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How Election Controversies Can Now Become History

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With US elections moving into the future, election integrity activists are sitting on a wonderful discovery. This discovery promises to make obsolete the kind of election controversies which have dogged us the last year, with all sides charging skulduggery of one form or another, and Democrats now saying the 2016 election was hacked for Trump, by the Russians.

This is after Trump said Hillary would be "rigging" the election against him, which prompted outrage at the thought that Trump should not accept the results of the election, the same as Hillary is not accepting them now.

This could soon all be history.

All sides agree now elections can be hacked. The question is how can we stop this? This is where the tireless work of private citizens has paid off. Citizen activists have found a way for ordinary citizens, interested in the veracity of vote counts, to recount the votes of virtually any precinct in the US, to confirm official results. This discovery promises to put citizens once again in charge of their democracy.

Imagine being able to verify for yourself any county in a swing state like Wisconsin, which, for example, was a battleground in the 2016 recount efforts brought on by Jill Stein. There, courts halted a full recount of the state, so that it remains inconclusive whether Trump really won it.

First it is necessary to understand how a modern vote-counting machine works. These are almost always, with notable exceptions, optical scan vote-counting machines made by companies like Diebold or Election Systems and Software (ES&S.) In 40% of the machines in use in the country and soon to be 85% by 2020, each ballot is linked to a digital image of itself which is stored in the precinct machine's memory.

The digital image is taken instantaneously, much faster than an ordinary office scanner. This happens as each paper ballot is fed into the slot in the machine.

Makers of these machines intended for this to be an additional audit feature, as marketing literature for Dominion Systems' "AuditMark" technology reads:

> "Dominion’s exclusive AuditMark technology is a unique, patented visual audit trail, which allows results to be audited down to each individual ballot. This technology allows jurisdictions to provide greater transparency in the electoral process."

Election activists are fighting to have these images posted online or burned to a DVD, so the citizen-auditor with time on his or her hands can verify the votes. With many people working together it is crowdsource democracy at its finest. The beauty is that hacking, either foreign or domestic, will simply become too risky, as the discovery of tampering with results in one precinct will trigger an avalanche of scrutiny of others.

What do election departments want to do? So far, in court they have claimed the authority to delete the digital ballot images. One reason no one knows about these images is that election authorities have been loath to broadcast this audit feature. Why is anyone's guess.

This is not legal on a number of grounds, not least because such an electronic document is by definition part of the public record, and public records cannot be destroyed.

But there is an even better reason. When the machine takes the digital picture of a ballot, it does not count the marks on the paper ballot in order to arrive at vote totals. It counts the marks on the picture. Therefore, it is part of what lawyers call "the chain of custody." If the machine is counting from the images of the ballots, then those images *are* primary documents, from an auditing perspective.

As present-day ten year old machines are retired across the country, all new machines will be built with this feature. There is no other way the technology is going, and this is good.

A judge in Arizona, pleading that he was not tech savvy and begging indulgence for an old man, shrewd like a fox, posed the question: "So would this be roughly the same as me walking a ballot over to a Xerox machine and making a photocopy, and then counting the votes from those photocopies, not the original ballots?"

To which counsel for the Arizona election departments which were getting sued responded: Yes, your honor.

To which his honor responded: "So what makes you think you can destroy the photocopies?"

The Sam Erwin-like country lawyer-turned-judge nailed it precisely. The digital ballot are part of the record of what got counted. There is no non-nefarious reason to want to destroy part of the public record. The cheapest part of computers is memory.

The other argument being used by election authorities to thwart incursions into their prerogative to say who won, is that even if preserved, the digital ballot images must be kept guarded and secret, invoking voter privacy. But all ballots are private, both paper and digital, because no modern ballot ever has any way of being linked to a particular voter. They are completely anonymous. Hoping to pull the wool over our eyes, election authorities conflate two different kinds of secrecy: the secrecy of the vote and secrecy of the count. But the secret ballot principle does not mean secret counting.

At this moment fights are taking place in some states, and just starting in others, over the power of election authorities to destroy digital ballot images, and to keep them secret. There is no honorable reason for either.

The cynical dictator Josef Stalin said it most concisely: "Those who vote decide nothing. Those who count the votes decide everything."

To help pass a law to preserve the digital ballot images in your state please go to: "Digital Ballot Images Are Public Record Act."