

# **Exhibit 1**

TESTIMONY OF SHERYL GUY

Joint Senate and House Oversight Committee hearing

Lansing, MI November 19, 2020

<https://misenate.viebit.com/player.php?hash=eSTYCvwj8LWA>

BEGINS AT 2:44:10 on above link

Sheryl Guy via Zoom

Opening statements:

Good afternoon honourable members of the Senate and House Oversight Committee. Thank you for the opportunity to testify before you today to provide a clear and accurate report of the November 3<sup>rd</sup> 2020 elections conducted by my office.

I am dedicated to my position and responsibilities I hold as the Antrim County Clerk. The human errors did occur, that led to incorrect election night reports/reporting. (oops sorry... oops got in, no) Excuse me, um... The errors did occur, that led in election, incorrect election night reporting of the unofficial Antrim County results of the November 3<sup>rd</sup> 2020 general election. The unofficial results posted, by the Antrim County Clerks Office, at approximately 4:09 was a result of human error facilitated after two ballot corrections. The Village of Central Lake contained incorrect school board candidates and the Village of Mansilona added a trustee as we learned that his affidavit and petition had been filed properly. Umm...With the township Clerk. BUT, was never forwarded to my office. New ballots were ordered immediately, and each clerk recalled a ummm the ballot that had been sent, and provided a letter explaining the correct ballot information. We spoke with Election Source and it was discovered that we had not received a 2<sup>nd</sup> new flash drive to program the tabulator compact flash card for the Mansilona Township. Election Source overnighted a 3<sup>rd</sup> flashcard we received ummm on October 23<sup>rd</sup>. We installed the new program and reprogrammed the tabulator compact flash card for Mansilona Township. No other cards had been retrieved or reprogrammed. We were not aware that the new flash drive program because we did not realize that we had to reprogram all the tabulator compact cards for all the townships. Therefore, the error caused the election night program to not load correctly. I can not express how very unfortunate it is that the human error has called into question the integrity of Antrim County's election process and placed it front and center at the national level. Antrim County has not/nothing to hide, ummm. I received an email on 8:15am on November 4<sup>th</sup> 2020 which was my first alert, and again at 10:49am. Election Source did verify the process in which we missed. That all tabulators compact cards had not been reprogrammed to match the newest software. My staff immediately began entering numbers from tabulator tapes. And I clearly and immediately owned my error and take full responsibility. However, I must emphasize, that the human error did not in any way or form uhhh shape or form effect the official election results of Antrim County. Thank you.

Sen. Ed McBroom R 38<sup>th</sup> Dist. – Vulcan Chair (Chair hereafter):

Thank you so much Madam Clerk and I appreciate how much time you had to wait to testify today, and you provided us with a timeline and such, so thank you for the effort that went into

appearing today. You know there has been so much, as you mentioned, national attention drawn to this that I felt it was important to have the opportunity for you to come and speak publicly on a big stage basically to assure people what happened and the work that went into rectifying the situation, how it happened. So, you're testimony is this came about due to a really a shift that ended up with had to happen with adding something additional to the ballot after it had been originally proofed and programmed, correct?

Guy: Mr Chair, Correct.

Chair: Ok, and so, why, and if you can answer this, well – first off how long have you been clerk for Antrim County?

Guy: 8 Years

Chair: So when the unofficial results came in, and they were published, what was the, what was the reason that it wasn't until the next morning that they were really called into question? I mean cause the numbers were...

Guy: Mr Chair... our last jurisdiction brought in their results after 3:30am

Chair: Would it have been, for the dramatic skewing of the results in this particular election, versus preceding elections, as far as party affiliation votes went, would it have been un ummm would it have been improper to ask why the locals who brought in those results to you didn't notice that, or why you didn't notice them being so far different from how they had been in previous times?

Guy: Mr Chair, we didn't know at the time and actually our local clerks were overwhelmed with all the AB ballots they had to process.

Chair: Ok, cause I mean it's just the congressional race it's just a really astounding change of fortune for Jack Bergman who in the previous election to this one the initial count so... I just was anybody on your staff... anybody looking at it and saying boy this is really surprising?

Guy: Mr Chair, I believe that we looked at it and we were surprised, but 2020 has been a year like no other.

Chair: (laughter)

Guy: And we honestly did not know what to expect.

Chair: So, when, who was the person? Was it just a local citizen, was it one of the candidates? Who was it that contacted you in the morning to say something's gotta be wrong with these results?

Guy: It was an email I received ummm at I believe it was 8:14am from a citizen.

Chair: Ok. And if that email hadn't come in, what would have preceded next for your county as far as, would this error have been caught?

Guy: Mr Chair, it certainly would have been caught umm when the canvassers began their canvas.

Chair: Why?

Guy: Um they, the umm, the canvassers certify the election with the umm tabulator tape that come off our machines. Our voting machines.

Chair: So the tabulator tape, would it, so it was not corresponding with the final result?

Guy: Mr Chair, the final result and the tabulator totals matched. The difference was when we tried to do ummm upload our tabulator card (shows Sandisc SD Card) with our reader (shows device) into the night programming software.

Chair: So I wanna know, specifically when this error would have been caught. Had everybody thought, well this is the result, this is the result – because, well in your county it was so starkly different from what it might be from last year. It was very noticeable. But lets go to a different jurisdiction where it might be very close and not noticeable. How would this error have been caught if no one thought there was an error to begin with?

Guy: If the error had been brought to our attention, other than just an email, we would have started questioning it, right away.

Chair: I understand that, but you would have questioned it because something looked amiss. What I'm trying to get at is – if it hadn't looked amiss to you, how would you have known that something had gone wrong?

Guy: When the board of canvassers started canvassing, they would have definitely thrown up a red flag.

Chair: How? What would have thrown up a red flag to them?

Guy: Ummm probably when they were canvassing their first jurisdiction. They would see that huh, the totals are very different, you know than you know what they may have heard on the news.

Chair: I don't think that we are connecting I'm sorry to say Madame Clerk. If it hadn't looked so obviously wrong, how would the board of canvassers have found the error? I mean if they just started looking over the results and they had no reason to suspect them as being wrong,

what would have tipped them off to go and look and see that the programming was wrong. I mean was there an office that was just left off that didn't receive any votes? What would have happened to demonstrate that there had been a mistake made with the programming?

Guy: I believe that once we would have gotten notice that we would have actually have gone into those tapes and compared them to our unofficial election reports ummm and seen that there was a difference. We would have done that.

Chair: But if you didn't know that the software had a problem, and just cycle things through again, wouldn't you just get the same results you got on election night unofficial results?

Guy: We would go to the tabulator tapes and compare what dumped into our software program on election night. We would compare the unofficial report to the tabulator tapes.

Chair: The committee will be at ease while the committee will call a chair.

2:57:30 on tape Committee comes to order

Chair: Clerk Byrum is still on the call and feels she can help make the connection here in vernacular so, this is a reflection on the chairman, and not necessarily knowing all the terminologies of the world that you are working in so... Forgive me, but, Clerk Byrum are you still there, can you help us out?

Byrum: I am Mr Chair. As I understand it, um, of course I wasn't there, so this is only what I have read. As I understand it, when you add a candidate... well first, first problem was the filing official was the township clerk that failed to give the affidavit of identity to the local clerk. This is something I talked about earlier in my testimony, where the county clerk should be the filing official for everything. So that was the first problem. And as a result, it sounds like she contracts with Elections Source to do the programming of the election, so as a result, that candidate had to be added back. But it sounds like perhaps that all those cards, or added in, not back, just added in... Perhaps all those cards were not then reprogrammed with the new program. So they go on the tabulator. As I understand it, the tabulators tabulated the ballots properly. But it is when all of those programs that weren't updated with the new candidate, with the additional candidate, came in to the reporting software system, the big election brain computer, it didn't report it properly. So, as election officials, we do not have the luxury to who's winning and who's not winning on election night – we're too busy doing our job. So, the next day she got an email. Had she not got an email, the board of canvassers would have ABSOLUTELY caught this. Because the tapes, those tabulator tapes, would not have matched the reported results tapes. And flags would have started coming up immediately. That's why in Michigan elections we have all of these checks, all along the way. When she found out, she did exactly what she was supposed to do. She worked with her board of canvassers, I can only imagine she called the bureau of elections – because that usually that's the first thing you do, and they don't answer because they are getting all sorts of calls from people that are worried about sharpie markers! She starts calling their cell phones. So, if that maybe clears it up, Clerk

Guy if I made anything incorrect, please correct me. But that's how I understand how this could have happened.

Chair: Right, and thank you Clerk Byrum. I think this was probably on the Chair for not asking this right, I did try to ask Sheryl, Madame Clerk for Antrim County – I can't remember your last name so please forgive me. I wanted to ask wouldn't the tapes have shown a different result than what the software was showing. That's what I tried to ask, but the answer didn't come back and we all got in this confusing morass so thank you to Clerk Byrum, and back to the Clerk from Antrim County. Is that correct then? The tapes would demonstrate the difference and so the canvassers would catch that?

Guy: It absolutely would.

Chair: Ok. So if another precinct somewhere else had not seen such large depressions and noticed something amiss, the canvassers would still take those tapes, and juxtapose them with the software reporting and see a discrepancy.

Guy: Yes

Chair: Chairman Hall, do you have questions?

Chairman Hall: I'll start out with Representative LaFave

LaFave: Madame Clerk, thank you again. All three of you, thank you for what you do. I really appreciate it. I received initial media reports, and it was stated that the problem was a software glitch. Is that true that someone from your office said that? Or, is it not true that, was that inaccurate reporting by the press?

Guy: I don't believe that we would have said that it was a software glitch. It was the tabulator tape, or the tabulator card, talking to the election night software program.

LaFave: Ok. Well, it certainly wouldn't be the first time the media got something reported wrong. I'm trying to understand, I have my name on a ballot, I don't count them – I don't know how that system works necessarily, so lets try to follow my ballot. When I vote, and I have my physical ballot, it goes into that voting machine, and it counts like a scan-tron, right?

Guy: Correct, it counts that ballot.

LaFave: Ok, now I keep hearing the word 'tabulator'. Is that machine is called a tabulator?

Guy: Yes

LaFave: Ok. We put a bunch of these ballots individually, in this machine we call a tabulator. And it counts up the various races, whether they be straight party ticket, or county clerk, or whatever it is, and it prints out a tape?

Guy: Correct

LaFave: How big is this tape?

Guy: It's probably about 30 feet long

LaFave: Ok. So we also have an electronic copy of that, that we bring to a different machine that counts it all up?

Guy: No

LaFave: Tell me how we figure out... cause we have a bunch of different tabulators with a bunch of different receipts basically. How does that information aggregate itself, so Antrim County can say, we voted for Kanye West, or whatever? How does it get aggregated?

Guy: Please clarify

LaFave: When we have all these tabulators, they are all in these different precincts across the county. How do we take that data, those numbers, and add them up so Antrim County can say this is the result of of the election in Antrim County? How does that happen?

Guy: Ok, the local clerks will bring their cards (holds up a Sandisc SD Card) in a sealed approved ballot bag, small ballot bag. And they will bring those to us. We in turn break the seal, pull this card out, we put it into the card reader (holds up card reader device), which loads into the election night programming report.

LaFave: And then that is reported to the media and the website and how us normal citizens that aren't there – to figure out what happened.

Guy: Correct

LaFave: This is probably not a great question for you, but a question I would love to know the answer to. How is it, and maybe it's something to do with software, but when I imagine inserting a candidate, in the middle of the ballot... If I'm grading a paper, like in school when you did those scantrons, if you inserted a question, but didn't tell the software, in the middle of the test, everything below that would be off – but everything above it should be fine. So why is it that inserting a name in the middle of the ballot has drastic differences between the number of people who voted straight ticket democrat, and straight ticked republican, and the President and the Senate and everything else, when it was a local official that needed to be added that was the problem causer.

Guy: Well sir, I believe that's a programming issue. I don't know.

Chair: Ok, representative C.A. Johnson.

Johnson: Good afternoon. How are you, I hope you're well. Are you aware, Madame Clerk, of the fact that President Trump, Michigan Republican party chair Laura Cox, as well as other high profile Republicans are using this discrepancy, in your county voting results, to claim there has been wide-spread voter fraud? Are you aware of that? And what would you say to them?

Guy: I have heard things. And I would say that Michigan voting equipment is probably the safest equipment, you know, across the states.

Johnson: Thank you for that. Ummm I guess that's it. That says everything. Thank you very much.

Hall: Thank you representative. Ok, so I'm just interested, I think maybe, one of the major, just hearing you, one of the major problems that we faced, is probably the way your office has communicated this, from the time it happened, has caused a lot of the uh uproar across the state and across the country. I just want to understand the answer you gave Rep LaFave. Are you saying that your office did not say it was a software glitch?

Guy: (bewildered) Ahhh I'm saying that we didn't know what it was until we spoke with Election Source.

Hall: Ok. I'm just interested, did you make that comment though, publicly before you knew what it was? Or, did that statement come out of your office after you had consulted with Election Source?

Guy: Uhhh I don't know.

Hall: Ok. It seems that that comment is umm what spurred a lot of these theories and a lot of these concerns across the country – about Dominion, about your office, about the potential that small segments across the state or country could be somehow altered. I mean, do you think that was an irresponsible comment to say that it was a software glitch? Or do you really not remember anyone saying that? Because this was widely reported across the country.

Guy: I can tell you that we spoke to many people. Many people were trying to twist ummm (bewildered)... I don't know.

Hall: Ok. Well I would just say that I would find that to be a pretty irresponsible comment given that it was made presumably before your office had the facts. And I think we can see that this sort of thing can spiral out of control. I guess the first thing, I hope that this is something that your office takes into account in the future when you're talking about elections and the



results, and again we see how this can get out there pretty rapidly. But, I'm interested in now in terms of the timeline you've presented us – I just want to make sure. So the software. It said that September 29<sup>th</sup> you installed the software. I don't know if you have your timeline in front of you.

Guy: I do sir.

Hall: Then it talks about October 23<sup>rd</sup>, that there was a new flash drive that came. I assume we are talking about the same thing. That would be installing the software for a second time. Is that what that new flash card means?

Guy: Correct

Hall: Ok. And then that flash drive, can you describe what was on that flash drive? Was that the updated precincts that had the new information in it? Or what was that 2<sup>nd</sup> flash drive on October 23<sup>rd</sup>?

Guy: October 23<sup>rd</sup>. It was the flash drive that contained the Village of Mansilona Trustee who was left off the ballot.

Hall: Ok. Was that installed on all of the machines?

Guy: No

Hall: And did that then create the problem, because it wasn't installed on all the machines? Is that what caused this reporting issue?

Guy: Ummm I believe it did. I'm not a computer tech, but, I believe that did – because we did not know that we had to pull back all of the jurisdictions and reprogram.

Hall: Ok. Is there any kind of training that you are required that would help you to know how to properly use your machines and software?

Guy: There may be. In 2020... we started using this software December 18 of 2019. We've had all four elections – we have not had any training. We do have the manual, but we can't find in the manual where it tells us to reprogram all cards, all jurisdictions.

Hall: Ok. It's kind of concerning when you come to the committee, and you had noticed that you were coming here. And then to understand what happened in your county, we need the Ingham County Clerk to tell us. It seems you still don't have a full understanding of what happened in your county. Is that fair? Or do you think you understand what happened?

Guy: I do think I understand what happened. I believe that when we got a new flash, we should have pulled all of our jurisdictions back and reprogrammed. We did not.

Hall: Ok. I guess I would ask. On October 24<sup>th</sup>, according to your timeline, you ran a public accuracy test. Can you tell us what that entails?

Guy: The public accuracy tests are run by the local clerks. They run their own public accuracy test in their halls. We publicize the date, the time, the public accuracy test is going to be held. Mansilona ran theirs on the 24<sup>th</sup>, because they did not have that, the tabulator card did not come in time for them to keep their normal scheduled date. So they postponed it and noticed it. So they ran their public accuracy test on the 24<sup>th</sup>. And the process in which you do that, you have test ballots. You test your machine to your ballots. You run every scenario through that machine. It's quite lengthy. Some of them have 50-70 ballots, depending on how many ballot styles. So they run through their public accuracy test. They do a print out just like they do on election day from the tabulator. Then they score that to the programming detail sheet to make sure all of their ballots were registered as they had been programmed with the different issues or different umm ballot scenarios. And, that is what the public accuracy test is.

Hall: So you ran this public accuracy test on the 24<sup>th</sup>, after you installed the new flash drive on the 23<sup>rd</sup> of October. Do you know why this didn't catch this problem that would occur on election day that effected your reporting?

Guy: Uhhh the Mansilona WAS reprogrammed. Because that was on that flash drive – the second flash drive.

Hall: So you ran a test that didn't identify what was going to happen on election day. So was that because there was another flash drive that you needed to install?

Guy: Sir, I do not run the public accuracy tests. It is the local clerk that runs the public accuracy test. It's their jurisdiction, it's their election, within our overall election. That is their responsibility.

Hall: Are you aware of any other test that could have been run by a local clerk or the county clerk that would have identified this problem before election day?

Guy: No. I'm not aware.

Hall: Ok. Thank you. I'll turn it over to Representative LaGrand

Someone: Mr Chair, I'm just trying to help you out here. The public accuracy test is on the individual voting machines and the glitches, that disconnect between, those individual voting machine results, and that macro result. So, no amount of testing of the individual machines would have showed you that glitch as I'm understanding it. Just if that helps.

Hall: Ok thank you Representative. Before I turn it back over to the Senate, I'll just say it seems as though there's, I don't know if it's a communication problem or if it's just a management

problem – but there’s certainly some kind of problem going on in your office, and I think that it would be good to seek some additional training on how these machines work and how this software works so that you can fix this in the future. Lastly, perhaps you could look in to see if there are any other tests that your county could perform, or local clerks, to pro... to catch this in the future. I think that would benefit your county a lot. With that, I’ll turn it back to you Chairman.

Chairman: Thank you Rep Hall. Do any members of the committee have a question? Senator Theis.

Theis: Thank you Mr Chairman. And thank you for your testimony today. I just wanna clarify, you had one... how many precincts do you have? In your jurisdiction?

Guy: Sixteen

Theis: Sixteen. Ok so one of them had a ballot change and that effected the entirety of the feed off from the Dominion Software Tabulators that you have?

Guy: If you look at my timeline, we have had many changes in our ballots.

Theis: After you locked the election, you had many changes after the lock? So after you finalized everything and programmed everything, you had many changes? Or one change?

Guy: We had two changes. We had the Central Lake and then we had the Mansilona village trustee.

Theis: So how many precincts would those changes have effected?

Guy: Both of them only effect villages that are non-partisan

Theis: Ok thank you. When they are programming, who does the programming? Is that the local clerk? Or is that somebody from the IT? How does that work?

Guy: The program comes from Election Source

Theis: But when you talked about them needing to be reprogrammed. Who would have done that reprogramming?

Guy: One of my staff.

Theis: Ok thank you. And the last questions is... Who found the reason for the irregularity in the reporting? I know that you were made aware that there was an irregularity, but who was it that identified the problem, the reason for the problem?

Guy: We called Election Source. And they reported that all those tabulators, ummm compact cards needed to be reprogrammed.

Theis: Thank you.

Chair: Thank you Senator Theis. Clerk Guy, I just want to get an additional clarity here on your timeline. October 5<sup>th</sup>, says the Antrim County Clerk submitted error involving a school board on the Central Lake Township ballot. Correct?

Guy: Correct

Chair: And then October 7<sup>th</sup>, Antrim County Clerk discovered missing Boyne Falls proposal, which had not been provided. And also Mansilona Township provided the Antrim County Clerk with an affidavit of identity for a candidate missing from the ballot. Correct?

Guy: Correct

Chair: So those were three corrections to your ballot submitted October 5<sup>th</sup> and 7<sup>th</sup> all together. Correct?

Guy: Correct

Chair: It says then that you submitted those corrections to Election Source. It says they provided you with a new flash drive for an updated program on October 23<sup>rd</sup>. Antrim County installed the new program returned the CF card for Mansilona Township. Did you also have to return cards for Central Lake Township for the school board issue and Boyne Falls for the ballot proposal?

Guy: Central Lake Township was retabulated in front of the board of canvassers, because that is what Election Source requested that we do. And that's the process. If you have bad numbers, you re-tabulate all those ballots cast. And that's exactly what we did. Boyne Falls – we never received any information from that clerk or the school that put that on. Our equalization director found that and then immediately we made contact to get the language to get it put on. We were not aware.

Hall: So, this is your paper ballots that you utilized. I mean if these corrections are coming in on the 5<sup>th</sup> and 7<sup>th</sup>, you were making corrections to the actual ballots within the 45 day window, correct?

Guy: Correct

Hall: Ok. Do any other members have any other questions for the clerk?

LaFave: I want to be clear for everyone involved here. We found that there was a problem. What did you do to make sure that what you reported now is accurate?

Guy: Sir we went through every precinct tape. Tabulator tape from every total of the election and we manually entered it.

LaFave: And when you say you entered it, what did you enter it into? A google document, a calculator, a whiteboard?

Guy: To the election night results program provided to us.

LaFave: And who provides that?

Guy: Election Source provides that to us and we put it in our dummy computer, which is not connected to any internet or any network. It is a stand alone and it is only used for elections. So we hand... we took that tape and we had one read and we had one enter. And we did all those townships just like that. Very time consuming. As I said, they can be 30 to 50 feet long.

LaFave: So what you did then is take the tape. We didn't actually take the physical ballots and...

Guy: No they're under seal. They're under seal. The tabulator tape goes to the county clerk, the local clerk, and the board of canvassers in their envelope sealed. So I have access only to mine, that comes to the county clerk on election night.

LaFave: So you have nothing but confidence that the results that you published now are the true votes of the people of Antrim County?

Guy: Correct. We have spent days and hours. Our board of canvassers did certify our election and our certification of election was sent to the Bureau of Elections.

LaFave: Thank you Madame Clerk. Mr Chair, I still have many questions – but I think I'm done at this time.

Hall: Ok with that and there being no further business before the committee, House Oversight Committee is adjourned.