



Ballot Law Commission April 5, 2023

The following exhibits and information was compiled with accompanying commentary drafted by volunteers interested in ensuring accurate elections for the people of New Hampshire. This has been prepared solely for the Ballot Law Commission for April 5, 2023. This is not a professional audit, nor are any warranties made as to the accuracy of the information contained herein. Much of this information was obtained through witnesses present at the recount of the 2022 District 24 Senate election, as well as 91-A Right to Know requests, and the interpretation of information received by lay people. This information is provided and delivered with the hope that it will illuminate concerns surrounding election systems and safeguards, which may result in an official inquiry by officials with the State of New Hampshire.

- Nothing in this presentation should be considered as an accusation of misconduct, whether criminal, civil or otherwise against any specific person, entity or agency.



NH Voting Integrity: April 5, 2023

Introduction:

- Lou Gargiulo, prior candidate for Senate in District 24 & Sponsor of this endeavor
- Michael Bean – Recount, 91-A requests
- Al Brandano – Recount, Activity Logs, Voting Machines, Investigations
- Linda Brown – Chain of Custody, Boxes, etc
- James Goodwin – Voting Machines, tapes and counts
- Addendum of additional info. compiled by volunteers
- Corey MacDonald, Esq., Presenter

Goals:

- Provide examples of what has been discovered after 700 hours of volunteer work by Lou's group. To show you the tip of the iceberg.
- Your assistance in a forward-looking action plan, with the ultimate result being defensible election results.
- What we are NOT here to do: we are not asking for a redo, or to embarrass or cast blame on any specific person or town.



NH Constitution Part 1 Article 38

[Art.] 38. [Social Virtues Inculcated.] A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to justice, moderation, temperance, industry, frugality, and all the social virtues, are indispensably necessary to preserve the blessings of liberty and good government; the people ought, therefore, to have a particular regard to all those principles in the choice of their officers and representatives, and they have a right to require of their lawgivers and magistrates, an exact and constant observance of them, in the formation and execution of the laws necessary for the good administration of government.

- June 2, 1784



Can't say it better than Daniel Webster

“Impress upon children the truth that **the exercise of the elective franchise is a social duty of as solemn a nature as man can be called to perform;**

that a man may not innocently trifle with his vote;

that every elector is a trustee as well for others as himself and that every measure he supports has an important bearing on the interests of others as well as on his own.”



Reminded of similar executive branch changes over the last few decades to the benefit of us all, especially in law enforcement:

- Case law that recognizes that **system over outcome** is paramount (*exclusionary rules*);
- **Redundancy & verification** of key events (*witnesses to outcomes, logs and chain of custody*);
- **Policies and procedures** that ensure integrity of outcomes (*AG's manual, SOPs, Certifications & Audits*).

Good news: We have good voting policies & procedures, we need to ensure there is training, auditing and responsibility for those in whom we place this trust.



• Our focus was on the District 24 election of 2022 and its 7 towns:

Evidence was discovered in all 7 towns of systemic issues/failures that can be addressed with additional training, oversight and accountability:

- a.) RSA (voting law) violations;**
- b.) Incomplete or nonexistent Chain of custody procedures and documents;**
- c.) Failures to follow New Hampshire published policy and procedures;**
- e.) Electronic Ballot Counting Device problems;**
- f.) Voter Registration issues;**



- What is the standard and where does it come from?
 - **NH Revised Statutes Annotated Ch. 652 - 671**
 - **NH Election laws and procedures manual**
 - **Continuity of Operations Plans (COOP) for when things don't go as planned**

The Issues



- Absentee Ballots
- Electronic Ballot Counting Devices
- Chain of Custody
- Vote discrepancies – Reporting Methods
- Continuity of Operation Plan



Absentee Ballots

Issues:

- Separation of Ballots from Affidavits/Envelopes – how do we reconcile these ballots?
- Lack of a beginning count of absentee ballots – hard to reconcile when we don't know where we started

Other pending issues currently being litigated:

Constitutionally allowed:

- are absent from the city or town of which they are inhabitants
- Who by reason of physical disability are unable to vote in person

Currently before the Supreme court for constitutionality check: Docket # 2023-0097

- Observance of a religious commitment
- absence from the town or ward, including employment obligations in or out of town that do not allow the person to vote in-person, employment includes childcare or care for infirm adults whether compensated or not;
- winter storm warning issued by the national weather service where the voter is concerned with safety traveling in the storm or needs to care for children or infirm adult(s);
- being confined in a penal institution for a misdemeanor or while awaiting trial;
- being a victim of domestic violence with an active protective order; or being an emergency services worker called into service.



Absentee Requirements

NH RSA 659:30:

- Affidavits must be sworn
- Absentee ballot must be accompanied by an affidavit

NH RSA 659:50:

- moderator shall examine every affidavit to ensure that it was properly executed.
- Lacking checks and balances
- **No evidence of that occurring in this election.**



Before Election Day

652:22 Authority; Format; Distribution. – The secretary of state, with the advice and approval of the attorney general, *shall prepare or cause to be prepared preceding each state general election an up-to-date manual on the New Hampshire election laws and procedures for conducting elections.* The manual shall be written in nontechnical language. The manual shall be distributed free of charge to each moderator, board of selectmen, city council, and board of supervisors of the checklist and to each town, city, and ward clerk. The secretary of state may distribute the manual in either electronic or printed format. The secretary of state may distribute said manual to any other person who requests it. Source. 1979, 436:1. 2009, 214:1, eff. Sept. 13, 2009.

Election Manual 2022-2023 - Check list of Responsibilities - Moderator

- Work with the selectman, clerk, and other election officials to develop a continuity of operations plan (COOP) which anticipates common emergencies and effective local responses.



Continuity of Operations Plan (COOP)

- The ability to address common emergencies contingencies.
- Sample model of a plan (pg 293 in the Election Manual 2022-2023) contains **39** “SHALL’s.”
- A COOP is listed as a responsibility of the Moderator (and Clerk) on the Checklist of Responsibilities in the Election Manual.
- Manual (pg 293) requests that each plan be shared with the Secretary of State.
- **NONE OF THE SEVEN TOWNS IN DISTRICT 24 HAVE A COOP.**



Steps to be taken before election:

Checklist of Responsibilities – Clerk:

- Test all ballot counting devices and memory cards at a publicly noticed test. Maintaining the security logs for each device, storage bag, and memory card.
- Prepare a supply of absentee ballots and affidavit envelopes for accessible voting on election day. If the counting of ballots to establish a starting inventory, as required by RSA 658:31 before election day, post a notice of the date and time when the ballots will be counted and collaborate with the Moderator in conducting a public count.



Test All Ballot Counting Devices and Memory Cards...

- Testing before the election is required per RSA 656:42 II. (References 652:22)
- Required per the Election Manual as well 2022-2023 (RSA652:22)
- Procedure per Election Manual requiring use of 50 ballots for testing (pg 371).
- **Tapes Tested Prior to the Primary Election, but not for the General Election**
- **Sec of State and Dept of Justice have no oversight of chain of custody of memory cards programming, or ability to read (LHS's proprietary software - no access)**
- **Memory Cards are sent back to LHS immediately after each election. (Not stored with election materials for 2-year requirement per RSA 637:3)**
- **It is now well documented that programming in test mode is not necessarily reflective of Election Day mode.**
- **See addendum materials regarding the EBCD memory card and log omissions.**



Exeter – Responsible for most votes in District 24

- Serious machine tape discrepancies;
- Chain-of-Custody issue and missing info;
- No completed maintenance logs or activity logs in an Election year;
- No documentation with the SOS or LHS when a machine crashed in the 2022 General Election.
- No Continuity of Operations Plan to address issues that arise (like the machine crash).



Exeter Electronic Ballot Counting Device (EBCD)

- EBCD #72301 Precinct 1 (Machine #1)
- EBCD #42696 Precinct 2 (Machine #2)
- EBCD # 81180 Precinct 3 (Machine #3)
w/Memory Card # 20085904

After Machine Failure


- EBCD # 81180 Spare (Machine 1)
w/replacement unidentified Memory Card
and no pretesting performed.
- (Referred to as Machine #4 in the slides
to follow)



Memory Card Violations Failed Machine EBCD# 81180

Memory Card replaced and
used in Election without
testing

Memory Card # Missing

 State of New Hampshire
SOS Electronic Ballot Counting Device Activity Log

City/Town of _____ Ward () _____

Date	Check One <input type="checkbox"/>		Wire Seal		Reason	Signature
	Installed	Removed	Number			
10-26-22		<input checked="" type="checkbox"/>	481663 Memory Card #	20065904	Test ballots Witness #1	A. Kohn
					Witness #2	J. Shupe
10-26-22	<input checked="" type="checkbox"/>		481698 Memory Card #		Election Ready Witness #1	A. Kohn
					Witness #2	J. Shupe
11-8-22		<input checked="" type="checkbox"/>	401698 Memory Card #		Removed Card Witness #1	A. Kohn
					Witness #2	J. Shupe
11-9-22	<input checked="" type="checkbox"/>		481692 Memory Card #		Installed Spare Witness #1	A. Kohn
					Witness #2	J. Shupe
11-14-22		<input checked="" type="checkbox"/>	401692 Memory Card #		Remove Spare Witness #1	A. Kohn
					Witness #2	J. Shupe

Instructions: Each time a seal is installed, the person responsible for the process, must date, check the install box, list the seal number, state the reason and sign in the presence of two witnesses who also shall sign the log.
Instructions: Each time a seal is removed, the person responsible for the process, must date, check the remove box, list the seal number, state the reason and sign in the presence of two witnesses who also shall sign the log.




EBCD #81180


(Electronic Ballot Counting Device)

Precinct 3 (Machine 3)
Also, Spare (Machine 1)

LHS Maintenance in Activity Log
without required second witness.
Repeat Offense even after DOJ
Cease-and-Desist

No Memory Card Identification
Number Listed


 State of New Hampshire
 SOS Electronic Ballot Counting Device Activity Log
 City/Town of Exeter Ward ()

Memory Card Bar Slot	EBCD Serial Number <u>81180</u> Model - Circle One A-Global B C D	
	Check One <input checked="" type="checkbox"/> Wire Seal	
Date	Installed <input type="checkbox"/> Removed <input checked="" type="checkbox"/>	Number Reason Signature
3-11-22		707503 remove card Memory Card # Witness #1 ----- Witness #2 A. Kohler S. Pittelgard
3-11-22	<input checked="" type="checkbox"/>	707505 Storage Memory Card # Witness #1 ----- Witness #2 A. Kohler S. Pittelgard
7/29/22		707505 LHS Memory Card # maint. ----- Witness #1 ----- Witness #2 A. Kohler
7/29/22	<input checked="" type="checkbox"/>	707504 LHS Memory Card # Maint. ----- Witness #1 ----- Witness #2 A. Kohler
9-6-22		707504 Test ballots Memory Card # Witness #1 ----- Witness #2 A. Kohler [Signature]

Instructions: Each time a seal is installed, the person responsible for the process, must date, check the install box, list the seal number, state the reason and sign in the presence of two witnesses who also shall sign the log.
 Instructions: Each time a seal is removed, the person responsible for the process, must date, check the remove box, list the seal number, state the reason and sign in the presence of two witnesses who also shall sign the log.

Exeter Cease and Desist from AG 2019



ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

January 29, 2019

Andrea Kohler, Town Clerk
Paul Scaffidi, Moderator
Town of Exeter
10 Front Street
Exeter, NH 03833

Re: **Cease and Desist Order**
Exeter Town Election on March 13, 2018

Dear Ms. Kohler & Mr. Scaffidi:

On March 14, 2018, our office received two complaints in connection with the Exeter Town Election that occurred on March 13, 2018. The complaints allege that the results announced on election night contained discrepancies between the number of ballots cast and the number of voters marked on the checklist. Additionally, we received notice that the Town failed to follow proper protocols with respect to issuing absentee ballots prior to the election. Our office's Chief Investigator Richard Tracy conducted an investigation.

Election Night Results

On election night, the Town reported that a total of 2,795 ballots were cast. However, the marked checklist indicated that only 2,685 voters checked in to the checklist. At first glance, it would appear to voters that there were 110 more ballots cast than voters who received ballots. On or about March 26, 2018, the Town Clerk published a notice stating that the originally reported number of ballots cast was incorrect and revised the number to 2,695 ballots cast.

Our investigation did not reveal any evidence of criminal misconduct, such as "ballot box stuffing." However, we have concluded that this discrepancy was the result of errors made by the Town of Exeter following the election. The mistakes, however, were avoidable and should have been discovered on election night, prior to announcing the results.

Ms. Kohler stated during her interview with Chief Investigator Tracy, that the announcement that 2,795 ballots had been cast was based upon a calculation that was conducted by an assistant clerk. This number was calculated by using the ballot machine tape and then adding the number of ballots that were counted by hand. It appears that an error was made when

000005


Memory Card-Activity Log Repeat Violation



Machine repair performed without identification or description of work performed

Memory Card # Identification is missing

Repair work performed by LHS with only one witness when RSA and specific form instructions mandate two witnesses – Repeat Violation


State of New Hampshire
 SOS Electronic Ballot Counting Device Activity Log
 City/Town of _____ Ward () _____

Memory Card Bar Slot		Check One <input checked="" type="checkbox"/>		Wire Seal		Reason	Signature
		Installed	Removed	Number			
9.6.22	<input checked="" type="checkbox"/>			707531		Election Ready	A. Kohler
				Memory Card #		Witness #1	J. Shupe
				20025905		Witness #2	
9.14.22		<input checked="" type="checkbox"/>		707531		Remove Card	A. Kohler
				Memory Card #		Witness #1	J. Shupe
				-----		Witness #2	
9.14.22	<input checked="" type="checkbox"/>			707574		Storage	A. Kohler
				Memory Card #		Witness #1	J. Shupe
				-----		Witness #2	
10/4/22		<input checked="" type="checkbox"/>		707574		Repair	A. Kohler
				Memory Card #		Witness #1	R-1 S1
				-----		Witness #2	
10/4/22	<input checked="" type="checkbox"/>			481663		Repair complete	A. Kohler
				Memory Card #		Witness #1	R-1 S1
				-----		Witness #2	

Instructions: Each time a seal is installed, the person responsible for the process, must date, check the install box, list the seal number, state the reason and sign in the presence of two witnesses who also shall sign the log.
 Instructions: Each time a seal is removed, the person responsible for the process, must date, check the remove box, list the seal number, state the reason and sign in the presence of two witnesses who also shall sign the log.



DATES OF TESTING

```
SHA: F701CFDF72AE66685ED7
61CE5B164E2543DD397B
*****
TEST RESULTS REPORT
*****
GENERAL ELECTION
EXETER, NH
DATE 11/08/22
VOTE CENTER ID 1
Precinct 1
MACHINE ID 1
D/L VERSION 6
COPY 1A
ACCU-VOTE 1.96.13
REPORT USVT 2.2.4
TIME: 11:52:0707/30/22
=== OPTIONS SETTINGS ===
```

#1 Machine

```
SHA: F701CFDF72AE66685ED7
61CE5B164E2543DD397B
*****
TEST RESULTS REPORT
*****
GENERAL ELECTION
EXETER, NH
DATE 11/08/22
VOTE CENTER ID 2
Precinct 2
MACHINE ID 2
D/L VERSION 7
COPY 2A
ACCU-VOTE 1.96.13
REPORT USVT 2.2.4
TIME: 13:46:4510/26/22
```

#2 Machine

```
SHA: F701CFDF72AE66685ED7
61CE5B164E2543DD397B
*****
TEST RESULTS REPORT
*****
GENERAL ELECTION
EXETER, NH
DATE 11/08/22
VOTE CENTER ID 3
Precinct 3
MACHINE ID 3
D/L VERSION 8
COPY 3A
ACCU-VOTE 1.96.13
REPORT USVT 2.2.4
TIME: 14:09:5010/26/22
=== OPTIONS SETTINGS ===
```

#3 Machine



TEST tape Spare Machine #4 compared to the dates & times of Machines #1, #2, &3

Tape 1 – Date: 7/30/22

Time: 11:52

SHA: F701CFD72AE66685ED7
61CE5B164E2543DD397B

Tape 2 – Date: 10/26/22

Time: 13:46

SHA: F701CFD72AE66685ED7
61CE5B164E2543DD397B

Tape 3 – Date: 10/26/22

Time: 14:09

SHA: F701CFD72AE66685ED7
61CE5B164E2543DD397B

```

SHA: F701CFDF72AE66685ED7
61CE5B164E2543DD397B
*****
TEST RESULTS REPORT
*****
GENERAL ELECTION
EXETER, NH
DATE 11/08/22
VOTE CENTER ID 10
Spare
MACHINE ID 1
D/L VERSION 9
COPY 10
ACCU-VOTE 1.96.13
REPORT USUT 2.2.4
TIME: 11:13:26 07/30/22
=== OPTIONS SETTINGS ===
RETURN / PRINT

```



Test tape recap

- Machine tape #1 has the wrong date of **7/30/22**
- Machine tape #2 appears with the correct date information
- Machine tape #3 appears with the correct date information
- Machine tape Spare #4 has the wrong date of **7/30/22**
- **Also no entry in the Activity Logs 7/30/22**

TEST tape Spare Machine #4
compared to the dates & times of
Machines #1, #2, & #3

TAPE 1 - DATE: 7/30/22

TIME: 11:52

SHA: F701CFD72AE66685ED7

61CE5B164E2543DD397B

TAPE 2 - DATE: 10/26/22

TIME: 13:46

SHA: F701CFD72AE66685ED7

61CE5B164E2543DD397B

TAPE 3 - DATE: 10/26/22

TIME: 14:09

SHA: F701CFD72AE66685ED7

61CE5B164E2543DD397B

SHA: F701CFDF72AE66685ED7
61CE5B164E2543DD397B

TEST RESULTS REPORT

GENERAL ELECTION
EXETER, NH
DATE 11/08/22
VOTE CENTER ID 10
Spare
MACHINE ID 1
D/L VERSION 9
COPY 10
ACCU-VOTE 1.96.13
REPORT USUT 2.2.4
TIME: 11:13:2607/30/22
=== OPTIONS SETTINGS ===
RETURN / PRINT OVERPAGE



ZERO TAPES 1, 2 & 3

```
SHA: F701CFDF72AE66685ED7
61CE5B164E2543DD397B
*****
ELECTION ZERO REPORT
*****
GENERAL ELECTION
EXETER, NH
DATE 11/08/22
VOTE CENTER ID 1
Precinct 1
MACHINE ID 1
D/L VERSION 6
COPY 1A
ACCU-VOTE 1.96.13
REPORT USUT 2.2.4
TIME: 11:55:3707/30/22
*****
PRECINCT 37
```

Machine #1

```
SHA: F701CFDF72AE66685ED7
61CE5B164E2543DD397B
*****
ELECTION ZERO REPORT
*****
GENERAL ELECTION
EXETER, NH
DATE 11/08/22
VOTE CENTER ID 2
Precinct 2
MACHINE ID 2
D/L VERSION 7
COPY 2A
ACCU-VOTE 1.96.13
REPORT USUT 2.2.4
TIME: 07:04:0511/08/22
*****
PRECINCT 37
```

Machine #2

```
SHA: F701CFDF72AE66685ED7
61CE5B164E2543DD397B
*****
ELECTION ZERO REPORT
*****
GENERAL ELECTION
EXETER, NH
DATE 11/08/22
VOTE CENTER ID 3
Precinct 3
MACHINE ID 3
D/L VERSION 8
COPY 3A
ACCU-VOTE 1.96.13
REPORT USUT 2.2.4
TIME: 07:06:2811/08/22
*****
PRECINCT 37
```

Machine #3



Zero tape recap

Zero tape #4 Spare

- Machine tape #1 shows that the Zero tape was performed @ **11:55am** after the polls opened and has a wrong date of **7/30/22**
- Machine tape #2 appears with the correct date of 11/8/22 and a time of 7:04am
- Machine tape #3 appears with the correct date of 11/8/22 and a time of 7:06am
- Machine tape Spare #4 now has a correct date unlike from the test and the time shows it was **19:42** or **7:42pm** when it was performed. Polls closed @ 8PM.

Tape 1 - Date: 7/30/22

Time: 11:55

SHA: F701CFD72AE66685ED7
61CE5B164E2543DD397B

Tape 2 - Date: 11/8/22

Time: 7:04

SHA: F701CFD72AE66685ED7
61CE5B164E2543DD397B

Tape 3 - Date: 11/8/22

Time: 7:06

SHA: F701CFD72AE66685ED7
61CE5B164E2543DD397B

SHA: F701CFD72AE66685ED7
61CE5B164E2543DD397B

ELECTION ZERO REPORT

GENERAL ELECTION
EXETER, NH
DATE 11/08/22
VOTE CENTER ID 10
Spare
MACHINE ID 1
D/L VERSION 9
COPY 10
ACCU-VOTE 1.96.13
REPORT USVT 2.2.4
TIME: 19:42:5511/08/22

PRECINCT 37



Zero Tape 91 A

Spare machine #4 Zero tape Started @19:42 or 7:42PM which is 18 min. before the polls closed.

91A response from clerk states that machine failure happened @ 2:00pm with replacement started by 3:00pm

[3] Re: Pursuant to the Right to Know Law (RSA. 91-A)

From Andie Kohler <akohler@exeternh.gov>

Dec 8, 2022

To [REDACTED]



1. To examine the voter checklist for the election held on November 8th Any time during regular business hours
2. Any records you have on what time the machine/card failed? None, just the tapes
3. What number is the machine that had the failure? Precinct 3
4. When was it reported and who noticed the machine failure? Approximately 2:00 pm by Town Clerk
5. What time did it fail? Already answered
6. What time was the "Spare" replacement machine/card put into service? Approximately 3:00
7. The time that lapsed in between this changing of the cards and getting it operational, total and start time with finish time? 1 Hour
8. Was LHS notified and do you have records to them regarding an issue, if so please provide them Yes, none
9. Any emails documents or other communications of the November 8th election day machine/card failure? None

Thanks
Andie

Andrea J. Kohler, CTC, CMC
Exeter Town Clerk
10 Front Street
Exeter, NH 03833

Phone: 603-773-6105

Fax: 603-418-6424

Email: akohler@exeternh.gov

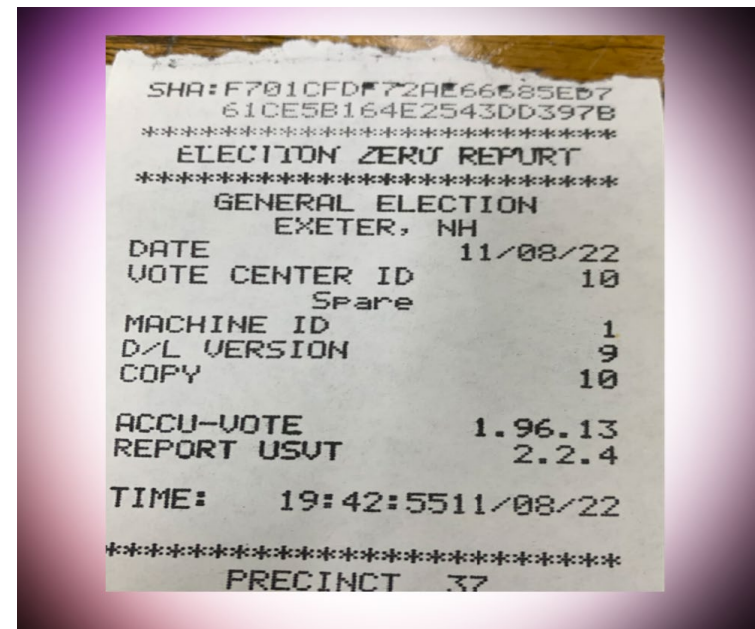
91 A response from previous slide what it means...



1. To examine the voter checklist for the Election held on November 8th . **Anytime during regular business hours**
1. Any records you have on what time the machine/card failed? **None, just the tapes**
2. What number is the machine that had the failure? **Precinct #3**
3. When was it reported and who noticed the machine failure? Approximately **2:00 pm by Town Clerk**
4. What time did it fail? **Already answered**
6. What time was the "Spare" replacement machine/card put into service? **Approximately 3:00**
7. The time that lapsed in between this changing of the cards and getting it operational, total and start time with finish time? **1 Hour**

According to the 91A response Machine #3 failed @ 2:00pm and the replacement, Spare machine #4 was up by 3:00pm

The tape shows differently. The Zero tape shows that the replacement was started and running @ 19:42 or 7:42pm



Zero tape Spare
Machine #4



Tape 1 Copy 1 – Date: 7/31/22

Time: 2:03- 2:03am

SHA: No

```
*****
ELECTION RESULTS REPORT
*****
GENERAL ELECTION
EXETER, NH
DATE          11/08/22
VOTE CENTER ID 1
                Precinct 1
MACHINE ID    1
D/L VERSION   6
COPY          1A
ACCU-VOTE     1.96.13
REPORT USVT   2.2.4
TIME:        02:03:0007/31/22
*****
PRECINCT 37
```

Machine #1

```
*****
ELECTION RESULTS REPORT
*****
GENERAL ELECTION
EXETER, NH
DATE          11/08/22
VOTE CENTER ID 2
                Precinct 2
MACHINE ID    2
D/L VERSION   7
COPY          2A
ACCU-VOTE     1.96.13
REPORT USVT   2.2.4
TIME:        21:12:1411/08/22
*****
PRECINCT 37
```

Machine #2

```
*****
ELECTION RESULTS REPORT
*****
GENERAL ELECTION
EXETER, NH
DATE          11/08/22
VOTE CENTER ID 3
                Precinct 3
MACHINE ID    3
D/L VERSION   8
COPY          3A
ACCU-VOTE     1.96.13
REPORT USVT   2.2.4
TIME:        18:44:4811/08/22
*****
PRECINCT 37
EXETER
```

Machine #3



MACHINE TAPES BALLOTS CAST

```
*****
ELECTION RESULTS REPORT
*****
GENERAL ELECTION
EXETER, NH
DATE 11/08/22
VOTE CENTER ID 1
Precinct 1
MACHINE ID 1
D/L VERSION 6
COPY 1A
ACCU-VOTE 1.96.13
REPORT USVT 2.2.4
TIME: 02:03:0007/31/22
*****
PRECINCT 37
EXETER
*****
BALLOTS CAST 2498
*****
```

Machine
#1

```
*****
ELECTION RESULTS REPORT
*****
GENERAL ELECTION
EXETER, NH
DATE 11/08/22
VOTE CENTER ID 2
Precinct 2
MACHINE ID 2
D/L VERSION 7
COPY 2A
ACCU-VOTE 1.96.13
REPORT USVT 2.2.4
TIME: 21:12:1411/08/22
*****
PRECINCT 37
EXETER
*****
BALLOTS CAST 2508
*****
```

Machine #2

```
*****
ELECTION RESULTS REPORT
*****
GENERAL ELECTION
EXETER, NH
DATE 11/08/22
VOTE CENTER ID 3
Precinct 3
MACHINE ID 3
D/L VERSION 8
COPY 3A
ACCU-VOTE 1.96.13
REPORT USVT 2.2.4
TIME: 18:44:4811/08/22
*****
PRECINCT 37
EXETER
*****
BALLOTS CAST 2909
*****
```

Machine
#3

```
SHA:F701CFDF72AE6605ED7
61CE5B164E2543DD397B
*****
ELECTION RESULTS REPORT
*****
GENERAL ELECTION
EXETER, NH
DATE 11/08/22
VOTE CENTER ID 10
Spare
MACHINE ID 1
D/L VERSION 9
COPY 10
ACCU-VOTE 1.96.13
REPORT USVT 2.2.4
TIME: 21:12:4611/08/22
*****
PRECINCT 37
EXETER
*****
BALLOTS CAST 502
*****
```

Machine
Spare #4



Ballots cast compared to time in use for Machine #4 Spare

Machine #4 Spare **Zero Start @ 19:42 or 7:42pm**

Machine #4 Spare **Election R. Stop @ 21:12 or 9:12pm**

That would mean that it had exposure to voters for only 18 minutes and had 27.8 ballots a minute processed through it!

Machine #	Ballots cast
Machine #1	2,498
Machine #2	2,508
Machine # 3	2,909
Machine #4 Spare	502
Total:	8,417 ballots cast



Seals on Boxes

Exeter had security discrepancies found by the volunteers during the recount on 22 of 22 Ballot boxes.

If the seals don't matter...than why do we use them?

In a criminal case this evidence would be excluded, are our elections just as important as a criminal case?



Election Manual 2022-2023 - Check list of Responsibilities – Moderator (con't)

- Below per RSA 659:95 , 659:97, and the Election Manual
- Seal and certify ballots in the presence of the selectmen or their designee, place the cast ballots, canceled ballots, uncast ballots, ballots from any additional polling places and successfully challenged absentee ballots in the boxes supplied by the Secretary of State; mark the information on the seal; apply the seal to the containers to the clerk.
Ballots go in boxes labeled in red ink “Ballots”. Absentee voting materials including all successfully challenged and rejected absentee ballots go in the boxes labeled in blue ink “Absentee Voting Materials”.
- These are specific detailed instructions for a purpose, yet there are not checks and balances to ensure they are followed.

RSA 659:95

Required information per the RSAs, for labels affixed to every box to maintain Chain Of Custody. (Next Slide)

Seal On Boxes Containing Ballots & Absentee Materials



This Package Contains

NUMBER OF _____ CAST BALLOTS
NUMBER OF _____ CANCELLED BALLOTS
NUMBER OF _____ UNCAST BALLOTS

- All absentee ballot applications and envelopes are enclosed in this ballot box – including all challenged and rejected absentee ballots still contained in their envelopes.
RSA 659:53, 657:15, 23, 26

BOX _____ OF _____.

Enclosed are the ballots
from the state election
held in the town of

(or, ward _____ in the city
of _____
held on the _____ day
of _____, 20____
required by the law to be
preserved.

Moderator or Designee

Selectman or Designee

Selectman or Designee

Selectman or Designee

Selectman or Designee

Selectman or Designee

RECEIVED _____
(date)

at _____
(minute of the day and the hour)

TOWN CLERK or CITY CLERK
or Designee

(New Hampshire RSA sections
659:95, 98.)





22 of 22 Chain of Custody
 Exeter boxes have missing or
 incorrect data required by RSA
 659:95-98.

100% Non-Compliant
No Quantity of Content
Incorrect use of Boxes

Box	# of #	Town	Incorrect Box Color	Marked Content	Actual Content	Qty on Label	Qty on C of C	Actual Qty	Tally #
	172392 1 of 10	Exeter				X	blank		763
	172393 2 of 10	Exeter				X	blank		383
	172394 3 of 10	Exeter				X	blank		1001
	172395 4 of 10	Exeter				X	blank		959
	172396 5 of 10	Exeter				X	blank		883
	172397 6 of 10	Exeter				X	blank		1011
	172398 7 of 10	Exeter				X	blank		1029
	172399 8 of 10	Exeter				X	blank		980
	172400 10 of 10	Exeter				X	blank		323
	172401 1 of 6	Exeter	Red	Absentee Material	Absentee Material				
	172402 2 of 6	Exeter	Red	Absentee Material	Absentee Material				
	172403 3 of 6	Exeter	Red	Absentee Material	Absentee Material				
	172404 4 of 6	Exeter	Red	Absentee Material	Absentee Material				
	172405 5 of 6	Exeter	Red	Absentee Material	Absentee Material				
	172406 6 of 6	Exeter	Red	Absentee Material	Absentee Material				
	172407 1 of 6	Exeter							
	172408 2 of 6	Exeter							
	172409 3 of 6	Exeter							
	172410 4 of 6	Exeter							
	172411 5 of 6	Exeter							
	172412 6 of 6	Exeter							
	172413 9 of 10	Exeter		Uncast	Cast	270		252	252
						X			931



- Multi District 24 Towns with violations common to Exeter
- **Incorrect use of boxes**
- **Incorrect Counts**
- **Incorrect identification of Content**
- **Absence of signatures**
- **Incorrect date and time**
- **Requires deep dive**

172320	Greenlar Blue	Uncast	Uncast		
172321	Greenland				
172322	Greenland				
172323	Greenland				
172324	Greenlar Blue	Uncast	Absentee Material		
172325	Greenlar Blue	Uncast	Absentee Material		
172326	Greenland				
172327	4 of 4 Rye				
172328	Envelope unc Rye				
172336	1 of 2 Rye Red	Cast	Uncast	1825	
172337	2 of 2 Rye Red	Cast	Uncast	1825	
172338-1	2 of 4 Rye Blue		Cast	829	
172338-2	2 of 4 Rye Blue				
172339	1 of 4 Rye				
172340	Not in Chan c Rye				
172341	3 of 4 Rye				
172342	1 of 3 Rye Red		Absentee Materials		
172343	2 of 3 Rye Red		Absentee Materials		
172344	3 of 3 Rye Red		Absentee Materials		
172345	Envelope 10 Rye				
172346	1 of 5 North Hampton	Cast, Cancelled, Uncast	Uncast & cancelled	?	1835, 12,1202
172347	2 of 5 North Hampton	Cast, Cancelled, Uncast		2834	1835, 12,1203
172348	3 of 5 North Hampton	Cast, Cancelled, Uncast		2834	1835, 12,1204
172349	4 of 5 North Hampton	Cast, Cancelled, Uncast		2834	1835, 12,1205
172350	5 of 5 North Hampton	Cancelled	Cast	12	12
172351	North Ha Red	Absentee Ballots	Absentee Mat'l	650	0
172352	North Ha Red		Absentee Mat'l		
172353	Envelope North Hampton				
172306	1 of 12 Stratham				1000
172307	2 of 12 Stratham				1000
172308	3 of 12 Stratham				1000
172309	4 of 12 Stratham				1000
172310	5 of 12 Stratham				636
172311	6 of 12 Stratham Red	Absentee Material			
172312	7 of 12 Stratham				
172313	8 of 12 Stratham Red	Absentee Material			
172314	9 of 12 Stratham				
172315	10 of 12 Stratham				
172316	11 of 12 Stratham				
172317	12 of 12 Stratham				
172318	Envelope Stratham				
172319	Envelope Stratham				
172329	1 of 3 Hampton Red	Absentee Material			
172330	2 of 3 Hampton Falls				
172331	3 of 5 Hampton Falls				
172332	4 of 5 Hampton Blue	Cast		0	0
172333	5 of 5 Hampton Falls			0	0
172334	Envelope Hampton Falls				



Sealed Ballot Boxes – Chain of Custody and Storage Log

Checklist of Responsibilities – Clerk (con't)

- Required by RSA 659:98 (see next slide)
- **Four of seven District 24 towns completed the form.**
- **Three of the four completed it correctly.**
- **Three District 24 towns failed to utilize any form at all...**

Who is in charge of catching these errors? What is the remedy?




RSA

SEALED BALLOT BOXES – CHAIN OF CUSTODY & STORAGE LOG

RSA 658:98 & ELECTION MANUAL

- 91A ACCESS TO THE CHAIN OF CUSTODY AND STORAGE LOG SO THE PUBLIC CAN RELY ON THE INTEGRITY OF THE PROCESS

Scaled Ballot Boxes – Chain of Custody & Storage Log

 State of New Hampshire Scaled Ballot Boxes - Chain of Custody & Storage Log City/Town: _____ Ward: _____ Date of Election: _____					
Draw of Entry	Location of Ballot Boxes	Total Number of Boxes	Reason for Access: initial storage, removal for recount, transfer of custody, removal for destruction, etc. If less than all boxes are accessed or moved, list box numbers accessed or moved.	Location of Ballot Box After Access:	Signature & Printed Name of Clerk or Deputy Clerk / Witness
Enter Date	Being For	In	Drawn by	Clerk's	Signature
11/11/2022	Assess	20	Drawn by Clerk, New Hampshire	Clerk's	Signature

Instructions: Log entries must be made for each of the following actions: 1. the initial storage of the sealed boxes of ballots and absentee voting material; 2. all access made to the storage boxes; 3. the transfer of custody of the boxes to the Secretary of State for purposes of a recount; and, or 4. the removal of the boxes from storage and the details of the boxes' destruction.


For each of the entries, a signature by the clerk or deputy clerk as well as one witness, is required. This log must be available as a public record in the Clerk's office. This log is a public document subject to disclosure under the Right-to-Know laws.

Chain-of-Custody



- After elections, sealed boxes are stored locally, and a “Storage Log” must be kept to record:
 1. The initial storage of sealed boxes of ballots and absentee voting material
 2. Any and all access made to the stored boxes
 3. Any transfer of custody or removal of boxes
- Exeter, Rye and Greenland did not fill out the required storage logs as required by RSA

(Photo shows example of Storage Log filled out by the town of Stratham)


State of New Hampshire
 Sealed Ballot Boxes - Chain of Custody & Storage Log
 City/Town: Stratham Ward: _____
 Date of Election: 11/8/2022

Date of Entry	Location of Ballot Boxes. <i>Street address, building name, room name / number</i>	Total Number of Boxes	Reason for Access (initial storage, removal for recount, transfer of custody, removal for destruction, etc.) If less than all boxes are accessed or moved, list box numbers accessed or moved.	Location of Ballot Box After Access. <i>Street address, building name, room name / number.</i>	Signatures & Printed Name: Clerk or Deputy Clerk Witness
<i>Election Day 9/13/2022</i>	<i>Polling Place Address:</i>	<i>8</i>	<i>Transfer to Clerk from Moderator @r Saltonstall</i>	<i>Clerk's office locked chest</i>	<i>Ina Clerk Ina Clerk Clerk / Deputy Ina Winsor Ina Winsor Witness</i>
<i>11/13/22</i>	<i>39 ... Stratham</i>	<i>12</i>	<i>Initial Storage</i>	<i>Clerk's office</i>	<i>Deborah ... Witness</i>
<i>11/16/22</i>	<i>10 ... Stratham</i>	<i>12</i>	<i>recount</i>	<i>Clerk's office Safe</i>	<i>... Witness</i>

Instructions: Log entries must be made for each of the following actions: (1) the initial storage of the sealed boxes of ballots and absentee voting material; (2) all access made to the storage boxes; (3) the transfer of custody of the boxes to the Secretary of State for purposes of a recount; and/or (4) the removal of the boxes from storage and the details of the boxes' destruction.
For each of the entries, a signature by the clerk or deputy clerk as well as one witness, is required. This log must be available as a public record in the Clerk's office. This log is a public document subject to disclosure under the Right-to-Know laws.

Form NHX-000003

Chain-of-Custody



- The North Hampton Town Clerk's Office did not fill out the required storage log
- Per conversation with Town Clerk, the State filled it out and signed the log upon picking up the boxes for transfer (see photo)
- Not only is this a violation of RSA, but leaves open the question of what happened to the boxes between Nov 8th and 16th?

State of New Hampshire
Sealed Ballot Boxes - Chain of Custody & Storage Log
City/Town: North Hampton Ward: N/A
Date of Election: Nov 8, 2022

Date of Entry	Location of Ballot Boxes (see address, county name, room number, / number)	Total Number of Boxes	Reason for Access (initial storage, removal for recount, transfer of custody, removal for destruction, etc.) If less than all boxes are accessed or stored, list box numbers accessed or moved.	Location of Ballot Box After Access (see address, building name, room number)	Signatures & Printed Name of Clerk or Deputy Clerk and Witness
<u>11/8/22</u>	<u>237 Atlantic</u>	<u>7</u>			
<u>4/16/28</u>	<u>237 Atlantic</u>	<u>7</u>	<u>Recount</u>	<u>NH State Archives</u>	<u>Ben Nelson, Duke State Archivist</u>

Instructions: Log entries must be made for each of the following actions: (1) the initial storage of the sealed boxes of ballots and absentee voting material; (2) all access made to the storage boxes; (3) the transfer of custody of the boxes to the Secretary of State for purposes of a recount; and/or (4) the removal of the boxes from storage and the details of the boxes' destruction.
For each of the entries, a signature by the clerk or deputy clerk as well as one witness, is required. This log must be available as a public record in Clerk's office. This log is a public document subject to disclosure under the Right-to-Know laws.

Chain-of-Custody Issues



- Void Opened Box
- Floating Label
- NO Moderator's Signature
- Missing Moderator & Selectman Signatures
- Missing Town Clerk Signatures
- Missing Time Stamps
- Missing Ballot Count
- Questionable Ballot Counts
- Questionable Counts & Wrong Content
- Incorrect Content on Label



- November 26, 2022 at the beginning of the Senate race recount, there is evidence of box #172321.
- Photo shows TOP of box with red security tape marked “VOID OPENED” indicating the box was previously opened.





Photo #1 shows BOTTOM of the SAME #172321 with signature label, which appears to have been moved from the TOP of the box.

- The 2nd photo shows red tape attached to the signature label, which is another indication that the label had been moved
- Why was label relocated to the *bottom* of the box?
- With a proper chain of custody we could answer that.





- No Moderator signature on 5 of 6 Greenland box labels
- Photo shows example Greenland box of cast ballots #172321





- No Moderator or Selectman signatures on 12 of 22 Exeter box labels
- Photo shows example of Exeter box #172401





- There are NO timestamps on signature labels of ALL 22 of 22 Exeter boxes
- Photo shows example of Exeter Box #172397





- Ballot counts are NOT listed on any of the 10 Exeter cast ballot boxes
- Photo shows example of Exeter Box #172397





- Some boxes are mis-labeled as uncast ballots when they clearly had cast ballots inside
- Photo shows Exeter Box #172412





Election Day *Marked Checklist* records 100 %
of the Voters on November 8th Election Day.

Exeter *Marked Checklist* records 8529 Voters...

**The Moderator's Worksheet, Return of Vote,
and Recount should match.**



Exeter Records all contradict:

Official Return of Vote document? 8540

Machine Tape and hand count results? 8532

Moderator's Worksheet counts? 8518

Actual number of Voters on the Checklist? 8529

Exeter tally @ recount

8514



EXETER- Voter reconciliation

EXETER	Votes	Variance to checklist
NAMES OF VOTERS ON CHECK LIST VERIFIED	8529	
Check-ins- Moderators workseet	8518	-11
ROV- Votes cast & overvotes	8515	-14
RECOUNT TOTAL	8514	-15

EXETER	Moderators Worksheet	On Machine Tape	Variance
Accuvotes Cast	8400	8417	-17

***Voter count verified
by manual counting
checklist voters*



SUMMARY RECOUNT ACCURACY

DISTRICT 24 SENATE RACE - SUMMARY

	Gargiulo	Altschiller	Undervotes	Overvotes	Write ins	TOTAL	Variance from Recount- TOTAL VOTES	Votes gained by candidates in recount	Absolute Delta to recount
RECOUNT Tally	14305	18020	703	0	3	33031	NA	NA	NA
ROV	14286	17969	739	36	1	33030	1	70	157
Machine+ Handcount total	14272	17970	731	0	6	32995	36	92	137

- The RECOUNT added 70 votes to candidates that had not been reported.
- The RECOUNT added 92 votes to candidates when compared to machine tapes & Write in details



Election In Question

Electronic Ballot Counting Devices
Determine the Elections

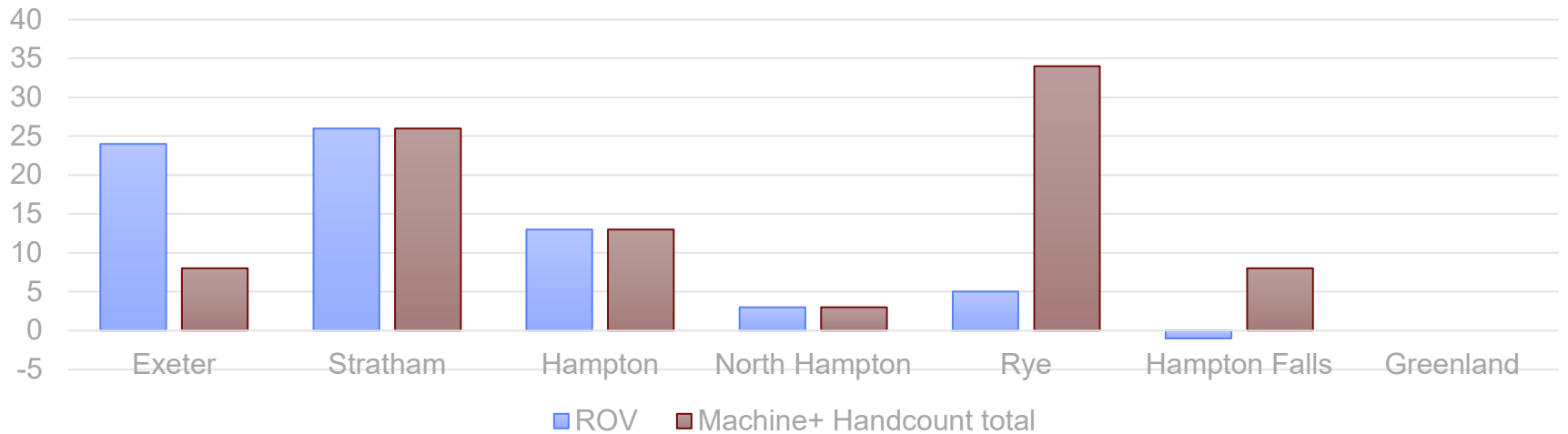
Not the Ballots...

Candidates gained 94 votes @ recount
when compared to Machine Tape Results

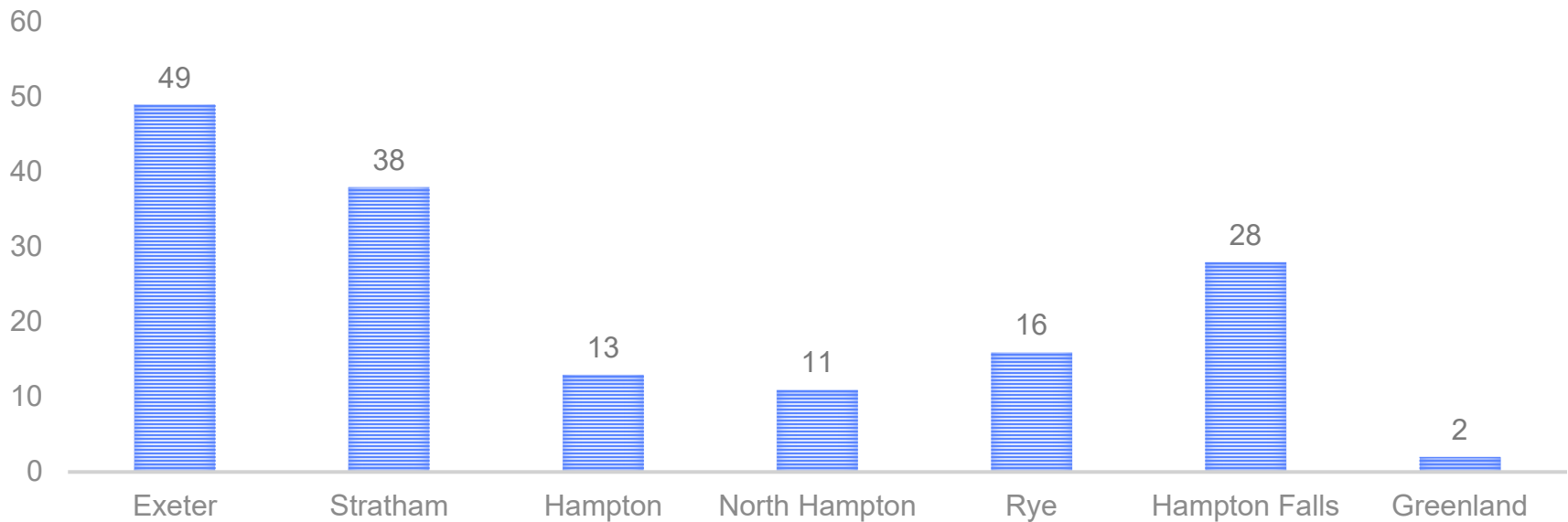
Votes gained by Candidate ROV & Machine: District 24 Senate Race



Votes Gained by Candidates in Recount



Absolute Discrepancy : Recount Vs ROV District 24 Senate Race: 154 Votes Misreported



Permanent Movers



On Monday, March 20th, 2023 at 8:26 AM, Andie Kohler <akohler@exeternh.gov> wrote:

1. Yes
2. Yes, Approximately Sept 7th. And of course, at the Election if we had any.

*Thanks
Andie*

*Andrea J. Kohler, CTC, CMC
Exeter Town Clerk
10 Front Street
Exeter, NH 03833*

*Phone: 603-773-6105
Fax: 603-418-6424
Email: akohler@exeternh.gov*

- The District 24 Senate race had 2378 voters who permanently moved between August 2020 to August 2022 but remained on the voter registration
- Exeter & Hampton Falls responded to the 91A and communicated they had received the notification of these movers and had acted upon the information- How is this possible??

Hide original message

On Sun, Mar 19, 2023 at 5:34 PM Brenda Towne <btowne@protonmail.com> wrote:
Good Afternoon Vicky-

I am writing as part of a 91A request. My inquiry is in regard to the removal of names of voters from the Exeter Voter registration. Can you confirm that Exeter receives either directly from the SoS, USPS, DHHS or election-net the names of residents who have permanently changed their addresses to another state or county? Did the town receive this information and act upon it before the 2022 midterms and if so, when was the last update the town officially received from these channels?

Thank you for your response-
Brenda
603-327-7336

91A Response from Exeter Town Clerk



Hampton Falls – Overvotes

Vote November 8, 2022 a true copy attest:
Stephen Cross
 Signature of Town/City Clerk
 One copy to be Returned ELECTION NIGHT to the Secretary of State.

STATE OF NEW HAMPSHIRE
 RETURN OF VOTES
HAMPTON FALLS
 GENERAL ELECTION
 NOVEMBER 8, 2022



Offices	Other Candidates	Democratic Candidates	Republican Candidates	Undervotes Overvotes
For Governor Vote for not more than 1	Liberarian Kelly Halldorson 6	Tom Sherman	Chris Sanuno 903	Undervotes 11
	Liberarian Kariyn Borysenko 3			Overvotes 27
For United States Senator Vote for not more than 1	Liberarian Jeremy Kaufman 21	Maggie Hassan 672	Donald C. Bolduc 747	Undervotes 5 Overvotes 27
For Representative in Congress Vote for not more than 1		Chris Pappas 690	Karoline Leavitt 739	Undervotes 14 Overvotes 27
For Executive Councilor Vote for not more than 1		Katherine Haraka 595	Janet Stevens 793	Undervotes 49 Overvotes 27
For State Senator Vote for not more than 1		Debra Altschiller 598	Lou Gargiolo 821	Undervotes 19 Overvotes 27
For State Representative Rockingham District 19 Vote for not more than 1		Joe Pace 616	Susan M. Porcelli 809	Undervotes 15 Overvotes 27
For State Representative Rockingham District 36 Vote for not more than 1		Elizabeth Kosta 612	JD Bernardy 785	Undervotes 41 Overvotes 27
For Sheriff Vote for not more than 1		Kevin Coyle 564	Chuck Massahos 808	Undervotes 66 Overvotes 27

BALLOTS CAST

Regular Ballots Cast

1,264

Absentee Ballots Cast

155

Total Number of Ballots Cast

1,419

Number of Overvoted Ballots Cast

27

Total Voted

1,446



senate race votes reported v. total town and ballots used per inventory

TOWN	Senate Race ROV	Town TOTAL ROV	ABSOLUTE		
			Variance: TOWN Voters Vs Senate Race	Ballots cast using inventory	Variance: Ballots Cast to Senate Race
Exeter	8515	8518	3	8518	3
Stratham	4639	4639	0	4639	0
Hampton	9385	9406	21	9406	21
North Hampton	2836	2852	16	2823	-13
Rye	3757	3757	0	3754	-3
Hampton Falls	1465	1446	19	1446	-19
Greenland	2433	2438	5	2435	2

How do the towns of the District 24 Senate Race have an absolute variance of 64 votes Vs the reported town vote totals?



Not just a District 24 problem

Windham, NH 2020, full investigation, and the finding of *“folded ballot through ovals,”* which is alleged to have happened again in 2022.

Along with 32 additional allegations documented in a complaint to the Attorney General in December 2022.

Dec 21, 2022
Complaint to AG



Ballot Counting Devices:

Ballot Counting Devices:

- Altered without witnesses when two are required
- Altered (hardware or software) never re-approved
- Memory Cards swapped out without oversight or proper documentation

Moderator runs a machine in Test Mode and according to the DOJ that is all that is required.

July 12, 2022 correspondence

April 2, 2023: Sandown - 666 votes cast. This is NH, every vote counts!



Selectman Candidates	Town Reported Totals	Machine #1	Machine #2	Hand Counts	Total	Diff
Parker A. Davis	167	68	96	3	167	0
Jeff Gilman	88	36	52	0	88	0
Edward L. Mencis	269	105	161	3	269	0
Robert Nickerson	217	108	160	3	271	54
Ben Sharpe	312	134	173	5	312	0
Sub-Total	1053	451	642	14	1107	54
		No Vote s	99	116	7	222
		Over Vote s			2	2
		Write -ins		2	1	3
	Sub-Total		99	118	10	227
	Grand Total		550	760	24	1334




Lou Gargiulo's crew of volunteers is responsible for the findings here with a combined investment of over 700 volunteer hours.

This is merely a selected survey of what has been found that I attempted to fit into an hour.

The evidence is preserved, the witnesses are available, we are asking for your review.

NEXT STEPS??????

- 
- We would ask you to use your authority to establish a working group, or ad hoc committee to meet with Lou's volunteers to see the documentation for yourselves.
 - Make written recommendations for consideration by the Secretary of State and Attorney General's Office, to further ensure fair and accurate elections in our state and to effect positive change.
 - In the alternative, a written response declining to take any further steps or make any further inquiries and the supporting reasoning.
 - This request is blind to party affiliation and will benefit every one of our citizens and candidates.

QUESTIONS?