State Constitution;
- (4) Hawai'i Revised Statutes;
- (5) Hawai'i Administrative Rules;
- (6) Charter of the County of Kaua'i; and
- (7) Kaua'i County Code 1987 as amended.

1.2.2 Specifically, the Office of the County Clerk is responsible for conducting "*...all elections held within the county pursuant to this charter, the laws of the State of Hawai'i or the United States of America.*" Section 5.01 (B) (4) of Article V of the Charter of the Kaua'i County. Emphasis added.

1.2.3 Additional information is available on the State Office of Elections webpage at: <https://elections.hawaii.gov/resources/election-laws/>

1.3 Organization.

1.3.1 The County Clerk serves at the department head for the Office of the County Clerk, which is comprised of the Council Services and Elections Divisions.

1.3.2 The County Clerk delegates oversight of all Federal, State, and County elections conducted in the County of Kaua'i to the Elections Administrator.

1.3.3 The EA serves as the division head for the Elections Division and oversees all election Staff and Volunteers in the County. The EA reports directly to the County Clerk.

2 PERSONNEL

2.1 Staff.

Staff shall be responsible for maintaining, deploying, and retrieving Dropboxes from the field, and shall be the only individuals authorized to collect ballots pursuant to Hawai'i law and procedures described in the document.

2.2 Dropbox Lockers.

Dropbox Lockers are members of the public who reside in the general area where a Dropbox is located and are only responsible for locking the Dropbox at the close of polls on Election Day.

2.3 Watchers.

A Watcher is a Volunteer from the public who is appointed by a political party to watch an election process. A Watcher shall serve in a purely observational capacity, shall have no authority over the process that they are watching, and shall

serve at no cost to the County or State. The absence of a Watcher shall not be cause for delaying or rescheduling any planned process.

3 PLACES OF DEPOSIT

3.1. Locations.

3.1.1 Places of Deposit (POD) shall be established in locations which are commonly known to area residents. The list of current PODs is depicted in Appendix 6.1.

3.1.2 The placement of Droboxes shall be in a visible location which is accessible pursuant to the DOJ's Americans with Disabilities Act Checklist for Polling Place.

3.2 Dropbox Deployment.

3.2.1 Dropboxes shall be deployed at approximately the same time that ballots are initially mailed to voters.

3.2.2 Deployment may be staggered to accommodate logistical or location specific issues.

3.2.3 Dropboxes shall be secured to a fixed object at each Place of Deposit.

3.3 Drobox Maintenance.

3.3.1 Prior to deployment Dropboxes shall be examined to ensure that the exterior and interior of the unit is clean.

3.3.2 Locks, doors, and the envelope chute shall be examined to ensure that they are clean, clear of obstruction, and functioning properly.

3.3.3 Dropboxes shall be examined and cleaned at every ballot collection.

3.3.4 Damaged Dropboxes shall not be deployed. A Dropbox damaged in the field shall be removed from service and a report shall be filed with the Kaua'i Police Department, if applicable.

3.3.5 A damaged Dropbox shall be replaced as soon as possible if a spare is available and an announcement shall be issued to inform the public of the temporary or permanent unavailability of the POD as applicable.

3.4 Dropbox Retrieval.

3.4.1 Staff shall retrieve and transport Dropboxes back to the Elections Division as soon after the election as practicable.

- 3.4.2 Retrieval may be staggered to accommodate logistical or location specific issues.

4 BALLOT COLLECTION

4.1 Documentation.

- 4.1.1 A Place of Deposit Collection Record form (Form) shall be completed to document the collection of ballots from each Dropbox. A sample of the Form is depicted in Appendix 6.2.
- 4.1.2 Staff shall be responsible for completing applicable items of the Form in ink. The field count of ballots from each Dropbox shall be recorded in the Note(s) section on the upper portion of the Form.
- 4.1.3 Watchers, if present, may confirm that the information recorded on the Form is correct by initialing in the Note(s) section on the upper portion of the Form.
- 4.1.4 The ballot count recorded in the No. Envelopes field in the lower portion of the Form shall be the official count of ballots collected from the Dropbox.

4.2 Collection Process.

4.2.1 Staff shall be responsible for:

- (1) Removing all ballots and confirming that the Dropbox is empty;
- (2) Securing ballots in a transport containers per procedure;
- (3) Examining the Dropbox to ensure it remains secured to the fixed object and is in proper working order; and
- (4) Ensuring the ballot bin door is locked after ballots are removed.

- 4.2.2 Prior to Election Day any voter appearing at the Dropbox before the transport container is sealed shall be allowed to place their ballot in the container.

4.3 Transport Container Security.

- 4.3.1 A uniquely numbered wire hasp seal shall be properly affixed to the transport container to prevent it from being opened without cutting the seal or damaging the container.
- 4.3.2 Upon completion of the Form, the white (original) copy shall be placed in the clear pouch affixed to each transport container and the yellow (NCR copy) shall be sealed inside the container with the ballots.

- 4.3.3 When collecting ballots, transport vehicles shall:
- (1) Be locked when occupants exit the vehicle to collect ballots and shall not be left unattended for prolonged periods of time;
 - (2) Proceed directly from one Dropbox to the next using the most direct route of travel possible; and
 - (3) Only stop at Dropbox locations and engage in functions relevant to the secure collection and transport of ballots to the Elections Division.

4.4 Processing at Election Division.

4.4.1 Staff shall document the receipt of transport containers on the White (original) copy of the Form by:

- (1) Recording the container arrival time in the Time ARRIVED field;
- (2) Confirming that the seal no. used to secure the container and seal no. recoded on the White copy of the Form match;
- (3) Cutting and removing the seal and taping it in the designated area;
- (4) Removing and counting the number of envelopes in the container and recording the number in the No. Envelopes field; and
- (5) Initialing in the Staff Initials field.

4.4.2 The number of ballots collected from each Dropbox shall be entered into a spreadsheet or similar document for future reference.

4.4.3 The White (original) and Yellow (NCR copy) of the Form shall be filed together for future reference.

4.4.4 Ballots collected from each Dropboxes shall be kept together until ballots are manually sorted into districts and precincts.

5 ELECTION DAY

5.1 Personnel.

5.1.1 Two (2) Election Staff.

5.1.2 Seven (7) Election Day volunteers.

5.1.3 Watchers, if any.

5.2 Logistics.

- 5.2.1 Dropboxes on the island shall be divided into two (2) service areas: Kōloa to Waimea and Waipouli to Hanalei. (Office Staff shall be responsible for servicing the Dropbox in the front of the Elections Division.)
- 5.2.2 Staff shall be responsible for collecting ballots from each service area.
- 5.2.3 A Dropbox Locker shall be assigned to each Dropbox.
- 5.2.4 Staff and Dropbox Lockers shall be provided with the keys for their assigned Dropbox ballot chute.
- 5.2.5 Staff shall be provided with the ballot box keys for all Dropboxes in their service area.

5.3 Close of Polls.

- 5.3.1 All Staff and Dropbox Lockers shall use the time at <https://time.gov/> and shall be at their assigned Dropbox prior to the close of polls at 7:00 p.m. on Election Day.
 - (1) A Staff person shall be assigned to each of the last Dropboxes at the extreme ends of the island.
 - (2) A Dropbox Locker shall be at all other Dropboxes.
- 5.3.2 At the close of polls, Staff and Dropbox Lockers shall position and lock the Dropbox chute plate into the ballot chute to prevent additional ballots from entering the Dropbox. A voter appearing at the Dropbox before the ballot chute is locked shall be allowed to place their ballot in the Dropbox.
- 5.3.3 After properly installing and locking the ballot chute, Dropbox Lockers shall not under any circumstances reopen the Dropbox and shall immediately leave the area.
- 5.3.4 Staff collecting ballots shall only travel directly between Dropboxes in their assigned service area and shall collect ballot pursuant to Section 4.
- 5.3.5 Ballots left by voters who show up at the Dropbox while ballots are being transferred into the transport container or ballots found outside a locked Dropbox shall be deemed late invalid and shall not be counted.
 - (1) Late invalid ballots shall not be comingled with valid ballots that are placed in the Dropbox prior to the close of polls on Election Day.

- (2) The quantity shall be recorded in the Note(s) field in the upper portion of the Place of Deposit Collection Record form.
- (3) Information on a Dropbox Late Invalid Envelope (DLIE) shall be recorded to document the late ballots and the corresponding late ballots shall be secured inside.
- (4) The DLIE shall be sealed inside the corresponding transport container.

6 APPENDIX

6.1 Place of Deposit Locations

NO.	LOCATION
1	Hanalei Neighborhood Center
2	Princeville Library
3	Kīlauea Neighborhood Center
4	Waipouli Shopping Center
5	Elections Division
6	Kōloa Neighborhood Center
7	Kalāheo Neighborhood Center
8	Hanapēpē Neighborhood Center
9	Waimea Neighborhood Center

6.2 Place of Deposit Collection Record

PLACE OF DEPOSIT COLLECTION RECORD	
Date	Location
Time ARRIVED	Time DEPARTED
Inspection Check List <input type="checkbox"/> Secured to fixed object with wheels locked. <input type="checkbox"/> Exterior clean. <input type="checkbox"/> Interior clean and dry. <input type="checkbox"/> Collection bin clean and dry. <input type="checkbox"/> Deposit chute unlocked and free of obstruction. <input type="checkbox"/> Doors locked.	
Note(s)	Seal No.
	Staff Initials
Time ARRIVED	Seal No.
Note(s)	<i>Tape seal here on ORIGINAL COPY</i>
No. Envelopes	Staff Initials

Office of the County Clerk, County of Kaua'i WHITE Original / YELLOW Copy

6.3 Dropbox Late Invalid Envelope.

DROPBOX LATE INVALID

YEAR:	ELECTION: <input type="checkbox"/> Primary <input type="checkbox"/> General
LOCATION: <input type="checkbox"/> Hanalei Neighborhood Center <input type="checkbox"/> Princeville Library <input type="checkbox"/> Kilauea Neighborhood Center <input type="checkbox"/> Waipouli Shopping Center <input type="checkbox"/> Elections Division <input type="checkbox"/> Kōloa Neighborhood Center <input type="checkbox"/> Kalāheo Neighborhood Center <input type="checkbox"/> Hanapēpē Neighborhood Center <input type="checkbox"/> Waimea Neighborhood Center	
DATE:	TIME:
NOTE(S):	
INITIAL(S):	

Document History

Date	Version	Comments
06/15/2020	1.0	Origination v1.0
06/26/2022	1.1	Clarifying language and enhanced documentation

From: [Ralph Cushnie](#)
To: [OE.Elections](#)
Subject: [EXTERNAL] FW: Audits/Early Counting Election Fraud
Date: Tuesday, September 13, 2022 5:06:41 PM

Please submit to Elections Commission request for narrative proving OE compliance with HRS 16-42.
Please ask OE to provide narrative of election Audits performed that comply with HRS 16-42.

Ralph Cushnie

From: Ralph Cushnie
Sent: Thursday, September 8, 2022 7:32 PM
To: 'OE.Elections' <elections@hawaii.gov>
Cc: 'Jade Tanigawa' <jtanigawa@kauai.gov>; 'Lyndon Yoshioka' <lyoshioka@kauai.gov>; 'Kataoka, Jaime N' <jaime.n.kataoka@hawaii.gov>
Subject: RE: Audits/Early Counting Election Fraud

Hi Aulii please provide me with the information that I requested in My August 4 email copied below.
Most importantly a narrative of how election audits for the 2022 primary election complied with HRS 16-42. Please read the detail that I asked for prior to the election and respond how your office complied HRS16-42 please describe how **The chief election officer conducts a post-election, pre-certification audit of a random sample of not less than ten per cent of the precincts employing the electronic voting system, to verify that the electronic tallies generated by the system in those precincts equal hand tallies of the paper ballots generated by the system in those precincts;** Please note that there is no mention of checking ballot images in the law and that preselecting ballots to be audited is not random. Please provide this information to me by Monday September 12 so that it can be presented to the State Supreme court.

Ralph Cushnie

From: Ralph Cushnie
Sent: Tuesday, August 9, 2022 8:38 PM
To: OE.Elections <elections@hawaii.gov>
Cc: Jade Tanigawa <jtanigawa@kauai.gov>; Lyndon Yoshioka <lyoshioka@kauai.gov>; Kataoka, Jaime N <jaime.n.kataoka@hawaii.gov>
Subject: RE: Audits/Early Counting Election Fraud

Good afternoon Aulii, I would like to follow up on our conversation regarding election law.
Specifically referring to HRS 16-42 and HRS 19-3.

§19-3 Election frauds. The following persons shall be deemed guilty of an election fraud:

- (1) Every person who, directly or indirectly, personally or through another, gives, procures, or lends, or

agrees or offers to give, procure, or lend, or who endeavors to procure, any money or office or place of employment or valuable consideration to or for any elector, or to or for any person for an elector, or to or for any person in order to induce any elector to vote or refrain from voting, or to vote or refrain from voting for any particular person or party, or who does any such act on account of any person having voted or refrained from voting for any particular person at any election;

- (2) Every person who advances or pays, or causes to be paid, any money to, or to the use of, any other person, with the intent that the money, or any part thereof, shall be expended in bribery at any election, or for any purpose connected with or incidental to any election; or who knowingly pays or causes to be paid any money to any person in the discharge or repayment of any money wholly or partly expended in bribery at any election, or for any purpose connected with or incidental to any election;
- (3) Every elector who, before, during, or after any election, directly or indirectly, personally or through another, receives, agrees, or contracts for any money, gift, loan, or valuable consideration, office, place, or employment for oneself or any other person for voting or agreeing to vote, or for refraining to vote or agreeing to refrain from voting, or for voting or refraining to vote for any particular person or party;
- (4) Every person who, directly or indirectly, personally or through another, makes use of, or threatens to make use of, any force, violence, or restraint; or inflicts or threatens to inflict any injury, damage, or loss in any manner, or in any way practices intimidation upon or against any person in order to induce or compel the person to vote or refrain from voting, or to vote or refrain from voting for any particular person or party, at any election, or on account of the person having voted or refrained from voting, or voted or refrained from voting for any particular person or party; or who by abduction, distress, or any device or contrivance impedes, prevents, or otherwise interferes with the free exercise of the elective franchise;
- (5) Every person who, at any election, votes or attempts to vote in the name of any other person, living or dead, or in some fictitious name, or who, having once voted, votes or attempts to vote again, or knowingly gives or attempts to give more than one ballot for the same office at one time of voting;
- (6) Every person who, before or during an election, knowingly publishes a false statement of the withdrawal of any candidate at the election;
- (7) Every person who induces or procures any person to withdraw from being a candidate at an election in

consideration of any payment or gift or valuable consideration; or of any threat; and every candidate who withdraws from being a candidate in pursuance of such inducement or procurement;

- (8) Every public officer by law required to do or perform any act or thing with reference to any of the provisions in any law concerning elections who wilfully fails, neglects, or refuses to do or perform the same, or who is guilty of any wilful violation of any of the provisions thereof;
- (9) Any person wilfully tampering or attempting to tamper with, disarrange, deface, or impair in any manner whatsoever, or destroy any voting machine while the same is in use at any election, or who, after the machine is locked in order to preserve the registration or record of any election made by the same, tampers or attempts to tamper with any voting machine;
- (10) Every person who, directly or indirectly, personally or through another, wilfully designs, alters, accesses, or programs any electronic voting system to cause the system to inaccurately record, tally, or report votes cast on the electronic voting system;
- (11) Every person who assists a voter in the completion of a ballot in violation of section 11-139; and
- (12) Every person who knowingly broadcasts, televises, circulates, publishes, distributes, or otherwise communicates, including by electronic means or advertisement, false information about the time, date, place, or means of voting with the purpose of impeding, preventing, or otherwise interfering with the free exercise of the elective franchise. [L 1970, c 26, pt of §2; gen ch 1985; am L 1989, c 88, §2; am L 2005, c 200, §2; am L 2013, c 235, §4; am L 2014, c 128, §3]

HRS 19-3 (10) was written because it is possible to alter the results of an election using voting machines.

HRS 19-3(10) Every person who, directly or indirectly, personally or through another, wilfully designs, alters, accesses, or programs any electronic voting system to cause the system to inaccurately record, tally, or report votes cast on the electronic voting system;

HRS 16-42 (b) 3 was written to detect election fraud while using voting machines. I have detailed in the email chain below that you are not following HRS 16-42 (b) 3

§16-42 Electronic voting requirements. (a) When used at primary or special primary elections, the automatic tabulating equipment of the electronic voting system shall count only votes for the candidates of one party, or nonpartisans. In all

elections, the equipment shall reject all votes for an office when the number of votes therefor exceeds the number that the voter is entitled to cast.

No electronic voting system shall be used in any election unless it generates a paper ballot or voter verifiable paper audit trail that may be inspected and corrected by the voter before the vote is cast, and unless every paper ballot or voter verifiable paper audit trail is retained as the definitive record of the vote cast.

(b) The chief election officer may rely on electronic tallies created directly by electronic voting systems, in lieu of counting the paper ballots by hand or with a mechanical tabulation system if:

- (1) The electronic voting system is subject to inspection, audit, and experimental testing, by qualified observers, before and after the election, pursuant to administrative rules adopted by the chief election officer under chapter 91;
- (2) No upgrades, patches, fixes, or alterations shall be applied to the system through thirty days after the election;
- (3) The chief election officer conducts a post-election, pre-certification audit of a random sample of not less than ten per cent of the precincts employing the electronic voting system, to verify that the electronic tallies generated by the system in those precincts equal hand tallies of the paper ballots generated by the system in those precincts; and
- (4) If discrepancies appear in the pre-certification audits in paragraph (3), the chief election officer, pursuant to administrative rules, shall immediately conduct an expanded audit to determine the extent of misreporting in the system. [L 1970, c 26, pt of §2; am L 1973, c 217, §6(g); am L 1979, c 139, §12; am L 2005, c 200, §1; am L 2006, c 5, §2]

HRS 19-3 (8) Was written for public officers who wilfully fails, neglects, or refuses to do or perform the same, or who is guilty of any wilful violation of any of the provisions thereof;

HRS 19-3 (8) Every public officer by law required to do or perform any act or thing with reference to any of the provisions in any law concerning elections who wilfully fails, neglects, or refuses to do or perform the same, or who is guilty of any wilful violation of any of the provisions thereof;

Please review your election procedures to ensure they comply with the law.

Sincerely,

Ralph Cushnie
Board of Registration

From: Ralph Cushnie
Sent: Thursday, August 4, 2022 7:23 AM
To: OE.Elections <elections@hawaii.gov>
Cc: Jade Tanigawa <jtanigawa@kauai.gov>; Lyndon Yoshioka <lyoshioka@kauai.gov>; Kataoka, Jaime N <jaime.n.kataoka@hawaii.gov>
Subject: RE: Audits/Early Counting

Good morning Aulii, for the 2022 primaries please keep detailed records of the audits that your office performs that comply with HRS 16-42. This should include a narrative of how the audits were performed.

Please be prepared to answer how your audit compiles with [HRS 16-42 section \(b\) \(3\)](#) The chief election officer conducts a post-election, pre-certification audit of a **random sample** of not less than ten per cent of the precincts employing the electronic voting system, to verify that the electronic tallies generated by the system in those precincts **equal hand tallies of the paper ballots** generated by the system in those precincts.

Audits need to contain both highlighted items in each Audit:

Audits need to be **random**. Preselecting the first ballot batch for an Audit is not random and does not comply with HRS 16-42.

They need to be performed using the **original paper ballots**. Using ballot images for an audit does not comply with HRS16-42. (Ballot images can be manipulated)

Please ensure that official observers are present and sign audits.

The Election Manual page 247 post-election audit states that "The Manual Audit Team, with Official Observers, review each batch to confirm it was counted as marked." "Election Officials and Official Observers confirm the results reports and certify the audit." Also, on page 247 it says that "Official Observers serve as the "eyes and ears" of the public".

We look forward to a transparent primary election.

Sincerely

Ralph Cushnie

From: Ralph Cushnie
Sent: Wednesday, August 3, 2022 5:47 AM
To: OE.Elections <elections@hawaii.gov>
Cc: Jade Tanigawa <jtanigawa@kauai.gov>; Lyndon Yoshioka <lyoshioka@kauai.gov>; Kataoka, Jaime N <jaime.n.kataoka@hawaii.gov>
Subject: RE: Audits/Early Counting

Aulii, thank you for responding. I look forward to having further discussions on this.

Ralph Cushnie

From: OE.Elections <elections@hawaii.gov>
Sent: Wednesday, August 3, 2022 5:43 AM

To: Ralph Cushnie <ralph@cushniecci.com>; OE.Elections <elections@hawaii.gov>
Cc: Jade Tanigawa <jtanicgawa@kauai.gov>; Lyndon Yoshioka <lyoshioka@kauai.gov>; Kataoka, Jaime N <jaime.n.kataoka@hawaii.gov>
Subject: RE: Audits/Early Counting

Dear Mr. Cushnie,

This is written in response to your email, dated July 31, 2022, concerning the audit of the 2020 General Election. As it relates to your question, the audit on November 19, 2022 was conducted on Kauai. In regard to your thoughts on HRS § 16-42, as we noted in our prior email, any questions or issues you may have involving the interpretation of the law are legal matters that we cannot provide you advice about. In such circumstances, we note that individuals may wish to consult with a private attorney.

Further, we are conducting the 2022 Primary Election and we may not be able to respond to emails. We will return to our desks after the Primary Election operations have concluded, around August 29, 2022.

We appreciate your cooperation and patience.

Aloha,
Aulii Tenn
Counting Center Operations

State of Hawaii
Office of Elections
(808) 453-VOTE (8683)
elections.hawaii.gov

From: Ralph Cushnie <ralph@cushniecci.com>
Sent: Sunday, July 31, 2022 5:09 PM
To: OE.Elections <elections@hawaii.gov>
Cc: Jade Tanigawa <jtanicgawa@kauai.gov>; Lyndon Yoshioka <lyoshioka@kauai.gov>; Kataoka, Jaime N <jaime.n.kataoka@hawaii.gov>
Subject: [EXTERNAL] RE: Audits/Early Counting

Aulii, after reading HRS 16-42 and your email, I have the following observations and question:

Question:

Was the Audit on November 19, 2020, done on Kauai?

Observations:

The audits spelled out in the election's manual are not designed to catch

discrepancies or fraud.

An audit must be **Random** and prove the Machines are tallying the **original paper ballots** correctly and must be done with **official observers** (that serve as the eyes and ears of the public). An Audit must contain all these components to catch discrepancies or fraud.

Election day November 3, 2020. Kauai Audit done on November 19, 2020, 9:56 am . Official state results posted November 19, 2020, 10:21am

Official state results posted 25 minutes after Kauai audit.

The Audit done on November 19, 2020, did not comply with HRS 16-42

Background:

HRS 16-42 section (b) (3) The chief election officer conducts a post-election, pre-certification audit of a **random sample** of not less than ten per cent of the precincts employing the electronic voting system, to verify that the electronic tallies generated by the system in those precincts **equal hand tallies of the paper ballots** generated by the system in those precincts.

The Election Manual page 247 post-election audit states that “The Manual Audit Team, with Official Observers, review each batch to confirm it was counted as marked.” “Election Officials and Official Observers confirm the results reports and certify the audit.” Also, on page 247 it says that “Official Observers serve as the “eyes and ears” of the public”.

Conclusion: November 19, 2020 audit did not comply with HRS 16-42

First: There are 2 requirements per HRS 16-42; (1) they are random and (2) they are done using original paper ballots. There is no documentation for either of these components. The audit documentation is missing the Ballot Review Log, Ballot Audit Log, Batch Audit Tally, and the Results of Votes Cast. Also, it is missing a narrative of how the audit was performed.

Second: Per the elections Manual “Election Officials and Official Observers confirm the results reports and certify the audit.” And that “Official Observers serve as the “eyes and ears” of the public”. The language is plain, “and” means both parties need to be present. Per your response below only Oahu Election officials performed the audit. No Kauai election officials and no official observers (“eyes and ears” of the public”) were present at the November 19 audit.

Solution:

Randomly Audit One Complete District with official observers (to serve as the eyes and ears of the public) to verify machines are counting original paper ballots correctly. No ballot images should be used in audits. Volunteers from both parties will hand count one randomly selected district using original paper ballots. All races will be tallied and compared to official computer results.

I look forward to your response to these questions. Let's keep in mind that Public trust in Election Integrity is at an all-time low and the public is paying attention to the process. Fair elections require transparency.

Sincerely,

Ralph Cushnie

Board of Registration Kauai and Nihau

From: OE.Elections <elections@hawaii.gov>

Sent: Friday, July 29, 2022 2:25 PM

To: Ralph Cushnie <ralph@cushniecci.com>; OE.Elections <elections@hawaii.gov>

Cc: Jade Tanigawa <jtanicawa@kauai.gov>; Lyndon Yoshioka <lyoshioka@kauai.gov>

Subject: RE: Audits/Early Counting

Dear Mr. Cushnie,

This is written in response to your email, dated July 27, 2022, concerning the audit of the 2020 General Election.

As a starting point, we believe the audit that was conducted complied with the law. Any questions or issues you may have involving the interpretation of the law are legal matters that we cannot provide you advice about. In such circumstances, we note that individuals may wish to consult with a private attorney.

However, we can address your general questions about the timing of the audit and who was involved. Specifically, the audit takes place over a period of time, as opposed to solely on election night. The reason for this is that the law provides that election results will not be certified "unless all ballots verified as valid by the clerk within seven days following an election day have been added to the final tabulation." HRS § 11-108. This results in the audit occurring on election night and after these additional ballots are received from the county clerk.

This window of time for the county clerks to verify additional ballots corresponds with the five

business day window of time that HRS § 11-106 provides voters to cure issues with their return identification envelopes that were received by the close of voting on election day. The curing process generally involves situations in which the voter did not sign their envelope or their signature did not initially appear to match what was on file.

In terms of the logistics of resuming the audit after verification of the additional ballots, election officials from the Office of Elections on Oahu travel to each of the neighbor island counting centers across the state to participate in the audit. In other words, the audits are completed within these counties, as opposed to on Oahu. Official observers are informed of the dates of the resumption of the audit and can either participate in the audit or observe, consistent with their duties and responsibilities.

The signatures on the various audit forms reflect election officials, counting center officials, or official observers, depending on who participated in the audit. Official observers ultimately have the ability to participate in the audit or simply observe. As it relates to Kauai, assigned counting center officials constituted the audit team on November 3, 2020 and signed, while on November 19, 2020 the election officials from Oahu constituted the audit team and signed.

Finally, as it relates to your recommendations concerning the audit, we will take them into consideration. Please note that if discrepancies are found in an audit, election officials are able to authorize an expanded audit to determine the extent of any misreporting within the system.

Aloha,
Aulii Tenn
Counting Center Operations

State of Hawaii
Office of Elections
(808) 453-VOTE (8683)
elections.hawaii.gov

From: Ralph Cushnie <ralph@cushniecci.com>
Sent: Wednesday, July 27, 2022 6:13 AM
To: OE.Elections <elections@hawaii.gov>
Cc: Jade Tanigawa <jtanigawa@kauai.gov>; Lyndon Yoshioka <lyoshioka@kauai.gov>
Subject: [EXTERNAL] RE: Audits/Early Counting

Thank you, Aulii, Does this audit comply with HRS section 16-42? It appears that one audit was done on election day the other was done 11/19/20 , 2 weeks after the election. What was the reason for the time lapse? Was the second audit done on Kauai or Oahu? Are the signatures from Kauai Poll watchers?

An Audit should be able to check the actual paper ballots and compare them to the machine results.
I recommend auditing one complete district after each election.

Ralph Cushnie

From: OE.Elections <elections@hawaii.gov>
Sent: Tuesday, July 26, 2022 4:23 PM
To: Ralph Cushnie <ralph@cushniecci.com>; OE.Elections <elections@hawaii.gov>
Cc: Jade Tanigawa <jtanigawa@kauai.gov>; Lyndon Yoshioka <lyoshioka@kauai.gov>
Subject: RE: Audits/Early Counting

Dear Mr. Cushnie,

Please see the attached audit certification from the 2020 General Election.

Aloha,
Aulii Tenn
Counting Center Operations

From: Ralph Cushnie <ralph@cushniecci.com>
Sent: Monday, July 25, 2022 6:32 AM
To: OE.Elections <elections@hawaii.gov>
Cc: Jade Tanigawa <jtanigawa@kauai.gov>; Lyndon Yoshioka <lyoshioka@kauai.gov>
Subject: [EXTERNAL] RE: Audits/Early Counting

Good morning, Aulii, I need to make a correction. I would like the documentation for the 2020 general election. Especially " Section 16-42 provides that the voting system be tested to ensure ballots are counted logically and accurately and that a random sample of not less that 10% of precincts be audited" Also please include documentation of the election day audit , and post-election audit.

Please address my specific points on the audit process. An audit should compare the paper ballots to the machine results and it should be random.

Ralph Cushnie

From: Ralph Cushnie
Sent: Friday, July 22, 2022 4:01 PM
To: OE.Elections <elections@hawaii.gov>
Cc: Jade Tanigawa <jtanigawa@kauai.gov>; Lyndon Yoshioka <lyoshioka@kauai.gov>

Subject: RE: Audits/Early Counting

Aulii, thank you, I will be working on a response to your reply over the weekend. In the meantime, please send me the Documentation for the 2020 primary election audit that you did that complies with Section Hawaii Revised Statutes 16-42 . "This provides that the voting system be tested to ensure ballots are counted logically and accurately and that a random sample of not less that 10% of precincts be audited." Also please Include the Election Day Audit, Post-Election Audit, documentation.

Sincerely

Ralph Cushnie

Board of Registration Kauai and Niihau

From: OE.Elections <elections@hawaii.gov>

Sent: Friday, July 22, 2022 2:32 PM

To: Ralph Cushnie <ralph@cushniecci.com>

Cc: Jade Tanigawa <jtanigawa@kauai.gov>; Lyndon Yoshioka <lyoshioka@kauai.gov>; OE.Elections <elections@hawaii.gov>

Subject: RE: Audits/Early Counting

Aloha Mr. Cushnie,

We received your email from the County of Kauai Elections Division as the State Office of Elections is responsible for the counting of ballots. We appreciate your comments and interest in the counting process. We want to note that the processes serve as checks and balances to ensure that all ballots are counted and counted correctly as well as the security and integrity of the election.

We also want to highlight, Hawaii Revised Statutes, Section 16-42 provides that the voting system be tested to ensure ballots are counted logically and accurately and that a random sample of not less that 10% of precincts be audited. These processes work together to first confirm the voting equipment is working correctly and then confirm the election results.

Mahalo for your participation in the electoral process.

Aulii Tenn

Counting Center Operations

State of Hawaii
Office of Elections
(808) 453-VOTE (8683)
elections.hawaii.gov

From: Lyndon Yoshioka
Sent: Wednesday, July 20, 2022 9:02 PM
To: Ralph Cushnie <ralph@cushniecci.com>
Cc: Jade Tanigawa <jtanigawa@kauai.gov>
Subject: RE: Audits/Early Counting

Received.

From: Ralph Cushnie <ralph@cushniecci.com>
Sent: Tuesday, July 19, 2022 6:22 AM
To: Lyndon Yoshioka <lyoshioka@kauai.gov>; Jade Tanigawa <jtanigawa@kauai.gov>
Subject: Audits/Early Counting

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Lyndon, Jade, I have read through the election manual and have the following observations:

Audits:

Background:

CISA has recently put out a report that vulnerabilities exist in election machines.

Traditionally audits are done on the terms of the auditor. The elections manual carefully dictates the terms of election audit. Therefore, the auditee is dictating the terms of the audit to the auditor.

The Election Day audit is done for the first batch of ballots run through the scanners. This is specially planned and is not random. It is possible without County Officials being aware to have different code in the machines after the first batch is run. Also, if machines are online, they can be hacked into. The post-election audit is done on ballot images. The ballot images are not compared to the actual paper ballot. Machines can change ballot images. Neither audit verifies that the votes (paper ballots) were counted correctly. On a national level primary elections were contested from both parties and hand counts of the paper ballots revealed different results from the machine count. Parameters of the machine can be changed or programmed differently without local election officials knowing. It our understanding that the election machines are proprietary and that a private contractor controls the machines themselves. It is our understanding that County officials turn them on and off and can operate different key functions. County officials do not have control of the machine programming.

Solution:

In order to maintain the Public's trust in Elections: Random and comprehensive audit should be done immediately after the election. The audit terms should be made by the auditors. (Representatives of parties involved in the election). No partial or % audits.

Recommendation:

Audit 1 full District.

Kauai has three districts with individual unique ballots. Randomly chose one district (by Auditors) Compare paper ballots (hand count all races) to official machine tally results immediately following all elections..

Early Counting:

Background: Mail in ballots are run through the machine up to a week prior to election day.
Results of early tabulation are not released to the public.

Discussion: If ballots are run through the voting machines early someone knows the results. This can give some candidates an unfair advantage over others.

Recommendation: No ballots should be run through scanners until election day.

Ralph Cushnie

Board of Registration Kauai and Niihau

From: [Ralph Cushnie](#)
To: [OE.Elections](#)
Subject: [EXTERNAL] Written Testimony to Elections commission.
Date: Tuesday, September 13, 2022 5:28:19 PM

Authorization to use electronic voting system is provided by HRS 16-42

Voting machines are authorized by HRS 16-42 to be used if a random sample of not less than 10% of precincts equal **hand tallies** of the paper ballots

The audits currently being performed do not comply with HRS 16-42

They are not random, and they are not done with paper ballots. Both items must occur in each audit to comply with HRS16-42

The audits being performed will never catch fraud mistakes or errors.

The votes are being counted without proper oversight and no verification.

Please ask OE how each audit is random and compares hand tallies of paper ballots to precinct results.

Please provide narratives describing how audits were performed.

§16-42 Electronic voting requirements. (a) When used at primary or special primary elections, the automatic tabulating equipment of the electronic voting system shall count only votes for the candidates of one party, or nonpartisans. In all elections, the equipment shall reject all votes for an office when the number of votes therefor exceeds the number that the voter is entitled to cast.

No electronic voting system shall be used in any election unless it generates a paper ballot or voter **verifiable paper audit trail** that may be inspected and corrected by the voter before the vote is cast, and unless every paper ballot or voter **verifiable paper audit trail is retained as the definitive record of the vote cast.**

(b) The chief election officer may rely on electronic tallies created directly by electronic voting systems, in lieu of counting the paper ballots by hand or with a mechanical tabulation system if:

- (1) The electronic voting system is subject to inspection, audit, and experimental testing, by qualified observers, before and after the election, pursuant to administrative rules adopted by the chief election officer under chapter 91;
- (2) No upgrades, patches, fixes, or alterations shall be applied to the system through thirty days after the election;
- (3) **The chief election officer conducts a post-election, pre-certification audit of a random sample of not less than ten per cent of the precincts employing the electronic voting system, to verify that the electronic tallies generated by the system in those precincts equal hand tallies of the paper ballots generated by the system in those precincts; and**
- (4) If discrepancies appear in the pre-certification audits in paragraph (3), the chief election officer, pursuant to administrative rules, shall immediately conduct an expanded audit to determine the extent of misreporting in the system. [L 1970, c 26, pt of §2; am L 1973, c 217, §6(g); am L 1979, c 139, §12; am L 2005, c 200, §1; am L 2006, c

From: [Ralph Cushnie](#)
To: [OE.Elections](#)
Subject: [EXTERNAL] Election commission meeting Question to Scott Nago
Date: Wednesday, September 14, 2022 6:01:56 AM

Mr. Nago for the Post Election Audit on Kauai did you compare 2 precinct reports to hand tallies of the paper ballots.

Ralph Cushnie

From: [Terry Murakami](#)
To: [OE.Elections](#)
Subject: [EXTERNAL] Written testimony for Hawaii Elections Commission meeting 9-14-22
Date: Wednesday, September 14, 2022 12:49:01 AM

Thank you for giving us the opportunity to voice our concerns and testimonies about our election process. Here are some of my concerns:

I would like to have the right for citizens to obtain CVR's (Cast Vote Records). Transparency in our election process will help reduce disillusionment and apathy that is a big problem in our State. Moreover, we should have the right to request this information since we pay for this through our taxes.

We should rely on pen and paper ballots and not rely on computers/machines to process the votes. Whenever computers are involved there is always risk of hacking and tampering while proper manual counting of paper ballots are more difficult to manipulate.

Also please get rid of the public drop boxes and mail-in voting. If people cannot make it to their voting locations on election day we should go back to absentee voting to ensure proper chain of custody.

In a time where there is a lot of political and social tension we need to have elections that have fairness, integrity, and transparency in order we can properly elect people into office and maintain the spirit of aloha.

Mahalo,
Terry Murakami

From: [Edwin Boyette](#)
To: [OE.Elections](#)
Subject: [EXTERNAL] Request to Appear in Public Meeting to Provide Verbal Testimony
Date: Wednesday, September 14, 2022 8:18:54 AM
Attachments: [image.png](#)

Name: Edwin Boyette
Speaking as a citizen.

1. Point of order, there is no Statutory or Administrative Requirement to limit Board Members to three-minute blocks of speech.

2. Board Members have stated in meetings they either do not or can not understand how the electronic systems work or are secured, without understanding how can Members make meaningful determinations or motions to reject investigation requests? The Office of Elections has repeatedly rejected UIPA requests, rejection is the most frequent form of response. How can citizens or 3rd parties evaluate election security if the Commission doesn't understand the system and and the Office of Elections refuses to release meaningful information and data?

3. Did the Office of Elections conduct an audit as described by §16-42 Electronic voting requirements? Note in a previous communication the Office of Election indicated that Precincts were categorized into arbitrary types, before random selection. Random is legal defined and interpreted word - each Precinct must have the same chance to be selected in a random selection. The process described for the previous audit is at variance with the HRS. By what authority did the Office of Election waive the Statutory Requirement.

The screenshot shows the website for the Office of Elections. The page title is "Office of Elections" with the tagline "Our mission is to provide secure, accessible, and convenient elections to all citizens statewide." There is a navigation bar with "UIPA Log", "Requests", "Public Agencies", and "Make a Request" buttons. A search bar is also present. The main content area is divided into two columns. The left column provides contact information for the Office of Elections, including jurisdiction (State of Hawaii), classification (Department of Accounting & General Services), topics (Elections, Voter, Election Commission, registration), website (http://elections.hawaii.gov), email (elections@hawaii.gov), and contact phone numbers. The right column is titled "Summary of Results" and contains a table with the following data:

Request Status	Count
Request released	10
Information not held	6
Request Successful	5
Request partially successful	2
Request was withdrawn due to costs	1
Request was withdrawn	1

Below the table, it states "49 requests to this public agency" and lists several recent requests with their dates and statuses, such as "Requester tapes from The 2020 General Election" and "2022 Primary CMRS".

From: [Lynn Surayan](#)
To: [OE.Elections](#)
Subject: [EXTERNAL] Written Testimony for Elections Commission meeting on 9/16
Date: Wednesday, September 14, 2022 9:02:58 AM

Aloha,

Please find below my written testimony for the upcoming Elections Commission meeting on Friday, September 16. I also intend to provide oral testimony on the day via Zoom.

Mahalo,

Lynn Surayan

The review of Cast Vote Records (CVRs) provides a means to analyze and identify irregularities and fraud that may have taken place during an election, regarding system and machine manipulation.

In the Elections Commission meeting held in April 2022, the Commission members admitted that there is a very high vulnerability in our voting equipment stating that “We don’t have an encrypted database, we haven’t done penetration testing, we don’t have an air gap system – that means that many, many, many people have the ability to go into our system and make the data be what they want it to be.”

In response to my request for Cast Vote Records from the 2020 election, the Hawaii Office of Elections responded by explaining that “the voting system used in 2020 did not have a mechanism for extracting CVRs from mail ballot component (Ballot Now) of the system.” – this in the year that the State decided to switch to all mail in voting! “As for ballots cast at voter service centers, the system had that capability. Having said that, we would need the former contractor's proprietary voting system and access to their technical support to retrieve the cast vote records you are seeking from the storage media devices we have. However, our contract with the contractor for that system has expired and we no longer have the system.”

The lack of effort and interest in securing our voting systems prior to our elections, and carelessness about ensuring the means to later verify how the systems recorded and tallied our votes, looks like utter incompetence at best.

52 USC §20701. requires the officer of election to retain and preserve, for a period of twenty-two months from the date of the election “all records and papers which come into his possession relating to any application, registration, payment of poll tax, or other act requisite to voting in such election”.

The admission that the Office of Elections has not been able to access the voting records of our state, since the expiration of their vendor contract, and is therefore unable to respond to a public information request, does not appear to meet the requirements of retaining and preserving these records. If you are unable to produce and provide the data, you do not have the data. The fact that the systems used for the majority of ballots cast via mail did not even have the capability to produce Cast Vote Records proves further the lack of effort in running a secure, transparent, and verifiable process.

The response I received from the Office of elections also further highlights a completely unreasonable reliance upon a third party to manage our State’s election process, without the required knowledge to verify how it is being handled. In April’s meeting, the Commission admitted to being clueless about the technical aspect of the election process stating (accompanied by laughter):

- “Believe me, I know zip about computers.”
- “I didn’t understand most of what you said in the last meeting.”
- “Believe me I don’t even know what the hell I am talking about.”
- “We use a very large company out in Texas that does this whole thing. [...] I only talked to the guy

for like 20 minutes and my brains were falling out of my ears. But they do a lot of stuff. [...] They are the ones who know. You don't know and I don't know."

One of the complaints filed against the Office of Elections in our 2022 Primary detailed how the required audits did not follow the rules in which the audits were to be conducted. The case was dismissed by the courts due to the fact that "claims fall short of demonstrating actual errors, mistakes or irregularities that would change the outcome of the election" – it is not denying that valid errors, mistakes and irregularities were presented. Meanwhile the Office of Elections is supposedly unable to produce the data that could demonstrate how these issues may have impacted the outcome of the election.

Ensuring secure and fair elections is not a laughing matter. The Office of Elections is being entrusted with the people's voice, our votes, and to witness the incompetence and carelessness with which they are being handled is truly shocking and unacceptable.

Hawaii suffers from a high degree of voter apathy with a recurring attitude that "our votes don't count anyway" – the actions and lack of transparency by our Office of Elections sadly validates this type of sentiment.

I am providing this testimony to demand that our Hawaii elections be made secure, that we have our own people with the knowledge and competence required to properly manage a technology vendor and understand what they are doing (or abandon the computer systems all together, if necessary, to move back to the most secure way of protecting our vote: hand-counted paper ballots!), to have the correct data available and checks and balances in place to verify a clean process, to follow the rules already laid out for the auditing and elections process, and to make all non-confidential election data freely available to the public for verification purposes to restore the faith and trust in our officials and our process.

Lynn Surayan

From: wethepeople808
To: OE.Elections
Subject: [EXTERNAL] In person & written testimony for 9/16/22
Date: Wednesday, September 14, 2022 9:34:19 AM

Aloha I am requesting to be able to speak on Friday to give oral testimony. Just in case I am including my written testimony now as well.

Jessica Caiazzo
808-838-9286
Wethepeople808@protonmail.com

Mahalo.

Written testimony:

I am submitting written testimony on behalf of myself and we the people. I submitted an email and received absolutely nothing from Scott Nago. Do to the inability to handle an issue that was time sensitive regarding the cast ballots of 2020 and also 2022. I then proceeded to go with a group and got our printed requests time stamped and copied. We asked if Scott Nago was there to speak and the front desk refused to answer with a yes or no. I then went back a week later and will again be there Thursday for yay third week. This is not only time consuming, but this public office is meant to represent the people. Yet we are treated like the enemy. These are public servants violating our rights to the cast ballots.

Scott Nago needs to explain himself or recuse himself as he appears to never work, or have competent staff. Who reads our emails? Where do they go? What's a proper time to get back to the people? I want answers. The people want answers. If this is happening just to me how many others are there being ignored?


Video of the first time asking for requests:

<https://youtu.be/V6l2aYIjBYM>



Request for CAST-VOTE-RECORD from Hawaii Office of Elections

To: Scott Nago Chief Election Officer of the State of Hawaii

From: Hawaii registered voter (print) 

Pursuant to the Uniformed Information Practices Act, Chapter 92f, public records law, I hereby request the following record in electronic format:

For the 2022 State of Hawaii Primary Election;

a text, comma or tab delimited file, or a text-based report, listing, in the sequence processed, every ballot, its sequential ID, its timestamp, its method of voting, the specific votes contained for all races, and the batch id and tabulator id. Should any fields not be available, please include the fields which are.

To be clear, I am not requesting a summary report of votes, I am requesting a per-ballot report. This set of information is sometimes known as a "CAST VOTE RECORD", "ballot log", or a "summary of ballots". If the data exists as multiple files or reports, for instance by batch or by precinct, you do not need to aggregate them, please send the individual files. We specifically do not want included any information which identifies a specific voter, and I guarantee and stipulate that this information will not be used for that purpose. This information has been satisfactorily provided from other counties using Hart voting systems, so I expect this information to be generated.

Autograph/date



Time stamp from Office of Election confirming reception of this document

Other questions, why are ballot boxes in dark parks? Why is there no surveillance? Why are they not locked after park hours? Why is it anyone could read my ballot and there was no curtain to secure privacy (those cardboard boxes are not enough, you can see and speak to the person next to you).

I absolutely believe we need to changes after even watching this short clip taken from election commission meeting

April 1st 2022 (<https://www.instagram.com/reel/Cifr8o-J3tC/?igshid=YmMyMTA2M2Y=>) William Deans comments are shocking thru out. The people running the show appear to be absolutely clueless and even state it. This is a very serious problem. These people in charge are hiring incompetent people to take control. There is a resolution, besides firing Scott Nago and better training for staff is implements these points.

Here are the Ten Points to True Election Integrity:

- I. [Clean Out the Voter Rolls](#)
- II. [Ban All Electronic Elections Equipment](#)
- III. [Voter ID with Paper Ballots Only](#)
- IV. [Ban Mail-In Voting*](#)
- V. [Ban Early Voting*](#)
- VI. [Drastically Smaller Precincts*](#)
- VII. [Ban Ballot Harvesting](#)
- VIII. [Election Day is a Holiday](#)
- IX. [New Reporting Requirements for Transparency](#)
- X. [Heavy Prison Sentences for All Who Commit Fraud](#)

The only exception are the permanently disabled and those over seas.

We can do better to prove that the elections aren't run by incompetent people. Let's do better as I believe there is still time to prove to the people that their vote matters. Many don't believe in the system anymore and it's worse and worse when you speak to them on corruption. We can restore integrity and protection in the voting process.

Mahalo for your time.

-Jessica Caiazzo

Sent from Proton Mail for iOS

From: [Victor Muh](#)
To: [OE.Elections](#)
Subject: [EXTERNAL] Testimony for "IV. Status of Operations Report from the Chief Election Officer"
Date: Wednesday, September 14, 2022 9:50:45 AM

I demand Cast Vote Records for the 2022 Primary and answers to all the issues we witnessed during the last election.

Victor Muh

From: [Andy](#)
To: [OE.Elections](#)
Subject: [EXTERNAL] Written Testimony for Hawaii Elections Commission Meeting on 9/16
Date: Wednesday, September 14, 2022 9:57:35 AM

Aloha,

I am providing the following written testimony for agenda item IV Status of Operations Report from the Chief Election Officer at the Hawaii Elections Commission Meeting on September 16, 2022 at 10 AM.

1. I, Andy Crossland, am over the age of 18 and am a resident of the State of Hawaii. I have personal knowledge of the facts herein, and, if called as a witness, could testify completely thereto.

2. I suffer no legal disabilities and have personal knowledge of the facts set forth below.

3. As a citizen of the United States of America and a registered voter, I am providing this statement to document irregularities I observed in how the 2022 Hawaii Primary Election was conducted.

4. I voted in the 2022 Hawaii Primary Election at Honolulu Hale in person on Election Day, August 13, 2022, at roughly 7:20 AM.

5. I was required to fill out and provide my signature on what seemed to be an unnecessary affidavit to receive my ballot (for which no notary public was available to notarize the affidavit). An election official then instructed me to fill out my ballot in an area with multiple tables and chairs that were set up with only trifold partitions on top of the tables in front of each chair. No privacy curtains were available or provided for the voters in this area. After filling out my ballot I put it in the provided privacy sleeve and was asked by an election official to wait in line to enter the ballot scanner area. This line was formed in the same area that other persons were sitting down at the tables to fill out their ballot. Because there were only trifold partitions and no privacy curtains provided for the persons who were filling out their ballots, there was no assurance of secrecy of the ballot as required per Haw. Rev. Stat. § 11-4 nor assurance that other persons were not able to observe how a voter votes as required per Haw. Rev. Stat. § 11-137.

6. I entered the ballot scanner area after waiting in line and I observed that there were two scanner machines, however, one of the scanner machines appeared to be nonoperational without any explanation given as to why only one scanner was being used at the time. Additionally, there was no assurance of secrecy of the ballot nor assurance that other persons and election officials were not able to observe how a voter votes in this area per the Haw. Rev. Stat. § 11-4 and § 11-137, because there was no privacy curtain or partition provided for persons feeding their ballot into the scanner.

7. I demand that the Chief Election Officer, the County Clerks, the Hawaii Elections Commission, and any other Authorities Having Jurisdiction shall modify the election procedures for the 2022 General Election and all future elections to correct the issues noted above and fully conduct the elections as required in accordance with the law. Any officials who are not willing to do this should be relieved of their duties immediately and prosecuted to the full extent of the law for any and all past violations.

I declare that, to the best of my knowledge and belief, the information herein is true, correct, and complete.

Sincerely,
Andy Crossland