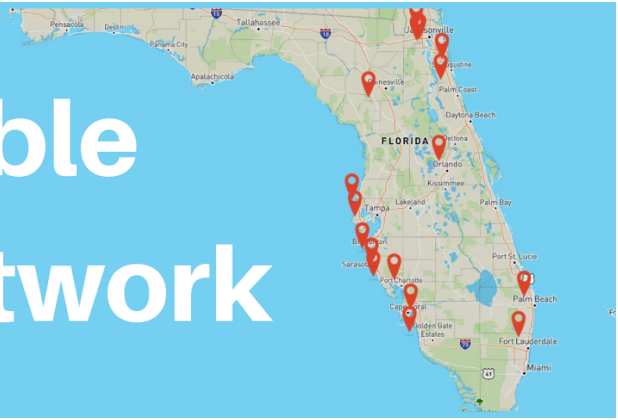# Indivisible Florida Network

July 18, 2020

Honorable Laurel M. Lee
Laurel M. Lee Secretary of State, State of Florida
R.A. Gray Building 500 South Bronough Street Tallahassee, Florida 32399
Email: laurel.lee@dos.myflorida.com

Director Maria Matthews
Department of State, Division of Elections Director's Office Room 316
R. A. Gray Building 500 South Bronough Street Tallahassee, FL 32399-0250
Email: maria.matthews@dos.myflorida.com

Dear Secretary Lee and Director Matthews:

We are members of 17 different groups representing the Indivisible Florida Network with over 11,000 members.

We are writing to you to request that you direct all Florida Supervisors of Elections to preserve scanned digital ballot images in every election as a critical part of the election chain of custody.

As you know, a digital ballot image is a picture of a paper ballot. Votes are counted from the picture, not from the paper ballot itself. Because the votes are counted from the image, the image becomes an important source document and is **part of the chain of custody of the votes**. The scanned images are election records that must be retained for 22 months for every federal election according

to [federal](#) and [state law](#).The ballot images are also [public records](#) pursuant to Florida law.

We know that, as attorneys, you appreciate the importance of chain of custody. Ballot images provide evidence as to whether the votes were counted correctly or not. A tally of the results shown on the ballot images can be compared to the official results and the images can also be checked against the paper ballots.

Ballot images are a vital part of an evidence-based election.

We are concerned that uncertainty and confusion have ensued from an [email sent by Ron Labasky](#), current Executive Director of the Supervisors of Elections association (formerly known as the Florida State Association of Supervisors of Elections). In his email dated November 1, 2018, Mr. Labasky **misinformed** the SOEs that their voting systems do not automatically create ballot images and individual SOEs may choose to create them or not. This is untrue; the images are automatically created. All Florida counties use *digital scan voting systems* for in-person voting and for vote-by-mail. These digital scanners *automatically create ballot images* in order to count the vote. Or said differently, *the votes can't be counted if the images aren't created.* This is an irrefutable fact. Mr. Labasky's email directly contradicts [a memo from Election Systems & Software (ES&S)](#), also issued on November 1, 2018. However, this uncertainty has led to only 30 SOEs continuing to **save** ballot images, while 36 do not. **But they must be saved as part of the chain of custody.** This is an easy thing to do. The voting system merely has to be set to "save all ballot images," one of the three available choices shown in the ES&S memo. The three choices are:
   1. **Save All Ballot Images**
   2. **Save Only Ballot Images with write-ins**
   3. **Do Not Save Any Ballot Images**

Please note that we are talking about the *original ballot images* produced at the time that voters cast their votes or at the time that vote-by-mail ballots are initially counted by the voting machines.

[Clear Ballot](#), a secondary system, re-scans all the ballots cast in a county and creates ballot images that may be used in audits in 2020 and recounts starting in 2021. It is obviously useful. *But it does not replace the need to save the original ballot images.* For example, in the November 2018 General Election, Broward

County had planned to use the Clear Ballot re-scan in place of the state-required post-election audit, but the county claimed it ran out of time and never did complete the Clear Ballot re-scan. Not all counties have purchased the Clear Ballot re-scan system and even if a county purchases it, they are not required to use it.

We know that you want the same thing we do -- impartial, accurate, transparent, trackable, and publicly verified elections. **We are anticipating that you, as the top election officials in Florida, will end the confusion about scanned ballot images and direct all SOEs to save all scanned ballot images in the 2020 August Primary and November General elections and all elections thereafter.** This will serve to reduce cynicism about Florida elections, increase voter confidence in election results, and ensure that Florida elections are being conducted according to federal and state law. We are counting on that and counting on you!

Respectfully,

Indivisible Florida Network Groups:
Action Together Suncoast (Sarasota, Manatee) 1556 members
Broward For Progress (Broward) 1000 members
Citizens for An Engaged Electorate (Levy) 17 members
Collier Watchdogs (Collier) 45 members
Englewood Indivisible (Sarasota, Charlotte) 700 members
Indivisible Action Southwest Florida (Charlotte/Punta Gorda) 400 members
Indivisible Clay County (Clay) 200 members
Indivisible FL-13 (Pinellas) 400 members
Indivisible Mandarin (Duval) 400 members
Indivisible Safety Harbor (Pinellas) 310 members
Indivisible St. Johns (St. Johns) 777 members
Indivisible Venice (Sarasota/Venice) 500 member
Lee OFA Indivisible (Lee, Northern Collier) 450 members
Palm Beach Indivisibles (Palm Beach) 2000 members
Sarasota Stands Together (Sarasota) 300 members
Indivisible Gainesville (Gainesville) 2400 members
Indivisible Jax Riverside (Duval) 200 members