

2022 MIDTERMS LOOK BACK SERIES: ELECTION OBSERVER ACCESS

HEARING BEFORE THE SUBCOMMITTEE ON ELECTIONS OF THE COMMITTEE ON HOUSE ADMINISTRATION HOUSE OF REPRESENTATIVES ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

MARCH 23, 2023

Printed for the use of the Committee on House Administration



www.govinfo.gov
www.cha.house.gov

U.S. GOVERNMENT PUBLISHING OFFICE

53-884

WASHINGTON : 2024

COMMITTEE ON HOUSE ADMINISTRATION

BRYAN STEIL, WISCONSIN, *Chairman*

| | |
|------------------------------|---------------------------|
| BARRY LOUDERMILK, Georgia | JOSEPH MORELLE, New York, |
| MORGAN GRIFFITH, Virginia | <i>Ranking Member</i> |
| GREG MURPHY, North Carolina | TERRI A. SEWELL, Alabama |
| STEPHANIE BICE, Oklahoma | DEREK KILMER, Washington |
| MIKE CAREY, Ohio | NORMA TORRES, California |
| ANTHONY D'ESPOSITO, New York | |
| LAUREL LEE, Florida | |

TIM MONAHAN, *Staff Director*
JAMIE FLEET, *Minority Staff Director*

SUBCOMMITTEE ON ELECTIONS

LAUREL LEE, FLORIDA, *Chair*

| | |
|------------------------------|---------------------------|
| BARRY LOUDERMILK, Georgia | TERRI A. SEWELL, Alabama, |
| STEPHANIE BICE, Oklahoma | <i>Ranking Member</i> |
| ANTHONY D'ESPOSITO, New York | NORMA TORRES, California |

CALEB HAYS, *Subcommittee Staff Director*

C O N T E N T S

| | Page |
|---|------|
| OPENING STATMENTS | |
| The Honorable Laurel Lee, Representative from the state of Florida | 1 |
| The Honorable Terri A. Sewell, Representative from the state of Alabama | 3 |
| The Honorable Bryan Steil, Representative from the state of Wisconsin | 12 |
| The Honorable Joseph Morelle, Representative from the state of New York | 13 |
| The Honorable Norma Torres, Representative from the state of California | 62 |
| WITNESS STATEMENTS | |
| Lynn Taylor | 18 |
| Josh Findlay | 27 |
| Michael Cunningham | 32 |
| Lisa Lyons | 36 |
| Benjamin Hovland | 40 |
| SUBMISSIONS FOR THE RECORD | |
| Article from Reuters "Stop the Steal" | 5 |
| Congressional Election Observation and Contested Elections: A Primer | 48 |

2022 MIDTERMS LOOK BACK SERIES: ELECTION OBSERVER ACCESS

Thursday, March 23, 2023

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ELECTIONS,
COMMITTEE ON HOUSE ADMINISTRATION,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:30 a.m., in room 1310, Longworth House Office Building, Hon. Laurel Lee [Chair of the Subcommittee] presiding.

Present: Representatives Lee, Loudermilk, D'Esposito, Steil, Morelle, Sewell, and Torres.

Staff present: Tim Monahan, Staff Director; Caleb Hays, Deputy Staff Director, General Counsel, Acting Parliamentarian; Hillary Lassiter, Clerk; Jordan Wilson, Director of Member Services; Thomas Lane, Elections Counsel & Director of Elections Coalitions; Alex Deise, Counsel; Jamie Fleet, Minority Staff Director; Khalil Abboud, Minority Deputy Staff Director, Chief Counsel; Sarah Nasta, Minority Elections Counsel; Sean Wright, Minority Senior Elections Counsel; Eddie Flaherty, Minority Chief Clerk; and Andrew Garcia, Minority Special Assistant.

CHAIR LEE. The Subcommittee on Elections will come to order. I note that a quorum is present.

Without objection, the chair may declare a recess at any time.

Without objection, the meeting record will remain open for 5 legislative days so that members may submit any materials they wish included therein.

Thank you, Ranking Member Sewell, members of the Subcommittee, and our witnesses for joining us today.

During our first Subcommittee hearing, we heard from state and local election officials about the work they're doing to administer safe and secure elections that voters can trust. Today, we'll continue our 2020 Midterms Look Back Series with a discussion on the important role that election observers played in the last election cycle in helping to strengthen voter confidence in the elections processes and outcomes.

Election administration is a core government responsibility that must be conducted in the open to build trust and understanding among voters. Election observers help to make that a reality. Election observation provides an independent perspective of the election administration process to reassure voters of its integrity or flag issues for correction. It's simple. A healthy election system includes meaningful election observer access, and we commend the many state and local election officials and poll watchers across country

who worked tirelessly in 2022 to make this key election integrity process work effectively.

While there are different types election observers, including party and campaign observers, citizen group observers, congressional observers, and others, they all have a common goal of providing voters an independent perspective of the public process of election administration. Even just the presence of election observers on the ground inherently increases election integrity and voter confidence. Voters know the election administration process will be monitored and election officials know they have a direct line to the interested parties, as they work to resolve any issues that might come up.

Observers are present to watch the election administration process, to ask questions, and to build an independent record for education, certification, resolution, or for other purposes, but never to interfere with the process. In the case of congressional observers, they assure Congress that the person who was elected was done so as a result of free and fair election, which is a key constitutional responsibility.

While state law generally governs election observation, the Constitution also gives Congress a role, providing for observation of congressional elections by each respective Chamber. For years, both sides of the aisle in the House of Representatives have trained and deployed congressional staff to observe House elections across the country. For example, during the 2022 midterms, the Committee on House Administration Republicans offered multiple trainings and deployed dozens of congressional staff who volunteered to observe elections in many States across our country, including Arizona, California, Colorado, Iowa, Maryland, Michigan, New Jersey, New York, Pennsylvania, and Virginia.

The independent record created by congressional observers is necessary in the event of an election contest like we saw in the House during 2021, when some House Members attempted to overturn the election of Congresswoman Mariannette Miller-Meeks in Iowa's Second congressional District. A political party or campaign observer plays a key role in ensuring that both sides of any issue are represented in any area where ballots are processed and counted. In fact, for decades many states have required political parties and candidates to name observers so that this bipartisan balance is maintained and each team has its people in the room.

For similar reasons, the work that citizen groups have done to recruit and train professional poll workers is critical to promoting voter confidence. In order to be effective, it is critical that all election observers not only have the appropriate training on the role and responsibilities of observers but also meaningful access to every aspect of the election administration process that involves ballots, election equipment or voters. This means that observers must be able to see and hear election administration processes clearly and effectively to view documents and equipment, and must have their questions answered by expert officials.

Unfortunately, in recent years, some election offices have blocked observer access by using physical barriers, such as cardboard over windows, or using outdated pandemic rationales, including unreasonable distances that required observers to use binoculars to view

the process. Still others have denied access to Republican and Democrat congressional observers based on a misunderstanding of the process or the law. Those restrictions rightfully raised questions among voters, who deserve transparent, free, and secure elections.

Through an open and productive observation process, we can increase public confidence in elections for voters of all political parties and enhance election operations without adding unnecessary burden or disruption to the election administrators. Today, we'll hear from experts about why we must ensure that election observers have access. Election observation should never be a partisan issue. Regardless of one's party preference, all voters benefit from having well-trained observers on the ground. I look forward to working together to ensure that the unnecessary restrictions we've seen play out in recent years do not continue, and, instead, we work to increase access and transparency for all voters.

I now recognize Ranking Member Ms. Sewell for 5 minutes for the purpose of providing an opening statement.

Ms. SEWELL. Good morning, and thank you, Chairwoman Lee, for welcoming us today.

Observation at the poll and during the voting process, counting, and certification process is a critical role and a critical tool to increase transparency in electoral process and provides the public, candidates, political parties, nonpartisan entities, international organizations, and others with important insight and oversight of the electoral process.

Additionally, for decades, the House of Representatives operated its own election observer program. It does so under the power granted to the House in Article I, section 5, of the United States Constitution to, quote, be the judge of the elections, returns, and qualification of its own members, end quote. Observers are able to gather facts in an objective, nonobtrusive, bipartisan manner on congressional races that may be close and could possibly come before the House in the form of a contest. Indeed, there is a long-standing practice of working collaboratively on a bipartisan basis to send observers to congressional districts as a part of this program.

The role of an election observer, unless otherwise authorized by law, is just do that: to observe and monitor the election and post-election process without violating the privacy of a voter or disrupting the election. Election officials have made significant strides in increasing transparency in the electoral process and providing an opportunity for election observation.

For example, some now livestream the process and counting of ballots, as well as the canvassing and certification of election results, so anyone can watch and observe the process for themselves. Many others allow the public to view the testing of voting machines before an election.

We must be clear: While transparency is always preferred, there is no evidence of widespread fraud in the United States' elections nor is there any evidence of widespread malfeasance on the part of election officials, their staffs, or election volunteers.

Furthermore, election workers are operating in an environment of increasing threats and harassment and are battling against a

barrage of election-related mis- and disinformation. Election officials must balance the safety and security of their staffs and the ballots with the need for transparency and observer access.

The Brooks Brothers riot of Florida in 2000 and the armed persons outside the elected facility in Maricopa, Arizona, and Philadelphia, Pennsylvania, in 2020 are illustrations of how a situation can quickly become a dangerous one.

We also cannot ignore the legacy of voter intimidation at the polls or by poll watchers and challengers. Thus, a balance must be struck, one that provides all the necessary observer access while keeping in mind the lessons of past elections. While there is much room for improvement as well as implementing new transparency and security measures, they all take resources, resources many local election officials may not have to spare. It is, therefore, imperative that Congress provide state and local election officials with the funding resources they need to implement best practices for election observation, voter engagement, training, and, election administration.

I look forward to hearing today's testimony and working closely with the chairwoman to find ways to strike the balance between ensuring transparency and access to the electoral process and safety.

Thank you, and I yield back the balance of my time.

Ms. SEWELL. Before I do so, actually, Madam Chair, I ask unanimous consent to enter into the record an October 13th, 2022, article from Reuters entitled "Stop the steal" supporters train thousands of U.S. poll observers" in a Reuters report concerning election officials and documented evidence of intimidation.

CHAIR LEE. Without objection, material adopted.

[The information referred to follows:]

Reuters

'Stop the steal' supporters train thousands of U.S. poll observers

By Ned Parker, Linda So, and Moira Warburton



[1/4] A supporter of President Donald Trump holds a sign stating "STOP THE STEAL" and a pin stating "Poll Watcher" after Democratic presidential nominee Joe Biden overtook President Donald Trump in the Pennsylvania general election vote count across the street from where ballots are being counted, three days after the 2020 U.S. presidential election, in Philadelphia, Pennsylvania, U.S. November 6, 2020. REUTERS/Mark Makela/File Photo

Oct 13 (Reuters) - Inside the El Paso County clerk's office in Colorado, where officials had gathered in July to recount votes in a Republican nominating contest for this year's midterms, dozens of angry election watchers pounded on the windows, at times yelling at workers and recording them with cell phones.

In the hallway a group prayed for "evil to descend" on the "election team," said the county's Republican clerk Chuck Broerman. "It's astonishing to me to hear something like that." The election watchers had showed up to observe a five-day recount of votes for four Republican candidates who claimed the primary was fraudulent in a contest where they faced other Republicans.

Protesters had mobilized outside the clerk's office, holding signs with the signature "Stop the Steal" slogan of former President Donald Trump and demanding the county get rid of its voting machines.

As the United States enters the final stretch to November's midterm elections, Reuters documented multiple incidents of intimidation involving an expanding army of election observers, many of them recruited by prominent Republican Party figures and activists echoing Trump's false theories about election fraud. The widespread voter fraud in the 2020 election as alleged by Trump and his supporters was never proven.

Interviews with more than two dozen election officials as well as representatives of groups driven by false theories about election fraud, and an examination of poll-watching training materials, revealed an intensifying grassroots effort to recruit activists. This has heightened alarm that disturbances in this year's primary contests could foreshadow problems in November's local, state and national races.

Officials and experts worry the campaign will deepen the distrust about America's election process and lead to further harassment and threats to already besieged election workers.

Election officials in three other states -- North Carolina, Arizona and Nevada -- reported similar incidents. In 16 North Carolina counties alone, officials noted unusually aggressive observers during May's primary elections, according to a state election board survey. Some attempted to take photographs of sensitive voting equipment or

intimidated voters at polling places, in violation of North Carolina's election laws.

During early voting in Arizona's Pima County, an election observer was told to put away binoculars; another was caught looking at private voter data, and another was asked to stop making comments about "fraudulent elections," according to a September report by the county recorder's office reviewed by Reuters. State law forbids voter intimidation and obstructing election workers.

Pima county recorder Gabriella Cazares-Kelly said her election staff received multiple complaints from voters that individuals were shouting at them from outside the 75-foot circumference around polling stations, where interaction with voters is banned. "The concern is it makes them feel unwelcome," said Cazares-Kelly.

In Nevada's Washoe County, people with night vision goggles stood outside the registrar's building and aimed their cameras at election workers counting votes on primary night in June, two Washoe County officials told Reuters.

Poll watchers have been a feature of American democracy since the 18th century, recruited by parties and candidates and regulated by state laws and local rules. People from both parties keep an eye on the voting - and each other - to make sure things go smoothly. In some places, poll "watchers" are different from "challengers," who can point out people they suspect aren't legal voters. In other states, poll watchers also do the challenging.

Groups that question the legitimacy of the 2020 vote have helped recruit thousands of observers who support dramatic changes to how Americans vote, including doing away with voting machines and returning to hand-counted paper ballots.

Officials say they are concerned observers intent on rooting out so-called voter fraud could cause unnecessary disruptions and long lines at polling places on Election Day.

"It's a real concern," said Al Schmidt, a former Philadelphia city commissioner who received death threats after the 2020 election for refuting false claims of voter fraud. "If these people show up to the polls with the intention of disrupting voting from taking place, then I can't imagine a worse threat to democracy than that."

Sandy Kiesel, who heads the Election Integrity Force in Michigan, said her poll "challengers" will be trained to be "polite, respectful and to obey the law.

"We're not about trying to hassle poll workers," Kiesel told Reuters. "It's about transparency. If we can all see what's going on, maybe we wouldn't have these arguments whether elections are free and fair."

REPUBLICAN SUPPORT

In early October, an election-denying group called Audit the Vote PA held a Zoom meeting with almost 80 people that was billed as a "deep dive" poll watcher training session. The Pennsylvania group says Democrat Joe Biden's 2020 win in the state was illegitimate.

During the call, which Reuters attended, participants compared notes on how to observe the testing of voting machines and when a hand count of votes can be requested, and discussed the legality of taking photographs in polling locations.

Toni Shuppe, Audit the Vote's CEO, declined multiple requests for an interview with Reuters, but confirmed the group is "focused on encouraging people to become poll watchers in the upcoming November midterms elections."

Andrea Raffle, the Republican National Committee's director for election integrity in Pennsylvania, told participants on the call they had already filled 6,000 poll watcher positions in the state this year, compared with 1,000 in 2020. Raffle referred a request for comment to the RNC's national office.

Election conspiracy groups also often appear at events with Republican officials, focused on recruiting volunteers to help watch the polls, according to the groups themselves and county officials. The Republican Party said it welcomes volunteers from many different groups, expects them to respect the law and to follow the party's training. "Our program is independent of anything else," said RNC spokesperson Danielle Alvarez.

The RNC has been pouring resources into recruiting observers and workers since being freed from the restrictions of a court-ordered consent decree in 2018. It expects to have trained over 52,000 poll watchers and workers between November last year and the coming election; it said comparative numbers for past elections were unavailable. The consent decree, which sharply limited the party's ability to challenge voters' qualifications, was put in place after the RNC, during a 1981 governor's race in New Jersey, engaged in intimidation tactics targeted at minority voters.

A spokesman for the Democratic National Committee said they did not have a national number because state party offices manage their poll watcher recruitment. But the DNC says it has hired five staffers to work in North Carolina, Wisconsin, Nevada, Arizona and Texas to counter efforts to subvert the electoral process, including ballot counting and the certification of results.

GROWING NUMBERS IN NORTH CAROLINA

In North Carolina's rural Henderson County, as voters cast ballots in May's primary elections, aggressive groups turned up.

Observers demanded to inspect voting machine tabulators in violation of state election laws. Others repeatedly grilled poll workers or demanded to take pictures inside voting stations. When told to stop, they said they were following guidance from a Republican Party lawyer, said Henderson County Election Director Karen Hebb.

"It was stressful," she said. "If we refused to let the observers do something, they said you know you can be sued if you don't allow us."

She contacted the sheriff's department after an observer trailed a poll worker's car from a polling site to the election board. She said the sheriff's office told her no laws had been broken. The Henderson County Sheriff's Office did not respond to requests for comment.

In typical years, eight to 10 observers each from the Democrat and Republican parties would observe the county's elections, Hebb said. This year, she had nearly 30 Republican Party observers alone, compared to the usual number of Democrats.

Some of the Republican observers later identified themselves as members of the North Carolina Election Integrity Team, a group linked to a nationwide effort led by lawyer Cleta Mitchell, a longtime Republican election lawyer and promoter of voter fraud theories who joined Trump's legal team in his effort to overturn the result of the 2020 elections.

As head of the Election Integrity Network, Mitchell is training election observers and is trying to build grassroots networks of conservatives ahead of the midterms. In the first six months of 2022, her network hosted a series of training sessions for activists in Michigan, Pennsylvania, Wisconsin, Virginia, North Carolina, Georgia, Florida and Arizona.

Although Mitchell and other activists say the effort is nonpartisan, the project is funded by the Conservative Partnership Institute, a

Washington nonprofit organization with deep ties to Trump's political network. Mark Meadows, Trump's former chief of staff, is listed as the organization's "senior partner." Trump's political action committee, Save America, gave the group \$1 million in 2021, campaign finance records show. Meadows and Mitchell did not return requests for comment.

The prospect of scores of unofficial observers turning up at polls already convinced the election system is rigged and assuming election officials are corrupt is a "tinder box" that could easily explode, said Chris Harvey, Georgia's election director in 2020.

"People are passionate about politics, and if there's anger and confrontation at the polls, it gets ugly and really dangerous really quickly," he said.

Reporting by Ned Parker, Joseph Tanfani, Linda So and Moira Warburton; Additional reporting by Tim Reid Editing by Jason Szep, Ross Colvin and Chris Sanders

CHAIR LEE. I now recognize full Committee Chair Bryan Steil for the purpose of delivering opening remarks.

The CHAIRMAN. Thank you, Chair Lee, Ranking Member Sewell, and members of the Subcommittee and witnesses for joining us today.

As part of the 2022 Midterm Look Back Series, we're engaged in a conversation to highlight what states have done well and to reflect on lessons learned. Today, we'll continue that discussion by examining the role of election observers, who are essential to a healthy election administration system. Election observers simply means more transparency. Observers provide an independent and essential perspective on the elections administration process.

Ultimately, election observers is one of the best tools in our arsenal to promote voter confidence in election processes and outcomes. Most elections officials across the country welcome and value election observers as partners to promote voter confidence and to help identify areas for improvement.

Unfortunately, there are some election officials who have restricted access and hindered the work of election observers in recent years. That's why I have introduced the confirmation of congressional Observer Access Act last Congress to promote access for observers working on behalf of Congress. The Constitution already requires states to allow access for designated congressional election observers to observe election administration procedures in an election for Federal office.

But we have heard from some officials that a statutory citation of convenience would help them. The bill doesn't change Federal law or impose any burden beyond what the Constitution already requires. However, it would go a long way to ensure that we're working with state and local officials who actually administer our election. This includes access to polling places and other facilities where ballots are cast, processed, tabulated, and canvassed, and the results certified, where voter registration activities occur before an election and where election administration procedures to prepare for the election or carry out post-election recounts.

While in general Congress should respect the determination of state authorities with respect to the election of members to each Chamber of Congress, the Constitution requires that each Chamber to serve as its own final judge of elections, qualifications, and returns of its own members. We must also ensure that every person who was sworn in was elected by their constituents in a free and fair election. The Designated congressional Observers Act assists Congress in developing its own factual record in preparation for any potential election contest.

Congress has deployed election observers to observe congressional elections in states for decades. They must ensure they have necessary access. This Committee runs the House Election Observer Program, working hard the past several Congresses to expand and improve the program. We've trained and deployed congressional staff to election sites across county. We know that greater transparency leads to increased voter confidence, which in turn leads to increased voter turnout. I look forward to working in a nonpartisan way to continue highlighting the key role election observers play in the election administration process.

Thank you, Chair Lee. I yield back.

CHAIR LEE. Thank you, Chairman Steil.

I now recognize full committee Ranking Member Mr. Morelle for the purpose of delivering opening remarks.

Mr. MORELLE. Good morning. Thank you, Chairwoman Lee, for yielding time. Thank you to Ranking Member Sewell, and all of my colleagues.

Election observers and observer access are a longstanding and necessary part of the electoral process. The House of Representatives itself has been conducting an Election Observer Program for decades, exercising the constitutional authority, which has been mentioned by my colleagues, under the Judging Clause of Article I, section 5, clause 1, of the U.S. Constitution, to send observers to gather information in elections that may eventually come before the House in the form of a contest.

House observers conduct their work in an unobtrusive bipartisan manner. I agree that we should continue to work to improve transparency and education around our elections, but that also needs to be balanced with the safety and security of election workers to ensure voter privacy and the security of ballots and voting equipment. Voters must be free to cast a ballot without intimidation, and election workers must be free to process and count those ballots without fear of harassment, threats, or harm.

Additionally, as state and local election officials work to improve access, transparency, and security, they need funding to do so. Federal elections are on the ballot in every State every 2 years, and we should fully fund their security and administration.

Tragically, this country has a long history of voter intimidation. The Republican National Committee itself, for example, was subject to a consent decree for several decades for alleged voter intimidation tactics. In recent years, lies and disinformation about the Presidential election fueled armed protests in Arizona 2020 as ballots were being counted.

In testimony before the full Committee in 2021, former Maricopa County recorder and now secretary of State in Arizona Adrian Fontes detailed, for example, how a staff member of his was pulled outside the building where ballots were being processed and counted and was cornered by apparently armed members of a protest, requiring intervention from local law enforcement.

At that same hearing, Janice Winfrey, city clerk of Detroit, Michigan, testified that, during the tabulation of the absentee ballots, multiple challengers had to be removed because of disruptive behavior.

Philadelphia City Commissioner Lisa Deeley also testified before this Subcommittee in 2022 on how, during the ballot counting process following the 2020 election, she was escorted everywhere by two police officers, even when going to the bathroom inside the convention center, where workers were supposed to be safe while processing ballots.

In Arizona, again in 2022, individuals armed and in tactical gear showed up to, quote/unquote, monitor ballot drop boxes. And these examples are not the only ones in recent years.

There is no doubt: America's elections are fair and secure. Election observation is a critical part of the democratic process. We can,

and we must strike a balance between transparency and safety, and in search of that balance, I'm looking forward to today's testimony and discussion.

Thank you, Chairwoman Lee.

I yield back.

CHAIR LEE. Thank you, Ranking Member Morelle.

Without objection, all other members' opening statements will be made part of the hearing record if they are submitted to the committee clerk by 5 p.m. today.

Pursuant to paragraph (b) of Committee rule 6, the witnesses will please stand and raise your right hand.

[Witnesses sworn.]

CHAIR LEE. Thank you. You may be seated.

Let the record show that the witnesses answered in the affirmative.

I will now introduce our witnesses. Our first witness, Ms. Lynn Taylor, is the president and cofounder of the Virginia Institute for Public Policy, an independent nonpartisan education and research organization that develops and promotes public policy consistent with the Virginia tradition of individual liberty, dynamic entrepreneurial capitalism, and constitutionally limited government. In addition, Ms. Taylor is a cofounder and chair of the Virginia Fair Elections Coalition and, as of February 1st, 2023, serves as chairman of the Election Integrity Network, a project of the Virginia Institute.

Our next witness, Mr. Josh Findlay, currently serves as the first ever National Director of Election integrity for the Republican National Committee, where he is responsible for building the organization's national election integrity infrastructure. Mr. Findlay's legal portfolio includes Presidential ballot access, national convention delegate elections, and electoral college selection, in addition to serving as legal counsel to President Donald Trump's 2020 re-election campaign.

Our next witness, Mr. Mike Cunningham, previously served on the Summit County, Ohio, Board of Elections as an administrator, overseeing the program for election day workers, and as a policy aide for a Member of Ohio's congressional delegation. During his time as a congressional staff member, Mr. Cunningham also served as an election policy advisor to the Committee on House Administration. Most importantly, Mr. Cunningham served as a congressional election observer during his tenure with the House and has continued to work with the Committee to train observers each election cycle.

Our next witness, Ms. Lisa Lyons, is serving her second term as county clerk and register of deeds in Kent County, Michigan. Prior to serving at the county level, Ms. Lyons represented her community in the Michigan House of Representatives from 2010 to 2016. As county clerk, Ms. Lyons is responsible for three major functions of county government: administering all elections within Kent County, preserving vital county records, and maintaining and safeguarding all circuit court files.

Finally, Commissioner Benjamin Hovland, confirmed on January 2nd, 2019, by the U.S. Senate, currently serves as Vice Chair of the Election Assistance Commission and is the designated Federal offi-

cer for the local leadership council. With over 20 years of experience in elections, Commissioner Hovland's career has focused on legal issues related to campaign finance regulation and the administration of State and Federal elections, including recounts, poll worker training, voter registration list maintenance, statewide data base matching, voter education, and ballot initiative litigation. We appreciate our witnesses being here today, and look forward to your testimony.

As a reminder, we have read your written statement, and it will appear in full in the hearing record. Under Committee rule 9, you are to limit your oral presentation to a brief summary of your written statement, unless I extend the time period in consultation with Ranking Member Sewell. Please remember to press the button on the microphone in front of you so that it is on and members can hear you. When you begin to speak, the light in front of you will turn green. After 4 minutes, it will turn yellow. When the red light comes on, your 5 minutes has expired, and we ask that you please wrap up.

I now recognize Ms. Taylor for 5 minutes.

STATEMENT OF LYNN TAYLOR, PRESIDENT, VIRGINIA INSTITUTE FOR PUBLIC POLICY; JOSH FINDLAY, NATIONAL ELECTION INTEGRITY DIRECTOR, REPUBLICAN NATIONAL COMMITTEE; MICHAEL CUNNINGTON, FORMER CONGRESSIONAL OBSERVER; THE HONORABLE BENJAMIN HOVLAND, COMMISSIONER, U.S. ELECTION ASSISTANCE COMMISSION; AND LISA LYONS, COUNTY CLERK, KENT COUNTY, MICHIGAN

STATEMENT OF LYNN TAYLOR

Ms. TAYLOR. Chair Lee, Ranking Member Sewell, and members of the subcommittee, my name is Lynn Taylor. I am president of the Virginia Institute for Public Policy. More importantly for this hearing today, I am the chairman of the Virginia Fair Elections Coalition and the Election Integrity Network. Thank for this opportunity to appear before you today to set the record straight on a topic about which the media and government agencies have been misleading the American people for the past 2 years; that is that poll watchers in elections are somehow a problem for the election system and election officials.

Let me be clear about one singularly important point: Citizen observers and poll watchers are a fundamental and vital part of the election process, and the involvement of citizens is the surest way to restore the confidence of the American people in the truth and honesty of our elections.

State laws describe who appoints poll observers, what their roles are, what the observers can do or not do, and what they are allowed to observe. Poll watchers are an integral part of the election codes of virtually every state in the Nation. But there has been a steady drumbeat of the media, the current administration, and partisan nonprofit organizations advancing the false narrative that citizen poll watchers are unnecessary or even a threat to democracy. The truth and reality of the matter is that citizen poll watchers are a key component in protecting our Republic.

In Virginia, where I serve as president of the Virginia Institute for Public Policy, election integrity advocates and leaders gather to analyze the election systems in our state. We began to coalesce in 2021 into local task forces led by citizen volunteers, and we formed the Virginia Fair Elections Coalition, the VFE, which I chair.

The coalition began meeting weekly in 2021 and continues today as we recruit, train, and deploy concerned citizens from across the Commonwealth of Virginia to become involved as volunteer election observers and leaders, not just at election time but year in and year out. Virginia's election system has been upended by so called reforms where we now have 45 days of early voting, no voter identification, same-day registration, and a constant push for unsupervised voting by mail.

It is not a system that inspires confidence in the integrity of the outcome. But VFE's members determined that we were not going to whine over what had happened with the changes in our laws, and we would do whatever we could to protect the integrity of the election in spite of the laws that took away transparency in our election processes. We focused on recruiting, training, and deploying poll observers to cover as many shifts as possible, beginning with the first day of early voting in September 2021.

We trained approximately 4,500 volunteers who covered an unprecedented 85 percent of the 14,000 shifts necessary for a 45-day election season. What did those observers do? They observed. They worked. They watched. They documented. And they saw issues and problems that they helped to resolve, both before and after voting began. For example, one local task force noticed boxes of returned mail at the local election office and asked what it was. They were informed by the registrar's office that these were letters sent out by the registrar to voters at their registration address that had been returned undeliverable. Those volunteers came back to the VFE weekly call, reported what they had found, and asked what is supposed to be done with those undeliverable addresses.

Our Virginia elections law expert, a former state electoral board member, advised that information is required by state law to be entered into the voter data base, and a voter whose letter is returned undeliverable becomes inactive and must take action in order to cast a vote. The volunteers returned to the registrar's office armed with the statute and informed the registrar what the law requires. The registrar said he had no idea about this law and immediately instructed the staff to start entering the information into the voter data base as the statute required.

Our motto is "be right, be polite." Our goal is to assist election administrators in complying with State law and to do so in a congenial and cooperative manner. And we have found that many times failure to adhere to the law is not nefarious or intentional but is a result of innocent mistakes or failure to be aware of statutory requirements.

We are frequently thanked for bringing these oversights to officials' attention. In 2022—

The CHAIRMAN.

[Presiding.] I am going to ask you to keep your remarks tight here, maybe just a quick wrap up of your remarks. The full remarks will be submitted to the record.

Ms. TAYLOR. I will be happy to do that.

We simply believe that citizen observers belong in the election offices as recognized by the laws of virtually every state. Our mission is to keep—the greatest challenge is the loss of confidence in our election system by the people of this country.

Thank you for this opportunity to speak with you today, and I'm happy to answer any questions.

[The prepared statement of Ms. Taylor follows:]

TESTIMONY OF LYNN TAYLOR
BEFORE THE ELECTIONS SUBCOMMITTEE OF THE
HOUSE COMMITTEE ON ADMINISTRATION
MARCH 23, 2023

Chair Lee, Ranking Member Sewell, and Members of the Committee:

My name is Lynn Taylor. I am the President of the Virginia Institute for Public Policy and, more importantly for this hearing today, I am the Chairman of the Virginia Fair Elections Coalition and the Election Integrity Network, a project of the Virginia Institute.

Thank you for the opportunity to appear before you today to set the record straight on a topic about which the media, partisan nonprofit organizations and, unfortunately, the Election Assistance Commission (EAC) and other government agencies have been misleading the American people for the past two years: that is, that poll watchers in elections are somehow a ‘problem’ for the election system and election officials.

Let me be clear about one singularly important point: citizen observers and poll watchers are a fundamental and vital part of the election process, and the involvement of citizens is the ONLY way to restore the confidence of the American people in the truth and honesty of our elections.

The laws of 48 states, and those of the District of Columbia, specifically recognize poll watchers or observers as a statutory component of the state’s election system. Only Oregon and West Virginia have no statutory provisions for poll watchers. State laws describe who appoints poll observers, what their roles are, what the observers can do or not do, and what they are allowed to observe. Poll watchers are an integral part of the election codes of virtually every state in the nation.

Federal law also recognizes the importance of poll observers, imposing criminal penalties against any person who “... by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with-(1) any person ...acting as a poll watcher. 18 USC 245(b)(1)(a)

Notwithstanding the role of poll watchers embedded in state and federal law, for the past two years, there has been a steady drumbeat of the media, the current

administration, and partisan organizations advancing the false narrative that citizen poll watchers are unnecessary and even a ‘threat to democracy.’

The truth and reality of the matter is that citizen poll watchers are a key component in **protecting** our Republic.

Following the 2020 presidential election, citizens all over America found themselves looking at that general election, and asking “what has happened to our election systems?”

America used to have an election DAY, not an election month or two months. Voters would cast their ballots in person in their local precincts, not in giant voting centers. Then, at the end of election night, there was reconciliation at the precinct and then the county and then the state to ensure that the number of votes matched to the number of ballots and voters recorded as having voted. Ballots had to be received by the time the polls closed on election day. People voted in person at polling places (unless there was a good reason requiring absence from the polling place) and prohibitions against political influence and intimidation were in place to protect voters at the polls. The voting process was supervised by election workers and observers from both political parties who watched the process – and each other – to make certain that the election was transparent and adhered to the law.

After Election Day in 2020, Americans realized that all of those provisions – and more – had changed. Without much fanfare, over the preceding decade, and with funding from partisan billionaires and foundations, the system of voting had been transformed to one that is largely unsupervised, where laws are routinely disregarded, and the system had evolved to allow the direct manipulation of election offices in 2020 by partisan political operatives funded by special interests targeting select cities and counties in key states.

And the American people took notice.

In Virginia, where I serve as President of the Virginia Institute for Public Policy, election integrity advocates and leaders gathered to analyze the election systems in our state. We began to coalesce in 2021 into local task forces led by citizen volunteers and we formed the Virginia Fair Elections Coalition – the VFE – which I chair. The coalition began meeting weekly in 2021 and continues today, as we recruit, train and deploy concerned citizens from across the Commonwealth of

Virginia to become involved as volunteer election observers and leaders – not just at election time, but year-in and year-out.

Virginia’s election system has been upended by ‘reforms’ enacted by the Democrat-controlled General Assembly where we now have 45 days of early voting, no voter identification, same day registration, and a constant push for unsupervised voting by mail. It is not a system that inspires confidence in the integrity of the outcome.

But VFE’s members determined in 2021 that we were not going to whine over what had happened with the changes in our laws – and we would do whatever we could to protect the integrity of the election in spite of the laws that took away transparency in our election processes.

We determined that the way we could restore transparency was by focusing on recruiting, training, and deploying poll observers to cover as many shifts as possible beginning with the first day of early voting in September 2021.

And that is exactly what we did. In 2021 alone, ~4,500 Virginians were trained who covered an unprecedented 85% of the 14,000 shifts necessary for a 45-day election season.

What did those observers do? They observed. They worked. They watched. They documented. And they saw issues and problems that they helped to resolve, both before and after voting began.

For example: one local task force noticed boxes of ‘returned mail’ at the local election office and asked what it was. They were informed by the Registrar’s office that these were the letters sent out by the Registrar to voters at their registration addresses that had been returned ‘undeliverable’.

Those volunteers came back to the VFE weekly call, reported what they had found and asked, “what is supposed to be done with those undeliverable addresses?” Our Virginia elections law expert, a former state electoral board member, advised that that information is required by state law to be entered into the voter database and a voter whose letter is returned undeliverable becomes inactive and must take action in order to cast a ballot. [It is one of the few integrity requirements that the General Assembly had missed when it took a wrecking ball to the Virginia Election Code.]

The volunteers returned to the Registrar's office, armed with the statute and informed the Registrar what the law required – and the Registrar said he had no idea about this law – and instructed the staff to start entering the information into the voter database as the statute required.

Our motto is **Be Right, Be Polite.**

Our goal is to assist election administrators in complying with state law and to do so in a congenial and cooperative manner. And we have found that many times, failure to adhere to the law is not nefarious or intentional – but is a result of innocent mistakes or failure to be aware of statutory requirements. We are frequently thanked for bringing these oversights to officials' attention. And not surprisingly, members of our coalitions have become Electoral Board members because they have also become experts.

Since 2021, VFE has continued to grow and we now have local election integrity task forces representing approximately 60% of Virginia's counties and nine state issue-specific working groups.

Starting in 2022, we worked with the Conservative Partnership Institute to create a national effort, using the Virginia Model: building statewide election integrity coalitions with local task forces in as many counties and cities as possible. As of February 1, 2023, the Election Integrity Network (EIN) is now a project of the Virginia Institute and I serve as the Network's national chairman. Currently, the Network has 17 active statewide coalitions that meet regularly, along with a leadership council whose members collaborate and share best practices across state lines. In addition, EIN hosts and manages eight national working groups on topics such as cleaning voter rolls, understanding election technology, protecting vulnerable voters, observing mail voting and the role of the United States Postal Service in our elections, and more.

Our goal is to engage every citizen in America in the election process – regardless of their political party or ideology. We are committed to educating them about how the system is supposed to work and how we, as citizens, can ensure that elections are conducted in a lawful and transparent manner. And we believe that if you don't like the election laws in your state, you should focus on the state legislature to make the changes – rather than the sue and settle program followed during the years leading up to the 2020 election where partisan legal groups

achieved changes in the law from activist judges and progressive state officials who refused to defend the laws enacted by the legislatures.

Our engagement over the past two years has brought hysterical attacks from “Big Media” on behalf of partisan activist groups and organizations. We have been attacked by many liberal media outlets in the country, calling us names and seeking to intimidate and harass the more than 90,000 citizen volunteers who have become engaged in helping to protect and save our elections.

Before U.S. Attorney General Merrick Garland defined parents attending school board meetings as ‘domestic terrorists’; he and FBI Director Chris Wray had set up their ‘election official threats’ national hotline in June of 2021, presumably to protect election officials and administrators from citizens engaging as election observers and activists.

Do not misunderstand me: we do not now and never have and never will condone ANY hostility, threats, attacks, or anger against election officials by any person. We make a very strong point of teaching volunteers NEVER to lose their temper with or to harass any election official, worker, or employee.

As I said earlier, our mantra is “Be Right, Be Polite”.

But despite our determination that citizen engagement be civil at all times, the partisan organizations and leaders who have long held the election offices for themselves, came unglued. They have been relentless in attacking and disparaging our efforts to train and involve citizens as poll observers across the nation.

Neal Kelly, former Orange County (California) registrar, announced the formation of the Committee for Safe and Secure Elections, comprised of law enforcement personnel, election officials, several partisan nonprofits, and representatives from the EAC and Department of Homeland Security (DHS), among others, assembled to protect election officials from attacks and intimidation.

National meetings of election officials and Secretaries of State for the past two years, and including this year, featured and continue to feature programs and panels discussing the threats to elections by citizen observers and volunteers.

What happened in 2022? Was there chaos at the polls caused by volunteer poll watchers? No, there wasn’t. The predicted problems did not occur. But that has

not stopped the narrative. As recently as the national election officials meetings in February, Mr. Kelly suggested that election officials submit lists of their election workers to DHS to be ‘vetted’ prior to being allowed to serve as poll observers. Note that this is the same agency that established the misinformation, disinformation ‘curating’ entity, which included as a focus those who believe there are problems with our elections.

The result of the DOJ / FBI hotline for reporting threats to election officials, according to the testimony presented by the DOJ to the Senate Judiciary Committee in August of 2022, after more than a year of operations, was that approximately 1,100 reports of ‘hostile contacts’ with election officials were investigated. Of those, nearly 90% were deemed to NOT be threats and the reports almost always were protected citizen engagement and questions to election offices containing no threats of violence. Further, according to the DOJ report last August, the number of individual investigations is less than 5% of the total number of reported contacts. And of the four cases where there have been indictments or criminal charges, NONE of those related in any way to threats from poll watchers. NONE of them.

So why is there still ANY negativity toward citizen poll watchers, where this is a statutorily recognized and protected civic duty and there have been zero instances of criminal threats to election officials by poll watchers?

When will the DOJ, Mr. Kelly, “Big Media” and others admit they were wrong? When will they publicly acknowledge that citizens engaged in the election process as poll watchers are a positive force for our elections and do not constitute a ‘threat to democracy’.

The tiny number of bad actors are not any part of the organized efforts of the Election Integrity Network’s citizen election integrity efforts. Period.

Despite the facts, our volunteers are decried, demeaned, and attacked as somehow engaging in unwelcome or improper activities merely by fulfilling a civic duty outlined in state and federal law.

Another important point is this: citizen engagement in our elections is here to stay. We, the people, are not going away. For far too long, we have allowed

those employed by election offices and partisan nonprofits to control the election ecosphere. No more.

We are in this election apparatus and we plan to continue being engaged in the process no matter how many insults are hurled our way.

We as citizens believe that citizen observers belong in the election offices, as recognized by the laws of virtually every state.

On behalf of the EIN, VFE, and the thousands of volunteers across this nation, we are dedicated to saving our elections so they are fair, honest, and comply with applicable law.

We are committed to growing our network, making our elections transparent, and ensuring accountability of election officials to conduct the elections in such a manner that at the end of the election, all voters, all candidates, and all parties can be confident that whether their preferred candidate won or lost, the election system itself was fair to all and the results can be trusted.

The greatest challenge to our Constitutional Republic is loss of confidence in the election system by the people of this country.

Our mission is to keep that from happening so that our Republic and our nation can survive for another 250 years.

Thank you for this opportunity to speak to you today. I am happy to answer your questions.

###

The CHAIRMAN. Thank you very much, Ms. Taylor.
Mr. Findlay, you're now recognized for 5 minutes.

STATEMENT OF JOSH FINDLAY

Mr. FINDLAY. Good morning, Chairman Steil, Ranking Member Sewell, and members of the Subcommittee on Elections. Thank you for giving me the opportunity to testify today on election observer access, which has been a key focus of my work as the national director of election integrity for the Republican National Committee.

Despite what you see in headlines and on social media, those who work to promote responsible election observation know that it is an essential and time-honored aspect of our Nation's democratic process. Working day in and day out to recruit, to train, and shift volunteer poll watchers in a responsible manner might be referred to by some as the blocking and tackling, or the basics of an election, and from experience, I view that as a fair assessment.

As I have often said to volunteers, as both Republican and Democrat volunteers have said to me, the best and most successful election day is an incredibly boring one. However, that does not make this work any less important. It is my belief, and I think the belief of many members of this Committee, that ensuring bipartisan election observation is a necessary plank of our Nation's obligation to administer free, fair, and transparent elections.

Observation creates transparency. Transparency creates trust. It also bears mentioning that partisan election observation has been part of our Nation's political process since the 18th century. Given that poll watching is a statutory party function in many States, the Republican party and specifically the Republican National Committee, have a clear role to play in this process.

Meeting this moment successfully in 2022 required the construction of a comprehensive election observation program. To carry that out, we recruited, evaluated, and hired 17 civic-minded individuals to serve as election integrity state directors.

We then worked with the RNC's legal and communications departments to create a comprehensive training program, including the uniformed distribution of state-specific training products like literature, training presentations, and other materials. The RNC also provided State counsel to all of its election integrity State directors to ensure compliance with all state and federal laws. We created an organized program aimed at making it easier to vote and harder to cheat.

Once we built this structure, we found out that there were plenty of Americans who wanted to get involved in the process by learning how to be a poll observer. Our election integrity directors connected with those volunteers. The RNC vetted those potential volunteers, and we trained those who passed the vetting process to become election observers. We conducted these trainings while constantly disseminating and adhering to the RNC's poll watching principles. These are the principles that we required our volunteers to follow while conducting election observation.

I'd like to submit them for the record as follows: 1, be respectful and courteous to other volunteers and election officials; 2, follow instructions provided by election officials; 3, do not interact with voters; 4, do not disrupt, obstruct, or interfere with the voting process;

5, know and follow your training, including on the applicable laws for election observers; 6, direct any questions to appropriate staff and do so politely; 7, carry required volunteer credentials and identification as required during the shift; 8, arrive on time and only take notes; 9, do not interact with the media without prior approval; and, 10, contact the RNC's election integrity team immediately if you are ever in doubt about how to approach an issue or you witness any potential violations of election law.

These principles were the foundation of our program. Anyone who did not commit to these principles to conduct election observation in a courteous, respectful way could not be part of the program. The RNC required all of its trainings to include these principles. By election day, the RNC's Election Integrity Program had conducted over 5,000 trainings and trained over 80,000 poll watchers and poll workers across the country.

I want to be clear: This is a win for the political process. Any time that Americans, Republican or Democrat, volunteer by the thousands to help ensure that our political process works, that is a victory for this country. That is the story of our election integrity efforts. The RNC believes that election integrity promotes transparency and that transparency creates trust. The RNC created a nationwide accountable election observation program that recruited and trained volunteers in massive numbers.

I look forward to talking more about why election observation is important, why the RNC has an important role in election observation, and the work ahead to secure free, fair, and transparent elections.

Thank you for your time.

[The prepared statement of Mr. Findlay follows:]

Testimony Before the U.S. House Committee on House Administration

Subcommittee on Elections

Hearing on
“2022 Midterms Look Back Series: Election Observer Access”

Joshua J. Findlay
National Director of Election Integrity
Republican National Committee

Good morning Chairwoman Lee, Ranking Member Sewell, and Members of the Subcommittee on Elections.

Thank you for giving me the opportunity to testify today on Election Observer Access, which has been a key focus of my work as the National Election Integrity Director at the Republican National Committee.

Despite what you might see in headlines and on social media, those who work to promote quality, responsible election observation know that it is actually an essential and time-honored aspect of our nation’s democratic process.

Working day in and day out to recruit, train, and shift volunteer poll watchers in a responsible manner might be referred to by some as the “blocking and tackling” of politics. I can tell you from experience that I view that as a fair – and perhaps even charitable – assessment.

As I have often said to volunteers – and as I have often heard from fellow workers in this space, both Democrat and Republican – the best and most successful day of election observation is an incredibly boring one.

However, that does not make this work any less important.

It is my belief, and I think the belief of members of this committee, that ensuring bipartisan election observation is a good and necessary plank of our nation’s obligation to administer free, fair, and transparent elections. Observation creates transparency. Transparency creates trust.

In other words, when both Democrat and Republican volunteers are welcomed as observers to the electoral process, both Democrat and Republican voters are more likely to trust the results of that process.

It also bears mentioning that election observation has been part of America’s political process since the 18th Century. Given that poll watching is a statutory party function in many states – in

other words, it is a legal responsibility for election administration – the Republican Party, and specifically the Republican National Committee, has a clear role to play in this process.

Meeting this moment successfully required the construction of a complex and comprehensive observation program. To carry that out, we recruited, evaluated, and hired 17 civic-minded individuals to work as Election Integrity Directors in 17 key states.

We then worked with the RNC's Legal and Communications Departments to create a comprehensive training program, including the distribution of uniform and state-specific training products like literature, presentations, and infrastructural resources. The RNC also provided counsel to all of our state Election Integrity Directors to ensure compliance with all state and federal laws. We created a tangible, organized program aimed at making it easy to vote and harder to cheat.

Once we had built this structure, we found that there were plenty of Americans who wanted to get involved in the civic process by learning how to be a poll observer. Our Election Integrity Directors connected with volunteers. The RNC vetted those volunteers, and we began training those who passed the vetting process to become election observers.

We conducted these trainings while constantly disseminating and adhering to the RNC's "poll-watching principles." For context, these are the principles that we required our volunteers to adhere to while conducting election observation. I'd like to submit them for the record, as follows:

1. Be respectful and courteous to other volunteers and election officials.
2. Follow instructions provided by election officials.
3. Do not interact with voters.
4. Do not disrupt, obstruct, or interfere with the voting process.
5. Know and follow your training, including on the applicable laws for election observers.
6. Direct any questions to appropriate election staff, and do so politely.
7. Carry required volunteer credentials or identification during entire shift.
8. Arrive on time and take notes.
9. Do not interact with media without prior approval.
10. Contact the [RNC's] Election Integrity Team immediately if you are ever in doubt about how to approach an issue or if you witness any potential election law violations.

These principles were the foundation of our program. Anyone who did not commit to these principles to conduct election observation in a courteous, respectful, and accountable way could not be part of our program. The RNC required all of its trainings to include these principles.

By Election Day, the RNC's election integrity program conducted 5,000 trainings. The RNC's election integrity program recruited, trained, and shifted over 80,000 poll watchers and poll workers across the country.

I want to be clear: that is a win for the political process. Any time that Americans – Democrat, Republican, or independent – volunteer by the thousands to help ensure that our political process works is a victory for the American people.

That is the story of our election integrity efforts. The RNC believes that election observation promotes transparency, and that transparency creates trust.

As the organization that manages the business of one of our nation's two major political parties, the RNC has an indispensable role to play in ensuring bipartisan election observation.

The RNC created a nationwide, accountable election observation program that recruited and trained volunteers in massive numbers.

I look forward to talking more about why election observation is important, why the RNC has an important role in promoting its ubiquity, and the work ahead to secure free, fair, and transparent elections.

Thank you all for your time.

The CHAIRMAN. Thank you very much, Mr. Findlay.
Mr. Cunningham, you are recognized for 5 minutes.

STATEMENT OF MICHAEL CUNNINGTON

Mr. CUNNINGTON. Chairman Steil, Ranking Member Sewell, members of the Committee on House Administration, Subcommittee on Elections, thank you for the opportunity to testify today as part of the 2022 Midterms Look Back Series on election observer access.

I truly appreciate that this committee is seeking perspectives from those who have actually spent time as elections administrators. As a former secretary of state herself, I'm sure Chair Lee would also agree that the experience of working in elections administration provides a unique perspective when discussing the functions of our election system. As noted in my bio, I previously spent time as an administrator for the Summit County, Ohio, Board of Elections, where I hired, trained, and maintained a system of over 2,000 individuals to be available to do the important work of managing the polls on election day.

Just for good measure, I still take the time during each election to serve as the voting location manager for four precincts in my home county. So, needless to say, when I was working for a member of Ohio's congressional delegation and I found out about the Election Observer Program here in the Committee on House Administration, I said yes as fast as I could.

I understand that this is a retrospective about the 2022 elections, but I do understand—I do feel that my experience in 2020 provides a good perspective on some of the challenges and opportunities of this program. The Election Observer Program is limited to employees of the House in order to build an independent record in the event of a contested election. This function helps the House to be ensured that the actual winner is seated. It is very important to note that House employees that are deployed receive extensive training prior to election day.

Some of the issues covered in the training include basic principles of election administration and emphasizing core concepts about the neutrality of the program, such as the fact that the congressional observers cannot touch ballots or advocate on behalf of candidates. I will note that, as somebody that no longer works for Congress, I do wish that there was a way to get alumni back into the program.

My series of deployments in 2020 began the day after the election and ran until about the week before Christmas. I was deployed in four locations, including the contentious post-election scenarios in the Iowa Second and New York 22d races. The Iowa Second race, where now Congresswoman Mariannette Miller-Meeke won by 6 votes out of approximately 390,000 cast, truly shows how important the Election Observer Program can be. During my deployment in Iowa, I sat and watched as the recount board worked through many issues on reconciling counts. There were a lot of different issues that popped up in that race, and without the Election Observer Program, it would have probably been very confusing to try to relay all that back here to the Committee on House Administration.

Just in Scott County alone, Representative Miller-Meeks' lead shrank from election night by about 30 to 40 votes during the recount. It was one of the largest vote shifts during the rate count of any county in the district, largely because of an issue related to tallying the absentee precincts. I got to sit there and watch as the county recount board worked through issues, such as double bubbles or hesitation marks, as we call them in election administration, and we relayed that back through contemporaneous records by both Republican and Democratic staff.

During my Pittsburgh, Davenport, and upstate New York deployments, I was also partnered with Democratic staffers that were deployed. The Pittsburgh deployment was an interesting example because, in the Allegheny County office, there—it's a large warehouse, and at the time, the Presidential election had not been called in Pennsylvania, and so there were international media and a lot of observers there. My Democratic colleague and I agreed that we needed access to certain parts of the warehouse beyond what the political party observers noted had, and we worked together in that way with the Allegheny County officials.

This is a good opportunity to note the difference between the House Election Observer Program and political party observers. House observers are there to build the record for this committee. They are not there to advocate on behalf of political candidates. They are there just to build that record. I would note that the explicit constitutional authority for the House to be the judge of its own Membership and the important role that the EOP provides in building an independent record in the event of a contest, it is vital for House employees to be able to access all areas of a local election administration building.

In the end, you know, we were able to access many of the areas that we needed. However, there were other staff in places like Arizona and Virginia that had less ability to do so. I believe that a statutory citation for the program not only gives clarification to the program but also allows employees of this committee to engage with the Election Observer Program or election administration community to do education on the program.

Thank you for the opportunity to testify here, and I will take any questions.

[The prepared statement of Mr. Cunningham follows:]

Michael Byron Thorpe Cunningham

PROFESSIONAL SUMMARY

Business and governmental public policy professional with extensive experience in research, data management, federal funding, and intergovernmental policy coordination.

EXPERIENCE

DOMINION ENERGY

External Affairs Representative; March 2022 – Current

- Serve as a liaison between the company and local government offices on all aspects of government interactions, including constituent concerns, permitting, zoning, and municipal ordinances.
- Work with entities such as the Greater Akron Chamber of Commerce and other economic development agencies to provide necessary infrastructure for new or expanding businesses.
- As part of the External Affairs team, helped oversee applications for the Dominion Energy Charitable Foundation, including the watershed microgrants.

CONGRESSMAN ANTHONY GONZALEZ, 16th CONGRESSIONAL DISTRICT OF OHIO

Federal Grants Advocate and Policy Advisor; January 2019 – March 2022

- Researched federal grant opportunities on a weekly basis to identify possible funding opportunities for local governments, non-profits, and businesses.
- Maintained a database of previous grant applications for opportunities that are available on a recurring basis, and points of contacts at organizations that apply to them.
- Wrote grant support letters on behalf of the office for applicants to federal grant programs.
- Attended events on behalf of the Congressman regarding policy questions, research, and legislation.
- Work with the legislative staff in the DC office to research pending legislation and possible bill ideas.
- Helped initiate and pass the Tuscarawas River Flooding Study Act, which was included as part of the 2020 Water Resource Development Act, to implement an US Army Corps of Engineers 729 study for the Tuscarawas River, to devise solutions for ecological restoration and flooding mitigation on the river.
- Helped identify millions of dollars in funding for the Medina County Park District for the Chippewa Lake Amusement Park purchase and restoration, and the algal bloom mitigation plan.

RANKING MEMBER RODNEY DAVIS, COMMITTEE ON HOUSE ADMINISTRATION

Election Policy Advisor; January 2021 – January 2022

- As a shared staffer along with Rep. Gonzalez, regularly traveled to Washington, DC to serve as the elections administration policy advisor to Ranking Member Davis for the Iowa 2nd Congressional District contested election, and other election administration related issues before the Committee on House Administration.

ANTHONY GONZALEZ FOR CONGRESS

Political Director; November 2017 – December 2018

- Oversaw all data and field staff management for an open Congressional seat, including creating walk books for the entire campaign, creating precinct target lists, managing the response to call center efforts, and analyzing data trends from grassroots campaign responses.
- As part of the overall team, the campaign won the Republican primary in 2018 for the 16th Congressional District by 13%, and won the general election in the fall by almost 14%, in a district with a partisan index of only R+8%.

SUMMIT COUNTY BOARD OF ELECTIONS

Precinct Election Official Coordinator (PEOC); July 2015 – November 2017

- Recruited and oversaw workers for up to 418 poll worker positions in Summit County for each election.
- Oversaw a division of the Board with an annual budget of over \$1.2 million.
- Designed, planned, and implemented training sessions for poll workers to keep them up to date on information about how to operate polling equipment, changes in state laws regarding voting, and conduct on Election Day.
- During this period, the Board bought new electronic poll books. As a result of new standard operating procedures, training methods, and training materials that the PEOC team developed, the electronic poll book system, with a cost of over \$1 million, was successfully implemented in Summit in 2017 without any disruption to voters.
- Responsible for other front office duties including inputting voter registrations, pulling and filing candidate petitions to run for office, and maintaining the accuracy of the voter registration database.

OHIO HOUSE OF REPRESENTATIVES

Legislative Aide; January 2015- July 2015, Rep. Steve Hambley
 Senior Legislative Aide; March 2014 – December 2014, Assistant Majority Floor Leader John Adams
 Legislative Aide; January 2013 – March 2014, Representative Matt Lynch
 Legislative Aide & Committee Clerk, October 2011 – December 2012, Representative Courtney Combs
 Legislative Aide; January 2011 – October 2011, Representative Todd McKenney

- As a committee clerk, responsible for maintaining all committee information for the Ohio House Transportation, Public Safety, and Homeland Security committee
- Staffed the committee, including sending out notices of meetings, taking minutes, organizing testimony, and communicating with policy staff to determine the agenda.
- Researched legislative proposals and prepared briefing files on policy topics for both the individual members I worked for, as well as members of legislative leadership.
- Researched legislative proposals for potential introduction, tracked current legislation
- As part of an ongoing Republican House caucus continuing education efforts, participated in specialized classes on topics like reading and developing polls, media outreach, and lobbying and ethics rules

OHIO HOUSE REPUBLICAN ORGANIZATIONAL COMMITTEE

Northeast Ohio Regional Director; June 2012- November 2012

- Served as senior adviser to the three incumbents in Tier I races, and was primarily responsible for day to day campaign strategy, and overseeing local staff, interns, and volunteers.
- Additional responsibilities included fundraising, opposition research, and grassroots organization
- All three races were ultimately successful, with the incumbents retaining their seats.

Campaign Manager; August 2010 – December 2010, 42nd and 43rd Ohio House districts

- Responsible for all grassroots coordination, as well as liaising with vendors, consultants and other committee members to determine campaign message strategy, leading to both campaigns winning their races and Republicans taking control of the Ohio House
- Developed door to door strategy, including identifying targeted walk areas, creating and organizing walk books using Voter Vault, and collecting walk data for further campaign use.
- Both campaigns were ultimately successful on Election Day.

STRATEGIC PUBLIC PARTNERS

Associate; March 2010 – August 2010

JIMMY STEWART FOR STATE SENATE

Communications Director; August 2008 – November 2008

- Helped run a successful state Senate campaign, winning 8 out of the 9 nine counties in the district.

STARK COUNTY REPUBLICAN PARTY

Director; March 2008 – July 2008

EDUCATION

CLEVELAND STATE UNIVERSITY
 Candidate – Master's in Public Administration
 Expected Graduation: June 2024

Cleveland, OH
 Aug 2022 – Present

OHIO UNIVERSITY,
 Bachelor of Arts in Political Science/International Relations
 Certificate in East Asian Studies
 AMERICAN INSTITUTE FOR YEMENI STUDIES
 SCHOOL FOR INTERNATIONAL TRAINING: OMAN
 OHIO-SHANDONG CENTER IN EAST ASIA

Athens, OH
 Aug 2004 – June 2007
 June – Aug 2007
 Feb - May 2007
 Sept – Dec 2004

VOLUNTEER TINKER'S CREEK WATERSHED PARTNERS

Board of Directors

Twinsburg, OH
 June 2022 - Current

SCHOLARSHIPS & HONORS

- 2010 Leadership Stark County Government Academy
- National Security Education Program Scholarship; 2006 Award Recipient to Oman
- State Department Critical Language Scholarship; 2007 Recipient to Yemen
- Pi Sigma Alpha (Political Science Honorary Association)

The CHAIRMAN. Thank you very much, Mr. Cunningham.
Ms. Lyons, you are now recognized for 5 minutes.

STATEMENT OF LISA LYONS

Ms. LYONS. Good morning, Chairman Steil, Ranking Member Sewell, and members of the committee, it is truly a privilege and a pleasure to be before you today. The communities and voters I serve are probably not too different from those you represent in your districts. Kent County is one of Michigan's fastest growing and its fourth largest county with a population of just over 650,000 residents. Just before the November 2020 election, we surpassed about 500,000 voters, who are spread through 30 townships and cities, including Michigan's second largest city, Grand Rapids.

In the 6 years that I have served as clerk, our team has administered 20 elections, 3 or 4 each year. I like to say that, in Kent County, we do elections often, and we do them well. While every election is a huge undertaking, I view each opportunity—each as an opportunity to serve as an ambassador to the public, educating and informing them on the process and the many ways they can and should get involved in their elections. I grew up on a farm but also around politics, and from my upbringing, as well as my time serving in the Michigan legislature, I gained an understanding of elections that many others likely weren't exposed to outside of their high school government class.

I understand fully the unique ways Michigan's elections are structured and the many checks and balances in place at every stage of the process, and I have confidence in those elements. But, as the clerk of a Bellwether county who was on the front lines of 2020, I know full well that I represent voters of all political leanings who question whether they can or should have faith in their elections. And it's my job to do everything I can to share what I know, that while there are certainly areas in which we can improve, they can and should be confident that their elections are secure, transparent, fair, and accurate.

I often tell folks: But don't just take my word for it; come see for yourself. It's a trust but verify thing. In Michigan, there are numerous ways for those interested to observe every step of the elections process, from pre-election, where we test our equipment and approve ballots for printing, to voting before or on election day and at each critical post-election process, such as the canvas and certification of results, recounts, and audits.

Before I go further, I want to quickly review a few terms that we use in Michigan to ensure we are all of the same understanding. I know different States use different terms for these roles. Election inspectors, as they're called in Michigan, are paid to administer the election in the precincts and in our absentee counting boards. They're required to be trained by our county and local clerks, and they're retrained every 2 years. Election workers or poll workers are often terms used interchangeably for that role.

Poll watchers is a term literally for any member who wishes to come watch the process unfold. They have no official role, and they're designated to a confined area within the polling location. Media most often utilizes this space.

Finally, there's poll challengers or, as termed in this hearing, election observers.

I want to focus on poll challengers because it seems in recent years at least to have gained an unearned negative association that's largely a product of what could be considered election season hyperbole and not the result of widespread systemic nefarious acts on the part of the challengers themselves.

Poll challenging is not new. It didn't come about in 2022, 2002, or even 1992. Nor is it one that should cause concern for voters, candidates, election workers, or the media. In Michigan, a poll challenger is a registered voter, credentialed and trained so that they're familiar with and comply with Michigan election law, especially those that expressly prohibit the acts of voter intimidation. Both major parties are allowed to and do appoint poll challengers in every general election.

Additionally, as clerk, I routinely approve poll challenger applications in my county for the NAACP, the ACLU, The Carter Center, Promote the Vote, and the Election Integrity Fund. I expect those organizations will act in good faith to properly train their challengers. Challengers in Michigan are allowed to sit behind the processing table. They may inspect but not touch any election material. They are not allowed to approach or question a voter, but they are allowed to alert an inspector of a challenge they wish to make to the voter's eligibility.

A poll challenger has the right to challenge the conduct of the election inspectors themselves should they believe it's not being complied.

While it may seem adversarial, situations are not handled that way by properly trained election workers and poll challengers. And most challenges are resolved within a matter of minutes without disruption to any voter or process.

To wrap up, poll challengers play a vital role in our election process. When they're properly trained, poll challengers ensure accountability and are an important check and balance in our elections. Because I value transparency and promote it, I welcome and encourage the involvement and observation of every citizen in their election, whether they serve as an election inspector, a poll challenger, or just simply cast their vote. Transparency, education, and participation are the keys to building and maintaining public trust in elections.

I thank this committee for the highlight of the important role they play and the right of the citizens to engage.

I thank you, Mr. Chair, for the opportunity.

[The prepared statement of Ms. Lyons follows:]

COUNTY CLERK / REGISTER OF DEEDS

KENT COUNTY ADMINISTRATION BUILDING
300 MONROE AVENUE, N.W.
GRAND RAPIDS, MI 49503
(616) 632-7640
clerk-register@kentcountymi.gov
www.KentCountyVotes.com



LISA POSTHUMUS LYONS
County Clerk / Register

ROBERT J. MACOMBER
Chief Deputy County Clerk

2022 Midterms Look Back Series: Election Observer Access

Lisa Posthumus Lyons ~ Opening Remarks
Thursday, March 23, 2023

U.S. House Committee on House Administration
Subcommittee on Elections

| | |
|---------------------------------|--|
| <i>Chair</i> Laurel Lee (FL-15) | <i>Ranking Member</i> Terri Sewell (AL-07) |
| Barry Loudermilk (GA-11) | Norma Torres (CA-35) |
| Stephanie Bice (OK-05) | |
| Anthony D'Esposito (NY-04) | |

Chairwoman Lee, Ranking Member Sewell, members of the committee, it is my truly a privilege to testify before you today on behalf the citizens of Kent County, Michigan.

The communities and voters I serve in West Michigan are probably not too different from those you represent in your districts. Kent County is one of Michigan's fastest growing, and it's fourth largest, county with a population of just over 600,000 residents. Just before the November 2020 election we surpassed 500,000 voters, who are spread throughout 30 townships and cities – including Michigan's second largest, the city of Grand Rapids.

In the six years that I have served as Clerk our team has administered 20 elections – three or four every year. I like to say that “In Kent County we do elections often and we do them well.”

While every election is a huge undertaking, I view each as an opportunity to serve as ambassador to the public, educating and informing them on the process and the many ways they can – and should – be involved in their elections.

I grew up on a farm but also around politics, and from my upbringing as well as my time serving in the Michigan Legislature, I gained an understanding of elections that many others likely weren't exposed to outside of their high school government class. I understand fully the unique ways in which Michigan's elections are structured and the many checks-and-balances in place at every stage of the process, and I have confidence in those elements. But, as the Clerk of a bellwether county who was on the front lines of 2020, I know full well that I represent voters of all political leanings who question whether they can or should have faith in our elections – and it's my job to do everything I can to share what I know ... that, while there are areas in which we can improve, they can and should be confident that their elections are secure, transparent, fair, and accurate. I often tell folks, “Don't just take my word for it; come see for yourself”. Trust but verify.

In Michigan there are numerous ways for those interested to observe every step of the elections process from pre-election where we test the election equipment and approve ballots for printing, to voting before and on Election Day, and at each critical post-election process such as the canvass and certification of results, recounts, and audits.

Before I go further, I want to review a few terms related to election administration that we use in Michigan to ensure we are of the same understanding, as different states use different terms for these roles: Election Inspectors, as they're called in Michigan, are paid to administer the election and are required to be trained by county or local clerks, and they are re-trained every two years. Election workers or poll workers are terms often used interchangeably for Election Inspectors. Poll Watchers is a term for literally any member of the public to come and watch the process unfold. They have no official role, and they're designated to a confined area within the polling location. Media most often utilize this space for their cameras. And finally, there are Poll Challengers- or as termed in this hearing- Election Observers.

I'd like to focus on Poll Challengers because it seems – in recent years at least – to have gained an unearned negative association that's largely a product of election season hyperbole, and not the result of systemic and widespread nefarious acts on the part of challengers themselves.

Poll challenging is not a new process. It didn't come about in 2020, 2022, 2002, or even 1992, nor is it one that should cause concern for voters, candidates, election workers, or the media.

In Michigan a poll challenger must be a registered voter who is credentialed and trained so that they are familiar and comply with Michigan Election Law – especially those that expressly prohibit all acts of voter intimidation.

In accordance with Michigan law, both major parties are allowed to - and do - credential poll challengers in every general election. Additionally, as Clerk, I routinely approve poll challenger credentials in my county for the NAACP, the ACLU, The Carter Center, Promote the Vote, and the Election Integrity Fund. And I expect that those organizations will act in good faith to properly train their challengers.

Poll challengers in Michigan are allowed to stand or sit behind the voter processing table and have the right to look at – but not touch - the poll book and other election materials. They are not allowed to approach or question a voter but have the right to alert an election inspector – those who working our elections – of a challenge they wish to make to the voter's eligibility.

Additionally, a poll challenger has the right to challenge the conduct of the election inspectors themselves, should they believe they are not administering the election in compliance with the law. While the concept may seem adversarial, situations are not handled that way by proper trained challengers and election inspectors – and most challenges are resolved within a matter of minutes and without disruption to any voter or process.

Poll Challengers play a vital role in our elections process. When they are properly trained, and acting in accordance with the law, poll challengers ensure accountability and are an import checks-and-balance in our elections.

Because I value and promote transparency, I welcome and encourage the involvement of every citizen in their elections, whether they serve as an election inspector, poll challenger, or simply cast a vote. Transparency, education, and participation are the keys to building and sustaining public trust in our elections. I thank the committee for its work to highlight the importance of protecting the rights of our citizens to engage in these activities. And thank you, Madam Chair for this opportunity.

The CHAIRMAN. Thank you very much, Ms. Lyons, for your testimony.

Mr. Hovland, you're now recognized for 5 minutes.

STATEMENT OF HON. BENJAMIN HOVLAND

Mr. HOVLAND. Good morning. I'd like to thank Chairwoman Lee, Ranking Member Sewell, and members of the subcommittee for the opportunity to testify before you today.

I'd also like to thank Chairman Steil and Ranking Member Morelle of the full committee.

I'm Ben Hovland, Vice Chair of the United States Election Assistance Commission, or EAC. The EAC is an independent bipartisan agency and is the only federal agency solely focused on election administration. Any discussion of the 2022 elections should acknowledge the tremendous job that state and local election officials did to run the midterm elections smoothly while facing unprecedented challenges.

Leading up to the 2022 election, there were widely reported concerns about the potential for violence on election day, which thankfully did not materialize. However, election officials still had to take necessary precautions to assure the public it was safe to vote. The effort required to conduct this election was substantial, and the officials who managed this task deserve our thanks and praise.

Today's topic of election observer access raises important questions of how to balance transparency, security, integrity, and safety in the elections process. Transparency is key to building confidence and fostering trust in our election outcomes. Let me be clear: Election observers who are properly trained and abide by the rules in their jurisdictions are needed and encouraged in order to maintain transparency and accountability in our elections.

While policies related to how to become an observer, when they are allowed to observe, and where they can be present vary from state to state, it's critical that election officials provide clear communication about the rules and responsibilities of observers and their jurisdictions. Access to information about observer policies, necessary training about elections procedures, and guidance about acceptable and prohibited conduct is crucial for a successful observation program.

No matter who is observing an election, the role of a poll watcher is to observe and monitor the election without violating voter privacy or disrupting the election. As noted in reporting from last fall, there have been reports of observers disrupting or attempting to interfere in the elections process. That behavior should not be tolerated, and the rule of law must be followed. It is essential that observers conduct themselves in a professional manner and follow the rules so they do not interfere with the election.

Too often we've seen individuals unfamiliar with the elections process mistake regular election activity for something nefarious. The EAC has created and updated a number of resources related to the topic of election observation, including our quick-start guide on poll watchers, a brief election observers overview document, and a communicating election and post-election processes tool kit that provides election officials with customizable signs, pocket guides, and handouts. These educational materials can help anyone observ-

ing the election have a better understanding of what is taking place.

Election procedure, education efforts, along with proper training for election observers can go a long way toward increasing understanding of the many safeguards election officials have in place to ensure the accuracy and integrity of our elections. The public needs credible, accurate information that they can rely on. Efforts to increase awareness about everything from the most basic election information about where and how to vote to more complex issues, such as eligibility, are critical as we're seeing a number of Americans lose faith in the process and in our democracy.

In the last several election cycles, there's been an unprecedented level of mis-and disinformation, particularly spread on social media, that has sown distrust and even motivated some Americans to threaten and harass the public servants that run our elections. My fellow Commissioners and I regularly meet with election officials across the country. Since the 2020 elections, we've heard many distressing stories about the threats and harassment election officials have faced simply for doing their jobs.

While I wish there was a simple solution to the challenges we face, I do not know of one. What I do know is that the answer begins with fact-based conversations about how our elections are administered. Beyond that, it's going to take work and resources from the federal government as well as states and local jurisdictions. We must invest in our democracy, including voter education. We need to depoliticize election administration and recognize that election administration should not be about partisanship but rather good governance and customer service.

We must put the voters first and respect the voice of the American people. That, we can all agree on. Thank you, again, for the opportunity to testify today, and I look forward to any questions you may have. Thank you.

[The prepared statement of Mr. Hovland follows:]



U.S. ELECTION ASSISTANCE COMMISSION
633 3rd St. NW, Suite 200
Washington, DC 20001

**U.S. Committee on House Administration
Subcommittee on Elections
“2022 Midterms Look Back Series: Election Observer Access” Hearing**

**Vice Chair Benjamin Hovland
U.S. Election Assistance Commission
March 23, 2023**

Good morning. Thank you, Chairwoman Lee, Ranking Member Sewell, and members of the Subcommittee for the opportunity to testify before you today. I am Ben Hovland, Vice Chair of the United States Election Assistance Commission, or EAC. The EAC is an independent, bipartisan agency and is the only federal agency solely focused on election administration.

Any discussion of the 2022 elections should acknowledge the tremendous job that state and local election officials did to run the midterm elections smoothly while facing unprecedented challenges. Leading up to the 2022 election, there were widely reported concerns about the potential for violence on Election Day, which thankfully did not materialize. However, election officials still had to take necessary precautions to assure the public it was safe to vote. The effort required to conduct this election was substantial, and the officials who managed this task deserve our thanks and praise.

Today’s topic of election observer access raises important questions of how to balance transparency, security, integrity, and safety in the elections process. Transparency is key to building confidence and fostering trust in our election outcomes. Election observers have been a long-standing critical component of promoting public confidence, by affirming our elections are conducted in a fair and impartial manner. Additionally, observers can provide credible observations, reports, and suggest recommendations to improve the elections process.

Let me be clear: election observers who are properly trained and abide by the rules in their jurisdictions are needed, and encouraged, in order to maintain transparency and accountability in our elections.

With the decentralized nature of our election system in the United States, each state approaches these issues a little differently. Even the terminology varies across the country. When it comes to observers, watchers, or challengers, each state has its own laws and procedures on when and where observers can be present, as well as who can observe the election. Election observers may be members of organizations, such as a political party or nonpartisan group, candidate representatives, international observers, exit polling groups, academics, or relevant federal and state agencies. Some states also allow members of the public to view election processes in person, though these rules and availability also vary.

While policies related to how to become an observer, when they are allowed to observe, and where they can be present vary from state to state, it is critical that election officials provide clear communication about the rules and responsibilities of observers in their jurisdictions. Access to information about observer policies, necessary training about elections procedures, and guidance about acceptable and prohibited conduct is crucial for a successful observation program.

No matter who is observing an election, the role of a poll watcher is to observe and monitor the election, without violating voter privacy or disrupting the election. As noted in reporting from last fall, there have been reports of observers disrupting or attempting to interfere in the elections process. That behavior should not be tolerated and the rule of law must be followed. It is essential that observers conduct themselves in a professional manner and follow the rules, so they do not interfere with the election.

Too often we have seen individuals unfamiliar with the elections process mistake regular election activity for something nefarious. The EAC has created and updated a number of resources¹ related to the topic of election observation including our Quick State Guide on Poll Watchers,² a brief Election Observers Overview document³ and a Communicating Election and Post-Election Processes toolkit⁴ that provides election officials with customizable signs, pocket guides and handouts. These educational materials can help anyone observing the election have a better understanding of what is taking place.

Election procedure education efforts, along with proper training for election observers, can go a long way toward increasing understanding of the many safeguards election officials have in place to ensure the accuracy and integrity of our elections.

The public needs credible, accurate information they can rely on. Efforts to increase awareness about everything from the most basic election information about where and how to vote, to more complex issues such as eligibility, are critical as we are seeing a number of Americans lose faith in the process and in our democracy. In the last several election cycles, there has been unprecedented levels of mis- and dis- information, particularly spread on social media, that have sown distrust and even motivated some Americans to threaten and harass the public servants that run our elections.

My fellow Commissioners and I regularly meet with election officials across the country. Since the 2020 elections, we have heard many distressing stories about the threats and harassment election officials have faced simply for doing their jobs.

While I wish there was a simple solution to the challenges we face, I do not know of one. What I do know is that the answer begins with fact-based conversations about how our elections are administered. Beyond that, it is going to take work and resources from the federal government as well as states and local jurisdictions.

We must invest in our democracy, including voter education. We need to depoliticize election administration and recognize that election administration should not be about partisanship, but rather good governance and customer service. We must put the voters first and respect the voice of the American people. That we can all agree on.

Thank you again for the opportunity to testify today and I look forward to any questions you may have.

¹ <https://www.eac.gov/election-officials/poll-watchers>

² https://www.eac.gov/sites/default/files/electionofficials/QuickStartGuides/Poll_Watchers_EAC_Quick_Start_Guide_508.pdf

³ https://www.eac.gov/sites/default/files/electionofficials/Election_Observers_508.pdf

⁴ <https://www.eac.gov/election-officials/communicating-election-and-post-election-processes-toolkit>

CHAIR LEE. [Presiding.] Thank you, Commissioner Hovland.

I'll begin our questions today followed by the ranking member. We will then alternate between the parties.

I will now recognize myself for the purpose of questioning our witnesses. Ms. Lyons, I'd like to start with you. In your assessment, why is it important for individuals to observe the election administration process?

Ms. LYONS. Thank you for the question, Madam Chair. I really believe that elections are the bedrock of our Republic, and our Republic is reliant upon public trust in that process. Public trust in that process is reliant upon knowing the process and participating in it. So I think it's really important to be able to have transparency in our elections so that people can observe at every stage, not just the challenger stage but at every stage, so that that transparency breeds trust.

CHAIR LEE. Can you describe for us the process for election observation and what—how that happens in your county, and whether election observers have to be credentialed?

Ms. LYONS. I'm sorry. Could you repeat the question, Madam Chair?

CHAIR LEE. Sure. Could you describe for us the process of election observation in your county? What stages of the process do election observers get to view, and are they credentialed?

Ms. LYONS. Yes. Thank you for the question, Madam Chair. Political parties by right are able to appoint—appoint election poll challengers, and they are credentialed. All of the credentials must meet a certain template, which is outlined in the manual provided by the State. So every challenger is credentialed. They are required to present their credential but may not display it during the voting—the time in which citizens are voting. Other organizations who have an interest in election integrity or voters' rights, they also are permitted to credential challengers.

Those individuals must apply at the country clerk level, and they have to do that within 20 to 30 days before the election. Within 2 days, the clerk must either accept or reject that application. So, once that is—once that is set, they will know who is credentialing challengers for each election. Every local clerk must—every county clerk must notify the local clerk of each organization or party that is credentialing challengers within that jurisdiction—within the jurisdiction, and then each local clerk is required to make sure all of our precincts and county boards are aware of who is able to present credentials and serve as poll challengers.

They may observe any part of the process. They play a role. They stand behind the table to inspect or watch all of the election material, the voter applications. They may not approach a voter. They may not speak to a voter. They may not imply that they are able to assist a voter. Any conversation that happens, any verbal interaction that happens with a challenger is established with a challenger liaison, one of our election inspectors designated to converse with a challengers themselves.

CHAIR LEE. Thank you.

Mr. Cunningham, would you describe for us, please, how congressional observers are different from observers from political parties or representing a particular candidate?

Mr. CUNNINGTON. Thank you, Chair Lee.

That is a really important question because it is quite a different distinction. As some of the witnesses have already noted here, a political party observer is typically operating under State law or local rules, as was just described by the county clerk. You know, the Congressional Observer Program is operating under a direct constitutional authorization. It is a vitally important role to build that independent record in the event of a contest. And so, you know, arguably there are aspects of things that we might need to be a little bit closer to, or you know, areas that we might want to view for different reasons that maybe the regular—depending on what the State laws in a given area are, they may prohibit regular political party observers from being able to see.

In my experience, we never really had that much of an issue in the places that I was deployed to, but obviously we have been aware that there are concerns from State and local election administrators where these—the CHA observers are deployed, and that's where I think an additional citation in the Federal Code would be really helpful in order to be able to do additional educational outreach to the election administrator community.

CHAIR LEE. Would you expand on that? In your testimony, you mentioned a citation of convenience. Would you tell us a little bit more about that, and what it is that you think would be helpful?

Mr. CUNNINGTON. Well, so, you know, obviously, state and local election administrators are, particularly during election season, always under the gun. They're always working really hard. You know, I worked 29 straight days in 2016 as a local election administrator, and I wasn't even the person that worked the most days in a row at our county board of election. And so, you know, when somebody shows up with a letter from the Committee on House Administration saying "I'm an election observer here under this additional constitutional authorization, I have the ability to maybe do a little bit more than what your state or local laws or rules, you know, would normally allow," I can understand why those election administrators would be a little bit—want an additional information. Having something specifically in Federal Code to be able to point to ahead of time, you know Committee staff are always talking to Secretary of States, talking to local election administrators before election periods. Being able to really do some educational outreach around a specific piece of code I think would really make it less of a struggle during the actual election period in which congressional observers are deployed.

CHAIR LEE. Thank you.

Ms. Taylor, would you describe for us what you consider to be meaningful access to observe the elections process?

Ms. TAYLOR. Yes. Meaningful access is actually decided by each different state as to what they think is proper access.

What we think it should be is, have the ability to hear when a name is called, that they have the ability to see that only one ballot is being handed to the voter. When they—at each section, that they have the opportunity to see what is going on. No one wants to see anyone's private information. But we do want to make sure that the person who walks in the door is who they say they are, that they only have one ballot, and that they proceed with that ballot

in an appropriate manner. This is very difficult to do when you have mail-in ballots.

In the mail-in ballot arena, you want to make sure that the laws that govern that State's mail-in ballots are applied correctly. If there is supposed to be a witness signature, if there is supposed to be the last four digits of a social security number on the envelope, to make sure that those things are actually where they're supposed to be and to make sure that, when the ballots come out, that it is put into the proper place.

CHAIR LEE. Thank you.

A final question for Ms. Lyons: Do you leave that meaningful election observation builds voter confidence in election results?

Ms. LYONS. 100 percent. I believe that any time a citizen can engage and participate in their election, it gives them more ownership in that election, and they can see for themselves: Again, don't just take my word for it, but come see for yourself.

I really believe that that does a lot to breed voter confidence, as well as public trust.

CHAIR LEE. Thank you.

I now recognize Ranking Member Sewell for 5 minutes for the purpose of questioning our witnesses.

Ms. SEWELL. I want to thank all our witnesses for being here today. I only have 5 minutes, and so I may ask some yes-or-no questions, and I simply ask that you do that for me.

Mr. Findlay, were the 2020 and 2022 elections fair and secure, yes or no?

Mr. FINDLAY. The 2022—I would say that the 2020 election—

Ms. SEWELL. Yes or no sir? I only have 5 minutes.

Mr. FINDLAY. Yes.

Ms. SEWELL. Ms. Taylor, were the 2020 and the 2022 midterm elections fair and secure?

Ms. TAYLOR. Yes.

Ms. SEWELL. Ms. Lyons, in your experience, administering elections in your jurisdiction in Michigan, were the 2020 and the 2022 elections fair and secure, yes or no?

Ms. LYONS. In my experience, absolutely yes.

Ms. SEWELL. Commissioner Hovland, I wanted to ask a question regarding the Congressional Observers Program. I know that part of the job of the Election Assistance Commission is to educate voters as to what's going on, as well as inform elected officials and electioneers, people who are administering the elections, of the law. I—the congressional Observers Program, literally the authority comes from the Constitution.

So do you educate voters and administrators of elections about the importance of that, or do you think that we need to have a statutory authority designated in order to continue to do it?

Mr. HOVLAND. Thank you for the question. As you mentioned, we produce a lot of educational materials to support election officials at the Election Assistance Commission, as well as voters. You know, I leave the legislating up to you all. But, you know, as I listen to the testimony and thought about the issue of congressional observers, one thing that came to mind, it might be a great topic for an Election Assistance Commission video series that we could send out to one of our boards or all of our advisory boards. Again,

our newest board, the Local Leadership Council, has leadership from every state in the country of the local professional association, and that would be a great opportunity to educate officials about the Congressional Observer Program specifically.

Ms. SEWELL. Very good.

Election observation and poll monitoring are longstanding practices of the United States elections. Providing transparency at multiple stages of the election process helps increase public confidence and allows insight into what is otherwise a very technical process. And I think all of us will agree that it's an important way of getting better confidence in our election process.

Commissioner, can you actually describe some of the measures you have seen states and local election jurisdictions take to gain greater transparency at various stages? Likewise, how have election officials balanced this need to keep their workers and the ballots and the voting equipment safe and secure?

Mr. HOVLAND. Absolutely. You know, when you look at, you know, our election process, of course, transparency is at the heart of that. When I talk to election officials around the country, you know, they are interested in that. You know, many times they are begging the public to come out to things like logic and accuracy testing and to see that and understand the process.

You know, again, I think so much of what we've seen in the mis- and disinformation space is around a lack of understanding. So, as I noted in my testimony, you know, when there are people engaged in the process lawfully, whether as poll watchers, as poll workers, you know, that is always welcome, and/or opportunities just for the public to engage and see the process.

I think that key component there is that people are following the rules, following the law. You know, we've seen, again, obviously since 20—

Ms. SEWELL. I wanted to also ask Ms. Lyons to answer that same question.

From your vantage point, how can we balance the need for public confidence and integrity of our elections and at the same time protect voter intimidation and, frankly, worker—poll worker intimidation? How do you think Michigan has been able to do that?

Ms. LYONS. Thank you for that question. I really appreciate it.

I think the key truly is training. In Kent County, we are responsible for training our election inspectors, and we spend a great amount of time making sure to train those individuals working our elections to be prepared to expect poll challengers and how to handle those instances so that nobody is caught off guard and nobody is surprised.

On the flip side, I think it's really important to have quality training for our poll challengers so that they know full well what the election laws are and what their rights are and where their rights—

Ms. SEWELL. Thank you so much.

Thank you, Madam Chair, for letting me extend a little time.

CHAIR LEE. I now recognize Mr. Morelle for 5 minutes for the purpose of questioning our witnesses.

Mr. MORELLE. Thank you, Madam Chair.

Thank you all for being here and for your work.

About 2 weeks ago, this subcommittee met the witnesses. Among others were Kyle Ardoin, who is the Louisiana Secretary of State; and Chris Anderson, who is the Seminole County supervisor in Florida. Both testified under oath that they believe Joe Biden won the 2020 election.

Let me ask each of you. Ms. Taylor, do you believe Joe Biden won the 2020 election?

Ms. TAYLOR. Yes, sir.

Mr. MORELLE. Mr. Findlay, do you believe Joe Biden won the 2020 election?

Mr. FINDLAY. Yes. Joe Biden is the sitting President.

Mr. MORELLE. I'm sorry?

Mr. FINDLAY. Yes.

Mr. MORELLE. Mr. Cunningham, do you believe Joe Biden won the 2020 election?

Mr. CUNNINGTON. Yes, I do.

Mr. MORELLE. Ms. Lyons, do you believe Joe Biden won the 2020 election?

Ms. LYONS. Yes.

Mr. MORELLE. Mr. Hovland, do you believe Joe Biden won the 2020 election?

Mr. HOVLAND. Yes.

Mr. MORELLE. Before I go on, one thing I do want to note, disclose publicly, I was a county chair for 9 years. I was the Monroe County Democratic Party chair and issued thousands of poll watcher certificates in New York.

I'm not aware of people suggesting that we should not have poll watchers. I just vehemently would be opposed to that. I think poll watchers are an integral part of this process. Sometimes it's hard to find enough people to do it. I'm sure all of you appreciate that, but I think they are important. So I wanted the record to reflect that.

I did have a couple of questions, though. Pardon me for jumping around, but in the 5 minutes, it's awfully hard to get all of this done.

I do want to ask a question of you, Ms. Taylor. I note that you appeared on a podcast called "Who's Counting." And you said, and I think this is a quote, you observed that the organization realized, after the Presidential election—well, that after 2020, there were a lot of very angry people who thought there was something fishy going on in that election and that you were not sure you disagreed with those folks.

So what—I'm sort of curious. In the last year, what's changed your opinion about the 2020 election?

Ms. TAYLOR. I'm not sure that I understand your question.

Mr. MORELLE. Well, I assume when you were relating to the 2020 election, you said in the podcast that you were not sure you disagree with the folks who thought there was something fishy going on in that election, and it was on Cleta Mitchell's podcast, who I think was part of the effort by—was even on the phone call that is now under some review by the Georgia Secretary of State and the President to find 11,780 votes.

Cleta Mitchell was involved in that phone call. She was on the podcast, and you responded that way. You just said under oath that you thought Joe Biden won.

So, in the last year, since you appeared on that episode, I'm just curious as to what changed your opinion or what that you at the time thought was fishy and——

Ms. TAYLOR. I have not changed my opinion. I do believe that President Biden is the President.

Mr. MORELLE. No, but that's not what you testified under oath. I asked you if you thought he won the election, not if he's the President.

Ms. TAYLOR. Oh, okay.

Yes, I do believe that he won the election.

Mr. MORELLE. Okay.

Ms. TAYLOR. I don't think that I said that in the podcast that he didn't win the election.

Mr. MORELLE. No.

Ms. TAYLOR. Were there people who were questioning after 2020? I think we all heard it.

Mr. MORELLE. Well, and you said you were not sure you disagreed with those folks.

Ms. TAYLOR. I don't—because I didn't know the answer.

Mr. MORELLE. That's what I'm saying. So you——

Ms. TAYLOR. I have no idea of evidence of any fraud.

Mr. MORELLE. Okay. Very good.

I wanted to ask you, Mr. Hovland, there has been a lot of concern about the potential of violence on election day, and I want to ask if you thought the current impact or the current environment is impacting election workers, both the ability to attract and retain workers who, obviously, are critical to being able to carry out elections?

Mr. HOVLAND. Thank you for the question.

You know, we are seeing significant turnover in the profession, both for election officials, and, you know, it has always been hard to get poll workers, but certainly there are some concerns.

When I think—when you look at the environment that election officials are facing, really since 2016, we've seen an increase in the cyber threats, challenges with mis-and disinformation that's been compounded by physical threats and harassment. You know, we've more recently seen the weaponization of records requests.

Election officials across the country are really inundated and need our support.

Mr. MORELLE. Very good.

I do say, and I would say this to my colleagues as well as the witnesses, I appreciate the focus on restrictions on observers. I would hope this Committee would be equally concerned with restrictions on voters.

Before I yield back, Madam Chair, I ask unanimous consent to enter into the record a staff memorandum which provides background on the Congressional Election Observation program and contested elections.

CHAIR LEE. Without objection, it will be admitted into the record. [The information referred to follows:]

Congressional Election Observation and Contested Elections: A Primer

March 2023 | 118th Congress, First Session¹

Introduction

This staff memorandum describes the process by which the U.S. House of Representatives acts as the judge of its own elections pursuant to Article I, Section 5, clause 1 of the U.S. Constitution. The memorandum first describes the underlying constitutional authority for the House to judge its own elections, then provides a history of the House’s judging power, as well as a description of the Committee on House Administration’s election observer program.

1) Background and Constitutional Authority

The Constitution vests substantial and broad authority in Congress with respect to federal elections, including to hear and decide contests brought to challenge the results of congressional elections that have been certified by the States. Article I, Section 5, clause 1 of the U.S. Constitution provides that, “Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members.”² Article I, Section 4, clause 1 provides that, “The Time, Places and Manner of holding Elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations.”³ As a preeminent constitutional and elections law scholar recently described this authority at a hearing of the Committee on House Administration:

In a word – one the U.S. Supreme Court has used repeatedly for 142 years – Congress’s power over congressional elections is “paramount.” Under the unambiguous text of the Elections Clause and a long line of Supreme Court precedent, Congress has broad plenary authority to regulate the time, place, and manner of conducting congressional elections. The most recent explication was Justice Scalia’s opinion for seven justices in *Arizona v. Inter-Tribal Council of Arizona* back in 2013 where he referred to the “broad” and “comprehensive” scope of the Elections Clause power.⁴

In addition to the broad and comprehensive authority vested in Congress under the Elections Clause, “Under express provisions of the U.S. Constitution, the final authority over the ‘Elections, Returns and Qualifications of its own Members’ is clearly lodged within each House of Congress.”⁵ Thus, “[t]ogether, ‘these two sections invest Congress with near-complete

¹ Prepared by Committee on House Administration Minority Staff for Ranking Member Joe Morelle.

² U.S. CONST. art. I, § 5, cl. 1.

³ U.S. CONST. art. I, § 4, cl. 1.

⁴ *The Elections Clause: Constitutional Interpretation and Congressional Exercise: Hearing Before the H. Comm. on House Admin., 117th Cong. (2021)* (statement of Daniel P. Tokaji, Fred W. & Vi Miller Dean and Professor of Law, University of Wisconsin Law School).

⁵ L. Paige Whitaker, *Contested Election Cases in the House of Representatives: 1933 to 2009*, CONG. RES. SVC., Nov. 2, 2010.

authority to establish the procedures and render final decisions relating to the election of its members.”⁶

The House has been vested with this authority – and responsibility – from our nation’s very beginning, and it has consistently and regularly exercised it from the First Congress through the One Hundred Eighteenth Congress.

2) A History of Contested House Elections

Over our history, election contests have remained a normal and regular part of the biennial process for electing, recognizing, and seating new Members of the House. Although Congress has opted to revise the statutory framework by which it considers election contests, consideration of such contests has been a regular and recurring part of the House’s constitutional prerogatives and work. Across our nation’s history, approximately 613 elections have been contested in the House – an average of more than 5 per Congress.⁷

Although the authority for the House to determine its own election results was clearly established by the Constitution and exercised immediately in the First Congress, since then, Congress has continued to refine a statutory framework to provide guidelines for how elections contests are to be considered and resolved. Initially, the Committee on Elections was guided by informal practice and precedent. Then, “[i]n 1798 the Fifth Congress (1797-1798) enacted a statute governing the process and procedures relating to contested elections. This statute expired at the end of the First Session of the Sixth Congress (1799-1800).”⁸ A half century later, “[i]n 1851, Congress enacted a second contested election statute, which, with the exception of minor amendments made in 1860, 1873, 1879, and 1887, remained substantially unchanged until enactment of the Federal Contested Elections Act of 1969.”⁹ The Federal Contested Elections Act (FCEA), which was last updated more than 50 years ago, remains the primary statutory framework which guides the House in considering elections contests today.

This memorandum provides a brief overview of that long history, including its roots in English parliamentary practice, early practice in the First Congress, and subsequent statutory developments. It also provides general information about the number of contested election matters in the House.

A) Contested Elections in England and the Colonies

At the time the Framers drafted the Constitution, the practice of reserving to legislative bodies the authority to determine the election of their members had long been established as an important prerogative in both England and, later, the Colonies. In England, “the control by the legislature of the election of its own members originated as a defense against executive

⁶ COMM. ON H. ADMIN., A HISTORY OF THE COMMITTEE ON HOUSE ADMINISTRATION: 1947-2012 115 (2012).

⁷ See Sean J. Wright, *The Origin of Disputed Elections: Case Studies of Early American Contested Elections*, 81 ALB. L. REV. 609, 611 (2018).

⁸ COMM. ON H. ADMIN., A HISTORY OF THE COMMITTEE ON HOUSE ADMINISTRATION: 1947-2012 115 (2012).

⁹ *Id.*

encroachments.”¹⁰ From the sixteenth century, “the House of Commons asserted that it was the sole judge of the election returns of its members and that neither the King nor any court could overrule the decision of the Commons on election contests.”¹¹ The institutional significance of “ultimately deciding their own elections” in the English system “came to be regarded . . . as among the most inviolable of parliamentary privileges.”¹²

This institutional authority was mirrored in the Colonies’ legislative bodies. “As American colonial governments were established, provisions were written into their fundamental laws giving the colonial legislatures control over disputes involving their own membership.”¹³ For example, Virginia’s House of Burgesses considered a contested election in 1619 – more than four hundred years ago.¹⁴ By the time of the Constitutional Convention, “nearly every state constitution adopted” by that time “clearly recognized” the principle of reserving to legislative bodies the authority to decide the elections of their members.¹⁵ “The evidence is that all but two states incorporated in their state constitutions a provision saying that the legislature shall be the sole judge of election returns of its members.”¹⁶

At the Convention, “it seems not even to have been questioned that the House of Representatives should ultimately be the judge of the election of its own members” and the “idea that the House should possess this important privilege was thus accepted as a matter of course and accepted with the original conception of its justification.”¹⁷ By including it, “the framers of the U.S. Constitution simply incorporated a practice already widespread in the states.”¹⁸ The Constitution, “however, left open the question of how each house was to implement that authority.”¹⁹

B) The First Congress and the First Contested Election Case

With authority over each chamber’s elections assured by the Constitution, and perhaps reflecting the significance of the institutional prerogative in England, the very first standing committee formed by the House in the First Congress was the Committee on Elections, created within a month of the House organizing in the First Congress. That committee was tasked with reviewing election contests, with a mandate that “it shall be the **duty** of said committee to examine and report upon the certificates of election, or other credentials of the members returned to serve in this House, and **to take into consideration all such matters as shall or may come in question,**

¹⁰ C.H. Rammekamp, *Contested Congressional Elections*, POL. SCI. Q., Vol. 20, No. 3, 421 (Sep. 1905).

¹¹ INST. FOR RES. IN PUB. SAFETY, AN ANALYSIS OF LAWS AND PROCEDURES GOVERNING CONTESTED ELECTIONS AND RECOUNTS: FINAL REPORT, VOL. I: THE FEDERAL PERSPECTIVE 14 (1978).

¹² C.H. Rammekamp, *Contested Congressional Elections*, POL. SCI. Q., Vol. 20, No. 3, 421 (Sep. 1905).

¹³ INST. FOR RES. IN PUB. SAFETY, AN ANALYSIS OF LAWS AND PROCEDURES GOVERNING CONTESTED ELECTIONS AND RECOUNTS: FINAL REPORT, VOL. I: THE FEDERAL PERSPECTIVE 14 (1978).

¹⁴ *Id.* at 422.

¹⁵ C.H. Rammekamp, *Contested Congressional Elections*, POL. SCI. Q., Vol. 20, No. 3, 422 (Sep. 1905).

¹⁶ INST. FOR RES. IN PUB. SAFETY, AN ANALYSIS OF LAWS AND PROCEDURES GOVERNING CONTESTED ELECTIONS AND RECOUNTS: FINAL REPORT, VOL. I: THE FEDERAL PERSPECTIVE 14 (1978).

¹⁷ C.H. Rammekamp, *Contested Congressional Elections*, POL. SCI. Q., Vol. 20, No. 3, 422 (Sep. 1905).

¹⁸ INST. FOR RES. IN PUB. SAFETY, AN ANALYSIS OF LAWS AND PROCEDURES GOVERNING CONTESTED ELECTIONS AND RECOUNTS: FINAL REPORT, VOL. I: THE FEDERAL PERSPECTIVE 14 (1978).

¹⁹ INST. FOR RES. IN PUB. SAFETY, AN ANALYSIS OF LAWS AND PROCEDURES GOVERNING CONTESTED ELECTIONS AND RECOUNTS: FINAL REPORT, VOL. I: THE FEDERAL PERSPECTIVE 14 (1978) (emphasis original).

and be referred to them by the House, touching returns and elections, and to report their proceedings, with their opinion thereupon, to the House.”²⁰

Initially, the Committee on Elections “recommended that it play a strictly clerical role, wherein it would collect all available evidence and report it back to the chamber, so that the membership might decide on its merits.”²¹ The House “instructed the Committee on Elections to report back the facts of the case, as well as the evidence, so that the membership might more efficiently allocate its time.”²²

The Committee on Elections did not have to wait long to begin work: it reported its first contested election case before President George Washington had even been inaugurated as the nation’s first president.²³ In that case, the House considered a challenge to a new Member, William Loughton Smith of South Carolina, brought on the grounds that Smith had not “been seven Years a Citizen of the United States.”²⁴ Smith was born in South Carolina in 1758, when it was still a colony, and was sent to study in England and Geneva.²⁵ He returned to South Carolina after the war in 1783, began a career in politics, and was elected to the First Congress, with his term to begin on March 4, 1789.²⁶

However, David Ramsay, a delegate to the Continental Congress and South Carolina state legislature, challenged Smith’s election on the basis that he had not been a citizen of the United States for seven years.²⁷ Ultimately, the Committee on Elections and the full House upheld Smith’s election.²⁸ In addition to deciding the question of Smith’s claim to the seat and its significance for issues related to citizenship, the “case gave the House an opportunity to establish precedent for handling future contested elections: the Committee on Elections gathered evidence and rendered a judgment after which the House determined if more evidence was needed and, if not, voted on the committee’s report.”²⁹

C) The pre-Civil War era

With the House having exercised its constitutional authority to address elections contests immediately in the First Congress and having done so via the new Committee on Elections, in the Second Congress, the House “went a step further, instructing the Committee on Elections to sift through the evidence gathered and report back a recommendation on the case, that is, whether the

²⁰ 1 Annals of Congress 127 (Apr. 13, 1789).

²¹ Jeffrey A. Jenkins, *Partisanship and Contested Election Cases in the House of Representatives, 1789-2002*, 18 STUDIES IN AM. POL. DEV. 112, 113-114 (2004).

²² *Id.* at 114.

²³ Ofc. of the Historian, *The First House-Contested Election*, available at <https://history.house.gov/Historical-Highlights/1700s/The-first-House-contested-election/>.

²⁴ *Id.*; U.S. Const., art I., § 2.

²⁵ Thomas H. Lee, *Natural Born Citizen*, 67 AM. UNIV. L. REV. 327, 357-359 (2017).

²⁶ *Id.*

²⁷ *Id.*

²⁸ COMM. ON H. ADMIN, HISTORY OF THE UNITED STATES HOUSE OF REPRESENTATIVES, 1789 – 1994, 16, H. Doc. 103-324.

²⁹ Ofc. of the Historian, *The First House-Contested Election*, available at <https://history.house.gov/Historical-Highlights/1700s/The-first-House-contested-election/>.

House should rule in favor of the contestant (the individual contesting, or disputing, the election), the contestee (the individual holding the election certificate, who was typically seated), or neither (in which case the recommendation would be that the election, and the seat, be vacated).³⁰ With that additional mandate and authority, “the Committee on Elections adopted informal, and irregular, procedures for taking testimony and collecting evidence.”³¹

However, in practice, this “informal mode of procedure would create difficulties, as requirements for gathering evidence and recording depositions tended to shift based on the whims (and partisanship) of individual committee members,” and lacked a more formal foundation.³² So, after a number of unsuccessful attempts in subsequent Congresses, in the Fifth Congress, Congress passed a law which “instituted a more formal mode of procedure: establishing the manner of serving summons on witnesses, the process of serving notification on the opposing party, the manner in which witnesses would be examined and testimony taken,” and other procedures.³³

When that 1798 law expired, it was renewed in 1800 and expired again in 1804.³⁴ That led to another cycle of unsuccessful attempts to pass a new law providing for a “uniform mode of procedure,” but no replacement legal framework was passed for decades.³⁵ In the meantime, the Committee on Elections relied primarily on “the practices and procedures in the States wherein the contests arose” in determining how to collect evidence and take testimony.³⁶

Eventually, in 1851, Congress did succeed in creating a more comprehensive statutory framework to guide the consideration of election contests.³⁷ Under this new, more formalized regime,

the contestant was given thirty days after the election results were announced to provide formal notice, in writing, to the contestee. Moreover, the contestant was required to specify all grounds on which the contest was based. The contestee was then given thirty days to respond to charges made by the contestant, including an elaboration as to why the election was valid. Thus, within sixty days following an election, the issues under consideration were to be clearly articulated. The contestee and contestant would then have the next sixty days to take and transcribe testimony, which would upon completion, along with all other relevant materials, be sealed and sent to the House Clerk. The evidence would then, shortly after the commencement of a given congress, be printed and submitted by the House Clerk to the Committee on Elections.³⁸

³⁰ Jeffrey A. Jenkins, *Partisanship and Contested Election Cases in the House of Representatives, 1789-2002*, 18 STUDIES IN AM. POL. DEV. 112, 114 (2004).

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ Jeffrey A. Jenkins, *Partisanship and Contested Election Cases in the House of Representatives, 1789-2002*, 18 STUDIES IN AM. POL. DEV. 112, 114 (2004).

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

This new framework would largely be “the guiding statute for settling contested election cases for more than a century,” until a new act was passed in 1969.³⁹ So, this law was the foundation in place when Congress entered a period of particularly significant contested elections activity.

D) Reconstruction and Black Representatives

Following the Civil War, “Black Representatives in the Reconstruction Era were profoundly affected by contested elections.”⁴⁰ During that time, according to a comprehensive history prepared by the House’s Office of History and Preservation at the direction of the Committee, “Black candidates still faced monumental electoral obstacles.”⁴¹ For example,

Violence and intimidation were commonplace during congressional campaigns . . . White supremacists threatened black voters and attacked the candidates during campaigns. The irregularities and confusion resulting from violent campaigns led to an influx of contested elections, and the House Committee on Elections handled an unusually heavy caseload during the Reconstruction Era.⁴²

In fact, 60 percent of cases the Committee on Elections heard “between 1867 and 1911 were from the former Confederacy – a percentage that is even more impressive given the Confederate states constituted around 25 percent of the House.”⁴³

When the Committee considered such cases, Members of the panel heard each candidate’s evidence asserting his right to the seat. The committee voted for its choice candidate and reported its findings to the whole House for a final vote. Usually, the candidate representing the majority party had a distinct advantage because votes within the committee and on the House floor were often decided along party lines.⁴⁴

During that time period, “A contested election prevented the seating of the first black man who won a congressional election.”⁴⁵ John Willis Menard won a special election in Louisiana with 65 percent of the vote, but his opponent contested the results, and the Committee on Elections declared the seat vacant.⁴⁶ When Menard defended his right to take office on the floor on February 27, 1869, he became the first Black man to address the House while it was in session.⁴⁷ A number of other Black candidates lost contested elections – some multiple times – while few prevailed.⁴⁸

³⁹ *Id.*

⁴⁰ OFC. OF HISTORY AND PRESERVATION, OFC. OF THE CLERK, BLACK AMERICANS IN CONGRESS, 1870-2007 30 H.R. Doc. No. 108-224 (2008) (prepared under the direction of the Comm. on H. Admin.).

⁴¹ OFC. OF HISTORY AND PRESERVATION, OFC. OF THE CLERK, BLACK AMERICANS IN CONGRESS, 1870-2007 29 H.R. Doc. No. 108-224 (2008) (prepared under the direction of the Comm. on H. Admin.).

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ OFC. OF HISTORY AND PRESERVATION, OFC. OF THE CLERK, BLACK AMERICANS IN CONGRESS, 1870-2007 30 H.R. Doc. No. 108-224 (2008) (prepared under the direction of the Comm. on H. Admin.).

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ OFC. OF HISTORY AND PRESERVATION, OFC. OF THE CLERK, BLACK AMERICANS IN CONGRESS, 1870-2007 30 H.R. Doc. No. 108-224 (2008) (prepared under the direction of the Comm. on H. Admin.).

For example, Josiah Walls – the first Black man to represent Florida in the House (and the only Black Representative from the state until the early 1990s) – was unseated twice following contests filed regarding elections in which he was initially declared the winner.⁴⁹ First, in the 1870 election, Walls, who had been born into slavery in 1842, defeated a former slave owner and Confederate veteran by 627 votes following a campaign in which Walls was nearly assassinated.⁵⁰ His opponent contested the election and alleged that canvassers had improperly rejected ballots in eight counties; Walls, in turn, alleged that he had “lost more votes due to voter intimidation by the Ku Klux Klan . . . but he had little tangible evidence to support this claim.”⁵¹ Although Walls was a Republican and Republicans controlled the House, ultimately the Republican majority sided with his Democratic opponent, “a rare case in which the committee decided with the candidate from the minority party.”⁵²

Walls ran again and was elected to the House in 1872 and narrowly won re-election in 1874, but again his opponent contested his election.⁵³ Walls was seated while the contest was pending and was allowed to speak briefly on the floor during debate on his right to the seat after the Committee on Elections recommended seating his opponent, but none of his six Black colleagues were allowed to speak during the two days of debate.⁵⁴ The House decided the contest in favor of his opponent, 135 to 84, with 71 abstentions.⁵⁵

John Mercer Langston became one of the first Black Americans to hold elected office when he won a local election in Ohio in 1855.⁵⁶ After holding a series of “prominent political and educational appointments, including establishing the law department at Howard University and receiving appointments from Presidents Ulysses S. Grant and Rutherford B. Hayes, Langston moved to Virginia and ran for the House in 1888.”⁵⁷

Langston’s campaign sent observers to “monitor every precinct for irregularities” and “instructed voters to say Langston’s name after voting, as evidence of their support.”⁵⁸ But separate lines for Black and White voters meant that Black voters “had to wait as long as three hours to vote,” ballots for Langston were allegedly removed from ballot boxes, and Langston’s observers were not allowed to witness the vote count.⁵⁹ After the initial results showed Langston

⁴⁹ OFC. OF HISTORY AND PRESERVATION, OFC. OF THE CLERK, BLACK AMERICANS IN CONGRESS, 1870-2007 88 H.R. Doc. No. 108-224 (2008) (prepared under the direction of the Comm. on H. Admin.).

⁵⁰ *Id.*

⁵¹ OFC. OF HISTORY AND PRESERVATION, OFC. OF THE CLERK, BLACK AMERICANS IN CONGRESS, 1870-2007 90 H.R. Doc. No. 108-224 (2008) (prepared under the direction of the Comm. on H. Admin.).

⁵² *Id.*

⁵³ OFC. OF HISTORY AND PRESERVATION, OFC. OF THE CLERK, BLACK AMERICANS IN CONGRESS, 1870-2007 90-91 H.R. Doc. No. 108-224 (2008) (prepared under the direction of the Comm. on H. Admin.).

⁵⁴ OFC. OF HISTORY AND PRESERVATION, OFC. OF THE CLERK, BLACK AMERICANS IN CONGRESS, 1870-2007 91 H.R. Doc. No. 108-224 (2008) (prepared under the direction of the Comm. on H. Admin.).

⁵⁵ *Id.*

⁵⁶ OFC. OF HISTORY AND PRESERVATION, OFC. OF THE CLERK, BLACK AMERICANS IN CONGRESS, 1870-2007 206 H.R. Doc. No. 108-224 (2008) (prepared under the direction of the Comm. on H. Admin.).

⁵⁷ OFC. OF HISTORY AND PRESERVATION, OFC. OF THE CLERK, BLACK AMERICANS IN CONGRESS, 1870-2007 208 H.R. Doc. No. 108-224 (2008) (prepared under the direction of the Comm. on H. Admin.).

⁵⁸ *Id.*

⁵⁹ *Id.*

losing by 641 votes, he contested the results. Although the Committee on Elections recommended finding Langston the victor in June 1890 – more than halfway through the 51st Congress – the whole House was delayed from hearing the contest for months while Democrats “repeatedly blocked the case from coming to a vote on the floor, primarily by vacating the chamber to prevent a quorum.” Finally, in late September 1890, the House voted to seat Langston 151 to 1 – with more than 90 percent of Democrats avoiding the floor in an attempt to against deny a quorum.⁶⁰

The same day the House voted to seat Langston, it then also voted to decide another contested election in favor of Thomas Miller, a Black candidate from South Carolina.⁶¹ Miller trailed in the vote count following the 1888 election, but he “contested the election, charging that many registered black voters were prohibited from casting their ballots” and protesting the state’s “eight box ballot law” as a scheme to confuse Black voters.⁶² After the vote to seat Langston, Miller was similarly seated, by a vote of 157 to 1, with many Democrats again trying to deny a quorum.⁶³

Because the House’s action came so late in the 51st Congress, Miller had only about a week of service in the House in Washington before he returned to South Carolina to run for re-election in the 52nd Congress.⁶⁴ Miller appeared to win the election, but his opponent challenged the results in court and the South Carolina Supreme Court sided with his opponent.⁶⁵ Miller then contested the election in the House.⁶⁶

However, while still serving in the 51st Congress, Miller spoke in favor of legislation “authorizing the federal government to oversee federal elections and protect voters from violence and intimidation, ignoring threats that his support of the bill would endanger his ability to win the pending election.”⁶⁷ When the Congress reconvened in the 52nd Congress, action on his contest was stalled until there was only one month left in the entire Congress, when the Committee on Elections decided in favor of Miller’s opponent.⁶⁸

In general, the “number of contested elections in the House increased dramatically in the late 19th century.”⁶⁹ One factor for the increase was that the nation “was nearly evenly divided between the two political parties; congressional majorities flip-flopped five times between 1870

⁶⁰ OFC. OF HISTORY AND PRESERVATION, OFC. OF THE CLERK, BLACK AMERICANS IN CONGRESS, 1870-2007 209 H.R. Doc. No. 108-224 (2008) (prepared under the direction of the Comm. on H. Admin.).

⁶¹ OFC. OF HISTORY AND PRESERVATION, OFC. OF THE CLERK, BLACK AMERICANS IN CONGRESS, 1870-2007 216 H.R. Doc. No. 108-224 (2008) (prepared under the direction of the Comm. on H. Admin.).

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ OFC. OF HISTORY AND PRESERVATION, OFC. OF THE CLERK, BLACK AMERICANS IN CONGRESS, 1870-2007 216 H.R. Doc. No. 108-224 (2008) (prepared under the direction of the Comm. on H. Admin.).

⁶⁸ OFC. OF HISTORY AND PRESERVATION, OFC. OF THE CLERK, BLACK AMERICANS IN CONGRESS, 1870-2007 217 H.R. Doc. No. 108-224 (2008) (prepared under the direction of the Comm. on H. Admin.).

⁶⁹ OFC. OF HISTORY AND PRESERVATION, OFC. OF THE CLERK, BLACK AMERICANS IN CONGRESS, 1870-2007 162 H.R. Doc. No. 108-224 (2008) (prepared under the direction of the Comm. on H. Admin.).

and 1900.” Also, “contested elections ‘were the vehicle by which the Republican Party sought to preserve a party organization in the South during the nineteenth century.’”⁷⁰

One scholar has observed that “by the 1870s and 1890s, the Republican dominance in the North, which was consolidated during the Civil War, had ended,” the “use of contested elections was crucial to the continued Republican success in the House.”⁷¹ This was partly because, “[m]any of the strategic tools that Republicans used effectively throughout the late-nineteenth century, like redistricting, admittance of western states, and deployment of federal election officials were not effective in maintaining a Republican presence in the South.”⁷²

When “a Republican majority could influence the outcome, the party encouraged its candidates to contest, viewing contested elections as an ‘institutional equalizer’ for electing southern Republican Representatives to the House and maintaining a majority.”⁷³ Black candidates who were “loyal Republicans . . . enjoyed greater success in contesting their Democratic opponents’ victories before a Republican-controlled House during this period,” including Langston and Miller.⁷⁴

Throughout this period, the increase in contested elections “placed a considerable burden on members of the Committee on Elections.”⁷⁵ As a result, in the 54th Congress – with 38 contested election cases pending, 28 of which originated in the South – the Committee on Elections was “split into three separate panels named Elections #1, Elections #2, and Elections #3.”⁷⁶ This arrangement would remain in place until “the Legislative Reorganization Act of 1946 combined them under the jurisdiction of the Committee on House Administration.”⁷⁷

However, “After the 56th Congress (1899-1901), the use of contested elections as a partisan tool ended abruptly.”⁷⁸ Factors driving this change included (1) “many Republicans were not enthusiastic about its continued use as a partisan device,” in part because it was a time consuming process that detracted from time to spend on legislative priorities, (2) as a tactic to “maintain a Republican presence in the former Confederate South [it] was largely a failure,” since most of the Republicans who “successfully unseated Democrats via the contested election procedure were unable to build a base of support and maintain control of their districts,” and (3) “the changing electoral landscape in the late 1890s made the use of election contests as a partisan tool no longer necessary.”⁷⁹

⁷⁰ Jeffrey A. Jenkins, *Partisanship and Contested Election Cases in the House of Representatives, 1789-2002*, 18 STUDIES IN AM. POL. DEV. 112, 113 (2004).

⁷¹ *Id.* at 128.

⁷² *Id.*

⁷³ OFC. OF HISTORY AND PRESERVATION, OFC. OF THE CLERK, BLACK AMERICANS IN CONGRESS, 1870-2007 162 H.R. Doc. No. 108-224 (2008) (prepared under the direction of the Comm. on H. Admin.).

⁷⁴ *Id.*

⁷⁵ OFC. OF HISTORY AND PRESERVATION, OFC. OF THE CLERK, BLACK AMERICANS IN CONGRESS, 1870-2007 187 n.55 H.R. Doc. No. 108-224 (2008) (prepared under the direction of the Comm. on H. Admin.).

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ Jeffrey A. Jenkins, *Partisanship and Contested Election Cases in the House of Representatives, 1789-2002*, 18 STUDIES IN AM. POL. DEV. 112, 132 (2004).

⁷⁹ *Id.* at 132-134.

E) The FCEA and Modern Practice

The current framework for the House to consider contested elections is chiefly the product of two legislative modernization efforts in the mid-twentieth century. First, as part of a broader legislative reorganization, as noted above, the three Committees on Elections (as well as some other committees) were combined in the new Committee on House Administration, which has express jurisdiction over contested House elections.⁸⁰ This consolidation of the three former separate Committees on Elections contests ensured, among other things, that one committee with a common group of Members would be tasked with the jurisdiction and authority to review and consider election contests.

Second, in 1969, Congress passed the Federal Contested Election Act (FCEA), which lays out the procedure for candidates for the House of Representatives to contest an election. By that time, the 1851 law was more than a century old and reflected a very different era: when the House had only 231 seats, not 435, and when the nation had only 31 states, not 50. When that law was passed, the State of California was not yet one year old and the Civil War was still a decade away. So it was perhaps not surprising that, as one Member of the Committee put it in debate, the contested election statute was “antiquated and cumbersome” and its procedures were “unsuitable for the changed conditions of our time.”⁸¹

The FCEA was intended to “completely overhaul and modernize election contest procedures in the House,” by bringing those procedures “‘into closer conformity with the Federal Rules of Civil Procedure upon which the contested election procedures prescribed’ were based.”⁸² The Committee’s report “stressed it was ‘essential . . . that such contests be determined by the House under modern procedures which would provide efficient, expeditious processing of the cases and a full opportunity for both parties to be heard. Historical experience with the existing law had documented its inadequacies.’”⁸³

The changes made by combining existing authorities of other, older committees into the new Committee of House Administration and enacting the FCEA gave the Committee jurisdiction over elections contests and provided it with a statutory framework to help guide its work in this area, including the authority to examine election returns, procedures, ballots, and more in an elections contest case. As the Congressional Research Service puts it:

The FCEA, codified at 2 U.S.C. Sections 381-396, governs contests for the seats in the House of Representatives that are initiated by a candidate in the challenged election. The FCEA essentially sets forth and details the procedures by which a defeated candidate may contest a seat in the House of Representatives. The contest under the FCEA is heard by the Committee on House Administration upon the record provided and established by the parties to the contest. After the contest is heard by the committee, the committee reports the results. After discussion and

⁸⁰ COMM. ON H. ADMIN., A HISTORY OF THE COMMITTEE ON HOUSE ADMINISTRATION: 1947-2012 30 (2012).

⁸¹ *Id.* at 116.

⁸² *Id.* at 115.

⁸³ *Id.* at 116.

debate, the whole House can dispose of the case by privileged resolution by a simple majority vote.⁸⁴

Since the FCEA was passed, “*all* contested election cases in the House have been dealt with by the Committee on House Administration.”⁸⁵ Today, election contests remain a regular and expected part of the federal election cycle. In fact, every two years, as will be discussed in greater detail later in this memorandum, the Committee on House Administration works on a bipartisan basis to send election observers to congressional districts where there is reason to believe that the general election results may be particularly close, or susceptible to challenge. For the most recent general election in November 2022, the Committee sent observers to 22 districts in 10 states – identified by both Democrats and Republicans before the election – to proactively monitor elections for which there was a reasonable basis to expect that a contest might be filed. And as noted above, across our nation’s history, approximately 613 elections have been contested in the House – an average of more than 5 per Congress.

3) The Committee on House Administration’s Contested Election Observer Program

Every two years, the U.S. House of Representatives sends observers to congressional districts where there is reason to believe that the general election results for congressional district races may be particularly close, or susceptible to challenge, to monitor the administration of elections. It does so under the power granted to the House in Article I, Section 5 of the U.S. Constitution to “be the Judge of the Elections, Returns, and Qualifications of its own Members.”⁸⁶ The Committee on House Administration (the Committee), by virtue of its statutory and Rule X jurisdiction over contested House elections, manages the contested election observer program for the House. The role of these observers is limited strictly to observation and fact-finding, to serve as the contemporaneous “eyes and the ears” of the House in a given Congressional election.

The Committee has a long-standing practice of working collaboratively on a bipartisan basis to send observers to congressional districts as part of this program to proactively monitor congressional elections for which there was a reasonable basis to expect a contest might be filed. The observers serve on a voluntary basis and are employees of the House. There is evidence of the Committee sending observers in these circumstances in Committee summary of activities reports dating back to the at least the 97th Congress (1981-1983).

A) Purpose and Structure of the Contested Election Observer Program

Acting on behalf of the House, observers gather information with respect to the election they were sent to observe and report their findings to the Committee. Observers are typically sent after Election Day at the request of one of the candidates in the general election. Traditionally, observers are deployed in bipartisan teams, with a representative from the majority and the minority. Critically, they are sent as nonpartisan observers representing the House. They are not

⁸⁴ L. Paige Whitaker, Cong. Research Serv., RL33780, Procedures for Contested Elections in the House of Representatives 3 (Nov. 4, 2010), available at <https://sgp.fas.org/crs/misc/RL33780.pdf> (describing contest in which the House ignored the FCEA’s filing deadline).

⁸⁵ Jeffrey A. Jenkins, *Partisanship and Contested Election Cases in the House of Representatives, 1789-2002*, 18 STUDIES IN AM. POL. DEV. 112, 115 (2004) (emphasis original).

⁸⁶ U.S. CONST. art. I, § 5, cl. 1.

observing on behalf of any candidate or political party. As a result, only House staff can serve as observers, as their observer assignments are treated as a part of their official duties, even though they volunteer to participate in the program. To avoid conflicts, staff do not observe in the district of the member they work for.

Observers monitor any part of the voting counting process that is still in progress when they arrive, such as the validation and counting of absentee ballots, the canvass, the validation and counting of provisional ballots, and audits. Observers may also be sent to observe any recount conducted in congressional district races. The contemporaneous capture of the details of these procedures builds a strong evidentiary record in the event of a contest. The record from observers on behalf of the House is invaluable for the Committee as it evaluates the evidence presented by the parties in an election contest and the credibility of their claims, and determines whether a further investigation is warranted.

During federal election cycles, the Committee prepares for the possibility of a contested election by recruiting and training House staff as observers. Observers are instructed not to interfere with election officials in the performance of their duties, nor to influence the results in any way. They are, however, encouraged to ask questions to ensure that they fully understand the process they are observing.

Potential observers are provided with training that includes a brief overview of the contested elections process in the House, the stages of the election and post-election process, and details on what is expected of observers. Observers are told they will be assigned to vote counting locations, monitor the counting and certification process, and document any irregularities. They are instructed that their role is to record any information that may become helpful if a contest is filed and an investigation becomes necessary. After receiving an assignment, they are also provided with information on election laws and processes specific to the state and district to which they are assigned.

House staff benefit from their experiences observing. Many staff in Hill and District offices are removed from the electoral process. Participating in the contested election observer program provides staff with insight they likely would not have received elsewhere. It also provides a real-time opportunity to observe election administration practices and furthers Congress' legislative prerogatives under the Elections Clause to pass reforms to federal election laws.

As they are observing together, House staff from the majority and minority work together, building bipartisan relationships that would not have been forged otherwise. Many observers for the majority in 2022 coordinated with their minority colleagues to gather information during their observer assignments. At a time when Congress is becoming increasingly partisan, this bipartisan collaboration and relationship building is particularly valuable.

For decades, the contested election observer program has been an integral part of how the House executes its ultimate Constitutional authority to judge the qualifications of its Members. House staff who participate as observers travel around the country to congressional districts, where they work diligently and in a bipartisan manner to ensure the House has a contemporaneous and unbiased record of election administration in any district that may later be the subject of an election contest.

Every two years during the federal election cycle, the Committee devotes significant staff time and resources to supporting this program. In return, the contested election program provides the Committee not only with valuable information when considering election contests, but also important data on election administration in the states which can help shape the Committee's oversight and legislating of federal elections.

B) The Contested Election Observer Program in 2020

Prior to the 2020 general election, the Committee's Democratic majority staff trained over 200 observers from Committee and Member offices in preparation for the contested election observer program. With the unprecedented public health and safety challenges of the 2020 election, the highest priority of the Committee was to protect the health and safety of the observers during their assignments. The Committee staff coordinated with the Office of the Attending Physician, Employment Counsel, Office of the General Counsel, and House Security experts in preparation for observer program, and incorporated their suggestions into the program's processes and procedures. All observers were reimbursed for any Personal Protective Equipment they purchased as part of their assignment and were encouraged to follow the health and safety recommendations of the Office of the Attending Physician, including completing daily health screening before starting their assignments.

In 2020, the Committee majority and minority together sent 63 observers to 25 districts – at the request of both Democratic and Republican candidates – to proactively monitor elections for which there was a reasonable basis to expect that a contest might be filed. The number of observers requested for the 2020 election increased dramatically from the previous election—the Committee received over 2.5 times more requests for observers in 2020 than it did in 2018. In total, the Committee received 31 requests for observers in 2020, compared to receiving 12 requests in 2018.

Requests for observers came from races in Arizona, California, Georgia, Iowa, Illinois, Indiana, Michigan, Minnesota, New Jersey, Nevada, New York, Pennsylvania, Texas, Utah, and Virginia. Seven requests came from Democratic Candidates and the other 24 requests came from Republican Candidates. Some of the requests, however, were withdrawn before the Committee sent observers. Observers were sent to both of the congressional districts in which contests were eventually filed, Illinois's 14th Congressional District and Iowa's 2nd Congressional District, as well as many others.

For the 25 districts to which observers were deployed, the length of the deployments varied. Observer assignments started immediately after Election Day and the Committee had observers on the ground as late as January 2021 in New York's 22nd Congressional District, which was the last House race to be certified after litigation delayed certification.

C) The Contested Election Observer Program in 2022

Heading into the 2022 general election, the Committee majority staff trained nearly 200 observers from Committee and Member offices in preparation for the contested election observer program. The Committee received 24 requests for observation, with all requests coming from Republican candidates. The Committee majority and minority together sent bipartisan teams of

observers to 22 districts in 10 states⁸⁷ to proactively monitor elections for which there was a reasonable basis to expect that a contest might be filed. Observers were deployed to districts in Arizona, California, Colorado, Illinois, Maryland, New Jersey, New York, Oregon, Pennsylvania, and Virginia. For the 22 districts to which observers were deployed, the length of deployments varied. While the Committee received fewer observation requests compared to the 2020 general election cycle, the number of requests remained higher than most previous election cycles.

4) Conclusion

As shown in this memo, the House's judging power and the Committee on House Administration's observer program are essential tools that help ensure the integrity of federal elections for the House of Representatives. It is critical that the House continue to play this role in a professional and bipartisan manner so that the American voters can be assured that their elected representatives are truly chosen by and for the People.

⁸⁷ Of the 24 requests, 2 were withdrawn before the House put observers on the congressional districts.

Mr. MORELLE. Thank you.

CHAIR LEE. I now recognize Mrs. Torres for 5 minutes for the purpose of questioning our witnesses.

Mrs. TORRES. Thank you, Chairwoman.

Commissioner Hovland, it is my understanding that the Election Assistance Commission is involved in several convening organizations, state and local election officials, law enforcement personnel, nonprofits, and other government agencies that seek to protect election officials from attacks and intimidations.

Can you tell us a little bit about how that's going and what have been some of the outcomes based on those meetings that you have been—participated in?

Mr. HOVLAND. Yes.

You know, the agency, the Election Assistance Commission, has certainly heard from a number of those people. I, individually, as part of the Committee for Safe and Secure Elections have also heard a number of those conversations.

You know, and really, I mean, it is heartbreaking to hear the stories of people, publicly servants who run our elections, you know, doing their jobs and being scared for their own physical safety, for the safety of their families. You know, a lot of the work of, as I mentioned, the Committee for Safe and Secure Elections, that's a bipartisan group and—

Mrs. TORRES. I'm just interested in what has been the outcome of those briefings.

Mr. HOVLAND. Well, those conversations really have been—you know, so much of this conversation has been about that balance of transparency and security, and a lot of those conversations are recognizing that we want Americans to participate in the process—

Mrs. TORRES. Have there been any recommendations that have been made?

Mr. HOVLAND. There have been a number of recommendations, including primarily helping law enforcement and election officials work together. I have those conversations ahead of time so that everybody involved knows where that line is between the First Amendment and crossing over the line.

Mrs. TORRES. As well as the roll that they play in ensuring that every voter has an opportunity to cast their ballot.

You know, as a member of the Financial Services and General Government Appropriations Subcommittee, which has jurisdiction over the Election Assistance Commission, I look forward to working with all of my colleagues to ensure that we are supporting States and election officials at all levels.

Ms. LYONS, thank you for being here, and thank you for your statement and your commitment to ensuring that, you know, you are providing the training and the leadership, you know, for all observers.

I wonder if you can share with me as to how many hours these observers, you know, spend with you in their training and at what cost, financially what cost?

Ms. LYONS. Thank you very much for that question.

I think it's important to make a distinction that, in terms of training, the county clerk is responsible for training the election in-

spectors, those who work in our precincts and in our absentee counting boards, to administer the election.

The responsible party for training poll challengers in Michigan lies upon the political parties and the organizations who have been approved to be——

Mrs. TORRES. Okay.

Mr. Findlay, how much time and at what cost do you train, do you spend training folks?

Mr. FINDLAY. We spend significant time training our poll watchers. We go through either an in-person or a Zoom training with everybody who is going to be a poll watcher.

In addition to that——

Mrs. TORRES. Is that in the law, the election law? Primarily focused on training on election law?

Mr. FINDLAY. Yes. So on election law and also election process.

Mrs. TORRES. Do you spend any time teaching common courtesy?

Mr. FINDLAY. Absolutely. As part of the poll watching principles that I went through earlier, those are required to be part of every RNC training. So, not only do we hold a training where we go over those principles, we also distribute those, you know, just prior to election day so that people have a copy to take in there with them.

We also have people on the ground on election day, kind of rovers, that might go from place to place to provide assistance to our poll watchers.

Mrs. TORRES. Thank you.

If I may interrupt and ask, you know, is there any background done on any of these volunteers that you may know of?

Commissioner, we'll start with you. As far as, you know, have they been charged with aggravated assault for violating any laws that would put potential volunteers and voters in danger?

Mr. HOVLAND. You know, that's really something that's going to vary across the country and the organization——

Mrs. TORRES. Okay.

Ms. Lyons.

Ms. LYONS. Thank you for the question.

To my knowledge, there is no requirement of background. They are just required to be registered voters.

Mrs. TORRES. Mr. Cunningham?

Mr. CUNNINGTON. I'm not familiar.

Mrs. TORRES. Mr. Findlay?

Mr. FINDLAY. We do go through a vetting process to make sure that people are who they say they are.

Mrs. TORRES. Thank you.

Mr. FINDLAY. We have——

Mrs. TORRES. I ran out of time. So I will yield back to the chair. Thank you so much to all of you.

CHAIR LEE. Thank you, Mrs. Torres.

Again, I would like to thank our witnesses for joining us today to participate in this important discussion about the roll that election observers play in our Nation's elections. Observers are critical to ensuring integrity and voter trust in our elections.

We must work together to ensure that we have transparency into how elections are administered so that, in turn, all voters can have confidence in the outcomes.

There is a saying among election officials: Elections are partisan; election administration is not. The observer program helps us ensure that election officials across our country are living up to this standard every day.

I also look forward to continue training of congressional staff on how to be effective election observers and ensure those volunteers have necessary access in future elections.

Members of the subcommittee may have some additional questions for our witnesses, and we ask that you please respond to those questions in writing.

Without objection, each member will have 5 legislative days to insert additional material into the record or to revise or extend their remarks.

If there is no further business, I thank the members for their participation.

Without objection, the committee stands adjourned.

[Whereupon, at 11:44 a.m., the subcommittee was adjourned.]

