

# COMPILATION OF HEARINGS ON THE JANUARY 6TH INVESTIGATION

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## HEARINGS BEFORE THE SELECT COMMITTEE TO INVESTIGATE THE JANUARY 6TH ATTACK ON THE UNITED STATES CAPITOL HOUSE OF REPRESENTATIVES ONE HUNDRED SEVENTEENTH CONGRESS

SECOND SESSION

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JULY 27, 2021  
JUNE 9, 13, 16, 21, 23, and 28, 2022  
JULY 12 and 21, 2022

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**Serial No. 117-10**

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Printed for the use of the Select Committee to Investigate the January 6th  
Attack on the United States Capitol



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U.S. GOVERNMENT PUBLISHING OFFICE

50-139 PDF

WASHINGTON : 2023

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THE UNITED STATES CAPITOL

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## THE LAW ENFORCEMENT EXPERIENCE ON JANUARY 6TH

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Tuesday, July 27, 2021

U.S. HOUSE OF REPRESENTATIVES,  
SELECT COMMITTEE TO INVESTIGATE THE JANUARY 6TH  
ATTACK ON THE UNITED STATES CAPITOL,  
*Washington, DC.*

The Committee met, pursuant to notice, at 9:31 a.m., in Room 310, Cannon House Office Building, Hon. Bennie G. Thompson [Chairman of the Committee] presiding.

Present: Representatives Thompson, Lofgren, Schiff, Aguilar, Cheney, Murphy, Raskin, Luria, and Kinzinger.

Chairman THOMPSON. A quorum being present, the Select Committee to Investigate the January 6th Attack on the United States Capitol will be in order.

The Select Committee is meeting today to receive testimony on “The Law Enforcement Experience on January 6th.”

Without objection, the Chair is authorized to declare the Committee in recess at any time.

I now recognize myself for an opening statement.

Let me say a few words at the outset about this Committee’s work and how, as Chairman, I plan to run things. We’re going to be guided solely by the facts: the facts of what happened on January 6th, the run-up to that tragic day, and what has taken place since. That’s what we’re charged to do by House Resolution 503.

There is no place for politics or partisanship in this investigation. Our only charge is to follow the facts where they lead us. While we have a lot to uncover, there are a few things we already know.

We know that the insurrection on January 6th was a violent attack that involved vicious assaults on law enforcement. We know there is evidence of a coordinated, planned attack. We know that men and women who stormed the Capitol wanted to derail the peaceful transfer of power in this country. We know that 7 people lost their lives; that more than 140 police officers suffered injuries. We know that efforts to subvert our democracy are on-going. A major part of the Select Committee’s work will be to find ways to eliminate that threat.

We also know that the rioters came dangerously close to succeeding. If not for the heroism of the United States Capitol Police and the Metropolitan Police Department, many more lives might have been lost and the rioters could have accomplished what they set out to do: Upend American democracy.

It’s an honor to have four of these heroes sitting before us today. We welcome them for appearing here and, more importantly, for

your heroism on January 6th. You have the gratitude of this Committee and this country.

You held the line that day. I can't overstate what was on the line: our democracy. You held the line.

We're going to revisit some of those moments today, and it won't be easy, but history will remember your names and your actions.

It's important to think about history as this Committee starts its work and as we hear from these courageous men and to get answers for the American people; because we need to understand our history if we want to understand the significance of what happened on January 6th and our role as Members of the people's House.

I'm talking about the peaceful transfer of power. Two hundred twenty years ago, in 1801, the House of Representatives did one of its jobs laid out in the Constitution. After a deadlock in the electoral college, this body cast 36 ballots and ultimately settled the contest for President of the United States. What followed was the first peaceful transfer of power in our country's history.

We know that, since then, our history has been far from perfect. We've been torn apart and brought back together. We've struggled across generations to make our country's great vision a reality for all Americans. We've won victories, and we've suffered failures, but the peaceful transfer of power has stood as the pillar of our democracy.

It's one of those things we rely on, a safeguard that we hold close, because, as heated and angry and divided as we may be, whatever victories we celebrate or upheavals we endure, we can rest easy knowing that, when the moment comes, our system guarantees that one party will hand the reins to another if that's the will of the people.

While our institution's endured and while Joe Biden is the legitimately elected President of the United States, a peaceful transfer of power didn't happen this year. It did not happen.

Let that sink in. Think about it.

A violent mob was pointed toward the Capitol and told to win a "trial by combat". Some descended on this city with clear plans to disrupt our democracy. One rioter said that they weren't there to commit violence but that—I'm quoting—"We're just there to overthrow the Government."

I want to repeat that. I urge everyone to listen to those words and think about what they mean. "We were just there to overthrow the Government."

They marched on the Capitol with the clear intentions of stopping the certification of the election. When they encountered the police sworn to keep us safe, they went on their attack with bear spray, knives, tasers, hockey sticks, even flagpoles fashioned into clubs with the American flag still attached.

Those rioters breached the Capitol. They smashed windows, scaled walls, broke down doors, and invaded the Halls of Congress. It was a scene of violence in the citadel of our democracy not seen since 1814 when British soldiers sacked the building.

They raced through the hallways chanting, "Hang Mike Pence!" "Where is Nancy?"

They stormed onto the Senate floor because they wanted to stop the Senate from certifying the election. The rioters tried to take over the House floor for the same reason.

Thankfully, some astute, young staff members had the presence of mind to grab the physical electoral ballots for safekeeping.

These rioters were organized. They were ready for a fight, and they came close to succeeding. It's frightening to think about how close we were: a few inches of wood and glass, an officer turning left instead of turning right. But just describing that attack doesn't come close to capturing what actually took place that day.

So, we're going to see some of what our witnesses saw on January 6th. Let's see the video, please, but please be advised that it contains graphic images and strong language, which many may find disturbing.

CROWD. [unintelligible]  
 STOP THE STEAL ZELLO CHANNEL. Hey brother, we're boots on the ground here. We're moving on the Capitol now. I'll give you a boots-on-the-ground update here in a few.  
 POLICE RADIO TRANSMISSION. Multiple Capitol injuries. Multiple Capitol injuries.  
 CROWD. [unintelligible]  
 VOICE. Take the building! Take the building!  
 VOICE. Fuck you, police!  
 POLICE RADIO TRANSMISSION. 50 to JOCC, we're still taking metal, sharpened objects, missiles, to include bottles and rocks and hand-thrown chemical-grade fireworks.  
 VOICE. There's an officer in the crowd.  
 CROWD. [unintelligible]  
 POLICE RADIO TRANSMISSION. . . . this is now effectively a riot.  
 POLICE RADIO TRANSMISSION. 1349 hours, declaring it a riot.  
 STOP THE STEAL ZELLO CHANNEL. OK, guys, apparently the tip of the spear has entered the Capitol Building.  
 CROWD. [unintelligible]  
 POLICE RADIO TRANSMISSION. [redacted], if I give this up, they're going to have direct access. At least the scaffold we can defend. We've got to hold what we have.  
 VOICE. Take your pins off.  
 VOICE. What the fuck?  
 VOICE. Take your pins off.  
 CROWD. [redacted] This is our house! [redacted]  
 VOICE. This is a corrupt government. [unintelligible]  
 VOICE. Is this the Senate? Where the fuck are they?  
 POLICE RADIO TRANSMISSION. Cruiser 50, we're flanked. 10-33. I repeat, 10-33, West Front of the Capitol. We have been flanked, and we've lost the line.  
 CROWD. [unintelligible]  
 VOICE. They're coming, baby! They're coming, baby!  
 VOICE. Motherfuckers!  
 VOICE. They're spraying gas.  
 VOICE. Lock the shields. Lock them together. Lock them together.  
 VOICE. We need fresh patriots to the front!  
 VOICE. Back up if you need a break. Come on.  
 VOICE. He needs a break.  
 VOICE. Jimmy, get them to the back. Get them to the back. Get them to the back. Let's get some fresh faces up front.  
 CROWD. [unintelligible]  
 VOICE. Push!  
 VOICE. All right. Let me out!  
 VOICE. Pull them out! Pull them out! Pull them out!  
 VOICE. Can I speak to Pelosi? Yeah? We're coming, bitch! Oh, Mike Pence? We're coming for you too, you fucking traitor!  
 CROWD. Hang Mike Pence! Hang Mike Pence! Hang Mike Pence!  
 STOP THE STEAL ZELLO CHANNEL. They've got the gallows set up outside the Capitol Building. It's time to start fucking using them.  
 VOICE. Start making a list, put all those names down, and we start hunting them down one-by-one.  
 VOICE. Traitors get guillotine!

VOICE. Mobilize in your own cities, in your own counties, storm your own capitol buildings, and take down every one of these corrupt motherfuckers!

VOICE. That's what we fucking need to have: 30,000 guns up here.

VOICE. Next trip.

Chairman THOMPSON. He'll be back, he warns us. It's just chilling.

I thank God our democracy and our Republic withstood this assault, but that man's warning reminds us that this threat hasn't gone away. It looms over our democracy like a dark cloud.

Some people are trying to deny what happened, to whitewash it, to turn the insurrectionists into martyrs. But the whole world saw the reality of what happened on January 6th: the hangman's gallows sitting out there on our Nation's Mall, the flag of that first failed and disgraced rebellion against our Union being paraded through the Capitol, the hatred, the bigotry, the violence, and all of it for a vile, vile lie.

Let's be clear. The rioters who tried to rob us of our democracy were propelled here by a lie.

As Chairman of this Committee, I will not give that lie any fertile ground. We need to understand how and why the Big Lie festered. We need to know minute-by-minute how January 6th unfolded. We need to understand how the rotten lie behind January 6th has continued to spread and feed the forces that would undermine American democracy.

We need to figure out how to fix the damage. It won't be easy, but I have tremendous confidence in the colleagues sitting to my left and right. These are men and women of courage and character.

We did not ask for this, but the House of Representatives did its job to give this country its first peaceful transfer of power, and we'll do our job now to make sure the peaceful transfer of power remains a pillar of our democracy. We cannot allow ourselves to be undone by liars and cheaters. This is the United States of America.

My distinguished colleague from Wyoming, Ms. Cheney, is not the Ranking Member of the Select Committee, but because this investigation is bipartisan, it's important that we hear Republican voices as well.

I now recognize Representative Cheney for an opening statement.

Ms. CHENEY. Thank you very much, Chairman Thompson. Thank you to all my colleagues on this Committee, and thank you to each of the witnesses appearing before us today.

It is because of you: You held the line. You defended all of us. You defended the Capitol, and you defended the Constitution and our Republic, and every American owes you our undying gratitude.

Every American, I hope, will be able to hear your testimony today and will watch the videos. The videos show the unbelievable violence and the inexcusable and intolerable cruelty that you all faced, and people need to know the truth.

I want to begin by reflecting briefly on the investigation that we're launching today. Every one of us here on the dais voted for and would have preferred that these matters be investigated by an independent, nonpartisan commission composed of 5 prominent Americans selected by each party and modeled on the 9/11 Commission.

Although such a commission was opposed by my own leadership in the House, it overwhelmingly passed with the support of 35 Republican Members. It was defeated by Republicans in the Senate. That leaves us where we are today.

We cannot leave the violence of January 6th and its causes uninvestigated. The American people deserve the full and open testimony of every person with knowledge of the planning and preparation for January 6th. We must know what happened here at the Capitol.

We must also know what happened every minute of that day in the White House: every phone call, every conversation, every meeting leading up to, during, and after the attack. Honorable men and women have an obligation to step forward.

If those responsible are not held accountable, and if Congress does not act responsibly, this will remain a cancer on our Constitutional Republic, undermining the peaceful transfer of power at the heart of our democratic system. We will face the threat of more violence in the months to come and another January 6th every 4 years.

I have been a conservative Republican since 1984 when I first voted for Ronald Reagan. I have disagreed sharply on policy and politics with almost every Democratic Member of this Committee. But, in the end, we are one Nation under God.

The Framers of our Constitution recognized the danger of the vicious factionalism of partisan politics, and they knew that our daily arguments could become so fierce that we might lose track of our most important obligation: to defend the rule of law and the freedom of all Americans.

That is why our Framers compelled each of us to swear a solemn oath to preserve and protect the Constitution. When a threat to our Constitutional order arises, as it has here, we are obligated to rise above politics. This investigation must be nonpartisan.

While we begin today by taking the public testimony of these four heroic men, we must also realize that the task of this Committee will require persistence. We must issue and enforce subpoenas promptly. We must get to objective truth. We must overcome the many efforts we are already seeing to cover up and obscure the facts.

On January 6th and in the days thereafter, almost all Members of my party recognized the events of that day for what they actually were. One Republican, for example, said, "What is happening at the U.S. Capitol right now is unacceptable and un-American. Those participating in lawlessness and violence must be arrested and prosecuted to the fullest extent of the law."

No Member of Congress should now attempt to defend the indefensible, obstruct this investigation, or whitewash what happened that day. We must act with honor and duty and in the interest of our Nation.

America is great because we preserve our democratic institutions at all costs. Until January 6th, we were proof positive for the world that a Nation conceived in liberty could long endure. But now January 6th threatens our most sacred legacy.

The question for every one of us who serves in Congress, for every elected official across this great Nation, indeed for every

American, is this: Will we adhere to the rule of law? Will we respect the rulings of our courts? Will we preserve the peaceful transition of power? Or will we be so blinded by partisanship that we throw away the miracle of America? Do we hate our political adversaries more than we love our country and revere our Constitution?

I pray that that is not the case. I pray that we all remember our children are watching. As we carry out this solemn and sacred duty entrusted to us, our children will know who stood for truth, and they will inherit the Nation we hand to them—a republic, if we can keep it.

Thank you, Mr. Chairman. I yield back.

Chairman THOMPSON. Thank you, Representative Cheney.

I will now introduce our witnesses.

We're joined today by Sergeant Aquilino Gonell of the United States Capitol Police. He's a 15-year veteran of the Capitol Police. He's assigned to a First Responder Unit in the United States Capitol Police's Uniformed Services Bureau.

Before joining the Capitol Police, Sergeant Gonell served 8 years in the United States Army and spent 545 days in Iraq, where his base was under constant mortar, rocket, and indirect fire by insurgents. He has received multiple awards and commendations for his military service.

We're also joined by Officer Michael Fanone of the Metropolitan Police Department in Washington, DC. Officer Fanone began his law enforcement career with the United States Capitol Police shortly after the terrorist attacks of 9/11.

For nearly 20 years, Officer Fanone has served the citizens of the District of Columbia in special units focusing on narcotics investigations and violent criminals.

Officer Daniel Hodges is a member of Civil Disturbance Unit 42 in the D.C. Metropolitan Police Department, where his responsibilities include riot response.

Prior to his service on the Metropolitan Police Department, he served 6 years in the 116th Infantry Regiment, 3d Battalion, as an indirect fire infantryman.

U.S. Capitol Police Officer Harry Dunn is a 13-year veteran of the United States Capitol Police and a member of its First Responder Unit. His responsibilities include ensuring the integrity of the perimeter around the Capitol Building. Officer Dunn has been among the first Capitol Police Officers to describe what happened to law enforcement on January 6th.

I will now swear in our witnesses. The witnesses will please rise and raise their right hands.

[Witnesses sworn.]

Chairman THOMPSON. Thank you. You may be seated.

Let the record reflect the witnesses answered in the affirmative.

Without objection, the witnesses' full statements will be included in the record.

I now recognize Sergeant Gonell to summarize his testimony.

Sergeant GONELL.<sup>1</sup> Good morning, everybody.

Chairman THOMPSON. Good morning.

<sup>1</sup> Sergeant Gonell's prepared statement is included in the Appendix beginning on p. 55.

Sergeant GONELL. Chairman Thompson, Members of the Select Committee, thank you for the opportunity to testify regarding the attack on the U.S. Capitol on January 6, 2021.

It is with honor and heavy heart that I come before you to tell you my story, from a painful, first-hand experience what happened that terrible day at the Capitol.

I'm providing this testimony solely in my personal capacity and not as a representative of the U.S. Capitol Police. It is imperative that the events of January 6th are fully investigated in the Congress and the American people know the truth of what actually occurred and that all those responsible are held accountable, particularly to ensure that horrific and shameful event in our history never repeats itself. I applaud you for pursuing this objective.

Even though there is overwhelming evidence to the contrary, including hours and hours of videos and photographic coverage, there is a continued, shocking attempt to ignore or try to destroy the truth of what truly happened that day and to whitewash the facts into something other than what they unmistakably reveal: an attack on our democracy by violent domestic extremists and a stain on our history and our moral standing here, home, and abroad.

As a child in the Dominican Republic, I looked up to the United States as the land of opportunity and a place to better myself. From the moment I landed at JFK in 1992, I have tried to pursue that goal. Thankfully, I achieved that goal on many levels. I was the first in my family to graduate college, join the Army, and become a police officer.

On July 23, 1999, the day before my 21st birthday, I raised my hand and swore to protect the Constitution of the United States because this country gave me an opportunity to become anything that I wanted.

At that time, I already started basic training with the Army Reserves. In fact, I raised my hand several times in ceremonies to pledge my commitment to defend and protect the Constitution of the United States: when I joined the Army Reserves; when I was promoted to sergeant while in the Army; during my naturalization ceremony; my reenlistment in the Army; when I joined the United States Capitol Police; and, last, when I was promoted to sergeant 3 years ago.

I have always taken my oath seriously. On January 6, 2021, I fulfilled my oath once more, this time to defend the United States Capitol and Members of Congress carrying out their Constitutional duties to certify the results of the November 2020 Presidential election.

To be honest, I did not recognize my fellow citizens who stormed the Capitol on January 6th or the United States that they claimed to represent. When I was 25 years old and then a sergeant in the Army, I had deployed to Iraq for Operation Iraqi Freedom. From time to time, I volunteered to travel on IED-infested roads to conduct supply missions for U.S. and allied forces and local Iraqi population as well. But, on January 6th, for the first time, I was more afraid to work at the Capitol than my entire deployment to Iraq.

In Iraq, we expected armed violence because we were in a war zone, but nothing in my experience in the Army or as a law enforcement officer prepared me for what we confronted on January

6th. The verbal assaults and disrespect we endured from the rioters were bad enough. I was falsely accused of betraying my oath, of choosing my paycheck—choosing my paycheck—over my loyalty to the U.S. Constitution, even as I defended the very democratic process that protected everyone in the hostile crowd.

While I was at the Lower West Terrace of the Capitol working with my fellow officers to prevent the breach and restore order, the rioters called me a traitor, a disgrace, and shouted that I—I, an Army veteran and a police officer—should be executed.

Some of the rioters had the audacity to tell me there was nothing personal, that they will go through me, through us police officers to achieve their goal, as they were breaking metal barriers to use as weapons against us.

Or they used more menacing language: “If you shoot us, we all have weapons. We will shoot back.” Or, “We’ll get our guns. We outnumber you.” They said, “Join us.”

I heard specific threats to the lives of Speaker Nancy Pelosi and then also Vice President Mike Pence. But the physical violence we experienced was horrific and devastating. My fellow officers and I were punched, kicked, shoved, sprayed with chemical irritants, and even blinded with eye-damaging lasers by a violent mob who apparently saw us law enforcement officers, ironically dedicated to protecting them as U.S. citizens, as an impediment to their attempted insurrection.

The mob brought weapons to try to accomplish their insurrectionist objectives and used them against us. These weapons included hammers, rebars, knives, batons, and police shields taken by force, as well as bear spray and pepper spray.

Some of the rioters wore tactical gear, including bulletproof vests and gas masks. The rioters also forcibly took our batons and shields to use them against us.

I was particularly shocked at the scene that insurrectionists violently attacked us with the very American flag that they claimed to protect. Based on the coordinated tactics we observed and verbal commands we heard, it appears that many of these attackers had law enforcement or military experience.

The rioters were vicious and relentless. We found ourselves in a violent battle desperate to attempt to prevent a breach of the Capitol by the entrance near the inauguration stage. Metropolitan Police Officers were being pulled into the crowd. We have one right here, right next to me.

As we tried to push the rioters back from breaching the Capitol, in my attempt to assist two MPD officers, I grabbed one officer by the back of the collar and pulled him back to the police line.

When I tried to help the second officer, I fell on top of some police shields on the ground that were slippery because of pepper spray and bear spray. Rioters immediately began to pull me by my leg, by my shield, by my gear strap on my left shoulder.

My survivalist instincts kicked in, and I started kicking and punching as I tried in vain to get an MPD officer’s attention behind, above me, but they could not help me because they also were being attacked.



I finally was able to hit the rioter who was grabbing me with my baton and able to stand. Then I continued to fend off new attackers as they kept rotating and attacking us again and again.

What we were subjected to that day was like something from a medieval battle. We fought hand-to-hand, inch by inch to prevent an invasion of the Capitol by a violent mob intent on subverting our democratic process. My fellow officers and I were committed to not letting any rioters breach the Capitol.

It was a prolonged and desperate struggle. The rioters attempting to breach the Capitol were shouting, "Trump sent us. Pick the right side. We want Trump."

I vividly heard officers screaming in agony, in pain, just an arm's length from me. I didn't know at that time, but that was Officer Hodges, and he's here today to testify.

I too was being crushed by the rioters. I could feel myself losing oxygen and recall thinking to myself, "This is how I'm going to die, defending this entrance."

Many of the officers fighting alongside me were calling for shields because their shields had been stripped from them by the rioters. I was one of the few officers left with a shield, so I spent the majority of my time at the front of the line.

I later find out that my wife and relatives here in the United States and abroad were frantically calling and texting me from 2 p.m. onward because they were watching the turmoil on television. It was now 4:26 p.m., after giving CPR to one of the rioters who breached the Capitol in an effort to save her life, that I finally had a chance to let my own family know that I was alive.

After order had finally been restored at the Capitol and many hours, I arrived at home at nearly 4 a.m. on January 7th. I had to push my wife away from me because she wanted to hug me, and I told her no because of all the chemicals that my uniform had on.

Sorry.

I couldn't sleep because the chemical reactivated after I took a shower, and my skin was burning. I finally fell asleep 2 hours later, completely physically and mentally exhausted, yet, by 8 o'clock a.m., I was already on my way back to the Capitol. I continued to work for 15 consecutive days until after the inauguration. I made sure to work despite my injuries because I wanted to continue doing my job and help secure the Capitol complex. More than 6 months later, I'm still trying to recover from my injuries.

Many of my fellow Capitol officers, as well as MPD officers, suffered several physical injuries from the violence inflicted on us on January 6th. I sustained injuries on both my hands, my left shoulder, my left calf, and my right foot. I already have undergone bone fusion surgery on my right foot, and I was just told that I need surgery on my left shoulder. I have been on medical and administrative leave for much of the past 6 months, and I expect to need further rehabilitation for possibly more than a year.

There are some who express outrage when someone kneels while calling for social justice. Where are those same people expressing the outrage to condemn the violent attack on law enforcement, the Capitol, and our American democracy? I'm still waiting for them.

As America and the world watched in horror what was happening at the Capitol, we did not receive timely reinforcement and

support we needed. In contrast, during the Black Lives Matter protests last year, U.S. Capitol Police had all the support we needed and more. Why the different response?

Were it not for the brave members of the MPD and, later on, from other law enforcement agencies, I'm afraid to think what could have happened on January 6th. I want to publicly thank all the law enforcement agencies that responded to assist that day, for their courage and their support. I especially want to thank those Capitol Police Officers who responded on their own from home after working midnight shift.

Despite being outnumbered, we did our job. Every Member of the House of Representatives, Senators, and staff members made it home. Sadly, as a result that day, we lost officers—some really good officers. But we held the line to protect our democratic process because the alternative would have been a disaster. We are not asking for medals, recognition. We simply want justice and accountability.

For most people, January 6th happened for a few hours but for those of us who were in the thick of it, it has not ended. That day continues to be a constant trauma for us literally every day, whether because of our physical or emotional injuries, or both. While it has not received much attention, sadly many of my colleagues have quietly resigned from the Capitol because of that day.

I am also regularly called by law enforcement officials and prosecutors to help identify from photographs and videos the rioters.

To be honest, physical therapy is painful and hard. I could have lost my life that day, not once but many times. But, as soon as I recover from my injuries, I will continue forward and proudly serve my country in the U.S. Capitol Police.

As an immigrant to the United States, I'm especially proud to have defended the U.S. Constitution and our democracy on January 6th. I hope that everyone in position of authority in our country has the courage and conviction to do their part by investigating what happened on that terrible day and why. This investigation is essential to our democracy, and I'm deeply grateful to you for undertaking it.

I'm happy to assist as I can and answer any questions you may have to the best of my ability.

Thank you.

Chairman THOMPSON. Thank you very much for your vivid testimony, Sergeant Gonell.

I now recognize Officer Fanone to summarize his testimony.

Officer FANONE.<sup>2</sup> Thank you, Mr. Chairman, and Members of this Committee for inviting me to provide my eyewitness testimony of the violent assault on our Nation's Capitol on January 6, 2021.

My name, for those of you who don't know, is Michael Fanone. While I've been a sworn officer with the Metropolitan Police Department in Washington, DC, for almost two decades, my law enforcement career actually began here in this building as a United States Capitol Police Officer shortly after 9/11.

In part because of the 2001 attack on our country by the terrorists, I felt called to serve. As a Capitol Police Officer, I was proud

<sup>2</sup> Officer Fanone's prepared statement is included in the Appendix beginning on p. 57.

to protect this institution and dedicated Members of Congress and their staff who work hard each day to uphold our American democracy.

I remain proud of the work of the United States Capitol Police and MPD Officers, who literally commit their lives to protecting the safety of each of you and all of us in this room in our Nation's Capitol.

After leaving the United States Capitol Police, I became an MPD officer, serving the residents of Washington, DC. I have spent the majority of my nearly 20 years as a Metropolitan Police Officer working in special mission units whose responsibilities include the investigation and arrest of narcotics traffickers and violent criminals.

I've worked both as an undercover officer and the lead case officer in many of these investigations. In this line of work, it probably won't shock you to know that I've dealt with some dicey situations. I thought I had seen it all many times over, yet what I witnessed and experienced on January 6, 2021, was unlike anything I had ever seen, anything I had ever experienced or could have imagined in my country. On that day, I participated in the defense of the United States Capitol from an armed mob—an armed mob—of thousands determined to get inside.

Because I was among the vastly outnumbered group of law enforcement officers protecting the Capitol and the people inside it, I was grabbed, beaten, tased, all while being called a traitor to my country. I was at risk of being stripped of and killed with my own firearm as I heard chants of “kill him with his own gun.” I can still hear those words in my head today.

Although I regularly deal with risky situations on the job, nowhere in my wildest imagination did I ever expect to be in that situation or sitting here before you talking about it. That experience and its aftermath were something that not even my extensive law enforcement training could prepare me for.

I was just one of hundreds of local police who lined up to protect Congress, even though I had not been assigned to do that. Some had asked why we ran to help when we didn't have to. I did that because I simply could not ignore what was happening. Like many other officers, I could not ignore the numerous calls—numerous calls—for help coming from the Capitol complex.

I am a plainclothes officer assigned to the First District Crime Suppression Team. But, for the first time in nearly a decade, I put on my uniform.

When my partner, Jimmy Albright, and I arrived at the Capitol around 3 that afternoon, it was like—excuse me. It was unlike any scene I had ever witnessed. Jimmy parked our police vehicle near the intersection of South Capitol Street and D Street in Southeast, and we walked to the Capitol, from there passing the Longworth House Office Building. It was eerily quiet. The sidewalks, usually filled with pedestrians, were empty.

As we made our way to Independence Avenue, I could see dozens of empty police vehicles that filled the street, police barricades which had been abandoned, and hundreds of angry protesters, many of whom taunted us as we walked toward the Capitol Building.

Jimmy and I immediately began to search for an area where we could be of most assistance. We made our way through a door on the south side of the Capitol, walking then to the Crypt, and finally down to the Lower West Terrace tunnel.

It was there that I observed a police commander struggling to breathe as he dealt with the effects of CS gas that lingered in the air. Then I watched him collect himself, straighten his cap and trench coat adorned with its silver eagles, and return to the line.

That commander was Ramey Kyle of the Metropolitan Police Department, and those images are etched into my memory, never to be forgotten. In the midst of that intense and chaotic scene, Commander Kyle remained cool, calm, and collected as he gave commands to his officers. "Hold the line," he shouted over the roar.

Of course, that day, the line was the seat of our American Government. Despite the confusion and the stress of the situation, observing Ray's leadership protecting a place I cared so much about was the most inspirational moment of my life. The bravery he and others showed that day are the best examples of duty, honor, and service. Each of us who carries a badge should bring those core values to our work every day.

The fighting in the Lower West Terrace tunnel was nothing short of brutal. Here I observed approximately 30 police officers standing shoulder to shoulder, maybe 4 or 5 abreast, using the weight of their bodies to hold back the onslaught of violent attackers. Many of these officers were injured, bleeding, and fatigued, but they continued to hold the line.

As I don't have to tell the Members in this room, the tunnel is a narrow and long hallway. It is not the sort of space anyone would want to be pulled into hand-to-hand combat with an angry mob, although the narrowness of the hallway provided what was probably the only chance of holding back the crowd from entering your personal offices, the House, and Senate Chambers.

In an attempt to assist the injured officers, Jimmy and I asked them if they needed a break. There were no volunteers. Selflessly, those officers only identified other colleagues who may be in need of assistance.

The fighting dragged on. I eventually joined the tactical line at the tunnel's entrance. I can remember looking around and being shocked by the sheer number of people fighting us; as my police body-worn camera shows, thousands upon thousands of people seemingly determined to get past us by any means necessary.

At some point during the fighting, I was dragged from the line of officers and into the crowd. I heard someone scream, "I got one."

As I was swarmed by a violent mob, they ripped off my badge. They grabbed and stripped me of my radio. They seized ammunition that was secured to my body. They began to beat me with their fists and with what felt like hard metal objects. At one point, I came face to face with an attacker, who repeatedly lunged for me and attempted to remove my firearm. I heard chanting from some in the crowd: "Get his gun and kill him with his own gun."

I was aware enough to recognize I was at risk of being stripped of and killed with my own firearm. I was electrocuted again and again and again with a taser. I'm sure I was screaming, but I don't think I could even hear my own voice.

My body camera captured the violence of the crowd directed toward me during those very frightening moments. It's an important part of the record for this Committee's investigation and for the country's understanding of how I was assaulted and nearly killed as the mob attacked the Capitol that day, and I hope that everyone will be able to watch it.

The portions of the video I've seen remained extremely painful for me to watch at times, but it is essential that everyone understands what really happened that tragic day.

During those moments, I remember thinking there was a very good chance I would be torn apart or shot to death with my own weapon.

I thought of my four daughters who might lose their dad.

I remain grateful that no Member of Congress had to go through the violent assault that I experienced that day.

During the assault, I thought about using my firearm on my attackers, but I knew that if I did, I would be quickly overwhelmed and that, in their minds, would provide them with the justification for killing me. So, I instead decided to appeal to any humanity they might have. I said as loud as I could manage, "I've got kids."

Thankfully, some in the crowd stepped in and assisted me. Those few individuals protected me from a crowd and inched me toward the Capitol until my fellow officers could rescue me. I was carried back inside.

What happened afterwards is much less vivid. I had been beaten unconscious and remained so for more than 4 minutes. I know that Jimmy helped to evacuate me from the building and drove me to MedStar Washington Hospital Center despite suffering significant injuries himself.

At the hospital, the doctors told me that I had suffered a heart attack, and I was later diagnosed with a concussion, a traumatic brain injury, and post-traumatic stress disorder.

As my physical injuries gradually subsided and the adrenaline that had stayed with me for weeks waned, I have been left with the psychological trauma and the emotional anxiety of having survived such a horrific event. My children continue to deal with the trauma of nearly losing their dad that day.

What makes the struggle harder and more painful is to know so many of my fellow citizens, including so many of the people I put my life at risk to defend, are downplaying or outright denying what happened.

I feel like I went to hell and back to protect them and the people in this room, but too many are now telling me that hell doesn't exist or that hell actually wasn't that bad. The indifference shown to my colleagues is disgraceful.

My law enforcement career prepared me to cope with some of the aspects of this experience. Being an officer, you know your life is at risk whenever you walk out the door, even if you don't expect otherwise law-abiding citizens to take up arms against you.

But nothing—truly nothing—has prepared me to address those elected Members of our Government who continue to deny the events of that day and, in doing so, betray their oath of office—those very Members whose lives, offices, staff members I was fighting so desperately to defend.

I agreed to speak here today and have talked publicly about what happened because I don't think our response to the insurrection should have anything to do with political parties. I know that what my partner, Jimmy, and I suited up for on January 6th didn't have anything to do with political parties or about politics or what political party any of you public servants belong to.

I've worked in this city for two decades, and I've never cared about those things, no matter who was in office. All I've ever cared about is protecting you and the public so you can do your job in service to this country and for those whom you represent.

I appreciate your time and attention. I look forward to the Committee's investigation, and I am hopeful, with your commitment, we as a country will confront the truth of what happened on January 6th and do what is necessary to make sure this institution of our democracy never falls into the hands of a violent and angry mob.

We must also recognize the officers who responded that day, many unsolicited, and their countless acts of bravery and selflessness. It has been 202 days since 850 MPD officers responded to the Capitol and helped stop a violent insurrection from taking over this Capitol complex, which almost certainly saved countless Members of Congress and their staff from injury and possibly death. The time to fully recognize these officers is now.

Thank you again for the opportunity to provide my testimony here today.

Chairman THOMPSON. Thank you very much for your testimony.

Now, I don't think there is any question you have our commitment that we will do just that as a Committee.

Officer FANONE. Thank you, sir.

Chairman THOMPSON. I now recognize Officer Hodges to summarize his testimony.

Officer HODGES.<sup>3</sup> Good morning to the Committee, members of the press, and to the country.

To the Members of the Committee, I'd like to thank you for your invitation today to provide my account of my knowledge and experiences from January 6, 2021.

As the Chairman mentioned, I am a member of Civil Disturbance Unit 42 and was working in that capacity on the day in question. We started that day at 7:30 a.m., and our assignment at the time was to maintain high visibility along Constitution Avenue, namely the blocks leading up to President's Park, where then-President Donald Trump was holding his gathering.

My particular station was in front of 1111 Constitution Avenue, where I stood on foot as the crowd poured down the street and into the park. There were a significant number of men dressed in tactical gear attending the gathering or wearing ballistic vests, helmets, goggles, military face masks, backpacks. Without identifiable visible law enforcement or military patches, they appeared to be prepared for much more than listening to politicians speak at a park.

Two of my colleagues were approached by a group of 3 to 4 such men. They were white men, in good shape, with load-bearing vests equipped with MOLLE pouches. They were wearing BDUs, or bat-

<sup>3</sup> Officer Hodges's prepared statement is included in the Appendix beginning on p. 59.

the dress uniform pants, tactical boots, black sunglasses, and short haircuts. They had radios, and one was equipped with an earpiece.

After a bit of small talk, one of them asked my colleague something to the effect of, Is this all the manpower you have? Do you really think you are going to be able to stop all these people? Dumbfounded, my colleague simply expressed they didn't understand what the speaker meant, and the group continued on.

As the day went on and speakers in the park said their piece, I monitored the crowd on the radio. Over the radio, I heard our gun recovery unit working constantly, monitoring those in the crowd suspected of carrying firearms and making arrests and seizures when possible.

Multiple gun arrests were made from January 5th through the 7th against those attending and likely had attended or planned to attend Donald Trump's gathering. Unfortunately, due to the course of events that day, we will never know exactly how many were carrying firearms and other lethal weapons.

I don't know what time it was, but eventually the flow of foot traffic reversed, with people leaving President's Park and traveling eastbound down Constitution Avenue toward the United States Capitol.

At approximately 12:30 p.m., I noticed a commotion about half a block to my east, and I saw the crowd starting to coalesce around two figures. I ran to where they were and found a confrontation at the intersection of 10th and Constitution Avenue Northwest.

One counter-protester, a Black man, was backpedaling away from a white man in a Trump-labeled face mask who was closely following him with an outstretched arm. Myself and my colleague first arrived and physically separated the two, but a crowd of Donald Trump's people had gathered.

They attempted to bait the counter-protester into attacking, shouting insults such as, "Your mother's a whore," and accusing him of hiding behind the cops. Eventually, enough MPD members had gathered to move along the crowd who continued eastbound toward the Capitol Building, and the counter-protester departed northbound on 10th Street.

Returning to my post, I continued to monitor the radio. I could hear Commander Glover leading the defense efforts at the Capitol as the protesters began their transition from peaceful assembly into terrorism. I became agitated and wished we could move in to support, as I could hear the increasing desperation of the commander's voice, yet we still had to wait for our orders to change, and eventually they did.

At approximately 1:30 p.m., the commander authorized rapid response platoons to deploy their hard gear and respond to the Capitol, including CDU-42.

The last thing I remember hearing over the air before departing for the Capitol Grounds was confirmation that our Explosive Ordnance Disposal team had discovered a device. Given which unit was being associated with the device, I immediately realized MPD had discovered a bomb of some type near the Capitol. This thought was never far from my mind for the rest of the day.

We ran back to our vans and got on our hard gear as quickly as we could. Navigating alternate routes to avoid the foot traffic, we

drove as close as we could to the Capitol, disembarking at the northwest side of the Capitol Grounds. We gave our gear a final check and marched toward the West Terrace.

The crowd was thinner the further out from the Capitol you were, so as we marched, the resistance that we initially met was verbal. A man sarcastically yelled, "Here come the boys in blue, so brave." Another called on us to "remember your oath." There was plenty of booing. A woman called us storm troopers. Another woman, who was part of the mob of terrorists laying siege to the Capitol of the United States, shouted, "Traitors." More found appeal in this label and shouted "traitors" at us as we passed. One man attempted to turn it into a disyllabic chant. We continued to march.

We had been marching in two columns, but as we got closer to the West Terrace, the crowd became so dense that in order to progress, we marched single file with our hands on the shoulders of the man in front of us in order to avoid separation. However, as we came close to the terrorists, our line was divided, and we came under attack.

A man attempted to rip the baton from my hands, and we wrestled for control. I retained my weapon after I pushed him back. He yelled at me, "You're on the wrong team."

Cut off from our leadership, which was at the front of our formation, we huddled up and assessed the threat surrounding us. One man tried and failed to build a rapport with me, shouting, "Are you my brother?" Another takes a different tact, shouting, "You will die on your knees."

I was at the front of our group and determined that we had to push our way through the crowd in order to join the defense proper, so I began shouting "make way," as I forged ahead, hoping that I'm clearing a path for others behind me to follow. However, as I looked back, I saw that the rest of the group came under attack and were unable to follow.

The crowd attempted to physically bar the rest of the platoon from following. I backtrack and started pulling the terrorists off my team from their backpacks and their collars.

Around this time, one of the terrorists who had scaled the scaffolding that adorned the Capitol at the time threw something heavy down at me and struck me in the head, disorienting me. I suspect this resulted in the likely concussion I dealt with in the weeks after.

Another man attempted to disarm me of my baton, and again, we wrestled for control. He kicked me in my chest as we went to the ground. I was able to retain my baton again, but I ended up on my hands and knees and blind. The medical mask I was wearing at the time to protect myself from the coronavirus was pulled up over my eyes so I couldn't see. I braced myself against the impact of their blows and feared the worst. Thankfully, my platoon had repelled their own attackers and got me back on my feet.

The crowd start chanting "U-S-A" at us, and we struck out again for the West Terrace. I led the charge through the midst of crowd control munitions, explosions, and smoke engulfing the area. Terrorists were breaking apart the metal fencing and bike racks into individual pieces, presumably to use as weapons.



Thankfully, we made it to the secondary defense line on the West Terrace that MPD and Capitol Police were managing to hold. The rest of my platoon got behind the line, and we could take stock of the situation.

I realized that back during the previous assault, someone had stolen my radio. From that point on, I was in the dark as to our current status, when reinforcements would arrive.

Terrorists were scaling the scaffolding on both our sides of the tower that was in front of us and attempting to breach the waist-high metal fencing that was the only barrier we had aside from ourselves.

The sea of people was punctuated throughout by flags, mostly variations of American flags and Trump flags. There were Gadsden flags. It was clear the terrorists perceived themselves to be Christians. I saw the Christian flag directly to my front. Another read, "Jesus is my savior. Trump is my President." Another, "Jesus is king." One flag read, "Don't give up the ship." Another had crossed rifles beneath a skull emblazoned with the pattern of the American flag.

To my perpetual confusion, I saw the thin blue line flag, the symbol of support for law enforcement—more than once—being carried by the terrorists as they ignored our commands and continued to assault us. The acrid sting of CS gas, or tear gas, and OC spray, which is mace, hung in the air as the terrorists threw our own CS gas canisters back at us and sprayed us with their own OC, either that they bought themselves or stole from us. Later, I learned at least one of them was spraying us in the face with wasp spray.

The terrorists alternated between attempting to break our defenses and shouting at or attempting to convert us. Men alleging to be veterans told us how they had fought for this country and were fighting for it again. One man tried to start a chant of "4 more years." Another shouted, "Do not attack us, we're not Black Lives Matter," as if political affiliation is how we determine when to use force.

A man in a QAnon hoodie exclaims, "This is the time to choose which side of history to be on." A man whose shirt read, "God, guns, and Trump" stood behind him silently, holding a Trump flag.

A new man came to the front and fixated on me, continually berating me, telling me to take off my gear and give it to him to show solidarity with "We the People," or, "We're going to run over you." His voice cracked with the strain and the volume of his threats. He continued, "Do you think your little peashooter guns are going to stop this crowd? No. We're going in that building."

Eventually, there is a surge in the crowd, the fence buckled and broke apart, and we were unable to hold the line. A chaotic melee ensued. Terrorists pushed through the line and engaged us in hand-to-hand combat. Several attempted to knock me over and steal my baton. One latched on to my face and got his thumb in my right eye, attempting to gouge it out. I cried out in pain and managed to shake him off. I managed to shake him off before any permanent damage was done.

I couldn't fully engage anyone; for the moment I do is when another 20 terrorists move in to attack while my hands are full. It was all we could do to keep ourselves on our feet and continue to

fall back. I was sprayed with a fire extinguisher, and a red smoke grenade burns at our feet.

In the fight, a terrorist is knocked to the ground and his jacket rides up, exposing a large hunting knife on his belt. I, along with several other officers, piled on him while another removed the knife from his person. He regained himself unharmed and shouts indignantly, "What are you doing? What are you guys doing?"

At this point, the terrorists had claimed most of the western terrace, cornering myself and other officers on the southern edge. We found a side stair off of the terrace up to an upper landing, followed by more stairs up and inside.

Inside the Capitol Building, officers walked through the halls briefly until they found a place to sit, decontaminate their faces of OC and CS, and take a quick breather. I followed suit. Someone had managed to find a package of water bottles and was passing them out. I washed off my face as best I could, rinsed out my mouth, and drank the rest.

I took the opportunity of relative safety to don my gas mask. Not long afterward, I heard someone calling for officers to move to assist. I steeled myself for another round and descended the stairway into a long hallway filled with smoke and screams.

The Capitol Building is labyrinthine, but judging from the sound of intense combat, I could tell this hallway led outside to where the terrorists had forced our retreat. Officers were stacked deep, but every so often, one would fall back from the front line nursing an injury or struggling to breathe, and those who remained would take a step forward. It was a battle of inches, with one side pushing the other a few and then the other side regaining their ground.

At the time, I, and I suspect many others in the hallway, did not know that the terrorists had gained entry into the building by breaking in doors and windows elsewhere, so we believed ours to be the last line of defense before the terrorists had true access to the building and to potentially our elected representatives.

Eventually, it was my turn in the meat grinder that was the front line. The terrorists had a wall of shields that they had stolen from officers as well as stolen batons, what other armaments they brought. Even during this intense contest of wills, they tried to convert us to their cult.

One man shouted, "We all just want to make our voices heard, and I think you feel the same. I really think you feel the same," all while another man attempts to batter us with a stolen shield.

Another man, like many others, didn't seem to appreciate that this wasn't a game. He fought his way across the lawn, up the steps, through the western terrace, all the OC and CS gas, and at the front line of this final threshold was asking us to hold on because he has asthma.

The two sides were at a stalemate at a metal door frame that sat in the middle of the hallway. At the front line, I inserted myself so the frame was at my back, in an effort to give myself something to brace against and provide additional strength when pushing forward. Unfortunately, soon after I secured this position, the momentum shifted, and we lost the ground that got me there. On my left was a man with a clear riot shield stolen during the assault. He

slammed it against me and, with all the weight of the bodies pushing behind him, trapped me.

My arms were pinned and effectively useless, trapped against either the shield on my left or the door frame on my right. With my posture granting me no functional strength or freedom of movement, I was effectively defenseless and gradually sustaining injury from the increasing pressure of the mob.

Directly in front of me a man seized the opportunity of my vulnerability, grabbed the front of my gas mask and used it to beat my head against the door. He switched to pulling it off my head, the straps stretching against my skull and straining my neck. He never uttered any words I recognized but opted instead for guttural screams. I remember him foaming at the mouth.

He also put his cell phone in his mouth so that he had both hands free to assault me. Eventually, he succeeded in stripping away my gas mask, and a new rush of exposure to CS and OC spray hit me. The mob of terrorists were coordinating their efforts now shouting "heave-ho," as they synchronized pushing their weight forward, crushing me further against the metal door frame.

A man in front of me grabbed my baton that I still held in my hands, and in my current state I was unable to retain my weapon. He bashed me in the head and face with it, rupturing my lip and adding additional injury to my skull.

At this point, I knew I couldn't sustain much more damage and remain upright. At best, I would collapse and be a liability to my colleagues; at worst, be dragged out into the crowd and lynched. Unable to move or otherwise signal the officers behind me that I needed to fall back, I did the only thing that I could do and screamed for help.

Thankfully, my voice was heard over the cacophony of yells and the blaring alarm. The officer closest to me was able to extricate me from my position and another helped me fall back to the building again. I had found some more water and decontaminated my face as best I could. I don't know how long I waited in the halls for, but soon after I got back on my feet, I went to where the fight was again. Until reinforcements arrived, every able body made a difference.

Without my gas mask, I was afraid I'd be a liability in the hallway, so I took the exit outside of the upper landing above the West Terrace. I found a police line being held and the terrorists encircling us much like on the West Terrace Lower. It was getting later in the day, however, and it appeared we weren't the only ones getting tired. It seemed most of the mob was content to yell rather than try and break our line again.

After some time of guarding the upper landing, I saw reinforcements arrive from the south. I'm not sure which law enforcement agency it was, but I turned to them and I started clapping, as it was a sign that badly needed help was starting to finally arrive.

Soon after that, I started feeling the effects of the day taking their toll and went back inside to rest. Gradually, all the members of CDU-42 gathered in the room known as the Capitol Crypt. We checked on each other and convalesced, glad to see each other in one piece.

Despite our exhaustion, we would have ran out into the fight again should the need have arisen. Thankfully, as the day wore on, more and more resources had arrived at the Capitol to drive off the terrorists. We stayed in the Crypt until quite late.

Even after we were allowed to leave the grounds, we didn't get to go home. Those who needed immediate medical attention took a van to the local hospital, while the rest of us parked near the city center until the city was deemed secure enough for us to check off. I believe we finally got that message around 1 a.m. the following morning. We drove back to the Fourth District and from there went home.

Thank you for letting me testify.

Chairman THOMPSON. Thank you very much for your testimony. I now recognize Officer Dunn to summarize his testimony.

Officer DUNN.<sup>4</sup> Chairman Thompson, Members of the Select Committee, thank you for the opportunity today to give my account regarding the events of January 6, 2021.

From my first-hand experience as a Capitol Police Officer directly involved in those events, and still hurting from what happened that day, I'm providing this testimony solely in my personal capacity and not as a representative of the United States Capitol Police.

Before I begin, I'd like to take a moment of my time to ask for a moment of silence for my fallen colleague, Officer Brian Sicknick, who died from injuries he sustained in the line of duty defending the Capitol of our beloved democracy.

Thank you.

I reported for duty at the Capitol as usual early on the morning of January 6th. We understood that the vote to certify President Biden's election would be taking place that day and protests might occur outside the Capitol, but we expected any demonstrations to be peaceful expressions of First Amendment freedoms, just like the scores of demonstrations we had observed for many years.

After roll call, I took my overwatch post on the East Front of the Capitol standing on the steps that led up to the Senate Chamber. As the morning progressed, I did not see or hear anything that gave me cause for alarm. But around 10:56 a.m., I received a text message from a friend forwarding a screen shot of what appeared to be the potential plan of action, very different from a peaceful demonstration.

The screen shot bore the caption: "January 6th—Rally Point—Lincoln Park," and said the objective was "THE CAPITOL." It said, amongst other things, that "Trump has given us marching orders," and to "keep your guns hidden." It urged people "to bring . . . your trauma kits" and "gas masks" to "[l]ink up early in the day" in "6-12 man teams." It indicated there would be "time to arm up."

Seeing that message caused me concern. To be sure, looking back now, it seemed to foreshadow what happened later. At the time, though, we had not received any threat warnings from our chain of command. I had no independent reason to believe that violence was headed our way.

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<sup>4</sup> Officer Dunn's prepared statement is included in the Appendix beginning on p. 63.

As the morning progressed and the crowd of protesters began to swell on the east side of the Capitol, many displaying Trump flags, the crowd was chanting slogans like “Stop the steal,” and “We want Trump.” But the demonstration was still being conducted in a peaceful manner.

Earlier that afternoon, Capitol Police dispatch advised all units over the radio that we had an active 10–100 at the Republican National Committee nearby: 10–100 is police code for a suspicious package, such as a potential bomb. That radio dispatch got my attention, and I started to get more nervous and worried, especially because the crowds on the East Front of the Capitol were continuing to grow.

Around the same time, I started receiving reports on the radio about large crowd movements around the Capitol coming from the direction of The Ellipse to both the West and East Fronts of the Capitol. Then I heard urgent radio calls for additional officers to respond to the west side and an exclamation, a desperate voice, that demonstrators on the west side had breached the fence. Now it was obvious that there was a direct threat to the Capitol.

I quickly put on a steel chest plate, which weighs approximately 20 pounds, and carrying my M–4 rifle, sprinted around the north side of the Capitol to the West Terrace and the railing of the inaugural stage, where I had a broad view of what was going on.

I was stunned by what I saw. What seemed like a sea of people, Capitol Police Officers and Metropolitan Police Officers, MPD, were engaged in desperate hand-to-hand fighting with rioters across the west lawn.

Until then, I had never seen anyone physically assault Capitol Police or MPD, let alone witness mass assaults being perpetrated on law enforcement officers. I witnessed the rioters using all kinds of weapons against officers, including flagpoles, metal bike racks that they had torn apart, and various kinds of projectiles. Officers were being bloodied in the fighting. Many were screaming, and many were blinded and coughing from chemical irritants being sprayed in their faces. I gave decontamination aid to as many officers as I could, flushing their eyes with water to dilute the chemical irritants.

Soon thereafter, I heard, “Attention all units, the Capitol has been breached,” and that rioters were in various places inside the building. At that point, I rushed into the Capitol with another officer, going first to the basement on the Senate side where I’d heard an MPD officer needed a defibrillator.

After returning outside to the West Terrace to assist the officers, I went back into the Capitol and up the stairs toward the Crypt. There I saw rioters who had invaded the Capitol, carrying a Confederate flag, a red MAGA flag, and a “Don’t Tread on Me” flag.

I decided to stand my ground there to prevent any rioters from heading down the stairs to the Lower West Terrace entrance, because that’s where officers were getting decontamination aid and were particularly vulnerable.

At the top of the stairs, I confronted a group of insurrectionists, warning them, do not go down those steps. One of them shouted, “Keep moving, patriots.” Another displayed what looked like a law enforcement badge and told me, “We’re doing this for you.” One of

the invaders approached me like he was going to try to get past me and head down the stairs. I hit him, knocking him down.

After getting relieved by other officers in the Crypt, I took off running upstairs toward the Speaker's Lobby and helped the plainclothes officer who was getting hassled by insurrectionists. Some of them were dressed like members of a militia group, wearing tactical vests, cargo pants, and body armor. I was physically exhausted, and it was hard to breathe and to see because of all the chemical spray in the air.

More and more insurrectionists were pouring into the area by the Speaker's Lobby near the Rotunda, and some wearing MAGA hats and shirts that said, "Trump 2020." I told them to just leave the Capitol, and in response they yelled, "No, man, this is our house." "President Trump invited us here." "We're here to stop the steal." "Joe Biden is not the President." "Nobody voted for Joe Biden."

I'm a law enforcement officer, and I do my best to keep politics out of my job, but in this circumstance, I responded, "Well, I voted for Joe Biden. Does my vote not count? Am I nobody?"

That prompted a torrent of racial epithets. One woman in a pink MAGA shirt yelled, "You hear that, guys? This nigger voted for Joe Biden." Then the crowd, perhaps around 20 people, joined in screaming, "Boo, fucking nigger." No one had ever, ever called me a nigger while wearing the uniform of a Capitol Police Officer.

In the days following the attempted insurrection, other Black officers shared with me their own stories of racial abuse on January 6th. One officer told me he had never in his entire 40 years of life been called a nigger to his face, and that streak ended on January 6th. Yet, another Black officer later told me he had been confronted by insurrectionists in the Capitol who told him, "Put your gun down and we'll show you what kind of nigger you really are."

To be candid, the rest of the afternoon is a blur, but I know I went throughout the Capitol to assist officers who needed aid and help expel more insurrectionists. In the Crypt, I encountered Sergeant Gonell, who was giving assistance to an unconscious woman who had been in the crowd of rioters on the west side of the Capitol. I helped to carry her to the area of the House Majority Leader's Office where she was administered CPR.

As the afternoon wore on, I was completely drained, both physically and emotionally, and in shock and in total disbelief over what had happened. Once the building was cleared, I went to the Rotunda to recover with other officers and share our experiences from what happened that afternoon. Representative Rodney Davis was there offering support to officers, and when he and I saw each other, he came over and he gave me a big hug.

I sat down on a bench in the Rotunda with a friend of mine, who is also a Black Capitol Police Officer, and told him about the racial slurs I endured. I became very emotional and began yelling, how the blank could something like this happen? Is this America? I began sobbing. Officers came over to console me.

Later on January 6th, after order and security had been restored in the Capitol through the hard work and sacrifices of law enforcement, Members took the floor of the House to speak out about what had happened that day. Among them was House Minority Leader

Kevin McCarthy, who, along with my fellow officers, I had protected that day and will protect today and tomorrow—I had protected that day and will protect today and tomorrow.

The Minority Leader, to his great credit, said the following to the House: “The violence, destruction, and chaos we saw earlier was unacceptable, undemocratic, and un-American. It was the saddest day I have ever had serving in this institution.”

Members of this Select Committee, the Minority Leader was absolutely right how he described what took place in the Capitol. For those of us in the Capitol Police, who serve and revere this institution and who love the Capitol Building, it was the saddest day for us as well.

More than 6 months later, January 6th still isn’t over for me. I’ve had to avail myself of multiple counseling sessions from the Capitol Police Employee Assistance Program, and I am now receiving private counseling therapy for the persistent emotional trauma of that day. I’ve also participated in many peer support programs with fellow law enforcement officers from around the United States.

I know so many other officers continue to hurt both physically and emotionally. I want to take this moment to speak to my fellow officers about the emotions they are continuing to experience from the events of January 6th. There’s absolutely nothing wrong with seeking professional counseling. What we went through that day was traumatic, and if you are hurting, please take advantage of the counseling services that are available to us.

I also respectfully ask that this Select Committee review the available resources—the services available to us and consider whether they are sufficient enough to meet our needs, especially with respect to the amount of leave that we are allowed.

In closing, we can never again allow our democracy to be put in peril as it was on January 6th. I thank the Members of the Select Committee for your commitment to determine what led to disaster at the Capitol on January 6th, what actually took place that day, and what steps should be taken to prevent such an attack on our democracy from ever happening again.

I also want to thank and acknowledge my brothers and sisters in blue who fought alongside me on January 6th to protect our democracy. Each of you is a hero, and it is my honor to serve with you each and every day.

I’d like to thank the American people for all of the support that they have provided these past several months to me and my fellow officers.

Last, to the rioters, the insurrectionists, and the terrorists of that day, democracy went on that night and still continues to exist today. Democracy is bigger than any one person and any one party. You all tried to disrupt democracy that day and you all failed.

Thank you again for the opportunity to testify, and I would be happy to answer any questions that you may have.

Chairman THOMPSON. Thank you very much.

I thank all the witnesses for their testimony.

The rules we established allowed you the opportunity to tell your story. There is no question about it; you have done it in your own words. We appreciate it. So, what we will do now is begin our questioning of you.

I now recognize myself for questions.

At the time of the attack on the Capitol, I was in the gallery observing the proceedings on the House floor. While Members of Congress were being protected by the police, you, the patriots protecting the Capitol in our very democracy, were being attacked by the mob outside.

I want to learn more about what you did and what you witnessed. Officer Fanone, as a narcotics officer, you weren't supposed to be at the Capitol on January 6th. Is that right?

Officer FANONE. Yes, sir, that's correct.

Chairman THOMPSON. What prompted you to come to the Capitol?

Officer FANONE. I mean, I was listening to the radio transmissions, specifically those coming from now-Commander Robert Glover, who was the on-scene commander. If you've listened to those transmissions, he identifies himself as Cruiser 50.

I heard things that I had never heard before in my law enforcement career. In addition to the numerous distress calls or 10-33s that I heard, which are, while not commonplace, also not uncommon in policing, I heard things like, you know, the declaration of a city-wide 10-33, which in my career, to my recollection, has only been utilized, in addition to the 9/11 attacks, on the Navy Yard attack. So, I found that particularly distressful.

Also, you could hear the tone of the individual officer's voices. They were scared. They were, you know, clearly outnumbered and being violently assaulted.

Chairman THOMPSON. Thank you. So, basically, the radio traffic, the 10-33 signal on the radio, and your basic law enforcement instinct said your fellow comrades needed help, and therefore you made your way, along with your friend, to the Capitol?

Officer FANONE. Yes, sir.

Chairman THOMPSON. So, you went anyway. Let me thank you for that. I understand a number of other people did the same.

Officer HODGES, we've seen the harrowing video of you being crushed in a doorway as you bravely fought to keep the mob from breaching the Capitol. Many of your fellow officers' acts of heroism were not captured on video and are not therefore known to the public. Can you please share with the Committee other acts of heroism by your colleagues on January 6th that you're aware of?

Officer HODGES. Absolutely. One of my sergeants, Sergeant Brian Peake, while fighting, maintained control over the barricades on the West Terrace, was struck by a rioter and fractured and severely lacerating his right index finger. He kept in the fight for several more hours after that and just put some tape on it, a napkin, and went back to work. He was there for several hours before finally accepting medical evac. He ended up having to have the tip of his finger removed.

Another officer who was out there in the fight with us, he—much like myself—he had a large, heavy object thrown and struck his head. He wasn't as lucky as me, though. He has suffered lost time from that day, and he remains still out on medical leave. Even today he has not returned to work, but at the time he was still fighting.



Another officer, who was fought on the West Terrace and in the tunnels, instrumental to the defense, after being completely soaked with OC spray, was shocked several times by a cattle prod one of the terrorists brought with them.

When I went over my testimony—my opening statement before, I mentioned that we were attacked outside the second area-of-defense line on the West Terrace, and after we rallied there, we continued onward. I know that another officer found a Capitol Police Officer who was being dragged out into the crowd, and he was unable to signal to us what was going on. So, he charged in there by himself and got that officer back out of there and in the process hyperextended his knee and took several other injuries.

You know, *The Washington Post* and Carnegie Mellon University have estimated that there were about 9,400 terrorists out there, and I would say we had about 150, 175 officers. So, any one of them could tell you any amounts of heroic acts or injuries they sustained, but these are just a few that I know of.

Chairman THOMPSON. Thank you very much.

Officer Gonell, you talked about your tour in Iraq and what have you—and thank you for your service. Can you give the Committee a sense of comparing that tour and experiences with what you experienced on January 6th?

Sergeant GONELL. Sure. Back when I was in Iraq and sometime on a convoy mission to provide mutual support or taking care packages or whatnot to my other units in detachment—we went through roadside bomb-infested IEDs, whatnot, convoys. My fears were minimal around that time. It was not as constant. I know we knew at that time that we could run over an IED and that was it, but at least we knew that we were in a combat zone. Here, in our country, in our very own Capitol, we are being attacked. Not once but multiple times we had—

Chairman THOMPSON. Can you pull the microphone to you just a little bit?

Sergeant GONELL. Oh, sorry. Not only we were attacked one time, but it was multiple times, over and over, different people. They hit us and then they got tired of hitting us and then they switch, somebody else, rotating in and out.

As my colleagues also have said, we were at the lowest entrance tunnel, and we didn't have a chance to rotate ourselves until later on, like after an hour and a half later. So, whoever was there, we were fighting for our life. We were fighting to protect all of you.

In our mind, that time, at that entrance, that was it. That was the point of breach, and we were not letting them in.

They tried to convert us. They tried to persuade us to let them in, yelling, and then once they saw that we were not doing that, they continued to attack us even more, and it was nonstop.

So, my time compared to Iraq, totally different. This is our own citizens, people who we swore an oath to protect, but yet they are attacking us with the same flag that they claim to represent. It was bad.

Chairman THOMPSON. Thank you.

Officer Dunn, you talked about being called the N-word, you talked about being talked about like you've never heard before, and you talked about sharing comments from your other colleagues, as

well as the seeing of the Confederate flag and other things carried through the Capitol.

As an African-American law enforcement officer, can you give us, this Committee and those who are watching, how you felt defending the Capitol on that day being called that and seeing the symbols of the Confederacy going through the Capitol at the same time?

Officer DUNN. Yes, sir. Thank you for your question. To be frank, while the attack was happening, I didn't view it and I wasn't able to process it as a racial attack. I was just trying to survive that day and get home.

When I did have a moment to process it, I think that's in the Rotunda where I became so emotional, because I was able to process everything that happened, and it was just so overwhelming. It's so disheartening and disappointing that we live in a country with people like that, that attack you because of the color of your skin just to hurt you. Those words are weapons.

Thankfully, at the moment, it didn't hinder me from doing my job, but once I was able to process it, it hurt. It hurt just reading it now and just thinking about it, that people demonize you because of the color of your skin, when my blood is red, I'm an American citizen, I'm a police officer, I'm a peace officer, I'm here to defend this country, defend everybody in this building, not just the Members, all the staff, guests, everybody.

It just hurts that we have people in this country that resort to that regardless of your actions and what you desire to do to make a difference out there. It's disheartening.

Chairman THOMPSON. Thank you. But because of your heroism on that day, lives were saved, and our democracy was preserved, in large part because you gave your all, all of you, for that day on January 6th. I assure you this Committee will ensure there is a comprehensive account of your heroic acts of that day, and your testimony this morning is an essential part of that record. Thank you for your service to this country and for coming before us today.

The Chair now recognizes Members for questions they may wish to ask the witnesses. The gentlewoman from Wyoming, Ms. Cheney, is recognized.

Ms. CHENEY. Thank you very much, Mr. Chairman.

Again, thank you to all of our witnesses for your heroism and your bravery that day, and also for being here today and telling your story. I certainly join the Chairman and every Member of this Committee in our commitment to making sure we get to the truth and that those who did this are accountable.

Officer Gonell, I'd like to ask you, you describe in your testimony that it was—you said it was like a medieval battlefield, that what you were subjected to that day was something like a medieval battlefield. You said, "We fought hand-to-hand and inch by inch to prevent an invasion of the Capitol by a violent mob intent on subverting our democratic process."

Is it the case that as you were fighting there, you were not aware that the Capitol had been breached elsewhere? I believe you said that you really thought that was—you were the last line of defense. Is that right?

Sergeant GONELL. That is correct, ma'am.

Ms. CHENEY. So, Officer Gonell, when you——

Sergeant GONELL. Sergeant.

Ms. CHENEY [continuing]. Think about that and share with us the vivid memory of the cruelty and the violence of the assault that day, and then you hear former President Trump say, “It was a loving crowd. There was a lot of love in the crowd,” how does that make you feel?

Sergeant GONELL. It’s upsetting. It’s a pathetic excuse for his behavior for something that he himself helped to create, this monstrosity. I’m still recovering from those hugs and kisses that day that he claimed that so many rioters, terrorists were assaulting us that day. If that was hugs and kisses, then we should all go to his house and do the same thing to him.

To me, it’s insulting, it’s demoralizing, because everything that we did was to prevent everyone in the Capitol from getting hurt. What he was doing, instead of sending the military, instead of sending the support, or telling his people, his supporters to stop this nonsense, he egged them to continue fighting.

I was in the Lower West Terrace fighting alongside these officers, and all of them—all of them—were telling us, “Trump sent us.” Nobody else. There was nobody else. It was not Antifa. It was not Black Lives Matter. It was not the FBI. It was his supporters that he sent them over to the Capitol that day. He could have done a lot of things; one of them was to tell them to stop.

He talks about sacrificing—sacrifices, whatnot; the only thing that he has sacrificed is the institutions of the country and the country itself only for his ego, because he wants the job but he doesn’t want to do the job. That’s a shame on him, himself.

Ms. CHENEY. Thank you.

Officer Fanone, you talked in your testimony about the fact that the line that day was the seat of American democracy, was the seat of our Government. Can you talk about, as you think now about what was under threat, first of all, did you have a sense at the time, as you were going through the battle before the horrific violence happened to you, of the nature of the gravity of the threat that we were facing, that the line was, in fact, the seat of American democracy?

Officer FANONE. Well, my response that day really was based off of my obligation as a police officer to not only protect the lives of the Members of Congress and their staff but also to my fellow officers. The politics of that day really didn’t play into my response at all.

Ms. CHENEY. Thank you.

Officer Hodges, in your testimony, you talk about when you were at The Ellipse, and you mentioned the significant number of men dressed in tactical gear attending the gathering, wearing ballistic vests, helmets, goggles. When you saw that, was that something that you had anticipated at all? Could you just tell us more about that crowd there at The Ellipse, the extent to which you saw people who clearly were in military or paramilitary garb?

Officer HODGES. It was absolutely a source of concern. Like I said, they had outer carrier vests designed to carry ballistic shielding, helmets, goggles, face masks, backpacks filled with unknown objects. I couldn’t get a count and we couldn’t stop and search ev-

everyone, so I don't know how many there were. But I know that, it was obviously a concern of mine.

Ms. CHENEY. Thank you very much.

Then, finally, Officer Dunn, you mentioned the text message that you received, and you expressed some surprise. You mentioned that you had not seen any intelligence that would have led you to believe that we should expect that kind of violence. Could you elaborate on that a little bit?

Officer DUNN. Yes, ma'am. We were expecting civil disobedience, as we do at the Capitol, at least that was what was relayed to us; a couple of arrests, name calling, unfriendly people, but nowhere near the level of violence or even close to it like that we experienced.

When I received the text messages, it made the hairs on my neck rise. But since our chain of command had not told us to prepare for any of these levels of violence, I was just like, okay, whatever. Like, I've been here—I start year 14 in November—and I've dealt with hundreds of protests where people get arrested and for peaceful First Amendment protests. Everybody has the right to protest. Okay. Do what you do, and we'll arrest you if you break the law, and we'll go home later that night. It was a lot different than that, but I was not alerted to the level of violence. Like, the text messages I got foreshadowed that looking back, but, no, we were not prepared for what we faced that day.

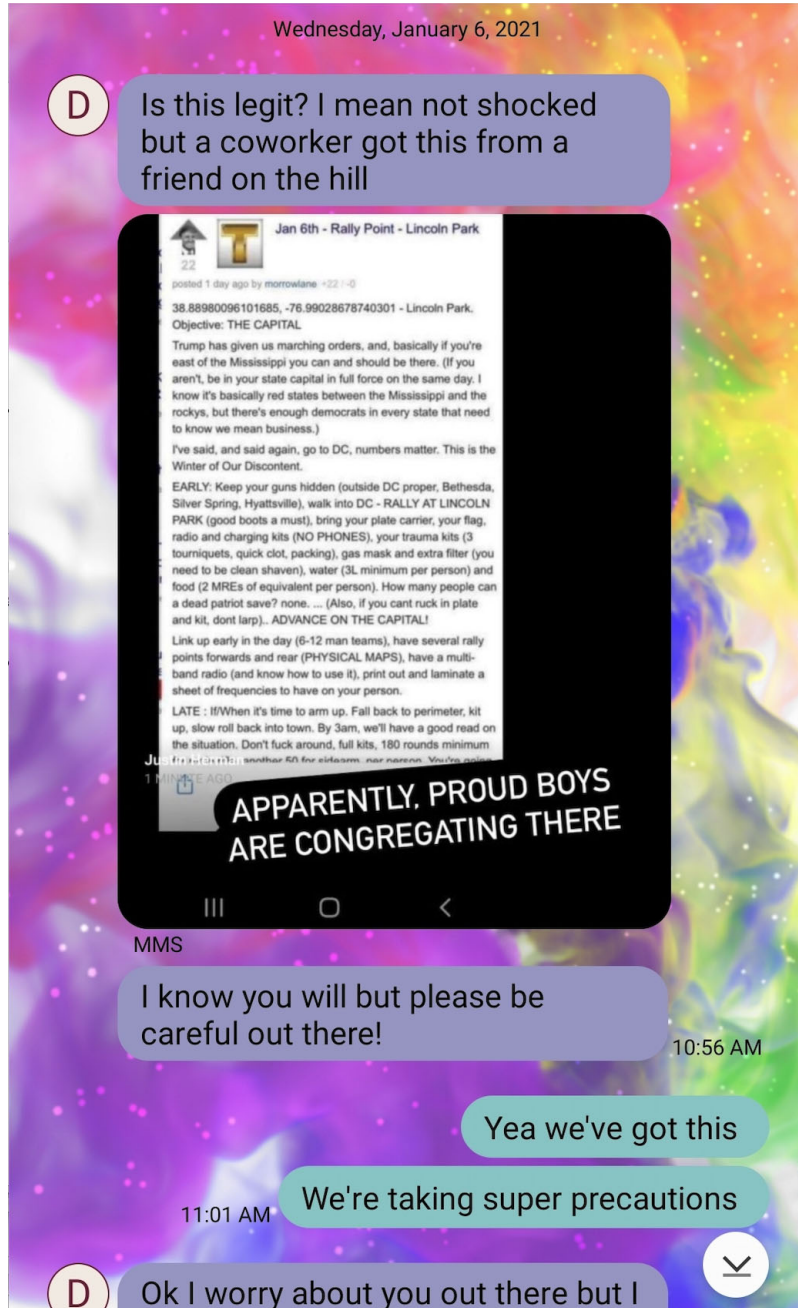
Ms. CHENEY. Thank you.

Mr. Chairman, I'd like to ask unanimous consent to enter that complete text message into the record.

Chairman THOMPSON. Without objection, so ordered.

Ms. CHENEY. Thank you.

[The information follows:]



Ms. CHENEY. Again, I would just like to express my deep gratitude for what you all did to save us, and it won't be forgotten, and we will get to the bottom of this. Thank you very much.

With that, I yield back.

Chairman THOMPSON. The gentlelady yields back.

The Chair recognizes the gentlewoman from California, Ms. Lofgren.

Ms. LOFGREN. Thank you, Mr. Chairman.

Thanks to each one of you and your colleagues for what you did. I was on the floor of the House helping to defend the voters of Arizona to a challenge to their electors while you were out trying to keep a violent mob from invading the Capitol.

So, I really do want to thank you for your tremendous courage and stamina and heroism, not just for myself; I Chair the House Administration Committee, and I know how many others work in this Capitol, not only the staff to the Members of Congress, but the food service workers who were present and clerical staff. You saved them as well, and so they also owe you a debt of gratitude.

I do realize that ultimately the rioters breached the Capitol, but the time that you kept them out really made a tremendous difference. You saved the day. You saved the Constitution, and it made a tremendous difference for our country.

Officer Dunn, I did hear you about the need for additional help, and I want to pledge to you that we will work with the Capitol Police to make sure that the resources, the mental health unit has the resources that officers need. I'll make that pledge to you right now.

Officer DUNN. Thank you.

Ms. LOFGREN. I would like to ask, Sergeant Gonell, not everyone knew that you were fighting in the hallway near the Lower West Terrace on January 6th. Can you tell me what you went through on that hallway? Then while you were there, Metropolitan Police arrived to help you out. What difference did that make?

Sergeant GONELL. Sure, ma'am. Before I start, by no means am I suggesting that we would go to his house. I apologize for my outburst.

After we retreated to the Lower West Terrace entrance, it was rough. It was terrible. Everything that was happening to us, it was simultaneously, and we didn't have a lot of support. We had probably like 50 officers at most when we went back in. Once we were there, we started saying to ourselves, this is it. This is the entrance where they're going to try to breach. We're going to hold the line. We're going to do everything possible, without even coordinating among ourselves.

The few officers who were still carrying shields, we automatically assumed position in the front. Some of those shields were taken, ripped apart from the officers' hands. Some of the officers also got concussed because they were hit with the same shields they were holding, because that was so violently taken from them that they were concussed.

There were multiple struggles in terms of fighting. My shield was round, and I was able to get some strikes, but because we were in so close quarters, it was hard for us to even do that. The only thing we were allowed to was push forward. Whoever has shields

stay in the front, and whoever was in behind the people with the shield, then they were striking those rioters.

At some point, I fell on the floor on top of some shields, trying to help and assist some of the officers, and I got pulled to the crowd. Luckily, I was able to free myself and stand up.

Later on, the second time I went back to the front, that's when Officer Hodges was getting trampled. I was getting trampled, because just the mere force of the rioters pushing forward and police officers pushing out, we were getting trampled in the middle. So, it was a very terrible thing that happened to us, yes.

Ms. LOFGREN. Officer Fanone, before I ask you a question, I'd like to show a brief video clip of some of what you went through today. I realize this can be difficult to watch, but I think it's important for the public to see.

VOICE. Where is the West Front of the Capitol Building?

VOICE. What do you got there?

VOICE. 10-33.

CROWD. U-S-A! U-S-A! U-S-A!

CROWD. [unintelligible]

VOICE. Come on, MPD!

VOICE. Push!

VOICE. You've got to fight the right people.

VOICE. Push!

VOICE. I got you, Mike. That's my hand. You're good.

VOICE. Push them back!

CROWD. [unintelligible]

VOICE. This is for you guys. This is for you.

CROWD. [unintelligible]

VOICE. I've got one.

VOICE. You can't do this to me. I've got kids.

VOICE. . . . why the fuck?

VOICE. We need a medic! We need EMTs now!

Officer ALBRIGHT. Mike, stay in there, buddy. Mike, it's Jimmy; I'm here. Mike!

Ms. LOFGREN. Almost all of that was from your body camera footage. Can you walk us through what we've just seen, Officer Fanone?

Officer FANONE. Well, I believe the first portion of that video began—that was my body-worn camera footage from the Crypt area of the Capitol Rotunda. It was there that I first heard the 10-33, or distress call, come out from the Lower West Terrace tunnel, which I didn't realize at the time was only a few hundred yards away from where I was at.

I told my partner, Jimmy Albright, who was there with me, that there was a 10-33 coming out from the Lower West Terrace. We tried to get our bearings and figure out which way that might be. We asked a group of Capitol Police Officers, and they directed us down a set of stairs. From there, Jimmy and I walked down to the Lower West Terrace tunnel.

The first thing I remember was seeing a buddy of mine, Sergeant Bill Bogner, who is an administrative sergeant. He used to work in my district. Now he works over at the academy. He was unable to see. He had been sprayed in the face with bear mace.

I went up to him and told him, "Hey, it's Fanone." I remember he stretched out his hand to shake mine. That's when he told me that the guys that were just beyond that set of double doors had been fighting there for—I believe he said about 30 minutes. I don't think he realized what time it was because they had been fighting

since around 1 p.m. It was 3 o'clock. So, those guys had been there fighting for 2 hours unrelieved.

I remember looking up through the set of double doors. There was glass panes, and you could see the CS gas, like white powder, still lingering in the air. It was at that point that I realized I probably should have brought my gas mask.

So, I went through the double doors, and I saw Ramey Kyle, who was, at the time, a commander with our Criminal Investigations Division, overseeing all the detectives units. Like many other officers, sergeants, lieutenants, captains that day, he self-deployed and found himself commanding a group of about 30 or 40 officers there in the Lower West Terrace tunnel.

Commander Kyle was having a difficult time breathing. I remember I followed him back out through the set of double doors into that initial hallway, as he kind of cleared himself, straightened himself up. I described it before. I thought he looked like George Patton.

I remember he put his hat back on and walked right back out through the doorway into the tunnel, and I followed him. It was at that point, I think, when I started approaching that group of officers there defending the doorway that I realized the gravity of the situation.

My initial thought was these guys looked beat to hell, and, you know, maybe I could try to get in there and get some guys some help.

So, I told Jimmy that, you know, we needed to get in there and try to offer assistance, and that's what we did initially. We started making our way through the crowd of officers, yelling out, "Who needs a break?"

Like I said in my initial testimony, there were no volunteers. There were officers who identified other colleagues who were in need of help, and I remember somebody yelling out, "This guy needs help," and handed me that officer. I handed him off to Jimmy and told him to get him to the back. I continued to make my way up to the front lines.

Once I got up there, it was the first time I really came face-to-face with these terrorists. They were dressed in, you know, clothing adorned with political slogans, "Make America Great Again," "Donald Trump 2020," things of that nature. They were wearing military-style clothing, Kevlar vests, Kevlar helmets. Many of them had gas masks, and quite a few had shields, which they had taken away from law enforcement officers, and they were using them to beat us at the front line.

The first thing I told them was, "Hey, man, we've got to get these doors closed. We've got injured officers in here."

That really seemed to piss those guys off. They became incredibly violent, and that's when that surge that you watched in some of the video began. You had a large group at the mouth of that tunnel entrance trying to push their way through the officers who were fighting to defend it.

I believe, had they done so or had they accomplished that, they would have trampled us to death. Most certainly, you would have had police officers killed.



I fought there at the front for some time. I was yelling out, you know, trying to inspire some of the other officers that were up there that were tired, telling them to dig in and push, and we started to make some progress.

Sergeant GONELL. I remember that.

Officer FANONE. We pushed those guys out of the tunnel, out through the initial threshold, and I remember thinking to myself, "Man, it's good to get some fresh air." It was at that point that I was pulled off the line.

That initial period of time where I was pulled off that line was kind of a blur. I just remember getting violently assaulted from every direction and eventually found myself out probably about 250, maybe 300 feet away from the mouth of the tunnel where the other officers were at. I knew that I was up shit creek without a paddle.

I was trying to push guys off of me, create some space. All the while, I recognized the fact that there were individuals that were trying to grab a hold of my gun. I remember one of them distinctly lunging at me time and time again trying to grab my gun. I heard people in the crowd yelling, "Get his gun, kill him with his own gun," and words to that effect.

I thought about using my weapon. I believed that there were individuals in the crowd whose intentions were to kill me. I came to that conclusion because of the fact that, separated from these other officers, who were only trying to defend the Capitol, I no longer posed any type of threat nor was I an impediment to them going inside of the building, but yet they tortured me. They beat me. I was struck with a taser device at the base of my skull numerous times. They continued to do so until I yelled out that I have kids.

I said that hoping to appeal to some of those individuals' humanity, and fortunately, a few did step in and intervene on my behalf.

They did assist me back toward the mouth of the tunnel entrance, and other officers were then able to rescue me and pull me back inside. But, at that point, I was unconscious. Based off the body-worn camera footage, it's believed that I was unconscious for approximately 4 minutes.

Ms. LOFGREN. Thank you, Officer. Thanks to each one of you. Our country is lucky, really blessed that you are as patriotic and brave as you are.

I yield back, Mr. Chairman.

Chairman THOMPSON. The gentlelady yields back.

The Chair recognizes the gentleman from Illinois, Mr. Kinzinger.

Mr. KINZINGER. Thank you, Mr. Chairman.

Thank you to my colleagues on the Committee.

Thank you to our witnesses. I never expected today to be quite as emotional for me as it has been. I've talked to a number of you and gotten to know you.

I think it's important to tell you right now, though. You guys may individually feel a little broken. You guys all talked about the effects you have to deal with and you talked about the impact of that day.

But you guys won. You guys held.

You know, democracies are not defined by our bad days. We're defined by how we come back from bad days, how we take account-

ability for that. For all the overheated rhetoric surrounding this Committee, our mission is very simple. It's to find the truth, and it's to ensure accountability.

Like most Americans, I'm frustrated that, 6 months after a deadly insurrection breached the United States Capitol for several hours on live television, we still don't know exactly what happened. Why? Because many in my party have treated this as just another partisan fight. It's toxic, and it's a disservice to the officers and their families, to the staff and the employees on the Capitol complex, to the American people who deserve the truth, and to those generations before us who went to war to defend self-governance because self-governance is at stake.

That's why I agreed to serve on this Committee. I want to know what happened that day. But, more importantly, I want all Americans to be able to trust the work this Committee does and get the facts out there free of conspiracy.

This cannot continue to be a partisan fight. I'm a Republican. I'm a conservative. But, in order to heal from the damage caused that day, we need to call out the facts. It's time to stop the outrage and the conspiracies that fuel the violence and division in this country. Most importantly, we need to reject those that promote it.

As a country, it's time to learn from our past mistakes, rebuild stronger so this never happens again, and then we can move onward. Serving on this Committee, I'm here to investigate January 6th not in spite of my membership in the Republican Party but because of it; not to win a political fight but to learn the facts and defend our democracy.

Here is what we know: Congress was not prepared on January 6th. We weren't prepared because we never imagined that this could happen—an attack by our own people fostered and encouraged by those granted power through the very system they sought to overturn. That is a lesson. That is not a conspiracy theory or a counternarrative. We don't blame victims. We go after the criminals.

Some have concocted a counternarrative to discredit this process on the grounds that we didn't launch a similar investigation into the urban riots and looting last summer.

Mr. Chairman, I was called on to serve during the summer riots as an Air National Guardsman. I condemn those riots and the destruction of property that resulted, but not once did I ever feel that the future of self-governance was threatened like I did on January 6th. There is a difference between breaking the law and rejecting the rule of law, between a crime—even grave crimes—and a coup.

As we begin our work today, I want to call this Committee's attention to the oath of office, an oath not to a party, not to an individual, but to the Constitution that represents all Americans. Everyone in elected office knows how hard it can be sometimes to keep that oath, to preserve, protect, and defend the Constitution of the United States in the forefront of our minds, what with the political pressures and reelections always around the corner.

But, Mr. Chairman, our witnesses today, like every law enforcement officer across the country, took the same oath we did. On January 6th, the temptation to compromise their oaths didn't come

in the form of a campaign check or a threat from leadership or an all-caps tweet. It came in the form of a violent mob.

While we on this dais were whisked away from the danger, heroes like those here stood their posts before it and paid the price, and we are only here now because you guys were here then.

Therefore, it's altogether fitting that we begin our investigation of January's lawless attack against the Constitution with these four men who made sure that the attack did not succeed, with those who helped to ensure that democracy held. I think it's important to remember that you are four with stories, but there are hundreds with stories as well that you represent, where you sit.

Officer Fanone, I know your passion is to make sure that D.C. Metro gets the credit it's due, and I thank you. I know that you represent the hundreds of officers, like Officer Hodges, that responded to that call.

What I want to ask: Does this feel like old history to any of the four of you? Sometimes we hear out there: It's time to move on, right? It's been 6 whole months, time to move on.

Does this feel like old history and time to move on? You can just say yes or no.

Sergeant GONELL. No, sir.

Officer FANONE. Nope.

Officer HODGES. There can be no moving on without accountability. There can be no healing until we make sure this can't happen again.

Officer DUNN. I echo that. How do you move on without correcting what happened?

Mr. KINZINGER. Let me ask you all—one of the narratives out there—and, Officer Fanone, it triggered something in your testimony when you said it. So, there has been this idea that this was not an armed insurrection, as if somehow that is justification for what happened. We know the hugs and kisses. We know it was BLM and Antifa, right? Of course, then you would, I'm sure, want to investigate that if that's the case.

Now we've heard maybe the FBI actually had started this. But one of the ones that has always held was that this was not an armed insurrection.

Officer Dunn, you mentioned that those that stormed the Capitol were very well-organized and trained. Let me ask you—and I'll ask actually to all four of you. Officer Hodges, I know this was part of your job initially before you responded to the Capitol. If, in the middle of all that melee, you see somebody with a gun in that crowd, would you be able to go out, apprehend, arrest them, read them their rights, and go through that process, or was the mission at the moment survival and defense of the Capitol?

So, I'm asking: Is it possible that people maybe had guns? We've seen that actually there were, but this idea that, wow, people weren't arrested with guns. At the time, it was raw survival.

We can just start on the left. Let me ask you: What's your response to that?

Sergeant GONELL. For those people who continue to downplay this violent attack on our democracy and officers, I suggest them to look at the videos and the footage, whatnot, because common things were used as weapons, like a baseball bat, a hockey stick,

a rebar, a flagpole, including the American flag, pepper spray, bear spray.

So, you name it. You had all these items and things that were thrown at us and used to attack us. Those are weapons. No matter—if it is a pen, the way they were using these items, it was to hurt officers. It was to hurt police officers. Their intent was not to say, “Hey, let me go and find the Republicans or the Democrats in there, or the Independents.” It was every single body that was here in this building, in the Capitol, that their intent was to get them out and hurt them.

It would have been a much different outcome had we not stopped them, especially at the Lower West Terrace entrance. Even though, at that time, we didn’t know that there were other breaches in the Capitol, our intent was to stop whoever was trying to come in through that door.

Those weapons that were used, those were common items, but the way they were using it was as weapons.

Mr. KINZINGER. Let me ask, too, in kind of my final moments, Sergeant Gonell—Officer Hodges, you were a Virginia guardsman, I believe—fellow guardsmen?

Officer HODGES. Yes, sir.

Mr. KINZINGER. At any time in your service in the military—as you know, I’m an Air Guardsman—and, Sergeant Gonell, you specifically mentioned your time in Iraq. At any time in your military service, did you change how you defended the person to your left or right or how you trained with them based on their political affiliation—

Officer HODGES. No. Not at all.

Mr. KINZINGER [continuing]. Whether it was in a war or anything?

Officer HODGES. No.

Sergeant GONELL. No, sir. The way I viewed it at the time was I’m an American, and the person right next to me is an American, and I would do everything possible for me to defend him and the country at that time.

Mr. KINZINGER. You guys did that. You guys did that in the blue.

Sergeant GONELL. Yes, sir.

Mr. KINZINGER. I want to say that is the mission of this Committee. We may have our deep differences on other policy issues, but we are all Americans today, and we thank you for holding that line.

Officer DUNN. Congressman, if I may? If I may respond to Congressman—

Mr. KINZINGER. Please.

Officer DUNN. When you asked about the armed part, when the officers—assumed officers—showed me what appeared to be a police badge, I don’t know too many police officers—this is just me being a police officer for 13 years—that carry their badge and don’t carry a gun with them.

We look on their hips. You see a print. I didn’t see that it was a gun, but a reasonable police officer will believe that that’s a gun on their hip.

Mr. KINZINGER. Just to quickly be specific, a print is basically what looks like the outline of a gun?

Officer DUNN. That's correct.

Mr. KINZINGER. Thank you, Mr. Chairman.

Thank you, witnesses.

Chairman THOMPSON. Thank you.

The gentleman yields back.

The Chair recognizes the gentleman from California, Mr. Schiff.

Mr. SCHIFF. Thank you, Mr. Chairman.

I was on the House floor from the beginning of the joint session until the attack and evacuation by the Capitol Police, and I want to thank you. I'm convinced that one of the lives you saved that day might very well have been my own. We are all greatly in your debt. You are all heroes.

Sergeant Gonell, Representative Lofgren asked you about your experience, and I won't ask you to repeat that. I would like the public to see, from your perspective, some video, if you're comfortable with my showing it?

Sergeant GONELL. Yes, that's fine.

Mr. SCHIFF. If the clerk could roll the video, please.

CROWD. [unintelligible]

VOICE. You're going to die tonight.

VOICE. You gotta lock 'em together. Here, like this. Arms through these shields. You know how to put your arms? Do we have a hard platoon guy here?

VOICE. Yeah.

VOICE. Show them how to lock the shields together and hold the shields.

VOICE. We need an avenue of escape, so wait to lock this one in. Go ahead.

CROWD. [unintelligible]

VOICE. Gas! Gas! Gas! Gas! Gas!

CROWD. [unintelligible]

VOICE. Back up! No, stop! Stop! Stop! Stop!

CROWD. [unintelligible]

Mr. SCHIFF. Sergeant, in that video, one of the first things you hear is someone saying, "You're going to die tonight." You described in your opening statement being crushed by rioters. You could feel yourself losing oxygen, thinking this was how your life was going to end, trampled to death defending the Capitol.

It's hard for any of us to understand what you went through even though we were there. It's even harder, I think, for people around the country to understand what that was like.

Can you tell us what you were thinking when you were losing oxygen and thought that might be the end?

Sergeant GONELL. My rationale there and the way I was thinking, like we can't let these people in, no matter what, even if it costs my life. That bloody hand that you saw, that's me in there. Both my hands were bleeding bad. At no point in time did I stop, to consider to stop, because the attacks were so relentless. I was thinking I need to survive this, if possible, but I'm willing to sacrifice myself to prevent the attackers from coming in.

I swore an oath to protect the public, the Members of Congress, and the United States Constitution and whatnot. That's what I was doing that day, regardless of my personal safety, along with everybody else who was there that day.

They were calling us traitors, even though they were the ones committing the treasonous act that day. It is devastating and demoralizing for people, whoever party it is, to call this attack and continue to minimize it like nothing happened. It was an attempted

coup that was happening at the Capitol that day. If it had been another country, the United States would have sent help.

People need to understand the severity of, and the magnitude of, the event that was happening that day. We were all fighting for our lives, to give them—to give you guys—a chance to go home to your family, to escape. Now the same people who we helped, the same people who we gave them the borrowed time to get to safety, now they're attacking us. They're attacking our characters. They're attacking Officer Harry's character, people who never served in the military or in law enforcement. It's a disgrace.

My actions that day was to save you guys, regardless of my personal safety. I still continue to want to do that today, tomorrow, and as long as I'm permitted to do it, and if it is demanded of myself to do that in the future.

Mr. SCHIFF. Sergeant, this obviously had a deep impact on you, all of you, but it's also had a big impact on your family. You described how, when you got home, you couldn't even hug your wife because you had chemicals all over you. You wanted to go back. It seems like, no sooner had you gotten home, you wanted to go back.

Sergeant GONELL. Yes, sir.

Mr. SCHIFF. I think I read that you said you felt guilty.

Did your wife want you to go back?

Sergeant GONELL. No.

Mr. SCHIFF. Why did you go back, and what was your conversation with her about that?

Sergeant GONELL. After I took a shower, I spent about 10 minutes hugging her and my son. I told her, "I've got to get some sleep because I've got to go back to work."

She said, "No, you're not. You're hurt."

I said, "No. I'm still able to continue to carry out my duties." By 8 o'clock, I was already on my way back despite her concerns for my safety.

My sense of duty for the country, for the Constitution, at that time was bigger than even my love for my wife and my son. I put that ahead.

For me, it's confounding that some people who have sworn an oath, elected officials, including people in the military, that I seen at the Lower West Terrace fighting against me, they swore an oath, and they're forgetting about the oath. They're not putting the country before the party, and that's what bothers me the most because I, as a former soldier, I know what that inherits, that oath, and I'm still willing to do that.

We've got people right now in front of the Justice Department asking to release some of the very same people even though we are testifying about the trauma and the agony, everything that happened to us. It's pathetic, and they shouldn't be elected officials anymore.

Mr. SCHIFF. Officer Dunn, you described talking to your fellow Black officer about what you went through and experiencing those racial epithets. You asked a question, I think, that I've been haunted by ever since: Is this America? I'm very interested to know your thoughts on the answer to that question.

Is this America, what you saw?

Officer DUNN. Well, thank you for your question.

You know, I've done a few interviews before about my experiences that day, and I said that it was a war that we fought, and a war is composed of a bunch of different battles. Everybody, even sitting at this table, fought a different battle that day, but it was all for the same war.

As Black officers, I believe we fought a different battle also. The fact that we had our race attacked and just because of the way we look, you know, to answer your question, frankly, I guess it is America. It shouldn't be, but I guess that's the way that things are.

I don't condone it. I don't like it, but, I mean, if you look at our history, of American history, things are—countries existed because they beat—they won a war, or colonies and State lines and boundaries exist because of violence and wars like—so I guess it sounds silly, but I guess it is American.

But it's not the side of America that I like. It's not the side that any of us here represent. We represent the good side of America, the people that actually believe in decency—human decency. We appeal to just the good in people. That's what we want to see.

Whether we disagree with how they vote on a bill about infrastructure, everybody wants the right thing, people to do okay.

So, that's why I'm glad to see this Committee composed of Republican Members also. So, that's encouraging. It's encouraging. So, that's the side of America that I say, yes, this is America. This is the side that I like and the side that I acknowledge.

Mr. SCHIFF. Officer, thank you. I believe in this country, and I believe in it because of people like you, who understand what the flag means and what our Constitution means and risk their lives to defend it.

I'd like to think, as Amanda Gorman so eloquently said, that we're not broken; we're just unfinished. Because, if we're no longer committed to a peaceful transfer of power after elections if our side doesn't win, then God help us. If we deem elections illegitimate merely because they didn't go our way rather than trying to do better the next time, then God help us. If we're so driven by bigotry and hate that we attack our fellow citizens as traitors if they're born in another country or they don't look like us, then God help us.

But I have faith because of folks like you.

Adam, I didn't expect this would be quite so emotional either, but it must be an Adam thing today.

But I'm so grateful to all of you.

With that, Mr. Chairman, I yield back.

Chairman THOMPSON. The gentleman yields back.

The Chair recognizes the gentleman from California, Mr. Aguilar.

Mr. AGUILAR. Thank you, Mr. Chairman, and Members of the Committee.

Gentlemen, like my colleagues, I want to extend my gratitude and appreciation for your service on January 6th and since then, what you've had to go through.

I was on the House floor, like my colleagues, on the 6th when I was told that a violent mob had breached the Capitol. It's because of your service—it's because of you and your colleagues—that we're

here today, because you were literally the last line of physical defense, laying your life on the line for democracy.

My time will be limited, so I'll be asking questions of Officer Hodges and Sergeant Gonell, primarily about the weapons that you observed and how they were used.

Officer Hodges, you were in a unique position because you were down Constitution. You were closer to the White House to start, as you indicated in your testimony. During the morning and the early afternoon on the 6th, what did you hear specifically about guns and explosives that had been discovered by your fellow officers?

Officer HODGES. I was listening on the radio to our gun recovery unit, working the crowd. What we usually try to do is wait for the crowd to disperse before making arrests. That way, we don't set off the crowd, set off a riot. So, I think they may have identified people of interest that they never got a chance to address. They were working the crowd to try and confirm reports of firearms on certain people, but it's also difficult to do given the nature of the crowd and how many there were.

When I heard our EOD confirm the existence of a device, there was only one thing it could be. You know, explosives. But, in 42, we had our own objective, our own mission, so we would scan the crowd, but these people—they know how to conceal their weapons. So, on a big avenue like Constitution, it's difficult to detect the print or, if it's in a backpack, there is really not much you can do.

But we continue to scan the crowd and find what we could, but mostly it was up to our other units to make those discoveries.

Mr. AGUILAR. In response to Representative Cheney, you talked about the gear that the individuals were wearing. So, combined with what you saw visually with what you had heard on the radio about guns, that all kind of led you to give pause about the next few hours, correct?

Officer HODGES. Absolutely. You know, once we got to the Capitol and we were fighting, I was wondering, how many more bombs are there? What's the trigger? Is it going to be a cell phone? Is it on a timer? How many guns are there in this crowd? If we start firing, is that the signal to them to set off the explosives, however many there are in the city? Is that the signal for them to break out their firearms and shoot back?

So, that's the reason why I didn't shoot anyone and I imagine why many others didn't, because, like I said before, there were over 9,000 of the terrorists out there with an unknown number of firearms, and a couple hundred of us maybe.

So, if that turned into a firefight, we would have lost, and this was a fight we couldn't afford to lose.

Mr. AGUILAR. I want to play a video, and I'd ask that everyone watching pay attention specifically to the weapons the rioters were using. You can hear someone yell, "Get your machete." You can see officers being attacked with flagpoles, flares, and gas canisters.

If we could roll the video.

POLICE RADIO TRANSMISSION. We're still taking rocks, bottles, and pieces of flag and metal pole.

POLICE RADIO TRANSMISSION. Cruiser 50, the crowd is using munitions against us. They have bear spray in the crowd. Bear spray in the crowd.

VOICE. [unintelligible]

VOICE. Get your machete. Get your machete.



VOICE. [unintelligible]

VOICE. Pull back. Pull back.

VOICE. [unintelligible]

Mr. AGUILAR. Sergeant Gonell, in the video, we just saw someone throw a large speaker. Was that directed your way?

Sergeant GONELL. I was further inside. That was afterward, toward the end—before they got clear. When they threw the speaker at me I was further inside the tunnel.

Mr. AGUILAR. What types of weapons did you see used against your fellow officers?

Sergeant GONELL. Police shields, police baton, the sledgehammer that you saw on that video, flagpoles, tasers, pepper spray, bear spray, rebars, bats, PVC pipes, copper pipes, rocks, table legs broken down, furniture broken down, the guardrails for the inauguration stage, cones, four-by-four, any weapons, any items that they could get their hands on that day.

Mr. AGUILAR. You were further down the corridor, but a speaker was thrown at you, and it hit your foot. Is that correct?

Sergeant GONELL. Correct, sir.

Mr. AGUILAR. We have a photo—

Sergeant GONELL. It was thrown my way, and then, when it landed, it hit somebody else, and it hit my foot.

Mr. AGUILAR. I think we have the photo of your foot here as well that we'd like to show.

Sergeant GONELL. That is correct.

Mr. AGUILAR. Can you tell me how you're doing? You mentioned in your opening statement about your continued physical therapy related to the foot. Can you tell me how you're doing?

Sergeant GONELL. The foot, I had several conditions—one is fusion on No. 1 metatarsal, tarsal—metatarsal. Then there was the hammer toe as a result of the hit. Then the second and third digit also got damage. In order to fix one, they need to correct the big toe to stabilize. If not, later on in the future, I would have had the same problem returning.

It is very painful. With a lot of patience and determination that I had gone through, I still have the same problems in terms of pain and stiffness, whatnot.

The doctor last week, on Tuesday, told me that I'm going to need surgery on my shoulder because I have a labrum tear that has not healed even more than 6 months later. Possibly my rotator cuff also is going to need some work.

So, you're talking about 8 months to a year more of physical treatment and rehab.

Mr. AGUILAR. Sergeant, you're an immigrant from the Dominican Republic, a naturalized U.S. citizen, and you mentioned how individuals had zeroed in on your race that day.

Sergeant GONELL. Yes, sir.

Mr. AGUILAR. Can you tell me how that made you feel?

Sergeant GONELL. Before, or right after, MPD arrived with the fluorescent mountain bike unit, I was on the front line, and apparently they seen—even through my mask—they saw my skin color and said, "You're not even American."

Regardless whether I was in the military, they don't know that, but they yelling and saying all these things to me. I mean, when

I heard that, I wasn't even thinking about any racial stuff. I was like, "Okay. You don't know that for a fact," so I'm not even entertaining that.

But it's—just like Officer Harry Dunn, it takes time for you to process that, and you only realize what was happening after you go back and see it from a different point in time because I only saw that recently. But, for me, I wasn't even thinking of it. I'm there to stop them regardless. I'm not thinking what they were yelling in terms of my skin color or my race. I know I'm an American former soldier and a police officer. I didn't take that into account when I was defending all of you guys.

Mr. AGUILAR. Officer Hodges, you characterized the attack on the Capitol as a white nationalist insurrection.

Can you describe what you saw that led you to label the attack that way?

Officer HODGES. The crowd was overwhelmingly white males, usually a little bit older, middle-aged, older, but some younger. I think, out of the entire time I was there, I saw just two women and two Asian males. Everyone else was white males.

They didn't say anything especially xenophobic to me, but to my Black colleagues and anyone who is not white, and some of them would try to recruit me. One of them came up to me and said, "Are you my brother?"

There are many, many known organizations with ties to white supremacy who had a presence there, you know, like Three Percenters, Oath Keepers, that kind of thing. Everyone I've ever—people who associate with Donald Trump are, I find, more likely to subscribe to that kind of belief system.

Mr. AGUILAR. I want to thank the four of you for taking the very difficult step of sharing your stories and your recollections of the threats and violence that you endured. No one should have to experience what you went through.

This Committee will continue its work to give a complete accounting of what happened, to protect further officers, and to amplify the stories that you've shared today.

Thank you so much for being here.

I yield back, Mr. Chairman.

Chairman THOMPSON. Thank you. The gentleman yields back.

The Chair recognizes the gentlelady from Florida, Mrs. Murphy.

Mrs. MURPHY. Thank you, Mr. Chairman.

Thank you to the witnesses for your testimony today, for your bravery on January 6th, and for your service to our country.

I know all of you endured a great deal on January 6th, and I know we've watched a lot of difficult video in this testimony so far, but I hope it's okay with you if I show a brief video of what Officer Hodges experienced that day.

Can you please cue the video?

VOICES. [unintelligible]

VOICE. Hold it, baby. Hold it, baby.

VOICES. [unintelligible]

VOICE. Hold it, baby.

VOICE. Back up! Back up!

CROWD. [screaming]

VOICE. Interlock the shields. Interlock shields.

VOICE. Watch out! Watch out!

VOICE. Interlock the shields. Shields!

CROWD. Heave-ho. Heave-ho. Heave-ho.

Officer HODGES. [screaming]

Mrs. MURPHY. Officer Hodges, I know that must have been difficult to watch, but I really think it's important for the American people to see that because that's the beginning of the kind of accountability that this Committee is committed to in order for us to do what you said, moving forward as a country.

You know, January 6th was an attack on our democracy. It was an attack on the peaceful transfer of power, and it was an attack on this Capitol Building. But it was also an attack on real people. Most people don't know this, and I don't think even you know this, but your actions had a profound impact on me.

So, at 3 p.m. on January 6th, while you were holding back the mob at the Lower West Terrace entrance, I was holed up with Congresswoman Kathleen Rice in a small office about 40 paces from the tunnel that you all were in. That's about from the distance where I'm sitting here on the dais to that back wall.

From that office, in close proximity to where you all held the line, I listened to you struggle. I listened to you yelling out to one another. I listened to you care for one another, directing people back to the makeshift eyewash station that was at the end of our hall.

Then I listened to people coughing, having difficulty breathing. But I watched you and heard you all get back into the fight. I think Congresswoman Rice and I were the only Members of Congress to be down there on that Lower West Terrace.

You know, we had taken refuge in that office because we thought for sure being in the basement at the heart of the Capitol was the safest place we could be, and it turned out we ended up at the center of the storm.

Officer Fanone, you had said, you know, you were 250 feet off of that tunnel, and you felt certain that they were going to kill you. Imagine if they had caught the two Members of Congress that were just 40 feet from where you all were.

I know, Sergeant Gonell and Officer Hodges, you both said that you didn't realize that other parts of the Capitol had been breached, but you really felt like you were the last line of defense. Well, I'm telling you that you were our last line of defense.

During the exact period of time, Officer Hodges, in that video where you were sacrificing your body to hold that door, it gave Congresswoman Rice and I and the Capitol Police Officers who had been sent to extract us the freedom of movement on that hallway to escape down the other end of that hallway. I shudder to think about what would have happened had you not held that line.

You know, I have two young children. I have a 10-year-old son and a 7-year-old daughter, and they're the light of my life. The reason I was able to hug them again was because of the courage that you and your fellow officers showed that day.

So, just a really heartfelt thank you.

I think it's important for everybody, though, to remember that the main reason rioters didn't harm any Members of Congress was because they didn't encounter any Members of Congress. They

didn't encounter any Members of Congress because law enforcement officers did your jobs that day, and you did it well.

I think, without you, what would have been a terrible and—what was a terrible and tragic day—would have been even more terrible and more tragic.

So, just very grateful for all of you.

Now, I'd like to talk a little bit about that video. You've talked a little bit about it in your opening statement, but can you walk us through what is happening in that scene? My understanding is that is a mix of your body camera as well as video from other vantage points.

Officer HODGES. That's correct. At the beginning, you see me walking into the Capitol. That was after we were driven off of the West Terrace. I think you see me spit on the floor unfortunately. I was trying to clear my lungs and mouth of all the CS and OC. You see me preparing my gas mask, donning it, ready to get back out there.

I followed the noise to the tunnel where it was just, you know, wall-to-wall people, packed, fighting with everything they had. It was full of OC and CS gas at the time, and I believe that the smoke was from a fire extinguisher. You could see all the residue on the officers who were there.

It's like I said before. You know, they outnumbered us 50-something to 1, so it didn't matter how many we defeated. We just had to hold on. We couldn't let anyone through, and they always had essentially an infinite number of replacements. They'd say, you know, "We need fresh patriots up here," and there would be more.

So, we just had to hold until someone came to help.

Like I said, once I got out to the front, I didn't want any more pressure on the officers behind me, so I tried to insert myself to where I could use the door frame, brace myself, and push forward so I could take back more territory. Unfortunately, that backfired.

So, once we lost ground, I was unable to retreat. I was crushed up against the door frame, and, in my most vulnerable moments, the man in front of me took advantage and beat me in the head; ripped off my gas mask, straining my neck, skull; split my lip open; just everything he could.

At that point, I recognized that, if I stayed there, then I was going to pass out from lack of oxygen or get dragged out into the crowd and end up like Fanone.

So, I called for help. You know, I tried to make it clear that, you know, my position was untenable, I had to fall back. Thankfully the other officers heard that, were able to get me out of there, and to the back where I recuperated as best I could before I got back out there again.

Mrs. MURPHY. Well, it's clear that you suffered immense pain from the assault. It's clear that you were outnumbered, and yet you just said you got back out there again. Tell me what's worth all of that pain? What was worth it? What were you fighting for that day?

Officer HODGES. Democracy. You were 40 feet away, 40 yards, whatever. Especially with the razor-thin margins of Democrats and Republicans in the House and Senate, if any single one person was kidnapped or killed, which I have no doubt in my mind was what

they intended, that would affect the outcome of legislation and all your duties for years to come. And that's just one person. What if, you know, more than one person? The difference would be even greater than what should be and will be.

And obviously, for each other. You know, your immediate concern is the well-being of your colleagues, the other officers who were there fighting beside me. I think I can speak for everyone when I say we worry about each other more than ourselves. That's just in our nature. It's part of why you become a police officer.

So, like when Fanone said he was trying to find out who needs help and no one would volunteer, that's just an example of that kind of a mindset that we have. So, it was for democracy; it was for the men and women of the House and Senate; it was for each other; and it was for the future of the country.

Mrs. MURPHY. Thank you, Officer Hodges, and thank you all for defending democracy, and I appreciate your testimony, and I appreciate your continued service.

With that, I yield back.

Chairman THOMPSON. The gentlelady yields back.

The Chair recognizes the gentleman from Maryland, Mr. Raskin.

Mr. RASKIN. Thank you, Mr. Chairman.

Sergeant Gonell, Officer Fanone, Officer Hodges, Officer Dunn, you are great law enforcement officers and a hero to law enforcement officers across the country. You are great public servants. You are a hero to public servants across the country. But you are great Americans, and you are heroes to all of America. Long after you are gone, you will be remembered as heroes to our country, along with your fellow officers.

Those who attacked you and those who beat you are fascist traitors to our country and will be remembered forever as fascist traitors.

Now, Officer Dunn, I've got to start with you, because you're my constituent, and you are the pride of Maryland today because of the way you stood up for the Capitol and for the Congress and for our democracy.

But you said something fascinating in your testimony. You said you'd never seen anybody physically assault a single officer before in your 13 years on the force, much less thousands and thousands of people attacking hundreds of officers. So, how did you experience that when it first happened?

Officer DUNN. So, with regards to the never seeing, I'm sure I've seen videos of officers being attacked and people resisting arrest, but to clarify, it's never been the assault on the scale that we have seen like that before. I just wanted to clarify that.

Can you repeat your question for me?

Mr. RASKIN. Well, it leads to my next one actually. You made a really interesting point. You said you'd seen protests for many, many years. You'd seen even civil disobedience for many years. There's an effort today to portray the events of January 6th like some kind of resurrection of Dr. King's march on Washington in 1963, you know.

I've seen a lot of protests here too. I've seen the March for Our Lives that the young people did about gun violence. I see people marching for D.C. Statehood, arguing for their rights to representa-

tion in Congress, and I've seen civil disobedience. But was this like any of those rallies or marches or demonstrations you'd ever seen? If not, what was different about it?

Officer DUNN. So, the marches that you—the protests that you specifically talked about, I'll go a step further and talk about the ones that had the potential to be not-so peaceful. You had the Million Man March rally, the 20th anniversary of it. There was a lot of opposition to that. You had the Klan that came up here. You had people that were pro-guns that wanted to come up here. So, all of those had the potential to be very violent and, frankly, quite deadly, but they did not.

This wasn't the first time that, if I can just use this quote, that the MAGA people came up here to the Capitol before. They were in the District of Columbia before. There were some skirmishes, but it was never the attempt to overthrow democracy. I think this was maybe their second or third time that they had come up, on January 6th, and even then, as belligerent as they were, it didn't account to this violence.

So, the only difference that I see in that is that they had marching orders, so to say. When people feel emboldened by people in power, they assume that they're right. Like, one of the scariest things about January 6th is that the people that were there, even to this day, think that they were right. They think that they were right, and that makes for a scary recipe for the future of this country.

I think that's why it's very important that you all take this Committee seriously and get to the bottom of why this happened, and let's make it never happen again.

Mr. RASKIN. Thank you.

Officer Fanone, I think you've given our Committee our marching orders today, which is to hold the line. You held the line, and now we've got to hold the line. So, I want to thank you for that. If we show a fraction of the courage and the valor that you all demonstrated on January 6th, then we will hold the line in this Committee.

But I want to ask you about holding the line. I want to go back to this question of weapons so we can clear this up, because there are still some people who are saying that the insurrectionists were unarmed. I wonder what your reaction is to that, because we've heard about—well, first of all, rampant baseball bats, lead pipes, Confederate battle flags and so on, and what about the question of firearms. So, what is your reaction generally to this proposition that they weren't armed?

Officer FANONE. First and foremost, I would say that the implements that you just described are most certainly weapons. With regards to firearms, I know that in the days immediately before the January 6th insurrection and January 6th itself, firearms were recovered by law enforcement from individuals in Washington, DC, who were believed to have been participants or at least those who were planning to participate in the January 6th insurrection. Yes, those were firearms, handguns, and such.

Mr. RASKIN. Forgive me for these questions, but I've got to ask you, apparently in some nether regions of the internet it's being said that you, Officer Fanone, maybe were mistaken for Antifa and

that's why you were nearly beaten to death that day and carried into the crowd. Is there any way you think you were mistaken for Antifa?

Officer FANONE. Well, I was in full uniform. I was, like I said, wearing a uniform shirt adorned with the Metropolitan Police Department's patch. I had my badge on, until somebody ripped it off my chest. I do not believe I was mistaken for a member of Antifa.

Mr. RASKIN. You mentioned in your testimony that there's some people who would prefer that all of this go away, that we not have an investigation, let's let bygones be bygones. But you seem pretty determined to get the country to focus on this. Why is that so important to you?

Officer FANONE. Well, first and foremost, because of the actions of officers who responded there that day, specifically from my department, but also from the U.S. Capitol Police and some of the surrounding jurisdictions. You know, downplaying the events of that day is also downplaying those officers' response.

Like Sergeant Gonell said, and some of the officers, part of the healing process from recovering from the traumatic events of that day is having the Nation accept the fact that that day happened.

Mr. RASKIN. Some people were saying that, as public servants, you all should not be speaking out; that cops, firefighters, teachers should just serve the public but should not speak out as citizens. What do you think about that, Officer Fanone?

Officer FANONE. Well, I disagree. I've been outspoken throughout my career, never to this magnitude. As an undercover officer and a narcotics officer, I've preferred obscurity in the public eye. However, this event is something that we have not experienced in our lifetimes.

Mr. RASKIN. Officer Hodges, I read your testimony carefully. I hope every American reads your testimony. But I noted that you referred to "terrorists" or "terrorism" 15 different times to describe the people who were assaulting officers, dragging them through the crowd, stealing their weapons, smashing them over the head, gouging eyes, and so on.

However, some of our colleagues have been calling the violent insurrectionists not terrorists but tourists. Why do you call the attackers terrorists, and what do you think about our colleagues who think we should call them tourists?

Officer HODGES. Well, if that's what American tourists are like, I can see why foreign countries don't like American tourists. But I can see why someone would take issue with the title of "terrorist." It's gained a lot of notoriety in our vocabulary in the past few decades, and we like to believe that, no, that couldn't happen here, no domestic terrorism, no home-grown threats.

But I came prepared. U.S. Code Title 18, part 1, chapter 113, B as in Brown, section 2331: The term "domestic terrorism" means activities that involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State; and B, appear to be intended to intimidate or coerce a civilian population; or to influence the policy of a government by intimidation or coercion; or to affect the conduct of a government by mass destruction, assassination, or kidnapping, and occur primarily within the territorial jurisdiction of the United States.

Mr. RASKIN. Well, thank you for that.

I had one final question for Sergeant Gonell, but it looks like my time is up, so I yield back to you.

Chairman THOMPSON. The Chair will give the gentleman an opportunity to ask his question.

Mr. RASKIN. Thank you for your indulgence, Mr. Chairman.

Are there questions, Sergeant Gonell, that you hope we can answer as a Committee about the causes of the attack, the nature of the attack, and what happened in the weeks prior to January 6th as we develop our work plan moving forward?

Sergeant GONELL. I think, in my opinion, we do need to get to the bottom of who incited, who brought those people here, why the people were made to believe that the process was rigged, along those lines.

But going back to what Hodges says, I had, in my 15 years of service, I had given a tour to thousands of people at the Capitol, as an officer, as a sergeant, and even in plainclothes uniform. At no point in time did I ever get attacked.

I don't know how you call an attack on police officers a tour. When you see me bleeding, my hands, when you see all the officers getting concussions, getting maimed, getting fingers shattered, eye gouged, it's undecipherable. You're defending the undefensible, and you demoralize, not just the rank and file, but the future recruits that we are trying to get.

What do you think people considering becoming law enforcement officers think when they see elected leaders downplaying this? Why would I risk my life for them when they don't even care? They don't care what happened to the public. They don't care what happened to the officers. All they care is their job, their position.

If they don't have the courage to put their job on the line because they want to feed some lies or whatnot to feed somebody's ego or a "like" for a tweet, that's not putting the country first.

We are willing to risk our life, but at least make it worth it. We do that regardless, whether you're a Republican, Democrat, Independent. We don't care. When radio call or dispatch sends a call, we don't ask, "Hey, by the way, before I treat you, before I take care of you, are you a Republican or Democrat or Independent?" We don't. We just respond.

Normally, under any other circumstances, we just stay shut. We don't talk about politics. We don't talk about what happened to us. But this is bigger than that. You downplay an event that happened to the country itself, to democracy, to the rule of law.

You don't care about people who claim that they are pro-law enforcement, pro-police, pro-law and order, and then yet when they have the chance and the opportunity to do something about it, to hold people accountable, you don't. You pass the bucket like nothing happened.

It's so devastating for recruiting. Yes, we need bodies right now, but this makes it harder, especially when we're trying to attract the talent that we need, people who are willing to risk their lives to protect you guys.

Mr. RASKIN. Well, thank you very much, Sergeant Gonell.

Mr. Chairman, you know, the question was asked by Officer Dunn: Is this America? I think these gentlemen embody the spirit



of America, and we must do justice to their sacrifice in the work of our Committee.

I yield back.

Chairman THOMPSON. No question about it.

The Chair recognizes the gentlelady from Virginia, Mrs. Luria.

Mrs. LURIA. Thank you, Mr. Chair.

I want to say to the four officers here today that I'm grateful for your service, for you sharing your stories, for your willingness to speak to the Members of this Committee and to the American people about the horrific things that you experienced on January 6th, truly experienced in defense of our democracy.

Sergeant Gonell, we talked earlier, and you mentioned the many times that you took the oath, both to become a naturalized citizen, to join the Army, to serve as an officer of the Capitol Police force.

Officer Hodges, you mentioned as well as a National Guardsman and as a police officer. And something I can't share with you, the horrific experiences that you had that day, but all of us having taken that oath, and I took it when I was 17 and joined the Navy and over 2 decades.

Sergeant Gonell, when you mentioned and compared this earlier to the experiences that you had in Iraq, that in a war zone you didn't feel like you felt that day, can you share that with us in a little more detail what was going through your head, your thoughts about what you had experienced defending our Nation on foreign soil and then being here in the heart of our Nation in our Capitol and being assaulted the way that you were?

Sergeant GONELL. It is very disappointing in terms of, like when I was at the Lower West Terrace, and I saw many officers fighting for their lives against people, rioters, our own citizens turning against us—people who had the thin blue line on their chest, or another rioter with a Marine hat that says “veteran,” or any other type of military paraphernalia or whatnot. And then, they're accusing us of betraying the oath when they're the ones betraying the oath.

When I was in Iraq, the sense of camaraderie, it didn't matter whether you were white, Black, Spanish, Middle Eastern, we all knew what we were fighting for. My experience there—there were times that yes, I was scared of going on convoys or doing my supply mission to local Iraqi population, because at any point we were possibly ambushed or getting shot at. We knew the risk.

But here it was simultaneously over, over, and over, our own citizens; why they were attacking us, because we're defending the very institution that they are claiming that they're trying to save.

Mrs. LURIA. Thank you for sharing that. I know it's been difficult today as we've watched these images from the Capitol, but I did want to share one more video. But this time I would ask people, you could even like close your eyes and listen without watching, just listen to what is being said as these brave men were being overrun.

VOICE. Traitors, how do you live with yourself?

VOICE. Die! Die, traitors!

VOICE. You should be mad too. Fucking traitors!

VOICE. You're on the wrong side of freedom. You're on the wrong side!

CROWD. Fuck-the-blue! Fuck-the-blue! Fuck-the-blue!

VOICE. Fuck you guys! You can't even call yourselves American. You broke your fucking oath today. 1776!

VOICE. You're a traitor.

CROWD. Traitor! Traitor! Traitor! Traitor! Traitor!

Mrs. LURIA. So, Officer Fanone, I wanted to turn to you. When you hear the rioters chanting things in this video, things like, F the blue, you can't even call yourself an American, you are on the wrong side of freedom, can you share how that makes you feel?

Officer FANONE. Again, I think—you know, my response that day—and at no point that day did I ever think about the politics of that crowd. Even the things that were being said did not resonate in the midst of that chaos. But what did resonate was the fact that thousands of Americans were attacking police officers who were simply there doing their job, and that they were there to disrupt Members of Congress who were doing their job.

You know, in retrospect now, thinking about those events and the things that were said, it's disgraceful that members of our Government, I believe, were responsible for inciting that behavior and then continue to propagate those statements, things like, you know, this was 1776, or that police officers who fought risked their lives and some who gave theirs were red coats and traitors. To me, those individuals are representative of the worst that America has to offer.

Mrs. LURIA. Thank you.

Thinking about the events that happened on January 6th and thinking about what led up to that day, I was reminded of a quote, a quote that I frequently heard used from Hemingway that asks, you know, how do these things happen? How do things like this happen? That quote, it's very short. It just says, "gradually and then suddenly." I think that our Founders understood that our Republic was very fragile and it would be tested, and it was tested here on January 6th.

In 20 years, I don't want to look back on this moment and think that we saw these signs coming gradually, that these were signs that we ignored—signs that people thought were just isolated incidents or signs of things that we thought could never happen. I don't want to say to my daughter or, Sergeant Gonell, to your son or, Officer Fanone, to your 4 daughters, I don't want any of us to say that this happened gradually and then suddenly, and that some were just too worried about winning the next election to do something about it or too cowardly to seek the truth.

So, that's the task before this Committee. I am sure that we'll be attacked by cowards—by those in the arena, those only in the stands—and that we'll be attacked by people who are more concerned about their own power than about the good of this country.

But my oath, your oath, all of our oaths here today to protect and defend the Constitution against all enemies, foreign and domestic, will be our guiding light for this investigation.

As Officer Dunn said earlier, you said, "we can never again allow our democracy to be put in peril." So, I will say that we will persevere, we will do what is right, and our Nation is truly ever grateful to you who held that line. Your actions on January 6th could very well have been what saved our democracy, and we thank you.

Mr. Chair, I yield back.

Chairman THOMPSON. Thank you.

The gentleman from Maryland asked a question in terms of what you would expect this Committee to do in our body of work. Sergeant Gonell responded, but we didn't give the other three members an opportunity to kind of tell us, based on the last 202 days of your life, what would you task this Committee in its body of work? What would you like to see us do?

Officer Fanone, I'll start with you.

Officer FANONE. Yes, sir. So, while I understand that there have been investigations into the events of January 6th, my understanding is that those have addressed some of the micro-level concerns, that being the immediate security of the Capitol Building itself, also the force mobilization of officers that day, planning and preparation, and training and equipment concerns.

A lot of, you know, the events of January 6th and the days preceding, I guess it's interesting, and from a law enforcement perspective, as a police officer, a lot of these events happened in plain sight. We had violent political rhetoric. We had the organization of a rally whose title was "Stop the Steal," and that that rally occurred on January 6th, which I don't believe was a coincidence that on January 6th Members of Congress, you here in the room today, were charged with tallying the electoral votes and certifying the election of our President.

In the academy, we learn about time, place, and circumstance in investigating potential crimes and those who may have committed them. So, the time, the place, and the circumstances of that rally, that rhetoric, and those events, to me, leads in the direction of our President and other Members not only of Congress and the Senate.

But that is what I am looking for is an investigation into those actions and activities which may have resulted in the events of January 6th, and also whether or not there was collaboration between those Members, their staff, and these terrorists.

Chairman THOMPSON. Thank you very much.

Officer Hodges.

Officer HODGES. I think Fanone hit the nail on the head there. As patrol officers, we can only deal with the crimes that happen on the streets, the misdemeanors, and occasionally the violent felonies. But you guys are the only ones we've got to deal with crimes that occur above us.

I need you guys to address if anyone in power had a role in this, if anyone in power coordinated or aided or abetted or tried to downplay, tried to prevent the investigation of this terrorist attack, because we can't do it. We're not allowed to. I think a majority of Americans are really looking forward to that as well.

Chairman THOMPSON. Thank you.

Officer Dunn.

Officer DUNN. Thank you, Chairman. There's been a sentiment that's going around that says everybody's trying to make January 6th political. Well, it's not a secret that it was political. They literally were there to "stop the steal." So, when people say it shouldn't be political, it is. It was and it is. There's no getting around that.

Telling the truth shouldn't be hard. Fighting on January 6th, that was hard. Showing up January 7th, that was hard. The 8th,

the 9th, the 10th, all the way till today, that was hard. When the fence came down, that was hard, when we lost our layer of protection that we had. The fence came down and still nothing has changed. Everything is different but nothing has changed.

Liz Cheney and Adam Kinzinger are being lauded as courageous heroes, and while I agree with that notion, why? Because they told the truth? Why is telling the truth hard? I guess in this America it is. Us four officers, we would do January 6th all over again. We wouldn't stay home because we knew what was going to happen; we would show up. That's courageous. That's heroic.

So, what I ask from you all is to get to the bottom of what happened, and that includes, like I echo the sentiments of all of the other officers sitting here. I use an analogy to describe what I want as a hit man. If a hit man is hired and he kills somebody, the hit man goes to jail. But not only does the hit man go to jail, but the person who hired them does. There was an attack carried out on January 6th, and a hit man sent them. I want you to get to the bottom of that.

Thank you.

Chairman THOMPSON. Well, thank you. Very powerful comments, by the way.

Sergeant GONELL. Chairman Thompson?

Chairman THOMPSON. Yes.

Sergeant GONELL. If I may, I also would like for you guys to give us the tools, or at least the things we need, to succeed, to continue protecting you guys. I think that's essential for you guys to provide us what we need in terms of like financially. I don't know. I'm not part of the innuendo about how that process works, but perhaps fortifying the Capitol, that will help. I know we were literally desperate. If we had that, that would have made a big difference on January 6th.

I know people want to keep this place open to the public as much as possible, but there are things that we could do to remediate that and also to reinforce entrances, whatnot. It's hard, but it takes will. I could tell the Capitol has some regulations, whatnot, but the time has passed. We still have security measures from 20 years ago that have to go. We need to reinvent the wheel and change that, but only you guys have the power to authorize that. They won't do it unless you guys do.

The other thing is, we still are operating on certain things that we could adjust, things that we were doing back when 9/11 happened, we're still doing it today, even 6 months after the attack on the Capitol. But only you, perhaps with the Chief of Police, the new Chief of Police, which he seems receptive to some of these changes, perhaps that would change. But, just like Officer Dunn said, we're still doing things that prior to January 6th we were doing and we're still doing it today, and I think that should change.

Thank you.

Chairman THOMPSON. Well, again, I thank all of you for your testimony. Obviously you are our real heroes in this situation. What you did, in the Committee's opinion, helped preserve this democracy. The time you gave for reinforcements to finally get to the Capitol made the difference. So, for that we thank you. But you carried out your duties at tremendous risk.

Now we on this Committee have a duty, however a far less dangerous one, but an essential one, to get to the bottom of what happened that day. We cannot allow what happened on January 6th to ever happen again. We owe it to the American people. We owe it to you and your colleagues. We will not fail, I assure you, in that responsibility.

Thank you again to our witnesses as well as our distinguished colleagues of the Committee.

Without objection, Members will be permitted 10 business days to submit statements for the record, including opening remarks and additional questions for witnesses to appropriate staff at all meetings of the Select Committee.

Without objection, the Committee stands adjourned.

[Whereupon, at 1 p.m., the Committee was adjourned.]



## A P P E N D I X

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PREPARED STATEMENT OF AQUILINO A. GONELL, SERGEANT, U.S. CAPITOL POLICE

JULY 27, 2021

Chairman Thompson and Members of the Select Committee, thank you for the opportunity to testify regarding the attack on the U.S. Capitol on January 6, 2021. It is with honor, and a heavy heart, that I come before you to tell you my story, from painful, first-hand experience, of what happened that terrible day at the Capitol. I am providing this testimony solely in my personal capacity, and not as a representative of the U.S. Capitol Police.

It is imperative that the events of January 6th are fully investigated, that Congress and the American people know the truth of what actually occurred, and that all those responsible are held accountable, particularly to ensure this horrific and shameful event in our history never repeats itself. I applaud you for pursuing this objective.

Even though there is overwhelming evidence to the contrary, including hours and hours of video and photographic coverage, there is a continuous and shocking attempt to ignore or try to destroy the truth of what truly happened that day, and to whitewash the facts into something other than what they unmistakably reveal: An attack on our democracy by violent domestic extremists, and a stain on our history and our moral standing here at home and abroad.

As a child in the Dominican Republic, I looked up to the United States as a land of opportunity and a place to better myself. From the moment I landed at JFK airport in 1992, I have strived to pursue that goal. Thankfully, I have achieved that goal on many levels: I was the first in my family to graduate college, join the U.S. Army, and become a police officer.

On July 23, 1999, the day before my 21st birthday, I raised my hand to give back to the country that gave me an opportunity to be anything I wanted. At the time, I had already started basic training with the Army Reserve. In fact, I have raised my hand several times in ceremonies to pledge my commitment to “Defend and Protect the Constitution of the United States”: When I joined the Army Reserves, when I was promoted to Sergeant while in the Army, during my naturalization ceremony, when I reenlisted in the Army, when I joined the United States Capitol Police, and last when I was promoted to sergeant in the U.S. Capitol Police 3 years ago. I have always taken my oath seriously.

On January 6, 2021, I fulfilled my oath once more: This time, to defend the United States Capitol and Members of Congress carrying out their Constitutional duties to certify the results of the November 2020 Presidential election.

To be honest, I did not recognize my fellow citizens who stormed the Capitol on January 6, or the United States they claimed to represent. When I was 25, and then a sergeant in the Army, I had deployed to Iraq for Operation Iraqi Freedom. From time to time, I volunteered to travel on IED-infested roads to conduct supply missions for U.S. and allied military forces and local Iraqi populations. But on January 6, for the first time, I was more afraid working at the Capitol than during my entire Army deployment to Iraq. In Iraq, we expected armed violence, because we were in a war zone. But nothing in my experience in the Army, or as a law enforcement officer, prepared me for what we confronted on January 6.

The verbal assaults and disrespect we endured from the rioters were bad enough. I was falsely accused of betraying my “oath” and of choosing my “paycheck” over my loyalty to the U.S. Constitution—even as I defended the very democratic process that protected everyone in that hostile crowd. While I was on the Lower West Terrace at the Capitol, working with my fellow officers to prevent a breach and restore order, the rioters called me a “traitor,” a “disgrace,” and shouted that I (an Army veteran and police officer) should be “executed”. Some of the rioters had the audacity to tell me that it was “nothing personal,” that they would “go through” us to

achieve their goals as they were breaking metal barriers to use as weapons against us. Others used more menacing language: "If you shoot us, we all have weapons, and we will shoot back", or "we will get our guns". "We outnumber you, join us," they said. I also heard specific threats on the lives of Speaker Nancy Pelosi and then-Vice President Mike Pence.

But the physical violence we experienced was horrific and devastating. My fellow officers and I were punched, pushed, kicked, shoved, sprayed with chemical irritants, and even blinded with eye-damaging lasers by a violent mob who apparently saw us law enforcement officers, dedicated to ironically protecting them as U.S. citizens, as an impediment in their attempted insurrection. The mob brought weapons to try to accomplish their insurrectionist objectives, and they used them against us. These weapons included hammers, rebars, knives, batons and police shields taken by force, as well as, bear spray and pepper spray. Some rioters wore tactical gear, including bulletproof vests and gas masks. The rioters also forcibly took our batons and shields and used them against us. I was particularly shocked at seeing the insurrectionists violently attack us with the very American flag they claimed they sought to protect. Based on the coordinated tactics we observed and verbal commands we heard, it appeared that many of the attackers had law enforcement or military experience.

The rioters were vicious and relentless. We found ourselves in a violent battle in a desperate attempt to prevent a breach of the Capitol by the entrance near the Inauguration Stage. Metropolitan DC Police ("MPD") officers were being pulled into the crowd as we tried to push all the rioters back from breaching Capitol. In my attempt to assist two MPD officers, I grabbed one officer by the back of the collar and pulled him back to our police line. When I tried to help the second officer, I fell on top of some police shields on the ground that were slippery because of the pepper and bear spray. Rioters started to pull me by my leg, by my shield, and by my gear straps on my left shoulder. My survival instincts kicked in and I started kicking and punching as I tried in vain to get the MPD officers' attention behind and above me. But they could not help me because they were also being attacked. I finally was able to hit a rioter who was grabbing me with my baton and able to stand. I then continued to fend off new attackers as they kept rotating after attacking us.

What we were subjected to that day was like something from a medieval battlefield. We fought hand-to-hand and inch by inch to prevent an invasion of the Capitol by a violent mob intent on subverting our democratic process. My fellow officers and I were committed to not letting any rioters breach the Capitol. It was a prolonged and desperate struggle. I vividly heard officers screaming in agony and pain just an arms-length from me. One of those officers is here today. I, too, was being crushed by the rioters. I could feel myself losing oxygen and recall thinking to myself "this is how I'm going to die, trampled defending this entrance." Many of the officers fighting alongside me were calling for shields, because their shields had been stripped from them by the rioters. I was one of the few officers left with a shield, so I spent the majority of the time at the front of the line.

I later found out that my wife and relatives here in the United States and abroad were frantically calling and texting me from 2 o'clock p.m. onwards because they were watching the turmoil live on television. But it was not until around 4:26 p.m., after giving CPR to one of the rioters who breached the Capitol in an effort to save her life, that I finally had a chance to let my own family know that I was alive.

After order finally had been restored at the Capitol and after many exhausting hours, I arrived home at nearly 4 o'clock a.m. on January 7. I had to push away my wife from hugging me because of all the chemicals that covered my body. I couldn't sleep because the chemicals reactivated after I took a shower, and my skin was still burning. I finally fell asleep 2 hours later, completely physically and mentally exhausted. Yet by 8 o'clock a.m. that day I was already on my way back to the Capitol, and I continued to work for 15 consecutive days until after the Inauguration. I made sure to work despite my injuries because I wanted to continue doing my job and help secure the Capitol complex. Six months later, I am still trying to recover from my injuries.

Many of my fellow Capitol Police Officers, as well as MPD Officers, suffered terrible physical injuries from the violence inflicted on us on January 6. I sustained injuries to both of my hands, my left shoulder, my left calf, and my right foot. I have already undergone fusion surgery on my foot, and I was just told that I need surgery on my left shoulder. I have been on medical and administrative leave for much of the past 6 months, and I expect to need further rehabilitation for possibly more than a year.

There are some who expressed outrage when someone simply knelt for social justice during the National anthem. Where are those same people expressing out-



rage to condemn the violent attack on law enforcement officers, the U.S. Capitol, and our American democracy?

As America and the world watched in horror what was happening to us at the Capitol, we did not receive the timely reinforcements and support we needed. In contrast, during the Black Lives Matter protest last year, U.S. Capitol Police had all the support we needed and more. Why the different response? Were it not for the brave members of the MPD and officers for other agencies, I am afraid to think what could have happened on January 6. I want to publicly thank all the law enforcement agencies that responded to assist that day for their courage and support. I especially want to thank those Capitol Police Officers who responded on their own.

Despite being outnumbered, we did our job. Every Member of the House of Representatives, Senator, and staff member made it home safely. Sadly, as a result of that day, we lost officers—some really good officers. But we held the line to protect our democratic process, and because the alternative would have been a disaster. We are not asking for medals or even recognition. We simply want accountability and justice.

For most people, January 6th happened for a few hours that day. But for those of us who were in the thick of it, it has not ended. That day continues to be a constant trauma for us literally every day, whether because of our physical or emotional injuries, or both. While it has not received much attention, sadly many of my colleagues have quietly resigned from the Capitol Police because of that day. I am also regularly called by the law enforcement officials and prosecutors to help identify rioters from photographs and videos. And to be honest, physical therapy is painful and hard. I could have lost my life that day, but as soon as I recover from my injuries I will continue forward and proudly serve my country and the U.S. Capitol Police. As an immigrant to the United States, I am especially proud to have defended the U.S. Constitution and our democracy on January 6. I hope that everyone in a position of authority in our country has the courage and conviction to do their part by investigating what happened on that terrible day, and why.

This investigation is essential to our democracy, and I am deeply grateful to you for undertaking it. I am happy to assist as I can, and answer any questions you have to the best of my ability.

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PREPARED STATEMENT OF MICHAEL FANONE, OFFICER, METROPOLITAN POLICE  
DEPARTMENT

JULY 27, 2021

Thank you, Mr. Chairman and Members of this Committee, for inviting me to provide my eyewitness testimony of the violent assault on our Nation's Capitol on January 6, 2021.

My name is Michael Fanone, and while I have been a sworn officer with the Metropolitan Police Department in Washington, DC. for almost 2 decades, my law enforcement career actually began here in this building as a United States Capitol Police Officer shortly after 9/11. In part because of the 2001 attacks on our country by terrorists, I felt called to serve. As a Capitol Police Officer, I was proud to protect this institution and the dedicated Members of Congress and their staff who work hard each today to uphold our American democracy.

I remain proud of the work of the Capitol Police and MPD Officers who literally commit their lives to protecting the safety of each of you, and all of us in this room, in our Nation's Capital.

After leaving the United States Capitol Police, I became an MPD officer serving the residents of Washington, DC. I have spent the majority of my nearly 20 years at the Metropolitan Police Department working in special mission units whose responsibilities include the investigation and arrest of narcotics traffickers and violent criminals. I have worked as both an undercover officer and lead case officer in many of these investigations.

In this line of work, it probably won't shock you to know I've dealt with some dicey situations. I thought I had seen it all, many times over. Yet what I witnessed and experienced on January 6, 2021 was unlike anything I had ever seen, experienced, or could have imagined in my country. On that day, I participated in the defense of the United States Capitol from an armed mob of thousands determined to get inside. Because I was among a vastly outnumbered group of law enforcement officers protecting the Capitol and the people in it, I was grabbed, beaten, tased, all while being called a traitor to my country. I was at risk of being stripped of, and killed with, my own firearm as I heard chants of, "Kill him with his own gun!" I can still hear those words in my head now.

Although I regularly deal with risky situations on the job, nowhere in my wildest imagination did I ever expect to be in that situation, or sitting before you today talking about it. That experience and its aftermath were something that even my extensive law enforcement training didn't prepare me for.

I was just one of hundreds of local police who lined up to protect Congress even though we were not assigned to do that. Some have asked why we ran to help when we didn't have to. I did that because I simply could not ignore what was happening. Like many other officers, I could not ignore the numerous calls for help coming from the Capitol Complex. I'm a plainclothes officer assigned to the First District Crime Suppression Team. But for the first time in nearly a decade, I put on my uniform.

When my partner, Jimmy Albright, and I arrived at the Capitol around 3 that afternoon, it was unlike any scene I had ever witnessed. Jimmy parked our police vehicle near the intersection of South Capitol St. and D St., SE and we walked to the Capitol from there passing the Longworth House Office Building. It was eerily quiet and the sidewalks, usually filled with pedestrians, were empty. As we made our way to Independence Avenue, I could see dozens of empty police vehicles that filled the street, police barricades, which had been abandoned, and hundreds of angry protesters, many of whom taunted us as we walked toward the Capitol building.

Jimmy and I immediately began to search for an area where we could be of most assistance. We first made our way through a door on the south side of the Capitol, walking then to the crypt and finally down to the Lower West Terrace Tunnel. It was there that I observed a police commander struggling to breathe as he dealt with the effects of CS gas that lingered in the air. Then I watched him collect himself, straighten his cap and trench coat adorned with silver eagles, and return to the line. That Commander was Ramey Kyle of the Metropolitan Police Department and those images are etched into my memory never to be forgotten.

In the midst of this intense and chaotic scene, Commander Kyle remained cool, calm, and collected as he gave commands to his officers. "Hold the line," he shouted over the roar. Of course, that day "the line" was the seat of our American government. Despite the confusion and stress of the situation, observing Ray's leadership, protecting a place I cared so much about, was the most inspirational moment of my life. The bravery he and others showed that day are the best examples of duty, honor, and service. Each of us who carries a badge should bring those core values to our work every day.

The fighting in the Lower West Terrace Tunnel was nothing short of brutal. Here I observed approximately 30 police officers standing shoulder-to-shoulder, maybe 4 or 5 abreast, using the weight of their own bodies to hold back the onslaught of violent attackers. Many of these officers were injured, bleeding, and fatigued. But they continued to hold the line.

As I don't have to tell the Members in this room, the Tunnel is a narrow and long hallway. It is not the sort of space where anyone would want to be pulled into hand-to-hand combat with an angry mob, although the narrowness of the hallway provided what was probably the only chance of holding back that crowd from entering your personal offices and the House and Senate Chambers.

In an attempt to assist injured officers, Jimmy and I asked them if they needed a break. There were no volunteers. Selflessly, they only identified other colleagues who may be in need of assistance.

The fighting dragged on, and I eventually joined the tactical line at the Tunnel's entrance. I can remember looking around and being shocked by the sheer number of people fighting us. As my police body-worn camera shows, thousands upon thousands of people, seemingly determined to get past us by any means necessary.

At some point during the fighting, I was dragged from the line of officers into the crowd. I heard someone scream, "I got one!" as I was swarmed by a violent mob. They ripped off my badge. They grabbed my radio. They seized the ammunition that was secured to my body. They began to beat me, with their fists and with what felt like hard metal objects. At one point I came face-to-face with an attacker who repeatedly lunged for me and attempted to remove my firearm. I heard chanting from some in the crowd, "get his gun" and "Kill him with his own gun." I was aware enough to recognize I was at risk of being stripped of, and killed with, my own firearm. I was electrocuted, again and again and again with a Taser. I'm sure I was screaming, but I don't think I could even hear my own voice.

My body camera captured the violence of the crowd directed toward me during those very frightening moments. It's an important part of the record for this Committee's investigation and for the country's understanding of how I was assaulted and nearly killed as the mob attacked the Capitol that day, and I hope that everyone will be able to watch it. The portions of the video I've seen remain extremely

painful for me to watch. But it is essential that everyone understands what really happened that tragic day.

During those moments, I remember thinking that there was a very good chance that I would be torn apart or be shot to death with my own weapon. I thought of my four daughters who might lose their Dad. I remain grateful that no Member of Congress had to go through the violent assault that I experienced that day.

During the assault, I thought about using my firearm on my attackers. But I knew that if I did that, I would quickly be overwhelmed. And that, in their minds, it would provide them with the justification for killing me. So instead, I decided to appeal to any humanity they might have. I said as loud as I could manage, "I've got kids." Thankfully, some in the crowd stepped in and assisted me.

Those few individuals protected me from the crowd and inched me toward the Capitol until my fellow officers could rescue me. I was carried back inside the Capitol Building. What happened afterwards is much less vivid to me. I had been beaten unconscious and remained so for more than 4 minutes. I know that Jimmy helped evacuate me from the building and drove me to MedStar Washington Hospital Center despite suffering significant injuries himself. At the hospital, doctors told me that I suffered a heart attack, and I was later diagnosed with a concussion, traumatic brain injury, and Post-Traumatic Stress Disorder.

As my physical injuries gradually subsided and the adrenaline that had stayed with me for weeks waned, I have been left with the psychological trauma and the emotional anxiety of having survived such a horrifying event. And my children continue to deal with the trauma of nearly losing their Dad that day.

What makes that struggle harder and more painful is to know so many of my fellow citizens, including so many of the people I put my life at risk to defend, are downplaying or outright denying what happened. I feel like I went to Hell and back to protect the people in this room. But too many are now telling me that Hell doesn't even exist—or that Hell actually wasn't all that bad.

The indifference shown to my colleagues and I is disgraceful. My law enforcement career prepared me to cope with some aspects of this experience. Being an officer, you know your life is at risk whenever you walk out the door, even if you don't expect otherwise law-abiding citizens to take up arms against you. But nothing—truly nothing—has prepared me to address those elected Members of our Government who continue to deny the events of that day. Those very same Members whose lives, offices, staff members I was fighting so desperately to defend.

I agreed to speak here today, and have talked publicly about what happened, because I don't think our response to the insurrection should have anything to do with political parties. I know that when my partner Jimmy and I suited up on January 6, we didn't care what we or our fellow officers believed about politics or what political party any of you public servants belonged to. I've worked in this city for 2 decades and never cared about those things, no matter who was in office. All I've ever cared about is protecting you, and the public, so you can do your job in service to this country and for the people you represent.

I appreciate your time and attention. I look forward to the Committee's investigation. I am hopeful that with your commitment, we as a country will confront the truth of what happened on January 6th and do what is necessary to make sure this institution of our democracy never again falls into the hands of a violent and angry mob.

We must also recognize the officers who responded that day, many unsolicited, and their countless acts of bravery and selflessness. It has been 202 days since 850 MPD officers responded to the Capitol and helped stop a violent insurrection from taking over the Capitol Complex, which almost certainly saved countless Members of Congress and their staff from injury and possibly even death. The time to fully recognize these officers' actions is now.

Thank you again for the opportunity to provide my testimony today.

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PREPARED STATEMENT OF DANIEL HODGES, OFFICER, METROPOLITAN POLICE  
DEPARTMENT

Good morning to the Committee, members of the press, and to the country.

To the Members of the Committee, I'd like to thank you for the invitation today to provide my account of my knowledge of and experiences from January 6th, 2021.

As the Chairman mentioned I am a member of Civil Disturbance Unit 42 and was working in that capacity on the day in question. A fully-staffed CDU platoon consists of 1 lieutenant, 4 sergeants, and 28 officers. We started that day at 7:30 a.m. and our assignment was to maintain high visibility along Constitution Avenue, namely the blocks leading up to President's Park, where then-President Donald

Trump was holding his gathering. My particular station was in front of 1111 Constitution Avenue, where I stood on foot as the crowd poured down the street and into the park.

There were a significant number of men dressed in tactical gear attending the gathering. Wearing ballistic vests, helmets, goggles, military face masks, backpacks, and without identifiable, visible law enforcement or military patches, they appeared to be prepared for much more than listening to politicians speak in a park.

Two of my colleagues were approached by a group of 3 to 4 of such men. The men were white, in good shape, with load-bearing vests equipped with MOLLE pouches. They were wearing BDUs, or battle dress uniform pants, tactical boots, black sunglasses and short haircuts. They had radios and one was equipped with an earpiece.

After a bit of small talk one of them asked my colleagues something to the effect of, "Is this all the manpower you have? Do you really think you're going to be able to stop all these people?" Dumbfounded, my colleagues simply expressed that they didn't understand what the speaker meant, and the group continued on.

As the day went on and the speakers in the park said their piece, I monitored the crowd and the radio. Over the radio I heard our Gun Recovery Unit working constantly, monitoring those in the crowd suspected of carrying firearms and making arrests and seizures when possible. Multiple gun arrests were made from January 5th through the 7th against those attending, planning to attend, or had attended Donald Trump's gathering. Unfortunately due to the course of events that day we will likely never know exactly how many were carrying firearms and other lethal weapons.

I don't know what time it was, but eventually the flow of foot traffic reversed, with people leaving President's Park and traveling eastbound down Constitution Avenue toward the United States Capitol.

At approximately 12:30 p.m. I noticed a commotion about half a block to my east, and saw the crowd starting to coalesce around two figures. I ran to where they were and found a confrontation at the intersection of 10th and Constitution Avenue NW. One counter-protester, a Black man, was backpedaling away from a white man in a Trump-labeled face mask who was closely following him with an outstretched arm. Myself and my colleague arrived first and physically separated the two, but a crowd of Donald Trump's people had gathered. They attempted to bait the counter-protester into attacking, shouting insults such as "You're mother's a whore!" and accusing him of "Hiding behind the cops." Eventually enough MPD members had gathered to move along the crowd who continued eastbound toward the Capitol building, and the counter-protester departed northbound on 10th Street.

Returning to my post I continued monitoring the radio. I could hear Commander Glover leading the defense efforts at the Capitol as the protesters began their transition from peaceful assembly into terrorism. I became agitated and wished we could move in to support as I could hear the increasing desperation in the Commander's voice, yet we still had to wait for our orders to change. Eventually they did, as at approximately 1:30 p.m. the Commander authorized rapid response platoons to deploy their hard gear and respond to the Capitol, including CDU 42.

The last thing I remember hearing over the air before departing for the Capitol grounds was confirmation that our Explosive Ordinance Disposal team had discovered a "device". Given which unit was being associated with this "device" I immediately realized MPD had discovered a bomb of some type near the Capitol. This thought was never far from my mind for the rest of the day.

We ran back to our vans and got on our hard gear as quickly as we could. Navigating alternate routes to avoid the foot traffic, we drove as close as we could to the Capitol, disembarking at the northwest side of the Capitol grounds. We gave our gear a final check and marched toward the West Terrace.

The crowd was thinner the further out from the Capitol you were, so as we marched the resistance we initially met was verbal. A man sarcastically yelled "Here come the boys in blue! So brave!" Another called on us to "remember your oath." There was plenty of boo-ing. A woman called us "stormtroopers". Another woman, who was part of the mob of terrorists laying siege to the Capitol of the United States, shouted "Traitors!" More found appeal in the label, and shout "Traitors!" at us as we pass; one man attempted to turn it into a duosyllabic chant. We continue to march.

We had been marching in two columns, but as we got closer to the West Terrace the crowd became so dense that in order to progress we marched single-file, with our hands on the shoulders of the man in front of us in order to avoid separation. However as we came close to the terrace our line was divided and we came under attack. A man attempted to rip my baton from my hands and we wrestled for control. I retained my weapon and after I pushed him back, he yelled at me "You're on the wrong team!"

Cut off from our leadership at the front of our formation we huddled up and assessed the threat surrounding us. One man tried and failed to build a rapport with me, shouting, "Are you my brother?!" Another takes a different tack, shouting "You will die on your knees!"

I was at the front of our group and determined we had to push our way through the crowd in order to join the defense proper, so I began shouting "Make way!" as I forged ahead, hoping that I'm clearing a path for the others to follow. However as I looked back I saw that the rest of the group came under attack and were unable to follow. The crowd attempted to physically bar the rest of the platoon from following. I backtrack and started pulling terrorists off of my team by their backpacks. Around this time one of the terrorists who had scaled the scaffolding that adorned the Capitol at the time threw something heavy down at me and struck me in the head, disorienting me (I suspect this resulted in the likely concussion I dealt with in the weeks after). Another man attempted to disarm me of my baton again, and we wrestled for control. He kicked me in my chest as we went to the ground. I was able to retain my baton again, but I ended up on my hands and knees and blind; the medical mask I was wearing to protect myself from the coronavirus was pulled up over my eyes so I couldn't see. I braced myself against the impact of their blows and feared the worst. Thankfully my platoon had repelled their own attackers and got me back on my feet. The crowd started chanting "U-S-A!" at us, and we struck out again for the West Terrace.

I lead the charge again through the midst of crowd-control munitions, explosions, and smoke engulfing the area. Terrorists were breaking apart metal fencing and bike racks into individual pieces, presumably to use as weapons. Thankfully we made it to the secondary defense line on the West Terrace that MPD and Capitol Police were managing to hold. The rest of my platoon got behind the line and we take stock of the situation. I realized that back during the previous assault someone had stolen my radio; from that point on I was in the dark as to our current status and when reinforcements would arrive. Terrorists were scaling the scaffolding on both our sides, the tower that was in front of us, and attempting to breach the waist-high metal fencing that was the only barrier we had, aside from ourselves.

The sea of people was punctuated throughout by flags. Lots of American flags and Trump flags. Gadsden flags. It was clear the terrorists perceived themselves to be Christians: I saw the Christian flag directly to my front. Another read "Jesus is my Savior, Trump is my President." Another, "Jesus is King." One flag read, "Don't give up the ship". Another had crossed rifles beneath a skull emblazoned with the pattern of the American flag. To my perpetual confusion, I saw the Thin Blue Line flag, a symbol of support for law enforcement, more than once being carried by the terrorists as they ignored our commands and continued to assault us.

The acrid sting of CS gas (tear gas) and OC spray (mace) hung in the air, as the terrorists threw our own CS gas canisters back at us and sprayed us with their own OC, either that they brought themselves or stole from us. Later I learned that at least one of them was spraying us in the face with wasp spray.

The terrorists alternated between attempting to break our defenses and shouting at or attempting to convert us. Men alleging to be veterans told us how they had fought for this country and were fighting for it again. One man tried to start a chant of "Four-more-years!" Another shouted "Do not attack us! We are not 'Black Lives Matter!'" as if political affiliation is how we determine when to use force. A man in a "QAnon" hoodie exclaims, "This is the time to choose what side of history to be on!" A man whose shirt reads "God Guns & Trump" stood behind him, silently holding a Trump flag.

A new man came to the front and fixated on me, continually berated me, telling me to take off my gear and give it to him: "Show solidarity with 'we the people' or we're going to run over you!" his voice cracked with the strain and volume of his threats. He continued, "Do you think your little pea-shooter guns are going to stop this crowd? No! We're going in that building!"

Eventually there is a surge in the crowd, the fence buckled and broke apart and we were unable to hold the line. A chaotic melee ensued. Terrorists pushed through the line and engaged us in hand-to-hand combat. Several attempted to knock me over and steal my baton. One latched onto my face and got his thumb in my right eye, attempting to gouge it out. I cried out in pain and managed to shake him off before any permanent damage was done. I couldn't engage anyone fully for the moment I do is when another 20 terrorists move in to attack while I am occupied. It's all we could do to keep ourselves on our feet and continue to fall back. I'm sprayed with a fire extinguisher and a red smoke grenade burned at our feet.

In the fight a terrorist is knocked to the ground and his jacket rides up, exposing a large hunting knife on his belt. I along with several other officers piled on him

while another removed the knife from his person. He regained himself, unharmed, and shouts indignantly, "What are you doing! What are you guys doing!"

The terrorists had claimed most of the western terrace, cornering myself and other officers on the southern edge. We took a side stair off the terrace, up to an upper landing, followed by more stairs up and inside.

Inside the Capitol building officers walked through the halls briefly until they found a place to sit, decontaminate their faces of OC and CS, and take a quick breather. I followed suit. Someone had managed to find a package of water bottles and was passing them out. I washed off my face as best as I could, rinsed out my mouth and drank the rest. I took the opportunity of relative safety to don my gas mask. Not long afterward I heard someone calling for officers to move to assist. I steeled myself for another round and descended a stairway into a long hallway filled with smoke and screams.

The Capitol building is labyrinthine, but judging from the sound of intense combat I could tell this hallway led outside to where the terrorists had forced our retreat. Officers were stacked deep, but every so often one would fall back from the front line, nursing an injury or struggling to breathe, and those who remained would take a step forward.

It was a battle of inches, with one side pushing the other a few and then the other side regaining their ground. At the time I (and I suspect many others in the hallway) did not know that the terrorists had gained entry to the building by breaking in doors and windows elsewhere, so we believed ours to be the last line of defense before the terrorists had true access to the building, and potentially our elected representatives.

Eventually it was my turn in the meat grinder that was the front line. The terrorists had a wall of shields that they had stolen from officers, as well as stolen batons and whatever other armaments they brought. Even during this intense contest of wills they continued to try to convert us to their cult. One man shouted "We just want to make our voices heard! And I think you feel the same! I really think you feel the same!", all while another man attempts to batter us with a stolen shield. Another man, like many others, didn't seem to appreciate that this wasn't a game. He fought his way across the lawn, up the steps, through the western terrace, and at the front line of this final threshold was asking us to "hold on" because he "has asthma".

The two sides were at a stalemate at a metal door frame that sat in the middle of the hallway. At the front line, I inserted myself so that the frame was at my back in an effort to give myself something to brace against and provide additional strength when pushing forward. Unfortunately soon after I secured this position the momentum shifted and we lost the ground that got me there. On my left was a man with a clear riot shield stolen during the assault. He slammed it against me and, with the weight of all the bodies pushing behind him, trapped me. My arms were pinned and effectively useless, trapped against the either the shield on my left or the door frame on my right. With my posture granting me no functional strength or freedom of movement, I was effectively defenseless and gradually sustaining injury from the increasing pressure of the mob.

Directly in front of me a man seized the opportunity of my vulnerability. He grabbed the front of my gas mask and used it to beat my head against the door. He switched to pulling it off my head, the straps stretching against my skull and straining my neck. He never uttered any words I recognized, but opted instead for guttural screams. I swear I remember him foaming at the mouth. He also put his cell phone in his mouth so that he had both hands free to assault me. Eventually he succeeded in stripping away my gas mask, and a new rush of exposure to CS gas and OC spray hit me. The mob of terrorists were coordinating their efforts now, shouting "Heave! Ho!" as they synchronized pushing their weight forward, crushing me further against the metal door frame. The man in front of me grabbed my baton that I still held in my hands and in my current state I was unable to retain my weapon. He bashed me in the head and face with it, rupturing my lip and adding additional injury to my skull.

At this point I knew that I couldn't sustain much more damage and remain upright. At best I would collapse and be a liability to my colleagues, at worst be dragged out into the crowd and lynched. Unable to move or otherwise signal the officers behind me that I needed to fall back, I did the only thing I could still do and screamed for help.

Thankfully my voice was heard over the cacophony of yells and the blaring alarm. The officer closest to me was able to extricate me from my position and another helped me fall back to the building again.

I found some water and decontaminated my face as best as I could. I don't know how long I waited in the halls but soon after got back on my feet and went to where the fight was again. Until reinforcements arrived every able body made a difference.

Without my gas mask I was afraid I'd be a liability in the hallway so I took the exit outside to the upper landing above the West Terrace. I found a police line being held and the terrorists encircling us, much like on the West Terrace. It was getting later in the day however, and it appeared we weren't the only ones getting tired. It seemed most of the mob was content to yell rather than to break our line again.

After some time of guarding the upper landing I saw reinforcements arrive from the south. I'm not sure which law enforcement agency it was but I turned to them and started clapping, as it was a sign that badly-needed help was starting to finally arrive.

Soon after that I started feeling the effects of the day taking their toll, and I went back inside to rest. Gradually all the members of CDU 42 gathered in the room known as the Capitol Crypt. We checked on each other and convalesced, glad to see each other in one piece. Despite our exhaustion, we all would have ran out to the fight again should the need have arisen. Thankfully as the day wore on, more and more resources arrived at the Capitol to drive off the terrorists. We stayed in the Crypt until quite late, and even after we were allowed to leave the grounds we didn't get to go home. Those who needed immediate medical attention took a van to the local hospital while the rest of us parked near the city center until the city was deemed secure enough for us to check off. I believe we finally got that message around 1 a.m. the following morning. We drove back to the Fourth district and from there went home.

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PREPARED STATEMENT OF HARRY A. DUNN, PRIVATE FIRST CLASS, U.S. CAPITOL  
POLICE

JULY 27, 2021

Chairman Thompson and Members of the Select Committee, thank you for the opportunity today to give my account regarding the events of January 6, 2021, from my first-hand experience as a Capitol Police Officer directly involved in those events, and still hurting from what happened that day. I am providing this testimony solely in my personal capacity, and not as a representative of the U.S. Capitol Police.

I reported for duty at the Capitol, as usual, early on the morning of January 6. We understood that the vote to certify President Biden's election would be taking place that day, and that protests might occur outside the Capitol, but we expected any demonstrations to be peaceful expressions of First Amendment freedoms, just like the scores of demonstrations we had observed for many years. After roll call, I took my overwatch post on the East Front of the Capitol, standing on the steps that lead to the Senate chamber. As the morning progressed, I did not see or hear anything that gave me cause for alarm.

But around 10:56 am, I received a text message from a friend forwarding a screen shot of what appeared to be a potential plan of action very different from a peaceful demonstration. The screen shot bore the caption "Jan. 6th—Rally Point—Lincoln Park," and said the "objective" was "THE CAPITAL." It said, among, other things, that "Trump has given us marching orders," and to "keep your guns hidden." It urged people to "bring . . . your trauma kits" and "gas mask," to "[l]ink up early in the day" in "6-12 man teams," and indicated there would be a "time to arm up." Seeing that message caused me concern, to be sure, and looking back now, it seemed to foreshadow what happened later. At the time, though, we had not received any threat warnings from our chain of command, and I had no independent reason to believe that violence was headed our way.

As the morning progressed, the crowd of protestors began to swell on the east side of the Capitol, many displaying "Trump" flags. The crowd was chanting slogans like "Stop the Steal!" and "We want Trump!" But the demonstration was still being conducted in a peaceful manner.

Early that afternoon, Capitol Police dispatch advised all units over the radio that we had an "active 10-100" at the Republican National Committee nearby. "10-100" is police code for a suspicious package, such as a potential bomb. That radio dispatch got my attention and I started to get more nervous and worried, especially because the crowds on the East Front of the Capitol were continuing to grow. Around the same time, I started receiving reports on the radio about large crowd movements around the Capitol, coming from the direction of the Ellipse to both the West and East Fronts of the Capitol. Then I heard urgent radio calls for additional

officers to respond to the west side, and an exclamation, in a desperate voice, that demonstrators on the west side had “breached the fence!”

Now it was obvious that there was an active threat to the Capitol. I quickly put on a steel chest plate (which weighs about 20 pounds) and, carrying my M-4 rifle, sprinted around the north side of the Capitol to the West Terrace and the railing of the Inaugural stage, where I had a broad view of what was going on. I was stunned by what I saw. In what seemed like a sea of people, Capitol Police Officers and Metropolitan DC Police (“MPD”) officers were engaged in desperate hand-to-hand fighting with rioters across the west lawn. Until then, I had never seen anyone physically assault a Capitol Police or MPD Officer—let alone witness mass assaults being perpetrated on law enforcement officers. I witnessed the rioters using all kinds of weapons against the officers, including flag poles, metal bike racks they had torn apart, and various kinds of projectiles. Officers were being bloodied in the fighting, many were screaming, and many were blinded and coughing from chemical irritants being sprayed in their faces. I gave decontamination aid to as many officers as I could, flushing their eyes with water to dilute the chemical irritants.

Soon thereafter, I heard an “Attention, all units!” radio dispatch that the Capitol had been breached, and that rioters were in various places inside the building. At that point, I rushed into the Capitol with another officer, going first to the basement on the Senate side where I had heard an MPD officer needed a defibrillator. After returning outside to the West Terrace to assist officers, I went back into the Capitol and up the stairs to the Crypt. There, I saw rioters who had invaded the Capitol carrying a Confederate flag, a red “MAGA” flag, and a “Don’t Tread on Me” flag.

I decided to stand my ground there to prevent any rioters from heading down the stairs to the Lower West Terrace entrance, because that was where officers were getting decontamination aid and were particularly vulnerable. At the top of the stairs, I confronted a group of the insurrectionists, warning them not to go down. One of them shouted “Keep moving, Patriots!” Another, displaying what looked like a law enforcement badge, told me “We’re doing this for you!” One of the invaders approached like he was about to try and get past me and head down the stairs, and I hit him, knocking him down.

After getting relieved by other officers in the Crypt, I took off running upstairs toward the Speaker’s Lobby, and helped a plain-clothes officer who was being hassled by insurrectionists. Some of them were dressed like members of a militia group, wearing tactical vests, cargo pants, and body armor. I was physically exhausted, and it was hard to breathe and see because of all the chemical spray in the air.

More and more insurrectionists were pouring into the area by the Speaker’s Lobby near the Rotunda, some wearing “MAGA” hats and shirts that said “Trump 2020.” I told them to leave the Capitol, and in response, they yelled back: “No, no, man, this is our house!” “President Trump invited us here!” “We’re here to stop the steal!” “Joe Biden is not the President!” “Nobody voted for Joe Biden!”

I am a law enforcement officer, and I keep politics out of my job. But in this circumstance, I responded: “Well, I voted for Joe Biden. Does my vote not count? Am I nobody?”

That prompted a torrent of racial epithets. One woman in a pink “MAGA” shirt yelled, “You hear that, guys, this nigger voted for Joe Biden!” Then the crowd, perhaps around 20 people, joined in, screaming “Boo! Fucking Nigger!”

No one had ever—ever—called me a “nigger” while wearing the uniform of a Capitol Police Officer. In the days following the attempted insurrection, other Black officers shared with me their own stories of racial abuse on January 6th. One officer told me he had never, in his entire 40 years of life, been called a “nigger” to his face, and that that streak ended on January 6th. Yet another Black officer later told he had been confronted by insurrectionists inside the Capitol, who told him to “Put your gun down and we’ll show you what kind of nigger you really are!”

To be candid, the rest of that afternoon is a blur. But I know I went throughout the Capitol to assist other officers who needed aid, and to help expel more insurrectionists. In the Crypt, I encountered Sergeant Gonell, who was giving assistance to an unconscious woman who had been in the crowd of rioters on the west side of the Capitol. I helped to carry her to the House Majority Leader’s office, where she was administered CPR. As the afternoon wore on, I was completely drained both physically and emotionally, and in shock and disbelief over what had happened. Once the building was cleared, I went to the Rotunda to recover with other officers and share our experiences from that afternoon. Rep. Rodney Davis was there offering support to officers, and when he and I saw each other he came over and gave me a big hug.

I sat down on a bench with a friend of mine who is also a Black Capitol Police Officer, and told him about the racial slurs I had endured. I became very emotional



and began yelling “How the [expletive] can something like this happen?! Is this America?” I began sobbing, and officers came over to console me.

Later on January 6th, after order and security had been restored in the Capitol through the hard work and sacrifices of law enforcement, Members took to the floor of the House to speak out about what had happened that day. Among them was House Minority Leader Kevin McCarthy, who—along with my fellow officers—I had protected that day, and will protect today and tomorrow. And the Minority Leader, to his great credit, said the following to the House: “The violence, destruction, and chaos we saw earlier was unacceptable, undemocratic, and un-American. It was the saddest day I’ve ever had serving in this institution.” Members of this Select Committee, the Minority Leader was absolutely right that day in how he described what took place at the Capitol. And for those of us in the Capitol Police who serve and revere this institution, and who love the Capitol building, it was the saddest day for us as well.

More than 6 months later, January 6th still isn’t over for me. I have had to avail myself of multiple counseling sessions from the Capitol Police Employee Assistance Program, and I am now receiving private counseling therapy for the persistent emotional trauma of that day. I have also participated in many peer support programs with fellow law enforcement officers from around the United States. I know so many other officers continue to hurt, both physically and emotionally.

I want to take this moment and speak to my fellow officers about the emotions they are continuing to experience from the events of January 6th. There is absolutely nothing wrong with seeking professional counseling. What we all went through that day was traumatic, and if you are hurting please take advantage of the counseling services that are available to us. I also respectfully ask this Select Committee to review the services available to us and consider whether they are sufficient to meet our needs, especially with respect to the amount of leave we are allowed.

In closing, we can never again allow our democracy to be put in peril as it was on January 6th. I thank the Members of this Select Committee for your commitment to determine what led to the disaster at the Capitol on January 6th, what actually took place at the Capitol that day, and what steps should be taken to prevent such an attack on our democracy from ever happening again.

Thank you again for the opportunity to testify, and I would be happy to answer any questions you may have.



## HEARING ON THE JANUARY 6TH INVESTIGATION

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Thursday, June 9, 2022

U.S. HOUSE OF REPRESENTATIVES,  
SELECT COMMITTEE TO INVESTIGATE THE JANUARY 6TH  
ATTACK ON THE UNITED STATES CAPITOL,  
*Washington, DC.*

The Committee met, pursuant to notice, at 8:02 p.m., in room 390, Cannon House Office Building, Hon. Bennie G. Thompson [Chairman of the Committee] presiding.

Present: Representatives Thompson, Cheney, Lofgren, Schiff, Aguilar, Murphy, Raskin, Luria, and Kinzinger.

Chairman THOMPSON. The Select Committee to Investigate the January 6th Attack on the United States Capitol will be in order.

Without objection, the Chair is authorized to declare the Committee in recess at any point.

Pursuant to House Deposition Authority Regulation 10, the Chair announces the Committee's approval to release the deposition material presented during tonight's hearing.

Thanks to everyone watching tonight for sharing part of your evening to learn the facts and causes of the events leading up to and including the violent attack on January 6, 2021, on our democracy, electoral system, and country.

I am Bennie Thompson, Chairman of the January 6th, 2021, Committee. I was born, raised, and still live in Bolton, Mississippi, a town with a population of 521, which is midway between Jackson and Vicksburg, Mississippi, and the Mississippi River.

I am from a part of the country where people justify the actions of slavery, the Ku Klux Klan, and lynching. I am reminded of that dark history as I hear voices today try and justify the actions of the insurrectionists on January 6, 2021.

Over the next few weeks, hopefully you will get to know the other Members, my colleagues up here, and me. We represent a diversity of communities from all over the United States, rural areas and cities, East Coast, West Coast, and the heartland.

All of us have one thing in common: We swore the same oath, that same oath that all Members of Congress take upon taking office and afterwards every 2 years if they are reelected. We swore an oath to defend the Constitution against all enemies, foreign and domestic.

The words of the current oath taken by all of us that nearly every U.S. Government employee takes have their roots in the Civil War. Throughout our history, the United States has fought against

foreign enemies to preserve our democracy, electoral system, and country.

When the United States Capitol was stormed and burned in 1814, foreign enemies were responsible. Afterward, in 1862, when American citizens had taken up arms against this country, Congress adopted a new oath to help make sure no person who had supported the rebellion could hold a position of public trust. Therefore, Congresspersons and United States Federal Government employees were required for the first time to swear an oath to defend the Constitution against all enemies, foreign and domestic.

That oath was put to the test on January 6, 2021. The police officers who held the line that day honored their oath. Many came out of that day bloodied and broken. They still bear those wounds, visible and invisible. They did their duty. They repelled the mob and ended the occupation of the Capitol. They defended the Constitution against domestic enemies so that Congress could return, uphold our own oath, and count your votes to ensure the transfer of power, just as we have done for hundreds of years.

But, unlike in 1814, it was domestic enemies of the Constitution who stormed the Capitol and occupied the Capitol, who sought to thwart the will of the people, to stop the transfer of power. They did so at the encouragement of the President of the United States—the President of the United States trying to stop the transfer of power, a precedent that had stood for 220 years, even as our democracy had faced its most difficult test.

Thinking back again to the Civil War, in the summer of 1864, the President of the United States believed he would be doomed in his bid for reelection. He believed his opponent, General George McClellan, would wave the white flag when it came to preserving the Union. But even with that grim fate hanging in the balance, President Lincoln was ready to accept the will of the voters, come what may.

He made a quiet pledge. He wrote down the words: “This morning, as for some days past, it seems exceedingly probable that this Administration will not be reelected. Then it will be my duty to so co-operate with the President-elect . . . ”

“It will be my duty.”

Lincoln sealed that memo and asked his Cabinet Secretaries to sign it, sight unseen. He asked them to make the same commitment he did: To accept defeat if indeed defeat was the will of the people, to uphold the rule of law, to do what every President who came before him did and what every President who followed him would do until Donald Trump.

Donald Trump lost the Presidential election in 2020. The American people voted him out of office. It was not because of a rigged system. It was not because of voter fraud. Don’t believe me? Hear what his former attorney general had to say about it. I warn those who are watching that this contains strong language.

Attorney General BARR. No, just what I—I’ve been—I’ve had—I had three discussions with the President that I can recall. One was on November 23rd, one was on December 1st, and one was on December 14th. And I’ve been through sort-of the give-and-take of those discussions. And in that context, I made it clear I did not agree with the idea of saying the election was stolen and putting out this stuff, which I told the President was bullshit. And, you know, I didn’t want to be a part of it, and that’s one of the reasons that went into me deciding to leave when I did.

I observed, I think it was on December 1st, that, you know, how can we—you can't live in a world where—where the incumbent administration stays in power based on its view, unsupported by specific evidence, that the election—that there was fraud in the election.

Chairman THOMPSON. Bill Barr, on election day 2020, he was the Attorney General of the United States, the top law enforcement official in the country, telling the President exactly what he thought about claims of a stolen election.

Donald Trump had his days in court to challenge the results. He was within his rights to seek those judgments. In the United States, law-abiding citizens have those tools for pursuing justice. He lost in the courts just as he did at the ballot box. In this country, that is the end of the line.

But for Donald Trump, that was only the beginning of what became a sprawling, multistep conspiracy aimed at overturning the Presidential election, aimed at throwing out the votes of millions of Americans—your votes, your voice in our democracy—and replacing the will of the American people with his will to remain in power after his term ended.

Donald Trump was at the center of this conspiracy. Ultimately, Donald Trump, the President of the United States, spurred a mob of domestic enemies of the Constitution to march down the Capitol and subvert American democracy.

Any legal jargon you hear about seditious conspiracy, obstruction of an official proceeding, conspiracy to defraud the United States boils down to this: January 6th was the culmination of an attempted coup, a brazen attempt, as one rioter put it shortly after January 6th, to overthrow the Government. The violence was no accident. It represented Trump's last stand, his most desperate chance to halt the transfer of power.

Now you may hear those words and think this is just another political attack on Donald Trump by people who don't like him.

That is not the case. My colleagues and I all wanted an outside, independent commission to investigate January 6th, similar to what we had after 9/11. But, after first agreeing to the idea, Donald Trump's allies in Congress put a stop to it. Apparently, they don't want January 6th investigated at all.

In the last 17 months, many of those same people have tried to whitewash what happened on January 6th, to rewrite history, call it a tourist visit, label it "legitimate political discourse."

Donald Trump and his followers have adopted the words of the songwriter: Do you believe me or your lying eyes?

We can't sweep what happened under the rug. The American people deserve answers. So, I come before you this evening not as a Democrat but as an American who swore an oath to defend the Constitution. The Constitution doesn't protect just Democrats or just Republicans. It protects all of us, "We the people." This scheme was an attempt to undermine the will of the people.

So, tonight and over the next few weeks, we are going to remind you of the reality of what happened that day, but our work must do much more than just look backward. Because our democracy remains in danger, the conspiracy to thwart the will of the people is not over. There are those in this audience who thirst for power but have no love or respect for what makes America great: devotion to

the Constitution, allegiance to the rule of law, our shared journey to build a more perfect Union.

January 6th and the lies that led to insurrection have put 2½ centuries of Constitutional democracy at risk. The world is watching what we do here. America has long been expected to be a shining city on the hill, a beacon of hope and freedom, a model for others when we are at our best. How can we play that role when our house is in such disorder?

We must confront the truth with candor, resolve, and determination. We need to show that we are worthy of the gifts that are the birthright of every American. That begins here, and it begins now with a true accounting of what happened and what led to the attack on our Constitution and our democracy.

In this moment when the dangers of our Constitution and our democracy loom large, nothing could be more important. Working alongside the public servants on this dais has been one of the greatest honors of my time in Congress.

It has been a particular privilege to count as a partner in this effort and to count as a friend the gentlewoman from Wyoming, Ms. Cheney. She is a patriot, a public servant of profound courage, of devotion to her oath and the Constitution.

It is my pleasure to recognize Ms. Cheney for her opening statement.

Vice Chair CHENEY. Thank you very much, Mr. Chairman.

Let me echo those words about the importance of bipartisanship and what a tremendous honor it is to work on this Committee.

Mr. Chairman, at 6:01 p.m. on January 6th, after he spent hours watching a violent mob besiege, attack, and invade our Capitol, Donald Trump tweeted. But he did not condemn the attack. Instead, he justified it.

"These are the things and events that happen," he said, "when a sacred landslide election victory is so unceremoniously and viciously stripped away from great patriots who have been badly and unfairly treated for so long."

As you will see in the hearings to come, President Trump believed his supporters at the Capitol, and I quote, "were doing what they should be doing." This is what he told his staff as they pleaded with him to call off the mob, to instruct his supporters to leave.

Over a series of hearings in the coming weeks, you will hear testimony, live and on video, from more than half a dozen former White House staff in the Trump administration, all of whom were in the West Wing of the White House on January 6th. You will hear testimony that, "the President did not really want to put anything out," calling off the riot or asking his supporters to leave.

You will hear that President Trump was yelling and, "really angry" at advisors who told him he needed to be doing something more.

Aware of the rioters' chants to hang Mike Pence, the President responded with this sentiment, "Maybe our supporters have the right idea." Mike Pence, "deserves it."

You will hear evidence that President Trump refused for hours to do what his staff, his family, and many of his other advisors begged him to do: Immediately instruct his supporters to stand down and evacuate the Capitol.

Tonight you will see never-before-seen footage of the brutal attack on our Capitol, an attack that unfolded while a few blocks away President Trump sat watching television in the dining room next to the Oval Office.

You will hear audio from the brave police officers battling for their lives and ours, fighting to defend our democracy against a violent mob Donald Trump refused to call off.

Tonight, and in the weeks to come, you will see evidence of what motivated this violence, including directly from those who participated in this attack. You will see video of them explaining what caused them to do it. You will see their posts on social media. We will show you what they have said in Federal court.

On this point, there is no room for debate: Those who invaded our Capitol and battled law enforcement for hours were motivated by what President Trump had told them, that the election was stolen and that he was the rightful President. President Trump summoned the mob, assembled the mob, and lit the flame of this attack.

You will also hear about plots to commit seditious conspiracy on January 6th, a crime defined in our laws as conspiring to overthrow, put down, or destroy by force the Government of the United States or to oppose by force the authority thereof.

Multiple members of two groups, the Oath Keepers and the Proud Boys, have been charged with this crime for their involvement in the events leading up to and on January 6th. Some have pled guilty.

The attack on our Capitol was not a spontaneous riot. Intelligence available before January 6th identified plans to, “invade the Capitol,” “occupy the Capitol,” and take other steps to halt Congress’ count of electoral votes that day.

In our hearings to come, we will identify elements of those plans, and we will show specifically how a group of Proud Boys led a mob into the Capitol Building on January 6th.

Tonight, I am going to describe for you some of what our Committee has learned and highlight initial findings you will see this month in our hearings.

As you hear this, all Americans should keep in mind this fact: On the morning of January 6th, President Donald Trump’s intention was to remain President of the United States, despite the lawful outcome of the 2020 election and in violation of his Constitutional obligation to relinquish power. Over multiple months, Donald Trump oversaw and coordinated a sophisticated 7-part plan to overturn the Presidential election and prevent the transfer of Presidential power. In our hearings, you will see evidence of each element of this plan.

In our second hearing, you will see that Donald Trump and his advisors knew that he had, in fact, lost the election. But, despite this, President Trump engaged in a massive effort to spread false and fraudulent information, to convince huge portions of the U.S. population that fraud had stolen the election from him. This was not true.

Jason Miller was a senior Trump campaign spokesman. In this clip, Miller describes a call between the Trump campaign’s internal

data expert and President Trump a few days after the 2020 election.

Mr. MILLER. I was in the Oval Office, and at some point in the conversation Matt Oczkowski, who was the lead data person, was brought on, and I remember he delivered to the President pretty blunt terms that he was going to lose.

Mr. HEAPHY. And that was based, Mr. Miller, on Matt and the data team's assessment of the sort-of county-by-county, State-by-State results as reported?

Mr. MILLER. Correct.

Vice Chair CHENEY. Alex Cannon was one of President Trump's campaign lawyers. He previously worked for the Trump organization. One of his responsibilities was to assess allegations of election fraud in November 2020. Here is one sample of his testimony, discussing what he told White House Chief of Staff Mark Meadows.

Mr. CANNON. I remember a call with Mr. Meadows where Mr. Meadows was asking me what I was finding, and if I was finding anything. And I remember sharing with him that we weren't finding anything that would be sufficient to change the results in any of the key States.

Mr. HARRIS. When was that conversation?

Mr. CANNON. Probably in November, mid- to late-November. I think it was before my child was born.

Mr. HARRIS. And what was Mr. Meadows' reaction to that information?

Mr. CANNON. I believe the words he used were, so there's no there there.

Vice Chair CHENEY. "There is no there there."

The Trump campaign's general counsel, Matt Morgan, gave similar testimony. He explained that all of the fraud allegations and the campaign's other election arguments taken together and viewed in the best possible light for President Trump could still not change the outcome of the election.

President Trump's Attorney General, Bill Barr, also told Donald Trump his election claims were wrong.

Attorney General BARR. Repeatedly told the President in no uncertain terms that I did not see evidence of fraud. And—you know, that would have affected the outcome of the election. And frankly a year and a half later, I haven't seen anything to change my mind on that.

Vice Chair CHENEY. Attorney General Barr also told President Trump that his allegations about Dominion voting machines were groundless.

Attorney General BARR. I saw absolutely zero basis for the allegations, but they were made in such a sensational way that they obviously were influencing a lot of people—members of the public—that there was this systemic corruption in the system and that their votes didn't count and that these machines controlled by somebody else were actually determining it, which was complete nonsense. And it was being laid out there. And I told them that it was—that it was crazy stuff and they were wasting their time on that. And it was doing a great, grave disservice to the country.

Vice Chair CHENEY. But President Trump persisted, repeating the false Dominion allegations in public at least a dozen more times, even after his Attorney General told him they were, "complete nonsense."

After Barr's resignation on December 23rd, the Acting Attorney General who replaced him, Jeff Rosen, and the Acting Deputy, Richard Donoghue, told President Trump over and over again that the evidence did not support allegations he was making in public.

Many of President Trump's White House staff also recognized that the evidence did not support the claims President Trump was making. This is the President's daughter commenting on Bill Barr's



statement that the Department found no fraud sufficient to overturn the election.

Mr. HEAPHY. How did that affect your perspective about the election when Attorney General Barr made that statement?

Ms. TRUMP. It affected my perspective. I respect Attorney General Barr. So, I accepted what he was saying.

Vice Chair CHENEY. As you will hear on Monday, the President had every right to litigate his campaign claims. But he ultimately lost more than 60 cases in State and Federal courts. The President's claims in the election cases were so frivolous and unsupported that the President's lead lawyer, Rudy Giuliani, not only lost the lawsuits, his license to practice law was suspended. Here is what the court said of Mr. Giuliani: Giuliani "communicated demonstrably false and misleading statements to courts, lawmakers, and the public at large in his capacity as lawyer for former President Donald J. Trump and the Trump campaign in connection with Trump's failed effort at reelection in 2020."

As you will see in great detail in our hearings, President Trump ignored the rulings of our Nation's courts. He ignored his own campaign leadership, his White House staff, many Republican State officials. He ignored the Department of Justice and the Department of Homeland Security.

President Trump invested millions of dollars of campaign funds purposely spreading false information, running ads he knew were false, and convincing millions of Americans that the election was corrupt and that he was the true President. As you will see, this misinformation campaign provoked the violence on January 6th.

In our third hearing, you will see that President Trump corruptly planned to replace the Attorney General of the United States so the U.S. Justice Department would spread his false stolen election claims. In the days before January 6th, President Trump told his top Justice Department officials, "Just say the election was corrupt and leave the rest to me and the Republican Congressmen."

Senior Justice Department officials, men he had appointed, told him they could not do that because it was not true.

So, President Trump decided to replace them. He offered Jeff Clark, an environmental lawyer at the Justice Department, the job of Acting Attorney General. President Trump wanted Mr. Clark to take a number of steps, including sending this letter to Georgia and 5 other States, saying the United States Department of Justice had, "identified significant concerns that may have impacted the outcome of the election."

This letter is a lie. The Department of Justice had, in fact, repeatedly told President Trump exactly the opposite, that they had investigated his stolen election allegations and found no credible fraud that could impact the outcome of the election. This letter and others like it would have urged multiple States to withdraw their official and lawful electoral votes for Biden.

Acting Deputy Attorney General Richard Donoghue described Jeff Clark's letter this way, "this would be a grave step for the Department to take and it could have tremendous Constitutional, political, and social ramifications for the country."

The Committee agrees with Mr. Donoghue's assessment. Had Clark assumed the role of Attorney General in the days before Jan-

uary 6th and issued these letters, the ramifications could indeed have been grave.

Mr. Donoghue also said this about Clark's plan.

Acting United States Deputy Attorney General DONOGHUE. And I recall toward the end saying what you're proposing is nothing less than the United States Justice Department meddling in the outcome of a Presidential election.

Vice Chair CHENEY. In our hearings, you will hear first-hand how the senior leadership of the Department of Justice threatened to resign, how the White House Counsel threatened to resign, and how they confronted Donald Trump and Jeff Clark in the Oval Office. The men involved, including Acting Attorney General Jeff Rosen and Acting Deputy Attorney General Richard Donoghue, were appointed by President Trump. These men honored their oaths of office. They did their duty. You will hear from them in our hearings.

By contrast, Jeff Clark has invoked his Fifth Amendment privilege against self-incrimination and refused to testify.

Representative Scott Perry, who was also involved in trying to get Clark appointed as Attorney General, has refused to testify here. As you will see, Representative Perry contacted the White House in the weeks after January 6th to seek a Presidential pardon.

Multiple other Republican Congressmen also sought Presidential pardons for their roles in attempting to overturn the 2020 election.

In our fourth hearing, we will focus on President Trump's efforts to pressure Vice President Mike Pence to refuse to count electoral votes on January 6th.

Vice President Pence has spoken publicly about this.

Vice President PENCE. President Trump is wrong. I had no right to overturn the election. The Presidency belongs to the American people and the American people alone. And frankly, there is no idea more un-American than the notion that any one person could choose the American President.

Vice Chair CHENEY. What President Trump demanded that Mike Pence do wasn't just wrong. It was illegal, and it was unconstitutional. You will hear this in great detail from the Vice President's former general counsel.

Witnesses in these hearings will explain how the former Vice President and his staff informed President Trump over and over again that what he was pressuring Mike Pence to do was illegal. As you will hear, President Trump engaged in a relentless effort to pressure Pence, both in private and in public. You will see the evidence of that pressure from multiple witnesses live and on video.

Vice President Pence demonstrated his loyalty to Donald Trump consistently over 4 years, but he knew that he had a higher duty to the United States Constitution. This is testimony from the Vice President's Chief of Staff.

Mr. SHORT. That's why I think the Vice President was proud of his 4 years of service, and he felt like much had been accomplished in those 4 years. And I think he was proud to have stood beside the President for all that had been done. But I think he ultimately knew that his fidelity to the Constitution was his first and foremost oath. And—and that's—that's what he articulated publicly. And I think that that's what he felt.

Mr. HEAPHY. His fidelity to the Constitution was more important than his fidelity to President Trump and his desires—

Mr. SHORT. The oath he took.

Mr. HEAPHY. Yes.

Vice Chair CHENEY. You will also hear about a lawyer named John Eastman. Mr. Eastman was deeply involved in President Trump's plans. You will hear from former Fourth Circuit Federal Judge Michael Luttig, a highly-respected leading conservative judge. John Eastman clerked for Judge Luttig. Judge Luttig provided counsel to the Vice President's team in the days before January 6th. The judge will explain how Eastman, "was wrong at every turn."

You will see the email exchanges between Eastman and the Vice President's counsel as the violent attack on Congress was underway. Mr. Jacob said this to Mr. Eastman: "Thanks to your bullshit, we are under siege."

You will also see evidence that John Eastman did not actually believe the legal position he was taking. In fact, a month before the 2020 election, Eastman took exactly the opposite view on the same legal issues.

In the course of the Select Committee's work to obtain information from Mr. Eastman, we have had occasion to present evidence to a Federal judge. The judge evaluated the facts, and he reached the conclusion that President Trump's efforts to pressure Vice President Pence to act illegally by refusing to count electoral votes likely violated two Federal criminal statutes.

The judge also said this: "If Dr. Eastman and President Trump's plan had worked, it would have permanently ended the peaceful transition of power, undermining American democracy and the Constitution. If the country does not commit to investigating and pursuing accountability for those responsible, the Court fears January 6th will repeat itself."

Every American should read what this Federal judge has written.

The same judge, Judge Carter, issued another decision on Tuesday night, just this week, indicating that John Eastman and other Trump lawyers knew that their legal arguments had no real chance of success in court, but they relied on those arguments anyway to try to, "overturn a democratic election."

You will hear that, while Congress was under attack on January 6th and the hours following the violence, the Trump legal team in the Willard Hotel war room continued to work to halt the count of electoral votes.

In our fifth hearing, you will see evidence that President Trump corruptly pressured State legislators and election officials to change election results. You will hear additional details about President Trump's call to Georgia officials, urging them to, "find 11,780 votes," votes that did not exist, and his efforts to get States to rescind certified electoral slates without factual basis and contrary to law.

You will hear new details about the Trump campaign and other Trump associates' efforts to instruct Republican officials in multiple States to create intentionally false electoral slates and transmit those slates to Congress, to the Vice President, and the National Archives, falsely certifying that Trump won States he actually lost.

In our final two June hearings, you will hear how President Trump summoned a violent mob and directed them illegally to march on the United States Capitol. While the violence was under way, President Trump failed to take immediate action to stop the violence and instruct his supporters to leave the Capitol.

As we present these initial findings, keep two points in mind: First, our investigation is still on-going. So, what we make public here will not be the complete set of information we will ultimately disclose. Second, the Department of Justice is currently working with cooperating witnesses and has disclosed to date only some of the information it has identified from encrypted communications and other sources.

On December 18, 2020, a group, including General Michael Flynn, Sidney Powell, Rudy Giuliani, and others, visited the White House. They stayed late into the evening. We know that the group discussed a number of dramatic steps, including having the military seize voting machines and potentially rerun elections.

You will also hear that President Trump met with that group alone for a period of time before White House lawyers and other staff discovered the group was there and rushed to intervene.

A little more than an hour after Ms. Powell, Mr. Giuliani, General Flynn, and the others finally left the White House, President Trump sent the tweet on the screen now, telling people to come to Washington on January 6th. “Be there,” he instructed them, “will be wild.”<sup>5</sup>

As you will see, this was a pivotal moment. This tweet initiated a chain of events. The tweet led to the planning for what occurred on January 6th, including by the Proud Boys, who ultimately led the invasion of the Capitol and the violence on that day.

The indictment of a group of Proud Boys alleges that they planned, “to oppose by force the authority of the Government of the United States.”

According to the Department of Justice, on January 6, 2021, the defendants directed, mobilized, and led members of the crowd onto the Capitol Grounds and into the Capitol, leading to the dismantling of metal barricades, the destruction of property, the breaching of the Capitol Building, and the assaults on law enforcement.

Although certain former Trump officials have argued that they did not anticipate violence on January 6th, the evidence suggests otherwise. As you will see in our hearings, the White House was receiving specific reports in the days leading up to January 6th, including during President Trump’s Ellipse rally, indicating that elements in the crowd were preparing for violence at the Capitol.

On the evening of January 5th, the President’s close advisor, Steve Bannon, said this on his podcast.

Mr. BANNON. All hell is going to break loose tomorrow. Just understand this. All hell is going to break loose tomorrow.

Vice Chair CHENEY. As part of our investigation, we will present information about what the White House and other intelligence agencies knew and why the Capitol was not better prepared.

But we will not lose sight of the fact that the Capitol Police did not cause the crowd to attack. We will not blame the violence that day, violence provoked by Donald Trump, on the officers who bravely defended all of us.

In our final hearing, you will hear a moment-by-moment account of the hours-long attack from more than half a dozen White House staff, both live in the hearing room and via videotaped testimony.

There is no doubt that President Trump was well aware of the violence as it developed. White House staff urged President Trump to intervene and call off the mob.

Here is a document written while the attack was under way by a member of the White House staff, advising what the President needed to say: “Anyone who entered the Capitol without proper authority should leave immediately.”

This is exactly what his supporters on Capitol Hill and Nationwide were urging the President to do. He would not.

You will hear that leaders on Capitol Hill begged the President for help, including Republican Leader McCarthy, who was “scared” and called multiple members of the President Trump’s family after he could not persuade the President himself.

Not only did President Trump refuse to tell the mob to leave the Capitol, he placed no call to any element of the U.S. Government to instruct that the Capitol be defended. He did not call his Secretary of Defense on January 6th. He did not talk to his Attorney General. He did not talk to the Department of Homeland Security. President Trump gave no order to deploy the National Guard that day, and he made no effort to work with the Department of Justice to coordinate and deploy law enforcement assets.

But Vice President Pence did each of those things. For example, here is what General Milley, the Chairman of the Joint Chiefs of Staff, testified to this Committee.

General MILLEY. There were two—two or three calls with Vice President Pence. He was very animated, and he issued very explicit, very direct, unambiguous orders. There was no question about that. And—and he was—and—and I can give you the exact quotes, I guess, from some of our records somewhere. But he was very animated, very direct, very firm. And to Secretary Miller: get the military down here. Get the Guard down here, put down this situation, et cetera.

Vice Chair CHENEY. By contrast, here is General Milley’s description of his conversation with President Trump’s Chief of Staff, Mark Meadows, on January 6th.

General MILLEY. He said we have—we have to kill the narrative that the Vice President is making all the decisions. We need to establish the narrative that, you know, that the President is still in charge and that things are steady or stable or words to that effect. I immediately interpret that as politics, politics, politics. Red flag for me personally, no action. But I remember it distinctly.

Vice Chair CHENEY. You will hear from witnesses how the day played out inside the White House, how multiple White House staff resigned in disgust, and how President Trump would not ask his supporters to leave the Capitol. It was only after multiple hours of violence that President Trump finally released a video instructing the riotous mob to leave. As he did so, he said to them: “We love you, and you are very special.”

You will also hear that, in the immediate aftermath of January 6th, members of the President’s family, White House staff, and others tried to step in to stabilize the situation, “to land the plane” before the Presidential transition on January 20th.

You will hear about members of the Trump Cabinet discussing the possibility of invoking the 25th Amendment and replacing the President of the United States.

Multiple members of President Trump's own Cabinet resigned immediately after January 6th. One member of the Cabinet suggested that the remaining Cabinet officers needed to take a more active role in running the White House and the administration.

But most emblematic of those days is this exchange of texts between Sean Hannity and former President Trump's press secretary, Kayleigh McEnany. Sean Hannity wrote in part: "Key now. No more crazy people." "No more stolen election talk." "Yes, impeachment and 25th amendment are real . . . many people will quit."

Ms. McEnany responded in part: "Love that." "That is the playbook."

The White House staff knew that President Trump was willing to entertain and use conspiracy theories to achieve his ends. They knew the President needed to be cut off from all of those who had encouraged him. They knew that President Donald Trump was too dangerous to be left alone at least until he left office on January 20th.

These are important facts for Congress and the American people to understand fully.

When a President fails to take the steps necessary to preserve our Union or, worse, causes a Constitutional crisis, we are at a moment of maximum danger for our Republic.

Some in the White House took responsible steps to try to prevent January 6th. Others egged the President on. Others who could have acted refused to do so.

In this case, the White House Counsel was so concerned about potentially lawless activity that he threatened to resign multiple times. That is exceedingly rare and exceedingly serious. It requires immediate attention, especially when the entire team threatens to resign.

However, in the Trump White House, it was not exceedingly rare, and it was not treated seriously.

This is a clip of Jared Kushner addressing multiple threats by White House Counsel Pat Cipollone and his team of lawyers to resign in the weeks before January 6th.

Vice Chair CHENEY. Jared, are you aware of instances where Pat Cipollone threatened to resign?

Mr. KUSHNER. I—I kind-of—like I said, my interest at that time was on trying to get as many pardons done. And I know that, you know, he was always—to him and the team were always saying, Oh, we're going to resign. We're not going to be here if this happens, if that happens. So, I kind-of took it up to just be whining to be honest with you.

Vice Chair CHENEY. "Whining."

There is a reason why people serving in our Government take an oath to the Constitution. As our Founding Fathers recognized, democracy is fragile. People in positions of public trust are duty-bound to defend it, to step forward when action is required.

In our country, we don't swear an oath to an individual or a political party. We take our oath to defend the United States Constitution, and that oath must mean something.

Tonight, I say this to my Republican colleagues who are defending the indefensible: There will come a day when Donald Trump is gone, but your dishonor will remain.

Finally, I ask all of our fellow Americans, as you watch our hearings over the coming weeks, please remember what is at stake. Re-

member the men and women who have fought and died so that we can live under the rule of law, not the rule of men.

I ask you to think of the scene in our Capitol rotunda on the night of January 6th. There, in a sacred space in our Constitutional Republic, the place where our Presidents lie in state, watched over by statues of Washington and Jefferson, Lincoln and Grant, Eisenhower, Ford, and Reagan, against every wall that night encircling the room there were SWAT teams, men and women in tactical gear with long guns, deployed inside our Capitol Building.

There in the rotunda these brave men and women rested beneath paintings depicting the earliest scenes of our Republic, including one painted in 1824 depicting George Washington resigning his commission, voluntarily relinquishing power, handing control of the Continental Army back to Congress. With this noble act, Washington set the indispensable example of the peaceful transfer of power, what President Reagan called nothing less than a miracle.

The sacred obligation to defend this peaceful transfer of power has been honored by every American President except one.

As Americans, we all have a duty to ensure that what happened on January 6th never happens again, to set aside partisan battles, to stand together to perpetuate and preserve our great Republic.

Thank you, Mr. Chairman.

Chairman THOMPSON. As we provide answers to the American people about January 6th, it is important that we remember exactly what took place, that this was no tourist visit to the Capitol.

Most of the footage we are about to play has never been seen. The Select Committee obtained it as a part of our investigation.

This isn't easy to watch. I want to warn everyone that this video includes violence and strong language.

Without objection, I include in the record a video presentation of the violence of January 6th.

VOICE. Grab your bullet. Grab your bullet. Grab your bullet.

MPD RADIO TRANSMISSION. Yeah. Just be aware, be advised there's probably about 300 Proud Boys. They're marching eastbound in this 400 block of kind-of Independence, actually on the Mall toward the United States Capitol.

CROWD. U-S-A! U-S-A! U-S-A!

VOICE. I am not allowed to say what's going to happen today, because everyone's just going to have to watch for themselves. But it's going to happen. Something's going to happen.

CROWD. Whose streets? Our streets. Whose streets? Our streets. Whose streets? Our streets.

VOICE. Don't need to hurt you. We are on your side. Don't make us go against you. Must be a brown shirt. Pick a side. Pick a side. These are our streets. 20 bucks a picture.

President TRUMP. I hope Mike is going to do the right thing. I hope so. I hope so. Because if Mike Pence does the right thing, we win the election . . .

All Vice President Pence has to do is send it back to the States to recertify, and we become President, and you are the happiest people . . .

Mike Pence is going to have to come through for us. And if he doesn't, that will be a—a sad day for our country, because you'll never take back our country with weakness. You have to show strength, and you have to be strong.

CROWD. U-S-A! U-S-A! U-S-A! U-S-A!

MPD RADIO TRANSMISSION. Cruiser 50, it does look like we're going to have an ad hoc march stepping off here. There's a crowd surge heading east.

CROWD. We love Trump. We love Trump. We love Trump. We love Trump. We love Trump. We love Trump. We love Trump.

President TRUMP. Mike Pence, I hope you are going to stand up for the good of our Constitution and for the good of our country. And if you're not, I'm going to be very disappointed in you, I will tell you right now.

CROWD. U-S-A! U-S-A! U-S-A! U-S-A! U-S-A!

VOICE. [screaming]

VOICE. Get back, lady. Get back, lady.

USCP RADIO TRANSMISSION. EA 101 priority, we've been passed first on Peace Circle, breached the line. We need back-up.

VOICE. What are you doing? Guys, what are you doing? Fuck yeah. Fuck yeah. [unintelligible]

House Sergeant-at-Arms PAUL D. IRVING. Madam Speaker, the Vice President and the United States Senate. [applause]

MPD RADIO TRANSMISSION. Cruiser 50, we're going to give riot warning [unintelligible]. We're going to give riot warning. We're gonna try and get compliance, but this is now effectively a riot.

MPD RADIO TRANSMISSION. 1349 hours, declaring it a riot.

MPD RADIO TRANSMISSION. Cruiser 5 to 50, be advised Capitol Police 1 advised they're trying to breach and get into the Capitol.

MPD RADIO TRANSMISSION. 50, I copy.

VOICE. Hold the line. Hold the line. Hold the line. Hold the line. Hold the line.

VOICE. Fuck the line.

MPD RADIO TRANSMISSION. 42, we're about 5 minutes out. We're trying to make our way through all this.

CROWD. [unintelligible]

VOICE. Go, go, go, go, go.

MPD RADIO TRANSMISSION. Cruiser 50, we have a breach of the Capitol, breach of the Capitol from the upper level.

MPD RADIO TRANSMISSION. Be advised, they are requesting additional resources on the east side, as they have broken into that window, and they're trying to kick it in.

Rep. JAMES P. MCGOVERN. Without objection, the Chair declares the House in recess pursuant to clause 12(b) of rule I.

VOICE. "Mike Pence didn't have the courage to do what should have been done to protect our Country and our Constitution giving States a chance to certify a corrected set of facts, not the fraudulent or inaccurate ones which they were asked to previously certify. US[A] demands the truth."

CROWD. Bring out Pence. Bring out Pence. Bring him out. Bring out Pence. Hang Mike Pence. Hang Mike Pence. Hang Mike Pence. Hang Mike Pence. Hang Mike Pence. Hang Mike Pence. Hang Mike Pence.

VOICE. You pepper sprayed another American that was fighting for you. [unintelligible]

VOICE. Take it all away. Take it all away. Get him back in. [unintelligible]

CROWD. Our house. Our house. Our house. Move, move. Our house. Whose house? Our house. Whose house? Our house. [unintelligible]

VOICE. Get the fuckers. [unintelligible]

VOICE. We can't hold this. We're going to get too many fucking people here. Look at this fucking vantage point. Man, we're fucked.

USCP RADIO TRANSMISSION. We need an area for the House Members. They're all walking over now through the tunnel.

MPD RADIO TRANSMISSION. We're trying to hold the upper deck. We are trying to hold the upper deck now. We need to close the doors of the Capitol. I need more support. [unintelligible]

We've lost the line. We've lost the line. All MPD get back. All MPD pull back up to the upper deck. All MPD pull back to the upper deck ASAP.

CROWD. Nancy, Nancy, Nancy, Nancy, Nancy, Nancy, Nancy, Nancy, Nancy, Nancy. [unintelligible]

VOICE. Nancy Pelosi. [unintelligible]

MPD RADIO TRANSMISSION. . . . Cruiser 50, be advised that Capitol Police are going to start moving their resources inside. They're going to start the N4 officers first.

VOICE. No violence. No violence. [unintelligible]

USCP RADIO TRANSMISSION. . . . H-208 with the four Members, the door's barricaded. There's people flooding the hallways outside, and we have no way out.

USCP RADIO TRANSMISSION. . . . Is that officers still remaining on the House floor in the—on the third floor to use the subways themselves. It's time to evacuate, so we can secure the Members on the other side. Copy?

CROWD. Stop the steal! Stop the steal!

VOICE. It's up to us people now, the American people.

VOICE. But what are you ready to do?

VOICE. One more time?

VOICE. What are you ready to do?



VOICE. Whatever it takes. I'll lay my life down if it takes.  
 VOICE. Absolutely. That's why we showed up today.  
 VOICE. Bring her out. Bring her out here. We're coming in if you don't bring her out. Fuck you. Fuck you, you son of a bitch. You back up. You back up.  
 VOICE. Can I have my cell phone back?  
 VOICE. Go ahead and try.  
 VOICE. Get him up. Get him up. Get a medic.  
 VOICE. Officer down, get him up.  
 VOICE. We love you guys.  
 VOICE. Get him up. Get him up. Get him up.  
 CROWD. U-S-A! U-S-A! U-S-A! U-S-A! U-S-A! U-S-A! U-S-A! [unintelligible]  
 MPD RADIO TRANSMISSION. . . . West Terrace door for backup.  
 VOICE. I need backup. I need backup.  
 VOICE. Back up. Back up. [unintelligible]  
 President TRUMP. They were peaceful people. These were great people. The crowd was unbelievable. And I mentioned the word love. The love—the love in the air, I've never seen anything like it.

Chairman THOMPSON. Pursuant to the order of the Committee of tonight, the Chair declares the Committee in recess for a period of approximately 10 minutes.

[Accordingly, at 9:02 p.m., the Committee recessed until 9:12 p.m., when it was called to order by the Chairman.]

Chairman THOMPSON. I want to thank our witnesses for being with us this evening to share their first-hand accounts of that terrible day.

I know that some of the witnesses from our first hearing are in the room with us, along with some of the family members, friends, and widows of the officers who lost their lives as a result of the attack. Thank you all for being here for us and the American people.

Officer Caroline Edwards has been with the United States Capitol Police since 2017. On January 6th, Officer Edwards was assigned to the First Responder Unit, which serves as the first line of defense at the Capitol complex. She also served as a member of the Civil Disturbance Unit, a special subset of the Uniformed Division trained to respond to mass demonstration events. Officer Edwards is a graduate of the University of Georgia and currently is working on a master's degree in intelligence analysis from Johns Hopkins University.

Nick Quested is an acclaimed filmmaker whose credits include documenting stories from war zones in Afghanistan, Syria, and Iraq. On January 6th, Mr. Quested was working on a documentary about, "why Americans are so divided when Americans have so much in common." During that day, Mr. Quested interviewed and documented movements of the people around the Capitol, including the first moments of the violence against the Capitol Police and the chaos that ensued.

I will now swear in our witnesses. The witnesses will please stand and raise your right hands.

[Witnesses sworn.]

Chairman THOMPSON. Let the record reflect the witnesses answered in the affirmative.

Without objection, the witnesses' statements will be included in the record.

Pursuant to section 5(c)(8) of House Resolution 503, I recognize myself for questioning.

As you saw just a few minutes ago, the Proud Boys instigated the first breach of the Capitol just before 1 o'clock p.m., where rioters pushed over barricades near the Peace Circle at the foot of the Capitol. Our two witnesses tonight were both there at the time of that first breach.

Officer Edwards was standing with other officers behind a line of bike racks that marked the perimeter of the Capitol Grounds. She bravely tried to prevent an angry crowd from advancing on the Capitol. Unfortunately, she was overrun and knocked unconscious as the crowd advanced on the Capitol.

Mr. Quested was a few yards away from Officer Edwards, taking footage of the Proud Boys as part of his work on a documentary film. Most of his footage has never been shown publicly before we shared it this evening.

Officer Edwards, I would like to start by asking if you could tell us why you believe it is important for you to share your story this evening with the Committee and the American public.

Officer EDWARDS.<sup>1</sup> Well, thank you, Mr. Chairman. I really appreciate it. Thank you to the Committee for having me here to testify.

I was called a lot of things on January 6, 2021, and the days thereafter. I was called Nancy Pelosi's dog, called incompetent, called a hero, and a villain. I was called a traitor to my country, my oath, and my Constitution.

In actuality, I was none of those things. I was an American standing face-to-face with other Americans asking myself how many times—many, many times—how we had gotten here.

I had been called names before, but never had my patriotism or duty been called into question. I, who got up every day, no matter how early the hour or how late I got in the night before, to put on my uniform and to protect America's symbol of democracy; I, who spent countless hours in the baking sun and freezing snow to make sure that America's elected officials were able to do their job; I, whose literal blood, sweat, and tears were shed that day defending the building that I spent countless holidays and weekends working in.

I am the proud granddaughter of a Marine that fought in the Battle of the Chosin Reservoir in the Korean War. I think of my papa often in these days, how he was so young and thrown into a battle he never saw coming, and answered the call at a great personal cost; how he lived the rest of his days with bullets and shrapnel in his legs but never once complained about his sacrifice.

I would like to think that he would be proud of me, proud of his granddaughter that stood her ground that day and continued fighting even though she was wounded, like he did many years ago. I am my grandfather's granddaughter, proud to put on a uniform and serve my country.

They dared to question my honor. They dared to question my loyalty. They dared to question my duty. I am a proud American, and I will gladly sacrifice everything to make sure that the America my grandfather defended is here for many years to come.

Thank you.

<sup>1</sup> Officer Edwards's prepared statement is included in the Appendix beginning on p. 93.

Chairman THOMPSON. Officer Edwards, your story and your service is important, and I thank you for being here tonight.

Mr. Quested, I would also like to ask you to introduce yourself. Can you tell us how you found yourself in Washington, DC, on January 6, 2021?

Mr. QUESTED.<sup>2</sup> Good evening, Chair and Madam Vice Chair. Thank you for the introduction.

As stated, in the winter of 2020, I was working on a documentary. As part of that documentary, I filmed several rallies in Washington, DC, on December 11th and December the 12th, and I learned there would be a rally on The Mall on January 6th. So, my three colleagues and I came down to document the rally.

According to the permit at the event, there was going to be a rally at the Ellipse. We arrived at The Mall and observed a large contingent of Proud Boys marching toward the Capitol. We filmed them, and almost immediately I was separated from my colleagues.

I documented the crowd turn from protesters to rioters to insurrectionists. I was surprised at the size of the group, the anger, and the profanity.

For anyone who didn't understand how violent that event was, I saw it, I documented it, and I experienced it. I heard incredibly aggressive chanting, and I subsequently shared that footage with the authorities.

I am here today pursuant to a House subpoena.

Thank you so much.

Chairman THOMPSON. Thank you, Mr. Quested.

The Select Committee has conducted extensive investigative work to understand what led the Proud Boys and other rioters to the Capitol on January 6th.

We have obtained substantial evidence showing that the President's December 19th tweet calling his followers to Washington, DC, on January 6th energized individuals from the Proud Boys and other extremist groups.

I would like to play a brief video highlighting some of this evidence.

Mr. CHILDRESS. My name is Marcus Childress, and I'm an investigative counsel for the Select Committee to Investigate the January 6th Attack on the United States Capitol.

President TRUMP. What do you want to call him? Give me a name. Give me a name. Go ahead.

Debate Moderator CHRIS WALLACE. White supremacists. [crosstalk]

President TRUMP. Who would you like me to condemn?

Debate Moderator CHRIS WALLACE. White supremacists and—

Then-Candidate BIDEN. Proud Boys. [crosstalk]

President TRUMP. Proud Boys, stand back and stand by—

Mr. CHILDRESS. After he made this comment, Enrique Tarrio, then chairman of the Proud Boys, said on Parler, "Standing by sir." During our investigation, we learned that this comment during the Presidential debate actually led to an increase in membership in the Proud Boys.

Mr. QUINN. Would you say that Proud Boys numbers increased after the stand back, stand by comment?

Mr. BERTINO. Exponentially. I'd say tripled probably. With the potential for a lot more eventually.

Ms. PHOENIX. And did you ever sell any stand back and stand by merchandise?

Mr. TARRIO. Uh, one of the vendors on my page actually beat me to it, but I wish I would have—I wish I would have made a stand back, stand by shirt.

<sup>2</sup>Mr. Quested's prepared statement is included in the Appendix beginning on p. 93.

Mr. CHILDRESS. On December 19th, President Trump tweeted about the January 6th rally and told attendees, "Be there, will be wild!" Many of the witnesses that we interviewed were inspired by the President's call and came to DC for January 6th, but the extremists, they took it a step further. They viewed this tweet as a call to arms. A day later, the Department of Justice describes how the Proud Boys created a chat called the Ministry of Self Defense Leadership Chat. In this chat, the Proud Boys established a command structure in anticipation of coming back to DC on January 6th. The Department of Justice describes Mr. Tarrio coming into possession of a document called the "1776 Returns," which describes individuals occupying key buildings around the United States Capitol. The Oath Keepers are another group that the Committee investigated.

Mr. JONES. You better get your ass to DC folks this Saturday.

Mr. RHODES. Yeah. If you don't, there's gonna be no more Republic. But we're not gonna let that happen. It's not even an "if." It's either President Trump is encouraged and bolstered, strengthened to do what he must do, or we wind up in a bloody fight. We all know that. The fight's coming.

Mr. CHILDRESS. The Oath Keepers began planning to block the peaceful transfer of power shortly after the November 3rd election. And according to the Department of Justice, Stewart Rhodes, the Oath Keeper's leader, said to his followers that, "We aren't getting through this without a civil war." In response to the December 19, 2020, tweet by President Trump, the Oath Keepers focused on January 6th in Washington, DC. In response to the tweet, one member, the president of the Florida chapter, put on social media, "the President called us to the Capitol, he wants us to make it wild." The goal was for the Oath Keepers to be called to duty so that they could keep the President in power although President Trump had just lost the election. The Committee learned that the Oath Keepers set up quick reaction forces outside of the city and in Virginia where they stored arms. The goal of these quick reaction forces was to be on standby just in case President Trump invoked the Insurrection Act.

Mr. PRASANNA. Did the Oath Keepers ever provide weapons to members?

Mr. RHODES. I'm going to decline to answer that on Fifth Amendment grounds—for due process grounds.

Mr. CHILDRESS. In footage obtained by the Committee, we learned that on the night of January 5th, Enrique Tarrio and Stewart Rhodes met in a parking garage in Washington, DC.

Mr. TARRIO. There's mutual respect there. I think we're—we're fighting the same fight, and I think that's what's important.

Mr. CHILDRESS. The Committee learned that the Oath Keepers went into the Capitol through the east doors in two stack formations. The DOJ alleges that one of the stacks went into the Capitol looking for Speaker Pelosi, although they never found her. As the attack was unfolding, Mr. Tarrio took credit. In documents obtained by the Department of Justice, Mr. Tarrio said, in an encrypted chat, "make no mistake" and "we did this." Later on that evening, Mr. Tarrio even posted a video which seemed to resemble him in front of the Capitol with a black cape. And the title of the video was, "Premonition." The evidence developed by the Select Committee and the Department of Justice highlights how each group participated on the attack on the Capitol on January 6th.

In fact, the investigation revealed that it was individuals associated with the Proud Boys who instigated the initial breach at the peace circle at 12:53 p.m.

CROWD. U-S-A! U-S-A! U-S-A!

Mr. CHILDRESS. Within 10 minutes, rioters had already filled the Lower West Plaza. [inaudible] By 2 o'clock, rioters had reached the doors on the West and the East Plazas. And by 2:13, rioters had actually broken through the Senate wing door and got into the Capitol building. [inaudible] A series of breaches followed. At 2:25 p.m., rioters breached the east side doors to the rotunda. [inaudible] And then right after 2:40 p.m., rioters breached the east side doors near the Ways and Means room. [inaudible] Once the rioters infiltrated the Capitol, they moved to the crypt, the rotunda, the hallways leading to the House Chamber, and even inside the Senate Chamber. [inaudible]

Chairman THOMPSON. Individuals associated with two violent extremist groups have been charged with seditious conspiracy in connection with the January 6th attack.

One is the Oath Keepers. They are a group of armed, antigovernment extremists. The other group is the Proud Boys. They promote white supremacist beliefs and have engaged in violence with people they view as their political enemies.

Members of both groups have already pled guilty to crimes associated with the January 6th attack.

Mr. Quested, as part of the documentary you have been filming, you gained access to the Proud Boys and their leader, Enrique Tarrio. Your crew filmed them in Washington, DC, on the evening of January 5th and then on January 6th.

On January 5th, the night before the attack, you were with the head of the Proud Boys, Mr. Tarrio, in Washington, DC. What happened?

Mr. QUESTED. We picked up Mr. Tarrio from jail. He had been arrested for carrying some magazines, some long—some extra-capacity magazines, and for the—he took responsibility for the burning of the Black Lives Matter flag that was stolen from the church on December the 12th.

We were attempting to get an interview with Mr. Tarrio. We had no idea of any of the events that were going to subsequently happen.

We drove him to pick up his bags from the property department of the police, which is just south of The Mall. We picked up his bags and went to get some other bags from the Phoenix Hotel, where we encountered Mr. Stewart Rhodes from the Oath Keepers.

By the time I had gone to park the car, my colleague was saying—who had got into the car with Mr. Tarrio—that they had moved to a location around the corner, the parking garage of the Hall of Legends, I believe. So, we quickly drove over there. We drove down into the parking garage and filmed the scene of Mr. Tarrio and Mr. Rhodes and certain other individuals in that garage.

We then continued to follow Mr. Tarrio. There was some discussion about where he was going to go. He ended up going toward a hotel in Baltimore, and we conducted an interview with him in the hotel room.

Then we returned to DC for that night in a—and what was interesting that night, actually, was, that was the first indication that DC was much more busy than it had been any other time we had been here, because we couldn't get into the hotels we wanted to, and we ended up at a hotel that, you know, was not as satisfactory as we would have hoped.

Chairman THOMPSON. Thank you. So, what you are saying is, you filmed the meeting between Mr. Tarrio and Oath Keepers leader Stewart Rhodes, right?

Mr. QUESTED. Indeed.

Chairman THOMPSON. You couldn't hear what was said, but, according to the Justice Department indictment of Mr. Tarrio, a participant referenced the Capitol.

Now, on the morning of January 6th, you learned the Proud Boys would gather near the rally scheduled to take place near the White House. What time did you meet up with the Proud Boys, and what was happening when they met?

Mr. QUESTED. We met up with the Proud Boys somewhere around 10:30 a.m., and they were starting to walk down The Mall in an easterly direction toward the Capitol.

There was a large contingent, more than I had expected. I was confused, to a certain extent, why we were walking away from the

President's speech, because that is what I felt we were there to cover.

Chairman THOMPSON. So, at 10:30 a.m., that is early in the day. That is even before President Trump had started speaking. Am I correct?

Mr. QUESTED. Yes, sir.

Chairman THOMPSON. So, how many Proud Boys would you estimate were marching together to the Capitol?

Mr. QUESTED. A couple of hundred, potentially. Yes, I would say a couple of hundred Proud Boys were marching toward the Capitol at that point.

Chairman THOMPSON. At the time, was the area heavily guarded?

Mr. QUESTED. No. That was—I remember we walked past the—we walked down The Mall, we walked to the right of the Reflecting Pool and then north along the road that leads to the Peace Circle. As we were walking past the Peace Circle, I framed the Proud Boys to the right of my shot, with the Capitol behind, and we see one sole police officer at the barriers, which are subsequently breached.

We then walk up and past a tactical unit preparing. You see that in the film, where the man questions their duty and their honor, and you see maybe a dozen Capitol Police putting on their riot gear.

Chairman THOMPSON. So, how would you describe the atmosphere at that time?

Mr. QUESTED. The atmosphere was—it seemed to be much darker. I make efforts to create familiarity between myself and my subjects to, you know, make them feel comfortable, and the atmosphere was much darker this day than it had been in these other days.

There was also a contingent of Proud Boys that I hadn't met before from Arizona who appeared to wear these orange hats and had orange armbands.

Chairman THOMPSON. So, when the Proud Boys went back down the hill to the Peace Circle, did a larger crowd start to gather?

Mr. QUESTED. Well, no, first of all, we went around to the back and down the steps, and we took some photographs on the east side of the Capitol. Then we went for lunch. We went for tacos.

Chairman THOMPSON. So, Mr. Quested, you are a journalist, so you are careful to stick to things that you have observed, but what you have told us is highly relevant.

Let me highlight a few key facts that you and others have provided the Committee.

First, there was a large group of Proud Boys present at the Capitol. We know that from multiple sources. You now estimate that there were around 250 to 300 individuals, you have testified. They weren't there for President Trump's speech. We know this because they left that area to march toward the Capitol before the speech began.

They walked around the Capitol that morning. I am concerned this allowed them to see what defenses were in place and where weaknesses might be. They decided to launch their attack at the Peace Circle, which is a front door of the Capitol complex.

It is the first security perimeter that those marching from the Ellipse would have to come to as they move toward the Capitol. The Peace Circle walkway was always where the thousands of angry Trump supporters would arrive after President Trump sent them from the Ellipse.

The Proud Boys timed their attack to the moments before the start of the joint session in the Capitol, which is also where President Trump directed the angry mob. "We fight like hell," he told them before sending them down Pennsylvania Avenue right to where the Proud Boys gathered and where you were filming.

Now, a central question is whether the attack on the Capitol was coordinated and planned. What you witnessed is what a coordinated and planned effort would look like. It was the culmination of a months-long effort spearheaded by President Trump.

Mr. Quested, thank you for your eyewitness account of the lead-up to the breach of the Peace Circle.

This brings us to a point in time where you and Officer Edwards were in close proximity.

At this point, I reserve the balance of my time.

Pursuant to section 5(c)(8) of House Resolution 503, the Chair recognizes gentlewoman from Wyoming, Ms. Cheney, for questioning.

Vice Chair CHENEY. Thank you very much, Mr. Chairman.

Officer Edwards, I want to start by thanking you for your service and thank you for your courage. Thank you for being here this evening.

I know that it is not easy to relive what happened, for you and for the officers behind you and for the family members of the officers in the audience this evening, but it is really important for the country to have a full accounting and understand what happened.

I want to start, Officer Edwards, with a short clip that shows the horrible moment when you were injured as the Peace Circle was breached.

[Video of the attack on Officer Edwards shown.]

Vice Chair CHENEY. Officer Edwards, can you describe the crowd that had assembled at the Peace Circle as you and your fellow officers stood behind and guarded the bike racks at the Peace Circle?

Officer EDWARDS. Yes.

So, there were about, I want to say, about five of us on that line. There were, so there was our bike rack, and then at the bottom of the Pennsylvania Avenue walkway or right by Peace Circle, there was another bike rack. So, the crowd had kind-of gathered there. It was the crowd led by Joseph Biggs.

They were mostly in civilian clothes. There were some who had military fatigues on. We could see people with bullet-proof vests on, you know, things like that. They didn't seem, you know, extremely cohesive, but they had gathered there in their outfits.

But they had gathered there together, and Joseph Biggs started, he had a megaphone, and he started talking about, you know, first it was things kind-of relating to Congress. Then the table started turning once the, what is now the Arizona group, is what you said, the crowd with the orange hats, they came up chanting, "F-u-c-k Antifa," and they joined that group.

Once they joined that group, Joseph Biggs's rhetoric turned to the Capitol Police. He started asking us questions like, "You didn't miss a paycheck during the pandemic," mentioning stuff about—our pay scale was mentioned—and, you know, started turning the tables on us.

I have worked, I can, you know, conservatively say, probably hundreds of civil disturbance events. I know when I am being turned into a villain. That is when I turned to my sergeant, and I stated the understatement of the century. I said, "Sarge, I think we are going to need a few more people down here."

So, after that, you know, I think they started conferring. They went a little silent; they started conferring among each other. I saw the person now identified as Ryan Samsel. He put his arm around Joseph Biggs, and they were talking. Then they started approaching the first barricade. They ripped the first barricade down, and they approached our bike racks.

You know, at that time, we started holding on, grabbing the bike racks. You know, there weren't many of us, so I grabbed the middle between two different bike racks. You know, I wasn't under any pretense that I could hold it for very long, but I just wanted to, you know, make sure that we could get more people down and get our CDU units time to answer the call.

So, we started grappling over the bike racks. I felt the bike rack come on top of my head, and I was pushed backward. My foot caught the stair behind me, and my chin hit the handrail. Then I—at that point I had blacked out, but the back of my head clipped the concrete stairs behind me.

Vice Chair CHENEY. You were knocked unconscious; is that right, Officer Edwards?

Officer EDWARDS. Yes, ma'am.

Vice Chair CHENEY. But then, when you regained consciousness, even with the injuries, you returned to duty. Is that right?

Officer EDWARDS. Yes, ma'am. You know, at that time, adrenaline kicked in. I ran toward the West Front, and I tried to hold the line at the Senate steps at the Lower West Terrace.

More people kept coming at us. It just seemed like, you know, more and more people started, you know, coming onto the West Front. They started overpowering us.

That was right about when MPD's officers showed up. Their bike officers pushed the crowd back and allowed our CDU units, as well as theirs, to form that line that you see, that very thin line between us and the protesters, or the rioters, you know, at that time.

I fell behind that line. For a while, I started decontaminating people who had gotten sprayed and treating people medically who needed it.

Vice Chair CHENEY. Then you were injured again, there on the West Terrace. Is that right, Officer Edwards?

Officer EDWARDS. Yes, ma'am.

So, after a while, I got back on the line. It was on the House side of the Lower West Terrace, and I was holding that line for a while. There weren't many of us over there. Officer Sicknick was behind me for most of the time, for about 30 to 45 minutes that I was down there. We were just—as the best we could, we were just, you



know, grappling over bike racks and trying to hold them as quick as possible.

All of a sudden, I see movement to the left of me, and I turned, and it was Officer Sicknick with his head in his hands. He was ghostly pale, which—I figured at that point that he had been sprayed, and I was concerned. My, you know, cop alarm bells went off. Because if you get sprayed with pepper spray, you are going to turn red. He turned just about as pale as this sheet of paper.

So, I looked back to see what had hit him, what had happened, and that is when I got sprayed in the eyes as well. I was taken to be decontaminated by another officer, but we didn't get the chance because we were then tear-gassed.

Vice Chair CHENEY. We are going to play just a brief clip of that moment that you have just described, Officer Edwards.

[Video of the moment Officer Edwards was tear-gassed shown.]

Vice Chair CHENEY. Officer Edwards, I just want to thank you for being here. I know, again, how difficult it is. I know the family of Officer Sicknick, as well, is here tonight.

One of the things one of the Capitol Police officers said to me recently was to ask me whether or not, as Members of Congress, all of us understood that on that day, on January 6th, when we were evacuated from the Chamber, were led to a safe, undisclosed location, whether we knew that so many of you had rushed out of the building and into the fight. I can assure you that we do know that and that we understand how important your service is.

Thank you for your continued work with our Committee and the interviews.

Thank you very much, for both of you, for being here this evening.

Mr. Chairman, I yield back.

Chairman THOMPSON. Thank you very much.

Ms. Edwards, can you give us one memory of that awful day that stands out most vividly in your mind?

Officer EDWARDS. I can.

That time when I talked about falling behind MPD's line, I remember—because I had been kind-of shielded away, because I was holding those stairs, so I wasn't able to really see what was going on over here. When I fell behind that line and I saw, I can just remember my breath catching in my throat, because what I saw was just a war scene. It was something like I had seen out of the movies. I couldn't believe my eyes.

There were officers on the ground. You know, they were bleeding, they were throwing up, they were, you know, they had, I mean, I saw friends with blood all over their faces. I was slipping in people's blood. You know, I was catching people as they fell.

It was carnage. It was chaos. I can't even describe what I saw.

Never in my wildest dreams did I think that, as a police officer, as a law enforcement officer, I would find myself in the middle of a battle. You know, I am trained to detain, you know, a couple of subjects and, you know, handle a crowd, but I am not combat trained. That day, it was just hours of hand-to-hand combat, hours of dealing with things that were way beyond what any law enforcement officer has ever trained for.

I just remember, I just remember that moment of stepping behind the line and just seeing the absolute war zone that the West Front had become.

Chairman THOMPSON. Let me thank you for your service and obviously your bravery that you have told the world about tonight. It is unfortunate that you had to defend the Capitol from fellow Americans. None of us would ever think that that would have to happen, but it did.

So let me thank our witnesses for joining us tonight and sharing their experiences with America.

Throughout my chairmanship of this Committee, I have continuously vowed that this Committee will ensure a comprehensive account of the heroic acts on January 6th and that we will follow the facts wherever they lead. Your testimony is an essential part of that record and helps us do our job.

Mr. Quested, thank you for sharing your footage and your account of the day's events with us. The images you recorded and have shared with the Committee do a better job than any of our words in reinforcing the violence of January 6th. We hope that the power of your footage helps encourage all Americans to consider how citizens with so much in common could viciously brawl at the seat of their democratic government.

Officer Edwards, thank you for your brave service, as I indicated, on January 6th and all you did to protect us and, most importantly, our democracy. If you and your fellow officers hadn't held the line against those violent insurrectionists, we can only imagine the disaster that would have ensued.

Your heroism in the face of danger is admirable, and your will to continue to protect and serve, despite your serious injuries, should be an inspiration to all of us. We wish you a continued recovery and look forward to seeing you back in uniform sometime soon.

The Members of the Select Committee may have additional questions for tonight's witnesses, and we ask that you respond expeditiously in writing to those questions.

Without objection, Members will be permitted 10 business days to submit statements for the record, including opening remarks and additional questions for the witnesses.

The witnesses have just told us what they heard the rioters saying, why they stormed the Capitol on that day. Now we are going to hear it from the rioters themselves.

Without objection, I include in the record a video presentation.

VOICE. We were invited by the President of the United States.

Mr. SCHORNACK. What really made me want to come was the fact that, you know, I had supported Trump all that time. I did believe, you know, that the election was being stolen. And Trump asked us to come.

Mr. BARBER. He personally asked for us to come to DC that day. And I thought, for everything he's done for us, if this is the only thing he's going to ask of me, I'll do it.

President TRUMP. We're going to walk down to the Capitol.

Mr. CHILDRESS. Do you recall President Trump mentioning going to the Capitol during his speech?

Mr. BARBER. Oh, yeah. So, that's one of my disappointments. He said he was going to go, go with us, that he was going to be there.

Mr. WRIGHT. I know why I was there, and that's because he called me there, and he laid out what is happening in our government. He laid it out.

Mr. MEZA. But I remember Donald Trump telling people to be there, I—I mean, to support.

Mr. SASSO. So, you mentioned that the President—that the President asked you. Do you remember a specific message?

Mr. HERENDEEN. Basically, yeah—yes, for us to come to DC, that big things are going to happen.

Mr. WALTER. What got me interested, he said I have something very important to say on January 6th, or something like that is what got—what got me interested to be there.

Mr. SCHORNACK. You know, Trump has only asked me for two things. He asked me for my vote, and he asked me to come on January 6th.

Chairman THOMPSON. When the Committee reconvenes next week, we are going to examine the lies that convinced those men and others to storm the Capitol to try to stop the transfer of power. We are going to take a close look at the first part of Trump's attack on the rule of law, when he lit the fuse that ultimately resulted in the violence of January 6th.

Without objection, and with that, the Committee stands adjourned.

[Whereupon, at 9:54 p.m., the Committee was adjourned.]



## APPENDIX

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PREPARED STATEMENT OF OFFICER CAROLINE EDWARDS, U.S. CAPITOL POLICE,  
WASHINGTON, DC

JUNE 9, 2022

I was called a lot of things on January 6, 2021 and the days thereafter. I was called Nancy Pelosi's dog, called incompetent, called a hero and a villain. I was called a traitor to my country, my oath, and my Constitution. In actuality, I was none of those things.

I was an American standing face-to-face with other Americans asking myself many times how we had gotten here. I had been called names before, but never had my patriotism or duty been called into question. I, who got up every day, no matter how early the hour or how late I got in the night before, to put on my uniform and protect America's symbol of democracy. I, who spent countless hours in the baking sun and freezing snow to make sure America's elected officials were able to do their job. I, whose literal blood, sweat, and tears were shed that day defending the building that I spent countless holidays and weekends working in.

I am the proud granddaughter of a Marine that battled in the Chosin reservoir in the Korean War. I think of my Papa often in these days, how he was so young and thrown into a battle he never saw coming, and answered the call at great personal cost. How he lived the rest of his days with bullets and shrapnel in his legs, but never once complained about his sacrifice. I would like to think that he would be proud of me, proud that his granddaughter stood her ground that day and continued fighting even though she was wounded, like he did many years ago. I am my grandfather's granddaughter, proud to put on a uniform and serve my country.

They dared to question my honor. They dared to question my loyalty. They dared to question my duty. I am a proud American, and I will gladly sacrifice everything to make sure that the America my grandfather defended is here for many years to come.

Thank you.

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PREPARED STATEMENT OF NICK QUESTED, DOCUMENTARY FILMMAKER, NEW YORK,  
NY

I am a British-born legal resident of the United States. I received my Bachelor of Fine Arts from New York University in 1992. I am an artist and an independent filmmaker. I have directed hundreds of music videos and have produced upwards of 40 documentaries. I have won an Emmy and a Dupont Columbia Award, and I have produced an Oscar-nominated film.

Much of my work in the last 20 years has revolved around conflict. I have filmed documentaries dealing with war and areas in conflict such as *Restrepo*, *Korengal*, *The Last Patrol*, *Hell on Earth: The Fall of Syria and the Rise of ISIS*, and most recently, *Blood on the Wall*.

I testified before this Committee on June 9, 2022, because in December 2020 and January 2021, I was filming a documentary in Washington, DC about "why Americans are so divided when Americans have so much in common." I had started working on this film in the summer of 2020 when I observed what America was experiencing. As part of that documentary, I interviewed and spoke with groups such as Antifa and the Proud Boys. I filmed several rallies in Washington, DC on December 11 and December 12, 2020, and began filming several of the groups spearheading those rallies such as the Proud Boys and the Oath Keepers.

I learned there would be a rally on the National Mall on January 6, 2021, and three colleagues and I came to document the rally. We traveled from New York to Washington, DC on January 5, 2021, and we started filming when we were invited

to document a Proud Boy, Enrique Tarrio's release from Government custody. On January 5, 2022, we documented Mr. Tarrio as he retrieved his property from the Metropolitan Police Department, retrieved his luggage from a Washington, DC Hotel, participated in a meeting in an underground parking garage, and traveled to a hotel in Baltimore. After documenting those events, we returned to Washington, DC.

On January 6, 2021, my colleagues and I headed to the Mall for the rally. According to the permit for the event, there was to be a rally at the Ellipse. I arrived as a group was heading west on the Mall. I observed a large contingent of Proud Boys marching toward the Capitol. I filmed the crowd walking toward Capitol Hill. Almost immediately, I was separated from my colleagues. I documented the crowd turn from protesters to insurrectionists. I was surprised at the size of the group, the anger, and the profanity. I experienced pepper spray, violent surging, and acts of violence, and I heard aggressive chanting.

My goal as an independent journalist is always to prioritize truth and to let people speak for themselves rather than to interpret events for my audience. The clips of my footage that were shown to the world on June 9, 2022, were a snapshot of what we saw occur on January 6, 2021. I hope my footage and the subsequent documentary will help people understand and visualize what occurred on that date. It is important for Americans to see the unvarnished truth of what happened for themselves. The events I captured on film leading up to January 6, and the January 6 attacks themselves, shook me.

## HEARING ON THE JANUARY 6TH INVESTIGATION

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Monday, June 13, 2022

U.S. HOUSE OF REPRESENTATIVES,  
SELECT COMMITTEE TO INVESTIGATE THE JANUARY 6TH  
ATTACK ON THE UNITED STATES CAPITOL,  
*Washington, DC.*

The Committee met, pursuant to notice, at 10:46 a.m., in room 390, Cannon House Office Building, Hon. Bennie G. Thompson [Chairman of the Committee] presiding.

Present: Representatives Thompson, Cheney, Lofgren, Schiff, Aguilar, Murphy, Raskin, Luria, and Kinzinger.

Chairman THOMPSON. The Select Committee to Investigate the January 6th Attack on the United States Capitol will be in order.

Without objection, the Chair is authorized to declare the Committee in recess at any point.

Pursuant to House Deposition Authority Regulation 10, the Chair announces the Committee's approval to release the deposition material presented during today's hearing.

Good morning.

Last week, the Select Committee laid out a preview of our initial findings about the conspiracy overseen and directed by Donald Trump to overturn the results of the 2020 Presidential election and block the transfer of power—a scheme unprecedented in American history.

My colleagues and I don't want to spend time talking about ourselves during these hearings, but as someone who has run for office a few times, I can tell you, at the end of a campaign, it all comes down to the numbers. The numbers tell you the winner and the loser.

For the most part, the numbers don't lie. But if something doesn't add up with the numbers, you go to court to get resolution. That is the end of the line. We accept those results. That is what it means to respect the rule of law. That is what it means to seek elective office in our democracy.

Because those numbers aren't just numbers. They are votes. They are your votes. They are the will and the voice of the people. The very least we should expect from any person seeking a position of public trust is the acceptance of the will of the people—win or lose.

Donald Trump didn't. He didn't have the numbers. He went to court. He still didn't have the numbers. He lost.

But he betrayed the trust of the American people. He ignored the will of the voters. He lied to his supporters and the country. He

tried to remain in office after the people had voted him out and the courts upheld the will of the people.

This morning, we'll tell the story of how Donald Trump lost an election—and knew he lost an election—and as a result of his loss decided to wage an attack on our democracy, an attack on the American people, by trying to rob you of your voice in our democracy, and, in doing so, lit the fuse that led to the horrific violence of January 6th, when a mob of his supporters stormed the Capitol, sent by Donald Trump, to stop the transfer of power.

Today, my colleague from California, Ms. Lofgren, and our witnesses will detail the Select Committee's findings on these matters.

But, first, I will recognize our distinguished Vice Chair, Ms. Cheney of Wyoming, for any opening statement she would care to offer.

Vice Chair CHENEY. Thank you very much, Mr. Chairman.

Last week, as the Chairman noted, our Committee began outlining a 7-part plan—overseen by President Trump—to overturn the 2020 election.

Today, we will begin looking at the initial part of that plan: President Trump's effort to convince millions of Americans that the election was stolen from him by overwhelming fraud.

A Federal court has already reviewed elements of the Committee's evidence on this point, and said this: "In the months following the election, numerous credible sources—from the President's inner circle to agency leadership and statisticians—informed President Trump and Dr. Eastman that there was no evidence of election fraud," sufficient to overturn the 2020 Presidential election.

The court's opinion methodically documents each of the principal reasons for that conclusion, and I would urge all those watching to read it.

Today, we will begin to show the American people some of our evidence. Today, you will hear much more from former Attorney General Bill Barr's recorded testimony, and you will hear in greater detail what others in the Department told President Trump: that his claims of election fraud were nonsense.

You will also hear much more from President Trump's own campaign experts, who had also concluded that his fraud claims could not be supported.

Let me focus briefly on just three points now.

First, you will hear first-hand testimony that the President's campaign advisors urged him to await the counting of votes and not to declare victory on election night. The President understood, even before the election, that many more Biden voters had voted by mail, because President Trump ignored the advice of his campaign experts and told his supporters only to vote in person.

Donald Trump knew before the election that the counting of those mail-in ballots in several States would not begin until late in the day and would not be complete for multiple days. This was expected, reported, and widely known.

You will also hear testimony that President Trump rejected the advice of his campaign experts on election night and, instead, followed the course recommended by an apparently inebriated Rudy Giuliani to just claim he won and insist that the vote counting stop, to falsely claim everything was fraudulent.



He falsely told the American people that the election was not legitimate, in his words, “a major fraud.” Millions of Americans believed him.

Second, pay attention to what Donald Trump and his legal team said repeatedly about Dominion voting machines—far-flung conspiracies with a deceased Venezuelan Communist allegedly pulling the strings. This was, “complete nonsense,” as Bill Barr said.

President Trump’s own campaign advisors, his Department of Justice, and his cybersecurity experts all told him the same thing.

Here, for example, is White House lawyer Eric Herschmann. His view was shared by many of the Trump team whom we interviewed.

Mr. HERSCHMANN. I thought the Dominion stuff was—I never saw any evidence whatsoever to sustain those allegations.

Vice Chair CHENEY. Third, as Mike Pence’s staff started to get a sense for what Donald Trump had planned for January 6th, they called the campaign experts to give them a briefing on election fraud and all of the other election claims.

On January 2nd, the general counsel of the Trump campaign, Matthew Morgan—this is the campaign’s chief lawyer—summarized what the campaign had concluded weeks earlier: That none of the arguments about fraud or anything else could actually change the outcome of the election.

Mr. MORGAN. Generally discussed on that topic was whether the fraud, maladministration, abuse, or irregularities, if aggregated and read most favorably to the campaign, would that be outcome determinative. And I think everyone’s assessment in the room, at least amongst the staff, Marc Short, myself, and Greg Jacob, was that it was not sufficient to be outcome determinative.

Vice Chair CHENEY. As is obvious, this was before the attack on the Capitol. The Trump campaign legal team knew there was no legitimate argument—fraud, irregularities, or anything—to overturn the election. Yet, President Trump went ahead with his plans for January 6th anyways.

Mr. Chairman, hundreds of our countrymen have faced criminal charges—many are serving criminal sentences—because they believed what Donald Trump said about the election and they acted on it. They came to Washington, DC, at his request. They marched on the Capitol at his request. Hundreds of them besieged and invaded the building at the heart of our constitutional Republic.

As one conservative editorial board put it recently, “Mr. Trump betrayed his supporters by conning them on January 6th, and he is still doing it.”

Another conservative editorial board that has long supported President Trump said last week, Donald Trump, “won’t stop insisting that 2020 was stolen, even though he has offered no proof that that is true.”

And this. Donald Trump now, “clings to more fantastical theories, such as Dinesh D’Souza’s debunked ‘2000 Mules,’ even as recounts in Arizona, Georgia, and Wisconsin confirm Trump lost.”

Those are the correct conclusions to draw from the evidence gathered by this Committee. We have much more evidence to show the American people on this point than we can reasonably show in one hearing. But, today, we will begin.

Thank you, Mr. Chairman. I yield back.

Chairman THOMPSON. Without objection, the Chair recognizes the gentlewoman from California, Ms. Lofgren, for an opening statement.

Ms. LOFGREN. Well, thank you, Mr. Chairman.

In our opening hearing, we gave an overview of our investigation into the January 6th attack. The plot to overthrow the election was complex and had many parts, which we'll explore in remaining hearings. But, today, we examine the false narrative that the 2020 election was "stolen."

Former President Trump's plan to overturn the election relied on a sustained effort to deceive millions of Americans with knowingly false claims of election fraud. All elements of the plot relied on convincing his supporters about these false claims.

Today, we'll demonstrate the 2020 election was not stolen. The American people elected President Joe Biden. We'll present evidence that Mr. Trump's claims of election fraud were false, that he and his closest advisors knew those claims were false, but they continued to peddle them anyway, right up until the moments before a mob of Trump supporters attacked the Capitol.

We'll also show that the Trump campaign used these false claims of election fraud to raise hundreds of millions of dollars from supporters who were told their donations were for the legal fight in the courts. But the Trump campaign didn't use the money for that. The Big Lie was also a Big Rip-Off.

The former President laid the groundwork for these false claims well in advance of the election. As early as April 2020, Mr. Trump claimed that the only way he could lose an election would be as a result of fraud.

President TRUMP. You know the things with bundling and all of the things that are happening with votes by mail where thousands of votes are gathered. And I'm not going to say which party does it, but thousands of votes are gathered, and they come in and they're dumped in a location. And then all of a sudden, you lose elections that you think you're going to win.

President TRUMP. The only way we're going to lose this election is if the election is rigged. Remember that. It's the only way we're going to lose this election.

President TRUMP. This is going to be a fraud like you've never seen. Did you see what's going on? Take a look at West Virginia. Mailmen selling the ballots. They're being sold. They're being dumped in rivers. This is a horrible thing for our country.

Then-Candidate BIDEN. There is no——

President TRUMP. This is not——

Then-Candidate BIDEN. There is no evidence of that.

President TRUMP. This is not going to end well.

Ms. LOFGREN. Mr. Trump decided even before the election that, regardless of the facts and the truth, if he lost the election, he would claim it was rigged.

Mr. Trump was right about one thing: It did not end well. On election night, Mr. Trump claimed, even before the votes were counted, that his loss was a result of fraud.

Now, Thursday, we had testimony from Attorney General Barr about the Department of Justice investigation of Mr. Trump's fraud claims. Barr told Trump directly that his claims were "BS." Yet, after hearing the truth and that warning from the AG, Mr. Trump continued to peddle the false claims of fraud.

You will hear detailed testimony from Attorney General Barr describing the various election fraud claims the Department of Justice investigated. He will tell you how he told Mr. Trump repeat-

edly that there was no merit to those claims. Mr. Barr will tell us that Mr. Trump's election night claims of fraud were made without regard to the truth and before it was even possible to look for evidence of fraud.

Attorney General Barr wasn't alone. You will see and hear today other Department of Justice officials and senior advisors to Mr. Trump that they told him the claims he was making were not supported by evidence.

The election fraud claims were false. Mr. Trump's closest advisors knew it. Mr. Trump knew it. That didn't stop him from pushing the false claims and urging his supporters to "fight like hell" to "take back their country."

After he lost the election, various legal challenges were made. You will hear testimony today from a renowned Republican election litigation lawyer who will explain the normal process by which candidates challenge an election.

Rather than accept the results of the election and the decisions of the courts, Mr. Trump pursued a different strategy: He tried to convince the American people the election had been stolen. Many of his supporters believed him, and many still believe him today.

The attack on January 6th was a direct and predictable result of Mr. Trump's decision to use false claims of election fraud to overturn the election and to cling to power.

Mr. Chairman, I yield back.

Chairman THOMPSON. Thank you very much.

I now welcome our first witness.

We are joined today by former Fox News Politics Editor Chris Stirewalt.

Bill Stepien, President Trump's former campaign manager, was subpoenaed to be here and was in Washington this morning prepared to testify.

Kevin Marino, Mr. Stepien's attorney, is here with us today—thank you, Mr. Marino, for coming—and he has advised us that Mr. Stepien's wife went into labor this morning. Mr. Stepien unexpectedly had to travel to be with his wife, and we wish him the best.

Due to the depth and rigor of our investigation, we have several hours of Mr. Stepien's testimony from when we interviewed him in February, and we will be presenting that testimony today.

I'll now swear in our witness.

The witness will please stand and raise his right hand.

[Witness sworn.]

Chairman THOMPSON. Thank you. Please be seated.

Let the record reflect the witness answered in the affirmative.

I now recognize myself for questions.

I want to start by showing a video that tells the story of what was going on in the Trump White House on election night in November 2020.

Mr. HEAPHY. Do you remember where you were on the night of the election November the 3rd?

Ms. TRUMP. I was at the White House.

Mr. HEAPHY. Do you know where, specifically, over the course of that night you spent your time within the White House?

Ms. TRUMP. There was an event that was organized in the residence. So, I moved between the residence, a room sort-of off the residence where some family members were.

Mr. HEAPHY. I take it, the President was upstairs in the residence?

Mr. KUSHNER. He was upstairs. I was—we were kind-of on the first floor, so not upstairs we were with—mostly with Ivanka and her brothers and a couple other people who'd be coming in and out.

Mr. GEORGE. Can you just describe the atmosphere? What were people expecting that night when you got to the White House?

Mr. MILLER. I think that there was—typically, for people who show up there on election night it's going to be a self-select more positive environment. I think people were a little bit nervous not knowing what was going to happen with the red wave or the red mirage as the debate was being carried out.

Fox News Anchor BRET BAIER. The Fox News decision desk is calling Arizona for Joe Biden. That is a big get for the Biden campaign.

Mr. GEORGE. Arizona is called. Do you remember that?

Mr. STEPIEN. I do.

Mr. GEORGE. What do you remember happening where you were when Arizona was called?

Mr. STEPIEN. I—there was surprise at the call.

Mr. GEORGE. Who was surprised?

Mr. STEPIEN. Most—most everyone in the room.

Mr. GEORGE. Were—you being one of them?

Mr. STEPIEN. Yes.

Mr. GEORGE. Did that shift the atmosphere or the attitude in the White House?

Mr. MILLER. Completely.

Mr. GEORGE. How so? Can you describe that?

Mr. MILLER. Because Fox News was the first one to go out and say that.

Mr. GEORGE. And so was it anger kind-of directed toward Fox News for making a call more so than a disappointment that maybe the campaign lost Arizona?

Mr. MILLER. All of the above.

Mr. GEORGE. So both? Anger and disappointment?

Mr. MILLER. Both disappointed with Fox and concerned that maybe our data or our numbers weren't accurate.

Mr. HARRIS. Were you in the White House residence during the sort-of past midnight into the early morning hours of November 4th?

Mr. GIULIANI. Yes, I'm sure it—it went over beyond midnight. Yes.

Mr. GEORGE. Do you remember Rudy Giuliani being at the White House on election night and into the early hours the next morning?

Mr. STEPIEN. I do.

Mr. GEORGE. What do you remember about when he came?

Mr. STEPIEN. He—he was—there were—I had heard that he was upstairs, you know, in that aforementioned reception area. And he was looking to talk to the President. And it was suggested instead that he'd come talk to several of us down off the Map Room.

Mr. GEORGE. You said that Mr.—you had heard that Mr. Giuliani wanted to talk to the President and then he was directed your way. Did you end up talking to Mr. Giuliani when he was directed your way?

Mr. STEPIEN. I did. I did.

Mr. GEORGE. What was that conversation?

Mr. STEPIEN. A lot of conversations were directed my way. A few of us, myself, Jason Miller, Justin Clark, Mark Meadows, gathered in a room off the Map Room to—to listen to whatever Rudy presumably wanted to say to the President.

Mr. HEAPHY. Was there anyone in that conversation who in your observation had had too much to drink?

Mr. MILLER. Like—Mayor Giuliani.

Mr. HEAPHY. Tell me more about that. What was your observation about his potential intoxication during that—that discussion about what the President should say when he addressed the Nation on election night?

Mr. MILLER. And the mayor was definitely intoxicated, but I do not know his level of intoxication when he spoke with the President, for example.

Mr. HARRIS. Were you part of any discussions with the people I mentioned, Mr. Stepien, Mr. Meadows, or anyone else about whether the President should make any sort of speech on election night?

Mr. GIULIANI. I mean, I spoke to the President. They may have been present, but the President—spoke to the President several times that night.

Mr. MILLER. There were suggestions by, I believe it was Mayor Giuliani, to go and declare victory and say that we won it outright.

Mr. STEPIEN. It was far too early to be making any calls like that. Ballots—ballots were still being counted. Ballots were still going to be counted for days. And it was far too early to be making any proclamation like that.

Mr. MILLER. I remember saying that I—to the best of my memory, and I was saying that we should not go and declare victory until we had a better sense of the numbers.

Mr. GEORGE. Okay. Can you be more specific about that conversation? In particular, what Mayor Giuliani said, your response, and then anybody else in the room's response.

Mr. MILLER. I think effectively, Mayor Giuliani was saying we won it. They're stealing it from us. Where'd all the votes come from? We need to go say that we won. And essentially that anyone who didn't agree with that position was being weak.

Mr. HEAPHY. What was your view at the time as to what he should or shouldn't say?

Ms. TRUMP. I don't know that I had a firm view as to what he should say in that circumstance. The results were still being counted. It was becoming clear that the race would not be called on election night.

Mr. STEPIEN. My belief, my recommendation was to say that votes are still being counted. It's too early to—to tell. Too early to call the race. But, you know, we are proud of the race we—we run—we ran and, you know, we think—we think we're in a—in good position. And we'll have more to say about this, you know, the next day or the next day whenever we had something to say.

Mr. GEORGE. And did anybody who is a part of that conversation disagree with your message?

Mr. STEPIEN. Yes.

Mr. GEORGE. Who is that?

Mr. STEPIEN. The President disagreed with that. I don't recall the particular words. He thought I was wrong. He told me so. And, you know, that they were going to, you know, go in it—he was going—to go in a different direction.

President TRUMP. This is a fraud on the American public. This is an embarrassment to our country. We were getting ready to win this election. Frankly, we did win this election. We did win this election. [applause]

Chairman THOMPSON. Mr. Stirewalt, did President Trump have any basis to declare victory on November 4, 2020?

Mr. STIREWALT. No, none at all.

Chairman THOMPSON. Thank you.

Mr. Stepien also testified that President Trump had no basis for declaring victory at that point in time.

Mr. STEPIEN. My belief, my recommendation was to say that votes are still being counted. It's too early to—to tell. Too early to call the race. But, you know, we are proud of the race we—we run—we ran and, you know, we think—we think we're in a—in good position. And we'll have more to say about this, you know, the next day or the next day whenever we had something to say.

Chairman THOMPSON. Thank you.

Mr. Stirewalt, after the votes were counted, who won the Presidential election of 2020?

Mr. STIREWALT. Joseph Robinette Biden, Jr., of the great State of Delaware.

Chairman THOMPSON. Thank you.

That is the bottom line. We have had an election. Mr. Trump lost. But he refused to accept the results of the democratic process.

Pursuant to section 5(c)(8) of House Resolution 503, I now recognize the gentlewoman from California, Ms. Lofgren, for questions.

Ms. LOFGREN. Well, thank you. Thank you, Mr. Chairman.

Mr. Stirewalt, I would like you to explain a term that was thrown around a lot during the election, and that is the so-called “red mirage.” What does that mean?

Mr. STIREWALT. So, in the 40 or 50 years, let's say, that Americans have increasingly chosen to vote by mail or early or absentee, Democrats prefer that method of voting more than Republicans do.

So, basically, in every election Republicans win election day and Democrats win the early vote.

Then you wait and start counting, and it depends on which ones you count first, but usually it is election day votes that get counted first and you see the Republicans shoot ahead. Then the process of baling and binding and unbinding all those mail-in votes. Some States, like Pennsylvania, refused to count the votes first. So, you have to wait for all of that to come in.

So, in every election, and certainly a National election, you expect to see the Republican with a lead, but it's not really a lead.

When you put together a jigsaw puzzle, it doesn't matter which piece you put in first. It ends up with the same image. So, for us, who cares? But that's because no candidate had ever tried to avail themselves of this quirk in the election counting system.

We had gone to pains—and I'm proud of the pains we went to—to make sure that we were informing viewers that this was going to happen, because the Trump campaign and the President had made it clear that they were going to try to exploit this anomaly. We knew it was going to be bigger because the percentage of early votes was higher, right? We went from about 45 percent of the votes being early and absentee to, because of the pandemic, that increased by about 50 percent.

So, we knew it would be longer. We knew it would be more. So, we wanted to keep telling viewers: Hey, look, the number that you see here is sort of irrelevant, because it's only a small percentage of these votes.

Ms. LOFGREN. So, this red mirage, that's really what you expected to happen on election night?

Mr. STIREWALT. Happens every time.

Ms. LOFGREN. Thank you, Mr. Stirewalt.

Now, I'd like to play a clip of Attorney General Bill Barr, who also explains what was expected to happen on election night.

Attorney General BARR. Right out of the box on election night, the President claimed that there was major fraud underway. I mean, this happened as far as I could tell before there was actually any potential of looking at evidence . . .

It seemed to be based on the dynamic that—that at the end of the evening, a lot of Democratic votes came in which changed the vote counts in certain States.

That seemed to be the basis for this broad claim that there was major fraud. And I didn't think much of that because people had been talking for weeks and everyone understood for weeks that that was going to be what happened on election night.

Ms. LOFGREN. Mr. Stepien obviously could not be with us today, and it's proper for him to be with his wife as they welcome their child. But he also had discussions with the President about the red mirage—that is, that it would be a long night and that early votes would favor him, but lots more votes would be counted over the course of the night and the days after.

So, let's play clip 1 from our interview with Mr. Stepien.

Mr. STEPIEN. I—I recounted back to that conversation with him in which I said—just like I said in 2016, it was going to be a long night. I—I told him in 2020 that, you know, there were—it was going to be a—a process again. As, you know, the early returns are going to be, you know, positive. Then we're gonna, you know, be watching the returns of—of ballots as, you know, they rolled in thereafter.

Mr. GEORGE. Is it fair to say you're trying to present a—a—what you thought would be a realistic picture of what might happen over the course of that night, being election night?

Mr. STEPIEN. That night and the days that followed. Yeah. I—I—I always—I always, you know, I always told the President the truth. And, you know I—I, you know, I think he expected that from me. And I told him it was going to be a process. It was going to be, you know—you know, we're gonna have to wait and see how this turned out. So I—I—just like I did in 2016, I did the same thing in 2020.

Ms. LOFGREN. So, let's watch a short clip of President Trump speaking after he received that information from his campaign advisors.

President TRUMP. We want all voting to stop. We don't want them to find any ballots at 4 o'clock in the morning and add them to the list.

Ms. LOFGREN. So, when former President Trump said that, it contradicted what his advisors had warned would happen. We all know that mail-in ballots played an important role in the 2020 election. However, President Trump continuously discouraged mail-in voting.

Mr. Stepien was so concerned about the President's position on mail-in voting that, in the summer of 2020, he met with President Trump, along with House Minority Leader Kevin McCarthy.

Let's play clip 4.

Mr. STEPIEN. Meeting that was had in particular, I invited Kevin McCarthy to join the meeting. He being of like mind on the issue with me in which we made our case for—for why we believed mail-in balloting—mail-in voting not to be a bad thing for his campaign. But, you know, the—the President's mind was made up and you understand, you know, how many times to, you know, go to the well on a particular topic.

Mr. HEAPHY. Yeah, I understand. Tell me a little bit more about the argument that you and Mr. McCarthy made to the President in that meeting as to why it wasn't a bad thing that mail-in voting was available.

Mr. STEPIEN. Largely two pillars to that argument, both of which I've previously mentioned. One, you know, leaving a good deal to chance. Pushing or urging your voters to vote only on election day leaves a lot to chance. That's—that's A. And B, also previously mentioned, the fact that the Trump campaign, the Republican National Committee, the Republican Party had an advantage of—of grassroots workers and volunteers on the ground that would allow, you know, an—an advantage to enhance return rates of—of ballots that were mailed.

Those were the two pillars of the argument.

Mr. HEAPHY. I see. And what, if anything, do you recall Representative McCarthy saying during that meeting?

Mr. STEPIEN. We were—we were echoing the same argument. I mean, his—his words echoed—echoed mine and vice versa on those—on those two topics.

Ms. LOFGREN. Mr. Stirewalt, you were at the decision desk at Fox News on election night, and you called Arizona early for President Biden, which was controversial.

How did you make that call? Where did you think the race stood in the early hours of the next day?

Mr. STIREWALT. Well, it was really controversial to our competitors, who we beat so badly by making the correct call first. Our decision desk was the best in the business, and I was very proud to be a part of it.

Because we had partnered with the Associated Press and the National Opinion Research Center at the University of Chicago, thanks to my colleague and friend Arnon Mishkin, we had built a wonderful device for forecasting the outcomes of election.

So, we had a different set of data than our competitors did. We had more research, and we had a better system, and we had a great team.

So, what you're waiting to see is, do the actual votes match up with the expectations in the poll? The real votes are testing the quality of your poll in targeted precincts and in targeted places.

Let me tell you, our poll in Arizona was beautiful, and it was doing just what we wanted it to do, and it was cooking up just right.

At some point—and I forget exactly who—but, at some point, it became clear that Arizona was getting ready to make a call.

So we, around, you know, my boss, Bill Sammon, said, "We're not making any call until everybody says yes," because that was always our policy, unanimity.

You have to understand, in this room you have, you know, the best—people from academia, Democrats, Republicans, a broad cross-section of people who had worked together for a decade, who were really serious about this stuff.

So, we knew it would be a consequential call, because it was one of five States that really mattered, right? Wisconsin, Michigan, Pennsylvania, Georgia, Arizona were the ones that we were watching. We knew it would be significant to call any one of those five. But we already knew Trump's chances were very small and getting smaller based on what we had seen.

So, we were able to make the call early. We were able to beat the competition. We looked around the room. Everybody says, "yea," and on we go.

By the time we found out how much everybody was freaking out and losing their minds over this call, we were already trying to call the next State. We had already moved on. We were to Georgia. We were to North Carolina. We were looking at these other States.

So, we thought it was—we were pleased, but not surprised.

Ms. LOFGREN. I see. You know, after the election, as of November 7th, in your judgment, what were the chances of President Trump winning the election?

Mr. STIREWALT. After that point?

Ms. LOFGREN. Yes.

Mr. STIREWALT. None. I mean, I guess you could—it's always possible that you could have, you know, a truckload of ballots be found somewhere, I suppose. But, once you get into this space, you know, ahead of today, I thought about what are the largest margins that could ever be overturned by a recount in the normal kind of—the kind of stuff that we heard Mike Pence talking about, sounding like a normal Republican that night, when he said, you know, we'll keep every challenge.

Nothing like that. In a recount, you're talking about hundreds of votes. When we think about calling a race, one of the things that we would think about is, is it outside the margin of a recount?

When we think about that margin, we think about, in modern history, you're talking about 1,000 votes, 1,500 votes at the way, way outside. Normally, you're talking about hundreds of votes, maybe 300 votes that are going to change.

So, the idea that, through any normal process in any of these States—remember, he had to do it thrice, right? He needed three of these States to change. In order to do that, I mean, you're at an infinite—you're better off to play the Powerball than to have that come in.



Ms. LOFGREN. On November 7th, the other major news outlets called the race for President Biden. Now, Mr. Stepien told the Committee that he thought the odds were—and this is a quote—“very, very, very bleak,” and held a meeting with the President that same day.

Let’s show video clip 8.

Mr. STEPIEN. With each day that wore on, I mean the—the trajectory of the race, you know, on election night Trump ahead in—in many States. And as—as that week wore on as the third became the fourth became the fifth and so on and so forth, and the vote-by-mail ballots were tabulated, you know, Trump’s—Trump’s lead, you know, grew more narrow.

And—and in—and in some places Biden surpassed, you know, Trump in—in the vote totals. So as—as the week wore on, as we paid attention to those numbers every single—multiple times a day, you know, internally, you know, I—I was feeling less confident for sure.

Mr. GEORGE. What was your view on the state of the election at that point?

Mr. STEPIEN. You know, very, very, very bleak. You know, I—I—I—we—we told him, you know, the group that went over there outlined, you know, my belief in—in chances for success at this point. And then we pegged that at, you know, 5 maybe—maybe 10 percent based on recounts that were—that—that, you know, either were automatically initiated or—or—or could be—could be initiated based on, you know, realistic legal challenges, not all the legal challenges that eventually were pursued. But, you know, it was, you know, my belief is that it was a very, very—I mean, 5 to 10 percent is not a very good optimistic outlook.

Ms. LOFGREN. Now, as President Trump and others continued to claim that the election was stolen, there were lawyers who were a part of the campaign, campaign lawyers, who were responsible for investigating the fraud claims.

That includes Alex Cannon, who could not validate the claims that were being made, including those being made by the President.

Let’s roll video 13.

Mr. GEORGE. This is an email. It’s two emails actually. The first is from Alex Cannon to you and Faith McPherson, and then you forward that email on to Mark Meadows, Justin Clark, and Jason Miller, the subject being AZ Federal ID voters. If you look at the original email there it says, “Bill, we completed the AZ analysis you requested.” I assume that’s about Arizona.

And because of the un—the substantial uncertainty surrounding the databases, this is a highly unreliable way to identify ineligible voters. Can you explain the task that you gave to Mr. Cannon for this Arizona analysis?

Mr. STEPIEN. Sure. Previously, I described some of my frustration with some of the—the claims that people would throw at President Trump regarding, you know, you know, you need to look at this. You know, this happened in this State or that happened in that State. And it would be, you know—those would flow to us to—to look into.

I—I talked about that before I think.

Mr. GEORGE. Yep.

Mr. STEPIEN. You know, this is an example of that. I recall—I recall in Arizona someone had thrown out, I believe this to be the claim, that there were thousands of illegal citizens, people not eligible to vote, having cast their ballots in Arizona. Someone had thrown out that claim to President Trump. And with, you know, the margins being as close as they were as previously described, you know, that could potentially matter.

So, this—this wild claim is thrown out, which, you know, on its face didn’t seem, you know, realistic or possible to me. I asked Alex to look at the—you know, the—the claim. And I—I haven’t read his full email, but I recall that the response to that, the reality of that was not illegal citizens voting in the election, I think it was like overseas voters voting in the election. I—I—so, obviously, you know, people who were eligible to vote.

Ms. LOFGREN. When these findings were passed up the chain to President Trump, he became frustrated, and he replaced the campaign’s legal team.

Let's play clip 14.

Mr. STEPIEN. You know, I think the President, it was during the second week where things like you displayed were occurring, where he was, you know, growing increasingly unhappy with, you know, his team, you know, me less so because I was less involved at this point, but still me; growing increasingly unhappy with Justin Clark. And that—that kind-of, you know—you know, paved the way for, you know, Justin to be moved out and Mayor Giuliani be moved in as the person in charge of, you know, the legal side of the campaign and, for all intents and purposes, the campaign at that point.

Ms. LOFGREN. Now, when Mr. Stepien became campaign manager, he was the second Trump campaign manager for the 2020 race, and there were only about 115 days until election day.

So, let's play the video.

Mr. STEPIEN. I inherited a campaign that was—the day I was hired was, I believe, President Trump's low point in the 2020 daily average polling against President Biden. It was—it was a campaign at a low point in the polls. It was structurally and fiscally deficient. You know, I—you know, there was a great deal wrong with the campaign in—in—in both of those—in—in both of those areas. So, most of my day was spent fixing what—and I think I took over with 115 days left in the campaign. Most of my time was spent fixing the things that could be fixed with 115 days left in the campaign.

Ms. LOFGREN. Now, Mr. Stepien has been in the campaign field for a long time, and he worked for lots of different candidates and campaigns. He testified to this Committee about his concerns given the claims that Mr. Giuliani and Ms. Powell and their team were making publicly.

Let's play clip 15.

Mr. HEAPHY. Okay. And it was important for you, Mr. Stepien, to sort-of pull back just for your own professional reputation. You didn't want to be associated with some of what you were hearing from the Giuliani team and others that—that sort-of stepped in in the wake of your departure.

Mr. STEPIEN. I didn't mind being categorized. There were two groups of them. We called them kind-of my team and Rudy's team. I—I didn't mind being characterized as being part of Team Normal, as—as reporters, you know, kind-of started to do around that point in time. You know, I said, you know, hours ago, early on, that, you know, I've—I've been doing this for a long time, 25 years, and I've spanned, you know, political ideologies from Trump to McCain to Bush to Christie, you know.

And, you know, I can work under a lot of circumstances for a lot of varied, you know, candidates and politicians. But a situation where—and I think along the way I've built up a pretty good—I hope a good reputation for being honest and—and professional, and I—I didn't think what was happening was necessarily honest or professional at that point in time. So, again, that led to me stepping away.

Ms. LOFGREN. So, the President did get rid of "Team Normal," and I'd like to play a clip showing that the President found the people he needed to perpetuate his claims of fraud.

Mr. GIULIANI. They saw a big truck bringing in 100,000 ballots in garbage cans, in wastepaper baskets, in cardboard boxes, and in shopping baskets. And every single one of them was for Biden . . .

Because they were being notified by Smartmatic in Frankfurt that Biden was way behind, and they better come up with a lot more ballots. And we can prove every single thing I just said . . .

If you gave me the paper ballots, I could probably turn around each one of these States. I'm absolutely convinced if you—if you let me examine each one of those ballots, I'd pull out enough that were fraudulent that it would shake the hell out of the country.

Ms. POWELL. It can set and run an algorithm, that probably ran all over the country, to take a certain percentage of votes from President Trump and flip them to President Biden, which we might never have uncovered had the votes for President Trump not been so overwhelming in so many of these States that it broke the algorithm . . .

I remember that one of the things Mark said at some point was, “You can’t show an actual vote was flipped,” which I found at the time to be a remarkable assertion, because—because you don’t have to have the gun to see the body lying on the floor bleeding out with five bullet holes in it was killed by a gun.

Mr. HERSCHMANN. What they were proposing I thought was nuts. You know, the theory was also completely nuts, right? I mean, it was a combination of Italians and Germans. I mean, different things have been floating around as to who was involved. I remember Hugo Chavez and the Venezuelans. She has an affidavit from somebody who says they wrote a software in—and something with the Philippines, just all over the radar.

Mr. HEAPHY. Did you ever share, Mr. Kushner, your view of Mr. Giuliani? Did you ever share your perspective about him with the President?

Mr. KUSHNER. I guess—yes.

Mr. HEAPHY. Tell me what you said.

Mr. KUSHNER. Well, basically not the approach I would take if I was you.

Mr. HEAPHY. Okay. And—and how did he react? How did President Trump react when you shared that view with him?

Mr. KUSHNER. Oh, he said, you know, I—I have confidence in Rudy.

Mr. MORGAN. I think I had conversations with probably all of our counsel who were signed up to assist on election day as they disengaged with the campaign . . .

The general consensus was that the law firms were not comfortable making the arguments that Rudy Giuliani was making publicly . . .

I seem to recall that I had a similar conversation with most all of them.

Attorney General BARR. I made it clear I did not agree with the idea of saying the election was stolen and putting out this stuff, which I told the President was bullshit. And, you know, I didn’t want to be a part of it. And that’s one of the reasons that went into me deciding to leave when I did.

Ms. LOFGREN. Even Sidney Powell, defending herself in a defamation lawsuit brought by Dominion Voting Systems, argued that, “No reasonable person would conclude that her statements were truly statements of fact.”

Mr. Chairman, I yield back.

Chairman THOMPSON. I thank the witness for joining us today.

The first panel is now dismissed.

Without objection, the Chair recognizes the gentlewoman from California, Ms. Lofgren.

Ms. LOFGREN. Thank you, Mr. Chairman.

Last week, we presented the testimony of former Attorney General Bill Barr, who testified before this Committee.

Today, we present additional evidence, including his testimony that former President Trump started making claims of election fraud immediately after the election and that Barr concluded the claims were untrue.

Now, due to the length of Attorney General Barr’s testimony, we’re only going to include relevant portions at the hearing today.

So, let’s play the video.

Attorney General BARR. The Department, in fact, when we received specific and credible allegations of fraud, made an effort to look into these to satisfy ourselves that they were without merit . . .

And—and I was in the posture of trying to figure out—there was an avalanche of all these allegations of fraud that built up over a number of days, and it was like playing Whac-A-Mole because something would come out one day and then the next day it would be another issue . . .

Also, I was influenced by the fact that all the early claims that I understood on—were—were completely bogus and silly and usually based on complete misinformation. And so, I—I didn’t consider the quality of claims right out of the box to give me any, you know, feeling that there was really substance here.

Ms. LOFGREN. For the first time since the election, the Attorney General spoke personally with the President on November 23rd, and this was at the White House.

Let's play the video, please.

Attorney General BARR. So, on November 23rd, I—I hadn't spoken to the President since the election, and, in fact, as I said, since the middle of October roughly. It was a little—getting awkward because obviously he had lost the election, and I hadn't said anything to him. And so, Cipollone said, "You know, I think it's time you come over here."

And so, I came over to meet with the President in the Oval Office. And—and Meadows were—and Cipollone were there. And the President—and—and this is leading up to this conversation with Kushner. The President said there had been major fraud and that, as soon as the facts were out, the results of the election would be reversed.

And he went on—on this for quite a while, as he is prone to do. And then he got to something that I was expecting, which is to say that apparently the Department of Justice doesn't think that it has a role of looking into these fraud claims . . .

And I said, you know, that has to be the campaign that raises that with the State. The Department doesn't take sides in elections, and the Department is not an extension of—of your legal team. And our role is to investigate fraud. And if—and we'll look at something if it's—if it's specific, credible, and could have affected the outcome of the election. And—and we're doing that, and it's just not—they're not—they're just not meritorious. They're not pan—panning out . . .

And as I walked out of the Oval Office, Jared was there with Dan Scavino, who ran his—ran the President's social media and who I thought was a reasonable guy and believe is a reasonable guy. And I said, how long is—how long is he going to carry on with this stolen election stuff? Where is this going to go?

And by that time, Meadows had caught up with me and—leaving the office, and caught up to me and—and said that—he said, "Look, I—I think that he's becoming more realistic and knows that there's a limit to how far he can take this." And then Jared said, "You know, yeah, we're working on this. We're working on it."

Ms. LOFGREN. Even after his Attorney General told him his claims of election fraud were false, President Trump continued to promote these claims.

Attorney General BARR. I felt that things continued to deteriorate between the 23rd and the weekend of the 29th . . .

And then on November 29th, he appeared on Maria Bartiromo's show, "Sunday Futures," I believe it was. And he said that the Department was missing in action . . .

President TRUMP. Well, no, we had glitches where they moved thousands of votes from my account to Biden's account, and these are glitches. So, they're not glitches. They're theft. They're fraud, absolute fraud . . .

This election was over, and then they did dumps. They call them dumps—big, massive dumps in Michigan, in Pennsylvania, and all over . . .

How the FBI and Department of Justice—I don't know, maybe they're involved, but how people are allowed to get away from this stuff—with this stuff is unbelievable.

Ms. LOFGREN. Now, spurred by what he saw, Barr told the Associated Press on December 1st that there was no evidence of election fraud. Immediately after Attorney General Barr's statement went public, Mr. Trump berated and he nearly fired Barr. But Barr persisted in telling the President that there was no evidence to support the fraud claims.

Attorney General BARR. This got under my skin, but I also felt it was time for me to say something. So on—I had—so I set up a lunch with the AP reporter, Mike Balsamo, and I told him at lunch—I made the statement that "to date, we have not seen fraud on a scale that could have effected a different outcome in the election."

I had a later meeting scheduled at the White House at 3 o'clock with Meadows. This was previously scheduled. So, I knew this was gonna to come up. And I went over there, and I told my secretary that I thought I would probably be fired and told not to—to go home [laughter]—I mean, not to go back to my office, so I said you might have to pack up for me.

And so, when I got over there, I met with the chief of staff. He said the President was angry. He didn't really go—get into the issue of the fraud. And then I went up to Pat Cipollone's office, and we were talking with each other. And word came down that he wanted us both to go to the Oval . . .

And the President was as mad as I've ever seen him, and he was trying to control himself . . .

And the President said, "Well, this is, you know, killing me. You didn't have to say this. You must have said this because you hate Trump. You hate Trump." . . .

Then he raised the—the big vote dump, as he called it, in Detroit. And that, you know, he said people saw boxes coming in to the counting station at all hours of the morning and so forth. And I explained to him that I—at that point, I knew the exact number of precincts for Detroit. I think it was 630-something. I said, Mr. President, there are 630 precincts in Detroit. And unlike elsewhere in the State, they centralize the counting process. So, they're not counted in each precinct, they're moved to counting stations.

And so, a normal process would involve boxes coming in at all different hours, so there's nothing—and I said, did anyone point out to you—did all the people complaining about it point out to you, you actually did better in Detroit than you did—you did last time? I mean, there's no indication of fraud in Detroit . . .

And I told him that the stuff that his people were shoveling out to the public were bull—was bullshit. I mean, that the claims of fraud were bullshit. And, you know, he was indignant about that. And I reiterated that they've wasted a whole month on these claims—on the Dominion voting machines, and they were idiotic claims . . .

And I specifically raised the Dominion voting machines, which I found to be among the most disturbing allegations. Disturbing in the sense that I saw absolutely zero basis for the allegations. But they were made in such a sensational way that they obviously were influencing a lot of people—members of the public—that there was this systemic corruption in the system and that their votes didn't count and that these machines controlled by somebody else were actually determining it, which was complete nonsense.

And it was being laid out there. And I told them that it was—it was crazy stuff, and they were wasting their time on that. And it was doing a great, grave disservice to the country.

Ms. LOFGREN. Okay. So, the very next day, the President released a video rehashing some of the very same claims that his chief law enforcement officer had told him were, "nonsense."

President TRUMP. Here's an example. This is Michigan. At 6:31 in the morning, a vote dump of 149,772 votes came in unexpectedly. We were winning by a lot. That batch was received in horror . . .

We have a company that's very suspect. Its name is Dominion. With the turn of a dial or the change of a chip, you can press a button for Trump and the vote goes to Biden. What kind of a system is this?

Ms. LOFGREN. Barr again told the President that there was nothing to these claims on December 14th.

Attorney General BARR. When I walked in, sat down, he went off on a monologue saying that there was now definitive evidence involving fraud through the Dominion machines, and a report had been prepared by a very reputable cybersecurity firm, which he identified as Allied Security Operations Group. And he held up the report and he had—and then he asked that a copy of it be made for me. And while a copy was being made, he said, "You know, this is absolute proof that the Dominion machines were rigged. The report means that I am going to have a second term."

And then he gave me a copy of the report. And as he talked more and more about it, I sat there flipping through the poor report and looking through it. And to be frank, it looked very amateurish to me . . . didn't have the credentials of the people involved . . . but I didn't see any real qualifications. And the statements were made very conclusory like this—these machines were designed to, you know, engage in fraud or something to that effect, but I didn't see any supporting information for it . . .

And I was somewhat demoralized because I thought, boy, if he really believes this stuff he has, you know, lost contact with—with—he's become detached from reality, if he really believes this stuff . . .

On the other hand, you know, when I went into this and would, you know, tell him how crazy some of these allegations were . . .

There was never—there was never an indication of interest in what the actual facts were . . .

In my opinion then, and my opinion now, is that the election was not stolen by fraud, and I haven't seen anything since the election that changes my mind on that, including the "2000 Mules" movie. [laughter]

Ms. LOFGREN. So maybe you can assess that “2000 Mules,” and people are talking about that.

Attorney General BARR. Well, I mean, just in a nutshell, you know, I just think that the GBI was unimpressed with it, and I was similarly unimpressed with it because I think if you—because I was holding my fire on that to see what the photographic evidence was because I thought, well, hell, if they have a lot of photographs of the same person dumping a lot of ballots in different boxes, you know, that’s hard to explain.

So, I wanted to see what the photographic evidence was, but the cell phone data is singularly unimpressive. I mean it basically, if you take 2 million cell phones and—figure out where they are physically in a big city like Atlanta or wherever, just by definition you’re going to find many hundreds of them have passed by and spent time in the vicinity of these boxes.

And the premise that, you know, if you go by about, you know, five boxes or whatever it was, you know, that that’s a mule is just indefensible. If—by definition you’re going to have a lot—hundreds of this. I mean, when I saw one contractor said, “We figured out that our truck alone would account for six cell phone signals.” This was a, you know, some kind of contractor. And you know, “Our route would take us by these things on a regular basis.”

So I—but then when the movie came out, you know, I think the photographic evidence in it was completely lack—I mean it was—there was a little bit of it, but it was lacking. You know it didn’t—it didn’t establish wide-spread illegal harvesting.

The other thing is people don’t understand is that it’s not clear that even if you can show harvesting that that changes the—the results of the election. The courts are not going to throw out votes and then figure out what votes were harvested and throw them out. You’d still—the burden on the challenging party to show that illegal votes were cast, votes were the result of undue influence or bribes or there was really, you know, the person was non compos mentis. But absent that evidence, I just didn’t see courts throwing out votes anyway . . .

I felt that before the election it was possible to talk sense to the President. And while you sometimes had to engage in a big wrestling match with him, then it was possible to keep things on track. But I was—felt that after the election, he didn’t seem to be listening, and I didn’t think it was, you know, that I was inclined not to stay around if he wasn’t listening to advice from me or his other Cabinet Secretaries.

Ms. LOFGREN. So, on December 14th, Barr quit.

Now, the Attorney General wasn’t the only person who told the President that his claims were false. Other officials and close advisors told him the same thing.

Acting Attorney General ROSEN. Rather than try to address a counterfactual or a hypothetical, let me just say, there were instances where the President would say, “People are telling me this,” or “I heard this,” or “I saw on television,” you know, this—this impropriety in Atlanta or Pennsylvania or something. And we were in a position to say, “Our people already looked at that. And we know that you’re getting bad information that—that’s not correct. It’s been demonstrated to be incorrect from our point of view. It had been debunked.”

Mr. LYONS. A month-and-a-half or so after the election day and at that meeting, you know, various allegations of fraud were discussed, and you know, Eric and Pat didn’t, you know—told the group, the President included, that none of those allegations had been substantiated to the point where they could be the basis for any litigation challenge to the election.

Ms. LOFGREN. President Trump’s own Vice President and his top advisors also knew that there wasn’t evidence to support the claims that the President was making.

Mr. HARRIS. Anyone else other than Mr. Meadows who asked you about the status, outside of your legal group, you know, Mr. Morgan and the others you mentioned. Anyone else who asked you the status of what you were finding in your assessment of it?

Mr. CANNON. Yes, sir.

Mr. HARRIS. Who’s that?

Mr. CANNON. Peter Navarro.

Mr. HARRIS. When did you talk to Mr. Navarro?

Mr. CANNON. Mid-November.

Mr. HARRIS. Around the same time as Mr. Meadows?

Mr. CANNON. Yes, sir.

Mr. HARRIS. And tell me about that conversation.

Mr. CANNON. I recall him asking me questions about Dominion. And maybe some other categories of allegations of voter fraud. And I remember telling him that I didn't believe the Dominion allegations because I thought the hand recount in Georgia would resolve any issues with a technology problem and with Dominion or Dominion flipping votes.

And I mentioned at that time that the CISA, Chris Krebs, had recently released a report saying that the election was secure. And I believe Mr. Navarro accused me of being an agent of the deep state working with Chris Krebs against the President. And I never took another phone call from Mr. Navarro . . .

Mr. HARRIS. Anyone else besides Mr. Meadows, Mr. Navarro, Mr. Hershman that you had discussions with inquiring about what you were finding in your review of the allegations that were pouring in?

Mr. CANNON. I believe I had about a 15-second conversation with the Vice President about it as well.

Mr. HARRIS. When was that?

Mr. CANNON. During one of the visits to the White House. I don't know which one. I think it was the first one in November. I was—I had met him briefly at the campaign, and he remembered me and saw me. And he asked what I was doing on the campaign, and I told him that we were looking into some of the issues related to voter fraud.

And he asked me, I don't remember his exact words, but he asked me if we were finding anything. And I said that I didn't believe we were finding—or, I was not personally finding—anything sufficient to alter the results of the election. And he—he thanked me. That was our interaction.

Ms. LOFGREN. At a later hearing, you'll hear live testimony from the former Acting Deputy Attorney General of the Department of Justice, Rich Donoghue, but now I would like to play a portion of his testimony.

Acting Deputy Attorney General DONOGHUE. I tried to again put this in perspective and to try to put it in very clear terms to the President. And I said something to the effect of, "Sir, we've done dozens of investigations, hundreds of interviews. The major allegations are not supported by the evidence developed. We've looked at Georgia, Pennsylvania, Michigan, Nevada. We're doing our job. Much of the info you're getting is false." And then I went into, "For instance, this thing from Michigan—this report about 68 percent error rate. Reality is it was only 0.0063 percent error rate, less than 1-in-15,000." So, the President accepted that. He said, "Okay, fine, but what about the others?"

And again, this gets back to the point that there were so many of these allegations that when you gave him a very direct answer on one of them, he wouldn't fight us on it, but he would move to another allegation. So, then I talked about—a little bit about the Pennsylvania truck driver. This is another allegation that had come up. And this claim was by a truck driver who believed, perhaps honestly, that he had transported an entire tractor trailer truck full of ballots from New York to Pennsylvania.

And this was again out there in the public and discussed, and I essentially said, "Look, we looked at that allegation. We looked at both ends, both the people who load the truck and the people unload the truck. And that allegation was not supported by the evidence." Again, he said, "Okay"—then he said, "Note, I didn't mention that one. What about the others?"

And I said, "Okay, well, with regard to Georgia, we looked at the tape, we interviewed the witnesses, there is no suitcase." The President kept fixating on this suitcase that supposedly had fraudulent ballots, and that the suitcase was rolled out from under the table. And I said, "No, sir, there is no suitcase. You can watch the video over and over. There is no suitcase. There is a wheeled bin where they carry the ballots, and that's just how they move ballots around that facility. There's nothing suspicious about that at all."

I told him that there was no multiple scanning of the ballots—one—one part of that allegation was that they were taking one ballot and scanning it through three or four or five times to rack up votes presumably for Vice President Biden. I told him that the video did not support that.

Then he went off on double voting—the top of the next page. He said, "Dead people are voting. Indians are getting paid to vote." He meant people on Native American reservations. He said, "There's lots of fraud going on here." . . .

Told him flat out that much of the information he's getting is false and/or just not supported by the evidence. We looked at the allegations, but they don't pan out.

Ms. LOFGREN. Mr. Barr and his advisors were not the only ones who determined that the President's allegations regarding Dominion voting machines were false.

So, Mr. Chairman, I ask unanimous consent to include in the record of this hearing reports issued by the Department of Homeland Security's Cybersecurity and Infrastructure Security Agency, otherwise known as CISA, that addressed and rejected the claims of manipulation of voting machines in the 2020 election.<sup>1</sup>

Chairman THOMPSON. Without objection, so ordered.

Ms. LOFGREN. Thank you, Mr. Chairman.

I also ask unanimous consent to include in the record a report prepared by the Michigan senate oversight committee that disproved claims of election fraud in Michigan;<sup>2</sup> as well as a statement by 59 of the country's leading election security scientists noting the absence of any credible evidence that the 2020 election had been altered through technical compromise;<sup>3</sup> and 5 other reports from organizations and individuals confirming there was no widespread fraud in the 2020 election or describing the spread of the former President's lies.<sup>4</sup>

Chairman THOMPSON. Without objection, so ordered.

Ms. LOFGREN. Thank you, Mr. Chairman, and I yield back.

Chairman THOMPSON. Pursuant to the order of the Committee of today, the Chair declares the Committee in recess for a period of approximately 10 minutes.

[Accordingly, at 12:02 p.m., the Committee recessed until 12:16 p.m., when it was called to order by the Chairman.]

Chairman THOMPSON. I now welcome our second panel of witnesses.

We are joined today by BJay Pak, Al Schmidt, and Ben Ginsberg.

Mr. Pak is a former U.S. Attorney for the Northern District of Georgia.

Mr. Schmidt is a former city commissioner for the city of Philadelphia, where he served for more than 10 years.

Mr. Ginsberg is one of the leading election law attorneys in the country and has represented Republican Presidential candidates in election litigation dating back to 2000, where he represented George W. Bush in the *Bush v. Gore* litigation.

I will now swear in our witnesses.

Please stand and raise your right hands.

[Witnesses sworn.]

Chairman THOMPSON. Thank you. Please be seated.

Let the record reflect the witnesses answered in the affirmative.

Pursuant to section 5(c)(8) of House Resolution 503, I now recognize the gentlewoman from California, Ms. Lofgren, for questions.

Ms. LOFGREN. Thank you, Mr. Chairman.

Before the break, I think you all heard Mr. Barr and Mr. Donoghue talk about the false claims that Mr. Trump and his sup-

<sup>1</sup>The information has been included in the Appendix and may be found on page 126.

<sup>2</sup>The information has been included in the Appendix and may be found on page 127.

<sup>3</sup>The information has been included in the Appendix and may be found on page 181.

<sup>4</sup>The information has been included in the Appendix and may be found on page 183.



porters made about suitcases of fake ballots in Georgia. We have a witness here today who thoroughly investigated that issue.

Mr. Pak, I want to thank you for appearing before us today.

You were appointed by President Trump to serve as the U.S. Attorney for the Northern District of Georgia, and you served from 2017 until January 2021. You were the lead Federal prosecutor there and worked for the Department of Justice under then-Attorney General Bill Barr.

Now, were you ever asked by Attorney General Barr to investigate claims of voter fraud in the 2020 election? If so, what were those claims?

Mr. PAK.<sup>5</sup> Thank you, Congresswoman Lofgren. Thank you for the question.

Approximately December 4th, I believe, of 2020, Attorney General Barr and I had a conversation about an unrelated case at issue. At the end of the conversation, Mr. Barr had asked me if I had seen a certain videotape that was being reported in the news where Mr. Giuliani, in a senate subcommittee hearing that was held the day before, December 3rd, showed a videotape of a purportedly—a security tape at the State Farm Arena in Atlanta, which is also in Fulton County, in the city of Atlanta—oh, I am sorry, city of—yes.

At the time, Mr. Barr asked me—he had made a public statement that he had not seen any wide-spread election fraud that would question the outcome of the election, and because of the videotape and the serious allegation that Mr. Giuliani was making with respect to the suitcase full of ballots purported in the video, he asked me to find out what I could about it, because he had envisioned that in some days after our call that he was going to go to the White House for a meeting and then that issue might come up. He asked me to make it a priority to get to the bottom of—to try to substantiate the allegation made by Mr. Giuliani.

Ms. LOFGREN. Thank you.

I understand the Georgia secretary of state's office investigated those State Farm Arena allegations and didn't find any evidence of fraud.

What did you find when your office conducted its own investigation?

Mr. PAK. We found that the suitcase full of ballots, the alleged black suitcase that was being seen pulled from under the table, was actually an official lockbox where ballots were kept safe.

We found out that there was a mistake in terms of a misunderstanding that they were done counting ballots or tallying ballots for the night, and the partisan watchers that were assigned by each of the respective parties were announced to go home.

But once they realized the mistake, someone from the secretary of state's office had indicated, "No, no, no, we're not done for the night. You need to go ahead and continue counting." So, once they packed up the lockbox full of ballots, they brought back the official ballot box again and continued to tally the ballots from that—from the lockbox.

<sup>5</sup>The prepared statement of Mr. Pak has been included in the Appendix and may be found on page 123.

Unfortunately, during the senate hearing, Mr. Giuliani only played a clip that showed them pulling out the official ballot box from under the table and referring to that as a smoking gun of fraud in Fulton County, but, in actuality, in review of the entire video, it showed that that was actually an official ballot box that was kept underneath the tables, and then we saw them pack up because of the announcement that they thought they were done for the night, and then, once the announcement was made that you should continue counting, they brought the ballot box back out and they continued to count.

We interviewed—the FBI interviewed the individuals that are depicted in the videos that purportedly were double-, triple-counting the ballots and determined that nothing irregular happened in the counting and the allegations made by Mr. Giuliani were false.

Ms. LOFGREN. Thank you very much.

I would like to play again testimony from Mr. Donoghue, who appeared before the Committee before today.

Vice Chair CHENEY. Mr. Donoghue you—we talked at some length about whether or not the White House or the President was informed about the Antrim report. On the results of the investigations, the interviews that have gone on on Fulton County, how would those results have been communicated to the White House, to the President?

Acting Deputy Attorney General DONOGHUE. I don't know how they were initially communicated. I do know that they came up in subsequent conversations with the President, and DAG Rosen and I essentially told him, "We looked into that and it's just not true."

Vice Chair CHENEY. Okay. So, he was—he was informed.

Acting Deputy Attorney General DONOGHUE. I told the President myself that several times, in several conversations that these allegations about ballots being smuggled in in a suitcase and run through the machine several times, it was not true—that we looked at it. We looked at the video; we interviewed the witnesses; it was not true.

Ms. LOFGREN. Mr. Pak, after you left the U.S. attorney's office on January 4, 2021, did the next U.S. attorney there, I think Mr. Trump's personal pick, Bobby Christine, did he investigate any remaining claims of fraud? If so, did he find any evidence that supported the President's claims of voter fraud?

Mr. PAK. It is my understanding that Mr. Christine continued any investigations that were pending at the time of my departure, but he was unable to find any evidence of fraud that affected the outcome of the election.

Ms. LOFGREN. So, after investigating the President's and Mr. Giuliani's claims about voter fraud in Georgia, is it your view today that there was no evidence of wide-spread fraud sufficient to undermine confidence in the outcome of the election in Georgia?

Mr. PAK. That is correct.

Ms. LOFGREN. Thank you, Mr. Pak. I want to thank you also for the service that you have given to our country. We appreciate that.

Next, I would like to turn to President Trump's false allegations about election integrity in Philadelphia. The Attorney General discussed these allegations at some length.

Attorney General BARR. You know, the idea the President has repeatedly suggested that there was some kind of outpouring of unexpected votes in inner city areas like Philadelphia as recently as January 13th when he walked off the NPR set. He was asked by the interviewer, you know, what's—you know, what's your evidence of fraud?

And he said more people voted in Philadelphia than there were voters. And that was absolute rubbish. The turnout in Philadelphia was in line with the State's turnout and in fact it was not as—as impressive as many suburban counties. And there was nothing strange about the Philadelphia turnout. It wasn't like there were all these unexpected votes that came out in Philadelphia.

So, you know, I think once you actually look at the votes and then if there's an obvious explanation, he—you know, for example, in Pennsylvania, Trump ran weaker than the Republican ticket generally. He ran weaker than two of the State candidates. He ran weaker than the Congressional delegate—delegation running for Federal Congress, and he ran weaker than the—the Republican—I think, I haven't looked at this recently, but he generally was a weak element on the Republican ticket. So, that does not suggest that the election was stolen by fraud.

Mr. HEAPHY. How about Pennsylvania and Bill McSwain? You were talking with the U.S. attorney in Philadelphia about an alleged discrepancy between the number of absentee ballots issued and the number of ballots cast.

Attorney General BARR. Right. So, I—I—you know, that was a—a—one of the big ones for a period of time. I think—I think that was raised in Gettysburg by Giuliani or something like that, but it kept on being repeated. And I found it annoying because it didn't seem that it was right. So, I called—I called McSwain, and he got back to me. He said, "No, the problem is that Mastriano, threw out a—threw out this number. And what he did was he mixed apples and oranges. He took the number of applications for the Republican primary, and he compared it to the number of absentee votes cast in the general election. But once you actually go and look and compare apples to apples, there's no discrepancy at all."

And, you know, that's one of the—I—I think at some point I covered that with the President.

Ms. LOFGREN. We have another witness here today who has detailed knowledge about the election process in Philadelphia.

Mr. Schmidt, at the time of the 2020 Presidential election, you were serving as the only Republican member of Philadelphia's three-member city commission which is responsible for overseeing elections throughout the city. Is that correct?

Mr. SCHMIDT. That is correct, Congressperson.

Ms. LOFGREN. So, President Trump made numerous claims regarding fraudulent voting practices in Philadelphia, including the claim that dead people were voting. In fact, Mr. Giuliani told Pennsylvania State legislators that 8,000 dead people voted in Pennsylvania.

You investigated those claims of voter fraud. Can you tell us what you found?

Mr. SCHMIDT. Not only was there not evidence of 8,000 dead voters voting in Pennsylvania, there wasn't evidence of 8.

We took seriously every case that was referred to us, no matter how fantastical, no matter how absurd, and took every one of those seriously, including these.

Ms. LOFGREN. As it turns out, even Mr. Trump's campaign lawyers knew that the dead voter claims weren't valid.

Mr. GIULIANI. I guess the crooks in Philadelphia are disappointed in this. They only submitted 8,021 ballots from dead people—mail-in ballots for dead people. Probably easier for dead people to submit mail-in ballots than it is to vote in person.

Mr. HERSCHMANN. Rudy was at this stage of his life and the same ability to manage things at this level or not. And obviously, I think Bernie Kerik publicly said it. They never proved the allegations that they were making, and they were trying to develop.

Ms. LOFGREN. Mr. Schmidt, on November 11, 2020, President Trump tweeted about you, saying—and here is a quote—"A guy named Al Schmidt, a Philadelphia Commissioner and so-called Republican (RINO), is being used big time by the Fake News Media to explain how honest things were with respect to the Election in

Philadelphia. He refuses to look at a mountain of corruption & dishonesty. We win!"

As a result of that tweet and the CNN interview you gave where you stated the dead voter claims in Pennsylvania were false, you and your staff were subjected to disturbing threats. Can you tell us about that?

Mr. SCHMIDT. The threats prior to that tweet—and, on some level, it feels almost silly to talk about a tweet, but we can really see the impact that they have, because, prior to that, the threats were pretty general in nature: "Corrupt election officials in Philadelphia are gonna get what's coming to them"; "You're what the Second Amendment is for"; "You're walking into the lion's den"—all sorts of things like that.

After the President tweeted at me by name, calling me out the way that he did, the threats became much more specific, much more graphic, and included not just me by name but included members of my family by name, their ages, our address, pictures of our home—just every bit of detail that you could imagine. That was what changed with that tweet.

Ms. LOFGREN. Behind me are redacted threats that you received that you have provided to the Committee. Now, we redacted portions of the text to protect your family.

Mr. Schmidt, I think I speak for all of my colleagues when I say we are deeply sorry for what you and your loved ones have been through. I also want to thank you for your service to your country and for standing up for the rule of law.

I want to thank both Mr. Pak and Mr. Schmidt for their service, their testimony, and for standing up for the rule of law.

Now I would like to turn to another subject.

The courts in our country provide a legitimate venue for campaigns to challenge what they view as irregular election practices. Now, courts have the final say on how the law applies to those challenges.

We have a renowned legal expert here to address the Trump campaign's activities in court.

Mr. Ginsberg, you have spent your entire career representing Republicans in election-related litigation. You served as the national counsel on Republican Presidential campaigns in 2000, in 2004, and in 2012. You played a key role in the 2000 Florida recount that led to the Supreme Court's decision in *Bush v. Gore*. You served as the co-chair of the Presidential Commission on Election Administration. I think it is fair to say you are the most prominent Republican lawyer who has litigated in the election field.

Now, you have analyzed the Trump campaign's litigation pretty carefully. What is the, like, normal process for post-election litigation? How was the Trump campaign's different from the kinds of post-election litigation you have been involved in and know about?

Mr. GINSBERG. In the normal course of things, any campaign, on the night of the election and in the days after, will do a couple of different things.

One is that they will analyze precinct results to look for abnormalities in the results, and they will send people to those precincts to ask more questions.

Second, all campaigns will have poll watchers and poll workers and observers in the polling place. So, campaigns will talk to those people if they saw any irregularities that could cause problems in the election.

Now, the Trump campaign talked pre-election about having 50,000 poll workers, so presumably they did have eyes on the ground in all of these places.

So, in the normal course of things, a campaign will analyze the reports that come in. The Trump campaign had a couple of basic problems, however. No. 1, the 2020 election was not close. In 2000, that was 537 and close. In this election, the most narrow margin was 10,000-and-something in Arizona, and you just don't make up those sorts of numbers in recounts.

When the claims of fraud and irregularities were made, you have heard very compelling testimony from Mr. Stepien, from Matt Morgan, from Alex Cannon about those claims and how they didn't believe them. So, that put the Trump campaign on sort-of a process of bringing cases without the actual evidence that you have to have and which the process is designed to bring out.

Ms. LOFGREN. So, are you aware of any instance in which a court found the Trump campaign's fraud claims to be credible?

Mr. GINSBERG. No. There was never that instance in all the cases that were brought. I have looked at the more than 60 that include more than 180 counts. No, the simple fact is that the Trump campaign did not make its case.

Ms. LOFGREN. The Select Committee has identified 62 post-election lawsuits filed by the Trump campaign and his allies between November 4, 2020, and January 6, 2021. Those cases resulted in 61 losses and only a single victory, which actually didn't affect the outcome for either candidate.

Despite those 61 losses, President Trump and his allies claim that the courts refused to hear them out and, as a result, they never had their day in court.

Mr. Ginsberg, what do you say about the claims that Mr. Trump wasn't given an opportunity to provide the evidence they had of voter fraud? In fact, did they have their day in court?

Mr. GINSBERG. They did have their day in court.

About half of those cases that you mentioned were dismissed at the procedural stage for a lack of standing—the proper people didn't bring the case—or there wasn't sufficient evidence and it got dismissed on a motion to dismiss.

But, in the others, there was discussion of the merits that were contained in the complaints, and in no instance did a court find that the charges of fraud were real.

It is also worth noting that, even if the Trump campaign complained that it did not have its day in court, there have been post-election reviews in each of the 6 battleground States that could have made a difference, and those ranged from the somewhat-far-cical Cyber Ninjas case in Arizona to the Michigan senate report that was mentioned earlier, the hand recount in Georgia that Mr. Pak addressed, and in each one of those instances there was no credible evidence of fraud produced by the Trump campaign or his supporters.

Ms. LOFGREN. Thank you.

You know, as Mr. Ginsberg has explained, there are no cases where the Trump campaign was able to convince a court that there was wide-spread fraud or irregularities in the 2020 election.

Over and over, judges, appointed by Democrats and Republicans alike, directly rebutted this false narrative. They called out the Trump campaign's lack of evidence for its claims. The judges did that even in cases where they could have simply thrown out the lawsuit without writing a word.

You can see behind me a few excerpts from the decisions in these 62 cases.

The Trump campaign's lack of evidence was criticized by judges across the political spectrum.

In Pennsylvania, a Trump-appointed judge concluded, "Charges require specific allegations and proof. We have neither here."

Another Trump-appointed judge warned that, if cases like these succeeded, "Any disappointed loser in a Presidential election able to hire a team of clever lawyers could flag claimed deviations from election results and cast doubt on election results."

The list goes on and on.

Allegations are called, "an amalgamation of theories, conjecture, and speculation." In another, "strained legal arguments without merit"; "unsupported by evidence"; "derived from wholly unreliable sources"; "a fundamental and obvious misreading of the Constitution."

The rejection of President Trump's litigation efforts was overwhelming. Twenty-two Federal judges appointed by Republican Presidents, including 10 appointed by President Trump himself, and at least 24 elected or appointed Republican State judges dismissed the President's claims.

At least 11 lawyers have been referred for disciplinary proceedings due to bad faith and baseless efforts to undermine the outcome of the 2020 Presidential election. Rudy Giuliani had his license to practice law suspended in New York, and, just this week, a newly-filed complaint will potentially make his suspension from practicing law in D.C. permanent.

As we have just heard from perhaps the most preeminent Republican election lawyer in recent history, the Trump campaign's unprecedented effort to overturn its election loss in court was a deeply damaging abuse of the judicial process.

As stated by U.S. District Court Judge David Carter, this was "a coup in search of a legal theory."

Thank you, Mr. Chairman, and I yield back.

Chairman THOMPSON. I want to thank our witnesses for joining us today.

The Members of the Select Committee may have additional questions for today's witnesses, and we ask that you respond expeditiously in writing to those questions.

Without objection, Members will be permitted 10 business days to submit statements for the record, including opening remarks and additional questions for the witnesses.

The second panel of witnesses is now dismissed.

Without objection, the Chair recognizes the gentlewoman from California, Ms. Lofgren, for a closing statement.

Ms. LOFGREN. Thank you, Mr. Chairman.

Now that we understand the litigation efforts by President Trump and his allies, I would like to present additional actions taken by the Trump campaign during this time.

President Trump continued to push the “stolen election” narrative even though he and his allies knew that their litigation efforts making the same claim had failed.

Now, it is worth pointing out that litigation generally does not continue past the safe harbor date of December 14th. But the fact that this litigation went on—well, that decision makes more sense when you consider the Trump campaign’s fundraising tactics. Because if the litigation had stopped on December 14th, there would have been no fight to defend the election and no clear path to continue to raise millions of dollars.

Mr. Chairman, at this time, I would ask for unanimous consent to include in the record a video presentation describing how President Trump used the lies he told to raise millions of dollars from the American people. These fundraising schemes were also part of the effort to disseminate the false claims of election fraud.

Chairman THOMPSON. Without objection, so ordered.

Ms. WICK. My name is Amanda Wick, and I’m senior investigative counsel at the House Select Committee to Investigate the January 6th Attack on the United States Capitol.

Between election day and January 6th, the Trump campaign sent millions of fundraising emails to Trump supporters, sometimes as many as 25 a day. The emails claimed the, “. . . Left-wing MOB” was undermining the election; implored supporters to, “step up . . . to protect the integrity” of the election; and encourage them to, “fight back.”

But as the Select Committee has demonstrated, the Trump campaign knew these claims of voter fraud were false. Yet they continued to barrage small-dollar donors with e-mails encouraging them to donate to something called the Official Election Defense Fund. The Select Committee discovered no such fund existed.

Ms. ALLRED. I don’t believe there was actually a fund called the Election Defense Fund.

Mr. AGANGA-WILLIAMS. Is it fair to say that the Election Defense Fund was another—I think we can call that a marketing tactic?

Mr. COBY. Yes.

Mr. AGANGA-WILLIAMS. And tell us about these funds as marketing tactics.

Mr. COBY. Just the topic matter where money could potentially go to be—how money could potentially be used.

Ms. WICK. The claims that the election was stolen were so successful President Trump and his allies raised \$250 million, nearly \$100 million in the first week after the election.

On November 9, 2020, President Trump created a separate entity called the Save America PAC. Most of the money raised went to this newly-created PAC, not to election-related litigation.

The Select Committee discovered that the Save America PAC made millions of dollars of contributions to pro-Trump organizations, including \$1 million to Trump Chief of Staff Mark Meadows’s charitable foundation; \$1 million to the America First Policy Institute, a conservative organization which employs several former Trump administration officials; \$204,857 to the Trump Hotel Collection; and over \$5 million to Event Strategies Inc., the company that ran President Trump’s January 6th rally on the Ellipse.

President TRUMP. All of us here today do not want to see our election victory stolen by emboldened radical left Democrats, which is what they’re doing.

Ms. WICK. The evidence developed by the Select Committee highlights how the Trump campaign aggressively pushed false election claims to fundraise, telling supporters it would be used to fight voter fraud that did not exist. The emails continued through January 6th, even as President Trump spoke on the Ellipse.

CROWD. [unintelligible]

Ms. WICK. Thirty minutes after the last fundraising email was sent, the Capitol was breached.

CROWD. U-S-A! U-S-A! U-S-A! [unintelligible] U-S-A! U-S-A!

Ms. LOFGREN. Every American is entitled and encouraged to participate in our electoral process. Political fundraising is part of that. Small-dollar donors use scarce disposable income to support candidates and causes of their choosing, to make their voices heard, and those donors deserve the truth about what those funds will be used for.

Throughout the Committee's investigation, we found evidence that the Trump campaign and its surrogates misled donors as to where their funds would go and what they would be used for. So, not only was there the Big Lie, there was the Big Rip-Off.

Donors deserve to know where their funds are really going. They deserve better than what President Trump and his team did.

Mr. Chairman, I yield back.

Chairman THOMPSON. Without objection, the Chair recognizes the gentlewoman from Wyoming, Ms. Cheney, for a closing statement.

Vice Chair CHENEY. Thank you very much, Mr. Chairman.

Mr. Chairman, I would like to thank all of our witnesses today.

I would also like to, in particular, wish Mr. Stepien and his family all the best on the arrival of a new baby.

Today's hearing, Mr. Chairman, was very narrowly focused, and in the coming days you will see the Committee move on to President Trump's broader planning for January 6th, including his plan to corrupt the Department of Justice and his detailed planning with lawyer John Eastman to pressure the Vice President, State legislatures, State officials, and others to overturn the election.

Let me leave you today with one clip to preview what you will see in one of our hearings to come. This is the testimony of White House lawyer Eric Herschmann. John Eastman called Mr. Herschmann the day after January 6th, and here is how that conversation went.

Mr. HERSCHMANN. I said to him, "Are you out of your f-ing mind?" I said I could—I only want to hear two words coming out of your mouth from now on, "Orderly transition."

Vice Chair CHENEY. Thank you, Mr. Chairman. I yield back.

Chairman THOMPSON. At the conclusion of last week's hearing, we showed you a video of rioters explaining why they had come to Washington on January 6th. It was because Donald Trump told them to be here.

Today, we heard about some of the lies Donald Trump embraced and amplified when it became clear he didn't have the numbers of votes to win the election.

We heard about how officials at different levels of government explored claims of fraud and found no evidence, yet the former President continued to repeat those false claims over and over again.

Today, we will end things where we did on Thursday, back on January 6th, hearing words of individuals who wanted to stop the transfer of power. We know they were there because of Donald Trump. Now we will hear some of the things they believed.

Without objection, I enter into the record a video presentation.

VOICE. I know exactly what's going on right now: fake election. They think they're going to fucking cheat us out of our vote and put Communist fucking Biden in office. It ain't fucking happening today, buddy.



VOICE. You voted?

VOICE. Yes, sir.

VOICE. How'd it go?

VOICE. Voted early, it went well except for the can't—can't really trust software—Dominion software all over it.

VOICE. We voted, and right in the top, right-hand corner of the Dominion voting machine that we used, there was a wi-fi symbol with five bars, so that most definitely connected to the internet, without a doubt. So, they stole that from us twice. We're not doing it anymore. We're not taking it anymore. So, we're standing up. We're here. Whatever happens, we're not laying down again.

VOICE. I'm from Pennsylvania.

VOICE. It worked.

VOICE. It didn't work. It absolutely——

VOICE. It worked——

VOICE. It didn't work——

VOICE. You voted.

VOICE. No!

VOICE. Trust the system.

VOICE. Two hundred thousand people that weren't even registered voted. Four hundred and thirty thousand votes disappeared from President Trump's tally, and you can't stand there and tell me it worked.

VOICE. I don't want to tell you that what we're doing is right, but if the election's being stolen what is it going to take?

Chairman THOMPSON. The Chair requests those in the hearing room remain seated until the Capitol Police have escorted Members from the room.

Without objection, the Committee stands adjourned.

[Whereupon, at 12:50 p.m., the Committee was adjourned.]



## APPENDIX

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PREPARED STATEMENT OF BYUNG JIN “BJAY” PAK

JUNE 13, 2022

Chairman Thompson, Vice Chair Cheney, and Members of the Committee, good morning, and thank you for the opportunity to speak with you today. My name is BJay Pak, and I had the great honor to serve as the Senate-confirmed U.S. Attorney for the Northern District of Georgia from October 10, 2017, to January 4, 2021. My resignation early last year capped off nearly a decade of service in the U.S. Department of Justice, as I had previously served as an Assistant U.S. Attorney in the Criminal Division of my former office, from 2002 to 2008. I have also had the honor to serve in the judicial branch of the Federal Government as a law clerk for Judge Richard Mills of the United States District Court for the Central District of Illinois. Moreover, I served as a State Representative in the Georgia General Assembly from 2011 to 2017. Because I am a believer in term limits, I decided not to stand for reelection after three terms. Since 2021, I have been in private practice in Atlanta, Georgia.

As a 10-year-old immigrant boy from South Korea, I never could have imagined that I would one day serve the United States as the chief Federal law enforcement officer for one of the largest Federal districts in the Nation. Unlike the Americans who were granted citizenship through birthright, I, along with millions of immigrants to this Nation, had the privilege to take an oath to become a citizen of this great country. The oath of citizenship is very similar to the oath I took to become a U.S. Attorney for the Northern District of Georgia. Each oath makes clear, in no uncertain terms, that one’s allegiance is to the Constitution, and not to any President, or political party. The oath has served as my guiding principle throughout my public service career.

Like many Americans, I was called to public service after the terrorist attacks on September 11, 2001. Prior to the attacks, I thought our country was invincible. But those attacks showed that we were vulnerable, and our country needed its citizens to help protect it, and to serve within its ranks. I was fortunate to be able to serve nearly a decade in the Department of Justice—the only Department in the country that has a moral virtue in its name.

My testimony today relates to my time as U.S. attorney, and particularly, the last month of my tenure. The events which unfolded on January 6th at the U.S. Capitol brought extreme shock and disappointment to Americans and to the world. I certainly felt those same emotions as I saw images of that event on television. But I hope that what occurred that day and the days leading up to January 6th will never overshadow all the great work done by the career public servants who faithfully serve the Northern District of Georgia and the Department of Justice every single day.

During my tenure as U.S. attorney, from fiscal year 2017 to fiscal year 2020, our prosecutors and law enforcement partners:

- increased overall prosecutions by 30 percent;
- increased drug enforcement by 85 percent to fight the opioid epidemic;
- increased white-collar crime prosecutions by 112 percent;
- help recover hundreds of millions of dollars in restitutions and fines; and,
- instituted an innovative and successful recidivism reduction program for violent offenders who were returning to society after serving their sentences.

Of course, 2020 was a particularly difficult year for our country generally, and for the Northern District of Georgia in particular. We started the year working through the longest Government shutdown in recent history and faced challenges related to the COVID-19 pandemic, demonstrations and unrest following the murders of George Floyd and Ahmaud Arbery, including challenges from those who sought to use the cover of legitimate protest as an opportunity to wreak havoc and mayhem.

At the end of the year, the 2020 Presidential election became one of the most intense in our Nation's recent history. As this Committee is well aware, Georgia was a hotly contested swing State, and our office and our law enforcement partners in the Northern District of Georgia went above and beyond the call of duty to fulfill their mission to enforce the law, despite the many challenges that they faced.

#### STATE FARM ARENA VIDEO CLIP

Among those challenges were individuals who continuously made false allegations that the elections in Georgia had serious irregularities, or that the result of those elections was fraudulent. One such example was the alleged "suitcase full of fake ballots" incident. On December 3, 2020, Rudy Giuliani appeared before a subcommittee of the Georgia State senate that was looking into election integrity issues. During the hearing, Mr. Giuliani played a video clip purportedly showing the tallying of ballots from Fulton County at the State Farm Arena on election night—November 3, 2020. I learned of his appearance at the committee hearing and the existence of the video clip through media reports. According to the media reports, Mr. Giuliani claimed that the video showed the Fulton County election workers at State Farm Arena taking a black "suitcase" out from under a table, removing purportedly fake ballots from the suitcase, and running the purportedly fake ballots through the tabulating machine after the observers from the respective political parties had been sent home. Mr. Giuliani claimed that this video was a "smoking gun" of evidence of election fraud in Fulton County.

Mr. Giuliani's claims were simply untrue and making such a claim was reckless. At the request of Attorney General William Barr, our office and the FBI conducted a preliminary inquiry to evaluate whether any of the allegations made by Mr. Giuliani with respect to the State Farm Arena video could be substantiated. After reviewing the evidence and interviewing witnesses, my office and the FBI concluded that there was nothing to substantiate Mr. Giuliani's claims, let alone any potential violations of Federal law. The "suitcase" was a legitimate lockbox used to store official ballots, and all lockboxes and ballots were accounted for. I reported our conclusions from the preliminary inquiry to Attorney General Barr, and to Rich Donoghue, who was then the principal associate deputy attorney general to Deputy Attorney General Jeff Rosen.

One unfortunate consequence of Mr. Giuliani making such unsubstantiated claims of election fraud was that the Fulton County Election workers depicted in the State Farm Arena video clips were "doxed"—in other words, their names, addresses, and other information were publicized. I received reports that they were being harassed, and that some had received death threats. As a result, law enforcement resources had to be diverted from other areas and deployed to protect the workers.

#### JEFFREY CLARK

A few days before January 1, 2021, I spoke again with Mr. Donoghue, who was by this time, the acting deputy attorney general. Mr. Donoghue indicated that he had just left a long meeting at the White House with President Trump. He told me that the President was singularly focused on Georgia, and that he was unable to dissuade the President from the notion that that he won Georgia, and that the election was stolen. I reiterated to Mr. Donoghue that, although every election has some irregularities, I had received no substantial reports of election fraud supported by evidence, enough to even initiate a formal investigation. Mr. Donoghue agreed and expressed frustration that some individuals were feeding the President various unsubstantiated theories of election fraud, and that he and others had to spend a significant amount of time to dispel the theories.

Mr. Donoghue then asked if I knew Jeff Clark. I have never met nor spoken with Mr. Clark. Mr. Donoghue told me that Mr. Clark was the Assistant Attorney General for the Environment & Natural Resources Division, and at the time, was also the Acting Assistant Attorney General of the Civil Division. Mr. Donoghue stated that Mr. Clark had "the President's ear", and that Mr. Clark was suggesting that the DOJ, in an extremely unorthodox fashion, both intervene in support of the Trump campaign in a civil lawsuit filed in Fulton County, Georgia alleging election fraud, and sign a letter urging the Georgia legislature to call a special session to investigate alleged election irregularities. Mr. Donoghue and I both felt strongly that this was highly unusual and not appropriate. Mr. Donoghue also told me that Mr. Clark would call me about election irregularities. I told Mr. Donoghue that I would be happy to tell Mr. Clark that there was no evidence of wide-spread election fraud, and that I would reject any request for the U.S. attorney's office to either intervene in a lawsuit or ask any State authority to pause the certification process. Mr. Donoghue stated that he would not be surprised if the President himself called

me. I told Mr. Donoghue that even if the President called me himself, my answer would not change. Neither Mr. Clark nor President Trump ever contacted me, however.

#### RESIGNATION

After President Biden's victory in the 2020 election, I had always planned to submit my resignation in January 2021, as is customary for many DOJ political appointees. My plan was to make my resignation effective on Inauguration Day—January 20, 2021, so that my first assistant U.S. attorney would be promoted as acting U.S. attorney, pursuant to the Federal Vacancies Reform Act. I did not announce my intentions to the public at that time. However, during the latter part of December, I notified members of the U.S. attorney's office, the District Court, and some of our law enforcement partners of my plans. I also told Mr. Donoghue.

On January 3, 2021, I learned for the first time, through media reports, of the call between President Trump and Georgia Secretary of State Brad Raffensperger, in which President Trump reportedly attempted to persuade Secretary Raffensperger to "find votes," and continued to claim that the Georgia election was "rigged." On learning about this call, I was deeply concerned and disturbed about what was being asked of the Office of the Secretary of State and considered resigning immediately. I eventually decided against an immediate resignation, given the upcoming run-off election in Georgia where the control of the U.S. Senate hung in the balance; I did not want my sudden resignation to be used or interpreted in any way to influence that run-off election.

Around 10 o'clock pm that evening, I noticed that I had several missed calls from Mr. Donoghue, and a text from him asking me to return his calls. When I called him back, Mr. Donoghue told me that he and Acting Attorney General Rosen had returned from a 3-hour meeting at the White House during which the President had expressed extreme displeasure toward the DOJ for "not doing enough" about the purported fraud that he believed cost him the election. Mr. Donoghue indicated that the President had read a 2016 *New York Times* article—in which I was quoted regarding how then-candidate Trump's campaign rhetoric created difficulties in recruiting minorities to the Republican party—and became convinced that I was a "never-Trumper," which in the President's mind, was the reason there was no election fraud investigations in Atlanta. The President wanted the DOJ leadership to fire me. Mr. Rosen and Mr. Donoghue were opposed to my removal and told the President that, as I am a Senate-confirmed U.S. attorney, they did not have the power to fire me. At that point, someone at the meeting noted that I was already going to submit my resignation in the upcoming week, so the President could simply accept my resignation early, rather than fire me. The President indicated that he wanted the resignation letter as soon as possible.

Mr. Donoghue offered to place me in a Senior Executive Service position within DOJ until Inauguration. I declined because, after the revelations of that day, I no longer wished to serve in that administration. Concerned about the disruption that would be caused by a sudden transition of leadership in the office, I asked Mr. Donoghue if my first assistant U.S. attorney, Kurt Erskine, could serve as acting U.S. attorney after my resignation. Mr. Donoghue said that he and Mr. Rosen had suggested Mr. Erskine to the President, but the President recommended that Bobby Christine, then the U.S. Attorney for the Southern District of Georgia, serve as the acting U.S. Attorney for Northern District, because the President had heard "good things" about Mr. Christine. Mr. Donoghue indicated that the President called Mr. Christine from the White House to offer him the position. Mr. Donoghue stated that Mr. Christine was caught off-guard by the offer and was confused as to whether he could even serve in both roles simultaneously. Mr. Donoghue indicated that I could choose how to announce my resignation, either in a press conference to "blow the whistle" or by issuing a statement. He suggested that a low-key resignation would be best for all involved, especially when he and a few others were "trying to hold the ship together" until Inauguration. I told him I would think about it and let him know.

The next morning on Monday, January 4, 2021, I called Mr. Donoghue on my way to the office to let him know that I had decided to make a quiet exit, as I did not want my resignation to become a distraction to those who still had a job to do at DOJ. I told Mr. Donoghue to "hang in there," because we needed him, and that it was an honor to serve the Nation with him. I then called Mr. Christine to arrange a conference call between our leadership teams to facilitate a smooth transition and offered to set up a briefing on all election-related investigations that were pending.

Once at the office, I spoke to my first assistant U.S. attorney, Mr. Erskine, and the remaining members of my leadership team to inform them that I would be re-

signing, effective immediately. I then sent my resignation to the Acting Attorney General and to the President.

Despite the abrupt end to my tenure as U.S. attorney, I am proud of the great work done by our everyday heroes in the law enforcement community, and by the U.S. attorney's office for the Northern District of Georgia. Serving as U.S. attorney and working with the dedicated public servants has been the greatest honor of my professional life. But the best part of working in the U.S. Department of Justice, and in particular the U.S. attorney's office, is that it is where you do the right thing, the right way, for the right reasons. I have strived to conduct myself in a way that serves and honors those ideals.

Thank you for your time. God bless you, and may God bless these United States.

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JOINT STATEMENT OF ELECTIONS INFRASTRUCTURE GOVERNMENT COORDINATING  
COUNCIL & THE ELECTION INFRASTRUCTURE SECTOR COORDINATING EXECUTIVE  
COMMITTEES

ORIGINAL RELEASE DATE: NOVEMBER 12, 2020

WASHINGTON.—The members of Election Infrastructure Government Coordinating Council (GCC) Executive Committee—Cybersecurity and Infrastructure Security Agency (CISA) Assistant Director Bob Kolasky, U.S. Election Assistance Commission Chair Benjamin Hovland, National Association of Secretaries of State (NASS) President Maggie Toulouse Oliver, National Association of State Election Directors (NASED) President Lori Augino, and Escambia County (Florida) Supervisor of Elections David Stafford—and the members of the Election Infrastructure Sector Coordinating Council (SCC)—Chair Brian Hancock (Unisyn Voting Solutions), Vice Chair Sam Derheimer (Hart InterCivic), Chris Wlaschin (Election Systems & Software), Ericka Haas (Electronic Registration Information Center), and Maria Bianchi (Democracy Works)—released the following statement:

“The November 3d election was the most secure in American history. Right now, across the country, election officials are reviewing and double checking the entire election process prior to finalizing the result.

“When States have close elections, many will recount ballots. All of the States with close results in the 2020 Presidential race have paper records of each vote, allowing the ability to go back and count each ballot if necessary. This is an added benefit for security and resilience. This process allows for the identification and correction of any mistakes or errors. There is no evidence that any voting system deleted or lost votes, changed votes, or was in any way compromised.

“Other security measures like pre-election testing, State certification of voting equipment, and the U.S. Election Assistance Commission's (EAC) certification of voting equipment help to build additional confidence in the voting systems used in 2020.

“While we know there are many unfounded claims and opportunities for misinformation about the process of our elections, we can assure you we have the utmost confidence in the security and integrity of our elections, and you should too. When you have questions, turn to elections officials as trusted voices as they administer elections.”

Last Published Date: November 12, 2020



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REPORT ON  
**THE NOVEMBER 2020 ELECTION  
IN MICHIGAN**

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**COMMITTEE MEMBERS**

Senator Edward McBroom – Chair  
Senator Lana Theis – Majority Vice Chair  
Senator Jeff Irwin – Minority Vice Chair  
Senator John Bizon

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## EXECUTIVE SUMMARY ON THE NOVEMBER 2020 ELECTION IN MICHIGAN

Without question, the increased political polarization of our nation has resulted in increasing public discontentment with the administration, and therefore results, of our elections. This discontent, which has been demonstrated on both sides of the aisle (see: Bush v. Gore 2000 and allegations of Russian interference in the 2016 election) culminated in public outcry of widespread fraud in 2020.

Indeed, a recent Gallup Survey found as much as 59% of voters no longer trust our elections. Voting and the right to vote is absolutely foundational to our democracy. Without faith in our elections process, fewer members of the public will likely choose to exercise that right. Lowered confidence in our election system, and thereby lower turnout, is a threat to our democracy we should not take lightly.

Many election administrators and officials have pointed to the fact that unprecedented turnout in 2020 stress-tested our elections system. Still, around 40% of the eligible population did not cast a vote. For a robust democracy, we must invest in and build a system that can withstand ever greater turnout in future elections.

In order to do this, this Committee undertook the foundational work of investigating the 2020 election — from both the perspective of election administrators, officials and workers and the perspective of the observing public. The Committee embarked upon hours of public testimony, the review of countless documents and presentations on the 2020 election, and careful review of the elections process itself.

This Committee found no evidence of widespread or systematic fraud in Michigan's prosecution of the 2020 election. However, we cannot and should not overlook severe weaknesses in our elections system. Whether it is lack of clarity in the tabulation of ballots, unnecessary barriers to ensuring that every lawfully cast ballot is counted, inconsistent poll worker or challenger training, or simply a system not primarily designed to handle ballots cast absentee or otherwise prior to Election Day, it is the opinion of this Committee that the Legislature has a duty to make statutory improvements to our elections system.

This Committee exhausted every resource available to it to thoroughly and faithfully examine our elections process in Michigan and drill down on claims and testimony specific to the 2020 election. However, this investigation should not be considered exhaustive. Remaining conscientious of the limitations of this Committee, every possible investigative avenue was not undertaken. Nevertheless, this Committee stands steadfastly behind the recommendation that our current elections system requires change in order to meet the future challenges presented by modern voting preferences, behaviors, and threats. There are clear weaknesses in our elections system that require legislative remedy.



REPORT ON **THE NOVEMBER 2020 ELECTION IN MICHIGAN**LETTER FROM THE CHAIR  
**SENATOR EDWARD McBROOM**

When I agreed to begin investigating the election, rumors and uncertainty were rampant. Allegations of markers bleeding through ballots, voter intimidation, dead voters, mystery ballot dumps, foreign interference, and ballot harvesting were just a few of the issues during the first days following the November 2020 election. Emotions and confusion were running wild across the country. Fears and hopes were had by every person, including myself.

On one hand was the hope some had to overturn the election. That hope was necessarily coupled with a dreadful reality that our elections were unsound. On the other hand was hope the election was accurate, coupled necessarily with those who feared the direction the victor would take the country.

I made it clear at the start that the investigation effort would be taken with a firm commitment to truth and a goal to reassure the citizens of this state that their votes counted. Within a few weeks, the State Board of Canvassers also unanimously requested the Legislature conduct a serious investigation into the election.

I believe the people deserve to know all the truth and to see their representatives seeking answers. People were understandably confused by new laws, practices, orders and determinations from the governor and secretary of state and it is right and proper for them to demand answers. This right and obligation was unfairly and unfortunately discounted by many on my own side of the aisle after the 2016 election when the other party lost and felt sure some illicit or improper actions must have taken place. When they did regain power, they were quick to utilize all of it to spend two years chasing every conspiracy and specious allegation. I pray my own party will not repeat this mistake for the next four years.

Digging into the mechanics of the election was labor intensive, but very revealing. We found both real vulnerabilities and resiliency to the systems. We also discovered the extent to which our elections officials go to facilitate our elections. The report goes into considerable detail on many of these issues and I hope readers will be reassured by the security and protections in place, motivated to support reforms that are needed, and grateful to our fellow citizens that do the hard work.

The greater challenge to this effort has been seeking the truth amid so much distrust and deception. Our present times are full of reasons for citizens to distrust their government, politicians, and leaders. The last year has seen so much amplification of this distrust. Perhaps it has never been more rampant and, certainly, modern communication helps to fan the flames of lies and distrust into an unquenchable conflagration.

"All politicians lie" is the popular axiom. Unfortunately, lies and deceit are not exclusive to politicians. Throughout our investigation, members have been actively following and engaged with various persons and reports. We have collectively spent innumerable hours watching and listening and reading. Some of these people and reports are true. Unfortunately, many of them are not, either because of a misunderstanding or an outright deception. As is often the case, the truth is not as attractive or as immediately desirable as the lies and the lies contain elements of truth.

Regardless of my status as a chairman, senator, politician, Christian, or human, I do not expect or desire my words in this report to be simply accepted. Instead, I ask all to simply put into

(Continued)

REPORT ON **THE NOVEMBER 2020 ELECTION IN MICHIGAN**

LETTER FROM THE CHAIR

**SENATOR EDWARD MCBROOM**

their determinations the same particular guidance all persons ought to consider when weighing evidence. We must all remember: "extraordinary claims require extraordinary proof" and "claiming to find something extraordinary requires first eliminating the ordinary." Also, sources must lose credibility when it is shown they promote falsehoods, even more when they never take accountability for those falsehoods.

At this point, I feel confident to assert the results of the Michigan election are accurately represented by the certified and audited results. While the Committee was unable to exhaust every possibility, we were able to delve thoroughly into enough to reasonably reach this conclusion. The strongest conclusion comes in regard to Antrim County. All compelling theories that sprang forth from the rumors surrounding Antrim County are diminished so significantly as for it to be a complete waste of time to consider them further.

Most of the rigorous debate over additional audits comes from fears surrounding the technology used and its vulnerabilities as allegedly demonstrated in Antrim County. Without any evidence to validate those fears, another audit, a so-called forensic audit, is not justifiable. Michigan's already completed post-election audit and risk-limiting audit are also far more substantive than Arizona's standard audit. However, I am keeping a close eye on the legislatively-initiated forensic audit in Arizona and will continue to ask questions regarding other election issues I feel are not settled. If genuine issues are shown in Arizona's audit or from continued investigation here, I will not hesitate to ask the Committee to consider recommending an audit or amending this report.

I must acknowledge and thank my staff including Jeff Wiggins and Paul Burns that spent so much of their work and personal time on this report. I also want to thank my current Committee members, along with all of those that participated and served during these hearings last term, including Sens. Lucido, MacDonald, and Santana, as well as Representative Hall and the members of the House Oversight Committee. Staff from those offices, the Senate, and the Committee's clerk all went above and beyond to facilitate these hearings in very difficult situations and deserve sincere thanks. Finally, as the report says in its conclusion, I want to thank the citizens of this state. Whether or not one agrees with the report or even the conducting of the investigation, those opinions were shared with myself and the Committee. An active and passionate public is critical to maintaining our republic and your participation is reassuring that attribute is alive and well.

Sincerely,



Sen. Ed McBroom, Chair

## REPORT ON THE NOVEMBER 2020 ELECTION IN MICHIGAN

### I. INTRODUCTION

Beginning on Nov. 7, 2020, the Senate Oversight Committee (the “Committee”) commenced an inquiry into claims of election fraud and impropriety. Chair McBroom made clear that the purpose of this inquiry was not to change the outcome of the election for President of the United States. Rather, the goal of the Committee was to provide elected officials and Michigan residents a better understanding of where the administration of elections can be reformed and strengthened, ensuring that Michigan citizens can have confidence in our election processes. This report contains findings and suggestions developed from 28 hours of testimony from almost 90 individuals spanning nine committee hearings, the review of thousands of pages of subpoenaed documents from multiple government entities, hundreds of hours of Senate staff investigation, and countless reviews of claims and concerns from Michigan residents. A detailed examination of all evidence presented to the Committee established an undeniable conclusion; while there are glaring issues that must be addressed in current Michigan election law, election security, and certain procedures, there is no evidence presented at this time to prove either significant acts of fraud or that an organized, wide-scale effort to commit fraudulent activity was perpetrated in order to subvert the will of Michigan voters.

### II. ACTIONS AND OBJECTIVES

The Committee’s primary objective was to produce an informative and actionable report by undertaking the following actions: 1) Investigate claims of impropriety, fraud, error, and mismanagement of certain election processes; 2) Determine whether any of the claims brought forward were substantiated by evidence; and 3) Identify areas of Michigan election law where reform or an updating of the statute may be required in order to ensure transparency and confidence in the election process. The Committee made it clear that first-person accounts reporting alleged improprieties were given higher value as evidence to address these claims, in addition to professional and expert testimony regarding the technical operation of state and local election procedures and vote tabulation.

### III. ISSUES AND ALLEGATIONS

1. Deceased and Non-Residents Voting
2. Unsolicited Absentee Voter Ballot and Application Mass Mailings
3. 3rd Party/Private Funds Used for Public Election Activities and Equipment
4. Rights and Duties of Poll Challengers/Watchers Improperly and Unlawfully Restricted
5. Antrim County Results
6. Operating Issues with Tabulators and Precinct Computers
7. Signature Verification Process
8. Jurisdictions Reporting More Than 100% Voter Turnout
9. Absentee Ballots Tabulated Multiple Times
10. Thousands of Ballots “Dumped” at the TCF Center on Election Night/The Next Morning
11. Vote Totals Abnormal Compared to Past Presidential Election and Other Vote Count Irregularities
12. Additional Issues
13. Audits

## REPORT ON THE NOVEMBER 2020 ELECTION IN MICHIGAN

### IV. INVESTIGATION AND FINDINGS

#### OVERVIEW OF INVESTIGATION

The Committee received many complaints of election fraud throughout the state in the days following the 2020 election. The Committee reviewed these claims through several avenues, including but not limited to the manners outlined below:

- Engaged with local and county election officials to discuss the procedures utilized to administer the election, in addition to confirming certain vote totals where alleged misreporting occurred.
- Researched the claims of deceased individuals having a vote cast in their name by reviewing obituaries, various online databases, social media posts, as well as speaking with individuals who made the claims or were the subject of those claims.
- Called individuals who were said to have received unsolicited absentee ballots through the mail.
- Subpoenaed and reviewed documentation of communications from the secretary of state's office regarding pre-election mailings.
- Subpoenaed and reviewed documents and communications from the Livonia and Detroit city clerks related to election activities and vote tabulation.
- Received testimony from Kent County Clerk Lisa Lyons, Ingham County Clerk Barb Byrum, Lansing City Clerk Chris Swope, and Grand Rapids City Clerk Joel Hondorp, regarding the election processes in their respective municipalities and any reforms they would recommend.
- Received testimony from Antrim County Clerk Sheryl Guy, detailing the events that led to the reporting of incorrect, unofficial vote tallies which cascaded into accusations of vote switching and machine tampering in Antrim County.
- Received many hours of first-hand testimony regarding the events that transpired at the TCF Center on and around Election Day. This testimony was in addition to the more than 200 sworn affidavits submitted by first-hand and second-hand witnesses that were reviewed by the Committee.
- Received testimony from Chris Thomas, the Senior Elections Advisor for the city of Detroit at the time of the November 2020 election and former Michigan state director of elections, who was stationed at the TCF Center.
- Received testimony from Dominion Voting Systems CEO, John Poulos, on the company's role in providing voting equipment to several Michigan municipalities and whether they played a role in the reporting of incorrect results in Antrim County. Testimony was also received from officials representing Dominion competitors, Election Systems & Software (ES&S) and Hart InterCivic regarding those same issues.
- The chair and individual committee members researched additional claims of election fraud or impropriety made by individuals in Michigan and from across the country.

**REPORT ON THE NOVEMBER 2020 ELECTION IN MICHIGAN**

- Received testimony from Republican and Democratic party officials regarding election training for volunteers and workers, and how that training, or lack of, impacted the events at the TCF Center and other polling places.
- Received testimony from Monica Palmer, Chair of the Wayne County Board of Canvassers, on what she experienced during the canvassing process in the 2020 election and how it could be improved.
- Met with other canvassers from around the state to understand their process and receive their observations.
- The chair and individual committee members met with various clerks around the state to discuss problems, allegations, and solutions.
- The chair and committee members spent countless hours watching and reading documentaries, news stories, and presentations regarding election issues.
- The chair and committee members examined the testimony provided by witnesses in front of the House Oversight Committee.
- The chair followed many allegations to specific sources and involved parties to ascertain the veracity or feasibility of such allegations.



## REPORT ON THE NOVEMBER 2020 ELECTION IN MICHIGAN

### FINDINGS

#### 1. Deceased and Non-Residents Voting

The Committee researched these claims and concluded that most were false. There were two claims of deceased individuals casting votes that were found to be true; one was a clerical error while the other was a timing issue. The Committee concluded that none of these constituted fraudulent election activities or manipulations. The Committee also received claims of citizens who no longer live in the state of Michigan but had allegedly voted in the state's elections. These claims proved to be false upon researching each incident brought to the Committee's attention. An example of some of the claims are detailed below (the names of the individuals have been omitted to respect their privacy).

A widow from the Grand Blanc/Burton area claimed her husband, who passed away in 2013, had voted in the 2020 election. Senate staff searched the state database with the information provided by the individual and were not able to find her husband in the database. This would indicate that he had been removed from the voter database and his identity could not have been used to vote in the 2020 election.

A husband and wife, formerly of Jackson County and now living in Louisiana, claimed they saw documentation online that they had voted in Michigan during the 2020 general election. After researching the claim, it was discovered that they were mailed an absentee ballot application and are still registered to vote in Michigan. However, the state website shows that the local clerk did not receive returned and completed absentee ballot applications in these voters' names.

The Committee was also provided a list of over 200 individuals in Wayne County who were believed to be deceased yet had cast a ballot. A thorough review of individuals on that list showed only two instances where an individual appeared to have voted but was deceased. The first individual was a 118-year-old man whose son has the same name and lives at the same residence. The Committee found there was no fraud in this instance but was instead a clerical error made due to the identical name. The second individual was a 92-year-old woman who died four days before the November 2020 election. Research showed she had submitted her completed absentee ballot prior to the November 2020 election and prior to her death. Notably, research showed the secretary of state and clerks were able to discover and remove approximately 3,500 absentee ballots submitted by voters while they were alive but died before Election Day, which is a commendable accomplishment.

**The Committee recommends county clerks be given the ability to assist in removing deceased voters from the Qualified Voter File (QVF). The Committee also recommends the secretary of state research and pursue methods, including statutory changes, that would prevent and identify those voting in multiple states.**

## REPORT ON THE NOVEMBER 2020 ELECTION IN MICHIGAN

### 2. Unsolicited Absentee Voter Ballot and Application Mass Mailings

Citizens across the state were left confused and frustrated by the arrival of applications for long deceased family members, those who have moved to other states, or persons never present at that address. It appears the lists chosen by the secretary of state's Bureau of Elections were often older and previously purged. Local clerks were also frustrated as the applications duplicated some of their work and caused citizens to call on them for answers. Finally, the original mailing appeared to be not set up to return to the secretary of state to at least inform them of undeliverable applications.

The Committee subpoenaed the secretary of state for communications related to pre-election mailings. While a court ruled that the Secretary of State was permitted to send these mass mailings, there were significant communications between the department and Rock the Vote, a group which tends to target young persons and those with more left of center political leanings.

During the review of these communications, the Committee was simultaneously researching claims made in testimony and in court filings related to the absentee ballot process. Many court filings and individuals highlighted a data spreadsheet by an individual who claimed to have worked with "experts" to determine whether individuals had received an unsolicited absentee ballot. The spreadsheet indicated that "289,866 illegal votes" had been cast. This figure came from the Voter Integrity Project. To arrive at this number, the group used a methodology where they called 1,500 voters and asked if they had received a ballot without requesting it, something that would be illegal although not specifically indicative of fraudulent voting. The number of affirmative answers were then extrapolated out to 289,866 voters statewide receiving these ballots which are defined as "illegal ballots." The repeated use of the terminology "illegal ballots" is misleading and causes significant confusion as it implies fraudulent votes or votes received that do not come from legitimate sources or should not be counted. However, while it may not be lawful to send ballots without first receiving an application, voting this ballot is not an illegal action by a lawful voter and it is not indicative of fraudulent or illicit behavior of the voter nor of an illegitimate vote.

The Committee called forty individuals from this list at random. Only two individuals reported having received an absentee ballot without making a proper request. One of the two individuals is labeled as a permanent, absentee voter within the state's QVF file, indicating that they had, at some point, requested to be placed on that list. The other individual voted via an absentee ballot in the August primary election, and it is possible they checked the box to vote absentee in the subsequent election and simply forgot they had chosen this option. Throughout discussions with these individuals, as well as others who claimed they had received an unsolicited ballot, it became clear that many equated receiving an absentee ballot application with receiving an absentee ballot. These are separate steps in the absentee voting process, with receiving an absentee ballot requiring that an application be completed and submitted by the voter. **There was no evidence presented to the Committee indicating that hundreds of thousands of absentee voter ballots were mailed to Michigan voters without previously being requested.**



## REPORT ON THE NOVEMBER 2020 ELECTION IN MICHIGAN

Further inquiry conducted by the chair and committee members with county and local clerks confirmed how difficult it would be for a citizen to attempt to fraudulently utilize the ballot of another, if the stolen application addressee voted at their actual, present location in Michigan. While the act of obtaining and submitting the ballot of another individual is not impossible, committing voter fraud in this manner undetected is unlikely, as the Qualified Voter File would immediately have a notation of the vote for the voter and the second attempt to request a ballot or to vote would not be allowed without investigation and explanation. Whether the real voter or the fraudulent

**The Committee concludes this demonstrates a clear vulnerability for fraud that may be undetected, if the actual voter does not vote at all. If the actual voter does vote, it will create turmoil and draw attention from state and local officials. However, the lack of any such incidents or turmoil in the November 2020 election creates a clear probability that no such efforts were committed to any significant extent. The chance of encountering the attempted double vote scenario is so statistically unlikely as to make impossible even a small effort to do so.**

Additionally, the mailing of unsolicited applications allows for two other related vulnerabilities. Applications sent to the former Michigan addresses of those moved out of state and applications sent to the new addresses of former Michigan citizens now registered to vote in another state constitute a real and virtually undetectable potential for fraudulent activity. The Chair's research into this topic, as well as a review of testimony provided by the secretary of state's director of elections to the Senate Elections Committee in October 2020, make it clear that there is essentially no mechanism in place to prevent counting votes from those who may be also registered and vote in another state, whether done by themselves or the recipient of an application at their former Michigan address. As there are no efficient or established procedures to confirm or detect this, it is not possible for the Committee to report on any occurrences or to have confidence no such actions occurred. However, with mass mailings of absentee ballot applications being mailed across state lines to many who no longer reside or vote in Michigan and to thousands of former addresses in Michigan, the situation must be addressed to ensure that those individuals are voting only once in an election, are doing so only in the state of their residence, and that no one is impersonating them at their old address.

The serious, potential outcomes of these vulnerabilities versus the minor effort to request an application make a strong and compelling necessity to not provide such applications without a request from a voter - as was standard practice until this past year. **Therefore, the Committee recommends the Michigan secretary of state discontinue the practice of mailing out unsolicited applications. The Committee also recommends only the current QVF being utilized by the state or locals when making mailings to registered voters of any nature.**

There were several reports of nursing home bound parents or other family members with dementia having a record of voting. **While the Committee was unable to reach any conclusions regarding the extent of such claims, additional training and clear instructions to caretakers or facility staff ought to be provided in such circumstances to clarify how and when such voting assistance is appropriate. The Committee also recommends pre-filled out applications from any source be disallowed as well.**

## REPORT ON THE NOVEMBER 2020 ELECTION IN MICHIGAN

### 3. 3rd Party/Private Funds Used for Public Election Activities and Equipment

A summary of the work and findings on this issue is not finalized at this time and may be amended to this report at a later date.

### 4. Rights and Duties of Poll Challengers/Watchers Improperly or Unlawfully Restricted

The Committee received claims that challengers from the Republican party were discriminated against and removed from polling locations without cause. There were also claims that challengers were not allowed to return to counting rooms and were supposed to sign in and out of the room but had not received that instruction. They were frequently required to stand six feet or more away from tables and workers in the normal exercise of their duties, despite a court settlement that ensured their right to monitor election procedures, within six feet when necessary. The Committee also received testimony that contradicted some of these statements and provided a different viewpoint. Volunteers and workers from both the Republican and Democratic parties made claims of hazing, rudeness, bigotry, racism, and other offensive behavior occurring while election activities were still underway. Several of the issues, such as the management of the official record of challengers allowed in or out, may have been simply driven by the situation with COVID-19 and will not be relevant again. Reports were heard of calls to citizens, ostensibly made by Republicans, informing them to come and vote on Wednesday rather than Tuesday. While many accusations will remain just that, one thing is perfectly clear: the rights and duties of poll watchers and challengers must be better understood and reinforced in their respective training and must be protected equally by election officials. This is an area in need of much reform and greater clarification in election law.

Additionally, there is significant evidence that the recruitment of Republican poll workers for Wayne County encountered significant obstacles. Many witnesses testified to volunteering but not hearing back from the county or being told there were already enough workers. Others testified to a particular moment at the TCF Center when workers were surveyed for party affiliation and only a few there raised their hands as Republicans. The Committee understands the logistics of recruiting Republicans for Wayne County and the city of Detroit can be difficult but finds the repeated reports of volunteers not being accepted or not having their emails returned troubling. Obtaining the proper ratios of partisan workers is of critical importance, especially ones from the local area.

**The Committee encourages the Wayne County Republican Party and officials in the county and city clerks' offices to work together to obtain the correct number of workers for each election. Further, the Committee asks the Bureau of Elections to investigate and provide to the Committee an evaluation of partisan poll worker recruitment in Wayne County and the city of Detroit.**

These issues were clearly reflected in the activities that occurred at the absentee counting board at the TCF Center. At one point, an audio recording was released of an apparent election training session in the city of Detroit where workers were instructed to maintain six feet between challengers and poll workers, due to COVID-19 precautions. Prior to the election, a court settlement ensured poll challengers could monitor election activities within six feet when necessary. After the settlement, clerk staff, like other election staff across the state, were to be informed of the ruling and how it would affect their activities on Election Day. Testimony was received by the Committee indicating that the settlement, which was reached after many workers completed their training, was not well known among the workers at the TCF Center. It is easy to see how

## REPORT ON THE NOVEMBER 2020 ELECTION IN MICHIGAN

this led to significant confusion and conflict, particularly as many workers had genuine fear and concern over their proximity to persons during the pandemic.

Contributing to the confusion and hostility of poll watchers and challengers was the differing opinions regarding the actual rights and duties of those individuals. These conflicts were only amplified by the partisan and ideological nature of the volunteers, despite some not affiliating with a political party. Multiple days of testimony from Republicans and Democrats made it clear that Republican challengers were committed to ensuring that challenges were issued and recorded when information was presented to indicate a voter was not, or may not be, eligible. Representatives of Michigan Democrats, however, indicated in testimony before the Committee that their specific training regarding the duties and obligations of challengers is to not ever challenge any ballots. While it was clear they recognized the legal reasons for challenging, they also called the law “archaic” and affirmed they train their challengers to not issue any challenges. They believe their obligation is to assure no vote is disqualified. One Democrat official even noted their reason for being there was to keep an eye on Republicans, not to challenge ballots. This significant difference of opinion and action contributed to some of the misunderstandings and tensions that occurred at the TCF Center, as each partisan observed the other failing to comprehend their duties or felt their duty was specifically to confront the other side.

The concern of partisan volunteers cloaked as Independent challengers through non-profit or third-party entities only added to the accusations of an unfair or unbalanced election environment. The Committee heard testimony and saw evidence that independent observers and challengers were frequently operating for one of the two major parties making their labels as Independents confusing and unhelpful.

It is apparent that the environment at the TCF Center became intolerable and the reactions to it must be understood in this light. While mistakes were clearly made by officials on all sides, it must be acknowledged that many of them were attempting to simply do their job during a time of increasing confusion and distrust. It is impossible for the Committee, or any legal entity, to sort through all the events or persons at fault. However, it appears obvious and reasonable to conclude that confusion, fear, misunderstanding, and even chaos occurred at the TCF Center to varying degrees on Nov. 3 and 4. The environment and those emotions were compounded by a lack of proper recruitment and/or training of election workers on the part of the clerk, as well as a failure of the Republican party to verify recruitment and training, supply an adequate number of election attorneys, and to properly train and counsel some of their volunteers and challengers.

Republican officials, along with some ostensibly Independent challengers, furthered the crisis by putting out the call to other members and citizens to descend on the location to stop what was described and presented as a stealing of the election. The descent into disorder with so many extremely concerned citizens elicited responses from poll workers that seemed necessary to them at the time, such as covering windows, calling police, denying lawful challenges, and removing challengers. Those actions by both sides were not always lawful or wise, and increased the angst and fears of the untrained challengers and observers, as well as the many in the public who did not understand what was shown to them by the media. **Despite these mistakes and, potentially, illegal**

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actions, the Committee found no evidence fraudulent activities were undertaken or that such actions led to irreparable harm to ballots or vote counting. Numerous safeguards, particularly the partisan make up of the election boards themselves, were not lost, despite these actions.

Therefore, the Committee recommends updating the requirements for challengers including the tasks and duties they are to preform, standards of conduct, and party affiliation. Additionally, clerks and parties need to be held to recruiting adequate workers, providing appropriate and uniform training including any recent law updates, and being able to instruct law enforcement in lawful responses to workers or volunteers creating a disturbance in the process of carrying out their duties. Officials need a clear chain of command in place for making decisions and being accountable, particularly if a crisis arises and if one of the leaders has left the premises. Finally, the Wayne County Republican Party and other, independent organizations, ought to issue a repudiation of the actions of certain individuals that created a panic and had untrained and unnumbered persons descend on the TCF Center. Both clerks and the parties need to take seriously their responsibilities of having properly trained and adequate personnel in place and the training ought to be uniform, regardless of party.<sup>1</sup>

### 5. Antrim County

Antrim County became the focal point of multiple theories and concerns surrounding the Nov. 3 election, as the unofficial results reported at the end of the tabulation for the county were later discovered to be in error. The common claim surrounding this mistake was that the votes for Donald Trump were switched with votes for Joe Biden, providing Biden with a win in heavily-Republican Antrim County. However, this claim is inaccurate and was explained before a joint hearing of the Senate and House Oversight Committees in November 2020 by the Antrim County Clerk, Sheryl Guy.

Due to a series of errors made within the county clerk's office, the unofficial votes received from polling places on election night did not transfer into their respective spreadsheet columns correctly. This shifted the vote totals over a column for several races across the ballot. These mistakes began months earlier when several late items were ordered onto the ballot in certain townships. Unfortunately, new logic and accuracy tests were not performed, as required by law. Programming at the clerk's computer was not updated to reflect these changes; however, tabulators in the precincts were updated and had no problems processing ballots on Election Day. Tally sheets printed at the close of polls never reflected the errors reported in the clerk's unofficial results. On the morning of Nov. 4, once it became clear that the unofficial results were inaccurate and did not match the official votes printed by the tabulators, efforts began to discover the cause of the errors. The clerk and her staff made several attempts to re-tabulate and resolve the problem before understanding the cause. This resulted in additional, incorrect vote counts being reported. Once the cause was isolated, ballots were re-tabulated and the correct results, which matched the original tabulator sheets from Nov. 3, were posted. Multiple checks were easily able to rectify the situation and later, **a complete hand recount validated the original, official results as accurate.**

<sup>1</sup> The Department of Attorney General informed the committee on June 15, 2021 that it has been investigating issues related to the events at the TCF Center, per an official request of former Senator and Oversight committee member, Peter Lucido. It indicated a report on findings is forthcoming.

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A prime example of a misrepresentation of facts that then mislead citizens is found on a chart on page two of Allied Security Operations Group's (ASOG) Antrim County Forensic Report. The chart, shown below, and the accompanying information, led citizens to conclude the election results were suspiciously changing for over a month after the election. It also could lead one to believe election officials and the Dominion tabulators were dishonest in their work by not representing the source of the specific numbers shown, even though the information is readily available to the authors of the report. Further, the authors also chose to present only some of the information, leaving out specific data that would evidence something besides a massive conspiracy or computer hack created the problem.

Date	Registered Voters	Total Votes Cast	Biden	Trump	Third Party	Write-In	TOTAL VOTES for President
Nov 3	22,082	16,047	7,769	4,509	145	14	12,423
Nov 5	22,082	18,059	7,289	9,783	255	20	17,327
Nov 21	22,082	16,044	5,960	9,748	241	23	15,949
Dec 17	22,082		5,959	9,759	244	20	15,962

This second chart fills in relevant and critical information about the data and provides additional data points to provide greater context to the observer. This data was available to ASOG and others utilizing the previous chart, yet they chose not to provide the context nor the additional data.

	Date	Registered Voters	Total Votes Cast	Biden	Trump	Third Party	Write-In	TOTAL VOTES for President	Note
1.	Nov. 4	22,082	16,044	5,960	9,748	239	23	15,970	Tabulator tapes-official results (Not reported on election night).
2.	Nov. 4	22,082	16,047	7,769	4,509	145	14	12,437	Clerk's computer-unofficial results (publicly reported).
3.	Nov. 5	22,082	18,059	7,289	9,783	255	20	17,347	First attempt to rectify discrepancy.
4.	Nov. 6	22,082	16,044	5,960	9,748	241	20	15,969	Completion of re-tabulation.
5.	Nov. 16	22,082	16,044	5,960	9,748	241	20	15,969	Official Vote report.
6.	Nov. 21	22,082	16,044	5,960	9,748	241	20	15,969	Canvass/certification
7.	Dec. 17	22,082	16,044	5,959	9,759	244	20	15,982	Hand Recount



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Row one shows the vote totals shown on the tabulator tapes at the close of the election. These numbers are critical as they demonstrate, when coupled with the hand recount, that no tampering or pre-installed, illicit programming ever took place on the tabulators. It also shows that no fraudulent ballots were added to the ballot boxes to cover up such hardware/software malfunctions. The minor changes from the first tabulation to the final canvas and hand recount are well documented by election staff and result from several spoiled ballots that were not able to be processed in subsequent runs and from ballots that could not be electronically processed but could be hand counted.

Row two contains the vote count reported by the Antrim County clerk's office on election night, which was the unofficial vote count. As is detailed in this report, these results were incorrect because the programming to receive the data had not been properly updated after changes were made to the official ballots in certain townships. The result was what amounts to a spreadsheet having its fields improperly aligned with the incoming data. This would have been caught by logic and accuracy tests. The discrepancies with the tabulator tapes should have been discovered before these results were reported.

Row three shows the struggle faced by the clerk's office to determine what went wrong and how to correct it. These results show a series of urgent but mistaken attempts to address the errors that led to double counting of some precincts and absentee ballots. The contemporary poll books and worksheets are clear proof of what was happening, showing handwritten notes and commentary. The records also show who was there trying to figure out how to solve the issue.

Row four shows the vote count after the errors were properly identified and ballots were re-tabulated. Clearwater Township was still experiencing issues and had to be added in by hand. Again, contemporary documents and worksheets are clear proof of the situation and work being done.

Row five is the official vote report filed with the state before the certification.

Row six contains the certified election results. These were certified Nov. 21 by the county board of canvassers. The results are virtually the same as the tabulator slips produced on election night with the discrepancies identified and explained in the minutes of their meetings.

Row seven is the results of the complete hand recount conducted on Dec. 17. When a hand recount is done, ballots that were previously unable to be tabulated electronically are sometimes able to be added. These changes are, again, well documented by the workers' notes made during this process.

**The Committee states that the data this chart summarizes, coming from the actual election artifacts in Antrim County, clearly and concisely shows that ideas and speculation that the Antrim County election workers or outside entities manipulated the vote by hand or electronically are indefensible. Further, the Committee is appalled at what can only be deduced as a willful ignorance or avoidance of this proof perpetuated by some leading such speculation.**

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There were many groups and persons from around the country that focused their attention on Antrim County as the most central point in their arguments and speculation. The county was mentioned by officials at the White House, in media, at rallies, and in several, substantial online documentaries. The Committee investigated the claims made by some of the more prominent groups and individuals.

The Allied Security Operations Group (ASOG) obtained access to the Antrim County voting tabulators and purported to perform a forensic audit. (ASOG and its co-founder were purveyors of the “fractional vote” and “more votes than registered voters” theories<sup>2</sup>). ASOG’s audit described stolen computer files, machines designed to provide incorrect results, manipulated software, and cyber-attacks. Utilizing the difference between the unofficial vote count and the final, official count, ASOG claimed the machines were inaccurate 68% of the time. However, ASOG never provided an explanation for how the official vote was accurately obtained on the tabulator slips in the same physical count as the incorrect unofficial results on which they focus. ASOG did not make any attempt to invalidate the claims of the clerk by demonstration. ASOG also claimed a loss of files regarding auto-adjudication, a method of curing absentee voter ballots that Antrim County does not utilize as further evidence of fraudulent activity. ASOG claimed the machines had “ranked-choice” balloting turned on when this is not possible on Michigan machines. Other entities (CyberNinjas and Halderman) showed this claim was untrue. ASOG ignored that the simple and most effective way to verify the results is to simply count all ballots by hand. Even after a hand recount verified the results in Antrim County, ASOG refused to retract its assertions.

Attorney Matthew DePerno was retained by an Antrim County resident to pursue legal action against the county and the state regarding the results of the election. Mr. DePerno has subsequently released various reports, videos, and statements regarding the election results, presenting the ASOG report, as well as work by Dr. Douglas Frank and Jeff Lenberg, as primary pieces of evidence. The Committee closely followed Mr. DePerno’s efforts and can confidently conclude they are demonstrably false and based on misleading information and illogical conclusions. In one recent video, Mr. Lenberg demonstrated how a hacked machine will incorrectly count ballots (reporting it on the official results printout) and how a hacked computer will show inaccurate results. However, neither of these demonstrations shows the explanation given by the clerk is untrue, nor do they explain how the actual official results sheet *did not* match the inaccurate unofficial results. Most critically, it does not explain how the hand recount verified the official results reported by the tabulators on election night. They simply proved hacked machinery will perform incorrectly. This is not evidence machines were hacked, and it is certainly not evidence that machines that performed correctly were hacked.

Further, the insinuations made depend on the tabulators being hacked *after* the logic and accuracy tests. Mr. DePerno, and others, insisted this was possible because the Dominion machines in Antrim County have modems or wireless chips installed. However, this is indisputably false. Antrim County did not utilize modems or any internet or wireless network to transmit voting results *ever*. This incredibly conclusive fact, along with the hand recount of the ballots, serve as the irrefutable bulwarks against all allegations. The cited proof of modems is from a quote for purchasing received by the county from Dominion, not an actual purchase receipt or physical sighting of any modems.

<sup>2</sup> The “more votes than voters” theory, repeated by President Trump’s attorney, Rudolph Giuliani, was based on an affidavit from the ASOG co-founder that cites several Michigan counties where there were allegedly more votes than registered voters. However, the affidavit cited several townships in Minnesota, not Michigan. Even if the document referenced the right state, the claims regarding the Minnesota townships still were not accurate, according to data from the Minnesota Secretary of State.

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Mr. DePerno's lawsuit, Exhibit 6, highlighted by former state Sen. Patrick Colbeck in a web post dated April 9, 2021 and entitled "Modem Chips Embedded in Voting System Computer Motherboards," feature a voting machine that is not used by Antrim County. Yet the suit draws the connection that the existence of such a machine, one that is not in Antrim County and not manufactured by Dominion at all, is evidence that the Dominion tabulators in Antrim County have the same technology. Committee members and others have been frequently approached by constituents who have been convinced that this is true of the Antrim County machines and all Dominion machines in general.

On June 11, internet and social media sources proclaimed the newest announcement from Mr. DePerno about Antrim County. However, the information provided appeared to be already available, but simply presented in a different light. The first allegation related to evidence of the clerk's Election Management System (EMS), a software package installed on her computer to manage the election. This is the same program that incorrectly reported the results on election night because it had not been properly updated with the late changes to ballots from certain precincts. **EMS is not connected to the tabulators.** The allegations focused on how the clerk's computer and the program were remotely accessed in the days following the election. This should not surprise anyone as the clerk, secretary of state, and the software company sought to determine what went wrong and how to fix it. At no time would this connection or activity have had an impact on the tabulators. More relevant, it could not have changed the tabulator slips, shown in the second chart, line one.

The June 11 video from Mr. DePerno also included what he concluded was dramatic evidence about specially made ballots, sent to Republican areas, that would more frequently fail in the tabulators. He then said such ballots would be sent to adjudication, where someone could determine them as Biden votes, even if they were not. This pronouncement is simply more blatherskite. Adjudication takes place with both Democrat and Republican workers, observers, and challengers present (Antrim County had no concerning or reported issues related to their challengers). Also, Antrim County did not have a high incidence of adjudicated ballots. Most important is the now repeated point of lines one and seven on the second chart above: the original tabulator slips and the hand recount match with only a few documented and easily explained ballot differences, dispelling any legitimacy to speculation of massive vote stealing by human or computer means.

**The Committee finds such actions to be misleading and irresponsible, diminishing the overall credibility of those asserting this conclusion.**

Dr. Frank has also worked independently of Mr. DePerno, appearing in various other reports and programming. He claimed his findings of patterns in voting demographics and results, along with disparities between census, registration, and ballot totals in given areas were conclusive evidence of a complex computer hack and conspiracy to manipulate vote counts around the nation. This theory, like Dr. Shiva's, alleged the installed "algorithm" switches or steals votes just enough to succeed while not being enough to raise suspicions. However, Dr. Frank's conclusions are not sound for several reasons. Census data is not recent, and people do not only move away (as he frequently contends) but others do move into an area. Coupled with same day registration,



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the notable red flags he spotted in the data are easily explained, e.g. young people do not vote as readily as older citizens, people's movements create disparities between registrations and the census, etc. The patterns he sees are not unexpected or unusual to elections or human behavior in general. His theories depend on the ability to hack into the tabulators before or during and/or at the end of the election. Many of the counties he and others identified as having been hacked do not even have modems or make any online connection to submit results. Those that do, do not connect the modem, which is physically separate from the Dominion tabulator, until *after* the polls are closed and the tabulators have printed the official results.

Events in Antrim County sparked a significant amount of concern about the technology used to count ballots. This concern led to much speculation, assumptions, misinformation, and in some cases, outright lies meant to create doubt and confusion. The many hours of testimony before the Committee showed these claims are unjustified and unfair to the people of Antrim County and the state of Michigan. It has also been unfair to people across America. The simple answer to all of this remains the most reasonable conclusion: human error and lack of training are the factors that contributed to inaccurate unofficial vote counts. These errors were quickly discovered and rectified by the protective and redundant systems our state has built to verify and protect election integrity, *including re-countable, paper ballots*. Even more significantly, the official vote count was never in doubt and was validated several times, including during a complete, hand recount.

**While extremely disappointed and frustrated with the obvious avoidable errors, the Committee commends the efforts of the Antrim County clerk, staff, and many volunteers that corrected these errors and gave their time for the canvass and hand recount. The Committee also recommends legislation strengthening the law regarding the conducting of logic and accuracy tests prior to the election, including penalties for failing to do so. The Committee recommends the attorney general consider investigating those who have been utilizing misleading and false information about Antrim County to raise money or publicity for their own ends. The Committee finds those promoting Antrim County as the prime evidence of a nationwide conspiracy to steal the election place all other statements and actions they make in a position of zero credibility.**

### 6. Operating Issues with Tabulators and Precinct Computers

Speculation and theories of fraud in the election appear most prevalent in the areas concerning voting tabulators, computers, software, hardware, and cybersecurity. In the testimony and information reviewed by the Committee, claims ranged from something as simple as "spikes" in the vote count that exceeded the physical capacity of the tabulators to machines that were simply inaccurate. However, more complex claims also emerged, claiming that tabulators were intentionally designed to manipulate the tally through fractional voting or swapping by hand, through software, or by cyber attacks that based their manipulation on the votes necessary to overcome candidate Joe Biden's early deficit to President Trump.

#### *Dominion Voting Systems, Election Systems & Software (ES&S), Hart InterCivic*

Michigan utilizes tabulators and election services provided through three different vendors, with the individual counties determining which vendor to use. All vendors must meet the specifications of the state's election laws which requires vendors to meet guidelines provided by the United

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States Election Assistance Commission (EAC). The EAC has rigorous standards regarding construction, material and code sourcing, reviews, and independent auditing conducted by certified third parties.

The Committee interviewed, under oath, the CEO of Dominion Voting Systems and the vice president of systems security & chief information security officer from ES&S. Hart InterCivic submitted written testimony. Despite many public denunciations of their collective testimony as inaccurate, no individual has provided any evidence to the Committee of such perjury or has filed any action in a court of law asserting such.

Mr. John Polous, Dominion CEO, denied multiple rumors regarding the company and provided references to verify his testimony that the company was not involved in elections in Venezuela and had no connection to Hugo Chavez, Nancy Pelosi, Diane Feinstein, or George Soros. He also denied the existence of Dominion servers in Spain and Germany, emphasizing that ballots remain local, are counted locally, and are not moved over state lines, let alone overseas.

Mr. Polous explained in detail how the operations of the Dominion machines are not compatible with the various theories being promoted, and that any of the accusations regarding counting ballots multiple times or scanning surplus ballots would easily be uncovered due to the poll books being unbalanced. Further, ballots that required auto-adjudication or duplication are accounted for in the poll books and create a computer log that is checked to prevent or detect double counts. Damaged ballots that require duplication are logged and could not be accidentally tabulated due to the damage that required the duplication.

### ***Fractional Voting***

The early allegation of fractional voting was supported by a few photographs which appeared to be screen shots from computer screens running the Dominion software. The chair specifically called for this information during public testimony as its existence would have been a profound demonstration of proof. However, despite numerous, repeated requests from the chair and assurances from those making the allegation, no proof, whether by demonstration or verifiable citation, was ever offered to or obtained by the Committee.

### ***Internet Connections***

Many observers insisted the vote tabulators at the TCF Center were connected to the internet. Chris Thomas, who served as the senior elections advisor for the city of Detroit, has asserted that this is simply not true. Other individuals who were at the TCF Center, such as former state Sen. Patrick Colbeck, insist that they were. It is true that every tabulator was connected to a local area network (LAN), which would create the same icon on a computer screen indicating a network connection as is shown by an internet accessible network. This may be a source of some of the confusion. Computers at the central control center, which were not connected to each precinct's LAN, were connected to a network that was connected to the internet, which may have also contributed to the confusion. Regardless, no evidence has been offered that the tabulators were connected beyond each LAN, and, in fact, the results from the tabulators at the TCF Center were transmitted to the clerk's office via flash drives, not electronic or cellular connection. Furthermore,

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and more importantly, there has been no evidence provided that such a purported connection led to alterations to machine programming, hardware, or the tabulated results or could have led to such changes. Finally, logic and accuracy tests are conducted on each tabulator prior to the election to confirm that pre-election procedures were followed properly. During the post-election audits, clerks verify that those tests were performed and that the machines and their programming were not tampered with during the election.

Many theories and speculation regarding tabulators not at the TCF Center also include a component that necessitate an internet connection. It is particularly important to note that Dominion voting machines that are not part of an absentee voter counting board do not have built in modems or wireless internet. Reports to the contrary are false, with some falsely labeling non-Dominion machines as Dominion machines to make it appear as if they do have wireless internet capabilities. The secure cellular modems some clerks use to transmit the unofficial results to the county clerk are not even turned on or connected to the tabulators until *after* the official results are printed by the individual machine.

### *Tabulator/Software Integrity*

There is no link in the election process chain more susceptible to unprovable and un-refutable speculation and suspicion than those involving the invisible lines of code and panels of circuits. These vulnerabilities can include tampering with machine code on site, via cyber attack, or by malicious programming by the proprietors of the machines.

There are many theories as to how compromising the integrity of the machines and software could have taken place, making it impossible to delineate each one separately. However, the answers and evidence against nearly all theories is generally the same. Reasonable deduction and logic stand to refute nearly all possible outcomes of a hack or attack, including the following theories: whether files including ballot images were hacked, a malicious algorithm was installed to switch votes, or a hostile, foreign force obtained a connection into a tabulator before, during, or after the election. In all of these situations, a simple recount or re-tabulation by the machine, after a logic and accuracy test, or by hand would demonstrate the theory to be consistent or inconsistent with the facts. This has been undertaken in multiple jurisdictions, both those in question and those not, all providing verification of the original, official results. Not one of these efforts demonstrated a problem with the tabulators or the software. There is no evidence to suggest the original, official results reflected anything but what was marked on the ballots.

Videos and reports of the ease of hacking current Dominion voting machines from outside of Michigan, e.g. Georgia, never demonstrated a vulnerability of the vote counting software or the tabulators. The chair contacted various officials from Georgia to understand the testimony and events in question there. Particularly, the testimony of Jovan Pulitzer, which purported to have on-the-spot access to manipulate voting files and vote counts, has been demonstrated to be untrue and a complete fabrication. He did not, at any time, have access to data or votes, let alone have the ability to manipulate the counts directly or by the introduction of malicious software to the tabulators. Nor could he spot fraudulent ballots from non-fraudulent ones. Notably, Georgia did conduct a complete, statewide, hand recount that validated the tabulators' official results.

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Many of the theories surrounding cyber attacks were consolidated into the visuals and narratives included in the “Absolute Proof” video series first presented in January 2021 and continuing into June 2021 by Mike Lindell (the video relied heavily on the situation in Antrim County and the report from ASOG). In summary, Mr. Lindell claims that attacks by foreign and domestic enemies were successful in obtaining access to the computers containing results at local and county clerks’ offices, as well as the secretary of state. In some cases, the supposed access included the actual tabulators.

However, this narrative is ignorant of multiple levels of the actual election process. Upon completion of the election, tabulators print the final results on paper. Clerks then connect a modem and transmit by secure, cellular connection or transfer by flash drive the unofficial results to the county clerk.<sup>3</sup> County clerks then report these unofficial results both locally and to the secretary of state. The secretary of state releases the unofficial results to media and their own page. Clarity, a Spanish based company, also takes in these unofficial results from the county or the state. This company, which is based in Spain and has servers in Europe, makes the unofficial results available to multiple users, especially media subscribers who utilize the unofficial results in their election night prognostications. ScytI and others are companies that provide similar services. All of these activities, especially due to media inquiries, constitute a significant explanation for much of the cyber activity across the country and the globe on election night.

Terminologies about the equipment used in elections leads to much of the confusion, particularly when used carelessly. Various documents, emails, and manuals discuss connectivity and servers. Certain persons have used these as proof that tabulators were connected during the election. However, the capabilities of the machines do not denote all of those options were operating during the election itself. Server connections and vulnerabilities, even errors, at clerk’s offices are not indicative that tabulators themselves were vulnerable or hacked. The presence of IP addresses do not prove votes were altered or programming was hacked. Servers have nothing to do with regular tabulators during the election.

While the clear and constant presence of cyber criminals is real, the exchange of “packets” of information between two computers speaking to each other is not evidence of successful hacking or changing of data. Moreover, it is not possible for anyone to now determine what might have been in those packets of information unless granted specific access to one of the two computers involved in the transaction. All the while, the official results remain on a printed piece of paper at the local clerk’s office and are not alterable to any reverse cyber attack. Most importantly, the paper ballots in the box are available for re-tabulation or recount at any time. Where this was done, no evidence of hacking or attack was ever shown. Nor did any official representative of the losing party call for a hand recount in any precinct so to prove an instance of such. If the losing party had been so confident of any of these cyber attack theories or software-based vote switching, simply asking for several hand recounts or re-tabulations in the various precincts would have demonstrated a genuine hack had happened and that there was necessity for additional recounts and investigations.

<sup>3</sup> ES&S and Hart InterCivic tabulators have internal modems, but not Dominion. However, they are not turned on until the polls are closed and tabulation has concluded. It is worth noting that these machines will likely have to be recertified, depending on whether they have 4G or 5G capabilities when the technology changes.

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Further, the graphics and charts in various videos claim very specific access and vote count changes in specific counties across Michigan but do not provide any references or evidence to demonstrate how that information was acquired. As mentioned above, once the data is transmitted, there is no way to know what was sent without access to a computer on either side. No clerk or election official in any of these counties was informed how these numbers were calculated or known (except the numbers shown for Antrim County, which mirror the numbers shown to have occurred by human error). While showing these numbers is compelling, there is no source provided, but the viewer is led to believe Mr. Lindell's experts have received access to each of these counties' or precincts' computers and discovered a connection and hack occurred along with exactly what data was transmitted. No such activities took place at any of these locations with which the Committee had contact.

The chair spoke with clerks in several of the counties listed by Mr. Lindell's experts. These clerks had no explanation for numbers his reports show as being flipped votes, nor had they had any interaction with any persons making these allegations. Moreover, clerks in these counties performed random hand recounts in various precincts or townships and found zero change to the official, canvass results. Other clerks did full county re-tabulations and found zero change. For these actions to not contradict Mr. Lindell's allegations would mean all the clerks surreptitiously or incidentally chose precincts or townships that were not involved with the hack his experts claim occurred or allowed their tabulators to be compromised. The Committee finds this is beyond any statistical or reasonable credulity.

### *Canvassing and Out of Balance Precincts*

The canvassing process that is conducted at the county level in each of Michigan's counties always serves as the check on most irregularities that may occur during the initial tabulation. If paper ballots are significantly unbalanced when compared with the number of votes reported in poll books, this constitutes a clear indication that something went wrong. Often, the imbalance arises when workers do not immediately account for the necessity of copying overseas ballots or damaged absentee voter ballots. It also occurs when a voter decides to leave the polling place without correcting a spoiled ballot or submitting their ballot. Other causes come from empty absentee voter ballot envelopes, or couples including both of their ballots in one envelope.

Some of the highly out-of-balance precincts at consolidated Absentee Voter Counting Boards (AVCB) were likely from mistakes made with the high-speed tabulators, something that several citizens swore to have witnessed in affidavits and other testimony. When these imbalances appear after Election Day, it is the board of canvassers, or in Wayne County, their chosen agent, the clerk, that can make the decision to perform a further review to correct any irregularities that are discovered. Re-tabulation of the paper ballots and a thorough examination of the poll books are critical parts to the canvass process, allowing the books and ballot boxes to reach balance.

Technically, the imbalances that remain after the canvass could exist due to fraudulent activity. Unbalanced precincts are unfortunate and are something that should be addressed in the future. However, the unbalanced precincts in Michigan counties were marginal and, in no way, would have impacted the outcome of the Presidential election. There were fewer precincts with an imbalance



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in this election than in previous ones. **Developing best practices and training election workers on how to maintain balanced precincts is recommended. There is much discussion on allowing some out-of-balance precincts to be eligible for recount but testimony the Committee heard from several clerks indicated they did not support this. Therefore, the Committee makes no recommendations on this issue.**

The Committee did learn during testimony that Wayne County's Board of Canvassers operates differently than most other counties, shifting the actual canvass responsibilities to the county clerk and their staff. Once the canvass is complete, the board receives a report, that is unusually anemic in its details of how imbalances were rectified. This is unfair to those serving on the board, as well as the voters of Wayne County, despite being permitted by law. A transparent canvass, overseen by those not responsible for the actual election process, allows citizens to understand how imbalances occurred and how they were rectified while having confidence that there was not a conflict of interest for those performing the canvass.

**Canvassers ought to be intimately involved in the process and the law should be changed to provide consistency and transparency in the canvassing process. Furthermore, it would be wise to allow for larger boards in higher population areas and to provide additional time to complete the canvass to rectify any irregularities.**

### 7. Signature Verification Process

The Committee was made aware of claims that election workers at the TCF Center in downtown Detroit were instructed to not match signatures on envelopes and furthermore were instructed to "pre-date" the received date of absentee ballots. To the contrary, these processing steps — signature matching and verification of the date received — occurred at another location and were completed by other employees prior to the time the ballots were sent to the TCF Center for counting. Workers at the AVCBs are to check for the clerk's signature and time stamp as well as making sure the voter signature is present. However, the validation of the voter signature by the clerk's office is indicated by the clerk's signature and stamp. As for the "pre-dating" allegation, Detroit Senior Election Advisor Chris Thomas explained this date field is necessary for processing the ballot. Without the voter present, there is no way to have that date, which was recorded into the QVF by the official who took the same day registration at another location. Since the poll books at the AVCB are not connected to the QVF during Election Day, there is no way to check what was entered at the site where the voter registered. Therefore, a "placeholder" date is entered, and the poll worker assumes the official accepting the registration did their due diligence.

Kent County Clerk Lisa Lyons, and Ingham County Clerk Barb Byrum, both testified regarding the possible requirement of a "real time" signature when applying for an absentee ballot, indicating it would be highly preferred rather than performing the application process online. In addition to the preferences of election officials, the Michigan Court of Claims struck down Secretary of State Benson's guidance on signature matching, which required workers to presume the validity of signatures, ruling that the required presumption of validity is found nowhere in state law and mandating such was a direct violation of the Administrative Procedures Act.

## REPORT ON THE NOVEMBER 2020 ELECTION IN MICHIGAN

After reviewing these facts and receiving the testimony of experts and clerks, it is abundantly clear that the signature verification process is one of significant importance. With new policies in place due to the adoption of Proposal 18-3, current election procedures do not require a new voter to, potentially, ever make face-to-face contact with an election official or staff throughout the process of registration, requesting an absentee ballot application, or completing and submitting their ballot. Therefore, requiring a voter to confirm their identity at some point during the process is imperative. Whether providing a “real time” signature, a government-issued photo identification card, or other unique personally identifying information, like a driver’s license number or a state identification number, requesting that a voter provide one of these easily-accessible identifiers will go a long way to strengthen the integrity of our system, while supporting the new, more efficient way of administering our elections.

**Therefore, the Committee recommends that the secretary of state begin the process of establishing actual rules for examining and validating signatures consistent with a ruling of the Michigan Court of Claims. The Committee also recommends that statewide measures be put in place to ensure eligible voters are not unreasonably denied access to vote if there is an issue with their signature. Finally, the Committee recommends that reasonable measures be put in place to ensure voters can easily and properly identify themselves when exercising their right to vote.**

### 8. Jurisdictions Reporting More Than 100% Voter Turnout

The Committee received and heard claims that jurisdictions had more than 100% of registered voters voting. Here are some of the local municipalities that had claims of a higher voter turnout than there were actual registered voters:

<i>Municipality</i>	<i>Claim</i>	<i>Actual</i>
Oneida Township	118%	Approximately 80%
Zeeland Township	460.51%	Precincts ranged from 74.46% – 84.80%
Spring Lake Township	120%	Precincts ranged from 66.74% – 84.15%
Gladwin Township	215.21%	67.23%
Summit Township	Over 100%	71%
Detroit	More Votes than Voters (Trump Claim)	250,138 votes = Under 50% of registered voters in the city and only 37% of the total population.

## REPORT ON THE NOVEMBER 2020 ELECTION IN MICHIGAN

### 9. Absentee Ballots Were Tabulated Multiple Times, Increasing Vote Total

Some individuals claimed that many ballots were counted multiple times when they were re-submitted through the high-speed tabulation machines. The Committee heard from several persons and read many affidavits claiming to have first-hand knowledge that this issue occurred. Investigation does show it is possible to cycle a completed stack through the tabulator multiple times as long as no errors occur. Bundles of ballots go through the tabulator so quickly that a simple jam or other error necessitates the entire bundle being restarted. Workers cannot restart the stack unless they first clear the partial count and start from zero by pressing a button.

If ballots were counted multiple times, this would have created a significant disparity in the official pollbook. This was the testimony of several witnesses, including Chris Thomas and Monica Palmer, Republican chair of the Wayne County Board of Canvassers. Specifically, the pollbook would show that many more votes were cast than the number of people obtaining a ballot. This was the case at several counting boards at the completion of the original tabulation. However, the actual imbalances that remained after the canvass show this problem was rectified. Rectifying precincts where this mistake happened is usually not difficult to do and involves taking the ballots out of the box, counting the total number to see if it matches the poll book, and processing all the ballots through the tabulator again. The balanced poll books and the remaining imbalances do not indicate this problem any more, showing it was corrected. Remaining imbalances are likely connected to some of the other reasons addressed in finding number six, namely, empty envelopes, ruined ballots, etc.

**The Committee recommends that tabulator companies develop machines that place tabulated ballots into a box that has no access for poll workers while placing uncounted ballots in another tray to be checked and placed in the tabulator when ready. This would assure such an error cannot occur and that no reset and restarting of a full stack is necessary.**

### 10. Thousands of Ballots Were “Dumped” at the TCF Center on Election Night/The Next Morning

Several individuals testified and claimed that tens of thousands of ballots were “dumped” at the TCF Center on election night, when reported vote tallies showed that President Trump was still in the lead. They allege this occurred between 3 – 5 a.m. and that they were brought onto the floor to be counted. Chris Thomas, the senior elections advisor for the city of Detroit, stated he estimated 16,000 ballots were delivered to the TFC Center around that time. Some other persons and media speculated it was nearly 100,000, but most reported about 30,000-45,000. These ballots were submitted throughout Election Day at different locations, such as drop boxes, in the mail, and at the clerk’s main and satellite offices. After the ballots were compiled and processed at the clerk’s office, after the closing of polls at 8 p.m., they were brought to the TFC Center for counting. These ballots were not brought in a wagon as alleged, but via delivery truck and then placed on carts. A widely circulated picture in media and online reports allegedly showed ballots secretly being delivered late at night but, in reality, it was a photo of a WXYZ-TV photographer hauling his equipment.



## REPORT ON THE NOVEMBER 2020 ELECTION IN MICHIGAN

Others claimed that the TCF Center security camera footage around the same time showed some type of "ballot dump." While the video in question confirms that a number of ballots were delivered at the time alleged, it provides no evidence of fraudulent or wrongful conduct. In the video, the van arrived around 3:30 a.m. and unloaded the absentee ballots. Once unloaded, the van left around 3:55 a.m. to go back to the satellite office where the processing was occurring. The van arrived back once again around 4:30 a.m. to unload the final ballots.

This theory, like many of the other theories proposed as evidence of fraud, does not constitute actual evidence on its own. Those drawing such conclusions in their affidavits and testimony were asked to provide proof that something illegal actually occurred but no proof that ballots were fraudulent was provided or found by the Committee in testimony or in subpoenaed records. However, this situation does raise issues with the delayed and cumbersome process of obtaining absentee ballots from drop boxes on election night, when many other activities and processes are also ongoing. **The Committee recommends that drop boxes not be utilized or be closed earlier than 8 p.m. on Election Day so that the time taken to collect such ballots will not, by necessity, extend processing and tabulating of such a large volume so long into the night. At the least, appointed staff should be on-hand to immediately collect ballots from drop boxes at 8 p.m. Additionally, the process of transferring ballots from the clerk's office to other locations must be done with greater security and manifests so that there can be an accounting for each ballot sent and received between the two locations, establishing a chain of custody.**

### 11. Vote Totals Were Abnormal Compared to Past Presidential Elections and Other Vote Count Irregularities

Several claims were made regarding the voter turnout in the November 2020 election in which the statistical data was cited as a source to show widespread election impropriety. Comparing historical results casts serious doubt over any claims of widespread impropriety in the Michigan 2020 election. In fact, turnout in 2020 increased less in Wayne county (11.4%) than in the rest of the state (15.4%) and President Trump won a greater percentage of votes there than he did in 2016 (30.27% vs 29.3%).

Additionally, the data suggests that there was no anomalous number of votes cast solely for the President, either in Wayne County or statewide:

#### **2020**

##### **Statewide**

President: 5,539,302  
Senate: 5,479,720  
Difference: 59,582 (1.08% difference)

##### **Wayne**

President: 874,018  
Senate: 863,946  
Difference: 10,072 (1.15% difference)

#### **2016**

##### **Statewide**

President: 4,799,284  
Congress: 4,670,905  
Difference: 128,379 (2.67% difference)

##### **Wayne**

President: 782,719  
Congress: 754,560  
Difference: 28,159 (3.60% difference)

## REPORT ON THE NOVEMBER 2020 ELECTION IN MICHIGAN

### Other Irregularities

Several published reports, particularly “Case for Michigan Decertification” presented charts of vote sub-totals and totals that were adjusted during the night and sometimes subtract votes from previous totals. The report also shows the increase in absentee votes tabulated was greater than the usual amount able to be processed in the given time frame. These reports require partial or incremental vote counts and totals. Finally, the report included final vote counts that include enormous spikes of final votes with a very high percentage for one candidate. Attempts by the chair to acquire the sources and citations of this data from the author were not able to be fulfilled. The author insisted that he cannot answer the questions about the origins of these data points, which he uses as evidence, without others investigating the issue or granting him access to a wide range of materials.

The reports containing these impossible mathematical counts rely on partial or incremental vote counts which are not available from any county or state official. Detroit does set up its own, unofficial vote reporting site. Incremental vote counts are reported during the process at the TCF Center. This additional level of complexity for reporting and handling, along with corrective actions that may be occurring onsite after an incremental data dump, can lead to multiple inaccuracies and discrepancies. There is additional confusion about counts and potential increases or decreases as the city merges actual precinct votes with AVCB votes. **Allowing Detroit to announce partial or incremental vote counts when no other community does, does not promote a uniform, statewide system. Further, not aligning each AVCB with each precinct creates an additional, complexity leading to an unnecessary vulnerability for errors in the unofficial, election night vote reports.** Finally, media outlets frequently make substantial errors or propagate the errors of others and then must adjust and retract data.

Large spikes in the vote count are not necessarily unexplainable or unusual. They do not alone constitute evidence of fraud and can be reasonably expected. Large precincts, particularly with the highest absentee voter turn out ever, took much longer to complete and then reported all their results at once. Further complicating this issue is that the absentee voter ballots counted at a consolidated counting board had to be merged with the votes submitted on Election Day at the corresponding, in-person voting precincts. This makes the spike larger than just the final count from the AVCB. No evidence has been presented to refute this as the legitimate reason for the dramatic jumps in vote counts seen in Michigan.

**Regardless, the Committee can only speculate on this because the author of the referenced report cannot provide sources that the Committee can pursue. Without provision of a source to investigate from the author, and as no confirmation of these numbers was provided nor can be ascertained, the Committee does not believe a wide-ranging, blanket allowance to search materials is justifiable or responsible, particularly in light of the extent of the post-election state audit performed and the lack of red flags from the final results in Detroit or Wayne County.**

## REPORT ON THE NOVEMBER 2020 ELECTION IN MICHIGAN

### 12. Additional Issues

#### Ballot Box Construction

Testimony was heard from Monica Palmer regarding the roll of boards of canvassers in verifying the construction of ballot boxes. Her board made significant efforts to require repairing or replacing poorly constructed boxes. **This effort is commendable and ought to be extended to the construction of drop boxes, as well. Testimony was also shared that boxes disallowed by the Wayne County Board of Canvassers and labeled to not be used were still being used on Election Day. This is not acceptable, and the Committee asks the secretary of state or the attorney general to investigate who is responsible for this serious breach.**

#### Modem Usage on Tabulators

Testimony was given regarding the wisdom and necessity of modems for vote tabulators. There was not consensus amongst the clerks and the Committee makes no recommendation at this time. However, the external, detachable modem does provide a reassuring and genuine physical barrier to cyber attacks during the voting process.

#### Ballot Harvesting

Testimony and allegations of ballot harvesting were made, although no evidence of such was presented. Ballot harvesting has been caught at times in the past, but none was in this election. Drop boxes and prepaid postage do present a greater vulnerability to ballot harvesting. Others have made the argument that prepaid postage might also reduce the likelihood of an individual waiting for someone to collect their ballot. It is worth noting that ballot harvesting, while illegal due to its vulnerability to fraud, is not necessarily indicative of fraudulent voting.

#### Allegations of Illegal Votes

Testimony and reports of illegal votes, out of state votes, non-residents voting, and deceased voters are prolific, and the numbers included are substantial and compelling. However, no source or reliable method for determining these numbers is presented. References to “317 voters also voting in other states” do not come with explanation or source. Other numbers reported as evidence of fraudulent addresses or issues with residency fail to consider the complications and realities of same day registration (a real problem in its own right, but one voters created through adopting Proposal 3 in 2018). These same day registrations, also addressed earlier in this report, necessitate methods to enter voters into the database while also flagging them for additional checks and verifications later. This is particularly true at the AVCBs as they do not have access to the QVF and their electronic poll books are disconnected during the election. New registrants need lines filled in, but also must be flagged to be connected with the actual entry made in the QVF by the clerk's office prior to issuing the ballot. Impossible, and obviously contrived, birthdates serve as a rational and simple method for flagging these voters.

Many of the reports and allegations of illegal votes or fraudulent votes conflate issues of illegal or improper process with fraud or illegal votes. Many of these claims ignore the specific and legally required partisan makeup of the election workers and immediately assume that illegally removing watchers and challengers means fraud is occurring and that all ballots should be disqualified.

## REPORT ON THE NOVEMBER 2020 ELECTION IN MICHIGAN

Not only would this disenfranchise thousands of legitimate voters by no fault of their own, but it demonstrates a significant leap of logic and an unjustified mistrust of the bipartisan poll workers themselves. The outcome alleged to have occurred during these improperly supervised moments, namely the addition of tens of thousands of prepared ballots, would require a conspiracy of immense proportions: individuals at multiple levels and locations, massive resources of ballot production and pollbook manipulation, and an outcome that does not contain a final number count outside the realms of believability. All of this under the noses of hundreds of bipartisan workers and watchers (as not all were ever dismissed) and without a whisper from the huge pool of people who would know. And all of this to theoretically run up the Biden total in a precinct where he traditionally should have expected better than 90% of the vote but received 88% amidst a relatively unremarkable turnout. **The Committee finds these postulations strain credulity and are simply preposterous. The Committee also notes this theory would directly conflict with the idea the machines were tampered with to miscount the ballots.**

### Suspicious Communications

Communications with Dominion to local clerks have been utilized to cause additional fear and mistrust of the company, its equipment, and the election results. While the Committee has not examined or received every document, a small sampling of the most often cited communications are only troubling if considered with the pretext that Dominion is part of a conspiracy to defraud voters. One email after the August primary regarding not saving images is highlighted as evidence of a cover-up. The context in the email, to make electronically transmitting the results after the election with the attachable modem function better, makes the instruction to turn off transmitting the image a reasonable instruction when coupled with there being no law in Michigan to save the images. Emails and communications with Dominion to Antrim County after Nov. 3 are also reasonable as the clerk and others attempted to determine how the tabulators correctly counted the ballots while the clerk's computer showed them incorrectly. **(The saving of ballot images so the ballots can be publicly examined by digital means may be an issue Michigan should consider. Other states are doing this with success.)**

### Chain of Custody and Election Material Security

Frequent demands to decertify all or a portion of the vote are accompanied by high sounding language regarding the "chain of custody." This verbiage evokes images of evidence utilized in trials, such as sealed envelopes and locked evidence rooms with sign-out sheets. However, investigating the claims regarding problems with the chain of custody usually finds highlights about the handling and transmission of the unofficial vote counts and the computer systems used to handle them. While concerns about these systems may be justified, it is incredibly misleading and irresponsible to imply this holds any danger to the official vote counts, the tabulators, or the ballots themselves. Similarly, unfair allegations have been leveled against the secretary of state and county and local clerks regarding the instruction to, and deletion of, e-poll book data. The letter instructing this and the action itself is a standard practice, ordered by the federal government and carried out shortly after every election. The law and the letter sent also provide specific instruction not to do so should there be an ongoing legal action regarding the data. All evidence the Committee found shows the law was followed. **The Committee finds insisting this is evidence of a cover up, "Destruction of election artifacts prior to end of 22-month archival requirement," is incredibly misleading, demeaning, and irresponsible.**

## REPORT ON THE NOVEMBER 2020 ELECTION IN MICHIGAN

### Confusing Terminology

Many of the allegations simply utilize semantics and the confusing, technical nature of elections to drive up doubt. Claims such as “fake birthdays,” “unsupervised ballot duplication,” “system manuals explicitly refer to internet and ethernet connectivity,” and “unsecured and illegal ballot boxes” are just a sampling of the terminologies used. However, each of these has legitimate explanation. The birthday issue is explained elsewhere in this report and involves same day registrations on Election Day. “Unsupervised ballot duplication” is referring to times challengers were unable to watch or were prevented from watching (which were not legal actions) but is misleading because the bipartisan election inspectors/workers were still watching and verifying each other’s work. “System manuals” refer to connectivity because the machines are specifically designed to be connected to transmit the unofficial results and to be connected for other functions – this is not proof they were connected during tabulation. “Unsecured and illegal ballot boxes” refers to the transporting of absentee ballots to the counting board in postal trays. Sealed ballots have never been considered to need to be in a secured and approved container because the envelopes are still sealed. **The Committee recommends this practice be made more secure with manifests and a record of custody**, but it is wrong to accuse anyone of violating the law that was written to address open ballots, *not* those in sealed envelopes.

### Blank Ballots and Military Ballots

The presence of blank ballots also provides significant confusion, despite being necessary for the duplication of military ballots and damaged absentee voter ballots. It is noteworthy that attempting to utilize these ballots for any significant level of fraud would require perfectly matching precincts to voters, manipulating poll books with fake dates for requests and receipts of the ballots, voter’s signatures, and the clerk’s signature and time stamp.

One witness testified that none of the military ballots at her table being duplicated were for President Trump. However, upon questioning, the witness recounted she only witnessed a few dozen ballots. This is a very reasonable outcome given the overall performance of the candidates in these precincts and the amount witnessed, which is not statistically significant.

### 13. Audits

The demand for audits regarding the election began soon after the November election and has continued until now. Several entities have undertaken to conduct audits, sometimes referring to their efforts as “forensic audits.” One of these is detailed earlier in this report, particularly in Finding 5. Several lawsuits regarding audits have been filed.

Proposal 18-3, which was approved by the voters of Michigan and amended the state constitution, guarantees every Michigan elector the right to request an audit, stating that each “elector qualified to vote in Michigan shall have...(t)he right to have the results of statewide elections audited, in such a manner as prescribed by law, to ensure the accuracy and integrity of elections.” The central clause, “in such a manner as prescribed by law,” has resulted in the dismissal of demands of citizens to execute this provided right because the audit performed by the Michigan secretary of state was determined to satisfy this right. Much has been made by several persons that the hand recount in Antrim County was not truly an audit. This is, and was, admitted by the secretary



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of state's office as true in that it was not a precinct audit, but a risk-limiting audit with a risk limit of zero, because all of the ballots were recounted and not just a sample. Furthermore, this does not diminish the profound value of hand recounting every ballot and race in the county as evidence against fraud or other illicitness. However, the actual, mandated audit detailed below was eventually conducted in Antrim County as it was in all Michigan counties.

The audits performed by the Michigan secretary of state and facilitated by county clerks and local officials has faced significant derision by citizens, lawyers, and activist leaders. The accusation is that the secretary of state has a conflict of interest in the result as it is her role as chief election officer which is being judged. However, such allegations demonstrate a significant lack of understanding regarding the rigor and depth of the audit performed, especially its decentralized nature. Auditing of the results is undertaken and administered by the county clerks, with aid and assistance provided by the local city and township clerks, and is another step removed from the secretary of state. The clerks at each of these levels, excepting municipal, are partisans from both major parties.

The extent of the audit is also critical to understanding its dependability and credibility. There are 66 steps clerks are instructed to undertake in the process. The "Post-Election Audit Manual," available online at [www.Michigan.gov/sos/post\\_election\\_audit\\_manual\\_418482\\_7.pdf](http://www.Michigan.gov/sos/post_election_audit_manual_418482_7.pdf), lays out several critical points as to purpose and goals. Notably, they include pre-Election Day and Election Day procedures' fidelity to law and rules. Precincts and races are selected randomly in each county across the state. The audit examines notices, appointments and training, e-Pollbook security, test deck procedures (logic and accuracy testing), military and overseas applications, poll books, and ballot containers. The audit checklist contains 66 points of examination to meet these goals and includes the hand counting of the randomly selected races in randomly selected precincts. Pictured is a completed audit for East Grand Rapids Precinct 5. Citizens can obtain these audit results across the state from their county clerks.

**Post-Election Audit Checklist**  
 ALL 66 steps must be completed and checked on the reverse side of this checklist.  
 Jurisdiction: East Grand Rapids Regular Precinct: 05 Ball Precinct: 01  
 Precinct: 05 Audit Date: 11/20/2020

<b>Pre-Election Requirements</b> 1. Notice of Registration <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No 2. Notice of Precinct <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No 3. Public Accessible <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No 4. Precinct Map <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No 5. Precinct Map <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No 6. Precinct Map <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No 7. Precinct Map <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No 8. Precinct Map <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No 9. Precinct Map <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No 10. Precinct Map <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No 11. Precinct Map <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No 12. 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**REPORT ON THE NOVEMBER 2020 ELECTION IN MICHIGAN**

**The Committee concludes these audits are far from the worthless exercises they have been castigated as being.** Many of those criticizing them are misleading concerned citizens to believe the only audit done is the “risk limiting audit.” The risk limiting audit is also performed on top of the major, statewide county audit detailed above. Its purpose is to perform an *additional* spot check on the accuracy and function of the tabulators, but it is not the main audit done.

**The Committee recommends providing live video feed and recordings of the audit procedures. The public should have access to view the audit in person when possible and results should be posted online. The Committee also recommends that the Legislature fulfill the commitment of Proposal 2018-3 to guarantee an audit upon request of any elector.**

## REPORT ON THE NOVEMBER 2020 ELECTION IN MICHIGAN

### V. RECOMMENDATIONS AND CONCLUSION

#### Recommendations

- Place in statute the rights and duties of challengers and poll watchers, requiring they be uniformly trained and held accountable.
- Ensuring combined AVCBs can have more than one challenger per party, with the ability to replace challengers who exit the AVCB location after the sequester is lifted.
- Allow for bipartisan election inspectors for all audits and require the process be open to the public.
- Prohibit the unsolicited mailing of absentee voter ballot applications from the secretary of state to limit the potential for non-Michigan residents voting in elections.
- Establish signature verification requirements via the administrative rules process or statute in order to provide clarity and uniformity to election workers on the proper way to ensure signatures match.
- Require video security on all drop boxes and require all drop boxes be emptied and secured immediately or earlier than 8 p.m. on Election Day to help expedite the processing and tabulation of ballots.
- In order to ensure more accurate voter rolls, allow county clerks greater authority when removing deceased individuals from the Qualified Voter File.
- Allow for the continued pre-processing of absentee ballots the day before Election Day, so long as stringent security measures are kept in place. Pre-processing must occur on the site of tabulation.
- Consider allowing tabulation, which is more secure, to begin in the week preceding Election Day as long as results may not be released until polls are closed on the completion of Election Day.
- Require that best practices for maintaining a balanced precinct on Election Day be part of the necessary training for all precinct workers. Establish a public, published record of all clerks who fail to provide the appropriate training or continuing education to themselves or their employees.
- Reform the canvassing processes by requiring canvassers be present during the canvass activities, expanding certain county boards where population requires it, and provide for additional time for the process to be completed.



**REPORT ON THE NOVEMBER 2020 ELECTION IN MICHIGAN****Conclusion**

The Committee can confidently assert that it has been thorough in examination of numerous allegations of unlawful actions, improper procedures, fraud, vote theft, or any other description which would cause citizens to doubt the integrity of Michigan's 2020 election results. Our clear finding is that citizens should be confident the results represent the true results of the ballots cast by the people of Michigan. The Committee strongly recommends citizens use a critical eye and ear toward those who have pushed demonstrably false theories for their own personal gain. We also conclude citizens should demand reasonable updates and reforms to close real vulnerabilities and unlawful activities that caused much of the doubt and questionability to flourish and could, if unchecked, be responsible for serious and disastrous fraud or confusion in the future.

Further, we commend the innumerable clerks, canvassers, staff, workers, and volunteers across Michigan that make the enormous complexity of elections operate so smoothly, so often. The complexity of the work and the dedication we discovered are astounding and worthy of our sincerest appreciation. We also commend the diligent citizens that took time to report problems and concerns they saw because they want and value fair and free elections above party or personal gain. If all citizens remain vigilant and involved, we will emerge stronger after any challenging time.

Total	2,513	6,267	41	11	31	14	6
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**President and Vice President of the United States (Vote for 1)**

Precinct	Joseph R. Biden / Kamala D. Harris - DEM	Donald J. Trump / Michael R. Pence - REP	Jo Jorgensen / Jeremy Cohen - LIB	Don Blankenship / William Mohr - UST	Howie Hawkins / Angela Walker - GRN	Rocky De La Fuente / Darcy Richardson - NLP	Write-in
Banks Township, Precinct 1	349	756	11	1	2	1	3
Central Lake Township, Precinct 1	549	906	16	1	6	0	3
Chestonia Township, Precinct 1	93	197	3	0	0	0	1
Custer Township, Precinct 1	240	521	11	2	1	0	0
Echo Township, Precinct 1	198	392	8	1	2	0	0
Elk Rapids Township, Precinct 1	886	1,025	17	4	9	0	2
Forest Home Township, Precinct 1	610	753	19	1	0	1	2
Helena Township, Precinct 1	306	431	4	0	1	1	0
Jordan Township, Precinct 1	183	371	13	1	1	0	2
Kearney Township, Precinct 1	471	743	16	0	3	0	4
Mancelona Township, Precinct 1	276	835	20	0	0	1	1
Mancelona Township, Precinct 2	247	646	13	2	1	0	1
Milton Township, Precinct 1	789	1,021	18	2	0	3	3
Star Township, Precinct 1	181	462	10	0	0	0	0
Torch Lake Township, Precinct 1	462	526	7	1	2	1	0
Warner Township, Precinct 1	60	163	3	0	0	0	1
<b>Total</b>	<b>6,890</b>	<b>9,748</b>	<b>189</b>	<b>16</b>	<b>28</b>	<b>8</b>	<b>23</b>

**United States Senator for State (Vote for 1)**

Precinct	Gary Peters - DEM	John James - REP	Valerie L. Willis - UST	Marcia Squier - GRN	Doug Dern - NLP	Write-in
Banks Township, Precinct 1	341	765	3	6	2	3
Central Lake Township, Precinct 1	520	933	9	9	3	0

**Total**  
Banks Township, Precinct 1

Straight Party Ticket (1)	
Democratic Party (Democrat):	134
Republican Party (Republican):	520
Libertarian Party (Libertarian):	1
U.S. Taxpayers Party (U.S. Taxpayers):	0
Working Class Party (Working Class):	1
Green Party (Green):	0
Natural Law Party (Natural Law):	0
Total Votes:	656

President and Vice President of the United States (1)	
Joseph R. Biden / Kamala D. Harris (Democrat):	349
Donald J. Trump / Michael R. Pence (Republican):	756
Jo Jorgensen / Jeremy Cohen (Libertarian):	11
Don Blankenship / William Mohr (U.S. Taxpayers):	1
Howie Hawkins / Ansel Walker (Green):	2
Rocky De La Fuente / Darcy Richardson (Natural Law):	1

White In 3

**Member of the State Board of Education (2)**

Ellen Cohen Lipton (Democrat):	278
Jason Strashorn (Democrat):	273
Tami Carlone (Republican):	692
Michelle A. Frederick (Republican):	698
Bill Hall (Libertarian):	24
Richard A. Hewer (Libertarian):	20
Karen Adams (U.S. Taxpayers):	5
Douglas Levesque (U.S. Taxpayers):	5
Mary Anne Hering (Working Class):	31
Hali McEschorn (Working Class):	23
Tom Hair (Green):	17
Write-in:	4
Total Votes:	2070

**Regent of the University of Michigan (2)**

Mark Bernstein (Democrat):	282
Shauna Ryder Diess (Democrat):	269
Sarah Hubbard (Republican):	709
Carl Meyers (Republican):	684
James L. Hudler (Libertarian):	16

**Governor of Wayne State University (2)**

Eva Garza Dewalsche (Democrat):	277
Shirley Stancato (Democrat):	257
Don Gates (Republican):	702
Terri Lynn Land (Republican):	704
Jon Elgas (Libertarian):	31
Christine C. Schwartz (U.S. Taxpayers):	23
Susan Odgers (Green):	31
Write-in:	5
Total Votes:	2030

**County Prosecuting Attorney (1)**

James L. Rossiter (Republican):	870
Write-in:	14
Total Votes:	884

**County Sheriff (1)**

Daniel S. Bean (Republican):	877
Write-in:	20
Total Votes:	897

**County Clerk (1)**

Sheryl Guy (Republican):	875
Write-in:	8
Total Votes:	883

1120  
1123

Total  
Central Lake Township, Precinct  
1

Straight Party Ticket (1)	
Democratic Party (Democrat):	227
Republican Party (Republican):	536
Libertarian Party (Libertarian):	3
U.S. Taxpayers Party (U.S. Taxpayers):	0
Working Class Party (Working Class):	3
Green Party (Green):	2
Natural Law Party (Natural Law):	0
Total Votes:	771

President and Vice President of the United States (1)	
Joseph R. Biden / Kamala D. Harris (Democrat):	549
Donald J. Trump / Michael R. Pence (Republican):	906
Jo Jorgensen / Jeremy Cohen (Libertarian):	16
Don Blankenship / William Mohr (U.S. Taxpayers):	1
Howie Hawkins / Angela Walker (Green):	6
Rocky De La Fuente / Darcy Richardson (Natural Law):	0
Write-in:	3
Total Votes:	1481

Member of the State Board of Education (2)	
Ellen Cosen Lipton (Democrat):	457
Jason Strashorn (Democrat):	443
Tami Carlone (Republican):	807
Michelle A. Frederick (Republican):	824
Bill Hall (Libertarian):	28
Richard A. Hower (Libertarian):	32
Karen Adams (U.S. Taxpayers):	16
Douglas Levesque (U.S. Taxpayers):	12
Mary Anne Herings (Working Class):	34
Hali McEachern (Working Class):	27
Tom Hair (Green):	17
Write-in:	0
Total Votes:	2697

Regent of the University of Michigan (2)	
Mark Bernstein (Democrat):	451
Shauna Ryder Diggs (Democrat):	438
Sarah Hubbard (Republican):	845
Carl Meyers (Republican):	807
James L. Hudler (Libertarian):	22
Eric Larson (Libertarian):	28
Ronald E. Graeser (U.S. Taxpayers):	13
Crystal Van Sickle (U.S. Taxpayers):	

Governor of Wayne State University (2)	
Eva Garza Dewaelsche (Democrat):	414
Shirley Stancato (Democrat):	439
Don Gates (Republican):	825
Terri Lynn Land (Republican):	851
Jon Elsas (Libertarian):	32
Christine C. Schwartz (U.S. Taxpayers):	23
Susan Odgers (Green):	33
Write-in:	1
Total Votes:	2618

County Prosecuting Attorney (1)	
James L. Rossiter (Republican):	1082
Write-in:	16
Total Votes:	1098

County Sheriff (1)	
Daniel S. Bean (Republican):	1142
Write-in:	21
Total Votes:	1163

County Clerk (1)	
Sheryl Gus (Republican):	1109
Write-in:	11
Total Votes:	1120

County Treasurer (1)	
Sheryl A. Puckett (Republican):	1109
Write-in:	11
Total Votes:	1120

Township S for Central Lake Township (1)	
Stanley A. Bear (Republican):	
Write-in:	
Total Votes:	

Township C Central Lake Township (1)	
Judy Kosloski (Republican):	
Write-in:	
Total Votes:	

Township Tr for Central Lake Township (1)	
Andrew Smith (Rep)	
Write-in:	
Total Votes:	

Township Tr Central Lake Township (2)	
Patrick Hanlon (Republican):	
Pat Marshall (Rep)	
Write-in:	
Total Votes:	

Justice of S Court (2)	

**Total**  
**Chestonia Township, Precinct 1**

Straight Party Ticket (1)	
Democratic Party (Democrat):	45
Republican Party (Republican):	134
Libertarian Party (Libertarian):	0
U.S. Taxpayers Party (U.S. Taxpayers):	0
Working Class Party (Working Class):	0
Green Party (Green):	0
Natural Law Party (Natural Law):	0
Total Votes:	179

President and Vice President of the United States (1)	
Joseph R. Biden / Kamala D. Harris (Democrat):	93
Donald J. Trump / Michael R. Pence (Republican):	197
Jo Jorgensen / Jeremy Cohen (Libertarian):	3
Don Blankenship / William Mohr (U.S. Taxpayers):	0
Howie Hawkins / Angela Walker (Green):	0
Rocky De La Fuente / Darcy Richardson (Natural Law):	0
Write-in:	1
Total Votes:	294

Member of the State Board of Education (2)	
Ellen Cosen Lipton (Democrat):	84
Jason Strayhorn (Democrat):	73
Tami Carlone (Republican):	171
Michelle A. Frederick (Republican):	170
Bill Hall (Libertarian):	8
Richard A. Hewer (Libertarian):	2
Karen Adams (U.S. Taxpayers):	4
Douglas Levesque (U.S. Taxpayers):	4
Mary Anne Herings (Working Class):	4
Hali McEachern (Working Class):	4
Tom Hair (Green):	8
Write-in:	5
Total Votes:	537

Regent of the University of Michigan (2)	
Mark Bernstein (Democrat):	77
Shauna Ryder Dias (Democrat):	81
Sarah Hubbard (Republican):	177
Carl Meyers (Republican):	174
James L. Hudler (Libertarian):	2
Eric Larson (Libertarian):	5
Ronald E. Graeser (U.S. Taxpayers):	5

Governor of Wayne State University (2)	
Eva Garza Dewaelische (Democrat):	79
Shirley Stancato (Democrat):	80
Don Gates (Republican):	175
Terri Lynn Land (Republican):	175
Jon Elgas (Libertarian):	6
Christine C. Schwartz (U.S. Taxpayers):	6
Susan Odgers (Green):	8
Write-in:	5
Total Votes:	534

County Prosecuting Attorney (1)	
James L. Rossiter (Republican):	216
Write-in:	11
Total Votes:	227

County Sheriff (1)	
Daniel S. Bean (Republican):	233
Write-in:	12
Total Votes:	245

County Clerk (1)	
Sheryl Guy (Republican):	219
Write-in:	12
Total Votes:	231

County Treasurer (1)	
Sherry A. Comben (Republican):	220

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## Total

Custer Township, Precinct 1

Straight Party Ticket (1)	
Democratic Party (Democrat):	108
Republican Party (Republican):	354
Libertarian Party (Libertarian):	1
U.S. Taxpayers Party (U.S. Taxpayers):	3
Working Class Party (Working Class):	2
Green Party (Green):	1
Natural Law Party (Natural Law):	0
Total Votes:	469

President and Vice President of the United States (1)	
Joseph R. Biden / Kamala D. Harris (Democrat):	240
Donald J. Trump / Michael R. Pence (Republican):	521
Jo Jorgensen / Jeremy Cohen (Libertarian):	11
Don Blankenship / William Mohr (U.S. Taxpayers):	2
Howie Hawkins / Angela Walker (Green):	1
Rocky De La Fuente / Darcy Richardson (Natural Law):	0
Write-in:	0
Total Votes:	775

## 105th District (1)

Jonathan Burke (Democrat):	221
Ken Borton (Republican):	534
Write-in:	1
Total Votes:	756

## Member of the State Board of Education (2)

Ellen Cosen Lipton (Democrat):	201
Jason Strashorn (Democrat):	185
Tami Carlone (Republican):	481
Michelle A. Frederick (Republican):	475
Bill Hall (Libertarian):	23
Richard A. Hoyer (Libertarian):	13
Karen Adams (U.S. Taxpayers):	13
Douglas Levesque (U.S. Taxpayers):	5
Mary Anne Herings (Working Class):	15
Hali McEachern (Working Class):	8
Tom Hair (Green):	15
Write-in:	3
Total Votes:	1437

(Democrat):	178
Pat O'Keefe (Republican):	491
Tonya Schultmaker (Republican):	485
Mill Tyler White (Libertarian):	22
Janet M. Sander (U.S. Taxpayers):	14
John Paul Sanger (U.S. Taxpayers):	8
Brandon Hu (Green):	10
Robin Lea Laurain (Green):	14
Bridgette Abraham-Guzman (Natural Law):	8
Write-in:	2
Total Votes:	1408

## Governor of Wayne State University (2)

Eva Garza Dewaelsche (Democrat):	172
Shirley Stancato (Democrat):	181
Don Gates (Republican):	490
Terri Lynn Land (Republican):	486
Jon Elgas (Libertarian):	25
Christine C. Schwartz (U.S. Taxpayers):	16
Susan Odsers (Green):	20
Write-in:	3
Total Votes:	1393

## County Prosecuting Attorney (1)

James L. Rossiter (Republican):	618
Write-in:	12
Total Votes:	630

## County Sheriff (1)

Daniel S. Bean (Republican):	652
Write-in:	11
Total Votes:	663

## Total Votes:

County S.
Scott Papinea (Republican):
Write-in:
Total Votes:

County Co
5th Distr
Terry VanAlst (Republican):
Write-in:
Total Votes:

County Co
6th Distr
Brenda Ricksg (Republican):
Write-in:
Total Votes:

Township
for Custer
(1)
Roxann Flake (
Write-in:
Total Votes:

Township
Custer To
Stacy Simon (
Write-in:
Total Votes:

Township
for Custer
(1)
Renee Elder (
Write-in:
Total Votes:



Total Votes: 495

Justice of Supreme Court (2)	
Susan L. Hubbard:	23
Mary Kelly:	31
Bridget Mary McCormack:	54
Kerry Lee Morgan:	7
Katherine Mary Nepton:	9
Brock Swartzle:	33
Elizabeth M. Welch:	33
Write-in:	0
Total Votes:	190

Judge of Court of Appeals 4th District Incumbent Position (2)	
Michael J. Kelly:	72
Amy Ronayne Krause:	63
Write-in:	0
Total Votes:	135

Judge of Court of Appeals 4th District Non-Incumbent Position (1)	
Michelle Rick:	80
Write-in:	0
Total Votes:	80

Judge of Circuit Court 13th Circuit Incumbent Position (1)	
Kevin A. Eisenheimer:	83

Total

Echo Township, Precinct 1

## Straight Party Ticket (1)

Democratic Party (Democrat):	100
Republican Party (Republican):	230
Libertarian Party (Libertarian):	1
U.S. Taxpayers Party (U.S. Taxpayers):	0
Working Class Party (Working Class):	1
Green Party (Green):	0
Natural Law Party (Natural Law):	0
Total Votes:	332

## President and Vice President of the United States (1)

Joseph R. Biden / Kamala D. Harris (Democrat):	198
Donald J. Trump / Michael R. Pence (Republican):	392
Jo Jorgensen / Jeremy Cohen (Libertarian):	8
Don Blankenship / William Mohr (U.S. Taxpayers):	1
Howie Hawkins / Angela Walker (Green):	2
Rocky De La Fuente / Darcy Richardson (Natural Law):	0
Write-in:	0
Total Votes:	601

Total Votes: 1118

## Member of the State Board of Education (2)

Ellen Cosen Lipton (Democrat):	175
Jason Strashorn (Democrat):	169
Tami Carlone (Republican):	351
Michelle A. Frederick (Republican):	361
Bill Hall (Libertarian):	16
Richard A. Hower (Libertarian):	13
Karen Adams (U.S. Taxpayers):	6
Douglas Levesque (U.S. Taxpayers):	4
Mary Anne Herins (Working Class):	11
Hali McEachern (Working Class):	9
Tom Hair (Green):	3
Write-in:	0
Total Votes:	1118

## Regent of the University of Michigan (2)

Mark Bernstein (Democrat):	168
Shauna Ryder Dicks (Democrat):	171
Sarah Hubbard (Republican):	361
Carl Meyers (Republican):	352
James L. Hudler (Libertarian):	11
Eric Larson (Libertarian):	13
Ronald E. Graesser (U.S. Taxpayers):	5

Township Trustee for Elk Rapids Township (2)	
Richard D. Huits (Republican):	444
Raron Isenhardt (Republican):	466
Write-in:	16
Total Votes:	926

Justice of Supreme Court (2)	
Susan L. Hubbard:	68
Michelle Rick:	40
Write-in:	3
Total Votes:	410

Judge of Circuit Court 13th Circuit Incumbent Position (1)	
Kevin A. Eisenheimer:	442
Write-in:	3
Total Votes:	445

Village President for Village of Elk Rapids (1)	
James D. Janisse:	486
Write-in:	15
Total Votes:	501

Village Trustee for Village of Elk Rapids (3)	
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Village Trustee for Village of Elk Rapids, Partial Term Ending 11/06/2022 (1)	
Teresa Fosdick:	513
Write-in:	4
Total Votes:	517

School Board Member for Elk Rapids Schools (3)	
No:	224
Total Votes:	806

Total  
Elk Rapids Township, Precinct 1

Straight Party Ticket (1)	
Democratic Party (Democrat):	327
Republican Party (Republican):	414
Libertarian Party (Libertarian):	1
U.S. Taxpayers Party (U.S. Taxpayers):	1
Working Class Party (Working Class):	2
Green Party (Green):	1
Natural Law Party (Natural Law):	0
Total Votes:	746

President of the United States (1)	
Joseph R. Biden / Kamala D. Harris (Democrat):	784
Donald J. Trump / Michael R. Pence (Republican):	611
Jo Jorgensen / Jeremy Cohen (Libertarian):	5
Don Blankenship / William Mohr (U.S. Taxpayers):	2
Howie Hawkins / Angela Walker (Green):	5
Rocky De La Fuente / Darcy Richardson (Natural Law):	0
Write-in:	2
Total Votes:	1409

Representative in State Legislature 105th District (1)	
Jonathan Burke (Democrat):	705
Ken Borton (Republican):	661
Write-in:	1
Total Votes:	1367

Member of the State Board of Education (2)	
Ellen Cosen Lipton (Democrat):	681
Jason Strayhorn (Democrat):	636
Tami Carlone (Republican):	594
Michelle A. Frederick (Republican):	607
Bill Hall (Libertarian):	17
Richard A. Hoyer (Libertarian):	20
Karen Adams (U.S. Taxpayers):	10



Incumbent Position (1)	
Kevin R. Elsenheimer:	224
Write-in:	5
Total Votes:	229

Village President for Village of Elk Rapids (1)	
James D. Janisse:	221
Write-in:	15
Total Votes:	236

Village Trustee for Village of Elk Rapids (3)	
Douglas Bronkema:	148
Patricia Ann Perlman:	141
Charlie Pryde:	197
Laura Shumate:	168
Write-in:	3
Total Votes:	657

Village Trustee for Village of Elk Rapids, Partial Term Ending 11/06/2022 (1)	
Teresa Fosdick:	234
Write-in:	6
Total Votes:	240

School Board Member for Elk Rapids Schools (3)	
Darryl Antcliff:	166

Total  
Elk Rapids Township, Precinct 1

Straight Party Ticket (1)	
Democratic Party (Democrat):	81
Republican Party (Republican):	263
Libertarian Party (Libertarian):	5
U.S. Taxpayers Party (U.S. Taxpayers):	1
Working Class Party (Working Class):	0
Green Party (Green):	4
Natural Law Party (Natural Law):	0
Total Votes:	354

President and Vice President of the United States (1)	
Joseph R. Biden / Kamala D. Harris (Democrat):	202
Donald J. Trump / Michael R. Pence (Republican):	414
Jo Jorgensen / Jeremy Cohen (Libertarian):	12
Don Blankenship / William Mohr (U.S. Taxpayers):	2
Howie Hawkins / Angela Walker (Green):	4
Rocky De La Fuente / Darcy Richardson (Natural Law):	0
Write-in:	0
Total Votes:	634

Representative in State Legislature 105th District (1)	
Jonathan Burke (Democrat):	194
Ken Borton (Republican):	410
Write-in:	3
Total Votes:	607

Member of the State Board of Education (2)	
Ellen Cogen Lipton (Democrat):	154
Jason Strayhorn (Democrat):	144
Tami Carlone (Republican):	361
Michelle A. Frederick (Republican):	361
Bill Hall (Libertarian):	29
Richard A. Hower (Libertarian):	20
Karen Adams (U.S. Taxpayers):	9
Douglas Levesque (U.S. Taxpayers):	7
Mary Anne Hering (Working Class):	19
Hali McEachern (Working Class):	8
Tom Mair (Green):	12
Write-in:	0
Total Votes:	1124

United States (1)	
Joseph R. Biden / Kamala D. Harris (Democrat):	610
Donald J. Trump / Michael R. Pence (Republican):	753
Jo Jorgensen / Jeremy Cohen (Libertarian):	19
Don Blankenship / William Mohr (U.S. Taxpayers):	1
Howie Hawkins / Angela Walker (Green):	0
Rocky De La Fuente / Darcus Richardson (Natural Law):	1
Write-in:	2
Total Votes:	1386

United States Senator for State (1)	
Gary Peters (Democrat):	580
John James (Republican):	782
Valerie L. Willis (U.S. Taxpayers):	4
Marcia Squier (Green):	5
Doug Dern (Natural Law):	2
Write-in:	0
Total Votes:	1373

Representative in Congress 1st District (1)	
Dana Ferguson (Democrat):	532
Jack Berzman (Republican):	817

University of Michigan (2)	
Mark Bernstein (Democrat):	487
Shauna Ryder Diggs (Democrat):	482
Sarah Hubbard (Republican):	710
Carl Meyers (Republican):	674
James L. Hudler (Libertarian):	33
Eric Larson (Libertarian):	42
Ronald E. Graesser (U.S. Taxpayers):	8
Crystal Van Sickle (U.S. Taxpayers):	20
Michael Hawilal (Green):	23
Keith Butkovich (Natural Law):	8
Write-in:	3
Total Votes:	2490

Trustee of Michigan State University (2)	
Brian Mosallam (Democrat):	471
Rena Ella Vassar (Democrat):	488
Pat O'Keefe (Republican):	713
Tonya Schuitmaker (Republican):	703
Will Tyler White (Libertarian):	43
Janet M. Sanger (U.S. Taxpayers):	21
John Paul Sanger (U.S. Taxpayers):	8

Sheryl Guy (Republican):	1014
Write-in:	4
Total Votes:	1018

County Treasurer (1)	
Sherry A. Comben (Republican):	1001
Write-in:	4
Total Votes:	1005

County Register of Deeds (1)	
Patty Niepoth (Republican):	983
Write-in:	7
Total Votes:	998

County Drain Commissioner (1)	
Mark Stone (Republican):	981
Write-in:	6
Total Votes:	987

County Surveyor (1)	
Scott Papineau (Republican):	973
Write-in:	4
Total Votes:	977

County Commissioner	
Terry VanHestine (Republican):	222
5th District (1)	

Judge of Court of Appeals 4th District Non-Incumbent Position (1)

Forest Home Township, Precinct 1  
Total

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Antrim County  
Antrim November 2020  
Tuesday, November 3, 2020

Tabulator Name  
Helena Township, Precinct 1  
ICP

Tabulator ID  
8

Voting Location  
Helena Township

Precinct:

Helena Township, Precinct 1

Poll Opened  
Nov 03/2020 06:16:29

Nov 03/2020 20:01:52

Report Printed  
Nov 03/2020 20:11:08

```
Unit Model: PCOS-320C (Rev 1072)
Unit Serial:      AFAJHX0088
Protective Counter:      3126
Software Version:      5.5.3-0002
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State Proposal 20-1 (1)	
Yes:	0
No:	0
Total Votes:	0

State Proposal 20-2	
(1)	
Yes:	0
No:	0
Total Votes:	0

### Certification

WE, THE UNDERSIGNED, WERE PRESENT DURING THE OPENING OF THE POLLS AND PRINTING OF THIS RECORD AND CAN VERIFY THAT ALL CANDIDATE VOTE TOTALS ARE ZERO AT THIS TIME.

Constance K. Molloy  
Signature  
P. Boyce

President and Vice  
President of the  
United States (1)

Joseph R. Biden / Kamala D. Harris (Democrat):	306
Donald J. Trump / Michael R. Pence (Republican):	431
Jo Jorgensen / Jeremy Cohen (Libertarian):	4
Don Blankenship / William Mohr (U.S. Taxpayers):	0
Howie Hawkins / Angela Walker (Green):	1
Rocky De La Fuente / Darcey Richardson (Natural Law):	1
Write-in:	0
Total Votes:	743

United States  
Senator for State  
(1)

Gary Peters (Democrat):	294
John James (Republican):	436
Valerie L. Willis (U.S. Taxpayers):	2
Marcia Squier (Green):	4
Doug Dern (Natural Law):	1
Write-in:	0
Total Votes:	737

Representative in  
Congress 1st  
District (1)

Dana Ferguson (Democrat):	279
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Non-Incumbent Position (1)	
Michelle Rick:	267
Write-in:	4
Total Votes:	271

Judge of Circuit Court 13th Circuit Incumbent Position (1)	
Kevin A. Elsenheimer:	270
Write-in:	1
Total Votes:	271

Board Member for Charlevoix-Emmet Intermediate School District 6 Year Term (3)	
Thelma A. Chellis:	227
Jean E. Frentz:	199
Mary P. Jason:	221
Write-in:	1
Total Votes:	648

Board Member for Charlevoix-Emmet Intermediate School District Partial Term Ending 12/31/2024 (1)	
Larry Cassidy:	250
Write-in:	7
Total Votes:	257

Total  
Jordan Township, Precinct 1

Straight Party Ticket (1)	
Democratic Party (Democrat):	75
Republican Party (Republican):	252
Libertarian Party (Libertarian):	2
U.S. Taxpayers Party (U.S. Taxpayers):	1
Working Class Party (Working Class):	2
Green Party (Green):	1
Natural Law Party (Natural Law):	0
Total Votes:	333

President and Vice President of the United States (1)	
Joseph R. Biden / Kamala D. Harris (Democrat):	183
Donald J. Trump / Michael R. Pence (Republican):	371
Jo Jorgensen / Jeremy Cohen (Libertarian):	13
Don Blankenship / William Mohr (U.S. Taxpayers):	1
Howie Hawkins / Angela Walker (Green):	1
Rocky De La Fuente / Darcy Richardson (Natural Law):	0
Write-in:	2

Member of the State Board of Education (2)	
Ellen Cogen Lipton (Democrat):	165
Jason Strashorn (Democrat):	154
Tami Carlone (Republican):	334
Michelle A. Frederick (Republican):	337
Bill Hall (Libertarian):	15
Richard A. Hewer (Libertarian):	12
Karen Adams (U.S. Taxpayers):	10
Douglas Levesque (U.S. Taxpayers):	5
Mary Anne Hering (Working Class):	15
Hali McEachern (Working Class):	5
Tom Hair (Green):	4
Write-in:	0
Total Votes:	1056



*Hearney*

**Straight Party Ticket (1)**

Democratic Party (Democrat):	187
Republican Party (Republican):	490
Libertarian Party (Libertarian):	2
U.S. Taxpayers Party (U.S. Taxpayers):	0
Working Class Party (Working Class):	0
Green Party (Green):	1
Natural Law Party (Natural Law):	0
Total Votes:	680

**President and Vice President of the United States (1)**

Joseph R. Biden / Kamala D. Harris (Democrat):	471
Donald J. Trump / Michael R. Pence (Republican):	743
Jo Jorgensen / Jeremy Cohen (Libertarian):	16
Don Blankenship / William Mohr (U.S. Taxpayers):	0
Howie Hawkins / Andela Walker (Green):	3
Rocky De La Fuente / Darcus Richardson (Natural Law):	0
Write-in:	4
Total Votes:	1237

**Member of the State Board of Education (2)**

Ellen Cosen Lipton (Democrat):	396
Jason Strashorn (Democrat):	391
Tami Carlone (Republican):	675
Michelle A. Frederick (Republican):	667
Bill Hall (Libertarian):	31
Richard A. Hower (Libertarian):	21
Karen Adams (U.S. Taxpayers):	7
Douglas Levesque (U.S. Taxpayers):	5
Mary Anne Herins (Working Class):	26
Hali McEachern (Working Class):	22
Tom Mair (Green):	22
Write-in:	0
Total Votes:	2263

**Regent of the University of Michigan (2)**

Mark Bernstein (Democrat):	401
Shauna Ryder Diggs (Democrat):	379
Sarah Hubbard (Republican):	694
Carl Meyers (Republican):	664
James L. Hudler (Libertarian):	20

**Governor of Wayne State University (2)**

Eva Garza Dewaelsche (Democrat):	385
Shirley Stancato (Democrat):	390
Don Gates (Republican):	668
Terri Lynn Land (Republican):	685
Jon Elgas (Libertarian):	26
Christine C. Schwartz (U.S. Taxpayers):	17
Susan Odgers (Green):	39
Write-in:	2
Total Votes:	2212

**County Prosecuting Attorney (1)**

James L. Rossiter (Republican):	893
Write-in:	14
Total Votes:	907

**County Sheriff (1)**

Daniel S. Bean (Republican):	949
Write-in:	18
Total Votes:	967

**County Clerk (1)**

Sheryl Guy (Republican):	932
Write-in:	9
Total Votes:	941

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Township Treasurer for Mancelona Township (1)	
Jessie Ayoub (Republican):	449
Write-in:	5
Total Votes:	454

Township Trustee for Mancelona Township (2)	
Yousef M. Jabara (Democrat):	120
Rod Vessey (Republican):	415
Donna Gundie-Kries (Libertarian):	167
Write-in:	9
Total Votes:	711

Township Constable for Mancelona Township (1)	
Linden M. Bielecki (Republican):	448
Write-in:	6
Total Votes:	454

Justice of Supreme Court (2)	
Susan L. Hubbard:	60
Mary Kelly:	109
Bridget Mary McCormack:	208
Kerry Lee Morgan:	79
Katherine Mary Montan:	58

Village Trustee for Village of Mancelona (2)	
Aaron Biehl:	323
Steven Elder:	286
Eugene K. Kerr:	108
Write-in:	8
Total Votes:	725

School Board Member for Mancelona Schools (3)	
Kim Musselman:	330
Tom Ross:	274
Burt Thompson:	264
Write-in:	7
Total Votes:	875

State Proposal 20-1 (1)	
Yes:	419
No:	80
Total Votes:	499

State Proposal 20-2 (1)	
Yes:	446
No:	67
Total Votes:	513

Total  
Mancelona Township, Precinct 1

President and Vice President of the United States (1)	
Joseph R. Biden / Kamala D. Harris (Democrat):	276
Donald J. Trump / Michael R. Pence (Republican):	835
Jo Jorgensen / Jeremy Cohen (Libertarian):	20
Don Blankenship / William Mohr (U.S. Taxpayers):	0
Howie Hawkins / Angela Walker (Green):	0
Rocky De La Fuente / Darcey Richardson (Natural Law):	1
Write-in:	1
Total Votes:	1133

United States Senator for State (1)	
Gary Peters (Democrat):	294
John James (Republican):	803
Valerie L. Willis (U.S. Taxpayers):	9
Marcia Squier (Green):	6
Doug Dern (Natural Law):	7
Write-in:	2
Total Votes:	1121

Representative in Congress 1st District (1)	
Dana Ferguson (Democrat):	264
Jack Bergman (Republican):	829



Justice of Supreme Court (2)	
Susan L. Hubbard:	118
Mary Kelly:	215
Bridget Mary McCormack:	304
Kerry Lee Morgan:	65
Katherine Mary Nepton:	99
Brock Swartzle:	226
Elizabeth M. Welch:	165
Write-in:	9
Total Votes:	1199

Judge of Court of Appeals 4th District Incumbent Position (2)	
Michael J. Kelly:	524
Amy Ronayne Krause:	452
Write-in:	13
Total Votes:	989

Judge of Court of Appeals 4th District Non-Incumbent Position (1)	
Michele Rick:	579
Write-in:	9
Total Votes:	588

Judge of Circuit Court 13th Circuit Incumbent Position (1)	
Write-in:	1
Total Votes:	910

Total  
Mancelona Township, Precinct 2

Straight Party Ticket (1)	
Democratic Party (Democrat):	107
Republican Party (Republican):	399
Libertarian Party (Libertarian):	4
U.S. Taxpayers Party (U.S. Taxpayers):	2
Working Class Party (Working Class):	5
Green Party (Green):	1
Natural Law Party (Natural Law):	0
Total Votes:	518

President and Vice President of the United States (1)	
Joseph R. Biden / Kamala D. Harris (Democrat):	247
Donald J. Trump / Michael R. Pence (Republican):	646
Jo Jorgensen / Jeremy Cohen (Libertarian):	13
Don Blankenship / William Mohr (U.S. Taxpayers):	2
Howie Hawkins / Angela Walker (Green):	1
Rocky De La Fuente / Darcy Richardson (Natural Law):	0
Write-in:	1
Total Votes:	910

Member of the State Board of Education (2)	
Ellen Cosen Lipton (Democrat):	214
Jason Strauhorn (Democrat):	204
Tami Carlone (Republican):	554
Michelle A. Frederick (Republican):	557
Bill Hall (Libertarian):	22
Richard A. Hower (Libertarian):	21
Karen Adams (U.S. Taxpayers):	18
Douglas Levesque (U.S. Taxpayers):	13
Mary Anne Herins (Working Class):	29
Hali McEachern (Working Class):	18
Tom Hair (Green):	4
Write-in:	3
Total Votes:	1657

Regent of the University of Michigan (2)	
Mark Bernstein (Democrat):	220
Shauna Ryder Diass (Democrat):	203
Sarah Hubbard (Republican):	575
Carl Meyers (Republican):	544
James L. Hudler (Libertarian):	18
Eric Larson (Libertarian):	27
Ronald E. Graesser (U.S. Taxpayers):	13



Antrim County  
Antrim November 2020  
Tuesday, November 3, 2020

Tabulator Name  
Milton Township, Precinct 1  
AVCB

Tabulator ID  
110

Voting Location  
Milton Township

Precinct:

Milton Township, Precinct 1

Poll Opened  
Nov 03/2020 06:45:21

Poll Closed  
Nov 03/2020 20:22:15

President and Vice  
President of the  
United States (1)

Joseph R. Biden / Kamala D. Harris (Democrat):	626
Donald J. Trump / Michael R. Pence (Republican):	543
Jo Jorgensen / Jeremy Cohen (Libertarian):	6
Don Blankenship / William Mohr (U.S. Taxpayers):	2
Howie Hawkins / Angela Walker (Green):	0
Rocky De La Fuente / Darcy Richardson (Natural Law):	2
Write-in:	0
Total Votes:	1179

United States  
Senator for State  
(1)

Gary Peters (Democrat):	584
John James (Republican):	583
Valerie L. Willis (U.S. Taxpayers):	2
Marcia Squier (Green):	2
Doug Dern (Natural Law):	1
Write-in:	1
Total Votes:	1173

Representative in  
Congress 1st  
District (1)

Dana Ferauson (Democrat):	540
Jack Berzaman (Republican):	614
Ben Boren (Libertarian):	9

Regent of the  
University of  
Michigan (2)

Mark Bernstein (Democrat):	496
Shauna Ryder Diass (Democrat):	493
Sarah Hubbard (Republican):	549
Carl Meyers (Republican):	530
James L. Hudler (Libertarian):	14
Eric Larson (Libertarian):	20
Ronald E. Graeser (U.S. Taxpayers):	3
Crystal Van Sickle (U.S. Taxpayers):	13
Michael Mawilai (Green):	19
Keith Butkovich (Natural Law):	9
Write-in:	2
Total Votes:	2148
Total Votes:	2111

County Prosecuting  
Attorney (1)

James L. Rossiter (Republican):	743
Write-in:	11
Total Votes:	754

County Sheriff (1)

Daniel S. Bean (Republican):	782
Write-in:	11
Total Votes:	793

Count

Sherry
Write-in
Total V

Count

Sherry
(Republ
Write-in
Total V

Count

Deeds
Patty Ni
(Republ
Write-in
Total V

Townshi  
for Mil  
(1)

Liz Atkins
Write-in:
Total Vote:

--- PRINTING INTERRUPTED ---

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Antrim County  
Antrim November 2020  
Tuesday, November 3, 2020

Tabulator Name  
Milton Township, Precinct 1  
ICP

Tabulator ID  
13

Voting Location  
Milton Township

Precinct:  
Milton Township, Precinct 1

Poll Opened Nov 03/2020 06:01:49  
Poll Closed Nov 03/2020 20:14:17  
Report Printed Nov 03/2020 20:18:29

Unit Model: PCOS-320C (Rev 1072)  
Unit Serial: AFAJHX0066  
Protective Counter: 5352  
Software Version: 5.5.3-0002

Total Scanned: 640  
Total Voters: 640

President and Vice President of the United States (1)

Joseph R. Biden / Kamala D. Harris (Democrat):	143
Donald J. Trump / Michael R. Pence (Republican):	478
Jo Jorgensen / Jeremy Cohen (Libertarian):	12
Don Blankenship / William Mohr (U.S. Taxpayers):	0
Howie Hawkins / Angela Walker (Green):	0
Rocky De La Fuente / Darcy Richardson (Natural Law):	1
Write-in:	3
Total Votes:	637

United States Senator for State (1)

Gary Peters (Democrat):	134
John James (Republican):	489
Valerie L. Willis (U.S. Taxpayers):	2
Marcia Souier (Green):	6
Doug Dern (Natural Law):	1
Write-in:	0
Total Votes:	632

Representative in Congress 1st District (1)

Dana Ferguson (Democrat):	116
Jack Bergman (Republican):	501

Regent of the University of Michigan (2)

Mark Bernstein (Democrat):	112
Shauna Rader Diaz (Democrat):	102
Sarah Hubbard (Republican):	458
Carl Meyers (Republican):	437
James L. Hudler (Libertarian):	14
Eric Larson (Libertarian):	20
Ronald E. Graesser (U.S. Taxpayers):	1
Crystal Van Sickle (U.S. Taxpayers):	8
Michael Haulai (Green):	7
Keith Butkovich (Natural Law):	7
Write-in:	1
Total Votes:	1167

Trustee of Michigan State University (2)

Brian Mosallam (Democrat):	108
Rena Ella Vassar (Democrat):	108
Pat O'Keefe (Republican):	451
Tonya Schuitmaker (Republican):	444
Will Tyler White (Libertarian):	21
Janet M. Sanger (U.S. Taxpayers):	4
John Paul Sanger (U.S. Taxpayers):	4
Brandon M. (Democrat):	0

County Clerk

Sheryl Guy (Repub)
Write-in:
Total Votes:

County Treas

Sherry A. Comben (Republican):
Write-in:
Total Votes:

County Regis Deeds (1)

Patty Niepoth (Republican):
Write-in:
Total Votes:

County Drain Commissioner

Mark Stone (Republi)
Write-in:
Total Votes:

County Survey

Scott Papineau (Republican):
Write-in:
Total Votes:

Star Township

Precinct:

Star Township, Precinct 1

Precinct:

Star Township, Precinct 1

Straight Party  
Ticket (1)

Democratic Party (Democrat):	67
Republican Party (Republican):	299
Libertarian Party (Libertarian):	0
U.S. Taxpayers Party (U.S. Taxpayers):	1
Working Class Party (Working Class):	0
Green Party (Green):	0
Natural Law Party (Natural Law):	0
Total Votes:	367

President and Vice  
President of the  
United States (1)

Joseph R. Biden / Kamala D. Harris (Democrat):	161
Donald J. Trump / Michael R. Pence (Republican):	462
Jo Jorgensen / Jeremy Cohen (Libertarian):	10
Don Blankenship / William Mohr (U.S. Taxpayers):	0
Howie Hawkins / Angela Walker (Green):	0
Rocky De La Fuente / Darcy Richardson (Natural Law):	0
Write-in:	0
Total Votes:	633

Write-in:	0
Total Votes:	633

Representative in  
Congress 1st  
District (1)

Ellen Cosen Lipton (Democrat):	147
Jason Strayhorn (Democrat):	125
Tami Carlone (Republican):	390
Michelle R. Frederick (Republican):	395
Bill Hall (Libertarian):	11
Richard R. Hauer (Libertarian):	3
Karen Adams (U.S. Taxpayers):	8
Douglas Levesque (U.S. Taxpayers):	5
Mary Anne Herings (Working Class):	22
Hali McEachern (Working Class):	12
Tom Mair (Green):	8
Write-in:	3
Total Votes:	1129

Eric Larson (Libertarian):	9
Ronald E. Graeser (U.S. Taxpayers):	7
Crystal Van Sickle (U.S. Taxpayers):	7
Michael Hawilai (Green):	5
Keith Butkovich (Natural Law):	4
Robin Lee Lauriat (Green):	4
Bridgette Abraham-Guzman (Natural Law):	0
Write-in:	3
Total Votes:	1101

Governor of Wayne  
State University (2)

Eva Garza Dewaelesche (Democrat):	133
Shirley Stancato (Democrat):	136
Don Gates (Republican):	391
Terri Lynn Land (Republican):	401
Jon Elgas (Libertarian):	10
Christine C. Schwartz (U.S. Taxpayers):	11
Susan Odgers (Green):	9
Write-in:	3
Total Votes:	1094

County Prosecuting  
Attorney (1)

James L. Rossiter (Republican):	507
Write-in:	5
Total Votes:	512

## County Sheriff (1)

Daniel S. Bean (Republican):	525
Write-in:	7
Total Votes:	532

Write-in:	
Total Votes:	

County R  
Deeds (1)

Patty Niepot (Democrat):	
9th Dis	
Christian M (Republican):	
Write-in:	
Total Votes:	

Township  
for Sta  
(1)

Robert Marx	
Write-in:	
Total Votes:	

Township  
Star To

Phyllis Ho (Republican):	
Write-in:	
Total Vote	

Township  
for Sta  
(1)

Tammi Full	
Write-in:	
Total Vote	

es:	4	188
Register of (1)		
epoth can):	188	
Notes:	4	192

Drain Commissioner (1)		
one (Republican):	182	
in:	4	
Votes:	186	

ty Surveyor (1)		
Papineau (Republican):	180	
in:	4	
Votes:	184	

ty Commissioner District (1)		
Bargy (Republican):	180	
in:	6	
Votes:	186	

inship Supervisor Torch Lake Township (1)		
rt Cook (Republican):	177	
in:	5	
il Votes:	182	

Susan L. Hubbard:	18
Mary Kelly:	72
Bridget Mary McCormack:	113
Kerry Lee Morgan:	13
Katherine Mary Nepton:	6
Brock Swartzle:	70
Elizabeth M. Welch:	56
Write-in:	2
Total Votes:	350

Judge of Court of Appeals 4th District Incumbent Position (2)		
Michael J. Kelly:	140	
Roy Ronaune Krause:	135	
Write-in:	4	
Total Votes:	279	

Judge of Court of Appeals 4th District Non-Incumbent Position (1)		
Michelle Rick:	145	
Write-in:	2	
Total Votes:	147	

Judge of Circuit Court 13th Circuit Incumbent Position (1)		
Kevin A. Eisenheimer:	144	
Write-in:	3	
Total Votes:	147	

Total  
Torch Lake Township, Precinct 1

Straight Party Ticket (1)		
Democratic Party (Democrat):	143	
Republican Party (Republican):	297	
Libertarian Party (Libertarian):	3	
U.S. Taxpayers Party (U.S. Taxpayers):	0	
Working Class Party (Working Class):	2	
Green Party (Green):	0	
Natural Law Party (Natural Law):	0	
Total Votes:	445	

President and Vice President of the United States (1)		
Joseph R. Biden / Kamala D. Harris (Democrat):	462	
Donald J. Trump / Michael R. Pence (Republican):	526	
Jo Jorgensen / Jeremy Cohen (Libertarian):	7	
Don Blankenship / William Mohr (U.S. Taxpayers):	1	
Howie Hawkins / Angela Walker (Green):	2	
Rocky De La Fuente / Daros Richardson (Natural Law):	1	
Write-in:	0	

999

(1)	
Yes:	122
No:	26
Total Votes:	148

Total  
Warner Township, Precinct 1

Straight Party Ticket (1)	
Democratic Party (Democrat):	35
Republican Party (Republican):	106
Libertarian Party (Libertarian):	0
U.S. Taxpayers Party (U.S. Taxpayers):	0
Working Class Party (Working Class):	0
Green Party (Green):	0
Natural Law Party (Natural Law):	0
Total Votes:	141

President and Vice President of the United States (1)	
Joseph R. Biden / Kamala D. Harris (Democrat):	60
Donald J. Trump / Michael R. Pence (Republican):	163
Jo Jorgensen / Jeremy Cohen (Libertarian):	3
Don Blankenship / William Mohr (U.S. Taxpayers):	0
Howie Hawkins / Angela Walker (Green):	0
Rocky De La Fuente / Daros Richardson (Natural Law):	0
Write-in:	1
Total Votes:	227

105th District (1)	
Jonathan Burke (Democrat):	56
Ken Borton (Republican):	166
Write-in:	0
Total Votes:	222

Member of the State Board of Education (2)	
Ellen Cogen Lipton (Democrat):	53
Jason Strashorn (Democrat):	49
Tami Carlone (Republican):	141
Michelle R. Frederick (Republican):	145
Bill Hall (Libertarian):	3
Richard A. Hower (Libertarian):	4
Karen Adams (U.S. Taxpayers):	3
Douglas Levesque (U.S. Taxpayers):	3
Mary Anne Hering (Working Class):	3
Hali McEachern (Working Class):	5
Tom Hair (Green):	3
Write-in:	0
Total Votes:	412

Regent of the University of Michigan (2)	
Mark Bernstein (Democrat):	50
Shauna Ryder Diggs (Democrat):	49
Sarah Hubbard (Republican):	146
Carl Meyers (Republican):	142
James L. Hudler (Libertarian):	5
Eric Larson (Libertarian):	3
Ronald E. Graesser (U.S. Taxpayers):	2

Governor of Wayne State University (2)	
Eva Garza Dewaelsche (Democrat):	50
Shirley Stancato (Democrat):	47
Don Gates (Republican):	146
Terri Lynn Land (Republican):	147
Jon Elgas (Libertarian):	5
Christine C. Schwartz (U.S. Taxpayers):	6
Susan Odgers (Green):	3
Write-in:	1
Total Votes:	405

County Prosecuting Attorney (1)	
James L. Rossiter (Republican):	178
Write-in:	2
Total Votes:	180

County Sheriff (1)	
Daniel S. Bean	

Mark S.	
Write:	
Total	

Cour	
Scott (Repul	
Write	
Total	

Cour	
7th	
Dawn I (Repul	
Write	
Total	

Tow	
for	
(1)	
Marti (Repul	
Write	
Total	

Tow	
War	
Panel (Repul	
Write	
Total	

Tow	
for	
(1)	
Lori (Repul	
Write	
Total	

## JOINT EXPERT REPORT

SCIENTISTS SAY NO CREDIBLE EVIDENCE OF COMPUTER FRAUD IN THE 2020 ELECTION OUTCOME, BUT POLICY MAKERS MUST WORK WITH EXPERTS TO IMPROVE CONFIDENCE

16 November 2020

We are specialists in election security, having studied the security of voting machines, voting systems, and technology used for government elections for decades.

We and other scientists have warned for many years that there are security weaknesses in voting systems and have advocated that election systems be better secured against malicious attack. As the National Academies recently concluded, "There is no realistic mechanism to fully secure vote casting and tabulation computer systems from cyber threats." However, notwithstanding these serious concerns, we have

never claimed that technical vulnerabilities have actually been exploited to alter the outcome of any U.S. election.

Anyone asserting that a U.S. election was “rigged” is making an extraordinary claim, one that must be supported by persuasive and verifiable evidence. Merely citing the existence of technical flaws does not establish that an attack occurred, much less that it altered an election outcome. It is simply speculation.

The presence of security weaknesses in election infrastructure does not by itself tell us that any election has actually been compromised. Technical, physical, and procedural safeguards complicate the task of maliciously exploiting election systems, as does monitoring of likely adversaries by law enforcement and the intelligence community. Altering an election outcome involves more than simply the existence of a technical vulnerability.

We are aware of alarming assertions being made that the 2020 election was “rigged” by exploiting technical vulnerabilities. However, in every case of which we are aware, these claims either have been unsubstantiated or are technically incoherent. To our collective knowledge, no credible evidence has been put forth that supports a conclusion that the 2020 election outcome in any State has been altered through technical compromise.

That said, it is imperative that the U.S. continue working to bolster the security of elections against sophisticated adversaries. At a minimum, all States should employ election security practices and mechanisms recommended by experts to increase assurance in election outcomes, such as post-election risk-limiting audits.

If you are looking for a good place to start learning the facts about election security, we recommend the recent National Academies of Science, Engineering, and Medicine (NASEM) study, “Securing the Vote”, which is available for free download at <https://doi.org/10.17226/25120>.

Signed,

*(Affiliations are for identification purposes only; listed alphabetically by surname.)*

1. Tony Adams, Independent Security Researcher.
2. Andrew W. Appel, Professor of Computer Science, Princeton University.
3. Arlene Ash, Professor, University of Massachusetts Medical School.
4. Steven M. Bellovin, Percy K. and Vida L.W. Hudson Professor of Computer Science; affiliate faculty, Columbia Law, Columbia University.
5. Matt Blaze, McDevitt Chair of Computer Science and Law, Georgetown University.
6. Duncan Buell, NCR Professor of Computer Science and Engineering, University of South Carolina.
7. Michael D. Byrne, Professor of Psychological Sciences and Computer Science, Rice University.
8. Jack Cable, Independent Security Researcher.
9. Jeremy Clark, NSERC/Raymond Chabot Grant Thornton/Catallaxy Industrial Research Chair in Blockchain Technologies, Concordia Institute for Information Systems Engineering.
10. Sandy Clark, Independent Security Researcher.
11. Stephen Checkoway, Assistant Professor of Computer Science, Oberlin College.
12. Richard DeMillo, Chair, School of Cybersecurity and Privacy and Warren Professor of Computing, Georgia Tech.
13. David L. Dill, Donald E. Knuth Professor, Emeritus, in the School of Engineering, Stanford University.
14. Zakir Durumeric, Assistant Professor of Computer Science, Stanford University.
15. Aleksander Essex, Associate Professor of Software Engineering, Western University, Canada.
16. David Evans, Professor of Computer Science, University of Virginia.
17. Ariel J. Feldman, Software Engineer.
18. Edward W. Felten, Robert E. Kahn Professor of Computer Science and Public Affairs, Princeton University.
19. Bryan Ford, Professor of Computer and Communication Sciences, Swiss Federal Institute of Technology Lausanne (EPFL).
20. Joshua M. Franklin, Independent Security Researcher.
21. Juan E. Gilbert, Banks Family Preeminence Endowed Professor & Chair, University of Florida.
22. J. Alex Halderman, Professor of Computer Science and Engineering, University of Michigan.
23. Joseph Lorenzo Hall, SVP Strong Internet, Internet Society.
24. Harri Hursti, Co-founder, Nordic Innovation Labs and Election Integrity Foundation.
25. Neil Jenkins, Chief Analytic Officer, Cyber Threat Alliance.



26. David Jefferson, Lawrence Livermore National Laboratory (retired).
27. Douglas W. Jones, Associate Professor of Computer Science, University of Iowa.
28. Joseph Kiniry, Principal Scientist, Galois, CEO and Chief Scientist, Free & Fair.
29. Philip Kortum, Associate Professor of Psychological Sciences, Rice University.
30. Carl E. Landwehr, Visiting Professor, University of Michigan.
31. Maggie MacAlpine, Co-founder, Nordic Innovation Labs and Election Integrity Foundation.
32. Bruce McConnell, former Deputy Under Secretary for Cybersecurity, Department of Homeland Security, (currently) president, EastWest Institute.
33. Patrick McDaniel, Weiss Professor of Information and Communications Technology, Penn State University.
34. Walter Mebane, Professor of Political Science and of Statistics, University of Michigan.
35. Eric Mill, Chrome Security PM, Google.
36. David Mussington, Professor of the Practice, School of Public Policy, University of Maryland College Park.
37. Peter G. Neumann, Chief Scientist, SRI International Computer Science Lab.
38. Lyell Read, Researcher at SSH Lab, Oregon State University.
39. Ronald L. Rivest, Institute Professor, Massachusetts Institute of Technology.
40. Aviel D. Rubin, Professor of Computer Science, Johns Hopkins University.
41. Bruce Schneier, Fellow and Lecturer, Harvard Kennedy School.
42. Alexander A. Schwarzmann, Dean of Computer and Cyber Sciences, Augusta University.
43. Hovav Shacham, Professor of Computer Science, The University of Texas at Austin.
44. Micah Sherr, Provost's Distinguished Associate Professor, Georgetown University.
45. Barbara Simons, IBM Research (retired).
46. Kevin Skoglund, Chief Technologist, Citizens for Better Elections.
47. Michael A. Specter, EECS PhD Candidate, MIT.
48. Alex Stamos, Director, Stanford Internet Observatory.
49. Philip B. Stark, Professor of Statistics and Associate Dean of Mathematical and Physical Sciences, University of California, Berkeley.
50. Jacob Stauffer, Director of Operations, Coherent CYBER.
51. Camille Stewart, Cyber Fellow, Harvard Belfer Center.
52. Rachel Tobac, Hacker, CEO of SocialProof Security.
53. Giovanni Vigna, Professor, Computer Science, University of California, Santa Barbara.
54. Poorvi L. Vora, Professor of Computer Science, The George Washington University.
55. Dan S. Wallach, Professor, Departments of Computer Science and Electrical & Computer Engineering, Rice Scholar, Baker Institute of Public Policy, Rice University.
56. Tarah Wheeler, Cyber Fellow, Harvard Belfer Center.
57. Eric Wustrow, Assistant Professor, Department of Electrical, Computer & Energy Engineering, University of Colorado Boulder.
58. Ka-Ping Yee, Review Team Member, California Secretary of State's Top-to-Bottom Review of Voting Systems.
59. Daniel M. Zimmerman, Principal Researcher, Galois and Principled Computer Scientist, Free & Fair.

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STATEMENT OF JANAI NELSON, PRESIDENT AND DIRECTOR-COUNSEL, NAACP LEGAL  
DEFENSE AND EDUCATIONAL FUND, INC.

MAY 3, 2022

#### I. INTRODUCTION

Thank you for the opportunity to directly submit this statement to the Select Committee to Investigate the January 6th Attack on the United States Capitol. No other act of mass violence in modern history has threatened the existence of our Republican form of government more than the insurrection that occurred at the United States Capitol a mere 16 months ago. The goal of the insurrectionists was clear: To effectuate a violent coup, deny the will of the majority of voters, and upend the functioning of our increasingly multi-racial, multi-ethnic democracy. Therefore, it is essential to the security and endurance of our democracy that this committee understand the January 6th attack in its full context: As a manifestation of broad white

supremacist backlash against robust democratic participation by people of color. This backlash has been fueled in part by the false narrative that rampant voter fraud occurred in communities of color and also by a deep-seated fear that the changing racial and ethnic demographics in the United States and the increasing racial and ethnic diversity of the electorate threaten the existing power structure premised on white supremacy. Moreover, the insurrection was preceded and followed by a rash of racially discriminatory voter suppression laws aimed at Black and Brown Americans and which continue to threaten the integrity of our electoral process. Faced with the added specter of future mass violence in our electoral process, Congress must not only address the threat to our democracy by investigating the January 6th attack but also by enacting legislation to fully protect the right to vote and ensure against election subversion.

#### A. *Statement of Purpose and Outline*

The purpose of this testimony is to make clear the explicit connection between the violence of January 6th and the legal retrenchment that both preceded and followed it, and to insist that Congress cannot address the root cause of the Insurrection without acting to build a more inclusive, multiracial, multi-ethnic democracy by protecting what the late Congressman John Lewis called the “precious, almost sacred” right to vote for Black and Brown Americans.<sup>1</sup>

I briefly discuss the history of racial progress and backlash in the United States; show how a false narrative about elections stolen through massive voter fraud has served as a coded appeal to white racial resentment and a central frame that connects the January 6th Insurrection with wide-spread efforts to restrict the franchise; highlight the historic 2020 turnout of voters of color that intensified the current backlash; detail the various ways the backlash has taken shape since 2020; and explain how furthering progress on race and preventing future insurrection both require solutions that promote a truly inclusive, multi-racial democracy, starting at the ballot box and that protect our elections from subversion.

#### B. *LDF and Our Work*

LDF is America’s premier legal organization fighting for racial justice. Through litigation, advocacy, and public education, LDF seeks structural changes to expand democracy, eliminate disparities, and achieve racial justice in a society that fulfills the promise of equality for all Americans. LDF also defends the gains and protections won over the past 80 years of civil rights struggle and works to improve the quality and diversity of judicial and executive appointments.

Since its founding in 1940, LDF has been a leader in the fight to secure, protect, and advance the voting rights of Black voters and other communities of color.<sup>2</sup> LDF’s founder Thurgood Marshall—who litigated LDF’s watershed victory in *Brown v. Board of Education*,<sup>3</sup> which set in motion the end of legal segregation in this country and transformed the direction of American democracy in the 20th century—referred to *Smith v. Allwright*,<sup>4</sup> the 1944 case ending whites-only primary elections, as his most consequential case. He held this view, he explained, because he believed that the right to vote, and the opportunity to access political power, was critical to fulfilling the guarantee of full citizenship promised to Black people in the 14th Amendment to the U.S. Constitution. LDF has prioritized its work protecting the right of Black citizens to vote for more than 80 years—representing Martin Luther King Jr. and the marchers in Selma, Alabama in 1965, litigating seminal cases interpreting the scope of the Voting Rights Act, and working in communities across the South to strengthen and protect the ability of Black citizens to participate in a political process free from discrimination.

In addition to a robust voting rights litigation docket, LDF has monitored elections for more than a decade through our Prepared to Vote initiative (“PTV”) and, more recently, through our Voting Rights Defender (“VRD”) project, which place LDF staff and volunteers on the ground for primary and general elections every year to conduct non-partisan election protection, poll monitoring, and to support Black political participation in targeted jurisdictions—primarily in the South. LDF is also a founding member of the non-partisan civil rights Election Protection Hotline (1-866-OUR-VOTE), presently administered by the Lawyers’ Committee for Civil Rights Under Law.

<sup>1</sup>Rep. John Lewis: “Your Vote Is Precious, Almost Sacred,” PBS Newshour (Sep. 6, 2021), <https://www.pbs.org/newshour/show/rep-john-lewis-your-vote-is-precious-almost-sacred>.

<sup>2</sup>LDF has been an entirely separate organization from the NAACP since 1957.

<sup>3</sup>347 U.S. 483 (1954).

<sup>4</sup>321 U.S. 649 (1944).



## II. RACE IN THE UNITED STATES: A HISTORY OF PROGRESS &amp; BACKLASH

America's history has been a halting and fraught journey concerning racial equality. This journey, however, has never been a straight line. In fact, the story of multi-racial democracy in the United States is a tale of progress, backlash, and retrenchment—at times followed by further progress, yet often long-delayed.<sup>5</sup> This pattern is clear in the experience of Black Americans across four centuries. The backlash that follows moments of progress can take many forms. Two manifestations, however, are consistent and concrete: Violence and legal changes intended to relegate Black people to the margins of democratic society. We've experienced several of these cycles throughout American history, and our current moment shows all the signs of this same pattern.

A. *Cycles of Progress and Backlash*

The first substantial step toward racial equality in the United States came through the post-Civil War amendments to the Constitution, which ushered in an era known as Reconstruction. During this period, the Federal Government enforced new rules protecting the civil and voting rights of Black people in the South, and as a result Black people began to build political power through elected office and economic stability through institutions such as trade unions.<sup>6</sup> This moment of progress, however, engendered a severe backlash wherein the influence and dominance of white supremacy was restored through violence and laws, in a period known as Redemption.<sup>7</sup> Following the Compromise of 1877, the Federal Government withdrew its enforcement of the rules protecting the civil and voting rights of Black people and the Supreme Court ruled that courts would not protect Black people's civil rights against private actors<sup>8</sup> resulting in nearly a century of racial terror through lynchings, mob violence, and Jim Crow "Black Codes" enforcing strict segregation and second-class citizenship ensued.<sup>9</sup> It was not until the Civil Rights Movement of the 1960's, and specifically the Voting Rights Act of 1965, that the racial caste system reestablished through Redemption began to give way.

This pattern of progress and retrenchment has repeated throughout American history. In the early 20th Century, Black Americans began to leave the South—often under cloak of darkness—to escape the yoke of Jim Crow and seek fairer treatment and economic opportunity in the cities of the North.<sup>10</sup> This "Great Migration" of approximately 6 million people provided opportunities unfathomable in the Redemption South. Yet those who migrated North were not met with open arms. The backlash from Northern whites and the National power structure manifested in myriad ways, but perhaps the most painful and lasting was redlining—a process through which mortgage lenders enforced strict residential segregation and robbed Black Americans of the single biggest opportunity to build generational wealth.<sup>11</sup> Ironically, the same Federal Government that briefly enforced Southern Blacks' rights during Reconstruction now drove their deprivation in Northern cities through its racist housing policy<sup>12</sup> among other racially discriminatory practices.

Similarly, the progress of LDF's landmark *Brown v. Board of Education* case which ended decades of legal segregation in America's public schools, was followed by "massive resistance" and segregation academies.<sup>13</sup> In addition to defying the law to maintain racial hierarchy throughout the South, communities chose to shutter

<sup>5</sup> Indeed, 8 of the 17 post-Bill of Rights amendments to the U.S. Constitution expanded the franchise directly or expanded the Constitutional rights and protection to ensure a more inclusive vision of "we the people" over the course of XX years. U.S. CONST. amends. XIII, XIV, XV, XVII, XIX, XXIII, XXIV, XXVI.

<sup>6</sup> Eric Foner, *The Second Founding: How the Civil War and Reconstruction Remade the Constitution* (2019).

<sup>7</sup> Id.

<sup>8</sup> *U.S. v. Cruikshank*, 92 U.S. 542 (1876).

<sup>9</sup> Foner *supra* note 6.

<sup>10</sup> Isabel Wilkerson, *The Warmth of Other Suns: the Epic Story of America's Great Migration* (2011).

<sup>11</sup> Richard Rothstein, *The Color of Law* (2018); Lisa Rice, *Long Before Redlining: Racial Disparities in Homeownership Need Intentional Policies*, Shelterforce (Feb. 15, 2019), <https://shelterforce.org/2019/02/15/long-before-redlining-racial-disparities-in-homeownership-need-intentional-policies/>; Douglas S. Massey & Nancy A. Denton, *American Apartheid: Segregation and the Making of the Underclass* (1998); Ira Katznelson, *When Affirmative Action Was White: An Untold History of Racial Inequality in Twentieth-Century America* (2005); Robert C. Lieberman, *Shifting the Color Line: Race and the American Welfare State* (Cambridge, MA: Harvard University Press, 1998).

<sup>12</sup> See generally *Color of Law*.

<sup>13</sup> Report: *Segregation in America*, EQUAL JUSTICE INITIATIVE (2018), 20–39, <https://segregationinamerica.eji.org/report.pdf?action=purge>.

public infrastructure rather than share it equally—even draining public pools rather than allowing Black and white children to swim together.<sup>14</sup>

Keeping with this insidious pattern, the progress of electing the Nation's first Black president in 2008 was followed by a substantial mobilization of white Americans through the Tea Party movement who pushed back vehemently against policies that once received bipartisan support (such as health insurance mandates) and questioned President Barack Obama's birthplace and thus his legitimacy as President.<sup>15</sup> More recently, robust public demonstrations of anguish and anger over George Floyd's murder and countless other examples of police devaluing Black lives with wanton violence generated an important National conversation about structural racism. However, these multi-racial efforts to confront police violence against communities of color have been met with sharp backlash in the form of white-led State legislatures and school boards passing so-called "anti-critical race theory" measures that mandate that our public school systems teach students an inaccurate, sanitized version of American history and ban an increasing number of books about race, including some classic texts that have long been part of the public school curricula.<sup>16</sup>

#### *B. The Response to the 2020 Presidential Election Fits the Pattern of Cyclical Backlash*

The 2020 Presidential election and its aftermath fit the long-standing cyclical pattern of progress and backlash that continually thwarts efforts at cementing durable change to perfect our union. In 2020, communities of color drove robust voter turnout leading to electoral results that challenged the political status quo. The violence on January 6th and the attendant effort to override the valid outcome of the 2020 Presidential election were one concrete form of backlash, and the rash of anti-voter laws introduced and enacted in States across the country, building on a wave of voter suppression efforts that preceded the election,<sup>17</sup> was another. Both responses were fueled by a common false narrative rooted in racism and the project of white supremacy. What will happen next remains an open question. Whether we confront this backlash head-on and advance toward further progress or backslide into what some have justly called Jim Crow 2.0 depends in significant part upon Congress' response to the current moment.

### III. FRAMING THE 2020 BACKLASH: FALSE RHETORIC OF STOLEN ELECTIONS CONNECTS JANUARY 6TH TO ON-GOING VOTER SUPPRESSION

Coded racial appeals have served as an overarching frame for the backlash against the 2020 election. Those seeking to stoke racial resentment for their political and economic advantage began laying the groundwork for this frame for many years prior to 2020. For decades, those seeking to restrict the franchise have used false concerns about voter fraud to justify barriers to the ballot.<sup>18</sup> This framework began to take center stage during the prior administration. When President Trump won the 2016 election through the Electoral College but fell more than 3 million total votes short of Hillary Clinton, he told his supporters that there was only one reasonable explanation: Millions of people had voted illegally for Clinton, masking his true victory among legitimate voters.<sup>19</sup> With no actual evidence of voter fraud to support his claim, Trump set up the Presidential Commission on Election Integrity allegedly

<sup>14</sup> HEATHER MCGHEE, *THE SUM OF US: WHAT RACISM COSTS EVERYONE AND HOW WE CAN PROSPER TOGETHER* (2021).

<sup>15</sup> Robb Willer, Matthew Feinberg & Rachel Wetts, *Threats to Racial Status Promote Tea Party Support Among White Americans* (May 4, 2016). Available at SSRN: <https://ssrn.com/abstract=2770186> or <http://dx.doi.org/10.2139/ssrn.2770186>.

<sup>16</sup> *In Defense of Truth*, NAACP LDF (accessed Jan. 19, 2022), <https://www.naacpldf.org/truth/>.

<sup>17</sup> Will Wilder, *Voter Suppression in 2020*, Brennan Center for Justice (Aug. 20, 2020), <https://www.brennancenter.org/our-work/research-reports/voter-suppression-2020>.

<sup>18</sup> German Lopez, *The case against voter ID laws, in one chart*, Vox.com (August 6, 2015), <https://www.vox.com/2015/8/6/9107927/voter-id-election-fraud>; See also, Quinn Scanlan, *'We've never found systemic fraud, not enough to overturn the election: Georgia Secretary of State Raffensperger says'*, ABC News (Dec. 6, 2020), <https://abcnews.go.com/Politics/weve-found-systemic-fraud-overturndelection-georgia-secretary/story?id=74560956>; *Debunking the Voter Fraud Myth*, Brennan Center for Justice (Jan. 31, 2017), [https://www.brennancenter.org/sites/default/files/analysis/Briefing\\_Memo\\_Debunking\\_Voter\\_Fraud\\_Myth.pdf](https://www.brennancenter.org/sites/default/files/analysis/Briefing_Memo_Debunking_Voter_Fraud_Myth.pdf).

<sup>19</sup> Glenn Kessler, *Donald Trump's bogus claim that millions of people voted illegally for Hillary Clinton*, Washington Post (Nov. 27, 2016), <https://www.washingtonpost.com/news/fact-checker/wp/2016/11/27/trumps-bogus-claim-that-millions-of-people-voted-illegally-for-hillary-clinton/>.

to find it.<sup>20</sup> The Commission produced no such evidence and shut down amidst credible allegations of secrecy, mismanagement, and discriminatory intent.<sup>21</sup> Nonetheless, the mere creation of this high-level government commission stoked doubt about the sanctity of our elections and likely helped legitimize the false claim of rampant voter fraud for some.

Heading into the 2020 election, President Trump also told his supporters repeatedly that he could only lose through massive fraud;<sup>22</sup> and he refused to say definitively whether he would accept the election results if he lost.<sup>23</sup> When Trump did in fact lose the 2020 Presidential election—both the popular vote and the Electoral College—his supporters echoed his false Statements that rampant fraud explained the outcome, and both the Trump campaign and legions of its most loyal supporters used this frame as a central theme to guide their activities in the aftermath. In response to false claims that the 2020 election was stolen through rampant fraud, extremist factions orchestrated a campaign to disrupt the counting and certification of the Presidential election and ultimately to overturn its results.<sup>24</sup>

This false narrative of voter fraud is rooted in racism and connects the violence of January 6th to the litany of voter suppression laws taken up by nearly every State. First, the sharp racial divide between those promoting and believing these false claims and those who accept the results of the 2020 election is one indication of how the phantom fraud frame is in fact steeped in racism.<sup>25</sup> Second, views about whether the 2020 election was stolen appear to be correlated with views on race. Third, the connection between the embrace of the false fraud narrative and regressive attitudes about race has manifest in legislatures across the country. For example, State legislators who were the authors or lead sponsors of some of the most aggressive 2021 voter suppression laws have also introduced legislation banning so-called “critical race theory” from being taught in schools; barred the removal of Confederate monuments; and responded to racial justice protests about police brutality against Black people by increasing criminal penalties for protest-related activities.<sup>26</sup>

<sup>20</sup> *President Announces Formation of Bipartisan Presidential Commission on Election Integrity*, the White House (May 11, 2017), <https://trumpwhitehouse.archives.gov/briefings-statements/president-announces-formation-bipartisan-presidential-commission-election-integrity/>.

<sup>21</sup> Jessica Huseman, *A Short History of the Brief and Bumpy Life of the Voting Fraud Commission*, ProPublica (Jan. 4, 2018), <https://www.propublica.org/article/a-short-history-of-the-brief-and-bumpy-life-of-the-voting-fraud-commission>.

<sup>22</sup> Zachary Wolf, *The 5 key elements of Trump's Big Lie and how it came to be*, CNN (May 19, 2021), <https://www.cnn.com/2021/05/19/politics/donald-trump-big-lie-explainer/index.html>.

<sup>23</sup> David Leonhardt, *Trump's Refusal to Concede*, New York Times (Nov. 12, 2020), <https://www.nytimes.com/2020/11/12/briefing/ron-klain-jeffrey-toobin-tropical-storm-eta.html>.

<sup>24</sup> Simon Romero, Shaila Dewan & Giulia McDonnell Nieto del Rio, *In a Year of Protest Cries, Now It's 'Count Every Vote' and 'Stop the Steal'*, THE N.Y. TIMES (Nov. 5, 2020), <https://www.nytimes.com/2020/11/05/us/electionprotests-vote-count.html>; LDF *Issues Statement Condemning Breach of U.S. Capitol, Attempted Coup by Supporters of President Trump*, NAACP LDF (Jan. 6, 2020), <https://www.naacpldf.org/press-release/ldf-issues-statement-condemning-breach-of-u-s-capitol-attempted-coup-by-supporters-of-president-trump/>.

<sup>25</sup> Belief in the Big Lie narrative is sharply divided by partisanship, which is highly correlated with race. See Joel Rose & Liz Baker, *6 in 10 Americans say U.S. democracy is in crisis as 'Big Lie' takes route*, NPR (Jan. 3, 2022), <https://www.npr.org/2022/01/03/1069764164/american-democracy-poll-jan-6>. In addition, “Republicans most likely to believe that racism and discrimination are not a problem are also the most devout believers in the Stop the Steal narrative.” Lee Drutman, *Theft Perception*, VOTER STUDY GROUP (June 2021), <https://www.voterstudygroup.org/publication/theft-perception>.

<sup>26</sup> See AR H.B. 1218, 93d Gen. Assemb., Reg. Sess., (Ark. 2021) (banning school curricula that “promotes societal division” on the basis of race, among other factors), available at <https://www.arkleg.state.ar.us/Bills/Detail?id=HB1218&ddBienniumSession=2021%2F2021R>; AR H.B. 1231, 93d Gen. Assemb., Reg. Sess., (Ark. 2021) (banning teaching the 1619 Project), available at <https://www.arkleg.state.ar.us/Bills/Detail?id=HB1231&ddBienniumSession=2021%2F2021R>; AR H.B. 1761, 93d Gen. Assemb., Reg. Sess., (Ark. 2021) (banning educational materials that portray any group of people as inherently racist, that argue that any group of people should feel guilt or shame due to race, and that the United States is systemically racist), available at <https://www.arkleg.state.ar.us/Bills/Detail?id=HB1761&ddBienniumSession=2021%2F2021R>; AR S.B. 12, 93d Gen. Assemb., Reg. Sess., (Ark. 2021) (adding schools to list of institutions that are not allowed to promote “divisive concepts” including that any group of people is inherently racist), available at <https://www.arkleg.state.ar.us/Bills/Detail?id=SB12&ddBienniumSession=2021%2F2021S2>; and TX S.B. 3, 82d Leg., 2d Sess., (Tex. 2021) (banning curricula that promote the idea that anyone is inherently racist by virtue of their race, whether consciously or unconsciously, an individual bears responsibility for actions undertaken in the past by members of the same race, or the advent of slavery in the now-United States constituted the true founding of the United States, among other ideas), available at <https://capitol.texas.gov/BillLookup/History.aspx?LegSess=872&Bill=SB3>. See also TX S.B. 1663, 86th Leg., Reg. Sess., (Tex. 2019) (ban-

Perhaps the clearest sign that the January 6th insurrection and the recent rash of anti-voter laws are not separate phenomena, but rather are two expressions of white racial anxiety about shifting power dynamics in the United States, is that both have strongholds in places where the white population is declining, either absolutely or in relation to people of color.

The Chicago Project on Security & Threats analyzed various characteristics of 716 people who have been charged with crimes related to January 6th.<sup>27</sup> After examining several factors, the Project determined that (other than county size) the strongest predictor of insurrection participation was residing in a county with a substantial decline in white population since 2015.<sup>28</sup> The authors conclude that their “analysis suggests that local decline of the non-Hispanic white population has a galvanizing effect, and counties that have had higher rates of non-Hispanic white population decline in the last half-decade are likely to produce insurrectionists at a higher rate.”<sup>29</sup> They note further that, “[g]iven the overwhelming whiteness of the population of insurrectionists, the finding that counties with higher rates of demographic change are also counties that sent more insurrectionists even when controlling for a host of competing factors is consistent with a political movement that is partially driven by racial cleavages and white discontent with diversifying communities.”<sup>30</sup>

In sum, the false narrative around stolen elections is not just about a single politician or a single election but rather it effectively foments and channels a broader wave of status insecurity and racial resentment. It is a common progenitor of both the violence and attempt to erase the results of the 2020 election that occurred on January 6th and the wide-spread effort to restrict access to the ballot.

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ning the removal monuments that have existed for at least 40 years, among other restrictions), available at <https://capitol.texas.gov/BillLookup/-History.aspx?LegSess=86R&Bill=SB1663>; AR S.B. 553, 93d Gen. Assemb., Reg. Sess., (Ark. 2021) (banning the removal of monuments that pertain to any war, including the Civil War), available at <https://www.arkleg.state.ar.us/Bills/Detail?id=SB553&ddBienniumSession=2021%2F2021R>; and FL S.B. 288, 2019 Sen., (Fla. 2019) (banning removal, alteration, concealment, etc. of statutes or memorials commemorating veterans or military organizations, including during the Civil War), available at <https://www.flsenate.gov/Session/Bill/2019/288/?Tab=BillText>. See also GA S.B. 403, 2021–2022 Gen. Assemb., Reg. Sess., (Ga. 2022) (providing immunity for law enforcement transporting individuals to mental health facilities), available at <https://www.legis.ga.gov/legislation/61506>; AL H.B. 284, 2021 Leg., Reg. Sess., (Ala. 2021) (providing liability protection for law enforcement officials taking individuals with mental illness to a mental health facility and removing requirement that such officials go through the involuntary commitment process before doing so), available at <https://legiscan.com/AL/text/HB284/id/2271288>; TX H.B. 1788, 87th Leg., Reg. Sess., (Tex. 2021) (creating immunity for schools, school districts, and security personnel for “reasonable actions” taken by school security personnel to preserve safety), available at <https://capitol.texas.gov/BillLookup/-Text.aspx?LegSess=87R&Bill=HB1788>; and FL S.B. 826, 2021 Sen., (Fla. 2021) (extending sovereign immunity to members of Child Protection Teams), available at <https://www.flsenate.gov/Session/Bill/2021/826/?Tab=BillText>. See also AR S.B. 300, 93d Gen. Assemb., Reg. Sess., (Ark. 2021) (prohibiting parole for certain firearm possession cases), available at <https://www.arkleg.state.ar.us/Bills/Detail?id=SB300&ddBienniumSession=2021%2F2021R>; AR H.B. 1866, 92d Gen. Assemb., Reg. Sess., (Ark. 2019) (imposing time limits on when someone can apply for a pardon), available at <https://www.arkleg.state.ar.us/Bills/Detail?id=HB1866&ddBienniumSession=2019%2F2019R>; AR H.B. 1064, 93d Gen. Assemb., Reg. Sess., (Ark. 2021) (increasing the loopback period for certain DWI offenses for the purpose of sentence enhancements), available at <https://www.arkleg.state.ar.us/Bills/Detail?id=HB1062&ddBienniumSession=2021%2F2021R>; KY H.B. 215, 2022 Gen. Assemb., Reg. Sess., (Ky. 2022) (removing pretrial diversion and increasing minimum penalties for certain drug trafficking offenses), available at <https://apps.legislature.ky.gov/record/22rs/hb215.html>; GA S.B. 479, 2021–2022 Gen. Assemb., Reg. Sess., (Ga. 2022) (for firearm possession cases, charges a separate offense for each firearm possessed), available at <https://www.legis.ga.gov/legislation/61936>, and GA S.B. 359, 2021–2022 Gen. Assemb., Reg. Sess., (Ga. 2022) (providing minimum criminal penalties for a series of crimes, including some firearm felonies, and requiring the maximum sentence for certain repeat offender elder or child abuse crimes), available at <https://www.legis.ga.gov/legislation/61213>.

<sup>27</sup> Robert Pape et al., *American Face of Insurrection: Analysis of Individuals Charged for Storming the US Capitol on January 6, 2021*, Chicago Project on Security and Threats (Jan. 5, 2022), [https://d3qi0qp55mx5f5.cloudfront.net/cpost/i/docs/Pape\\_American\\_Face\\_of\\_Insurrection\\_\(2022-01-05\)\\_1.pdf?mtime=1641481428](https://d3qi0qp55mx5f5.cloudfront.net/cpost/i/docs/Pape_American_Face_of_Insurrection_(2022-01-05)_1.pdf?mtime=1641481428).

<sup>28</sup>Id. at 21.

<sup>29</sup>Id. at 18.

<sup>30</sup>Id. at 21–22.

IV. VOTERS OF COLOR OVERCAME BARRIERS TO ASSERT CONSEQUENTIAL POLITICAL POWER IN 2020

The 2020 election was not beset with large-scale fraud, as those promoting the January 6th insurrection have claimed.<sup>31</sup> It also did not, as numerous news reports suggested, “go smoothly.”<sup>32</sup> Accounts from LDF’s Voting Rights Defender and Prepared to Vote teams, detailed in the LDF Thurgood Marshall Institute’s latest Democracy Defended report,<sup>33</sup> reveal the depth and breadth of the issues voters faced, especially voters of color. From onerous vote-by-mail restrictions during a pandemic to voter intimidation, poll closures and unreasonably long lines, Black voters in particular faced a litany of barriers to the ballot.

Yet, participating in the 2020 Presidential election was historic. Voters overcame a host of obstacles with determination and resilience. Two-thirds of eligible voters casted ballots in the 2020 Presidential election.<sup>34</sup> This is the highest turnout rate recorded since 1900; but it actually represents the highest turnout ever given the significant expansion of both the general population and the population of eligible voters since the turn of the twentieth century.<sup>35</sup> Black voter turnout was greater than 65% and nearly matched records set when President Obama was on the ballot.<sup>36</sup>

The historic turnout continued on January 5, 2021 with Georgia’s runoff election. Turnout in runoff elections, which occur after Election Day, is typically modest, and at times anemic. But, with control of the U.S. Senate at stake, and the opportunity to elect candidates who reflected the growing diversity of the State, a record 60% of Georgians turned out in the January runoff.<sup>37</sup> The 4.4 million Georgians who cast ballots on January 5 was more than double the number who voted in the previous record turnout runoff election in 2008.<sup>38</sup> Black voters drove this historic participation, with Black turnout dropping just 8% from the general election compared with an 11% decline among white voters.<sup>39</sup> The result was the election of the first Black and Jewish senators in Georgia’s history.<sup>40</sup>

This historic turnout was no accident and was not driven by the stakes alone. National civil rights and civil liberties groups and Black-led grassroots organizations in Georgia had spent years challenging attempts to restrict access to the ballot and building substantial voter outreach campaigns to educate voters regarding the stakes of Federal, State, and local elections and assist communities as they navigate the voting process.<sup>41</sup> The Herculean effort it took to help Black and Brown voters overcome barriers to the ballot in the 2020 election is not sustainable, however, nor should it be required given the protections guaranteed by the U.S. Constitution. The backlash to the results of this historic turnout and its consequences was immediate.

V. THE POST-2020 BACKLASH IN ACTION

A new chapter of an old story, the backlash to historic 2020 voter turnout among people of color has been swift and severe. As with past reactions to racial progress the post-2020 backlash has featured both violence and legal regression—in this case

<sup>31</sup> Melissa Block, *The clear and present danger of Trump’s enduring ‘Big Lie’*, National Public Radio (December 23, 2021), <https://www.npr.org/2021/12/23/1065277246/trump-big-lie-jan-6-election>.

<sup>32</sup> Sherrilyn Ifill, *No, This Election Did Not Go ‘Smoothly.’* SLATE (Nov. 9, 2020), <https://slate.com/news-and-politics/2020/11/2020-election-voting-did-not-go-smoothly.html>.

<sup>33</sup> Thurgood Marshall Institute, *Democracy Defended*, NAACP LDF (Sept. 2, 2021), [https://www.naacpldf.org/wp-content/uploads/LDF\\_2020\\_DemocracyDefended-1-3.pdf](https://www.naacpldf.org/wp-content/uploads/LDF_2020_DemocracyDefended-1-3.pdf).

<sup>34</sup> Michael P. McDonald, *National General Election VEP Turnout Rates, 1789–Present*, UNITED STATES ELECTIONS PROJECT, Jan. 14, 2022, <http://www.electproject.org/national-1789-present>.

<sup>35</sup> Id.

<sup>36</sup> Michael P. McDonald, *Voter Turnout Demographics*, UNITED STATES ELECTIONS PROJECT (accessed Jan. 14, 2022), <http://www.electproject.org/home/voter-turnout/demographics>.

<sup>37</sup> Nathaniel Rakich et al., *How Democrats Won the Georgia Runoffs*, FIVETHIRTYEIGHT (Jan. 7, 2021, 2:47 PM), <https://fivethirtyeight.com/features/how-democrats-won-the-georgia-runoffs/>.

<sup>38</sup> Id.

<sup>39</sup> Mark Niesse & Jennifer Peebles, *Turnout dip among Georgia Republicans flipped U.S. Senate*, THE ATLANTA J.-CONST. (Feb. 2, 2021), <https://www.ajc.com/politics/turnout-dip-among-georgia-republicans-flipped-us-senate/IKWGEGFEEVEZ5DXT7ZXXOR0IA/>.

<sup>40</sup> Steve Peoples, Bill Barrow, and Russ Bynum, *Warnock, Ossoff win in Georgia, handing Dems control of Senate*, ASSOCIATED PRESS (Jan. 6, 2021), <https://apnews.com/article/Georgia-election-results-4b82ba7ee3cc74d33e68daadaee2cbf3>.

<sup>41</sup> Anna North, *6 Black women organizers on what happened in Georgia—and what comes next*, Vox (November 11, 2020), <https://www.vox.com/21556742/georgia-votes-election-organizers-stacey-abrams>.

in the form of efforts to restrict the franchise. Based on the false narrative of voter fraud, this violence and votes backlash began with campaign operatives questioning vote totals in Black and Brown communities. It continued through a violent insurrection at the U.S. Capitol focused on invalidating the election results and thus the political power exercised by the Black and Brown communities and accelerated through both successful efforts to erect barriers to the ballot and a regressive redistricting cycle that severely constricts the ability of voters of color to assert their full strength at the polls. It continues to this day with active plans to subvert future elections.

#### A. Questioning Vote Totals in Black and Brown Communities

The spark to this particular backlash was the turnout among voters of color, especially Black voters, that led to President Biden's victory in the 2020 election. President Trump and his allies reacted immediately by asserting claims of massive fraud and questioning vote totals, specifically targeting Black elections officials and voters in Black population centers such as Detroit (where election officials counting votes were mobbed and harassed),<sup>42</sup> Philadelphia (where the FBI helped local police arrest two men with weapons suspected of a plot to interfere with ballot counting),<sup>43</sup> and the Atlanta metro region (where Trump alleged that hundreds of thousands of ballots mysteriously appeared).<sup>44</sup> Similarly, President Trump and his allies alleged fraud in places like Arizona where robust turnout among the Latino population was decisive. Again, we saw coordinated attempts to infiltrate ballot counting headquarters and tamper with vote counting.<sup>45</sup>

Wayne County, Michigan emerged as a central focus of attempts to translate the false narrative regarding voter fraud into actual subversion of a free and fair election. On November 20, 2020, LDF filed a lawsuit on behalf of the Michigan Welfare Rights Organization and three individuals alleging that President Trump's attempt to prevent Wayne County, Michigan from certifying its election results was a clear example of intimidating those charged with "aiding a[] person to vote or attempt to vote" in violation of the Voting Rights Act, and that this intimidation was aimed at disenfranchising Black voters.<sup>46</sup>

The Complaint explained how race was a driving factor in the Michigan certification debate: "During [a meeting of the Wayne County canvassing board], one of the Republican Canvassers said she would be open to certifying the rest of Wayne County (which is predominately white) but not Detroit (which is predominately Black), even though those other areas of Wayne County had similar discrepancies [between ballot numbers and poll book records] and in at least one predominantly white city, Livonia, the discrepancies were more significant than those in Detroit."<sup>47</sup>

Subsequently, on December 21, 2020, LDF amended its Complaint, adding the NAACP as a Plaintiff, and alleging that President Trump and his supporters made similar efforts to disenfranchise voters—and especially Black voters—in other States, including Georgia, Pennsylvania, Wisconsin, and Arizona.

The Amended Complaint summarizes the racial discrimination central to the post-election strategy to invalidate the political voice of Black and Brown communities:

Under the specter of preventing "fraud," Defendants engaged in a conspiracy, executed through a coordinated effort, to disenfranchise voters by disrupting vote counting efforts, lodging groundless challenges during recounts, and attempting to block certification of election results through intimidation and coercion of election officials and volunteers. These systematic efforts—violations of the VRA and the Ku Klux Klan Act—have largely been directed at major metropolitan areas with large Black voter populations. These include Detroit, Milwaukee, Atlanta, Philadelphia, and others. Because President Trump lost the popular vote in Michigan and other States that were necessary for a majority of the electoral college, Defendants worked to block certification of the results, on the (legally incorrect) theory that blocking certification would allow State legislatures to override the will of the voters and choose the Trump Campaign's slate of electors . . . . On November 19, 2020, President Trump's personal lawyer Rudy Giuliani, and others, held a press conference at the RNC headquarters in Washington, DC, where they repeated false allegations

<sup>42</sup> Bostock, *supra* note 41.

<sup>43</sup> Ewing et al., *supra* n. 41.

<sup>44</sup> Jeff Amy, Darlene Superville, & Jonathan Lemire, *GA election officials reject Trump call to 'find' more votes*, ASSOCIATED PRESS (Jan. 4, 2021), <https://apnews.com/article/trump-raffensperger-phone-call-georgia-d503c8b4e58f7cd648fbf9a746131ec9>.

<sup>45</sup> Lahut, *supra* n. 41.

<sup>46</sup> Complaint, *Mich. Welfare Rights Org. v. Trump*, Civ. Action 20–3388 (EGS) (D.D.C. Apr. 1, 2022). Available at <https://www.naacpldf.org/wp-content/uploads/Trump-Campaign-Complaint.pdf>.

<sup>47</sup> Complaint at •27 at 7. *Mich. Welfare Rights Org. v. Trump*.

of fraud and openly discussed their strategy of disenfranchising voters in Detroit and Wayne County. At that press conference, Mr. Giuliani asserted without evidence that the Trump campaign had identified 300,000 “illegitimate ballots,” and stated: “These ballots were all cast basically in Detroit that Biden won 80–20,” and “it changes the result of the election in Michigan, if you take out Wayne County.”<sup>48</sup>

In sum, the strategy to block election certifications by alleging fraud and questioning vote totals was not only a political ploy to rescue a failed candidacy. But by focusing the efforts on cities and counties with large populations of voters of color, the strategy was also to advance a narrative that people of color are not legitimate actors in our democracy (as voters or election officials).

#### B. The January 6th Insurrection

After challenging election results in communities of color, the next step in the violence and votes backlash was the January 6th Insurrection—just 1 day after Black voters asserted their power in Georgia. The violent attack on the Capitol on January 6th was a brazen, virulent, and deadly manifestation of the concerted effort to undermine our democracy, to overthrow the government, and to negate the votes cast by our communities. The information unveiled through the on-going investigations of this committee and the Department of Justice confirms that the violence was foreseeable and part of a larger planned coup attempt abetted by encouragement or deliberate inaction at the highest levels.<sup>49</sup> The founder of the Oath Keepers and ten others have been charged with “seditious conspiracy”<sup>50</sup> and according to an early assessment, 13% of those arrested have had associations with militias or right-wing extremist groups.<sup>51</sup> Perhaps most concerning, January 6th marked an embrace of political violence and previously fringe ideologies by mainstream conservatives,<sup>52</sup> a threat that has been growing for some time,<sup>53</sup> has only worsened since the Insurrection and remains of serious concern.<sup>54</sup>

This attempt to thwart the peaceful transfer of power—the very hallmark of a functioning democracy—was the natural conclusion of years of rhetoric inciting and condoning racism and white supremacy,<sup>55</sup> expanding the proliferation of conspiracy theories,<sup>56</sup> and flouting the rule of law. More specifically, it was the direct result of false rhetoric regarding stolen elections that tapped into existing racial anxiety. As the political scientist Hakeem Jefferson and the sociologist Victor Ray have written, “Jan. 6 was a racial reckoning. It was a reckoning against the promise of a mul-

<sup>48</sup> Complaint at 18–21 *Mich. Welfare Rights Org. v. Trump*.

<sup>49</sup> Paul LeBlanc, *The January 6 committee formed 6 months ago. Here's what it's uncovered*, CNN (January 4, 2022), <https://www.cnn.com/2021/12/29/politics/january-6-committee-investigation-trump-what-matters/index.html>; Department of Justice, *One Year Since the Jan. 6 Attack on the Capitol*, (Updated Dec. 30, 2021), <https://www.justice.gov/usao-dc/one-year-jan-6-attack-capitol>.

<sup>50</sup> Department of Justice, *Leader of Oath Keepers and 10 Other Individuals Indicted in Federal Court for Seditious Conspiracy and Other Offenses Related to U.S. Capitol Breach: Eight Others Facing Charges in Two Related Cases*, Department of Justice Office of Public Affairs (Jan. 13, 2022), <https://www.justice.gov/opa/pr/leader-oath-keepers-and-10-other-individuals-indicted-federal-court-seditious-conspiracy-and>.

<sup>51</sup> Ayman Ismail, *We Know Exactly Who the Capitol Rioters Were*, Slate (Jan. 4, 2022), <https://slate.com/news-and-politics/2022/01/january-6-capitol-riot-arrests-research-profile.html>.

<sup>52</sup> (“The normalization of the conspiracies that animate their beliefs is great news for extremists, who don’t have to work nearly as hard to have their views accepted in the mainstream.”) Digital Forensic Research Lab, *Experts react to the year since January 6*, Atlantic Council (Jan. 4, 2022), <https://www.atlanticcouncil.org/in-depth-research-reports/experts-react-to-the-year-since-january-6/#perilous>; (“The Jan. 6 insurrectionists really are best understood as a product of the mainstream.”) Ayman Ismail *supra* note 60.

<sup>53</sup> Seth Jones, *The Rise of Far-Right Extremism in the United States*, Center for Strategic and International Studies (Nov. 7, 2018), <https://www.csis.org/analysis/rise-far-right-extremism-united-states>.

<sup>54</sup> (In a poll, 25% of Republicans believe the Qanon conspiracy and 15% of Americans believed that “American patriots may have to resort to violence”) Giovanni Russonello, *QAnon Now as Popular in U.S. as Some Major Religions, Poll Suggests*, New York Times (updated Aug. 12, 2021), <https://www.nytimes.com/2021/05/27/us/politics/qanon-republicans-trump.html>; (“Extremist movements are stronger, conspiracy networks larger, and elements of the GOP more radical, with some elected officials spreading extremist views. The prosecution of insurrectionists has not shut down groups like the racist Proud Boys and anti-government Oath Keepers, or like-minded allies who thrive on-line and on the streets.”) Digital Forensics Lab *supra* note 61.

<sup>55</sup> James Rainey & Melissa Gomez, *Asked to condemn white supremacists, Trump tells Proud Boys hate group to ‘stand by’*, THE LA TIMES (Sept. 29, 2020), <https://www.latimes.com/world-nation/story/2020-09-29/asked-to-condemn-white-supremacists-trump-tells-proud-boys-hate-group-to-stand-by>.

<sup>56</sup> Shirin Ghaffary, *The long-term consequences of Trump’s conspiracy theory campaign*, Vox (Nov. 20, 2020), <https://www.vox.com/recode/21546119/trump-conspiracy-theories-election-2020-coronavirus-voting-vote-by-mail>.

tiracial democracy and the perceived influence of the Black vote.”<sup>57</sup> We know this in part because “those who participated in the insurrection were more likely to come from areas that experienced more significant declines in the non-Hispanic white population—further evidence that the storming of the Capitol was, in part, a backlash to a perceived loss of status, what social scientists call ‘perceived status threat.’”<sup>58</sup>

Some of the most enduring imagery from the attack on the U.S. Capitol points to race as a central, underlying factor. Many photographs from the January 6th insurrection were disturbing, but one in particular encapsulated the historical significance and the stakes for our Republic: the image of an insurgent inside the U.S. Capitol brandishing a Confederate flag.<sup>59</sup>

*C. The Backlash Accelerates: States Pass Anti-Voter Laws and Use Centennial Redistricting to Weaken the Voices of Voters of Color*

The next stage of the backlash played out in State legislatures across the country through bills and laws intended to block Black and Brown Americans’ access to the ballot. In 2021 we saw a repeat of history—a steady drip of old poison in new bottles.<sup>60</sup> Whereas in a bygone era discriminatory intent in voting restrictions was dressed up in the alleged espousal of ideals such as securing a more informed and invested electorate, the new professed justification is fighting voter fraud, an imaginary phantom that serves as a basis to attack the right to vote. State lawmakers introduced and advanced new voting laws targeted to ensure that the robust turnout among voters of color in the 2020 Presidential election could not be repeated. Legislators introduced more than 400 bills in nearly every State aiming to restrict the franchise.<sup>61</sup> Nineteen States enacted a total of 34 laws that roll back voting rights and erect new barriers to the ballot.<sup>62</sup>

Critically, many of these laws are directly targeted at blocking pathways to the ballot box that Black and Brown voters used successfully in 2020. For example, after Black voters increased their usage of absentee ballots as a result of the pandemic, S.B. 90 in Florida severely curtailed the use of unstaffed ballot return drop boxes and effectively eliminated community ballot collection.<sup>63</sup> And in Georgia and Texas, after strong early in-person turnout among Black voters, lawmakers initially moved to outlaw or limit Sunday voting in a direct attack on the “souls to the polls” turnout efforts undertaken by many Black churches to mobilize voters to engage in collective civic participation.<sup>64</sup> Another law in Georgia hampers vote-by-mail, cuts back on early voting, and more.<sup>65</sup> The 2021 omnibus voting law in Texas eliminates a number of accessible, common-sense voting methods, including “drive-thru” voting and 24-hour early voting—both methods that proved invaluable for Black and

<sup>57</sup> Hakeem Jefferson & Victor Ray, *White Backlash is a Type of Racial Reckoning, Too*, FIVETHIRTYEIGHT (Jan. 6, 2022), <https://fivethirtyeight.com/features/white-backlash-is-a-type-of-racial-reckoning-too/>.

<sup>58</sup> *Id.*

<sup>59</sup> Indeed, many insurrectionist donned Confederate paraphernalia. Javonte Anderson, *Capitol riot images showing Confederate flag a reminder of country’s darkest past*, USA TODAY (Jan. 13, 2021), <https://www.usatoday.com/story/news/2021/01/07/capitol-riot-images-confederate-flag-terror/6588104002/>.

<sup>60</sup> Deuel Ross, *Pouring Old Poison into New Bottles: How Discretion and the Discriminatory Administration of Voter ID Laws Recreate Literacy Tests* 45 COLUM. HUM. RTS. L. REV. 362 (2014).

<sup>61</sup> Resource: Voting Laws Roundup: December 2021, BRENNAN CENTER FOR JUSTICE (Jan. 12, 2022), <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-december-2021>.

<sup>62</sup> *Id.*

<sup>63</sup> See generally Compl. for Decl. and Inj. Relief, *Fla. State Conferences of Branches v. Lee*, No. 4:21-cv-00187-WS-MAF (N.D. Fla. May 6, 2021), ECF No. 1.

<sup>64</sup> Letter from Sam Spital et al., NAACP LDF to Texas Senate (May 29, 2021), <https://www.naacpldf.org/wp-content/uploads/LDF-Conference-Committee-Report-Opposition-Senate-20210529-1.pdf>; Letter from John Cusick et al., NAACP LDF et al., to Georgia House of Representatives, Special Committee on Election Integrity (Mar. 14, 2021), <https://www.naacpldf.org/wp-content/uploads/LDF-SPLC-Written-Testimony-on-SB202-3.18.21.pdf>. In both States, after advocacy from LDF and others, lawmakers eventually removed these blatantly discriminatory provisions from the omnibus voting bills under consideration—although in both States, the final forms of the enacted bills remained extremely harmful to voters of color. See *LDF Files Lawsuit Against the State of Florida Over Suppressive Voting Law*, NAACP LDF (May 6, 2021), <https://www.naacpldf.org/press-release/ldf-files-lawsuit-against-the-state-of-florida-over-suppressive-voting-law/>; *Civil Rights Groups Sue Georgia Over New Sweeping Voter Suppression Law*, NAACP LDF (March 30, 2021), <https://www.naacpldf.org/press-release/civil-rights-groups-sue-georgia-over-new-sweeping-voter-suppression-law/>.

<sup>65</sup> See S.B. 202, <https://www.legis.ga.gov/api/legislation/document/20212022/201498>.



Brown voters in Texas's largest cities in 2020.<sup>66</sup> In all, these laws severely restrict the ability of voters of color to cast a ballot and specifically target the ways in which these voters participated successfully in the 2020 Presidential election.

The people targeted by these laws are well aware of what is happening and are actively fighting back. Jeffrey Clemmons, a Black resident of Harris County Texas in his early twenties who was a leader in his college NAACP chapter and served as an election judge in 2020, is suing to push back on the Texas 2021 voter suppression law, represented by LDF.<sup>67</sup> Mr. Clemmons says:

"I absolutely think that the over 400 laws that were pushed through legislatures from Texas to Georgia to curtail our rights to vote were indeed because of the incredible turnout of people of color and young people again who had never turned up to the ballot box before. We felt so motivated and so strongly about this election because we knew [what] was on the line if we didn't vote in so many instances and because we are tired of not being represented properly . . . And so these election laws are an attempt to turn back the clock on our voting rights and make sure that [] never happens again to create, you know, this environment of fear that if you vote, you're going to be punished for it."<sup>68</sup>

Of the more than 400 bills introduced last year, at least 152 in 18 States have carried over into current legislative sessions, and more than a dozen additional bills were pre-filed by December in anticipation of the 2022 session.<sup>69</sup> As of January 2022, legislatures in more than half of U.S. States had introduced, pre-filed, or carried over more than 250 anti-voter bills.<sup>70</sup> Like in 2021, many of these bills target the specific ways that Black and Brown voters have made their voices heard in recent elections.<sup>71</sup>

In addition to enacting laws that restrict access to the ballot, several States have used the first centennial redistricting process in six decades without the full protection of the Voting Rights Act, to weaken the voices of voters of color. From 1970—just after the “reapportionment revolution” forced line-drawers to adhere to the one-person, one-vote principal<sup>72</sup>—through the 2010 redistricting cycle, the preclearance protection of Section 5 of the Voting Rights Act was the most powerful tool to protect Black and Brown voters through the districting process. Section 5 certainly did not ensure that Black voters enjoyed fully equal representation throughout the country, but its anti-retrogression principle did mean that at least hostile State legislatures could not set Black voters further back after each Census.<sup>73</sup> Section 2 of the Voting Rights Act has been a complementary tool, allowing Black and Brown voters and community organizations to bring lawsuits when district maps disempowered them compared with neighboring white communities.

The Supreme Court, however, substantially weakened these protections in the 2013 *Shelby* case when it undercut the preclearance protections of Section 5 and in 2021 when the Court made Section 2 claims more challenging in *Brnovich v. DNC*.<sup>74</sup> The result is that Black communities entered the current redistricting cycle with a shredded shield, more exposed to the manipulations of white-dominated State legislatures than at any time since Jim Crow.

Prior to the current round of redistricting, political representation in the United States was already sharply skewed. In 2019, people of color made up 39% of the U.S. population but only 12% of elected officials across the country, according to an analysis of nearly 46,000 Federal, State, and local office holders.<sup>75</sup> Put another way,

<sup>66</sup> Compl. for Decl. and Injunctive Relief, *Houston Justice v. Abbott*, No. 5:21-cv-00848 (W.D. Tex. Sept. 7, 2021), ECF No. 1, available at <https://www.naacpldf.org/wp-content/uploads/Houston-Justice-et-al.-v.-Abbott-et-al.-Complaint.pdf>; see also Press Release: *Lawsuit Filed Challenging New Texas Law Targeting Voting Rights*, NAACP LDF (Sept. 7, 2021), <https://www.naacpldf.org/press-release/lawsuit-filed-challenging-new-texas-law-targeting-voting-rights/>.

<sup>67</sup> Compl. for Decl. and Injunctive Relief, *Houston Justice v. Abbott*, No. 5:21-cv-00848 (W.D. Tex. Sept. 7, 2021), ECF No. 1.

<sup>68</sup> Interview by Adam Lioz, Senior Policy Counsel for LDF, with Jeffrey Clemmons (Jan. 10, 2022) (on file with author).

<sup>69</sup> *Resource: Voting Laws Roundup: December 2021*, supra n. 70.

<sup>70</sup> *Voting Laws Roundup: February 2022*, Brennan Center for Justice (Feb. 9, 2022), [https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-february-2022?\\_ga=2.231456991.1301012527.1649763533-1535293244.1632777334](https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-february-2022?_ga=2.231456991.1301012527.1649763533-1535293244.1632777334).

<sup>71</sup> *Id.*

<sup>72</sup> See e.g., *Baker v. Carr*, 369 U.S. 186 (1962); *Reynolds v. Sims*, 377 U.S. 533 (1964).

<sup>73</sup> See 52 U.S.C. 10304(b); *Beer v. United States*, 425 U.S. 130 (1976); *Florida v. United States*, 885 F. Supp. 2d 299 (D.D.C. 2012); *Texas v. United States*, 887 F. Supp.2d 133 (D. D.C. 2012).

<sup>74</sup> 594 U.S. (2021).

<sup>75</sup> Datasets, *The Electability Myth: The Shifting Demographics of Political Power in America*, REFLECTIVE DEMOCRACY CAMPAIGN, <https://wholeads.us/datasets/>.

white Americans occupied nearly 90% of elected offices in the U.S. despite forming just over 60% of the population.

The current districting process threatens to worsen this already skewed representation. The Nation has grown substantially more diverse since 2010,<sup>76</sup> but political representation is not on track to reflect this growing diversity—and Black and Brown Americans are likely to see their representation remain static or even lose ground in many places rather than see their power increase with their numbers.

According to the U.S. Census Bureau, more than 42% of Americans are now people of color.<sup>77</sup> Since the 2010 Census, the Latino population grew by 23%, compared to just 4.3% non-Latino population growth.<sup>78</sup> The Black population grew by nearly 6%.<sup>79</sup> This growth was even starker among voters of color. One 2021 report projected that nearly 80% of the growth in voting eligible population would be through people of color, including 17% from Black voters.<sup>80</sup> These shifts, and the accompanying anxiety around power and social status, have made certain Americans vulnerable to the false fraud frame, especially in States with the most profound changes. A key backlash strategy has been to use the districting process to ensure that the power of voters of color does not grow with their numbers.

In the leadup to the current districting cycle, Brennan Center districting expert Michael Li issued a report citing the loss of Section 5 and narrowing of Section 2 of the Voting Rights Act to warn that in substantial parts of the country “there may be even greater room for unfair processes and results than in 2011, when the Nation saw some of the most gerrymandered and racially discriminatory maps in its history.”<sup>81</sup> So far, unfortunately, his predictions have largely borne out. In late November, Li noted that “[c]ommunities of color are bearing the brunt of aggressive map drawing,” citing Illinois, North Carolina, and Texas as examples.<sup>82</sup> In Texas, “communities of color accounted for 95% of the State’s population growth last decade. Yet, not only did Texas Republicans create no new electoral opportunities for minority community communities, but their maps also often went backwards.”<sup>83</sup> The pattern has continued—so much so that Li noted in mid-January that “[p]eople of color are getting shellacked in redistricting” this cycle.<sup>84</sup>

A December 2021 *New York Times* article detailed how white lawmakers are systematically driving Black elected officials from positions of power by carving up their districts and at times forcing them to run against other incumbents.<sup>85</sup> The article cites at least two dozen examples, including former Congressional Black Caucus chair G.K. Butterfield of North Carolina, who is retiring as a result and called the situation a “five-alarm fire.”<sup>86 87</sup>

LDF has brought lawsuits challenging the anti-voter laws and the unfair redistricting maps in several States; and our allies are suing in many others. For example, 6 of the 9 States formerly covered by Section 5 have completed at least some of their post-Census districting maps, and in 5 of these 6 States at least one map

<sup>76</sup>U.S. Census Bureau’s Diversity Index has gone up from 54.9% to 61.1% since 2010. Eric Jensen et al., *The Chance That Two People Chosen at Random Are of Different Race or Ethnicity Groups Has Increased Since 2010*, U.S. CENSUS BUREAU (Aug. 12, 2021), <https://www.census.gov/library/stories/2021/08/2020-united-states-population-more-racially-ethnically-diverse-than-2010.html>.

<sup>77</sup>Id.

<sup>78</sup>Press Release, *2020 Census Statistics Highlight Local Population Changes and Nation’s Racial and Ethnic Diversity*, U.S. CENSUS BUREAU (Aug. 12, 2021), <https://www.census.gov/newsroom/press-releases/2021/population-changes-nations-diversity.html>.

<sup>79</sup>U.S. Census Bureau, *2010 Census Redistricting Data (Public Law 94–171) Summary File*, U.S. CENSUS BUREAU (accessed Jan. 18, 2022); U.S. Census Bureau, *2020 Census Redistricting Data (Public Law 94–171) Summary File*, U.S. CENSUS BUREAU (accessed Jan. 18, 2022). See also U.S. Census Bureau, *Race and Ethnicity in the United States: 2010 Census and 2020 Census* (Aug. 12, 2021), <https://www.census.gov/library/visualizations/interactive/race-and-ethnicity-in-the-united-state-2010-and-2020-census.html>.

<sup>80</sup>Michael C. Li, *The Redistricting Landscape, 2021–2022*, BRENNAN CENTER FOR JUSTICE (Feb. 11, 2021), at 15, fig. 7, <https://www.brennancenter.org/our-work/research-reports/redistricting-landscape-2021-22>.

<sup>81</sup>Id. at 3.

<sup>82</sup>Michael C. Li, *Early Lessons from the Current Redistricting Round*, BRENNAN CENTER FOR JUSTICE (Nov. 30, 2021), <https://www.brennancenter.org/our-work/analysis-opinion/early-lessons-current-redistricting-round>.

<sup>83</sup>Id.

<sup>84</sup>Michael Li (@mcpli), Twitter (Jan. 13, 2022, 2:33 PM), <https://twitter.com/mcpli/status/148171130020130816>.

<sup>85</sup>Nick Corasaniti & Reid J. Epstein, *Map by Map, G.O.P. Chips Away at Black Democrats’ Power*, THE N.Y. TIMES (Dec. 18, 2021), <https://www.nytimes.com/2021/12/18/us/politics/gop-gerrymandering-black-democrats.html>.

<sup>86</sup>Id.

<sup>87</sup>Id.

(and often more than one) is being challenged in lawsuits alleging racial discrimination.<sup>88</sup> Had the Supreme Court not gutted the heart of the Voting Rights Act in 2013 by rendering inoperable the requirement that jurisdictions with histories of voting discrimination “preclear” voting changes before they take hold, many of the restrictive voting laws passed in 2021 would not have gone into effect. Five of the 19 States that passed restrictive laws were fully covered by the VRA’s preclearance provisions.<sup>89</sup> Now affected voters are forced to push back piecemeal, using the Constitution’s protections against intentional vote discrimination and the Voting Rights Act’s remaining protections against discriminatory impact.<sup>90</sup>

LDF is currently litigating cases against 2021 voter suppression laws in Georgia, Florida, and Texas; and discriminatory redistricting plans in Alabama, South Carolina, and Louisiana. This litigation is an important but limited tool to protect Black and Brown Americans’ right to vote. Voting rights litigation can be slow and expensive, often costing parties millions of dollars.<sup>91</sup> The cases also expend significant judicial resources.<sup>92</sup> Additionally, the average length of Section 2 cases is 2 to 5 years.<sup>93</sup> In the years during a case’s pendency, thousands—and, in some cases, millions—of voters are effectively disenfranchised.<sup>94</sup>

The details of these cases (described in chronological order below) show that these laws are targeted at pushing back on strong 2020 turnout among voters of color and are clearly part of the backlash unleashed through false narratives about voter fraud. These cases have survived multiple attempts to block aggrieved voters from having their day in court—such as motions to dismiss or for summary judgment—and two of them have already resulted in victories for Black voters at the trial court level. In January, a three-judge panel ordered Alabama to draw new Congressional maps that give Black voters a fair opportunity to elect their preferred candidates (this ruling was put on hold by the Supreme Court).<sup>95</sup> A Federal judge in March struck down Florida’s voter suppression law and ruled that it was the product of intentional racial discrimination.<sup>96</sup>

#### a. Georgia

In addition to being the most visible place Black voters asserted power in 2020, Georgia has seen significant population growth among people of color over the last decade. According to the U.S. Census Bureau, the State’s diversity index jumped several points over the past decade, and Georgia jumped two slots to become the ninth most diverse State in the Nation.<sup>97</sup> This made the Peach State especially vulnerable to the false fraud frame. In fact, Georgia wasted no time translating the backlash against the rising voices of voters of color into legislative action to restrict the franchise. On January 7, 2021—two days after the run-off election, and the day after the Insurrection—Georgia House Speaker David Ralston announced the creation of a Special Committee on Election Integrity (“EIC”) and by early February, Georgia legislators had filed sweeping legislation to limit early and absentee voting.<sup>98</sup>

<sup>88</sup> *Redistricting Across States*, ALL ABOUT REDISTRICTING, <https://redistricting.lla.edu/> (accessed Jan. 18, 2022).

<sup>89</sup> See U.S. DEPT OF JUSTICE, *Jurisdictions Previously Covered by Section 5*, <https://www.justice.gov/crt/jurisdictions-previously-covered-section-5>; *Resource: Voting Laws Roundup: December 2021*, *supra* n. 70.

<sup>90</sup> 594 U.S. (2021).

<sup>91</sup> *The Cost (in Time, Money, and Burden) of Section 2 of the Voting Rights Act Litigation* NAACP LDF (Feb. 19, 2021), <https://www.naacpldf.org/wp-content/uploads/Section-2-costs-2.19.21.pdf>.

<sup>92</sup> Federal Judicial Center, *2003–2004 District Court Case-Weighting Study*, Table 1 (2005) (finding that voting cases consume the sixth most judicial resources out of 63 types of cases analyzed).

<sup>93</sup> Voting Rights Act: Section 5 of the Act—History, Scope, and Purpose: Hearing Before the Subcomm. on the Constitution of the H. Comm. on the Judiciary, 109th Cong. 92 (2005) (“Two to 5 years is a rough average” for the length of Section 2 lawsuits).

<sup>94</sup> See e.g., *Veasey v. Abbott*, No. 20–40428 (5th Cir. Sept. 3, 2021), available at <https://www.ca5.uscourts.gov/opinions/pub/20/20-40428-CV0.pdf> (upholding grant of \$6,790,333.31 in attorneys’ fees).

<sup>95</sup> 21A375 *Merrill v. Milligan* 595 U.S. (2022). Available at [https://www.naacpldf.org/wp-content/uploads/order\\_supreme\\_court\\_alabama\\_case\\_2\\_7\\_2022.pdf](https://www.naacpldf.org/wp-content/uploads/order_supreme_court_alabama_case_2_7_2022.pdf).

<sup>96</sup> *League of Women Voters of Fla. Inc. v. Lee*, 4:21cv186–MW/MAF (N.D. Fla. Mar. 31, 2022).

<sup>97</sup> *Racial and Ethnic Diversity in the United States: 2010 Census and 2020 Census*, U.S. Census Bureau (Aug. 12, 2021), <https://www.census.gov/library/visualizations/interactive/racial-and-ethnic-diversity-in-the-united-states-2010-and-2020-census.html>.

<sup>98</sup> Stephen Fowler, *Sweeping Elections Bill To Limit Early And Absentee Voting*, NPR (Feb. 19, 2021), <https://www.npr.org/2021/02/19/969497398/georgia-republicans-file-sweeping-elections-bill-to-limit-early-and-absentee-vot>.

LDF, jointly with the Southern Poverty Law Center (“SPLC”), provided oral and written testimony throughout the legislative session to oppose omnibus bills restricting access to the right to vote, explaining that these bills would disproportionately harm low-income voters and voters of color.<sup>99</sup> Yet, the Georgia General Assembly refused to conduct any racial-impact study of legislation that would carry forward the State’s troubling history of voting discrimination.<sup>100</sup>

On March 17, 2021, with little notice to EIC members, and members of the public, an EIC member introduced a substitute bill to Senate Bill 202 (“S.B. 202”), which expanded the legislation from 3 pages to over 90 pages just hours before a full hearing. With limited opportunity for meaningful engagement and review, the EIC rushed S.B. 202 through additional hearings. On March 25, 2021, the House and Senate passed S.B. 202, and the Governor signed it into law during a closed-door session.<sup>101</sup> One of the most restrictive voting laws of recent years, S.B. 202: (1) Severely limits mobile voting; (2) imposes new identification requirements for requesting and casting an absentee ballot; (3) delays and compresses the time period for requesting absentee ballots; (4) imposes new restrictions on secure drop boxes; (5) implements out-of-precinct provisional ballot disqualification; (6) drastically reduces early voting in run-off elections; and (7) criminalizes the provision of food and water to voters waiting in line to cast a ballot.<sup>102</sup>

On March 30, 2021, LDF, along with allies, filed a lawsuit, later amended, in the Northern District of Georgia, which challenges S.B. 202 on behalf of several groups including the Sixth District of the African Methodist Episcopal Church, Delta Sigma Theta Sorority, Inc, Georgia ADAPT, Georgia Advocacy Office, and the Southern Christian Leadership Conference.<sup>103</sup> The lawsuit raises several claims including racial discrimination in violation of the VRA and the Fourteenth and Fifteenth Amendments; an unconstitutional burden on the right to vote under the First and Fourteenth Amendments; an unconstitutional burden on the right to freedom of speech and expression under the First Amendment; discrimination on the basis of disability under Title II of the American Disabilities Act, and Section 504 of the Rehabilitation Act of 1973, and a violation of the Civil Rights Act of 1964’s prohibition on immaterial requirements to voting.

In the 2022 legislative session, Georgia lawmakers picked up where they left off last year. After promising no further major election changes, the Georgia House nonetheless pushed through a package that sought to give the Georgia Bureau of Investigation (GBI) original jurisdiction to investigate nonexistent election crimes; reduce the number of voting machines required on Election Day; and increase mandates on elections officials without corresponding resources.<sup>104</sup> After strong pushback from elections officials and the voting rights community, the legislature removed most of the anti-voter provisions, but did pass legislation that threatens to intimidate voters by involving the GBI directly in elections.<sup>105</sup>

#### *b. Florida*

Florida, which also grew more diverse in the last decade,<sup>106</sup> was not far behind Georgia in channeling the false fraud claims and resulting backlash into new voting restrictions. On May 6, 2021, Governor DeSantis signed into law a broad voter suppression bill known as S.B. 90.<sup>107</sup> The same day LDF filed a lawsuit on behalf of

<sup>99</sup> *LDF and SPLC Action Fund Submit Testimony Opposing Georgia’s S.B. 202*, NAACP LDF (Mar. 18, 2021), <https://www.naacpldf.org/news/ldf-and-splc-action-fund-submit-testimony-opposing-georgias-s-b-202/>.

<sup>100</sup> Since the 2013 *Shelby* decision, the State of Georgia has enacted voting restrictions across five major categories studied by the U.S. Commission on Civil Rights: Voter identification requirements, documentary proof of citizenship requirements, voter purges, cuts to early voting, and polling place closures or relocations. *Democracy Diminished*, NAACP LDF (Oct. 6, 2021), at 25–32, [https://www.naacpldf.org/wp-content/uploads/Democracy-Diminished\\_10.06.2021-Final.pdf](https://www.naacpldf.org/wp-content/uploads/Democracy-Diminished_10.06.2021-Final.pdf).

<sup>101</sup> Stephen Fowler, “Georgia Governor Signs Election Overhaul, Includes Changes to Absentee Voting,” NPR (Mar. 25, 2021), <https://www.npr.org/2021/03/25/981357583/georgia-legislature-approves-election-overhaul-including-changes-to-absentee-vot>.

<sup>102</sup> *Civil Rights Groups Sue Georgia Over New Sweeping Voter Suppression Law*, NAACP LDF (Mar. 30, 2021), <https://www.naacpldf.org/press-release/civil-rights-groups-sue-georgia-over-new-sweeping-voter-suppression-law/>.

<sup>103</sup> *Id.*

<sup>104</sup> GA HB1464. Regular Session 2021–2022, (Mar. 30, 2022).

<sup>105</sup> Cami Mondeaux, *Georgia lawmakers pass bill giving GBI power to investigate voter fraud*, Washington Examiner (Apr. 5, 2022), <https://www.washingtonexaminer.com/politics/georgia-lawmakers-pass-bill-giving-gbi-power-to-investigate-voter-fraud>.

<sup>106</sup> Racial and Ethnic Diversity in the United States *supra* note 106.

<sup>107</sup> *Gov. DeSantis Signs GOP-Backed Elections Bill at Event Closed to Local Media*, ASSOCIATED PRESS (May 6, 2021), <https://www.nbcmiami.com/news/local/gov-desantis-signs-gop-backed-elections-bill/2444871/>.

the Florida State Conference of the NAACP, Disability Rights Florida, and Common Cause against the Florida Secretary of State, challenging multiple provisions of the bill including: (1) Restrictions and new requirements for VBM applications; (2) limitations on where, when, and how drop boxes can be used; and (3) a vague and overbroad prohibition on conduct near polling places, including potentially criminalizing offering free food, water, and other relief to Florida voters waiting in long lines.<sup>108</sup>

On October 8, 2021, Chief Judge Mark E. Walker denied the Secretary of State's motion to dismiss with respect to most of our claims, noting that the allegations of intentional discrimination in our complaint drew a "a straight, shameful line from the discriminatory laws of the 1880's to today."<sup>109</sup> Judge Walker then struck down S.B. 90 in March of this year, ruling that the law violates Section 2 of the Voting Rights Act, and the First and Fourteenth Amendments to the U.S. Constitution.<sup>110</sup> Because the district court found that the Florida legislature intentionally discriminated against Black voters through its enactment of S.B. 90, the court granted the Plaintiffs' request for bail-in relief, thereby retaining jurisdiction in the matter for 10 years and prohibiting Florida from enacting certain voting changes without pre-approval.<sup>111</sup>

In reaching its finding of intentional discrimination, the Court pointed to decades of troubling history, noting that "[a]t some point, when the Florida Legislature passes law after law disproportionately burdening Black voters, this Court can no longer accept that the effect is incidental."<sup>112</sup> It also discussed the specific context of the 2020 election and how S.B. 90 was framed in response. After noting a surge in vote-by-mail participation, high turnout generally, and the fact that by all accounts the election was conducted without major security concerns, the court referenced the National climate and Florida's response, making an explicit connection to the January 6th Insurrection:

"While Florida's election went smoothly, this Court cannot ignore reality. The 2020 election and its aftermath, on a national scale, was chaotic, though scant evidence was presented on this issue. Between the 2020 election and SB 90's introduction, then-President Trump refused to acknowledge that he had lost the election, causing an escalating crisis that culminated in a mob storming the United States Capitol on January 6, 2021. This is not determinative, but this Court cannot evaluate the Legislature's actions without at least acknowledging these events. Indeed, the [election] Supervisors' lobbyist, David Ramba, testified that considering "all of the things that were on the national news and who stole what and everything else, we knew that somebody was going to come up with a piece of legislation."

"As Mr. Ramba expected, in the first legislative session after the 2020 election, the Legislature, through SB 90, made a sweeping set of changes to Florida's election code, with a specific focus on VBM. For context, between 2013 and 2020 the Legislature made no changes to VBM. And the exact justification for SB 90 as a whole, and for its constituent parts, is difficult to pin down, with sponsors and supporters offering conflicting or nonsensical rationales. Indeed, as Senator Farmer testified, the rationale for SB 90 "was perhaps the most [elusive] answer we faced." . . . Nor was there any evidence before the Legislature that fraud is even a marginal issue in Florida elections.<sup>113</sup>

Judge Walker's careful 288-page opinion makes clear that Florida legislators used false claims of voter fraud as a pretext to enact legislation they knew would suppress the Black vote, in direct response to robust 2020 turnout.

### c. Texas

Texas is another State that experienced substantial population shifts since 2010. On September 7, 2021, Governor Abbott of Texas signed S.B. 1, one of the most restrictive voting laws in the country. As the bill advanced, members and witnesses who raised concerns—and evidence—that the bill would harm voters of color and voters with disabilities were largely ignored or chastised for uttering the word "racism" in the debate. Texas House Democrats staged a walkout and eventually left the State to break quorum and prevent the passage of such a damaging bill. But

<sup>108</sup> *Important Facts About LDF's Lawsuit Challenging Florida's New Voting Law*, NAACP LDF (accessed Jan. 19, 2022), <https://www.naacpldf.org/naacp-publications/ldf-blog/important-facts-about-ldfs-lawsuit-challenging-floridas-new-voting-law/>.

<sup>109</sup> Order on Motion to Dismiss at 52, *Florida State Conference of the NAACP et. al. v. Laurel Lee*, No. 4:21-cv001-87-MW-MAF (N.D. Fla. 10/8/21), ECF No. 249.

<sup>110</sup> <https://www.naacpldf.org/wp-content/uploads/FINAL-ORDER-SB90.pdf>.

<sup>111</sup> *Id.* at 136.

<sup>112</sup> *Id.* at 64.

<sup>113</sup> *Id.* at 68–70 (internal citations omitted).

proponents of the omnibus election bill rammed it through the legislative process, which the Governor extended by two special sessions and threatened funding of legislative staff salaries in order to force passage of the bill.<sup>114</sup> After submitting testimony and advocating against the bill as it made its way through the Texas legislature, LDF filed a lawsuit challenging S.B. 1 on the same day it was signed into law.<sup>115</sup>

The passage of S.B. 1 was a direct backlash to the record voter turnout in Texas in the 2020 election cycle and in particular, the power that Black and Brown voters exercised at the polls. Expanded early voting, drive-thru voting, and 24-hour voting facilitated this record-high voter participation, particularly for urban voters of color who were more likely to use these means of access. For example, approximately 1.6 million registered voters in Harris County: 1.3 million voted early in person; over 177,000 voted by mail; and over 200,000 voted on Election Day.<sup>116</sup> S.B. 1 targeted the means and methods of voting primarily used by Black and Brown voters that had facilitated a smooth, secure, and accessible election. Among its many restrictions, S.B. 1 eliminates drive-thru voting and 24-hour voting, restricts early voting hours, restricts vote-by-mail opportunities and application distribution, and bans drop boxes—innovations that had given local counties the options and flexibility they needed to help eligible voters of all backgrounds and abilities cast a ballot, and that Black and Brown voters had disproportionately relied on to vote. S.B. 1 also imposes burdens and intrusive documentation requirements on individuals who provide voters assistance or transport voters to the polls, those providing such assistance to the threat of criminal penalties for violations. Finally, by making it harder for election officials to regulate and supervise poll watchers, S.B. 1 empowers partisan poll watchers to interfere with election administration and to intimidate and harass voters at the polls.

S.B. 1 has already caused substantial problems in Texas' March 1 primary election, where counties were forced to reject a huge percentage of vote-by-mail applications.<sup>117</sup> One hundred eighty-seven of Texas' 254 counties threw out 22,898 duly cast vote by mail ballots—approximately 13% of all ballots cast during primary vs. 1–2% rejected in previous elections.<sup>118</sup> The rejection rate in the most populous counties was roughly 15%, a staggering increase from the 2020 election, where the State-wide rejection rate was roughly 1%.<sup>119</sup> The unprecedented vote-by-mail rejections seems to have a disproportionate impact on minority voters across the State. In particular, 6 of the 9 zip codes in Harris County with the most ballot rejections were majority Black.<sup>120</sup>

S.B. 1 has made it more difficult for voters to cast ballots, stifled innovation, undermined trust in our democracy, and chipped away at voluntary participation as election workers by making the job more difficult while adding criminal penalties for the job.

In our lawsuit, LDF, along with our co-counsel from The Arc and Reed Smith, argues that S.B. 1 discriminates against Black and Brown voters and burdens voters with disabilities in violation of the First and Fourteenth Amendments, Sections 2 and 208 of the Voting Rights Act, the Americans with Disabilities Act, and Section 504 of the Rehabilitation Act.<sup>121</sup> We represent Houston Justice, the Houston Area

<sup>114</sup>Heidi Pérez-Moreno, 2,100 State Workers Caught in the Crosshairs of Gov. Greg Abbott's Veto of Legislature Funding, THE TEXAS TRIBUNE (July 2, 2021), <https://www.texastribune.org/2021/07/02/greg-abbott-veto-legislature-staffers/>.

<sup>115</sup>Our lawsuit is 1 of 6 challenging S.B. 1 that have been consolidated under *La Unión del Pueblo Entero v. State of Texas*, No. 5:21-cv-00844 (W.D. Tex.), including a case brought by the U.S. Department of Justice.

<sup>116</sup>Harris County Elections, Election Results Archive, *Canvass Report: Nov Live 110320 General and Special Elections*, (Nov. 16, 2020), <https://www.harrisvotes.com/HISTORY/20201103/Official%20Canvass.pdf>.

<sup>117</sup>Alexa Ura, *Hundreds of Mail-in Ballot Applications are Being Rejected Under Texas' New Voting Rules*, THE TEXAS TRIBUNE (Jan. 13, 2022), [https://www.texastribune.org/2022/01/13/texas-voting-mail-rejections/?utm\\_source=Texas+Tribune+Newsletters&utm\\_medium=email&utm\\_term=0\\_d9a68d8efc-22dff95b59-101201265&mc\\_cid=22dff95b59](https://www.texastribune.org/2022/01/13/texas-voting-mail-rejections/?utm_source=Texas+Tribune+Newsletters&utm_medium=email&utm_term=0_d9a68d8efc-22dff95b59-101201265&mc_cid=22dff95b59).

<sup>118</sup>Ross Ramsey, *Analysis: When 1 in 8 Texas mail ballots gets trashed, that's vote suppression*, Texas Tribune (Mar. 18, 2022), <https://www.texastribune.org/2022/03/18/texas-rejected-election-ballots/>.

<sup>119</sup>Nick Corasaniti, *Mail Ballot Rejections Surge in Texas, With Signs of a Race Gap*, New York Times (Mar. 18, 2022), <https://www.nytimes.com/2022/03/18/us/politics/texas-primary-ballot-rejections.html>.

<sup>120</sup>Nick Corasaniti *supra* n. 128.

<sup>121</sup>*Lawsuit Filed Challenging New Texas Law Targeting Voting Rights*, NAACP LDF (Sept. 7, 2021), <https://www.naacpldf.org/press-release/lawsuit-filed-challenging-new-texas-law-targeting-voting-rights/>.

Urban League, Delta Sigma Theta Sorority, Inc., and The Arc of Texas, organizations that have long worked to ensure Black and Brown voters, incarcerated voters, and voters with disabilities can access the franchise through providing voter education and voter assistance. Largely through volunteer efforts, these groups help vulnerable communities make their voices heard through the ballot box, for example by educating voters about their voting method options and election rules, providing transportation to the polls, distributing, and assisting with the completion of vote-by-mail applications, and helping voters with disabilities navigate the voting process and complete their ballots.

S.B. 1 frustrates the mission of our clients, placing obstacles, bans, and exposure to criminal prosecution in the way of their efforts to help marginalized communities vote. But the greatest loss is for Texas voters themselves who will be disenfranchised or burdened by the web of bans and restrictions erected by the law—Black and Brown voters and voters with disabilities who relied on the methods of voting now made illegal and who counted on engagement and assistance from groups like our clients to safely cast a ballot. In intent and effect, S.B. 1 blocks their right to vote, continuing a shameful history of voter suppression in Texas.

#### *d. Alabama*

Alabama has played a special role in the Civil Rights Movement, due in significant part to its shameful history of racial discrimination in voting. In 1992, litigation forced Alabama to create a Congressional district that allowed Black voters a real opportunity to elect candidates of their choice.<sup>122</sup> As a result, a Black Congressperson was elected from Alabama for the first time since Reconstruction.<sup>123</sup> Yet outside of that one district, Black candidates continue to face defeat in Congressional elections, though many strong candidates have run and have attracted the support of the overwhelming majority of Black voters.<sup>124</sup> Indeed, Alabama is one of only 10 States where no Black person has ever won State-wide elected office.<sup>125</sup>

For some time now, it has been possible to create two majority-Black Congressional districts in Alabama.<sup>126</sup> This is even more true now given that all of the State's population growth in the last decade was driven by people of color.<sup>127</sup> As of the 2020 Census, non-Hispanic whites have fallen to 63% of the Alabama's population while Black Alabamians have grown to just over 27% of the population.<sup>128</sup>

Yet Alabama's white power structure has refused to contend with the State's growing diversity, preferring to maintain the status quo in a process that was anything but transparent. In September 2021, the State's Legislative Reapportionment Office held 28 public hearings, all but one of which were held during regular business hours when working Alabamians were unlikely to attend.<sup>129</sup> Comments by the legislators overseeing the process indicated the outlines of the Congressional plan had already been decided before the public hearings, yet no draft map was released until after the public comment period had closed.<sup>130</sup> And no changes were made to the plans in response to public input. Moreover, although civil rights advocates and Black State legislators asked for a racial polarization study before the legislature adopted a map that continued packing Black voters into a single Congressional district, no such study was ever done.<sup>131</sup>

On November 4, 2021, Alabama enacted a Congressional map under which Black Alabamians have a meaningful chance to see their preferred candidate elected in

<sup>122</sup> 3Wesch v. *Hunt*, 785 F. Supp. 1491, 1498 (S.D. Ala. 1992), *aff'd sub nom. Camp v. Wesch*, 504 U.S. 902 (1992).

<sup>123</sup> Compl., *Milligan v. Merrill*, No. 2:21-cv-01530-AMM (N.D. Ala. Nov. 16, 2021), ECF No. 1 ("Milligan Compl.").

<sup>124</sup> U.S. House of Representatives, *Black-American Members by State and Territory, 1870–Present*, <https://history.house.gov/Exhibitions-and-Publications/BAIC/Historical-Data/Black-American-Representatives-and-Senators-by-State-and-Territory/> (last visited January 18, 2022).

<sup>125</sup> Summer Ballentine, *Analysis: 10 States still haven't elected minority State-wide*, ASSOCIATED PRESS (Sept. 3, 2016), <https://apnews.com/article/6d70082a5f854109aee7874e915c6631>.

<sup>126</sup> Even in 1992, the Black population was large enough and geographically compact enough to create two majority-Black Congressional districts, but Black leaders at that time believed an effective electoral opportunity for Black voters required significantly more than a bare majority. Wesch, 785 F. Supp. at 1498.

<sup>127</sup> *Alabama Population Grew 5.1% Since 2010, Surpassing 5 Million*, U.S. CENSUS BUREAU (Aug. 5, 2021), <https://www.census.gov/library/stories/state-by-state/alabama-population-change-between-census-decade.html>.

<sup>128</sup> *Id.*

<sup>129</sup> Mike Cason, *Alabama lawmakers begin task of drawing new political districts*, *al.com*, (Aug. 31, 2021) <https://www.al.com/news/2021/08/alabama-lawmakers-begin-task-of-drawing-new-political-districts.html>.

<sup>130</sup> *Id.* (quoting State Senator Jim McClendon stating that "there won't be any surprises" in the new Congressional plan).

<sup>131</sup> *Milligan Compl.*, *supra* n. 122, ¶¶ 50–71.

only one out of the State's 7 Congressional districts.<sup>132</sup> In other words, Black Alabamians are more than 27% of the population, but are a majority—and have a realistic chance of electing their preferred representatives—in only 14% of the State's Congressional districts. In contrast, white Alabamians are 63% of the population but form a majority in nearly 86% of the Congressional districts. This is akin to one-person, half-a-vote for Black residents, and one-person, one-and-a-third votes for white residents.

In November, after the State adopted a Congressional plan that continued the status quo, LDF sued on behalf of Greater Birmingham Ministries, the Alabama State Conference of the NAACP, and five affected voters, demanding that the State create a second district that gives Black Alabamians an equal chance to see their preferred candidates represent them in Congress.<sup>133</sup>

The lack of adequate representation in Congress has real consequences for Alabama's Black communities. Shalela Dowdy, a community organizer and captain in the U.S. Army Reserves who is one of the plaintiffs in LDF's Congressional redistricting litigation, explained how elected officials work against the needs of Alabamians in the State's Black Belt, who disproportionately lack access to health care.<sup>134</sup> The region suffers from high rates of HIV and has been hit hard by COVID-19, regional hospitals have closed, doctors are often far away, and residents often cannot afford health insurance. Despite these serious issues affecting their constituents, many Alabama legislators have refused to support expanding Medicaid under the Affordable Care Act.

The State legislative plan, adopted through the same problematic process as the Congressional plan, similarly distorts Black representation, and LDF has also challenged this plan. In January, a unanimous three-judge district court struck down Alabama's Congressional map and ordered the State legislature to draw a new map that complies with the Voting Rights Act by including two districts where Black voters have the opportunity to elect candidates of their choice.<sup>135</sup> Unfortunately, the Supreme Court subsequently granted a motion to the stay the trial court's injunction of the maps, which means that the 2022 elections will take place under discriminatory maps and the underlying challenge to the maps will proceed next Term.<sup>136</sup>

#### e. South Carolina

South Carolina has a long history of racial discrimination in voting and in the redistricting process in particular. During the four decades that the State was covered by the Voting Rights Act's preclearance protections, the Department of Justice objected 120 times to racially discriminatory voting changes, and at least 27 of these objections involved State or local redistricting plans.<sup>137</sup> And, in every redistricting cycle since Congress enacted the VRA, voters have been forced to go into court to seek redress from discriminatory maps.<sup>138</sup>

In October 2021, LDF first filed suit regarding post-2020 Census redistricting in the State on behalf of the South Carolina State Conference of the NAACP and an individual voter.<sup>139</sup> Plaintiffs were forced to bring this initial complaint because of the South Carolina legislature's unnecessary delay in drawing new redistricting maps that respect the Constitutional one-person-one-vote principle. The legislature's failure to remedy malapportioned districts threatened to delay the process of drawing updated districts until the legislature was due back on January 11, 2022, which would have undermined the public's and courts' ability to evaluate the legality of new district lines before the March 30, 2022 filing deadline for primary elections.<sup>140</sup>

<sup>132</sup> See Stipulation of Facts, *Milligan v. Merrill*, No. 2:21-cv-01530-AMM (N.D. Ala. 2021), ECF No. 53.

<sup>133</sup> *Milligan* Compl., supra n. 135.

<sup>134</sup> *Milligan* Compl., supra n. 135.

<sup>135</sup> *Singleton v. Merrill*, No. 2:21-cv-01291 (N. D. Ala.). Available at [https://www.naacpldf.org/wp-content/uploads/PRELIMINARY-INJUNCTION-MEMORANDUM-OPINION-AND-ORDER.-Signed-by-Judge-Anna-M-Manasco-on-1\\_24\\_2022.-1.pdf](https://www.naacpldf.org/wp-content/uploads/PRELIMINARY-INJUNCTION-MEMORANDUM-OPINION-AND-ORDER.-Signed-by-Judge-Anna-M-Manasco-on-1_24_2022.-1.pdf).

<sup>136</sup> [https://www.naacpldf.org/wp-content/uploads/order\\_supreme\\_court\\_-\\_alabama\\_case\\_2\\_7\\_2022.pdf](https://www.naacpldf.org/wp-content/uploads/order_supreme_court_-_alabama_case_2_7_2022.pdf).

<sup>137</sup> First Amended Compl. for Inj. and Decl. Relief at 13, *South Carolina State Conference of the NAACP v. McMaster*, No. 3:21-cv-03302-JMC-TJH-RMG (D.S.C. Dec. 23, 2021), ECF No. 84, available at <https://www.naacpldf.org/wp-content/uploads/AMENDED-PLAINT-for-injunctive-and-declaratory-relief-against-JoAnne-Day-Clifford-J-Elder-002.pdf>.

<sup>138</sup> *Id.* ¶ 43.

<sup>139</sup> Compl. for Inj. and Decl. Relief, *South Carolina State Conference of the NAACP v. McMaster*, No. 3:21-cv-03302-JMC-TJH-RMG (D.S.C. Oct. 12, 2021), ECF No. 1, available at <https://www.naacpldf.org/wp-content/uploads/2021-10-12-SC-NAACP-v.-McMaster-Malapportionment-Complaint-FINAL-FILE-STAMPED.pdf>.

<sup>140</sup> *Id.*



The legislature did ultimately return to draw new State House and Senate districts before the end of 2021. South Carolina's map-drawing process was largely inaccessible and unresponsive to public input. In August and October 2021, LDF, South Carolina NAACP, ACLU, and other organizations sent letters to the House and Senate<sup>141</sup> Committee expressing concern about the lack of transparency and proposing legislative and Congressional maps that would redress population disparities and create opportunities for Black voters to elect candidates of choice.<sup>142</sup> The committees responsible for these maps repeatedly posted proposed plans with limited opportunities for meaningful review. As just one example, the House Committee invited public input on its draft State House map on November 10, which was posted less than 48 hours before the only public hearing it sought public testimony on the plan.<sup>143</sup> The House Judiciary Committee subsequently amended and adopted this initial State House map with no opportunity for public input.<sup>144</sup> The legislature also repeatedly discounted and ignored the public testimony that it did receive. And there is no indication that the legislature conducted a racially polarized voting analysis or any other analysis key to compliance with the Voting Rights Act despite repeated requests to do so.<sup>145</sup>

Ultimately, the legislature evaded their Constitutional obligations for redistricting. They did so by enacting State House and Congressional maps with districts that both "pack" and "crack" Black voters to dilute Black voting strength and opportunities for Black voters to elect candidates of their choice. But this result was not inevitable; the legislature had many alternative maps available to them that would have corrected for malapportionment, complied with Federal and State law considerations, and relevant redistricting criteria that the legislature adopted. Now, these maps are the latest examples of a decades-long pattern by the legislature of adopting discriminatory maps. LDF's current lawsuit provides an opportunity for Black South Carolinians to have a fair chance to elect State House and Congressional candidates who adequately represent their interests.

#### *f. Louisiana*

In Louisiana, which has the second-highest Black population of any State in the country, we are seeing the same pattern as in Alabama. In March, the State legislature passed redistricting plans that continue to pack Black Louisianans into a single Congressional district stretching from New Orleans to Baton Rouge and into many fewer State legislative districts than fairness and their numbers in the population demand.<sup>146</sup> As in much of the South, voting in Louisiana remains stubbornly and starkly polarized along racial lines, with large majorities of white voters declining to support Black candidates. The result is that in districts in which white voters make up the majority, candidates supported by Black Louisianans do not succeed at the ballot box.

According to the 2020 census, Louisiana's Black population has grown to more than 33% while the white population has fallen to 57%.<sup>147</sup> The legislature's Congressional plan, however, hands control of over 83% of the seats to white voters. A similar pattern holds in the redistricting plans for the Louisiana House of Representatives and Senate.

The legislature adopted these plans in the face of powerful community input demanding a greater voice for Black voters and despite the introduction of several alternative plans by members of the State's legislative Black caucus that would have created an additional seat in the Congressional plan. At least one of the alternative plans scored as well as or better than the plan the that was ultimately adopted on

<sup>141</sup> LDF Sends Letter to the South Carolina House Redistricting Ad Hoc Committee About their Obligations Under Section 2 of the Voting Rights Act and the Constitution, NAACP LDF (Aug. 9, 2021), <https://www.naacpldf.org/news/ldf-sends-letter-to-the-south-carolina-house-redistricting-ad-hoc-committee-about-their-obligations-under-section-2-of-the-voting-rights-act-and-the-constitution/>; LDF Submits Proposed Congressional and Senate Redistricting Maps to the South Carolina Senate Judiciary Redistricting Subcommittee and the House Redistricting Ad Hoc Committee, NAACP LDF (Oct. 8, 2021), <https://www.naacpldf.org/press-release/ldf-submits-proposed-submitting-proposed-congressional-and-senate-maps-to-the-south-carolina-senate-judiciary-redistricting-subcommittee-and-the-house-redistricting-ad-hoc-committee/>.

<sup>142</sup> Id. ¶¶ 70, 71.

<sup>143</sup> Id. ¶ 75.

<sup>144</sup> Id. ¶¶ 85–95.

<sup>145</sup> Id. ¶ 9.

<sup>146</sup> Letter to Louisiana Senate and House Governmental Affairs Committee, NAACP LDF (Oct. 18, 2021), <https://www.naacpldf.org/wp-content/uploads/2021.10.18-Letter-re-Louisiana-congressional-Redistricting.pdf>.

<sup>147</sup> U.S. Census Bureau, *LOUISIANA: 2020 Census* (Aug. 25, 2021). Available at <https://www.census.gov/library/stories/state-by-state/louisiana-population-change-between-census-decade.html>.

every measure the legislature purported to care about. The explanation from the legislature for their failure to consider these alternatives has been misinformation and, as in Alabama, unsupported claims that the Voting Rights Act requires a gerrymandered majority-Black district based in New Orleans that deprives Black voters of an equal opportunity to have their voices heard anywhere else in the State.

On March 9, 2022, in response to sustained community advocacy, Governor John Bel Edwards vetoed the Congressional plan passed by the legislature because it failed to include a second majority-Black Congressional district. On March 30, 2022, the legislature voted to override the Governor's veto rather than attempt to craft a compromise plan that would provide greater voting opportunities to Black Louisianans. That this was the first time in nearly three decades that Louisiana has seen a successful veto override is a testament to the legislature's commitment to its refusal to share power with the State's rising Black population. Hours after the veto override vote, LDF filed suit under Section 2 of the Voting Rights Act challenging the Congressional plan.

(a) *Judicial Redistricting*

Black representation on Louisiana's Supreme Court is also under threat. Under a consent decree that resulted from a landmark decision in the case of *Chisom v. Roemer*, there is currently one member of the State supreme court who is elected from a majority-Black district.<sup>148</sup> The State recently asked the Federal court to dissolve that decree and end Federal oversight under the pretext of a need to redistrict to correct population imbalances. The State's motion comes at a time when it faces pressure to add an additional majority-minority district and amid an effort to expand the size of the court from 7 to 9 members, which would further dilute the influence of Black voters on judicial elections.<sup>149</sup>

(b) *Drawing Local Lines*

Congressional maps and State-wide plans are critical, but far from the only arena where fair districting is under attack. The one-person, one-vote principle requires thousands of jurisdictions across the country to redraw lines every decade—from county commissions and city councils to school boards. In the absence of preclearance, redistricting plans are being drawn that will affect the most intimate aspects of people's lives for a decade with no serious scrutiny or oversight. LDF lawyers, trainers, organizers, and policy staff have spent the past 6 months working to make sure that local communities have the tools they need to engage meaningfully in the process. Non-profit organizations like LDF can fill some of the gap left by the Shelby County decision, but with no mandate that they affirmatively scrutinize and justify their redistricting plans, many localities are giving little heed to the requirements of the Voting Rights Act and the Fourteenth Amendment.

*D. Backlash Beyond Election Day: Subverting Election Results*

The 2020 election and 2021 runoff taught entrenched interests that even in the face of formidable obstacles and deliberate barriers, Black and Brown voters can at times break through to make their voices heard. Given this lesson, we are now seeing bold and deliberate efforts to interfere with the voting infrastructure in ways that will facilitate the sabotage of elections or the subversion of election results. Two primary approaches are to provide more direct control over elections to partisan actors, and to replace nonpartisan, good-faith election workers with loyalists who strongly believe in the false narrative around stolen elections.

In 2021, 32 laws were enacted in 17 States which allow State legislatures to politicize, criminalize election administration activity, or otherwise interfere with elections.<sup>150</sup> These include measures to shift authority over elections from executive agencies or nonpartisan bodies to the legislature; roll back local authority through centralization and micromanagement; and criminalize good-faith mistakes or decisions by elections officials.<sup>151</sup>

These new rules allow white-dominated legislatures or State-wide bodies to assert control over majority Black local jurisdictions. In Georgia, for example, another provision of S.B. 202 allowed the State Election Board to assume control of county

<sup>148</sup> *Chisom v. Roemer*, 501 U.S. 380 (1991).

<sup>149</sup> See *Allen v. Louisiana*, 14 F.4th 366 (5th Cir. 2021).

<sup>150</sup> Memorandum from States United Democracy Center, *Protect Democracy, and Law Forward to Interested Parties* (Dec. 23, 2021), at 2, [https://s3.documentcloud.org/documents/21169281/democracy-crisis-in-the-making-report-update\\_12232021-year-end-numbers.pdf](https://s3.documentcloud.org/documents/21169281/democracy-crisis-in-the-making-report-update_12232021-year-end-numbers.pdf).

<sup>151</sup> *Id.*

boards.<sup>152</sup> Through this bill and separate legislation to reorganize county election boards, several Black election board members or supervisors have been replaced with individuals closely aligned with a particular partisan ideology.<sup>153</sup>

Furthermore, criminalization provisions of legislation expose good-faith election officials to unreasonable risk for doing their jobs. For example, Texas' S.B.1, contains a provision that exposes election judges who take action to prevent poll watchers from harassing voters to possible criminal sanctions.<sup>154</sup> This despite the fact that the Texas Election Code contains specific provisions designed to protect voters from exactly such interference—and it is the election judge's responsibility to enforce these provisions at a given polling location.<sup>155</sup> The new law thus puts good-faith election judges in a no-win situation where they can incur criminal penalties for fulfilling their duties.

Beyond legal changes, extremists who believe the 2020 election was stolen have subjected elections officials to death threats and other forms of harassment on an on-going basis. A November 2021 Reuters Special Report documented nearly 800 threats to election workers over the previous year, including more than 100 that could warrant prosecution.<sup>156</sup>

According to an April 2021 survey, approximately one-third of election officials are concerned about feeling unsafe on the job, being harassed on the job, and/or facing pressure to certify election results.<sup>157</sup> Nearly one-third have already felt unsafe and almost 20% have been threatened on the job.<sup>158</sup> This has led to a wave of retirements, causing the director of the Center for Election Innovation and Research to tell the *New York Times*, "We may lose a generation of professionalism and expertise in election administration. It's hard to measure the impact."<sup>159</sup>

This concern is almost certainly more acute for Black election officials and other election officials of color. Texas election judge and LDF client Jeffrey Clemmons, a Black man in his early twenties, says that if he works as an election worker again in the future:

"I am almost certain that I am going to face probably more harassment than I did the last time around because of the heightened political environment that we're in, where people feel again as if their elections are being stolen, that you know, democracy is being undermined left and right, which it is, but of course not in the way that they think that it is. And so you're going to have people who are signing up to be poll watchers for probably partisan campaigns and coming into polling places and attempting to identify election fraud as it were through the Texas election bills . . . I can only imagine things I'm going to face, whether it's someone, you know, yelling belligerently at me or taking video of me when I'm just doing my

<sup>152</sup> James Oliphant & Nathan Layne, *Georgia Republicans purge Black Democrats from county election boards*, REUTERS (Dec. 9, 2021), <https://www.reuters.com/world/us/georgia-republicans-purge-black-democrats-county-election-boards-2021-12-09/>.

<sup>153</sup> For example, H.B. 162 reconstituted the Morgan County Board of Elections, giving control over all appointments to the Board of County Commissioners, and leading directly to the removal of Helen Butler and Avery Jackson, two Black members Board members. Ms. Butler had served on the board for more than a decade without any allegations of wrongdoing and neglect, using her position to advocate for more accessible elections. Protecting the Freedom to Vote—Recent Changes to Georgia Voting Laws and the Need for Basic Federal Standards to Make Sure All Americans Can Vote in the Way that Works Best for Them, Hearing Before the S. Comm. On Rules and Admin, 117th Cong. 11 (2021) (Statement of Helen Butler, Exec. Dir., Ga. Coal. for the People's Agenda), [https://www.rules.senate.gov/imo/media/doc/Testimony\\_Butler.pdf](https://www.rules.senate.gov/imo/media/doc/Testimony_Butler.pdf).

<sup>154</sup> Compl. for Decl. and Injunctive Relief, *Houston Justice v. Abbott*, No. 5:21-cv-00848 (W.D. Tex. Sept. 7, 2021), ECF No. 1.

<sup>155</sup> Tex. Election Code §§ 33.057, 33.058.

<sup>156</sup> In June, an Arizona man called Secretary of State Katie Hobbs' office and left a messaging saying she would hang "from a f—tree . . . They're going to hang you for treason, you f—bitch." 156[sic] In August 2021, a Utah man who had been listening to a Mesa County, Colorado election clerk criticize Secretary of State Jena Griswold sent Secretary Griswold a Facebook message: "You raided an office. You broke the law. STOP USING YOUR TACTICS. STOP NOW. Watch your back. I KNOW WHERE YOU SLEEP, I SEE YOU SLEEPING. BE AFRAID, BE VERRY AFRAID. I hope you die." Linda So & Jason Szep, *Special Report: Reuters unmasks Trump supporters who terrified U.S. election workers*, REUTERS (Nov. 9, 2021), <https://www.reuters.com/legal/government/reuters-unmasks-trump-supporters-terrifying-us-election-workers-2021-11-09/>.

<sup>157</sup> Brennan Center for Justice, *Local Election Officials Survey 6* (June 16, 2021), <https://www.brennancenter.org/our-work/research-reports/local-election-officials-survey>.

<sup>158</sup> *Id.* at 7.

<sup>159</sup> Michael Wines, *After a Nightmare Year, Election Officials Are Quitting*, N.Y. TIMES (July 2, 2021), <https://www.nytimes.com/2021/07/02/us/politics/2020-election-voting-officials.html>.

job or potentially having the cops called on me because of the color of my skin and the fact that I'm working an election."<sup>160</sup>

The effort to subvert elections from the inside is picking up steam. With Black and Brown election workers pushed out of the picture, those who embrace the false fraud frame are waiting in the wings to infiltrate the system. According to the *New York Times*, "[i]n races for State and county-level offices with direct oversight of elections, Republican candidates coming out of the Stop the Steal movement are running competitive campaigns, in which they enjoy a first-mover advantage in electoral contests that few partisans from either party thought much about before last November."<sup>161</sup>

Secretary of state races have also been transformed by this phenomenon. Formerly about election mechanics or perhaps how much to expand voting opportunities these contests are now being driven by inaccurate claims regarding election legitimacy. In about half of this year's 27 secretary of state contests there's at least one candidate who claims the 2020 election was stolen from Donald Trump, or otherwise questions its legitimacy.<sup>162</sup>

With no pushback from Congress, those intent on subverting the next election by continuing to raise doubts about 2020 are becoming more brazen, not less. On January 15, President Trump held his first 2022 rally in Florence, Arizona.<sup>163</sup> Former Trump chief strategist Stephen Bannon explained that the purpose of the rally was to kick off an attempt to decertify President Biden's 2020 electors in 4 swing States.<sup>164</sup> The explicit strategy was to sow distrust and paint President Biden as an illegitimate President.

The combination of removing non-partisan or bipartisan election officials, exposing good-faith election workers to criminal penalties, and a constant stream of threats and harassment contributes to perhaps the most dangerous aspect of the efforts to subvert election results: Thousands of election officials with experience and integrity are being replaced by false fraud loyalists who are on a mission to achieve a particular election outcome without regard to whether that outcome aligns with the voice and intent of the majority of the electorate.

## VI. SOLUTIONS: CONGRESS HAS THE POWER AND RESPONSIBILITY TO PROTECT OUR DEMOCRACY

The U.S. Constitution gives Congress both the authority and the responsibility to act to protect our democracy. This Committee has been charged with the responsibility of diagnosing the root causes of the January 6th Insurrection and prescribing the solutions that can heal our ailing democracy. To do that work, it is critical that Congress view January 6th in its full context, and not as an isolated incident; only then does the full range of necessary solutions come into view. This includes legislation to protect the right to vote, especially for people of color; and to protect democracy from subversion.

### A. *Protect the Right to Vote*

The purpose of the raft of 2021 voter suppression laws, the discriminatory redistricting process, and the efforts to sabotage election results is to prevent people of color from ever again asserting their full voice and power. We need Congress to step up to its responsibility to ensure that we can achieve full and fair representation

<sup>160</sup> Interview with Jeffrey Clemmons, *supra* note 77.

<sup>161</sup> Charles Homans, *In Bid for Control of Elections, Trump Loyalists Face Few Obstacles*, N.Y. TIMES (Dec. 11, 2022), [https://www.nytimes.com/2021/12/11/us/politics/trump-in-elections-trump-democracy.html?campaign=id=9&emc=edit\\_nn-20211213&instance\\_id=47676&nl=the-morning&reg\\_id=67300419&segment\\_id=76841&te=1&user\\_id=a026c13970046cd04a509ac0738ecf7a](https://www.nytimes.com/2021/12/11/us/politics/trump-in-elections-trump-democracy.html?campaign=id=9&emc=edit_nn-20211213&instance_id=47676&nl=the-morning&reg_id=67300419&segment_id=76841&te=1&user_id=a026c13970046cd04a509ac0738ecf7a).

<sup>162</sup> *The Big Lie' Lives On, And May Lead Some to Oversee The Next Election*, NPR (Jan. 6, 2022), <https://www.npr.org/transcripts/1070864361>. Candidates have claimed that Georgia "certified the wrong result" and that "700,000 people are illegal voters" in the State; that Michigan added dead people to the voter file, while calling for an Arizona-style audit; that there were up to 35,000 "fictitious voters" in Pima County, Arizona; and that there was a group of secretary of state candidates "doing something behind the scenes to try to fix 2020 like President Trump said." Ian Vandewalker & Lawrence Norden, *Financing of Races for Offices that Oversee Elections: January 2022*, BRENNAN CENTER FOR JUSTICE (Jan. 12, 2022), at 15, fig. 7, <https://www.brennancenter.org/our-work/research-reports/financing-races-offices-oversee-elections-january-2022>.

<sup>163</sup> *Trump rally in Arizona: Former president calls Biden 'a disaster' for the country*, AZCENTRAL (Jan. 14, 2022), <https://www.azcentral.com/story/news/politics/arizona/2022/01/14/trump-rally-arizona-live-updates-florence/6529316001/>.

<sup>164</sup> Ron Filipkowski (@RonFilipkowski), Twitter (Jan. 15, 2022, 11:04 AM), <https://twitter.com/RonFilipkowski/status/1482383205181366278>.

by passing legislation that protects the right to vote for Black and Brown Americans. Such legislation should, at a minimum, contain the following essential provisions:

- Restore the VRA's preclearance protections through updated coverage parameters. Many of the States manipulating maps or passing restricting voting laws—including the 6 States LDF is suing—were covered by the Voting Rights Act's preclearance protections prior to *Shelby* and would likely be covered again under a restored Voting Rights Act. Preclearance in the new law would start in 2021, so these laws would need to go through the process and could be blocked from further effect.<sup>165</sup>
- Restore and strengthen Section 2 of the Voting Rights Act, giving litigators across the country more powerful tools to push back on discrimination. This includes clarifying the legal standards for bringing Section 2 vote denial claims after the *Brnovich* case, and that partisan motivation does not undercut a claim of racial discrimination and establishing a new Nation-wide prohibition against diminishing the ability of voters of color to access the ballot or elect candidates of choice.<sup>166</sup>
- Provide a broad set of minimum standards for ballot accessibility for Federal elections such that the ability to exercise your right to vote is not dependent upon which State you live in. States should be required to offer Same Day Registration, robust early voting and vote-by-mail opportunities, accept a broad range of voter identification, make Election Day a holiday, implement automatic voter registration, restore the vote to people with felony convictions and more.<sup>167</sup>
- Create a new Federal statutory claim against undue burdens on the right to vote.\* For harsh rules that restrict access across the board, this can provide an alternative to First and Fourteenth Amendment claims under the so-called *Anderson-Burdick* standard which has been weakened by the Supreme Court and other courts in recent years. And in cases where laws place disparate burdens on the rights of voters of color, low-income voters, women, and others, a new claim can supplement Voting Rights Act claims, which require extensive expert analysis and statistical evidence to prove and increase the chances of timely relief.
- Outlaw partisan gerrymandering for Congressional districts.<sup>168</sup> This helps communities of color by undercutting a key excuse lawmakers give for undermining their political voice—it was about partisanship, not race<sup>169</sup>—and by reducing the chances that leaders elected by these communities are marginalized within the elected bodies in which they serve.

#### B. Fight Election Subversion

In addition to protecting the right to vote, Congress must take action to prevent subversion of our free and fair elections. This includes enacting explicit new protections for election workers and election infrastructure, as well as a provision that prevents partisan bodies such as State legislatures from removing State and local election officials without due cause.<sup>170</sup> Congress must also update the Electoral Count Act of 1887 to fix the vague and outdated vote counting and election certification processes that provided an opening for bad-faith actors to attempt to subvert the will of the people by manipulating election results.<sup>171</sup>

Reform of the Electoral Count Act is far from sufficient to address the multitude of threats to ensuring free and fair democratic elections facing the Nation today but it is a needed component.

#### VII. CONCLUSION

This Select Committee does its work at a historic moment when it is not hyperbole to say that the fate of American democracy hangs in the balance. Black and Brown Americans face the greatest assault on our voting rights since the Jim Crow Black Codes rolled back the progress made during Reconstruction. Indeed, the

<sup>165</sup> Freedom to Vote: John R. Lewis Act, H.R. 5746, 117th Cong. (2021–2022) § 9016(c).

<sup>166</sup> *Id.* at §§ 9001–9002.

<sup>167</sup> *Id.* at §§ 1031, 1202, 1301–1305, 1801.

\* *Id.* at §§ 3401–3403.

<sup>168</sup> *Id.* at §§ 5001–5008.

<sup>169</sup> See e.g. Michael Wines, “Republican Gerrymander of North Carolina Maps is Upheld in Court,” *THE N.Y. TIMES* (Jan. 11, 2022), <https://www.nytimes.com/2022/01/11/us/politics/north-carolina-redistricting.html>.

<sup>170</sup> Freedom to Vote: John R. Lewis Act, H.R. 5746, 117th Cong. (2021–2022) §§ 3001–3301.

<sup>171</sup> Discussion Draft “Electoral Count Modernization Act,” available at <https://www.king.senate.gov/imo/media/doc/mcg22051.pdf.pdf>, is one such proposal.

threat of our democracy breaking apart at the seams and sliding irreversibly into authoritarianism has not been as acute since the Civil War.

The recent Census confirmed that the Country is growing more diverse by the day and the great question before us is whether we will embrace a truly inclusive, multi-racial democracy or entrench a racial hierarchy of white supremacy that has beleaguered our democracy since its inception.

When NPR asked University of Southern California election scholar Franita Tolson to rank her concern about our democracy as a whole and the trend of false fraud narrative adherents taking over election offices in particular on a scale from one-to-ten, her response was a resounding 50.<sup>172</sup> In April, respected election law scholar Richard L. Hasen wrote in the *Harvard Law Review* that “[t]he United States faces a serious risk that the 2024 Presidential election, and other future U.S. elections, will not be conducted fairly and that the candidates taking office will not reflect the free choices made by eligible voters under previously announced election rules.”<sup>173</sup> I believe the threat to our democracy is even more urgent than this. If people of color are blocked from the ballot or the vote is subverted in 2022, it may be too late to steer our democracy back on course.

Historians will study the period between 2020 and 2025 for decades to come, seeking to explain the next century of American life. They will ask the question: Did we act when we had the chance, or did we squander our last, best hope to protect the freedom to vote and save our democracy? Black Americans have played a special role in our country’s history in calling the Nation to honor its highest ideals. And, we have been raising alarm bells about the descent of our democracy for years.<sup>174</sup>

January 6th was not an isolated incident, but rather the unfortunate consequence of powerful interests fomenting a backlash to the 2020 elections. Those interests are determined to block the emergence of an inclusive, multi-racial democracy by erecting barriers to the ballot and by dismantling the non-partisan election infrastructure. Securing and protecting the freedom to vote and the integrity of our elections are essential to maintaining our still nascent democracy. Congress must act swiftly to do so before our democracy is unrecognizable, if it exists at all.

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STATEMENT OF TREVOR POTTER, FOUNDER AND PRESIDENT, CAMPAIGN LEGAL CENTER

APRIL 1, 2022

Thank you for the opportunity to submit testimony before the Select Committee to Investigate the January 6th Attack on the United States Capitol. I am the founder and president of Campaign Legal Center (CLC), a nonpartisan 501(c)(3) organization dedicated to advancing American democracy through law. I am also a Republican former commissioner and chair of the Federal Election Commission, and served as general counsel to John McCain’s 2000 and 2008 Presidential campaigns and deputy general counsel to President George H. W. Bush’s 1988 Presidential campaign.

American democracy stands at a perilous crossroads: Will it remain a country based on the rule of law and of truth, or fall to hidden manipulation and deception, and will the peaceful struggle to ensure representative self-government prevail over the fight for raw power? This Select Committee’s urgent work to investigate the sources of what ails our political process and fueled the unprecedented attack on our Capitol is critical to begin reinforcing America’s founding democratic ideals as a Nation of integrity and freedom.

I testify before you to emphasize the threat that persistent lies about an allegedly “stolen election” present to our democratic institutions. The fiction that the voting and counting in the 2020 election was in any form illegitimate has been thoroughly debunked in court proceedings across the country, in experts’ analyses, and by the hardworking officials who oversaw the election. Nonetheless, the stolen election lies have persisted, creating a dangerous ecosystem in which contrived emergencies degrade public trust in elections, which is then used to justify changes in policy and

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<sup>172</sup> “The Big Lie”, supra n. 165.

<sup>173</sup> Richard L. Hansen, *Identifying and Minimizing the Risk of Election Subversion and Stolen Elections in the Contemporary United States* (Sep. 18, 2021). *Harvard Law Review Forum*, Vol.135, 2022, UC Irvine School of Law Research Paper No. 2021–50, Available at SSRN: <https://ssrn.com/abstract=3926381>. see also Barton Gellman, *Trump’s Next Coup Has Already Begun*, THE ATLANTIC (Dec. 6, 2021), <https://www.theatlantic.com/magazine/archive/2022/01/january-6-insurrection-trump-coup-2024-election/620843/>.

<sup>174</sup> Lani Guinier & Gerald Torres, *The Miner’s Canary*, Harvard University Press (2003).

law that impose real harms on our voting processes and the people who administer them.

The emerging threats to our democratic processes that I want to address here manifest in four main categories: The increasing number of proposed State bills and enacted laws that cynically limit eligible voters' access to the ballot; the proliferation of ad hoc, partisan reviews of election results; the widening of cracks in our legal framework that can be exploited by rogue actors to usurp the electoral power from the people; and the alarming increase of threats against election officials and the politicization of their roles. These efforts to cast doubt on our electoral system have led to a startling loss of trust in the American political system that will take concerted efforts to restore.

Although these problems are significant, I am confident they are solvable. The public's faith in the truth and in our democracy can overcome these difficult times. The Federal Government must help the truth prevail by enacting and enforcing laws that shore up our institutions and reduce the dangers imposed by the stolen election lies.

#### A. STOLEN ELECTION LIES LEAD TO HARMFUL VOTING RESTRICTIONS, IMPROPER GOVERNMENT PRACTICES, AND THREATS TO ELECTION OFFICIALS.

Traditionally, the work of CLC and other voting rights and democracy reform organizations has emphasized combatting restrictions on the freedom to vote and improving voting access—from registration to the casting of ballots to the processing and tabulating stages. This work has taken on renewed importance in the face of the dramatic increase in State legislatures pushing bills that make it more difficult to vote for no good reason. But the nature of our work has also changed significantly since the post-election events that culminated on January 6, 2021. Now, democracy advocates must confront new hazards in the form of election sabotage and the politicization of election administration that, along with pre-election restrictions of the franchise, can damage the integrity of the entire electoral system. Addressing these mounting concerns is critical to advancing democracy and protecting the freedom to vote.

In this section of my testimony, I will briefly overview the stolen election lies that have escalated in recent years, and then will discuss in greater detail how those falsehoods have prompted real harms to voters, our democratic institutions, and the people who make our electoral system work.

The election skeptics cast doubt on time-tested and widely-used programs that enable eligible voters to safely, conveniently, and securely exercise their freedom to vote—such as vote by mail, early voting, and accessible drop boxes—and have encouraged new laws that arbitrarily increase the costs of political participation. The falsehoods have led to partisan reviews of ballots and voting systems and have inspired new legislation that makes it easier for politicians to discard the expressed will of their voters. Distressingly, the lies endanger election officials with threats of violence, often forcing hardworking nonpartisan public servants out of their jobs and rousing highly partisan election conspiracists to try and replace them.

##### 1. *The stolen election lies are groundless and damaging.*

The proximate causes of the new subversive threats to American democracy are the widely dispersed lies that the 2020 Presidential election was “stolen”, and that the winner is somehow illegitimate. Leading up to and since the 2020 election cycle, partisan actors have promoted the false narrative that there is wide-spread voter fraud in American elections and that their preferred candidates lose only because the other side cheated. Propagators of this conspiracy have used their stolen election lies to justify efforts to overturn the results of elections, to make voting harder, and to actually corrupt elections in the future.<sup>1</sup>

<sup>1</sup>See, e.g., Nick Corasaniti & Reid J. Epstein, *How Republican States Are Expanding Their Power over Elections*, N.Y. Times (June 19, 2021), <https://www.nytimes.com/2021/06/19/us/politics/republican-states.html>; National Task Force on Election Crises, *Undermining Free & Fair Elections: An Update on the Risk of Election Crises Since November 2020* at 3 (July 14, 2021), <https://static1.squarespace.com/static/5e70e52c7c7272060ecbb773b84fb5bce43c7fc/1626127223644/Task+Force+Progress+Report+%28July+2021%29.pdf>; see also States United Democracy Ctr., *Protect Democracy*, and Law Forward, *Democracy Crisis Report Update: New Data and Trends Show the Warning Signs Have Intensified in the Last Two Months* (June 10, 2021), [https://statesuniteddemocracy.org/wp-content/uploads/2021/06/Democracy-Crisis-Part-II\\_June-10\\_Final\\_v7.pdf](https://statesuniteddemocracy.org/wp-content/uploads/2021/06/Democracy-Crisis-Part-II_June-10_Final_v7.pdf); States United Democracy Ctr., *Protect Democracy*, and Law Forward, *A Democracy Crisis in the Making* (Apr. 22, 2021), <https://s3.documentcloud.org/documents/20688594/democracy-crisis-report-april-21.pdf>.

For example, what started as on-line misinformation that voters in Arizona were being “forced to use felt-tipped Sharpie pens” that they wrongly believed voting machines would not count inspired the false allegation “that thousands of Trump votes would be thrown out in Arizona” and became part of a slew of election lies about the election results there.<sup>2</sup> This simple lie, quickly demonstrated by nonpartisan election officials to be false, might have been comical if it were not so destructive. But the falsehoods about Sharpies and ballots went on to help generate frivolous lawsuits challenging Arizona’s results,<sup>3</sup> and led to armed protesters crowding outside a ballot-counting center calling for vote-counting to stop.<sup>4</sup> The election conspiracies in Arizona further prompted prominent elected officials to submit a falsified slate of alternative Presidential electors to Congress contrary to the popular vote in that State, undertake a costly and damaging partisan review of the ballots in the State’s largest county, and propose and enact changes to State election law that reduce voter access and needlessly increase election costs and complexity.<sup>5</sup>

Other stolen election lies arose from partisans exploiting some voters’ misperception that all the eligible ballots would be processed and counted by the end of election day, and that they could expect final results that night. The time line for when all votes are processed and counted is in part related to the volume of ballots that election officials must accurately canvass. But perceived delays to the time line are also directly related to whether State law allows election officials to preprocess early returned ballots to be ready to tabulate as soon as polls close.<sup>6</sup> Nearly every State in the country enables its election officials to preprocess valid ballots that are returned before election day by, for example, simply removing the ballot from its envelope, flattening it, and stacking it with other ballots to be ready for tabulation after polls close.<sup>7</sup> With millions of ballots to count, this preparation time adds up; preprocessing reduces the already significant strain on election day. States that limit or prohibit preprocessing—including closely contested States like Pennsylvania, Michigan, and Wisconsin—prolonged the counting process, which stolen election lie believers exploited to sow doubt in the election.<sup>8</sup> During this time, partisans used the delays they created in State law to promote their stolen election lies and pressure their constituents to launch “stop the count” movements that sought to distort election results by not tabulating lawful votes.<sup>9</sup>

The pressure campaign for partisans to subscribe to the stolen election lies has made the issue a National political litmus test for candidates across the country. During the height of the over 60 frivolous litigation contests challenging the 2020 results, former President Trump undertook an unrelenting attack on the election by using his bully pulpit to publicly incite his supporters and to privately seek to coerce

<sup>2</sup>Official Information Regarding the Use of Sharpies in Maricopa County, Citizens Clean Elections Comm’n, <https://www.azcleanelections.gov/election-security/sharpies> (last accessed Mar. 15, 2022); Rachel Leingang & McKenzie Sadeghi, *Fact check: Arizona election departments confirm Sharpies can be used on ballots*, USA Today (Nov. 5, 2022), <https://www.usatoday.com/story/news/factcheck/2020/11/04/fact-check-sharpiagate-controversy-arizona-false-claim/6164820002/>.

<sup>3</sup>Jim Rutenberg, et al., *77 Days: Trump’s Campaign to Subvert the Election*, N.Y. Times (Jan 31, 2021), <https://www.nytimes.com/2021/01/31/us/trump-election-lie.html>.

<sup>4</sup>Tony Romm, et al., *Facebook Bans ‘STOP THE STEAL’ Group Trump Allies Were Using to Organize Protests Against Vote Counting*, Wash. Post (Nov. 5, 2020), <https://www.washingtonpost.com/technology/2020/11/05/facebook-trump-protests/>.

<sup>5</sup>See States United Democracy Ctr. April and June Reports, *supra* note 1.

<sup>6</sup>See, e.g., Derek Tisler, et al., *The Roadmap to the Official Count in an Unprecedented Election*, Brennan Ctr. for Justice (Oct. 26, 2020), <https://www.brennancenter.org/our-work/research-reports/roadmap-official-count-unprecedented-election>; Edward B. Foley & Charles Stewart III, *Explaining the Blue Shift in Election Canvassing*, J. of Pol. Institutions and Pol. Economy (Mar. 1, 2020), <http://dx.doi.org/10.2139/ssrn.3547734>.

<sup>7</sup>See Table 16: *When Absentee/Mail Ballot Processing and Counting Can Begin*, Nat’l Conf. of State Legislatures (Mar. 15, 2022), <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-16-when-absentee-mail-ballot-processing-and-counting-can-begin.aspx>; Quinn Scanlan, *How battleground States process mail ballots—and why it may mean delayed results*, ABC News (Oct. 30, 2020), <https://abcnews.go.com/Politics/battleground-states-process-mail-ballots-delayed-results/story?id=73717671>.

<sup>8</sup>See, e.g., Zach Montellaro, *Michigan, Pennsylvania and Wisconsin decided the 2016 election. We’ll have to wait on them in 2020.*, Politico (Sept. 15, 2020), <https://www.politico.com/news/2020/09/15/swing-states-election-vote-count-michigan-pennsylvania-wisconsin-414465>; Miles Parks, *In Swing States, Officials Struggle To Process Ballots Early Due To Strict Local Laws*, NPR (Oct. 14, 2020), <https://www.npr.org/2020/10/14/922202497/in-swing-states-laws-add-pressure-prevent-officials-from-processing-ballots-early>.

<sup>9</sup>See, e.g., Tresa Baldas, et al., *Chaos erupts at TCF Center as Republican vote challengers cry foul in Detroit*, Detroit Free Press (Nov. 4, 2020), <https://www.freep.com/story/news/politics/elections/2020/11/04/tcf-center-challengers-detroit-michigan/6164715002/>; Jim Rutenberg et al., *supra* note 5.



Federal and State officials to throw out the popular election.<sup>10</sup> The lies spread online and on partisan media outlets, which were then promoted by hundreds of elected lawmakers who breached the public trust by magnifying the reach of these falsehoods.<sup>11</sup> The rising threat of political violence from these lies prompted the incumbent National security and Federal law enforcement apparatus to reassure the public that the 2020 election was “the most secure in American history” with “no evidence that any voting system deleted or lost votes, changed votes, or was in any way compromised”<sup>12</sup> and no serious evidence of voter fraud.<sup>13</sup> But the mistrust already sown meant many “true believers” believed these statements too were false. Since then, even some prominent proponents of the stolen election lies have admitted as a defense in court that “[n]o reasonable person would conclude that the statements [challenging the 2020 election] were truly statements of fact.”<sup>14</sup> Nonetheless, the lies have continued, and are still believed by many.

Our democratic institutions bent but ultimately held firm under the strain of the post-2020 election chaos that culminated with the January 6 attack on the Capitol and challenges to the electors. But the damage done, and the weaknesses exploited during that time, have laid the groundwork for future attacks against and within our electoral system. The former President has kept the stolen election lies narrative at the forefront,<sup>15</sup> and made a candidate’s willingness to accept those falsehoods a salient political criterion in party politics.<sup>16</sup> The fabricated stolen election efforts have shifted political dynamics across the country, with one recent analysis finding that “163 Republicans who have embraced Trump’s false claims are running for State-wide positions that would give them authority over the administration of elections.”<sup>17</sup> And numerous losing candidates for public office since the 2020 election have already harnessed the stolen election lies to cast doubt on their losses and the legitimacy of their opponents, no matter the margin of victory.<sup>18</sup>

<sup>10</sup> Karen Yourish & Larry Buchanan, *Since Election Day, a Lot of Tweeting and Not Much Else for Trump*, N.Y. Times, Nov. 24, 2020, <https://www.nytimes.com/interactive/2020/11/24/us/politics/trump-twitter-tweets-election-results.html> (“In total, the president attacked the legitimacy of the election more than 400 times since Election Day, though his claims of fraud have been widely debunked”); Anita Kumar & Gabby Orr, *Inside Trump’s Pressure Campaign to Overturn the Election*, Politico (Dec. 21, 2020), [www.politico.com/news/2020/12/21/trump-pressure-campaign-overtake-election-449486](https://www.politico.com/news/2020/12/21/trump-pressure-campaign-overtake-election-449486) (“In total, the President talked to at least 31 Republicans, encompassing mostly local and State officials from four critical battleground States he lost—Michigan, Arizona, Georgia, and Pennsylvania. The contacts included at least 12 personal phone calls to 11 individuals, and at least 4 White House meetings with 20 Republican State lawmakers, party leaders, and attorneys general, all people he hoped to win over to his side. Trump also spoke by phone about his efforts with numerous House Republicans and at least 3 current or incoming Senate Republicans.”).

<sup>11</sup> Jacobs Technion-Cornell Institute, VoterFraud2020 Twitter Database, <https://voterfraud2020.io/> (last visited Mar. 21, 2022); Justin Hendrix, *The Big Lie Is a Reality*, Just Security (Feb. 23, 2022), <https://www.justsecurity.org/80324/the-big-lie-is-a-reality/>; Representative Zoe Lofgren, Social Media Review (Jan. 31, 2021), <https://housedocs.house.gov/lofgren/SocialMediaReview8.pdf>.

<sup>12</sup> Cybersecurity and Infrastructure Security Agency, Joint Statement From Elections Infrastructure Government Coordinating Council & The Election Infrastructure Sector Coordinating Executive Committees (Nov. 12, 2020), <https://www.cisa.gov/news/2020/11/12/joint-statement-elections-infrastructure-government-coordinating-council-election>.

<sup>13</sup> Adam Goldman & Zolan Kanno-Youngs, *F.B.I. Director Sees No Evidence of National Mail Voting Fraud Effort*, N.Y. Times (Sept. 24, 2020), <https://www.nytimes.com/2020/09/24/us/politics/fbi-director-voter-fraud.html> (quoting FBI director Christopher Wray); Michael Balsamo, *Disputing Trump, Barr says no widespread election fraud*, Associated Press (Dec. 1, 2020), <https://apnews.com/article/barr-no-widespread-election-fraud-b1f1488796c9a98c4b1a9061a6c7f49d> (quoting former Attorney General Bill Barr).

<sup>14</sup> Jane C. Timm, *Sidney Powell’s legal defense: ‘Reasonable people’ wouldn’t believe her election fraud claims*, NBC News (Mar. 23, 2021), <https://www.nbcnews.com/politics/donald-trump/sidney-powell-s-legal-defense-reasonable-people-wouldn-t-believe-n1261809> (citing Sidney Powell legal filing in a subsequent defamation case).

<sup>15</sup> See, e.g., Melissa Block, *The clear and present danger of Trump’s enduring ‘Big Lie’*, NPR (Dec. 23, 2021), <https://www.npr.org/2021/12/23/1065277246/trump-big-lie-jan-6-election>; Josh Dawsey, *Trump muses on war with Russia and praises Kim Jong Un*, Wash. Post (Mar. 6, 2022), <https://www.washingtonpost.com/nation/2022/03/06/trump-focuses-foreign-policy-speech-gops-top-donors/>.

<sup>16</sup> Calvin Woodward, *Trump’s ‘Big Lie’ imperils Republicans who don’t embrace it*, Associated Press (May 9, 2021), <https://apnews.com/article/michael-pence-donald-trump-election-2020-government-and-politics-0c079479fd2b9911b3006f0fc128ffd>.

<sup>17</sup> Ashley Parker, et al., *How Republicans became the party of Trump’s election lie after Jan. 6*, Wash. Post (Jan. 5, 2022), [https://www.washingtonpost.com/politics/republicans-jan-6-election-lie/2022/01/05/82f4cad4-6cb6-11ec-974b-d1c6de8b26b0\\_story.html](https://www.washingtonpost.com/politics/republicans-jan-6-election-lie/2022/01/05/82f4cad4-6cb6-11ec-974b-d1c6de8b26b0_story.html).

<sup>18</sup> Numerous losing candidates have refused to concede because of trumped-up lies about voting fraud. For example, upon losing to Congresswoman Karen Bass of California, challenger

Continued

These stolen election lies cast a dangerous shadow extending well beyond 2020. Proponents of the lies continue to interrogate election officials and demand they prove a negative—that no distortions affected the elections—as a justification to continue repeating falsehoods about the voting system indefinitely.<sup>19</sup> Researchers studying misinformation predict that such manipulations of the truth and the public trust will continue on “for years or even decades.”<sup>20</sup>

## 2. The election falsehoods encourage laws that limit voter access.

Even before the post-election chaos of 2020, early proponents of stolen election lies derided States that sought to make access to voting easier—during an unprecedented global pandemic—so their citizens could safely make their voices heard without putting their health in jeopardy.<sup>21</sup> The focus of the attack became voting by mail, where eligible registered voters receive a mailed ballot to their home and can return their voted ballot before election day, often by return mail or by dropping it off at a designated location.<sup>22</sup> This type of voting has been available for years in a range of States, with Colorado, Hawaii, Oregon, Washington, and Utah adopting a comprehensive vote by mail system before 2020 but still providing their citizens with alternative opportunities to vote in-person on election day.<sup>23</sup>

Despite the successful practices in these States, numerous studies showing vote by mail is safe and secure, and even many stolen election proponents themselves using that method to cast their own ballot, falsehoods about vote by mail took off in 2020.<sup>24</sup> The lies were deliberate and carefully planned, operating to convince a segment of voters that there would be two elections, one legitimate and comprised only of in-person, election-day voting, and a separate, fraudulent election where vote-by-mail ballots were frauds and favored one political party.<sup>25</sup> This highly effective and pernicious disinformation campaign against expanded voting access spread across the American political media ecosystem to mislead Americans that vote by mail is somehow unreliable or manipulable.<sup>26</sup>

In reality, our elections are quite secure, and the actual occurrence of voter fraud is vanishingly rare.<sup>27</sup> The many successes in the administration of the 2020 election

Errol Webber echoed President Trump’s rhetoric, tweeting, “I will NOT concede. Every LEGAL vote needs to be counted!” In Maryland, candidate Kimberly Klacik cast doubt on the validity of mail-in votes, writing, “I beat my opponent on day of & in-person early voting, along with absentee. However, 97k mail-in ballots were found in his favor?” See Teo Armus, *Echoing Trump, Congressional Candidates Refuse to Concede, Make Unproven Fraud Claims*, Wash. Post (Nov. 10, 2020), <https://www.washingtonpost.com/nation/2020/11/10/congress-trump-election-fraud-claim/>; see also John L. Dorman, *A Florida Republican who was defeated by 59 percent-age points in a Congressional special election won’t concede*, Business Insider (Jan. 16, 2022), <https://www.businessinsider.com/florida-republican-mariner-wont-concede-cherfilus-mccormick-house-race-landslide-2022-1>.

<sup>19</sup> Jane Mayer, *The Big Money Behind the Big Lie*, The New Yorker (Aug. 2, 2021), <https://www.newyorker.com/magazine/2021/08/09/the-big-money-behind-the-big-lie>.

<sup>20</sup> Brian Fung & Rishi Iyengar, *Misinformation Channels Claim Biden Is No Longer President-elect. That’s Not True.*, CNN (Nov. 11, 2020), <https://www.cnn.com/2020/11/10/tech/biden-lost-pennsylvania-fact-check/index.html>.

<sup>21</sup> See, e.g., Miles Parks, *Ignoring FBI And Fellow Republicans, Trump Continues Assault On Mail-In Voting*, NPR (Aug. 28, 2020), <https://www.npr.org/2020/08/28/906676695/ignoring-fbi-and-fellow-republicans-trump-continues-assault-on-mail-in-voting>.

<sup>22</sup> See, e.g., Kimberly Hall, *Vote-By-Mail and Absentee Voting—Secure Alternatives to Cast Your Ballot in 2020*, Campaign Legal Ctr. (Aug. 27, 2020), <https://campaignlegal.org/update/vote-mail-and-absentee-voting-secure-alternatives-cast-your-ballot-2020>.

<sup>23</sup> Since 2020, three other States—California, Nevada, and Vermont—have also moved to a comprehensive vote-by-mail system. See Table 18: *States With All-Mail Elections*, Nat’l Conf. of State Legislatures (Feb. 3, 2022), <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-18-states-with-all-mail-elections.aspx>.

<sup>24</sup> Tim Alberta, *A Journey Into the Heart of America’s Voting Paranoia*, Politico Magazine (Oct. 30, 2020), <https://www.politico.com/news/magazine/2020/10/30/voting-mail-election-2020-paranoia-433356>.

<sup>25</sup> Jonathan Swan & Zachary Basu, *A premeditated lie lit the fire*, Axios (Jan. 16, 2021), <https://www.axios.com/trump-election-premeditated-lie-ebaf4a1f-46bf-4c37-ba0d-3ed5536ef537.html?deepdive=1>.

<sup>26</sup> Yochai Benkler, et al., *Mail-In Voter Fraud: Anatomy of a Disinformation Campaign*, Harvard Berkman Klein Ctr. (Oct. 1, 2020), <https://cyber.harvard.edu/publication/2020/Mail-in-Voter-Fraud-Disinformation-2020>.

<sup>27</sup> See, e.g., Elaine Kamarck and Christine Stenglein, *Low Rates of Fraud in Vote-By-Mail States Show the Benefits Outweigh the Risks*, The Brookings Institution (June 2, 2020), <https://brook.gs/3ct24tJ> (analyzing elections in universal vote-by-mail States—Colorado, Hawaii, Oregon, Utah, and Washington—and discrediting fraud concerns); Wendy R. Weiser, *The False Narrative of Vote-by-Mail Fraud*, Brennan Ctr. for Justice (Apr. 10, 2020), [www.brennancenter.org/our-work/analysis-opinion/false-narrative-vote-mail-fraud](https://www.brennancenter.org/our-work/analysis-opinion/false-narrative-vote-mail-fraud) (studying voter datasets and concluding it is “more likely for an American to be struck by lightning than to commit mail voting fraud”); Richard L. Hasen, *Election Meltdown 128* (2020) (summarizing

and low occurrence of irregularities, even under strained pandemic conditions, only further proves the point.<sup>28</sup>

But the stolen election lies that attacked the innovations ensuring voting was safe and convenient in 2020—and producing record-breaking high turnout for voters of all political persuasions<sup>29</sup>—have continued and materialized in harmful changes in State laws. As Benjamin Ginsberg, a prominent Republican election lawyer, summarized, partisans who support the stolen election lies are “conjuring up charges of fraud to erect barriers to voting for people [the Republican party] fears won’t support its candidates.”<sup>30</sup> The falsehoods have inspired a well-funded national movement that exploits the stolen election lies and baseless claims of fraud to make voting needlessly harder; it undermines the basic democratic guarantee that all eligible voters must be empowered to vote and have that vote counted.<sup>31</sup>

At the end of the 2021 State legislative sessions, States across the country had enacted a record-shattering number of new voting restrictions that often derived from the stolen election lies. In total, State legislators proposed 581 new bills that experts say would have made voting more difficult.<sup>32</sup> Lawmakers in 21 States enacted into law 52 of those proposed bills—many of which were omnibus bills containing dozens of new restrictions—to make voting more difficult.<sup>33</sup> This steep increase in new anti-voter laws far exceeded the previous high-water mark set with the 19 total voting restrictions enacted in 2011.<sup>34</sup>

Recent laws enacted in Texas and Georgia provide two of the most glaring examples. In those States, lawmakers hastily pushed through two broad election law measures—known as Georgia S.B. 202 and Texas S.B. 1—that dramatically changed the States’ voting processes to make access to the ballot more difficult overall. The legislatures in both States did so by engaging in procedural maneuvering that limited public input, relying on politically-motivated outside organizations to draft numerous provisions, and at times admitting that the changes were to serve a political calculation rather than bolster a fair voting process.<sup>35</sup>

that “[t]he issue of organized voter fraud has now been put to the test in courts and in social science” and amounts to no more than “a sham perpetuated by people who should know better, advanced for political advantage”).

<sup>28</sup>Nick Corasaniti, et al., *The Times Called Officials in Every State: No Evidence of Voter Fraud*, N.Y. Times (Nov. 6, 2021), <https://www.nytimes.com/2020/11/10/us/politics/voting-fraud.html>; Christina A. Cassidy, *Far too little vote fraud to tip election to Trump, AP finds*, Associated Press (Dec. 14, 2021), <https://apnews.com/article/voter-fraud-election-2020-joe-biden-donald-trump-7fcb6f134e528fee8237c7601db3328f>; Jane Mayer, *supra* note 19 (stating, for example, that “data on Arizona, the putative center of the storm, is not exactly alarming: of the millions of votes cast in the State from 2016 to 2020, only nine individuals were convicted of fraud. Each instance involved someone casting a duplicate ballot in another State. There were no recorded cases of identity fraud, ballot stuffing, voting by non-citizens, or other nefarious schemes. The numbers confirm that there is some voter fraud, or at least confusion, but not remotely enough to affect election outcomes”).

<sup>29</sup>Drew DeSilver, *Turnout soared in 2020 as nearly two-thirds of eligible U.S. voters cast ballots for president*, Pew Research Ctr. (Jan. 28, 2021), <https://www.pewresearch.org/fact-tank/2021/01/28/turnout-soared-in-2020-as-nearly-two-thirds-of-eligible-u-s-voters-cast-ballots-for-president/> (collecting turnout sources).

<sup>30</sup>Jeremy W. Peters, *In Restricting Early Voting, the Right Sees a New ‘Center of Gravity’*, N.Y. Times (Mar. 24, 2021), <https://www.nytimes.com/2021/03/19/us/politics/republicans-trump-voting-rights.html>.

<sup>31</sup>Jane Mayer, *supra* note 19.

<sup>32</sup>These totals from the 2021 legislative sessions are derived from trackers at the Brennan Center for Justice, the Voting Rights Lab, and FiveThirtyEight. See, e.g., Voting Rights Lab, Comprehensive Bill Search, <https://tracker.votingrightslab.org/pending/search> (last accessed Mar. 23, 2022); Kaleigh Rogers, *The Big Lie’s Long Shadow*, FiveThirtyEight (Jan. 12, 2022), <https://fivethirtyeight.com/features/the-big-lie-voting-laws/>; Nathaniel Rakich & Elena Mejia, *Texas’s New Law Is The Climax Of A Record-Shattering Year For Voting Restrictions*, FiveThirtyEight (Sept. 8, 2021), <https://fivethirtyeight.com/features/texas-new-law-is-the-climax-of-a-record-shattering-year-for-voting-restrictions/>; Voting Laws Roundup: December 2021, Brennan Ctr. for Justice (Jan. 12, 2022), <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-december-2021>.

<sup>33</sup>See sources cited *supra* note 32.

<sup>34</sup>Wendy R. Weiser & Lawrence Norden, *Voting Law Changes in 2012*, Brennan Ctr. for Justice (Oct. 3, 2011), <https://www.brennancenter.org/our-work/research-reports/voting-law-changes-2012/>.

<sup>35</sup>See *Exclusive: Documented Obtains Recording of 3 Hour Long Voter Suppression Strategy Session Hosted by ALEC*, Documented (Dec. 6, 2021), <https://documented.net/investigations/exclusive-documented-obtains-recording-of-3-hour-long-voter-suppression-strategy-session-hosted-by-alec/>; Aris Folley, *Georgia’s GOP House Speaker says vote-by-mail system would be ‘devastating to Republicans’*, The Hill (Apr. 4, 2020), <https://thehill.com/homenews/state-watch/490879-georgias-gop-house-speaker-says-vote-by-mail-system-would-be-devastating>; Stephen Fowler and David Armstrong, *16 Years Later, Georgia Lawmakers Flip Views On Absentee Voting*, Georgia

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Among other restrictions, both laws reduce the applicable time periods to request a mail-in ballot, and then add confusing requirements for voters submitting a vote by mail ballot or an application for a ballot to provide additional information that does not correlate with voting eligibility and disrupts voters' settled expectations. So far, the results of the two new laws are that fewer eligible voters, and in particular voters of color, are able to participate in the political process. In Texas this year, provisions of S.B. 1 resulted in election officials disqualifying vote-by-mail ballots at abnormally high rates during the State's 2022 primary.<sup>36</sup> Roughly 13% of all submitted vote-by-mail ballots were discarded as a direct result of the new restrictive legal requirements, while experts say that any rejection rate above 2% is cause for concern in a typical election.<sup>37</sup> The result was that 22,898 likely eligible voters in Texas did not have their ballots counted during the primary because of new hurdles S.B. 1 put in place.<sup>38</sup> In Georgia, S.B. 202's changed requirements also led to election officials rejecting 4% of mail-in ballot request forms—up from fewer than 1% before the new law's restrictions were enacted. In a State like Georgia, where the margin of victory is often narrow, such a high number of voter rejections could make the difference in close elections.

Texas' and Georgia's new restrictions are unfortunately not outliers. Florida in 2021 similarly enacted an omnibus restrictive voting law, S.B. 90, that also increased the costs of voting by mail and risks heightened rejections of eligible voters as in Georgia and Texas.<sup>39</sup> Arizona, among several other restrictive laws, enacted H.B. 1485<sup>40</sup> that made the State's permanent early voting list no longer permanent because declining to vote would trigger eligible voters being kicked off the list.<sup>41</sup> Montana enacted numerous new laws—H.B. 176, H.B. 506, and S.B. 169—that in effect make it harder for students and Native voters to participate in the political process.<sup>42</sup> And Iowa enacted S.F. 413, which makes voting more burdensome at nearly every stage of the process by significantly shortening available voting hours and opportunities.<sup>43</sup> All of these bills and others have drawn costly litigation, requiring taxpayers to expend huge sums to defend laws that make it harder for them to vote, and are based on lies about elections rather than any empirical need to disrupt the valid ballot security measures already in place.<sup>44</sup>

The harmful results of the 2021 legislative session are far from the last word about what the stolen election lies have done to reshape voting in America. This year, in 2022, State legislatures across the country are back to work building on the election falsehoods to continue making voting harder for their citizens. As of March 2022, numerous proposed bills that are even more extreme than those presented in 2021 are making their way through States' legislatures.<sup>45</sup>

For example, Arizona legislators have rushed to introduce over a hundred election bills that would politicize the State's election administration processes and propose substantial cutbacks to voting options that have historically eased the burdens on

Public Broadcasting (Mar. 7, 2021), <https://www.gpb.org/news/2021/03/07/16-years-later-georgia-lawmakers-flip-views-on-absentee-voting>.

<sup>36</sup> Paul J. Weber & Acacia Coronado, *Texas mail ballot rejections soar under new restrictions*, Associated Press (Mar. 16, 2022), <https://apnews.com/article/2022-midterm-elections-elections-texas-voting-only-on-ap-45ba51fe9dd951a0f82015bd6bd9ff41>.

<sup>37</sup> Id.

<sup>38</sup> Id.

<sup>39</sup> Lawrence Mower, *Florida Senate passes law calling for new elections security office under DeSantis control*, Miami Herald (Mar. 6, 2022), <https://www.miamiherald.com/news/politics-government/state-politics/article259083293.html>.

<sup>40</sup> H.B. 1485, 55th Leg., 1st Reg. Sess. (Ariz. 2021).

<sup>41</sup> Ben Giles, *Arizona Republicans Enact Sweeping Changes To State's Early Voting List*, NPR (May 11, 2021), <https://www.npr.org/2021/05/11/995998370/arizona-republicans-enact-sweeping-changes-to-states-early-voting-list>.

<sup>42</sup> Iris Samuels, *Lawsuit argues new Montana law suppresses student vote*, Associated Press (Oct. 12, 2021), <https://apnews.com/article/congress-university-of-montana-montana-helena-voter-registration-1e8774b19ba6faaa2165a96cf9e4e89e>; Kevin Trevelyan, *Advocates Fear Montana's New Ballot Law Could Harm Voters Who Struggle To Be Heard*, NPR (May 25, 2021), <https://www.npr.org/2021/05/25/999904063/advocates-fear-montanas-new-ballot-law-could-harm-voters-who-struggle-to-be-hear>.

<sup>43</sup> Stephen Gruber-Miller, *Gov. Kim Reynolds signs law shortening Iowa's early and Election Day voting*, Des Moines Reg. (Mar. 9, 2021), <https://www.desmoinesregister.com/story/news/politics/2021/03/08/iowa-governor-kim-reynolds-signs-law-shortening-early-voting-closing-polls-earlier-election-day/6869317002/>.

<sup>44</sup> See, e.g., *Voting Rights Litigation Tracker*, Brennan Ctr. for Justice (Mar. 22, 2022), <https://www.brennancenter.org/our-work/research-reports/voting-rights-litigation-tracker>.

<sup>45</sup> See e.g., *Voting Laws Roundup: February 2022*, Brennan Ctr. for Justice (Feb. 9, 2022), <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-february-2022>.

Arizona voters.<sup>46</sup> One of the most egregious proposals that Arizona recently enacted into law, H.B. 2492, adds significant new voter registration and voter eligibility requirements that proponents knowingly enacted to violate Federal law.<sup>47</sup> Among other extreme provisions, H.B. 2492 feeds off the stolen election lies by demanding that all voters provide costly and at times inaccessible documentary proof of U.S. citizenship and proof of current residence to be eligible to vote; conditioning ability to register on whether a voter submits a State registration form or Federal registration form; targeting naturalized U.S. citizens by mandating registrants disclose their place of birth, even though that is immaterial to eligibility; requiring State officials to check voters against inaccurate and stale databases to initiate purging them from the registration rolls, and then subjecting them to potential criminal prosecution; and prohibiting an entire class of eligible registered voters from using vote-by-mail opportunities and voting in Presidential elections at all.<sup>48</sup>

Additionally, a law that recently passed in Florida, S.B. 254, creates a new election crimes “police force”—a measure local election officials deemed a “recipe for disaster” that seeks to placate stolen election lie proponents and invites the harassment of eligible voters.<sup>49</sup> Georgia lawmakers have taken similar steps to advance H.B. 1464, which would, along with other disruptive election law changes, also create a broad-mandated election investigation task force that nonpartisan election officials oppose.<sup>50</sup> And Idaho legislators have pushed two bills, H.B. 692 and H.B. 693, that reduce voting opportunities and that proponents have explicitly tied to their 2020 stolen election lies.<sup>51</sup> These are among many other examples of State lawmakers continuing to make policy decisions based on myths about the 2020 Presidential results, and currying political favor with the proponents of those falsehoods.

Moreover, some key States have continued their unwillingness to make positive changes in State election law that would give voters greater faith in our elections. Most notable are Pennsylvania, Michigan, and Wisconsin, which, as described above, have continued their refusal to implement adequate procedures for election officials to preprocess early received ballots to lessen the overwhelming work on election day, enable quicker results, and reduce the ability of election conspiracists to sow doubt during the post-election day period. Pennsylvania failed to enact legislation that would give election officials more time to process vote-by-mail ballots.<sup>52</sup> Wisconsin lawmakers have likewise declined to take up a proposal that would allow preprocessing and ease election day burdens.<sup>53</sup> Michigan officials changed the law in late 2020 to permit some larger cities to open ballot envelopes 1 day before election day, but this slight change was inadequate to allow for proper preprocessing.<sup>54</sup> Following the 2020 election, some Michigan lawmakers wanted to go the opposite direction and make ballot counting even more difficult. Instead of allowing election

<sup>46</sup> Kirk Siegler & Liz Baker, *Arizona Republicans continue pushing voting restrictions, risking backfire*, NPR (Mar. 4, 2022), <https://www.npr.org/2022/03/04/1083501487/arizona-republicans-continue-pushing-voting-restrictions-risking-backfire>.

<sup>47</sup> H.B. 2492, 56th Leg., 1st Reg. Sess. (Ariz. 2022).

<sup>48</sup> Ray Stern, *Arizona requires proof of citizenship for voters, under bill signed by Gov. Ducey*, Arizona Republic (Mar. 29, 2022), <https://www.azcentral.com/story/news/politics/elections/2022/03/30/proof-citizenship-bill-arizona-voters-signed-gov-ducey/7221503001/>; Katya Schwenk, *‘Extreme’ Arizona Elections Bills Inching Closer to Law*, Phoenix New Times (March 30, 2022), <https://www.phoenixnewtimes.com/news/extreme-arizona-elections-bills-inching-closer-to-law-13323436>; Ray Stern, *Would proof-of-citizenship bill really purge 200K voters? Answers mixed*, Arizona Republic (Mar. 29, 2022), <https://www.azcentral.com/story/news/politics/legislature/2022/03/29/arizona-bill-proof-citizenship-voters-legal-issues/7188177001/>.

<sup>49</sup> Gary Fineout, *Legislature gives DeSantis new election police to target voter fraud in Florida*, Politico (Mar. 10, 2022), <https://www.politico.com/news/2022/03/10/desantis-gets-florida-election-police-00015926>.

<sup>50</sup> See, e.g., Jeff Amy, *Georgia Republicans seek further changes to election laws*, Associated Press (Mar. 16, 2022), <https://apnews.com/article/2022-midterm-elections-voting-donald-trump-elections-atlanta-c6484e2653e93bb8885b6273f65c1cab>; Maya King & Nick Corasaniti, *Local Election Officials in Georgia Oppose G.O.P. Election Bill*, N.Y. Times (Mar. 28, 2022), <https://www.nytimes.com/2022/03/28/us/politics/georgia-election-bill.html>.

<sup>51</sup> Clark Corbin, *Idaho legislative committee advances to bills making last-minute voting changes*, Idaho Capital Sun (Mar. 2, 2022), <https://idahocapitalsun.com/2022/03/02/idaho-legislative-committee-advances-to-bills-making-last-minute-voting-changes/>.

<sup>52</sup> Stephen Caruso, *Little has changed for Pennsylvania election officials, voters heading into 2022*, Pennsylvania Capital-Star (Mar. 18, 2022), <https://www.penncapital-star.com/civil-rights-social-justice/little-has-changed-for-pennsylvania-election-officials-voters-heading-into-2022/>.

<sup>53</sup> See Shawn Johnson, *Wisconsin bill to allow for early canvass of absentee ballots likely dead*, Wisc. Public Radio (Mar. 8, 2022), <https://www.wpr.org/wisconsin-bill-allow-early-canvass-absentee-ballots-likely-dead>.

<sup>54</sup> Jonathan Oosting, *Clerks: Michigan needs practical election reforms, not partisan posturing*, Bridge Michigan (Mar. 1, 2022), <https://www.bridgemi.com/michigan-government/clerks-michigan-needs-practical-election-reforms-not-partisan-posturing>.

officials added time to preprocess ballots, the lawmakers introduced a bill that would have mandated vote-counting stop the day after election day, regardless of whether all ballots were counted.<sup>55</sup> States failing to make necessary and non-controversial changes to avoid prolonged vote counting risks repeating the same mistakes of the 2020 election that gave room for the stolen election lies to develop.

The choices undertaken by legislators to give credence to stolen election lies by undermining our voting system are deeply misguided. Alternatively, bipartisan groups of lawmakers in some States have rightly taken the lesson of the 2020 election to be that expansions to voter access help all voters and do not benefit one political party over another. Kentucky is an example of productive, bipartisan lawmaking to make voting easier without compromising election security. The State recently enacted legislation to increase voting options and election security (at least as compared to pre-pandemic elections), including an expansion of early voting, an on-line portal for requesting a mail-in ballot, and a gradual transition to voting systems that guarantee a paper ballot trail.<sup>56</sup> Likewise, Utah's legislature rejected a proposed bill that would have eliminated Utah's comprehensive vote-by-mail system, H.B. 371, because a bipartisan group of lawmakers spurned the baseless claims of fraud and understood that expansions to voting help all citizens.<sup>57</sup> Indeed, in Virginia, which has in recent years enacted many reliable expansions that improve voting access, saw historic high voter turnout in the election of a Republican Governor, further disproving the notion that letting more people vote redounds to the advantage of one political party.<sup>58</sup>

The last 2 years of States' efforts to make significant cutbacks to the freedom to vote show that groundless stolen election myths are resulting in real-world consequences at voters' expense. Falsely asserting that voting by mail is somehow illegitimate (while often using that mechanism oneself) or that expanding times to vote somehow increases the risk of corruption is not empty rhetoric. Voters carry the burdens of these lies, and in the end they result in bad policy that makes the costs of participating in our democratic process higher for no valid reason.

### 3. *The election falsehoods encourage partisan ballot reviews and partisan election takeovers that undermine the integrity of the voting system.*

The stolen election lies have also led to problematic new laws and practices that hyper-politicize the administration of elections and reviews of their results. This falls into two main categories: The inception of partisan sham audits that question lawfully certified results, and the attempted partisan usurpation of authority over elections administration that shifts control from designated election officials to political actors. These transformations that arise from the stolen election lies pose a tremendous threat to the proper functioning of, and the people's trust in, our voting system.

#### *i. Post-election partisan sham "audits" diminish trust in elections.*

True post-election audits, in which a subset of the ballots cast in each county are hand-counted to verify the accuracy of the initial reported results, are standard practice in many States across the country.<sup>59</sup> But following the 2020 election, partisan actors in certain States sought to vindicate their falsehoods by undertaking unreliable post-certification reviews of the final results. Unlike standard post-election audits—which include numerous safeguards to ensure reliability and transparency, and which serve a valuable role in our democracy—these ad hoc partisan investigations employ unqualified third parties using unreliable techniques to go on fishing expeditions for political fodder. Such sham investigations that build off the stolen election lies threaten to undermine confidence in our election systems.

The most infamous of these efforts, in Maricopa County, Arizona, illustrates the deficiencies and dangers of post-election partisan reviews that operate outside the typical audit framework. Roughly 10,000 votes separated the winner and loser in Arizona's Presidential election results in 2020.<sup>60</sup> A standard post-election audit con-

<sup>55</sup> See S.B. 299, 100th Leg., 1st Reg. Sess. (Mich. 2021).

<sup>56</sup> Bruce Schreiner, *Kentucky Governor Signs Bipartisan Early Voting Measure*, Associated Press (Apr. 7, 2021), <https://www.usnews.com/news/politics/articles/2021-04-07/kentucky-governor-signs-bipartisan-early-voting-measure>.

<sup>57</sup> Bryan Schott, *Utah House committee rejects baseless claims of election fraud; soundly defeats bill to end universal vote by mail*, Salt Lake Trib. (Feb. 23, 2022), <https://www.sltrib.com/news/politics/2022/02/23/utah-house-committee/>.

<sup>58</sup> Reid J. Epstein, *The Democratic Turnout Myth Unravels*, N.Y. Times (Nov. 6, 2021), <https://www.nytimes.com/2021/11/04/us/politics/democrats-turnout-virginia.html>.

<sup>59</sup> See *Post-Election Audits*, Nat'l Conf. of State Legislatures (Oct. 25, 2019), <https://www.ncsl.org/research/elections-and-campaigns/post-election-audits635926066.aspx>.

<sup>60</sup> See *Arizona Election Results*, State of Ariz., <https://results.arizona.vote/#/featured/18/0> (last visited Mar. 19, 2022).

ducted by a bipartisan group of election officials under State law found no irregularities.<sup>61</sup> But dissatisfied with this outcome, and under pressure from supporters of the stolen election lies, Arizona's State senate leadership authorized a so-called "forensic audit" of the results only in Maricopa County—Arizona's largest and most diverse county.<sup>62</sup> The legislature demanded—on threat of criminal prosecution—that Maricopa County officials turn over voter equipment and millions of ballots to a contractor called Cyber Ninjas that had no relevant experience in election work, dubious fundraising sources, unambiguous partisan and financial incentives, and volunteer staff comprised of aggrieved supporters of the losing Presidential candidate.<sup>63</sup>

The unprofessional and partisan Cyber Ninjas process ultimately confirmed that the announced winner of Arizona's Presidential election did in fact receive the most votes. But it nevertheless raised several baseless claims about the security of Arizona's elections,<sup>64</sup> which has provided a pretext for Arizona lawmakers to foment skepticism of the results and propose changes in Arizona law that would make voting access harder and election administration more partisan.<sup>65</sup> Despite Maricopa County publishing an exhaustive report thoroughly debunking the conspiracies promoted in the Cyber Ninjas report, polls show that the damage to Arizonans' faith in the integrity of the State's elections was already done just by having the sham review at all.<sup>66</sup> Only 36% of those polled believe that the Cyber Ninjas review proved the fair winner in Maricopa County, and a majority of Republicans still rejected that topline finding, choosing to believe instead that the process found significant fraud to further validate the stolen election lies.<sup>67</sup> The tangible costs go even further, with the Cyber Ninjas process now running up a \$4 million bill to taxpayers to replace compromised election equipment and address numerous legal disputes.<sup>68</sup>

Unfortunately, Arizona's error-prone, costly, and partisan-motivated "investigation" has not been an isolated occurrence.<sup>69</sup> Undeterred by the roundly rejected and wasteful Cyber Ninjas review, other States have followed Arizona's lead to undertake their own partisan election investigations that further damage faith in our voting systems. After the Governor vetoed the Pennsylvania legislature's proposed wide-ranging measure to rewrite the State's election law, including provisions that would enable partisan officials to sabotage elections, lawmakers turned to other methods to further their stolen election lies. In September 2021, State senators in Pennsylvania began what they called a "forensic investigation" of the election that was decided and certified almost a year prior.<sup>70</sup> The investigation launched a sweep-

<sup>61</sup> See Jonathan Bydlak, et al., Brennan Ctr. for Justice, *Partisan Election Review Efforts in Five States* 3–4 (July 8, 2021), <https://www.brennancenter.org/sites/default/files/2021-07/Partisan%20Election%20Review%20Efforts%20Across%20the%20United%20States%20in%202021%20%2007.08.21.pdf>.

<sup>62</sup> See Jonathan Bydlak, et al., supra note 62, at 5–6; Bob Christie, *Arizona Senate Releases More Records of 2020 Election Review*, Associated Press (Sept. 1, 2021), <https://apnews.com/article/elections-senate-elections-election-recounts-87a4805f495f9d4cfd5827429ab105>.

<sup>63</sup> See, e.g., Trey Grayson and Barry C. Burden, Report on the Cyber Ninjas Review of the 2020 Presidential and U.S. Senatorial Elections in Maricopa County, Arizona, States United Democracy Ctr. (June 22, 2021); Stephen Richer, *The Madness of the Maricopa County Election Audit*, National Review (May 27, 2021), <https://www.nationalreview.com/2021/05/the-madness-of-the-maricopa-county-election-audit/>; Dan Zak, *The Mess in Maricopa*, Washington Post (May 21, 2021), <https://www.washingtonpost.com/lifestyle/2021/05/21/arizona-election-audit-trump-maricopa/>.

<sup>64</sup> Ben Giles, *The Discredited GOP Election Review in Arizona's Largest County Also Finds Biden Won*, NPR (Sept. 24, 2021), <https://www.npr.org/2021/09/24/1040327483/the-controversial-election-review-in-arizona-confirms-bidens-win>.

<sup>65</sup> Miles Parks, *Experts Call It a 'Clown Show' but Arizona 'Audit' Is a Disinformation Blueprint*, NPR (June 3, 2021), <https://www.npr.org/2021/06/03/1000954549/experts-call-it-a-clown-show-but-arizona-audit-is-a-disinformation-blueprint>.

<sup>66</sup> See Maricopa County Elections Department, *Correcting the Record* (Jan. 2022), <https://recorder.maricopa.gov/justthefacts/pdf/Correcting%20The%20Record%20-%20January%202022%20Report.pdf>.

<sup>67</sup> Erin Snodgrass, *The much-maligned Arizona election audit reinforced doubt about the 2020 election results, according to a new poll*, Business Insider (Nov. 15, 2021), <https://www.businessinsider.com/arizona-election-audit-reinforced-doubt-about-2020-election-results-2021-11>.

<sup>68</sup> Mary Jo Pitzl, *How the price tag of the Arizona Senate's review of the 2020 election grew from \$150K to more than \$4M*, Arizona Republic (Feb. 23, 2022), <https://www.azcentral.com/story/news/politics/arizona/2022/02/23/arizona-audit-cost-to-taxpayers-for-2020-election-review-tops-4-million/6829459001/>.

<sup>69</sup> See *Not an Audit, States United Action, Fair Fight Action* United to Protect Democracy, <https://notanaudit.com/> (last visited Mar. 31, 2022).

<sup>70</sup> Andrew Seidman & Jonathan Lai, *What to know about Pennsylvania Republicans' investigation of the 2020 election*, The Phila. Inquirer (Sept. 29, 2021), <https://www.inquirer.com/politics/pennsylvania-election-audit-2021-updates-results-20210922.html>.

ing, ad hoc, secretive, and standardless review of ballots, which, among other things, attempted to subpoena the private information of more than 9 million registered voters for analysis by a firm with no experience in election law or data analytics.<sup>71</sup> When details of the contract with the audit company were eventually released to the public, more questions than answers remained and it is unclear if the results of the “investigation” due in May 2022 will be released for public scrutiny.<sup>72</sup>

In Texas, just days after the conclusion of the Arizona sham review and hours after a request from the former President, the Texas secretary of state’s office announced a “full forensic audit” of the 2020 general election in four Texas counties: Collin, Dallas, Harris, and Tarrant.<sup>73</sup> Unsurprisingly, the first batch of results of the review found nothing out of the ordinary.<sup>74</sup> But regardless, the efforts undertaken gave election skeptics more reasons to further their lies about the results—even in a State that the former President won.

Finally, in Wisconsin, a top State lawmaker hired former Wisconsin Supreme Court Justice Michael Gableman to oversee a partisan investigation of the 2020 election, announcing the selection at his political party’s annual convention.<sup>75</sup> Gableman’s alleged vow to act as a neutral arbiter with no preconceived conclusions was inconsistent with his previous public and private efforts to spread the stolen election lies.<sup>76</sup> When Gableman released his 136-page report to the General Assembly in February 2022, he embraced fringe election conspiracies and advocated for the decertification of the 2020 election results—a proposal both impossible and unlawful.<sup>77</sup>

While these partisan audits have largely gone unaddressed and seem to be further expanding to other States, the U.S. Department of Justice has published warnings about their harms to our democratic process. In July 2021, the Attorney General released guidance to ensure that States comply with Federal law if conducting post-election “audits.”<sup>78</sup> The Attorney General’s stated primary concerns with these purported audits are two-fold: The risk to compromising election records, as happened in Arizona, and the threats of voter intimidation, such as those associated with stolen election conspiracists going door-to-door to interrogate voters in North Carolina, Colorado, and elsewhere.<sup>79</sup> Along these lines, the Attorney General sent a letter to the organizers of the Arizona audit, which lead them to drop a planned canvass of voters under the threat of Federal enforcement action.<sup>80</sup>

These partisan-driven, costly, and amateur reviews of elections by lawmakers and inexperienced third parties feed the stolen election narrative. They are at best redundant with the States’ existing legitimate audit procedures that are dependable

<sup>71</sup> States United Democracy Ctr. June Report, *supra* note 1.

<sup>72</sup> Sam Dunklau, *Pa. Senate election probe contract doesn’t say if the public will see the results, among other things*, WITF (Dec. 9, 2021), <https://www.witf.org/2021/12/07/pa-senate-election-probe-contract-doesnt-say-if-the-public-will-see-the-results-among-other-things/>.

<sup>73</sup> Neelam Bohra, *Texas secretary of state’s office auditing four counties’ 2020 elections months after an official called the Statewide process “smooth and secure”*, The Texas Tribune (Sept. 23, 2021), <https://www.texastribune.org/2021/09/23/texas-2020-election-audit/>.

<sup>74</sup> Alexa Ura & Allyson Waller, *First part of Texas’ 2020 election audit reveals few issues, echoes findings from review processes already in place*, The Texas Tribune (Dec. 31, 2021), <https://www.texastribune.org/2021/12/31/secretary-state-texas-election-audit/>.

<sup>75</sup> Shawn Johnson, *Following Warning By Trump, Vos Announces Former Justice Will Lead Assembly GOP Election Probe*, Wisc. Public Radio (June 26, 2021), <https://www.wpr.org/following-warning-trump-vos-announces-former-justice-will-lead-assembly-gop-election-probe>.

<sup>76</sup> Patrick Marley, *Michael Gableman said bureaucrats ‘stole our votes’ before he was put in charge of reviewing 2020 election*, Milwaukee Journal Sentinel (Jan. 6, 2022), <https://www.jsonline.com/story/news/politics/2021/08/09/michael-gableman-said-election-stolen-before-put-charge-wisconsin-review/5518815001/>; Scott Bauer, *Ex-justice’s Wisconsin election probe drags as critics scoff*, Associated Press (Feb. 7, 2022), <https://apnews.com/article/joe-biden-wisconsin-elections-racial-injustice-election-2020-9f9ce4a95e3d21bebb4ef7bd9543146f>.

<sup>77</sup> GOP investigator suggests Wisconsin Legislature decertify 2020 election results, WISN (Mar. 1, 2022) <https://www.wisn.com/article/wisconsin-republican-report-suggests-decertifying-2020-election-results/39271268>; Zach Montellaro, *Wisconsin GOP’s 2020 report embraces fringe election decertification theory*, Politico (Mar. 1, 2022), [www.politico.com/news/2022/03/01/wisconsin-republicans-embrace-election-decertification-00012793](https://www.politico.com/news/2022/03/01/wisconsin-republicans-embrace-election-decertification-00012793).

<sup>78</sup> U.S. Dep’t of Justice, *Justice Department Issues Guidance on Federal Statutes Regarding Voting Methods and Post-Election “Audits”* (July 28, 2021), <https://www.justice.gov/opa/pr/justice-department-issues-guidance-federal-statutes-regarding-voting-methods-and-post>.

<sup>79</sup> See, e.g., Nicholas Riccardi, *Lawsuit seeks to stop group’s door-to-door voter fraud hut*, Associated Press (Mar. 9, 2022), <https://apnews.com/article/voting-rights-2022-midterm-elections-biden-steve-bannon-colorado-63beba2f69226f53ed305457c47a83ea>; Press Release, *Statement Regarding Door-to-Door Canvassers Requesting Voter Information*, North Carolina State Board of Elections (Feb. 18, 2022), <https://www.ncsbe.gov/news/press-releases/2022/02/18/statement-regarding-door-door-canvassers-requesting-voter-information>.

<sup>80</sup> Jeremy Duda, *Justice Department raises concerns with audit*, Arizona Mirror (May 5, 2021), <https://www.azmirror.com/2021/05/05/justice-department-raises-concerns-with-audit/>.



and designed by experts in the field of election administration. More dangerously, the so-called “fraudits” further erode trust in democracy, and the fabricated results can be used as a cover story for partisans’ efforts to exert greater control over elections and enact laws that make voting needlessly more difficult.

*ii. Attempts at partisan usurpation of election administration reduce security in elections.*

Among the most concerning responses to the stolen election lies are attempts by partisan actors to interfere with traditionally nonpartisan election administration functions. In the 2021 legislative sessions, State legislators “proposed more than two hundred bills in 41 States that have the potential to allow those legislators to interfere with election administration in one way or another, and at least two dozen bills have already been passed into law.”<sup>81</sup> These efforts can be tied directly to the former President’s efforts to “pursu[e] a strategy to have Republican-run legislatures in battleground States override results favoring [his opponent], in an unprecedented bid to alter the outcome of the election,”<sup>82</sup> as well as to his pressure campaign on election officials to “find” votes and manufacture his victory.<sup>83</sup>

Most alarming were new State proposals that in some cases would have allowed partisan actors to entirely discard the results of popular elections with which they disagreed.<sup>84</sup> For example, a proposed bill in Arizona last year, H.B. 2720, would have provided that “by majority vote at any time before the Presidential inauguration [the legislature] may revoke the secretary of state’s issuance or certification of a Presidential elector’s certificate of election.”<sup>85</sup> A similar proposal in Missouri, H.B. 1301, would have allowed the State legislature to “retain its authority to name Presidential electors in cases of fraud” or if a court or the Executive branch were perceived to have interfered in election administration.<sup>86</sup> In Texas, S.B. 7, a bill ultimately replaced by S.B. 1 discussed above, would have granted power to overturn elections to the State’s elected judges.<sup>87</sup> And in Nevada, certain lawmakers sought a State constitutional amendment that would have transferred power to certify the State’s election results from the State supreme court to the State legislature.<sup>88</sup>

These failed efforts are part of a concerning trend of State legislatures responding to the outcome of the 2020 election by trying to consolidate power to themselves at the expense of experienced election officials.<sup>89</sup> Indeed, several less extreme but still problematic proposals in the same vein have become law since 2020.<sup>90</sup>

For instance, in Arkansas, lawmakers passed a new law, S.B. 643, that authorizes a legislative committee to investigate election complaints and makes it easier to take over county elections without a legitimate justification.<sup>91</sup>

Legislators in Georgia followed suit after proponents of the stolen election lies baselessly accused nonpartisan county election workers of manipulating votes. Part of Georgia’s S.B. 202, enacted during Spring 2021 and described above, grants the

<sup>81</sup> See, e.g., sources cited *supra* note 1.

<sup>82</sup> Deanna Paul, *Trump Campaign Wants States to Override Electoral Votes for Biden. Is That Possible?*, The Wall Street Journal (Nov. 21, 2020), <https://www.wsj.com/articles/trump-campaign-wants-states-to-override-electoral-votes-for-biden-is-that-possible-11605973695>.

<sup>83</sup> Former president Trump’s much-publicized call to Secretary Raffensperger asking him to “find” an additional 11,780 votes and declare Trump the winner of Georgia’s Presidential election shows the political willingness to corruptly influence election officials to set aside the principles of impartial election administration to achieve partisan aims. See Amy Gardner, *I Just Want to Find 11,780 Votes: In Extraordinary Hour-Long Call, Trump Pressures Georgia Secretary of State to Recalculate the Vote in His Favor*, Wash. Post (Jan. 3, 2021), [https://www.washingtonpost.com/politics/trump-raffensperger-call-georgia-vote/2021/01/03/d45acb92-4dc4-11eb-bda4-615aef0555\\_story.html](https://www.washingtonpost.com/politics/trump-raffensperger-call-georgia-vote/2021/01/03/d45acb92-4dc4-11eb-bda4-615aef0555_story.html).

<sup>84</sup> See, e.g., Matt Vasilogambros, *Republican Legislators Curb Authority of County, State Election Officials*, Pew Charitable Trusts (July 28, 2021), <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2021/07/28/republican-legislators-curb-authority-of-county-state-election-officials>.

<sup>85</sup> H.B. 2720, 55th Leg., Reg. Sess. (Ariz. 2021). Arizona had two other proposed bills that would have similarly allowed the state legislature to interfere with election results. See States United Democracy Ctr. June Report, *supra* note 1, at 9–10.

<sup>86</sup> H.B. 1301, 101st Gen. Assemb., Reg. Sess. (Mo. 2021).

<sup>87</sup> Brennan Ctr. for Justice, *Voting Laws Roundup: December 2021* (Jan. 12, 2022), <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-december-2021>.

<sup>88</sup> Assemb. J. Res. 13, 81st Leg., 2021 Reg. Sess. (Nev. 2021).

<sup>89</sup> See Election Crisis Task Force Report, *supra* note 1, at 3.

<sup>90</sup> See Nick Corasaniti, *Voting Rights and the Battle Over Elections: What to Know*, N.Y. Times (Dec. 29, 2021), <https://www.nytimes.com/article/voting-rights-tracker.html>.

<sup>91</sup> Sam Levine, *How Trump’s big lie has been weaponized since the Capitol attack*, The Guardian (July 7, 2021), <https://www.theguardian.com/us-news/2021/jul/07/us-capitol-riot-attack-on-democracy>.

State Election Board broad power over county election officials.<sup>92</sup> Specifically, S.B. 202 allows “the State Election Board [to] suspend elected county or municipal superintendents and appoint an individual to serve as the temporary superintendent” in that jurisdiction.<sup>93</sup> Superintendents are considered the “top election officials” of each county, and the Board-appointed superintendent will be able to “exercise all the powers and duties of a superintendent as provided by law,”<sup>94</sup> which includes disqualifying voters, relocating polling sites, and potentially refusing to certify results.<sup>95</sup> Because a party with the majority in both houses of the Georgia General Assembly will control the Board, the broad power granted to the State Election Board correspondingly broadens the Assembly’s power to influence members of the Board on partisan grounds.<sup>96</sup>

S.B. 202 also more directly grants the Georgia General Assembly power over local election officials by allowing individual Georgia representatives to request performance reviews of election officials in their jurisdictions.<sup>97</sup> Upon receiving these requests, the State Election Board is to appoint “an independent performance review board” and then may use the findings of the review board as the basis to remove the official whose performance is in question.<sup>98</sup>

Reviews pursuant to this provision are already under way. The State Election Board appointed a partisan performance review board to investigate the baseless stolen election allegations in Fulton County and potentially take over election administration there, which contains Georgia’s largest concentration of Democratic voters.<sup>99</sup> Despite recently confirming the accuracy of Fulton County’s election results, the State Election Board nonetheless referred the county election officials to the State attorney general for investigation of the scant incidents of inadvertent and inevitable human errors—moving a step closer to the county officials being replaced by appointed partisans who would administer the next election.<sup>100</sup>

Additionally, in other Georgia counties, nonpartisan election boards that have been in place for years to manage and certify Georgia’s elections are being abruptly dissolved under new Georgia law.<sup>101</sup> This fundamental restructuring of local elec-

<sup>92</sup> Nicholas Reimann, *GOP-Controlled Georgia Board Launches Probe in Possible Takeover of Atlanta Elections from Local Officials*, *Forbes* (Aug. 18, 2021), <https://www.forbes.com/sites/nicholasreimann/2021/08/18/gop-controlled-georgia-board-launches-probe-in-possible-takeover-of-atlanta-elections-from-local-officials>.

<sup>93</sup> Ga. Code Ann. § 21–2–33.1(f).

<sup>94</sup> Ga. Code Ann. § 21–2–33.1(f).

<sup>95</sup> S.B. 202 did not alter the standards for certifying election results. See, e.g., Ga. Code Ann. § 21–2–33.1(f) (giving Board-appointed superintendents “all the powers and duties of a superintendent as provided by law”). However, there is debate over the circumstances under which a superintendent could refuse to certify results and what the consequences of that refusal would be. The relevant statute provides that a superintendent “shall . . . certify[]” the results by the Monday following the election after the returns are “found to be correct or corrected.” Id. § 21–2–493(k). As part of this process, “[i]f any error or fraud is discovered, the superintendent shall compute and certify the votes justly.” Id. § 21–2–493(i). Georgia law also does not explicitly provide for what happens if a superintendent declines to certify results: The relevant provision provides only that she “shall” do so. Ga. Code Ann. § 21–2–493(k). When a county refused to certify the results of a recount in 2020, the Secretary of State’s office responded by providing technical support to facilitate the recount process and launching a still-on-going investigation of the county’s process. *Secretary of State’s Office Opens Investigation into Coffee County’s Handling of Recount*, Ga. Sec’y Of State, [https://sos.ga.gov/index.php/elections/secretary\\_of\\_states\\_office\\_opens\\_investigation\\_into\\_coffee\\_countys\\_handling\\_of\\_recount](https://sos.ga.gov/index.php/elections/secretary_of_states_office_opens_investigation_into_coffee_countys_handling_of_recount) (last visited Mar. 30, 2022).

<sup>96</sup> See, e.g., Ga. Code Ann. § 21–2–33.1(f) (giving Board-appointed superintendents “all the powers and duties of a superintendent as provided by law”); see also States United Democracy Ctr. April Report, *supra* note 1, at 12–14; Nick Corasantini & Reid J. Epstein, *What Does Georgia’s Voting Law Really Do?*, *N.Y. Times* (Aug. 18, 2021), <https://www.nytimes.com/2021/04/02/us/politics/georgia-voting-law-annotated.html>.

<sup>97</sup> Ga. Code Ann. § 21–2–106(a).

<sup>98</sup> Id. § 21–2–106(a), (c).

<sup>99</sup> Mark Niesse, *Prospect of Georgia election takeover fuels concerns about vote integrity*, *The Atlanta Journal-Constitution* (Dec. 23, 2021), <https://www.ajc.com/politics/prospect-of-georgia-election-takeover-fuels-concerns-about-vote-integrity/CFMTLFW6TZFH7O4LLNDZ3BY4NE/>; Kristal Dixon, *Exit interview with Georgia’s most high-profile elections director*, *Axios* (Mar. 23, 2022), <https://www.axios.com/local/atlanta/2022/03/23/exit-interview-georgia-elections-director-richard-barron>; Nick Corasantini, *Potential G.O.P. Takeover of Atlanta-Area Election Board Inches Forward*, *N.Y. Times* (Aug. 18, 2021), <https://www.nytimes.com/2021/08/18/us/politics/georgia-elections-republicans.html>.

<sup>100</sup> Mark Niesse, *Investigation blames human error for issues in Fulton election audit*, *The Atlanta Journal-Constitution* (Mar. 16, 2022), <https://www.ajc.com/politics/investigation-blames-human-error-for-issues-in-fulton-election-audit/QTRKTKJYY5B3BMK2WOHU6AQXVY/>.

<sup>101</sup> See, e.g., Stephanie McCrummen, *‘Gutted’: What happened when a Georgia elections office was targeted for takeover by those who claim the 2020 election was a fraud*, *Wash. Post* (Mar. 14, 2022), <https://www.washingtonpost.com/nation/2022/03/14/georgia-elections-fraud-purge/>.

tion administration in Georgia has enabled counties to shift power away from long-time impartial election officials and toward inexperienced partisan actors, who in some instances have explicitly endorsed groundless stolen election claims.<sup>102</sup>

Finally, adding to the Georgia General Assembly's intrusion on election administration functions, S.B. 202 removes the Georgia secretary of state as the chairperson of the State Election Board, instead calling for the chairperson to be elected by the Georgia General Assembly, with the secretary of state merely deemed an "ex officio nonvoting member of the board."<sup>103</sup> While the chairperson "shall be nonpartisan,"<sup>104</sup> this new procedures nonetheless open the door for the election of a chairperson who shares the majority of the General Assembly's views regarding the results or legitimacy of any given election. Given the tensions between Georgia's secretary of state and legislators that arose during the 2020 election—with Republican Secretary of State Brad Raffensperger facing criticism for not supporting the former President and his allies' stolen election lies<sup>105</sup>—legislators could seek out a chairperson whom members believe would follow its party line on any given matter, including whether to certify the results of an election if the winner does not belong to the same party that controls the General Assembly.

Additionally, a new law proposed but recently struck down in Arizona would have also shifted power away from the Arizona secretary of state, Katie Hobbs, on blatantly partisan grounds.<sup>106</sup> The law provided that Arizona's attorney general, Mark Brnovich, "has sole authority to direct the defense of State election law or laws being challenged," thereby permitting him to "intervene on behalf of the State" "in any proceeding in which the validity of a State election law is challenged . . . if [he] determines" that "intervention is appropriate."<sup>107</sup> Accordingly, the law would have given the Arizona Attorney General, who is Republican, ultimate authority to dictate legal strategy in election law cases in the event that he disagrees with the State's elected secretary of state, currently a Democrat.<sup>108</sup> Importantly, this designation of control over litigation was designed to last only through the end of Secretary Hobbs' term, as the goal of the legislature was "to ensure that the authority given to . . . Brnovich would not transfer to any Democrat who won the next race for attorney general."<sup>109</sup> Although the Arizona Supreme Court struck down this law on procedural grounds because the legislature improperly passed it in an omnibus budget bill,<sup>110</sup> nothing in the court's decision prevents the State from reenacting it, and numerous pending proposals in the Arizona legislature would effectively do so.<sup>111</sup>

In Texas, the recently enacted S.B. 1 presents another instance of the legislative usurpation of election officials' authority. S.B. 1 imposes severe restrictions on how election officials can administer elections and help citizens apply to vote or cast a vote.<sup>112</sup> For example, the Texas law prohibits early voting clerks from any "attempt

; James Oliphant & Nathan Layne, *Georgia Republicans purge Black Democrats from county election boards*, Reuters (Dec. 9, 2021), <https://www.reuters.com/world/us/georgia-republicans-purge-black-democrats-county-election-boards-2021-12-09/>; Nick Corasaniti and Reid J. Epstein, *supra* note 1.

<sup>102</sup> James Oliphant & Nathan Layne, *Georgia Republicans purge Black Democrats from county election boards*, Reuters (Dec. 9, 2021 8:53 PM), <https://www.reuters.com/world/us/georgia-republicans-purge-black-democrats-county-election-boards-2021-12-09/>.

<sup>103</sup> Ga. Code Ann. § 21–2–30(a), (d).

<sup>104</sup> *Id.* § 21–2–30(a.1)(2).

<sup>105</sup> Amy Gardner, *Ga. Secretary of State Says Fellow Republicans Are Pressuring Him to Find Ways to Exclude Ballots*, Wash. Post (Nov. 16, 2020), [https://www.washingtonpost.com/politics/brad-raffensperger-georgia-vote/2020/11/16/6b6cb2f4-283e-11eb-8fa2-06e7cbb145c0\\_story.html](https://www.washingtonpost.com/politics/brad-raffensperger-georgia-vote/2020/11/16/6b6cb2f4-283e-11eb-8fa2-06e7cbb145c0_story.html).

<sup>106</sup> See Michael Wines, *In Arizona, G.O.P. Lawmakers Strip Power From a Democrat*, N.Y. Times (June 25, 2021), <https://www.nytimes.com/2021/06/25/us/Arizona-Republicans-voting.html>.

<sup>107</sup> S.B. 1819, sec. 33, 55th Leg., 1st Reg. Sess. (Ariz. 2021).

<sup>108</sup> Ben Giles, *Arizona Republicans Strip Some Election Power from Democratic Secretary of State*, NPR (June 30, 2021), <https://www.npr.org/2021/06/30/1011154122/arizona-republicans-strip-some-election-power-from-democratic-secretary-of-state>.

<sup>109</sup> Michael Wines, *In Arizona, G.O.P. Lawmakers Strip Power from a Democrat*, N.Y. Times (June 25, 2021), <https://www.nytimes.com/2021/06/25/us/Arizona-Republicans-voting.html>.

<sup>110</sup> See Jeremy Duda, *Court strikes down bans on mask mandates, critical race theory and more*, Arizona Mirror (Sept. 27, 2021), <https://www.azmirror.com/2021/09/27/court-strikes-down-bans-on-mask-mandates-critical-race-theory-and-more/>.

<sup>111</sup> See, e.g., H.B. 2691, 56th Leg., 1st Reg. Sess. (Ariz. 2022); H.B. 2378, 56th Leg., 1st Reg. Sess. (Ariz. 2022); S.B. 1137, 56th Leg., 1st Reg. Sess. (Ariz. 2022).

<sup>112</sup> Chuck Lindell, *Gov. Greg Abbott Signs SB 1, the GOP Voting Bill, into Law*, Austin Am. Statesman (Sept. 7, 2021), <https://www.statesman.com/story/news/2021/09/07/texas-voting-law-gop-greg-abbott-sb-1/5751333001>.

to solicit a person to complete an application for an early voting ballot,”<sup>113</sup> and forbids State or local officials from “distribut[ing] an application form for an early ballot” to someone who did not request the application, or from “us[ing] public funds to facilitate” such distribution by someone else.<sup>114</sup> Finally, the bill uses sweeping language to mandate that public officials “not create, alter, modify, waive, or suspend any election standard, practice, or procedure mandated by law or rule in a manner not expressly authorized by this code.”<sup>115</sup> In effect, S.B. 1 would eliminate election officials’ ability to administer State law in the manner that they believe would, based on their experience and discretion in specific circumstances, ensure that more citizens are able to vote easily and that elections run efficiently within the processes established by the legislature.

New proposals in 2022 continue the trend of State legislators attempting to enact laws that seize power over elections to partisan lawmakers at the expense of experienced election officials. From new bills filed in Wisconsin and Michigan to renewed efforts in Arizona,<sup>116</sup> legislators are pursuing troubling ways to put election administration in the hands of political party patrons rather than trusted election officials.

The changes in State laws that narrow the authority traditionally given to impartial elections experts, or that provide for increased influence over the functions of election administration by the State legislature, risk removing the key guardrails that prevented further democratic crises in 2020. By increasing the partisan influence over traditionally nonpartisan election administration tasks, such as the ministerial responsibility of certifying the final results after the votes have been counted, supporters of the stolen election lies have made usurping the electoral power away from the people easier. Enabling greater partisan manipulation of election administration risks widening cracks in our legal framework and removing the principled election officials who were willing to stand firm for democratic norms rather than submit to raw political objectives during the 2020 election.

4. *The election falsehoods encourage threats against hardworking election officials, the criminalization of their work, and the politicization of their roles.*

Nonpartisan election officials have borne the brunt of some of the worst consequences from the 2020 stolen election lies. These public servants, who work under-appreciated jobs to ensure that our democratic processes properly function and that every vote that should be counted gets counted, have come under tremendous stress throughout the 2020 election cycle and since. Given that the former President recently suggested that because “[t]he vote counter is often more important than the candidate,” and that his supporters “have to get a lot tougher and smarter at the polls,” the forces intimidating election officials are unlikely to subside.<sup>117</sup>

The immense pressure on election officials most alarmingly includes a steep rise in the harassment and threats of violence targeting them.<sup>118</sup> A recent investigation identified hundreds of occurrences of intimidation and harassment against election workers and officials Nation-wide, but only a handful of arrests of the attackers.<sup>119</sup> Proponents of the stolen election lies directed over 100 explicit threats of death or violence at more than 40 election officials.<sup>120</sup> Nearly 8 in 10 local election officials

<sup>113</sup> Tex. Elec. Code § 84.0011 (sec. 4.02)

<sup>114</sup> Tex. Elec. Code § 84.0111 (sec. 4.05)

<sup>115</sup> Tex. Elec. Code § 276.017 (sec. 6.03)

<sup>116</sup> See, e.g., Lalee Ibssa & Meg Cunningham, *GOP-controlled legislatures look to overhaul election laws ahead of 2022 midterms*, ABC News (Feb. 10, 2022), <https://abcnews.go.com/Politics/gop-controlled-legislatures-overhaul-election-laws-ahead-2022/story?id=82730052> (Michigan); Michael McDaniel, *Arizona Senate pushes an election bill to create a permanent audit team that could be fielded by Cyber Ninja auditors*, Courthouse News (Feb. 17, 2022), <https://www.courthousenews.com/arizona-senate-pushes-an-election-bill-to-create-a-permanent-audit-team-that-could-be-fielded-by-cyber-ninja-auditors/> (Arizona); Jake Thomas, *Ex-Oath Keeper, 1/6 Protester Lead Push to Change Michigan’s Election Audit Process*, Newsweek (Jan. 20, 2022), <https://www.newsweek.com/ex-oath-keeper-1-6-protester-lead-push-change-michigans-election-audit-process-1671428>.

<sup>117</sup> Josh Dawsey, *Trump muses on war with Russia and praises Kim Jong Un*, Wash. Post (Mar. 6, 2022), <https://www.washingtonpost.com/nation/2022/03/06/trump-focuses-foreign-policy-speech-top-donors/>.

<sup>118</sup> See, e.g., Linda So & Jason Szep, *Special Report: Terrorized U.S. Election Workers Get Little Help from Law Enforcement*, Reuters (Sept. 8, 2021), <https://www.reuters.com/legal/government/terrorized-us-election-workers-get-little-help-law-enforcement-2021-09-08/>; The Brennan Ctr. for Justice and the Bipartisan Policy Ctr., *Election Officials Under Attack* (June 16, 2021), [https://www.brennancenter.org/sites/default/files/2021-06/BCJ-129%20ElectionOfficials\\_v7.pdf](https://www.brennancenter.org/sites/default/files/2021-06/BCJ-129%20ElectionOfficials_v7.pdf).

<sup>119</sup> Linda So & Jason Szep, *supra* note 118.

<sup>120</sup> *Id.*

feel the physical danger presented in their work has increased recently, and one-sixth report having received explicit threats of violence.<sup>121</sup>

State secretaries of state—who typically serve as their States’ chief election officers—are among those who faced significant threats and intimidation to themselves and their families in the wake of the 2020 election.

In her testimony to the U.S. Senate Committee on Rules and Administration in October 2021, Arizona secretary of state Katie Hobbs described the threats that she and other election officials have faced in the year since the 2020 election.<sup>122</sup> From the armed groups that amassed outside Secretary Hobbs’ home chanting, “Katie come out and play, we are watching you,” to the orange jumpsuits mailed to intimidate Arizona county supervisors,<sup>123</sup> these once behind-the-scenes election officials are now facing growing threats.<sup>124</sup>

Georgia Secretary of State Brad Raffensperger, who resisted the former President’s claims that the election in Georgia was stolen, also “receiv[ed] death threats almost immediately after Trump’s surprise loss in Georgia,” leading him and his family to go into hiding after his daughter-in-law’s home was broken into and individuals identified as members of the Oath Keepers, an extremist group, were discovered outside his own home.<sup>125</sup>

Michigan Secretary of State Jocelyn Benson also faced death threats and harassment following the election.<sup>126</sup> Armed protesters used megaphones to chant election-related conspiracy theories outside of Benson’s home a few weeks after the election while Benson was home with her 4-year-old son.<sup>127</sup>

Colorado secretary of state Jena Griswold reported to Federal officials receiving 22 death threats in 1 week alone in February 2022.<sup>128</sup> One prominent proponent of election conspiracy theories in Colorado claimed that Griswold stole the election and threatened that “if you’re involved in election fraud, then you deserve to hang” because, he said, “sometime the old ways are the best ways.”<sup>129</sup> Long after the 2020 Presidential election, these threats suggest that the dangerous trend extends beyond high-profile Federal elections to even include off-cycle State elections.

Workers in lower- or mid-level positions similarly face threats and intimidation from those angered by the outcome of the election and their misguided stolen election beliefs. For example, some supporters of the election falsehoods seized on a video that spread quickly on-line of a poll worker placing paper in the trash, believing it proved the vote count had been corrupted.<sup>130</sup> Even though Fulton County

<sup>121</sup> See, e.g., *Poll of Local Election Officials Finds Safety Fears for Colleagues—and Themselves*, Brennan Ctr. for Justice (Mar. 10, 2022), <https://www.brennancenter.org/our-work/analysis-opinion/poll-local-election-officials-finds-safety-fears-colleagues-and>; Zach Montellaro, *Local election officials are exhausted, under threat and thinking about quitting*, Politico (Mar. 10, 2022), <https://www.politico.com/news/2022/03/10/election-officials-exhausted-under-threat-00015850>; Press Release, “One in Three Election Officials Report Feeling Unsafe Because of Their Job,” Brennan Ctr. for Justice & Bipartisan Policy Ctr. (June 16, 2021), <https://www.brennancenter.org/our-work/analysis-opinion/one-three-election-officials-report-feeling-unsafe-because-their-job>.

<sup>122</sup> U.S. Senate Committee on Rules and Administration, *Emerging Threats to Election Administration* (Oct. 26, 2021), <https://www.rules.senate.gov/hearings/emerging-threats-to-election-administration>.

<sup>123</sup> Denelle Confair, *AZ Secretary of State Katie Hobbs Testifies Before U.S. Senate Committee on Emerging Election Threats*, News 4 Tucson (Nov. 1, 2021), [https://www.kvoa.com/news/az-secretary-of-state-katie-hobbs-testifies-before-u-s-senate-committee-on-emerging-election/article\\_0193c76e-3689-11ec-b3c7-1f2864e3a0ae.html](https://www.kvoa.com/news/az-secretary-of-state-katie-hobbs-testifies-before-u-s-senate-committee-on-emerging-election/article_0193c76e-3689-11ec-b3c7-1f2864e3a0ae.html).

<sup>124</sup> Miles Parks, *Death Threats and Conspiracy Theories: Why 2020 Won’t End for Election Officials*, NPR (Aug. 17, 2021), <https://www.npr.org/2021/08/17/1027747378/death-threats-and-conspiracy-theories-why-2020-wont-end-for-election-officials>; Jane Mayer, *supra* note 19.

<sup>125</sup> Linda So, *Trump-Inspired Death Threats Are Terrorizing Election Workers*, Reuters (June 11, 2021), <https://www.reuters.com/investigates/special-report/usa-trump-georgia-threats/>.

<sup>126</sup> *Id.*; see also Bill Chappel, *Michigan Secretary of State Says Armed Protesters Descended on Her Home Saturday*, NPR (Dec. 7, 2020), <https://www.npr.org/sections/biden-transition-updates/2020/12/07/943820889/michigan-secretary-of-state-says-armed-protesters-descended-on-her-home-saturday>.

<sup>127</sup> Bill Chappel, *Michigan Secretary of State Says Armed Protesters Descended on Her Home Saturday*, NPR (Dec. 7, 2020), <https://www.npr.org/sections/biden-transition-updates/2020/12/07/943820889/michigan-secretary-of-state-says-armed-protesters-descended-on-her-home-saturday>.

<sup>128</sup> Zach Montellaro, *supra* note 121.

<sup>129</sup> Bente Birkeland, *Facing ongoing threats, Colorado’s Secretary of State says the position needs more security—and other politicians want the same*, Colo. Public Radio (Mar. 2, 2022), [www.cpr.org/2022/03/02/colorado-secretary-of-state-jena-griswold-security-harassment/](https://www.cpr.org/2022/03/02/colorado-secretary-of-state-jena-griswold-security-harassment/).

<sup>130</sup> Dan Glaun, *Threats to Election Officials Piled Up as President Trump Refused to Concede*, PBS News Frontline (Nov. 17, 2020), <https://www.pbs.org/wgbh/frontline/article/threats-to-election-officials-piled-up-as-president-trump-refused-to-concede/>.

quickly fact-checked the claims, showing they were false by comparing the size of the paper thrown away with the size of a ballot, “by the time fact checkers weighed in, the poll worker had already quit and gone into hiding, due to the false accusations against him.”<sup>131</sup>

These threats are unlikely to subside on their own. Indeed, a recent poll shows that nearly 4-in-10 polled Americans who believe the stolen election lies also say that violence may be necessary to “save our country,” in their view.<sup>132</sup>

While the Federal Government has attempted to step in, those efforts have so far been unable to abate the serious threats and risks of harm to election officials. The Department of Justice held a recent meeting with a bipartisan group of over 1,400 election officials to “discuss mounting and persistent threats to the safety of election officials and workers across the country,” and launched an Election Threats Task Force to monitor and address such threats.<sup>133</sup> And the Department of Homeland Security issued an advisory warning that “[s]ome domestic violent extremists have continued to advocate for violence in response to false or misleading narratives about unsubstantiated election fraud,” and that the “months preceding the upcoming 2022 midterm elections could provide additional opportunities for these extremists and other individuals to call for violence directed at democratic institutions, political candidates, party offices, election events, and election workers.”<sup>134</sup> But from this announced increased attention to the issue, the Department of Justice has revealed only two prosecutions of stolen election extremists who credibly threatened violence against election officials.<sup>135</sup>

At the same time that election workers are fielding alarming harassment and intimidation from outside actors, recent changes in State laws since the 2020 election have also created new ways for election work to be subject to formal criminal prosecution. Numerous States—including Texas, Iowa, and North Dakota—have enacted new laws that specifically criminalize activities by election officials, in many cases with the threat of felony prosecutions or with hefty punishments for even “technical infractions” of election law.<sup>136</sup> Some of these new criminal law proposals, such as the recently-enacted Arizona H.B. 2492 described above, put election workers in the precarious position to either abandon their duties to register eligible voters pursuant to Federal law requirements, or follow those Federal duties but face State felony prosecution applying new State criminal laws that target only election officials.<sup>137</sup>

Under these perilous conditions, election workers are leaving their posts at worrying rates, or they are being forced out of their positions for partisan gain. Administering an election during an unprecedented global pandemic is a challenging feat and harrowing experience in itself; many election officials who now face threats of violence after getting through the 2020 election are opting for retirement rather than continue through the 2022 or 2024 election cycles.<sup>138</sup> In one recent study, 30% of polled election officials reported knowing one or more workers who have already left their job at least in part because of a fear for their safety due to the increased

<sup>131</sup> *Id.*

<sup>132</sup> Aaron Blake, *Nearly 4 in 10 Who Say Election Was Stolen From Trump Say Violence Might Be Needed to Save America*, Wash. Post (Nov. 1, 2021), <https://www.washingtonpost.com/politics/2021/11/01/4-10-who-say-election-was-stolen-trump-say-violence-might-be-needed-save-america/>.

<sup>133</sup> Press Release, *Readout of Justice Department Leadership Meeting on Threats to Election Workers*, U.S. Dep’t of Justice Office of Public Affairs (Aug. 26, 2021), <https://www.justice.gov/opa/pr/readout-justice-department-leadership-meeting-threats-election-workers>; Jane C. Timm, *‘We Have to Protect Them’: DOJ Vows Investigations, Prosecutions of Threats to Election Workers*, Wash. Post (June 25, 2021), [https://www.washingtonpost.com/politics/trump-allies-election-oversight/2021/11/28/3933b5ce-4227-11ec-9ea7-3eb2406a2e24\\_story.html](https://www.washingtonpost.com/politics/trump-allies-election-oversight/2021/11/28/3933b5ce-4227-11ec-9ea7-3eb2406a2e24_story.html).

<sup>134</sup> Dep’t of Homeland Security, *Summary of Terrorism Threat to the U.S. Homeland* (Feb. 7, 2022), <https://www.dhs.gov/ntas/advisory/national-terrorism-advisory-system-bulletin-february-07-2022>.

<sup>135</sup> Press Release, *Man Charged for Threatening Nevada State Election Worker*, U.S. Dep’t of Justice Office of Public Affairs (Jan. 27, 2022), <https://www.justice.gov/opa/pr/man-charged-threatening-nevada-state-election-worker>; Press Release, *Texas Man Arrested for Making Election-Related Threats to Government Officials*, U.S. Dep’t of Justice Office of Public Affairs (Jan. 27, 2022), <https://www.justice.gov/opa/pr/texas-man-arrested-making-election-related-threats-government-officials>.

<sup>136</sup> See, e.g., States United Democracy Ctr. April and June Reports, *supra* note 1.

<sup>137</sup> H.B. 2492, 56th Leg., 1st Reg. Sess. (Ariz. 2022); Ray Stern, *supra* note 48.

<sup>138</sup> Michael Wines, *After a Nightmare Year, Election Officials Are Quitting*, N.Y. Times (July 2, 2021), <https://www.nytimes.com/2021/07/02/us/politics/2020-election-voting-officials.html>.

threats and intimidation.<sup>139</sup> The same poll shows that 20% of the remaining election officials say they are likely to quit before 2024.<sup>140</sup>

Other election officials willing to stick around may not be able to do so because partisan actors are finding new ways to force their removal. In Michigan, after a Republican appointee to the State board of canvassers refused to stop the certification of the State's 2020 election results, partisan lawmakers blocked reappointing him to a subsequent term.<sup>141</sup> Virginia's Governor recently replaced the State's top election official, who was widely seen as a nonpartisan consensus choice, with a former top aide to a State senator who while in office praised the January 6 insurrectionists.<sup>142</sup> In Pennsylvania, the State legislature pursued the impeachment of the members of two county election commissions who voted to count timely received vote-by-mail ballots that lacked a date handwritten by the voter, which has been subject to on-going litigation.<sup>143</sup> And the former State supreme court justice leading the partisan sham review of Wisconsin's elections has pushed to jail city election officials for refusing to participate in the stolen election conspiracy.<sup>144</sup>

While election officials are under attack and offices across the country are experiencing a mass exodus of experienced employees, stolen election lies proponents have redoubled their efforts to replace election workers with rogue political actors. There is currently an active, well-funded campaign to recruit partisans to take over election administration roles, making it easier to sabotage future elections.<sup>145</sup> As of January 27, 2022, at least 21 candidates who have subscribed to stolen election lies are running for secretary of states in 18 States; this means that in 2 out of 3 secretary of state contests Nation-wide, one of the leading candidates has publicly supported the conspiracy challenging the 2020 election results.<sup>146</sup> Some the most highly contested secretary of state races with election skeptics as candidates are in swing States—e.g., Arizona, Wisconsin, Georgia, and Nevada—where a rogue State elections chief could cause significant uncertainty and disruption.<sup>147</sup>

Lower-profile election worker positions are also at risk of being coopted for political purposes. Appointees to State and county election positions are becoming more extreme and partisan. In Michigan, for example, political actors have worked in recent months to replace county canvassers with partisans who have embraced the stolen election lies.<sup>148</sup> Similar efforts are under way in Ohio, Iowa, and other

<sup>139</sup> *Poll of Local Election Officials Finds Safety Fears for Colleagues—and Themselves* Brennan Ctr. for Justice (Mar. 10, 2022), <https://www.brennancenter.org/our-work/analysis-opinion/poll-local-election-officials-finds-safety-fears-colleagues-and>.

<sup>140</sup> See id.; see also Miles Parker, *1 in 5 local election officials say they're likely to quit before 2024*, NPR (Mar. 10, 2022), <https://www.npr.org/2022/03/10/1085425464/1-in-5-local-election-officials-say-theyre-likely-to-quit-before-2024>.

<sup>141</sup> Sam Levine, *How Trump's big lie has been weaponized since the Capitol attack*, The Guardian (July 7, 2021), <https://www.theguardian.com/us-news/2021/jul/07/us-capitol-riot-attack-on-democracy>.

<sup>142</sup> Patrick Wilson, *Youngkin names local GOP official, former aide to Chase, as new State elections commissioner*, The Richmond Times-Dispatch (Mar. 20, 2022), [https://richmond.com/news/state-and-regional/youngkin-names-local-gop-official-former-aide-to-chase-as-new-state-elections-commissioner/article\\_2d9ee742-742f-5325-9692-562bd65c37fc.html](https://richmond.com/news/state-and-regional/youngkin-names-local-gop-official-former-aide-to-chase-as-new-state-elections-commissioner/article_2d9ee742-742f-5325-9692-562bd65c37fc.html).

<sup>143</sup> Jonathan Lai, *Pa. Republican Lawmakers Threaten to Impeach Philly Officials for Counting Undated Mail Ballots*, The Phila. Inquirer (May 28, 2021), <https://www.inquirer.com/politics/election/pennsylvania-republican-lawmakers-impeachment-philadelphia-city-commissioners-20210528.html>; States United Democracy Ctr. June Report, *supra* note 1.

<sup>144</sup> Patrick Marley, *Wisconsin Republicans seek to jail more officials as part of their review of the 2020 Presidential election*, Milwaukee Journal Sentinel (Feb. 18, 2022), <https://www.jsonline.com/story/news/politics/2022/02/18/wisconsin-republicans-michael-gableman-seeks-jail-officials-2020-presidential-election-review/6853176001/>.

<sup>145</sup> Amber Phillips, *How Trump-backed secretary of state candidates would change elections in the United States* Wash. Post (Dec. 1, 2021), <https://www.washingtonpost.com/politics/2021/12/01/how-trump-backed-secretary-state-candidates-would-change-elections-america/>; Lawrence Norden & Derek Tisler, *Addressing Insider Threats in Elections*, Brennan Ctr. for Justice (Dec. 8, 2021), <https://www.brennancenter.org/our-work/analysis-opinion/addressing-insider-threats-elections>.

<sup>146</sup> States United Democracy Ctr., *Secretary of State Races in 2022* (Jan 27, 2022), [https://statesuniteddemocracy.org/wp-content/uploads/2022/02/sos\\_deniers.html](https://statesuniteddemocracy.org/wp-content/uploads/2022/02/sos_deniers.html).

<sup>147</sup> Amber Phillips, *How Trump-backed secretary of state candidates would change elections in the United States* Wash. Post (Dec. 1, 2021), <https://www.washingtonpost.com/politics/2021/12/01/how-trump-backed-secretary-state-candidates-would-change-elections-america/>.

<sup>148</sup> Sam Levine, *Why are Michigan Republicans quietly replacing key election officials?*, The Guardian (Oct. 14, 2021), <https://www.theguardian.com/us-news/2021/oct/14/michigan-republicans-election-officials-fight-to-vote>.

States.<sup>149</sup> In a particularly shocking example, one of the attendees at the so-called Stop the Steal rally leading to the January 6 storming of the U.S. Capitol soon returned home to Pennsylvania, declared his candidacy to be an election judge, and then won that election.<sup>150</sup>

In sum, election officials since 2020 have faced intense external forces of threats of violence and harassment, and internal forces of being criminalized, fired, or politicized. In this environment, the country's election infrastructure will struggle to maintain nonpartisan and impartial workers who are in it to promote democracy and fair results rather than seeking partisan gain. Election officials are the lifeblood of a properly functioning voting system. Allowing them to be replaced by partisan actors risks severe consequences if and when the next election crisis arises.

#### B. THE CONSEQUENCES OF STOLEN ELECTION LIES ARE DEPRESSED PUBLIC TRUST IN GOVERNMENT AND THE ELECTORAL PROCESS.

Since the 2020 Presidential election, poll after poll has shown that the events of January 6th and the fallout of the stolen election lies have shaken Americans' belief in our democratic institutions. Generally, Americans' trust in government is at historic lows.<sup>151</sup> People are concerned that the events of January 6th are not just isolated incidents but a sign of increasing political violence, and this has eroded the belief that American democracy is secure.<sup>152</sup> In one January 2022 poll, 64% of Americans believe democracy in the United States is "in crisis and at risk of failing"<sup>153</sup> and only 20% are very confident in the country's ability to conduct an honest election.<sup>154</sup> Polled voters see that risk growing, with two-thirds of respondents in one poll saying the country is more at risk of democratic decline than it was a year ago.<sup>155</sup>

This deterioration of voters' confidence in elections and in Government crosses party lines. General feelings of pride in American democracy are at all-time lows, hovering above 50% and down considerably from a high of 90% in 2001 and 63% in 2017.<sup>156</sup> While only 30% of polled Democratic voters attest they are confident in the U.S. election system,<sup>157</sup> the falsehood that the 2020 election was stolen from the former President has been disastrous for Republicans' faith in our elections, with only 13% of Republicans who are very confident in the election system and 59% that have little faith.<sup>158</sup> Overall, only 37% of polled Republicans said they are confident the next Presidential election will be open and fair.<sup>159</sup> And while 82% of Democrats

<sup>149</sup> See, e.g., Jake Zuckerman, *Governor appoints former lawmaker to elections board who hyped up 2020 voter fraud claims*, Ohio Capital Journal (Mar. 10, 2022), <https://ohiocapitaljournal.com/2022/03/10/governor-appoints-former-lawmaker-to-elections-board-who-hyped-up-2020-voter-fraud-claims/>; Thomas Beaumont & Anthony Izaguirre, *Iowa flap raises fears of politicized local election offices*, Associated Press (May 30, 2021), <https://apnews.com/article/donald-trump-iowa-local-elections-voting-rights-elections-8ae7926dcd07f4dba7-ede49d6fc894d9>.

<sup>150</sup> Charles Homans, *In Bid for Control of Elections, Trump Loyalists Face Few Obstacles*, N.Y. Times (Dec. 15, 2021), <https://www.nytimes.com/2021/12/11/us/politics/trust-in-elections-trump-democracy.html>.

<sup>151</sup> Public Trust in Government: 1958–2021, Pew Research Ctr. (May 17, 2021), <https://www.pewresearch.org/politics/2021/05/17/public-trust-in-government-1958-2021/> (last accessed Mar. 30, 2022).

<sup>152</sup> Anthony Salvanto, Kabir Khanna, Fred Backus, & Jennifer Depinto, *CBS News poll: A year after Jan. 6, violence still seen threatening U.S. democracy, and some say force can be justified*, CBS News (Jan. 2, 2022, 1:01 PM), <https://www.cbsnews.com/news/january-6-opinion-poll-2022/>.

<sup>153</sup> Joel Rose, *6 in 10 Americans say U.S. democracy is in crisis as the 'Big Lie' takes root*, NPR (Jan. 3, 2022), <https://www.npr.org/2022/01/03/1069764164/american-democracy-poll-jan-6>.

<sup>154</sup> Brittany Shepherd, *Americans' faith in election integrity drops: POLL*, ABC News (Jan. 6, 2022), <https://abcnews.go.com/Politics/americans-faith-election-integrity-drops-poll/story?id=82069876>; Brittany Shepherd, *Majority of Americans think Jan. 6 attack threatened democracy: POLL*, ABC News (Jan. 2, 2022), <https://abcnews.go.com/Politics/majority-americans-jan-attack-threatened-democracy-poll/story?id=81990555>.

<sup>155</sup> Salvanto, *supra* note 152.

<sup>156</sup> Dan Balz, Scott Clement, & Emily Guskin, *Republicans and Democrats divided over Jan. 6 insurrection and Trump's culpability, Post-UMD poll finds*, Wash. Post (Jan. 1, 2022), <https://www.washingtonpost.com/politics/2022/01/01/post-poll-january-6/>.

<sup>157</sup> Shepherd, *supra* note 154.

<sup>158</sup> *Id.*

<sup>159</sup> David Nather, *Axios-Ipsos Poll: Republicans lose trust in elections*, Axios (Nov. 20, 2021), <https://www.axios.com/axios-ipsos-poll-republicans-lose-trust-elections-52410b23-9513-453b-8a37-d140cae2d455.html#deepdive=1>.



said they would trust the results of the 2024 Presidential election to be accurate if their candidate did not win; only 33% of Republicans reported feeling the same.<sup>160</sup>

Troublingly, voters of both parties doubt that State officials of the other party will agree to accept the results of an election if their party loses.<sup>161</sup> Democrats have become more skeptical, with 67% concerned about the results in Republican States, compared to 56% of Republicans about results in Democratic States.<sup>162</sup> Independents share in the skepticism but are more concerned about Republican-controlled States.<sup>163</sup>

Polling conducted after the results of the Arizona Cyber Ninjas review also shows those partisan-motivated “investigations” are especially damaging to the public trust. As noted above, only 36% of those polled believe that the Cyber Ninjas review proved the correct winner of Maricopa County’s Presidential votes; a majority of polled Republicans reject the audit’s findings, choosing to believe instead that the process found significant voter fraud when it in fact did not.<sup>164</sup> Additional polling from before and after Arizona’s partisan election investigation found that it did more to reinforce concerns around election fraud than to alleviate them.<sup>165</sup>

The perceived and actual risk of repeated political violence because of disputed election results is also on the rise. Asked if violent action against the Government is justified at times, over a third of respondents in one poll agreed, with the strongest support coming from Republicans and independents.<sup>166</sup> This increased acceptance of political violence is significantly higher than past polls over more than two decades.<sup>167</sup> Disturbingly, recent polling shows that Americans now expect violence from supporters of the losing side in an election: While only 2% of respondents say they actively favor violence if their side lost the election, a quarter said it would depend on the circumstances.<sup>168</sup>

Researchers studying political violence are also ringing alarm bells about the increased risks in the United States. For example, Rachel Kleinfeld, senior fellow in the Democracy, Conflict, and Governance Program at the Carnegie Endowment for International Peace and a leading expert on political violence, warns that both the amount and nature of political extremism has worsened in the United States.<sup>169</sup> Kleinfeld’s identified factors that elevate the risks of political violence typify our current circumstances: (1) Perceived highly-competitive contests that could shift the balance of power; (2) stark partisan division based on identity; (3) electoral rules that can be manipulated; and (4) weak institutional constraints on violence that lead perpetrators to believe they will not be held accountable.<sup>170</sup> According to Kleinfeld, ideas that were once considered fringe are now covered on mainstream media outlets, creating a growing audience that is willing to undertake, support, or excuse the use of force for perceived political gain.<sup>171</sup> The people who could be willing to commit political violence are now not just rogue outliers, but sometimes regular Americans who are integrated in social life but nonetheless captured and manipulated by stolen election conspiracies.<sup>172</sup>

Additionally, the election falsehoods have split the Republican Party into fractions of supporters and representatives who believe the conspiracy and those who accept reality.<sup>173</sup> The unwillingness of some partisans to accept the results of the 2020

<sup>160</sup> PBS News Hour/NPR/Marist Poll, *Nature of the Sample: NPR/PBS NewsHour/Marist Poll of 1,209 National Adults* (Nov. 5, 2021), [https://maristpoll.marist.edu/wp-content/uploads/2021/10/NPR\\_PBS-NewsHour\\_Marist-Poll\\_USA-NOS-and-Tables\\_B\\_202110251104.pdf](https://maristpoll.marist.edu/wp-content/uploads/2021/10/NPR_PBS-NewsHour_Marist-Poll_USA-NOS-and-Tables_B_202110251104.pdf).

<sup>161</sup> Balz, *supra* note 156.

<sup>162</sup> *Id.*

<sup>163</sup> *Id.*

<sup>164</sup> Erin Snodgrass, *The much-maligned Arizona election audit reinforced doubt about the 2020 election results, according to a new poll*, Business Insider (Nov. 15, 2021), <https://www.businessinsider.com/arizona-election-audit-reinforced-doubt-about-2020-election-results-2021-11>.

<sup>165</sup> *Doubt in American System Increases*, Monmouth Univ. Polling Institute (Nov. 15, 2021), [https://www.monmouth.edu/polling-institute/reports/monmouthpoll\\_us\\_111521/](https://www.monmouth.edu/polling-institute/reports/monmouthpoll_us_111521/).

<sup>166</sup> Balz, *supra* note 156.

<sup>167</sup> *Id.*

<sup>168</sup> Salvanto, *supra* note 152.

<sup>169</sup> Rachel Kleinfeld, *The Rise of Political Violence in the United States*, Journal of Democracy (Oct. 2021), <https://www.journalofdemocracy.org/articles/the-rise-of-political-violence-in-the-united-states/>.

<sup>170</sup> *Id.*

<sup>171</sup> *Id.*

<sup>172</sup> *Id.*

<sup>173</sup> Reid J. Epstein, *Fringe Scheme to Reverse 2020 Election Splits Wisconsin G.O.P.*, N.Y. Times (Feb. 19, 2022), <https://www.nytimes.com/2022/02/19/us/politics/wisconsin-election-de-certification.html>.

election now over 15 months later creates deep rifts in our political associations. Even some leading Republican officials who initially were willing to question aspects of the election without fully committing to the conspiracy now cannot reel in members of their party who are perpetuating the extreme falsities.<sup>174</sup> As the fringe views are given credence, they become more prominent and take on a life of their own that cannot easily be pulled away from the minds of voters and lawmakers once party leadership realizes the deception has gone too far.

In sum, manufactured concerns over stolen elections make large segments of the electorate distrust legitimate results and question the democratic process. Far from empty rhetoric or just politics as usual, these stolen election lies mislead Americans into challenging the rule of law and contesting the peaceful transition of power when their preferred candidates lose. This reduced confidence in elections leads to partisan lawmakers further damaging the system by enacting laws that politicize the process or make voting needlessly more difficult. And the stolen election lies inspire the type of political violence perpetrated on January 6, 2021, which rips at the ties binding our country by denigrating our democratic institutions and ideals.

#### C. THE FEDERAL GOVERNMENT MUST TAKE ACTION TO PREVENT FURTHER DAMAGE TO OUR ELECTION SYSTEM.

While the problems stemming from the stolen election lies are significant and pose a serious threat to the proper functioning of our democracy, many of them are solvable through Federal legislative and enforcement action. The priorities must be to address increased efforts to raise the burdens of voting, the manipulation of votes and results after election day, and the alarming threats against election officials. Congress can pass new laws that fix weaknesses in our current legal framework where proponents of stolen election lies have sought to exploit gaps for political gain. Many such fixes already exist in specific provisions contained in proposed laws currently before Congress.

First, Congress must enact new laws that will curb the rise of laws that make voting needlessly more difficult based on stolen election lies. As I have described above, new laws and proposed legislation in the last 2 years have chased the shadow of voter fraud by finding heavy-handed and overbroad news ways to remove eligible voters from the registration rolls and make voter access more difficult.

There are several critical provisions already drafted in legislation before Congress that would make an immediate difference and have had successful bipartisan use in the States. To begin, enacting same-day registration can limit the harmful effects of wrongful registration purges by allowing eligible voters to still show up to register and vote on election day.<sup>175</sup> Standardizing meaningful early voting in the States will also enable citizens with greater voting inflexibilities (such as rural voters, students, and voters with less access to resources) to still be able to cast their ballot even if they cannot do so on election day.<sup>176</sup> Guaranteeing access to vote by mail—a process that States across the country have tested for years and found is safe, secure, and partisan-neutral<sup>177</sup>—will make sure that any eligible voter who wants to vote is empowered to do so.<sup>178</sup> And requiring that States give their election officials meaningful additional time before election day to preprocess received ballots and prepare them to be tabulated after the polls close will help ensure timely election results.<sup>179</sup>

<sup>174</sup> Id.; see also Calvin Woodward, *supra* note 16.

<sup>175</sup> See, e.g., Freedom to Vote: John R. Lewis Act, Rules Committee Print 117–28 Text of the House Amendment to the Senate Amendment to H.R. 5746, Sec. 1031. Same Day Registration, at 71–75 (Jan. 12, 2022), <https://rules.house.gov/sites/democrats.rules.house.gov/files/BILLS-117HR5746EAS-RCP117-28.pdf#page=71>; see also *See Same Day Voter Registration*, Nat'l Conf. of State Legislatures (Sept. 9, 2021), <https://www.ncsl.org/research/elections-and-campaigns/same-day-registration.aspx>.

<sup>176</sup> See, e.g., Freedom to Vote: John R. Lewis Act, Rules Committee Print 117–28 Text of the House Amendment to the Senate Amendment to H.R. 5746, Sec. 1201. Early Voting, at 119–126 (Jan. 12, 2022), <https://rules.house.gov/sites/democrats.rules.house.gov/files/BILLS-117HR5746EAS-RCP117-28.pdf#page=119>; see also *Early In-Person Voting*, Nat'l Conf. of State Legislatures (Jan. 17, 2022), <https://www.ncsl.org/research/elections-and-campaigns/early-voting-in-state-elections.aspx>.

<sup>177</sup> See, e.g., Daniel M. Thompson, et al., *Universal vote-by-mail has no impact on partisan turnout or vote share*, Proceedings of the National Academy of Sciences (June 9, 2020), <https://www.pnas.org/doi/10.1073/pnas.2007249117>; see also sources cited *supra* notes 28 & 29.

<sup>178</sup> See, e.g., Freedom to Vote: John R. Lewis Act, Rules Committee Print 117–28 Text of the House Amendment to the Senate Amendment to H.R. 5746, Subtitle D—Voting by Mail, at 128–169 (Jan. 12, 2022), <https://rules.house.gov/sites/democrats.rules.house.gov/files/BILLS-117HR5746EAS-RCP117-28.pdf#page=128>.

<sup>179</sup> See, e.g., Freedom to Vote: John R. Lewis Act, Rules Committee Print 117–28 Text of the House Amendment to the Senate Amendment to H.R. 5746, Sec. 1201. Early Voting, at 126–

Enacting these Federal baselines, among others, will reinforce our National ideals that, no matter where someone lives or how many resources they have, all citizens should have a fair chance to participate in the electoral process.

Second, Congress should legislatively reinforce that States have no power to disturb the results of popular elections. Congress can do so by updating the Electoral Count Act (ECA), focusing on two core clarifying revisions that remove ambiguities in the 1887 statute's at-times obscure and outdated language. Critically, the ECA must make clear that once a State holds a legitimate popular election to select its Presidential electors, the State legislature has no power to displace those results. The ECA is key to reinforcing what we know from our Constitution to be true—that any post-hoc usurpation of the Presidential electors power from the people violates voters' fundamental Constitutional rights, and intrudes on the Federal Government's Constitutional prerogative to designate the time for holding Presidential elections and the process for counting the duly provided votes from States' legitimate popular election results.

Along similar lines, Congress must update the ECA to expressly provide that once a State's election results are settled, the State Governor has no authority to refuse to certify that outcome. Again, our Constitution forbids any contrary result. But the ECA can and should be updated to fortify that elections in our modern democracy are dictated by the people, not one potentially rogue official. Congress can likewise enact additional laws that authorize the Department of Justice, as provided in existing legislative proposals, to prevent interference with State and local officials conducting the vote count and election certification to ensure the people's voice is accurately reflected.<sup>180</sup>

Third, Congress must urgently pass new laws that provide greater Federal protections for election officials and volunteers. Existing Federal criminal law generally prohibits threats made through interstate communications, which has been the source of the Department of Justice's recent prosecutions of two stolen election extremists who threatened officials in Nevada and Georgia.<sup>181</sup> But that leaves enforcement gaps for certain intrastate and in-person threats that Federal law may not reach, and fails to protect the specific security needs of election officials under attack.<sup>182</sup> Existing proposals in legislation before Congress that add new Federal criminal offenses and resources for the prosecutions of violent stolen election conspiracists would aid the Department of Justice to provide needed protections for election workers.<sup>183</sup>

Additionally, the Federal Government, through CISA and other agencies, must engage now to coordinate more trainings and provide additional funding for election offices to protect themselves against threats and take steps to remove identifying information on-line to avoid harassment or doxing.<sup>184</sup> Programs that protect the information of domestic violence and stalking victims in government databases can serve as a model.<sup>185</sup> Additionally, election officials under threat should be provided Federal grants to purchase home intrusion detection systems, and further funding for training and education related to maintaining greater personal security.<sup>186</sup>

Fourth, Congress can enact new laws to strengthen protections over the security of State voting equipment, voters' ballots, and the counting process. Provisions in existing proposals before Congress include improving security and chain-of-custody procedures for voting equipment and ballots to prevent their manipulation by State

27 (Jan. 12, 2022), <https://rules.house.gov/sites/democrats.rules.house.gov/files/BILLS-117HR5746EAS-RCP117-28.pdf#page=126>.

<sup>180</sup>See, e.g., Freedom to Vote: John R. Lewis Act, Rules Committee Print 117–28 Text of the House Amendment to the Senate Amendment to H.R. 5746, Title III—Preventing Election Subversion, Subtitle A—Restrictions on Removal of Election Administrators, at 251–62 (Jan. 12, 2022), <https://rules.house.gov/sites/democrats.rules.house.gov/files/BILLS-117HR5746EAS-RCP117-28.pdf#page=251>.

<sup>181</sup>See sources cited supra note 135.

<sup>182</sup>See Linda So & Jason Szep, supra note 118.

<sup>183</sup>See, e.g., Freedom to Vote: John R. Lewis Act, Rules Committee Print 117–28 Text of the House Amendment to the Senate Amendment to H.R. 5746, Subtitle B—Increased Protections for Election Workers at 263–64 (Jan. 12, 2022), <https://rules.house.gov/sites/democrats.rules.house.gov/files/BILLS-117HR5746EAS-RCP117-28.pdf#page=263>; Freedom to Vote: John R. Lewis Act, Rules Committee Print 117–28 Text of the House Amendment to the Senate Amendment to H.R. 5746, Sec. 3205. Private Rights Of Action By Election Officials, Sec. 3206. Making Intimidation Of Tabulation, Canvass, And Certification Efforts A Crime, at 278–80 (Jan. 12, 2022), <https://rules.house.gov/sites/democrats.rules.house.gov/files/BILLS-117HR5746EAS-RCP117-28.pdf#page=278>.

<sup>184</sup>See Brennan Ctr. for Justice, *Election Officials Under Attack*, supra note 118, at 8–9.

<sup>185</sup>Id. at 7.

<sup>186</sup>Id.

actors or private companies during sham partisan reviews of election results.<sup>187</sup> Federal law should also be updated to prohibit Federal actors from improperly seizing State or county voting equipment and materials.<sup>188</sup>

Fifth, Congress should enact new laws that seek to address post-election misinformation, as well as fraudulent fundraising and spending on efforts to perpetuate the stolen election lies. Congress can do so by prohibiting misinformation campaigns intended to impede the lawful counting of ballots or certification of results.<sup>189</sup> Congress can address problematic financial incentives for stolen election lies<sup>190</sup> and protect donors by restricting fraudulent post-election fundraising for frivolous election contests.<sup>191</sup> It can also increase post-election spending transparency for voters by defining spending by candidates and groups on efforts to influence vote counting as election spending, so it is subject to the same limits and disclosure requirements as other campaign spending.

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STATEMENT OF WENDY R. WEISER, VICE PRESIDENT FOR DEMOCRACY, BRENNAN  
CENTER FOR JUSTICE AT NYU SCHOOL OF LAW<sup>1</sup>

APRIL 8, 2022

Chairman Thompson and Members of the Select Committee: Thank you for the opportunity to submit this testimony to discuss the disinformation about the 2020 Presidential election that fueled the violent January 6, 2021 attack on the U.S. Capitol (the “insurrection”) and how that disinformation continues to threaten voting and elections in America.

On behalf of the Brennan Center for Justice, I thank this Committee for its investigation into one of the most shameful and alarming attacks on American democracy in our Nation’s history. As you know, the insurrection’s motivating theory was that the 2020 Presidential election was “stolen” from former President Donald Trump.<sup>2</sup> This “Big Lie” relies on disproven<sup>3</sup> and racially charged allegations of wide-spread

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<sup>187</sup>Freedom to Vote: John R. Lewis Act, Rules Committee Print 117–28 Text of the House Amendment to the Senate Amendment to H.R. 5746, Subtitle D—Protection of Election Records & Election Infrastructure, at 280–86 (Jan. 12, 2022), <https://rules.house.gov/sites/democrats.rules.house.gov/files/BILLS-117HR5746EAS-RCP117-28.pdf#page=280>.

<sup>188</sup>See, e.g., Matthew S. Schwartz, *Jan. 6 panel is investigating a Trump administration plan to seize voting machines*, NPR (Jan. 23, 2022), <https://www.npr.org/2022/01/23/1075219215/jan-6-panel-is-investigating-a-trump-administration-plan-to-seize-voting-machine>.

<sup>189</sup>See, e.g., *Social Media Misinformation and Administration in the 2020 General Election*, Stanford-MIT Healthy Elections Project (Mar. 10, 2021), [https://healthyelections.org/sites/default/files/2021-06/Social\\_Media\\_Misinformation.pdf](https://healthyelections.org/sites/default/files/2021-06/Social_Media_Misinformation.pdf).

<sup>190</sup>See, e.g., Isaac Stanley-Becker, et al., *Prosecutors demanded records of Sidney Powell’s fundraising groups as part of criminal probe*, Wash. Post (Nov. 30, 2021), <https://www.washingtonpost.com/politics/2021/11/30/sidney-powell-defend-the-republic-criminal-probe/>.

<sup>191</sup>See, e.g., John L. Dorman, *supra* note 18.

<sup>1</sup>The Brennan Center for Justice at New York University School of Law is a nonpartisan public policy and law institute that works to strengthen the systems of democracy and justice so that they work for all Americans. I am the vice president for democracy and director of the Brennan Center’s Democracy Program, which among other issues focuses on voting rights and election administration. I have authored numerous nationally-recognized reports, studies, and articles on voting rights and elections. My work has been featured in academic journals and media outlets across the country. I have served as counsel in many voting rights lawsuits and have testified previously before Congress, and before several State legislatures, on a variety of issues relating to election administration. My testimony does not purport to convey the views, if any, of the New York University School of Law. I thank Lauren Miller, counsel at the Brennan Center, for her substantial assistance in preparing this testimony.

<sup>2</sup>“Transcript of Trump’s Speech at Rally before US Capitol Riot,” Associated Press, January 13, 2021, <https://apnews.com/article/election-2020-joe-biden-donald-trump-capitol-siege-media-e79eb5164613d6718e9f4502eb471f27>; Brian Naylor, “Read Trump’s Jan. 6 Speech, a Key Part of Impeachment Trial,” National Public Radio, February 10, 2021, <https://www.npr.org/2021/02/10/966396848/read-trumps-jan-6-speech-a-key-part-of-impeachment-trial>; Lauren Leatherby et al., “How a Presidential Rally Turned into a Capitol Rampage,” *New York Times*, January 12, 2021, <https://www.nytimes.com/interactive/2021/01/12/us/capitol-mob-timeline.html>; and Southern Poverty Law Center, *The Road to Jan. 6: A Year of Extremist Mobilization*, <https://www.splcenter.org/news/2021/12/30/road-jan-6-year-extremist-mobilization>.

<sup>3</sup>Daniel Funke, “Fact Check: How We Know the 2020 Election Results Were Legitimate, Not ‘Rigged’ as Donald Trump Claims,” *USA Today*, January 6, 2022, <https://www.usatoday.com/story/news/factcheck/2022/01/06/fact-check-donald-trump-2020-election-results/9115875002/>; “Joint Statement from Elections Infrastructure Government Coordinating Council & the Election Infrastructure Sector Coordinating Executive Committees,” Cybersecurity and Infrastructure Security Agency, November 12, 2020, accessed April 8, 2022, <https://www.cisa.gov/news/2020/11/12/joint-statement-elections-infrastructure-government-coordinating-council-election>;

voter fraud,<sup>4</sup> ballot irregularities,<sup>5</sup> and conspiracies to otherwise “rig” the election.<sup>6</sup> The 2020 election is over, but the Big Lie continues to wreak havoc on our elections. My testimony will explain how the same disinformation about voter fraud and the 2020 election that drove the January 6 insurrection is fueling on-going efforts to undermine voting rights and sabotage the electoral process across the country, as well as efforts to attack election officials and otherwise undermine impartial election administration.

Part I of my testimony walks through evidence of how the Big Lie is driving two anti-democratic trends in the States: The swift, aggressive push to restrict access to voting rights and the novel push to enable partisan actors to interfere in election administration. In the 12 months following the insurrection, 19 States passed 34 restrictive voting bills, or bills that make it more difficult to vote, according to the Brennan Center’s count.<sup>7</sup> This was a significant escalation over years past. At the same time, State lawmakers pressed a new species of legislation—election sabotage bills—which enable partisan actors to interfere with or manipulate elections by changing who runs elections, counts the votes, and how. At least 11 election sabotage laws passed in 9 States in 2021.<sup>8</sup> This anti-democratic push continues today; as of the Brennan Center’s January 14, 2022 count, State lawmakers had introduced, pre-filed, or carried over more than 250 restrictive voting bills<sup>9</sup> and 41 election sabotage bills.<sup>10</sup> These bills are much more closely connected to the push to overturn the 2020 election than many realize.

My testimony will establish, first, that many of these new restrictive voting and election sabotage bills stem directly from the false allegations made in lawsuits brought by former President Trump’s campaign and his supporters in their bid to change the 2020 election results. Second, it will demonstrate that the State lawmakers leading this legislative charge are among the same individuals who rejected the 2020 election results. Almost all of them made public statements connecting their support for restrictive voting legislation to disinformation about the legitimacy of the 2020 election or wide-spread voter fraud. Already, the voting legislation that they succeeded in passing is creating tangible, negative effects on voters and disproportionately impacting voters of color.

Part II of my testimony will describe two ways in which the Big Lie is driving attacks on impartial election administration. First, false claims about voter fraud and the legitimacy of the 2020 election are triggering attacks on our Nation’s election administrators, leading an unprecedented number to contemplate quitting. A recent Brennan Center survey found that 1 in 6 election officials have experienced threats because of their job, and nearly 1 in 3 know of at least one colleague who has left their position due to safety concerns, increased threats, or intimidation.<sup>11</sup> Second, my testimony lays out how the Big Lie is politicizing election administration in other ways. Among other things, 2022 candidates for election administration positions are embracing election denial in their pitch to voters and donors. Races that feature election denial have seen massive increases in contributions, particularly from out-of-State donors. These trends pose a serious risk to impartial election administration in America.

In short, there is ample evidence that the disinformation that fueled the January 6th insurrection continues to undermine our election system. With 2022 primaries in progress, and the 2024 Presidential election around the corner, the dangers to American democracy loom large.

This Committee’s work is critical to repairing the breach in the fabric of our Nation caused by the January 6th insurrection. It is critical to ensuring that the per-

and Brennan Center for Justice, *It’s Official: The Election Was Secure*, 2020, <https://www.brennancenter.org/our-work/research-reports/its-official-election-was-secure>.

<sup>4</sup> Donald Trump, interview by Maria Bartiromo, *Sunday Morning Futures*, Fox News, November 29, 2020, <https://vimeo.com/485180163>.

<sup>5</sup> “Tweets of November 16, 2020,” American Presidency Project, UC Santa Barbara, November 16, 2020, accessed April 8, 2022, <https://www.presidency.ucsb.edu/documents/tweets-november-16-2020>.

<sup>6</sup> American Presidency Project, “Tweets.”

<sup>7</sup> Brennan Center for Justice, *Voting Laws Roundup: December 2021*, 2021, <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-december-2021>.

<sup>8</sup> Will Wilder, Derek Tisler, and Wendy R. Weiser, *The Election Sabotage Scheme and How Congress Can Stop It 2021*, Brennan Center for Justice, 3–6, <https://www.brennancenter.org/our-work/research-reports/election-sabotage-scheme-and-how-congress-can-stop-it>.

<sup>9</sup> Brennan Center for Justice, *Voting Laws Roundup: February 2022*, 2022, <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-february-2022>.

<sup>10</sup> Brennan Center, *Voting Laws Roundup: February 2022*.

<sup>11</sup> Brennan Center for Justice, *Local Election Officials Survey (March 2022)* 2022, 6, 19, <https://www.brennancenter.org/our-work/research-reports/local-election-officials-survey-march-2022>.

petrators of the violent insurrection are held accountable, and its victims receive justice. It also is critical to ensuring that this reprehensible history does not repeat itself. And it is critical to ensuring that the Big Lie that fueled the insurrection does not continue to grow and further damage our democracy.

#### I. THE SAME ELECTION DENIAL CLAIMS AND RHETORIC THAT FUELED THE INSURRECTION ARE DRIVING DAMAGING VOTE SUPPRESSION AND ELECTION SABOTAGE EFFORTS

Since the 2020 election, the country has witnessed two aggressive, anti-democratic developments in State legislatures. First, efforts to suppress voting have soared. In 2021 alone, at least 19 States passed 34 restrictive voting laws, or laws that make it more difficult to vote<sup>12</sup>—the largest number that the Brennan Center has seen in any year since it first began tracking voting legislation in 2011.<sup>13</sup> Indeed, between 2011 and 2021, at least 33 States passed 97 restrictive voting bills, and more than a third of those laws passed last year alone.<sup>14</sup> This legislative push was Nation-wide; overall, legislators introduced more than 400 restrictive voting bills in 49 States in 2021.<sup>15</sup> This trend continues in 2022. As of the Brennan Center's January 14, 2022 count, State lawmakers had introduced, pre-filed, or carried over more than 250 restrictive voting bills.<sup>16</sup> The provisions in these bills range from curtailing access to mail voting and enacting new or stricter voter ID requirements, to imposing new barriers for voters and limiting or eliminating same-day voter registration.<sup>17</sup> These numbers continue to grow.

Second, States have seen a dramatic spike in legislation that would enable partisan actors to meddle in election administration and vote counting processes—otherwise known as “election sabotage” bills. The Brennan Center identified at least 11 election sabotage laws passed in 9 States in 2021,<sup>18</sup> including laws in 2 States that allow partisan actors to remove election officials from their positions and replace them close to an election,<sup>19</sup> laws in 6 States that create criminal penalties for election officials who take certain steps to make it easier for individuals to vote,<sup>20</sup> and laws in 3 States that empower partisan poll watchers to interfere in the vote-counting process.<sup>21</sup> Our January 14, 2022 count found that legislators in at least 13 States already had pre-filed and introduced an unprecedented 41 such bills that would threaten the people and processes that make elections work.<sup>22</sup> These provisions range from allowing any citizen to initiate or conduct biased election audits; to imposing new criminal or civil penalties on election officials for making unintentional errors; to allowing partisan actors to remove election officials from office.<sup>23</sup> These numbers also continue to grow.

The Brennan Center has been chronicling and studying these negative developments. Specifically, two recent analyses demonstrate that the same false allegations of a stolen election that drove the insurrection are driving these on-going efforts to undermine voting rights and sabotage electoral processes. One analysis examined

<sup>12</sup> Brennan Center, *Voting Laws Roundup: December 2021*.

<sup>13</sup> Brennan Center, *Voting Laws Roundup: December 2021*.

<sup>14</sup> Brennan Center, *Voting Laws Roundup: December 2021*; Brennan Center for Justice, *Voting Laws Roundup 2020*, 2020, <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-2020-0>; Brennan Center for Justice, *Voting Laws Roundup 2019*, 2019, <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-2019>; Brennan Center for Justice, *Voting Laws Roundup 2018*, 2018, <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-2018>; Brennan Center for Justice, *Voting Laws Roundup 2017*, 2017, <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-2017>; Brennan Center for Justice, *Voting Laws Roundup 2016*, 2016, <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-2016>; Brennan Center for Justice, *Voting Laws Roundup 2015*, 2015, <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-2015>; Brennan Center for Justice, *Voting Laws Roundup 2014*, 2014, <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-2014>; Brennan Center for Justice, *Voting Laws Roundup 2013*, 2013, <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-2013>; Brennan Center for Justice, *Election 2012: Voting Laws Roundup*, 2012, <https://www.brennancenter.org/our-work/research-reports/election-2012-voting-laws-roundup>; and Wendy R. Weiser and Nhu-Y Ngo, *Voting Rights in 2011: A Legislative Round-Up*, 2011, <https://www.brennancenter.org/our-work/research-reports/voting-rights-2011-legislative-round>.

<sup>15</sup> Brennan Center, *Voting Laws Roundup: December 2021*.

<sup>16</sup> Brennan Center, *Voting Laws Roundup: February 2022*.

<sup>17</sup> Brennan Center, *Voting Laws Roundup: December 2021*; and Brennan Center, *Voting Laws Roundup: February 2022*.

<sup>18</sup> Wilder, Tisler, and Weiser, *Election Sabotage Scheme*, 3–6.

<sup>19</sup> Wilder, Tisler, and Weiser, *Election Sabotage Scheme*, 3.

<sup>20</sup> Wilder, Tisler, and Weiser, *Election Sabotage Scheme*, 5.

<sup>21</sup> Wilder, Tisler, and Weiser, *Election Sabotage Scheme*, 5.

<sup>22</sup> Brennan Center, *Voting Laws Roundup: February 2022*.

<sup>23</sup> Brennan Center, *Voting Laws Roundup: February 2022*.

the text of restrictive voting and election sabotage legislation to show that it closely maps onto the same allegations made in lawsuits brought by former President Trump and his supporters in the wake of the 2020 election—all of which were unsuccessful. The second analysis reviewed the rhetoric of those legislators leading restrictive voting and election sabotage efforts to establish that these bills rest upon the same debunked rhetoric of wide-spread voter fraud that fueled the insurrection.

*A. There Is Strong Evidence That the False Claims That Fueled the Insurrection Are Fueling Vote Suppression and Election Sabotage Legislation*

For more than a decade, the Brennan Center has tracked and reported on new laws that make it more difficult for individuals to vote.<sup>24</sup> From the outset, baseless claims of voter fraud fueled this legislative movement.<sup>25</sup> Following the 2020 election, former President Trump and his supporters used this same rhetoric to conjure up claims of a “stolen” election and launch a full-scale effort to overturn the Presidential election results in key States, including through a flurry of unsuccessful lawsuits discussed in section i below. In the wake of that failed effort, election denial proponents began rapidly introducing and passing State bills that restrict access to voting and make it easier for partisan actors to meddle in election administration. Our research demonstrates that this unprecedented legislative push was driven in significant part by claims that the 2020 election was stolen, as reflected by the similarity between the false claims made in lawsuits and the new legislative provisions, as well as by the public statements made by legislative sponsors concerning the legitimacy of the 2020 election and wide-spread voter fraud.

It is well-established that voter fraud, while pernicious, is vanishingly rare in U.S. elections.<sup>26</sup> Courts universally rejected lawsuits seeking to overturn the 2020 election result based upon false theories of fraud.<sup>27</sup> Election officials and experts of all political persuasions overwhelmingly agree that the 2020 election was one of the most secure in modern history.<sup>28</sup> Nevertheless, false claims about wide-spread voter fraud and the legitimacy of the 2020 election continue to drive legislation and policy efforts in the States.

*i. Comparison of False Legal Claims about the 2020 Election and State Legislation Introduced and Passed in 2021*

In the days before and after the 2020 election, former President Trump’s campaign and his supporters filed a blizzard of unsuccessful lawsuits in an attempt to alter the election’s outcome.<sup>29</sup> These lawsuits made a variety of allegations that the election was rife with fraud and irregularities. A recent Brennan Center analysis demonstrates that the false allegations contained in these suits map directly onto many provisions in the wave of new restrictive voting and election sabotage measures passed in 2022.

The analysis focuses on those lawsuits that raised false claims of fraud and attempted to disrupt or overturn the election, which were filed in 17 States.<sup>30</sup> Al-

<sup>24</sup> Brennan Center, *Voting Laws Roundup: February 2022*.

<sup>25</sup> Brennan Center for Justice, *Debunking the Voter Fraud Myth*, 2017, <https://www.brennancenter.org/our-work/research-reports/debunking-voter-fraud-myth>; Brennan Center, *Refuting the Myth of Voter Fraud*; and “The Myth of Voter Fraud,” Brennan Center for Justice, accessed April 8, 2022, <https://www.brennancenter.org/issues/ensure-every-american-can-vote/vote-suppression/myth-voter-fraud>.

<sup>26</sup> Brennan Center, *Refuting the Myth of Voter Fraud*.

<sup>27</sup> Rosalind S. Helder and Elise Viebeck, “‘The Last Wall’: How Dozens of Judges across the Political Spectrum Rejected Trump’s Efforts to Overturn the Election,” *Washington Post*, December 12, 2020, [https://www.washingtonpost.com/politics/judges-trump-election-lawsuits/2020/12/12/e3a57224-3a72-11eb-98c4-25dc9f4987e8story.html?utm\\_campaign=uptodayshadelines&utm\\_medium=email&utm\\_source=newsletter&utm\\_term=.nlheadlines](https://www.washingtonpost.com/politics/judges-trump-election-lawsuits/2020/12/12/e3a57224-3a72-11eb-98c4-25dc9f4987e8story.html?utm_campaign=uptodayshadelines&utm_medium=email&utm_source=newsletter&utm_term=.nlheadlines).

<sup>28</sup> Cybersecurity and Infrastructure Security Agency, “Joint Statement”; and Brennan Center, *It’s Official: The Election Was Secure*.

<sup>29</sup> “Voting Rights Litigation Tracker 2020,” Brennan Center for Justice, July 28, 2020, accessed April 8, 2022, <https://www.brennancenter.org/our-work/court-cases/voting-rights-litigation-tracker-2020>.

<sup>30</sup> Katie Friel and Will Wilder, *Finding the Same Misinformation in Anti-Voter Lawsuits and Anti-Voter Legislation*, Brennan Center for Justice (forthcoming), <https://www.brennancenter.org/our-work/research-reports/finding-same-misinformation-anti-voter-lawsuits-and-anti-voter>. The Brennan Center’s analysis focused exclusively on those 2020 election lawsuits that relied on false claims about voter fraud and sought to disrupt or overturn the election. The analysis included lawsuits filed before the election that relied on false fraud claims and sought to enjoin certain methods of voting or have certain categories of votes cast out. It also included lawsuits filed after the election that used false claims of fraud to seek to invalidate certain categories of votes or overturn the election entirely. The analysis excluded cases filed

though courts rejected these suits,<sup>31</sup> in 2021 legislators in 16 of the 17 States where suits were filed introduced bills to restrict access to voting.<sup>32</sup> The majority of lawsuits filed before or immediately after the 2020 election centered on allegations that the mail voting process was not secure, despite well-settled evidence to the contrary.<sup>33</sup> Not surprisingly, the most common theme of new restrictive voting legislation last year was, in turn, an effort to restrict mail voting.<sup>34</sup>

In fact, the connections between the 2020 litigation claims and the 2021 restrictive voting bills were much more specific than that. In 15 of the 16 States with both litigation and legislation, at least one provision in a new restrictive voting bill can be directly traced to a specific false claim made in a 2020 election lawsuit in that State.<sup>35</sup> The similarities remain just as strong when looking only at the most extreme category of lawsuits: Those filed after Election Day seeking to overturn the results or block certification of an election. These lawsuits, filed in at least 12 States, relied heavily upon spurious claims of fraud that courts ultimately rejected.<sup>36</sup> Yet in 11 of these 12 States, a provision contained in a 2021 restrictive voting bill directly mirrors false claims made in those suits.<sup>37</sup>

In Arizona, for example, one 2020 lawsuit contested the results of the Presidential election based in part upon an unproven claim that out-of-State voters cast ballots in Arizona.<sup>38</sup> The case was dismissed, but in 2021 Arizona legislators introduced a bill to expand voter roll purges in an effort to remove hypothetical out-of-State voters from the voter rolls.<sup>39</sup> Similarly, multiple cases in Wisconsin challenged election officials' decision to accept absentee ballots without a photo ID during the pandemic based upon the State's exemption to the voter ID requirement for individuals who are "indefinitely confined."<sup>40</sup> In 2021, legislators introduced two bills to repeal the exemption.<sup>41</sup>

In some States, the connections between 2020 litigation claims and 2021 legislative efforts were especially pronounced. In Georgia, for instance, litigation pushed four spurious claims to cast doubt upon the election results: (i) Poll watchers were deliberately blocked from observing ballot processing, creating doubt in the accuracy of the counting process; (ii) the State's use of drop boxes increased the risk of fraud; (iii) absentee ballots generally threaten election integrity and lead to fraud; and (iv) private foundations used grant funding to gain undue influence over election officials.<sup>42</sup> These claims were unsuccessful, and yet the Georgia legislature reinforced them by signing into law Senate Bill 202, which: (i) Expands legal rights of poll watchers to observe elections without constraints by election administrators; (ii) limits the availability of drop boxes; (iii) significantly restricts access to mail voting by imposing stricter identification requirements for absentee voters and narrows the window to apply for absentee ballots; and (iv) prohibits local election administrators from accepting funding from private sources.<sup>43</sup>

Pennsylvania illustrates the connection between baseless lawsuits challenging the integrity of the 2020 election and 2021 election sabotage provisions. Many of the legal challenges in Pennsylvania falsely claimed that the State's certification of the 2020 election was somehow invalid.<sup>44</sup> Although unfounded, these claims did influence Pennsylvania legislators, who introduced at least five resolutions in 2021 directly aimed at invalidating the results of the 2020 election.<sup>45</sup> Legal challenges in

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by pro se litigants that made vague allegations of fraud that were not specific to any State or jurisdiction.

<sup>31</sup> Helderman and Viebeck, "The Last Wall."

<sup>32</sup> Friel and Wilder, *Finding the Same Misinformation*.

<sup>33</sup> Wendy R. Weiser, "The False Narrative of Vote-by-Mail Fraud," Brennan Center for Justice, April 10, 2020, <https://www.brennancenter.org/our-work/analysis-opinion/false-narrative-vote-by-mail-fraud>.

<sup>34</sup> Friel and Wilder, *Finding the Same Misinformation*.

<sup>35</sup> Friel and Wilder, *Finding the Same Misinformation*.

<sup>36</sup> Friel and Wilder, *Finding the Same Misinformation*.

<sup>37</sup> Friel and Wilder, *Finding the Same Misinformation*.

<sup>38</sup> Friel and Wilder, *Finding the Same Misinformation*; and Pet. For Elec. Cont., *Stevenson v. Ducey*, No. CV2020-096490 (Ariz. Super. Ct. 2020).

<sup>39</sup> Friel and Wilder, *Finding the Same Misinformation*; and H.B. 2358, 55th Leg., Reg. Sess. (Ariz. 2021).

<sup>40</sup> Friel and Wilder, *Finding the Same Misinformation*; and Pls.' Compl., *Feehan v. Wis. Elections Commission*, 2020 WL 7630410 (E.D. Wis. 2020).

<sup>41</sup> Friel and Wilder, *Finding the Same Misinformation*. S.B. 204, 2021 Leg., Reg. Sess. (Wis. 2021). One of the two bills (Wis. S.B. 204) was passed by the legislature but subsequently vetoed by the Governor.

<sup>42</sup> Friel and Wilder, *Finding the Same Misinformation*.

<sup>43</sup> Friel and Wilder, *Finding the Same Misinformation*; and S.B. 202, 156th Gen. Assemb., Reg. Sess. (Ga. 2021).

<sup>44</sup> Friel and Wilder, *Finding the Same Misinformation*.

<sup>45</sup> Friel and Wilder, *Finding the Same Misinformation*.



the State also made allegations of fraud as to the State's "notice and cure" practice, by which election officials notify voters if there is an issue with their mail-in ballot and provide the voter with an opportunity to fix the mistake.<sup>46</sup> While those claims were rejected, legislators subsequently introduced a bill to prohibit election officials from providing any opportunity for voters to cure their mail ballots.<sup>47</sup>

*ii. Analysis of Public Statements by Proponents of Restrictive Voting and Election Sabotage Legislation*

A second recent Brennan Center analysis examined public statements made by sponsors and key proponents of restrictive voting and election sabotage legislation in the States and found that those sponsors justified their legislation using the same discredited claims of a wide-spread fraud and a stolen election that fueled the insurrection. The analysis focused on two sets of public rhetoric: (i) Statements made by the chief sponsors and co-sponsors of the 13 most restrictive new laws passed in 2021; and (ii) statements concerning all 25 such bills introduced in Georgia and all 31 introduced in Pennsylvania in 2021, as these two States saw some of the most aggressive restrictive voting and election sabotage bills.<sup>48</sup> In total, the analysis uncovered relevant statements for 58 bills<sup>49</sup> made in legislative proceedings, at campaign events, to reporters, and on social media, with striking results.

We found, first, that the vast majority of the 58 bills were sponsored by legislators who publicly questioned the validity of the 2020 election, including the chief sponsors of 10 of the 13 most restrictive new State laws.<sup>50</sup> For example, Arkansas Representative Mark Lowery, who served as the chief sponsor of legislation enhancing voter ID requirements,<sup>51</sup> notably stated that he "believe[s] Donald Trump was elected President" in 2020 and signed a letter asking for audits of the 2020 election in every State and decertification of any result declared "prematurely and inaccurately."<sup>52</sup>

Similarly, sponsors of 20 of the 25 restrictive bills introduced in Georgia last year questioned the election's outcome, mostly by suggesting that the surge in absentee ballots in 2020 led to fraud.<sup>53</sup> Representative Barry Fleming, chair of the Georgia House Special Committee on Elections formed in the wake of the 2020 election, suggested in an op-ed that unreliable mail ballots changed the outcome of certain races in 2020.<sup>54</sup> He argued that "Democrats [were] relying on the always-suspect absentee balloting process to inch ahead in Georgia and other close States" and proceeded to compare mail ballots to "the shady part of town down near the docks you do not want to wander into because the chance of being shanghaied is significant."<sup>55</sup> He added: "Expect the Georgia Legislature to address that in our next session in January [2021]."<sup>56</sup> Representative Fleming later shepherded Senate Bill 202—an omnibus vote suppression and election sabotage package—through the House and served as the lead sponsor on two other restrictive bills.<sup>57</sup>

And in Pennsylvania, sponsors of 25 of the 31 restrictive bills introduced in 2021 questioned the 2020 election's integrity.<sup>58</sup> Representative Russ Diamond, for instance, wrote a Facebook post alleging that there were "troubling discrepancies between the numbers of total votes counted and total numbers of voters who voted in the 2020 General Election."<sup>59</sup> He also believed that officials counted 200,000

<sup>46</sup> Friel and Wilder, *Finding the Same Misinformation*.

<sup>47</sup> Friel and Wilder, *Finding the Same Misinformation*.

<sup>48</sup> Andrew Garber, *Election Denial Rhetoric from Sponsors of State Voter Suppression Legislation*, Brennan Center for Justice (forthcoming), <https://www.brennancenter.org/our-work/research-reports/election-denial-rhetoric-sponsors-state-voter-suppression-legislation>. The analysis excluded legislation with more minor voting restrictions and mixed legislation that included both provisions that restricted voting access and expanded it.

<sup>49</sup> Garber, *Election Denial Rhetoric*. In total, the analysis reviewed 68 bills (one of which is a Georgia bill that was counted both in the list of the most restrictive new laws and in the list of restrictive voting bills in Georgia). Fifty-eight of these 68 bills contained relevant public statements from their sponsors.

<sup>50</sup> Garber, *Election Denial Rhetoric*.

<sup>51</sup> H.B. 1112, 93d Gen. Assemb., Reg. Sess. (Ark. 2021).

<sup>52</sup> Garber, *Election Denial Rhetoric*.

<sup>53</sup> Garber, *Election Denial Rhetoric*.

<sup>54</sup> Garber, *Election Denial Rhetoric*; and Barry Fleming, "Guest Column: Republican Party Wins on Election Day, and Future Is Bright," *Augusta Chronicle*, November 15, 2020, <https://www.augustachronicle.com/story/opinion/columns/guest/2020/11/15/guest-column-republican-party-wins-on-election-day-and-future-is-bright/43155971/>.

<sup>55</sup> Fleming, "Guest Column: Republican Party Wins."

<sup>56</sup> Fleming, "Guest Column: Republican Party Wins."

<sup>57</sup> Garber, *Election Denial Rhetoric*; and S.B. 202, 156th Gen. Assemb., Reg. Sess. (Ga. 2021).

<sup>58</sup> Garber, *Election Denial Rhetoric*.

<sup>59</sup> Garber, *Election Denial Rhetoric*.

extra votes and considered certifying Pennsylvania's election results to have been "absolutely premature, unconfirmed, and in error."<sup>60</sup> Representative Diamond subsequently sponsored five bills to restrict voting access in 2021 and served as the lead sponsor on four.<sup>61</sup>

Second, sponsors of many vote suppression and election sabotage bills introduced last year expressly connected those bills to false claims about the 2020 election. Sponsors of 6 of the 13 most restrictive bills made connections between voter fraud and the bill at hand.<sup>62</sup> For example, when introducing Senate Bill 1111, which would have limited the types of addresses at which voters register to vote and otherwise enhances ID requirements,<sup>63</sup> Texas Senator Paul Bettencourt maintained that the "November 2020 election demonstrated the lack of transparency and lack of integrity within the election process."<sup>64</sup> Along with six other "election integrity" bills that he filed, Senator Bettencourt posited that Senate Bill 1111 would help "to make sure the problems we faced in 2020 will not happen again."<sup>65</sup> In Pennsylvania, Senator Doug Mastriano—who was present on Capitol grounds on January 6, held hearings in which Rudy Giuliani spread false claims of voter fraud, attempted to lead a partisan audit of the 2020 election, and reportedly claimed that he saw "better elections in Afghanistan"<sup>66</sup>—went on to co-author a memorandum in support of Senate Bill 515, which would repeal no-excuse mail voting.<sup>67</sup> The memo echoed his earlier rhetoric by claiming that the bill would "once again restore confidence in our democracy and shine a light into the shadow of doubt that has been cast over Americans' most democratic process."<sup>68</sup> Likewise in Georgia, sponsors of 9 of the State's 25 restrictive bills argued that the provisions in those bills were intended to address purported 2020 election fraud.<sup>69</sup>

Finally, and not surprisingly, our analysis found that sponsors of every piece of introduced and enacted legislation publicly justified their legislation as measures to address voter fraud and election integrity—often in language mirroring that used by proponents of conspiracy theories relating to the 2020 election.<sup>70</sup> This language included, for example, trying to "restore or confirm confidence in the election process" or creating "an election where legal votes count, and illegal votes do not."<sup>71</sup>

In short, the connections uncovered by the Brennan Center's research demonstrate that the same election denial that drove litigation and rhetoric to overturn the 2020 election result played a critical role in driving restrictive voting and election sabotage efforts in 2021.

*B. Restrictive Voting Legislation Fueled by Disinformation About the 2020 Election and Voter Fraud Is Harming Voters, and Disproportionately Voters of Color*

The spike in restrictive voting legislation in 2021 already is harming voters, with a disproportionate amount of this harm falling on voters of color. First, existing research has found measurable, negative turnout effects for many of the types of provisions passed in 2021.<sup>72</sup> For example, multiple social science studies have found that measures that create stricter voter ID requirements or limit polling place access markedly depress voter turnout, with larger effects for voters of color.<sup>73</sup> Other studies have found that reducing early in-person voting opportunities can reduce turnout,<sup>74</sup> as do earlier registration deadlines<sup>75</sup> and policies leading to long lines

<sup>60</sup> Garber, *Election Denial Rhetoric*.

<sup>61</sup> Garber, *Election Denial Rhetoric*.

<sup>62</sup> Garber, *Election Denial Rhetoric*.

<sup>63</sup> Garber, *Election Denial Rhetoric*; and S.B. 1111, 87th Leg., Reg. Sess. (Tex. 2021).

<sup>64</sup> Garber, *Election Denial Rhetoric*.

<sup>65</sup> Garber, *Election Denial Rhetoric*.

<sup>66</sup> Garber, *Election Denial Rhetoric*.

<sup>67</sup> Garber, *Election Denial Rhetoric*.

<sup>68</sup> Garber, *Election Denial Rhetoric*.

<sup>69</sup> Garber, *Election Denial Rhetoric*.

<sup>70</sup> Garber, *Election Denial Rhetoric*.

<sup>71</sup> Garber, *Election Denial Rhetoric*.

<sup>72</sup> See, e.g., Brennan Center for Justice, *The Impact of Voter Suppression on Communities of Color*, 2022, <https://www.brennancenter.org/our-work/research-reports/impact-voter-suppression-communities-color>.

<sup>73</sup> Brennan Center, *Impact of Voter Suppression on Communities of Color*.

<sup>74</sup> Hannah L. Walker, Michael C. Herron, and Daniel A. Smith, "Early Voting Changes and Voter Turnout: North Carolina in the 2016 General Election," *Political Behavior* 41 (2019); and Ethan Kaplan and Haishan Yuan, "Early Voting Laws, Voter Turnout, and Partisan Vote Composition: Evidence from Ohio," *American Economic Journal: Applied Economics* 12(1) (2020).

<sup>75</sup> Greg Vonnahme, "Registration Deadlines and Turnout in Context," *Political Behavior* 34 (2012).

on Election Day.<sup>76</sup> Where empirical studies have not found a negative turnout impact, that does not mean harm is not occurring, but rather that it cannot be measured by existing empirical tools—or that large amounts of resources have been invested to overcome these barriers and maintain turnout levels.<sup>77</sup> Already, the new law led to the rejection of thousands of mail-in ballots in the March 2022 primary election.<sup>78</sup> In Texas’s largest counties, rejection rates ranged from between 6- and almost 22%—significantly higher than the State’s 1% rejection rate in the 2020 election cycle.<sup>79</sup> Similarly, after the passage of mail voting restrictions in Georgia Senate Bill 202, voters in the State’s 2021 local elections were 45 times more likely to have their mail ballot applications rejected—and ultimately not vote as a result—than in 2020.<sup>80</sup> These examples represent just a small slice of the surge in new restrictive voting legislation.

Second, as new laws begin to take effect, there is mounting evidence that they already are disenfranchising voters. In Texas, for example, Senate Bill 1 creates a more stringent voter ID requirement pursuant to which voters must provide their driver’s license number or partial social security number that matches the county’s own files.

Further, these new laws target and fall most harshly on voters of color. There is a growing body of social science research proving that restrictive voting laws disproportionately impact voters of color.<sup>81</sup> There also is mounting evidence that the laws passed this year are especially like to have, and already are having, that effect.

For example, new laws making mail voting more difficult target and already are harming voters of color. Black voters—who make up about a third of the electorate in Georgia—comprised half of all late ballot application rejections in the State during 2021 local elections.<sup>82</sup> In Florida, an analysis of drop box usage amongst different groups revealed that the State’s new restrictions on this voting method will impose greater burdens on Black voters than on other groups.<sup>83</sup> And in Arizona, the State’s shorter window for voters to add missing signatures to mail ballots will especially harm Navajo voters, many of whom would have to travel hundreds of miles to an election office to add their signature.<sup>84</sup>

There also is significant evidence that laws restricting voters from receiving help when voting or registering to vote disproportionately impact voters of color.<sup>85</sup> Black and Latino voters are more likely to depend upon the help of third-party organizations to register and vote in Florida.<sup>86</sup> As a result, the State’s new limits on these organizations will create a disproportionate impact on them as compared to white voters.<sup>87</sup> Similarly, many Native American voters in Montana rely upon paid ballot collectors, as they often have infrequent mail service and limited access to locations at which they can submit their ballot.<sup>88</sup> A new State law bans the use of paid ballot collectors, creating a more burdensome voting process for many Native Americans, especially those with disabilities or who may lack access to transportation.<sup>89</sup>

Further, new voter identification laws will disproportionately harm voters of color. For example, although Black registered voters account for only 30% of Georgia’s registered voters, they comprise more than half of those registrants without a quali-

<sup>76</sup> Stephen Pettigrew, “The Downstream Consequences of Long Waits: How Lines at the Precinct Depress Future Turnout,” *Electoral Studies* 71 (2021).

<sup>77</sup> S.B. 1., 87th Leg., 1st Spec. Sess. (Tex. 2021)

<sup>78</sup> Kevin Morris, Coryn Grange, and Zoe Merriman, *The Impact of Restrictive Voting Legislation*, Brennan Center for Justice, 2022, <https://www.brennancenter.org/our-work/research-reports/impact-restrictive-voting-legislation>.

<sup>79</sup> Morris, Grange, and Merriman, *Restrictive Voting Legislation*.

<sup>80</sup> Ryan Little and Ari Berman, “We Uncovered How Many Georgians Were Disenfranchised by GOP Voting Restrictions. It’s Staggering,” *Mother Jones*, January 28, 2022, <https://www.motherjones.com/politics/2022/01/gop-voting-law-disenfranchised-georgia-voters/>.

<sup>81</sup> Brennan Center, *Impact of Voter Suppression on Communities of Color*.

<sup>82</sup> Morris, Grange, and Merriman, *Restrictive Voting Legislation*.

<sup>83</sup> Morris, Grange, and Merriman, *Restrictive Voting Legislation*; and S.B. 90, 2021 Leg., Reg. Sess. (Fla. 2021).

<sup>84</sup> Morris, Grange, and Merriman, *Restrictive Voting Legislation*; S.B. 1003, 55th Leg., Reg. Sess. (Ariz. 2021); and Navajo Nation, Office of the President and Vice President, “Navajo Nation Leaders Urge Arizona Governor to Veto Voter Suppression Bill,” news release, April 30, 2021, <https://www.navajo-nsn.gov/News%20Releases/OPVP/2021/Apr/FOR%20IMMEDIATE-%20RELEASE%20%20Navajo%20Nation%20leaders%20urge%20Arizona%20Governor%20to%20veto%20voter%20suppression%20bill.pdf>.

<sup>85</sup> Morris, Grange, and Merriman, *Restrictive Voting Legislation*.

<sup>86</sup> Morris, Grange, and Merriman, *Restrictive Voting Legislation*.

<sup>87</sup> Morris, Grange, and Merriman, *Restrictive Voting Legislation*; and Fla. S.B. 90.

<sup>88</sup> Morris, Grange, and Merriman, *Restrictive Voting Legislation*.

<sup>89</sup> Morris, Grange, and Merriman, *Restrictive Voting Legislation*; and H.B. 530, 2021 Leg., Reg. Sess. (Mont. 2021).

fying State ID number or driver's license under Senate Bill 202.<sup>90</sup> This is consistent with existing research that shows the racial turnout gap grows when States enact strict voter ID laws.<sup>91</sup>

These disparate impacts are not coincidental. There is a growing body of evidence that the push to restrict access to voting in the States is inextricable from race. Social science studies over the past decade have linked restrictive voting legislation to increases in political participation or population growth by voters of color.<sup>92</sup> Forthcoming Brennan Center research provides evidence that the disinformation fueling restrictive voting legislation is perceived as race-based and that racial resentment is one of the most significant factors driving efforts to make voting more difficult.

## II. THE SAME ELECTION DENIAL THAT DROVE THE INSURRECTION THREATENS IMPARTIAL ELECTION ADMINISTRATORS

In addition to these on-going threats to voting rights and electoral processes, disinformation about the 2020 election and voter fraud also is driving a wave of attacks on impartial election administrators. This risks triggering an election official retention crisis as experienced and capable officials leave or are forced out of their positions. Election denial also is politicizing—and nationalizing—the races by which these election officials are chosen, raising fears about who will replace the officials from both parties<sup>93</sup> who worked tirelessly to hold the line against election sabotage during the 2020 election.

### A. Disinformation About the 2020 Election and Voter Fraud Is Driving Attacks on Election Officials and Pushing Them out of Their Positions

Election officials are facing unprecedented levels of threats and harassment. These attacks, which range from vigilante threats and intimidation to overt political interference and threats of prosecution, are forcing impartial, experienced election workers across the country to question their personal safety. Many of these attacks stem from the same election denial that fueled both the insurrection and the surge in restrictive voter and election sabotage legislation discussed above.

#### i. Vigilante Threats and Harassment

In the wake of the 2020 election, threats and harassment against State and local election officials have skyrocketed.<sup>94</sup> A recent survey of local election officials conducted by the Brennan Center reveals that 1 in 6 local election officials have experienced threats, ranging from racist and gendered harassment to death threats that named the election official's spouse and children.<sup>95</sup> More than 3 in 4 local election officials said that threats have increased in recent years, and nearly 1 in 3 know of at least one election worker who has left their job at least in part because of fears for their safety.<sup>96</sup> These findings reaffirm previous research conducted by the Brennan Center, which detailed patterns of harassment and interference directed at all levels of State and local election administration following the 2020 election.<sup>97</sup>

<sup>90</sup>Morris, Grange, and Merriman, *Restrictive Voting Legislation*.

<sup>91</sup>Brennan Center, *Impact of Voter Suppression on Communities of Color*.

<sup>92</sup>Brennan Center, *Impact of Voter Suppression on Communities of Color*; Daniel R. Biggers and Michael J. Hanmer, "Understanding the Adoption of Voter Identification Laws in the American States," *American Politics Research* 45 (2017); Keith G. Bentele and Erin E. O'Brien, "Jim Crow 2.0? Why States Consider and Adopt Restrictive Voter Access Policies," *Perspectives on Politics* 11 (2013); and Angela Behrens, Christopher Uggen, and Jeff Manza, "Ballot Manipulation and the 'Menace of Negro Domination': Racial Threat and Felon Disenfranchisement in the United States, 1850–2002," *American Journal of Sociology* 109 (2003).

<sup>93</sup>The 2020 Democracy Fund/Reed College Survey of Local Election Officials found that 44% of local election officials surveyed identified as Republican, compared to 33% who identified as Democrat and 22% who described themselves as Independent (among the 72% of respondents who shared their party identification). Paul Gronke et al., "Pursuing Diversity and Representation Among Local Election Officials," *Democracy Fund*, May 20, 2021, <https://democracyfund.org/idea/pursuing-diversity-and-representation-among-local-election-officials/>.

<sup>94</sup>Brennan Center for Justice and Bipartisan Policy Center, *Election Officials Under Attack*, 2021, <https://www.brennancenter.org/our-work/policy-solutions/election-officials-under-attack>, 3–5.

<sup>95</sup>Brennan Center, *Local Election Officials Survey*, 6; Linda So and Jason Szep, "Exclusive—Two Election Workers Break Silence after Enduring Trump Backers' Threats," Reuters, December 10, 2021, <https://www.reuters.com/article/us-usa-election-threats-georgia-exclusive-idCAKBN2IPOVZ>; and James Verini, "He Wanted to Count Every Vote in Philadelphia. His Party Had Other Ideas," *New York Times Magazine*, December 16, 2021, <https://www.nytimes.com/2020/12/16/magazine/trump-election-philadelphia-republican.html>.

<sup>96</sup>Brennan Center, *Local Election Officials Survey*, 5, 19.

<sup>97</sup>Brennan Center and Bipartisan Policy Center, *Election Officials Under Attack*.

Many of these attacks are traceable to the same stolen election allegations that fueled the insurrection. The violent threats against election workers have often explicitly invoked the baseless narratives of wide-spread election fraud and a stolen election. One email threatening to bomb polling places in Georgia declared that “no one at these places will be spared unless and until Trump is guaranteed to be POTUS again.”<sup>98</sup> In another case, a 63-year-old city clerk—who now carries a handgun out of fear for her safety—recalls a man who harassed her on the street and yelled “why did you allow Trump to lose? Why did you cheat?”<sup>99</sup> Election officials themselves have attributed increasing threats against them to disinformation; nearly 2 in 3 respondents in the Brennan Center’s survey of local election officials believe that false information is making their job more dangerous.<sup>100</sup>

Threats and harassment driven by election denial have continued at a dangerous pace into 2022. A recent POLITICO review across major social media platforms revealed a “flood” of recent posts promoting 2020 stolen election theories, including posts that used violent imagery and explicitly discussed attacking election officials.<sup>101</sup> In February, the Department of Homeland Security issued an advisory warning that election fraud disinformation could motivate violent attacks on democratic institutions, including election workers, in the months preceding the 2022 midterm elections.<sup>102</sup> As 2022 elections approach, these threats continue to directly impact the lives of election officials.

## ii. Political Interference and Threats of Prosecution

The aftermath of the 2020 election also sparked a barrage of political attacks against election officials. These attacks included the widely-reported efforts by former President Trump and his supporters to overturn the election outcome in key swing States. Most notably, the former President attempted to pressure Georgia Secretary of State Brad Raffensperger, a Republican, to “find 11,780 votes” and illegitimately declare him the State’s winner.<sup>103</sup> In Michigan, he publicly pressured local and State officials to revoke their votes to certify the election for President Biden.<sup>104</sup> These initial efforts to pressure election officials and sow distrust in the electoral system stem from the same false allegations of a stolen election that drove the insurrection.<sup>105</sup>

Even after the 2020 election result was definitively resolved, political meddling persisted in the form of unsubstantiated audits and recounts. In Maricopa County, Arizona Republican Party leaders organized a sham “audit” of the county’s election results in an effort to discredit them.<sup>106</sup> To this day, Republican leaders in Arizona continue to claim—without evidence—that election administrators mishandled thousands of ballots.<sup>107</sup> The Arizona audit sparked copycat movements across the country, as the Wisconsin and Pennsylvania State legislatures ordered similar reviews

<sup>98</sup> Linda So, “Trump-Inspired Death Threats Are Terrorizing Election Workers,” Reuters, June 11, 2021, <https://www.reuters.com/investigates/special-report/usa-trump-georgia-threats/>.

<sup>99</sup> Kyung Lah and Kim Berryman, “This Grandmother Has Overseen Dozens of Elections in Her City. And after 2020, She Carries a Gun,” CNN, January 21, 2022, <https://www.cnn.com/2022/01/21/politics/michigan-wisconsin-election-worker-intimidation/index.html>.

<sup>100</sup> Brennan Center, *Local Election Officials Survey*, 12.

<sup>101</sup> Mark Scott and Rebecca Kern, “The Online World Still Can’t Quit the ‘Big Lie,’” *POLITICO*, January 6, 2022, <https://www.politico.com/news/2022/01/06/social-media-donald-trump-jan-6-526562>.

<sup>102</sup> “Summary of Terrorism Threat to the U.S. Homeland,” Department of Homeland Security, last modified February 7, 2022, accessed April 8, 2022, <https://www.dhs.gov/ntas/advisory/national-terrorism-advisory-system-bulletin-february-07-2022>.

<sup>103</sup> Amy Gardner and Paulina Firozi, “Here’s the Full Transcript and Audio of the Call Between Trump and Raffensperger,” *Washington Post*, January 5, 2021, <https://www.washingtonpost.com/politics/trump-raffensperger-call-transcript-georgia-vote/2021/01/03/2768e0cc-4ddd-11eb-83e3-322644d82356story.html>.

<sup>104</sup> Maggie Haberman et al., “Trump Targets Michigan in His Ploy to Subvert the Election,” *New York Times*, November 19, 2020, <https://www.nytimes.com/2020/11/19/us/politics/trump-michigan-election.html>.

<sup>105</sup> See Brennan Center and Bipartisan Policy Center, *Election Officials Under Attack*, 16–17; and Ann Gerhart, “Election Results Under Attack: Here Are the Facts,” *Washington Post*, March 11, 2021, <https://www.washingtonpost.com/elections/interactive/2020/election-integrity/>.

<sup>106</sup> Elizabeth Howard and Gowri Ramachandran, “Partisan Arizona Election ‘Audit’ Was Flawed From the Start,” Brennan Center for Justice, September 27, 2021, <https://www.brennancenter.org/our-work/analysis-opinion/partisan-arizona-election-audit-was-flawed-start>.

<sup>107</sup> Howard Fischer Capitol Media Services, “Another Senate Subpoena Issued for Arizona 2020 Election Documents,” *Arizona Daily Star*, March 21, 2022, <https://tucson.com/news/state-and-regional/govt-and-politics/another-senate-subpoena-issued-for-arizona-2020-election-documents/articleccc76aaa-a96d-11ec-a17a-b7f87b1c1504.html>.

of the 2020 vote.<sup>108</sup> As recently as September 2021, the Texas secretary of state's office announced a "comprehensive forensic audit" of the 2020 results in four major counties.<sup>109</sup> And in Nevada, the State's Republican Party compelled Republican Secretary of State Barbara Cegavske to review nearly 123,000 ballots based upon unfounded allegations of voter fraud.<sup>110</sup> Secretary Cegavske's review, which consumed 125 hours of her staff's time, found no evidence of fraud.<sup>111</sup>

More disturbingly, election officials increasingly face threats in the form of criminal prosecution. Just recently, election officials in Wisconsin were threatened with jail time as part of a months-long, spurious review of the 2020 Presidential election.<sup>112</sup> Michael Gableman, a former State Supreme Court justice leading the review for Republican legislators, issued the threat after the chairwoman of the State Elections Commission and several other officials refused to sit for secret, closed-door interviews with him and instead requested to sit for the interviews before a legislative committee.<sup>113</sup> As discussed in Part I above, other States such as Texas and Arizona are passing laws that would impose criminal penalties on election officials for routine activities and unintentional mistakes.<sup>114</sup>

Like the upsurge in vigilante attacks, the wave of political attacks following the 2020 election finds its roots in the same election denial that drove the insurrection. Unfortunately, political attacks against election officials show no sign of abating.<sup>115</sup> State legislators across the county continue to propose bills that allow for criminal penalties against, or the removal of, experienced election officials.<sup>116</sup> In fact, when the Brennan Center asked local election officials to compare how worried they were about political interference in the 2020 election with how worried they are about political interference in future elections, nearly three times as many said they are very worried about the future.<sup>117</sup> In other words, election officials themselves believe that the political attacks against them will get worse.

### iii. Growing Election Official Retention Crisis

These disinformation-driven attacks threaten to create a retention crisis among election officials. According to the Brennan Center's survey, 3 in 5 local election officials are concerned that threats and harassment will make it more difficult to retain or recruit election workers going forward.<sup>118</sup> Disinformation also exacerbates the already-heavy strain on election workers, who must spend significant time correcting misleading and false information.<sup>119</sup> Due to these challenging circumstances, dozens of local election officials in Michigan, Pennsylvania, and Wisconsin already have left their positions.<sup>120</sup> In Nevada, by 2024 more than a third of the State's 17 top county

<sup>108</sup>Michael Wines, "Arizona's Criticized Election Review Nears End, but Copycats Are Just Getting Started," *New York Times*, September 23, 2021, <https://www.nytimes.com/2021/09/23/us/arizona-election-review.html>; Laurel White, "Wisconsin's GOP-Backed Election Investigation Expanded over the Holidays," Wisconsin Public Radio, January 3, 2022, <https://www.upr.org/wisconsins-gop-backed-election-investigation-expanded-over-holidays>; and Sam Dunklau, "Pa. Senate Election 'Audit' Contract Doesn't Say If the Public Will See the Results," WITF, December 7, 2021, <https://www.witf.org/2021/12/07/pa-senate-election-probe-contract-doesnt-say-if-the-public-will-see-the-results-among-other-things/>.

<sup>109</sup>Reid J. Epstein, "Texas, Under Pressure From Trump, Announces a 'Full Forensic Audit' of the 2020 Election in Four Counties," *New York Times*, September 23, 2021, <https://www.nytimes.com/2021/09/23/us/politics/texas-trump-election-audit.html>.

<sup>110</sup>Jacob Solis, "2020 Election Fraud Conspiracy Theories Remain Central to Many Republican Campaigns," *Nevada Independent*, October 17, 2021, <https://thenevadaindependent.com/article/2020-election-fraud-conspiracy-theories-remain-central-to-many-republican-campaigns>.

<sup>111</sup>Barbara K. Cegavske, secretary of state, and Mark A. Wlaschin, deputy secretary for elections, "Re: Elections Integrity Violation Reports," (via email, Nevada Office of the Secretary of State: April 21, 2021), <https://www.nvsos.gov/sos/home/showpublisheddocument?id=9428>.

<sup>112</sup>Patrick Marley, "Wisconsin Republicans Seek to Jail More Officials as Part of Their Review of the 2020 Presidential Election," *Milwaukee Journal Sentinel*, February 18, 2022, <https://www.jsonline.com/story/news/politics/2022/02/18/wisconsin-republicans-michael-gableman-seeks-jail-officials-2020-presidential-election-review/6853176001/>.

<sup>113</sup>Marley, "Wisconsin Republicans Seek to Jail More Officials."

<sup>114</sup>S.B. 1, 87th Leg., 1st Spec. Sess. (Tex. 2021); and H.B. 2905, 55th Leg., Reg. Sess. (Ariz. 2021).

<sup>115</sup>Grace Gordon, et al., *The Dangers of Partisan Incentives for Election Officials*, Bipartisan Policy Center and Election Reformers Network, 2022, <https://bipartisanpolicy.org/report/the-dangers-of-partisan-incentives-for-election-officials/>.

<sup>116</sup>NH H.B. 1567, 2022 Leg., Reg. Sess. (N.H. 2022); and S.F. 413, 89th Gen. Assemb., Reg. Sess. (Iowa 2021).

<sup>117</sup>Brennan Center, *Local Election Officials Survey*, 9.

<sup>118</sup>Brennan Center, *Local Election Officials Survey*, 19.

<sup>119</sup>Brennan Center and Bipartisan Policy Center, *Election Officials Under Attack*, 10.

<sup>120</sup>Sean Golonka, "Election Official Departures Rising Amid Burnout, Angry Voters, New Requirements," *Nevada Independent*, January 23, 2020, <https://thenevadaindependent.com/article/election-official-departures-rising-amid-burnout-angry-voters-new-requirements>.

election officials will be new to the job.<sup>121</sup> And Nation-wide, 1 in 5 elected officials surveyed plan to leave their position before 2024.<sup>122</sup> These officials overwhelmingly cited stress and the belief that politicians are attacking “a system that they know is fair and honest” as their top reasons for leaving.<sup>123</sup>

*B. Disinformation About the 2020 Election and Voter Fraud Is Distorting State-wide Campaigns to Oversee Elections*

The vast majority of the thousands of State and local election officials in America are elected. This year, elections from town clerk and supervisor to State secretary of state and Governor will decide who will administer and certify the elections during the next Presidential cycle in 2024.<sup>124</sup> Twenty-seven States will hold elections for secretary of state—the official who typically serves as a State’s chief election officer.<sup>125</sup> These races are being run in the context of a disinformation campaign intended to cast doubt on election results, and a significant number of election official candidates in these races are invoking claims that the 2020 election was invalid.<sup>126</sup>

For example, many candidates embrace disinformation about the 2020 election and voter fraud in their pitch to voters and donors, including—at the highest level—secretaries of state and gubernatorial candidates. The States United Democracy Center found that 21 secretary of state candidates disputed the results of the 2020 election, including at least 1 candidate in 18 of the 27 States holding secretary of state contests this year.<sup>127</sup> Similarly, 24 of the 36 gubernatorial contests this year have seen campaigns take part in this disinformation.<sup>128</sup>

This disinformation has, in turn, increased the prominence of these races, illustrated by trends in the financing of contests for secretary of state in key battleground States. Compared to recent election cycles, campaigns are raising more money, from more donors, with greater reliance upon out-of-State donations.

Across the States with the closest margins in the 2020 Presidential contest that are holding secretary of state elections this year (Arizona, Georgia, Michigan, Minnesota, Nevada, and Wisconsin), the amount of campaign contributions has climbed more than 3 times higher than at this point in the 2018 cycle and 8 times higher than 2014, according to the Brennan Center’s analysis.<sup>129</sup>

Disinformation about the 2020 election and voter fraud is primarily responsible for this trend. Arizona, for example, has received National attention for claims about election irregularities, as is discussed above. One candidate, a leading fundraiser in the secretary of state race, has claimed that “Trump won” and called for

<sup>121</sup> Golonka, “Election Official Departures.”

<sup>122</sup> Brennan Center, *Local Election Officials Survey*, 18.

<sup>123</sup> Brennan Center, *Local Election Officials Survey*, 18.

<sup>124</sup> Local officials, like county clerks, are typically responsible for designing ballots, running polling places, employing poll workers, and overseeing ballot counts. Secretaries of state are often a State’s chief election official, overseeing procedures for voter registration and voting, as well as certifying results. Governors can also be involved in election administration through appointments, emergency declaration powers, and sometimes certification of results. Ian Vandewalker and Lawrence Norden, *Financing of Races for Offices that Oversee Elections: January 2022*, Brennan Center for Justice, 2022, <https://www.brennancenter.org/our-work/research-reports/financing-races-offices-oversee-elections-january-2022>.

<sup>125</sup> Louis Jacobson, *Secretary of State Races: More Important Than Ever in 2022, and More Complicated, Too*, Sabato’s Crystal Ball—UVA Center for Politics, December 1, 2021, <https://centerforpolitics.org/crystalball/articles/secretary-of-state-races-more-important-than-ever-in-2022-and-more-complicated-too/>.

<sup>126</sup> Lawrence Norden and Derek Tisler, “Addressing Insider Threats in Elections,” Brennan Center for Justice, December 8, 2021, <https://www.brennancenter.org/our-work/analysis-opinion/addressing-insider-threats-elections>.

<sup>127</sup> “Secretary of State Races in 2022,” States United Democracy Center, last modified January 27, 2022, accessed April 8, 2022, <https://statesuniteddemocracy.org/wp-content/uploads/2022/02/sosdeniers.html>.

<sup>128</sup> “Governor Races in 2022,” States United Democracy Center, last modified January 27, 2022, accessed April 8, 2022, <https://statesuniteddemocracy.org/wp-content/uploads/2022/02/govdeniers.html>.

<sup>129</sup> Ian Vandewalker, *Financing of Races for Offices that Oversee Elections: February 2022*, Brennan Center for Justice, 2022, <https://www.brennancenter.org/our-work/research-reports/financing-races-offices-oversee-elections-february-2022>. We include the Wisconsin secretary of state race even though that office does not administer elections because election denial is an issue there. The Wisconsin Elections Commission, like elections administrators in many States, has been attacked over the 2020 elections. There has been a push, including by several declared candidates for secretary of state or Governor, to give the secretary of state greater power over elections. See Laurel White, “GOP Lawmaker Amy Loudenbeck Launches Secretary of State Campaign, Calls for Office to Take Control of Elections,” Wisconsin Public Radio, December 1, 2021, <https://www.wpr.org/gop-lawmaker-amy-loudenbeck-launches-secretary-state-campaign-calls-office-take-control-elections>.

“decertifying” the election.<sup>130</sup> Amidst this disinformation-driven dialog, contributions to Arizona secretary of state candidates doubled since the last cycle and have reached levels more than 8 times higher than at this point in the 2014 cycle.<sup>131</sup> Further, the number of donors giving in this year’s secretary of state election, 11,566, is higher than that of recent cycles by a factor of 10.<sup>132</sup> By comparison, only 1,235 people gave to all the Arizona secretary of state candidates combined in 2018.<sup>133</sup>

In Michigan, one leading candidate has claimed that Dominion voting machines used by the State changed votes and said that “Trump won Michigan.”<sup>134</sup> Another has said the “Big Lie” is leading to “an effort to try again in 2024 what those democracy deniers attempted to do in 2020 but failed.”<sup>135</sup> Amid this rhetoric, contributions to Michigan secretary of state candidates are 3 times higher than at this point in the 2018 cycle.<sup>136</sup> Incumbent Jocelyn Benson (D), who administered the 2020 election in Michigan and opposes claims that the 2020 election was invalid, has raised \$1.5 million, from 4,890 donors.<sup>137</sup> Educator Kristina Karamo, Benson’s Republican opponent, has raised the second-largest amount: \$233,494 from 2,206 donors.<sup>138</sup> They each have more donors than those giving to all the secretary of state candidates combined in the last cycle, which was 1,478.<sup>139</sup>

Beyond the sheer amounts of money flowing into secretary of state races, these contests for bureaucratic State positions are taking on a more National profile as candidates attract unprecedented numbers of donors and funding from outside their own State.

In Arizona, the amount that donors from other States have contributed has soared to almost 10 times more than in the 2018 cycle and over 30 times more than in either the 2014 or 2010 cycle.<sup>140</sup> Republican State Representative Mark Finchem has received contributions from 4,983 people who live outside Arizona—two-thirds of his donors.<sup>141</sup> Another secretary of state candidate, Democratic State Representative Reginald Bolding, also counts a majority of his donors—54% of his 1,390 contributors—from other States.<sup>142</sup> In the 2018 cycle, by comparison, only 117 out-of-State donors made contributions throughout the entire secretary of state contest.<sup>143</sup>

Similarly, the Michigan secretary of state election also has seen a sudden increase in out-of-State funding. Donors living outside of Michigan have contributed \$474,977—three-and-a-half times higher than the amount from the prior election, which also saw out-of-State funding levels higher than each of the two election cycles before.<sup>144</sup>

In light of these numbers, it is important to recognize the dangerous interplay between election denial, threats against election officials, and the nationalization of races for election official positions. As detailed above, disinformation-driven attacks against election officials are pushing experienced officials from both parties out of their positions. At the same time, the individuals who may replace them will in many instances emerge from nationalized, politically-charged races that heavily feature disinformation about the 2020 election and voter fraud. Our research shows that local election officials themselves are worried about this very problem and the impact on their profession: Over half of local election officials surveyed by the Brennan Center worry that their incoming colleagues might believe that “wide-spread voter fraud” contaminated the 2020 elections.<sup>145</sup>

Regardless of the outcome of these elections, relentless voter fraud lies and conspiracy theories have damaged voter confidence in election results, which is nec-

<sup>130</sup> Vandewalker, *Financing of Races for Offices: February 2022*.

<sup>131</sup> Vandewalker, *Financing of Races for Offices: February 2022*.

<sup>132</sup> Vandewalker, *Financing of Races for Offices: February 2022*.

<sup>133</sup> Vandewalker, *Financing of Races for Offices: February 2022*.

<sup>134</sup> Jeremy Herb and Sara Murray, “Trump-Backed Michigan Secretary of State Candidate Spread False Election Claims and January 6 Conspiracy Theories,” CNN, November 16, 2021, <https://www.cnn.com/2021/11/16/politics/kristina-karamo-michigan-secretary-of-state-candidate/index.html>.

<sup>135</sup> Vandewalker and Norden, *Financing of Races for Offices: January 2022*.

<sup>136</sup> Vandewalker, *Financing of Races for Offices: February 2022*.

<sup>137</sup> Vandewalker, *Financing of Races for Offices: February 2022*.

<sup>138</sup> Beth LeBlanc, “Benson Leads Karamo in Cash Haul for Michigan Secretary of State’s Race,” *Detroit News*, January 31, 2022, <https://www.detroitnews.com/story/news/politics/2022/01/31/jocelyn-benson-leads-kristina-karamo-cash-haul-michigan-secretary-state-race/9288506002/>; and Vandewalker, *Financing of Races for Offices: February 2022*.

<sup>139</sup> Vandewalker, *Financing of Races for Offices: February 2022*.

<sup>140</sup> Vandewalker, *Financing of Races for Offices: February 2022*.

<sup>141</sup> Vandewalker, *Financing of Races for Offices: February 2022*.

<sup>142</sup> Vandewalker, *Financing of Races for Offices: February 2022*.

<sup>143</sup> Vandewalker, *Financing of Races for Offices: February 2022*.

<sup>144</sup> Vandewalker, *Financing of Races for Offices: February 2022*.

<sup>145</sup> Brennan Center, *Local Election Officials Survey*, 14.



essary for a functioning democracy. A majority of Americans believe U.S. democracy is “in crisis and at risk of failing.”<sup>146</sup> One candidate put it starkly: “If American democracy is to survive, political figures of both parties need to abandon stolen-election claims.”<sup>147</sup>

My testimony has shown that the same allegations that fueled the insurrection are continuing to wreak havoc on our democracy. The attacks on our democracy, in turn, expose the uncomfortable truth that our country does not have sufficient guardrails in place to protect our elections from efforts to restrict voting, sabotage our electoral processes, and undermine impartial election administration. To ensure free and fair elections, we must bolster and strengthen those guardrails. Most critically, we need baseline National standards for voting access and election administration, protections against voting discrimination, protections for impartial election administrators, and other defenses against election sabotage.

Congress has broad authority under the Constitution to enact the necessary legislation, and it came close to doing so earlier this year. The *Freedom to Vote: John R. Lewis Act*, which narrowly failed to overcome a filibuster in March, would address many of these problems. Most importantly, it would establish National standards for the casting and the counting of ballots in Federal elections and protect against harmful rollbacks of voting rights, partisan efforts to discard or otherwise manipulate election results, and attacks on election officials who are simply following well-recognized best practices. It also would directly insulate election officials from politicized efforts to remove them, increase safeguards against vigilante threats and harassment, curb the fraudulent “audits” that have been conducted in Arizona and elsewhere, and give voters a statutory right to sue if their voting rights are infringed, including by a failure to certify lawful election results. It contains direct curbs on disinformation—including a clear prohibition on the dissemination of false information about elections designed to suppress the vote—as well as increased transparency for paid political communications over the internet. Finally, it would revitalize the landmark Voting Rights Act’s protections against racial discrimination in voting that the Supreme Court has hobbled, among many other much-needed provisions.<sup>148</sup>

The only way to neutralize the disinformation-driven threats to our democracy and to protect against potentially catastrophic results is through such Federal legislation. We strongly urge Congress to revisit this critical bill and pass it into law.

<sup>146</sup> Mallory Newall, Chris Jackson, and James Diamond, “Seven in Ten Americans Say the Country Is in Crisis, at Risk of Failing,” Ipsos, January 3, 2022, <https://www.ipsos.com/en-us/seven-ten-americans-say-country-crisis-risk-failing>.

<sup>147</sup> Vandewalker and Norden, *Financing of Races for Offices: January 2022*.

<sup>148</sup> See Wilder, Tisler, and Weiser, *The Election Sabotage Scheme*; Brennan Center for Justice, *The Freedom to Vote Act*, 2022, <https://www.brennancenter.org/our-work/research-reports/freedom-vote-act>; *Hearing on Protecting a Precious, Almost Sacred Right: The John R. Lewis Voting Rights Advancement Act*, before the S. Comm. on Judiciary, 117th Cong. (2021) (testimony of Wendy Weiser, vice president for democracy, Brennan Center for Justice), <https://www.brennancenter.org/our-work/research-reports/testimony-protecting-precious-almost-sacred-right-john-r-lewis-voting>; *Hearing on Oversight of the Voting Rights Act: Potential Legislative Reforms*, before the H. Comm. on Judiciary, Subcomm. on the Constitution, Civil Rights, & Civil Liberties, 117th Cong. (2021) (testimony of Wendy Weiser, vice president for democracy, Brennan Center for Justice), <https://docs.house.gov/meetings/JU/JU10/20210816/114010/HHRG-117-JU10-Wstate-WeiserW-20210816.pdf>; *Hearing on the Oversight of the Voting Rights Act: A Continuing Record of Discrimination*, before the H. Comm. on Judiciary, Subcomm. on the Constitution, Civil Rights & Civil Liberties, 117th Cong. (2021) (testimony of Wendy Weiser, vice president for democracy, Brennan Center for Justice), <https://docs.house.gov/meetings/JU/JU10/20210527/112700/HMTG-117-JU10-Wstate-WeiserW-20210527.pdf>; *Hearing on Voting in America: The Potential for Polling Place Quality and Restrictions on Opportunities to Vote to Interfere with Free and Fair Access to the Ballot*, 117th Cong. (2021) (testimony of Kevin Morris, Researcher, Brennan Center for Justice), <https://www.brennancenter.org/sites/default/files/2021-06/Morris%20Written%20Testimony.pdf>; *Hearing on Voting in America: A National Perspective on the Right to Vote, Methods of Election, Jurisdictional Boundaries, and Redistricting*, before the H. Comm. on House Administration, Subcomm. on Elections, 117th Cong. (2021) (testimony of Michael Waldman, president, Brennan Center for Justice), <https://www.brennancenter.org/sites/default/files/2021-06/2021-06-22%20Waldman%20%20Testimony.pdf>; and *Hearing on the Implication of Brnovich v. Democratic National Committee and Potential Legislative Responses*, before the H. Comm. on Judiciary, Subcomm. on the Constitution, Civil Rights, & Civil Liberties, 117th Cong. (2021) (testimony of Sean Morales-Doyle, acting director, voting rights and elections program, Brennan Center for Justice), <https://docs.house.gov/meetings/JU/JU10/20210716/113905/HHRG-117-JU10-Wstate-Morales-DoyleS-20210716.pdf>.

JOINT STATEMENT OF CHRISTINE TODD WHITMAN, FORMER GOVERNOR OF NEW JERSEY; STEVE BULLOCK, FORMER GOVERNOR OF MONTANA; JIM HOOD, FORMER ATTORNEY GENERAL OF MISSISSIPPI; TOM RATH, FORMER ATTORNEY GENERAL OF NEW HAMPSHIRE; TREY GREYSON, FORMER SECRETARY OF STATE OF KENTUCKY; AND FRANKIE SUE DEL PAPA, FORMER SECRETARY OF STATE OF NEVADA, FOR THE STATES UNITED DEMOCRACY CENTER

MAY 27, 2022

Chair Thompson, Vice Chair Cheney, and distinguished Members of the Select Committee, we are pleased to submit this statement in our capacity as members of the Bipartisan Advisory Board of the States United Democracy Center. States United is a nonpartisan organization advancing free, fair, and secure elections. We focus on connecting State officials, law enforcement leaders, and pro-democracy partners across America with the tools and expertise they need to safeguard our democracy. We are more than a think tank—we are an action tank. Together, we are committed to making sure every vote is counted, every voice is heard, and every election is safe. Our founders and Advisory Board are comprised of former administration officials, law enforcement leaders, and former State and local leaders from both the Republican and Democratic political parties who are committed to engaging and empowering pro-democracy leadership.

Thank you for the opportunity to submit this statement to help the Select Committee in its on-going review of issues connected to the attack on the United States Capitol on January 6, 2021. As we will discuss, the attack that occurred on January 6, 2021, was not an isolated event involving random protestors. Rather, it was the logical next step in a continuing anti-democracy movement, instigated and fomented by various people, including former President Donald Trump, which was put into motion years earlier. But the movement does not begin or end solely with Trump; a host of diverse groups of people are involved, including lawyers such as Rudy Giuliani, Sidney Powell, and John Eastman; advisors to Trump, like Roger Stone, Steve Bannon, Michael Flynn, and Mike Lindell; and State and local officials from all over the country, including Pennsylvania State Senator and Republican nominee for the Governorship of Pennsylvania Doug Mastriano, Arizona Republican Party Chair Kelli Ward, and Texas Attorney General Ken Paxton.

January 6 was also merely a next step, not a final one. Events leading up to and following that day reveal a sustained and coordinated effort by the former president and his anti-democracy allies to suppress voting rights, delegitimize free and fair elections, and subvert the will of the voters by overturning election results deemed undesirable to their movement. As we explain in our testimony, many of the tactics used to produce the January 6 attack and many of the people who affirmatively helped make it happen are still hard at work undermining our democracy today.

#### I. THE JANUARY 6, 2021, ATTACK ON THE CAPITOL WAS NOT AN ISOLATED EVENT

The unprecedented and horrific attack on the United States Capitol on January 6, 2021, was not an isolated event. It was just one in a years-long series of coordinated efforts by former President Trump, his advisors, various lawyers, and like-minded State and local officials to delegitimize and attempt to overturn President Joseph Biden's victory in the November 2020 Presidential election.

##### *a. The Precursors to the Current Anti-Democracy Movement*

The anti-democracy movement in America is not new, but Trump's leading role in it can be traced back to the 2012 Presidential election. As early as election night on November 6, 2012, when then-President Obama was reelected after defeating now-Senator Mitt Romney, Trump tweeted that the election was a "total sham" and a "travesty," and claimed that the United States is not a democracy.<sup>1</sup> Trump also asserted via Twitter that there were "reports of voting machines switching Romney votes to Obama" and warned voters to "[m]ake sure to verify the voting machine does not switch your vote."<sup>2</sup> After major news outlets called the race for then-President Obama around 11 p.m. on November 6, Trump tweeted, "We can't let this happen . . . We should march on Washington and stop this travesty. Our nation

<sup>1</sup>Trump Twitter Archive, Donald J. Trump (@realDonaldTrump) (Nov. 6, 2012, 11:33 PM EST), <https://www.thetrumparchive.com>.

<sup>2</sup>Trump Twitter Archive, Donald J. Trump (@realDonaldTrump) (Nov. 6, 2012, 2:56–2:57 PM EST), <https://www.thetrumparchive.com>.

is totally divided!”<sup>3</sup> The next day, Trump foreshadowed his 2016 election campaign slogan, tweeting: “We have to make America great again!”<sup>4</sup>

Two years later, during the midterm elections in November 2014, Trump furthered his conspiracy theory, baselessly alleging wide-spread election fraud, claiming that “[e]lection officials [were] saying that there is nothing stopping illegal immigrants from voting. This is very bad (unfair) for Republicans!”<sup>5</sup> Trump repeated the same baseless narrative leading up to the 2016 election when polls predicted that former Secretary Hillary Clinton would win the presidency. In October 2016, Trump tweeted that the “election is absolutely being rigged by the dishonest and distorted media pushing Crooked Hillary—but also at many polling places—SAD.”<sup>6</sup> Even after he won the election, he continued to falsely declare that he had won the popular vote, even though Clinton won the popular vote by almost 3 million votes.<sup>7</sup> While complaining about unfairness or mismanagement of elections may be valid where wrong-doing has actually occurred, Trump and his allies’ complaints are striking because they have no factual basis, they are made preemptively (before the elections even take place), and they are baked into an ideological certainty that their side must win or else the elections are rigged. This view has served as a litmus test to determine whether one is a true ally of the anti-democracy movement.

Trump was far from alone in touting these anti-democracy lies. For example, as Trump was ramping up for the 2016 election, his long-time confidante, Roger Stone, reportedly sent him a 13-page strategy memorandum, suggesting that the campaign should emphasize that the “system is rigged against the citizens.”<sup>8</sup> Additionally, in an interview on a far-right radio show, Stone explained that he thought Trump’s campaign should address “wide-spread voter fraud” and “talk[] about it constantly.”<sup>9</sup> Likewise, Rudy Giuliani, former mayor of New York City who would later become Trump’s lawyer, asserted on CNN that one would have been a “moron” to assume there would be no election fraud in cities like Philadelphia and Chicago.<sup>10</sup>

While complaints about the results of an election routinely emanate from leaders on both sides of the aisle following a contest, former President Trump and his allies’ behavior stands out because of its reliance on falsehoods, conspiracies, and blatant lies.<sup>11</sup> In short, for the better part of the last decade, Trump and his allies intentionally planted seeds to cast doubt on legitimate election results and to foment suspicions among a substantial portion of the American public that voting is rigged, so much so that the number of votes cast for the other side cannot be trusted and the election results cannot be believed. This narrative feeds on baseless assertions that votes from undocumented immigrants, deceased individuals, or people who have moved are changing election outcomes<sup>12</sup> and on general distrust in democratic institutions, including the Government itself, as well as the press, spurred by

<sup>3</sup>Trump Twitter Archive, Donald J. Trump (@realDonaldTrump) (Nov. 6, 2012, 11:29 PM EST), <https://www.thetrumparchive.com>.

<sup>4</sup>Trump Twitter Archive, Donald J. Trump (@realDonaldTrump) (Nov. 7, 2012, 2:03 PM EST), <https://www.thetrumparchive.com>.

<sup>5</sup>Trump Twitter Archive, Donald J. Trump (@realDonaldTrump) (Oct. 31, 2014, 4:43 PM EST), <https://www.thetrumparchive.com>.

<sup>6</sup>Trump Twitter Archive, Donald J. Trump (@realDonaldTrump) (Oct. 16, 2016, 1:01 PM EST), <https://www.thetrumparchive.com>.

<sup>7</sup>2016 Presidential Election Results, N.Y. Times (Aug. 9, 2017), <https://www.nytimes.com/elections/2016/results/president>; Trump has longstanding history of calling elections ‘rigged’ if he doesn’t like the results, ABC News (Nov. 11, 2020), <https://abcnews.go.com/Politics/trump-longstanding-history-calling-elections-rigged-doesnt-results/story?id=74126926>; Trump Twitter Archive, Donald J. Trump (@realDonaldTrump) (Nov. 27, 2016, 3:30 PM EST), <https://www.thetrumparchive.com> (“In addition to winning the Electoral College in a landslide, I won the popular vote if you deduct the millions of people who voted illegally.”).

<sup>8</sup>Trump and the Truth: The “Rigged” Election, The New Yorker (Oct. 8, 2016), <https://www.newyorker.com/news/news-desk/trump-and-the-truth-the-rigged-election>.

<sup>9</sup>Trump labels Clinton ‘the devil’ and suggests election will be rigged, The Guardian (Aug. 2, 2016), [https://www.theguardian.com/us-news/2016/aug/02/donald-trump-calls-hillary-clinton-the-devil-and-suggests-election-will-be-rigged?CMP=fb\\_gu](https://www.theguardian.com/us-news/2016/aug/02/donald-trump-calls-hillary-clinton-the-devil-and-suggests-election-will-be-rigged?CMP=fb_gu).

<sup>10</sup>Why Trump’s talk of a rigged vote is so dangerous, CNN (Oct. 19, 2016), <https://www.cnn.com/2016/10/18/politics/donald-trump-rigged-election/index.html>.

<sup>11</sup>Steven Levitsky & Daniel Ziblatt, *The Crisis of American Democracy*, American Educator (Fall 2020), <https://files.eric.ed.gov/fulltext/EJ1272137.pdf>; Nicolas Berlinksi et al., *The Effects of Unsubstantiated Claims on Confidence in Elections*, [https://cpb-us-e1.wpmucdn.com/sites.dartmouth.edu/dist/5/2293/files/2021/03/voter-fraud.pdf?sm\\_au=iHV4TH4F6TNDzFH7FcVTvKQkcK8MG](https://cpb-us-e1.wpmucdn.com/sites.dartmouth.edu/dist/5/2293/files/2021/03/voter-fraud.pdf?sm_au=iHV4TH4F6TNDzFH7FcVTvKQkcK8MG).

<sup>12</sup>How a racist myth about immigrants voting continues to fuel unproven claims of voter fraud, Los Angeles Times (June 25, 2021), <https://www.latimes.com/california/story/2021-06-25/racist-myth-of-immigrants-voting-fuels-claims-of-voter-fraud>.

Trump's "fake news" campaign.<sup>13</sup> Because these false election-related theories have now become so ubiquitous, anti-democracy activists can (and often do) claim that any electoral losses by their preferred candidates must be the result of wide-spread voter fraud—and for that reason must be overturned. The poisonous seeds planted in the past decade flourished during the 2020 election, leading up to the Capitol attack on January 6, 2021, and have continued to grow in ways that severely threaten the life and health of our democracy.

*b. The Anti-Democracy Movement in the Run-Up to the 2020 Election*

When former President Trump was up for reelection in 2020, he and his allies (new and old), including lawyers, advisors, and State and local officials, built upon his long-standing efforts to cast doubt on the legitimacy of the voting process. Ultimately, this metastasized into a full-throated attempt to overthrow the legitimate Presidential election of November 2020, commonly known as the "Stop the Steal" movement.

This movement stemmed from the baseless theory that expanded mail-in voting, which was being offered or expanded in many States because the COVID-19 pandemic made in-person voting difficult or dangerous, would cause rampant voter fraud. There is no truth to the assertion that wide-spread mail-in voting leads to wide-spread voter fraud,<sup>14</sup> nor is there any support for Trump's assertions that undocumented immigrants cast significant numbers of mail-in ballots in our elections.<sup>15</sup> Instead, former President Trump and his allies created this narrative leading up to the 2020 election because they believed that mail-in ballots could skew heavily toward then-candidate Biden—especially during the pandemic when many of Trump's proponents eschewed social distancing and other safety precautions and called upon Trump's base to do the same.<sup>16</sup> Because mail-in voting was expanded for the 2020 election, it was well understood that days or weeks would likely be required to count all votes following Election Day.<sup>17</sup> As a consequence, it was widely expected that votes counted on Election Day would skew toward former President Trump, but that as the mail-in ballots cast on or before Election Day were counted, the number of votes for Biden would increase.<sup>18</sup> Thus, efforts by the former President and his allies to delay the mail, to discourage mail-in voting, and to stop counting ballots past November 3, 2020, were entirely self-serving.

An effort to impede the functioning of the United States Postal Service (USPS) gained steam in May 2020 when the USPS Board of Governors, all appointed by

<sup>13</sup> Donald Trump's "Fake News" Tactics, *The New Yorker* (Dec. 2, 2017), <https://www.newyorker.com/magazine/2017/12/11/donald-trumps-fake-news-tactics>.

<sup>14</sup> Natalie Scala, et. al, *Evaluating mail-based security for electoral processes using attack trees*, *Risk Analysis: An International Journal* (Jan. 24, 2022), <https://onlinelibrary.wiley.com/doi/full/10.1111/risa.13876>; Why a Vote-by-Mail Option is Necessary, Brennan Center for Justice (Apr. 7, 2020), <https://www.brennancenter.org/our-work/research-reports/why-vote-mail-option-necessary>; How does vote-by-mail work and does it increase election fraud?, Brookings (June 22, 2020), <https://www.brookings.edu/policy2020/votervital/how-does-vote-by-mail-work-and-does-it-increase-election-fraud/>.

<sup>15</sup> *The Actually True and Provable Facts About Non-Citizen Voting* TIME (Feb. 13, 2017), <https://time.com/4669899/illegal-citizens-voting-trump/>; Yet again, Trump falsely blames illegal voting for getting walloped in California, *Wash. Post* (July 23, 2019), <https://www.washingtonpost.com/politics/2019/07/23/yet-again-trump-falsely-blames-illegal-voting-getting-walloped-california/>; Analysis: Noncitizen Voting is Vanishingly Rare, Brennan Center for Justice (Jan. 25, 2017), <https://www.brennancenter.org/our-work/research-reports/analysis-noncitizen-voting-vanishingly-rare>; Noncitizens Don't Illegally Vote in Detectable Numbers, Cato Institute (Nov. 25, 2020), <https://www.cato.org/blog/noncitizens-dont-illegally-vote-detectable-numbers>.

<sup>16</sup> A step-by-step look at Trump's falsehoods on mail-in voting: Analysis, ABC News (Oct. 1, 2020), <https://abcnews.go.com/politics/step-step-trumps-falsehoods-mail-voting-analysis/story?id=73354979>; Edward B. Foley, *A Big Blue Shift: Measuring an Asymmetrically Increasing Margin of Litigation*, 48 *Journal of Law & Politics* 501 (2013), [http://www.lawandpolitics.org/hifi/files/content/vol-xxvii-no-4/Foley\\_Color\\_116.pdf](http://www.lawandpolitics.org/hifi/files/content/vol-xxvii-no-4/Foley_Color_116.pdf); Richard L. Hasen, *Beyond the Margin of Litigation: Reforming U.S. Election Administration to Avoid Electoral Meltdown*, 62 *Wash. & Lee L. Rev.* 937 (2005), <https://law2.wlu.edu/deptimages/Law%20Review/62-3Hasen.pdf>; see also *The 'Blue Shift' Will Decide the Election* *The Atlantic* (Aug. 10, 2020), <https://www.theatlantic.com/ideas/archive/2020/08/brace-blue-shift/615097/>.

<sup>17</sup> *How Long Will Vote Counting Take? Estimates and Deadlines in All 50 States*, N.Y. Times (updated Nov. 7, 2020), <https://www.nytimes.com/interactive/2020/upshot/vote-counting-today-polls-election.html>; *How many votes will be counted after election night?*, MIT News (Oct. 15, 2020), <https://news.mit.edu/2020/votes-counted-after-election-1015>; *How Trump's mail voting sabotage could result in an election night nightmare*, Vox (Aug. 11, 2020), <https://www.vox.com/2020/8/11/21358960/trump-mail-voting-sabotage-explained>.

<sup>18</sup> *Id.*

Trump, selected Trump campaign donor Louis DeJoy to be postmaster general.<sup>19</sup> Shortly after DeJoy assumed office, the USPS adopted a number of operational changes that threatened to delay mail deliveries, including reductions in the availability of overtime, restrictions on extra trips to transport mail, and elimination of some mail processing equipment.<sup>20</sup> Reporting complaints from constituents about a slowdown in service, Members of Congress from both parties, including a number of ardent Trump supporters, pushed back against these changes. Republican U.S. Sen. Steve Daines and Republican U.S. Reps. Brian Fitzpatrick, Greg Gianforte, Peter King, David McKinley, and Daniel Webster sent or signed on to letters with Democratic Members of Congress to DeJoy pressing for reversal of the changes in mail handling.<sup>21</sup>

At the same time, Trump disseminated theory after theory about how mail-in voting would contaminate the 2020 election, further laying the foundation for claims of fraud to be made in the event of a Biden win in November. On May 21, 2020, at a press conference in Michigan, he said of mail-in ballots, “who knows who’s signing it? . . . [T]hey pirate these applications . . . You have all of the harvesting . . . They walk in at the end of a race . . . and then all of a sudden, out of the blue come thousands of votes at the very end.”<sup>22</sup> Trump tweeted on May 24 that “People grab [ballots] from mailboxes, print thousands of forgeries and ‘force’ people to sign. Also, forge names.”<sup>23</sup> On June 22, he tweeted, “RIGGED 2020 ELECTION: MILLIONS OF MAIL-IN BALLOTS WILL BE PRINTED BY FOREIGN COUNTRIES, AND OTHERS. IT WILL BE THE SCANDAL OF OUR TIMES!”<sup>24</sup>

Trump, who had already been opposing a \$25 billion package of resources requested by the Postal Service, stated openly in August 2020 that withholding the funds would prevent “universal mail-in voting.”<sup>25</sup> On the Fox Business Network, the former President told host Maria Bartiromo on August 13 that, “[i]f we don’t make a deal, that means they don’t get the money, [which] means they can’t have universal mail-in voting; they just can’t have it.”<sup>26</sup> Shortly after these comments, and after sustained bipartisan pressure, Postmaster General DeJoy announced suspension of some changes at the Postal Service and promised to “deliver the nation’s election mail on time and within our well-established service standards.”<sup>27</sup> Ultimately, the inspector general for the Postal Service concluded that the Postal Service prioritized processing election mail during the 2020 election cycle and that, while

<sup>19</sup> Board of Governors Announces Selection of Louis DeJoy to Serve as Nation’s 75th Postmaster General, U.S. Postal Serv. (May 6, 2020), <https://about.usps.com/newsroom/national-releases/2020/0506-bog-announces-selection-of-louis-dejoy-to-serve-as-nations-75th-postmaster-general.htm>.

<sup>20</sup> Following Yesterday’s Meeting, Leader Schumer and Speaker Pelosi Send New Letter to Postmaster DeJoy Calling for Immediate Reversal of Recent Postal Service Changes that Threaten Timely Mail Delivery for Millions, Senate Democrats (Aug. 6, 2020), <https://www.democrats.senate.gov/newsroom/press-releases/following-yesterdays-meeting-leader-schumer-and-speaker-pelosi-send-new-letter-to-postmaster-dejoy-calling-for-immediate-reversal-of-recent-postal-service-changes-that-threaten-timely-mail-delivery-for-millions>.

<sup>21</sup> Senator Steve Daines, Letter to Postmaster General Louis DeJoy (Aug. 8, 2020), <https://www.daines.senate.gov/imo/media/doc/USPS%20-%20Mail%20Delay.%202020.08.06.pdf>; Carolyn B. Maloney et al., Letter to Postmaster General Louis DeJoy (Aug. 6, 2020), <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2020-08-06.CBM%20et%20al.%20to%20DeJoy-%20PMG%20re%20Postal%20Standards%20Changes.pdf>; Congress urges Postal Service to undo changes slowing mail, AP (Aug. 6, 2020), <https://apnews.com/article/virus-outbreak-seniors-mt-state-wire-voting-steve-daines-a291ebc31c5638aa5a9adafc2f72b430>.

<sup>22</sup> Remarks by President Trump in Listening Session with African American Leaders, The White House (May 21, 2020), <https://trumpwhitehouse.archives.gov/briefings-statements/remarks-president-trump-listening-session-african-american-leaders-ypsilanti-mi/>.

<sup>23</sup> Trump Twitter Archive, Donald J. Trump (@realDonaldTrump) (May 24, 2020, 10:08 AM EST), <https://www.thetrumparchive.com>.

<sup>24</sup> Trump attacks mail-in voting with new series of false claims, The Guardian (June 22, 2020) <https://www.theguardian.com/us-news/2020/jun/22/trump-mail-in-voting-fraud-claims>.

<sup>25</sup> USPS Requests \$75B in Emergency Funds to Keep Agency Alive, Gov. Exec. (Apr. 9, 2020), <https://www.govexec.com/management/2020/04/usps-requests-75b-emergency-funds-keep-agency-alive/164506/>; see also President Trump with Coronavirus Task Force Briefing, C-SPAN at 36:44 (Apr. 7, 2020), available at <https://www.c-span.org/video/?471020-1/president-trump-criticizes-who-comments-resignation-acting-navy-secretary>.

<sup>26</sup> Trump admits he’s blocking postal cash to stop mail-in votes, AP (Aug. 13, 2020), <https://apnews.com/article/virus-outbreak-election-2020-ap-top-news-elections-politics-14a2ceda724623604cc8d8e5ab9890ed>.

<sup>27</sup> Postmaster General Louis DeJoy Statement, U.S. Postal Serv. (Aug. 18, 2020), <https://about.usps.com/newsroom/national-releases/2020/0818-postmaster-general-louis-dejoy-statement.htm>.

timeliness fell slightly below target goals, it improved significantly over the delivery speed for election mail during the 2018 midterm election cycle.<sup>28</sup>

Although Trump and his allies never pointed to any evidence of significant voter fraud, they continued to claim that mail-in voting could lead to such fraud. For instance, Doug Mastriano, a Pennsylvania State senator, originally voted to pass a law in 2019 called Act 77 that expanded access to mail-in ballots to any voter who requested one.<sup>29</sup> However, after an unprecedented number of Pennsylvanians applied for mail-in ballots by April 2020, Mastriano was quoted as saying, “I feel a bit dubious about this,” due to purportedly heightened risks of voter fraud.<sup>30</sup> In Texas, Attorney General Ken Paxton praised the U.S. Supreme Court’s rejection of a case seeking to extend access to mail-in ballots because he thought the rejection would help guard against “wide-spread fraud.”<sup>31</sup>

*c. The Anti-Democracy Movement from November 3, 2020, to January 6, 2021*

Between the election on November 3, 2020, and the Electoral College vote count on January 6, 2021, the “Stop the Steal” movement employed a multifaceted approach to subvert the will of the American people. Their efforts were often chaotic, and when a given tactic failed, they shifted focus to another that might succeed in overturning the election result favoring Biden. During this period, their strategy encompassed five primary anti-democracy efforts: (1) Inspired by Trump and his allies’ statements, aggressive and dangerous protests at central count facilities in States with narrow margins while ballots were still being counted; (2) a wave of baseless lawsuits alleging wide-spread election fraud; (3) a campaign to pressure Republican officials to overturn election results; (4) the creation of a group of sham electors from swing States to sign certificates falsely claiming that former President Trump had won the election in their States; and (5) a broader disinformation campaign intended to persuade portions of the American public that Trump was the rightful winner of the 2020 Presidential election.

*First, the Trump-inspired protests.*—On election night, in the early morning hours of Wednesday, November 4, former President Trump appeared on television declaring that he had won the election. After listing several States where he claimed to be in the lead or nearly so, the former President declared, “most importantly, we’re winning Pennsylvania by a tremendous amount.”<sup>32</sup> This announcement was met by a standing ovation from his audience of supporters. He continued, “We want all voting to stop. We don’t want them to find any ballots at 4 o’clock in the morning and add them to the list.”<sup>33</sup> At the time, vote counting was ongoing in Pennsylvania, because under State law absentee ballots could not be canvassed until Election Day. On Twitter at 3:04 a.m., Al Schmidt, a Republican commissioner on the Philadelphia County Board of Elections responded to the then-President of the United States: “Philadelphia will NOT stop counting ALL legitimate votes cast by eligible voters. And we will report and report and report until the last vote is counted.”<sup>34</sup>

The following night, Kevin McCarthy, the Minority Lead of the U.S. House of Representatives, spoke on Fox News about fraud supposedly taking place in vote counting facilities around the country. He urged listeners to “not be quiet, do not be silent

<sup>28</sup> Office of the Inspector General, United States Postal Service, *Service Performance of Election and Political Mail During the November 2020 General Election* (Mar. 5, 2021), <https://www.uspsoig.gov/document/service-performance-election-and-political-mail-during-november-2020-general-election>.

<sup>29</sup> *Op-Ed: How Pennsylvania Democrats Hijacked Act 77*, Senator Doug Mastriano (Jan. 26, 2022), <https://senatormastriano.com/2022/01/26/op-ed-how-pennsylvania-democrats-hijacked-act-77/> (noting “[e]very single Republican Senator voted for [Act 77]” in October 2019); *With audit, Pa. Sen. Mastriano is obscuring his own role in fomenting election chaos*, Pennsylvania Capital-Star (July 11, 2021), <https://www.penncapital-star.com/commentary/with-audit-pa-sen-mastriano-is-obscuring-his-own-role-in-creating-act-77-fomenting-election-chaos-opinion/>; *Unprecedented volume of mail-in voting looming in primary*, The Daily Item (Apr. 30, 2020) [https://www.dailyitem.com/news/local\\_news/unprecedented-volume-of-mail-in-voting-looming-in-primary/article\\_e7710206-72c7-522f-ba8f-6bb6f5519d9a.html](https://www.dailyitem.com/news/local_news/unprecedented-volume-of-mail-in-voting-looming-in-primary/article_e7710206-72c7-522f-ba8f-6bb6f5519d9a.html).

<sup>30</sup> *Unprecedented volume of mail-in voting looming in primary*, The Daily Item (Apr. 30, 2020) [https://www.dailyitem.com/news/local\\_news/unprecedented-volume-of-mail-in-voting-looming-in-primary/article\\_e7710206-72c7-522f-ba8f-6bb6f5519d9a.html](https://www.dailyitem.com/news/local_news/unprecedented-volume-of-mail-in-voting-looming-in-primary/article_e7710206-72c7-522f-ba8f-6bb6f5519d9a.html).

<sup>31</sup> *Voting rules changed quickly for the primaries. But the battle over how Americans will cast ballots in the fall is just heating up.*, Wash. Post (July 3, 2020), [https://www.washingtonpost.com/politics/voting-rules-changed-quickly-for-the-primaries-but-the-battle-over-how-americans-will-cast-ballots-in-the-fall-is-just-heating-up/2020/07/03/9b865dfa-ba43-11ea-80b9-40ece9a701dc\\_story.html](https://www.washingtonpost.com/politics/voting-rules-changed-quickly-for-the-primaries-but-the-battle-over-how-americans-will-cast-ballots-in-the-fall-is-just-heating-up/2020/07/03/9b865dfa-ba43-11ea-80b9-40ece9a701dc_story.html).

<sup>32</sup> Trump declares victory prematurely, says will go to Supreme Court to dispute election count, YouTube (Nov. 4, 2020), <https://www.youtube.com/watch?v=NsI3jgilhA>.

<sup>33</sup> *Id.*

<sup>34</sup> Al Schmidt (@commish—schmidt), Twitter (Nov. 4, 2020), [https://twitter.com/commish\\_schmidt/status/1323898927666659328](https://twitter.com/commish_schmidt/status/1323898927666659328).

about this. We cannot allow this to happen before our very eyes.”<sup>35</sup> Hundreds of demonstrators then showed up outside central count facilities in numerous cities chanting, “stop the steal” and calling for police to “arrest the poll workers,” and carrying signs that read “Make Elections Fair Again” and “We Love Trump.”<sup>36</sup> Many of these demonstrators were also carrying guns—some of them handguns, and others, military-style semiautomatic rifles.<sup>37</sup>

In the days and weeks immediately following Election Day, central count facilities in large and traditionally Democratic-leaning cities such as Philadelphia, Detroit, Atlanta, Milwaukee, Phoenix, and Las Vegas were confronted by angry protesters demanding to oversee vote counting and questioning the legitimacy of the voting process. There was nothing suspicious about the count process taking longer than in past elections in these cities—they have much larger populations than their rural counterparts and thus had to process a larger number of mail-in ballots—but then-President Trump had expressed outrage that ballots were being counted past Election Day.

Poll workers reported fearing for their safety as they worked to count the remaining votes.<sup>38</sup> In Detroit, poll workers were harassed by unruly challengers yelling, taunting, jeering, and pounding their fists on windows while the counting went on.<sup>39</sup> In Pennsylvania, Commissioner Schmidt later described his work as “racing against a disinformation campaign that could potentially disenfranchise voters . . . It’s not about the campaign or about who you want to win. This is never about who wins and who doesn’t. But if a campaign is trying to disenfranchise the voters of Philadelphia, you can’t not respond to it.”<sup>40</sup> While votes were still being counted, Trump’s supporters began attending “Stop the Steal” rallies in various cities as disparate as Boise, Idaho; Colorado Springs, Colorado; and Delray Beach, Florida to protest Biden’s victory.<sup>41</sup> Pro-Trump State lawmakers attended many of these rallies, which often involved altercations between Trump supporters and counter-protesters.<sup>42</sup>

*Second, the lawsuits.*—At the news conference at Four Seasons Total Landscaping in Philadelphia on November 7, 2020, Rudy Giuliani announced the Trump campaign’s intention to begin litigation over allegations of voter fraud in Pennsylvania and other States.<sup>43</sup> On November 13, Sidney Powell, a lawyer aligned with the Trump campaign, appeared on the Fox Business Network proclaiming to host Lou Dobbs that there had been massive voter fraud “organized and conducted with the help of Silicon Valley people, the big tech companies, the social media companies and even the media companies.”<sup>44</sup> Powell promised to combat the fraud with overwhelming evidence in blockbuster lawsuits, pledging that she would “release the Kraken.”<sup>45</sup> Powell proceeded to file lawsuits in Arizona, Georgia, Michigan, and Wisconsin, alleging that manipulated voting machines destroyed ballots and

<sup>35</sup> 77 Days: Trump’s Campaign to Subvert the Election, N.Y. Times (Jan. 31, 2021), <https://www.nytimes.com/2021/01/31/us/trump-election-lie.html>.

<sup>36</sup> Increasingly normal: Guns seen outside vote counting centers, AP (Nov. 7, 2020), <https://apnews.com/article/protests-vote-count-safety-concerns-653dc8f0787c9258524078548d518992>.

<sup>37</sup> *Id.*; Two charged with carrying weapons near Philadelphia vote-counting site, Wash. Post (Nov. 8, 2020), <https://www.newsnationnow.com/politics/2020-election/trump-supporters-protest-outside-vote-centers-in-arizona-michigan/>.

<sup>38</sup> Increasingly normal: Guns seen outside vote counting centers, AP (Nov. 7, 2020), <https://apnews.com/article/protests-vote-count-safety-concerns-653dc8f0787c9258524078548d518992>.

<sup>39</sup> ‘Get to TCF’: What really happened inside Detroit’s ballot counting center, Detroit Free Press (Nov. 6, 2020), <https://www.freep.com/story/news/local/michigan/detroit/2020/11/06/tcf-center-detroit-ballot-counting/6173577002/>.

<sup>40</sup> He Wanted to Count Every Vote in Philadelphia, His Party Had Other Ideas., N.Y. Times, (Dec. 16, 2020), <https://www.nytimes.com/2020/12/16/magazine/trump-election-philadelphia-republican.html>.

<sup>41</sup> Trump supporters gather for ‘Stop the Steal’ rally in Boise, Idaho Press (Nov. 7, 2020), [https://www.idahopress.com/news/local/trump-supporters-gather-for-stop-the-steal-rally-in-boise/article\\_2110cb2a-35c6-52ba-a753-336ad7b8bef3.html](https://www.idahopress.com/news/local/trump-supporters-gather-for-stop-the-steal-rally-in-boise/article_2110cb2a-35c6-52ba-a753-336ad7b8bef3.html); Trump supporters gather for ‘Stop the Steal’ rally in Colorado Springs, Fox21News (Nov. 7, 2020), <https://www.fox21news.com/top-stories/trump-supporters-gather-for-stop-the-steal-rally-in-colorado-springs/>; ‘Stop the steal’ protestors rally in Delray Beach to show support for Trump, CBS12 (Nov. 7, 2020), <https://cbs12.com/news/local/stop-the-steal-protestors-rally-in-delray-beach-to-show-support-for-trump>.

<sup>42</sup> *Id.*

<sup>43</sup> Rudy Giuliani Trump Campaign Philadelphia Press Conference at Four Seasons Total Landscaping, Rev Transcripts (Nov. 7, 2020), <https://www.rev.com/blog/transcripts/rudy-giuliani-trump-campaign-philadelphia-press-conference-november-7>.

<sup>44</sup> ‘Release the Kraken,’ a catchphrase for unfounded conspiracy theory, trends on Twitter, N.Y. Times (Nov. 17, 2020), <https://www.nytimes.com/2020/11/17/technology/release-the-kraken-a-catchphrase-for-unfounded-conspiracy-theory-trends-on-twitter.html>.

<sup>45</sup> ‘Release the Kraken’ is a reference to a line from the 1981 movie ‘The Clash of the Titans,’ featuring the mythical sea monster. *Id.*

switched votes. Each of these lawsuits was dismissed as baseless by the courts.<sup>46</sup> The district court in Michigan presciently observed that Powell's lawsuit there "seems to be less about achieving the relief Plaintiffs seek—as much of that relief is beyond the power of this Court—and more about the impact of their allegations on People's faith in the democratic process and their trust in our government."<sup>47</sup>

In reality, the anti-democracy movement never had a legal strategy in pursuing this long string of lawsuits. Instead, this was a public relations strategy from the start: Their only goal was to generate noise about election fraud, repeated in case after case and headline after headline, with the goal of creating the false public impression that the vote must have been affected by some level of corruption. In total, Trump and his allies filed more than 75 baseless lawsuits in State and Federal courts seeking to overturn election results in States where Trump lost.<sup>48</sup>

To be clear, we are not suggesting that post-election litigation is necessarily illegitimate—the ability to challenge election results in court is an important tool to ensure free and fair elections in our country. But these lawsuits were illegitimate because they were not based on any evidence or plausible allegations of any kind. Indeed, Trump's claims of election fraud were debunked by officials in his own administration. On November 23, 2020, then-Attorney General William Barr told Trump that, based on the Justice Department's investigation, the notion that voting machines were rigged in Biden's favor was "bullshit."<sup>49</sup> Additionally, on December 1, Attorney General Barr told Trump that the theory of voting machine fraud was "demonstrably crazy."<sup>50</sup> The same day, the former Attorney General announced publicly that the Justice Department had not found any wide-spread election fraud.<sup>51</sup>

Unsurprisingly, Trump's legal team lost all but one of their post-election lawsuits (the one suit in which they prevailed had nothing to do with fraud, nor could it have changed the outcome of the election).<sup>52</sup> Many of these cases failed for basic lack of standing. For example, Texas Attorney General Ken Paxton filed a lawsuit (in which Trump sought to intervene) in the U.S. Supreme Court, seeking to invalidate millions of votes cast in Georgia, Michigan, Pennsylvania, and Wisconsin.<sup>53</sup> The Supreme Court denied Paxton's request to initiate the case in a one-page order, holding that Texas had no standing to sue about "the manner in which another State conducts its election."<sup>54</sup>

Other courts dismissed similar lawsuits because there was no merit to the allegations of voter fraud.<sup>55</sup> For instance, Kelli Ward, a former Arizona State senator and the chair of the Arizona Republican Party, filed a lawsuit seeking to overturn Biden's narrow victory in Arizona. After hearing 2 days of testimony and oral arguments, the trial court found "no misconduct, no fraud and no effect on the outcome of the election."<sup>56</sup> The Arizona Supreme Court affirmed the decision, holding that

<sup>46</sup> Sidney Powell's 'Kraken' lawsuits failed again, as judges in Michigan, Georgia, Arizona, and Wisconsin have now dismissed her cases, Business Insider (Dec. 10, 2020), <https://www.businessinsider.com/sidney-powell-lawsuits-dismissed-michigan-georgia-arizona-wisconsin-2020-12>; Federal judges reject GOP effort to overturn swing State election results, Politico (Dec. 7, 2020), <https://www.politico.com/news/2020/12/07/judge-rejects-overturn-michigan-election-results-443411>.

<sup>47</sup> King et al. v. Whitmer et al., Case No. 20-cv-13134-LVP-RSW (E.D. Mich.), ECF No. 62, 35–36.

<sup>48</sup> Post-Election Litigation Analysis and Summaries, Stanford-MIT Healthy Elections Project (Mar. 10, 2021), [https://healthyelections.org/sites/default/files/2021-06/Post-Election Litigation Analysis.pdf](https://healthyelections.org/sites/default/files/2021-06/Post-Election%20Litigation%20Analysis.pdf).

<sup>49</sup> Bob Woodward & Robert Costa, Peril 166 (2021).

<sup>50</sup> Id. at 170.

<sup>51</sup> Disputing Trump, Barr says no wide-spread election fraud, AP (Dec. 1, 2020), <https://apnews.com/article/barr-no-widespread-election-fraud-b1f1488796c9a98c4b1a9061a6c7f49d>.

<sup>52</sup> Trump did not win two-thirds of election lawsuits 'where merits considered', Politifact (Feb. 9, 2021), <https://www.politifact.com/factchecks/2021/feb/09/blog-posting/trump-did-not-win-two-thirds-election-lawsuits-whe/>.

<sup>53</sup> Texas v. Pennsylvania, et al., 141 S. Ct. 1230 (2020); Trump asks Supreme Court to invalidate millions of votes in battleground states, CNN (Dec. 10, 2020), <https://www.cnn.com/2020/12/09/politics/trump-supreme-court/index.html>.

<sup>54</sup> Texas v. Pennsylvania, et al., 141 S. Ct. 1230 (2020).

<sup>55</sup> By the numbers: President Donald Trump's failed efforts to overturn the election, USA Today (Jan. 6, 2021) [www.usatoday.com/in-depth/news/politics/elections/2021/01/06/trumps-failed-efforts-overturn-election-numbers/4130307001/](https://www.usatoday.com/in-depth/news/politics/elections/2021/01/06/trumps-failed-efforts-overturn-election-numbers/4130307001/); Trump's judicial campaign to upend the 2020 election: A failure, but not a wipe-out, Brookings (Nov. 30, 2021), <https://www.brookings.edu/blog/fixgov/2021/11/30/trumps-judicial-campaign-to-upend-the-2020-election-a-failure-but-not-a-wipe-out/>.

<sup>56</sup> Ward v. Jackson, Case No. CV2020–015285 (Ariz. Super. Ct. Dec. 4, 2020); Judge rejects Arizona Republican Party's attempt to overturn election results; GOP vows appeal, AZCentral (Dec. 4, 2020), <https://www.azcentral.com/story/news/politics/elections/2020/12/04/arizona-judge-rejects-republican-effort-overturn-State-election-results/3821578001/>.



Ward “failed to present evidence of misconduct or illegal votes, let alone establish any degree of fraud or a sufficient error rate that would undermine the certainty of the election results,” and the U.S. Supreme Court declined to hear Ward’s case.<sup>57</sup> In another example, attorney Erick Kaardal filed suit on December 22, 2020, in Federal district court in Washington, DC on behalf of a group of voter alliances from several States seeking, among other things, to enjoin Vice President Mike Pence from counting the Electoral College votes for several States.<sup>58</sup> This last-ditch effort failed, and the judge found the allegations so baseless that she referred Kaardal to a disciplinary committee.<sup>59</sup> Another Federal district court judge in Michigan granted a motion for sanctions against Trump’s lawyers who brought an election fraud lawsuit there, including Sidney Powell. The court’s order, more than 100 pages in length, concluded that the “lawsuit represent[ed] a historic and profound abuse of judicial process.”<sup>60</sup> A Colorado State court judge—who also granted sanctions against the lawyers who brought a putative class action lawsuit alleging widespread voter fraud in the Presidential election—found the plaintiffs’ complaint to be “one enormous conspiracy theory.”<sup>61</sup>

*Third, the pressure campaign aimed at State officials.*—Trump and his allies also bombarded State officials in key swing States, pressuring them to alter election results in his favor. For example, in Arizona, in the weeks following the election, Republican chair of the Maricopa County Board of Supervisors, Clint Hickman, received calls from the White House, Rudy Giuliani, and Kelli Ward urging the Board to announce that it had discovered voting irregularities. Hickman refused these requests so that the Board’s work and related litigation could follow their proper course. As Hickman stated, “We were in litigation at all these points . . . Whatever needed to be said, needed to be said in a courtroom in front of a judge or a jury.”<sup>62</sup>

Similarly, Aaron Van Langevelde, a Republican member of the Michigan State Board of Canvassers, recounted that “some political leaders urged the Board to withhold certification [of electoral votes for Biden] based on unproven allegations of voter fraud, even though we had no legal authority to do so . . . We were asked to take power we didn’t have. What would have been the cost if we had done so? Constitutional chaos and the loss of our integrity.”<sup>63</sup> Van Langevelde refused, and Michigan certified its electoral votes for Biden.

Trump and his closest advisors also directly pressured State legislators. In mid-November 2020, days before Michigan certified its election results, Trump invited members of the Michigan State legislature to come to the White House, including the House speaker and Senate majority leader.<sup>64</sup> Around a week later, he invited several Pennsylvania lawmakers, including Doug Mastriano.<sup>65</sup> Attorneys Rudy Giuliani and Jenna Ellis visited members of several State legislatures on Trump’s behalf, including in Arizona,<sup>66</sup> Pennsylvania, and Michigan to make allegations of voter fraud and to pressure the lawmakers to take legislative action to overturn the

<sup>57</sup> *Ward v. Jackson*, Case No. CV–20–0343–AP/EL (Ariz. Sup. Ct. Dec. 8, 2020); *Ward v. Jackson, et al.*, No. 20–809 (U.S. Feb. 22, 2021) (denying petition for review), <https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/20-809.html>; *Election lawsuit from Arizona GOP chair Kelli Ward denied hearing by U.S. Supreme Court*, AZCentral (Feb. 22, 2021), <https://www.azcentral.com/story/news/politics/elections/2021/02/22/us-supreme-court-wont-hear-kelli-wards-lawsuit-arizona-election/4544983001/>.

<sup>58</sup> *Wisc. Voters Alliance v. Pence, et al.*, Case No. 1:20–cv–03791–JEB (D.D.C. Dec. 22, 2020), ECF No. 1.

<sup>59</sup> *Id.*, ECF No. 23.

<sup>60</sup> *King et al. v. Whitmer et al.*, Case No. 2:20–cv–1314–LVP–RSW (E.D. Mich. Aug. 25, 2021), ECF No. 172.

<sup>61</sup> *O’Rourke et al. v. Dominion Voting Systems et al.*, Case No. 1:20–cv–03747–NRN (D. Colo. Aug. 3, 2021), ECF No. 136.

<sup>62</sup> *Maricopa County supervisor on rejecting calls from Trump allies: ‘Whatever needed to be said, needed to be said in a courtroom’*, CNN (July 5, 2021), <https://www.cnn.com/2021/07/05/politics/clint-hickman-trump-giuliani-election-calls-maricopa-county-cnn-tv/index.html>.

<sup>63</sup> *Aaron Van Langevelde’s speech about the 2020 election: ‘We were asked to take power we didn’t have’*, Boston Globe (July 5, 2021), <https://www.bostonglobe.com/2021/07/05/nation/aaron-van-langevelde-speech-about-2020-election-we-were-asked-take-power-we-didnt-have/>.

<sup>64</sup> *Michigan lawmakers who met with Trump say they see nothing to change election outcome*, CNN (Nov. 21, 2020), <https://www.cnn.com/2020/11/20/politics/michigan-house-speaker-will-meet-trump/index.html>.

<sup>65</sup> *President Trump invited Pa. lawmakers to the White House. Then everyone went silent.*, PennLive (Nov. 27, 2020), <https://www.pennlive.com/news/2020/11/president-trump-invited-pa-lawmakers-to-the-white-house-then-everyone-went-silent.html>.

<sup>66</sup> *Arizona GOP lawmakers hold meeting on election outcome with Trump lawyer Rudy Giuliani*, AZCentral (Nov. 30, 2020), <https://www.azcentral.com/story/news/politics/elections/2020/11/30/republican-lawmakers-arizona-hold-meeting-rudy-giuliani/6468171002/>.

results.<sup>67</sup> Giuliani told the Pennsylvania contingent: “It’s the State [l]egislature that controls this process. It’s your power. It’s your responsibility. And I think you know, and you have to convince the rest of your members, Republican and Democrat, [that] they owe that to the people of their State, and they owe that to the people of the United States.”<sup>68</sup>

On January 2, 2021, Trump, joined by attorney Cleta Mitchell,<sup>69</sup> called Brad Raffensperger, the Republican Secretary of State of Georgia, pressuring him to “find” enough votes for a Trump victory. Trump pressed Raffensperger, asserting that “the ballots are corrupt. And you’re going to find that they are—which is totally illegal, it is more illegal for you than it is for [those who corrupted them] because, you know what they did and you’re not reporting it.

That’s a criminal—that’s a criminal offense.” Raffensperger did not give in to this pressure, answering instead: “Well, Mr. President, the challenge that you have is the data you have is wrong.”<sup>70</sup>

These instances are only a few examples. Trump and his team were contacting everyone they could in their attempt to overturn the election result. It is thanks to Hickman, Van Langevelde, Raffensperger, and other courageous local election officials around the country that this effort to not count eligible votes or to find additional votes for Trump that did not exist failed.

*Fourth, the fake electors.*—In an effort reportedly overseen by Rudy Giuliani and Trump campaign officials,<sup>71</sup> people who would have been electors from seven swing States had Trump won declared themselves the rightful electors on December 14, 2020. These sham electors “submitted false Electoral College certificates declaring Trump the winner of the Presidential election in Arizona, Georgia, Michigan, New Mexico, Nevada, Pennsylvania and Wisconsin.”<sup>72</sup>

Trump’s allies then used these sham electors to try to overturn the election. In Arizona, 30 Republican lawmakers, including Arizona State Representative Mark Finchem,<sup>73</sup> signed a joint resolution asking Congress to accept their State’s “alternate” electoral votes cast for Trump.<sup>74</sup> On January 6, several of Trump’s allies in the House and Senate used these fake certificates to delay and attempt to block the certification of Biden’s victory during Congress’s joint session.<sup>75</sup>

These fake electors were a necessary component of a scheme that centered on then-Vice President Pence and that was set to culminate on January 6 when he would throw out the legitimate electoral votes from those States and substitute in the fake ones—if he could be persuaded to do so. By law and custom, the Vice President plays only a ceremonial role in the electoral process. Under Article II of the Constitution and the Electoral Count Act of 1887, the Vice President opens the certificates of votes sent by the States’ Presidential electors and, after the votes have been counted, announces the outcome, officially certifying the result of the Presidential election.<sup>76</sup>

<sup>67</sup> *Here’s How The Trump Campaign Is Still Trying to Overturn Biden’s Victory*, Forbes (Dec. 1, 2020), <https://www.forbes.com/sites/alisondurkee/2020/12/01/heres-how-the-trump-campaign-is-still-trying-to-overturn-bidens-victory/?sh=132938f13561>.

<sup>68</sup> *Giuliani tells Pennsylvania legislators they can override popular vote to appoint pro-Trump electors*, Yahoo! News (Nov. 25, 2020), <https://news.yahoo.com/giuliani-tells-pennsylvania-legislators-they-can-override-popular-vote-to-appoint-pro-trump-electors-010121925.html>.

<sup>69</sup> *How a lawyer who aided Trump’s 2020 subversion efforts was named to a Federal election advisory board*, CNN (Nov. 18, 2021), <https://www.cnn.com/2021/11/18/politics/cleta-mitchell-election-assistance-commission-advisor/index.html>.

<sup>70</sup> *Transcript: President Trump’s Phone Call With Georgia Election Officials*, N.Y. Times (Jan. 3, 2021), <https://www.nytimes.com/2021/01/03/us/politics/trump-raffensperger-georgia-call-transcript.html>.

<sup>71</sup> *Trump campaign officials, led by Rudy Giuliani, oversaw fake electors plot in 7 States*, CNN (Jan. 20, 2022), <https://www.cnn.com/2022/01/20/politics/trump-campaign-officials-rudy-giuliani-fake-electors/index.html>.

<sup>72</sup> *EXPLAINER: How fake electors tried to throw result to Trump*, AP (Feb. 21, 2022), <https://apnews.com/article/capitol-siege-joe-biden-presidential-elections-election-2020-electoral-college-311f88768b65f7196f52a4757dc162e4>.

<sup>73</sup> *Donald Trump is now backing a QAnon conspiracy theorist to run Arizona’s elections*, CNN (Sept. 14, 2021), <https://www.cnn.com/2021/09/14/politics/donald-trump-mark-finchem-arizona/index.html>.

<sup>74</sup> *This should terrify the nation: the Trump ally seeking to run Arizona’s elections*, The Guardian (Feb. 21, 2022), <https://www.theguardian.com/us-news/2022/feb/21/mark-finchem-trump-arizona-elections-secretary-of-state>.

<sup>75</sup> *EXPLAINER: How fake electors tried to throw result to Trump*, AP (Feb. 21, 2022), <https://apnews.com/article/capitol-siege-joe-biden-presidential-elections-election-2020-electoral-college-311f88768b65f7196f52a4757dc162e4>.

<sup>76</sup> *Trump Says Pence Can Overturn His Loss in Congress. That’s Not How it Works*, N.Y. Times (Apr. 30, 2021), <https://www.nytimes.com/2021/01/05/us/politics/pence-trump-election.html>. The limited role of the Vice President in the certification of the electoral results was even re-

But Trump advisor and then-professor at Chapman University John Eastman concocted a plan spelled out in memoranda in late December 2020 and early January 2021 in which Pence would ignore his legal obligations at the joint session of Congress on January 6 and would refuse to recognize electoral votes from several States based on a claim that there were “multiple slates of electors” in those States (i.e., the valid electors and sham electors discussed earlier). Pence was either to declare an outright victory for Trump or to pass the Presidential election to the House of Representatives. Since each State delegation in the House would have one vote, the Republicans’ control of 26 State delegations was expected to ensure a majority for Trump.<sup>77</sup>

Eastman argued that these measures, though “BOLD,” were justified by the fact that “this Election was Stolen by a strategic Democrat plan to systematically flout existing election laws for partisan advantage,” and “we’re no longer playing by Queensbury Rules, therefore.”<sup>78</sup> Trump demanded that Pence take part in this scheme, essentially presenting Pence with a choice between violating the Constitution and being denounced by Trump, likely dashing any chance Pence had of ever becoming President himself with support from Trump’s base.<sup>79</sup> As this Select Committee well knows, in March of this year, a Federal judge weighed in on Eastman’s plot. In a civil case related to the Committee’s pursuit of documents from Eastman, the court found that Eastman and Trump most likely had committed felonies, including by obstructing the work of Congress in counting electoral votes and conspiring to defraud the United States.<sup>80</sup> The court called the scheme “a coup in search of a legal theory.”<sup>81</sup>

Around the same time that John Eastman was working on his January 6 legal strategy from outside the administration, Jeffrey Clark, the acting Assistant Attorney General for the Department of Justice’s Civil Division, was working on a legal strategy from within the Government. By late December, Clark told colleagues that he was aware of information implicating Chinese intelligence in using thermometers to change the election results, despite there being no evidence of such foreign interference.<sup>82</sup> On December 28, 2020, Clark emailed his superiors with a draft letter that urged Georgia officials to convene the State legislature in a special session to investigate “irregularities” in the election.<sup>83</sup> Fortunately, his superiors refused to send the letter.<sup>84</sup>

*Fifth, the disinformation campaign.*—The disinformation campaign related to the 2020 election started well before election day. The high volume of mail-in ballots was further exploited by anti-democracy forces, who fabricated stories suggesting the ballots were susceptible to fraud. For example, a single tweet in September contending that over 1,000 mail-in ballots had been found in a dumpster was picked up by a far-right news website, which ran an “exclusive” story on a purported scheme by the county to dump uncounted ballots. In fact, the photo shared in the tweet showed old envelopes from the 2018 election that were being recycled—and

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flected in testimony from Mr. Eastman himself following the 2000 Presidential election. He stated then that under the Electoral Count Act, Congress “counts” the votes and is “the ultimate judge” of disputes about the count and, in doing so, “is answerable to no one, not the Supreme Court of the United States, not the Supreme Court of Florida, in that judging, because that power is delegated to it by the Constitution.” 67 Florida Select Joint Committee on the Manner of Appointment of Presidential Electors, 2000, (Fl. 2000) (testimony of Professor John C. Eastman), <https://www.c-span.org/video/?160847-1/manner-appointment-presidential-electors>.

<sup>77</sup> READ: Trump lawyer’s memo on six-step plan for Pence to overturn the election, CNN (Sep. 21, 2021), <https://www.cnn.com/2021/09/21/politics/read-eastman-memo/index.html> (two-page memo).

<sup>78</sup> Id. (six-page memo).

<sup>79</sup> Pence Reached His Limit With Trump. *It Wasn’t Pretty*, N.Y. Times (Jan. 12, 2021), <https://www.nytimes.com/2021/01/12/us/politics/mike-pence-trump.html>.

<sup>80</sup> Eastman v. Thompson et al., Case No. 8:22-cv-00099-D0C-DFM (C.D. Cal. Mar. 28, 2022), ECF. No. 260.

<sup>81</sup> Id.

<sup>82</sup> How a Trump Environmental Lawyer Tried To Weaponize the Justice Department To Help the President, CNN (Aug. 6, 2021), <https://www.cnn.com/2021/08/06/politics/doj-clark-trump-election/index.html>.

<sup>83</sup> Trump Loyalist at DOJ Circulated Draft Georgia Letter with False Election Fraud Claims ABC News (Aug. 4, 2021), <https://www.cnn.com/2021/08/04/politics/draft-doj-georgia-letter-election-reversal/index.html>.

<sup>84</sup> How a Trump Environmental Lawyer Tried To Weaponize the Justice Department To Help the President, CNN (Aug. 6, 2021), <https://www.cnn.com/2021/08/06/politics/doj-clark-trump-election/index.html>.

ballots for the 2020 election cycle had not yet even been mailed. Within a day, the story had been shared by over 25,000 Twitter users, including Donald Trump Jr.<sup>85</sup>

Disinformation came from the top, too. Harvard researchers found that tweets or briefings or Fox News appearances by Trump himself drove most spikes in media coverage, which allowed him to “disseminate and reinforce his disinformation campaign” regarding election fraud.<sup>86</sup> This trend was exacerbated by the fact that different segments of the population held different beliefs about the election, driven in large part by the news outlets they tuned in to.<sup>87</sup> Thus, for example, in September 2020, 61 percent of Republicans who primarily watched Fox News or listened to talk radio for their news said fraud had been a “major problem when mail-in ballots are used,” whereas the percentage dropped to 44 percent for Republicans who also listened to other outlets, and to 23 percent for Republicans who did not rely on Fox News or talk radio.<sup>88</sup>

After the election, lawsuits, recounts, audits, and other actions by Trump and his allies served as fodder for a broader anti-democracy disinformation campaign to convince segments of the American public that Biden stole the election. Indeed, a central goal of this anti-democracy movement—since before 2016—has been to cast doubt on election results and give anti-democracy allies enough of an echo chamber so that if and when Trump lost the election, whether in 2016 or 2020, a substantial number of people would believe it was because of fraud.

This disinformation campaign has been supported by many of Trump’s allies. For example, MyPillow CEO Mike Lindell said that he spent \$25 million pushing voter fraud claims and that he would “spend everything [he has] and sell everything [he has] if that’s what it takes” to overturn Biden’s victory.<sup>89</sup> Steve Bannon, Trump’s former chief strategist, promoted the theory that Biden stole the election from Trump on his popular podcast, War Room.<sup>90</sup> Former Trump National Security Advisor and Retired Army General Michael Flynn went on a public speaking campaign to further sow doubts about the vote and urge States to conduct independent reviews of their election results.<sup>91</sup>

NewsGuard, an independent service that evaluates the credibility of media sources, investigated and found 166 websites in the United States and Europe spreading misinformation about voting, the ballot-counting process, and the results of the 2020 U.S. election.<sup>92</sup> The top myths spread included the theories that Democrats committed significant voter fraud using manipulated voting machines or mail-in ballots to change votes from Trump to Biden or to add extra votes for Biden; that undocumented immigrants unlawfully cast a significant number of absentee ballots (presumably heavily skewed toward Biden); and that poll workers manipulated ballots at counting centers when demonstrators were not allowed to oversee their counting process.<sup>93</sup> Trump’s supporters also took to social media to spread these lies, which Trump’s team then attempted to use as evidence of wide-spread voter fraud in their ultimately unsuccessful lawsuits.<sup>94</sup>

<sup>85</sup> As *U.S. election nears, researchers are following the trail of fake news*, Science.org (Oct. 26, 2020), <https://www.science.org/content/article/us-election-nears-researchers-are-following-trail-fake-news>.

<sup>86</sup> Id.

<sup>87</sup> *How Americans Navigated the News in 2020: A Tumultuous Year in Review*, Pew Research Center (Feb. 22, 2021), <https://www.pewresearch.org/journalism/2021/02/22/misinformation-and-competing-views-of-reality-abounded-throughout-2020/>.

<sup>88</sup> Id.

<sup>89</sup> *MyPillow CEO Mike Lindell told Insider he’s already spent \$25 million pushing voter-fraud claims and will spend everything he has on the cause*, Business Insider (Dec. 16, 2021), <https://www.businessinsider.com/my-pillow-mike-lindell-25-million-pushing-baseless-voter-fraud-claims-2021-12>.

<sup>90</sup> *Heeding Steve Bannon’s Call, Election Deniers Organize to Seize Control of the GOP—and Reshape America’s Elections*, ProPublica (Sept. 2, 2021), <https://www.propublica.org/article/heeding-steve-bannons-call-election-deniers-organize-to-seize-control-of-the-gop-and-reshape-america-elections>.

<sup>91</sup> *The military-intelligence veterans who helped lead Trump’s campaign of disinformation*, Reuters (Dec. 15, 2021), <https://www.reuters.com/investigates/special-report/usa-election-military/>.

<sup>92</sup> *2020 Election Misinformation Tracking Center, The Top Election Myths Spreading Online and the Red-Rated Websites Promoting Them: 166 and Counting*, NewsGuard (Jan. 20, 2021), <https://www.newsguardtech.com/special-reports/election-misinformation-tracker/>.

<sup>93</sup> Id.

<sup>94</sup> *Trump’s 5-year campaign of lies led to the Capitol attack. And we just let it happen.1 USA Today* (Jan. 13, 2021), <https://www.usatoday.com/story/opinion/2021/01/13/trump-disinformation-campaign-led-to-capitol-coup-attempt-column/6639309002/>.

*d. Preparation for and Participation in January 6*

Leading up to the joint session of Congress on January 6, the effort to overturn Biden's victory included public rallies in Washington, DC in support of Trump's election fraud theories.

In the early morning of December 12, 2020, ahead of the "Million MAGA March" planned for later that day, Roger Stone told a crowd of Trump supporters, "We will fight to the bitter end for an honest count of the 2020 election. Never give up, never quit, never surrender, and fight for America. We have an obligation to see that the rightful winner of the election is seated, and that is the greatest president since Abraham Lincoln, Donald J. Trump."<sup>95</sup> Michael Flynn also spoke at the December 12 rally, promising that Trump would remain in office<sup>96</sup> and likening the assembled protesters to the biblical figures who destroyed the walls of Jericho.<sup>97</sup> Lesser-known figures spoke too: Amanda Chase, a State senator in Virginia who has been described as "Trump in heels," echoed Trump's claim that Biden "cheated to win" and that she and many other Americans would "never accept these results."<sup>98</sup> She made drastic claims that Trump should declare martial law to conduct an audit of election results in her State.<sup>99</sup> That same month, incidentally, Sidney Powell, working with Pennsylvania State Senator Doug Mastriano, began funding an audit of the voting machines in rural Fulton County, Pennsylvania, a community of fewer than 15,000 people that had voted overwhelmingly for Trump. This audit served as a test case of the audit trend that would persist well into 2022 throughout several States.<sup>100</sup>

Members of the Proud Boys hate group were among the rally goers on December 12. After it ended, they prowled the streets of Washington, vandalizing a Black Lives Matter sign at a historic Black church, and confronting counter-protesters in altercations that left at least four people with stab wounds.<sup>101</sup>

Further rallies in D.C. on and immediately before January 6 were coordinated in part by Ali Alexander, who had created a limited liability company called Stop the Steal in 2020.<sup>102</sup> Alexander stated in internet broadcasts in December 2020 that he had organized his January 6 rally with U.S. Reps. Andy Biggs, Paul Gosar, and Mo Brooks,<sup>103</sup> and on December 7, 2020, Alexander posted a tweet stating that he was "willing to give [his] life for this fight," which the Arizona Republican Party (chaired by Kelli Ward) then retweeted with the addition, "He is. Are you?"<sup>104</sup> Trump

<sup>95</sup> 'Nothing is Over': Roger Stone Addresses Trump Supporters at Protest in Washington, Yahoo! News (Dec. 12, 2020), <https://www.yahoo.com/now/nothing-over-roger-stone-addresses-142409365.html>.

<sup>96</sup> Michael Flynn Says Trump Will Remain President in First Public Remarks Since Pardon, Newsweek (Dec. 12, 2020), <https://www.newsweek.com/michael-flynn-says-trump-will-remain-president-first-public-remarks-since-pardon-1554374>; see also Flynn delivers first public remarks since Trump pardon at DC rallies, The Hill (Dec. 12, 2020), <https://thehill.com/homenews/administration/529956-flynn-delivers-first-public-remarks-since-trump-pardon-at-dc-rallies>.

<sup>97</sup> US election: Pro-Trump rallies see scuffles in US cities, BBC News (Dec. 13, 2020), <https://www.bbc.co.uk/news/election-us-2020-55292610>; Trump riots: 65 days that led to chaos at the Capitol, BBC News (Jan. 10, 2021), <https://www.bbc.co.uk/news/world-us-canada-55592332>.

<sup>98</sup> Pro-Trump Martial-Law-Pushing Amanda Chase 'Getting Things in Order' to Run for Congress, Newsweek (Nov. 8, 2021), <https://www.newsweek.com/pro-trump-martial-law-pushing-amanda-chase-getting-things-order-run-congress-1647184>.

<sup>99</sup> Virginia gubernatorial candidate says, 'Trump should declare martial law', Fox News (Dec. 17, 2020), <https://www.foxnews.com/politics/virginia-amanda-chase-trump-martial-law>.

<sup>100</sup> Group led by 'Kraken' lawyer Sidney Powell hired the firm recounting AZ's election to probe election in Fulton Co., Pennsylvania Capital-Star (May 24, 2021), <https://www.penncapitalstar.com/government-politics/group-led-by-kraken-lawyer-sidney-powell-hired-the-firm-recounting-azs-election-to-probe-a-pa-election/>.

<sup>101</sup> Metro. African Methodist Episcopal Church v. Proud Boys Int'l, L.L.C. et al., Case No. 2021 CA 000004 B (D.C. Super. Ct.) (Complaint); Proud Boys leader arrested, accused of destroying D.C. Church's Black Lives Matter sign, NBC News (Jan. 4, 2021), <https://www.nbcnews.com/news/us-news/proud-boys-leader-arrested-after-allegedly-destroying-d-c-church-n1252789>; How a D.C. Bar Became the 'Haven' for the Proud Boys, Politico (Dec. 14, 2020), <https://www.politico.com/news/magazine/2020/12/14/harrys-bar-proud-boys-washington-dc-445015>.

<sup>102</sup> Business Entity Records—Stop the Steal, LLC, Alabama Secretary of State, <https://arc-sos.State.al.us/cgi/corpdetail.mbr/detail?corp=821150>; Trump allies helped plan, promote rally that led to Capitol attack, ABC News (Jan. 8, 2021), <https://abcnews.go.com/US/trump-allies-helped-plan-promote-rally-led-capitol/story?id=75119209>.

<sup>103</sup> 'Stop the Steal' organizer, now banned by Twitter, said three GOP lawmakers helped plan his D.C. rally, Wash. Post (Jan. 13, 2021), <https://www.washingtonpost.com/nation/2021/01/13/ali-alexander-capitol-biggs-gosar/>.

<sup>104</sup> 'Stop the Steal' Organizer in Hiding After Denying Blame for Riot, The Daily Beast (Jan. 11, 2021); Arizona GOP asks if followers willing to give their lives to 'stop the steal', The Hill (Dec. 8, 2020), <https://thehill.com/homenews/news/529195-arizona-gop-asks-if-followers-willing-to-give-their-life-to-stop-the-steal>.

tweeted from his own account on December 19, 2020: “Big protest in D.C. on January 6th. Be there, will be wild!”<sup>105</sup>

Many others in Trump’s orbit helped to organize and promote the anti-democracy events that led up to the Capitol attack on January 6—some also spoke at the events. During the week before, Senator Mastriano helped arrange bus rides for Trump supporters from Pennsylvania to DC.<sup>106</sup> Many of the key figures in the Stop the Steal movement spoke at a rally on January 5 at Freedom Plaza, emceed by Alexander. Flynn spoke at the event, declaring that “the Members of Congress, the members of the House of Representatives, the members of the U.S. Senate, those of you who are feeling weak tonight, those of you that don’t have the moral fiber in your body, get some tonight because tomorrow we the people are going to be here, and we want you to know we will not stand for a lie.”<sup>107</sup> Mike Lindell urged the crowd: “Tomorrow, you need to pray for our Vice President to look up to God and say, ‘I need to make a decision, Lord, and to make the right decision for our country.’”<sup>108</sup> Other speakers included Roger Stone and Mark Finchem.<sup>109</sup> Between speakers, Alexander led the crowd in chants of “stop the steal” and made declarations including, “[t]he rebellion starts now”<sup>110</sup> and “[w]e ready for battle!”<sup>111</sup>

Also on January 5, a group of around 100 State legislators sent a letter to Pence regarding the purported “illegalities present in the 2020 election” and asking him to “afford [the] nation more time to properly review” the election results by “postponing the January 6th opening and counting of the electoral votes for at least 10 days.”<sup>112</sup> Doug Mastriano, Mark Finchem, and Wisconsin State Assemblyman Timothy Ramthun signed the letter.<sup>113</sup> In an email to Vice President Pence’s counsel on January 6, Eastman conceded that this proposed 10-day postponement would constitute a “minor violation” of the law.<sup>114</sup>

Also on January 5, on his War Room podcast, Steve Bannon told his listeners, “All hell is going to break loose tomorrow.” He announced that, “it’s not going to happen like you think it’s going to happen. Okay, it’s going to be quite extraordinarily different. And all I can say is, strap in . . . You have made this happen and tomorrow it’s game day. So, strap in. Let’s get ready.”<sup>115</sup>

#### *e. The January 6 Assault on the Capitol and Democracy*

Then came January 6 itself, which began with Trump tweeting shortly after midnight echoing his and his supporters’ long-standing efforts to delegitimize the election results and to pressure Pence to violate his Constitutional obligations. “If Vice President @Mike—Pence comes through for us, we will win the Presidency. Many States want to decertify the mistake they made in certifying incorrect & even fraudulent numbers in a process NOT approved by their State Legislatures (which it must be). Mike can send it back!”<sup>116</sup> Later in the morning, Trump tweeted: “All

<sup>105</sup> Trump Twitter Archive, Donald J. Trump (@realDonaldTrump) (Dec. 19, 2020, 1:42 AM EST), <https://www.thetrumparchive.com>.

<sup>106</sup> Mastriano campaign spent thousands on buses ahead of D.C. insurrection, WHYY (Jan. 12, 2021), <https://www.whyy.org/articles/mastriano-campaign-spent-thousands-on-buses-ahead-of-d-c-insurrection>.

<sup>107</sup> Flynn, Papadopoulos address pro-Trump rally in DC, AP (Jan. 10, 2021), <https://www.youtube.com/watch?v=Lu5BJY-tG-c>; Longtime Trump advisers connected to groups behind rally that led to Capitol attack, ABC News (Jan. 15, 2021), <https://abcnews.go.com/US/longtime-trump-advisers-connected-groups-rally-led-capitol/story?id=75261028>.

<sup>108</sup> #StopTheSteal Coalition Pre-Rally in DC at Freedom Plaza, RSB TV, Periscope (Jan. 5, 2021), <https://www.pscp.tv/w/1RDx1POgyorxL>.

<sup>109</sup> Id.

<sup>110</sup> Id. at 43:30.

<sup>111</sup> Id. at 1:06:47.

<sup>112</sup> Letter to Vice President Michael R. Pence, Wisconsin Examiner (Jan. 5, 2021), <https://wisconsinexaminer.com/wp-content/uploads/2021/01/Letter-to-Pence-1.pdf>; These 15 State legislators asked Pence not to certify election results, Wisconsin Examiner (Jan. 14, 2021), <https://wisconsinexaminer.com/2021/01/14/these-15-State-legislators-asked-pence-not-to-certify-election-results/>.

<sup>113</sup> Letter to Vice President Michael R. Pence, Wisconsin Examiner (Jan. 5, 2021), <https://wisconsinexaminer.com/wp-content/uploads/2021/01/Letter-to-Pence-1.pdf>.

<sup>114</sup> Eastman v. Thompson et al., Case No. 8-22-cv-00099-DOC-DFM (C.D. Cal. Mar. 2, 2022), ECF No. 160–16.

<sup>115</sup> Ep. 631-Pandemic: One Day Away (W/ Maggie Vandenbergh, Jack Posobiec, Sean Parnell and Richard Baris) at 29:30, Steve Bannon’s War Room (Jan. 5, 2021), <https://listen.uaroom.org/e/ep-631-pandemic-one-day-away-w-maggie-vandenbergh-jack-posobiec-sean-pannell-and-richard-baris/>; How Trump allies stoked the flames ahead of Capitol riot, CNN (Jan. 18, 2021), <https://www.cnn.com/2021/01/18/politics/trump-bannon-stone-giuliani-capitol-riot-invs/index.html>.

<sup>116</sup> Trump Twitter Archive, Donald J. Trump (@realDonaldTrump) (Jan. 6, 2021, 1 o’clock AM EST), <https://www.thetrumparchive.com>.

Mike Pence has to do is send them back to the States, AND WE WIN. Do it Mike, this is a time for extreme courage!”<sup>117</sup>

Next came speeches to a crowd assembled at the Ellipse next to the White House. This time, the speakers included Texas Attorney General Ken Paxton, who declared that “[o]ne of the great things about the State of Texas is, we did not quit,” referring to his failed lawsuit to force other States to cast their electoral votes for Trump. “If you look at Georgia, they capitulated, they consented. We kept fighting in Texas.” Paxton went on, “What we have in President Trump is a fighter. And I think that’s why we’re all here.” He pledged, “We will not quit fighting. We’re Texans, we’re Americans, and the fight will go on.”<sup>118</sup>

Giuliani told the crowd that “[i]t is perfectly appropriate given the questionable constitutionality of the Election Counting Act [sic] of 1887 that the Vice President can cast it aside.” He asserted that, in the previous day’s U.S. Senate runoffs in Georgia and in the November Presidential election, voting machines had been programmed to fraudulently add votes, claiming that an “expert” had examined the machines and “has absolutely what he believes is conclusive proof that in the last 10 percent, 15 percent of the vote counted, the votes were deliberately changed.” Giuliani exhorted the crowd, “Let’s have trial by combat.”<sup>119</sup>

Eastman spoke on the Ellipse as well, repeating that “we know there was fraud, traditional fraud that occurred. We know that dead people voted.” He went on to describe the supposed voting machine fraud, concluding that “all we are demanding of Vice President Pence is this afternoon at 1 o’clock he let the legislators of the State look into this.”<sup>120</sup>

Trump then addressed the crowd, asserting that “we won this election, and we won it by a landslide.” He challenged the crowd, “if you don’t fight like hell, you’re not going to have a country anymore.”<sup>121</sup> And he addressed Pence, who was not present: “Mike Pence, I hope you’re going to stand up for the good of our Constitution and for the good of our country. And if you’re not, I’m going to be very disappointed in you.”<sup>122</sup> Pence issued a letter shortly before he was scheduled to preside over the joint session of Congress, stating that he lacked “unilateral authority to determine which electoral votes should be counted and which should not,” and indicating that he would abide by the Electoral Count Act.<sup>123</sup>

A large portion of the crowd at the Ellipse moved from there to Capitol Hill. Among them was Ron Hanks, who had recently been elected to the Colorado legislature. He said that he had come to DC “to get a read of the Nation’s Trump supporters . . . to get a sense of what may happen next to combat this stolen election.”<sup>124</sup> Altercations with the Capitol Police soon followed—and many of the ring-leaders of the anti-democracy movement were there to fan the flames. Finchem tweeted photographs of protestors gathered on the steps of the Capitol building.<sup>125</sup> Alexander led chants outside the Capitol of “victory or death.”<sup>126</sup> Mastriano claimed that he did not go beyond police lines and left the area “when it was apparent that this was no longer a peaceful protest,” but video footage shows him and his wife

<sup>117</sup> Trump Twitter Archive, Donald Trump (@realDonaldTrump) (Jan. 6, 2021, 8:17 AM EST), <https://www.thetrumparchive.com>.

<sup>118</sup> Ken Paxton at Trump’s D.C. Rally: ‘We will not quit fighting’, Houston Chronicle (Jan. 6, 2021), <https://www.houstonchronicle.com/politics/texas/article/Paxton-Trump-DC-rally-election-2020-georgia-15850073.php>.

<sup>119</sup> Rudy Giuliani Speech Transcript at Trump’s Washington, DC, Rally: Wants ‘Trial by Combat’, Rev Transcripts (Jan. 6, 2021), <https://www.rev.com/blog/transcripts/rudy-giuliani-speech-transcript-at-trumps-washington-d-c-rally-wants-trial-by-combat>.

<sup>120</sup> Id.

<sup>121</sup> Read Trump’s Jan. 6 Speech, A Key Part Of Impeachment Trial, NPR (Feb. 10, 2021), <https://www.npr.org/2021/02/10/966396848/read-trumps-jan-6-speech-a-key-part-of-impeachment-trial>.

<sup>122</sup> Id.

<sup>123</sup> Read Pence’s Full Letter Saying he Can’t Claim ‘Unilateral Authority’ to Reject Electoral Votes, AP (Jan. 6, 2021), <https://www.pbs.org/newshour/politics/read-pences-full-letter-saying-he-cant-claim-unilateral-authority-to-reject-electoral-votes>.

<sup>124</sup> The Trump Rally (Jan. 7, 2021), <https://drive.google.com/file/d/1jyoRaj7kI0V4X-0jAB3Z0xaJjOc2uk8e/view> (copy on file with States United); see also Colorado House Democrat calls for removal of GOP colleague who was at Jan. 6 rally, Denver Post (Feb. 16, 2021), <https://www.denverpost.com/2021/02/16/ron-hanks-colorado-house-removal-capitol-riot/>.

<sup>125</sup> Seven Arizonan Republican legislators face calls to ban them from the House and Senate, KNXV (Jan. 8, 2021), <https://www.abc15.com/news/state/seven-arizonan-republican-legislators-face-calls-to-ban-them-from-the-house-and-senate>.

<sup>126</sup> Baked Alaska, the QAnon Shaman . . . who led the storming of the Capitol?, The Guardian (Jan. 7, 2021), <https://www.theguardian.com/us-news/2021/jan/07/baked-alaska-the-qanon-shaman-who-led-the-storming-of-the-capitol>.

passing through a breached police barricade.<sup>127</sup> At 2:11 p.m., rioters breached a window at the Capitol building.<sup>128</sup> As you know all too well, the mob entered the Capitol, and Members of Congress and the Vice President were forced to evacuate. Ward tweeted, “Congress is adjourned. Send the elector choice back to the legislatures.”<sup>129</sup> Trump tweeted that Pence lacked “the courage to do what should have been done to protect our Country and our Constitution,”<sup>130</sup> but eventually, through heroic efforts, the Capitol Police and the National Guard restored order at the Capitol, and the vote count resumed.

Soon after, a new disinformation campaign was launched to cast the riot as either a protest that got out of hand or a false-flag operation by leftists to embarrass Trump. Hanks wrote that the crowd at the Capitol was not the same as at Trump’s rally: “[v]ery few people at the Ellipse were wearing masks. Those at the Capitol were wearing bandanas, like the Antifa bandits of the summertime riots.”<sup>131</sup> Congressmembers Matt Gaetz, Paul Gosar, and Mo Brooks all spouted the conspiracy theory that Antifa had attacked the Capitol.<sup>132</sup> Giuliani appeared on Bannon’s podcast on January 9, asserting that Democrats had stormed the building.<sup>133</sup> The same claims were echoed by Finchem,<sup>134</sup> Ward,<sup>135</sup> Paxton,<sup>136</sup> and Lindell.<sup>137</sup>

For those who were involved in the attempted coup on January 6, the fight did not end on that day. Soon after, Amanda Chase gave a floor speech in Virginia defending those who stormed the Capitol, calling them “patriots who love their country and do not want to see our great republic turned into a socialist country.”<sup>138</sup> On January 10, Alexander appeared in an internet video, promising: “We are going to punish the traitors,” referring to Republican politicians who endorsed Biden’s electoral victory. “The Lord says vengeance is his, and I pray I am the tool to stab these motherf—ers.”<sup>139</sup> This continuing rhetoric was a cause for concern for House Minority Leader Kevin McCarthy. In newly released audio from a private call from January 10, 2021, McCarthy urged Republican leaders to monitor lawmakers’ public statements and alert him to potentially dangerous messages: “I do not want to look

<sup>127</sup> Pa. GOP lawmaker Doug Mastriano says he left the Capitol area before the riot. *New videos say otherwise*, The Philadelphia Inquirer (May 25, 2021), <https://www.inquirer.com/news/doug-mastriano-capitol-riot-pennsylvania-video-20210525.html>; *Videos Contradict State Lawmaker’s Claim He Left Capitol While It Was ‘Still Peaceful’*, HuffPost (May 25, 2021), [https://www.huffpost.com/entry/doug-mastriano-capitol-riot\\_n\\_60ac5e99e4b019ef10de09c7](https://www.huffpost.com/entry/doug-mastriano-capitol-riot_n_60ac5e99e4b019ef10de09c7).

<sup>128</sup> *How the rioters who stormed the Capitol came dangerously close to Pence*, Wash. Post (Jan. 15, 2021), [https://www.washingtonpost.com/politics/pence-rioters-capitol-attack/2021/01/15/ab62e434-567c-11eb-a08b-f1381ef3d207\\_story.html](https://www.washingtonpost.com/politics/pence-rioters-capitol-attack/2021/01/15/ab62e434-567c-11eb-a08b-f1381ef3d207_story.html); *Inside the Capitol Riot: An Exclusive Video Investigation*, N.Y. Times (Sept. 23, 2021), <https://www.nytimes.com/2021/06/30/us/jan-6-capitol-attack-takeaways.html>.

<sup>129</sup> Kelli Ward (@kelliwardaz), Twitter (Jan. 6, 2021), <https://twitter.com/kelliwardaz/status/1346916956801179649>.

<sup>130</sup> Trump Twitter Archive, Donald Trump (@realDonaldTrump) (Jan. 6, 2021, 2:24 PM EST), <https://www.thetrumparchive.com>.

<sup>131</sup> *The Trump Rally* (Jan. 7, 2021), <https://drive.google.com/file/d/1jyoRaj7kI0V4X-QjAB3Z0xaJjOc2uk8e/view> (copy on file with States United).

<sup>132</sup> *Antifa Didn’t Storm The Capitol. Just Ask The Rioters.*, NPR (Mar. 2, 2021), <https://www.npr.org/2021/03/02/972564176/antifa-didnt-storm-the-capitol-just-ask-the-rioters>.

<sup>133</sup> *YouTube bans Steve Bannon’s podcast channel hours after Rudy Giuliani appeared on an episode and blamed the Capitol siege on Democrats* Business Insider (Jan. 9, 2021), <https://www.businessinsider.com/youtube-bans-steve-bannon-war-room-podcast-rudy-giuliani-comments-2021-1>; *Google bans two Steve Bannon YouTube channels after Trump lawyer Giuliani claims stolen election*, The Mercury News (Jan. 8, 2021), <https://www.mercurynews.com/2021/01/08/googles-youtube-hosts-video-of-trump-lawyer-giuliani-claiming-stolen-election-two-days-after-deadly-capitol-insurrection/>.

<sup>134</sup> *Among some in Arizona GOP, siege of the US Capitol was everyone’s fault except Trump*, AZCentral (Jan. 7, 2021), <https://www.azcentral.com/story/news/politics/arizona/2021/01/07/these-arizona-republicans-say-trump-isnt-to-blame-for-capitol-riot/6580354002/>.

<sup>135</sup> *As Nation’s Capitol swirled into chaos, Arizona played a central role*, AZCentral (Jan. 6, 2021), <https://www.azcentral.com/story/news/politics/arizona/2021/01/06/arizonas-role-us-capitol-riot-paul-gosar-election-certification/6571625002/>.

<sup>136</sup> *Ken Paxton told Trump supporters to ‘keep fighting.’ When they breached the Capitol, he falsely claimed it wasn’t them.*, The Texas Tribune (Jan. 7, 2021), <https://www.texastribune.org/2021/01/07/texas-ken-paxton-trump-supporters/>.

<sup>137</sup> *How Trump’s pied pipers rallied a faithful mob to the Capitol*, Reuters (Jan. 11, 2021), <https://www.reuters.com/article/us-usa-trump-protest-organizers-insight/how-trumps-pied-pipers-rallied-a-faithful-mob-to-the-capitol-idUSKBN29G2UP>.

<sup>138</sup> *Virginia Senator Who Defended Capitol Rioters Faces Censure Effort* NBC4 Washington (Jan. 23, 2021), <https://www.nbcwashington.com/news/local/virginia-senator-who-defended-capitol-rioters-faces-censure-effort/2549545/>.

<sup>139</sup> *Id.*



back and think we caused something, or we missed something, and someone got hurt. I don't want to play politics with any of that."<sup>140</sup>

## II. THE ANTI-DEMOCRACY MOVEMENT CONTINUES

As we explained, the terrible events of January 6 were not the start of this anti-democracy movement, nor were they the end. The central tenet of the “Stop the Steal” movement—the “Big Lie” that the 2020 Presidential election was stolen from Trump—has only spread further. Today, it is a tool for certain anti-democracy activists, whom we at States United call “election deniers,” to take steps to ensure that former President Trump and his advisors, lawyers, and like-minded State and local officials will be able to control the outcomes of future elections across the country regardless of whether they or their preferred candidates actually win those elections.<sup>141</sup>

That's where we now find ourselves. Many of the same people who preemptively cast doubt on the 2016 and 2020 elections, and who were involved in efforts to take over the Government by force to change the result of the 2020 Presidential election, have now developed a playbook for future elections: First, they change the rules of elections; then, they change the referees—the people who will enforce those rules. This process is accompanied by many of the same anti-democracy tactics that were employed prior to January 6, such as pressure aimed at State officials—including challenging them in primary elections—and sustained disinformation campaigns. The objective is to change the results in the future—and some even bizarrely believe that the results of 2020 can still be changed. The purported justification for all of that is the “Big Lie,” that the 2020 election was stolen from Trump through voter fraud.

### a. Changing the Rules

We first turn to the efforts to change the rules of elections. In the aftermath of the 2020 Presidential election, a wave of legislative proposals to revise election laws swept across the country State by State.<sup>142</sup> The Voting Rights Lab identified more than 2,000 bills that seek to alter in one way or another the way elections are administered.<sup>143</sup>

Of course, as we said earlier with respect to litigation, nothing is inherently problematic about introducing bills relating to election laws. But many of these bills involve efforts to alter basic principles about how elections are administered and aspire to put highly partisan State legislators in charge of basic decisions about our elections—with the ostensible goal being to rig election outcomes and give a political party the ability to nullify the votes of the people.

Traditionally, the executive branch and local election officials have run our voting systems, but these recent efforts would give State legislators the power to disrupt election administration and the reporting of results—powers beyond those they had in 2020 or indeed throughout much of the last century. Had such bills been law in 2020, they would have significantly added to the turmoil that surrounded the election, and they would have raised the alarming prospect that the outcome of the Presidential election could be decided contrary to the people's votes. When the losing party overrides the will of the voters, our system of Government collapses.

Our organization, States United, published a report, *Democracy Crisis in the Making*, on precisely this issue. In April 2021,<sup>144</sup> we identified 148 bills threatening to interfere with election administration across 36 States. In May 2022, States United published an updated report that found the trend of introducing election subversion bills has accelerated. As of April 8, 2022, legislatures in 33 States have introduced 229 bills—175 introduced in this calendar year alone and 54 rolled over from the

<sup>140</sup> McCarthy Feared G.O.P. Lawmakers Put ‘People in Jeopardy’ After Jan. 6 New York Times (April 26, 2022), <https://www.nytimes.com/2022/04/26/us/politics/mccarthy-republican-lawmakers.html?partner=slack&smid=sl-share>.

<sup>141</sup> The clear and present danger of Trump's enduring ‘Big Lie’, NPR (Dec. 23, 2021), <https://www.npr.org/2021/12/23/1065277246/trump-big-lie-jan-6-election>.

<sup>142</sup> A Democracy Crisis in the Making, States United Democracy Center (Apr. 22, 2021), <https://statesuniteddemocracy.org/wp-content/uploads/2021/04/FINAL-Democracy-Crisis-Report-April-21.pdf>.

<sup>143</sup> Legislative Tracker, Voting Rights Lab (last checked Apr. 12, 2022), <https://track-votingrightslab.org/>.

<sup>144</sup> Democracy Crisis in the Making: How State Legislatures are Politicizing, Criminalizing, and Interfering with Elections, States United Democracy Center, <https://statesuniteddemocracy.org/resources/democracy-crisis-in-the-making-how-state-legislatures-are-politicizing-criminalizing-and-interfering-with-elections/>.

last calendar year. In total, 50 election subversion bills have been enacted or adopted (32 last year and 18 thus far this year).<sup>145</sup> A few are worth highlighting.

Buried among the more publicized provisions of Georgia's S.B. 202,<sup>146</sup> enacted in March 2021, are changes to Georgia's election laws that fundamentally alter the balance of power between the executive and legislative branches. For example, the law changes the appointments power and restricts the State Election Board's ability to respond to emergencies. In particular, the law replaces the directly-elected secretary of state as chair of the State Election Board with a "chairperson elected by the General Assembly"<sup>147</sup> and it empowers the State Election Board—now chaired by a legislative appointee—to investigate and replace local election officials whose competence has been, as the law puts it, "call[ed] into question."<sup>148</sup>

Context is important here. In light of the Secretary of State Brad Raffensperger's resisting calls from State legislators and others (including Trump) to overturn the election results, this is a clear effort by partisan legislators to wrest control of the State's elections into their own hands.

Before this year, the State Election Board was chaired by the secretary of state and, in addition, was comprised of two legislative appointees and one representative of each political party. Under the new law, the chair is selected by a simple majority vote of the Georgia Senate and House. While the chair must be "nonpartisan," this merely means that they must not have engaged in partisan politics—for example, by participating in a partisan campaign—for the previous 2 years. Additionally, the chair can be removed and replaced by the legislature at any time by a majority vote, giving the legislature effective control of the board.

Further, those legislative appointees now have the power to replace local election officials with their own hand-picked substitutes. In Georgia, elections are administered by "superintendents"—usually bipartisan or nonpartisan county election boards. Under the new law, the State Election Board can replace superintendents if it finds that there has been "demonstrated nonfeasance, malfeasance, or gross negligence in the administration of . . . elections" over a 2-year period. This vague standard raises the specter of election manipulation by partisan actors.

Indeed, in an extreme case, the legislature—acting through the Board—might be able to abuse this power to overturn the results of an election—for example, by replacing a superintendent to prevent the certification of election results.

Kansas's H.B. 2332,<sup>149</sup> which was passed by overriding the Governor's veto in May 2021,<sup>150</sup> charts a different path for inserting the legislature into crucial election functions and depriving the Governor or secretary of state of vital powers. This law strips the Governor of any authority to modify election laws or procedures. The secretary of state is now barred from settling any litigation regarding elections without the consent of the legislative coordinating council. And Kansas State courts now lack the authority to modify State election laws except under powers that may be granted to them by the State's constitution. As a result, in the event of an emergency, such as a flood that renders polling places inaccessible, the Governor will be unable to act quickly to modify election procedures. Likewise, the secretary of state will have their hands tied in court, and effectively every lawsuit regarding voting in Kansas—potentially everything from the certification of election results to how voter registration is conducted—will be overseen by a group of partisan political actors.

Last, in Arkansas, the State legislature enacted a new measure in 2021, H.B. 1803,<sup>151</sup> which expands the power and investigative scope of the State's partisan State Board of Election Commissioners to oversee or even undo election results. The seven-member board is chaired by the secretary of state, and the remaining six members of the board are appointed by the State's Governor, legislative leaders, and

<sup>145</sup> *Democracy Crisis in the Making: How State Legislatures are Politicizing, Criminalizing, and Interfering with Elections*, States United Democracy Center, [https://statesuniteddemocracy.org/wp-content/uploads/2022/05/DCITM\\_2022.pdf](https://statesuniteddemocracy.org/wp-content/uploads/2022/05/DCITM_2022.pdf).

<sup>146</sup> S.B. 202, Georgia 2021–2022 Regular Session, <https://www.legis.ga.gov/api/legislation/document/20212022/201498>; *A Democracy Crisis in the Making*, States United Democracy Center (Apr. 22, 2021), <https://statesuniteddemocracy.org/wp-content/uploads/2021/04/FINAL-Democracy-Crisis-Report-April-21.pdf>.

<sup>147</sup> S.B. 202, Georgia 2021–2022 Regular Session, <https://www.legis.ga.gov/api/legislation/document/20212022/201498>.

<sup>148</sup> *Id.*

<sup>149</sup> *Democracy Crisis Report Update: New Data and Trends Show the Warning Signs Have Intensified in the Last Two Months*, States United Democracy Center, Project Democracy, and Law Forward (June 10, 2021), [https://statesuniteddemocracy.org/wp-content/uploads/2021/06/Democracy-Crisis-Part-II\\_June-10\\_Final\\_v7.pdf](https://statesuniteddemocracy.org/wp-content/uploads/2021/06/Democracy-Crisis-Part-II_June-10_Final_v7.pdf).

<sup>150</sup> HB 2332, Kansas 2021–2022 Legislative Sessions (Apr. 12, 2022), <http://www.kslegislature.org/li/b2021–22/measures/hb2332/>.

<sup>151</sup> *Id.*

the heads of its Republican and Democratic parties. Under previous law, the board was empowered to hear and resolve complaints about violations of voter registration laws as well as general election complaints, but it was considered to be “toothless.” Now, the board may hear a broader range of complaints including about how county boards tabulated ballots or certified results, as well as their “election processes” or the conduct of elections in general. If the board finds a complaint valid, it is entitled to impose fines and “institute corrective actions.”<sup>152</sup> Since the remedy is not further specified in the law, critics have worried that the broad language could enable the board to overturn elections.<sup>153</sup>

Since Georgia is a State that has been characterized by some extremely close elections, we know that laws restricting voting rights there can directly affect the outcomes of critical State-wide elections that have an impact on the whole Nation. Although the latter two laws we discussed were not enacted in States with as narrow election margins, they illustrate a disturbing trend of anti-democracy forces developing and workshopping laws to change the election system to suit their ends, which they can then import into other States with more closely contested elections. In this way, certain solidly Republican States have acted as, as *The New York Times* called them, “laboratories for legislation.”<sup>154</sup>

It is also notable that many of the same individuals who were involved in anti-democracy efforts before the 2020 Presidential election and in the run-up to and during the January 6 insurrection are now leading these efforts to change the rules of elections. Again, we want to be clear: These efforts to change election rules are premised on baseless accusations and lies, not verifiable evidence or even plausible allegations of fraud.<sup>155</sup>

Last November, Doug Mastriano announced legislation to repeal Act 77,<sup>156</sup> the law that had established no-excuse mail voting in Pennsylvania,<sup>157</sup> even though he voted for its passage in 2019.<sup>158</sup> He has also supported challenges to Act 77 in Pennsylvania’s courts. When the Pennsylvania Commonwealth Court struck down Act 77 in January of this year,<sup>159</sup> Mastriano said that he “welcome[s] the end of ‘no-excuse’ mail-in voting in Pennsylvania.”<sup>160</sup> Pennsylvania’s Supreme Court later stayed the lower court’s decision,<sup>161</sup> allowing Act 77 to remain in effect while the U.S. Supreme Court weighs the appeal.<sup>162</sup> Mastriano also initiated a so-called “forensic investigation” of the 2020 Presidential election,<sup>163</sup> though he was later stymied in those ef-

<sup>152</sup>Are State legislators really seeking power to overrule the voters?, Politifact (July 14, 2021), <https://www.politifact.com/article/2021/jul/14/are-state-legislators-really-seeking-power-overrul/>.

<sup>153</sup>Id.

<sup>154</sup>In Bid for Control of Elections, Trump Loyalists Face Few Obstacles, N.Y. Times (Dec. 11, 2021), <https://www.nytimes.com/2021/12/11/us/politics/trust-in-elections-trump-democracy.html>.

<sup>155</sup>10 Voter Fraud Lies Debunked, Brennan Center for Justice (May 27, 2020), <https://www.brennancenter.org/our-work/research-reports/10-voter-fraud-lies-debunked>; Factbox: Trump’s False claims debunked: the 2020 election and Jan. 6 riot, Reuters (Jan. 6, 2022), <https://www.reuters.com/world/us/trumps-false-claims-debunked-2020-election-jan-6-riot-2022-01-06/>.

<sup>156</sup>Op-Ed: Election Reform—Let the People Decide, Senator Doug Mastriano (May 4, 2021), <https://senatormastriano.com/2021/05/04/op-ed-election-reform-let-the-people-decide/>; Pennsylvania court strikes down no-excuse mail voting law CBS News (Jan. 28, 2022), <https://www.cbsnews.com/news/mail-in-voting-ballots-struck-down-pennsylvania/>.

<sup>157</sup>Pennsylvania court strikes down no-excuse mail voting law, CBS News (Jan. 28, 2022), <https://www.cbsnews.com/news/mail-in-voting-ballots-struck-down-pennsylvania/>.

<sup>158</sup>Details for Senate RCS No. 311, Pennsylvania State Senate (Oct. 29, 2019), [https://www.legis.state.pa.us/CFDOCS/Legis/RC/Public/-rc\\_view\\_action2.cfm?sess\\_yr=2019&sess\\_ind=0&rc\\_body=S&rc\\_nbr=311](https://www.legis.state.pa.us/CFDOCS/Legis/RC/Public/-rc_view_action2.cfm?sess_yr=2019&sess_ind=0&rc_body=S&rc_nbr=311).

<sup>159</sup>Pennsylvania court strikes down no-excuse mail voting law CBS News (Jan. 28, 2022), <https://www.cbsnews.com/news/mail-in-voting-ballots-struck-down-pennsylvania/>.

<sup>160</sup>Pennsylvania court strikes down State’s no-excuse absentee/mail-in voting law, Ballotpedia News (Feb. 2, 2022), <https://news.ballotpedia.org/2022/02/02/pennsylvania-court-strikes-down-states-no-excuse-absentee-mail-in-voting-law/>.

<sup>161</sup>McLinko et al. v. Commonwealth of Pennsylvania et al., Case Nos. J–18A–2022, J–18B–2022, J–18C–2022, J–18D–2022, J–18E–2022 (Penn. S. Ct. Mar. 1, 2022).

<sup>162</sup>Pa. Supreme Court weighs future of State’s popular mail voting law, The Philadelphia Inquirer (Mar. 8, 2022), <https://www.inquirer.com/politics/pennsylvania/spl/pennsylvania-mail-voting-supreme-court-hearing-20220308.html&outputType=app-web-view>.

<sup>163</sup>Op-Ed: Why I am initiating a forensic investigation of the 2020 General Election and 2021 Primary, Senator Doug Mastriano (July 7, 2021), <https://senatormastriano.com/2021/07/07/op-ed-why-i-am-initiating-a-forensic-investigation-of-the-2020-general-election-and-2021-primary/>.

forts by fellow Republican and Pennsylvania Senate President Pro Tempore Jake Corman.<sup>164</sup>

John Eastman, who wrote the now-infamous memoranda about Pence's purported ability to overturn the 2020 Presidential election on January 6, penned a new memorandum regarding the supposed right of Wisconsin's State legislature to overturn the State's Presidential election results.<sup>165</sup> In a memorandum to Wisconsin State Assemblyman Timothy Ramthun, Eastman argued that "State legislatures . . . do have the authority to de-certify the election of Presidential electors in their State upon a definitive showing of illegality and/or fraud in the conduct of the election sufficient to have altered the results of the election."<sup>166</sup> Eastman concluded that the State legislature could then "appoint electors as it sees fit."<sup>167</sup>

Arizona Republican Chairwoman Kelli Ward has been a vocal supporter of legislative and judicial efforts in Arizona to limit voting rights.<sup>168</sup> She has also publicly shamed Republican legislators who did not support so-called "election integrity" bills, tweeting: "Keep your eyes open AFTER the legislative session to see what rewards Boyer and Ugenti-Rita get from the swamp for killing #ElectionIntegrity bills in the Senate . . .".<sup>169</sup>

Arizona State Representative Mark Finchem recently introduced HCR 2033, a concurrent resolution "calling for the elections of Maricopa, Pima, and Yuma counties to be set aside based on clear and convincing evidence that the elections in those counties were irredeemably compromised."<sup>170</sup> Arizona also recently enacted a new law requiring proof of citizenship to vote in Presidential elections,<sup>171</sup> which voting rights groups estimate could disenfranchise tens of thousands of people who are entitled to vote but lack the required documentation.<sup>172</sup>

In Texas, Attorney General Paxton, who previously stated that Trump "would've lost the election" in Texas had his office not convinced the State Supreme Court to prevent Harris County from sending applications for mail-in ballots to all registered voters,<sup>173</sup> formed a "2021 Texas Election Integrity Unit" in an effort to "devote agency lawyers, investigators, support staff, and resources to ensuring this local election season . . . is run transparently and securely."<sup>174</sup> It was "specially tasked with overseeing the 2021 election season."<sup>175</sup> Paxton also sought to indict a county clerk

<sup>164</sup> *Here's why State Sen. Doug Mastriano says Pa. election audit 'stopped for the time being'* GoErie (Aug. 20, 2021), <https://www.goerie.com/story/news/2021/08/20/pa-election-audit-mastriano-trump/8198996002/>; see also *Frontrunning Pa. Governor candidate still focused on unproven election fraud claims*, PennLive (Mar. 19, 2022), <https://www.pennlive.com/news/2022/03/leading-candidate-for-pa-governor-amplifies-false-unproven-stolen-election-narrative.html>.

<sup>165</sup> *Wisconsin Is Ground Zero for the MAGA Effort to Steal the Next Election*, Rolling Stone (Feb. 6, 2022), <https://www.rollingstone.com/politics/politics-features/trump-wisconsin-eastman-election-decertification-1295191/>.

<sup>166</sup> John Eastman Letter to Representative Timothy Ramthun (Dec. 30, 2021), <https://bloximages.chicago2.vip.townnews.com/madison.com/content/tncms/assets/v3/editorial/7/dc/7dca5f5e-6d6d-5527-8c82-cfe4dbf52236/6201a1a5e6d38.pdf>.

<sup>167</sup> *Id.*

<sup>168</sup> *Arizona Republicans Seek to Stop Early Voting with Supreme Court Lawsuit*, Phoenix New Times (Mar. 2, 2022), <https://www.phoenixnewtimes.com/news/arizona-republican-yvonne-cahill-sues-katie-hobbs-in-lawsuit-that-could-end-early-voting-13135090>; Kelli Ward (@kelliwardaz), Twitter (Feb. 28, 2022), <https://twitter.com/kelliwardaz/status/1498466919908737028>.

<sup>169</sup> Kelli Ward (@kelliwardaz), Twitter (Mar. 14, 2022) <https://twitter.com/kelliwardaz/status/1503509426224869376>; *Arizona State senators block a dozen GOP-sponsored election reform bills*, Courthouse News Service (Mar. 14, 2022), <https://www.courthousenews.com/arizona-state-senators-block-a-dozen-gop-sponsored-election-reform-bills/>.

<sup>170</sup> News Release, *Representative Finchem Introduces Resolution to Set Aside & Decertify Three 2020 County Elections*, Arizona House of Representatives, Representative Mark Finchem (Feb. 7, 2022) <https://www.azleg.gov/press/house/55LEG/2R/220207FINCHEMHCR2033.pdf>.

<sup>171</sup> H.B. 2492, *Arizona Fifty-fifth Legislature—Second Regular Session*, <https://apps.azleg.gov/BillStatus/BillOverview/76970>.

<sup>172</sup> *Arizona Passes Proof-of-Citizenship Law for Voting In Presidential Elections*, N.Y. Times (Mar. 31, 2022), <https://www.nytimes.com/2022/03/31/us/politics/arizona-voting-bill-citizenship.html>.

<sup>173</sup> *Texas AG Says Trump Would've 'Lost' State If It Hadn't Blocked Mail-In Ballots Applications Being Sent Out*, Newsweek (June 5, 2021), <https://www.newsweek.com/texas-ag-says-trump-wouldve-lost-state-if-it-hadnt-blocked-mail-ballots-applications-being-1597909>.

<sup>174</sup> *AG Paxton Announces Formation of 2021 Texas Election Integrity Unit*, Press Release (Oct. 18, 2021), <https://www.texasattorneygeneral.gov/news/releases/ag-paxton-announces-formation-2021-texas-election-integrity-unit>.

<sup>175</sup> *Id.*

based on her administration of the 2020 Presidential election, though the case was rejected by a grand jury.<sup>176</sup>

Colorado HB 1204 was introduced by Representative Ron Hanks to overhaul the State's election system. The bill did not make it out of committee, but would have eliminated early voting, both in person and by mail, unless the voter had requested an absentee ballot based on a "valid" excuse.<sup>177</sup> Otherwise, all ballots would need to be cast in person on Election Day, and then counted by hand within 24 hours after the polls have closed.<sup>178</sup> Further, the bill would have withdrawn Colorado from the Electronic Registration Information Center (ERIC), a non-profit organization of States that helps to "improve the accuracy of America's voter rolls and increase access to voter registration for all eligible citizens."<sup>179</sup>

Virginia State Senator Amanda Chase previously said she was working with Sidney Powell "to expose what I and others believe is extensive fraud here in Virginia,"<sup>180</sup> and has now introduced SB 605, a bill that would require a "forensic audit" of the results of the 2020 election and create a process for future citizen-initiated audits.<sup>181</sup>

Attorney Erick Kaardal appeared in Wisconsin conducting on-camera interviews of people at nursing homes and questioning the mental capacity of elderly people who voted in 2020.<sup>182</sup> Attorney Cleta Mitchell, who helped Trump pressure Georgia Secretary of State Brad Raffensperger to overturn the election results there, was quietly appointed to the board of advisors for the U.S. Election Assistance Commission, which was created after the controversial 2000 Presidential election recount in Florida "to serve as a clearinghouse for election administration information and provide voluntary guidance to States."<sup>183</sup> Additionally, Michael Flynn and Roger Stone just recently announced an initiative to train election volunteers in eight closely contested States to "expose shenanigans at the ballot box."<sup>184</sup>

#### *b. Replacing the Refs*

As we mentioned earlier, the strategy since January 6 has been two-fold: First, change the rules governing elections, and then, change the people who enforce those rules. When elections are run by anti-democracy operatives, then those same people can control the outcomes. Since 2020, election deniers have lined up to oversee voting at all levels of the system, from State-wide officials to precinct-level poll workers.

We are tracking the trend of election deniers running for State-wide office as part of a research project Replacing the Refs.<sup>185</sup> To qualify as an election denier, a candidate must have falsely claimed that Trump won the 2020 election, spread lies about the legitimacy of the 2020 Presidential election, called for a "forensic audit" of the 2020 Presidential election after the results were certified or otherwise finalized, promoted conspiracies about the 2020 Presidential election, and/or taken actions to undermine the integrity of the 2020 Presidential election, including, for ex-

<sup>176</sup> *Amid Texas GOP's effort to question electoral integrity, attorney general tried to indict Travis County elections chief*, The Texas Tribune (Dec. 20, 2021), <https://www.texastribune.org/2021/12/20/texas-ken-paxton-travis-county-elections/>.

<sup>177</sup> HB22-1204 Election Systems, Colorado General Assembly, <https://leg.colorado.gov/bills/hb22-1204>.

<sup>178</sup> *Id.*

<sup>179</sup> *Ensuring the Efficiency And Integrity of America's Voter Rolls, Election Registration Information Center*, <https://ericstates.org/>.

<sup>180</sup> *GOP gubernatorial candidate in Virginia calls on Trump to declare martial law*, The Hill (Dec. 15, 2020), <https://thehill.com/homenews/campaign/530291-gop-gubernatorial-candidate-in-virginia-calls-on-trump-to-declare-martial>.

<sup>181</sup> SB 605 Conduct of election, election results, post-election forensic audits, Virginia's Legislative Information System, <https://lis.virginia.gov/cgi-bin/legp604.exe?221+sum+SB605>.

<sup>182</sup> *In conspiracy-laden 'circus' Gableman attacks Wisconsin election administration*, Wisconsin Examiner (Mar. 2, 2022), <https://wisconsinexaminer.com/2022/03/02/in-conspiracy-laden-circus-gableman-attacks-wisconsin-election-administration/>.

<sup>183</sup> *How a lawyer who aided Trump's 2020 subversion efforts was named to a Federal election advisory board* CNN (Nov. 18, 2021), <https://www.cnn.com/2021/11/18/politics/cleta-mitchell-election-assistance-commission-advisor/index.html>.

<sup>184</sup> *Patrick Byrne, Gen. Flynn, Roger Stone Announce New Election Integrity Initiative In Orlando*, PJ Media (Feb. 26, 2022), <https://pjmedia.com/news-and-politics/jeff-reynolds/2022/02/26/patrick-byrne-gen-flynn-roger-stone-announce-new-election-integrity-initiative-in-orlando-1562049>; *General Flynn, Patrick Byrne, Roger Stone, Joe Flynn Will Unveil Bi-Partisan Election Integrity Initiative at CPAC*, PR Newswire (Feb. 23, 2022), <https://www.prnewswire.com/news-releases/general-flynn-patrick-byrne-roger-stone-joe-flynn-will-unveil-bi-partisan-election-integrity-initiative-at-cpac-301488663.html>.

<sup>185</sup> *Replacing the Refs*, States United Democracy Center, <https://statesuniteddemocracy.org/resources/replacingtherefs/>.

ample, participating in a Stop the Steal event.<sup>186</sup> We have found that, as of April 4, 2022, at least 53 election deniers are running for Governor in 25 States, at least 13 election deniers are running for attorney general in 13 States, and at least 23 election deniers are running for secretary of state in 19 States.<sup>187</sup> Put another way, an election denier is running in 2 out of 3 races for Governor and secretary of state, and 1 out of 3 races for attorney general. In addition, 9 States have election deniers running in all 3 State-wide races.

It's not just top-line State-wide roles that are important to election administration. In fact, local races—such as judges and inspectors of elections—can be just as impactful.<sup>188</sup> People in these types of positions oversee polling locations and safeguard the counting of votes. Although partisan judges or inspectors might only affect a small number of votes per precinct, their cumulative effect could tilt State-wide elections.<sup>189</sup>

Election deniers are focusing on these positions, too. Last year, in two of Pennsylvania's 67 counties—York and Lancaster—almost a dozen candidates for judge or inspector of elections were election deniers.<sup>190</sup> One election denier—who ran to be judge of elections in his precinct—organized buses traveling to Washington, DC for the January 6 “Stop the Steal” rally.<sup>191</sup> He was viewed as being so outside the mainstream that a fellow Republican urged the leader of the local Democratic committee to find someone to run against him.<sup>192</sup> He won anyway.<sup>193</sup>

In addition, many of the election deniers who participated in the events of January 6 in some respect are now following up on those efforts by running for positions that would allow them to administer elections. One is Doug Mastriano, the Pennsylvania State senator who quickly jumped on the anti-democracy bandwagon. He is now the Republican nominee in the race for Governor of Pennsylvania, at the encouragement of Trump.<sup>194</sup>

Arizona State Representative Mark Finchem is running to be Arizona's secretary of state—and he has Trump's endorsement.<sup>195</sup> It is not surprising, then, that he has made the Big Lie a central tenet of his campaign.<sup>196</sup> So too has Tim Ramthun, who is running for Governor of Wisconsin and states on his campaign website that he “will call for an independent full forensic physical cyber audit for the November 2022 election, beginning with my race regardless of the outcome.”<sup>197</sup> He has Mike Lindell's endorsement.<sup>198</sup> In Texas, Ken Paxton won the Republican run-off in his

<sup>186</sup> *Id.*

<sup>187</sup> *Id.*

<sup>188</sup> *The Desperate Scramble to Stop an Insider Election Threat* The Atlantic (Nov. 14, 2021), <https://www.theatlantic.com/politics/archive/2021/11/pennsylvania-election-threat/620684/>.

<sup>189</sup> *Id.*

<sup>190</sup> *Id.*

<sup>191</sup> *Id.*; *How January 6 changed what it means to be a Republican in one Pennsylvania county*, CNN (Jan. 5, 2022), <https://www.cnn.com/2022/01/05/politics/jan-6-capitol-riot-lancaster-republicans/index.html>.

<sup>192</sup> *How January 6 changed what it means to be a Republican in one Pennsylvania county*, CNN (Jan. 5, 2022), <https://www.cnn.com/2022/01/05/politics/jan-6-capitol-riot-lancaster-republicans/index.html>.

<sup>193</sup> *In Bid for Control of Elections, Trump Loyalists Face Few Obstacles*, N.Y. Times (Dec. 11, 2021), <https://www.nytimes.com/2021/12/11/us/politics/trump-in-elections-trump-democracy.html>.

<sup>194</sup> *Frontrunning Pa. Governor candidate still focused on unproven election fraud claims*, Penn Live Patriot-News (Mar. 20, 2022), <https://www.pennlive.com/news/2022/03/leading-candidate-for-pa-governor-amplifies-false-unproven-stolen-election-narrative.html> *How a Trump ally rode Trump's election fraud lie to political prominence*, Politico (June 16, 2021), <https://www.politico.com/news/2021/06/17/doug-mastriano-trump-pennsylvania-494796>; *Doug Mastriano has won the GOP primary for Pa. Governor after a campaign fueled by election lies*, The Philadelphia Inquirer (May 18, 2022), <https://www.inquirer.com/politics/election/doug-mastriano-wins-pa-republican-primary-governor-20220517.html>.

<sup>195</sup> *Mark Finchem, election conspiracy promoter, gets Trump's endorsement for secretary of state*, AZCentral (Sept. 13, 2021), <https://www.azcentral.com/story/news/politics/elections/2021/09/13/trump-endorses-mark-finchem-arizona-secretary-state-election/8322839002/>.

<sup>196</sup> *Trump followers zero in on secretary of state campaigns*, Politico (Jan. 24, 2022), <https://www.politico.com/news/2022/01/24/trump-secretary-of-state-campaigns-00000473>.

<sup>197</sup> *Wisconsin Is Ground Zero for the MAGA Effort to Steal the Next Election*, Rolling Stone (Feb. 6, 2022), <https://www.rollingstone.com/politics/politics-features/trump-wisconsin-eastman-election-decertification-1295191/>; *Ramthun for Governor*, <https://www.ramthunforgovernor.com/>.

<sup>198</sup> *Wisconsin Is Ground Zero for the MAGA Effort to Steal the Next Election*, Rolling Stone (Feb. 6, 2022), <https://www.rollingstone.com/politics/politics-features/trump-wisconsin-eastman-election-decertification-1295191/>.

bid for another term as Attorney General and is now the party's nominee.<sup>199</sup> Ron Hanks is running to be a United States Senator from Colorado.<sup>200</sup>

The Big Lie has also been fully incorporated into the dogma of the QAnon movement, which, in turn, has promoted the candidacies of election deniers. *The Guardian* reported earlier this year that QAnon “played a critical role in steering far-right candidates toward the secretary of state races as part of what appears to be a calculated Nation-wide assault on American democracy.”<sup>201</sup> Jim Marchant, a candidate for Nevada secretary of State, revealed last year that the idea for him to run was not his own; he was approached by a QAnon figure known as Juan O Savin,<sup>202</sup> who is involved in a QAnon “project” to “help[] candidates across the country.”<sup>203</sup> In addition, Ron Watkins, who is widely believed to be “Q” (or one of possibly two “Qs”)<sup>204</sup> wrote a baseless affidavit used in 2020 election litigation stating that voting machines used software “designed . . . to facilitate digital ballot stuffing via simple vote result manipulation.”<sup>205</sup> Sidney Powell filed the affidavit in her Georgia lawsuit targeting the State’s use of Dominion Voting Systems’ voting machines.<sup>206</sup> Watkins has since announced he is running for Congress in Arizona as his “next step” in getting “really involved in election integrity issues.”<sup>207</sup>

Our studies have concluded that election deniers are attempting to take steps to be able to control administration of future elections across the United States. Our findings also illustrate a related, and important, point: Many of the efforts to replace existing officials with election deniers do not involve replacing a Democrat with a Republican. Rather, we find that it is often non-election-denying Republicans who face challenges from election deniers.<sup>208</sup> Especially in light of the many Republicans who have stood up to the Big Lie and supported the rule of law, the attempted takeover of our election system is not a partisan issue; it is a question of one’s commitment to democracy and the rule of law as opposed to embracing the anti-democracy notion that voters should not determine the outcome of elections.

### c. Anti-Democracy Pressures Today

Where candidates who publicly embrace the Big Lie have seen their political fortunes soar, others who refuse to accede to this anti-democracy movement have faced substantial backlash, including from members of their own party. As the Associated Press aptly explained, signing onto the Big Lie is a “litmus test,” and former President Trump and his supporters will “shame—and potentially remove—members of their party” who do not pass the test.<sup>209</sup> For example, U.S. Senator Mitt Romney was booed by a crowd, even as he reminded them that he was once the Republican

<sup>199</sup> *Texas Attorney General Ken Paxton easily defeats George P. Bush in GOP primary runoff*, The Texas Tribune (May 24, 2022), <https://www.texastribune.org/2022/05/24/texas-attorney-general-runoff-results-ken-paxton-george-p-bush/>.

<sup>200</sup> *Controversial Republican State Rep. Ron Hanks files to run for U.S. Senate in 2022*, Colorado Sun (Oct. 1, 2021), <https://coloradosun.com/2021/10/01/ron-hanks-announces-senate-bid/>.

<sup>201</sup> *We have a project: QAnon followers eye swing State election official races*, The Guardian (Feb. 11, 2022), <https://www.theguardian.com/us-news/2022/feb/11/qanon-donald-trump-big-lie-elections-swing-states>.

<sup>202</sup> *Id.*

<sup>203</sup> *Id.*

<sup>204</sup> *Who is Behind QAnon? Linguistic Department Finds Fingerprints*, N.Y. Times (Feb. 19, 2022), <https://www.nytimes.com/2022/02/19/technology/qanon-messages-authors.html>.

<sup>205</sup> *Former Trump Lawyer Sidney Powell Cites QAnon Promoter in Voter Fraud Lawsuit*, Daily Beast (Dec. 1, 2020), <https://www.thedailybeast.com/former-trump-lawyer-sidney-powell-cites-qanon-backer-ron-watkins-in-voter-fraud-lawsuit-affidavit>; *To boost voter-fraud claims, Trump advocate Sidney Powell turns to unusual source: The longtime operator of QAnon’s Internet home*, Wash. Post (Dec. 1, 2020), <https://www.washingtonpost.com/technology/2020/12/01/powell-cites-qanon-watkins/>.

<sup>206</sup> *To boost voter-fraud claims, Trump advocate Sidney Powell turns to unusual source: The longtime operator of QAnon’s Internet home*, Wash. Post (Dec. 1, 2020), <https://www.washingtonpost.com/technology/2020/12/01/powell-cites-qanon-watkins/>; *Setting the Record Straight: Facts & Rumors, Dominion Voting* (Apr. 12, 2022), <https://www.dominionvoting.com/strs-georgia/>; *Pearson v. Kemp*, No. 1:20-cv-04809-TCB (N.D. Ga.).

<sup>207</sup> *QAnon figure says he’s running for Congress to secure elections*, Arizona Capitol Times (Oct. 18, 2021), <https://azcapitoltimes.com/news/2021/10/18/qanon-figure-says-hes-running-for-congress-to-fix-elections/>.

<sup>208</sup> *Secretary of State Races in 2022*, States United Democracy Center (Mar. 1, 2022), [https://statesuniteddemocracy.org/wp-content/uploads/2022/03/sos-deniers-2.html#3\\_Secretary\\_of\\_State\\_Races\\_in\\_2022\\_\(example:\\_Georgia\\_\)](https://statesuniteddemocracy.org/wp-content/uploads/2022/03/sos-deniers-2.html#3_Secretary_of_State_Races_in_2022_(example:_Georgia_)).

<sup>209</sup> *Whose ‘Big Lie’? Trump’s proclamation a new GOP litmus test*, AP (May 3, 2021), <https://apnews.com/article/politics-campaign-2016-election-2020-government-and-politics-f3428d42d4d3fdfe59c560b6fadbbc70>.

Party's nominee for President. In Texas, the only anti-Trump Republican in a special election for a Congressional seat finished in ninth place.<sup>210</sup>

In perhaps the clearest sign of the split within the Republican Party between pro- and anti-democracy factions, Republicans who refuse to embrace the Big Lie have been censured. At the Georgia Republican Party's 2021 convention, Raffensperger was censured for "dereliction of his constitutional duty," and the censure called for him to "commit [himself] to securing Georgia's elections."<sup>211</sup> In Arizona, the Republican Party censured Cindy McCain, former Senator Jeff Flake, and Governor Doug Ducey, all of whom refused to support the effort to overturn the 2020 Presidential election.<sup>212</sup> As you are well aware, just a couple of months ago, the Republican National Committee censured Reps. Liz Cheney and Adam Kinzinger, the only two House Republicans who agreed to join this Select Committee.<sup>213</sup> The censure resolution famously denounced this committee for supposedly persecuting "ordinary citizens engaged in legitimate political discourse."<sup>214</sup>

Meanwhile, threats of violence against election officials have exploded in number, against both Democrats and Republicans. According to Reuters, "[s]ome of the most severe threats" were those directed at Republican officials in Georgia,<sup>215</sup> including Raffensperger. Threats were also made against Philadelphia's two Democratic city commissioners, Lisa Deeley and Omar Sabir.<sup>216</sup> Philadelphia's third city commissioner, Republican Al Schmidt, who tweeted at Trump on the morning after the 2020 election, also received multiple death threats. They were so serious that police officers were stationed outside his home and his family received a security detail.<sup>217</sup> He has since resigned.<sup>218</sup>

A survey commissioned by the Brennan Center for Justice found that "one in three election officials feel unsafe because of their job," and "nearly one in five listed threats to their lives as a job-related concern."<sup>219</sup> Reuters conducted a separate investigation and found "hundreds of incidents of intimidation and harassment of election workers and officials Nation-wide."<sup>220</sup>

The threats have been directed not only at public officials, but also voters. According to a recently filed lawsuit, an organization called "United States Election Integrity Plan" is "deploying its agents, who are sometimes armed, to go door-to-door around Colorado to intimidate voters."<sup>221</sup> The individual defendants, who are founders of USEIP, are employed and paid by Mike Lindell,<sup>222</sup> and USEIP thanks Lindell in its organizing manual.<sup>223</sup> One of the defendants appeared on Steve Bannon's

<sup>210</sup> *Id.*

<sup>211</sup> *Kemp booed and Raffensperger censured at Georgia GOP convention*, CNN Politics (June 5, 2021), <https://www.cnn.com/2021/06/05/politics/brad-raffensperger-brian-kemp-georgia-republican-convention/index.html>.

<sup>212</sup> *Arizona Republicans censure Cindy McCain, GOP Governor*, AP (Jan. 23, 2021), <https://apnews.com/article/donald-trump-race-and-ethnicity-censures-arizona-lawsuits-a50165b9d5c4468d5d1bb434c5e9c80a>; *Arizona GOP censures Flake, Ducey and McCain, signaling a fractured party in a key swing state*, CNN Politics (Jan. 24, 2021), <https://www.cnn.com/2021/01/23/politics/arizona-gop-censure-mccain-flake-ducey/index.html>.

<sup>213</sup> *RNC votes to censure Reps. Liz Cheney and Adam Kinzinger over work with Jan. 6 panel*, NPR (Feb. 4, 2022), <https://www.npr.org/2022/02/04/1078316505/rnc-censure-liz-cheney-adam-kinzinger-jan-6-committee-capitol>.

<sup>214</sup> *Id.*

<sup>215</sup> *U.S. election workers get little help from law enforcement as terror threats mount* Reuters (Sept. 8, 2021), <https://www.reuters.com/investigates/special-report/usa-election-threats-law-enforcement/>.

<sup>216</sup> *Id.*

<sup>217</sup> *Id.*

<sup>218</sup> *Al Schmidt resigns as city commissioner to lead Committee of Seventy PhillyVoice* (Nov. 30, 2021), <https://www.phillyvoice.com/al-schmidt-philadelphia-city-commissioners-committee-of-seventy/>.

<sup>219</sup> *Election Officials Under Attack*, Brennan Center for Justice (June 16, 2021), <https://www.brennancenter.org/our-work/policy-solutions/election-officials-under-attack>.

<sup>220</sup> *U.S. election workers get little help from law enforcement as terror threats mount*, Reuters (Sept. 8, 2021), <https://www.reuters.com/investigates/special-report/usa-election-threats-law-enforcement/>.

<sup>221</sup> *Colorado Montana Wyoming State Area Conference of the NAACP, et al. v. United States Election Integrity Plan, et al.*, Case No. 1:22-cv-00581 (D. Colo. Mar. 9, 2022), ECF No. 1; *Colorado election deniers sued by civil rights groups over door-to-door "intimidation,"* The Durango Herald (Mar. 15, 2022), <https://www.durangoherald.com/articles/colorado-election-deniers-sued-by-civil-rights-groups-over-door-to-door-intimidation/>.

<sup>222</sup> *Id.*

<sup>223</sup> *Lawsuit seeks to stop group's door-to-door voter fraud hunt*, AP (Mar. 9, 2022), <https://apnews.com/article/voting-rights-2022-midterm-elections-biden-steve-bannon-colorado-63beba2f69226f53ed305457c47a83ea>.



podcast to discuss the organization, which he said would “help coordinate the election integrity efforts of citizens across the country.”<sup>224</sup>

According to Ipsos research, 24 percent of Americans agree that “sometimes it is okay to engage in violence to protect American democracy.”<sup>225</sup> And as we described, the dissemination of the Big Lie by election deniers and the menacing threats directed at government officials and election workers have contributed substantially to this trend toward intimidation, threats, and violence.

Perhaps most alarming, it is not as if dissemination of the Big Lie is relegated to shadowy corners of the internet. To the contrary, in fact, it has infiltrated major news media outlets. For example, Fox Nation, Fox News Channel’s streaming service, presented a three-part “documentary” series about the January 6 insurrection produced by Fox host Tucker Carlson.<sup>226</sup> PolitiFact found that the series “attempted to rewrite the events of the insurrection” by “float[ing] several conspiracies . . . including that the violence was instigated by left-wing activists, that it may have been an FBI-led false flag, and that the government is using it to strip millions of Trump voters of their Constitutional rights.”<sup>227</sup> These theories have been repeatedly and definitively debunked.<sup>228</sup> Chris Wallace, a former Fox News host, recently confirmed that he had complained to Fox News management about the series and that the network’s treatment of the broadcast contributed to his departure.<sup>229</sup> These events demonstrate the critical role that the press and news media must play in combatting false and baseless statements by anti-democracy activists—and the concomitant risks when they are co-opted as part of the anti-democracy movement.

Last, election deniers’ rampant spreading of anti-democracy disinformation has shaped the opinions of the American public to an almost unimaginable extent. According to Ipsos, around a third of Americans now “believe there was fraudulent voting in the [2020] election,” and a fifth “say they are unsure—meaning under half of respondents unequivocally state[d] there was no, or very little, fraudulent voting in the election.”<sup>230</sup> That is consistent with a CNN poll<sup>231</sup> showing that 36 percent of Americans do not believe President Biden won the election, as well as an NPR/PBS NewsHour/Marist poll<sup>232</sup> finding that 75 percent of Republicans believe there were “real cases of fraud that changed the results.” Similarly, a November 2021 Monmouth University survey found that “one-third of the public continues to believe voter fraud determined the outcome of the 2020 election, a finding that has been consistent over the past year.”<sup>233</sup>

Because such a substantial number of Americans don’t believe the results of the 2020 Presidential election, election deniers can point to those Americans’ lack of confidence as justification for new, restrictive voting laws. As Wisconsin State Assembly Speaker Robin Vos put it, “we have to improve the process when literally hundreds of thousands of people in Wisconsin doubt that the election was held in a way that didn’t have substantial charges of fraud.”<sup>234</sup> Left unsaid was that it was

<sup>224</sup> *Id.*

<sup>225</sup> *Seven in ten Americans say the country is in crisis, at risk of failing* Ipsos (Jan. 3, 2022), <https://www.ipsos.com/en-us/seven-ten-americans-say-country-crisis-risk-failing>.

<sup>226</sup> *Tucker Carlson Is Stirring Up Hatred of America* The Atlantic (Nov. 2, 2021), <https://www.theatlantic.com/ideas/archive/2021/11/patriot-purge-tucker-carlson-documentary/620589/>.

<sup>227</sup> *Tucker Carlson’s ‘Patriot Purge’ film on Jan. 6 is full of falsehoods, conspiracy theories*, PolitiFact (Nov. 5, 2021), <https://www.politifact.com/article/2021/nov/05/tucker-carlsons-patriot-purge-film-jan-6-full-fals/>.

<sup>228</sup> *No, there is no evidence that the F.B.I. organized the Jan. 6 capitol riot*, N.Y. Times (June 18, 2021), <https://www.nytimes.com/2021/06/18/technology/misinformation-unindicted-co-conspirators-capitol-riot.html>; *How Pro-Trump Forces Pushed a Lie About Antifa at the Capitol Riot*, N.Y. Times (Mar. 1, 2021), <https://www.nytimes.com/2021/03/01/us/politics/antifa-conspiracy-capitol-riot.html>; *Tucker Carlson’s ‘Patriot Purge’ film on Jan. 6 is full of falsehoods, conspiracy theories*, PolitiFact (Nov. 5, 2021), <https://www.politifact.com/article/2021/nov/05/tucker-carlsons-patriot-purge-film-jan-6-full-fals/>.

<sup>229</sup> *Chris Wallace Says Life at Fox News Became ‘Unsustainable’*, N.Y. Times (Mar. 27, 2022), <https://www.nytimes.com/2022/03/27/business/media/chris-wallace-cnn-fox-news.html>.

<sup>230</sup> *Seven in ten Americans say the country is in crisis, at risk of failing*, Ipsos (Jan. 3, 2022), <https://www.ipsos.com/en-us/seven-ten-americans-say-country-crisis-risk-failing>.

<sup>231</sup> CNN (Sept. 15, 2021), <http://cdn.cnn.com/cnn/2021/images/09/15/rel5e.-elections.pdf>.

<sup>232</sup> *NPR/PBS NewsHour/Marist National Poll: Trust in Elections, Threat to Democracy*, November 2021, MaristPoll (Nov. 1, 2021), <https://maristpoll.marist.edu/polls/npr-pbs-newshour-marist-national-poll-trust-in-elections-threat-to-democracy-biden-approval-november-2021/>.

<sup>233</sup> *National: Doubt in American System Increases* Monmouth University (Nov. 15, 2021), [https://www.monmouth.edu/polling-institute/documents/monmouthpoll\\_us\\_111521.pdf](https://www.monmouth.edu/polling-institute/documents/monmouthpoll_us_111521.pdf).

<sup>234</sup> *‘A Perpetual Motion Machine’: How Disinformation Drives Voting Laws*, N.Y. Times (May 13, 2021), <https://www.nytimes.com/2021/05/13/us/politics/disinformation-voting-laws.html>.

election deniers' concerted efforts—first to sow doubt in the election before it happened, then to lead efforts to reject the certification of the election on January 6, and finally to continue to spread disinformation about the election after the fact—that caused such “doubts.”

### III. CONCLUSION

We close by thanking you for the opportunity to provide this important context around the January 6 attack on the Capitol. We hope that our statement helps show that the attack was no isolated incident. For years before, former President Trump and his allies had sown doubt about the integrity of American elections. After the American people cast their ballots in 2020, those same people, along with additional allies, pursued a multi-pronged strategy to overturn an electoral result that they did not like. The strategy involved baseless litigation, menacing protests, targeted political pressure, wide-spread disinformation, and corrupt legislative schemes.

Those efforts failed because certain public servants, devoted to the rule of law, stood up against the attempted coup and defended our republican form of government. Judges dismissed lawsuits that threatened our system of free elections. State and local officials—Republicans and Democrats—spoke truth to power and, despite threats against their lives and families, pushed ahead to count every vote. And a Vice President, under tremendous pressure to deliver victory to his own political tribe, refused to seize a power that was not his. As he wrote on January 6, “my oath to support and defend the Constitution constrains me from claiming unilateral authority to determine which electoral votes should be counted and which should not.”<sup>235</sup> Our democracy was saved by the courage of people who made the choice to do right, in positions where those choices made all the difference.

But the anti-democracy movement has adapted and is acting today to ensure that people with courage and devotion to the rule of law are not in positions to safeguard elections in the coming years. The same group that stoked fears of voter fraud in 2020, that sought to undermine the electoral process and overturn the results, that incited the mob that stormed the Capitol—Trump, Giuliani, Powell, Eastman, Stone, Bannon, Lindell, Flynn, Paxton, Ward, Finchem, Mastriano, Ramthun, Alexander, Watkins, Chase, Kaardal, Hanks, and many more in Statehouses and on county boards or city councils across the country—are working now to change the game and replace the refs. They are working to ensure that 2020 was the last time that they will ever be denied control over Government in this country—regardless of what the voters say.

In short, the movement against American democracy did not begin or end on January 6, 2021. It is strong and growing today, and it requires a profound and powerful response. Thank you.

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<sup>235</sup>Read Pence's Full Letter Saying he Can't Claim 'Unilateral Authority' to Reject Electoral Votes, AP (Jan. 6, 2021), <https://www.pbs.org/newshour/politics/read-pences-full-letter-saying-he-cant-claim-unilateral-authority-to-reject-electoral-votes>.

JOINT STATEMENT OF RENÉE DiRESTA, TECHNICAL RESEARCH MANAGER, STANFORD  
INTERNET OBSERVATORY, STANFORD UNIVERSITY AND KATE STARBIRD, PhD, ASSO-  
CIATE PROFESSOR, HUMAN-CENTERED DESIGN & ENGINEERING, AND CO-FOUNDER  
AND DIRECTOR, CENTER FOR AN INFORMED PUBLIC, UNIVERSITY OF WASHINGTON

Statement of

Renée DiResta  
Technical Research Manager, Stanford Internet Observatory  
Stanford University

Kate Starbird, PhD  
Associate Professor, Human Centered Design & Engineering  
Co-Founder and Director, Center for an Informed Public  
University of Washington

to the

United States House of Representatives  
Select Committee to Investigate the January 6th Attack on the United States Capitol

on

“The Role of Social Media, Political Influencers, and Participatory Disinformation in  
Motivating and Mobilizing the Events of January 6, 2021”

Submitted on April 21, 2022

We are researchers who study online dynamics of mis- and disinformation. In 2020 our teams at the Stanford Internet Observatory and University of Washington Center for an Informed Public worked jointly as members of the Election Integrity Partnership (EIP), a coalition of research entities that supported real-time information sharing between the research community, election officials, government agencies, civil society organizations, and social media platforms during the U.S. presidential election. Formed out of a shared recognition that the vulnerabilities in the current information environment require urgent collective action, the EIP was established on July 26, 2020 — 100 days before the 2020 presidential election. Our work focused on detecting, assessing, and mitigating viral claims that attempted to interfere with election participation, encouraged voter fraud, or delegitimized election procedures and/or election results.

Our report outlining findings from the Partnership begins with the following:

On January 6, 2021, an armed mob stormed the U.S. Capitol to prevent the certification of what they claimed was a “fraudulent election.” Many Americans were shocked, but they needn’t have been. The January 6 insurrection was the culmination of months of online mis- and disinformation directed toward eroding American faith in the 2020 election.

Throughout EIP’s time of operation, and in broader research conducted by our teams independently over the past five years, we observed not just accidental rumors and misinformation, but an increasing presence of pervasive disinformation — false or misleading content intentionally seeded or spread for a strategic objective, often a political one.

While much of the previous research and media coverage of disinformation in the political arena has focused on state-sponsored interference (such as the multipronged Russian effort in 2016), our key takeaway from observation of the 2020 election is that most of the viral false and misleading claims that sought to delegitimize the election were domestic and participatory, originating from and amplified by Americans, including prominent partisan political influencers.

We offer these top-level summary insights from our work:

- Persistent false and misleading claims undermining trust in the election results were a core driver of the events on January 6, 2021.
- Throughout the election period and for months following, the Trump campaign and other pro-Trump and/or conservative activists spread — and then organized and mobilized on top of — false and misleading claims of voter fraud.
- A vast amount of false, misleading, exaggerated, and/or unsubstantiated claims questioning the integrity of the U.S. election spread online — both leading up to

the November 2020 election and for months following. Through a real-time curation process, our team identified 356 distinct claims that functioned to sow doubt in election procedures or results.

- This disinformation campaign was initiated and cultivated by former President Trump and his political campaign through social media posts and organizing efforts.
- The spread of misleading “voter fraud” narratives was not only top-down — i.e., originating from media and prominent figures such as President Trump — but also bottom-up, with some claims originating from the social media accounts of everyday people and later receiving amplification by influential (large audience) accounts.
- A small number of social media accounts — including hyper-partisan media outlets, right-wing political operatives and political organizations, elected Republican officials, and members of the Trump campaign — repeatedly played an outsized role in helping to shape, amplify, organize, and eventually mobilize on top of these false, misleading, exaggerated, and/or unsubstantiated claims and narratives.
- A small number of online media websites, especially hyper-partisan, conservative and/or right-wing outlets, played an outsized role in providing the content and framing for the online spread of false, misleading, exaggerated, or unsubstantiated claims of voter fraud.
- Social media sites developed policies aimed at accounts that repeatedly spread false and misleading content about the election, but preliminary research suggests that the rules were far more likely to be enforced for “unverified” accounts while verified, highly-followed accounts continued to spread false and misleading content. Additionally, though the platforms took action against some of the most influential accounts, the “repeat offender” *websites* were less impacted by policy enforcements — even when the websites and social media accounts were tied to the same organization or media entity.
- States with laws restricting the processing of mail-in ballots prior to the election — which exacerbated uncertainty regarding state election results — experienced a greater proportion of false, misleading, exaggerated, and unsubstantiated claims questioning the integrity of the vote.<sup>1</sup>

Following the EIP monitoring period and subsequent to the events of January 6, our respective teams engaged in additional in-depth analysis of how false and misleading claims about the 2020 election spread online. Below, we discuss several findings in greater detail and provide visibility into some of the data and analyses that support these conclusions. We first provide an overview of the EIP to provide necessary context

<sup>1</sup> Wack, Morgan, Joseph S. Schafer, Ian Kennedy, Andrew Beers, Emma S. Spiro, and Kate Starbird. (Under Review). *Legislating Uncertainty: Election Policies and the Amplification of Misinformation in the 2020 U.S. Election*.

for understanding these findings. Next, we explain how the effort to produce and spread false and misleading claims about the election was “participatory” (both top-down and bottom-up) — and show how a small number of social media accounts played an outsized role in this production and propagation. We include observations about how audiences were mobilized on top of these misleading claims, eventually culminating in real life violence. In the Appendices, we provide considerably more detail into these findings and the methods that produced them.

### About the Election Integrity Partnership

U.S. elections are highly decentralized, with almost 10,000 state and local election offices responsible for election operations. Dozens of federal agencies support this effort, including the Cybersecurity and Infrastructure Security Agency (CISA) within the Department of Homeland Security, the Election Assistance Commission, the FBI, the Department of Justice, and the Department of Defense.

However, there is no centralized support to aid state and local administrators in identifying and responding to emerging election-related mis- and disinformation from domestic sources within the United States. This leaves a critical gap for this crucial whole-of-society effort, and non-governmental and academic entities are uniquely well-positioned to fill it. The EIP’s goal was to develop an observation and rapid-response capability using a hub-and-spoke model; we discuss the specifics in more detail in [Appendix A](#).

Our findings from the EIP’s research into the 2020 election conclude that the January 6 insurrection was the culmination of months of online mis- and disinformation functioning to erode American confidence in the 2020 election. We summarize the key findings and recommendations in detail in the Partnership’s final report, *The Long Fuse: Misinformation and the 2020 Election*.<sup>2</sup> In this statement, we highlight three key observations from EIP — false and misleading narratives spread both from normal users to influential accounts (bottom-up) and from highly followed accounts through media and out to broad audiences (top-down), a small number of influential accounts were responsible for most of the repeated spread, and these narratives were used to mobilize users into real-world action — and supplement them with research findings from our work at Stanford University and the University of Washington.

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<sup>2</sup> Center for an Informed Public, Digital Forensic Research Lab, Graphika, & Stanford Internet Observatory. *The Long Fuse: Misinformation and the 2020 Election*, 2021. Stanford Digital Repository: Election Integrity Partnership. v1.3.0 <https://purl.stanford.edu/tr171zs0069>

### Participation was “Bottom-Up” and “Top-Down”

Our findings suggest that the disinformation campaign to undermine trust in the 2020 election was *participatory*. Influencers in politics and media collaborated with online crowds — ordinary people who believed they were seeing evidence of election fraud — to produce and spread hundreds of different false, misleading, exaggerated, and/or unsubstantiated claims that questioned the integrity of the election. These claims were woven together to assert that the Trump campaign would be (and, following the election, that it had been) the victim of systematic voter fraud. Over time, pro-Trump political operatives and activists organized on top of these misleading claims, nurturing a sense of grievance (that the election had been stolen) and mobilizing supporters of the president to attend rallies and protests — eventually culminating in the events of January 6, 2021. Figure 1 illustrates these dynamics.

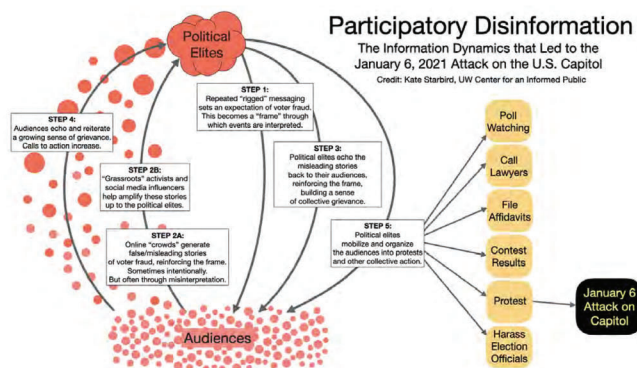


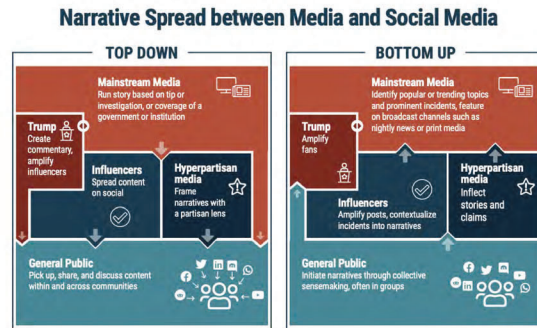
Figure 1. Participatory Disinformation and the 2020 U.S. Election.

The original frame or meta-narrative of a “rigged election” was set at the top — by President Trump, his campaign, and other “elites” in politics and media. With assistance from prominent political operatives and other influencers in social and mass media, this meta-narrative initially spread from the top-down, setting an expectation among many Trump supporters of election fraud.

This expectation, in concert with explicit directives from the Trump campaign for supporters to serve as informal ballot watchers and to “defend your ballot,” inspired

many to participate in the collaborative effort to collect and amplify perceived voter fraud or other issues with voting. This dynamic generated bottom-up narratives, which often began with individuals identifying purported real-world incidents (e.g., perceived issues with pens bleeding through ballots) or online evidence (e.g., perceived statistical anomalies) and posting them to social media. Influencers and hyperpartisan media leveraged this grassroots content, assembling it to fit the frame of a “rigged election” by transforming distinct and often one-off stories, sometimes based on honest voter concerns or genuine misunderstandings, into cohesive narratives of systemic election fraud. Those stories about perceived mail-in voting or election day incidents at polling locations often distorted or misrepresented the impact, intent, cause, date, or location of events.

Through propagation across accounts of increasing visibility and audience size, many of these claims and narratives would eventually reach “mega-influencers” (in marketing parlance, a reference to accounts with over one million followers) such as then President Trump, his family and close supporters, and political pundits who would spread the content down and out to their vast audiences. Mass media often covered these stories after they had reached a critical mass of engagement, often in an effort to debunk or refute them.



**Figure 2. Top-down and bottom-up dynamics in the media ecosystem**

In the lead-up to the 2020 election, misleading content about the election centered on mail-in voting: the alleged destruction and discarding of real ballots and the “discovery” of fake ones. Such content typically took the form of misleading photos or



decontextualized video clips of what appeared to be abandoned or crumpled mail. In some cases, the claims were outright false. In other cases, the core claim about discarded or mistreated ballots was true (e.g., there were discarded ballots found, among other mail, in a ditch), but the cause was misattributed or the impact exaggerated to create a false impression of deliberate tampering or election fraud. In the small number of cases that did merit investigation, the provocative narrative alleging fraud often went viral, while the outcome of the investigation went largely ignored weeks to months later when it was reported. We discuss one example of a participatory, bottom-up viral narrative related to ballots below.

#### Sonoma Ballots Case Study: Motivated Amplification of Misinformation

On September 25, 2020, a tweet claiming that over 1,000 ballots were discovered in a dumpster in Sonoma, California added to a growing narrative that mail-in voting should not be trusted. Elijah Schaffer<sup>3</sup> — a conservative influencer, verified Twitter user, and journalist at hyperpartisan media outlet The Blaze — allegedly received photos of the mail-dumping incident. He posted the photos on Twitter, where they were shared by other highly-followed accounts across platforms, rapidly spreading the claim. Several hours later, The Gateway Pundit, another hyperpartisan media outlet, ran an article on its website featuring the same photos, which catalyzed additional spread of the claim. We provide more detail into the mechanics of this process in [Appendix C](#).

In both Schaffer's tweet and The Gateway Pundit's article, the photos were framed as evidence of potential fraud in the 2020 election. Influencers including Donald Trump Jr. amplified the claims, further spreading the false narrative that this was an intentional dumping of ballots with implications on the 2020 election, and reinforcing the broader narrative that mail-in voting was not secure.

However, the images were of empty envelopes (not ballots) from 2018 (not 2020) that had been legally discarded. Sonoma County provided a fact check the same day (though several hours later) on Twitter in English and Spanish, explaining the pictures had been taken out of context to promote a false narrative and properly identifying the photo as containing empty envelopes. This timely identification and correction is a good model for state and local officials. However, it also demonstrates the challenge in debunking information that has already gone viral, as the original misinformation had significantly larger engagement than the subsequent fact-check.

#### Repeat Spreaders

The Election Integrity Partnership found that a small number of “repeat spreader” accounts played an outsized role in the production and spread of false and misleading narratives about the 2020 election. For example, on Twitter, more than 50% of all

<sup>3</sup> Schaffer would later be part of the group that breached and entered the Capitol on January 6, 2021.

content related to the “incidents” the EIP identified (of false/misleading claims sowing doubt in the election) were retweets of approximately 150 “repeat spreader” accounts. Many of the most influential repeat spreaders (listed in [Appendix B](#), below) were verified, highly-followed accounts belonging to partisan media outlets, social media influencers, conservative activists, and political figures.<sup>4</sup> President Trump and his two older sons figure prominently among social media accounts that had an outsized impact on the dissemination of misleading narratives that sought to undermine trust in the results of the election.

Though false narratives occasionally gained traction on the political left, almost all of the most prominent repeat spreader accounts belonged to conservative and/or pro-Trump individuals and organizations. A similar trend played out among the most prominent web domains (websites), with conservative and pro-Trump media outlets playing an outsized role in originating, promoting, and providing the framing for false and misleading claims of voter fraud. Repeat spreaders often promoted each others’ content, which spread quickly via a network of overlapping audiences and reposting across social media platforms. The misleading narratives they produced and shared persisted throughout and beyond the election cycle, spreading through and across social media platforms and through the broader information ecosystem — including cable news.

This cross-platform spread of false and misleading narratives dampened the effect of any single social media network’s response, making it more difficult to slow down or correct information. Smaller, niche, and hyperpartisan platforms, which were often less moderated or completely unmoderated, hosted and discussed content that had been moderated (i.e., removed or downranked) elsewhere. In particular, Parler saw a remarkable increase in its active user base as users spurned the censorship they perceived on other platforms.<sup>5</sup>

### Mobilization

Throughout the election season and the contentious months that followed, the Trump campaign and its proxy organizations and high profile supporters repeatedly mobilized pro-Trump audiences through a range of different calls to action — from signing up as poll observers or filing reports of voting issues, to calling lawyers to attending protests. Content from the observing, report-filing, and protesting, which bridged online and offline organizing, was integrated into the participatory campaign — sometimes as fuel for further misleading claims, and sometimes as content to nurture the sense of grievance of those who believed and amplified the claims.

<sup>4</sup> Most of our analyses center on Twitter because they provide access to data for external researchers. Unfortunately, other platforms do not offer similar access to data that enables these types of analyses.

<sup>5</sup> Thiel, David, Renee DiResta, Shelby Grossman, and Elena Cryst. *Contours and Controversies of Parler*. Stanford Internet Observatory, 2021.

Early mobilization efforts encouraged Trump supporters to sign up to join the “Army for Trump” where they would be trained to work as informal “poll watchers” and to collect and report perceived issues with voting on Election Day. As the election approached, they expanded that call to supporters more generally, with an online “DefendYourBallot” form and a directive to submit “anything that does not seem right.” These initiatives motivated and empowered Trump supporters to assist in creating a vast trove of images, videos, and stories of purported voting issues that could be selectively chosen, falsely framed, and fed into voter fraud narratives. One of the narratives that emerged, in part, through these efforts was SharpieGate.

#### SharpieGate Case Study: Mobilizing on Misinformation

Early morning on Election Day 2020, a conservative Chicago radio broadcaster tweeted that felt-tip “Sharpie” pens were bleeding through ballots. As Election Day progressed, a concern that ballots marked with Sharpie pens would not be counted echoed through conservative communities on social media. Similar claims emerged in a small number of posts that appear to be authentic and independent, echoing similar concerns in relation to other locations, including several in Arizona. Most prominently, a video recording of two women alleging that ballots marked with Sharpies couldn’t be read by voting machines in Arizona’s Maricopa County gained traction on Facebook and was spread across YouTube, Twitter, Rumble, TikTok, Parler, and Reddit. The off-camera interviewer claims “they’re invalidating votes.”

Despite early debunking by local news and officials in Chicago and Maricopa County — which explicitly stated that Sharpie markers could, indeed, be used to mark ballots — posts about Sharpies continued to spread, primarily within pro-Trump communities. Though initial claims and observations appear to have been motivated by genuine concern about the invalidation of votes, eventually they came to take on a suspicious and accusatory tone, alleging that Trump voters had intentionally been given Sharpies to invalidate their ballots. When it became apparent that the results in certain swing states were closer than polls predicted — especially after late evening of November 3 when Fox News called the state of Arizona for candidate Biden — the controversy about Sharpies was offered as an explanation for Trump’s apparent loss in the state, and the hashtag, #SharpieGate, emerged to consolidate and promote the claims.

As #SharpieGate began to go viral the morning of November 4, conservative and pro-Trump influencers participated in motivated amplification — helping to spread the developing conspiracy theory. Charlie Kirk, conservative activist and founder of Turning Point USA, posted a series of tweets, including the following (a quote tweet of a now suspended account):

`@charliekirk11 (2020-11-04 16:55 UTC): What's going on here?`

Quote Tweet: <Suspended Account> I'm seeing an uncomfortable amount of tweets that voters were given Sharpies to fill in their paper ballots yesterday and their vote was likely rejected by machines.

That tweet employed a common, “just asking questions” style that allowed Kirk to spread the conspiracy theory, but with an expression of uncertainty that allowed him to avoid taking responsibility for its veracity. Around the same time as Kirk’s tweet, conservative political activist Matt Schlapp used a similar technique, tweeting:

**@mschlapp** (2020-11-04 16:51 UTC) AZ update: apparently the use of sharpie pens in gop precincts is causing ballots to be invalidated. Could be huge numbers of mostly Trump supporters. More to come

Schlapp’s tweet helped to catalyze the spread of #SharpieGate,<sup>6</sup> taking it from smaller accounts of concerned voters and everyday activists to large-following influencers, including media pundits and members of the Trump family who would soon post their own tweets (or retweets of others) about SharpieGate.

Local media and election officials around the country attempted to fact check the growing conspiracy theory, but by early evening the day after the election (November 4), SharpieGate became a rallying cry for Trump supporters and protestors gathered outside the Maricopa County Recorder’s Office building, some carrying guns, some live streaming for national audiences.<sup>7</sup> Over the next few days, conservative activists and media figures converged on Maricopa County for additional rallies and events.

Several of the “repeat spreaders” of false/misleading voter fraud claims — including individuals who helped #SharpieGate go viral — also played a role in attending, promoting, and/or organizing these events. For example, Arizona Senator Paul Gosar, who posted several tweets promoting the central claims of #SharpieGate, spoke at the rally on November 4. Later that evening, Matt Schlapp, who helped #SharpieGate go viral, tweeted his intention to “be in AZ to count every legal ballot.” And Charlie Kirk promoted and headlined a follow-up event on November 6 in Phoenix, Arizona. Sharpies were a central theme during that “Protect the Vote” rally, where the crowd chanted “count the legal votes,” echoing Schlapp’s language. Conspiracy theorist Alex Jones of Infowars (one of the most cited domains in the subsequent #StopTheSteal discourse) and Kelli Ward, chairwoman of the Arizona Republican Party (and one of the most retweeted accounts in the #StopTheSteal discourse), also attended and participated in the November 6 rally.

<sup>6</sup> An interactive graph showing how SharpieGate spread among large-following accounts and highlighting the role of Matt Schlapp is available:

<http://faculty.washington.edu/kstarbi/SharpieGate-RiseThruFirstSpike-ColorByMattSchlapp.html>

<sup>7</sup> Threats to election officials spurred by false online conspiracy are further outlined in *Zero Trust: How to Secure American Elections When the Losers Won't Accept They Lost*: [https://stacks.stanford.edu/file/druid:m969dh7882/SIO\\_Zero\\_Trust\\_2021.pdf](https://stacks.stanford.edu/file/druid:m969dh7882/SIO_Zero_Trust_2021.pdf)

In addition to physical protests, Trump voters in Arizona were also mobilized through calls to legal action — i.e., to contact lawyers and file affidavits about Sharpie-related issues. These efforts led to a number of unsuccessful lawsuits, including one that featured unsubstantiated claims made through the Trump campaign's online form.<sup>8</sup>

SharpieGate shows how a misunderstood incident about ballots was converted into a narrative and used to mobilize voters who believed the election would be — and then came to believe it *was* — stolen. Allegations of fraud and demands for recounts increased as voting results were tallied after Election Day. The SharpieGate conspiracy was eventually integrated into the broader #StopTheSteal narrative and movement, which took shape across platforms, aggregating disparate claims into a false meta-narrative of a “rigged election” and mobilizing action around that meta-narrative. Throughout December, organizers continued to organize protests and rallies around the #StopTheSteal mantra, eventually culminating in the rally — and subsequent insurrection attempt at the Capitol on January 6, 2021.

Ultimately, the EIP found the repeated narrative of a “stolen election” coalesced into the #StopTheSteal movement. The narrative appeared across platforms, inspiring online organizing and offline protests which led to the January 6 rally at the White House and the insurrection at the Capitol.

We provide more detail into the SharpieGate case study and mobilization around it in [Appendix C](#) and [Appendix D](#).

## Recommendations

The spread of viral false and misleading claims with the intent to delegitimize democratic elections is a significant problem that requires a multistakeholder approach to mitigate. Doing nothing is not an option. While the Election Integrity Partnership was intended to meet an immediate need, the conditions that necessitated its creation have not abated, and in fact may have worsened. Academia, platforms, civil society, and all levels of government must be committed, in their own ways, to truth in the service of a free and open society. All stakeholders must focus on predicting and pre-bunking false narratives, detecting mis- and disinformation as it occurs, and countering it whenever appropriate.

As this committee envisions a path forward to ensure that January 6 remains an isolated event in American history, we make the following recommendations.

<sup>8</sup> Klasfeld, Adam. “Trump Campaign Retreats from ‘Sharpiegate’ Lawsuit.” Law & Crime, November 16, 2020. <https://lawandcrime.com/2020-election/bye-bye-sharpiagate-trump-campaign-hastily-retreats-from-conspiracy-laden-lawsuit-after-brutal-hearing/>.

**Congress**

- Pass legislation mandating meaningful transparency from, and researcher and civil society access to, social media sites and similar platforms to enable public accountability and targeted, evidence-based policy.
- Strengthen digital expertise at federal regulators with election-related jurisdiction, including the Federal Election Commission and Federal Communications Commission, to improve enforcement of existing regulations.

**The Executive Branch**

- Establish clear authorities and roles for identifying and responding to election-related mis- and disinformation. Build on the federal interagency movement toward recognizing elections as a national security priority and critical infrastructure.
- Support multi-stakeholder collaborations like the Election Integrity Partnership to ensure rapid response capabilities in a whole-of-society approach for mitigating mis- and disinformation.
- Create clear standards for consistent disclosures of mis- and disinformation from foreign and domestic sources as a core function of facilitating free and fair elections, such as CISA's Rumor Control and joint interagency statements.

**Technology Platforms**

- Develop clear guidelines and consistently enforce rules for accounts that repeatedly violate misinformation policies. Platforms should provide both rationales and case studies to provide a clear understanding of their policies.
- Ensure that verified and high-profile accounts, which are known to be most influential in the spread of harmful misinformation and have the greatest capability to mobilize, are held to as high a standard as others.
- Address current loopholes that allow savvy actors to repeatedly evade moderation with rhetorical strategies (e.g., the use of strategic uncertainty).
- Share platform research on misinformation counter-measures with academics, civil society, and the public, including both what has worked and what has not.
- Enable access for external researchers to removed or labeled content, including exhaustive and rapid search capabilities.
- Provide greater transparency about why something is removed or censored. Sharing the evidence that supports why content was taken down (or why users were suspended) would be helpful for researchers as well as the public.



## Acknowledgements

At the University of Washington, we would like to acknowledge the contributions of Andrew Beers, Kayla Duskin, Ian Kennedy, Joseph S. Schafer, Stephen Prochaska, and Morgan Wack, along with numerous other colleagues and student researchers, for contributing to the research and data exhibits supporting this statement.

At Stanford University, we would like to acknowledge the contributions of Isabella García-Camargo, Matt DeButts, and John Perrino, in addition to the full team at the Stanford Internet Observatory and the student research analysts who contributed to the Election Integrity Partnership.

## Appendices

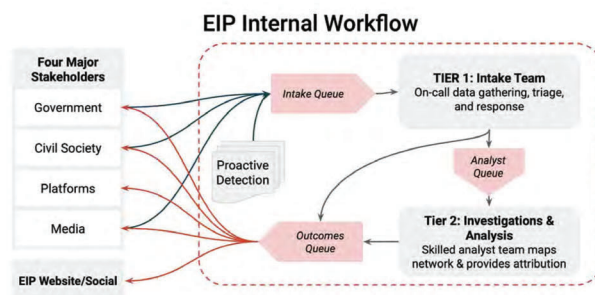
### Appendix A: Research Background

The research presented here was initially conducted through the Election Integrity Partnership (EIP), a collaborative effort between teams at Stanford, University of Washington, Graphika, and the Atlantic Council's Digital Forensics Research Lab to identify, analyze, and rapidly respond to emergent mis- and disinformation<sup>[1]</sup>. The EIP's work focused on informational threats to election integrity, including misinformation that may have confused voters on when or where to vote, malicious information that functioned to intimidate voters and/or suppress votes, and misleading information that functioned to sow doubt in election procedures or results. The EIP included approximately 120 researchers across the four organizations.

The work included three tiers:

- Tier 1: Monitoring social media platforms and online websites to detect false/misleading claims and filing tickets.
- Tier 2: Conducting in-depth analysis to understand how a specific claim or set of claims were spreading through various platforms — including identifying the websites and accounts that were influential in its spread.
- Tier 3: Communicating with a range of stakeholders, from social media platforms to government officials to journalists to the general public, to help address those false claims.

We were active in this “rapid response” work from early September through early December, 2020. Subsequently, we conducted more in-depth analysis of the “misinformation incidents” we surfaced through this work.



Our analysis focuses, primarily, on 483 distinct “incidents” (or discrete informational events) of misleading claims about the 2020 election. To give you a sense of these incidents (how these false/misleading claims were seeded and spread), we provide two examples here: 1) a false claim about discarded ballots from September 2020; and 2) a misleading narrative about Sharpies invalidating ballots that spread on election day. Looking across the 356 incidents, we reveal some of the most influential accounts and domains (websites) in the online spread of the false “voter fraud” narratives. Pulling from these incidents, as well as the broader social media record, we also provide some insight into how political operatives worked to mobilize audiences on top of these false claims — e.g., to file affidavits and attend protests.

The analyses presented here all rely, primarily, on data from Twitter — tweets from public accounts are available for systematic collection and analysis through “Application Programming Interfaces” (APIs) that Twitter makes available for researchers and others. The vast majority of Twitter accounts are designated by their operators as “public”, which means that anyone can see their posts and that our research team can “collect” them and place them into databases for analysis. Due to limited transparency, it is much more difficult to conduct these kinds of systematic analysis on other sites, like Facebook, YouTube, and TikTok. We can, however, follow URL links in tweets out to other websites and platforms, and report on some of those analyses here as well.

Using the Twitter Streaming API, we collected Twitter data related to the 2020 election in “real-time” from August 15, 2020 through January 6, 2021. We collected on a number of different election-related terms, including vote, voter, voted, votes, voters, ballot,



ballots, as well as combination terms like voterfraud. We also included terms related to potentially contentious locations (such as Maricopa County). And as time went on, we added emergent hashtag terms, like #SharpieGate and #StopTheSteal, to our collectors as well. Altogether, we collected nearly one billion tweets<sup>[2]</sup>.

Since December 2020, we have been conducting in-depth research on the data that we collected during the active part of our research — both through our Twitter data collections and our “rapid response” activities. Several papers related to this research are currently under review at peer-reviewed academic venues.

Our work relies on a grounded, interpretive, mixed-method approach to the investigation of “digital trace” data from social media platforms<sup>[3]</sup>. We blend quantitative analysis (descriptive statistics) and visualization (of temporal and network graphs) to get a sense of large patterns and anomalies with qualitative analysis of specific social media posts and accounts to understand what those patterns and anomalies mean.

<sup>[1]</sup> The EIP issued a final report, “The Long Fuse: Misinformation and the 2020 Election,” documenting our structure, activities, and findings. Our team at the University of Washington’s Center for an Informed Public contributed to many parts of that report, but were the primary leads for Chapter 4 (“Cross Platform and Participatory Misinformation: Structure and Dynamics”) and Chapter 5 (“Actors and Networks: Repeat Spreaders of Election Misinformation”).

<sup>[2]</sup> More details about our data collection can be found in a forthcoming research paper: Ian Kennedy, Morgan Wack, Isabella Garcia-Camargo, Andrew Beers, Joey Schafer, Emma Spiro, and Kate Starbird. (Under review). Repeat Spreaders and Election Delegitimization: A Comprehensive Dataset of Misinformation Tweets from the 2020 U.S. Election. Submitted to the Journal of Quantitative Description: Digital Media.

<sup>[3]</sup> This approach borrows from “grounded theory”: Charmaz, Kathy. Constructing grounded theory. sage, 2014; as well as methods developed by researchers of crisis informatics: Palen, Leysia, and Kenneth M. Anderson. “Crisis informatics—New data for extraordinary times.” Science 353, no. 6296 (2016): 224-225. We have used this methodological approach extensively in previous work on online rumormongering, misinformation, and disinformation: Maddock, Jim, Kate Starbird, Haneen J. Al-Hassani, Daniel E. Sandoval, Mania Orand, and Robert M. Mason. “Characterizing online rumormongering behavior using multi-dimensional signatures.” In Proceedings of the 18th ACM conference on computer supported cooperative work & social computing, pp. 228-241. 2015; Starbird, Kate, Emma Spiro, Isabelle Edwards, Kaitlyn Zhou, Jim Maddock, and Sindhuja Narasimhan. “Could this be true? I think so! Expressed uncertainty in online rumormongering.” In Proceedings of the 2016 CHI Conference on Human

Factors in Computing Systems, pp. 360-371. 2016; Wilson, Tom, and Kate Starbird. "Cross-platform disinformation campaigns: lessons learned and next steps." Harvard Kennedy School Misinformation Review 1, no. 1 (2020).

## Appendix B: Repeat Spreaders of False/Misleading Claims on Twitter

Through the work of the EIP, we identified 456 distinct "information incidents" where content that represented an informational threat to election integrity spread online. Through subsequent qualitative analysis, we identified 356 incidents featuring false, misleading, exaggerated, or unsubstantiated claims that functioned to sow doubt in election procedures<sup>9</sup>.

These incidents featured a variety of different claims, including:

- Misleading claims based on evidence that was taken out of context to give a false impression. For example, claims that recycled ballot envelopes (from the 2018 election) were "discarded ballots" from the 2020 election, suggesting that the mail-in ballot process couldn't be trusted.
- Misleading claims based on actual issues with voting that exaggerated their impact. For example, claims that highlighted incidents of discarded ballots or issues with the U.S. Postal Service that created a misleading impression that the issues would affect results.
- Misleading claims based on actual issues with voting that misattributed their cause. For example, claiming that inadvertent issues with the voting process were due to intentional voter fraud.
- False claims based on (politically motivated) misinterpretation. For example, that Sharpie pens were intentionally used to disenfranchise certain voters or that statistical anomalies indicated systematic voter fraud.
- Unsubstantiated speculation. For example, that voting machines were systematically switching votes from one candidate to another.

The majority of these incidents featured misleading, exaggerated, or unsubstantiated claims that systematic voter fraud would or had assisted candidate Biden in winning the 2020 presidential election.

For each of those 356 incidents, we created a dataset of tweets that matched keyword terms and time periods related to the incident. These tweet data constitute a curated

<sup>9</sup> The process for identifying these incidents and scoping datasets for each is documented in Ian Kennedy, Morgan Wack, Isabella Garcia-Camargo, Andrew Beers, Joseph S. Schafer, Emma Spiro, and Kate Starbird. (Under review). Repeat Spreaders and Election Delegitimization: A Comprehensive Dataset of Misinformation Tweets from the 2020 U.S. Election. Submitted to the *Journal of Quantitative Description: Digital Media*.

dataset that can be systematically analyzed to understand larger trends in the spread of misleading content that undermined trust in the results of the 2020 election. As our examples demonstrate, each incident often included a mixture of tweets with sincere (but misguided) concerns about voting issues, tweets with politically motivated amplification of unsubstantiated claims, and tweets with explicit (and false) claims of systematic voter fraud. Several incidents also included some tweets correcting the false or misleading claims.

Here, we provide two analyses of these data:

1. A list of the Twitter accounts that were influential (highly retweeted) in multiple “incidents” of false, misleading, exaggerated, or unsubstantiated claims that sowed doubt in election procedures and/or results.
2. A list of the domains (or websites) that were prominent in multiple “incidents” of false, misleading, exaggerated, or unsubstantiated claims that sowed doubt in election procedures and/or results.

The findings presented here are an iteration on similar findings presented in the EIP’s final report. Here, through subsequent analysis, we have reduced noise to improve the quality of the analysis.

#### Repeat Spreader Twitter Accounts

In this first analysis, we present the Twitter accounts that were highly retweeted (>1000 retweets) for tweets related to multiple (6 or more) different informational “incidents” of false, misleading, exaggerated, or unsubstantiated claims that sowed doubt in election procedures or results.

Rank	User Screen Name	Verified User	Current (April 2022) Suspended Status	Incidents With Large Tweet (>1000 RTs)	Number of Retweets in these Incidents	Incidents with Any Tweet or Retweet
1	RealJamesWoods	TRUE	Active	24	363349	29
2	gatewaypundit	TRUE	Suspended	21	408586	38
3	TomFitton	TRUE	Active	19	140259	25
4	JackPosobiec	TRUE	Active	18	165274	35
5	EricTrump	TRUE	Active	17	463353	26
6	realDonaldTrump	TRUE	Suspended	16	2286540	22
7	DonaldJTrumpJr	TRUE	Active	16	357766	45
8	catturd2	FALSE	Active	15	75290	24
9	prayingmedic	FALSE	Suspended	14	118844	28
10	JamesOKeefeIII	FALSE	Suspended	13	452749	15

11	ChuckCallesto	TRUE	Active	13	295710	21
12	MichaelCoudrey	TRUE	Suspended	13	184850	32
13	ANONYMIZED <sup>10</sup>	FALSE	Suspended	12	71300	16
14	robbystarbuck	TRUE	Active	11	78707	44
15	stillgray	TRUE	Active	11	75688	40
16	RichardGrenell	TRUE	Active	10	289835	16
17	RealCandaceO	TRUE	Active	10	248614	10
18	michellemalkin	TRUE	Active	10	87237	18
19	scrowder	TRUE	Active	10	67322	12
20	pnjaban	TRUE	Active	10	46164	28
21	charliekirk11	TRUE	Active	9	394231	12
22	RyanAFournier	TRUE	Suspended	9	107962	32
23	PhillyGOP	FALSE	Active	9	36650	17
24	joshdcaplan	TRUE	Active	9	30696	18
25	johncardillo	TRUE	Active	9	24726	39
26	RudyGiuliani	TRUE	Active	8	264090	8
27	Project_Veritas	TRUE	Suspended	8	119348	12
28	ScottAdamsSays	TRUE	Active	8	110475	15
29	jsolomonReports	FALSE	Active	8	97756	10
30	marklevinshow	TRUE	Active	8	96395	8
31	seanmdav	TRUE	Active	8	67669	42
32	Timcast	TRUE	Active	8	65480	10
33	mschlapp	TRUE	Active	8	56613	21
34	BreitbartNews	TRUE	Active	8	45945	14
35	DiamondandSilk	TRUE	Active	8	44071	14
36	kystenabecker	TRUE	Active	7	475329	31
37	MajorPatriot	FALSE	Suspended	7	195606	21
38	fleccas	TRUE	Active	7	191694	12
39	RaheemKassam	TRUE	Active	7	86452	31
40	TrumpWarRoom	TRUE	Active	7	76957	26
41	seanhannity	TRUE	Active	7	73028	7
42	DC_Draino	FALSE	Suspended	7	72116	12
43	RealMattCouch	FALSE	Suspended	7	57111	38

<sup>10</sup> To protect accounts that may have reasonable expectations of privacy, we anonymize accounts that 1) are not verified; 2) are not public figures, including elected officials and self-described journalists; and 3) had <250,000 followers during the period where we collected their tweets.

44	mikeroman	FALSE	Active	7	56224	14
45	bennyjohnson	TRUE	Active	7	52261	21
46	SaraCarterDC	TRUE	Active	7	44952	12
47	RSBNetwork	TRUE	Active	7	23136	21
48	ANONYMIZED	FALSE	Suspended	7	17036	93
49	SidneyPowell1	FALSE	Suspended	6	396308	42
50	EmeraldRobinson	TRUE	Suspended	6	325224	14
51	dbongino	TRUE	Active	6	80283	9
52	ANONYMIZED	FALSE	Active	6	72412	30
53	TheRightMelissa	FALSE	Suspended	6	60307	25
54	Breaking911	FALSE	Active	6	50509	7
55	ANONYMIZED	FALSE	Missing	6	50133	12
56	Peoples_Pundit	FALSE	Active	6	49160	15
57	atensnut	FALSE	Active	6	46482	24
58	tracybeanz	FALSE	Suspended	6	42629	35
59	newtgingrich	TRUE	Active	6	33930	12
60	SebGorka	TRUE	Active	6	33341	27
61	ArthurSchwartz	TRUE	Active	6	27041	14
62	1776Stonewall	FALSE	Suspended	6	16658	24
63	RubinReport	TRUE	Active	6	15515	8
64	ANONYMIZED	FALSE	Suspended	6	8964	60
65	LLinWood	FALSE	Suspended	5	643438	7
66	kayleighmcenany	TRUE	Active	5	110358	7
67	ANONYMIZED	FALSE	Missing	5	106963	25
68	BrandonStraka	TRUE	Active	5	101308	7
69	ScottPresler	TRUE	Active	5	77710	6
70	HowleyReporter	FALSE	Active	5	75966	34
71	NVGOP	TRUE	Active	5	65339	9
72	BernardKerik	TRUE	Active	5	62993	22
73	TeamTrump	TRUE	Suspended	5	48653	10
74	ANONYMIZED	TRUE	Active	5	41559	30
75	ANONYMIZED	FALSE	Active	5	39662	107
76	ANONYMIZED	FALSE	Suspended	5	38607	8
77	DineshDSouza	TRUE	Active	5	37662	33
78	Millie_Weaver	TRUE	Active	5	30790	18
79	John_F_Kennedy	FALSE	Suspended	5	27352	8

80	ANONYMIZED	FALSE	Active	5	26351	16
81	MZhemingway	TRUE	Active	5	19805	11
82	hodgetwins	TRUE	Active	5	19157	11
83	ANONYMIZED	FALSE	Suspended	5	10064	52
84	ANONYMIZED	FALSE	Suspended	5	9140	15

**Table B1. Repeat Spreaders of False, Misleading, Exaggerated, or Unsubstantiated Claims (on Twitter) that Sowed Doubt in the 2020 Election.** Column 2 is the account handle. Column 3 is the verified status of the account. Column 4 features the number of incidents within which this account was *influential* (retweeted more than 1000 times). Column 5 lists the total number of retweets that this account received for tweets related to any of the 356 incidents. Column 6 features the total number of incidents that this account *participated in* (by posting a tweet or retweet).

This analysis shows that the most influential Twitter accounts in the spread of many different incidents of false, misleading, exaggerated or unsubstantiated claims about election procedures or results included accounts of:

- **The former president (@realDonaldTrump) and his two adult sons (@EricTrump and @DonaldJTrumpJr).** Each were highly retweeted in 17 distinct informational incidents that questioned the integrity of the 2020 election. They also served as amplifiers for additional incidents. @DonaldJTrumpJr participated (by posting at least one tweet or retweet) in 46 different informational incidents that spread false, misleading, exaggerated, or unsubstantiated claims that questioned the integrity of the 2020 election.
- **Conservative or right-wing hyper-partisan media outlets.** In particular, the account of Gateway Pundit (@gatewaypundit) was highly retweeted in 21 different incidents featuring false, misleading, exaggerated, or unsubstantiated claims that sowed doubt in the 2020 election — and participated in 17 others.
- **Individuals affiliated with other Republican or conservative media, including several hosts at cable news outlet Fox News.**
- **Individuals affiliated with conservative political organizations,** including @TomFitton of Judicial Watch and @charliekirk11 of TPUSA.
- **High-profile lawyers that supported the Trump Campaign's voter fraud claims,** including @RudyGiuliani and @SidneyPowell1
- **Conservative, right-wing, and/or pro-Trump social media influencers and/or celebrities.**
- **Conservative political figures** such as @newtgingrich, @SebGorka, @RichardGrenell, and @mschlapp.

Column 5 suggests that many of the accounts that were highly retweeted in several incidents also helped to spread other incidents, often through amplifications (retweets) of others' content. (The impact of these retweets is hard to measure, but we explore some of those dynamics in the case studies below.)

Network and content analysis indicate that 83 of the top 84 repeat spreaders of false, misleading, exaggerated, or unsubstantiated claims that sowed doubt in the 2020 election were politically aligned with conservative/GOP politics and/or then President Trump, while one repeat spreader was a liberal/Democrat who supported Joe Biden. The sole Biden-supporting account in the list (#52 in the list) primarily spread content that questioned the integrity of voting machines in down-ballot races.

Interestingly, though a few accounts in the “repeat offender” list above have been suspended for violating Twitter’s policies<sup>11</sup>, enforcement of those policies was FAR more likely to affect less influential and non-verified accounts. Appendix E contains more details on Twitter’s suspensions of accounts that participated in the spread of false/misleading claims of voter fraud.

#### **Repeat Spreader Domains (Cited in Tweets)**

In a second analysis, we identified the domains (websites) that were highly cited (via links within more than 500 tweets) in many different “incidents” of false, misleading, exaggerated, or unsubstantiated claims that functioned to sow doubt in election procedures and/or results.

The articles (or videos) cited vary in their relationship to false/misleading claims:

1. Some articles explicitly spread original false, misleading, or unsubstantiated claims of voter fraud. These were primarily cited in tweets to question the integrity of the election.
2. Some articles featured factual evidence — e.g., of voting issues or isolated cases of voter fraud — that was misleadingly framed (in the article) to undermine trust in election procedures or suggest systematic voter fraud. These were primarily cited in tweets to question the integrity of the election.
3. Some articles featured factual evidence — e.g., of voting issues or isolated cases of voter fraud — that was subsequently contextualized in tweets to either suggest that the process couldn’t be trusted or used to allege systematic voter fraud.
4. Some articles repeated other’s claims of voter fraud — by featuring false or misleading statements, for example by Trump lawyers Sidney Powell or Rudy Giuliani, without corrections. These were primarily cited in tweets to question the integrity of the election.
5. Some articles featured “balanced” coverage, including statements from others making false/misleading/unsubstantiated claims and statements from others

<sup>11</sup> Only a portion of the “repeat offender” accounts that have been suspended from Twitter were suspended for violating their “Civic Integrity” policy — i.e. for spreading harmful misinformation about the election. The majority appear to have been suspended for violating other policies, including their “Incitement to Violence” and “Platform Manipulation and Spam” policies.

challenging or correcting those false/misleading/unsubstantiated claims. These were primarily cited in tweets to question the integrity of the election.

6. Some articles primarily corrected false or misleading claims related to election procedures or results. These were primarily cited in tweets that corrected false claims of voter fraud.

In the table below, we list the most influential domains in the Twitter discourse around voter fraud claims, including a (qualitative) classification of each domain based on the types of articles (and relationship between tweets and articles) enumerated in the above list.

Rank	Domain	Incidents with >500 tweets	# of Tweets Linking to Domain in Incidents	Predominant Relationship between Articles, Tweets, and Misleading Claims (based on criteria above)
1	<a href="http://www.thegatewaypundit.com">www.thegatewaypundit.com</a>	43	1344130	1,2,4
2	<a href="http://www.breitbart.com">www.breitbart.com</a>	26	521249	1,2,3,4
3	<a href="http://www.youtube.com">www.youtube.com</a>	20	580032	1,2,3,4
4	<a href="http://www.theepochtimes.com">www.theepochtimes.com</a>	17	409567	1,2,4
5	<a href="http://www.foxnews.com">www.foxnews.com</a>	14	116063	2,3,4,5
6	<a href="http://www.washingtonpost.com">www.washingtonpost.com</a>	13	65519	3,6
7	<a href="http://justthenews.com">justthenews.com</a>	12	269466	1,2,3,4
8	<a href="http://www.cnn.com">www.cnn.com</a>	11	88502	3,6
9	<a href="http://apnews.com">apnews.com</a>	11	41610	3,6
10	<a href="http://thenationalpulse.com">thenationalpulse.com</a>	10	63950	1,2,4
11	<a href="http://dailycaller.com">dailycaller.com</a>	10	15061	1,2,4
12	<a href="http://nypost.com">nypost.com</a>	10	211315	2,3,4
13	<a href="http://thedcpatriot.com">thedcpatriot.com</a>	9	36875	1,2,4
14	<a href="http://www.washingtontimes.com">www.washingtontimes.com</a>	8	80984	2,3,4,5
15	<a href="http://thehill.com">thehill.com</a>	8	31648	3,5,6
16	<a href="http://townhall.com">townhall.com</a>	8	43503	1,2,4
17	<a href="http://nationalfile.com">nationalfile.com</a>	8	183613	1,2,4
18	<a href="http://truepundit.com">truepundit.com</a>	7	12493	1,2,3,4
19	<a href="http://pimedia.com">pimedia.com</a>	7	53725	1,2,3,4
20	<a href="http://gellerreport.com">gellerreport.com</a>	7	37288	1,2,4
21	<a href="http://www.washingtonexaminer.com">www.washingtonexaminer.com</a>	7	97738	3,4,5
22	<a href="http://www.waynedupree.com">www.waynedupree.com</a>	7	10205	1,2,4
23	<a href="http://www.inquirer.com">www.inquirer.com</a>	7	145688	3,6



24	<a href="http://www.pscptv.com">www.pscptv.com</a>	7	76779	1,2,4
25	<a href="http://www.theblaze.com">www.theblaze.com</a>	6	34413	1,2,3,4
26	<a href="http://rumble.com">rumble.com</a>	6	119539	1,2,4
27	<a href="http://www.newsmax.com">www.newsmax.com</a>	6	127981	2,4,5
28	<a href="http://www.nytimes.com">www.nytimes.com</a>	6	179895	3,6
29	<a href="http://www.nbcnews.com">www.nbcnews.com</a>	6	22906	3,6
30	<a href="http://www.zerohedge.com">www.zerohedge.com</a>	6	24855	1,2,4

This analysis leads to the following insights about the most influential domains in the online spread of many different false, misleading, exaggerated, and unsubstantiated claims that sowed doubt in the 2020 election:

- **Among these most influential domains were a number of hyperpartisan (right-wing, conservative, and/or pro-Trump) media outlets** that posted articles that made false or unsubstantiated claims of voter fraud, that framed factual evidence about voting issues in misleading ways, and repeated false or misleading claims of voter fraud from others. This class of highly cited domains in the voter fraud discourse included websites such as the Gateway Pundit, Breitbart, Epoch Times, Just The News, National Pulse, Daily Caller, Town Hall, National File, True Pundit, PJ Media, Geller Report, the Wayne Dupree website, The Blaze, and Zero Hedge.
- A number of **other partisan media outlets, including Fox News**, New York Post, and Washington Examiner, were highly cited for articles that contained factual information about voting issues — but that **factual information was often either misleadingly framed in the articles or misleadingly contextualized in tweets to sow doubt in the election.**
- **Mainstream media outlets**, including Washington Post, CNN, AP News, New York Times, and NBC News were **predominantly cited in this discourse for articles that attempted to debunk these narratives** or for articles that contained factual content about voting issues (for example US Postal Service issues delivering mail-in ballots) that was contextualized in tweets to undermine trust in the election process.
- **Also among the most influential domains of false/misleading claims about the 2020 Election on Twitter were other social media platforms** — YouTube (video), Periscope (livestream video), and Rumble (multimedia) — which hosted content with false or misleading claims of voter fraud that was repeatedly mobilized and widely spread on Twitter. This, again, **highlights the cross-platform nature of online mis- and disinformation** generally, and 2020 election mis/disinformation specifically.

### Appendix C: Case Studies of Specific False Claims

Here, we present two detailed case studies of how specific false/misleading claims questioning the integrity of the 2020 election were produced and spread online. These cases demonstrate the top-down and bottom-up dynamics through which false and misleading narratives of voter fraud developed and spread on social media — highlighting the roles of specific influencers. These write-ups are based on analyses conducted by members of the Election Integrity Partnership and are adapted from content submitted as a research paper<sup>12</sup> to the Social Media + Society Journal.

#### Setting False Expectations of Systematic Voter Fraud

Prior to the 2020 election, the Trump campaign set an expectation of voter fraud among his supporters. The primary conveyer of this message was President Trump, who repeatedly used his social media accounts and public speaking opportunities to spread false, misleading, and unsubstantiated claims of voter fraud.

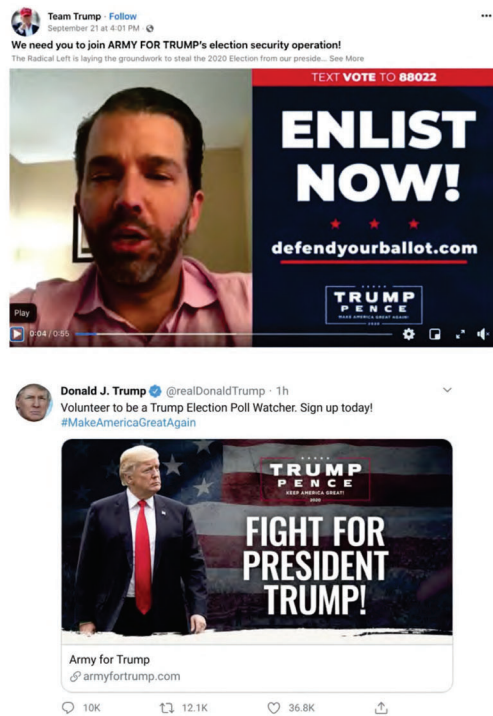


**Figure C1: Tweet posted by President Trump claiming the 2020 election would be rigged.**

For example, the tweet above was posted by President Trump's official account (@realDonaldTrump) in June 2020, claiming that the election would be "RIGGED" and that it would be "THE SCANDAL OF OUR TIMES." This was one of many similar messages that were posted by President Trump's account during the lead-up to the 2020 election. Many were highly retweeted by Trump's followers. Our research suggests that these tweets — in combination with a broader effort to amplify those and other similar messages — set a false expectation of election fraud among many of President Trump's supporters.

<sup>12</sup> Kate Starbird, Renee DiResta, Matt DeButts, and Isabella Garcia-Camargo. (Under Review) Influence and Improvisation: Participatory Disinformation during the 2020 U.S. Election. Manuscript under review at *Social Media + Society's Special Issue on "Political Influencers"*.

Though initially focused on mail-in voting, the effort to sow doubt in the election evolved to include other allegations of electoral malfeasance. As Election Day approached, the Trump campaign encouraged its followers to join the “Army for Trump” and collect evidence of fraud:



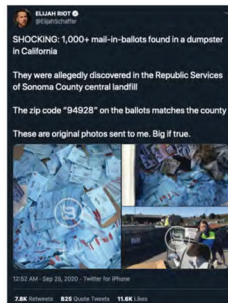
**Figure C2: Facebook (Top) and Twitter (Bottom) posts from the Trump Campaign encouraging followers to join the “Army for Trump and serve as poll watchers.**

The campaign hosted a website (defendyourballot.com) where they provided instructions for serving as informal poll observers and online forms for supporters to submit evidence of election issues. Our data reveal that, likely mobilized by the “Army for Trump” messaging and the repeated claims of voter fraud from pro-Trump political and media elites, many Trump supporters went to the polls (and went online) actively searching for evidence to support the election fraud narrative. This effort set the stage for motivated misinterpretations of voting experiences and the vote counting procedures that occurred on election night and the days that followed — as well as a concerted effort by influencers and everyday Trump supporters to find and amplify perceived “evidence” of voter fraud, continually reinforcing the false narrative.

### Case 1: Sonoma Ballots

In the weeks leading up to the election, several stories of mail-in ballots being dumped, ditched, discarded, or destroyed went viral. Some were based on genuine instances of ballot misplacement or improper disposal, although their potential impact on the election was exaggerated. Others were based on willful misinterpretations or misleading framings of standard election administrative processes. The Sonoma Ballots case belonged to the latter category.

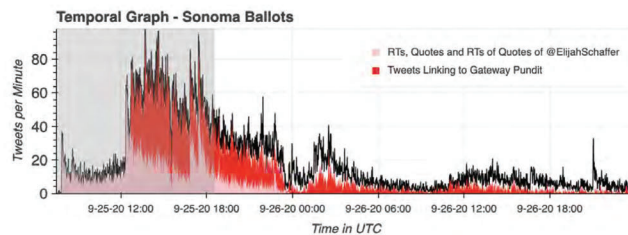
The Sonoma Ballots rumor first emerged in the tweet below:



**Figure C3: First tweet claiming that ballots had been found in a dumpster in Sonoma CA, posted by @ElijahSchaffer on September 25, 2020 at 12:52 am Pacific (7:52 am UTC).**

The tweet featured photos of election materials discovered in a dumpster in Sonoma, California, claiming that these “ballots” demonstrated the vulnerability of mail-in voting in the 2020 election. The tweet’s author, Elijah Schaffer<sup>13</sup>, a self-described journalist for right wing media outlet The Blaze, concluded his exposition with the words, “Big if true.” This speculative language is a technique used by savvy social media users to spread false claims without having to take responsibility for them<sup>14</sup> — and possibly to avoid platform enforcement.

It wasn’t true. The photo depicted ballot envelopes received and processed during the 2018 election, which were being discarded according to guidelines, 22 months after that election concluded. But lack of veracity did not stop the misleading claim from spreading widely — 45,000 tweets in the span of about 36 hours.



**Figure C4: Temporal graph (tweets per minute) of the Sonoma Ballots story (Black). The shaded pink area consists of retweets and quote tweets of @ElijahSchaffer’s original tweet. The shaded red area consists of tweets linking to the Gateway Pundit’s article.**

Initially, the story spread almost exclusively through retweets and quote tweets (and retweets of quote tweets) of @ElijahSchaffer’s original tweet. Schaffer’s account was verified by Twitter and had 244K followers at the time of this tweet.

Approximately five hours after Schaffer’s tweet, another right-wing news outlet posted an article and accompanying tweet featuring the same photos and claims:

<sup>13</sup> Demonstrating a connection between the spread of false/misleading content about election integrity and the events of January 6, Schaffer was reporting from inside the Capitol Building — and at one point claimed to be inside Nancy Pelosi’s office — on January 6, 2021.

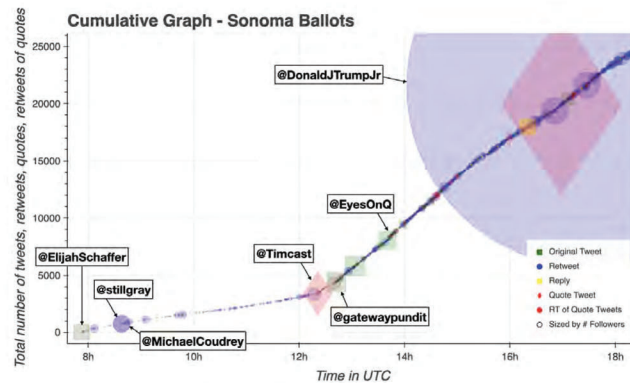
<sup>14</sup> Starbird, Kate, Emma Spiro, Isabelle Edwards, Kaitlyn Zhou, Jim Maddock, and Sindhuja Narasimhan. “Could this be true? I think so! Expressed uncertainty in online rumoring.” In *Proceedings of the 2016 CHI Conference on Human Factors in Computing Systems*, pp. 360-371. 2016.

@gatewaypundit (2020-09-25 12:42:15): EXCLUSIVE: California Man Finds THOUSANDS of Unopened Ballots in Garbage Dumpster -- Workers Quickly Try to Cover Them Up -- PHOTOS via @gatewaypundit <https://t.co/bZqb0KY11Q>

The Gateway Pundit is a hyper-partisan, right wing, online media outlet. In advance of and following the 2020 election, the Gateway Pundit repeatedly pushed false and misleading narratives of voter fraud, through both its social media accounts and its website (see Tables B1 and B2 above). Its verified Twitter account had 302K followers at the time — and would grow to more than 460K followers before being suspended on January 10, 2021 (in response to the events of January 6). Gateway Pundit's article and tweet about the Sonoma Ballots contributed to a rapid surge in engagement, which persisted for several hours.

As Figure C4 shows, the vast majority of tweets (75%) about this narrative were either retweets/quote tweets of Elijah Schaffer or contained links to the Gateway Pundit's article. These dynamics are consistent with Benkler et al's characterization of 2020 disinformation as driven from the top-down by media and political elites (2020), but in this case the "elites" were mid-sized influencers from hyper-partisan media outlets using a digital-first approach.

Figure C5, a graph that shows both the cumulative spread of the narrative and the position of specific tweets within that spread, reveals a progression of pro-Trump influencers, including several from our list of "repeat offenders" in Appendix B. Eventually the Sonoma Ballots narrative would reach the account of Donald Trump Jr., who retweeted Schaffer's original tweet at 17:26 UTC, nearly 10 hours after the original tweet. The verified account of @realDonaldTrump, which had over 5.6M followers at the time, was a noted "repeat spreader" of misleading voter fraud claims (see Table B1). Trump Jr's account often acted as an accelerant rather than a catalyst, amplifying and sustaining an already-viral claim.



**Figure C5. Cumulative graph of Sonoma Ballots tweets. The Y-axis represents the total number of tweets. The X-axis is time. Individual tweets of influencers (>10,000 followers) are plotted, sized by follower count. The view is focused on the first 10 hours of propagation (aligned with the gray box in Figure C4).**

The spread of the false “Sonoma Ballots” claims occurred primarily on Twitter. After an official correction by Sonoma County and enforcement action by Twitter, engagement with the rumor faded dramatically. However, the claims persisted on the Gateway Pundit and resurfaced on Facebook a few days later (though at much lower volume), only to fade out completely after that.

Both Schaffer and Gateway Pundit eventually offered corrections or “updates” to their original claims, including noting Sonoma County’s statement that the materials were envelopes from the 2018 election. However, even in their corrections, both included language that furthered (rather than corrected) the original frame — that the mail-in voting process couldn’t be trusted.

Summarizing, this false narrative was seeded by an anonymous “reader” of hyperpartisan, right-wing media, and set in motion by a verified account who identifies as a “journalist” for a hyper-partisan media outlet. A second hyper-partisan media outlet accelerated and sustained its spread through publishing an article and promoting it on social media. As it spread on Twitter, it was amplified by several other influencers (many verified as well) within those journalists’ networks as well as large numbers of



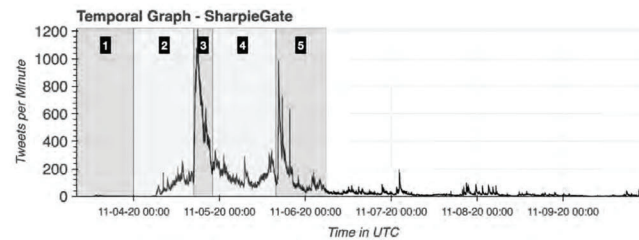
unverified and pseudonymous, nano “influencers” from spammy, follow-back communities.

### Case 2: SharpieGate

Our second case study, SharpieGate integrated several related claims (some true, some false) that weaved together to form a false “voter fraud” narrative. The core assertion of SharpieGate was that Sharpie pens given to in-person voters on election day were bleeding through ballots (true) and that this was causing ballots to be rejected (misleading; these ballots were rarely rejected) — essentially disenfranchising those voters (false, ballots rejected automatically were counted using alternative methods). Although Election Day’s first Sharpie claims surfaced in Chicago, the discourse later shifted to Arizona as the narrative evolved to assert that pens were intentionally given to Trump voters as part of a strategy to deliberately disenfranchise Trump-leaning voters.

In reality, Sharpie pens were recommended for in-person voting in Arizona (Citizens Clean Elections Commission), because they dry faster than ink pens, which smear the vote-reading machines when the ballots are fed in too quickly — as happens during high-volume, election day voting. The ballots had been designed so that bleed-through would not affect vote-counting. Unfortunately, many Arizona voters — and others who joined the online chorus of voices about this case — may have genuinely misunderstood this (admittedly somewhat abstruse) electoral process.

SharpieGate unfolded in five distinct stages, described in detail below.



**Figure C6. Temporal graph of tweets related to SharpieGate.** Shaded areas indicate the five stages: 1) collective sensemaking; 2) development/amplification of the voter fraud narrative; 3) viral spread through macro/mega influencers; 4) correction by mainstream media; 5) resurgence among partisan media with connection to the broader election fraud meta-narrative.



### Stage 1: Sensemaking and Motivated Amplification

On Election Day, the earliest wave of voter concerns about Sharpies occurred in Chicago. At 6:31am local time, a Chicago voter and low-follower (77) Twitter account tweeted his concern that his precinct's ballot reader appeared to be struggling with his Sharpie-marked ballot. His tweet received no engagements.

Thirty minutes later, a conservative media personality in the Chicago area, @AmyJacobson, echoed the concern about Sharpies and encouraged voters to bring their own pens. Later in the day, Jacobson's tone would grow more alarmist, quoting her original tweet and adding in all-caps that ballots were being placed in a BOX.

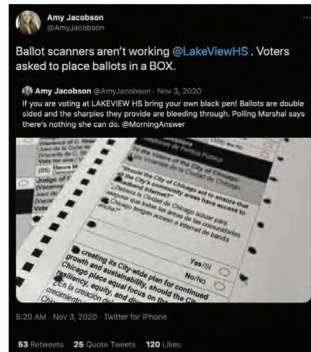


Figure C7. Jacobson's two tweets about Sharpies bleeding through ballots in Chicago.

Jacobson's tweets about Sharpies were highly retweeted and quoted (578 retweets, quote tweets, and retweets of quote tweets), constituting 46% of all Sharpie-related tweets on Election Day. Quote tweets of Jacobson became an escalatory vector. Several users explicitly framed Jacobson's tweet as evidence of voter suppression or voter fraud. Others attempted to trade up — calling attention to large-following, pro-Trump accounts (e.g., @TeamTrump and @RealJamesWoods) by mentioning their handles alongside claims about Sharpies and fraud.

Though most tweets about Sharpies on Election Day were focused around Chicago, another parallel conversation was emerging in Arizona. The first tweet to connect

Arizona and Sharpies was posted at 14:17 UTC (7:17am AZ time, shortly after the polls opened) by an account with ~3K followers:

Electioneering? Our policing location provided sharpies to mark our ballots, which bled through. It didn't affect the back side, BUT there were plenty of stray marks. Several of us complained, the poll workers shrugged their shoulders. <embedded image of a ballot with Sharpie bleed-through from the backside and a clear Trump vote on the frontside>

The tweet was posted as a reply to a highly-retweeted (>8.5K) thread, initiated by a columnist at partisan outlet Newsmax, that had become a site for aggregating right wing claims about Election Day issues. The AZ reply tweet shared a similar narrative to Jacobson's: an accusation of poll worker indifference to Sharpie bleed-through. The leading question of "Electioneering?" implies that Sharpies may have intentionally disenfranchised voters. The embedded image contains a clearly marked Trump vote, signaling for its audience whom the assumed target of this potential conspiracy was.

This first tweet about Sharpies in Arizona saw limited engagement (19 retweets). Less than ten minutes later, another user — this one with conservative and pro-Trump markers in its handle and profile description — tweeted out a warning, seemingly motivated by legitimate concern, to voters to bring their own pens. That tweet got more traction: 140 retweets, quote tweets, and retweets of quote tweets. Overall, however, the numbers remained small — those two tweets constituted most of the Arizona-related spread of Sharpie claims on Twitter on election day. Throughout the day, @MaricopaVote (the official account of the Maricopa County election department) and several local, meso-sized traditional media outlets in both Arizona and Chicago attempted to fact-check the claim on Twitter, but received very little amplification on Twitter.

Facebook appears to have hosted parallel conversations about Sharpies around the same time. At 15:15 UTC (8:15am AZ time), a Republican party official posted an image encouraging voters in Maricopa county to bring their own to the polls. It garnered 39 engagements and 10 shares. At 21:50 UTC (2:50pm AZ time), a Republican candidate for office in Maricopa county incorrectly asserted that voters' ballots were being "canceled" due to Sharpie pen use, including a screenshot of a vote-tracking website as evidence. The post received 70 comments, mostly on election day, though the conversation was localized — primarily people from Arizona sharing their own experiences with a tone of concern and/or anger.

### **Stage 2: Development and Growth of the Voter Fraud Narrative**

As the polls closed in Arizona, conversation around Sharpies simmered. Online warnings to voters to bring their own pens had set the stage for clashes within polling places, as poll workers attempted to force voters to use county-provided Sharpie pens.

At 3:52 UTC on November 4 (8:53pm AZ on November 3), a right-wing political activist<sup>15</sup> in Arizona posted a Facebook video featuring a woman claiming that election officials were forcing people to use Sharpie pens and causing invalidated votes, tying the woman's claims to a larger conspiracy against Trump voters. The video has accumulated over 4M views and 27,000 engagements on Facebook. Though we cannot determine when those views and engagements occurred, the post received over 100 comments in the subsequent 24 hours, including many from people in AZ who voted with Sharpie pen, confirmed the bleed-through, and expressed anxiety about whether their vote had counted. One user posted a link to the Trump campaign's "Defend Your Ballot" website and encouraged people to report their issues with Sharpie pens. Another user asked the original poster to make the video shareable — which he did at 4:01 UTC (9:01pm AZ time).

About an hour after the video was posted, at 5:20 UTC (10:20pm AZ time), Fox News declared Joe Biden the winner of Arizona. The conversation around Sharpies on Twitter, which had gone silent after the polls closed, began to revive about an hour after Fox's Arizona call (Figures 6 & 8). Between 06:00 and 17:00 UTC, the tweet rate increased steadily and the narrative began to converge around explicit accusations of voter fraud.

The first prominent tweet in this surge made an explicit claim connecting Sharpies to Democrat-driven voter fraud in Arizona:

(2020-11-04 06:14) Poll workers in Maricopa County AZ were handing out sharpie markers knowing full damn well that the machines register ONLY ink ballots. FRAUD IN ARIZONA. Dems are so desperate

The tweet received 1932 amplifying engagements — gaining momentum through retweets and quotes from pro-Trump, #MAGA, and QAnon networks — and was still accelerating when Twitter suspended the account at 08:15 UTC (1:15am AZ time). The suspension occurred just minutes after the account was quote-tweeted by conservative activist Charlie Kirk.

The election night Facebook video reached Twitter around the same time as the tweet above, initially within text-based posts echoing some of its claims, then later within (674) tweets linking to the video on Facebook. Eventually users embedded the video directly into tweets. The first came from an unverified, low follower account replying to another tweet claiming fraud in Pennsylvania and was amplified 54 times. A second tweet with the embedded video was posted by an unverified users with 56.6K followers, who has since been suspended from Twitter:

<sup>15</sup> It is not possible to get the friend count for this user on Facebook, but his Twitter account (which he posts the video to later) was a low follower account.

(2020-11-04 06:43) They gave Trump voters sharpies and now their votes are being invalidated! WTF! <embedded video>

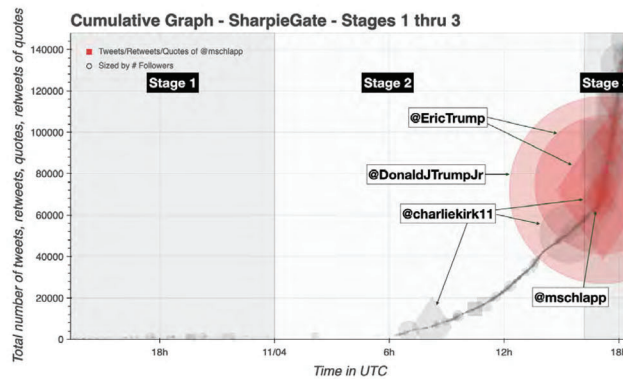
That tweet was retweeted 3544 times, quoted 1765, and spread widely through retweets of those quote tweets. One of the quote tweets was from an unverified low follower account of a person in Arizona:

(2020-11-04 06:50) AZ Breaking news. Voters were intentionally given Sharpie pens for their ballots so it would cancel their votes in Gilbert and Queen Creek. @PressSec As I've said 100s of times, AZ has a massive voter fraud problem every single election. SOMEBODY LISTEN PLEASE!!!! <Quote tweet of the above>

This tweet was retweeted 8941 times and quoted 1461 times. Over the next few hours, the tweet's author would trade up on the claim, attempting to reach more influential accounts — including @kelliwardaz (Kelly Ward, chair of the Arizona Republican Party), @PressSec (then Press Secretary Kayleigh McEnany), and a now-suspended high-follower QAnon account — by mentioning or replying to them. The tweet record indicates that the author of this highly viral quote tweet was legitimately concerned about the issue. About 12 hours later, she notes that she deleted her previous tweets after reading a correction from a local news website quoting the Maricopa County elections department.

As the video began to spread, another tweet from an unverified, low follower account re-embedded it, explicitly connecting the use of Sharpies to the fact that Arizona had been called for candidate Biden. That tweet received considerable attention as well, accumulating 17,898 amplifying engagements.

Altogether, retweets and quotes of five tweets constitute half of the growth in the SharpieGate narrative that takes place in Stage 2. Interestingly, three of these tweets originate from unverified, low-follower accounts. All but one have markers in their profile indicating support for conservative politics generally or President Trump specifically, suggesting that they were, at least in part, politically motivated to share this content. Amplification during this time occurs, primarily, through Trump-supporting accounts with larger audiences — including some verified accounts. Of particular note is the role of mega influencer @CharlieKirk11 (verified, 1.8M followers). Kirk is the founder and president of Turning Point USA, a conservative political organization and a “repeat spreader” of false and misleading claims of election fraud in 2020 (CIP et al., 2021). Between midnight and 17:00 UTC on November 4, Kirk posted two SharpieGate related tweets — one a quote and the other a retweet of the example tweets above — that helped the narrative gain momentum.



**Figure C8. Cumulative graph of Stages 1-3 of SharpieGate.** The Y-axis represents the total number of tweets. The X-axis is time. Individual tweets of influencers (>20,000 followers) are plotted, sized by follower count. Tweets are colored red if they are tweets, retweets, or quote tweets of @mschlapp.

### Stage 3: Mass Amplification by Conservative/Pro-Trump Influencers

On the day after the election, between 17:00 and 18:30 UTC (10am-11:30am AZ time), the #SharpieGate narrative began to “go viral” on Twitter — moving through a series of accounts with meso-, macro- and mega-sized audiences and garnering more than 80K tweets in an hour and a half. In that single hour, it received more amplification than in the preceding 24 hours combined. Figure C8 reveals that the surge is, in part, catalyzed by the following tweet, from conservative operative Matt Schlapp:

**@mschlapp** (2020-11-04 16:51) AZ update: apparently the use of sharpie pens in gop precincts is causing ballots to be invalidated. Could be huge numbers of mostly Trump supporters. More to come

Schlapp's account had 228K followers at the time. The tweet — which, unlike many of the earlier viral tweets, couched the claims about Sharpie pens in uncertainty — received 4335 retweets and was quoted 1356 times resulting in 9551 retweets. More interesting than the absolute numbers here is how Schlapp's tweet echoed through the accounts of other large-following accounts of conservative political figures and media, including Fox News contributor @SaraCarterDC, conservative news outlet TownHall's editor @KatiePavlich, and President Trump's sons, @EricTrump and @DonaldJTrumpJr. In this case, Schlapp served as an influencer's influencer, helping to move the developing conspiracy theory from its origins in low follower accounts into the

awareness of massive influencers in hyper-partisan media and within the Trump campaign. Interestingly, Schlapp was involved in contesting a previous election — he was in attendance during the “Brooks Brothers riot” that successfully stalled the recount effort in 2000 (Kamen, 2005).

Other accounts with highly quoted and retweeted tweets at this time include Charlie Kirk, conservative author @DineshDSouza, the founder of “Students for Trump” @RyanAFournier, the founder of the “Walkaway” movement @BrandonStraka, and Arizona GOP congressman @DrPaulGosar.

#### Stage 4: Corrections by Mass Media Accounts

At the end of State 3 and through the beginning of Stage 4, a series of attempted fact-checks of the SharpieGate narrative emerge — first by large-following accounts such as anti-Trump political pundit @gtconway3d, BlackLivesMatter activist @deray, and left/center-left media outlets @thedailybeast, @BuzzfeedNews, and @ViceNews, and subsequently by mass media outlets with mega-sized audiences such as @ABC, @HuffPost, and @WashingtonPost. These corrective tweets were not highly retweeted (relative to the earlier tweets pushing the misleading claims), but instead accompanied a steady decrease in engagement around the narrative.

However, persistent chatter remained headed into the second day following the election — mostly retweets of viral tweets posted earlier. And a few new threads emerged, aggregating claims of rejected ballots and making calls to action (e.g. recommendations to call lawyers, instructions for AZ voters to go to a website to check the status of their ballots).

#### Stage 5: Conservative Mega-Influencers Drive a Resurgence

On Twitter, we see another resurgence of the SharpieGate narrative on November 5 at 16:20 UTC, precipitated by this tweet from Fox News host Maria Bartiromo:

```
@MariaBartiromo (2020-11-05 16:20):
-4am dump/Wisconsin 65,000 votes 100% for Biden
-4am dump/Michigan 138,499 votes 100% 4Biden
-AZ poll workers forcing voters to use sharpies thereby invalidated ballots
-Trump leading in GA, NC, PA, WI, MI & they stop counting" before the vote
fairly visits overnight...
```

Maria's tweet pulled together four different claims about voting irregularities into a single post, situating the SharpieGate claims within the broader “election fraud” narrative. Interestingly, her post only hinted towards a conspiracy, without providing a coherent theory. The tweet began to spread widely immediately, but accelerated about ten minutes later when it was quote-tweeted by @EricTrump, who explicitly articulated the “fraud” framing and issued a call to action to the FBI and DOJ.



Bartiromo's tweet was quoted by several other verified, high-follower accounts in the conservative and pro-Trump media sphere, including conservative activist and president of Judicial Watch @TomFitton (1.2M followers) and Trump-supporting lawyer @RudyGiuliani (883K followers); and retweeted by similar accounts including @DonaldJTrumpJr, Trump lawyer @JennaEllisEsq (310K followers), and former GOP Speaker of the House @NewtGingrich (2.4M followers). Bartiromo's tweet generated a surge of about 25K SharpieGate tweets in one hour and eventually received 67K amplifying engagements.

In subsequent days, #SharpieGate faded and merged into other controversies, evolving into one among many substantiating claims for the #StopTheSteal movement's meta-narrative of a stolen election.

#### **Summarizing #SharpieGate**

Examining the lifecycle of #SharpieGate reveals both “bottom-up” and “top-down” dynamics. Though the narrative was initially promoted, very early on election morning, by a conservative media personality in Chicago, it developed throughout the day and was carried over to Arizona through the activity of unverified, and mostly low-follower accounts, some by sharing their own experiences of Sharpie-related voting issues and others by amplifying the concerns of others. Over on Facebook, a few public posts from accounts of local political activists served as meeting places for sharing and discussing concerns. After the polls closed, a video filmed by a local political activist was posted to Facebook and began to gain traction across platforms, initially through amplification of low-follower accounts and micro-influencers. As the narrative became useful for contesting President Trump's loss in Arizona, large-following influencers on the political right — including conservative media personalities, GOP political operatives, and members of the Trump campaign — helped take #SharpieGate viral, in some cases by quoting or retweeting lower follower accounts and in others by summarizing the growing theory for a broader audience. A day later, similar accounts contributed to a resurgence of #SharpieGate, connecting it to the broader meta-narrative of election fraud. And soon enough, political organizers began to mobilize on top of the #SharpieGate claims.

#### **Appendix D: Mobilizing on Misinformation**

As #SharpieGate spread, it was integrated into a broader #StopTheSteal movement. The “Stop The Steal” slogan, originally coined by Roger Stone in 2016, re-emerged as a hashtag on social media on Election Day in 2020, functioning to aggregate disparate claims about voter fraud into a single “channel”, which soon became a digital space for mobilizing on top of the false and misleading claims and narratives.

Matt Schlapp's tweet (below) demonstrates how #SharpieGate became connected to #StopTheSteal, and how conservative political organizers utilized the hashtags (and social media) to aggregate false, misleading, and unsubstantiated claims of voter fraud and build a collective sense of grievance around them.

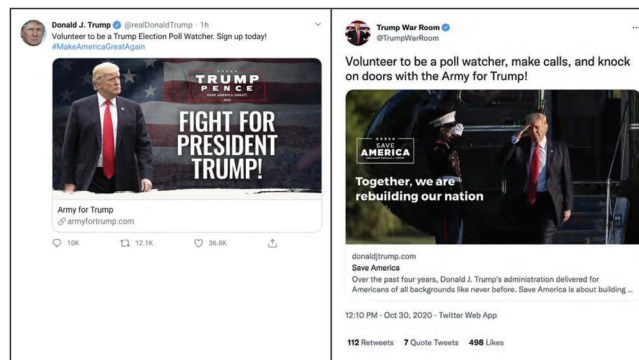


Here, we present a preliminary analysis — part of an ongoing research project — about how the Trump campaign mobilized on top of misinformation. This research extends from analysis of the (Twitter-based) case study of SharpieGate as well as analysis of “StopTheSteal” discourse.

### **Setting the Stage: Joining the Army for Trump to Defend Your Ballot**

The Trump campaign and its supporters made concerted efforts to mobilize on top of and through misinformation. These efforts began several weeks prior to the election. Early on, there were calls — from the campaign and from the president himself — for supporters to join the “Army for Trump” and to participate in various ways. One avenue for participation was “poll watching”.





The Trump campaign organized an effort to train volunteers to perform as informal poll watchers, where they were asked to document what they believed to be evidence of voter fraud. Eventually they expanded that call to supporters more generally, with an online form and a directive to submit “anything that does not seem right”:

**@TeamTrump (now Suspended)** (2020-10-31 21:48:50 UTC):  
We're counting on YOU to be our eyes and ears on the ground when voting.

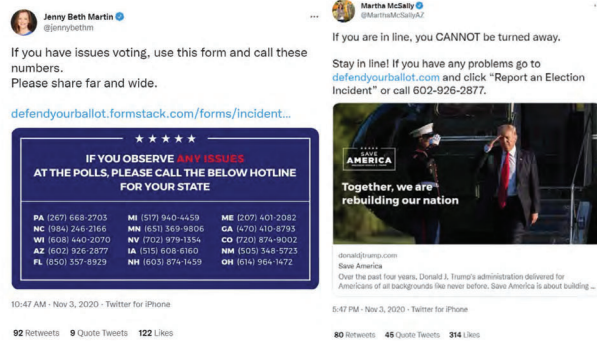
REPORT anything that does not seem right.

VISIT: [https://defendyourballot.formstack.com/forms/incident\\_report](https://defendyourballot.formstack.com/forms/incident_report)

This effort provided the Trump campaign with a mechanism to collect the raw materials (textual claims, photos, videos) that could be assembled into their theories of voter fraud — and to identify individuals who could stand behind those observations and claims. As we saw in SharpieGate, a substantial number of people — without proper training around election procedures and materials — were motivated to go to the polls looking for this evidence, ended up misinterpreting events they or others experienced, and then shared those misinterpretations online. The unintentionally false claims eventually found their way into social media posts, articles, and, with the help of lawyers and political organizers, affidavits. It is likely that many of these claims — and similar ones — made their way into the “Defend Your Ballot” system as well.

On election day, other conservative political figures and organizers — such as Jenny Beth Martin (co-founder of Tea Party Patriots) and Martha McSally (Republican Senator

from Arizona) in the examples below — directed their followers to the defendyourballot.com website to report voting issues.



Some of these messages included phone numbers that voters could call if they encountered perceived issues. The phone number for Arizona, (602) 926-2877, operated by the Arizona Republican Party<sup>16</sup>, appeared in within the text of thousands of tweets (7967) — the vast majority (7113) of which were in the context of #SharpieGate, suggesting that voters call the number if they thought that their Sharpie-marked ballot had not been counted:



<sup>16</sup> <https://www.azcentral.com/story/news/politics/elections/2020/11/03/why-arizona-voters-should-check-they-signed-their-ballot-envelope/6063229002/>

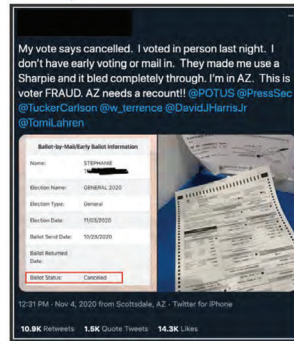
### Checking Websites to Check Ballot Status or Voting Records

As part of the #SharpieGate efforts in Arizona, a number of Trump supporters began to encourage Arizona voters to go online to check the status of their ballots — ostensibly to determine if voting with Sharpie pen had invalidated their votes.

(2020-11-04 12:34:05 UTC):  
AZ Voters check online to see if your ballot was canceled  
<https://recorder.maricopa.gov/earlyvotingballot/earlyvotingballotstatus.aspx>

Machines are calibrated to only read pen ink not sharpies

Unfortunately, the website to which they were directed allowed voters to check the status of their *mail-in* ballots (which were canceled when they voted in person). This created a widespread misperception, among Trump supporters who followed the directive, that their votes had not been counted.



The tweet above features one of these “canceled ballot” cases. The author, who according to the timing of her tweet voted on election day, asserts that “they made me use a Sharpie and it bled completely through,” that she has now gone to the website and found that her vote has been canceled, and that “This is voter FRAUD.” She includes a photo of her ballot and a screenshot of the website that says her ballot has been canceled. However, at the top, the form notes that this information is about mail-in or early ballots (not ballots cast in-person on Election Day). This tweet, which featured a misinterpretation and a false claim of voter fraud, was retweeted more than 10,000 times. It was one numerous social media posts containing similar claims and images.

### Calling Lawyers and Filing Suits

In the days following the election, as the Trump campaign solicited and in some cases amplified strategies for contesting the results, Trump supporters were encouraged to call lawyers to share evidence they might have of voting issues and/or voter fraud.

Hundreds of similar tweets — many from now-suspended accounts — shared content like the example tweet below:

The president's lawyer wants for those people who were given sharpies to call, give their name, state voted by sharpie, their state and polling station. Even if your vote was accepted. They are starting a law suit. 1-800-684-3110

The phone number in that tweet (1-800-684-3110) is associated with the American Center for Law and Justice, a conservative, Christian activist organization. The chief counsel for the ACLJ is Attorney Jay Alan Sekulow, whose name also appears in nearly 10,000 tweets soliciting information from voters who perceived issues with Sharpie pens.

(2020-11-04 21:36:33+00:00): Jay Sekulow is asking all Arizona and Pennsylvania voters who were given Sharpies to contact his law firm. He is preparing a suit against Arizona for polling interference. Please share this information Jay Sekulow . com

Many of the tweets advertising the ACLJ's phone number and/or Sekulow's services in the context of SharpieGate use very similar language — similar to “copypasta” where a large number of accounts copy and paste the same content into their tweets. This can be a signal of inauthentic activity, including paid content promotion. It can also be the result of organic efforts encouraging people to “copy and share” content — and indeed we see such calls to digital action in the digital record.

Another of the highly-advertised phone numbers went to Kolodin law group. We collected nearly 30,000 tweets containing the phone number for Kolodin. Most were retweets or quote tweets of the (now deleted) viral tweet below:

(~2020-11-04 16:41 UTC) ARIZONA RESIDENTS. If the voting machine in Maricopa rejected your ballot with the Sharpies provided by Fontes, please call the attorneys at 602-730-2985.

These efforts to solicit information from voters about issues with Sharpie pens led to lawsuits featuring these claims. Kolodin filed a lawsuit on November 4, 2020 centered around claims from #SharpieGate — i.e., that the use of Sharpie pens had caused votes to not be counted. That initial lawsuit was withdrawn by Attorney Alexander Kolodin on

November 7. An effort to revive that lawsuit was rejected by a Maricopa County Superior Court judge on November 9, 2020.<sup>17</sup>

A second lawsuit related to SharpieGate, litigated by lawyers from the Trump campaign, received a hearing on November 14, 2020. In that case, lawyers attempted (unsuccessfully) to admit to the court hundreds of affidavits that had been shared via an online form. (We assume this to be the DefendYourBallot form described above.) The attorney leading that case, Kory Langhofer conceded that the witness statements gathered online had not been authenticated, and later the witnesses who appeared in court also acknowledged that they did know whether or not their vote was counted<sup>18</sup>.

These findings show an interplay between the false/misleading claims that emerged around Sharpies and efforts by lawyers connected to conservative causes to mobilize those claims into lawsuits to contest election results in Arizona. The lawsuits were, in the end, unsuccessful.

### Attending Protests

The digital record — including social media posts and online news articles — also reveals how the false/misleading claims about Sharpies were mobilized into physical demonstrations and protests in Maricopa County, AZ. Several high-profile conservative political leaders and media figures played prominent roles in organizing, promoting, and/or taking part in these protests.

Senator Paul Gosar took part in a rally near the Arizona Capitol on November 4, 2020 (the day after the election and after SharpieGate had gone viral), where Trump supporters in the crowd shouted a question about Sharpie pens and he encouraged them to go online and trace their ballots<sup>19</sup>. A video from that rally reveals attendees discussing their perceptions that Sharpie pens may have affected their votes<sup>20</sup>. Gosar shared several tweets that evening about his participation in the rally, including:

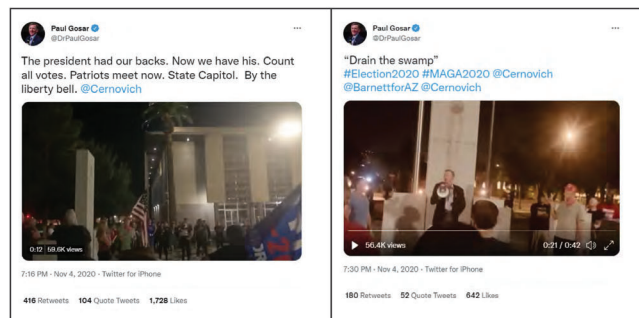
<sup>17</sup>

<https://kjzz.org/content/1634466/maricopa-county-judge-rejects-sharpie-complaint-other-gop-election-case-moves>

<sup>18</sup> <https://lawandcrime.com/2020-election/bye-bye-sharpiagate-trump-campaign-hastily-retreats-from-conspiracy-laden-lawsuit-after-brutal-hearing/>

<sup>19</sup> <https://www.azcentral.com/videos/news/politics/elections/2020/11/05/rep-paul-gosar-addresses-trump-supporters-protest-downtown-phoenix/6170539002/>

<sup>20</sup> <https://youtu.be/MPRIIf4UyHw?t=639>



The first tweet (on the left) featured an emerging refrain to “count all votes” — one that would appear repeatedly over the next few days. The second tweet (on the right) included a video of his speech at the rally, with him urging attendees to “email, text, tweet, everything you can possibly do to get the information out... make sure people know we are fighting, this is our Alamo.”<sup>21</sup>

Later in the evening on November 4, Matt Schlapp, who played a significant role in taking #SharpieGate viral earlier that day, doubled down on those initial claims after criticism, and indicated that he (and others) planned to go to Arizona to “count every legal ballot” (echoing Gosar’s statement from earlier in the event).

<sup>21</sup> <https://twitter.com/DrPaulGosar/status/1324192258082570242>



Likely connected to the effort Schlapp mentioned, a second, larger gathering took place in Phoenix, AZ on November 6, 2020. That gathering, branded as a “Protect the Vote” rally, was advertised by other political influencers, including Charlie Kirk who had played an early role in the spread of the false/misleading claims around Sharpie pens (see Appendix C). Both Kirk and Gosar tweeted about the rally, positioning it as an attempt to stop Democrats or “the left” from “stealing the election” from President Trump and/or his supporters.





This analysis is not exhaustive, but is meant to show how some of those who helped spread the false/misleading SharpieGate claims that helped to catalyze a sense of grievance about a “stolen election” were also involved in mobilizing people into physical protests around those claims and the manufactured grievance. Though the specific claims around #SharpieGate initially emerged from everyday voters, established conservative and pro-Trump organizations seized upon those claims as organizing opportunities, stoking a false sense of grievance and mobilizing on top of it.

#### Integrating SharpieGate into the #StopTheSteal Organizing Effort

Though SharpieGate faded as a focal point, the grievance remained, and conservative and pro-Trump influencers in politics and media continued to stoke anger around false claims of voter fraud – and to organize protests. SharpieGate became integrated into the broader “Stop the Steal” movement, which persisted through November and December, manifesting as a series of protests around the country. #StopTheSteal eventually culminated in events on January 6, with many of the participants in the social media discourse attending the gathering at the Ellipse that day (as organizers or rallyers) and some ending up on the Capitol grounds and even within the Capitol Building<sup>22</sup>.

<sup>22</sup> It is interesting to note that Elijah Schaffer, who features into the Sonoma Ballots case study in Appendix D as the originator of a false claim about mail-in voting issues, was – according to his own social media posts – within the Capitol Building and reporting from inside Nancy Pelosi’s office, ostensibly in his role as a journalist, on January 6, 2021.



### Appendix E: #StopTheSteal Influencers on Twitter

A large number of false and misleading narratives — many featuring false claims of systematic voter fraud — circulated in the days and weeks following the November 3 election. Over time, these narratives began to consolidate, at least on Twitter, under the #StopTheSteal banner. #StopTheSteal was a hashtag, originally coined by Roger Stone in 2016, that reappeared on election day and began to be used — by everyday users and social media influencers — to collate disparate claims about perceived voting issues and alleged voter fraud. Over time, organizers began to mobilize people into physical gatherings and protests under the #StopTheSteal banner. Here, we offer a cursory overview of the most prominent accounts and domains in the #StopTheSteal discourse.

In all, we collected 5.7M tweets with #StopTheSteal in them. A temporal graph reveals this activity to begin on election day and surge over the two days following. Over the course of the next several weeks and months, activity on the hashtag was fairly persistent. It followed a temporal pattern aligned with U.S. time zones (with increases during the days/evenings and dips in the early morning hours), suggesting mostly domestic U.S. participation. It featured several spikes, including on November 14, November 21, November 29, and December 12. After diminishing somewhat during the latter part of December 2020, activity around the #StopTheSteal hashtag surged again during the first few days of January 2021, leading up to the anticipated protests and eventual attack on the Capitol on January 6.



Figure E1. Temporal Graph of #StopTheSteal tweets.

Table D1 lists the accounts that were most highly retweeted for #StopTheSteal content — i.e. for tweets with #StopTheSteal in them.

Rank	Account	Verified Status	Suspended Status	Total #StopTheSteal Tweets/RTs Posted	Retweets of #StopTheSteal Tweets
1	ali	FALSE	Suspended	560	216725
2	realDonaldTrump	TRUE	Suspended	5	194189
3	GenFlynn	TRUE	Suspended	8	112617

4	MichaelCoudrey	TRUE	Suspended	136	99600
5	BrandonStraka	TRUE	Active	28	62382
6	ANONYMIZED	FALSE	Suspended	143	56610
7	MarkFinchem	FALSE	Active	54	54182
8	EricTrump	TRUE	Active	4	52980
9	ScottPresler	TRUE	Active	20	50444
10	RealMattCouch	FALSE	Suspended	58	49363
11	kelliwardaz	TRUE	Active	72	47206
12	AmyKremer	TRUE	Active	42	41936
13	ANONYMIZED	FALSE	Missing	107	41642
14	michellemalkin	TRUE	Active	64	39036
15	KylieJaneKremer	FALSE	Active	96	36630
16	replouiegohmert	TRUE	Active	10	36571
17	RealJamesWoods	TRUE	Active	3	35382
18	ANONYMIZED	FALSE	Suspended	183	35149
19	ANONYMIZED	FALSE	Suspended	279	33465
20	mtgreenee	TRUE	Suspended	32	32559
21	scrowder	TRUE	Active	9	32473
22	LLinWood	FALSE	Suspended	6	32093
23	SebGorka	TRUE	Active	21	27332
24	SidneyPowell1	FALSE	Suspended	4	25111
25	RealCandaceO	TRUE	Active	1	24914
26	RudyGiuliani	TRUE	Active	3	24568
27	ANONYMIZED	FALSE	Active	9	24036
28	w_terrence	TRUE	Active	3	23900
29	TheRightMelissa	FALSE	Suspended	25	23847
30	ANONYMIZED	FALSE	Active	134	23750

31	ANONYMIZED	FALSE	Active	1	23497
32	DrPaulGosar	TRUE	Active	39	23461
33	RSBNetwork	TRUE	Active	10	23125
34	bfraser747	FALSE	Suspended	183	21171
35	ANONYMIZED	FALSE	Missing	1559	20670
36	thecjpearson	TRUE	Active	24	20459

**Table E1. Most-Retweeted accounts in the #StopTheSteal Twitter discourse (November 3, 2020 through January 6, 2021).** Column three is the number of original tweets (not retweets) the account posted with #StopTheSteal in them. Column four is the number of retweets (of others' tweets) the account posted with #StopTheSteal in them. Column five is the number of times this accounts was retweeted for #StopTheSteal tweets.

This list of accounts that were highly retweeted in the #StopTheSteal discourse includes accounts of then President Donald Trump (who posted a small number of #StopTheSteal tweets that were highly retweeted) as well as members of his family (Eric Trump) and close allies such as lawyers Lin Wood, Rudy Giuliani, and Sidney Powell. It also included current and former elected officials and political candidates, such as Kelli Ward, Majorie Taylor Green, Louie Gohmert, and Paul Gosar.

Perhaps not surprisingly, many of the accounts that were repeatedly spreading false, misleading, exaggerated and unsubstantiated claims that sowed doubt in the 2020 election were also influential in the #StopTheSteal discourse. Similarly, many of the most prominent domains in the #StopTheSteal discourse were also highly-cited in the spread of false/misleading claims of voter fraud on Twitter.

Rank	Domain	Number of #StopTheSteal Tweets Citing Domain
1	<a href="http://www.youtube.com">www.youtube.com</a>	193268
2	<a href="http://www.thegatewaypundit.com">www.thegatewaypundit.com</a>	192005
3	<a href="http://womenforamericafirst.org">womenforamericafirst.org</a>	171856
4	<a href="http://www.pscp.tv">www.pscp.tv</a>	147526
5	<a href="http://stopthesteal.us">stopthesteal.us</a>	94428
6	<a href="http://www.theepochtimes.com">www.theepochtimes.com</a>	78012

7	<a href="http://www.breitbart.com">www.breitbart.com</a>	33152
8	<a href="http://wildprotest.com">wildprotest.com</a>	23665
9	<a href="http://www.foxnews.com">www.foxnews.com</a>	18905
10	<a href="http://www.infowars.com">www.infowars.com</a>	18186
11	<a href="http://donorbox.org">donorbox.org</a>	15263
12	<a href="http://parler.com">parler.com</a>	14042
13	<a href="http://rumble.com">rumble.com</a>	12508
14	<a href="http://defendingtherepublic.org">defendingtherepublic.org</a>	10868
15	<a href="http://defendyourballot.formstack.com">defendyourballot.formstack.com</a>	10354
16	<a href="http://justthenews.com">justthenews.com</a>	9032
17	<a href="http://www.inquirer.com">www.inquirer.com</a>	7607
18	<a href="http://www.facebook.com">www.facebook.com</a>	7285
19	<a href="http://marchtosaveamerica.com">marchtosaveamerica.com</a>	7128
20	<a href="http://www.washingtonexaminer.com">www.washingtonexaminer.com</a>	7021

**Table E2. Top 20 Most-Tweeted Domains in the #StopTheSteal Twitter discourse (November 3, 2020 through January 6, 2021).** Column three is the total number of tweets with #StopTheSteal that link to an article within this domain.

Underscoring the cross-platform nature of the #StopTheSteal movement, five of the most-cited domains on Twitter were other social media platforms: YouTube, Periscope, Parler, Rumble, and Facebook. The most-cited domains also feature hyperpartisan news outlets that were influential in the spread of false and misleading narratives of voter fraud, including the Gateway Pundit, Epoch Times, Breitbart, JustTheNews, and Washington Examiner. Fox News also makes the list of most cited domains in the #StopTheSteal discourse. Several of the other most-cited domains in #StopTheSteal tweets were websites that attempted to organize and mobilize on top of the false narrative of systematic voter fraud. These include: [womenforamericafirst.org](http://womenforamericafirst.org), [stopthesteal.us](http://stopthesteal.us), [wildprotest.com](http://wildprotest.com), [defendingtherepublic.org](http://defendingtherepublic.org), [defendyourballot.formstack.com](http://defendyourballot.formstack.com), and [marchtosaveamerica.com](http://marchtosaveamerica.com).

## Appendix F : Twitter’s Policy Enforcements

Between August 2020 and January 2021, social media companies such as Twitter, Facebook, and YouTube rapidly evolved their policies to address potential harmful misinformation about the election. The EIP investigated and reported on policy changes and enforcement actions on several platforms. However, due to limited transparency, it can be difficult to conduct systematic analysis on those enforcements and their impact on most platforms. Here, we provide an in depth analysis on the one platform where we have good visibility: Twitter.

In September 2020 Twitter<sup>23</sup> updated their Civic Integrity policy to include language covering “disputed claims that could undermine faith in the process itself” and “misleading claims about the results or outcome of a civic process which calls for or could lead to interference with the implementation of the results of the process”. And in January (after the events of January 6), Twitter updated their policy again to outline a “strikes” policy that provided guidelines for increasingly severe enforcement actions for repeated violations of the policy — including permanent suspensions after five or more strikes.

After the events of January 6, Twitter took some broad actions against problematic accounts, suspending thousands of accounts. These suspensions took out large sections of the networks that were active around the election — and especially in the pro-Trump sections of the social graph that were heavily involved in spreading false/misleading claims about election fraud. For example, nearly 30% of accounts that tweeted about the Sonoma Ballots case and 20% of those that tweeted about #SharpieGate have now been suspended.

---

<sup>23</sup> Other platforms also updated their policies, but we focus here on Twitter not because they are particularly bad actors in this space (they aren’t), but because Twitter data is public and we can study it as external researchers. It is likely that similar trends are present on other platforms.



Source: Andrew Beers/Center for an Informed Public/University of Washington

**Figure F1. Co-engagement network graph of influencers within election discourse.** Nodes are Twitter accounts that were highly retweeted around election-related topics. Edges connect nodes when several accounts (>7) retweeted both nodes many times (>10). The accounts are clustered into (and colored by) communities of accounts with similar network connections. Accounts that have been suspended are in black.<sup>24</sup>

The following tables give statistics about the accounts that participated in spreading the false Sonoma Ballots claims (Table F1) and the false/misleading SharpieGate claims (Table F2). The table groups accounts by follower count and looks at the participation as well as verified and suspension status of accounts of different sizes. Columns 4 and 5

<sup>24</sup> This method and more information about this graph are described in the following paper, currently in review: Andrew Beers, Joseph S. Schafer, Ian Kennedy, Morgan Wack, Emma S. Spiro, and Kate Starbird. (Under review). Followback Clusters, Satellite Audiences, and Bridge Nodes: Coengagement Networks for the 2020 US Election. Under Review at Proceedings of the International AAAI Conference on Web and Social Media (ICWSM 2022).

look at the percentage of all participating accounts that have been suspended (4) and the percentage of verified participating accounts that have been suspended.

These data show that:

- A large percentage of accounts that participated in the spread of these false claims have now been suspended from the platform (28.9% for Sonoma Ballots and 20.2% for SharpieGate).
- Verified accounts who participated in these narratives were FAR less likely to be suspended from Twitter (2.1% for Sonoma Ballots and 0.8% for SharpieGate). The vast difference may be due, in part, to the fact that many verified accounts were “participating” by trying to debunk the narratives. However, even among ‘repeat spreaders’ of false/misleading narratives, we see a similar trend where verified accounts are less likely to be suspended.
- Accounts with relatively high follower counts (between 5K and 500K) were more likely to be suspended than accounts with very few followers and accounts with massive follower counts.

Our findings indicate that while verified, high-follower accounts were among the most influential in the spread of false narratives of voter fraud, Twitter’s suspensions (the most drastic policy enforcement action) tended to focus on accounts with large audiences that were not verified. This aligns with understandings of Facebook’s XCheck program, which may have helped high profile accounts avoid suspensions and other policy enforcement actions<sup>25</sup>. There are a few high profile exceptions to this trend, e.g., the suspension of former President Trump’s accounts after January 6. But the trend suggests that high profile accounts are able to avoid some kinds of policy enforcements, despite their outsized role in the spread of harmful mis- and disinformation.

Account Size	Accounts	% Verified	% Suspended (Total)	% Suspended (Verified Accounts)	Total Tweets by Accounts	RTs of accounts
Total	36152	0.4%	28.9%	2.1%	45819	38750
Low Follower (0-1000 followers)	20416	0.03%	21.4%	0%	24008	1690
Regular User (1K-5K followers)	10672	0.2%	35.6%	0%	14078	2562

<sup>25</sup> Horwitz, Jeff. 2021. “Facebook Says Its Rules Apply to All. Company Documents Reveal a Secret Elite That’s Exempt.” Wall Street Journal, September 13, 2021. <https://www.wsj.com/articles/facebook-files-xcheck-zuckerberg-elite-rules-11631541353>

Nano (5K-25K followers)	4207	1.2%	43.0%	0%	6180	5211
Micro (25K-100K followers)	793	4.9%	56.9%	0%	1429	7007
Meso (100K-500K followers)	74	28.4%	40.5%	14.3%	128	19692
Macro (500K-1M followers)	2	100%	0%	0%	2	2256
Mega (1M+ followers)	4	100%	0%	0%	4	333

**Table F1. Distribution of participating accounts in Sonoma Ballots across audience size.** Column 2 is the number of accounts. Column 3 is the % of accounts that are verified. Column 4 is the % of total accounts in that group that are currently suspended. Column 5 is the % of verified accounts in that group that are currently suspended.

Account Size	Accounts	% Verified	% Suspended (Total)	% Suspended (Verified Accounts)	Total Tweets by Accounts	RTs of accounts
Total	270742	0.73%	20.2%	0.8%	622419	496043
Low Follower (0-1000 followers)	190822	0.03%	16.4%	0%	372574	85649
Regular User (1K-5K followers)	59076	0.74%	28.4%	0.45%	175931	54390
Nano (5K-25K followers)	17555	3.8%	32.9%	0.75%	62519	88545
Micro (25K-100K followers)	2817	14.9%	34.6%	1.2%	9883	78317
Meso (100K-500K followers)	544	54%	15.8%	1.4%	1384	88370
Macro (500K-1M)	62	90%	0%	0%	133	53364



followers)						
Mega (1M+ followers)	64	97%	0%	0%	110	47420

**Table F2. Distribution of participating accounts in SharpieGate across audience size.**

Column 2 is the number of accounts. Column 3 is the % of accounts that are verified.  
Column 4 is the % of total accounts in that group that are currently suspended. Column  
5 is the % of verified accounts in that group that are currently suspended





# **The Long Fuse**

**Misinformation and the 2020 Election**

The Election Integrity Partnership

Digital Forensic Research Lab  
Graphika  
Stanford Internet Observatory  
UW Center for an Informed Public

2021

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Identifiers: ISBN 978-1-7367627-1-4 (ebook)

1.3.0 (June 15, 2021)

Cover Illustration and Design by Alexander Atkins Design, Inc.

How to cite this work:

APA Style:

Center for an Informed Public, Digital Forensic Research Lab, Graphika, & Stanford Internet Observatory (2021). *The Long Fuse: Misinformation and the 2020 Election*. Stanford Digital Repository: Election Integrity Partnership. v1.3.0  
<https://purl.stanford.edu/tr171zs0069>

Chicago Style:

Center for an Informed Public, Digital Forensic Research Lab, Graphika, & Stanford Internet Observatory. *The Long Fuse: Misinformation and the 2020 Election*, 2021. Stanford Digital Repository: Election Integrity Partnership. v1.3.0  
<https://purl.stanford.edu/tr171zs0069>

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## Executive Summary

On January 6, 2021, an armed mob stormed the US Capitol to prevent the certification of what they claimed was a “fraudulent election.” Many Americans were shocked, but they needn’t have been. The January 6 insurrection was the culmination of months of online mis- and disinformation directed toward eroding American faith in the 2020 election.

US elections are decentralized: almost 10,000 state and local election offices are primarily responsible for the operation of elections. Dozens of federal agencies support this effort, including the Cybersecurity and Infrastructure Security Agency (CISA) within the Department of Homeland Security, the United States Election Assistance Commission (EAC), the FBI, the Department of Justice, and the Department of Defense. However, none of these federal agencies has a focus on, or authority regarding, election misinformation originating from domestic sources within the United States. This limited federal role reveals a critical gap for non-governmental entities to fill. Increasingly pervasive mis- and disinformation, both foreign and domestic, creates an urgent need for collaboration across government, civil society, media, and social media platforms.

The Election Integrity Partnership, comprising organizations that specialize in understanding those information dynamics, aimed to create a model for whole-of-society collaboration and facilitate cooperation among partners dedicated to a free and fair election. With the narrow aim of defending the 2020 election against voting-related mis- and disinformation, it bridged the gap between government and civil society, helped to strengthen platform standards for combating election-related misinformation, and shared its findings with its stakeholders, media, and the American public. This report details our process and findings, and provides recommendations for future actions.

**Who We Are: EIP and Its Members**

The Election Integrity Partnership was formed to enable real-time information exchange between election officials, government agencies, civil society organizations, social media platforms, the media, and the research community.<sup>1</sup> It aimed to identify and analyze online mis- and disinformation, and to communicate important findings across stakeholders. It represented a novel collaboration between four of the nation's leading institutions focused on researching mis- and disinformation in the social media landscape:

- The Stanford Internet Observatory (SIO)
- The University of Washington's Center for an Informed Public (CIP)
- Graphika
- The Atlantic Council's Digital Forensic Research Lab (DFRLab)

**What We Did**

The EIP's primary goals were to: (1) identify mis- and disinformation before it went viral and during viral outbreaks, (2) share clear and accurate counter-messaging, and (3) document the specific misinformation actors, transmission pathways, narrative evolutions, and information infrastructures that enabled these narratives to propagate. To identify the scope of our work, we built a framework to compare the policies of 15 social media platforms<sup>2</sup> across four categories:

- *Procedural interference*: misinformation related to actual election procedures
- *Participation interference*: content that includes intimidation to personal safety or deterrence to participation in the election process
- *Fraud*: content that encourages people to misrepresent themselves to affect the electoral process or illegally cast or destroy ballots
- *Delegitimization of election results*: content aiming to delegitimize election results on the basis of false or misleading claims

The EIP used an innovative internal research structure that leveraged the capabilities of the partner organizations through a tiered analysis model based on "tickets" collected internally and from our external stakeholders. Of the tickets we processed, 72% were related to delegitimization of the election.

## Key Takeaways

**Misleading and false claims and narratives coalesced into the meta-narrative of a “stolen election,” which later propelled the January 6 insurrection.**

- Right-leaning “blue-check” influencers transformed one-off stories, sometimes based on honest voter concerns or genuine misunderstandings, into cohesive narratives of systemic election fraud.
- Warped stories frequently centered on mail-in voting and accusations of found, discarded, or destroyed ballots, particularly in swing states. Misleading framing of real-world incidents often took the form of falsely assigning intent, exaggerating impact, falsely framing the date, or altering locale.
- The meta-narrative of a “stolen election” coalesced into the #StopTheSteal movement, encompassing many of the previous narratives. The narrative appeared across platforms and quickly inspired online organizing and offline protests, leading ultimately to the January 6 rally at the White House and the insurrection at the Capitol.
- Fact-checking of narratives had mixed results; non-falsifiable narratives presented a particular challenge. In some cases, social media platform fact-checks risked drawing further attention to the claims they sought to debunk.

**The production and spread of misinformation was multidirectional and participatory.**

- Individuals participated in the creation and spread of narratives. Bottom-up false and misleading narratives started with individuals identifying real-world or one-off incidents and posting them to social media. Influencers and hyperpartisan media leveraged this grassroots content, assembling it into overarching narratives about fraud, and disseminating it across platforms to their large audiences. Mass media often picked up these stories after they had reached a critical mass of engagement.
- Top-down mis- and disinformation moved in the opposite direction, with claims first made by prominent political operatives and influencers, often on mass media, which were then discussed and shared by people across social media properties.

Executive Summary

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**Narrative spread was cross-platform: repeat spreaders leveraged the specific features of each platform for maximum amplification.**

- The cross-platform nature of misinformation content and narrative spread limited the efficacy of any single platform's response.
- Smaller, niche, and hyperpartisan platforms, which were often less moderated or completely unmoderated, hosted and discussed content that had been moderated elsewhere. Parler in particular saw a remarkable increase in its active user base, as users rejected the "censorship" they perceived on other platforms.

**The primary repeat spreaders of false and misleading narratives were verified, blue-check accounts belonging to partisan media outlets, social media influencers, and political figures, including President Trump and his family.**

- These repeat spreaders amplified the majority of the investigated incidents aggressively across multiple platforms.
- Repeat spreaders often promoted and spread each others' content. Once content from misleading narratives entered this network, it spread quickly across the overlapping audiences.

**Many platforms expanded their election-related policies during the 2020 election cycle. However, application of moderation policies was inconsistent or unclear.**

- Platforms took action against policy violations by suspending users or removing content, downranking or preventing content sharing, and applying informational labels. However, moderation efforts were applied inconsistently on and across platforms, and policy language and updates were often unclear.
- Account suspensions and content removal or labeling sometimes contributed to conspiratorial narratives that platforms were "covering up the truth," entangling platforms with the narratives they wished to eliminate.
- Lack of transparency and access to platform APIs hindered external research into the effectiveness of platform policies and interventions.

## Key Recommendations

### Federal Government

- Establish clear authorities and roles for identifying and countering election related mis- and disinformation. Build on the federal interagency movement toward recognizing elections as a national security priority and critical infrastructure.
- Create clear standards for consistent disclosures of mis- and disinformation from foreign and domestic sources as a core function of facilitating free and fair elections, including via CISA's Rumor Control and joint interagency statements.

### Congress

- Pass existing bipartisan proposals for increased appropriations marked for federal and state election security.
- Codify the Senate Select Committee on Intelligence's bipartisan recommendations related to the depoliticization of election security and the behavior of public officials and candidates for federal office noted in Volumes 3 and 5 of the Committee's report on foreign influence in 2016 elections.

### State and Local Officials

- Establish trusted channels of communication with voters. This should include a .gov website and use of both traditional and social media.
- Ensure that all votes cast are on auditable paper records and that efficient, effective, and transparent post-election audits are conducted after each election.

### Platforms

- Provide proactive information regarding anticipated election misinformation. For example, if researchers expect a narrative will emerge, platforms should explain that narrative's history or provide fact-checks or context related to its prior iterations.
- Invest in research into the efficacy of internal policy interventions (such as labeling) and share those results with external researchers, civil society, and the public.

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 Executive Summary

- Increase the amount and granularity of data regarding interventions, take-downs, and labeling to allow for independent analysis of the efficacy of these policies.
- Impose clear consequences for accounts that repeatedly violate platform policies. These accounts could be placed on explicit probationary status, facing a mixture of monitoring and sanctions.
- Prioritize election officials' efforts to educate voters within their jurisdiction and respond to misinformation. This could include the promotion of content from election officials through curation or advertisement credits, especially in the lead-up to Election Day.

## Conclusion

The 2020 election demonstrated that actors—both foreign and domestic—remain committed to weaponizing viral false and misleading narratives to undermine confidence in the US electoral system and erode Americans' faith in our democracy. Mis- and disinformation were pervasive throughout the campaign, the election, and its aftermath, spreading across all social platforms. The Election Integrity Partnership was formed out of a recognition that the vulnerabilities in the current information environment require urgent collective action.

While the Partnership was intended to meet an immediate need, the conditions that necessitated its creation have not abated, and in fact may have worsened. Academia, platforms, civil society, and all levels of government must be committed, in their own ways, to truth in the service of a free and open society. All stakeholders must focus on predicting and pre-bunking false narratives, detecting mis- and disinformation as it occurs, and countering it whenever appropriate.

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## Notes

1. (page vi) "Announcing the EIP," Election Integrity Partnership, July 27, 2020, <https://www.eipartnership.net/news/announcing-the-eip>
2. (page vi) The platforms evaluated during EIP's operation include: Facebook, Instagram, Twitter, YouTube, Pinterest, Nextdoor, TikTok, Snapchat, Parler, Gab, Discord, WhatsApp, Telegram, Reddit, and Twitch. Twitch was added to our list during our blog post update in October.



Contributors

The EIP was supported by the following students, staff and researchers from the four partner organizations.

<b>Stanford Internet Observatory</b>	Ashwin Ramaswami	<b>Graphika</b>
Samantha Bradshaw	Cooper Raterink	Joseph Carter
Daniel Bush	Cooper Reed	Avneesh Chandra
Jack Cable	Emily Ross	Shawn Eib
Caleb Chiam	Abuzar Royesh	Rodrigo Ferreira
Elena Cryst	Danny Schwartz	Camille François
Matt DeButts	Chase Small	Thomas Lederer
Renée DiResta	Alex Stamos	Erin McAweneey
Emma Dolan	Gene Tanaka	Vanessa Møller
Ayelet Drazen	David Thiel	Morgan Moon
Jackson Ellers	Julia Thompson	Jack Nassetta
Ross Ewald	Ysenia Lillo	Ben Nimmo
Toni Friedman	Alessandro Vecchiato	Brian Potochney
Isabella Garcia-Camargo	Netta Wang	Lea Ronzaud
Josh Goldstein	Lyndsea Warkentien	Melanie Smith
Shelby Grossman	Alex Zaheer	Kyle Weiss
Sejal Jhaver		
Jennifer John	<b>UW Center for an Informed Public</b>	<b>DFRLab</b>
Katie Jonsson	Joseph Bale-Coleman	Eric Baker
Dylan Junkin	Andrew Beers	Graham Brookie
Ananya Karthik	Nicole Buckley	Emerson Brooking
Tara Kheradpir	Michael Caulfield (WSU)	Kelsey Henquinet
Soojong Kim	Michael Grass	Alyssa Kann
Nazli Koyluoglu	Melinda McClure Haughey	Ayushman Kaul
Kevin Lin	Ian Kennedy	Zarine Kharazian
Pierce Lowary	Kolina Koltai	Tessa Knight
Sahar Markovich	Paul Lockaby	Jean le Roux
Gordon Martinez-Piedra	Rachel Moran	Jacqueline Malaret
Miles McCain	Joey Schafer	Esteban Ponce de Leon
Malika Mehrotra	Emma Spiro	Max Rizzuto
Carly Miller	Kate Starbird	Iain Robertson
Nandita Naik	Morgan Wack	Michael Sheldon
Benjamin Newman	Jevin West	Helen Simpson
Ana Sofia Nicholls	Tom Wilson	
Shelby Perkins	Martin Zhang	

This report was edited by Eden Beck and designed by David Thiel. The Election Integrity Partnership would like to thank Matthew Masterson for additional feedback, and Nate Persily for his support.

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## Acknowledgements

The Election Integrity Partnership's partners wish to acknowledge the following organizations for the generous financial support through which this report was possible:

### **Digital Forensic Research Lab, The Atlantic Council**

The Digital Forensic Research Lab is part of and funded by the Atlantic Council. A full list of the Atlantic Council's donors is available at:

<https://www.atlanticcouncil.org/in-depth-research-reports/report/annual-report-2019-2020-shaping-the-global-future-together/>

### **Graphika**

Graphika thanks the Omidyar Network for their support on this project.

### **Stanford Internet Observatory**

The Stanford Internet Observatory thanks its operational funders, Craig Newmark Philanthropies and the William and Flora Hewlett Foundation, for their ongoing support.

### **University of Washington Center for an Informed Public**

The Center for an Informed Public (CIP) thanks Craig Newmark Philanthropies and the Omidyar Network for their support of this project. Additional operational and research support for the CIP is provided by the John S. and James L. Knight Foundation and the William and Flora Hewlett Foundation. Researchers who contributed to the EIP also receive partial support from the U.S. National Science Foundation (grants 1749815 and 1616720), the Eunice Kennedy Shriver National

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#### Acknowledgements

Institute of Child Health and Human Development (training grant T32 HD101442-01 to the Center for Studies in Demography & Ecology at the University of Washington), the University of Washington UW Population Health Initiative, and Microsoft. A full list of CIP donors is available at: <https://www.cip.uw.edu/about/>

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## The Election Integrity Partnership

### 1.1 Introduction

The 2016 presidential election in the United States demonstrated to the world the potential of wide-scale information operations. Since 2016, these efforts have grown, often aimed at developed democracies and operated by state-sponsored adversaries and domestic activists alike. Misinformation and disinformation can disenfranchise voters and diminish trust in the results of electoral contests, eroding public confidence in the integrity of democratic processes and leadership transitions overall. For the purposes of this report, we use “misinformation” as an umbrella term to describe false, misleading, or exaggerated information or claims. We differentiate this from “disinformation,” which is false or misleading information that is *purposefully* produced, seeded, or spread, with the intent to manipulate in service to an objective; the manipulation may also take the form of leveraging fake accounts or pages. (We define these terms more fully in Appendix A on page 245: Definitions).

Elections in the United States are highly decentralized.<sup>1</sup> Over 10,000 individual jurisdictions—covering state, county, and municipal levels—are responsible for administering the vote on Election Day. Voter registration systems and databases are centralized at the state level in some states and administered by states, counties, and municipalities in others. Vote casting, in contrast, is organized at the local level, with each locality responsible for administering ballots, counting votes, and educating voters about the local system.<sup>2</sup> There is no centralized support to aid this vast number of jurisdictions in identifying and responding to emerging election-related mis- and disinformation.

In 2020, adding to the complexity, the global COVID-19 pandemic forced rapid changes to voting procedures. States and counties had to quickly adapt their electoral processes to new public health guidelines. Existing state laws on elec-

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tion procedure were in many cases not adaptable to the emergency conditions, leading to late executive and legislative action and court decisions.<sup>3</sup>

Voters, many of whom were sheltering at home, followed election conversations on broadcast as well as social media. This included searching for information about where and how to vote in light of pandemic restrictions.

The initial idea for the Partnership came from four students that the Stanford Internet Observatory (SIO) funded to complete volunteer internships at the Cybersecurity and Infrastructure Security Agency (CISA) at the Department of Homeland Security. Responsibility for election information security is divided across government offices: CISA has authority to coordinate on cybersecurity issues related to the election, the FBI to investigate cyber incidents and enforce election laws, and intelligence agencies to monitor for foreign interference. Yet, no government agency in the United States has the explicit mandate to monitor and correct election mis- and disinformation. This is especially true for election disinformation that originates from within the United States, which would likely be excluded from law enforcement action under the First Amendment and not appropriate for study by intelligence agencies restricted from operating inside the United States. As a result, during the 2020 election, local and state election officials, who had a strong partner on election-system and overall cybersecurity efforts in CISA, were without a clearinghouse for assessing mis- and disinformation targeting their voting operations. The students approached SIO leadership in the early summer, and, in consultation with CISA and other stakeholders, a coalition was assembled with like-minded partner institutions.

The Election Integrity Partnership (EIP) was officially formed on July 26, 2020—100 days before the November election—as a coalition of research entities who would focus on supporting real-time information exchange between the research community, election officials, government agencies, civil society organizations, and social media platforms.

### 1.2 The EIP: Partner Organizations and Structure

The Partnership was formed between four of the nation's leading institutions focused on understanding misinformation and disinformation in the social media landscape: the Stanford Internet Observatory, the University of Washington's Center for an Informed Public, Graphika, and the Atlantic Council's Digital Forensic Research Lab.

The **Stanford Internet Observatory** (SIO) was founded in June 2019 to study the misuse of the internet to cause harm, formulate technical and policy responses to said misuse, and teach the next generation how to avoid the mistakes of the past. Founded by former Silicon Valley cybersecurity executive Alex Stamos, the

## OPERATIONAL TIMELINE

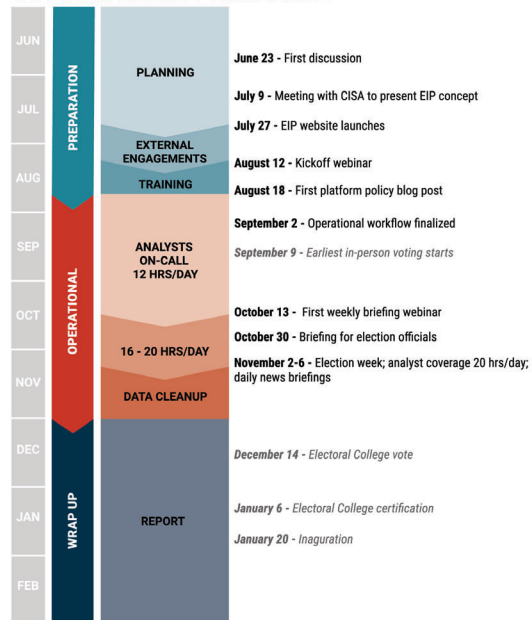


Figure 1.1: Timeline of the Election Integrity Partnership's work.

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Observatory has a specific interest in applying the learnings of major technology platforms from the 2016 election to prevent a repeat in future years. The Observatory sits at Stanford's Cyber Policy Center under the direction of Professors Nate Persily and Dan Boneh.

The Internet Observatory team was led by Assistant Director Elena Cryst, Research Manager Renée DiResta, CTO David Thiel, and Director Alex Stamos. SIO graduate student Isabella García-Camargo served as the project manager for the overall Partnership. SIO engaged its team of seven staff researchers and five postdoctoral scholars from the Stanford Cyber Policy Center, and hired a team of 38 undergraduate and graduate research assistants from Stanford to serve as analysts on the project.

The **University of Washington Center for an Informed Public** (CIP) was founded in December 2019 with the mission of marshalling the resources of a public university to address mis- and disinformation through research, education, policy development, and outreach. The Center's interdisciplinary faculty brought deep methodological expertise at systematically analyzing "big" social data at macro-, meso-, and micro- scales to track the spread of misinformation online, and contextual expertise in online disinformation.

The CIP contributing team was led by three founding faculty members: Kate Starbird, Emma Spiro, and Jevin West. The team also included one affiliate faculty member, three postdoctoral researchers (all of whom started after the Partnership launched), nine undergraduate and PhD students from the University of Washington, a data engineer, and a communications specialist.

**Graphika** is a social media analytics firm trusted by Fortune 500 companies, human rights organizations, and universities to map and navigate complex social media landscapes. The company was founded in 2013 by Dr. John Kelly, a pioneer in this field and source of expert testimony on foreign interference in the 2016 US presidential election before the Senate Select Committee on Intelligence. Graphika helps partners around the world to discover how communities form online and map the flow of influence and information within large-scale social networks. It reports on information operations carried out by various foreign actors around the world. In addition, Graphika regularly briefs the House and Senate Intelligence Committees on a range of topics, including the growth of the QAnon movement and the spread of misinformation around COVID-19.

Graphika's team was led by their Chief Innovation Officer Camille François and Head of Analysis Melanie Smith, and included 13 analysts, data scientists, and open source investigators. This unique combination of skills and expertise enables Graphika to take an innovative approach to detecting and monitoring disinformation.

The **Digital Forensic Research Lab** (DFRLab) was founded at the Atlantic Council

in 2016 to operationalize the study of disinformation by exposing falsehoods and fake news, documenting human rights abuses, and building digital resilience worldwide. Its mission is to identify, expose, and explain disinformation where and when it occurs using open source research, create a new model of expertise adapted for impact and real-world results, and forge digital resilience at a time when humans are more interconnected than at any point in history.

DFRLab's contributing team was led by Director Graham Brookie and Resident Fellow Emerson Brooking and included 13 DFRLab research assistants and communications staff. These professionals brought extensive digital forensic research experience and language skills to the work of the Partnership.

The EIP was not set up as a legal entity; rather, it was a consortium based on good-faith agreements. While future models should certainly consider more formal arrangements, the time-sensitive nature of the project required organizations to rely on interinstitutional trust and rapport built over several years of collaboration.

### 1.3 The EIP: Goals and Scope

The stated objective of the EIP was to detect and mitigate the impact of attempts to prevent or deter people from voting or to delegitimize election results.<sup>4</sup> The EIP was not a fact-checking partnership, and was not focused on debunking misinformation more generally; our objective explicitly excluded addressing comments made about candidates' character or actions and was focused narrowly on content intended to suppress voting, reduce participation, confuse voters as to election processes, or delegitimize election results without evidence (see Table 1.1 on the next page).

To determine what was in and out of scope for the EIP, one of our first tasks was to build a framework that identified potential types of election-related mis- and disinformation. This process identified four core categories that we defined as our scope of focus (see Table 1.2 on page 7).



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GOALS OF THE ELECTION INTEGRITY PARTNERSHIP		
Goal 1: <b>Identify misinformation</b> before it goes viral.	Goal 2: Share clear, accurate <b>counter-messaging</b> .	Goal 3: Increase <b>transparency</b> into what happened during the 2020 elections.
Activities		
<ul style="list-style-type: none"> <li>Establish a collaboration between the top misinformation research organizations</li> <li>Operationalize the misinformation research process with tiered research and workspace management systems</li> <li>Train analysts to identify cross-platform trends for earlier platform notification and action when appropriate</li> </ul>	<ul style="list-style-type: none"> <li>Build critical bridges between election officials, platforms, and civil society organizations</li> <li>Provide local and state officials with a partner that could research and help mitigate misinformation about their local operations</li> <li>Generate rapid research findings that have the ability to disrupt the misinformation environment in real time</li> </ul>	<ul style="list-style-type: none"> <li>Collect data in real-time for empirical analysis that would be difficult to assemble after the fact</li> <li>Build an annotated database of archived misinformation content</li> <li>Provide visibility into how narratives spread across multiple social media platforms</li> </ul>
Outputs		
<ul style="list-style-type: none"> <li>Flag policy violations to platforms</li> <li>Communicate to stakeholders</li> </ul>	<ul style="list-style-type: none"> <li>Live media briefings</li> <li>Blog posts</li> <li>Tweet threads</li> </ul>	<ul style="list-style-type: none"> <li>Final report</li> <li>Dataset of content for future academic use</li> </ul>

Table 1.1: Goals of the Election Integrity Partnership.

SCOPE OF THE ELECTION INTEGRITY PARTNERSHIP			
<b>Procedural Interference:</b> Misleading or false information about the actual election procedures. Content directly related to dates and components of the voting process that prevents people from engaging in the electoral process.	<b>Participation Interference:</b> Content that deters people from voting or engaging in the electoral process, sometimes related to voter suppression or intimidation.	<b>Fraud:</b> Content that encourages people to misrepresent themselves to affect the electoral process or illegally cast or destroy ballots.	<b>Delegitimization of Election Results:</b> Content that delegitimizes election results on the basis of false or misleading claims.
Example Content			
Content that misleads voters about how to correctly sign a mail-in ballot. Content that encourages voters to vote on a different day.	Content that affects the desire or perceived safety of voters engaging in the electoral process. Misleading or false information about the length of lines at a polling station, to deter in-person voting.	Offers to buy or sell votes with cash or gifts. Calls for non-citizens to vote.	Claims of fraud or malfeasance with inaccurate or missing evidence.

Table 1.2: Scope of the Election Integrity Partnership.

## 1. The Election Integrity Partnership

In addition to determining the EIP's scope, this content-centric framework enabled us to evaluate and compare platform policies across 15 different popular social media platforms in the US, and to help civil society, government, academia, and the public better understand what election-related content platforms can and will moderate.<sup>5</sup>

### Organizational Structure and Workflow Management

One of the innovative aspects of the EIP was its internal research structure, which had to operationalize the misinformation research process in such a way as to best leverage the capabilities of the partner organizations. There is often an abundance of data involved in the analysis of information operations, and the process of following threads can take weeks or months. In order to meet

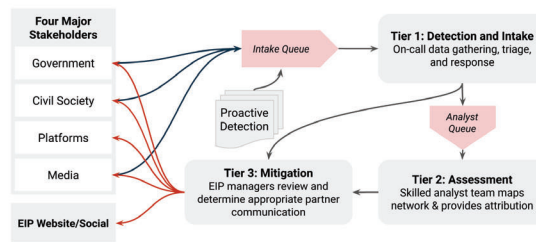


Figure 1.2: The EIP internal workflow. Filed tickets moved through the listed queues per the directional arrows.

The EIP tracked its analysis topics and engaged with outside stakeholder organizations using an internal ticketing workflow management system. Each identified informational event was filed as a unique ticket in the system.<sup>6</sup> Tickets were submitted by both trusted external stakeholders (detailed in Section 1.4 on page 11) and internal EIP analysts. For example, an email from an external stakeholder to the dedicated tip line would automatically generate a ticket to the internal team for quick response. Similarly, if during online monitoring an analyst came across a piece of content that might be an instance of election-related misinformation, that analyst would open a ticket on the case and put it

in the analyst queue for investigation. A single ticket could map to one piece of content, an idea or narrative, or hundreds of URLs pulled in a data dump. The ticket tracked analysts' research into this event, comments from platform partners, and other developments. Related tickets were then grouped into distinct information events or incidents, described more in Chapter 5.<sup>7</sup>

### Analysis Tiers

Each ticket traveled through a series of analysis queues before reaching a final resolution. In the investigation process, analysts completed specific forms that contained a series of required fields detailing the information incident and documented essential data such as target audience, subject, engagement, and spread. The overall research process was broken down into three phases: detection, assessment, and mitigation.

- **Tier 1: Detection** — Tier 1 analysts were tasked with conducting the initial analysis on and archiving of potential incidents. These analysts also searched for potential in-scope content by tracking public social media posts to surface incidents. To ensure coverage in the monitoring process, each analyst was assigned to a specific state or interest group (see Section 3.3), which they developed expertise in and followed throughout the project. These analysts classified tickets as in and out of scope for further analysis and closed incidents for which further investigation or external communication was not needed. For in-scope tickets, analysts went through a systematic process that attempted—where possible—to assess the veracity of the underlying claims by locating an external fact-check from election officials, fact-checking organizations, local media, or mainstream outlets. They also made initial recommendations on the prioritization of tickets, assigning high, medium, and low severity based on the risk of the content itself and on its spread across platforms.<sup>8</sup>
- **Tier 2: Assessment** — This team was staffed by senior analysts from each partner organization. Analysts used open source intelligence and other social media analysis methods to delve deeper into the initial analysis from Tier 1 by determining the suspected origins of a piece of information, tracking its spread over time, and identifying additional fact-checks as they became available. Tier 2 analysts also looked for evidence of coordination, potential foreign interference, or inauthentic dynamics related to a given incident. This tier of analysts could recommend actions, such as communication to external partners, as appropriate.
- **Tier 3 (Managers): Mitigation** — This team consisted of leadership from each partnership organization, who signed off on the communication recommendations from Tier 2 senior analysts. The manager had the ability

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to tag platform partners on a ticket for action. They also communicated with the EIP's partners in government, and could request further information from election officials if necessary. Once a ticket reached Tier 3, the manager decided whether to put it into a holding queue for ongoing monitoring, assign the ticket back to a Tier 2 analyst to produce a public blog post or Twitter thread discussing the issue, or close a ticket if it had been resolved.

Team members from each of these tiers were divided into on-call shifts. Each shift was four hours long and led by one on-call manager. It was staffed by a mix of Tier 1 and Tier 2 analysts in a 3:1 ratio, ranging from five to 20 people. Analysts were expected to complete between two to five shifts per week. The scheduled shifts ran from 8:00 am to 8:00 pm PT for most of the nine weeks of the partnership, ramping up only in the last week before the election from 12-hour to 16- to 20-hour days with all 120 analysts on deck.

A note on fact-checking: the EIP was not a fact-checking organization, and in preliminary assessments of whether an event in a ticket was potentially misinformation, analysts first looked to the work of others. One of the complexities related to misleading information is that it is not always possible to verify the claims; professional fact-checkers confronted with these situations may use labels like "inconclusive" or "partially true" to convey uncertainty where it exists. Where possible, our analysts identified an external fact-checking source from news sites, credible fact-checking organizations, or statements from a local election official when filing tickets. Analysts also used open source investigation techniques, such as reverse image searches or location identifications, to determine if images or videos tied to an incident were taken out of their original context. Our analysts identified at least one external fact-check source for approximately 42% of the in-scope tickets. For some tickets, it was not possible to find an external fact-check for the content, either because no fact-checker had yet addressed the issue, or because the information was resistant to simple verification—for example, content based on unconfirmed or conflicting claims from a whistleblower, conspiracy theories that claimed invisible forces at work, and narratives based on factual claims (e.g., discarded ballots) but spread within misleading frames that exaggerated the potential impact of these events. Additionally, some tickets were about incitement to violence, which does not lend itself to fact-checking.

### Election Day-Specific Structures

In the week before and after Election Day, EIP monitoring intensified significantly. Over the two-month-long period from September 3 (the first day of EIP activity) to November 1, EIP researchers had logged 269 tickets. From November 2 to 4,

EIP researchers logged an additional 240 new tickets, as well as monitoring and revising old cases as they related to new narratives. This dramatic increase in tempo required changes to how the EIP identified and evaluated misinformation incidents.

In order to manage an anticipated increase in incidents on Election Day itself, the EIP established five working groups, each organized and led by relevant subject matter experts:

- *State and Regional Monitoring* focused on monitoring narratives related to polling locations in battleground states, particularly Pennsylvania, Wisconsin, Florida, and Minnesota. Analysts used platform search features coupled with curated CrowdTangle, Twitter, and Junkipedia lists to aid in detection.
- *"Targeted Group" Monitoring* focused on identifying misinformation that seemed to specifically target an ethnic or diaspora community in the United States. This included content targeting the Black community, which was the subject of extensive disinformation campaigns in 2016, as well as Chinese- and Spanish-language content.
- *Influencers and Young Electorate Monitoring* focused on first-time voters, particularly members of Generation Z. This work was conducted by way of close analysis of TikTok and Instagram trends.
- *Political Extremism Monitoring* focused on communities that had previously endorsed political violence, particularly those adjacent to White-identitarian causes. This work was conducted by comprehensive monitoring across 4chan, 8kun, Gab, and Parler. Researchers additionally monitored open Telegram channels and Discord servers linked to extremist causes.
- *Livestream Monitoring* focused on rapidly identifying trending livestreams, which were anticipated to involve both polling location activity and (later) election night protests. This work required assessing popular livestreams across Facebook Live, Periscope, YouTube Live, and Twitch.

These working groups would provide the foundation of EIP monitoring efforts in both the Election Day and post-Election Day periods.

## 1.4 External Stakeholders

The EIP served as a connector for many stakeholders, who both provided inputs to and received outputs from the internal analysis structure described

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above. External stakeholders included government, civil society, social media companies, and news media entities.

Government and civil society partners could create tickets or send notes to EIP analysts, and they used these procedures to flag incidents or emerging narratives to be assessed by EIP analysts. Sometimes the tickets were out of scope, such as those related to general political misinformation that was not election related. In these cases, that was communicated to the reporting partner and the incident was closed. For all that were in scope, the EIP quickly analyzed the issues and provided outputs to external stakeholders. Some of the cases flagged by outside partners led to EIP participation in informing the public of a finding, which was done by way of a rapid-response blog post or Twitter thread, or a discussion during public media briefings.

### Four Major Stakeholder Groups



Figure 1.3: Major stakeholder groups that collaborated with the EIP.

### Government

Given the decentralized nature of election administration, government entities at the local, state, and federal level are all responsible in some way for election security and thus for countering election-related mis- and disinformation.

Prior to the 2016 election, the federal government played a very limited role in election security. Russian interference in the 2016 US presidential election took the form of several Russia-linked entities engaged in a broad interference effort that included information operations and targeting of election infrastructure as well as hack-and-leak attacks. Operatives of the Russia-based Internet Research Agency used social media to degrade Americans' confidence in their own

democratic process. Since 2016, the US government has declared election systems critical infrastructure and politicians have called for a “whole-of-society” approach to countering attacks against them.<sup>9</sup>

#### **EI-ISAC: Coordination Across State And Local Government**

After the 2016 election, government entities at all levels stepped up election security efforts; however, addressing election-related misinformation has remained a gap. For the 2020 election, reporting falsehoods about the election to social media platforms represented significant logistical and jurisdictional challenges. The Election Infrastructure Information Sharing and Analysis Center (EI-ISAC), an independent organization run by the non-profit Center for Internet Security (CIS) that connects state and local governments as well as relevant private companies, helps coordinate election security efforts broadly. In this election cycle, the EI-ISAC served as a singular conduit for election officials to report false or misleading information to platforms. By serving as a one-stop reporting interface, the EI-ISAC allowed election officials to focus on detecting and countering election misinformation while CIS and its partners reported content to the proper social media platforms. Additionally, the Countering Foreign Influence Task Force (CFITF), a subcomponent of CISA, aided in the reporting process and in implementing resilience efforts to counter election misinformation.

The EIP engaged with government stakeholders primarily to provide analytical capability and context around election-related misinformation. Content reported by election officials to the EI-ISAC was also routed to the EIP ticketing system. This allowed analysts to find similar content, ascribe individual content pieces to broader narratives, and determine virality and cross-platform spread if applicable. This analysis was then passed back to election officials via the EI-ISAC for their situational awareness, as well as to inform potential counter-narratives. Additionally, if an internally generated EIP ticket targeted a particular region, analysts sent a short write-up to the EI-ISAC to share with the relevant election official. This allowed the state or local official to verify or refute the claim, and enabled analysts to properly assess whether or not the content violated a platform's civic integrity policies. In this way, the EIP demonstrated the upside of using the EI-ISAC coordinating body to connect platforms with authoritative voices to determine truth on the ground and help election officials effectively counter viral falsehoods about election infrastructure.

#### **Civil Society**

Civil society organizations fill critical roles in promoting civic engagement, and in organizing and sharing information with their communities. The EIP engaged



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with civil society organizations to share findings and build perspective across geographies and demographics. Civil society collaborators submitted tips through the trusted partner tip line and interacted with the EIP research team through briefings, partner meetings, and shared findings. The Partnership engaged with Common Cause,<sup>10</sup> national and regional chapters of the NAACP,<sup>11</sup> the Healthy Elections Project,<sup>12</sup> the Defending Digital Democracy Project,<sup>13</sup> MITRE,<sup>14</sup> regional chapters of the AARP,<sup>15</sup> and the National Conference on Citizenship<sup>16</sup> (the latter two are discussed in more detail below). Some collaborators were integrated into the Jira platform for tip reporting, while others preferred to engage in a more informal capacity such as via email. Onboarded members were able to submit tickets for analysis and receive feedback from the EIP analysts.

The AARP collaboration was maintained by the Center for an Informed Public and was notable because it involved empowering and training retired adults to identify false or misleading information as part of a “Factcheck Ambassador” training program. The EIP worked primarily with the Washington State chapter of the AARP, but informational training sessions were shared with other chapters around the country.<sup>17</sup>

Another noteworthy civil society partner was the National Conference on Citizenship, specifically their Junkipedia team.<sup>18</sup> Junkipedia is a research tool created by the Algorithmic Transparency Institute, a project of the National Conference on Citizenship, to collect false and misleading social media content. The tool served dual purposes: first, it connected EIP to content surfaced through its own network of journalists and reporters, providing visibility into more geographies and communities; and second, it facilitated research and detection by EIP analysts, who were able to use Junkipedia’s list feature to track account activity on TikTok and YouTube.

### Media

Carefully considered media coverage debunking false and misleading information can help to ensure an informed public and a responsible social media ecosystem. Although mis- and disinformation monitoring and analysis work is valuable on its own, communications with media organizations increased the impact of the EIP’s research. The EIP’s rapid-response research and analysis work necessitated an adaptive, rapid-response communications strategy in order to share timely insights and key mis- and disinformation concepts with journalists and news outlets. One goal was to ensure that misleading narratives were appropriately contextualized in terms of their reach and velocity, to avoid unnecessarily amplifying something false but very sparse. Investigating and reporting on mis- and disinformation is complex and comes with unique challenges.<sup>19</sup> The EIP held regular news briefings in which analysts and team leads prioritized describing and contextualizing the misinformation incidents

documented in tickets. Journalists who attended the briefings could then reach, educate, and inform the communities they served, contextualizing and countering misleading narratives as they saw fit. Over the time of the EIP's operation, this process resulted in over 60 articles that specifically cited the EIP's work or its researchers.<sup>20</sup>

A thoughtful media strategy was key to our reach and impact as an organization. We met the needs of media stakeholders in three primary ways—public research briefings, responding to media requests, and in-depth collaborations.

#### **Public Research Briefings**

On October 13, 2020, the EIP hosted the first in a series of weekly research briefings designed to share the Partnership's rapid-response research and policy analysis more broadly ahead of Election Day. Before each briefing, the EIP used its Twitter account, @2020Partnership, to announce the briefing and promote attendance. These briefings, scheduled for 30 minutes, were hosted virtually on Zoom and featured short presentations from various EIP researchers and analysts. Each briefing reserved time for members of news organizations to ask questions of researchers involved with the Partnership. The briefings were considered "on the record," meaning that anything shared or said during the course of the presentations or from the question-and-answer session could be used and directly quoted from by journalists for their reporting. The Q&A format allowed EIP researchers and analysts to cover a lot of ground in a relatively short amount of time while also allowing journalists to gain additional insights from the other questions asked by reporters from other news organizations. As interest in the EIP's work grew and reports of false and misleading information increased dramatically in the days leading up to the election, briefings increased from once a week to several times a week.

The briefings were open to the public. The first briefing hosted approximately 12 journalists, but as interest grew, so did briefing attendance, with an average of 120 attendees on election week briefings and a peak of 174 attendees at the briefing the day after the election. After each briefing, the EIP communications lead followed up with journalists in attendance.

On Election Day, the EIP hosted a morning and afternoon briefing to report on observations of activity that day. Reporters and editors from outlets including the *Washington Post*, the *New York Times*, the *Wall Street Journal*, *USA Today*, *MIT Tech Review*, *Bloomberg Business*, the *Associated Press*, *Reuters*, *National Public Radio*, *Político*, *NBC News*, *The Markup*, *The Information*, *PBS NewsHour*, *BBC News*, *Agence France Presse*, the *Telegraph*, and *Cyberscoop* regularly attended.

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### Responding to Media Requests

Throughout the course of the EIP's work ahead of and after Election Day, our communications lead also fielded inbound requests from the press to assist in assessing specific developing stories. Some of these journalists were dedicated to the "misinformation beat," while others covered peripheral beats such as the election, politics, technology, etc.

The UW team took the lead in tracking and responding to media requests that came in across the Partnership and connecting with the appropriate EIP researcher. For instance, journalists interested in misinformation-related policies developed by social media companies were directed to Stanford Internet Observatory, which closely monitored and analyzed guidelines put forward by platforms. Similarly, journalists interested in EIP research about "repeat spreaders" on Twitter who regularly shared false claims or misleading information about voting procedures were connected with members of the UW team, who were tracking and analyzing how that type of misinformation was shared and amplified.

### In-Depth Collaborations

In the days leading up to the election, the EIP set up collaborations with a few journalists who had experience covering the "misinformation beat." These differed from media requests in the length of engagement; in these cases, we set up Slack channels and Google documents to think through trends and emerging data with the journalists, who were also experts in online misinformation. For instance, the UW team fielded more specialized research requests from NBC News, which has dedicated numerous newsroom resources to reporting on mis- and disinformation issues. NBC's Brandy Zadrozny did some of the most substantive reporting on election-related mis- and disinformation ahead of and after Election Day, bolstered by some of the EIP's specialized research. Her election week story about election fraud narratives was driven by this in-depth collaboration.<sup>21</sup> Sheera Frenkel of the *New York Times* spent Election Day co-located with EIP researchers from the Stanford Internet Observatory, with COVID-19 precautions in place. She published an early piece about the emerging "Stop the Steal" narrative, with quotations from an SIO researcher.<sup>22</sup>

The EIP also spent time assisting a local journalist writing specifically about election misinformation in Michigan for the *Detroit Free Press*, whose reporting was funded through a short-term grant from the American Press Institute. The reporter, Ashley Nerbovig, attended numerous research briefings ahead of Election Day and was interested in the EIP's "What to Expect" report that outlined the types of disinformation and misinformation that researchers anticipated would emerge and take root before, during, and after Election Day.<sup>23</sup> A November 17, 2020, article in the *Detroit Free Press* looked at how many of the

EIP's pre-election predictions around voting-specific misinformation emerged in Michigan, where incorrect claims and distorted narratives ran rampant in the days and weeks that followed voting.<sup>24</sup> That *Detroit Free Press* article, featuring interviews with EIP researchers, was republished by *USA Today*<sup>25</sup> and other news publications in the USA Today Network, including the *Arizona Republic*. Although many national newsrooms have one or multiple journalists focused on misinformation, Nerbovig was among the few regional reporters dedicated to covering misinformation from a local perspective, which encouraged us to make researchers available to her as she developed her story.

The EIP's outreach efforts with journalists and media organizations were valuable because they enabled timely sharing of insights and in-depth analysis with the public, policymakers, and social media platforms. During uncertain times, many people turn to journalists. At the same time, journalists themselves were seeking sound information to better contextualize the dynamics of how mis- and disinformation are shared and amplified. By connecting journalists to our research through these media efforts, the EIP was able to have a quick and widespread impact.

### Platforms

The EIP established relationships with social media platforms to facilitate flagging of incidents for evaluation when content or behavior appeared to violate platform policies (discussed further in Chapter 6). The EIP reached out to a wide set of social media platforms to engage with the project, and onboarded those that expressed interest in participating. At the start of the EIP analysis period, representatives from the onboarded platforms were granted access to the workspace management system. Analysts conducted their initial assessment on all tickets, and, if content in a ticket appeared to be a violation of a platform's published content policies,<sup>26</sup> an analyst or manager added the platform representative to the ticket. If questions arose, a manager communicated with the platform representative in the ticket comments. Analysts put the ticket back in the queue and updated the ticket to note if the content in question received a moderation action. If analysts identified the content on a ticket as in scope, but not in violation of a platform's published policies, the platform was not tagged.

The EIP onboarded the following social media companies: Facebook and Instagram, Google and YouTube, Twitter, TikTok, Reddit, Nextdoor, Discord, and Pinterest. These platforms were chosen based on several factors including the size of the platform itself, as well as the practical research constraints around the ability to monitor public content on the platform. A platform such as Snapchat, for example, has a large userbase; however, due to its ephemeral content, we did not include this platform in our work.

## 1. The Election Integrity Partnership

There were additionally several “alt-platforms” that had no moderation policies, sometimes deliberately so. This included platforms such as Parler, Gab, 4chan, and a handful of message boards. EIP observed false and misleading content on these platforms, but had no interactions with any of their representatives.

### 1.5 Example Ticket Process

To illustrate the scope of collaboration types discussed above, the following case study documents the value derived from the multistakeholder model that the EIP facilitated. On October 13, 2020, a civil society partner submitted a tip via their submission portal about well-intentioned but misleading information in a Facebook post. The post contained a screenshot (See Figure 1.4).

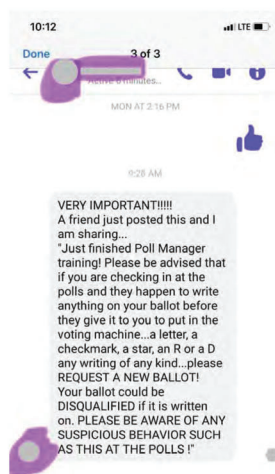


Figure 1.4: Image included in a tip from a civil society partner.

In their comments, the partner stated, “In some states, a mark is intended to denote a follow-up: this advice does not apply to every locality, and may

confuse people. A local board of elections has responded, but the meme is being copy/pasted all over Facebook from various sources.” A Tier 1 analyst investigated the report, answering a set of standardized research questions, archiving the content, and appending their findings to the ticket. The analyst identified that the text content of the message had been copied and pasted verbatim by other users and on other platforms. The Tier 1 analyst routed the ticket to Tier 2, where the advanced analyst tagged the platform partners Facebook and Twitter, so that these teams were aware of the content and could independently evaluate the post against their policies. Recognizing the potential for this narrative to spread to multiple jurisdictions, the manager added in the CIS partner as well to provide visibility on this growing narrative and share the information on spread with their election official partners. The manager then routed the ticket to ongoing monitoring. A Tier 1 analyst tracked the ticket until all platform partners had responded, and then closed the ticket as resolved.

## 1.6 Practical Lessons Learned

The EIP was a first-of-its-kind collaboration between multiple stakeholder types who shared the goal of understanding, and being positioned to rapidly and effectively counter, election-related misinformation. There were several key lessons learned that may be helpful toward informing similar efforts in the future:

### Pre-Election Period

1. **Detailed enumeration and comparison of platform policies led to tangible positive changes.** When the EIP was formed in the summer of 2020, no comprehensive comparison of policies around election-related misinformation, or civic integrity, had been published. One of the first efforts of the Partnership was to collect these policies and compare them side-by-side. That policy comparison improved the EIP’s quality of content analysis and reporting.
2. **Pre-bunking helped journalists contextualize what they were seeing.** On October 26 the EIP published a blog post predicting the manner and focus of misinformation that its analysts and researchers believed were likely to pervade social media on Election Day and shortly after.<sup>27</sup> This piece was informed by experience from past elections, and observations accrued during the months of monitoring and analysis. Most of the predictions turned out to be accurate. This post, and the subsequent targeted stakeholders briefings around it, provided a rare opportunity to “pre-bunk” narratives

## 1. The Election Integrity Partnership

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before they reached the mainstream. This sort of effort may be useful in effectively mitigating the effects of misinformation in the future.<sup>28</sup>

3. **Using per-content tickets to represent incidents presented challenges for tracking larger narratives.** As noted in this chapter, the EIP often started analysis by examining content on a very granular level—a ticket might initially represent a single social media post. On the positive side, this approach allowed for nimble Tier 1 analysis, and the Jira platform allowed for aggregation as needed. On the negative side, this approach made tracking narratives significantly more difficult, especially those dormant for a period of time before resurfacing in many online locations at once. Narratives usually spanned multiple types of content pieces across multiple platforms over a broad period of time. While the EIP analysts would eventually merge or link tickets into a broader narrative ticket, this process was labor intensive, and ran the risk of content data getting lost in the effort.

### Election Day and Afterward

1. **Public briefings and one-on-one media engagement bolstered real-time information exchange, and helped educate and inform the public.** The EIP's media briefings were not originally a planned part of the effort. However, we found that they were of value for enabling journalists to contextualize observed events and trends and communicate them to the larger public.
2. **The cadence and resource demands of rapid analysis increased as the election cycle progressed, leading to challenges in the logistics of EIP research.** The members of the EIP span the mis- and disinformation research community, which has primarily focused on retrospective analysis. In contrast, demands of the EIP publication schedule represented a novel operational challenge for all organizations involved in a few key ways. First, the EIP analysis and a commitment to quick turnaround required drawing conclusions based on rapidly updating information. Second, the EIP's regular public briefings required updating conclusions and predictions in an episodic manner. Third, a COVID-shortened fall academic quarter for Stanford University and University of Washington student analysts made it challenging to synchronize work after the Thanksgiving break.

## 1.7 Reading This Report

This report—the conclusion to the Election Integrity Partnership's work—summarizes and details the Partnership's findings since its formation on July

26, 2020. Chapter 2 lays out the metrics and statistics from EIP's detection period, which are the foundation of further analysis. Chapter 3 examines the key false and misleading narratives that emerged and evolved over the course of the 2020 election and after, and Chapter 4 looks at the tactics used to spread the narratives across the information ecosystem. We take a broader perspective in Chapter 5, looking at "repeat spreaders"—individuals, organizations, and media entities that repeatedly promoted numerous false and misleading narratives. In Chapter 6, we review social media platforms' election-related policies and discuss how those policies matured over time and were applied. We conclude the report in Chapter 7 by providing policy recommendations, based on the findings of our work, to government entities, media outlets, platforms, and civil society organizations.





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## Notes

1. (page 1) Michael McFaul, ed., *Securing American Elections: Prescriptions for Enhancing the Integrity and Independence of the 2020 U.S. Election and Beyond* (Stanford, CA: Cyber Policy Center, June 2019), [https://fsi-live.s3.us-west-1.amazonaws.com/s3fs-public/stanford\\_cyber\\_policy\\_center-securing\\_american\\_elections.pdf](https://fsi-live.s3.us-west-1.amazonaws.com/s3fs-public/stanford_cyber_policy_center-securing_american_elections.pdf)
2. (page 1) Herbert Lin, et al., "Increasing the Security of the U.S. Election Infrastructure" in McFaul, *Securing American Elections*, 17.
3. (page 2) In Wisconsin, for example, federal district court judge William Conley ruled to extend the acceptance date of absentee ballots from November 3 to November 9, citing that "Wisconsin's election system sets [voters] up for failure in light of the near certain impacts of this ongoing pandemic." The judge put his order on hold to give the Wisconsin State Legislature time to appeal. The Circuit court ultimately overruled the lower court ruling and time ran out for the Wisconsin legislature to legislate or appeal an exception to state election law. See *Democratic National Committee v. Bostelmann*, No. 20-2835 (7th Cir. October 8, 2020); Amy Howe, "Court declines to reinstate COVID-19 accommodations for elections in Wisconsin," SCOTUSblog, October 26, 2020, 11:28 pm, <https://www.scotusblog.com/2020/10/court-declines-to-reinstate-covid-19-accommodations-for-elections-in-wisconsin/>
4. (page 5) "Announcing the EIP," Election Integrity Partnership, July 27, 2020
5. (page 8) The platforms we evaluated are: Facebook, Instagram, Twitter, YouTube, Pinterest, Nextdoor, TikTok, Snapchat, Parler, Gab, Discord, WhatsApp, Telegram, Reddit, and Twitch. We published our initial evaluation on August 18, 2020, and updates on September 4, September 11, October 14, October 19, October 27, and October 28, 2020. Twitch was added to our list of evaluated platforms during our blog post update on October 27. Each update

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reflected changes in platforms' published policies. See "Evaluating Election-Related Platform Speech Policies," Election Integrity Partnership, October 28, 2020, <https://www.eipartnership.net/policy-analysis/platform-policies>

6. (page 8) The EIP used Jira Service Desk software for the project. The team chose Jira because it supported a large team and allowed the addition of workflows that require both robust customer management capabilities and organizational features to reflect the numerous roles needed to respond to any inbound request. Licenses and technical support were provided under Atlassian's community license program.

7. (page 9) See Appendix A on page 245: Definitions for a detailed definition of both Events and Incidents.

8. (page 9) See Appendix B on page 249 for the Tier 1 and Tier 2 analysis questions.

9. (page 13) Sean Lyngaas, "Sen. Warner calls for a 'whole-of-society' U.S. cyber doctrine," CyberScoop, December 7, 2018, <https://www.cyberscoop.com/sen-warner-calls-whole-society-u-s-cyber-doctrine/>

10. (page 14) Common Cause, <https://www.commoncause.org/our-work/voting-and-elections/>

11. (page 14) NAACP, <https://naacp.org>

12. (page 14) Stanford-MIT Healthy Elections Project, <https://healthyelections.org/>

13. (page 14) Defending Digital Democracy Project, <https://www.belfercenter.org/project/defending-digital-democracy>

14. (page 14) MITRE, <https://www.mitre.org>

15. (page 14) AARP, <https://www.aarp.org>

16. (page 14) National Conference on Citizenship, <https://ncoc.org>

17. (page 14) Elliot Trotter, "CIP, AARP Washington Factcheck Ambassador Trainings help retirees sort fact from fiction," University of Washington Center for an Informed Public, December 16, 2020, <https://www.cip.uw.edu/2020/12/16/cip-aarp-washington-factcheck-ambassador-trainings/>

18. (page 14) "About Junkipedia," <https://www.junkipedia.org/about>

19. (page 14) Melinda McClure Haughy, et al., "On the Misinformation Beat: Understanding the Work of Investigative Journalists Reporting on Problematic Information Online," Proceedings of the ACM on Human-Computer Interaction no. 4, Article 133 (October 2020), <https://doi.org/10.1145/3415204>

20. (page 15) See Appendix E on page 257 for a list of media citations.

21. (page 16) Brandy Zadrozny, "Misinformation by a thousand cuts: Varied rigged election claims circulate," NBC News online, November 11, 2020, <https://www.nbcnews.com/tech/tech-news/misinformation-thousand-cuts-varied-rigged-election-claims-circulate-n1247476>
22. (page 16) Sheera Frenkel, "The Rise and Fall of the 'Stop the Steal' Facebook Group," *New York Times*, November 5, 2020, <https://www.nytimes.com/2020/11/05/technology/stop-the-steal-facebook-group.html>
23. (page 16) Kate Starbird, et al., "Uncertainty and Misinformation: What to Expect on Election Night and Days After," Election Integrity Partnership, October 26, 2020, <https://www.eipartnership.net/news/what-to-expect>
24. (page 17) Ashley Nerbovig, "'Not a whole lot of innovation': 2020 election misinformation was quite predictable, experts say," *The Detroit Free Press*, November 17, 2020, <https://www.freep.com/story/news/politics/elections/2020/11/17/2020-presidential-election-misinformation-predictable-experts/6322926002/>
25. (page 17) Ashley Nerbovig, "'Not a whole lot of innovation': 2020 election misinformation was quite predictable, experts say," *USA Today*, November 17, 2020, <https://www.usatoday.com/story/news/politics/elections/2020/11/17/2020-presidential-election-misinformation-predictable-experts/6322926002/>
26. (page 17) "Evaluating Election-Related Platform Speech Policies," Election Integrity Partnership.
27. (page 19) Kate Starbird, et al., "Uncertainty and Misinformation: What to Expect on Election Night and Days After," Election Integrity Partnership, October 26, 2020, <https://www.eipartnership.net/news/what-to-expect>
28. (page 20) Brian Freidberg, et al., "A Blueprint for Documenting and Debunking Misinformation Campaigns," *Nieman Reports* (October 20, 2020), <https://niemanreports.org/articles/a-blueprint-for-documenting-and-debunking-misinformation-campaigns/>



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## Data and Summary Statistics

### 2.1 Introduction

The Election Integrity Partnership collected data between September 3, 2020 and November 19, 2020. The dataset we discuss in this part of our report comes from tickets: the internal reports within the EIP's system, each of which identified a unique information event.

#### Key findings

- We processed 639 in-scope tickets. 72% of these tickets were related to delegitimizing the election results.
- Twitter, Google, Facebook, and TikTok all had a 75% or higher response rate (on the EIP Jira ticketing platform) to tickets they were tagged in.
- Our process got tighter—both within the EIP and in terms of our relationship with the platforms—over time, with the time between ticket creation and platform response dropping substantially as we approached Election Day.
- 35% of the URLs we shared with Facebook, Instagram, Twitter, TikTok, and YouTube were either labeled, removed, or soft blocked. Platforms were most likely to take action on content that involved premature claims of victory.

#### Tickets

Most tickets created through the EIP's work represent a unique piece of misinformation or disinformation related to election processes. For example, one

## 2. Data and Summary Statistics

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ticket was for a Google ad incorrectly claiming that a Florida official had been caught perpetrating a voter fraud scheme. Other tickets discussed a misinformation narrative that appeared across several platforms. Some tickets would focus on a single website that was generating a lot of misinformation. Other tickets discussed incitement to violence—for example, one ticket discussed all cross-platform instances of a single meme instructing people on how to disguise themselves ostensibly ahead of a violent rally. Tickets were primarily created by members of the four core EIP organizations, though 16% of tickets were filed by the Center for Internet Security (CIS), an election official community partner, in the form of tips.

Figure 2.1 on the facing page shows an excerpt of an example ticket. This ticket was created for #Sharpiegate, the narrative that voters were forced to complete their ballots with Sharpie markers that would invalidate ballots. The “Shared with” list shows the organizations tagged on this ticket—tagging an organization is the equivalent of sharing, making the ticket visible to them. The URLs field includes URLs containing or involved in the spread of the misinformation. We discuss the dataset composed exclusively of those URLs in this section of the report as well.

The ticket also has fields for analyst discussion, data that we also extracted and coded. Figure 2.2 on page 30 shows the discussion for the #Sharpiegate ticket. This example shows responses from our government partners, who provided helpful information, and platform responses.

The ticket-level dataset necessarily reflects the biases of those with the authority to create tickets: internal EIP members and external partners. For example, researchers within the Partnership signed up to monitor particular topic groups, such as influencer accounts or Spanish-language content (see Chapter 1, Section 1.3 on page 10 for a list of these groups). Our finite staff and time meant that we prioritized monitoring some content over others; for example, our prioritization of swing states over non-swing states may cause the dataset to understate the amount of misinformation in the latter. Similarly, we were not able to monitor misinformation in languages not widely spoken in America, and as a result our dataset likely understates the amount of foreign language misinformation. While the dataset has these weaknesses, given our large team and cross-platform monitoring, we believe this dataset is important and unique, and that it can shed light on key misinformation narratives and tactics around the election.

In total, the dataset included 639 distinct, in-scope tickets. Following the elections, we coded the tickets to assess what category of election-related misinformation they fell under (for example, participation interference or fraud), what tactics were used (for example, livestream video), what actor was targeted (for example, poll workers or USPS), what state(s) were targeted, and what part of the

### SHARPIEGATE

raised this on 04/Nov/20 10:25 AM [Hide details](#)

**Description**

#Sharpiegate is trending on twitter after allegations that voters were forced to use sharpie Maricopa County in Arizona and that the sharpie was intentionally meant to make votes ambiguous so to sway the election.

This is not true. The ballots are designed such that sharpie ink will not compromise the selection.

This has spread to a variety of different states across Twitter, FB, TikTok, and Youtube, we will use this ticket to try and consolidate all the content. While the primary reports have come from Arizona, similar claims of felt-tipped markers being illegally used to sway election outcomes have been made across Chicago, IL and Shasta County, CA.

**URLs**

[https://twitter.com/](#)  
[https://twitter.com/](#)  
[https://twitter.com/](#)  
[https://twitter.com/](#)  
[https://twitter.com/](#)  
[https://vm.tiktok.co](#)  
[https://www.instagram](#)  
[https://www.youtube](#)

**Status**

IN REVIEW

**Request type**

EIP Report

**Shared with**

☒ TikTok  
☒ Facebook  
☒ El-SAC  
☒ Google  
☒ Twitter  
[+ Share](#)

Figure 2.1: An example ticket. We have omitted specific URL information.

electoral process was discussed (for example, voting by mail). Two members of the EIP coded each ticket, and a different member reconciled any discrepancies in coding.

The taxonomy, featuring 10 questions and a total of 71 choices, performed suitably. Inter-coder agreement was evaluated with Cohen's Kappa, a metric used to judge coder agreement with consideration for random entries by coders.<sup>1</sup> Cohen's Kappa ( $K$ ) is represented as a range from 0 to 1, where  $K = 0$  indicates random agreement, and  $K = 1$  indicates total agreement between coders. Our coding processes and dataset scored  $K = 0.629$ , which indicates substantial agreement and inspires confidence in the final dataset given the thorough reconciliation process that each ticket went through after its initial coding. The mean percentage agreement across the set was 89.48% with a standard deviation of 0.08%. Given high percentage agreement and a reasonably confident Kappa score, the codified tickets can be reliably used to evaluate our monitoring efforts. We provide more details on findings from the inter-coder reliability analysis in



## 2. Data and Summary Statistics

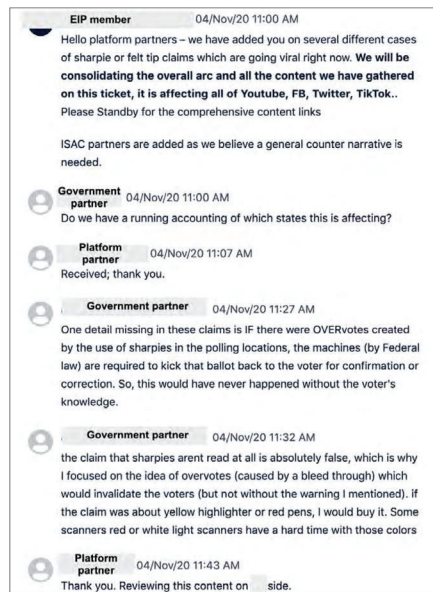


Figure 2.2: Discussion on the #Sharpiegate ticket. The commenters include members of the EIP, government partners, and platform partners.

Appendix B on page 249.

For one of the questions that had lower than normal intercoder agreement—whether or not the ticket related to fraud—we developed a clearer definition of fraud and re-did the coding for all tickets.

Throughout this chapter we will note some important limitations in the dataset. For example, when we discuss platform response rates, these are response rates only from platforms we partnered with. There will be no data for Parler response rates, for example, because Parler was not an external partner of the EIP.

## 2.2 Summary Statistics

### Overview of Tickets

In this section we present summary statistics from the dataset. Figure 2.3 on the following page shows the number of tickets over time, by ticket category. We processed 142 tickets on Election Day, 22% of all tickets. The Election Day spike is likely due to a combination of an increase in election-related online conversations on November 3, significantly more EIP staffing on this day than previous days, and what may have been our partners' greater focus on reporting misinformation on Election Day.

Out of the 639 tickets, 72% were categorized as delegitimization (content aiming to delegitimize election results on the basis of false or misleading claims), 21% as procedural interference (misinformation related to actual election procedures), and 15% as participation interference (posts that include intimidation to personal safety or deterrence to participation in the election process). We note that not all tickets are created equal. Some tickets discussed misinformation that spread far, while other tickets discussed misinformation that might not have been seen by many.

While Chapter 3 will discuss the reach of specific narratives, Table 2.1 on the next page shows the relationship between ticket category and a rough measure of reach that we estimated during the coding process. It suggests that most categories of tickets had a similar distribution of reach, with the exception of fraud narratives, which did not go as widely viral. However, we note that only five of the tickets are categorized as fraud.

### Segmentation of Misinformation by Platform and Region

After our last ticket was filed, we coded tickets to assess whether the narrative appeared on one of the platforms we were tracking; of course, many narratives appeared on multiple platforms. 77% of tickets appeared on Twitter, 46% on

## 2. Data and Summary Statistics

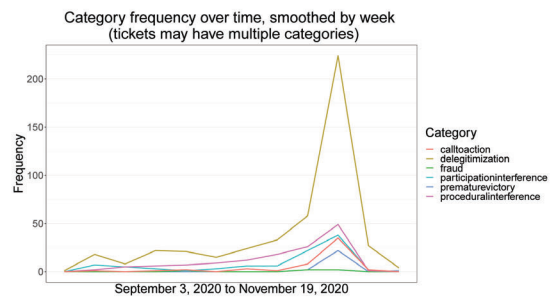


Figure 2.3: Ticket category over time. Tickets may have multiple categories.

	High: >100k engagements	Medium: 1k-100k engagements	Low: < 1k engagements	N/A
Participation Interference	16%	40%	43%	1%
Call to Action	11%	42%	43%	4%
Premature Victory	12%	52%	36%	0
Delegitimization	15%	49%	35%	1%
Procedural Interference	11%	36%	50%	3%
Fraud	0%	20%	60%	20%

Table 2.1: Relationship between ticket category and estimated reach.

Facebook, 13% on Reddit, 12% on Instagram, 12% on YouTube, and 8% on TikTok. Other platforms, including Parler, 4chan, and Telegram, appeared in less than 5% of tickets. While it is useful to know that the tickets we handled were primarily on the two large platforms—Twitter and Facebook—we caution that these numbers should not be interpreted as “most misinformation appeared on Twitter.” Facebook, Twitter, Reddit, and Instagram have reasonably accessible APIs that made it easier for our team to find misinformation on their platforms. The low percent of tickets for Parler, which is not as easy to observe, should not necessarily be interpreted as Parler having less misinformation.

Many of the tickets discussed misinformation that appeared on websites distinct from social media platforms, such as forums and blogs. The top misinformation-spreading websites in our dataset were the far-right forum thedonald.win, moved from the banned subreddit “r/The\_Donald,” and thegate-waypundit[.]com, a far-right news website. 65% of these tickets involved an exaggeration of the impact of an issue within the election process.

We also coded tickets based on whether they targeted particular states (Figure 2.4 on the following page). 16% of tickets targeted Pennsylvania, 9% targeted Michigan, and 7% targeted Washington. Many of our state-specific tickets were reported by CIS, reflecting the fact that CIS forwarded reports by state and local election officials, and that certain states sent in many reports while others sent few or none.

### Tickets by Tactics and Targets

We also coded tickets based on what tactics we observed being used:

- 49% of tickets involved an exaggerated issue.
- 26% of tickets involved an electoral process issue incorrectly framed as partisan.
- 22% of tickets involved misinformation that was shared by verified users.
- 18% of tickets featured content taken out of context from other places or times to create false impressions of an election issue.
- 17% of tickets involved unverifiable claims, such as friend-of-friend narratives.

Figure 2.6 on page 35 shows the portion of tickets containing incidents or narratives that targeted different aspects of the electoral process. Not surprisingly, tickets about voting by mail dominated tickets in September, while tickets about ballot counting spiked during the week of the election.

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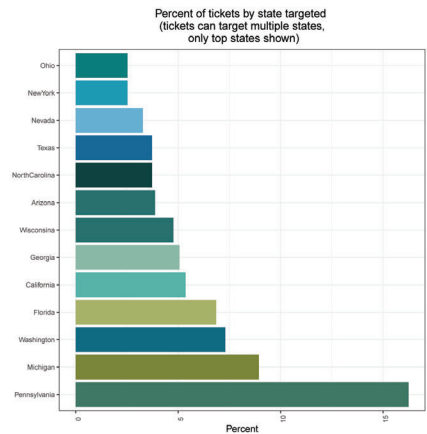


Figure 2.4: Percent of tickets by state targeted.

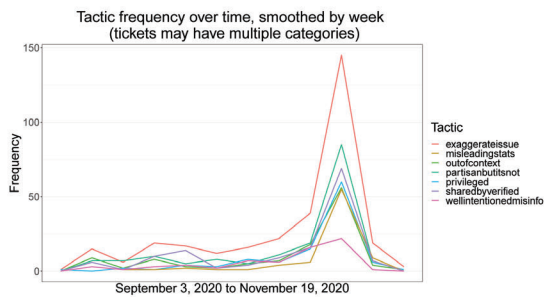


Figure 2.5: Tactic frequency over time.

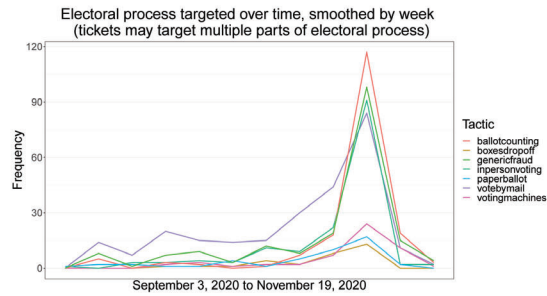


Figure 2.6: Electoral process targeted over time.

Figure 2.7 on the following page shows the actors targeted by the misinformation. The actors most frequently targeted were political affinity groups (for example, Democrats or Republicans, or Biden supporters) with 39% of tickets.

Figure 2.8 on page 37 shows the proportion of tickets that made various claims about the elections. 27% of tickets involved claims about illegal voting.<sup>2</sup>

Last, we coded tickets based on whether they additionally related to COVID-19 narratives, or had an element of foreign interference. Interestingly, just 1% of tickets related to COVID-19, and less than 1% related to foreign interference.

### Tickets by Fact-Checking URLs

As the EIP monitored the information space for mis- and disinformation about the 2020 election, analysts consulted published fact-checking resources to assess various claims. 42% of the tickets included fact-checking URLs found by analysts. The most common fact-checking sources were Twitter threads and Facebook posts, often from official government accounts, Snopes, PolitiFact, USA Today, the Washington Post, and CNN (in that order). The remaining 58% of tickets consisted of misinformation that had low engagement and did not manage to attract the attention of fact-checkers, as well as misleading claims that were not easily falsifiable. Additionally, as noted above, some tickets were about incitement to violence, a topic that does not lend itself to fact-checking. Many tickets included more than one fact-check URL. In total, the dataset included 925 fact-checking URLs.

## 2. Data and Summary Statistics

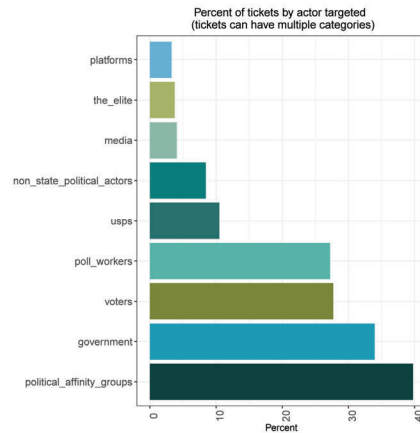


Figure 2.7: Percent of tickets by actor targeted.

Overall, among our tickets we found that higher engagement posts (those with more than 100,000 interactions) contained fact-checking URLs more than posts that had medium to low engagement: 34% of high engagement tickets contained fact-checking URLs, compared to 25% for medium engagement tickets, and 18% for low engagement tickets. EIP researchers also examined the relationship between political ideology and fact-checking, and found that tickets that discussed only left-leaning accounts were as likely to contain fact-checking URLs as tickets discussing only right-leaning accounts.

We also analyzed fact-checking frequency and approaches based on a number of factors, including ticket category. Tickets categorized as “Call to action for protest or mobilization” (often incitements to violence) were least likely to include fact-checking URLs; this makes sense, as these types of tickets are less likely to be appropriate for fact checking.

## 2.3. Platform Responsiveness and Moderation Actions Taken

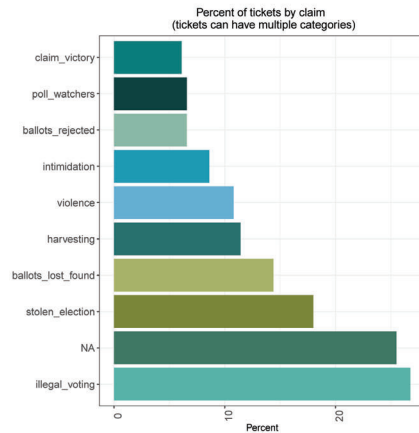


Figure 2.8: Percent of tickets by claim.

### 2.3 Platform Responsiveness and Moderation Actions Taken

Of our 639 tickets, 363 tickets tagged an external partner organization to either report the content, provide situational awareness, or suggest a possible need for fact-checking or a counter-narrative. Of the tickets in which an external organization was tagged, Figure 2.9 on the following page shows which partner organization was tagged.

In the case where platforms were tagged, we measured the percent of tickets that subsequently received a response from the platforms. A response indicated that the platform confirmed that they were investigating the ticket. We believe these response rates are lower bounds; it is possible platforms investigated tickets, but did not respond on the Jira platform. In total, we believe the four major platforms we worked with all had high response rates to our tickets.

Figure 2.10 on page 39 shows the time between a ticket's creation and the



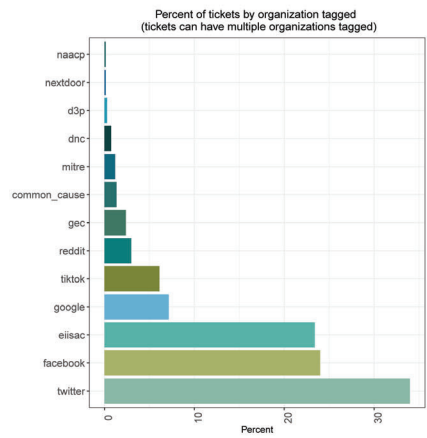


Figure 2.9: Percent of tickets by organization tagged.

	# tickets tagging organization	# tickets that received response	Response Rate
TikTok	40	36	90%
Google	46	41	89%
Twitter	220	185	84%
Facebook	158	120	76%

Table 2.2: Response rate by platform.

## 2.3. Platform Responsiveness and Moderation Actions Taken

platform's response, over time. This data should be interpreted cautiously, as often the ticket creator did not tag the platform; rather, a manager tagged the platform once the ticket was reviewed. So occasionally a ticket was created but the platform not tagged for several hours, or in some rare cases a few days. As such, even if the platforms responded minutes after being tagged, and they often did—particularly on Election Day—this data will not reflect this. However, the data does suggest that the process got much tighter over time. This likely reflects that the EIP shortened the time between ticket creation and platform tagging, and also more engagement from the platforms.

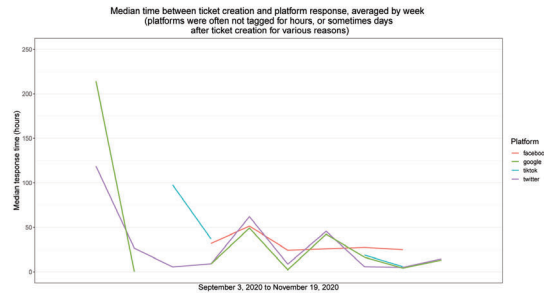


Figure 2.10: Median time between ticket creation and platform response.

Each ticket that tagged a platform partner contained a list of URLs containing the potentially violative content being spread—for example, the URL for a Facebook post or YouTube video. These lists were typically not comprehensive, but intended to highlight a few examples should the platforms decide to investigate further. We developed a web scraping tool that visited each URL to determine what action the platform (limited to Twitter, TikTok, YouTube, Facebook, and Instagram) applied to the content, and ran it on all 4,832 URLs from the tickets on December 7, 2020. The tool evaluated what a US-based individual would see if they visited each URL using the Chrome browser on a desktop computer. For Instagram and Facebook, the visitor was logged in to bypass “login walls.” We found no evidence of different users observing different platform actions, so the choice of user did not affect results.

The tool grouped each URL into four possible categories: “removed” when the content was not available (most likely taken down by either the platform or the original poster themselves); “soft block” when the content was only visible by

## 2. Data and Summary Statistics

bypassing a warning (this action was only detected on Twitter); "label" when the platform applied some kind of warning label to the content but did not hide the content; and "none" when the platform took no detectable action. Due to the opaque nature of platforms' ranking algorithms, we were not able to directly detect actions like "downranking." Moreover, because platforms often employ aggressive anti-scraping measures and frequently change their interfaces, it is possible that the scraper incorrectly classified some URLs; in a random sample of several dozen classified URLs, however, we found no errors. In this section we will refer to whether or not platforms actioned URLs, but we note that we cannot distinguish between a platform removing content or a user removing content.

We find, overall, that platforms took action on 35% of URLs that we reported to them. 21% of URLs were labeled, 13% were removed, and 1% were soft blocked. No action was taken on 65%. TikTok had the highest action rate: actioning (in their case, their only action was removing) 64% of URLs that the EIP reported to their team.

Figures 2.11 to 2.14 on pages 40–42 show the distribution of platform action by ticket category, tactic, asset, and claim. Platforms were most likely to take action on tickets that involved premature claims of victory; they took action on these tickets about 45% of the time. They also frequently actioned URLs related to election delegitimization and procedural interference. They were least likely to take action on URLs about fraud, but we note that less than 1% of the URLs had this category. URLs with procedural interference were most likely to be removed.

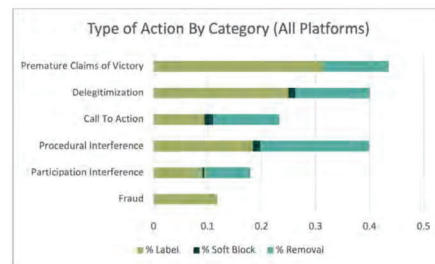


Figure 2.11: Type of action by category.

Platforms were most likely to action URLs that shared misleading statistics, and

## 2.3. Platform Responsiveness and Moderation Actions Taken

most likely to remove phishing content and fake official accounts.

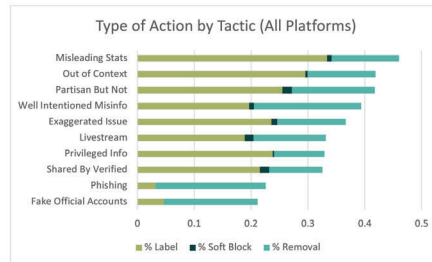


Figure 2.12: Type of action by tactic.

Figure 2.13 shows that there was not large variation in platform action rate across asset types.

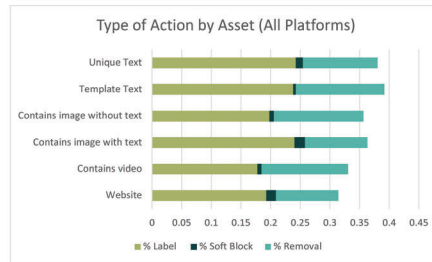


Figure 2.13: Type of action by asset.

More than 50% of URLs that contained premature claims or victory, or claims about the election being stolen, were actioned by platforms. About half of URLs that contained unfounded claims about ballots being rejected were removed—the claim with the highest rate of removal after incitement to violence.

## 2. Data and Summary Statistics

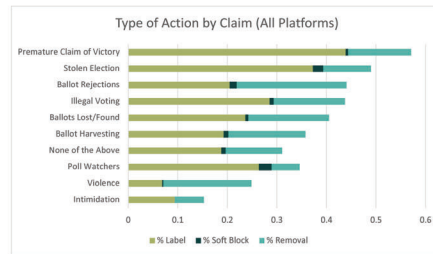


Figure 2.14: Type of action by claim.

### 2.4 Concerns by Reporting Collaborators

While 79% of tickets were created in-house, CIS reported 16% ( $N = 101$ ) of our tickets. Most reports from CIS originated from election officials. Compared to the dataset as a whole, the CIS tickets were (1) more likely to raise reports about fake official election accounts (CIS raised half of the tickets on this topic), (2) more likely to create tickets about Washington, Connecticut, and Ohio, and (3) more likely to raise reports that were about how to vote and the ballot counting process—CIS raised 42% of the tickets that claimed there were issues about ballots being rejected. CIS also raised four of our nine tickets about phishing. The attacks CIS reported used a combination of mass texts, emails, and spoofed websites to try to obtain personal information about voters, including addresses and Social Security numbers. Three of the four impersonated election official accounts, including one fake Kentucky election website that promoted a narrative that votes had been lost by asking voters to share personal information and anecdotes about why their vote was not counted. Another ticket CIS reported included a phishing email impersonating the Election Assistance Commission (EAC) that was sent to Arizona voters with a link to a spoofed Arizona voting website. There, it asked voters for personal information including their name, birthdate, address, Social Security number, and driver's license number. Other groups that reported tickets include the State Department's Global Engagement Center, MITRE, Common Cause, the DNC, the Defending Digital Democracy Project, and the NAACP.

## 2.5 Final Observations

This chapter has focused on our ticket-level dataset, which offers a look at the work of the EIP through the duration of our activity. In Chapter 3 of this report we will delve into some of the narratives within the EIP tickets, examining those that achieved the greatest reach or were instrumental for a significant duration of the time leading up to, and following, Election Day.



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## Notes

1. (page 29) Cohen's Kappa weighs chance in its scoring by evaluating the probability of agreement and the probability of random agreement. The probability of agreement minus the probability of random agreement divided by 1 minus the probability of random agreement is how Kappa is calculated. With this in mind, a Kappa value that is less than zero indicates that there is less agreement than chance and is evidence that the taxonomy or intercoder process is somehow flawed.
2. (page 35) "Political affinity groups" includes references to "the Democrats" or "the Republicans" or particular politicians. "Government" refers to any government entity. "Non-state political actors" includes groups like Black Lives Matter or antifa. "The elite" references people like George Soros or Bill Gates. "Platforms" references social media platforms like Facebook. Voters, poll workers, USPS, and the media are self explanatory.





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## Incidents and Narratives: The Evolution of Election Misinformation

### 3.1 Introduction

The 2020 election was the subject of hundreds of false and misleading claims about voter qualifications, voting processes, and even the basic nature of American democracy. Some claims spread like wildfire across social media only to fade just as quickly. Others circulated unnoticed for days or weeks before igniting with lasting viral momentum. Sometimes, contradictory claims battled for supremacy. Other times, they settled into a surreal coexistence. Some of these claims would ultimately form the foundation of “Stop the Steal”—the 2020 election’s most expansive and enduring misinformation narrative, which ultimately culminated in the January 6, 2021, insurrection at the US Capitol—though it was a long and complicated journey.

In this chapter, we examine some of the 2020 election’s most noteworthy pieces of election-related misinformation, exploring the character of these claims and charting the messy process by which claims coalesced into broader narratives. We also trace how one narrative gave way to another, forming a conspiratorial canon that is likely to persist for many years to come. In order to identify and differentiate these narratives, we consider the following questions:

What was the first claim that formed the basis of a given narrative? Was there a precipitating event? How did the story develop? What pieces or types of content helped shape it? How did the narrative echo and build upon the narratives that preceded it? How did it bolster the narratives that followed it? Indeed, did it fade away at all?

We begin the chapter with a discussion of our methodology and definitions.

### 3. Incidents and Narratives: The Evolution of Election Misinformation

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From there, we explore the evolution of narratives in the 2020 election, following their progression to the events of January 6. Then, we discuss the spread of misinformation narratives in non-English communities, focusing on Chinese- and Spanish-speaking Americans (foreign state-backed actors in the 2020 election are described in a box somewhere). Finally, we examine the obstacles these dynamics posed to fact-checkers, and conclude with observations regarding the narrative landscape as a whole.

Because the purpose of democratic elections is a transparent, regularized transfer of political power, they are gravely endangered by misinformation narratives. If citizens are made to feel that a vote was compromised or rigged, then the election cannot be trusted. If the election cannot be trusted, then (at least in the mind of the true believer of such narratives) the democracy itself is invalid. Looking back on the election of 2020 and the January 6 attack, this chapter addresses the resounding question: how did we get here?

#### 3.2 Narratives: Methodology and Identification

Narratives are stories. They draw from a common set of building blocks—characters, scenes, and themes—and assemble them in novel ways. Good narratives inspire suspense and excitement in their audience.<sup>1</sup> A successful book, for instance, is one whose narrative clings to the imagination of its reader. Similarly, a successful conspiracy theory is one whose narrative is especially compelling and emotionally resonant—the audience itself is made to feel that they are the protagonists in a story that only they can interpret and understand.

In daily life, the creation of narratives is aided by a parallel process of framing. Frames are mental schemas that shape how people interpret the world; they highlight specific pieces of information, as Robert Entman writes, “in such a way as to promote a particular problem definition, causal interpretation, moral evaluation and/or treatment recommendation for the item described.”<sup>2</sup> Framing, i.e., the production of frames, is a process of selecting certain information and providing a kind of scaffolding that shapes how people interpret a series of events. (The process of framing will be explored in greater detail in Chapter 4.)

Viral misinformation works by decontextualizing and recombining real-world events into compelling narratives with minimal regard for the truth. Some of these narratives are “bottom-up,” in which a narrative emerges organically from the post hoc interpretation of disparate events and claims, often beginning with a single post by an individual user. Others are “top-down,” consciously created and first disseminated by one or more powerful media or social media influencers. Often, the reach and staying power of certain narratives becomes clear only after the precipitating event has concluded. In complex events like

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3.3. The Evolution of Narratives in the 2020 Election

the 2020 election, multiple narratives can exist side by side, contradicting or reinforcing each other and receiving widely variable attention.

The Election Integrity Partnership's initial monitoring for voting-related misinformation focused on claims, not narratives. Each of the 639 tickets in the EIP database was tied to a particular claim: a fake viral video of ballots being burned, for instance, or an allegation that a Philadelphia poll watcher was improperly barred from entering a voting precinct.

The work of narrative identification began on November 30, 2020, after the EIP's monitoring mission had concluded. We first grouped tickets into "information cascades," or incidents, tracing how a single real-world event (like a video of poll workers collecting ballots in California) could generate a number of different false claims, spread at different rates on different platforms by different actors. After that, we grouped similar incidents together, collapsing them into a small number of distinct narratives. In some cases, the narratives coalesced into umbrella meta-narratives. These narratives formed the basis of the information conflict that would consume the 2020 election.

### 3.3 The Evolution of Narratives in the 2020 Election

The most destructive misinformation narratives came in waves. As fresh events presented themselves and public attention shifted, old narratives lent their momentum and "evidence" to new ones; incidents were framed so as to "prime" audiences to perceive future similar events as part of a broader pattern. This meant that, while specific falsehoods and delusions might fade, they were never truly forgotten. This process carried some Americans from their first exposure to voting-related misinformation in the summer of 2020 all the way through the violent, far-reaching conspiracy theories that compelled them to storm the US Capitol on January 6.

In the lead-up to the 2020 election, misinformation centered on mail-in voting: the destruction and discarding of real ballots and the "discovery" of fake ones. Such misinformation typically took the form of misleading photos or decontextualized video clips of crumpled mail allegedly found in dumpsters or abandoned trucks. This misinformation was widely amplified by Republican politicians and far-right operatives, including by the Trump White House. After the election, public polling indicated a lack of trust in mail-in voting,<sup>3</sup> while it is difficult to state to what extent that was caused by the media and social media activity, given the amount of misinformation about the process spread from the start, this finding is not surprising.

### 3. Incidents and Narratives: The Evolution of Election Misinformation

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Concurrently, other popular misinformation narratives suggested that the election had been “stolen” before it even took place. Concerns about disproportionate mail-in voting by Democrats and disproportionate in-person voting by Republicans led partisans on both sides to fear that there would be a manipulation of votes on election night. The Trump campaign primed Republican voters to expect wrongdoing by calling for an “Army for Trump” to safeguard the polls. In turn, Democrats worried that polling places might be invaded by far-right militias. And far-right activists argued that the United States was held in the grip of a “color revolution” orchestrated by an imagined “Deep State” intent on stealing the election.

On November 3 and immediately afterward, misinformation shifted to focus on vote counting and tabulation. This was embodied by the #Sharpiegate narrative, which alleged that poll workers were giving felt-tip pens to voters in conservative precincts to render their ballots unreadable. Despite repeated attempts to debunk it, the narrative found a receptive audience who set to work flooding all social platforms, mainstream and niche, with the claim. After #Sharpiegate gained viral traction, it drew hundreds of Trump supporters to protest outside the recorder’s office of Arizona’s Maricopa County.

As millions of mail-in ballots were slowly counted and voting returns shifted to favor Joe Biden, this anger and disbelief intensified. A growing swell of misinformation narratives, including Sharpiegate, coalesced under the hashtag #StopTheSteal, which spawned a movement of the same name. Some narratives claimed that hundreds of thousands of deceased citizens had cast Democratic votes; others suggested that Trump was one lawsuit away from victory. Together, these narratives infused their followers with a sense of urgency and a call to action.

As Stop the Steal grew in popularity over the next two months, its allegations of legal and procedural fraud were supplemented by increasingly colorful, outlandish conspiracy theories. Some claimed that Trump’s loss had been the work of a CIA supercomputer commissioned by former President Barack Obama. Others argued that Trump’s loss had been orchestrated by Dominion Voting Systems, a company that was (falsely) tied to Bill Gates, George Soros, or even the government of Venezuela. The more that these narratives took hold, the further their believers slipped from reality.

Throughout the entire voting period, both Democrats and Republicans had been consumed by fears of election-related violence—of the Proud Boys targeting Black Lives Matter protesters or secret “antifa comrades” infiltrating conservative polling locations. Outside of a surge in use of the #civilwar hashtag on

Twitter, however, little of this rhetoric translated into action in the immediate aftermath of the election. Instead, the creep toward organized violence occurred more slowly. It would explode with fury on January 6, 2021, changing the course of American politics with it.

### Ballot-Related Narratives

#### Setting the Stage for Ballot Irregularity Claims

The process by which votes were cast in the 2020 election was significantly influenced by the global COVID-19 pandemic. By September, when the EIP began monitoring election-related misinformation, nearly 200,000 Americans had already died from COVID-19.<sup>4</sup> In order to prevent COVID-19 transmission at crowded polling places and to accommodate citizens who preferred not to come to the polls, a number of states opted to expand the qualifications for absentee ballots or to alter the vote-by-mail process. For example, dozens of states significantly increased the use of ballot drop boxes.<sup>5</sup>

Changes to electoral processes and sometimes-unclear communications regarding the changes created an ecosystem ripe for mis- and disinformation around the mechanics of voting. Experts predicted that Democrats would rely on mail-in voting more than Republicans,<sup>6</sup> a reality that resulted in the rapid politicization of the process and that stymied many attempts to make it clearer or more accessible.<sup>7</sup> Meanwhile, legitimate confusion about voting procedures offered political activists, influencers, and politicians a receptive environment to sow doubt in the integrity of the voting process as a whole.

General concerns related to mail-in ballots constituted the most prominent type of misinformation assessed in the months before Election Day (see Figure 3.1 on the next page), foreshadowing claims of mass irregularities and “found ballots” following the election. The EIP processed tickets that included claims of mail dumping; mistreated, shredded, or dumped ballots; non-eligible people casting ballots (e.g., dead voters); ballots cast on behalf of others; and voting multiple times by mail.

In this section we highlight two types of ballot-related narratives: “bottom-up” misinformation rooted in real-world events reported by concerned individuals, and “top-down” mis- and disinformation in the form of claims of hidden conspiracies first made by influencers and media personalities who had political or financial incentive to spread falsehoods (see Figure 3.2 on page 53). For the former, we present some claims related to found, discarded, and destroyed ballots, primarily isolated instances of wrongdoing reframed and misconstrued in partisan terms. For the latter, we discuss a video created by Project Veritas (described below), shared widely by right-wing influencers, that claimed

## 3. Incidents and Narratives: The Evolution of Election Misinformation

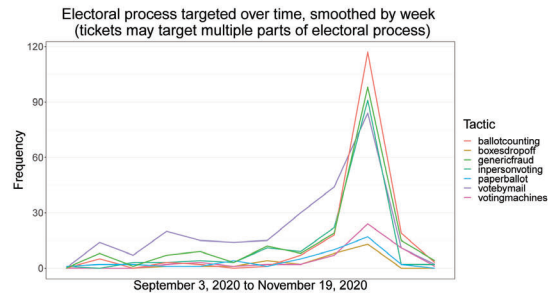


Figure 3.1: The number of tickets that targeted different parts of the electoral process. The spike of tickets occurred on Election Day.

the existence of widespread fraud in the form of ballot harvesting funded and condoned by political elites.

#### Misinformation For and By the People: How Documented Incidents of Found, Discarded, or Destroyed Ballots Became Narratives

Allegations of mail dumping—real or purported—can be used to mislead audiences in service of particular agendas, such as undermining confidence in mail-in voting or advancing claims that the election is rigged. Narratives around found, discarded, or destroyed ballots circulated through various platforms before, during, and after the election. Though it is illegal for US Postal Service (USPS) letter carriers or related partners to improperly dispose of mail, it does sometimes occur. Overall, however, the USPS is overwhelmingly secure and letter carriers face severe penalties for dumping mail, including jail time.<sup>8</sup>

The incidents in EIP tickets ranged from claims of a handful of ballots found on the side of the road or under a rock to allegations of hundreds of thousands of ballots lost at once in Pennsylvania. Mail-dumping narratives also connected disparate real-world events, pulling them into a broader storyline in which these were falsely portrayed as frequent occurrences, and in which each individual incident was cited as further evidence of an irreparably corrupt and broken system. The EIP team identified five techniques used to leverage these real incidents for broader purposes:<sup>9</sup>

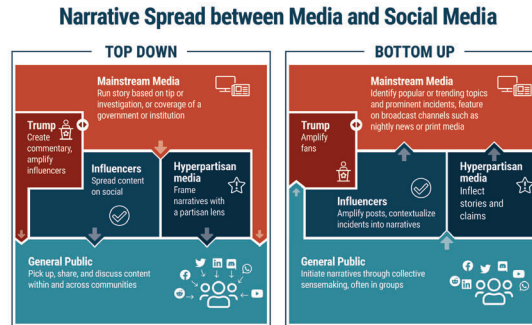


Figure 3.2: Pathways of top-down and bottom-up narratives.

- Falsely assigning intent:** Acts that are not political are framed as political. For example, a local mail-dumping event is falsely framed as specifically targeting voters on one side of the political spectrum or a mail carrier is identified as “Democratic” or “Republican” to suggest malicious intent. Other times, too much significance is given to the demographics of the locality in which an event occurs. Though these cases may at times contain added falsehoods, often they will rely more on implication than assertion—and are therefore hard to refute with fact-checking.
- Exaggerating impact:** Real-life incidents are highlighted, selectively edited, or otherwise exaggerated to give a false appearance of substantial impact on election results or to suggest a widespread pattern of misbehavior.
- Falsely framing the date:** Old events are reframed as new occurrences, such as the recirculation of a 2014 video of a mail carrier dumping mail accompanied by allegations that this was happening in the final weeks of the 2020 election.
- Altering locale:** Those disseminating the misinformation alter the locale of an event to make it seem more relevant to an audience. For example, photos from a Glendale, California, incident are reframed as having happened in a different local community.



### 3. Incidents and Narratives: The Evolution of Election Misinformation

- **Strategic amplification:** In addition to false framing, the usual amplification concerns apply, with the potential for honest or not-so-honest mistakes about intent, actors, times, and locales to be amplified by domestic networks of politically motivated accounts and possibly even foreign actors.

Allegations of deliberately destroyed ballots took various forms, including claims of ballot boxes being lit on fire, mail-in votes being shredded, and foreign actors stealing mailboxes. Occasionally there were legitimate claims, such as accurate reports of attempted arson (one example was in Baldwin Park, California). However, most were easily disproved falsehoods: for example, claims of shredded ballots for President Trump in Pennsylvania in reality were unaddressed applications for mail-in ballots.<sup>10</sup>

The earliest ballot-related story that the EIP collected and analyzed took place within days of launching our monitoring effort in early September. The incident, which occurred in Glendale, California, and involved improperly discarded mail, was incorporated into a broader narrative focused on undermining trust in the USPS and exaggerating the potential impact on the election of this and similar events in California, Wisconsin, and other states. Throughout the election, similar incidents of discarded mail (with and without ballots) were repeatedly framed as fraud, particularly by hyperpartisan online media, and the specific claims of individual stories were amplified and woven into other narratives meant to cast doubt on the integrity of the election.

#### Glendale, California

In early September, a salon worker in Glendale, California, found multiple bags of unopened mail in a dumpster and took video footage with her cellphone.<sup>11</sup> There is no evidence that any ballots were among the discarded mail; the American Postal Workers Union stated the recovered mail would go through a verification process and be delivered.<sup>12</sup> However, politically motivated actors began using the above techniques of falsely assigning intent, exaggerating impact, and strategic amplification to falsely frame this situation in such a way as to undermine trust in mail-in voting.

The incident was picked up by conservative influencers, including Charlie Kirk and Adam Paul Laxalt. The image below shows a map of popular accounts tweeting about the Glendale mail-dumping incident. The graph reveals an imbalance between left- and right-leaning amplification: the conservative side of the network had more posts than the liberal side and nearly three times as many retweets. Conservative tweets claimed that this mail-dumping incident proved that mail-in voting was not secure because of either incompetence or deliberate sabotage by the USPS and thus should not be allowed. On the liberal

side, influencers promoted a different narrative—that President Trump was deliberately sabotaging the USPS to reduce the number of Democratic votes—and stressed the importance of preserving mail-in voting. As people lost faith in the mail system, some on the left also used the narrative to push people to vote in person or via drop boxes. This bottom-up misinformation, coming first from concerned citizens and then amplified by influencers to, in turn, target average platform users, is a tactic that the EIP would continue to see throughout the election cycle. Overall, the story impacted the perception of the security of voting by mail for both liberals and conservatives.

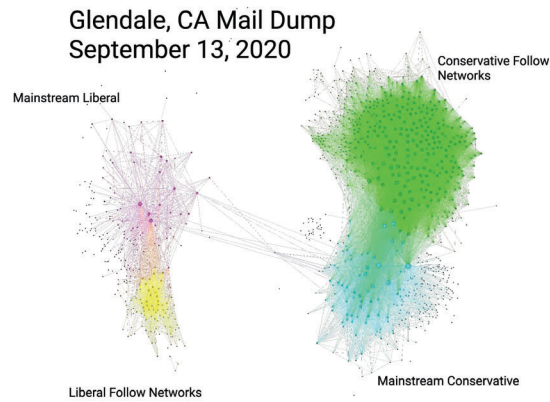


Figure 3.3: The network of influential left- and right-leaning tweets and retweets about the Glendale mail-dumping incident, where the conservative side of the network had nearly three times as many retweets. An animated version of this graph can be found in the EIP's blog post, "Emerging Narratives Around 'Mail Dumping' and Election Integrity."<sup>43</sup>

### 3. Incidents and Narratives: The Evolution of Election Misinformation



Figure 3.4: Tweets by conservative influencers Matt Oswalt (left) and Charlie Kirk (right) amplifying the false mail-dumping incident.

#### Greenville, Wisconsin

In late September, another incident of discarded mail—this one in Greenville, Wisconsin—was used to sow doubt in mail-in voting and, in some cases, to claim voter fraud. Local reporting at the time suggested that, in this case, the discarded mail did include several ballots.<sup>14</sup> (The Wisconsin Election Commission later said the mail did not include any Wisconsin ballots;<sup>15</sup> more recent reporting suggests there was at least one ballot from Minnesota among the mail.<sup>16</sup>) However, as in Glendale, California, strategic partisan actors distorted the significance of this event, through selective amplification, exaggerating impact, and falsely assigning deliberate intent to purported Biden-supporting USPS workers.<sup>17</sup> This second story appeared within weeks of the first in Glendale. While there were no absentee ballots in the mail-dumping case in Glendale, the seed had been planted that voting by mail was not safe and secure. With this second case, when several absentee ballots were actually found, pundits were able to point to both cases as support for their claims around voting by mail and, eventually, a rigged election. Throughout its monitoring period, the EIP saw many isolated incidents that seeded narratives and that were later drawn upon as “evidence” to clarify, refine, and reinforce larger narratives—a tactic that seemed to be used frequently among right-wing influencers and networks.

This narrative spread almost exclusively through conservative networks, pushed by influencers such as Charlie Kirk, The Gateway Pundit, and Breitbart News. The graph below reveals how the claim cascaded through the Twittersphere over time.

Alarming, this narrative made it all the way to the White House, when press secretary Kayleigh McEnany stated “Mass mail-out voting... could damage

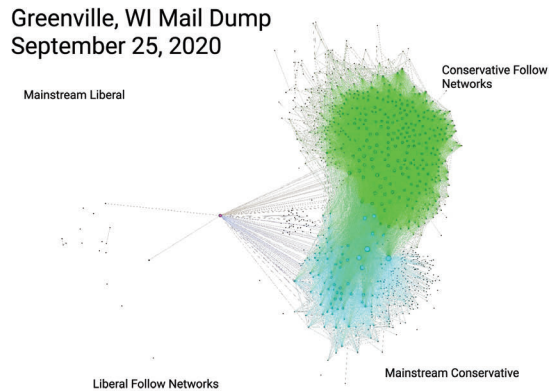


Figure 3.5: Network graph showing how narratives about the Greenville, WI, mail-dumping event spread primarily through politically conservative and pro-Trump accounts. An animated version of this graph can be found in the EIP's blog post, "Emerging Narratives Around 'Mail Dumping' and Election Integrity."<sup>18</sup>

either candidate's chances because it's a system that's subject to fraud. In fact, in the last 24 hours, police in Greenville, Wisconsin, found mail in a ditch, and it included absentee ballots."<sup>20</sup> The amplification techniques were effective in sowing distrust in mail-in voting and the USPS at large, despite neither event posing a real risk to the election results.

#### Sonoma, California

On September 25, a tweet that over 1,000 ballots had been discovered in a dumpster in Sonoma, California, further added to the narrative sowing distrust in mail-in voting. Elijah Schaffer, a conservative influencer and verified Twitter user, allegedly received photos of the mail-dumping incident. He posted the photos on Twitter, and other influencers ensured its rapid spread across conservative social media—including on Gab, Reddit, and Parler.

## 3. Incidents and Narratives: The Evolution of Election Misinformation

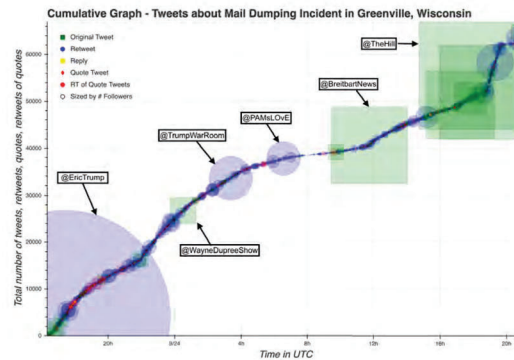


Figure 3.6: A cumulative graph of tweets about mail dumping in Greenville, Wisconsin. As shown in the graph, early propagation of the tweet was driven by pro-Trump and MAGA-branded accounts. Original tweets are green squares; retweets are blue circles. Further tweet content and author information can be found within a large interactive version on the website in the endnotes.<sup>19</sup>

The photo used in Schaffer's tweet was framed as evidence of potential fraud in the 2020 election. However, the image was of empty envelopes—not ballots—from 2018 that had been legally discarded.<sup>21</sup> Influencers including The Gateway Pundit, Tim Pool, and Donald Trump Jr. retweeted and quote tweeted Schaffer, spreading the false narrative that this was an intentional dumping of ballots with implications on the 2020 election, and reinforcing the larger narrative that mail-in voting was not secure.

In this case, the misinformation was followed by a prompt fact-check from Sonoma County on Twitter (see Figure 3.8 on page 60). On September 25, the same day as Schaffer's tweet, Sonoma County tweeted in English and Spanish that the picture had been taken out of context to promote a false narrative and properly identified the photo as containing empty envelopes from the 2018 election. This timely identification and correction serves as a model for state and local officials. However, it also demonstrates the challenge in debunking

## 3.3. The Evolution of Narratives in the 2020 Election

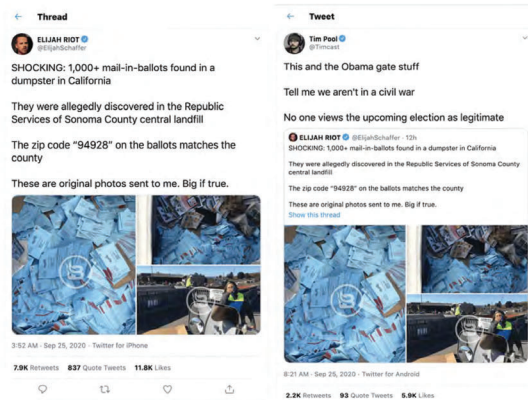


Figure 3.7: Left, earliest tweet on the Sonoma, CA, alleged mail-dumping incident; right, example of an influencer sharing the tweet with a conspiratorial and adversarial framing.

information that has already gone viral, as the original misinformation had significantly larger engagement than the subsequent fact-check.

In each of these cases of "mail dumping," a real-world event was falsely framed to reinforce a broader narrative that undermined faith in the USPS and mail-in voting. The graph in Figure 3.9 on page 61, showing spikes in Google searches for "mail dumping" during these periods, suggests the effective amplification of the narratives.

#### Misinformation from the Top: Ballot Harvesting Conspiracies

In the previous section, we described ballot incidents in which misleading information or misinformation based on real-world events emerged, bottom-up, from ordinary users and was subsequently picked up by influencers and political elites. In this section, we focus on ballot conspiracy theories—ballot incidents that were framed as deliberately manipulative, with responsibility ascribed to a powerful figure. These were often first introduced by elites or influencers, many of whom had large numbers of followers on social media. Top-down, elite-driven

## 3. Incidents and Narratives: The Evolution of Election Misinformation



Figure 3.8: The County of Sonoma's tweet fact-checking the false claim that ballots were illegally dumped.

mis- and disinformation was a prominent feature of the 2020 election cycle; we will discuss the specific mechanics of "blue-check" (verified) accounts spreading claims across platforms in Chapter 4.

Ballot harvesting is the practice of a third party delivering an absentee or vote-by-mail ballot on behalf of another voter; rules governing ballot harvesting vary by state, and in most cases harvesting is not inconsistent with state law.<sup>22</sup> Yet it is both contentious and politicized. Its proponents argue that it increases access for those who would otherwise have difficulty voting. Its opponents contend that it increases the potential for fraud and point to historic cases of wrongdoing.

The contention over ballot harvesting generally splits along party lines with Democrats supporting the practice and Republicans opposing it. This was evident in the run-up to the 2020 election as Republican leaders publicly claimed it was rife with fraud. For example, in April 2020, President Trump tweeted

## 3.3. The Evolution of Narratives in the 2020 Election

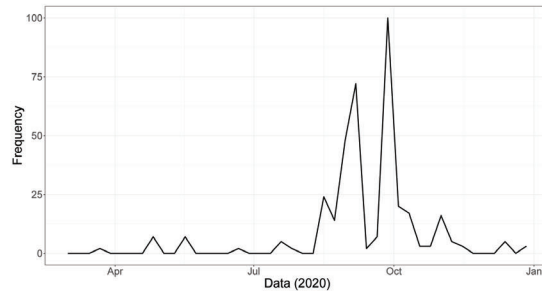


Figure 3.9: Data from Google Trends of “mail dumping” from January 2020 – January 2021. The two spikes in Google searches for “mail dumping” align with the events described above. The first spike occurs the week of September 6–12, overlapping with the Glendale, CA, mail-dumping story. The second spike occurs September 27–October 3, following both the Greenville, WI, and Sonoma, CA, stories.

that ballot harvesting is “rampant with fraud,” garnering more than 250,000 likes.<sup>23</sup> At the Republican National Convention in August 2020, President Trump told a cautionary tale about the 2018 voter fraud case in North Carolina’s 9th Congressional District—in which multiple people said a Republican political operative paid them to collect absentee ballots from voters and falsely witness a ballot.<sup>24</sup> And when the New York Post shared its story referenced above, conservative influencers shared it on social media.

Additionally, in August 2020, the New York Post published an article in which an unnamed Democratic operative described committing a range of alleged electoral fraud practices that could impact an election.<sup>25</sup> The EIP saw multiple tickets, for example, alleging “granny farming,” in which workers who are sent to nursing homes to help residents fill out ballots inappropriately guide the older person’s vote or assign a vote without their input.

While there have been isolated incidents of actors abusing ballot harvesting, there is no evidence to suggest it contributes to widespread voter fraud. Nonetheless, confusion around the practice enabled the ballot harvesting trope to flourish.<sup>26</sup>



## 3. Incidents and Narratives: The Evolution of Election Misinformation



Figure 3.10: President Trump's April 2020 tweet alleging ballot harvesting is "rampant with fraud."

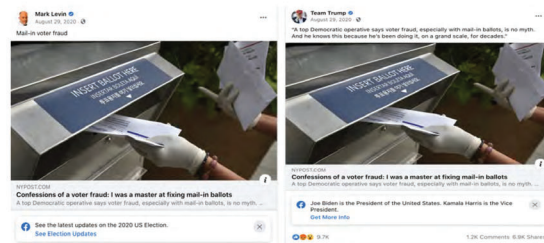


Figure 3.11: Retweets by conservative blue-check accounts of the New York Post article alleging mail-in ballot fraud. These images were saved after the election, which is why the Facebook labels appear at the bottom of the posts.

**Ballot Conspiracies: Project Veritas and Beyond**

One example that illustrates how elite-driven mis- or disinformation can quickly trend or garner engagement before platforms can react was a narrative that revolved around a Project Veritas video released on September 27, 2020, claiming that Representative Ilhan Omar was connected to wide-scale voter fraud in Minnesota.<sup>27</sup> Project Veritas, founded and led by conservative activist and provocateur James O’Keefe, describes itself as an activist group that produces investigative journalism seeking to expose corruption. It primarily targets left-leaning organizations and political figures it believes to be anti-conservative. The group is well-known for their unorthodox journalistic tactics and style, including infiltrating organizations, and surreptitiously filming. They have faced legal challenges and backlash for producing deceptively edited videos and employing unethical tactics while filming undercover. On February 11, 2021, Twitter permanently suspended Project Veritas’ official Twitter account and temporarily blocked James O’Keefe’s.<sup>28</sup>

Project Veritas was what the EIP observed to be a repeat spreader of false and misleading narratives about the 2020 election (a designation discussed in more detail in Chapter 5), generating a number of videos that were surfaced by EIP monitoring and external partners throughout the course of the 2020 campaign and flagged as false or misleading by third-party fact-checkers.<sup>29</sup> In this specific case, O’Keefe released a 17-minute video along with a message that began “Breaking: @IlhanMN connected to cash-for-ballots harvesting scheme.” The video begins with an individual claiming that “money is everything.” He then says his car is full of absentee ballots—showing what appear to be ballots on his dashboard. As we describe below, these claims were found to be misleading by independent fact-checkers.

Despite the unreliability of the Project Veritas video, it quickly gained ground. The video went viral on multiple social media platforms, driven by right-wing influencers. On Twitter, within the first 15 minutes after O’Keefe’s posting, at least eight conservative influencers—including Ryan Fournier, Representative Paul Gosar, Michelle Malkin, and Cassandra Fairbanks—shared the video. Project Veritas was soon trending. Notably, Donald Trump Jr. appeared to separately upload the same O’Keefe video within seven minutes of the original post, as it was posted without a “From James O’Keefe” label. As the EIP described in a blog post about the Project Veritas video, this suggested that the Trump campaign may have had access to the video before the general public, raising questions of coordination.<sup>30</sup>

The release of the video also seems to have fueled an increase in the use of #ballotharvesting on Twitter, spiking after the video was shared on September 27. The hashtag primarily appeared in tweets in pro-Trump networks: more than 8,000 times, compared to 30 times in left-leaning and anti-Trump networks.

3. Incidents and Narratives: The Evolution of Election Misinformation

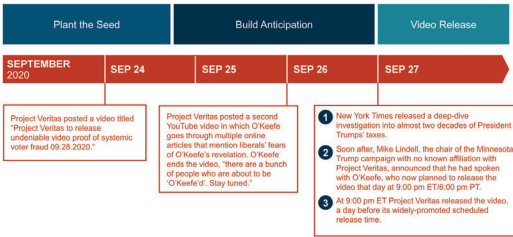


Figure 3.12: Timeline of the release of Project Veritas's video about ballot harvesting.

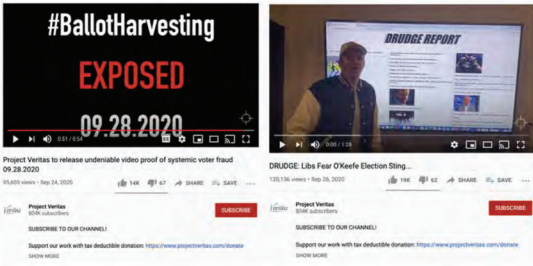


Figure 3.13: Project Veritas videos announcing the release of their video alleging voter fraud.

## 3.3. The Evolution of Narratives in the 2020 Election

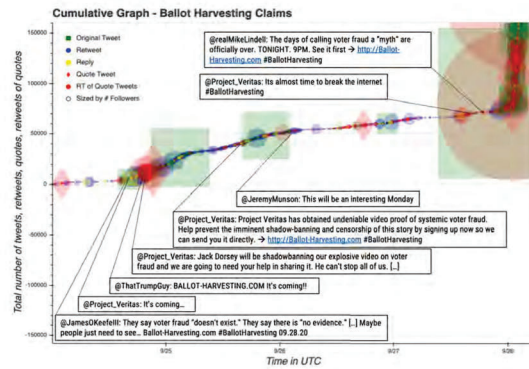


Figure 3.14: A visualization of the promotion of Project Veritas's Ballot Harvesting video campaign on Twitter. Original tweets are green squares; retweets are blue circles; quote tweets are orange diamonds; replies are yellow circles; and retweets of quote tweets are red circles.

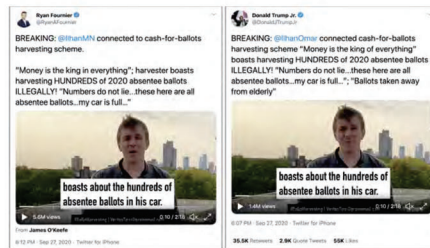


Figure 3.15: James O'Keefe's Project Veritas video was quickly spread by right-wing influencers, including Donald Trump Jr. and Ryan Fournier, on Twitter.

## 3. Incidents and Narratives: The Evolution of Election Misinformation

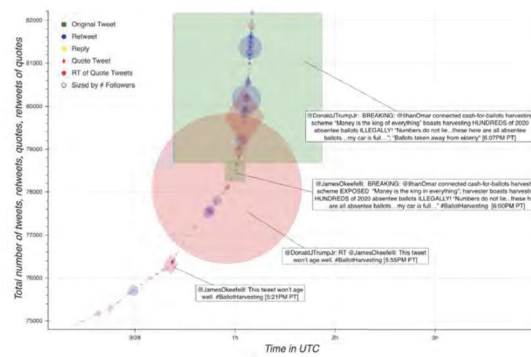


Figure 3.16: A cumulative graph of tweets after the release of Project Veritas's video about ballot harvesting. Growth of the narrative increased substantially after Donald Trump Jr.'s retweet (large red circle) and subsequent original tweet (green square).

Meanwhile, on Facebook, according to data gathered using CrowdTangle, posts with the term "Project Veritas" garnered 2.42 million interactions between September 27—the date the video was shared—and October 3, 2020. The most popular of such posts was President Trump's, in which he shared Breitbart's report of the release and said that he hopes the US Attorney in Minnesota has this under serious review.

The video's ballot harvesting claim was not well supported. As Maggie Astor of the *New York Times* described several days later, the video "claimed through unidentified sources and with no verifiable evidence that Representative Ilhan Omar's campaign had collected ballots illegally."<sup>31</sup> Minnesota's FOX 9 reported that the central source in the video claimed that Project Veritas offered him \$10,000 and used two separate Snapchat videos to "make it appear as if he was illegally picking up ballots and offering money for votes."<sup>32</sup> Likewise, *USA Today* wrote that "[t]here is no actual proof of fraud or any relationship between individuals in the video and Omar or her campaign."<sup>33</sup> But the quick virality of

## 3.3. The Evolution of Narratives in the 2020 Election

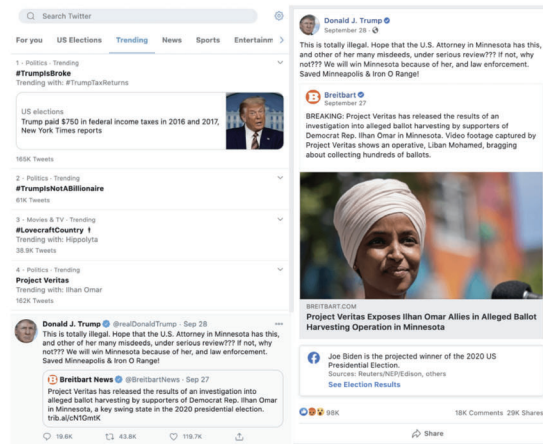


Figure 3.17: Left, President Trump's tweet about the Project Veritas video (bottom) in the trending list; right, President Trump's Facebook post. These images were saved after the election, which is why the Facebook "projected winner" label appears at the bottom of the post.

the claim allowed it to take root as a persistent narrative.

The Project Veritas video is notable for two reasons. First, it shows how politically motivated misinformants can capitalize on confusion; Americans were broadly unaware of the details of third-party ballot collectors, allowing O'Keefe and right-wing influencers to fill the gap with misleading and unverified information.

Second, it is an example of false or misleading information that was driven top-down by verified accounts with large amplification capabilities. The video was both created by right-wing influencers (O'Keefe and Project Veritas) and initially disseminated by a network of right-wing social media users with large followings. Top-down mis- and disinformation is dangerous because of the speed at which it can spread; if a social media influencer with millions of followers shares a narrative, it can garner hundreds of thousands of engagements and shares before a social media platform or fact-checker has time to review its content.

### 3. Incidents and Narratives: The Evolution of Election Misinformation

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#### The Impact of Ballot-Related Narratives

Mail dumping and ballot harvesting appeared frequently in the days leading up to the 2020 election. Exaggerating the effect of found, discarded, and destroyed ballots in the pre-election period may have laid the foundation for widespread receptivity to allegations of similar fraud on election night. It can be difficult to make empirical assessments of how online content affects real-world opinions; there is usually little more than engagement data such as likes, shares, and reactions to go on, and those may signal more about pre-existing beliefs than an audience being persuaded by the evidence presented. However, a Pew survey from November 2020 indicated widespread concern about mail-in voting:<sup>34</sup>

- Of the 54% of respondents who voted in person, approximately half had cited concerns about voting by mail as a major reason why they did.
- Only 59% of respondents answered that they were “very confident” that their vote was accurately counted, as opposed to 71% in 2016, 68% in 2012, 73% in 2008, and 68% in 2004. This is the lowest response for a presidential or midterm election in 16 years.
- Only 30% of respondents were “very confident” that absentee or mail-in ballots were counted as intended.

While it is unclear what specific information source or pre-existing beliefs shaped public opinion on this issue, what is clear is that a large percentage of the electorate was open to the claim that mail-in ballots were a potentially significant source of fraud or irregularities. Vocal holders of these beliefs were pivotal in shaping the conversation about the legitimacy of the election both on and after Election Day, as we will explore throughout this chapter.

#### Election-Theft Narratives

In addition to ballot-specific misinformation, the pre-election period was marked by narratives that laid the broad groundwork for claims of a stolen election. This took the form of repeated and baseless allegations that voting wouldn't matter at all—that the election result was already decided or would be decided by political elites looking to undermine democracy. Claims of an impending “steal” were prominent in both left-leaning and right-leaning networks prior to the election; one side claimed that Trump would steal the election, the other that Biden would do the same.<sup>36</sup> Some of these claims were spread, top down, through the same network of online influencers as the ballot misinformation. Viewed retroactively, these were harbingers of the Stop The Steal campaign that would grow into a significant movement after the election, before ultimately erupting into violence.

## 3.3. The Evolution of Narratives in the 2020 Election



Figure 3.18: A tweet from right-wing influencer Candace Owens after the election, supporting claims of a rigged election and broad allegations of election fraud.<sup>35</sup>

The EIP tickets tracked three distinct narrative threads within the “stolen election” meta-narrative prior to the election:

- The Red Mirage/Blue Wave: A weaponization of expert predictions that election results would shift dramatically over time due to the timing of counts for mail-in ballots; both the right and left leveraged the expert predictions to claim the election would be “stolen” by the other side.
- Army for Trump: A real movement by the Trump campaign to solicit evidence of election fraud from Trump’s supporters, based on the premise that the Democrats were attempting mass voter fraud; this sparked a reaction from the left, which alleged that the Trump campaign was trying to lay the groundwork to steal the election away from Biden.
- The “Color Revolution”: An idea pushed by far-right activists that began with the claim that America was experiencing a Deep State-backed color revolution to undermine the Presidential victory of Trump via a coup.

The overall meta-narrative of an impending stolen election, and the repetition with which it was deployed, provided a frame that could be used to process future events: any new protest, or newly discovered discarded ballot, could be processed as additional proof that a “steal” was indeed underway, that there



### 3. Incidents and Narratives: The Evolution of Election Misinformation

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was a vast conspiracy to steal the election from President Trump, and that the election results would be illegitimate.

#### The Red Mirage and the Blue Wave

Changes to voting procedures due to COVID-19 led to expert predictions that more mail-in voting would take place in 2020 than ever before—and that mail-in voting would skew heavily Democrat. Many election analysts predicted that this would lead to an initial “red mirage” followed by a “blue wave” in some states: the Democratic share (or proportion) of the vote would increase substantially between early counts from day-of voting and final ballot totals, as mail-in ballots were processed.<sup>37</sup> In the weeks leading up to the election, analysts hypothesized about which states would see a large blue shift, which would see minimal shifts, and which might even go in reverse.<sup>38</sup>

Some right-leaning influencers and communities attempted to frame these predicted shifts as preemptive evidence of a “stolen election” in two ways. First, they pushed a false but largely non-conspiratorial narrative that mass aggregate mail-in ballot fraud by individuals would be responsible for any shift. Second, some offered a set of false, conspiratorial claims that there would be “ballot-stuffing” on Election Day, asserting that there would be a systematic, coordinated effort by local authorities to alter the election night vote via the addition of forged ballots or the swapping of “real” ballots for fake ones. More conspiratorial communities, such as QAnon adherents, argued that attempts by the press and electoral experts to educate voters to anticipate voting shifts were in fact evidence that elites were strategically planning to steal the election and were attempting to inoculate voters to that reality (see Figure 3.19 on the next page).

The “red mirage” and “blue wave” narrative of election night shifts did ultimately come to pass largely as experts predicted, with Biden taking the lead as mail-in ballots were counted. It has become one of the most enduring narratives underpinning claims of a “stolen election,” weaponized by conservative influencers as evidence that the Democrats supposedly delivered boxes of ballots to polling places. In the weeks following the election, prior conspiratorial claims to expect theft evolved into specific allegations of voting machine fraud and “found ballots” in swing states that President Trump lost. Many of the influencers argued that the “red mirage” had in fact been a “red tsunami” interrupted by Democratic manipulation. Further, statistical misinformation (discussed in Chapter 4) began to appear as influencers alleged that the “blue wave” occurred not because of the predicted voting behavior and ballot-processing procedures, but rather due to Democratic interference to steal the election, alleging that it had been an illegitimate election from the outset.

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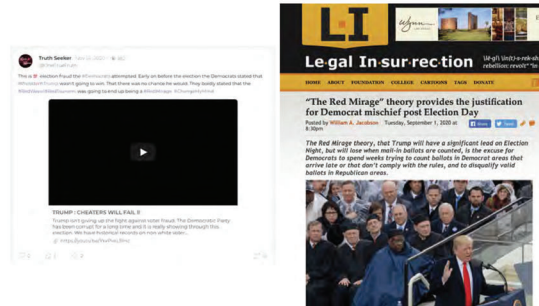


Figure 3.19: Left, a QAnon-aligned post on Parler alleging that the “red mirage” was part of the Democratic plans to steal the election; right, an article from conservative blog “Legal Insurrection” arguing the same.

#### Army For Trump

Prior to the election, the Trump campaign proliferated the idea that the election was going to be stolen by the Democrats, using ballot-fraud claims and other procedural misinformation as well as the weaponization of the red mirage/blue wave prediction, to spark outcry among supporters.

On September 21, 2020, Donald Trump Jr. posted a video on Facebook calling on supporters to join an “election security operation” the campaign called “Army for Trump.” Citing concerns that the “Radical Left” was laying the groundwork to steal the 2020 election, Trump Jr. asked supporters to sign up to join the Trump campaign’s Election Day team through a site called “DefendYourBallot.” The website recruited volunteers for general get-out-the-vote activities but also asked if they had legal expertise and included a form where supporters could report alleged election incidents directly to the campaign (see Figure 3.20).

This call to action was repeated by President Trump on Twitter and in the first presidential debate in which he urged supporters to “go into the polls and watch very carefully” for fraud.<sup>39</sup> He also shared the link on his Facebook Page, urging supporters to “Fight for President Trump”; the post was engaged with over 200,000 times on Twitter (see Figure 3.21 on the following page). Appealing to volunteers to act as unofficial poll watchers was intended to motivate Trump’s base, providing additional pathways to participation in the election. It also set

## 3. Incidents and Narratives: The Evolution of Election Misinformation

Figure 3.20: The Election Issue Report Form on the "Army for Trump" website.

the stage for untrained volunteers to amass "evidence" to support the type of narratives discussed in the prior section of this report, in which misleading claims were leveraged to allege systematic ballot fraud. Although we cannot tell if the people who shared videos on Election Day and the weeks following were officially part of the "Army for Trump," there were multiple incidents in the EIP ticket database that included video footage of supposed fraud that actually documented innocuous events (e.g., video and photographic claims of ballot theft that was in fact reporters moving camera equipment).<sup>40</sup>

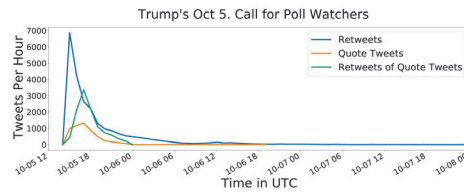


Figure 3.21: A graph showing Twitter engagement with Trump's initial "Army for Trump" tweet, reproduced below. Retweets in blue; Quote Tweets in orange; Retweets of Quote Tweets in green.

The "Army for Trump" initiative assisted in creating a vast trove of images, videos, and stories of purported incidents that could be selectively chosen, falsely framed, and fed into "voter fraud" narratives. It had one other additional impact: it sparked fear and outrage on the left. Left-leaning influencers claimed

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that the “Trump Army” itself was an attempt by the campaign to steal the election. They framed Trump’s calls to action as having the potential to incite violence at the polls, concern about which might result in voter suppression. An analysis of 100 randomly selected tweets reacting to Trump’s call to be a “Trump Election Poll Watcher” revealed significant concerns about the movement—with only four out of 100 quote tweets expressing support for the call. Forty-nine out of 100 tweets believed that Trump’s call had the potential to incite violence at the polls on Election Day (such as the quote tweets below).

**Original Trump tweet:** Volunteer to be a Trump Election Poll Watcher. Sign up today! #MakeAmericaGreatAgain<sup>41</sup>

**Quote tweet 1 (Oct 5, 2020):** @jack @Twitter This tweet is encouraging election violence. “Fight” and “Army” – those are bugle calls, not dog whistles. Twitter, take down this tweet.<sup>42</sup>

**Quote tweet 2 (Oct 5, 2020):** To be clear, the president who has repeatedly encouraged political violence, said “stand by” to heavily-armed extremist groups, and repeatedly spread lies about voting procedures, is now calling on his supporters to raise an “Army for Trump” at the polls. Just so dangerous.<sup>43</sup>

Left-leaning conversation therefore framed the “Army for Trump” as an attempt to steal the election through the propagation of fear; this fear was heavily reflected in mainstream media coverage (see Figure 3.22).

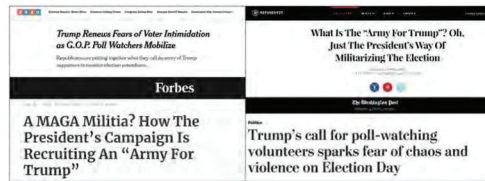


Figure 3.22: Media coverage of “Army for Trump.” Clockwise from top left: New York Times, Refinery29, Washington Post, and Forbes.

Calls to join the “Army for Trump” thus fed into both left and right-leaning narratives. Right-leaning social media accounts pushed the idea that the election would be stolen, to justify the need for the Army. Left-leaning accounts reframed

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these public calls to watch as incitements to violence, and as an intimidation tactic with the potential for voter suppression.

#### Color Revolution

The narratives that the integrity of the election was being strategically and intentionally undermined moved into the conspiracy realm with claims that a Deep State was orchestrating a coup in a “color revolution.” The term was coined in the late twentieth century to describe revolutions in which repressive regimes tried to hold on to power after losing an election, spurring widespread domestic protests for democratic change. But in 2005, autocrats in China and Russia began to redefine the term away from its popular-activism origins, using it instead to imply externally imposed regime change—in particular, regime change designed to look like a popular uprising despite being furtively orchestrated by intelligence services from Western democracies.<sup>44</sup> Occasionally, Russian state media, such as RT, ran op-eds insinuating that domestic protest movements in the United States were in fact color revolution regime-change tactics. However, during the 2020 election, the term was applied to American politics in a somewhat unexpected way: prominent American conservative influencers suggesting that the US was experiencing a Deep State-backed color revolution intended to steal the election from President Trump.<sup>45</sup> The first major push to introduce mainstream audiences to the narrative came from former Trump speechwriter and prominent conservative commentator Darren Beattie, who wrote about the theory and discussed it in podcasts in conversation with Steve Bannon, Michelle Malkin, and Adam Townsend. Right-wing newsite Revolver.News produced a detailed series laying out his claims. On September 15, Beattie appeared on Tucker Carlson Tonight, giving the narrative mainstream attention on a program with an audience of millions.

The propagation of the color revolution narrative occurred over several months, waxing and waning in popularity, but gradually gaining adoption as a frame to explain grass-roots Black Lives Matter protests and voting irregularities as part of an elaborate plan by Democratic operatives to steal the election.

After Election Day, use of the term “color revolution” spiked a few more times, driven mostly by videos and posts that echoed the pre-election narrative, alleging that the “coup” had happened. Two of these spikes of activity, November 29–30 and December 11–14, seemed to revolve around tweets and posts by Lin Wood, a defender of President Trump who prominently promoted various conspiracies to explain Trump’s loss.<sup>46</sup>

Wood’s tweets expanded the narrative of the color revolution to include possible foreign interference from China, and went so far as to link COVID-19 to the broader theme. The claims were shared to Facebook, Parler, and other social media platforms.

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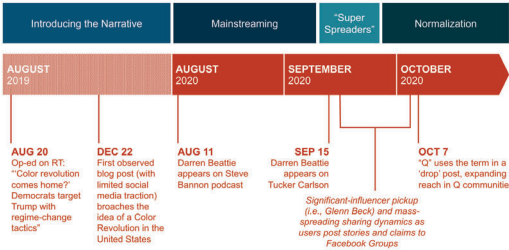


Figure 3.23: Timeline of notable events related to the color revolution leading up to Election Day.



Figure 3.24: Interactions on posts involving the term "color revolution" post-Election Day, using CrowdTangle data.

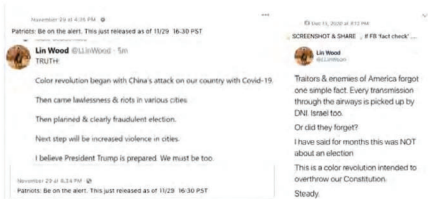


Figure 3.25: Tweets by Lin Wood that were shared on Facebook at the end of November and mid-December about a "color revolution."

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The broad claim that a color revolution was underway, with nefarious actors purportedly funding protests and destroying ballots, provided a convenient way for those seeking to delegitimize the election to connect unconnected events and to create a compelling villain while doing so. True to top-down narrative dynamics, social media users who found the story appealing moved the narrative into a variety of Facebook Groups and Pages through shares.

By promoting this narrative, right-leaning influencers appeared to be priming their audience to read future events surrounding ballots and protests as potentially part of that revolution. Accordingly, in the unsettled period between Election Day and when the race was called by national media outlets for Biden (and, it would turn out, even beyond that), believers of the color revolution narrative were primed to accept challenges to the integrity of the election. As we will see as we progress through this chapter, this would eventually manifest into legal challenges that relied on affidavits from individuals primed to believe election fraud narratives with little to no knowledge of the ins and outs of election procedures. Even on election night itself, the conviction that the election would be stolen seems to have motivated the voters of Arizona to latch on to one specific claim—felt-tip pens had led to the mass disqualification of the ballots of Trump voters—that would give rise to an online movement and a real-world protest.

#### Case Study 1: #Sharpiegate

At 5:01 am PT on Election Day 2020, a conservative Chicago radio broadcaster sent a tweet noting that felt-tip pens were bleeding through ballots.<sup>47</sup> A few hours later, at 12:16 pm PT, an anonymous Twitter account sent a tweet addressing James O'Keefe of Project Veritas: "Sharpie pen issues on Chicago paper ballots," it began, and alleged that scanners couldn't read the ballots because the markers were bleeding through.

These were the first tweets the EIP observed alleging that the black felt-tip, Sharpie-brand markers some poll workers were handing out were rendering ballots unreadable. The concern that ballots marked with Sharpie markers would not be counted began to make its way around conservative communities on social media. While the Chicago tweet did not gain much traction, the narrative quickly spread to Parler and Facebook.

Local news in Chicago picked up the story and attempted to correct the record: by 5:48 pm PT, CBS 2 had written an article reassuring voters that Sharpies were just fine.<sup>48</sup> The story faded in Chicago, but concerns about Sharpies at polling places began to migrate across the country, popping up in tweets associated with geographic locales that had become the focus of the vote count as the evening progressed.

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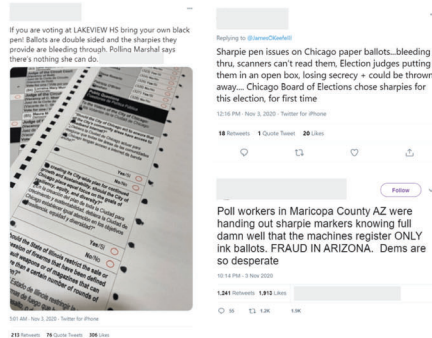


Figure 3.26: Left and top right, tweets about Sharpie pens on ballots in Chicago; bottom right, a tweet about the same concern in Arizona.

One of these locales was Arizona. A video that originally appeared on Facebook went viral: an off-camera videographer (the account name on the video suggests the videographer is right-wing activist Marko Trickovic)<sup>49</sup> is broadcasting his conversation with a pair of women who are describing voting machines not reading Sharpie-marked ballots. In the video, the women claimed that Maricopa, Arizona, poll workers were trying to force voters to use Sharpies despite the presence of pens. The man recording the video can be heard on camera stating, "so they're invalidating votes, is what they're doing." As the evening progressed, and into the next morning, the video was reposted by numerous accounts and appeared on YouTube, Twitter, Rumble, TikTok, Parler, and Reddit.

After West Coast polls closed and it became apparent that certain swing states—particularly Arizona—were closer than polls had predicted, the controversy about Sharpies was offered as an explanation. It became a hashtag, #Sharpiegate, and various pieces of content alleged that poll workers were handing out the markers deliberately to Trump supporters to prevent their votes from being counted. "FRAUD IN ARIZONA. Dems are so desperate," read one tweet from 10:14 pm PT on Election Day that had over 3,000 likes and retweets. The Maricopa County Facebook Page seemingly tried to assuage concerns very early on; even as the debate about Sharpies was largely still a Chicago concern, it posted a PSA noting that Sharpies worked just fine on Maricopa's machines.<sup>51</sup> Despite



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Figure 3.27: The video of a woman stating that voting machines were not reading ballots marked with Sharpie pens was shared on Twitter, YouTube, and Rumble.<sup>50</sup> The Rumble video text reads "Maricopa County votes need to be counted by hand! People were given Sharpies instead of ballpoint pens when Arizona voting machines can't read felt-tip marker. So ballots were entered into a slot but never counted."

the attempts to debunk the developing controversy, however, concerned and angry posts continued to appear within pro-Trump communities and channels on Reddit, TikTok, Twitter, YouTube, Parler, and others.

Fox News called Arizona for Joe Biden at 11:20 pm on election night, but overall the day ended without a clear winner, as many election experts had predicted.<sup>52</sup> President Trump gave a speech in which he noted that the races in Pennsylvania and Michigan were still in play, suggested that Arizona was too, and then declared:

"We did win this election. So our goal now is to ensure the integrity for the good of this nation, this is a very big moment. This is a major fraud on our nation. We want the law to be used in the proper manner. So we will be going to the U.S. Supreme Court. We want all voting to stop. We don't want them to find any ballots at 4 o'clock in the morning and add them to the list. OK? It's a very sad, it's a very sad

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moment. To me, this is a very sad moment, and we will win this, and as far as I'm concerned, we already have won it."<sup>53</sup>

The Sharpiegate narrative continued to accelerate the next day, beginning early in the morning on November 4. Content appeared on Facebook, Twitter, and Parler alleging that Trump voters specifically had been given Sharpies to invalidate their ballots. As the day progressed, conservative influencers such as Charlie Kirk, Dinesh D'Souza, and Steven Crowder asked questions about the controversy and retweeted claims made by users alleging fraud.

Local media and election officials in other swing states in which Sharpie markers had been used, including Pennsylvania and Michigan, posted articles addressing the use of Sharpies in their own jurisdictions, attempting to fact-check what appeared to be turning into a widely disseminated conspiracy theory. The Cybersecurity and Infrastructure Security Agency (CISA) posted its own update to its Rumor Control webpage.<sup>54</sup> Election officials reported inquiries to the Election Infrastructure Information Sharing and Analysis Center (EI-ISAC), noting that they were seeing posts alleging that voters who used Sharpies would not have their votes counted. The Michigan Attorney General posted a tweet asking members of the public to stop making threatening and harassing phone calls to her staff suggesting they shove Sharpies into inappropriate places.<sup>55</sup>



Figure 3.28: Graph showing the spread of Sharpiegate tweets (cumulative) before and after Pima County's fact-check tweet.

By early evening on November 4, however, the Sharpiegate theory left the realm of internet chatter and became a live-action rallying cry for Trump supporters

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who felt the election had been stolen. Protestors, some open-carrying long guns, gathered at the Maricopa County Recorder's Office building, carrying signs, waving Sharpies, and chanting about election theft. A local pro-Trump Facebook Page, AZ Patriots, livestreamed the protests for several hours.<sup>56</sup>

Protesters returned on the evening of November 5 as well. This time, well-known conspiracy theorist Alex Jones of Infowars showed up, climbed atop a car, and gave a speech about "meth-head Antifa scum," George Soros, and stolen elections, occasionally chanting "1776."<sup>57</sup>



Figure 3.29: Alex Jones at a Sharpiegate protest outside the Maricopa County Recorder's Office on November 5.<sup>58</sup> (AP Photo/Matt York)

Throughout the three-day period in which Sharpiegate was a significant focus, the social platforms responded primarily by labeling and taking down content. The AZ Patriots livestreaming Page, which had been embroiled in controversy over leader Jennifer Harrison livestreaming harassment on several occasions (generating Facebook strikes), was taken down.<sup>59</sup> Other livestreamers, however, such as Steven Crowder on YouTube, discussed Sharpiegate or ran the footage from the protests, and did not receive any labeling contextualization until well after the fact; as we will discuss in Chapter 4, this is one of the unique challenges of moderating a livestream compared to a text article.<sup>60</sup>

Sharpiegate provides a detailed look at how a misunderstood incident about ballots compounded into a narrative among voters primed to believe that the election would be stolen. As the ballot counts continued in the days following Election Day, the predicted blue wave indeed began to materialize, and allegations of fraud and demands for recounts began to increase. Sharpiegate became one narrative among many that fed into a meta-narrative, the slogan for which

## 3.3. The Evolution of Narratives in the 2020 Election

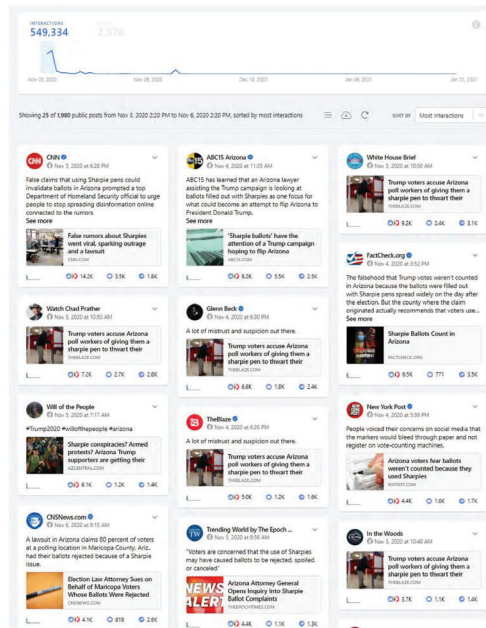


Figure 3.30: A CrowdTangle dashboard showing results sorted by most interactions for "arizona sharpie" in public Pages, verified Pages, and public Groups, beginning on November 3, 2020.

### 3. Incidents and Narratives: The Evolution of Election Misinformation

would come to define the 2020 election for many Trump voters: “Stop The Steal”<sup>61</sup>

#### Case Study 2: #StopTheSteal

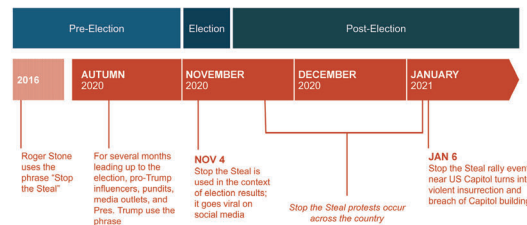


Figure 3.31: Timeline of the Stop the Steal narrative.

In the days after the election, “Stop the Steal” grew to encompass not only the events related to Sharpiegate, but the broader overall theme that the election had been decided by fraud. This rallying cry was aimed at motivating Republicans and Trump supporters to halt purported Democratic electoral malfeasance. It became a hashtag across multiple platforms, an encompassing and enduring phrase. In the weeks following the election, the narrative took a distinctly conspiratorial turn.

At its core, #StopTheSteal falsely postulates that Trump actually won the presidential election, that Democrats stole the election, and that it is up to Republican “patriots” to reverse this—i.e., to stop the Democrats’ theft. In the days following the November 2020 election, the call was repeated by prominent conservative influencers (including President Trump),<sup>62</sup> and grew into a broad Stop the Steal movement that attracted a significant presence offline as well. The phrase appeared in real-world protest organizing materials and in signs at protest events. In mid-December, over a month after Election Day, Stop the Steal rallies were still occurring in the US; in January 2021, a protest with that slogan erupted into a violent insurrection at the US Capitol.

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The “Stop the Steal” phrase itself was seeded far ahead of the 2020 presidential election. Conservative political strategist Roger Stone launched a “Stop the Steal” movement in 2016, according to a CNN article; his Stop the Steal “voter protection” project was sued in federal court for attempting to intimidate minority voters.<sup>63</sup> However, in a November 2020 blog post on his personal website, Stone took pains to clarify that he was not “a participant in any of the organizations that adopted my phrase in this year’s election.”<sup>64</sup> He repudiated the CNN article that referenced him in another blog post, though he shared an image advertising an Atlanta #StopTheSteal rally supported by StopTheSteal.us (at that point the forefront of “Stop the Steal” in 2020).<sup>65</sup>

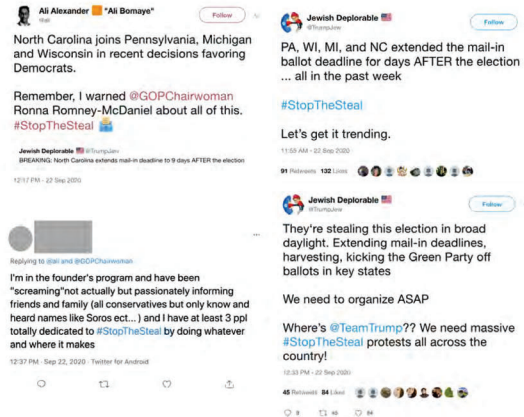


Figure 3.32: The Stop the Steal rally advertisement posted on Roger Stone's website.

#StopTheSteal was used sporadically leading up to Election Day; for example, after some states (Pennsylvania, Michigan, Wisconsin, and North Carolina) extended the date by which they would accept mail-in ballots, right-wing Twitter accounts used the hashtag while denouncing the changes and calling for action. Notably, Ali Alexander—a right-wing personality who would later help organize the Stop the Steal movement and amplify numerous sub-themes and conspiracies—was one of the actors who tweeted about the four states' mail-in ballot extensions using #StopTheSteal on September 22.<sup>66</sup> In a retweet of another pro-Trump account, Alexander and the original poster framed the states' move as “favoring Democrats”: “They’re stealing this election in broad daylight. Extending mail-in deadlines, harvesting... We need massive #StopTheSteal protests all across the country!”<sup>67</sup>

Right-wing media ecosystems were also early adopters of this hashtag. Multiple September articles on The Gateway Pundit mentioned “Stop the Steal”; one article included a poll asking readers, “Do you think Democrats are trying to steal the election?” and another used the hashtag #StopTheSteal in reporting

## 3. Incidents and Narratives: The Evolution of Election Misinformation

Figure 3.33: Tweets using #StopTheSteal on September 22.<sup>68</sup>

on Trump supporters allegedly being blocked from observing Philadelphia early voting locations.

Members of the Trump family on Twitter, and President Trump himself, also pushed the concept of a "steal" early in the election season.<sup>70</sup> While these tweets did not all mention #StopTheSteal explicitly, they nonetheless helped foster the cohesion of several disjointed narratives into one conceptual framework of election theft.

Prior to the election, early uses of #StopTheSteal were used to discuss a range of themes described in this chapter: ballot harvesting, mail-in voting, Trump winning but Democrats stealing the race, Army for Trump, the need for poll watchers, a rigged election, and more. The repeated priming of Trump-supporting audiences to believe that the election had been stolen likely helped to bolster the Stop the Steal movement as it further bloomed after the election.

On Election Day, as results did not break in the President's favor, prominent conservative influencers quickly took up Stop The Steal. By the evening of November 3 and November 4, verified Twitter users, including recently elected officials and



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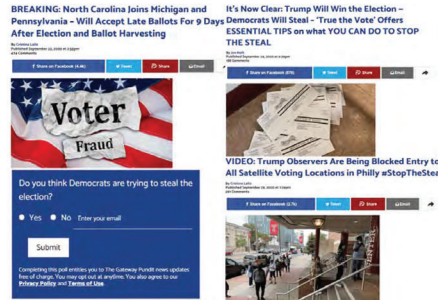


Figure 3.34: The Gateway Pundit articles mentioning "Stop the Steal" in September. Left, a September 22 article and poll. Top right, an article from September 24. Bottom right, an article from September 29.<sup>63</sup>

right-wing media outlets, were repeatedly pushing the Stop The Steal narrative online. Some of these narratives were accompanied by more specific claims about individual state irregularities (such as alleging they were not counting ballots), while others were more general statements that the Democrats could not have won the election fairly.

Besides conservative pundits, a handful of conservative politicians began to amplify #StopTheSteal immediately after the election. One was Marjorie Taylor Greene, a Republican Congressional candidate in Georgia who won her race in the House of Representatives. Greene leveraged multiple social media platforms simultaneously to spread Stop the Steal messages and promote herself. She posted a Stop the Steal petition on both Facebook and Twitter that, once completed, redirected to a donation page. The petition spread in various Facebook Groups, including an anti-Whitmer Michigan Group.

Stop the Steal Groups on Facebook were created at least as early as November 4, 2020. One Group, STOP THE STEAL, quickly swelled to hundreds of thousands of members. In addition to providing a place where users shared election-related conspiracy theories, the Group served as a hub to find various Stop the Steal rally Facebook events across the country, some hosted by other entities. This primary Group was shut down by Facebook on November 5 at 2:00 pm ET, with media reports suggesting it was due to content inciting violence;<sup>71</sup> data from an EIP CrowdTangle archive shows that it had at least 7,000 posts with slightly



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Figure 3.35: A collage of some of the top conservative pundits using #StopTheSteal on November 3 and 4. On TikTok, a user filmed a live video of Charlie Kirk using the hashtag #StopTheSteal, indicative of the cross-platform nature of this content.

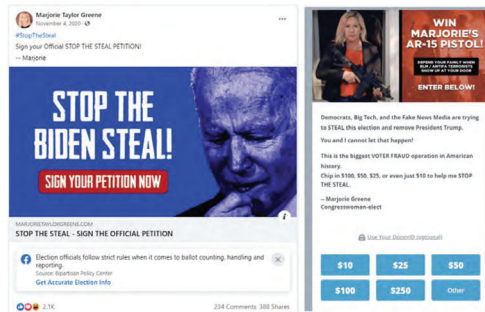


Figure 3.36: Left, a post from Representative Marjorie Taylor Greene, who heavily promoted #StopTheSteal. In one of her posts, the petition led to her donation site, right.

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over 800,000 interactions.

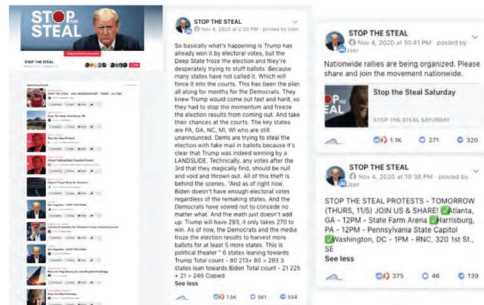


Figure 3.37: Image of several posts in the STOP THE STEAL Group on Facebook. The event page of the Group listed upcoming events in different locations hosted by various entities.

Facebook Groups like STOP THE STEAL helped solidify the Stop the Steal movement's offline component. For example, on November 5, Facebook events were scheduled for locations including California; Virginia; Washington, DC; Pennsylvania; and Florida. StopTheSteal.us—a website created by Ali Alexander—and its newsletter also helped to rally people to different locations around the country. Inflammatory rhetoric was common; for example, in a since-removed tweet on December 7, Alexander tweeted that he was “willing to give my life for this fight.” The Arizona Republican Party retweeted, adding, “He is. Are you?”<sup>72</sup>

Coverage of Stop the Steal in conservative media outlets varied. In the first two weeks after the election, Fox News had two article headlines mentioning Stop the Steal in the context of news items (Facebook's STOP THE STEAL Group takedown and an incident at a rally).<sup>73</sup> In contrast, more niche right-leaning fringe outlets covered it uncritically, and at times seemingly supportively; for example, on One America News Network (OANN), coverage of Stop the Steal included a since-removed article outlining how voters were holding Stop the Steal rallies in multiple states because of alleged election irregularities.<sup>74</sup> The outlet had steady coverage of the movement, telling viewers how to rally and broadcasting an exclusive interview with organizers declaring that they will “Fight on.”<sup>75</sup>

Stop the Steal rallies at times morphed into broader pro-Trump post-election protests—for example, the Million MAGA March in DC on November 14 was heav-

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ily promoted by Stop the Steal influencers, and the insurrection on January 6 was promoted by StopTheSteal.us. In an email on December 21 from StopTheSteal.us, the January 6 protest was heavily advertised, stating, “#StopTheSteal wants **ALL Patriots** to stand up with us in D.C. on what should be a historic day, January 6, 2021...StoptheSteal.us stands ready to FIGHT BACK with this **historic protest...we will NOT ALLOW our Republic to be stolen from us!**” (bolding theirs).



Figure 3.38: Image of a December 21 email from the StopTheSteal.us newsletter.

The Stop the Steal movement's enduring power likely stems from several factors. The phrase is all-encompassing of various other false claims and narratives pushed about the election, providing an opportunity for many constituencies to gather both virtually, and in real life, under one banner. Stop the Steal content spread not only on Facebook, but also on Twitter, Parler, and Telegram. Because of the many figures pushing the narrative across social media and on websites, the movement was robust enough to survive individual takedowns of misleading electoral content and targeted deplatforming.

#### #Maidengate

Many narratives co-occurred with Stop The Steal, alleging a variety of forms of voter fraud. Some of them rehearsed allegations made in elections past;

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for example, the hashtag #DeadVoters claimed that dead people had voted in the election via mail-in ballots (this peaked on November 11, 2020). Another hashtag in this vein was #Maidengate,<sup>76</sup> which began on November 9, 2020, via hashtagged tweets from an account alleging that a Michigan mother's vote had been stolen by an impersonator using her maiden name. The poster claimed to know several people who had discovered that a ballot in their name had been cast in another state. She described this as intentional fraud, and called on voters to check if they had been registered in multiple states due to past addresses or name changes.

The claim of mass manipulation via maiden names, absent any evidence besides anecdotal hearsay, was subsequently promoted on Twitter by Ali Alexander, who created a website dedicated to the hashtag to try to collect evidence of voter fraud. He promoted the Maidengate conspiracy on Periscope, gathering 41,000 viewers. #Maidengate chatter and content from the original tweeter's website appeared on Reddit and Facebook<sup>77</sup> and the hashtag appeared approximately 1,800 times on Parler. By November 12, the Twitter account was suspended.

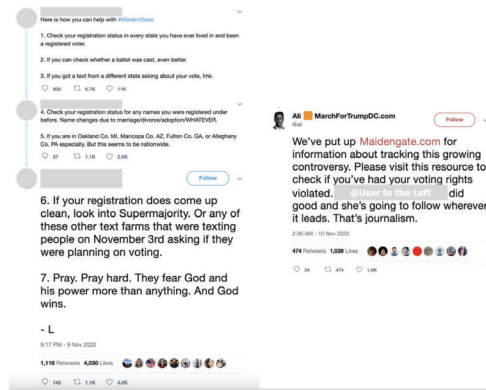


Figure 3.39: Left, tweets that precipitated #Maidengate; right, Ali Alexander's tweet promoting the Maidengate conspiracy.

#Maidengate went sufficiently viral that it generated attention from major media outlets focused on debunking election misinformation, including the New York

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Times. As the *Times* noted,

“Soon, the claim that unauthorized people had cast votes under the maiden names of real voters started trending online. From Monday to Wednesday morning, more than 75,000 posts pushing #MaidenGate appeared on Twitter, peaking at 2,000 between 2:10 and 2:15 a.m. on Tuesday, according to Dataminr, a tool for analyzing social media interactions. Beyond Twitter, the #MaidenGate rumors spread to Facebook, YouTube and groups associated with Stop the Steal, which have promoted the false narrative that Democrats stole the election from President Trump. But no evidence was offered to support the #MaidenGate claim in the original tweet. The tweet included no details on the maiden name that supposedly had been stolen, so there was no way to verify the claim.”<sup>78</sup>

We will discuss the specific mechanics of how these types of bottom-up “friend-of-a-friend” narratives spread further in Chapter 4. We include it here as an example of the way in which many sub-components of the Stop the Steal narrative were often based on unverifiable claims recast as facts.

The claims based on alleged voter irregularities, however, were at least rooted in the realm of the plausible. There was another collection of narratives, repurposed to explain how the “steal” took place, that were far afield of mainstream reality, yet were still amplified on national television by some of President Trump’s closest advisors: outlandish election conspiracies in which powerful dark forces purportedly conspired to steal the election using secret “Deep State” technologies to change votes.

#### **Outlandish Claims: Attempts to Explain the “Steal”**

Conspiracy theories have increased in visibility in online social spaces over the last five years; prominent among them is the cultlike conspiracy theory known as QAnon, which alleges that President Donald Trump spent much of his presidency battling a cabal of Satan-worshipping pedophile elites. Believers of this conspiracy are estimated to number in the low millions and many are supporters of President Trump.<sup>79</sup> In this section, we discuss two specific conspiratorial narratives that attracted significant attention in the weeks and months following the election: the first, which we will call “Hammer and Scorecard,” began years prior to the 2020 election. The second, which we will call “Dominion” after the election technology company that figures prominently in the narrative, rose to prominence alongside allegations of irregularities in voting machines. However, it merged with the Hammer and Scorecard theory to create a hybrid conspiracy that spread throughout pro-Trump social media spaces. After Election Day,

these conspiracies were deployed within the stolen election meta-narrative to “expose” the machinations behind the purported theft.

#### Hammer and Scorecard

In 2017, little-known conservative blog TheAmericanReport.org published a story claiming that a government supercomputer called “The Hammer” was created in 2009 by the CIA under President Obama.<sup>80</sup> The article claimed that the supercomputer was designed for spying on, and gathering data from, the American public and conservative politicians, including Donald Trump. This machine supposedly included an application called “Scorecard,” which was capable of manipulating election systems by switching votes to preferred candidates. The claims underlying the story were made starting in 2013 by Dennis Montgomery, described as a “CIA contractor-turned-whistleblower” who claimed to have built the system. Various election results worldwide, and in the United States, were attributed to the work of Hammer and Scorecard. As the conspiracy re-emerged, updated for the events of 2020, fact-checking organizations and CISA repudiated them; some pointed out Montgomery’s “history of deception.”<sup>81</sup>

#### Dominion

Early coverage of Dominion Voting Systems occurred within the general discussion of electoral integrity, though mentions of the company appear to have taken off in earnest after two actual software glitches on Election Day in Georgia counties were tied to Dominion software.<sup>82</sup>

In Morgan County and Spalding County, Georgia, outages in electronic poll books temporarily prevented voters from using voting machines on Election Day, resulting in extended voting hours.<sup>83</sup> While the electronic poll books (the lists of eligible voters in a precinct) were manufactured by Knowink, a subcontractor of Dominion, the usage of Dominion Voting machines in these counties would later lead to accusations of widespread faults in Dominion’s software.

The next day, a series of reports emerged alleging voting irregularities in Antrim County, Michigan, again tied to Dominion: as votes were being reported, several thousand votes in the county were incorrectly reported for Joe Biden rather than Donald Trump.<sup>84</sup> This error was quickly noticed and resolved. While it would later be attributed by the Michigan Secretary of State to human error,<sup>85</sup> narratives soon emerged that Dominion’s software, which was used to tabulate these results, was responsible for the glitch. Prominent verified influencers on social media began explicitly linking this incident to a broader conspiratorial narrative saying Dominion voting systems were manipulating vote counts all over the country.<sup>86</sup>

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As the Dominion issues were occurring, a since-deleted video grew popular, featuring retired General Tom McInerney claiming the “Scorecard” application had been used by the Obama-Biden campaign in 2012 to steal votes in Florida, and was now being deployed by the Biden-Harris campaign in Florida, Georgia, Texas, Pennsylvania, Wisconsin, Michigan, Nevada, and Arizona. Other YouTube channels such as SGTreport and CDMedia made similar claims, alleging a conspiracy to use technology to steal votes.<sup>87</sup> The videos spread to Facebook, Twitter, Reddit, and Parler, and were republished on alternative video platforms such as Rumble and BitChute. At this point, though, the two narratives were still largely on separate tracks.

On November 6, GOP Chairwoman Ronna McDaniel alleged that there had been fraud large enough to overturn Michigan’s election results, citing the Antrim County reporting error and suggesting that 47 other counties in Michigan using the same software may have been affected.<sup>88</sup> Disputing McDaniel’s claims, the Michigan Secretary of State released another statement reiterating that the reporting incident was human error that had been caught by the county’s processes and quickly resolved, and that no other counties were affected.<sup>89</sup> Concurrently, however, conservative media outlets and influencers began noting that Dominion software was used in 30 states, including all swing states, to imply nationwide malfeasance on behalf of Dominion. Articles in the *The Gateway Pundit* and *Breitbart* began connecting the Michigan and Georgia incidents to suggest that the two cases were related.<sup>90</sup> The *Breitbart* article received upwards of 300,000 interactions on Facebook alone, and was posted by President Trump.<sup>91</sup> Similar claims of widespread flaws were shared by influential right-wing individuals and groups such as *The Western Journal* and Mike Huckabee, and in Spanish by Mexican author Alfredo Jalife-Rahme.<sup>92</sup>

#### Intersection of the Narratives

The Dominion narrative merged with the Hammer and Scorecard theory after Trump campaign attorney Sidney Powell went on Fox News with Lou Dobbs on November 6 and spread a now disproven theory claiming that the software glitch that caused erroneous vote counts in Michigan was in fact the deliberate work of the “Hammer and Scorecard” program.<sup>94</sup> Powell, who was later disavowed by the Trump campaign after a series of scathing legal rulings in cases she helped litigate, gained credence in the Trump orbit for her willingness to promote unsubstantiated fraud theories.<sup>95</sup> Powell claimed that the purported CIA technology altered 3% of the vote total in pre-election voting ballots that were collected digitally.

The converging narratives were amplified by conservative website *The Gateway Pundit*, which quoted Powell at length.<sup>96</sup> Similar claims appeared on Trump-supporting media channels such as OANN. While the Dominion and Hammer

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Figure 3.40: Tweets pushing the Dominion conspiracy, including one from President Trump.<sup>93</sup>

and Scorecard narratives initially were amplified together, after November 6 mentions focusing on the Dominion narrative subsumed Hammer and Scorecard (see Figure 3.41 on the following page); mentions of the latter dropped off precipitously, while the former remained significant.

Once the Dominion narrative subsumed the Hammer and Scorecard narrative, Donald Trump and his campaign quickly became the most prolific spreaders. President Trump first tweeted about Dominion on November 12, and tweeted dozens more times in the days following. Donald J. Trump (@realDonaldTrump), "REPORT: DOMINION DELETED 2.7 MILLION TRUMP VOTES NATIONWIDE." Rudy Giuliani repeated similar claims on November 11 and the days after.<sup>97</sup>

For weeks after the election, the Dominion narrative persisted and was adapted into ongoing narratives around electoral fraud by a variety of communities. One video (on YouTube, Rumble, and Reddit) purporting to feature a "smoking gun"



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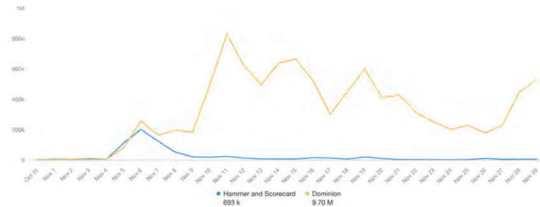


Figure 3.41: Mentions of Hammer and Scorecard (blue) were initially linked to mentions of Dominion (yellow), but were eventually consumed by the Dominion narrative. (Source: Meltwater Social)

regarding Dominion Voting Systems machines in Pennsylvania was widely shared by high-profile accounts in Trump- and QAnon-supporting communities nearly four weeks after the election.<sup>98</sup> Another theory suggests Smartmatic, another technology company, was orchestrating Dominion's supposed interference.<sup>99</sup> Yet another suggests several USB memory cards containing the cryptographic key to access Dominion Voting Systems were stolen in Philadelphia.<sup>100</sup> These theories, which have been amplified using #StolenUSBs and #Mitattack, were published by various outlets, including Russian state media outlet Sputnik International (which credulously reported the claims of 8kun administrator and QAnon aficionado Ron Watkins, calling him a "US cyber-security expert"), and were repeatedly amplified by the President on Twitter.<sup>101</sup>

The claims became increasingly outlandish. Allegations appeared claiming Dominion had ties to individuals frequently scapegoated by conservatives including Bill Gates, George Soros, and even members of the Venezuelan government.<sup>103</sup> Others alleged Dominion had links to China, posting URLs to the US Patents and Trademark Office website featuring a licensing agreement between the company and Chinese bank HSBC.<sup>104</sup> The same day that news broke of Russia-attributed cyberattacks on US government infrastructure using vulnerabilities in SolarWind software, The Gateway Pundit published a piece claiming Dominion used the same software, a claim that was quickly denied by Dominion representatives.<sup>105</sup> Both Dominion and Hammer and Scorecard have also been used as key pieces of evidence for the "Kraken" narrative in which Sidney Powell would "release the Kraken" by dropping indisputable evidence of voter fraud in lawsuits led by the President's legal team, and by the general Stop The Steal movement.<sup>106</sup>

The Dominion-meets-Hammer and Scorecard narrative has been adopted into

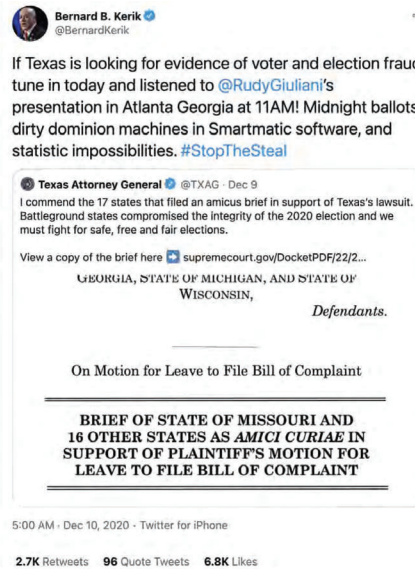


Figure 3.42: A tweet claiming a link between Dominion voting machines and Smartmatic.<sup>102</sup>

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the broader belief systems of various right-wing communities, including the Proud Boys, the far-right militia group Three Percenters, and the Daily Stormer, a Neo-Nazi publication.<sup>107</sup> #Dominion was used in 1 of every 7 tweets from QAnon accounts.<sup>108</sup> QAnon groups used the hashtag #LordMarkMallochBrown to demonstrate supposed ties between Dominion software systems and George Soros. Lord Mark Malloch-Brown is a board member of SGO, the parent company of Smartmatic, and is also on the board of Soros-founded organization Open Society.

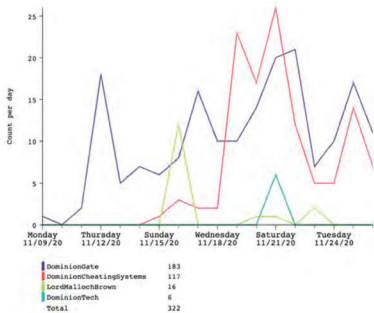


Figure 3.43: Hashtag use on Twitter for hashtags related to Dominion Voting System fraud narratives.

The Dominion and Hammer and Scorecard narratives take on additional significance for their link to ongoing incidents of real-world harm. Since the election, Dominion employees have been doxxed, harassed, and threatened by right-wing influencers and members of the general public.<sup>109</sup> In early December a now-offline website, EnemiesOfThePeople[.]us, was created (later attributed to Iran, and discussed in our report’s “Foreign State-Backed Actors” section), featuring personal information about multiple Dominion employees with crosshairs shown over the faces of each targeted individual.<sup>110</sup> Most recently, Dominion has begun to file defamation lawsuits against prominent figures involved in the perpetuation of the conspiracies we have described, including Rudy Giuliani and Sidney Powell.<sup>111</sup> As of the writing of this report, several of the publications that aired the claims, such as American Thinker, have retracted them.<sup>112</sup>

The Hammer and Scorecard and Dominion conspiracies reinforced the Stop The Steal movement, which ultimately led to violence. The hashtag appeared on the banner of one of the first websites to announce the January 6 rally in Washington, DC: “#DONOTCERTIFY #JAN6 #STOPTHESTEAL #WILDPROTEST.”<sup>13</sup> And as the violent insurrectionists breached the Capitol on that day, #StopTheSteal signs could be seen across the crowd. In the next section, we trace threats of violence during the 2020 election, leading up to that tragic day.

### 3.4 Election-Related Violence

The 2020 election season brought with it high tensions, and concerns about violence were prevalent leading up to, during, and after the election. The EIP team monitored channels across the political spectrum to identify and report specific threats of violence. While this violence did not materialize on Election Day, that relative calm was eclipsed by violent riots on January 6 at the US Capitol.

The violence at the Capitol can be traced to violent rhetoric curated and iterated on throughout the pre-election period, on Election Day, and after. Before the election, both speculation and true threats of violence centered on tensions between existing groups. For example, while the left theorized about the next steps of the Proud Boys and similar groups, the right created narratives about “antifa” and Black Lives Matter (BLM) groups organizing massive violent insurrections.

This dynamic shifted distinctly on Election Day, especially among right-wing audiences. Content with specific pieces of alleged “evidence” of electoral fraud was weaponized to support the organization of real-world violence. Additionally, rather than attacking other political groups, the ideology behind consolidated movements such as #StopTheSteal spurred violence specifically toward election officials and vendors, instead of simply toward “traditional” enemies such as the Democrats and associated organizations like BLM. This growing distrust of officials and institutions, regardless of political party affiliation, for their role in the purportedly “stolen” election culminated in an organized, violent insurrection on January 6.

#### Pre-Election Concerns

Prior to the election, the vast majority of violence-related content online was users predicting unrest on Election Day and calling on other users to not vote in person. This content circulated among both left-leaning and right-leaning users, with users differing on who was considered responsible, and who would be targeted.

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Left-leaning social media users circulated false warnings about far-right groups and militias. One post about concerns that Proud Boys were planning to shoot BLM protesters received over 278,000 likes (see Figure 3.44). Meanwhile, right-leaning accounts also posted concerns that left-leaning groups such as antifa, BLM, and the Sunrise Movement were planning to commit mass violent acts on Election Day or the days following. For example, in September, right-leaning accounts spread concern about an image that called for “Antifa comrades” to dress up as “patriots/Trump supporters” to confuse the police at riots. This image spread to Facebook, Twitter, and TikTok, garnering high engagement: on Facebook, there were over 10,000 reactions, 15,000 shares, and 1,000 comments. The image was subsequently fact-checked by Snopes and Medium and found to be an internet joke from 2017 that had a second wave of popularity in 2020.<sup>114</sup> Heading into Election Day, pro-Trump accounts asked their followers how they would respond to violence or voter intimidation from the left. Audience responses indicate that threats of violence and anger were directed at the left and leftist groups specifically.



Figure 3.44: Posts showing concerns about violence from left-leaning social media users.

Despite the reach and engagement of posts that raised fears about the potential for violence, the EIP did not uncover any evidence of violent plans, such as from right-wing Discord channels or Facebook Groups. Given the vague nature of the claims and the absence of any specific evidence from those who posted concerns of violence, these posts were non-falsifiable and unsubstantiated. Most of the spreaders of this type of content appeared to be well-intentioned individuals,

including members of purportedly targeted communities who wanted to warn their communities of an impending danger.<sup>115</sup> They encouraged their audiences to engage with and share their content; the resulting “copy-pasta” reposts of the text and images spread the misinformation further and created viral panic among some online communities.

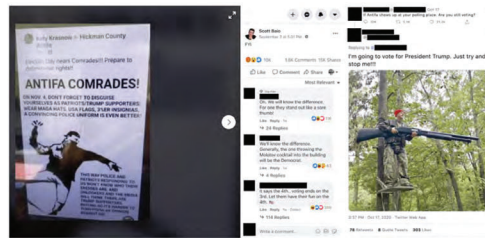


Figure 3.45: Posts showing concerns about violence from right-leaning social media users.

#### During and Post-Election

Posts using violent rhetoric or inciting violence after the election significantly differed from pre-election posts as they turned from fearing violence to coordinating and organizing violence. In addition, posts were linked through larger narratives, especially election theft, and threats turned their focus to institutions such as voting systems and the government, instead of partisan groups like antifa or the Proud Boys.

From right-leaning accounts, many violence-related posts became increasingly tied to claims of election theft or rigging and at times were part of increasing rhetoric that more generally referenced the idea of preparation for civil war. Usage of the specific hashtag “#civilwar” on Twitter grew significantly between November 1 and November 5, and posts calling for civil war increased as results that favored Biden were announced. One Twitter user posted “Let’s just fast forward to #CivilWar and get it over with and take out the filthy Cancerous #DemocRats and remove them from our society.”

In the weeks that followed, the EIP additionally tracked calls for violence against specific individuals and groups. As discussed in the previous section, employees of Dominion Voting Systems received targeted harassment including death threats and doxing of personal information. Online threats became so common that Dominion Voting employee Eric Coomer went into hiding.<sup>116</sup>

### 3. Incidents and Narratives: The Evolution of Election Misinformation

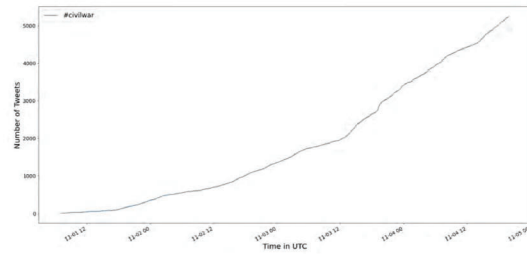


Figure 3.46: Cumulative instances of the hashtag #civilwar between November 1 and November 5, 2020.



Figure 3.47: A right-leaning Twitter user calls for civil war against Democrats in response to alleged electoral fraud.

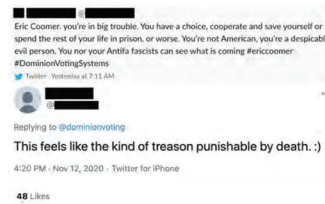


Figure 3.48: Twitter users call for death or violence against Dominion Voting employees.

**Events Surrounding January 6, 2021**

On the morning of January 6, 2021, President Trump spoke to his supporters outside the White House and stated multiple lies about how the election was stolen from him. In his speech, Trump referred to Democrats as having attempted “the most brazen and outrageous election theft,” and said, “We will not take it anymore...We will stop the steal.” He encouraged his followers to march to the Capitol and “try and give them [Republicans] the kind of pride and boldness that they need to take back our country.”<sup>117</sup> A pro-Trump mob then forcibly entered the Capitol building and forced Congress to take cover and evacuate. Five people died as a result of the Capitol breach.<sup>118</sup>

The violent insurrection against the United States Capitol on January 6 demonstrated the real-world impact of mis- and disinformation narratives such as Stop the Steal, and the effect that social media echo chambers can have on organized violence. While earlier concerns about violence did not materialize, angry rhetoric was frequent. That anger made its way to the offline world, as social media users used platforms to coordinate, recruit, and organize real-world violence. Far-right users used “alt” social media sites, like Gab and Parler, to openly organize and recruit others to join them, give directions on what streets to avoid, and post about bringing weapons into the Capitol.<sup>119</sup>

As the violent mob launched an insurrection against the US Capitol on January 6, angry comments by pro-Trump protestors filmed in the building, signs carried by those outside, and calls for violence against elected officials certifying the vote referenced narratives that we have discussed in this chapter.

In response to mainstream platforms continuing to crack down in the aftermath of that violence, users moved off of Facebook and Twitter and onto smaller sites with less regulation, such as Parler, Gab, and Telegram. To what extent these communities will continue to operate in closed social media networks—the same networks that consistently proliferated the notion that the election was stolen from President Trump—remains to be seen.<sup>120</sup> Regardless, the attack on the US Capitol will forever stand as testament to the violence that echo chambers, online rhetoric, and sustained misinformation can unleash on the world.

**3.5 Narrative Crossover and Fabrication in Non-English Media**

To this point, we have traced English-language incidents, narratives, and conspiracies that shaped the 2020 election. However, although the majority of the EIP tickets collected and analyzed election-related misinformation taking place in English-speaking communities, there are many American communities that participate in political conversations in languages other than English, and on



### 3. Incidents and Narratives: The Evolution of Election Misinformation

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apps and chat platforms popular with diaspora communities. In this section we briefly discuss examples of election-related mis- and disinformation in Chinese- and Spanish-speaking communities. In both cases, EIP analysts found that a majority of the observed content were translations of the same narratives that appeared in English—including those featured in prior sections of this chapter. However, there were also uniquely inflected narratives, outlets, and actors targeting these distinct communities.

#### Chinese-Language Misinformation

EIP analysts identified three types of Chinese-language misinformation: (1) misinformation translated directly from English-language media, (2) misinformation that originates from English-language media but is substantially altered during the adaptation to Chinese-language audiences, and (3) misinformation that originates from Chinese-language media and users.

Additionally, the EIP identified two actors that were prominent in spreading mis- and disinformation in the Chinese-language media sphere, with more complex motives and sophisticated distribution apparatuses: Falun Gong (法輪功), which owns and operates the Epoch Times, and Guo Wengui (also known as Miles Guo) and his associated media enterprises, including Himalaya Global and the GTV/GNews media group.

The more influential of the two is Falun Gong, an exiled, virulently anti-CCP Chinese religious movement.<sup>121</sup> Its media empire consists of the Shen Yun dance troupe, US and overseas newspapers including the Epoch Times, television networks such as New Tang Dynasty TV, and the Sound of Hope Radio Network; the entire media complex has more than 12 million followers. The group's ideological commitments are fluid, save for a long-standing adversarial relationship with the CCP government, but in recent years have trended in a right-wing direction. Beginning in 2016, Falun Gong also grew more assertive in domestic politics in the US, embracing Trump administration rhetoric while pairing its habitual denunciations of the CCP with accusations that Democrats were colluding with them.<sup>122</sup> In 2020 it published extensively on Hunter Biden's alleged ties to the Chinese government.<sup>123</sup>

The other two entities—Himalaya Global and the GTV/GNews media group—maintain close connections to exiled billionaire real estate developer-turned-media tycoon Guo Wengui. Both have forged close connections with domestic US politics and politicians, and in particular former White House chief strategist Steve Bannon. Himalaya Global rarely produces information on its own. Instead, its primary focus is on translating information from English-speaking conservative news sources, including Fox News and Steve Bannon's War Room. It also features a channel of Guo's criticism of the CCP, which is a mixture of

### 3.5. Narrative Crossover and Fabrication in Non-English Media

purported whistle-blower statements and conspiracy theories, and reiteration of his support of Donald Trump.<sup>124</sup> The GTV/Gnews media group, by contrast, was founded directly by Guo Wengui, with the goal of "taking down the CCP."<sup>125</sup> GTV/Gnews also reposted many of Bannon's War Room podcasts. During the 2020 election in the US, these two media entities actively reposted mis- and disinformation on both electoral processes and unverified stories about the Democratic candidate and his family, particularly on conservative alt-platform Parler. CCP state-backed media's contribution to mis- and disinformation is discussed in the box on 119.

#### Narratives Originating from English-Speaking Sources

Most of the election misinformation that gained widespread reach in the Chinese-American community stemmed from English conservative media sources, and content closely resembled that source material. Before the election, popular narratives from English-speaking media that made their way into Chinese-speaking online communities included accusations of Democrats manipulating the election, conspiracies surrounding mail-in-ballots, and theories about the Deep State.<sup>126</sup>

Typically, Chinese-language content was published soon after its English version. On November 6, 2020, James O'Keefe of Project Veritas tweeted a video of USPS workers alleging that the USPS Postmaster in Pennsylvania ordered workers to fraudulently backdate ballots.<sup>127</sup> One day later, the Epoch Times published a Chinese-language article titled "Penn postal worker allegations: postmaster falsifies ballot dates."<sup>128</sup> The article summarized the videos posted by James O'Keefe without providing any new information. Similarly, the English-language right-wing news site Distributed News published a story on the "Scorecard" conspiracy described above. Soon after, the story was picked up and word-for-word republished by Sound of Hope, another media outlet owned and operated by Falun Gong and with a large online following.<sup>129</sup>

Occasionally, Chinese-language users altered the message en route to a new audience. For example, in late October, English-language Twitter user @TheP-ubliusUSA posted a video purporting to be shot in a mailroom in Florida's Biden-leaning Miami-Dade County, depicting mounds of undelivered ballots alongside speculation that USPS failures were harming Biden's chances in the county.<sup>130</sup> The video went viral on Twitter before eventually spreading to Weibo, a Beijing-based Chinese-language social media platform, where a US-based Weibo user, Xiyatu Zhixia 西雅图夏至 (Seattle Summer Time), translated the description and shared it with her 119,180 followers. Notably, her interpretation was more circumspect than the original video's: "If this story proves true, if these are ballots, if the same situation is occurring at other post offices, the consequences will be serious."<sup>131</sup>

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Figure 3.49: Top, English-language speakers post a video purported to be filmed in a Miami mailroom; bottom, a Weibo user reposts the video, speculating that it might hurt the Democratic Party.

### Narratives Unique to Chinese-Speaking Communities

Chinese-language media did originate its own misinformation, although less frequently. These narratives often added an angle alleging a covert relationship between the Democratic candidate (or Party) and the CCP, therefore accusing both the CCP government and the Democratic Party of corrupting the US election.

For example, a Facebook post from November 6, 2020, by Chen Junjun 陳君君 (Gentleman Chen), captioned as “South Park told the truth eight years ago: the CCP is behind the Democrat’s mail-in-ballots voter fraud,” featured a 2012 clip from South Park joking that Obama colluded with the Chinese to win the election.<sup>132</sup> The video’s final frames claimed “Joe Biden is stealing the election” before exhorting viewers to “Support Trump fight back.” A “Himalayan global” icon in the final frame suggests the user may have lifted the video from Miles Guo’s media network.



Figure 3.50: A Twitter post accusing China of sending mail-in ballots to the US.<sup>133</sup>

Very occasionally, Chinese-originated misinformation made new claims about

### 3. Incidents and Narratives: The Evolution of Election Misinformation

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the US election without a CCP link. On November 6, Epoch Times posted an article in which Gary Yang, a member of the Michigan Chinese Conservatives Alliance and a poll watcher at the TCF Center in Detroit, claimed that while he and another Republican observed that an estimated 7,000 to 10,000 ballots were counted on election night, ballot counters reported 50,000. He also claimed the staff were deliberately slowing down the counting process.<sup>134</sup> Although fact-checking information has not been offered to debunk this specific piece, there has been no convincing evidence of large-scale voter fraud in Michigan.

#### Spanish-Language Misinformation

##### Narratives Originating from English-Speaking Sources

Similarly to Chinese-language community misinformation, many of the misinformation narratives in the Spanish-language community did not originate from within the community. Most were translated from English and circulated via prominent platforms like Facebook, Twitter, and YouTube, as well as in closed group chat platforms like WhatsApp, and efforts often appeared coordinated across platforms.<sup>135</sup> Also similarly to Chinese misinformation dynamics, the most prominent narratives and those shared were either closely aligned with or completely repurposed from right-wing media outlets. Both grassroots users initiating bottom-up narratives and verified or large-audience influencers had key roles to play in the Spanish-language misinformation ecosystem.

Non-verified, grassroots users were an important source of the Spanish-language misinformation compilations surfaced by the EIP. Q-adherent users organically “bootstrapped” off English-language theories to present conspiratorial threads as intricate as those of their English counterparts. In a single thread, one such user linked together several false narratives: James O’Keefe’s Michigan USPS whistleblower story and the Hammer software narrative, both discussed above, and a generic QAnon rallying cry.<sup>136</sup> Twitter placed a label on the original tweet for the Hammer software claim within this longer thread; however, the label on this tweet does not automatically translate to Spanish, even if that is set as the default account language. This follows a broader trend observed throughout the election season, in which non-English language policy enforcement fell distinctly behind even when the narratives themselves were the same across languages.<sup>137</sup>

The Spanish-language mis- and disinformation sphere also boasted several large-scale influencers who paralleled English-language repeat spreaders in disseminating the top narratives to large audiences. One example is Aliesky Rodriguez, a Cuban-American Trump supporter living in Florida, who hosts a livestreamed talk show that has peddled almost every one of the aforementioned narratives to his nearly 100,000 subscribers. Rodriguez’s videos often received between

## 3.5. Narrative Crossover and Fabrication in Non-English Media

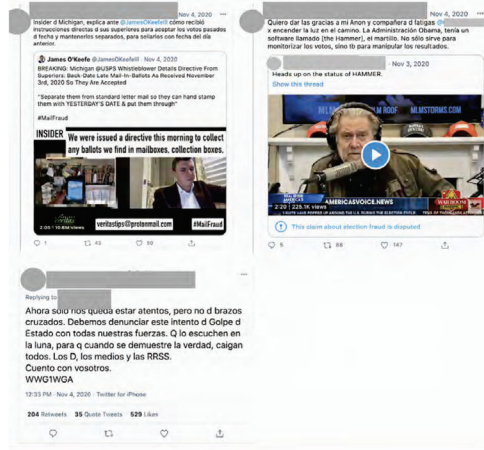


Figure 3.51: A QAnon-adherent Twitter user, now suspended, was extremely active during the election period, collating several English-language misinformation threads into long-form “educational” posts.

50,000 and 110,000 views. For comparison, prominent Spanish-language outlet Univision Noticias, with more than five million subscribers, often receives between 5,000 and 30,000 views per video.

Rodriguez's channel often involves screen sharing and live-translating English-language content while editorializing. On November 5, Rodriguez was joined by co-host Amelia Doval for a “live demo” of the dead voter narrative, one of the theories peddled by English-language repeat spreaders directly after the elections (see Figure 3.52 on the following page). Rodriguez and Doval exaggerated the impact of dead people voting to their Spanish-speaking audience. In subsequent shows, they covered topics such as Sydney Powell's “release the Kraken” statements (described in the Dominion section above), the Supreme Court rulings on contested election results, and the lead-up to the January 6 insurrection.

## 3. Incidents and Narratives: The Evolution of Election Misinformation

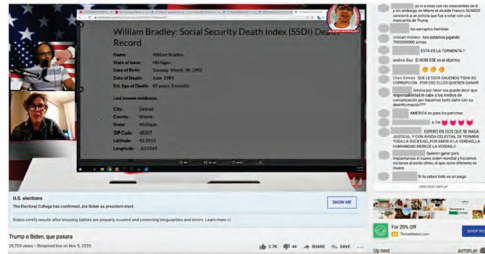


Figure 3.52: Alietsy Rodriguez and Amelia Doval push the dead voters narrative. Rodriguez's audience often comments on the "deep seeded corruption," uses proud statements that "AMERICA is for the patriots," or pivots into religious supplications for "CELESTIAL AID."



Figure 3.53: During a November 22 livestream, Rodriguez answered live viewer questions on the role of Sidney Powell in "dismantling the electoral fraud" against Donald Trump. A key facet of Rodriguez's videos is screen sharing and breaking down English-language tweets for his Spanish-language audience.

## 3.5. Narrative Crossover and Fabrication in Non-English Media

These efforts often appeared to be coordinated across channels. For example, a November 6 video by Rodriguez migrated within moments from his channel to Mr. Capacho Tv's channel, one of the most popular sources for Spanish conspiracy theories.

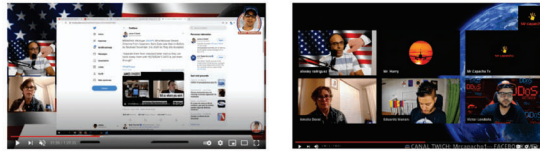


Figure 3.54: Aliesky Rodriguez's November 6, 2020, video on his YouTube channel appeared moments later on Mr. Capacho's channel.

Rodriguez's channel was neither the only example nor necessarily the most prominent in the entire Spanish-language misinformation landscape. However, this example illustrates the larger strategy used by many of his peers in serving English-originating misinformation narratives to a Spanish-speaking audience.

#### Narratives Unique to Spanish-Speaking Sources

Several outlets have reported on the different politically motivated disinformation narratives and QAnon conspiracy theories that spread within the Spanish-language communities leading into the election.<sup>138</sup> The most prominent such narrative connected Biden to socialism, which may have been intended to discourage Latino voters who fled the socialist regimes in Venezuela, Cuba, and Nicaragua from voting Democratic. However, since this content was not related to the election processes themselves, it was deemed out of scope of our overall EIP investigations.

#### Non-English Language Misinformation Impact

In both the Spanish- and Chinese-language communities the EIP monitored, the content that got the most engagement were those that translated claims of fraud and delegitimization from English into the audience's native language. While some original content was certainly present in each community, these narratives were secondary to those based on the "evidence" gathered from prominent English-language influencers and viral posts. Thus, although it is not a comprehensive solution, slowing the spread of English-language misinformation could still have a significant downstream impact on its virality in non-English language



### 3. Incidents and Narratives: The Evolution of Election Misinformation

communities. Platforms can be more proactive at detecting this translation pipeline, and subsequently labeling this content in the appropriate language.

Culturally significant messages were sometimes added to the misinformation, complicating the fact-checking process. For Spanish-language users, this content usually took the form of religious commentary denouncing socialism and the left, which appeals to Latino audience members who come from religious, often Catholic, backgrounds and/or who fled a socialist regime in their birth country. For Chinese-language users, this took the form of alleged collusion with the Chinese government or the Communist Party. Effective fact-checks were notably lacking for both of these communities: improvements to this process should not merely translate the fact-checking content into the correct language, but also take these cultural aspects into account.

#### Foreign State-Backed Actors in the 2020 Election

It's difficult to rigorously compare foreign interference campaigns in the 2016 and 2020 US election cycles, given the enormous differences in awareness and preparedness between both electoral cycles.

In 2016, information operations on social media were a true blind spot for entities charged with protecting the integrity of the election, from Silicon Valley to Washington. The full scope of the Russian campaigns targeting the 2016 election only came to light in 2017-2018. By November 2020, a professional field had emerged that focused on ensuring these operations would be detected and exposed faster. Between December 2019 and Election Day, 12 foreign information operations focused on the US 2020 elections were detected, attributed, and exposed by platforms, government entities, and researchers. It is worth noting that this section only covers the operations that the Partnership investigated during the height of the electoral period, excluding the handful of foreign information operations targeting the US 2020 election that had been detected and deactivated months prior to the height of the electoral season.

A range of foreign actors were assessed to have a vested interest in the outcome of the elections, both in terms of the actual result and its reception by the American public. The Election Integrity Partnership prioritized monitoring actors based in China, Iran, and Russia during the election period. Using a combination of investigative methods and ongoing monitoring, the Partnership was able to track the covert and overt efforts made by foreign actors to influence the US 2020 election.

On the covert side, this notably involved monitoring new or continued activity from networks that have been previously attributed to Russia,

China, and Iran and were involved in targeting Americans via grey propaganda and social media engagement. In terms of covert operations, actors originating in these three countries appeared to take different approaches to the 2020 US elections. Assets linked to the former Russian Internet Research Agency (IRA) consistently amplified narratives about electoral fraud throughout the election and post-election period, primarily through their presence on alternative tech platforms like Parler and Gab.

On the overt side, a number of different approaches were taken. Live network maps provided by Graphika revealed that official state outlets affiliated with Russia, Iran, and China were publishing and commenting on the subject of the US elections throughout the campaign period. Russian state media and the social media presences of state officials and institutions were heavily engaged with the topic of the US elections. However, Chinese and Iranian state outlets were less consistent in their coverage. Both states adhered to the line that the elections were unimportant for their countries and would not affect their perspective on the relationship between themselves and the US. Instead, China and Iran concentrated on portraying the US as a lawless, "failed state."

#### **Covert Operations**

A variety of operations from state actors and organizations indicated that there were adversaries interested in targeting the 2020 election. There were disparate and somewhat unsuccessful attempts to lay the groundwork for information operations during the 2020 election cycle using techniques like faux news rooms, false personas, AI-generated faces, and manipulation of unwitting freelancers for reporting.

#### **Russia**

Russian efforts to target the US 2020 election can be traced back to earlier operations exposed in late 2019.<sup>139</sup> This section will focus on a small set of campaigns active around and throughout the height of the electoral season rather than provide a comprehensive survey of foreign information operations having targeted the US 2020 election.

On September 1, 2020, Facebook and Twitter announced that they had received investigative tips from the FBI regarding an IRA-linked website, "PeaceData," which recruited US-based freelancers to populate articles for a faux newsroom espousing left-wing political perspectives. Several platforms removed accounts associated with the operation.<sup>140</sup>

In early October 2020, Graphika first reported on a set of Pages, profiles,

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and a website known as NAEBC, which is attributed to individuals associated with past IRA activity. This particular effort revolved around a fake far-right “newsroom” website, NAEBC, which stands for the “Newsroom for American and European Based Citizens.”<sup>141</sup> This operation appeared to be the right-wing counterpart to the previously discussed “PeaceData” endeavor. This front media site had associated accounts operating on Parler and Gab, which functioned as an amplification network posing as conservative individuals who repeatedly shared its articles. Some of these personas authored content on the website. However, after the operation was exposed, the network stopped writing its own articles and instead focused on sharing content written by genuine, recruited right-wing individuals as well as content copied from known far-right websites. By the time of the US election, NAEBC-related assets had been removed from Twitter, Facebook, and LinkedIn. However, the amplifier accounts on Parler, Gab, and alternative platforms remained active throughout the duration of the election, and engaged in discussing the upcoming vote.

NAEBC contributed to many of the narratives discussed in this paper. During election week, articles posted on the operation’s website included a report on “massive voter fraud in Wisconsin,” coverage of Republican poll watchers being “blocked” in Philadelphia, and an article that portrayed Trump as a sacrificial demigod. These assets also shared a number of articles and commentary on civil unrest, including an editorial (copied from a US blog) that claimed, “Our dirty, dangerous, and diseased cities are now being destroyed by dirty, dangerous, and diseased animals.” After the election, the NAEBC accounts focused on Dominion voting software, particularly by claiming the company is tied to antifa. Despite building up their Parler and Gab presence in an attempt to generate interaction with memes and photomontages, and increasing their rate of posting throughout the electoral cycle, Russia-linked covert accounts did not achieve any significant traction with the targeted communities.

#### China

Similarly to Russia, networks of political spam accounts pertaining to a China-linked coordinated influence operation attempted to engage with American communities during the 2020 election—and were similarly unsuccessful. The Spamouflage network, which emerged as a Mandarin-language cluster of accounts that debuted English content in the summer of 2020, avoided mentioning the election directly, instead continuing to propagate content that portrays the US in a negative light.<sup>142</sup>

The prolific Spamouflage network, which includes a large number of assets

with shallow or non-existent personas reposting and recycling a large volume of content, has been hit by a series of rolling takedowns since its exposure on YouTube (its primary platform), Facebook, and Twitter, forcing it to stand up dozens of new accounts each time. This cycle of suspensions led to a surge in Spamouflage videos being posted on new channels in September and October 2020, with up to 15 videos emerging per day, some of them shared by previous assets; they have not achieved any significant engagement.

On November 6, after the election had been called, a Spamouflage video referenced election-related protests in New York the previous day, without mentioning the vote. From November 10 onwards, Spamouflage videos commented on the election outcome as a further sign of the “impending collapse of America.” Some videos were particularly hostile toward Trump, but most were bipartisan in tone and focused on criticizing the entire structure of US politics. Throughout the election period, Spamouflage English-language videos contrasted the US response to COVID-19 with China’s response.

In addition to Spamouflage campaigns, Facebook unveiled a separate network of China-based inauthentic assets, which contained a very small number of assets supporting President Donald Trump or Joe Biden and a short-lived Group supporting former presidential candidate Pete Buttigieg. None of these had much traction by the time the platform took enforcement action.<sup>143</sup>

In spite of this core difference in approach, Russian and Chinese covert operations both focused on the notion that the US is a “lawless state” facing an “inevitable civil war.” This theme was also noted by the EIP in its monitoring of the narratives circulated by official state outlets, and raises concerns about how covert operations from foreign actors can leverage the rallying calls of domestic extremist movements—in this case, accelerationism.

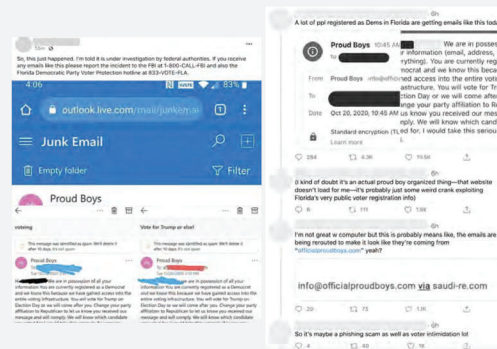
#### Iran

Iran similarly has a track record of information operations targeting US communities.<sup>144</sup> Note, for instance, a handful of websites and affiliated accounts referring to themselves as the “IUVM network” (standing for “International Union of Virtual Media”), which has created persistent information operations and triggered multiple waves of enforcement across platforms. In October, these Iranian operations saw a significant part of the domain names used to spread disinformation seized by the US Department of Justice.<sup>145</sup> However, other Iran-linked campaigns persist: less

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than a month before the US election, the Stanford Internet Observatory documented and analyzed a Twitter campaign attributed to Iranian actors in which actors compromised authentic accounts and created fake ones to disseminate content supporting Black Lives Matter.<sup>146</sup>

On October 19 and 20, 2020, voters in multiple states including Alaska and Florida received emails purporting to be from the far-right group the Proud Boys, instructing them to vote for Donald Trump or face retaliation. Some of the emails included personal details of the voters in question. These emails appeared to come from “info@officialproudboys[.]com,” though it was later determined that this address had been spoofed and the emails had been sent from servers in Estonia, Saudi Arabia, and the United Arab Emirates. In some versions of the email, a video link was also included; this video purported to show someone accessing voter information and claiming to demonstrate a method of casting fake ballots.<sup>147</sup> The EIP obtained several of these emails, including from our partners at the NAACP.<sup>148</sup>

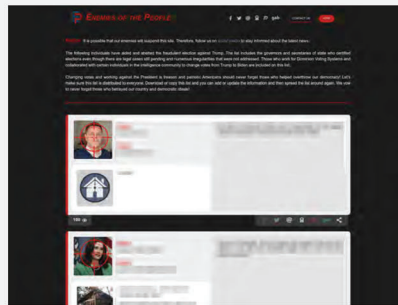


Texts sharing screenshots of emails purporting to be from the Proud Boys.

In a remarkably fast public attribution process, on October 22 the Department of Justice held a press conference attributing this activity to

Iran, though few details were provided.<sup>149</sup> During the conference, it was stated that both Russia and Iran had accessed US voter data; however, the information contained in the "Proud Boys" emails appeared to have been gathered from states that have publicly available voter registration information, meaning this campaign could have been carried out without needing to acquire any private data. The DOJ did not provide any additional evidence to support this attribution.

A series of websites created in early December showed an "Enemies of the People" list, showing the personal information of a number of elected officials and government employees who were countering claims of voter fraud in the 2020 election; the site also listed employees of election software manufacturer Dominion, reflecting the allegations promoted by the Trump legal team and right-wing media. This effort saw the operators including platforms such as Parler and Gab in their social media campaign. This activity was attributed to Iran by the FBI, as reported in the *Washington Post* on December 22.<sup>150</sup>



Doxxing on the Enemies of the People website.

#### Overt/Openly Affiliated State Outlets

While covert information operations were scarce, state media propaganda activities continued to varying degrees. Russian state outlets, including Kremlin-affiliated media entities, diplomats, and other state representa-

## 3. Incidents and Narratives: The Evolution of Election Misinformation

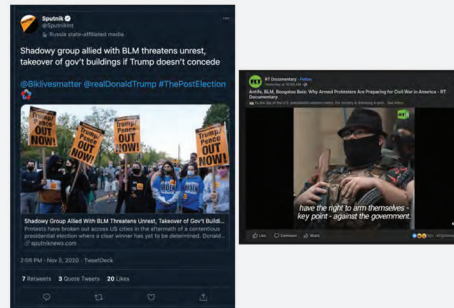
tives, were actively engaged in amplifying some of the most divisive stories described previously in this chapter, focusing predominantly on promoting Donald Trump and casting doubt on the integrity of the electoral system. China was relatively quiet for much of this period. Iran, similarly to China, did not spend much time on the election itself; it focused on portraying the US as a declining power with an electoral outcome of little consequence. 2.1 Russia Throughout the election period, Russian state-affiliated outlets (including state representatives) engaged heavily on the topic of voter fraud.<sup>151</sup> In the lead-up to the election, there was a focus on the issue of mail-in ballots and amplifying allegations of interference from USPS workers, alongside accusations of Big Tech "interference" and "censorship." As the election approached, a number of the principal Kremlin-affiliated media outlets amplified domestic disinformation narratives about Joe Biden and his family. For example, in the month prior to the vote (October 3–November 3), RT (formerly Russia Today) published 52 articles and pieces of video content about Hunter Biden or the Biden family more broadly. This tranche of content includes op-eds with headlines like "Blaming Russia for Hunter's problems was a big misstep, Joe, and it may prove to be your downfall!" Notably, many of the more aggressive articles published during this period were opinion pieces posted on the RT and Sputnik websites rather than directly authored by the outlets.

The EIP, among others (including the Department of Homeland Security), also documented the concerted effort by Russian state outlets to amplify disinformation about mail-in voting in the run-up to the election.<sup>152</sup> The Partnership processed over 35 tickets related to Russian outlets spreading election disinformation over the course of the monitoring period. There was one incident in which accusations of Russian activity required de-escalation. This incident culminated with the announcement made by National Intelligence Director John Ratcliffe on October 22 in which, alongside attributing the spoofed Proud Boys emails to Iran, he claimed that Russia had also obtained voter information that could be used to endanger the election.<sup>153</sup> Previous claims on social media, particularly on Twitter, Facebook, and Reddit, had alleged that registration data for 15 million voters in Florida had been hacked and posted on a Russian forum. However, the data of concern appeared to be standard public information made available by the State of Florida and not discernable evidence of a hack.<sup>154</sup> Ratcliffe's announcement appears to have referenced a different incident where private voter information was obtained.

Following election day, the focus of Russian state outlets appeared to shift to delegitimizing the results and alleging fraud on behalf of the Democrats

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on a broader, more systemic level. English-speaking followers of these outlets doubled down on the false Dominion narrative, “whistleblower” accounts from poll workers in swing states, and claims that the outcome had been pre-determined by a group of “shadowy elites.” A number of these narratives continued well into the post-election period. Additionally, Russian state media spread claims of civil unrest and violent protests. On Twitter and Facebook, Sputnik claimed that a Black Lives Matter-allied group threatened violence if Trump did not concede, and RT posted a documentary-style video pushing a “civil war” narrative. Russian state media also leveraged livestreamed video of protests and in-the-street actions from its entity Ruptly, which it aired on RT as well as lesser-known entities such as Redfish and In The Now.



Left, a tweet by Russian state-backed media property Sputnik claiming Black Lives Matter groups had threatened violence; right, an RT tweet of a video predicting civil war in America.

#### China

Chinese state media and official accounts appeared to be taking a relatively direct stance toward the topic of the US elections in the months prior to the vote, but as Election Day drew closer, Chinese state officials and media agencies grew quiet. After NCSC Director William Evanina's statement alleging electoral interference by China, Russia, and Iran (in that order),<sup>155</sup> election-related activity from state media and CCP spokespeople declined



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significantly. Reporters at state-backed outlets have said that they were told to ensure coverage was “calm” and “neutral,” and were advised not to focus on the election.<sup>156</sup>

In one interview, Fu Cong, Director-General of Arms Control of the Ministry of Foreign Affairs, stated “Well, we know that the US general election is coming very soon. And I don’t want to make any comments that may be interpreted by the US as interfering in their internal affairs or in their general election.”<sup>157</sup> Following this guidance, the limited coverage that did exist was even in tone, with the exception of some editorials in state outlets that argued the election would make little difference to US-China relations, given what they described as bipartisan hostility toward China.

After the election, state representatives followed Xi Jinping’s lead and did not acknowledge the results until three weeks after the vote. State media covered the election results with a cautiously optimistic tone, but continued disparaging the US overall. In terms of reception, Chinese citizens tended to celebrate Joe Biden and mock Donald Trump, while Chinese Americans typically had mixed responses that leaned pro-Biden.

Notably, both Chinese state media and CCP representatives were willing to forcefully criticize the Trump administration, particularly Secretary of State Mike Pompeo, but they rarely attacked Trump himself and did not express any explicit candidate preference. Even during the week of the election, Foreign Ministry Spokesperson Hua Chunying harshly criticized the US while avoiding the election itself.<sup>158</sup> Throughout the election period, Hua appeared to shape the narratives and tone that CCP representatives then echoed. While she has significantly fewer followers than state media outlets, she is consistently the most-mentioned account among followers of Chinese outlets and CCP representatives.

#### Iran

Iranian state-backed outlets frequently used coverage of the US to diminish the country and cast Iran in a favorable light, but rarely engaged in what can be classified as the widespread propagation of disinformation. On occasion, Iranian outlets did publish content designed to attack the legitimacy of the American electoral process—saying it fell short of its democratic ideals and was likely to be marred by violence. This at times involved questioning American democracy altogether—in some cases using the voice of American academics, “analysts,” activists, or media outlets to do so.

During election week, Iranian officials sought to undermine the efficacy of the US system of government, with Ayatollah Ali Khamenei releasing a

speech in which he described the election as a “spectacle” showing the “ugly face of liberal democracy in the US” where the only certain outcome is “the political, civil, & moral decline of the US regime,” and furthered the narrative that the US was facing an existential crisis.<sup>159</sup> Broader Iranian coverage focused on domestic issues like racial disparities and social divisions, the treatment of protesters and minorities by the police, and growing fears of civil unrest within the US.

In a similar vein, Tehran-based Mehr News Agency used an October report from the Department of Homeland Security warning about foreign election interference to suggest that such warnings were “old ways” of “creating panic” among the American public and were designed to induce participation in the electoral process—and presumably to lend the election a stronger legitimacy.<sup>160</sup> In at least one instance, Iranian outlets used a report from The Hill about concerns over the absentee voting system in Texas to heighten fears of voter suppression in the US.<sup>161</sup>

Through quotes from official and op-ed pieces, Mehr, Fars, Tasnim, and other Iranian state-backed outlets frequently promoted the notion that Trump and Biden were roughly equivalent in terms of their antagonism toward the interests of the Regime and the Iranian people, and so the outcome of the election was largely irrelevant to Iranian interests. However, at times these outlets showed a slight preference for a Biden administration if only because of President Trump’s open hostility toward the country. This narrative stayed fairly consistent even in the days following the election, with only minor adjustments.

### 3.6 Fact-Checking Claims and Narratives

In some cases, the direction and life cycle of a narrative can be diverted, or even stopped, by way of authoritative fact-checking. As narratives containing misinformation and conspiracy theories about the election emerged and spread on social media, fact-checking by news sites, professional organizations, and election officials often followed—but their efforts were not uniformly received. Some high-profile narratives were fact-checked and easily debunked by journalists, government officials, and mainstream media, including EIP partners. Other false narratives escaped the notice of the fact-checking community for weeks, or were never fact-checked at all.

In the following section, we examine examples of the fact-checking response to two of our prominent misinformation case studies from earlier in the chapter: Sharpiegate and Dominion Voting Systems.

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#### Case Study 1: Fact-Checking Sharpiegate

As the Sharpiegate narrative grew on Election Day and the days immediately following, government offices and news media began to fact-check the claims. This was particularly true in Arizona. On November 3, 2020, at 12:09 pm PT, before polls had even closed, the Maricopa County Elections Department posted a video that debunked these claims to their Facebook account.<sup>162</sup> Many commenters remained unconvinced: some of the most popular comments on the video claimed that their ballots were canceled, and attributed this to using a Sharpie. Despite this initial attempt at debunking, posts on social platforms continued to propagate the misinformation narrative of election fraud based on the breadth of Sharpie use and the “massive bleed through” they cause.

The next morning, November 4 at 8:50 am PT, Pima County released a tweet thread citing the Arizona Election Manual, clarifying that all ballots would be counted regardless of the type of writing implement used.<sup>163</sup> Again, many of the commenters who replied were skeptical at best: comments mostly questioned why officials would allow the usage of felt-tip or Sharpie markers if there was the chance of bleeding through the ballot. Other comments pushed back on the officials’ claims, asked follow-up questions, and continued to allege that the officials were guilty of fraud because of the “suspicious” nature of the clarification. The Maricopa County Board of Supervisors posted an open letter to Maricopa County voters, articulating that accurate vote counting was a bipartisan commitment, and took on Sharpiegate directly: “sharpies do not invalidate ballots. We did extensive testing on multiple different types of ink with our new vote tabulation equipment. Sharpies are recommended by the manufacturer because they provide the fastest-drying ink. The offset columns on ballots ensure that any bleed-through will not impact your vote.”<sup>164</sup>

More fact-checks appeared that same day. Arizona Secretary of State Katie Hobbs released a Twitter thread debunking Sharpiegate, with a marginally more positive effect (and over 12,000 engagements), and AZ Family News published a fact-check linking to Hobbs’s tweet thread and the Maricopa County video.<sup>165</sup> But the misleading narrative continued to spread.

Despite these early fact-checks by government officials, the platforms’ responses to the claims were neither timely nor standardized. On Twitter, some Sharpiegate content came down, other tweets were labeled, and still others were left untouched. Facebook, Instagram, and TikTok had similar responses: labeling and removing some, but not all, of the Sharpiegate content. The YouTube videos related to the Sharpiegate narrative were labeled, but none were taken down.

Despite the many efforts made by news outlets and state officials to fact-check these claims, the narrative spread quickly, and the same misleading content appeared across multiple platforms. The Sharpiegate narrative reached thou-

sands of individuals and inspired some of them to organize and participate in real-world protests.<sup>166</sup> Despite the prompt attempted debunking of these claims, belief in Sharpiegate persisted, and it was ultimately incorporated into the broader subsequent Stop the Steal narrative.

### Case Study 2: Fact-Checking the Dominion Narrative

As the allegations against Dominion Voting Systems moved from Georgia to Michigan to states across the country, fact-checkers tried to keep up. On November 6, the Michigan Department of State issued a statement on its website refuting allegations that Dominion Voting Systems was responsible for voter fraud in Antrim County.<sup>167</sup> The statement was subsequently shared by the Michigan Department of State's Twitter account, with responses in the comments varying from gratitude for the clarification to outright denial of the Department's refutation.<sup>168</sup>

Similarly, on November 12, CISA released a statement certifying that there was "no evidence that any voting system deleted or lost votes, changed votes, or was in any way compromised."<sup>169</sup> CISA's findings were subsequently corroborated by the US Department of Justice when Attorney General Bill Barr confirmed that there was no evidence of widespread voter fraud.<sup>170</sup>

The narrative also centered on the swing states of Arizona, Georgia, and Pennsylvania; in each state, fact-checkers debunked the claims. In Arizona, the Maricopa County Board of Supervisors refuted claims of voter fraud by Dominion Voting Systems in a public statement.<sup>171</sup> The Georgia Secretary of State released a statement confirming that "the original machine count accurately portrayed the winner of the election."<sup>172</sup> In Pennsylvania, the state validated the accuracy of the voting machines and their official tallies, further highlighting that Dominion Voting machines had not been used in counties such as Allegheny and Philadelphia—counties that Trump falsely claimed were responsible for rigging the election.

Dominion Voting Systems released its own statement debunking claims that its systems were used to switch votes or to fraudulently cast votes. The statement cited evidence to refute claims of vote manipulation in the same four states: Arizona, Georgia, Michigan, and Pennsylvania.<sup>173</sup>

Though false allegations of voter fraud due to Dominion Voting machines were repeatedly debunked, propagation of misinformation relating to vote tabulation and voting interference nonetheless appears to have had a significant impact on how the 2020 election was perceived—social media commentary alleging malfeasance was extensive and widespread. Nearly a month after the election, election officials and public officials in Georgia were still continuing to hold press conferences to debunk the misinformation.<sup>174</sup> Even beyond that, members

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of the Trump administration as well as Trump's supporters continued to pursue allegations of fraud related to the Dominion voting machines (discussed further in Chapter 4), which repeatedly reinforced claims of a rigged election among supporters. This case was an example of the balancing act that must take place when fact-checking: because fact-checking can draw further attention to misinformation or conspiracy, individuals or organizations debunking stories must take care to not unintentionally amplify narratives that could cause real world harm, fear, or suppression.<sup>175</sup>

## 3.7 Final Observations

Tickets processed by the Election Integrity Partnership and external organizations were diverse—focused on different real or purported incidents, in different states, over the course of months. The Partnership's breadth of exposure to election-related narratives provides unique insight into how misinformation evolved and the themes that cut across these discrete time periods. We conclude with five reflections on election-related misinformation narratives:

### 1. Researchers can predict, but not necessarily prevent, these dynamics.

On October 26, 2020, during the pre-election stage, a team of EIP researchers published a piece, "Uncertainty and Misinformation: What to Expect on Election Night and Days After."<sup>176</sup> This blog post presented a set of expectations, including that the winner of the election would not be known on election night, that red/blue or blue/red shifts would create opportunity for political actors and conspiracy theorists to delegitimize the election, that voting process failures would be strategically framed and overemphasized to fit misleading narratives, and that "bad statistics" would be selectively highlighted.

The EIP post demonstrates the extent to which election-related misinformation was predictable. As described throughout this chapter, many of these predictions were realized. However, ease of prediction does not necessarily correlate with ease of prevention. Although the EIP and others published advice for journalists covering the election and many journalists followed best practices, the predictable misinformation narratives still played out during and after election night. Further research should explore the effectiveness of prebunk/inoculation strategies, clear journalistic coverage, and fact-checking in the 2020 election. The post also suggests the need for more ambitious models to counter predictable election-related misinformation, and the difficulty credible journalists will face in trying to prevent election-related misinformation altogether. Platforms also, to our knowledge, did not adequately systemize the predictability of certain narratives to create preventative policies.

### 2. Non-falsifiable misinformation provides challenges for platforms.

The election information ecosphere was replete with non-falsifiable claims. For example, when Project Veritas relies on anonymous whistleblowers, it is difficult for independent news outlets to determine the veracity of the whistleblowers' claims. Likewise, when social media users post that a "friend of a friend" experienced or witnessed a particular event, researchers can't reliably prove that the claim of an unnamed "friend" is false.

Non-falsifiable narratives erode the information ecosphere; the clarity of fact and the power of credible voices is muddled by non-falsifiable noise. In the 2020 election, the EIP witnessed numerous non-falsifiable tickets—some labeled by platforms, others not—which contributed to broader narratives that the election was unreliable or rigged. And when clearly falsifiable narratives were fact-checked, they still became part of the conspiratorial discourse about election fraud. Non-falsifiable information created for political gain will continue to be a challenge for platforms moving forward. But so will clearly falsifiable information, if platforms do not adequately and consistently take action against false claims.

### **3. Frames, not just facts, set the course.**

Much of the misinformation the EIP observed in the 2020 election—including non-falsifiable content—relied on framing. As we will describe in Chapter 4, "frames highlight some bits of information about an item that is the subject of a communication, thereby elevating them in salience."<sup>177</sup> Whether a mail-dumping incident is seen as a one-off mistake by a postal service agent or as Democrats stealing the election, or whether a red mirage/blue wave is evidence of mail-in ballots arriving after Election Day or a conspiracy at work, depends on how the event is framed.

Misinformation in the 2020 election cycle shows that how information is packaged largely determines the effect of that information. In Chapter 4, we'll describe how different actors use framing techniques to channel information to align with their priors and their favored outcomes.

### **4. From online to off—election-related misinformation can have real-world effects.**

One of the biggest challenges in the misinformation research community is how to measure effects. The baseline is often to use engagement statistics—how many people like, comment, or share a post, for example. Throughout this report, we often refer to such engagement statistics. However, there is a gap between engagement on social media and change in attitudes or behaviors. Just because someone "likes" a piece of misinformation does not necessarily mean that they believe it or that it changed their view.

In this election cycle, EIP partners observed misinformation on social media form the basis of real-world actions—including the formation of activist groups and protests, and ultimately a violent insurrection at the Capitol. Misinformation in

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the pre-election stage undermined confidence in mail-in voting, delegitimizing the election process and setting the stage for post-election claims that the election was stolen. For months, right-wing social media users had been fed online “evidence” of a rigged election, coalescing into a movement to #StoptheSteal. Right-wing social media personalities—including individuals who have repeatedly been tied to spreading misinformation and conspiracy theories—created a website and email discussion list for #StoptheSteal supporters to mobilize.<sup>178</sup> Over a month after the election, #StoptheSteal events continued to take place nationwide—some with kinetic effects including stabbings and other violence.<sup>179</sup>

On January 6, the real-world effects of election-related misinformation reached fever pitch. Ali Alexander and other right-wing influencers had encouraged Trump supporters throughout the country to converge on Washington, DC, to protest in person. That morning, the President told a crowd of supporters that “this election was stolen from you, from me, from the country” and encouraged his supporters to march on the Capitol. A group of these protestors—including white supremacists and QAnon believers—violently broke into the Capitol, killing Capitol Police officer Brian Sicknick; four others died during the riot. The series of events shows that online misinformation can engender real-life radicalization with deadly consequences. Even as some social media platforms removed content from the day, the stain on American democracy remains.

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## **Cross-platform and Participatory Misinformation: Structure and Dynamics**

### **4.1 Introduction**

In this chapter, we attempt to understand how false and misleading narratives about the 2020 election, highlighted in Chapter 3, took shape and spread across a multiplatform information ecosystem. During the 2020 election, misinformation was shared across a range of social media—from broadly popular platforms like Facebook, Instagram, Twitter, and YouTube, to niche sites like Reddit, to up-and-coming sites like Periscope and TikTok, to “alt-platforms” such as Parler, and to message boards such as the chans or thedonald.win. These diverse platforms were leveraged in distinct and often complementary ways by those spreading false and misleading information about the election. Additionally, algorithmic curation systems shape the dynamics of social networks, and behaviors that manifest across them, as engagement begets algorithmic amplification, complicating the story of how content is created, disseminated, and reaches end users. Here we examine the underlying structure of this ecosystem—the different platforms involved, and the way information moves between them. We consider the affordances of their features, which enable communities to form, and enable individuals to activate those communities.

Much of the misinformation narratives that we articulated in Chapter 3 involved the active participation of ordinary people. But rank-and-file accounts and influencers alike strive to capture the attention of larger and larger audiences, in a bid, ultimately, to gain the power that such attention confers.<sup>1</sup> For each social platform, we consider the “work” that is done to create and spread narratives—



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what we might infer as tactics as well as other dynamics—to describe how these false narratives developed, and to highlight the techniques used to produce them, spread them, and sustain them over time.

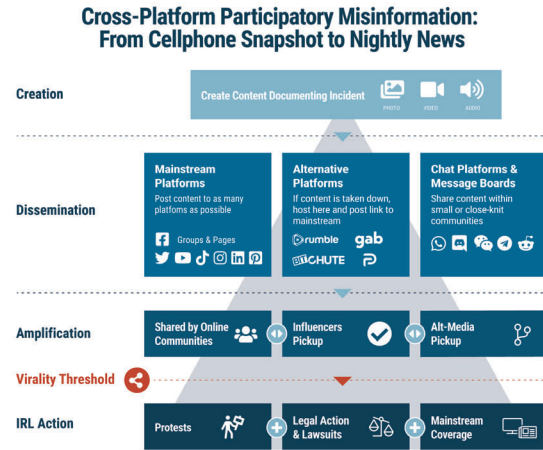
### 4.2 Cross-Platform Information Sharing

Each platform enables different kinds of social and information interactions; for example, TikTok's user base has a large youth component, and Parler has positioned itself as a destination for conservative users who have experienced—or have perceived they have experienced—censorship on other platforms.<sup>2</sup> Many of these platforms allow content sharing from other platforms, and from the broader information space that includes countless websites, from established news media outlets to conspiracy theory blogs. And though journalists and researchers sometimes draw a distinction between social media and mass media, in a broader view, there are myriad connections between them, as, for example, cable news pundits craft their evening shows based on content that went “viral” that day on social media.<sup>3</sup>

In addition, internet usage statistics suggest that most online information participants—or “users”—are not siloed in a single platform, but turn to different platforms for different reasons.<sup>4</sup> Political activists and others who wish to shape public opinion also employ multiplatform strategies, leveraging different platforms for different parts of their information strategies, and often intentionally moving content from one platform to another.

To facilitate our study of cross-platform misinformation, we grouped tickets created during our monitoring period into incidents: the information cascades that relate to a specific information event or claim, as described in Chapter 3 and discussed more fully in Chapter 5. We used a mixed-method approach to analysis, combining real-time forensic documentation of individual tickets with follow-up qualitative and quantitative analyses of specific incidents and narratives.

We observed that interactions between platforms created emergent cross-platform dynamics. For example, while Facebook was a place to reach large audiences and organize action, Twitter was a place to mobilize and “eventize” longer-form content stored elsewhere. Platform policies shaped some of these dynamics: moderation could lead to inter- and intraplatform spread, as users shared screenshots of deleted content or posted it to platforms with less stringent policies. Below we describe the roles that each platform plays in the election-related mis- and disinformation ecosystem.



### Facebook's Role: Public Posts to Reach Large Audiences; Groups for Organizing Protests

Facebook remains a widely popular social media platform, averaging around 2.7 billion active users across the globe.<sup>5</sup> For media outlets, information operators, and even ordinary people, Facebook represents an opportunity to reach large audiences. Public Pages can attract millions of followers, turning their creators into influencers with reach potential on par with some mass media outlets. Groups can be places where people congregate—in public and “private”—around a range of affinities. Through sharing functionality, content can move freely and rapidly between Groups, Pages, and personal accounts and their socially connected networks. Though our view into Facebook was limited to public content, we were still able to document the platform's role in the spread of several false and misleading narratives.

#### 4. Cross-platform and Participatory Misinformation: Structure and Dynamics

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##### **Facebook Pages as a Place to Reach Massive Audiences**

A number of partisan media and other right-wing influencers who appeared in our data collection used their Facebook Pages to spread false and misleading information about the election. Often, this was part of a multiplatform media strategy. On Facebook, this content received significant engagement, including tens of thousands of reshares for some posts and moving from public Pages to personal Facebook feeds.

##### **Facebook Groups as a Place to Share Rumors and Organize**

Facebook Groups, both public and private, served as virtual places to come together and share stories of perceived election fraud and to organize a collective response. Perhaps the most successful was the STOP THE STEAL Facebook Group (discussed in detail in Chapter 3). The public Group started as a place to share stories, both first- and secondhand, about a potential “stolen election”—stories that were subsequently reshared through Facebook and cross-posted to other platforms. It grew rapidly, reaching 320,000 users in less than a day, assisted by cross-posted advertisements from right-wing influencers on Twitter.<sup>6</sup> It, along with other Facebook Groups, quickly evolved into a place to organize protests; as some of the rhetoric grew violent and election workers were threatened, Facebook removed STOP THE STEAL less than a day after launch. Nevertheless, similar groups, albeit at smaller scales, continued to emerge after this takedown, as people looked for places to gather and ways to coordinate protest. In one case, a group of individuals organized a peaceful protest using a private Facebook Group.<sup>7</sup> But their call-to-action was spread publicly and lost contextualizing information along the way, which led to a more chaotic protest.

##### **Twitter’s Role: Mobilizing Content from Other Platforms; Connecting to Media Outlets and other Influencers; Networked Framing**

###### **Mobilizing Content from Other Platforms**

In the cross-platform spread of misinformation about the election, the Twitter platform served several diverse roles. A primary role was to provide a place to draw attention to content such as news articles, videos, and livestreams hosted elsewhere in the media ecosystem. The real-time nature of the platform provided an opportunity to connect existing content to the current news cycle, while platform affordances like short-form messaging and hashtag referencing enabled seemingly disparate narratives to be cross-referenced and integrated

from other sources. In particular, cross-posting from YouTube to Twitter was salient in our election integrity incidents, as shown in Figure 4.1.

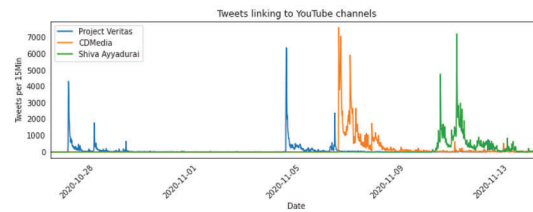


Figure 4.1: Temporal graph of tweets and retweets linking to prominent YouTube channels over time, in tweets per 15 minutes, for three prominent repeat spreaders (described in Chapter 5).

By cross-posting their videos to Twitter, repeat spreaders worked to popularize videos alleging election fraud. In some cases, the Twitter spikes align closely with the release of a new video. The tweets linking to Project Veritas, a right-leaning activist media group, follow this pattern—each burst is related to a different video. In other cases, e.g., tweets linking to compilation videos produced by right-leaning CDMedia and Dr. Shiva Ayyadurai (a coronavirus and election-related conspiracy theorist and anti-vaccine activist, also known as Dr. Shiva), the same video is mobilized (re-introduced and widely spread) multiple times. Information cascades related to content from Project Veritas and Ayyadurai are described in Chapter 5.

YouTube was not the only platform to serve as host for long-form videos subsequently linked to Twitter to reach a larger audience. For example, Ayyadurai's statistics-based content was regularly hosted on Periscope but cross-posted on Twitter to expand viewership and connect with other incidents using hashtags and tagging influential users.

#### Connecting to Influencers

Twitter also allowed prominent spreaders of election-related mis- and disinformation to direct the attention of their own large audiences, as well as other influencers, to a specific piece of content; the content was then amplified across platforms by this audience of influential users, journalists, and politicians, including President Trump, his campaign team, and his family.

The cross-platform nature of this amplification draws attention to the dynamics of “networked framing” (see box on page 166). Twitter often served as the focal

#### 4. Cross-platform and Participatory Misinformation: Structure and Dynamics

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point for these collective narratives. In addition to the size of its audience, the platform's mobile connectivity enabled disconnected fraud narratives to be drawn together and assembled into specific frames (i.e., widespread election fraud) using content from other websites and social media platforms.

For example, the Hammer and Scorecard/Dominion narratives described in Chapter 3 began with claims of poll glitches in online conversations on websites and Twitter, then spread through YouTube videos and the use of hashtags related to the incident on Twitter and other platforms, such as Parler and Reddit. From there, high-profile accounts drew further attention to the incidents, as did hyperpartisan news websites like The Gateway Pundit, which used Twitter to promote its article discussing the incident.<sup>8</sup> This collective Dominion narrative spread has since grown, having been subsequently promoted by the Proud Boys, The Western Journal, and Mike Huckabee across a number of platforms, including Facebook, Twitter, Instagram, Telegram, Parler, and Gab.<sup>9</sup> On each platform, these narratives remain tethered together by relying on the Twitter hashtags #dominionvotingsystems and #dominionsoftware. By bouncing unreliable evidence back and forth from Twitter to other social media platforms, what were initially unremarkable incidents confined to local counties became a national story, much like the Stop The Steal and Sharpiegat narratives.

##### **Megathreads**

An additional technique unique to Twitter, due to its specific affordances around threading and content temporality, was the use of “megathreads”—dozens or even hundreds of tweets connected through reply-chains—to connect a mix of real incidents as well as false and misleading claims into a long narrative alleging fraud and attempting to delegitimize the election. One such thread featured detailed allegations of fraud, state-by-state, through over 100 author-appended replies to a single tweet, linking to a number of external website sources and content on other social media platforms. These types of threads leverage platform-specific design affordances: the list-based nature of megathreads allows them to be recycled in terms of their visibility and engagement each time a new item is added to the list.

##### **Cross-Platform Sharing to Evade Moderation on Twitter**

For both Twitter megathreads and single posts spreading misinformation, the cross-platform nature of these narratives also limited the efficacy of the platform's response. We saw numerous cases in which misinformation first shared on Twitter continued to spread on other platforms even after it was removed—in some cases, a simple screenshot of the since-removed tweet was shared elsewhere—as illustrated in Figure 4.2 on the facing page.

## 4.2. Cross-Platform Information Sharing

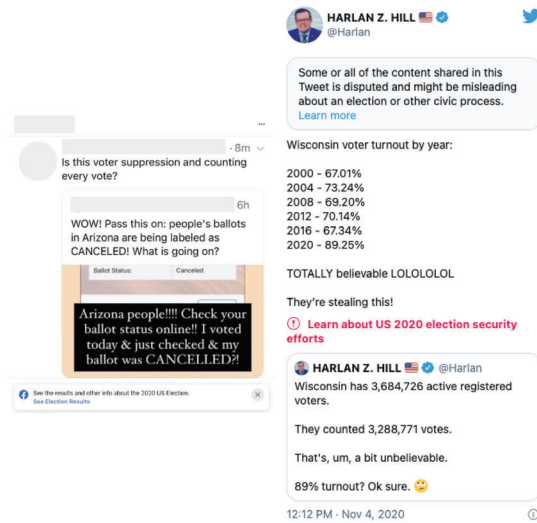


Figure 4.2: Screenshots of cross-posting on Facebook (left) and Reddit (right).

On the left, we see a Facebook user posting a screenshot of his own reply on Twitter to perpetuate a disproven narrative even after it was removed on Twitter. On the right we find a similar instance on Reddit, where a tweet by political consultant Harlan Hill alleging a stolen election was hidden behind a label on Twitter but is presented in full on Reddit.

In these ways and others, Twitter served to perpetuate and amplify misinformation narratives despite efforts to limit its involvement.

**YouTube's Role: A Resource for Livestreams, Compilations, and Mobilizations**

Most major platforms now have the capacity for sharing video; however, YouTube exists as a uniquely popular platform for videos that are long-format and can be monetized. While search and recommendation functions exist within YouTube, traffic is often driven from other platforms. During the 2020 election, YouTube provided a space for video-format misinformation that could be shared easily across platforms. The platform functioned both to provide official and familiar-looking “evidence” for misleading narratives and to consolidate otherwise disparate narratives as part of a broader picture.

**Compilation and Long-Form Videos**

One effective form of YouTube content—in terms of spreading misleading narratives about the election—were compilations, or videos that synthesized content across different events and narratives.<sup>10</sup> Though these longer videos may not have the potential for mass virality, they exist as touchstones for other misinformation superspreaders to continuously refer back to—from other locations in the information ecosystem—as supportive evidence of the veracity of their narratives.

These YouTube videos presented challenges to media literacy. They were typically produced by partisan news outlets or users and organizations with a large presence on other platforms. These groups harnessed high production quality and verified accounts to create videos that either misled the public through deceptive editing or compiled multiple false and misleading narratives. Mainstream, cable, and hyperpartisan news outlets alike host content on YouTube, and much of it has a similar format, look, and feel. For example, Project Veritas's videos often begin with host James O'Keefe sitting in what appears to be a well-established newsroom, and Shiva Ayyadurai's videos present him as an expert source on a television news show.

Another consequence of the long-form, multinarrative nature of YouTube videos is that misinformation—and even more so, disinformation—can be difficult for the general public to discern. A video containing several distinct narratives would require substantial time on the part of a scrupulous viewer to evaluate. This long-winded approach to misinforming can overwhelm, creating the impression of election fraud without the viewer critically evaluating, or even remembering, the slate of “evidence.”

**Livestreams**

YouTube is also used to build an audience for a unique type of content producer—the livestreamer.<sup>11</sup> Several of the top accounts in our YouTube analyses are

conservative influencers who have used YouTube Live to build their following and subsequently spread mis- and disinformation. These include right-wing pundit Stephen Crowder, who hosts a daily livestreamed commentary show, and Dr. Ayyadurai. The YouTube Live feature (and its counterparts on other platforms, such as Facebook Live) create complex moderation challenges for platforms wishing to minimize misinformation, as the streams are often boosted in the moment by platform algorithms, though there is little opportunity to address claims in real time. Videos often persist on the platform permanently, where they continue to rack up views. However, in their permanent state they may be labeled. The top-viewed video in our data sample, for instance, is a livestream by Stephen Crowder titled “Live Updates: Democrats Try to Steal Election!” that aired on November 4 and has subsequently gained over 5 million views. It was eventually labeled: “Robust safeguards help ensure the integrity of election results.”

### Long-Tail Platforms for Unique Formats and Niche Communities

As mainstream platforms tend to exhibit some content moderation, these actions feed into narratives of “censorship,” leading some users to seek alternative forums. These range from smaller platforms like TikTok, to almost entirely unmoderated spaces like 8Kun and Discord, to places where moderation is minimal, like Parler<sup>12</sup> and some subreddits. The entirely unregulated spaces function as a breeding ground for more extreme narratives involving the Deep State, QAnon, and encouragement of political violence. However, these platforms’ relatively small user base necessitates misinformation leaking or being ported into more mainstream sites in order for it to have impact.

### Misinformation Narratives Reappearing on TikTok

One phenomenon we observed was content that originated on other platforms such as Twitter, Facebook, and Instagram, then reappeared on TikTok. A common tactic was the use of TikTok’s “green screen” feature, where users create a video with an uploaded image, screen capture, or video as the background. For example, as displayed in Figure 4.3 on the next page, tweets that shared misleading graphs aimed to delegitimize the election results in Michigan and Wisconsin were reshared as backgrounds on TikTok, where users discussed the conspiracies.

Sometimes, content was actioned by one platform while it persisted unactioned on another. Figure 4.4 on page 159 below shows how one user, when TikTok took down a debunked video, used the platform’s green screen function to direct



## 4. Cross-platform and Participatory Misinformation: Structure and Dynamics

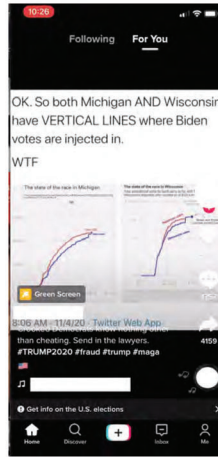


Figure 4.3: A TikTok user reshares a tweet displaying misleading graphs to support the false narrative that the results in Michigan and Wisconsin have been rigged. The video received 29,000 views, 1,751 comments, and 4,159 shares before being taken down.

his followers to the same video on Instagram. TikTok and Instagram have since removed both videos.

#### Instagramming Screenshots of Posts on Other Platforms

Similar to TikTok, misleading content about the election on other platforms appeared later on Instagram. For example, several of the highly engaged-with Instagram posts from repeat spreaders consisted of screenshots of tweets—often tweets authored by other people. Many of these images included additional visual effects, such as added or crossed-out text, to reinforce, refine, or counter the meaning or framing in the original content. Some of the most influential repeat spreaders used Instagram as part of a multiplatform strategy, adapting their content to Instagram's image-based format.

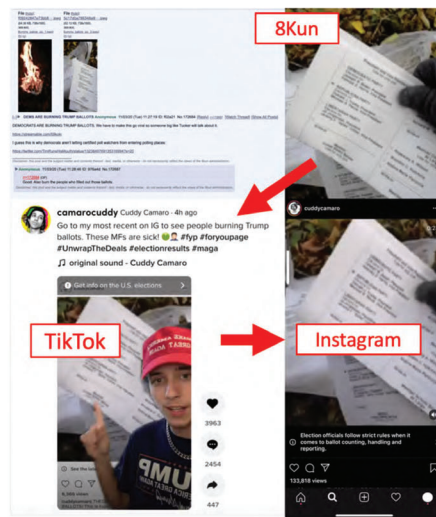


Figure 4.4: Cross-platform spread of a now-debunked video. Top left, a video allegedly showing burning ballots is posted to 8Kun on November 3, 2020, 11:27 am PT. Top right, a screen capture of the video that was posted to 8Kun. Bottom left, the next day at 2:00 pm PT, TikTok user Cuddy Camaro (@camarocuddy) posted a video using the 8kun video as his green screen. In the video, Camaro states that TikTok won't let him upload the video, so he directs people to his Instagram account (@cuddycamaro), where he has posted the video. Bottom right, on Instagram, his post with the video received over 133,000 views by November 4, 2020, 5:00 pm PT, before it was taken down a few hours later.

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4. Cross-platform and Participatory Misinformation: Structure and Dynamics

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**Parler as an Emerging Meeting Place for Right Wing Influencers and Audiences**

Parler was another smaller, emergent platform that came to play a significant role in the 2020 election as a community for pro-Trump activism and perpetuation of pro-Trump conspiracy theories post-election.<sup>13</sup> Unlike other platforms involved in the active, participatory cross-platform information flows described in this section, Parler largely served as something of an echo chamber set apart from the major platforms. While content from websites, Twitter, and YouTube were shared to Parler, the reverse was infrequent.

Parler was established in 2018 as a “censorship-resistant” platform catering to right-leaning users and funded by conservative donors, including Rebekah Mercer. Its founders and early adopters—such as part-owner and prominent pro-Trump political commentator Dan Bongino—recruited its userbase from right-leaning audiences who had come to feel that mainstream platforms were censoring them. Several of Parler’s earliest prominent accounts were individuals who had, in fact, been deplatformed on mainstream social media for specific rules violations, such as Alex Jones and Roger Stone.<sup>14</sup> Users joined in bursts that were often tied to a particular allegation of censorship; in late June 2020, for example, when Twitter’s application of a fact-check label to President Trump’s tweets outraged his fan base, and again, in October 2020, when mainstream platforms chose to down-rank or not host private adult content from Hunter Biden’s laptop. On Parler, such content was easy to find. Parler’s commitment to “free speech” (and to not fact-checking information)<sup>15</sup> meant that some of the wilder conspiracy theories and rhetoric about stolen elections—particularly rhetoric with violent undertones—were contextualized, throttled, or taken down by major platforms but moved freely within the Parler community. Members of communities on larger platforms, such as Facebook Groups, recognized this; we observed users within Groups that focused on election rumors and misinformation encouraging other members to create Parler accounts so that they could talk about the claims there.

Parler’s user base saw significant growth in the days after the election.<sup>16</sup> Many of its users joined because of their belief in conspiratorial narratives such as Hammer and Scorecard, which remained popular on Parler nearly two months after the election. However, Parler lacked certain features, such as Groups and the ability to sort by top posts, that have made its larger competitors more effective as places to convene for online activism. After its decision not to moderate violent content in the days leading up to the January 6 insurrection at the Capitol, it also struggled to retain hosting: Amazon, Apple, and Google each took action to remove it from their infrastructure, and it was only back online, with a new hosting service, as of February 16, 2021.

### Messaging Tools

Beyond platforms, false and misleading claims also proliferated via messaging tools. For example, multiple Miami residents received texts claiming that antifa and BLM protestors planned to terrorize the Miami area following the election. This example highlights how misinformation can be highly localized and originate from sources other than social or broadcast media.



Figure 4.5: A text sent to some Miami residents falsely warning about antifa and BLM protestors.

### Cross-Platform Migration as a Demand-Side Issue

Not only did content move across platforms—users themselves moved as well. Researchers often focus on the supply-side of mis- and disinformation—such as how misinformation spreads and its prominence during election cycles.<sup>17</sup> In the 2020 election, the response of social media users to content moderation policies—namely, migrating to alternative platforms such as Parler—foregrounded the demand side of misinformation as well.

In line with their content moderation policies, and as described in Chapters 2 and 6, Twitter and Facebook used labeling and content removal to limit election-related misinformation on their websites. A subset of social media users responded to such moderation with claims of liberal censorship, and migrated to platforms with weaker content moderation policies, like Parler. Parler CEO John Matze said that more than 4.5 million new people signed up for the platform in about a week. While it's yet to be seen whether Parler's newfound popularity

#### 4. Cross-platform and Participatory Misinformation: Structure and Dynamics

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will continue (some evidence suggests Parler has seen a drop in usage from its pre-election days, and the platform has only recently regained a hosting service after the major ones dropped it), the migration suggests that content moderation by the major platforms won't solve the misinformation crisis entirely.

### 4.3 Dynamics of 2020 Election Misinformation

#### The Timeline

Misleading information about the 2020 election followed interesting temporal dynamics. In Chapter 3 we trace the evolution of the narratives—stories created by misinformation echoed past stories and gave momentum to the next wave; here, we follow how those stories traveled across the election misinformation landscape over time. During the pre-election period, efforts to preemptively delegitimize the election often appeared to be top-down, spreading through right-wing media and accounts of political figures.<sup>18</sup> But they were also, in many cases, decentralized, with one-off incidents bubbling up through social media before reaching influencers and their large audiences. Together, these dynamics worked to foment a general distrust in the election.

Election Day served as a day of data collection for partisan actors, who would later leverage individual tweets and stories as evidence for broader claims. Motivated by growing fears of a “rigged” election, a large number of people went to the polls looking for evidence of voting fraud. Many documented and used social media to share their experiences of perceived and real issues with the voting process, sharing videos, images, and personal accounts. Politically motivated individuals watching from home on social media contributed by amplifying content that aligned with their views or goals.

In the week after Election Day, pro-Trump political operatives, right-wing media outlets, and other content creators—primarily though not exclusively on the political right—assembled evidence from Election Day into larger narratives attempting to delegitimize the results. Armchair statisticians combed available vote tallies looking for anomalies that could be framed as potential fraud. YouTube opportunists made long-form videos connecting different incidents to the “electoral fraud” meta-narrative. Though initially chaotic, the information space began to concentrate on smaller incidents that were swept into larger narratives or growing conspiracy theories.

Post election, false claims and misleading narratives began to coalesce around allegations of fraud in swing-state cities that favored Biden. Subsequent court cases seeking to throw out votes in these areas based on the allegations shed light on the motivation for this refocusing. A common tactic involved linking statistical evidence with unfounded claims of vote-tabulation fraud. Diffuse pre-

and post-election narratives were blended and presented as walls of evidence. Donald Trump and members of his legal team were instrumental in pushing these narratives, strategically employing them in an effort to overturn the results of the election through legal proceedings. Now, we can see some storylines have taken root, developing into more hardened conspiracy theories that may linger for years to come.

One remarkable phenomenon is the persistence of certain narratives—e.g., that the election would be “rigged”—from the start of our data collection through the end. These narratives were already prevalent when we began our work in August, and as we write this report, participation in the narratives challenging the integrity of the 2020 election is ongoing, with new “evidence” still being added to the conversation, even as the discourse has converged around a few specific conspiracy theories. Research suggests that the conspiracy-theory type of misinformation will have the most staying power—as opposed to more ephemeral rumors that were quickly determined to be false.<sup>19</sup> In particular, claims that are difficult to verify and theories that are impossible to falsify—for example, theories that software on voting machines switches votes without leaving a trace—will likely continue to spread for years to come. These conspiracy theories can become the tools of future disinformation campaigns, and they risk long-term effects such as the continued delegitimization of democratic institutions.

### Participatory Mis- and Disinformation

Our analysis demonstrates that the production and spread of misinformation and disinformation about Election 2020—including false narratives of a “stolen election”—was participatory. In other words, these dynamics were not simply top-down from elites to their audiences, but were bottom-up as well, with members of the “crowd” contributing in diverse ways—from posting raw content, to providing frames for that content, to amplifying aligned messages from both everyday members of the crowd and media (including social media) elites.

Repeatedly, our data reveal politically motivated people sincerely introducing content they mistakenly believed demonstrated real issues with election integrity: from the user who claimed back in early September that a ballot in their name had been sent to their parent’s home in another state (weeks before ballots had actually been mailed out); to the man who thought that old ballots (from 2018) in a dumpster were evidence of 2020 mail-in ballot fraud; to the person who thought they were capturing video evidence of a poll worker illegally moving ballots on Election Day (it was a photographer moving his gear); to people who were given Sharpies to complete their ballots and mistakenly believed their votes therefore would not be counted.

## 4. Cross-platform and Participatory Misinformation: Structure and Dynamics

Well-meaning, though often politically motivated, individuals repeatedly introduced this content into the broader information sphere, often via social media. In each of these incidents, the person originally reporting the issue (and many of those who passed it along) may have sincerely thought they had found evidence of voter fraud. However, it is also likely—especially considering what we know about confirmation bias<sup>20</sup>—that political views and prevailing narratives about potential election fraud both contributed to these individuals' misinterpretation of what they were experiencing and motivated them to share the content.

**Networked Framing: How Right-Wing Media and Social Media Influencers Helped to Frame "Evidence" of Ballot and Voting Issues as "Election Fraud"**

In Chapter 3, we noted the role of "framing," or providing scaffolding for selected information to shape how people interpret the world, in helping to create and sustain the false "stolen election" narrative. Traditional notions of framing often place the power of creating and communicating frames within the domain of media elites.<sup>21</sup> With the rise of participatory media and disruption of the historical role of "gatekeepers," researchers have documented the phenomenon of "networked framing," where diverse members of online communities—including political and media elites, social media influencers, and to some extent anyone with a social media account—collaborate to create and propagate certain frames.<sup>22</sup>

In our analyses, we repeatedly saw this kind of networked framing in action. Diverse social media users—from anonymous accounts with small followings, to blue-check social media influencers, to accounts associated with hyperpartisan media outlets—were consistently helping to do the work of "framing" by assigning intent to, or exaggerating, real-world events in their posts, in such a way as to fit the narrative of election fraud. Though networked framing practices could be seen, to some extent, on "both sides" of the political spectrum, our data show that right-wing networks were far more active and influential (in terms of dissemination) in discourse that threatened election integrity (see Chapter 5, Figure 5.1 on page 186).

One example of this networked framing activity occurred in late September 2020, when a batch of mail—originally reported to have absentee ballots—was discovered in a ditch in Greenville, Wisconsin.<sup>23</sup>

There was not, nor has there been discovered since, any evidence that this mail-dumping incident was politically motivated. Despite the lack of any evidence, this event was quickly picked up and positioned within the voter fraud frame—and the story eventually propagated widely within that frame, reinforcing the false perception of mail-in voting contributing to widespread election fraud.

The story of ballots in a ditch first appears (in significant numbers) in our data through an article on The Gateway Pundit,<sup>24</sup> which often works by selecting content from other sources and positioning that content within their highly political frames. In this case, The Gateway Pundit repurposed an article from a local (FOX11) news outlet.<sup>25</sup> In addition to embedding the content of that borrowed article in its text, The Gateway Pundit article added four sentences of original content.

Its first sentence, which appeared above the borrowed content, made the framing clear. Without any evidence connecting the incident to anyone with a political motive, The Gateway Pundit's article began with: "Democrats are stealing the 2020 election." Next were two sentences making factual claims borrowed from the FOX11 article—that two trays of mail had been found and that they included absentee ballots. And finally the article attempted to make a connection between that mail and Democrats by stating that "The USPS unions support Joe Biden."

Those four sentences and the borrowed content are the entire article. Without evidence, it frames the improperly discarded mail as election "stealing" by Democrats. That article—and therefore that frame—spread widely on Twitter. It was tweeted/retweeted nearly 25,000 times. In total, we collected 60,000 tweets that referenced the incident.

The early propagation of the narrative was assisted by @Rasmussen\_Poll (through an original tweet linking to The Gateway Pundit's article) and @EricTrump (through a retweet). Other online accounts picked up and advanced that voter fraud frame, calling it "LEFTIST VOTER FRAUD" and stating through a hashtag that "#DemocratsAreCheaters."

A few prominent social media accounts picked up the story with a slightly more subtle framing. For example, the tweet below, posted by another verified repeat spreader account, does not explicitly claim voter fraud, but shapes the interpretive frame toward "voter fraud"—or at the very least toward doubting the integrity of mail-in voting—by highlighting that the mail was "FOUND IN DITCH" and that it included "ABSENTEE ballots."





## 4. Cross-platform and Participatory Misinformation: Structure and Dynamics

Tweet from Chuck Calleso framing a mail-dumping issue as an election integrity concern.

This event—and its framing as a “voter fraud” issue—eventually made it into a public statement by Kayleigh McEnany, White House press secretary.<sup>26</sup>

This example demonstrates how hyperpartisan media and other prominent social media users on the political right reframed events in misleading ways to feed false narratives of widespread election fraud by Democrats. It also reveals another dynamic that we saw repeatedly across these incidents, where local media coverage was opportunistically appropriated and often recontextualized to fit election fraud narratives.

Similarly, the Sharpiegate narrative (described in detail in Chapter 3.3 on page 49) took shape through networked framing. Early tweets—from voters in various locations on Election Day—highlighted somewhat open-ended concerns about Sharpies bleeding through ballots. Tweets and retweets framing the concerns as potential voter fraud were often generated by less prominent accounts, including voters describing perceived issues with their own ballots and “grassroots” political activists relaying and occasionally reframing those concerns. Often, accounts with smaller follower numbers would add @mentions of more prominent accounts to try to gain their attention and potentially gain traction for their content through a high-profile retweet or quote tweet. Those influencers and political media elites then used the claims to bolster the “rigged election” narrative.

Together, these examples show how networked framing—including selecting certain pieces of evidence and placing it within the voter fraud frame—was not the exclusive terrain of high-profile accounts, but also incorporated the work of voters motivated to share their experiences and politically active social media users helping to identify and amplify potential cases of voter fraud.

For example, President Trump’s many statements (including tweets) about the election being “rigged” may have sufficiently primed his supporters to be on the lookout for evidence of election fraud by the time the Trump campaign’s “Army for Trump” called for them to perform as formal and informal poll observers. The primary objective of these militarized calls to action was to motivate and organize the mass collection of purported “evidence” of election fraud. The social media data we collected reveal a large number of people searching for, and often mistakenly “finding,” evidence of the election fraud they believed was occurring—and then, in a case of participatory disinformation, actively sharing and resharing this kind of content.

Once introduced onto social media, these cases of false witnesses of “election fraud” were frequently picked up and amplified by influencers and rank-and-file accounts alike. Often, the person who introduced the content or another active social media user would try to call the attention of more prominent influencers to potentially relevant content by reposting with tags and/or mentions of more large-audience accounts. Those more influential accounts—often accounts of hyperpartisan media, conservative political figures, and other elite right-wing influencers—played the role of assembling this content to fit the larger narratives (e.g., a “rigged election”) and of spreading it to increasingly large audiences.

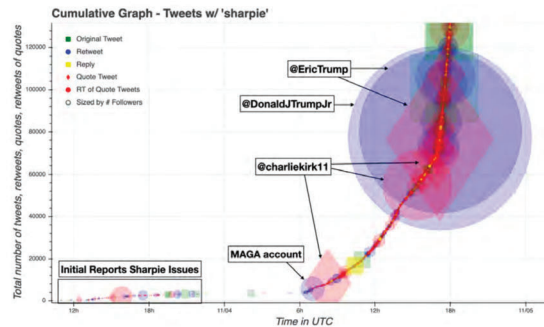


Figure 4.6: Cumulative graph of Sharpie tweets on November 3 (Election Day) and November 4. Individual tweets are plotted at the time they were shared and sized by the number of followers of the account posting them. Color and shape represent tweet type: original tweets in green squares, reply tweets in yellow squares, retweets in blue circles, quote tweets in red diamonds, and retweets of quote tweets in red circles.

Figure 4.6, the cumulative graph of the early spread of “Sharpiegate” rumors, shows the process of participatory disinformation. The conversation started relatively small—with many small-follower accounts often tweeting their own experiences—and then began to gain traction through quote tweets and retweets by accounts with increasingly large audiences, eventually taking off with the help of President Trump’s two adult sons.

In dozens of election-integrity incidents, these false or misleading narratives eventually reached the inner echelons of the Trump campaign. In a few notable cases, we saw the narratives move beyond social media into large television audiences through President Trump’s debate performances.

## 4. Cross-platform and Participatory Misinformation: Structure and Dynamics

**Friend-of-a-Friend Narratives**

One type of participatory misinformation we saw was the “friend-of-a-friend” story.<sup>27</sup> These pieces of evidence, which were often wrapped into larger narratives about disenfranchisement or election fraud, reference a story that the person “heard” from someone else, and the content can extend to increasing degrees of separation—the “friend-of-a-friend.” One story asserted that a person’s friend had voted for Biden and the machine changed her vote to Trump (see Figure 4.7).

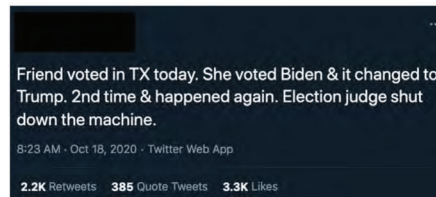


Figure 4.7: A tweet claiming that a voting machine changed their friend's vote from Trump to Biden.

This story spread on Facebook and Twitter, and likely appeared elsewhere as well. We saw a similar dynamic, though to a smaller extent in terms of spread, around claims that a Trump supporter had been redirected to the wrong polling location (see Figure 4.8).

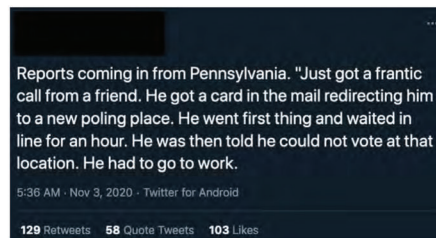


Figure 4.8: A tweet claiming that a friend was sent to the wrong voting location.

The spread of these stories has a couple of common drivers. First, “friend” can

take on new meaning in online spaces, where an otherwise stranger posting to a Facebook Group can be considered a “friend” whose message is worth spreading. This can result in often well-meaning (or at least not ill-intentioned) people passing along content (“sharing is caring”) that people think will be informative or otherwise helpful to others. Second, friend-of-a-friend rumors can be intentionally copied and pasted, sometimes with small changes to minor details—referred to as copy-pasta—to give the sense that a large number of people have experienced a rare event. The Sharpiegate story also spread through friend-of-a-friend posts; we collected hundreds of tweets mentioning a friend whose ballot was cancelled due to the use of Sharpies.



Figure 4.9: A tweet claiming that use of a Sharpie canceled their vote.

In actuality, the online database provided the status of voters' mail-in ballots, which were canceled when they chose to vote in person.

### The Use of Bad Statistics to Sow Doubt in Election Results

Elections produce vast quantities of data, from national Electoral College totals to fine-grained, precinct-level results. The sociological processes that underlie voting patterns are complex and varied, and are impacted by both structural features (i.e., the shape and size of precincts), voting process (i.e., access and eligibility), and the political landscape (i.e., candidates and issues). Each of these factors, and more, introduce patterns and benign irregularities into voting data that can be difficult or impossible to tease apart.

In the wake of the 2020 election, the scale and irregular nature of voting data was weaponized to create statistical disinformation in order to undermine confidence in the result. One of the more common tactics was to analyze precinct-level vote totals using Benford's law. In brief, Benford's law makes predictions about the frequency of first and/or second digits in a dataset. Violations of these predictions have been used to some success as a tool for detecting financial fraud, and have gained traction in recent years as a potential mechanism for determining electoral fraud, despite well-documented theoretical and practical limitations.<sup>28</sup>

## 4. Cross-platform and Participatory Misinformation: Structure and Dynamics

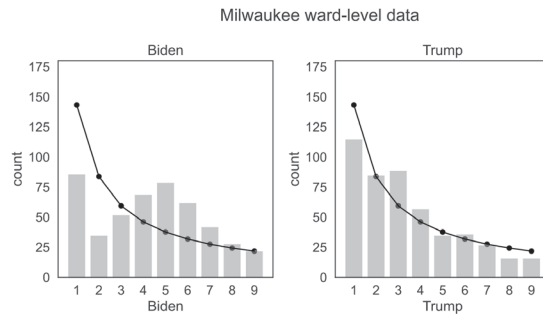


Figure 4.10: Ward-level analysis of first digits of vote totals in Milwaukee in the 2020 election, redrawn from original data but similar to observed misinformation. The line indicates Benford's law, whereas the bars indicate the observed frequencies of first digits from 1 to 9.

One prominent example of disinformation invoking Benford's law involved the vote totals for wards in Milwaukee, Wisconsin, as seen in Figure 4.10. While Trump's vote totals approximated Benford's law, Biden's had a surplus of digits 4 through 6, and a dearth of digits 1 and 2. This was promoted as definitive evidence of election fraud on both far-right websites and social media platforms like Reddit, Facebook, and Twitter. However, the true cause was much more benign. The excess digits are a signal of Biden's lead and average precinct size, and not indicative of fraud.<sup>29</sup> More generally, Benford's law is not expected to be followed when data do not span several orders of magnitude or for voting processes in general.<sup>30</sup>

The misinformation surrounding Benford's law follows a familiar pattern. A statistical model sets up an (often flawed) expectation of how voting data should appear. Violations of this expectation occur, either due to chance (i.e., checking many locations), a mismatch between the data and model's assumptions, or an inappropriate application of the statistical model. Ethical, well-meaning statisticians discovering an irregularity would then get to work understanding whether it arose as a problem with the model (i.e., failing to account for demographics), the data (i.e., a rounding/processing error), an honest mistake, or in rare cases, fraud. In cases of misinformation, irregularities are taken as *prima facie* proof of fraud.

In another example, Shiva Ayyadurai posted a fraught analysis, choosing variables

that artificially created the impression that Trump did more poorly than expected in more Republican areas to suggest voting machines were changing votes to Joe Biden.<sup>31</sup> He further used the imposed negative slope to estimate purported switched votes, which fed into misleading narratives about Dominion voting software (discussed in more detail in Chapter 3).

These are two of many ways in which election data was weaponized to promote false narratives of widespread electoral fraud. This tactic is particularly challenging, as it simultaneously creates the impression of widespread fraud while leveraging statistical analyses that average citizens cannot reasonably be expected to critique, leading them to accept claims of technical meddling at face value. Debunking can be challenging even for statistically proficient academics, as no affordable academic-facing API exists to gather election data in real time. We observed that when data is available, it can require unique solutions to access and clean into a usable format (i.e., scraping PDFs or websites). In many cases, data were simply unavailable, were of low quality (e.g., just percentages), or would require ethically or legally questionable scraping. Freed from legal and data-quality constraints, purveyors of statistical disinformation remain at an advantage.

#### **Organized Outrage: Online Misinformation's Offline Impact**

The spread and impact of misinformation is not merely confined to the online world. Indeed, many of the narratives we explored explicitly called for, and resulted in, offline actions. Pre-election, this was seen most clearly in the #ArmyforTrump hashtag, in which the Trump campaign and right-leaning influencers directed supporters to sign up to become poll watchers for the campaign and to submit purported evidence of electoral fraud to the campaign team. Trump's legal campaign in the weeks post-election repeatedly relied upon questionable public testimonies of fraudulent behaviors in legal challenges to courts across the country. These affidavits and public testimonies are the consequence of the public priming of fraud pushed by the #ArmyforTrump campaign (along with the many other election fraud narratives discussed in this paper), and a weaponization of the information elicited through the digital disinformation campaign.

Similarly, misinformation narratives that arose on Election Day itself led to in-person organized outrage, as seen most notably around the #Sharpiegate conspiracy. Despite swift debunking from election officials in Arizona, the #Sharpiegate theory gained traction across local Facebook Groups and on Twitter. This culminated in protestors gathering outside the vote counting center in Maricopa County shouting about the conspiracy and chanting to "stop the count."

#### 4. Cross-platform and Participatory Misinformation: Structure and Dynamics

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Similar protests in swing states across the country were coordinated by social media misinformation campaigns like #Sharpiegate and the more national Stop The Steal campaign. The protests not only targeted key election sites but were organized more generally in larger cities across the US, including large-scale demonstrations in Washington, DC. These in-person events gave new life to election misinformation, cementing its believability by affording them physical presence and further weakening the ability of fact-checkers to counter their spread. The organized outrage facilitated by blue-check influencers thus leveraged misinformation to organize mass protests that further delegitimized the electoral process and its results.

##### **From Manipulating the Information System to Leveraging the Legal System**

Mis- and disinformation that originated and spread online eventually gained an offline presence in the courts. Buried in the litany of lawsuits filed by the Trump campaign in the post-election period were the same participatory mis- and disinformation cascades traceable to online right-wing networks. Many of the same false claims and misleading narratives we covered in our real-time analysis fed the Trump administration's meta-narrative of widespread election fraud. Right-wing groups friendly to the President's cause filed lawsuits that built on these narratives as purported evidence of the illegitimacy of the election.

One prominent example of this behavior is exemplified in the false—now recanted—affidavit provided by an Erie, Pennsylvania, post office worker and publicized by Project Veritas.<sup>32</sup>

Initially, the sworn affidavit contained allegations that the USPS had repeatedly backdated ballots—claiming that as evidence of widespread fraud. Later, the worker went on record with the House Oversight Committee to recant his allegation (though Project Veritas denies the veracity of his recantation).<sup>33</sup> Despite the fallout, the air of legitimacy attached to a legal document may benefit proponents of online disinformation campaigns and reinforce the “truth” of a particular narrative.<sup>34</sup>

In another case, also in Pennsylvania, Republican representative Mike Kelly filed a state lawsuit that challenged the constitutionality of the state's 2019 mail-in voting statute. In its statement of facts, the original complaint discussed a number of unsupported claims that had circulated throughout online communities, including, for example, claims about “unsolicited ballots” (§56–57) and an attempt by the 2019 Pennsylvania legislature to subvert the legitimacy of future elections by setting in motion a plan to shift to universal mail-in voting (§82–84).<sup>35</sup> The Pennsylvania Commonwealth rejected his claims; on appeal before the Supreme Court, Kelly's action doubly failed.<sup>36</sup> Had Kelly succeeded in

his quest to invalidate the statute, over two million Pennsylvania ballots would have been thrown out.

Finally, a handful of legal actions also incorporated bad statistics common among online proponents of disinformation. One particularly visible example of this phenomenon comes by way of a complaint filed by Sidney Powell,<sup>37</sup> a vocal Trump supporter,<sup>38</sup> in the US District Court for the Northern District of Georgia. Powell filed similar complaints in other key battleground states; all have since been dismissed.<sup>39</sup> In these complaints, Powell's team relied on the misinterpretations and/or misrepresentations of deviations from Benford's Law discussed above.<sup>40</sup> Although experts agree that these deviations are not evidence of electoral fraud,<sup>41</sup> the online misinformation transformed into "IRL" disinformation through Powell's multiple, failed legal actions.

In sum, popular narratives that emerged from these participatory mis- and disinformation dynamics were repeatedly mobilized as "evidence" in the courts. Although the actions brought were often dismissed as baseless, this phenomenon is unlikely to disappear in years to come.

#### 4.4 Summary

The work of producing and spreading misleading narratives about the 2020 election was cross-platform, leveraging diverse platforms in complementary ways to seed, amplify, and mobilize content while adapting around efforts by the platforms to address misinformation. The work was both top-down, with President Trump and right-wing media establishing the initial frames of "voter fraud" and "election rigging," and bottom-up, with armies of volunteers providing content and analysis to develop specific narratives to fit those frames. With his many "RIGGED!" tweets, starting long before the election, and his Army for Trump advertisements, President Trump didn't just prime his audience to be receptive to false narratives of election fraud—he inspired them to produce those narratives and then echoed those false claims back to them. Everyday people, likely motivated by their political views, went online to share content highlighting what they believed to be voting irregularities. Hyperpartisan news and social media influencers played a role in selection, amplification, and framing, assembling the "evidence" of the crowd to fit their narratives and then mobilizing that content across platforms. Those narratives led to real-world efforts in the form of protests and legal action, both of which set the course toward the events at the US Capitol on January 6.





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## **Actors and Networks: Repeat Spreaders of Election Misinformation**

### **5.1 Introduction**

In this chapter, we look systematically across EIP tickets to trace content across platforms to identify “repeat spreaders”—i.e., individuals and organizations who were repeatedly influential in spreading false and misleading narratives about the 2020 election. We address the following questions:

- Which Twitter accounts, Facebook Pages/Groups, and YouTube channels were most influential in the spread of these narratives?
- What domains were used to host content that was then mobilized through social media in the spread of those narratives?
- Considering the structure of the online discourse, in which communities (networks of accounts) were these repeat spreaders located?

### **5.2 Methods for Identifying Repeat Spreaders of False and Misleading Narratives**

To identify the repeat spreaders, we draw from three complementary views: one from our ticketing and analysis process (described in Chapters 1 and 2); a second through Twitter data EIP partners collected contemporaneously; and a



## 5. Actors and Networks: Repeat Spreaders of Election Misinformation

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third through CrowdTangle and Facebook search functionality, collected after the EIP's real-time analyses ended.

These complementary views allow us to:

- Identify some of the most influential accounts and most widely shared domains on two of the most widely used platforms (Facebook and Twitter).
- Explore, through tracing links in our Facebook and Twitter data, how other widely used social media platforms (like YouTube) fit into these incidents.
- Observe cross-platform connections and sharing practices.

### Delineating Election-Integrity Incidents

Through our live ticketing process, analysts identified social media posts and other web-based content related to each ticket, capturing original URLs (as well as screenshots and URLs to archived content). In total, the EIP processed 639 unique tickets and recorded 4,784 unique original URLs.

After our real-time analysis phase ended on November 30, 2020, we grouped tickets into incidents and narratives. We define an incident as an information cascade related to a specific information event. Often, one incident is equivalent to one ticket, but in some cases a small number of tickets mapped to the same information cascade, and we collapsed them. As described in Chapter 3, incidents were then mapped to narratives—the stories that develop around these incidents—where some narratives might include several different incidents.

For tractability, we limited our analysis in this chapter to 181 tickets mapped onto 153 incidents related to the narratives in Chapter 3 and that we determined to either (1) have relatively large spread (>1000 tweets) on Twitter, or (2) be of “high priority” as determined by analysts during our real-time research.

Next, through an iterative process, we identified a keyword-based search string and a time window for each incident that would allow us to capture a comprehensive, low-noise dataset from Twitter, Instagram, and Facebook. We also collected data for each incident from YouTube using links to that platform from Twitter.

### Collecting Data for Each Incident

#### Twitter Data Collection

We collected data from Twitter in real time from August 15 through December 12, 2020.<sup>1</sup> Using the Twitter Streaming API,<sup>2</sup> we tracked a variety of election-related terms (e.g., vote, voting, voter, election, election2020, ballots), terms related

to voter fraud claims (e.g., fraud, voterfraud), location terms for battleground states and potentially newsworthy areas (e.g., Detroit, Maricopa), and emergent hashtags (e.g., #stopthesteal, #sharpiegate). The collection resulted in 859 million total tweets.

From this database, we created a subset of tweets associated with each incident, using three methods: (1) tweets recorded in our ticketing process, (2) URLs recorded in our ticketing process, and (3) search strings.

Relying upon our Tier 1 Analysis process (described in Chapter 1), we began with tweets that were directly referenced in a ticket associated with an incident. We also identified (from within our Twitter collection) and included any retweets, quote tweets, and replies to these tweets. Next, we identified tweets in our collection that contained a URL that had been recorded during Tier 1 Analysis as associated with a ticket related to this incident. Finally, we used the search string and time window developed for each incident to identify tweets from within our larger collection that were associated with each election integrity incident.

In total, our incident-related tweet data included 5,888,771 tweets and retweets from ticket status IDs directly, 1,094,115 tweets and retweets collected first from ticket URLs, and 14,914,478 from keyword searches, for a total of 21,897,364 tweets.

#### Facebook and Instagram Data Collection

To understand how the information ecosystem looks from the perspective of Facebook and Instagram, we collected public posts through the CrowdTangle API from Facebook Groups, Facebook Pages, Facebook verified profiles and public Instagram accounts. We used the same set of incidents, and adapted the search strings to capture comprehensive, low-noise samples for each incident from these platforms. We had to adjust the search strings, often adding additional search criteria (voting- and election-related terms) to bring the results into alignment with our Twitter data, which was already constrained to voting-related data.

### 5.3 Most Engaged Incidents

The 153 incidents examined varied dramatically in spread, ranging from under 1,000 tweets to over 7 million tweets in a single incident. Overall, the majority of these incidents focused on topics related to delegitimization (110 of the incidents), although several were associated with participation interference (25 incidents) and procedural interference (23 incidents).<sup>3</sup> Table 5.1 enumerates the

ten most prominent incidents (by Twitter spread) with a short description of each.

#### 5.4 Political Alignment of Influential Twitter Accounts

To understand the social structure of Twitter accounts that posted about the United States election, we created a network map<sup>10</sup> of influential accounts and the engaged audiences they share, using retweets as a rough measure of influence. We included two accounts as nodes in our network if at least seven users in our election-related Twitter streams retweeted both accounts at least 20 times each between September 1 and December 1, 2020. In practice, this means that accounts are connected to each other if they share a similar audience of accounts retweeting them. We then identified community clusters within this network,<sup>11</sup> excluding small or unrelated communities.

As displayed in Figure 5.1 on page 186, this pruning left us with two communities broadly aligned with the US political right and left. The right-leaning community was composed of two heavily intertwined communities: (1) prominent right-wing (pro-Trump) influencers in politics, media, and social media; and (2) a community of largely anonymous accounts who were active and vocal supporters of Trump, QAnon, and other right-wing groups. The left-leaning community was focused around left-leaning politicians, pundits, and mainstream news outlets, with satellite communities consisting of users with more socialist politics, and a small group of high-volume, activist users behaviorally similar to the much larger right-wing activist community.

First, we looked at the incident-sharing behavior of the accounts represented in this network, using the community structure to draw meaningful differences. We found that influential accounts associated with the US right shared more incidents than the left both by absolute number (151 vs. 119 tickets) and by the total number of times they were retweeted in these incidents (17.8 million vs. 1.9 million retweets). The majority of incidents were primarily spread by the right-wing communities: right-leaning accounts were retweeted more than left-leaning accounts in 129 incidents, while left-leaning accounts were retweeted more in 23.

Many incident-related tweets from left-leaning accounts were attempting to fact-check, rather than uncritically spread, the false and misleading narratives. In one of the most extreme examples, a false claim made by Michelle Bachman that ballots pre-filled in China were being smuggled into the United States received more spread on the left than the right, solely due to fact-checking behavior. Sometimes, the left-leaning accounts' propensity to fact-check appeared

## 5.4. Political Alignment of Influential Twitter Accounts

Incident Title	# of Related Tweets	Description
Dominion Voting Systems: Swing States	7,157,398	This incident accused Dominion Voting Systems software of switching votes in favor of Joe Biden, particularly in swing states like Georgia; as of January 2021, Dominion has filed defamation lawsuits against prominent individuals and media that perpetuated this claim, and some have retracted their stories. <sup>1</sup>
Stop The Steal	2,888,209	This broadly defined incident was based on tweets from verified users broadly supporting the #StopTheSteal narrative, which alleged that certain states were not properly counting votes for President Trump.
Sharpiegate	822,477	This incident falsely claimed that in-person voters in Arizona (believed to be predominantly supporters of President Trump) were given Sharpies to vote with, which the machines would be unable to read, thus causing their votes to be excluded.
Pennsylvania Poll Watcher	618,168	This incident centered on narratives that a GOP-affiliated poll watcher was wrongfully denied entry to a Pennsylvania polling station. This content was then reframed to falsely claim that this was evidence of illegal actions taking place in the polling station. While the video does show a poll watcher being denied, it lacked broader context as to the reason for denial, which was not politically motivated. <sup>5</sup>
Pennsylvania Postal Whistleblower	591,838	This incident centered on footage from Project Veritas showing a postal worker claiming that the post office had ordered him to backdate ballots that arrived after the voting deadline in Pennsylvania. The whistleblower, after being questioned by investigators, later recanted these statements. <sup>6</sup>
Michigan Poll Watcher Whistleblowers	498,366	This incident focused on several whistleblowers from Michigan, some who were poll watchers in Wayne County (home to Detroit), alleging, in a video, various illegal actions by poll workers.
Michigan Dead Voters	486,096	This incident focused on false claims, based on misinterpretations of information on a Michigan government-affiliated website, that dead and implausibly old people had voted in the 2020 election. <sup>7</sup>
Sunrise Zoom Calls	475,581	This incident centered on misleadingly edited video footage that claimed to show federal employees conspiring with the left-leaning environmental activist organization Sunrise Movement to organize a coup, leak information, and shut down Washington, DC. <sup>8</sup>
Nevada Whistleblower	415,614	This incident claimed that a whistleblower who worked for the Clark County Elections Department (which encompasses portions of Las Vegas) had come forward with a list of various "nefarious behaviors." These included falsely claiming that illegitimate ballots were being processed and that people were filling out ballots that were not their own near a Biden/Harris campaign van.
Minnesota Ballot Harvesting	415,570	This incident, seeded by a Project Veritas video, surfaced otherwise unsupported claims of ballot harvesting in Minnesota and attempted to connect those claims to US Representative Ilhan Omar (see discussion in Chapter 3). <sup>9</sup>

Table 5.1: Top 10 most-tweeted incidents in our data.

## 5. Actors and Networks: Repeat Spreaders of Election Misinformation

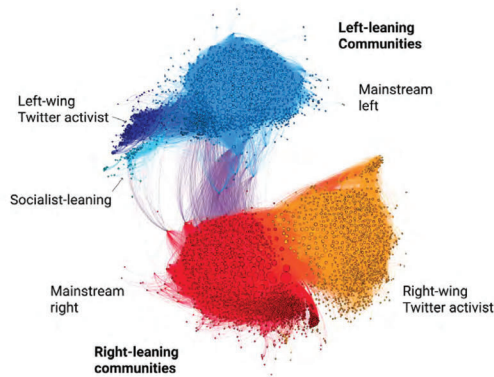


Figure 5.1: A network visualization of influential Twitter accounts from our dataset of election-related tweets collected from September 1 to December 1, 2020.<sup>12</sup> Each node is one Twitter account, and two nodes are linked together if they are retweeted by the same accounts. Two nodes are pulled closer together if they share more accounts, and larger nodes are connected to more accounts. Node colors correspond to automatically determined clusters of users, which broadly split into right- and left-wing communities. Subcommunities include activist accounts on both the left and right, and a socialist-leaning cluster on the left.

to stall the spread of some misleading incidents, such as when the spread of a false claim about ballots being unlawfully rejected in Georgia was significantly slowed after a series of corrective fact-checks. In other incidents, these fact-checks came too late; a check for a similar false claim about undelivered ballots in Florida came more than 24 hours after initial spread, and had no discernible impact on subsequent sharing. There were also instances of misinformation originating and spreading almost solely via left-leaning accounts, such as a video of an overflowing ballot room in Miami-Dade implying that Postmaster General DeJoy was hiding ballots for Biden in the critical county, as well as some incidents in which both the right and left participated, such as the mail-dumping incident in Glendale, California, described in Chapter 3.<sup>13</sup>

Influential accounts on the political right, by contrast, rarely engaged in fact-checking behavior, and were responsible for the most widely spread incidents

of false or misleading information in our dataset. Right-leaning accounts also more frequently augmented their misinformation posts with narrative-related hashtags, such as #StopTheSteal and #DeadVoters, which persisted across multiple incidents and were shared millions of times in our dataset.<sup>14</sup> Most unique about right-leaning accounts, however, was their frequent involvement in many tickets. Whereas almost all of the most influential left-leaning accounts were involved in only one or two incidents of false or misleading information, many right-leaning accounts with large audiences were involved with upwards of 10, and were often responsible for seeding or catalyzing an incident's spread through the conservative, right-wing, and pro-Trump Twitter networks.

## 5.5 Repeat Spreaders

In this analysis, we attempt to identify entities—e.g., Twitter accounts, Facebook Pages, and YouTube channels—that played a significant role in the spread of multiple election integrity incidents, such as the ones identified above in Section 5.3 on page 183. Expanding upon our pre-election analysis of influential Twitter accounts, we refer to these entities as “repeat spreaders.”<sup>15</sup>

### Repeat Spreader Twitter Accounts

First, we look at the most influential Twitter accounts across election integrity incidents in terms of shaping the flow of information. We identify accounts that produced highly retweeted original tweets (retweeted more than 1,000 times) across multiple incidents. Table 5.2 on the next page lists the accounts that appeared across the most incidents ( $\geq 10$ ) along with relevant details for each account.

The 21 most prominent repeat spreaders on Twitter—accounts that played a significant role in disseminating multiple false or misleading narratives that threatened election integrity—include political figures and organizations, partisan media outlets, and social media all-stars. Perhaps a reflection on both the nature of information threats to election integrity and our process for identifying them (see Chapter 2 for a note on the limitations of our approach), all 21 of the repeat spreaders were associated with conservative or right-wing political views and support of President Trump, and all featured in the politically “right” cluster in our network graph in Figure 5.1 on the facing page. Notably, 15 of the top spreaders of election misinformation were verified, blue-check accounts.

President Trump and his two older sons figure prominently in the Twitter dataset. In addition, several GOP political figures, along with leaders of conservative political organizations, repeatedly spread misleading narratives on Twitter. Charlie Kirk of Turning Point USA, for example, posted three tweets at

## 5. Actors and Networks: Repeat Spreaders of Election Misinformation

Rank	Account	Verified	Incidents	Tweets w/ >1000 Retweets	Followers	Retweets in Incidents	Left or Right
1	RealJamesWoods	True	27	36	2,738,431	403,950	Right
2	gatewaypundit	True	25	45	424,431	200,782	Right
3	DonaldJTrumpI	True	24	27	6,392,929	460,044	Right
4	realDonaldTrump	True	21	43	88,965,710	1,939,362	Right
4	TomFitton	True	21	29	1,328,746	193,794	Right
6	JackPosobiec	True	20	41	1,211,549	188,244	Right
7	catturd2	False	17	20	436,601	66,039	Right
8	EricTrump	True	16	25	4,580,170	484,425	Right
9	ChuckCalisto	True	15	17	311,517	117,281	Right
10	charliekirk11	True	13	18	1,915,729	232,967	Right
11	marklevinshow	True	12	10	2,790,699	90,157	Right
11	cjtruth	False	12	27	256,201	66,698	Right
11	JamesOKeefe11	False	12	64	1,021,505	625,272	Right
11	prayingmedic	False	12	26	437,976	57,165	Right
15	RichardGrenell	True	11	12	691,441	143,363	Right
15	pnjaban	True	11	14	208,484	58,417	Right
17	BreitbartNews	True	10	11	1,647,070	38,405	Right
17	TheRightMelissa	False	10	31	497,635	73,932	Right
17	mikeroman	False	10	10	29,610	128,726	Right
17	robbystarbuck	True	10	15	204,355	65,651	Right
17	seanhannity	True	10	22	5,599,939	96,641	Right

Table 5.2: Repeat Spreaders: Twitter accounts that were highly retweeted across multiple incidents. Twitter has since suspended the accounts ofrealDonaldTrump (January 6), The Gateway Pundit (February 6), cjtruth, and prayingmedic (January 8).<sup>16</sup> Account verification status as of 11/10/2020.

critical times that helped to catalyze the spread of Sharpiegate (see Chapter 3, and Chapter 4 Figure 4.6 on page 167). James O’Keefe, founder of Project Veritas, is also a significant repeat spreader. We discuss in more detail the activities of President Trump and his sons, as well as James O’Keefe and Project Veritas, below in Section 5.6.

Far-right hyperpartisan media outlets also participated in a wide range of incidents, including The Gateway Pundit, which ranked #2 in the dataset; Breitbart News; and two Fox News hosts. The Gateway Pundit (Twitter suspended this account on February 6, 2021) and Breitbart News are examined fully in Section 5.6 on page 195. The remainder of the repeat spreader accounts include a range of right-wing social media influencers—James Woods, conservative celebrity and actor, tops the list.

Many of these accounts follow others in this group, and their networks of followers overlap as well. They also actively promote and spread each others’ content. Once content from misleading narratives entered this right-wing Twitter network, it often spread quickly across influential accounts and out to

their overlapping audiences, making it very difficult to slow down or correct.

### Domains Cited in Incidents (in the Twitter Data)

Next, using the same tweet data, we identified the most prominent domains across election integrity incidents. We identified domains that were highly tweeted (linked to by more than 500 tweets or retweets) in multiple incidents. Table 5.3 lists the domains that appeared across the most incidents ( $\geq 7$ ) along with relevant details for each account. Domains within this list may be cited for different reasons—some (the *Washington Post*, for example) appear in this table for articles that debunked false claims and narratives.

Rank	Domain	Incidents	# Original Tweets	Total Retweets	≈% Left Spread	≈% Right Spread
1	www.thegatewaypundit.com	46	29,207	840,740	0.08%	99.92%
2	www.breitbart.com	26	8,569	394,689	0.94%	99.06%
3	www.youtube.com	21	14,040	269,996	2.51%	97.49%
4	www.washingtonpost.com	18	1,986	74,360	84.76%	15.23%
5	www.foxnews.com	14	1,330	34,143	0.91%	99.09%
6	www.theepochtimes.com	12	2,167	86,325	0.00%	100.00%
7	nypost.com	11	4,513	178,176	2.27%	97.73%
8	www.zerohedge.com	10	1,043	27,687	0.52%	99.48%
8	www.cnn.com	10	1,269	100,642	89.28%	10.71%
10	apnews.com	9	432	13,067	33.84%	66.14%
10	justthenews.com	9	1,035	61,305	0.00%	100.00%
10	www.nytimes.com	9	776	50,021	63.88%	36.11%
10	thedcpatriot.com	9	572	26,417	0.00%	99.99%
14	gellerreport.com	8	516	15,075	0.00%	99.99%
14	thenationalpulse.com	8	770	39,160	0.00%	99.99%
14	nationalfile.com	8	4,443	195,489	0.51%	99.48%
17	www.washingtontimes.com	7	280	11,445	1.45%	98.54%
17	www.pscp.tv	7	2,067	83,269	0.47%	99.53%
17	saraacarter.com	7	531	81,172	1.39%	98.60%
17	www.washingtonexam- iner.com	7	1,518	75,939	0.98%	99.02%

Table 5.3: Domains, extracted from tweets, that were highly tweeted ( $>500$ ) across multiple incidents. Shortened URLs were followed when possible to extract original domains. The incident count includes the number of incidents for which the domain was linked to in over 500 tweets or retweets in our incident-related Twitter data. The original tweets are the count of non-retweets (including quote tweets and replies) that mentioned the domain within those incidents, while the total retweets column is a count of the retweets, both from within our incident-linked Twitter data. Finally, the estimated right/left spread is the proportion of original tweets made by influential users classified on the ideological spectrum based on our network analysis, above. Users not included in that network analysis are excluded from the estimate.

The top 20 domains involved in spreading or discussing false or misleading information included both partisan and mainstream media outlets—which played



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markedly different roles in the information incidents (primarily spreading vs. primarily correcting). The two most significant domains in our incident-related data belonged to partisan outlets: The Gateway Pundit ([www.thegatewaypundit.com](http://www.thegatewaypundit.com)) and Breitbart ([www.breitbart.com](http://www.breitbart.com)). Fox News again appears on the list; other notable partisan news outlets are described in Appendix C on page 251.

A number of “mainstream” media sites also appear in our list of frequent domains—often picked up within the left-leaning clusters in our network map. Though this may suggest a somewhat equal share of participation in misinformation on the political left and right, the majority of stories cited on “the left” were referenced as fact-checks on the associated incidents or narratives. For instance, a story from CNN that challenges the Trump campaign’s claims of deceased voters is representative of the corrective role these sites played within the spread of these misleading narratives.<sup>17</sup>

A couple of incidents of false or misleading information did run through the left, including a story about unauthorized voting boxes being set up by Republicans—a true story, but one that falsely framed the motive and exaggerated the impact of such actions. The story was covered by “mainstream” media sites including AP News, the *New York Times*, CNN, and the *Washington Post*, all included in our list of frequent domains. A discarded-mail incident was framed by the left as the Trump administration’s effort to harm the mail-in voting process. CNN, in particular, was cited in that USPS ballot-dumping narrative—though for content that did not explicitly invoke the election integrity frame.

The presence of both YouTube ([youtube.com](http://youtube.com)) and Periscope ([pscp.tv](http://pscp.tv)) in the highly tweeted domain list illustrates the cross-platform nature of misleading election-related narratives.

YouTube data is further discussed below. Interestingly, in our election-integrity related data, both YouTube and Periscope were primarily tweeted by accounts on the political right or pro-Trump side of the network (see Figure 5.1 on page 186).

In summary, though a few false or misleading narratives about the integrity of the 2020 election did run through the left, when we look at the domains that repeatedly helped to spread—as opposed to correct—election-related misinformation, we find an array of predominantly right-wing and pro-Trump partisan media outlets.

### Repeat Spreaders: YouTube Channels in the Twitter Data

YouTube played a prominent role in the spread of false and misleading information across the election integrity incidents we analyzed, ranking third among most linked-to domains overall. In at least 44 distinct incidents, YouTube videos were tweeted more than 10 times.

From our corpus of data, we identified the YouTube channels that were repeat spreaders within the Twitter discourse—i.e., those that repeatedly used YouTube to disseminate multiple false and/or misleading narratives. To do this we first extracted all of the YouTube links from our incident data and used the YouTube API to determine what channels posted the videos. We then identified channels that were highly tweeted—linked to more than ten times in an incident—for multiple election integrity incidents. This provided a corpus of 665 videos from 411 unique YouTube channels.<sup>18</sup> Table 5.4 lists the top 12 repeat spreader channels (>4 incidents) that arose from this analysis.

Rank	Channel	Incidents	Total Tweets	Videos	YouTube Views
1	Project Veritas	7	128,734	26	9,613,437
1	CDMedia	7	258,314	1	691,395
3	Donald J Trump	6	4,338	10	10,849,373
3	One America News Network	6	207,544	15	4,034,274
3	GOP War Room	6	186,106	8	1,732,847
3	Dr. Shiva Ayyadurai	6	196,292	1	1,052,429
7	Gateway Pundit	5	10,015	13	4,085,657
8	NewsNOW from FOX	4	406	7	9,450,514
8	StevenCrowder	4	15,490	3	8,159,462
8	BlazeTV	4	314	6	3,900,083
8	Judicial Watch	4	1,333	7	511,568
8	MR. OBVIOUS	4	283	5	401,481

Table 5.4: Repeat Spreaders: YouTube channels that were highly tweeted (>=10 times/incident) across multiple (>=4) incidents.

The channels found to be repeat spreaders of false and misleading narratives through YouTube look similar to the repeat spreaders on Twitter—right-wing influencers, hyperpartisan media outlets such as One America News Network (OANN) and The Gateway Pundit, political groups supportive of President Trump such as Project Veritas, and President Trump himself. These channels attracted millions of views for content related to known incidents of misinformation surrounding the 2020 election.

Two channels, compilation video creators Dr. Shiva Ayyadurai and CDMedia, were remarkable in that they appeared in our top repeat spreader list for being cited in multiple incidents, but for only a single video. Dr. Ayyadurai is discussed as a prominent repeat spreader in Section 5.6 on page 195.

### Repeat Spreaders: Facebook Pages & Groups and Instagram

For our Facebook and Instagram analysis, we identified accounts (public Pages and Groups for Facebook, public accounts for Instagram) that were highly engaged with across multiple incidents. Aligning with the threshold used for

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accounts in our Twitter analysis, a post had to receive at least 1,000 likes or favorites to be counted as part of an incident. In this way, we were looking for accounts that were influential across incidents. The total engagement column for Facebook is the sum of likes (and other emotive reactions), comments, and shares. For Instagram, the total engagements are the sum of favorites and comments. Tables 5.5 and 5.6 on page 194 feature the accounts that appeared across the most incidents.

Rank	Account Name	Facebook Page/Group	# of Incidents	# of Posts	Total Engagement
1	Breitbart	Page	8	20	831,452
1	The Silent Majority	Page	8	7	69,763
3	Heather Cox Richardson	Page	6	8	816,755
3	David J Harris Jr.	Page	6	11	282,652
3	James O'Keefe	Page	6	20	194,596
3	Project Veritas	Page	6	20	165,377
7	Now/This Politics	Page	5	11	244,023
7	Team Trump	Page	5	5	153,118
7	Ryan Fournier	Page	5	6	67,885
7	Wendy Bell Radio	Page	5	6	62,020
7	#WalkAway Campaign	Group	5	12	51,854
7	StandwithMueller	Page	5	7	19,345

Table 5.5: Repeat Spreaders: Facebook Pages and public Groups that were highly engaged with (>=1000 engagements) across multiple (>=5) incidents.

### Facebook

Table 5.5 shows the top 12 public Facebook Pages and Groups that repeatedly shared content about the incidents in our dataset. From this data, we see that public Facebook Pages (and not public Facebook Groups) tended to appear more frequently as repeat spreaders. Only one Facebook Group appeared as a repeat spreader. This may not be surprising, as many Groups that played a role in the spread of election-related misinformation are either private (so would not be accessible via CrowdTangle) or have been removed from Facebook.<sup>19</sup> Facebook's longer format provided an opportunity for Pages to host long, detailed posts that contain false claims and misleading narratives that spanned multiple incidents.

Among the repeat spreaders in the Facebook data, we see several familiar names, including Breitbart, James O'Keefe, and Project Veritas. Short-form videos were popular on the official Facebook account of Team Trump, which does not appear to be officially associated with the Trump campaign.

Most of the repeat spreaders in the Facebook list are, similar to what we see in the Twitter and YouTube data, right-leaning and/or Trump-supporting entities.

However, we do see three left-leaning Pages among the group—NowThis Politics, StandwithMueller, and historian Heather Cox Richardson. The inclusion of all three is primarily the result of their Pages attempting to fact-check or otherwise counter false or misleading information about the election. For example, the NowThis Politics post below attempts to correct post-election misinformation, quoting the Trump campaign in its text.

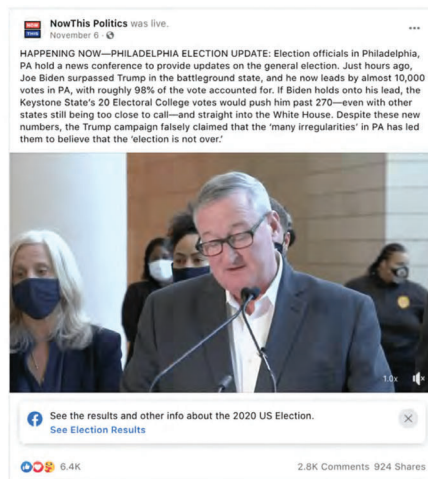


Figure 5.2: An example of a NowThis Politics Facebook post discussing Trump campaign claims included in the data.

### Instagram

The Instagram repeat spreaders list (see Table 5.6 on the next page) looks somewhat similar to our Twitter list, containing accounts of partisan media organizations (e.g., The Gateway Pundit, Breitbart), and public individuals (e.g., James O’Keefe).

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Rank	Account Name	Verified	# of Incidents	# of Posts	Total Engagement
1	KAGBABE 2.O	Not verified	12	33	80,484
2	Breitbart	Verified	10	14	670,577
2	The Gateway Pundit	Not verified	10	20	132,440
4	James O'Keefe	Verified	6	20	410,335
4	Baller Alert	Verified	6	7	102,837
6	Michael Hennessey	Not verified	5	82	169,623
6	Occupy Democrats	Not verified	5	5	51,289
6	Latinos With Trump	Not verified	5	14	47,167
6	Ben & Hannah	Not verified	5	11	19,529
6	#HisNameWasSethRich	Not verified	5	7	18,814

Table 5.6: Repeat Spreaders: Facebook Pages and public Groups that were highly engaged with ( $\geq 1000$  engagements) across multiple ( $\geq 5$ ) incidents.

Unlike our Twitter list, most of the other accounts on the Instagram list are not verified. We see a few new names that we do not see anywhere else, like KAGBABE 2.O—an anonymous account that showed up in the most incidents—Baller Alert, Michael Hennessey/Snowflake News, Latinos with Trump, Ben & Hannah, and HisNameWasSethRich.

An account we see among the Instagram repeat spreaders is the left-leaning group "Occupy Democrats." Their Facebook Page also appeared in a few incidents (though not enough to make the list of top spreaders in Table 5-5). In at least two cases, Occupy Democrats was picked up in our data for trying to correct misinformation related to an incident. In others, they spread information that functioned to fan fears of voter disenfranchisement and intimidation.

For example, a tweet went viral on October 20, 2020, depicting an officer wearing a Trump mask at a polling station in Miami.<sup>20</sup> Within an hour, the Miami Police Department publicly condemned the actions of the officer.<sup>21</sup> Despite the official condemnation, Occupy Democrats reposted the image through both its Instagram and Facebook accounts. Its posts urged people to report the officer to the non-emergency police line. Both posts created a lot of engagement. There is no evidence to support the claim that this was part of an organized police-led voter intimidation campaign, which appears in the embedded meme in the Occupy Democrats Facebook post in Figure 5.3 on the facing page. That framing was both false and, while it likely functioned to rile Occupy Democrats followers on the left, also carried a risk of suppressing voter turnout by fomenting fears around voter intimidation at the polls (a concept covered in Chapter 3 with the "Army for Trump" example).<sup>22</sup>

## 5.6. An Integrated Look at Repeat Spreaders Across Platforms

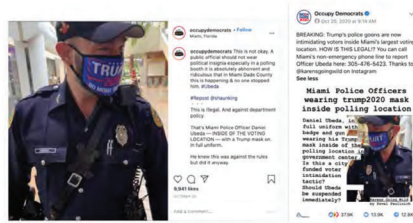


Figure 5.3: Screenshots of posts by Occupy Democrats about the incident, with specific instructions in the Facebook post (right) to call Miami's non-emergency line to report the officer, both after Miami PD's official response.

## 5.6 An Integrated Look at Repeat Spreaders Across Platforms

In this section, we provide an integrated view, looking at how some of the most active and prominent repeat spreaders pushed false and misleading narratives about the election across platforms.

### President Trump, His Family, and the Trump Campaign

Though the specific claims and narratives often originated elsewhere, the Trump family and the Trump campaign regularly amplified incidents of false and misleading information—especially false claims of election fraud—across multiple platforms. President Trump's official Twitter account (@realDonaldTrump) participated in 21 distinct incidents and was the most highly retweeted in all of our incident-related data (Twitter permanently suspended his account on January 8, 2021).<sup>23</sup> His YouTube channel put out videos that linked to six distinct incidents, making him tied for third, and that were viewed more than any other repeat spreader's videos. And his Facebook official account was the most engaged-with account in all of our Facebook data.

President Trump's adult sons Donald Jr. and Eric were involved in 24 and 16 incidents respectively; Donald Jr. was the third most prominent Twitter user in the incident-related data. Between them, the president, Donald Jr., and Eric Trump spread and reinforced narratives questioning the security of the mail-in voting process, ballot harvesting claims, several different narratives about poll

## 5. Actors and Networks: Repeat Spreaders of Election Misinformation

watchers being denied access and other questionable “whistleblower” claims, and the Dominion conspiracy theory.

These cases capture solely when Donald Trump or his campaign produced content (posts, videos, tweets) related to an incident. In addition to content production, the Trump team regularly used retweets to amplify content by hyperpartisan media outlets and other accounts. Leading up to the election, we described one incident in which Donald Trump Jr. amplified a ballot harvesting narrative produced by Project Veritas (see Figure 3.16 on page 66 in Chapter 3).<sup>24</sup> Similar amplification events occurred involving Dr. Shiva Ayyadurai, The Gateway Pundit, Breitbart, and other hyperpartisan outlets. Owing to their large following, members of the Trump family—and a broader array of accounts associated with their campaign—were able to catalyze the spread of election fraud narratives. Their role in the spread of misinformation was therefore multidimensional—through both content production and content amplification.

Their activity also extended beyond social media. Claims of electoral fraud were pushed by members of the Trump family, the Trump campaign, and other surrogates on cable news, through press briefings, and eventually within numerous court cases. Perhaps the most important role the Trump inner circle played was to seed and perpetuate the prevailing narrative—the general notion of a “rigged election.”

### The Gateway Pundit

The Gateway Pundit was among the most active spreaders of election-related misinformation in our analyses. The outlet used a cross-platform strategy, hosting content on its website and using other channels to promote both its own and others’ content. It appeared as a top repeat spreader through its website, its Twitter account, its YouTube channel, and its Instagram account. (Twitter suspended the account on February 6, 2021).<sup>25</sup>

Figure 5.4 on the facing page shows the relative engagement with The Gateway Pundit’s content over time and across platforms within our incident-related data.

Unlike some of the other entities featured here, The Gateway Pundit was highly active throughout the election lifecycle, including during the weeks leading up to the election, when it repeatedly spread content—in distinct information incidents—that sought to undermine trust in mail-in voting specifically and the eventual election results more generally. It participated in seeding and spreading misleading information about ballots being harvested, chased, dumped, stolen, and miscounted. It spread false narratives of election fraud built upon

## 5.6. An Integrated Look at Repeat Spreaders Across Platforms

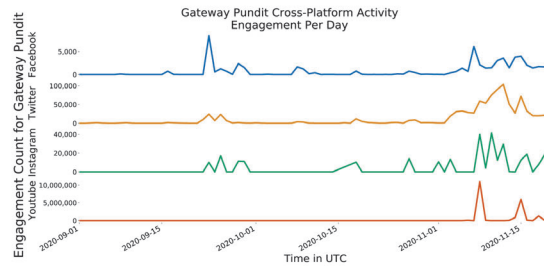


Figure 5.4: Engagements per day for The Gateway Pundit. Facebook engagements are in blue, Twitter retweets in orange, and Instagram likes in green.

misinterpretations of statistics and was active in spreading the false Dominion conspiracy theory.

On Twitter, The Gateway Pundit's account was highly retweeted across 26 different incidents (#2 among repeat spreaders). Evidence from our data suggest that its prominence was due both to production of its own material and to amplification (via original and quote tweets) of other partisan content. It repeatedly interacted with content and accounts of other repeat spreaders and influencers, including Project Veritas, as shown in Figure 5.5.



Figure 5.5: Quote tweet by @JamesOKeefeIII (the founder of Project Veritas) of a tweet by Jim Hoft (the operator of @gatewaypundit). Hoft's tweet links to an article on thegatewaypundit.com, which promotes a video released by Project Veritas.

Of all the domains linked to in our Twitter data, The Gateway Pundit's website was connected to the largest number of incidents (46) while also garnering the



## 5. Actors and Networks: Repeat Spreaders of Election Misinformation

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most related original tweets (29,207) and retweets (840,750). Their YouTube channel appeared in five incidents, and their 13 incident-related videos had more than 4 million views on YouTube.

The Gateway Pundit was not as visible in the Facebook data we collected, but its Instagram account was tied for #2 among repeat spreaders, appearing in 10 incidents for 20 posts that received more than 132,000 engagements.

### Breitbart News

Breitbart News, a right-wing, online media outlet, was also a cross-platform repeat spreader—pushing false and misleading narratives about the election through their website, Twitter account, Facebook Page, and Instagram account. In terms of number of different false or misleading information incidents that they helped to spread, they were #1 on Facebook (8 incidents), #2 on Instagram (10 incidents), and #2 among linked-to websites in the Twitter data (26 incidents). On Facebook and Instagram, they had the highest engagement among repeat spreaders.

Breitbart participated in a wide range of ballot-related incidents, such as mail-dumping and ballot harvesting, voting machine issues, and now-debunked claims that statistical anomalies suggest widespread election fraud. It both produced its own content and propagated stories that initially rose to prominence on other domains. Often, it picked up content found elsewhere online and reframed that content within its own articles. However, Breitbart tended to be more careful than The Gateway Pundit and others in how it framed events to subtly connect them to potential issues of voter fraud without explicitly making those claims.

### Newsmax Media

Newsmax Media (formerly NewsMax) is a conservative media outlet that produces content through its website, cable news channel, and various social media accounts—including Twitter, YouTube, Facebook, and Instagram. Especially active in the aftermath of the election, Newsmax repeatedly posted videos—across their many media channels—where they hosted guests that made unsupported and in many cases outright false claims about election fraud. The outlet appears in several incidents in our data, from Stop The Steal and Sharpiegate to the Dominion and Hammer and Scorecard conspiracy theories.

The Newsmax website is most visible in our data for seeding a misinformation incident through a video interview (available on their website) claiming that the head of the Federal Election Commission, Trey Trainor, believed that voter fraud was occurring in states still counting ballots. Newsmax also hosted a pundit who claimed that the Democrats were attempting a “coup” and ran several segments

## 5.6. An Integrated Look at Repeat Spreaders Across Platforms

containing false accusations about companies involved in the manufacture and software development for voting machines.

Perhaps more interesting than the specific incidents that Newsmax was involved in spreading is how the media outlet vastly increased its visibility in this discourse immediately following the election. Figure 5.6 shows engagement (likes and comments) across platforms with Newsmax content related to incidents of false or misleading information about the election. Prior to November 3, Newsmax was not a significant part of these conversations. But after the election, the media outlet began to gain attention—quite rapidly—for its coverage of election fraud claims.

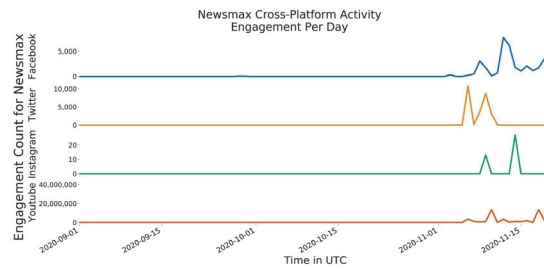


Figure 5.6: Engagements per day for Newsmax in incident-related data. Facebook is in blue, Twitter retweets in orange, Instagram in green, and YouTube in red.

Gains in engagements on Newsmax's content were accompanied by gains in followers for their accounts on various social media platforms—translating to a potentially long-term visibility increase for the outlet. Figure 5.7 on the next page shows followers over time for Newsmax's Twitter and Instagram accounts. Both demonstrate a sharp increase in early November. The Twitter graph (which we can generate at a much higher granularity) indicates that the first sharp increase occurs at about 4:00 am UTC on November 3 (11:00 pm EST on election night). Much of that may be attributable to their election night projections, including a tweet erroneously announcing that President Trump had won the state of Georgia. The @newsmax Twitter account would continue to gain followers over the course of the post-election period—growing by nearly 300% in two weeks (from 232,000 on November 2 to 668,000 on November 15)—as their content began to coalesce around false claims of election fraud. Their Instagram account saw an even more remarkable gain, from 47,400 followers on October

## 5. Actors and Networks: Repeat Spreaders of Election Misinformation

31 to 318,500 followers on November 14 (an increase of more than 600%).

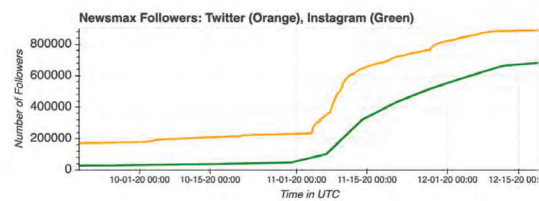


Figure 5.7: Newsmax followers growth on Twitter (orange) and Instagram (green).

During the post-election period (November 3 to November 15), Newsmax also began to promote themselves as a pro-Trump alternative to Fox News, which was being criticized for, among other things, calling Arizona for Biden. Reflecting what appears to be a strategy of staking claim to the right-wing and pro-Trump media market, on November 8 Newsmax bragged that they were the “only major news network to not call the election.”

Later, Newsmax would be legally pressured to post “clarifications” to many of the false accusations that they aired.<sup>26</sup> But it's likely that their reputational boost—in terms of followers on their social media accounts—from posting the original false claims was not significantly diminished by the later corrections.

### Project Veritas

The data show that Project Veritas was a prominent repeat spreader of false and misleading information about the 2020 election across multiple platforms, through both the organization's accounts and the personal accounts of its founder, James O'Keefe. (Twitter permanently suspended Project Veritas's official account and temporarily locked James O'Keefe's on February 11, 2021.) They produced several videos in the form of “investigative reports” that they hosted on YouTube and their official website. They used their other social media channels—where they were connected to a network of other large-audience, blue-check conservative and pro-Trump accounts—to advertise and disseminate their videos.

As a montage view of their YouTube videos shows, Project Veritas produced videos that repeatedly challenged the integrity of electoral procedures, election and postal service officials, and ultimately the results of the election (see Figure 5.8 on the facing page).

## 5.6. An Integrated Look at Repeat Spreaders Across Platforms

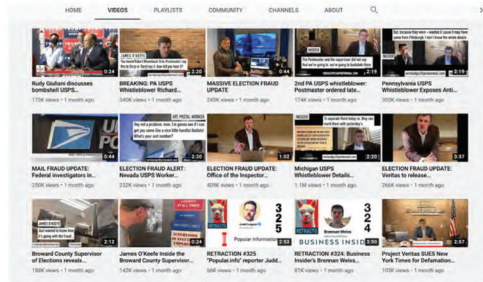


Figure 5.8: Project Veritas's YouTube Page containing a number of their investigative reports on election fraud.

Project Veritas videos maintain a consistent, signature style: they begin with founder James O'Keefe describing the alleged fraud their video exposes before moving on to undercover videos or anonymized interviews that are presented as "proof" of their claims. The videos are highly edited, with often incomplete narratives. Notably, the subjects of some of the videos Project Veritas released were found to be unreliable sources—for example, the political operative whistleblowing about alleged ballot-harvesting by the Ilhan Omar campaign later revealed he was offered a \$10,000 bribe to make up the story.<sup>27</sup>

Though Project Veritas claimed to face deplatforming efforts on Twitter during the 2020 election cycle (ostensibly for violating Twitter's civic integrity policies), they were highly successful at disseminating their content throughout the 2020 election.<sup>28</sup> In addition to their engagement on YouTube, the group gained 5.8 million views on videos they uploaded to their Facebook Page in 2020 and over 12 million views on their Instagram videos. Their success, in part, can be attributed to James O'Keefe, who uses his personal platform and connections with other conservative influencers to direct attention to their video content, hosted across multiple platforms. O'Keefe's personal Twitter account (@JamesOKeefeIII) appeared in 12 of our election integrity incidents and garnered over 625,000 retweets, primarily for posts promoting Project Veritas's content.

O'Keefe's Facebook Pages were often used nearly identically to his Twitter account, complete with the use of hashtags, short-form statements on particular incidents, and linked videos, as seen in Figure 5.9 on the next page.

## 5. Actors and Networks: Repeat Spreaders of Election Misinformation



Figure 5.9: Identical posts by James O'Keefe on both Facebook (left) and Twitter (right).

In the lead-up to the election, Project Veritas focused their efforts on sowing doubt in the integrity of mail-in voting by pushing narratives around ballot harvesting and what they term “ballot chasing.” They released several videos on their YouTube channel that claimed various campaigns (of primarily down-ballot races) were engaging in illegal ballot harvesting and facilitating mail-in voter fraud, including one accusing Representative Ilhan Omar. Project Veritas promoted the drop of the video on Twitter prior to releasing it on YouTube (see Figure 3.14 on page 65 in Chapter 3). Following its release, the video was linked to by multiple prominent partisan media news sites such as The National Pulse, whose stories were further amplified by retweets by Donald Trump Jr. The cross-platform attention drew users to the video on YouTube, resulting in nearly 1.2 million views. O'Keefe capitalized on the attention garnered by the video to release multiple subsequent undercover reports on alleged election fraud. Subsequent videos failed to gain as much traction, but still consistently garnered at least 100,000 views on YouTube.

After the election, Project Veritas began producing videos of “whistleblowers” alleging fraudulent behaviors in swing states—this included a video testimonial from a Pennsylvania postal worker claiming that late ballots were backdated. O'Keefe tweeted the video (embedded within Twitter, as well as posted to the YouTube channel) to his one million followers. After the worker recanted his testimony in an affidavit a few days later, O'Keefe posted a follow-up tweet/video combination claiming that the whistleblower had been retaliated against by the USPS.<sup>29</sup> Both tweets (see Figure 5.10 on the next page) gained significant traction, receiving thousands of retweets and likes.

Notably, Twitter did take action on some of the misleading content propagated by Project Veritas and O'Keefe, occasionally adding labels saying the content was

## 5.6. An Integrated Look at Repeat Spreaders Across Platforms

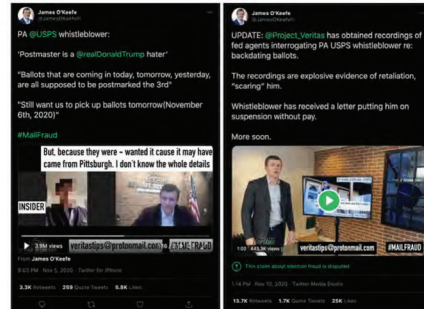


Figure 5.10: Tweets from James O'Keefe, founder of Project Veritas, claiming mail-in voting fraud in Pennsylvania.

disputed and eventually suspending the @Project\_Veritas account. Yet a lack of uniformity in policies across platforms, and the group's significant presence on multiple social media platforms, mean that most of Project Veritas's misleading content remains online in some format.

### Dr. Shiva Ayyadurai

Dr. Shiva Ayyadurai played a unique role in promoting electoral misinformation—in that it began after election day and featured almost exclusively content that misinterpreted and/or misrepresented statistics. He is also an example of overlap between producers of coronavirus and electoral misinformation. Ayyadurai's platform grew remarkably in 2020, after a video claiming Dr. Anthony Fauci was part of a Deep State conspiracy to spread coronavirus garnered more than six million views in a week.<sup>30</sup> After the 2020 election, he successfully leveraged YouTube's livestreaming feature to produce lengthy videos that proliferated multiple false narratives alongside dubious statistical “evidence.” His videos were similarly livestreamed and viewed on Periscope and Facebook.

After a failed primary campaign for the US Senate in September 2020, Ayyadurai began promoting a conspiracy theory that computer tabulation systems systematically switched votes in favor of his opponent. After November 3, he extended this claim—based on fraught statistical analysis<sup>31</sup>—to asserting fraud in the US presidential election. His argument took several forms, broadly and erroneously

## 5. Actors and Networks: Repeat Spreaders of Election Misinformation

claiming that Trump's under-performance in areas with more straight-ticket Republican votes was evidence of a "weighted feature" of tabulation software favoring Joe Biden. When his arguments were debunked by statisticians, he altered or changed expectations or presented a new and equally fraught statistical argument.

His most popular video has gained over 1 million views since he livestreamed it on November 10. His popularity can, in part, be attributed to sharing of his content by other misinformation superspreaders, including QAnon-affiliated lawyer Sidney Powell, who not only tweeted it to her one million-plus followers but also used Ayyadurai's arguments as evidence in her so-called "Kraken" lawsuit attempting to overturn the election results in Georgia, a key swing state (see Figure 5.11).<sup>32</sup>

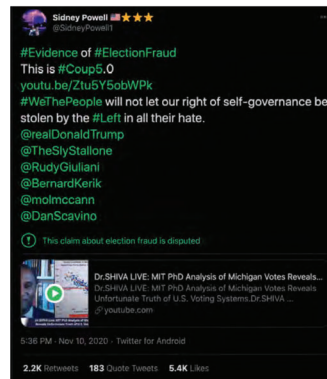


Figure 5.11: Trump legal affiliate Sydney Powell tweets a link to Ayyadurai's most popular YouTube video.

## 5.7 Summary

Our analysis suggests that the primary "influencers" in the online production and dissemination of false and misleading narratives about the 2020 election were verified, blue-check accounts belonging to partisan media outlets, social

media influencers, and political figures. Though false narratives occasionally gained traction on the political left, almost all of the most prominent repeat spreaders—i.e., the accounts that seeded and disseminated multiple false claims and narratives—belonged to conservative and/or pro-Trump individuals and organizations. Members of the Trump campaign, including President Trump and his adult sons, played a significant role in the spread of these narratives, which converged around false and misleading claims of voter fraud and sought to undermine trust in the results of the election. These narratives persisted throughout our analysis, from August through December, and spread through and across diverse social media platforms—and through the broader information ecosystem, including cable news.



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## Notes

1. (page 182) We continued to track the spread of incidents through December 12, 2020, approximately two weeks after our real-time analysis concluded.
2. (page 182) We ran several collections in parallel, balancing terms across collections to reduce the impact of rate limits.
3. (page 183) It was possible for one incident to be related to multiple themes that the EIP defined, which is why these sum to more than 153.
4. (page 185) Nick Corasaniti, "Rudy Giuliani Sued by Dominion Voting Systems Over False Election Claims," *New York Times*, January 25, 2021, <https://www.nytimes.com/2021/01/25/us/politics/rudy-giuliani-dominion-trump.html>
5. (page 185) Saranac Hale Spencer, "Overblown Claims of 'Bad Things' at Philly Polls," FactCheck.org, November 3, 2020, <https://www.factcheck.org/2020/11/overblown-claims-of-bad-things-at-philly-polls/>
6. (page 185) Saranac Hale Spencer, "Pennsylvania Postal Worker Waffles on Election Fraud Claim," FactCheck.org, November 12, 2020, <https://www.factcheck.org/2020/11/pennsylvania-postal-worker-waffles-on-election-fraud-claim/>
7. (page 185) Jonathan Oosting, "Meet Michigan's 'dead' voters. They're quite alive despite false fraud claims," November 10, 2020, BridgeMichigan, <https://www.bridgemi.com/michigan-government/meet-michigans-dead-voters-theyre-quite-alive-despite-false-fraud-claims>
8. (page 185) Samantha Putterman, "Video makes it look like left-leaning groups plotted post-election coup. That's not the whole story," PolitiFact, November 5, 2020, <https://www.politifact.com/article/2020/nov/05/video-makes-it-look-left-leaning-groups-plotted-po/>

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9. (page 185) Bethania Palma, "Viral Video Spreads Unfounded Claims about Rep. Ilhan Omar and Voter Fraud," Snopes, updated October 19, 2020, <https://www.snopes.com/news/2020/09/29/project-veritas-ilhan-omar/>
10. (page 184) The network was generated from our larger Twitter data collection—the 859 million tweets we collected about the election and voting. This creates a stable network structure onto which we later mapped specific incidents.
11. (page 184) We used the Louvain method for identifying communities in the network graph; see Wikipedia, s.v. "Louvain method," last modified February 9, 2021, 12:45 pm, [https://en.wikipedia.org/wiki/Louvain\\_method](https://en.wikipedia.org/wiki/Louvain_method)
12. (page 186) We used a slightly abbreviated time window for this part of the analysis (than for calculating spread of the incidents), but due to the high thresholds for inclusion of nodes and edges, the structure is fairly stable and it is unlikely that influential nodes would shift from one community to another if more data was included.
13. (page 186) Ian Kennedy, et al., "Emerging Narratives Around 'Mail Dumping' and Election Integrity," Election Integrity Partnership, September 29, 2020, <https://www.eipartnership.net/rapid-response/mail-dumping>
14. (page 187) As we note in the section on Participatory Mis- and Disinformation in Chapter 4, many of the rank-and-file accounts on the political right viewed their participation in these false and misleading narratives as helping to expose wrongdoing, not as spreading misinformation.
15. (page 187) Election Integrity Partnership Team, "Repeat Offenders: Voting Misinformation on Twitter in the 2020 United States Election," Election Integrity Partnership, October 29, 2020, <https://www.eipartnership.net/rapid-response/repeat-offenders>
16. (page 188) "Permanent Suspension of @realDonaldTrump," Twitter blog, January 8, 2021, [https://blog.twitter.com/en\\_us/topics/company/2020/suspension.html](https://blog.twitter.com/en_us/topics/company/2020/suspension.html); AJ Dellinger, "Twitter suspends 'Gateway Pundit' Jim Hoft," *Forbes*, February 6, 2021, <https://www.forbes.com/sites/ajdellinger/2021/02/06/twitter-suspends-gateway-pundit-jim-hoft/>; @cjtruth, Twitter profile, <https://twitter.com/cjtruth>; Chris Mills Rodrigo, "Twitter permanently suspends Michael Flynn, Sidney Powell and others," *The Hill*, January 8, 2021, <https://thehill.com/policy/technology/533424-twitter-permanently-suspends-michael-flynn-sidney-powell-and-others>
17. (page 190) Holmes Lybrand and Tara Subramaniam, "Fact check: Evidence undermines Trump campaign's claims of dead people voting in Georgia," CNN,

updated November 13, 2020, <https://www.cnn.com/2020/11/12/politics/trump-campaign-georgia-dead-voters-fact-check/index.html>

18. (page 191) One limitation of this approach is that it provides a view of YouTube activity filtered by content shared on Twitter (with at least one retweet). Videos that were not cross-posted to Twitter are not included.

19. (page 192) Sheera Frenkel, "The Rise and Fall of the 'Stop the Steal' Facebook Group," *New York Times*, November 5, 2020, <https://www.nytimes.com/2020/11/05/technology/stop-the-steal-facebook-group.html>

20. (page 194) Davey Alba, "Riled Up: Misinformation Stokes Calls for Violence on Election Day," *New York Times*, updated January 20, 2021, <https://www.nytimes.com/2020/10/13/technology/viral-misinformation-violence-election.html>

21. (page 194) Miami Police Department (@MiamiPD), "We are aware of the photograph being circulated of a Miami Police officer wearing a political mask in uniform. This behavior is unacceptable, a violation of departmental policy, and is being addressed immediately," Twitter, October 20, 2020, <https://twitter.com/MiamiPD/status/1318579324723789825>

22. (page 194) Rachel Moran, et al., "Left-Leaning Influencers, 'Mainstream' Media Play Big Role in Amplifying 'Army for Trump' Fears," Election Integrity Partnership, October 12, 2020, <https://www.eipartnership.net/rapid-response/army-of-trump>

23. (page 195) Twitter, "Permanent Suspension of @realDonaldTrump."

24. (page 196) Isabella Garcia-Camargo, et al., "Project Veritas #BallotHarvesting Amplification," Election Integrity Partnership, September 29, 2020, <https://www.eipartnership.net/rapid-response/project-veritas-ballot-harvesting>

25. (page 196) Dellinger, "Twitter suspends 'Gateway Pundit' Jim Hoft."

26. (page 200) Jeremy Barr, "Newsmax issues sweeping 'clarification' debunking its own coverage of election misinformation," *Washington Post*, December 21, 2020, <https://www.washingtonpost.com/media/2020/12/21/newsmax-clarification-smartmatic/>

27. (page 201) Liban Osman, interview by Tom Lyden, Fox 9 Minneapolis-St. Paul, on "Subject of Project Veritas voter fraud story says he was offered bribe," YouTube, October 6, 2020, <https://www.youtube.com/watch?v=WzFGVEEB0Yw>

28. (page 201) Project Veritas (@Project\_Veritas), "Twitter is censoring this video hard," Twitter, November 12, 2020, 2:11 pm, [https://twitter.com/project\\_veritas/status/1327011272605528064](https://twitter.com/project_veritas/status/1327011272605528064); "Civic integrity policy," Twitter Help, January 2021, <https://help.twitter.com/en/rules-and-policies/election-integrity-policy>

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29. (page 202) Shawn Boburg and Jacob Bogage, "Postal worker recanted allegations of ballot tampering, officials say," *Washington Post*, November 10, 2020, [https://www.washingtonpost.com/investigations/postal-worker-fabricated-ballot-pennsylvania/2020/11/10/99269a7c-2364-11eb-8599-406466ad1b8e\\_story.html](https://www.washingtonpost.com/investigations/postal-worker-fabricated-ballot-pennsylvania/2020/11/10/99269a7c-2364-11eb-8599-406466ad1b8e_story.html)

30. (page 203) Ryan Broderick, "A YouTube Video Accusing Dr. Anthony Fauci of Being Part of the Deep State Has Been Viewed Over 6 Million Times in a Week," *BuzzFeed News*, April 15, 2020, <https://www.buzzfeednews.com/article/ryanhatethis/youtube-anthony-fauci-deep-state-coronavirus>

31. (page 203) Naim Kabir, "Dr. Shiva Ayyadurai and the Danger of Data Charlatans," *Medium*, <https://kabir-naim.medium.com/dr-shiva-ayyadurai-the-danger-of-data-charlatans-4f675ffe793c>

32. (page 204) Aaron Keller, "Sidney Powell's 'Kraken' Lawsuit Argues Improbability of 'High Republican, Low Trump' Voting Patterns," *Law & Crime*, November 30, 2020, <https://lawandcrime.com/2020-election/sidney-powells-kraken-lawsuit-argues-improbability-of-high-republican-low-trump-voting-patterns/>

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## Policy

### 6.1 Introduction

Platform policies establish the rules of participation in social media communities. Recognizing the heightened rhetoric and the use of mis- and disinformation during the 2020 election, all of the major platforms made significant changes to election integrity policies, both as the campaigns kicked off and through the weeks after Election Day—policies that attempted to slow the spread of specific narratives and tactics that could potentially mislead or deceive the public, though the efforts were not always successful.

Throughout the election period, a team of EIP analysts evaluated platform policies within three contexts:

- **Actors' Content and Behavior:** The content and behavior that platforms identify fall in or out of behavior that violates their policies.
- **Platform Actions:** What moderation strategies are proportionate to deal with the actors' content and behaviors.
- **Overall Communication of Platform Policies:** How policies are communicated to the public clearly and transparently.

This chapter begins by briefly reviewing and comparing platform policy iterations before and during the 2020 election. We then describe the primary platform interventions, their strengths and weaknesses, and how they were applied to the repeat spreaders in our dataset. From there we discuss misinformation problems that have no clear-cut policy solutions, and conclude with a forward-looking assessment of areas for policy improvement.

## 6.2 Social Media Platform Policy Evolution

Major social media platforms such as Facebook, Twitter, YouTube, Pinterest, and TikTok introduced changes to their community standards in the months leading up to the election and in the aftermath. The timeline below shows the four phases that correspond with larger policy trends across multiple platforms:<sup>1</sup>

- **Phase 0: April 2019–August 2020.** Some platforms introduced or updated their policies on election misinformation. However, the majority of platforms still had sparse, non-specific, or non-existent policies around election-related content.
- **Phase 1: September 2020.** A number of platforms announced the first updates to election-specific policies: making large additions; adding more clarity and specificity; or stating clearly that they will label or remove content that delegitimizes the integrity of the election.
- **Phase 2: Early October 2020.** A month before the election, platforms specified the media organizations they would rely on for determining when races are declared and emphasized removing content that intimidates voters or incites violence. However, they did not distinguish between general and specific calls to action.
- **Phase 3: Late October 2020.** In the days leading up to the election, platforms previewed their Election Day plans. This included providing concrete examples of what labels on content discussing election results will look like.
- **Phase 4: Early November 2020 (post-election).** Platforms released information about the content and behavior they saw and their moderation efforts on and after Election Day; some policies were updated to address post-election claims of election fraud.

Early in the EIP's research, we identified specific categories of potential election misinformation (see Chapter 1) and ranked policy comprehensiveness in each category.<sup>2</sup> Table 6.1 on page 214 and 6.2 on page 215 illustrate the evolution of platforms' policies: the first shows coverage in August 2020; the second shows where the policies stood as of October 28, 2020, right before the election. (Our methodology for platform evaluations—which focused on formal or publicly stated policies for addressing election misinformation—can be found in Appendix F on page 265.)

There are two key findings from this analysis. First, platforms that already had election-related policies strengthened them, while platforms that went into the

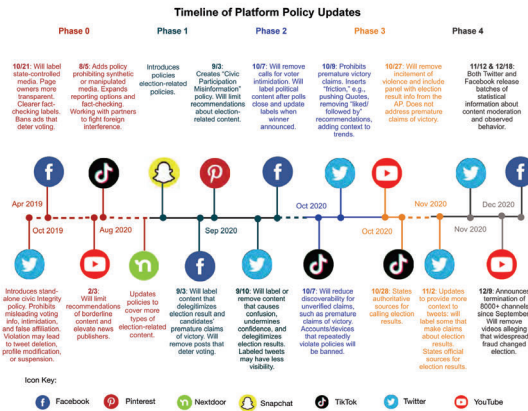


Figure 6.1: A timeline of the four phases of election policy introduced by the platforms in the lead-up to and after the 2020 election.

election without any policies remained without them through the election, with the exception of Snapchat.<sup>3</sup>

Second, many platform policy updates related to the 2020 election cycle focused far more on explicit topical content restrictions than on user behavior. After the discovery of Russian interference in the 2016 election, platforms focused on behavior, such as coordinated inauthentic behavior, rather than content.<sup>4</sup> Even in 2020, Facebook's first election policy announcement focused on its efforts to combat this behavior and "fight foreign interference."<sup>5</sup> Yet much of the misinformation in the 2020 election was pushed by authentic, domestic actors, and platforms shifted their focus to address downstream harms related to the content itself. As a result, most subsequent updates introduced policies related to specific content categories, such as claims of premature victory or posts that promote violence at the polls. The iterative nature of platform policies during the election season also indicates that, despite having seen certain narratives in previous elections that were predicted to appear again in 2020, many platforms did not proactively adapt policies to combat these narratives.



## 6. Policy

	Procedural Interference	Participation Interference	Fraud	Delegitimization of Election Results
Facebook	Comprehensive	Comprehensive	Comprehensive	Non-Comprehensive
Twitter	Comprehensive	Comprehensive	Non-Comprehensive	Non-Comprehensive
YouTube	Comprehensive	Non-Comprehensive	Non-Comprehensive	Non-Comprehensive
Pinterest	None	Non-Comprehensive	Non-Comprehensive	Non-Comprehensive
Nextdoor	Comprehensive	None	Non-Comprehensive	None
TikTok	Non-Comprehensive	None	Non-Comprehensive	Non-Comprehensive
Snapchat	*No election-related policies			
Parler	*No election-related policies			
Gab	*No election-related policies			
Discord	*No election-related policies			
WhatsApp	*No election-related policies			
Telegram	*No election-related policies			
Reddit	*No election-related policies			
Twitch	*No election-related policies			

Table 6.1: The EIP's evaluation of platform policies as they stood in August 2020. A rating of "No election-related policies" means the platform has no explicit policy or stance on the issue; although the platform may have existing policies that address misleading content, we were unable to evaluate how they might apply in an election-related context. We grouped the 15th platform, Instagram, with Facebook, however it is not entirely clear to our team if every election-related policy update made by Facebook also applied to Instagram.

### 6.3 Platform Interventions: Policy Approaches and Application Outcomes

In addition to tracking the evolution of content-based policy changes, the EIP examined the benefits and drawbacks of the tactics that platforms used to enforce their new policies: remove, reduce, and inform. These interventions encompass a spectrum of actions, from removing content and suspending users, to creating friction, to contextualizing with content labels.

Ultimately, we find that platform intervention and users' responses are part of a feedback loop: platforms' observations of actions reveal the need for policies, and policies impact subsequent actions. From July to November, we watched policy shape users' tactics, and users' tactics impact policy. While this reciprocity can make it difficult to stop the spread of misinformation, it can also force platforms to fortify or adapt their policies.

## 6.3. Platform Interventions: Policy Approaches and Application Outcomes

	Procedural Interference	Participation Interference	Fraud	Delegitimization of Election Results
Facebook	Comprehensive	Comprehensive	Comprehensive	Comprehensive
Twitter	Comprehensive	Comprehensive	Non-Comprehensive	Comprehensive
YouTube	Comprehensive	Comprehensive	Non-Comprehensive	Non-Comprehensive
Pinterest	Comprehensive	Comprehensive	Comprehensive	Comprehensive
Nextdoor	Non-Comprehensive	Non-Comprehensive	Non-Comprehensive	Non-Comprehensive
TikTok	Non-Comprehensive	Non-Comprehensive	Non-Comprehensive	Comprehensive
Snapchat	Non-Comprehensive	Non-Comprehensive	Non-Comprehensive	Non-Comprehensive
Parler	*No election-related policies			
Gab	*No election-related policies			
Discord	*No election-related policies			
WhatsApp	*No election-related policies			
Telegram	*No election-related policies			
Reddit	*No election-related policies			
Twitch	*No election-related policies			

Table 6.2: After multiple iterations of policy updates, the EIP's final evaluation of platform policies as of October 28, 2020. Listings in red indicate a change in policy from the start of our monitoring period. We grouped the 15th platform, Instagram, with Facebook, however it is not entirely clear to our team if every election-related policy update made by Facebook also applied to Instagram.

### Platform Moderation Approach: Remove

The most punitive moderation tools at a platform's disposal are content removal and account suspensions. "Remove" can be applied to actors for several reasons: accounts can be suspended for inauthentic identities, coordinated inauthentic behavior, or repeatedly violating the community guidelines—such as the repeat spreaders discussed in Chapter 5.

The intention behind this type of moderation is to prune false or misleading information at its source. It is often used to address content that can have the greatest real-world harm, and platforms were committed to removing calls for interference in the election process that may lead to violence. In our dataset of tickets, incitement to violence had the highest rate of content or account removal.

Despite what appeared to be clear policy to penalize or remove repeat spreaders and high-profile disinformation actors, platforms appeared to shy away from using this particular intervention. In some cases, this was a result of a variety of "newsworthiness" exceptions, which allowed some high-profile repeat spreaders, including politicians, to evade bans.<sup>6</sup> Yet many of the repeat spreaders we saw were not politicians.

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**Platform Moderation Approach: Reduce**

The second moderation intervention is to “reduce” the distribution of policy-violating content so that fewer users see it—to insert “friction.” This type of intervention may include methods such as downranking content so that it appears lower in a user’s feed or preventing sharing capabilities to reduce the spread of certain content.

Several platforms employed friction leading up to the election. Twitter introduced a series of changes, including turning off the ability to reply, retweet, or like a tweet that violated the policy.<sup>7</sup> Similarly, TikTok redirected search results and hashtags, such as #RiggedElection and #SharpieGate, that violated its community guidelines, preventing users from finding others who use the terms.<sup>8</sup> Facebook supplied additional context to content-sharing features by warning people when they share old content links, a common pattern seen in misinformation. This Facebook product feature demonstrates how friction can also go hand in hand with informing users, discussed more below.<sup>9</sup>

Policies introducing friction can be particularly helpful around networked framing, where platforms face not one piece of content but rather the conglomeration of often countless instances of misinformation or hard-to-verify information. If looked at like a narrative puzzle, individual pieces are less consequential than the whole image—platforms must have the insight to see the puzzle before it is formed. By expanding friction policies to address narratives rather than individual pieces of content, platforms stand a better chance at reducing the negative impact of networked framing.

Although the EIP does not have insight into how well these friction-inducing policies reduced the spread of misinformation, Twitter stated that from October 27, 2020, to November 11, 2020, they saw an estimated 29% decrease in quote tweets of labeled tweets, perhaps due in part to a prompt that warned people prior to sharing.<sup>10</sup>

**Platform Moderation Approach: Inform**

Content labels were the most commonly used policy intervention by Facebook during the 2020 election and were used by Twitter on approximately 300,000 pieces of content.<sup>11</sup> Though labels permit policy-violating content to stay on a platform, they may reduce distribution and alter how users interact with content.

The EIP observed four distinct issues related to labeling practices during the 2020 election. First, some platforms struggled to apply labels uniformly: content identical in substance was labeled in some instances but not others. Labels signal that something may be false or misleading. If some content is unlabeled,

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beled, it may give the impression that it might be true—an “implied truth effect”—unintentionally giving credence to misleading content.<sup>12</sup>

Lack of uniform labeling leads to another challenge: mislabeling. Some platforms use automated systems—AI—to detect and label content. However, AI sometimes fails to distinguish between content that violates policies and content that does not. For example, Facebook used AI to automatically label most election-related content with a generic label: “Visit the Voting Information Center for voting resources and official election updates.” While the AI did label some content as false, the generic auto-label was applied more frequently. In fact, content that would more appropriately be labeled as “false” was instead tagged with the “Voting Information Center” label. The AI’s inability to distinguish false or misleading content from general election-related commentary may have diminished the value of Facebook’s labeling policy entirely. On balance, AI-driven labeling is another flaw in platforms’ policy approach to identifying misinformation.<sup>13</sup>

Second, inconsistent label language and placement impedes platforms’ attempts to reduce the spread of misinformation. Varied language can inspire confusion and speculation about platforms’ intent, while problematic placement and design may obscure labels from view.

Inconsistent label language can be particularly problematic, especially against the backdrop of an ongoing, hyperpartisan battle over content moderation. For example, in May 2019, Twitter marked a handful of President Trump’s tweets with a relatively neutral label: “Get the facts about mail-in ballots.” But in October, when President Trump tweeted similar content, Twitter changed the labels: in contrast to the previous passive language, Twitter applied a label that read, “Learn how voting by mail is safe and secure,” complete with an embedded link to voting resources.<sup>14</sup>



Figure 6.2: President Trump’s tweets, both violative of Twitter’s civic integrity policy, labeled with different language.

However, the shift occurred without explanation from Twitter, and repeat

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spreaders speculated about Twitter's purported political agenda in its wake. While changes in label language are appropriate responses to misinformation, lack of context and documentation of these changes, or confusing rollouts, may trigger distrust, leading users and media outlets to speculate about a platform's motives rather than consider the veracity of the content.<sup>15</sup> Notably, subsequent updates to Twitter's label language, such as those responding to official election results, came with official statements that previewed what these labels would look like.<sup>16</sup>

Similarly, label location is a notable design weakness: because location is not mandated by policy, aesthetics seems to be the primary concern. Thus, some platforms put labels below the flagged content instead of directly above it. Because users have varied hardware and personalized software (e.g., text size, speech-to-text), labels placed on the bottom may appear off-screen—or content could be screen-captured without its bottom label and shared as if it had not received a label at all. Further, users may click away from the post before even seeing a label at the bottom. Although we cannot say with certainty whether labels are effective measures of deterring users' belief in misinformation, placing labels at the bottom of misleading posts risks the foreclosure of any possibility of deterrence.

Third, the EIP additionally observed that when platforms were slow to label, misinformation spread quickly, achieving wide distribution before a platform took action. Difficulty with fact-checking and verification, among other issues, often gave repeat spreaders with large followings the space to quickly circulate false narratives as platforms deliberated the appropriate response. For example, Twitter permitted a number of Trump's misinformation-riddled tweets to go unlabeled for several hours after they appeared on his timeline. Between the time of posting and the label's application, Trump's tweets were retweeted, quote tweeted, and shared tens of thousands of times.<sup>17</sup>

Finally, the EIP observed inconsistency of label implementation between platforms, even when they shared similar content-labeling policies. This is one component of the cross-platform dynamic identified in previous chapters. Ultimately, discrepancy in labeling across platforms creates an opportunity for misinformation to thrive. People are users on multiple platforms, and are thus forced to determine what the presence or absence of a label on one platform versus another means about the truth of election-related content.

### Platform Interventions vs. Repeat Spreaders and Influencers

As Chapter 4 and 5 lay out, the structure of mis- and disinformation includes both top-down prominent accounts as well as bottom-up participation. In the 2020 election, repeat spreaders played a key role in both elevating crowd-sourced

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stories and providing a frame to interpret them. This section highlights how platform policies set the rules for engagement, and how gaps in policies can be exploited by repeat spreaders.

Repeat spreaders sometimes face consequences for their violations, such as content labels or removal, after platforms take the user's history and the severity of infringement into account. However, in the dataset of repeat spreaders introduced in Chapter 5 we saw that very few Twitter accounts were actually removed—only four including President Trump's as of February 2021—and that many of them are still active on other platforms. Additionally, the proliferation of misleading and false narratives suggests that the policy interventions outlined above were not successful.

Central to this issue is that repeat spreader policies are not clear in two key ways. First, the majority of platforms do not publicly communicate the number of offenses a user must commit before they will take action on the user's entire account (e.g., suspension), not just on their content (e.g., labeling). While platforms like Facebook have an internal strike system for offenses, at the time of the election YouTube was the only platform that, in the form of its three-strike rule, publicly placed clear limits.<sup>18</sup> The lack of transparency means that we also do not know the type of action to expect against an account after a certain number of violations. We do not know, for example, when a suspension will be temporary versus permanent.

Second, it is also unclear how public interest exemptions may play into repeat spreader policies. Platforms such as Twitter and Facebook have policies that exempt certain content from elected and government officials from being removed;<sup>19</sup> however, we do not know if or when a government official account would be suspended if it repeatedly violates platform policy. For example, Twitter labeled half of newly elected Representative Marjorie Taylor Green's tweets after the polls closed on Election Day, without moving to suspend her (see Figure 6.3 on the following page).<sup>20</sup>

After the insurrection of the US Capitol on January 6, one of the most prominent repeat spreaders, President Trump, was suspended from a number of platforms; Twitter permanently suspended his account on January 8.<sup>21</sup> Four days later, Twitter introduced a detailed strike system specifically for the civic integrity policy.<sup>22</sup> It is unclear if Twitter has applied this new policy since its creation, or if they will expand its strike system to other policy areas, such as COVID-19 misinformation. However, this new policy reflects a robust adaptation for responding to repeat spreaders.

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Figure 6.3: A sample of tweets by Representative Majorie Taylor Green on November 4, 2020. (Note: these are selected tweets, not an image of her timeline. Some of her tweets in this short time period were not labeled.)

## 6.4 Mis- and Disinformation Problems Without Clear Policy Solutions

Even with these policies in place, with full and consistent implementation, other obstacles to preventing and containing the spread of mis- and disinformation exist. As platforms, researchers, and official policymakers work to protect the integrity of our elections, it is important to recognize those obstacles for which, at this moment, there may be no clear policy solution. These include cross-platform complexities, the use of non-falsifiable content, backlash against platform interventions ("techlash"), and organized outrage.

### Cross-Platform Complexities

Much of what we have discussed up to this point relates to policy challenges faced by each individual platform. However, as discussed in Chapters 4 and 5, the platforms, combined, form an information ecosystem through which content moves; therefore, the cross-platform spread of misinformation cannot be solved through intervention by one platform alone. Prior to the 2020 election, US government agencies and several platforms met periodically to communicate the standards and observations of internal trust and safety teams, which resulted in a joint statement noting the collaborative work.<sup>23</sup> However, while the group committed to discuss active threats throughout and following the election, it remained the responsibility of each company to enforce measures to mitigate misinformation. Ultimately, platforms do not transparently outline nor allow independent assessment of how they engage in sector-specific, cross-platform information sharing.

Important legal ramifications such as user privacy and antitrust laws make this collaborative environment difficult. Another challenge is that some platforms, such as Parler and Gab, do not have content moderation policies or even intentions to moderate. Lastly, as legal scholar Evelyn Douek outlines in her work “The Rise of Content Cartels,” there are drawbacks to private corporations setting the rules of permissible speech across platforms, regardless of how effective they may be.<sup>24</sup>

### Use of Non-Falsifiable Content

The election information ecosystem was replete with non-falsifiable claims—such as those from anonymous whistleblowers or a “friend of a friend.” These claims can be the most difficult to fact-check, and the current policies in place are insufficient to fully address hard-to-verify content.

Platforms use fact-checking partners to surface and verify false statements, but unfalsifiable information can easily fall through the cracks. Facebook’s fact-checking program, for example, identifies and addresses “particularly clear hoaxes that have no basis in fact”—a relatively strict threshold of falsifiability—and “is not meant to interfere with individual expression” on the platform.<sup>25</sup> The problem lies, however, at the intersection of falsehood and personal experience, forcing platforms to either over moderate at the risk of removing personal content that is unfalsifiable, or under moderate and allow this potentially misleading material to proliferate. Some platforms such as TikTok are developing mechanisms to limit the distribution of claims that can’t be verified or when fact-checking is rendered inconclusive.<sup>26</sup> These mechanisms are important, but they need to be enforced quickly and at scale. Actors will continue to frame misinformation as personal and unfalsifiable experiences, some for political



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gain, as long as the unverified-content gray area exists in platform policies and actions.

### Techlash Against Policy Interventions

As fact-checking becomes increasingly important to the information ecosystem, platform interventions have often received a “techlash,” and accusations of censorship, mostly from the conservative right.<sup>27</sup> For example, after a slew of Marjorie Taylor Greene’s posts were labeled as disputed and possibly misleading, as described above, Greene posted a claim that Twitter had “censored” her; she included a screenshot of the “censored” tweets.<sup>28</sup> In some cases, platform fact-checking labels were weaponized to make the case that platforms allegedly have political agendas, and thus the fact-checks should be considered untrustworthy and disregarded. EIP analysts observed that when some accounts were removed, the account’s followers expressed that the mere fact of its removal was proof of a greater conspiracy to “cover up the truth.” This appeared to contribute to meta-misinformation about the intentions of the platforms. Continued lack of transparency and perceived inconsistencies behind account takedowns may further entangle platforms with the narratives they hoped to nix.



Figure 6.4: This tweet from Congressman Kevin McCarthy demonstrates the backlash to platform action against one of President Trump’s tweets (first reported in the *Washington Post* on June 23, 2020)<sup>29</sup>

In some respects, these continued claims of platform censorship have fuelled the movement of influencers to smaller, obscure, or specialized platforms like Parler, where there is less moderation and far fewer fact-checks.

### Organized Outrage

Social media plays a critical role in facilitating legitimate protest. However, features such as Groups, event pages, and hashtags can be used to spread misinformation and stoke outrage to galvanize offline action. In the 2020 election, protesters, motivated by election misinformation and conspiracy theories, swarmed polling locations and chanted hashtags they read online, such as #Sharpiegate and #StoptheSteal.

This organized outrage raises the question of how platforms can proactively identify which hashtags or speech are likely to result in organizing offline action with the potential for violence. While applying a label can create friction before content gains enough attention to incite offline action, platforms may struggle to move beyond the reactive and to have the political and cultural expertise to quickly and effectively contextualize hashtags, Groups, and event pages.

As the insurrection of the US Capitol on January 6 demonstrates, the organizing leading up to the violent acts took place on multiple platforms. Facebook provided a unifying feature in the form of Groups, which, like the other large platforms, contributed to giving the outrage a shape and form even when the Group was taken down. This event underscores the important need for platforms to not only assess the calculus of what is actionable content but also ensure that their policies are implemented.

## 6.5 Primary Areas for Policy Improvement

In addition to how policies are implemented, platforms' methods of communication and the transparency of their data are incredibly important to election-related policies. This section discusses how issues related to policy clarity and transparency at times undermined platforms' goal of reducing the spread of mis- and disinformation.

### Clarity

It is not enough simply to have a policy and a moderation regime in place; the community governed by the rules must understand both in order for them to be most effective. Despite improvements to policy comprehensiveness and a shift toward some proactive policy implementation ahead of the election, platforms struggled with straightforward policy language and centralizing all policy updates. With the exception of a few platforms, such as Twitter and Pinterest, platforms lacked a centralized location for all of their election-related policies. Instead, policies were spread across blog posts, excluded from formal community standards entirely, or disseminated in different sections of platforms' terms of service. Platforms also failed to announce policy updates uniformly.

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Some updates were announced through blog posts, some through the personal social media accounts of top executives, and some not at all.<sup>30</sup>

The absence of a central and public mechanism to announce and host policy changes makes it difficult to track changes over time. Without clear documentation, policy changes run the risk of confusing users as to what is and is not permissible election-related speech.

The presence of vague and undefined terms in policy language also poses a clarity problem. For example, in October 2020, TikTok updated its policy to prohibit any “attempts to intimidate voters or suppress voting.”<sup>31</sup> Yet outside of general incitements to violence, TikTok did not sufficiently define what voter intimidation or voter suppression looks like on its platform. However, we recognize an encouraging trend: platforms are making more adjustments to improve clarity (at times successful, other times less so) from when they first began updating their policies. Ultimately, a focus on reducing generalized language and streamlining policy availability is a step in the right direction.

### Transparency

Although the EIP could trace content, identify policy shifts, and engage with stakeholders, we were left trying to answer one particularly important question: are the intervention methods effective? And how do platforms measure that?

While a number of internet platforms adopted election-related content labeling policies, those labels’ effectiveness in combating false narratives is difficult for external researchers to assess. As of December 2020,<sup>32</sup> most major platforms had not released data about the volume and consistency of labeled content. Without information about where labels appeared, who interacted with those labels, and what those interactions could imply, researchers are left to formulate a best guess about the effectiveness of platforms’ most substantial intervention effort. One study asserts that the universality of label application is necessary to avoid the “implied truth effect”; however, it is impossible to replicate in the wake of the 2020 election, and restricted access to platform data impedes any further study. Over the past two years, many platforms have continued to limit access to and the functionality of their public application interfaces (APIs).<sup>33</sup> and while their large-scale instructed datasets, or adaptive algorithms, can provide important insights into the online information ecosystem, these datasets are often compiled behind closed doors. This raises concerns about the independence, exhaustiveness, and validity of research and monitoring activities that rely solely on this data.

Increasing transparency in moderation practices will increase public auditability and the subsequent perceived legitimacy of platform decisions. As the presence of mis- and disinformation online is not likely to decrease in the coming years,

transparency is a prerequisite for any platform seeking to effectively intervene in its influence.

## 6.6 Platform Policy Moving Forward

Policy shapes the propagation of information by impacting what content is permitted, and to what extent it receives widespread distribution. As we have discussed, the major social platforms recognized the risks of election misinformation and adjusted their policies in several key ways to try to prevent misleading narratives from taking hold, or violence from occurring. They moderated by removing misleading or false content, reducing its distribution, and informing and contextualizing content for users. Despite these efforts, accounts with large and loyal audiences repeatedly took advantage of gaps in platform policy: repeat spreaders packaged false claims of voter fraud into hard-to-verify narratives that escaped timely fact-checks, and President Donald Trump himself—covered under a newsworthiness exemption—was a key player in the incitement that ultimately led to violence at the Capitol on January 6, 2021.<sup>34</sup> The consequences for repeatedly violating platform policy did not appear to deter these actors, in part because the consequences themselves were inconsistently applied.

In a remarkable turn of events, Twitter removed the sitting President of the United States from its platform on January 8. After the insurrection at the Capitol, platforms suspended President Trump's account, and thousands of others, for "risk of future incitement of violence."<sup>35</sup> This action has sparked a public conversation about policy and power, including a broader discussion of how to weigh the need to remove accounts spreading misinformation—including, at times, those of democratically elected politicians—against stifling legitimate discourse and free expression.

Ultimately, it is impossible to separate the events at the Capitol on January 6 from the narratives around voter fraud and a rigged election that began much earlier. As online speech turned into offline action, platform policy was the one line of defense, outside of the partisan leadership fuelling the misinformation, that could deter this progression. Given the significant decision to suspend a sitting (albeit outgoing) president's accounts on Instagram and Facebook indefinitely, Facebook has referred its action to the Oversight Board.<sup>36</sup> The decision will most likely not only shape future platform policy decisions concerning politicians in the US but also set a precedent for how to approach the accounts of other global leaders.

There isn't a simple panacea for these policy weaknesses. Content moderation policies will continue to evolve, as they have after the January 6 insurrection at the Capitol. The next election will have its own unique set of misinformation narratives, yet many of the tactics, dynamics, and basic structures of these narra-

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tives will likely remain the same. Therefore, platforms must set pre-established, clear, and transparent rules rather than waiting to react to events as they unfold. In the next chapter we discuss specific recommendations for policymakers in light of the narrative, tactical, and policy findings in this report.

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## Notes

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32. (page 224) On November 12, 2020, Twitter released statistics about the number of election-related posts it labeled or flagged during the election period. However, it did not provide a searchable database of labeled tweets. Facebook revealed some information about user "clicks" on its labels, but this means little in the absence of publicly available "click" data and reveals nothing about users'

cognitive responses to the messages those labels signal or confer. See Gadde and Beykpour, "An update on our work around the 2020 US election."

33. (page 224) In a move away from limiting API access, on January 26, 2021, Twitter announced an improved API with advanced capabilities for the academic research community. See Adam Tornes and Leanne Trujillo, "Enabling the future of academic research with the Twitter API," Twitter blog, January 26, 2021, [https://blog.twitter.com/developer/en\\_us/topics/tools/2021/enabling-the-future-of-academic-research-with-the-twitter-api.html](https://blog.twitter.com/developer/en_us/topics/tools/2021/enabling-the-future-of-academic-research-with-the-twitter-api.html)

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## Responses, Mitigations and Future Work

### 7.1 Introduction

The Election Integrity Partnership was born out of a collective challenge. The responsibility of mitigating election-related mis- and disinformation is shared, and thus the observations and recommendations in this chapter span government, media, social media platforms, and civil society, and the organizing functions between each.

There isn't any single catch-all policy that will rid elections—much less democracy—of false or misleading information. However, institutions and individuals responsible for election processes, or responsible for portions of the information ecosystem, can each adopt policies (some modest, some transformative), to build more resilience to misinformation.

Doing nothing is not an option. A government by and for the people depends on the people coming together around trustworthy information in order to make informed decisions—including around electing leaders. There is no doubt of the causal impact mis- and disinformation about the 2020 US elections played in the violent insurrection at the United States Capitol on January 6, 2021. Not pursuing structural policy change will accelerate our country's slide toward extremism, erode our shared national and inclusive identity, and propel yet more individuals toward radicalization via mis- and disinformation. The problem is larger than elections: it spans politics, self-governance, and critical policy areas, including public health.

In many ways, the Election Integrity Partnership was inspired by past recommendations for addressing election-related vulnerabilities. For example, the

## 7. Responses, Mitigations and Future Work

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Senate Select Committee on Intelligence's second of a five-volume report on foreign-based disinformation, published in 2019, included a bipartisan recommendation:

The Committee recommends that social media companies work to facilitate greater information sharing between the public and private sector, and among the social companies themselves about malicious activity and platform vulnerabilities that are exploited to spread disinformation. **Formalized mechanisms for collaboration that facilitate content sharing among the social media platforms in order to defend against foreign disinformation, as occurred with violent extremist content online, should be fostered.** As researchers have concluded: "Many disinformation campaigns and cyber threats do not just manipulate one platform; the information moves across various platforms or a cyber-attack threatens multiple companies' network security and data integrity. There must be greater cooperation within the tech sector and between the tech sector and other stakeholders to address these issues."<sup>1</sup> (Emphasis added.)

The Election Integrity Partnership was designed to do just that: formalize collaboration among organizations to protect against misinformation. The recommendations in this chapter are tailored to the Election Integrity Partnership's scope, specifically, identifying and mitigating misinformation related to US elections. However, many of them have broader potential in building toward a normative approach for elections, social media, and information access in free and open societies.

### 7.2 Government

While the responsibility for accurate information is spread across society, the responsibility for protecting elections is singularly that of the government. This set of broad recommendations spans a complex system of state and local election systems feeding into the federal system and focuses on dual responsibilities of facilitating and providing information about elections.

#### The Executive Branch

- Strengthen interagency coordination by elevating election security as a national security priority and reaffirming the critical infrastructure designation for election systems, allowing the Cybersecurity and Infrastructure Security Agency (CISA) to further prioritize resources and support to state and local officials.

- Solidify clear interagency leadership roles and responsibilities. CISA should remain the lead on domestic vulnerabilities and coordination with state and local election officials; the Office of the Director of National Intelligence should coordinate intelligence assessments and lead the Intelligence Community on foreign-based threats; the Department of Justice and Federal Bureau of Investigation should maintain investigation and law enforcement leadership for domestic and international threats. The Election Assistance Commission should remain in an amplifying role, pushing best practices and critical information out broadly to the election community.
- Create standards and mechanisms for consistent disclosures of mis- and disinformation from foreign and domestic sources, including via CISA's Rumor Control and joint interagency statements related to foreign-based threats.<sup>2</sup>
- Maintain a threat assessment of the current election mis- and disinformation state of play, informed by collaboration with social media platforms. Update this assessment during federal election cycles and release it to election officials, social media platforms, civil society, and members of the media.

### Congress

- Election security should be prioritized over politics. Make best efforts to separate the substantive and critical issue of election security from the electoral politics that every member of Congress is engaged in during each election. For example, Congress should authorize all non-emergency election-related bills one year prior to the next regular election.
- Pass existing bipartisan proposals with increased appropriations marked for federal and state election security, specifically resources for federal agencies directly engaged in election security and more broadly toward providing coordinated election security assistance and support to state and local officials (see next section).
- Codify the Senate Select Committee on Intelligence's bipartisan recommendations on depolarization and public official conduct, as noted in Volumes 3 and 5 of the Committee's exhaustive report on foreign influence in the 2016 election.<sup>3</sup>
- Strengthen digital expertise at federal regulators with election-related jurisdictions, including the Federal Elections Commission and Federal Communications Commission, to improve enforcement of existing regulations.

**State and Local Officials**

Prepare a tiered communications plan that includes:

- A start-to-finish story for each voter's ballot. This should include information about how to register to vote; ensuring one's registration is up to date; where, when, and how to vote; and how votes will be counted and reported, including the timing of that process.
- Processes for reporting misinformation to social media platforms and government partners.
- Establish trusted channels of communication with voters. This should include a .gov website and use of both traditional media and social media. This effort should include:
  - A single authoritative source (webpage or social media account) for election information. That source's information should be specific to each election and regularly updated; it should also provide data and evidence regarding the security and integrity of the election.
- Ensure that all votes cast are on auditable paper records. Post-election audits should be conducted after each election.

**7.3 Media**

Traditional media remains the primary means of information distribution in the United States. As such, newsrooms have an obligation, rooted in traditional journalism ethics and practices, to accurately and ethically cover election topics, including election misinformation. This task has been complicated by a loss of journalism revenue to social media companies and growing competition with hyperpartisan news sources for reader attention. The following recommendations are for journalists and media professionals covering election-related misinformation.

**Newsrooms**

- Prepare journalists to encounter mis- and disinformation. This training should include accepted definitions, attribution standards, how to avoid inadvertent amplification, and more.
- Coordinate reporting across beats in the newsroom. Election reporting relies on a combination of campaign embeds, White House and congressional

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7.4. Social Media Platforms and Technology Companies

reporters, national security reporters, technology reporters, and others. Organizations should handle misinformation uniformly and professionally.

- Anticipate misinformation (“threatcasting”) and establish guidelines for combating it (for example, the *Washington Post*’s guidance on hacked material or BuzzFeed’s guidance on QAnon descriptions).<sup>4</sup>
- Formulate proactive communications for instances when genuine reporting is labeled “fake news” or disinformation. Newsrooms should address the issue but not accept the premise of the charge.
- For written media, avoid headlines that mischaracterize or hyperbolize reporting, especially in breaking news events like elections. Include the fact-check in the headline when possible, e.g., “Trump Falsely Declared Victory.”

#### News Studies and Research

- Develop a wider vocabulary for differentiating between traditional news media and hyperpartisan or unreliable news. A new lexicon could help social media sites better label information.
- Develop case studies on misinformation coverage (good and bad) of the 2020 election to educate and inform current and upcoming journalists.

### 7.4 Social Media Platforms and Technology Companies

In their relatively brief existence, social media platforms have become a critical part of the democratic process, facilitating political organizing, citizen engagement, campaign communications, and overall information access. Mitigating election-related misinformation in this space is particularly challenging given the distributed nature of the social media ecosystem—anyone with internet access can consume content and post their own—and the speed by which unverified or unverifiable information can spread. As it stands, there is a high degree of variance in how social media platforms address misinformation, the resources they devote to combating it, and their technical policy options. Social media platforms won’t be able to root out election-related misinformation entirely, but these policy recommendations can help. The following recommendations for platforms are more lengthy and specific than previous sections because this area currently has the fewest normative practices compared to the others.



## 7. Responses, Mitigations and Future Work

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### Accessibility

- Tell users about a platform's misinformation policies. In addition to the policies themselves, platforms should provide both rationales and case studies. Policies specific to an event or topic (e.g., elections, COVID-19) should be grouped in one location.
- Provide proactive information regarding anticipated election misinformation. For example, if researchers expect a narrative will emerge, platforms should explain that narrative's history or provide fact-checks or context related to its prior iterations.

### Transparency

- Share platform research on misinformation counter-measures with academics, civil society and the public. Where counter-measures have been effective, reveal that; where they have fallen short, reveal that as well. If efficacy is unknown, take steps to determine it.
- Enable access for external researchers to removed or labeled content, including exhaustive and rapid search capabilities.
- Partner with civil society organizations. Listen to their suggestions and support them when possible.
- Provide greater transparency about why something is removed or censored. Sharing the evidence to support why the content was taken down would be helpful for researchers as well as the public.

### Cross-Platform Communications

- Support independent cross-platform coalitions that track cross-platform misinformation. These coalitions can focus on specific topics (such as vaccine disinformation) or regions and can coordinate with government officials and civil society to respond to growing narratives.

### Policy on Repeat Spreaders

- Establish clear consequences for accounts that repeatedly violate platform policies. These accounts could be placed on explicit probationary status, or a mixture of monitoring and sanctions.

- Publicize the different thresholds of policy offenses. For example, YouTube and Twitter use a strike system. Any such system should transparently represent to users their current status and should describe what counts as a strike against monetization, or leads to suspension.
- Prioritize quicker action on verified or influential accounts if they have already violated platform policies in the past.
- Consider implementing holding areas for content from high-visibility repeat spreaders, where content can be evaluated against policy before posting.
- Reevaluate policies related to blue-check influencers with significant reach, particularly on issues such as incitement to violence. These accounts should arguably be held more stringently to stated policies than the average user—rather than receiving repeated exemptions—because of the amount of attention they command and action they potentially drive.

#### Policy Enforcement

- Ensure platform labels are consistently applied to all product features, including ephemeral content such as stories or livestreams.
- Labels should make clear which policy the content violates.
- Partner with civil society organizations to localize fact-checks and labels, especially in non-English languages or niche communities.
- Apply an interim label to content that is in the queue for fact-checkers, or is tied to an emerging event, noting that it should be approached with caution. For content that recurs, a label can link to a page that discusses previous variations of the claim.
- Anticipate misinformation where possible, particularly surrounding pivotal events such as elections. Revisit applicable policies in advance.

#### Election-Specific Policies

- Specify election-specific policies' duration and geographic jurisdiction.
- For US elections, anticipate state-level premature claims of victory.
- Prioritize election officials' efforts to educate voters within their jurisdiction and respond to misinformation. This could include the promotion of content from election officials through curation or advertisement credits, especially in the lead-up to Election Day.

### 7.5 Civil Society

Civil society in the United States plays an essential role in the process and functions of elections, as well as in the accountability of institutions directly responsible for the stewardship of American democracy and the information environment that facilitates it. Civil society includes a wide range of actors from academia, public interest groups, community leaders, faith-based groups, and other non-governmental organizations. Most notably, civil society has led in providing better understanding and best practices regarding election-related misinformation and can continue to play a leading role in building resilience to it in the long term.

#### Overarching

- Disclose methodology and standards for technical research. Incomplete, misleading, or false findings, even when well intentioned, often exacerbate the problem, especially in fast-moving information environments around elections.
- Similar to the recommendation made to media organizations, increase awareness about misinformation and coordinate among civil society groups with varied expertise on elections.
- Where misinformation is pervasive and touches on many topics, clearly communicate the scope of engagement on the issue. As an example, the Election Integrity Partnership's scope was narrowly focused on misinformation related to the process and results of the 2020 US elections, as opposed to false information in American political discourse more broadly.

### 7.6 Conclusion

The 2020 election demonstrated that actors—both foreign and domestic—remain committed to weaponizing viral false and misleading narratives to undermine confidence in the US electoral system and Americans' faith in our democracy. Mis- and disinformation warped the country's public discourse both before and after Election Day, spreading through online communities across all social platforms. Influencers and hyperpartisan media cultivated loyal, polarized audiences, forming echo chambers where narratives of massive fraud and a stolen election strengthened at each retelling. These narratives have consequences. On January 6, 2021, President Trump's supporters stormed the Capitol in an attempt to prevent the finalization of the Electoral College results and the peaceful transition of power. A small group of radicalized citizens had been repeatedly

told that the election's results were fraudulent; they mobilized against their own democracy while claiming to protect it. A larger group watched those events and cheered; others concluded, despite MAGA hats and Trump flags, that the insurrection was the work of their political opponents.

State and local election officials throughout the country and across the political spectrum worked hard to counter malign narratives. Tragedies such as the January 6 insurrection suggest that, despite their best efforts, democratic processes remain vulnerable. The events, narratives, and dynamics documented in this report underscore the need for a collective response to the false and misleading narratives that precipitated the attack.

The EIP was formed out of this conviction—that the challenge of misinformation is dynamic, networked, and resilient—and that to address it, we need to act quickly and collectively. While the Partnership was intended to meet an immediate need, the conditions that necessitated its creation have not abated, and in fact may have gotten worse. Academia, platforms, civil society, and all levels of government must be committed, in their own ways, to truth in the service of a free and open society. All stakeholders should focus on predicting and pre-bunking false narratives, detecting mis- and disinformation as it occurs, and countering it when appropriate.

The EIP's collaborative model was tailored toward a specific event—Election 2020—and designed specifically to aid election officials, election security stakeholders, and civil society, but we believe the model could have further utility. As our report reiterates, there are structural dynamics and policy frameworks in the online information ecosystem that have long lent themselves to the viral spread of false and misleading information and to the facilitation of polarized communities; addressing specific content is, in many ways, secondary to addressing these infrastructure challenges. In the meantime, false and misleading narratives proliferate about a wide variety of societally impactful topics. Shifting focus to address specific other topics may require modification to the operation of the Partnership, such as reallocating analytical resources and research cadence; however, EIP's novel structure, enabling rapid-response analysis and a multi-stakeholder reporting infrastructure, could prove effective to many information spaces blighted by pervasive misinformation.

In the end, we hope this report's enduring value lies not just in its exposition of this election story, but in its illumination of this overarching story—of declining trust, weakened gatekeepers, social polarization, and the protean challenge of viral misinformation amidst a skeptical and networked public. Given the enormity of the challenge, we recognize the need for a whole-of-society response. The EIP, in its structure and its operations, offered a first measure in service of that call: it united government, academia, civil society, and industry, analyzing across platforms, to address misinformation in real time. The lessons from EIP

7. Responses, Mitigations and Future Work

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should be both learned and applied. The fight against misinformation is only beginning. The collective effort must continue.

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## Notes

1. (page 234) Select Committee on Intelligence, Russian Active Measures Campaigns and Interference in the 2016 U.S. Election, S. Rep. No. 116-XX, volume 2, at 78 (2019), [https://www.intelligence.senate.gov/sites/default/files/documents/Report\\_Volume2.pdf](https://www.intelligence.senate.gov/sites/default/files/documents/Report_Volume2.pdf)
2. (page 235) “#Protect2020 Rumor vs. Reality,” Cybersecurity and Infrastructure Security Agency, accessed December 10, 2020, <https://www.cisa.gov/rumorcontrol>
3. (page 235) Select Committee on Intelligence, Russian Active Measures Campaigns and Interference in the 2016 U.S. Election, S. Rep. No. 116-XX, volumes 3 and 5 (2019), <https://www.intelligence.senate.gov/publications/report-select-committee-intelligence-united-states-senate-russian-active-measures>
4. (page 237) Joe Pompeo, “‘Connect the Dots’: Marty Baron Warns Washington Post Staff About Covering Hacked Materials,” *Vanity Fair*, September 23, 2020, <https://www.vanityfair.com/news/2020/09/marty-baron-warns-wapo-staff-about-covering-hacked-materials>; Drusilla Moorhouse and Emerson Malone, “Here’s Why BuzzFeed News is Calling QAnon a ‘Collective Delusion’ From Now On,” *BuzzFeed News*, September 4, 2020, <https://www.buzzfeednews.com/article/drummyhouse/qanon-mass-collective-delusion-buzzfeed-news-copy-desk>

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## Definitions

**Misinformation** is information that is false, but not necessarily intentionally false.<sup>1</sup> Misinformation is at times used as an umbrella category for false rumors, disinformation, and other types of false and misleading information.

**Disinformation** is false or misleading information that is purposefully seeded and/or spread for an objective—e.g., a political or financial objective.<sup>2</sup> Disinformation may mislead through its content, or may work by deceiving its audiences about its origins, purpose, or the identity of those who produced it. It is often built around a true or plausible core, layering factual information with small falsehoods or exaggerations (see Bittman, 1985).<sup>3</sup> It also typically functions as a campaign—a set of information actions, rather than a single piece of content. The key difference between disinformation and other forms of misinformation is intent, in that disinformation is intentionally produced and/or spread. Often as a disinformation campaign progresses, it incorporates unwitting participants in its production and spread; therefore, not every entity that spreads disinformation does so with intent to deceive or knowledge that they are spreading false or misleading content.<sup>4</sup>

**Voter Fraud** is the act of fraudulently voting. It includes voting on behalf of someone else, voting when someone is ineligible, voting multiple times, etc. The

<sup>1</sup>Caroline Jack, “Lexicon of lies: Terms for problematic information,” Data & Society Research Institute (2017): 3, 22, [https://datasociety.net/pubs/oh/DataAndSociety\\_LexiconofLies.pdf](https://datasociety.net/pubs/oh/DataAndSociety_LexiconofLies.pdf).

<sup>2</sup>Jack, “Lexicon of lies: Terms for problematic information”; Kate Starbird, Ahmer Arif, and Tom Wilson, “Disinformation as collaborative work: Surfacing the participatory nature of strategic information operations,” Proceedings of the ACM on Human-Computer Interaction 3, issue CSCW (November 2019): 1-26, [doi.org/10.1145/3359229](https://doi.org/10.1145/3359229).

<sup>3</sup>Ladislav Bittman, *The KGB and Soviet Disinformation: An Insider's View* (Washington: Pergamon-Brassey's, 1985).

<sup>4</sup>Bittman, *The KGB and Soviet Disinformation: An Insider's View*; Kate Starbird, et al., “Disinformation as collaborative work.”



#### A. Definitions

term is often used—including within examples in this report—as a catchall for other types of election fraud. Research shows that voter fraud is extremely rare in the United States.<sup>5</sup>

**Election Fraud** suggests a more systematic effort to change the results of an election. It includes orchestrating voter fraud at scale, illegally registering or illegally assisting large numbers of voters, altering vote counts through automatic or manual means, systematically removing or inserting large numbers of ballots to affect an election outcome, etc.

**Electoral Fraud** is a broad term denoting “illegal interference in the process of voting.”<sup>6</sup> Electoral fraud includes ballot stuffing, voter impersonation, vote buying, voter suppression, fraud by election officials, and various other mechanisms of illegally impacting an election. Like “election fraud,” electoral fraud suggests efforts at a scale that could impact election results.

**Voter Suppression** is the process of systematically reducing the ability of a specific group of people to vote. It can work through efforts to make it physically harder to vote (fewer locations, limited time windows), through legal efforts that disenfranchise specific groups (e.g., former felons) and through other mechanisms, including intimidation. In the United States, voter suppression efforts often target Black Americans and other people of color.<sup>7</sup>

**Tickets** were internal reports within the EIP system. They were submitted via “tips” from external partners in the government and civil society, or created through the EIP internal monitoring process. Once a ticket was submitted, our Tier 1 analysts would go through a systematic process to document the claim, determine if it was “in scope,” get a sense of where it was spreading, and attempt to assess the veracity of the underlying claims by locating an external fact-check from election officials, fact-checking organizations, local media, or mainstream outlets. For high priority, in-scope tickets, Tier 2 researchers conducted additional analysis, which included determining the origins of a piece of information, tracking its spread over time, and identifying additional fact-checks as they became available.

A majority of tickets focused on false and/or misleading claims that functioned to diminish trust in election results. These included:

- False claims and unsubstantiated conspiracy theories (e.g., that voting software switches votes without a trace).

<sup>5</sup>“Debunking the Voter Fraud Myth,” Brennan Center for Justice, January 31, 2017, <https://www.brennancenter.org/our-work/research-reports/debunking-voter-fraud-myth>.

<sup>6</sup>Ballotpedia, s.v. “Electoral Fraud,” accessed February 10, 2021, [https://ballotpedia.org/Electoral\\_fraud](https://ballotpedia.org/Electoral_fraud).

<sup>7</sup>ACLU, “Block the Vote: Voter Suppression in 2020,” February 3, 2020, <https://www.aclu.org/news/civil-liberties/block-the-vote-voter-suppression-in-2020/>.

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- Factually valid claims taken out of context and framed in misleading ways to suggest massive voter fraud (e.g., that a large number of ballots had been found in a trash can, when in actuality the ballots were from 2018).
  - Content that amplified and exaggerated small issues (e.g., ballots stolen from a mailbox, discarded mail that contained a small number of ballots, issues with individual voting machines) to support the broader (false) narrative that results could not be trusted.

**Events** are salient occurrences in our physical and/or social worlds. Events are typically bounded in time. We use this term to distinguish between the actual event (e.g., Sharpie pens bleeding through ballots) and the information incidents that feature elements of those events—though they may take shape and spread at different times.

**(Information) Incidents** are distinct information cascades that pertain to a specific event or set of events. We use the term incidents to differentiate between the original event and the subsequent discussion or discussions of that event. Incidents often map to one or more narratives, where the details of an event are mobilized to create or support a specific interpretation—or story about the meaning—of that event.

**Narratives** are stories that connect a series of related events or experiences. Like any good story, narratives typically have characters, scenes, times, and themes. They provide compelling interpretations that can help people make sense of events and experiences.

**Frames** are mental schema that shape how people interpret events. Frames select and make salient some aspects of a situation—and obscure others. Robert Entman enumerates four functions of frames: defining a problem, diagnosing a cause, making a moral judgement, and suggesting remedies.<sup>8</sup> Framing is the act of creating, refining, or challenging a frame. Framing can be used as a strategy to shape how others interpret a situation.

**The “Big Lie”:** Over the course of this project, a majority of the tickets we filed and incidents we analyzed were related to a false metanarrative of massive voter fraud (i.e., election fraud). This false metanarrative was introduced prior to our project’s launch and continues to this day. It was present in President Trump’s summer 2020 tweets claiming that the election would be “rigged” against him and in his January 6, 2021, tweets claiming that the election had been stolen from him. It took shape through a variety of false, misleading, and exaggerated claims that functioned generally to sow distrust in the results—and specifically to

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<sup>8</sup>Robert M. Entman, “Framing: Toward Clarification of a Fractured Paradigm,” *Journal of Communication* 43, no. 4 (December 1993): 51–58; doi.org/10.1111/j.1460-2466.1993.tb01304.x.

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#### A. Definitions

support the allegation of massive voter fraud functioning to “steal” the election from candidate Trump. Looking across the breadth of the online activity to seed and spread these narratives, our research (and that of others; see Benkler et al.’s 2020 paper<sup>9</sup>) has interpreted the “Big Lie” to be a participatory disinformation campaign that incorporated the efforts of President Trump, his family and close supporters, members of right-wing media, social media influencers, and his followers (many of them unwitting participants in this campaign).

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<sup>9</sup>Yochai Benkler et al., “Mail-in Voter Fraud: Anatomy of a Disinformation Campaign,” Berkman Center Research Publication No. 2020-6, Berkman Klein Center, October 2, 2020, [doi.org/10.2139/ssrn.3703701](https://doi.org/10.2139/ssrn.3703701).

## Inter-coder reliability

### B.1 Average Z-scores

Survey Questions (in descending order by z-score)	Z Score
Other Facets: was there anything else notable about this ticket not already covered above?	1.013260305
Why was this ticket created?	0.5973125198
Was there a partisan focus on this ticket?	0.04870033315
Process-based tags: what part of the electoral process is this ticket about?	0.04149633474
Specific Claims or Election-related narratives: is there a specific, recognizable claim that was used in this incident?	0.03772808942
What are the top-level buckets of this incident? Check all that apply.	-0.08453405504
What tactics were used to spread this content?	-0.203993765
What is the estimated number of engagements (cumulative social media shares, retweets, likes, reactions, comments) associated with the ticket?	-0.2505426778
Character-based Tags: who or what is being implicated in this incident?	-0.2664116253
Is this a particularly important ticket that should be included in the final report?	-0.7143693447

Table B.1: The average z-scores for each survey question

## B. Inter-coder reliability

**B.2 Discordant Z-scores**

Survey Question	Choice	Z Score
What tactics were used to spread this content?	This content exaggerates the impact of an issue within the election-process	-2.868919023
Specific Claims or Election-related narratives: is there a specific, recognizable claim that was used in this incident?	None of the above	-2.41007974
Character-based Tags: who or what is being implicated in this incident?	Government Entities	-1.971189991
What are the top-level buckets of this incident? Check all that apply.	Fraud	-1.951240456
Character-based Tags: who or what is being implicated in this incident?	Political affinity group	-1.911341388

Table B.2: From the above questions, choices that experienced the most discord among coders

**B.3 Concordant Z-scores**

Survey Question	Choice	Z Score
Other Facets: was there anything else notable about this ticket not already covered above?	Foreign interference (Unfounded)	1.240684993
Other Facets: was there anything else notable about this ticket not already covered above?	Foreign interference (Confirmed)	1.220735459
Other Facets: was there anything else notable about this ticket not already covered above?	COVID related	1.200785925
What tactics were used to spread this content?	Use of phishing emails or tests	1.180836391
What are the top-level buckets of this incident? Check all that apply.	Premature Claims of Victory	1.140937323

Table B.3: Questions that experienced the most agreement

## Repeat Spreaders— Additional Partisan News Outlets in the Twitter Data

The *New York Post*'s coverage served mainly to introduce narratives involving election fraud, including reporting on unfounded allegations that deceased voters in New York had ballots cast on their behalf. Conservative news outlets DC Patriot (9 incidents) and National Pulse (8 incidents) acted similarly in the promotion of stories revolving around misplaced ballots (DC Patriot) and detailing previous instances of fraud both domestic and foreign (National Pulse).

JustTheNews, a news site run by conservative commentator John Solomon, produced stories that applied political commentary to narratives asserting election fraud and was involved in spreading the Nevada Whistleblower narrative. URLs from the *Washington Times* appear in tweets related to three of the top incidents, reflecting their attention to widely followed election conspiracy theories.

Domains associated with political conspiracy theories include ZeroHedge, which appeared in 10 incidents, which was involved in the spread of the Color Revolution narrative. The *Epoch Times* was cited in a range of misleading “voter fraud” narratives such as alleging that large numbers of people were voting twice and that discarded ballots were evidence of intentional fraud. The website also promoted content related to three large incidents—the Dominion conspiracy theory, and the Sharpiegate and Stop The Steal narratives.

The Fox News website, foxnews.com, was cited in a narrative regarding ballots that went missing in the care of USPS and the spread of Biden's miscontextualized statement regarding fraud protections. Articles for which Fox News was cited often presented factual evidence of a real-world event with an

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C. Repeat Spreaders—Additional Partisan News Outlets in the Twitter Data

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underlying subtext of election insecurity or widespread voter fraud that was picked up and made more explicit in the social media sphere. The spin-off site of Fox contributor Sara Carter ([saraacarter.com](http://saraacarter.com)) was involved in seven similar incidents resulting in over 80,000 retweets. Her content was often more explicit in falsely claiming widespread voter fraud—including a highly speculative article (now removed) that helped to feed the Dominion conspiracy theory.

## Ticket Analysis Questions

### D.1 Tier 1 Analysis Questions

**1: Overall Analyst Description:** What is the content about? Provide a brief description of the narrative being pushed and the tactics used to spread it (platforms, assets, etc.) so that other analysts can understand the content at a glance.

**2: Platform:** What platform(s) does the content appear on? Include links or links to screenshots, if appropriate. What platforms has the content trended on?

**3: Language:** What language(s) is the content written in?

**4: Content Assets:** What type of media is included in the content?

Examples:

Contains video

Contains image with text

Contains image without text

Template text (copy-paste)

Unique text

**5a: Category:** What EIP-defined categories of election interference does it fall under?

Choose all that apply:

Procedural Interference



D. Ticket Analysis Questions

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Participation Interference  
 Fraud  
 Delegitimization\*

**5b:** \*If it's delegitimization, what kind is it?

**6: Theme:** What is the primary topic or theme of the content?

Examples: VoteByMail  
 USPS

**7: Target Community:** What specific communities does the content target (if applicable)?

*This refers to the community whose voting ability or trust in the election process the content is designed to affect—not the community propagating the claim. Target communities can include seniors, teenagers, Latinx voters, QAnon, far left, far right, etc.*

**8: State Targeted:** What geographical area [state] does the content target (if applicable)?

**9: Account Type or Amplification:** What kind of account is primarily responsible for spreading the content?

Examples:  
 Politician/candidate for office  
 Influencer/verified account  
 Organic account  
 Seemingly inauthentic account  
 Anonymous account

**10: Reach:** What is the reach of the content at this time?

*How many shares does it have? How many replies or comments? How many likes? Use the following as approximate guidelines:*

- None: 0 engagements

- Low: 1-10 engagements
- Medium: 10-500 engagements
- High: 500-1000 engagements
- Viral: 1000+ engagements

**11: Velocity:** What is the velocity of the content?

*Is the rate of spread of the content static, growing, or declining? Use the following as approximate guidelines:*

- Static: no change to reach
- Growing: reach is growing linearly
- Viral: reach is growing exponentially
- Decreasing: reach is decreasing

## D.2 Tier 2 Analysis Questions

**12: What else do we know about the primary account sharing the content?**

*Examples:*

25,000 followers  
Created in 2012

**13: What communities are sharing the content?**

*Examples:*

Conspiratorial Instagram pages, Bernie-aligned Facebook groups

**14: What was the first account or Page to share the content (if not the account listed above)?**

**15: Is there any evidence of coordination or inauthentic activity? Unusual tactics?**

**16: To what extent is counter-messaging already underway? Has it been successful?**

**16: Any additional notes about the user and related social accounts/websites discussed in the ticket?**



## News Articles Citing the Election Integrity Partnership

News Articles citing the EIP during the active project period, listed in chronological order:

**Route Fifty** | Aug. 12, 2020: "New Coalition Wants to Help in Fight Against Election Misinformation"

<https://www.route-fifty.com/tech-data/2020/08/election-integrity-partnership-misinformation-disinformation/167666/>

**Stanford News** | Sept. 28, 2020: "The 2020 U.S. election, issues and challenges"

<https://news.stanford.edu/2020/09/28/2020-u-s-election-issues-challenges/>

**The New York Times** | Sept. 28, 2020: "Editorial: What's the Plan if Trump Tweets That He's Won Re-election?"

<https://www.nytimes.com/2020/09/27/opinion/social-media-trump-election.html>

**The New York Times** | Sept. 29, 2020: "Project Veritas Video Was a 'Coordinated Disinformation Campaign,' Researchers Say"

<https://www.nytimes.com/2020/09/29/us/politics/project-veritas-ilhan-omar.html>

**Santa Rosa Press-Democrat** | Sept. 30, 2020: "A tall tale about election fraud"

<https://www.pressdemocrat.com/article/opinion/pd-editorial-a-tall-tale-about-election-fraud/>

**Bloomberg News** | Oct. 5, 2020: "Facebook, Twitter Are Failing to Curb Voting-By-Mail Falsehoods"

<https://www.bloomberg.com/news/articles/2020-10-05/facebook-twitter-are-failing-to-curb-voting-by-mail-falsehoods>

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E. News Articles Citing the Election Integrity Partnership

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**Business Day (South Africa)** | Oct. 5, 2020: "Facebook, Twitter have hands full with postal voting misinformation"

<https://www.businesslive.co.za/bd/world/americas/2020-10-05-facebook-twitter-have-hands-full-with-postal-voting-misinformation/>

**The Washington Post** | Oct. 8, 2020: "Facebook bans marketing firm running 'troll farm' for pro-Trump youth group"

<https://www.washingtonpost.com/technology/2020/10/08/facebook-bans-media-consultancy-running-troll-farm-pro-trump-youth-group/>

**The Daily Beast** | Oct. 13, 2020: "Far-Right Social Media Sites Packed With Foreign Clickbait"

<https://www.thedailybeast.com/1-in-7-parler-users-follows-macedonian-clickbait-site>

**Bloomberg News** | Oct. 13, 2020: "Fake News Hub from 2016 Election Thriving Again, Report Finds"

<https://www.bloomberg.com/news/articles/2020-10-13/fake-news-hub-from-2016-election-thriving-again-report-finds>

**Associated Press** | Oct. 13, 2020: "Report: Social media influencers push voting misinformation"

<https://apnews.com/article/election-2020-donald-trump-politics-media-misinformation-7a60e1e6005c8b3b967c9ad337cb1a6a>

**NBC News** | Oct. 15, 2020: "For Trump's 'rigged' election claims, an online megaphone awaits"

<https://www.nbcnews.com/tech/tech-news/trump-s-rigged-election-claims-online-megaphone-awaits-n1243309>

**CyberScoop** | Oct. 20, 2020: "Why social media disinformation poses such a security threat"

<https://www.cyberscoop.com/social-media-disinformation-represents-security-threat/>

**MIT Technology Review** | Oct. 21, 2020: "Efforts to undermine the election are too big for Facebook and Twitter to cope with"

<https://www.technologyreview.com/2020/10/21/1010986/how-to-delegitimize-an-election-rigged-misinformation/>

**National Public Radio** | Oct. 21, 2020: "Voters In Florida And Alaska Receive Emails Warning 'Vote For Trump Or Else!'"

<https://www.npr.org/2020/10/21/926139270/voters-in-florida-and-alaska-receive-emails-warning-vote-for-trump-or-else>

**Fast Company** | Oct. 23, 2020: "Facebook is still failing to take down ads that question the election's integrity"

<https://www.fastcompany.com/90567642/facebook-is-still-failing-to-take-down-ads-that-question-the-elections-integrity>

**GeekWire** | Oct. 26, 2020: "Scholars tracking social media see efforts to delegitimize election, imperiling democracy"

<https://www.geekwire.com/2020/scholars-tracking-social-media-see-efforts-delegitimize-election-imperiling-democracy/>

**Science** | Oct. 26, 2020: "As U.S. election nears, researchers are following the trail of fake news"

<https://www.sciencemag.org/news/2020/10/us-election-nears-researchers-are-following-trail-fake-news>

**MIT Technology Review** | Oct. 26, 2020: "What to expect on election day"

<https://www.technologyreview.com/2020/10/26/1011245/what-to-expect-on-election-day-2020-disinformation-results/>

**CyberScoop** | Oct. 29, 2020: "Don't let election-themed misinformation fool you. Here's what to watch out for."

<https://www.cyberscoop.com/election-trump-twitter-winner-misinformation/>

**KIRO-TV Seattle** | Oct. 30, 2020: "UW social media expert: Election misinformation is an 'attack on democracy'"

<https://www.kiro7.com/news/local/uw-social-media-expert-election-misinformation-is-an-attack-democracy/>

**Oklahoma Watch** | Oct. 30, 2020: "These Oklahoma Politicians Gave Misinformation a Boost"

<https://oklahomawatch.org/2020/10/30/these-oklahoma-politicians-gave-misinformation-a-boost/>

**National Public Radio** | Nov. 1, 2020: "Researchers Prepare For Deluge Of Election Night Misinformation"

<https://www.npr.org/2020/11/01/930137085/researchers-prepare-for-deluge-of-election-night-misinformation-failing-to-take-down-ads-that-question-the-elections-integrity>

**Stanford News** | Nov. 2, 2020: "Disinformation investigators: Stanford students sleuth for false, misleading reports on how to vote"

E. News Articles Citing the Election Integrity Partnership

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<https://news.stanford.edu/2020/11/02/sleuthing-misinformation-voting/>

**The Washington Post** | Nov. 2, 2020: "The Post's View: Election Day promises to be full of misinformation. Here's how we can all stop its spread."

[https://www.washingtonpost.com/opinions/election-day-promises-to-be-full-of-misinformation-heres-how-we-can-all-stop-its-spread/2020/11/02/bd576e22-1d2d-11eb-b532-05c751cd5dc2\\_story.html](https://www.washingtonpost.com/opinions/election-day-promises-to-be-full-of-misinformation-heres-how-we-can-all-stop-its-spread/2020/11/02/bd576e22-1d2d-11eb-b532-05c751cd5dc2_story.html)

**The New York Times** | Nov. 3, 2020: "After Twitter Labels Trump's Tweet About Pennsylvania, Its Spread Slows"

<https://www.nytimes.com/2020/11/03/technology/after-twitter-labels-trumps-tweet-about-pennsylvania-its-spread-slows.html>

**Protocol** | Nov. 3, 2020: "Meet the researchers and activists fighting misinformation"

<https://www.protocol.com/election-day-2020-misinformation-disinformation>

**The Washington Post** | Nov. 4, 2020: "Trump's early victory declarations test tech giants' mettle in policing threats to the election"

<https://www.washingtonpost.com/technology/2020/11/03/misinformation-election-social-text/>

**The Washington Post** | Nov. 4, 2020: "Trump's campaign and family boost bogus conspiracy theories in a bid to undermine vote count"

<https://www.washingtonpost.com/technology/2020/11/04/election-results-misinformation/>

**Detroit Free Press** | Nov. 8, 2020: "Antrim County figures prominently in election conspiracy theory"

<https://www.freep.com/story/news/politics/elections/2020/11/08/election-misinformation-michigan-vote-antrim-county/6209693002/>

**Le Monde** | Nov. 8, 2020: "Elections américaines : « La désinformation a pris un rôle de premier plan »"

[https://www.lemonde.fr/pixels/article/2020/11/10/election-presidentielle-americaine-la-desinformation-a-pris-un-role-de-premier-plan\\_6059234\\_4408996.html](https://www.lemonde.fr/pixels/article/2020/11/10/election-presidentielle-americaine-la-desinformation-a-pris-un-role-de-premier-plan_6059234_4408996.html)

**Reuters** | Nov. 8, 2020: "Fact check: Deviation from Benford's Law does not prove election fraud"

<https://www.reuters.com/article/uk-factcheck-benford-idUSKBN27Q3AI>

**Bridge Michigan** | Nov. 9, 2020: "Human error, Dominion voting equipment fuel false fraud claims in Michigan"

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<https://www.bridgemi.com/michigan-government/human-error-dominion-voting-equipment-fuel-false-fraud-claims-michigan>

**The Washington Post** | Nov. 9, 2020: "Twitter and Facebook warning labels aren't enough to save democracy"

<https://www.washingtonpost.com/technology/2020/11/09/facebook-twitter-election-misinformation-labels/>

**The Washington Post** | Nov. 10, 2020: "Georgia fight shows how Trump's unfounded election fraud claims are splitting GOP"

<https://www.washingtonpost.com/politics/2020/11/10/cybersecurity-202-georgia-fight-shows-how-trumps-unfounded-election-fraud-claims-are-splitting-gop/>

**The Washington Post** | Nov. 10, 2020: "The Post's View: Trump is the problem when it comes to disinformation. So what now?"

[https://www.washingtonpost.com/opinions/trump-is-the-problem-when-it-comes-to-disinformation-so-what-now/2020/11/09/e84b2e62-22c2-11eb-a688-5298ad5d580a\\_story.html](https://www.washingtonpost.com/opinions/trump-is-the-problem-when-it-comes-to-disinformation-so-what-now/2020/11/09/e84b2e62-22c2-11eb-a688-5298ad5d580a_story.html)

**National Public Radio** | Nov. 10, 2020: "From Steve Bannon To Millennial Millie: Facebook, YouTube Struggle With Live Video"

<https://www.npr.org/2020/11/10/933235773/from-steve-bannon-to-millennial-millie-facebook-youtube-struggle-with-live-video>

**CQ Roll Call** | Nov. 10, 2020: "Twitter, Facebook face rocky future post-Donald Trump"

<https://www.rollcall.com/2020/11/10/twitter-facebook-face-rocky-future-post-donald-trump/>

**Bloomberg News** | Nov. 11, 2020: "YouTube Election Loophole Lets Some False Trump-Win Videos Spread"

<https://www.bloombergquint.com/onweb/youtube-election-loophole-lets-some-false-trump-win-videos-spread>

**NBC News** | Nov. 11, 2020: "Misinformation by a thousand cuts: Varied rigged election claims circulate"

<https://www.nbcnews.com/tech/tech-news/misinformation-thousand-cuts-varied-rigged-election-claims-circulate-n1247476>

**The Washington Post** | Nov. 12, 2020: "Trump's attacks on election outcome prolong tech's emergency measures"

<https://www.washingtonpost.com/technology/2020/11/12/facebook-ad-ban-lame-duck/>



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E. News Articles Citing the Election Integrity Partnership

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**Newsweek** | Nov. 12, 2020: "Fact Check: Did Dominion Voting Systems Cause Widespread Voter Fraud, As Trump Claims?"

<https://www.newsweek.com/fact-check-did-dominion-voting-systems-cause-widespread-voter-fraud-trump-claims-1547038>

**NBC News** | Nov. 12, 2020: "Biden picks chief of staff while misinformation wildfire fuels Trump's refusal to concede"

<https://www.nbcnews.com/news/morning-briefing/biden-picks-chief-staff-while-misinformation-wildfire-fuels-trump-s-n1247521>

**Americas Quarterly** | Nov. 12, 2020: "Misinformation Is Threatening Brazil's Elections, Too"

<https://americasquarterly.org/article/misinformation-is-threatening-brazils-elections-too/>

**Politico Morning Tech** | Nov. 13, 2020: "Where Biden's new chief of staff stands on tech"

<https://www.politico.com/newsletters/morning-tech/2020/11/13/where-bidens-new-chief-of-staff-stands-on-tech-791639>

**Bloomberg News** | Nov. 14, 2020: "Follow me on Parler" is new mantra for users aggrieved by Facebook"

<https://www.politico.com/newsletters/morning-tech/2020/11/13/where-bidens-new-chief-of-staff-stands-on-tech-791639>

**South China Morning Post** | Nov. 16, 2020: "Dis-United States: Biden's team faces reality of rule during Trumpism"

<https://www.scmp.com/news/china/diplomacy/article/3109699/dis-united-states-bidens-team-faces-reality-rule-during>

**Detroit Free Press** | Nov. 17, 2020: "Russian ballot-stuffing video goes viral again, and other predictable things about 2020 misinformation"

<https://www.freep.com/story/news/politics/elections/2020/11/17/election-misinformation-predictable/6281539002/>

**The Associated Press** | Nov. 20, 2020: "Who needs Russia? Loudest attacks on US vote are from Trump"

<https://apnews.com/article/donald-trump-loudest-attack-us-vote-bc653f799233e76dd60c27c37859d67b>

**The New York Times** | Nov. 20, 2020: "Trump allies are among the frequent purveyors of election misinformation"

<https://www.nytimes.com/2020/11/20/technology/trump-allies-are-among-the-frequent-purveyors-of-election-misinformation.html>

**The New York Times** | Nov. 23, 2020: "How Misinformation 'Superspreaders' Seed False Election Theories"

<https://www.nytimes.com/2020/11/20/technology/trump-allies-are-among-the-frequent-purveyors-of-election-misinformation.html>

**Voice of America** | Nov. 24, 2020: "Russian Influence Peddlers Carving Out New Audiences on Fringes"

<https://www.voanews.com/usa/russian-influence-peddlers-carving-out-new-audiences-fringes>

**The Wall Street Journal** | Dec. 11, 2020: "Social Media in 2020: A Year of Misinformation"

<https://www.wsj.com/articles/social-media-in-2020-a-year-of-misinformation-and-disinformation-11607712530>

**MLive** | Jan. 4, 2021: "Misinformation and conspiracies took starring role in Michigan's political movements"

<https://www.mlive.com/public-interest/2021/01/misinformation-and-conspiracies-took-starring-role-in-michigans-political-movements.html>

**Computer Weekly** | Jan. 8, 2021: "Tech sector reacts to Trump social media bans"

<https://www.computerweekly.com/news/252494551/Tech-sector-reacts-to-Trump-social-media-bans>

**The New York Times** | Jan. 8, 2021: "Trump Isn't the Only One"

<https://www.nytimes.com/2021/01/08/technology/trump-misinformation-superspreaders.html>

**National Public Radio** | Jan. 8, 2021: "Twitter Permanently Suspends Trump, Citing 'Risk Of Further Incitement Of Violence'"

<https://www.npr.org/2021/01/08/954760928/twitter-bans-president-trump-citing-risk-of-further-incitement-of-violence>

**The Missoulian** | Jan. 9, 2021: "Riot blame-shifting leaks into Montana social media"

[https://missoulian.com/news/state-and-regional/riot-blame-shifting-leaks-into-montana-social-media/article\\_4bec4ab6-dd2b-5076-8b9e-4a340b04a1e9.html](https://missoulian.com/news/state-and-regional/riot-blame-shifting-leaks-into-montana-social-media/article_4bec4ab6-dd2b-5076-8b9e-4a340b04a1e9.html)

**The Washington Post** | Jan. 16, 2021 "Misinformation dropped dramatically the week after Twitter banned Trump and some allies"

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E. News Articles Citing the Election Integrity Partnership

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<https://www.washingtonpost.com/technology/2021/01/16/misinformation-trump-twitter/>

**CNET** | Jan. 16, 2021: "After Twitter banned Trump, misinformation plummeted, says report"

<https://www.cnet.com/news/after-twitter-banned-trump-misinformation-plummeted-says-report/>

**Variety** | Jan. 17, 2021: "After Twitter Banned Donald Trump, Election Misinformation Online Plunged Dramatically"

<https://variety.com/2021/digital/news/twitter-ban-trump-election-misinformation-research-1234887030/>

**Mountain View Voice** | Jan. 21, 2021: "Can social media giants stop an insurrection before it happens?"

<https://mv-voice.com/news/2021/01/28/can-social-media-giants-stop-an-insurrection-before-it-happens>

**Nature** | Feb. 4, 2021: "Tracking QAnon: how Trump turned conspiracy-theory research upside down"

<https://www.nature.com/articles/d41586-021-00257-y>

## Methodology for Evaluating Platform Policy

In total, we evaluated 15 different platforms<sup>1</sup> across four categories meant to partition the space of potential problematic content and behavior: the mechanics of the election (Procedural Interference), the voters themselves (Participation Interference), encouragement of fraud (Fraud), and casting doubt on the integrity of the election outcome. (Delegitimization of Election Results). The definitions of these categories are detailed in Chapter 1.

We first determined if the platform stated in its community guidelines whether it would address election-related content on its platform. While the platforms that don't have election-related policies—Parler, Gab, Discord, WhatsApp, Telegram, Reddit, and Twitch—may use existing policies to address content such as the encouragement of fraud, we cannot properly evaluate them in an election-related context. We then rated each platform's policies as either "None," "Non-Comprehensive," or "Comprehensive," depending on how specifically it addresses the content type:

- None: The platform has no explicit policy or stance on the issue.
- Non-Comprehensive: Policy in this category contains indirect language, or uses broad "umbrella" language, such that it is not clear what type of election misinformation and disinformation the policy covers. This is also reserved for policies that give one detailed example such that they cover some, but not all, of a subject.

<sup>1</sup>The platforms we evaluated are: Facebook, Instagram, Twitter, YouTube, Pinterest, Nextdoor, TikTok, Snapchat, Parler, Gab, Discord, WhatsApp, Telegram, Reddit, and Twitch. Twitch was added to the list of platforms we evaluated during our blog post update in October.

## F. Methodology for Evaluating Platform Policy

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- **Comprehensive:** Policy in this category uses direct language and is clear on what type of election misinformation and disinformation the policy covers. It also sufficiently covers the full breadth of the category.

For each of the categories, we defined “Comprehensive” to be:

- **Procedural:** The policy specifies time, place, or manner (e.g., voting in person and by mail).
- **Participation:** The policy specifies it will address posts that include intimidation to personal safety or deterrence to participation in the election process, which can be both violent and non-violent.
- **Fraud:** The policy specifies it will address posts that encourage participating in the election in an illegal way.
- **Delegitimization of Election Results:** The policy specifies it will address claims that attempt to delegitimize the election.

The tables in this report have slightly different policy ratings under the category of fraud from when we first published our analysis in August 2020. There were many unfounded claims of “election fraud,” but we determined that this fell into the larger category of delegitimization of election results. Our fraud category is therefore scoped solely around claims that encourage people to commit fraud—which appeared only a handful of times during our monitoring period. Many platforms, including those without election-related policies, have terms of service policies and community standards that state the promotion of illegal activity is not allowed on its platform. However, only Facebook and Pinterest explicitly state that the encouragement of voter fraud is not allowed on their platforms and therefore received a rating of “Comprehensive.”

Over the four months of the EIP’s operation, we updated our platform evaluations to account for policy changes made by the platforms. We frequently checked for changes in platforms’ community guidelines and followed the platforms’ blog posts, which we considered to be policy statements even though some of these updates weren’t formally incorporated into the platforms’ community guidelines. We did not consider policy changes that were stated to the press, or on social media by executives or employees of the platform. Below is a table of the corresponding policies for each platform. The colors correspond to new policies that were introduced between August 2020 and October 28, 2020.

## Facebook

Procedural Interference	Participation Interference	Fraud	Delegitimization of Election Results
<p><b>Comprehensive (Rating did not change during election cycle):</b>            "Misrepresentation of the dates, locations, and times, and methods for voting or voter registration or census participation."            "Misrepresentation of who can vote, qualifications for voting, whether a vote will be counted, and what information and/or materials must be provided in order to vote."            "Calls for coordinated interference that would affect an individual's ability to participate in the census or an election."            Facebook will remove implicit misrepresentations about voting that may "mislead you about what you need to do to get a ballot." [Sept. 03]</p>	<p><b>Comprehensive (Rating did not change during election cycle; policies updated are shown in red):</b>            "Any content containing statements of intent, calls for action, conditional or aspirational statements, or advocating for <del>high-level</del> <del>mid-level</del> <del>low-level</del> <del>no-level</del> due to voting, voter registration, or the administration or outcome of an election." [Sept. 03]            "Content stating that census or voting participation may or will result in law enforcement consequences (e.g., arrest, deportation, imprisonment)."            "Content claiming that the US Immigration and Customs Enforcement (ICE) is at a voting location." [Sept. 03]            "Calls for coordinated interference that would affect an individual's ability to participate in an election."            "Explicit claims that people will be infected by COVID (or another communicable disease) if they participate in the voting process." [Sept. 03]            "Statements of intent or advocacy, calls to action, or aspirational or conditional statements to bring weapons to locations, including but not limited to places of worship, educational facilities, <del>or</del> polling places, or locations used to count votes or administer an election* (or encouraging others to do the same)."            "For the following content, we may require more information and/or context in order to enforce: Threats against election officials." [Sept. 03]</p>	<p><b>Comprehensive (Rating did not change during election cycle):</b>            "Offers to buy or sell votes with cash or gifts."            "Statements that advocate, provide instructions or show explicit intent to illegally participate in a voting or census process."            Comprehensive (Rating changed from Non-Comprehensive):            "We will attach an informational label to content that seeks to delegitimize the outcome of the election or discuss the legitimacy of voting methods, for example, by claiming that lawful methods of voting will lead to fraud. This label will provide basic authoritative information about the integrity of the election and voting methods." [Sept. 03]            "Importantly, if any candidate or campaign tries to declare victory before the results are in, we'll add a label to their post educating that official results are not yet in and directing people to the official results." [Sept. 03]            "Other misrepresentations related to voting in an official election or census participation may be subject to false news standards, as referenced in section 20* (now section 21)."</p>	<p><b>Comprehensive (Rating changed from Non-Comprehensive):</b>            "We will attach an informational label to content that seeks to delegitimize the outcome of the election or discuss the legitimacy of voting methods, for example, by claiming that lawful methods of voting will lead to fraud. This label will provide basic authoritative information about the integrity of the election and voting methods." [Sept. 03]            "Importantly, if any candidate or campaign tries to declare victory before the results are in, we'll add a label to their post educating that official results are not yet in and directing people to the official results." [Sept. 03]            "Other misrepresentations related to voting in an official election or census participation may be subject to false news standards, as referenced in section 20* (now section 21)."</p>

## F. Methodology for Evaluating Platform Policy

## Twitter

Procedural Interference	Participation Interference	Fraud	Delegitimization of Election Results
<p><b>Comprehensive (Rating did not change during election cycle):</b>            "Misleading information about procedures to participate in a civic process (for example, that you can vote by Tweet, text message, email, or phone call in jurisdictions where these are not a possibility)."            "Misleading information about requirements for participation, including identification or citizenship requirements."            "Misleading statements or information about the official, announced date or time of a civic process."            "Misleading claims that polling places are closed, that polling has ended or other misleading information relating to votes not being counted."            "Misleading claims about long lines, equipment problems, or other disruptions at voting locations during election periods."            "False or misleading information that causes confusion about the laws and regulations of a civic process, or officials and institutions executing those civic processes." [Sept. 10]</p>	<p><b>Comprehensive (Rating did not change during election cycle):</b>            "Misleading claims about police, or law enforcement activity related to voting in an election, polling places, or collecting census information."            "Misleading claims about long lines, equipment problems, or other disruptions at voting locations during election periods."            "Misleading claims about process, procedures, or techniques which could dissuade people from participating."            "Threats regarding voting locations or other key places or events (note that our violent threats policy may also be relevant for threats not covered by this policy)."            "Twitter will remove tweets that encourage violence or call for people to interfere with election results or smooth operation of polling places." [Oct. 9]            "Tweets meant to incite interference with the election process or with the implementation of election results, such as through violent action, will be subject to removal. This covers all Congressional races and the Presidential Election." [Oct. 9]</p>	<p><b>Non-Comprehensive (Rating did not change during election cycle):</b>            "Illegal or certain regulated goods or services: You may not use our service for any unlawful purpose or in furtherance of illegal activities. This includes selling, buying, or facilitating transactions in illegal goods or services, as well as certain types of regulated goods or services."</p>	<p><b>Comprehensive (Rating changed from Non-Comprehensive):</b>            "Misleading claims that polling places are closed, that polling has ended or other misleading information relating to votes not being counted."            "We also consider whether the context in which media are shared could result in confusion or misunderstanding or suggests a deliberate intent to deceive people about the nature or origin of the content, for example by falsely claiming that it depicts reality."            "Disputed claims that could undermine faith in the process itself, e.g. unverified information about election rigging, ballot tampering, vote tallying, or certification of election results." [Sept. 10]            "Misleading claims about the results or outcome of a civic process which calls for or could lead to interference with the implementation of the results of the process, e.g. claiming victory before election results have been certified, inciting unlawful conduct to prevent a peaceful transfer of power or orderly succession." [Oct. 9]            "People on Twitter, including candidates for office, may not claim an election win before it is authoritatively called. To determine the results of an election in the US, we require either an announcement from state election officials, or a public projection from at least two authoritative, national news outlets that make independent election calls. Tweets which include premature claims will be labeled and direct people to our official US election page." [Oct. 9]</p>

## YouTube

Procedural Interference	Participation Interference	Fraud	Delegitimization of Election Results
<p><b>Comprehensive (Rating did not change during election cycle):</b>          "Content aiming to mislead voters about the time, place, means or eligibility requirements for voting, <b>or false claims that could materially discourage voting.</b>"          "Incitement to interfere with democratic processes: content encouraging others to interfere with democratic processes, such as obstructing or interrupting voting procedures."          Examples of content not to post:          • "Deliberately telling viewers an incorrect election date."          • "Telling viewers they can vote through fake methods like texting their vote to a particular number."          • "Giving made up voter eligibility requirements like saying that a particular election is only open to voters over 50 years old."          • <b>"we remove content falsely claiming that mail-in ballots have been manipulated to change the results of an election"</b></p>	<p><b>Comprehensive (Rating changed from Non-Comprehensive):</b>          "Content aiming to mislead voters about the time, place, means or eligibility requirements for voting, <b>or false claims that could materially discourage voting?</b>"          "Incitement to interfere with democratic processes: content encouraging others to interfere with democratic processes, such as obstructing or interrupting voting procedures."          Examples of content not to post:          • Telling viewers to create long voting lines with the purpose of making it harder for others to vote          • <b>"Claiming that a voter's political party affiliation is visible on a vote-by-mail envelope."</b></p>	<p><b>Non-Comprehensive (Rating did not change during election cycle):</b>          "Don't post content on YouTube if it fits any of the descriptions noted below. Instructional theft or cheating: Showing viewers how to steal tangible goods or promoting dishonest behavior"</p>	<p><b>Non-Comprehensive (Rating did not change during election cycle):</b>          Manipulated Media:          "Content that has been technically manipulated or doctored in a way that misleads users (beyond clips taken out of context) and may pose a serious risk of egregious harm."          Example: "Misattributing a 10 year old video that depicts stuffing of a ballot box to a recent election."          Examples of content not to post:          • <b>False claims that non-citizen voting has determined the outcome of past elections.</b>          • Telling viewers to hack government websites to delay the release of elections results.          • Manipulated Media:          "Content that has been technically manipulated or doctored in a way that misleads users (beyond clips taken out of context) and may pose a serious risk of egregious harm."</p>



F. Methodology for Evaluating Platform Policy

Pinterest			
Procedural Interference	Participation Interference	Fraud	Delegitimization of Election Results
Comprehensive (Rating changed from None): "False or misleading information about the dates, times, locations and procedure for voting or census participation." "Content that misleads voters about how to correctly fill-out and submit a ballot, including a mail-in ballot, or census form." [Sept. 3]	Comprehensive (Rating changed from Non-Comprehensive): "False or misleading content that impedes an election's integrity or an individual's or groups civic participation, including registering to vote, voting, and being counted in a census." "False or misleading information about public safety that is intended to deter people from exercising their right to vote or participate in a census." "False or misleading information about who can vote or participate in the census and what information must be provided to participate." "False or misleading statements about who is collecting information and/or how it will be used." "Threats against voting locations, census or voting personnel, voters or census participants, including intimidation of vulnerable or protected group voters or participants" [Sept. 3]	Comprehensive (Rating changed from Non-Comprehensive): "Content that encourages or instructs voters or participants to misrepresent themselves or illegally participate" [Sept. 3]	Comprehensive (Rating changed from Non-Comprehensive): "Content apparently intended to delegitimize election results on the basis of false or misleading claims." [Sept. 3]

## Nextdoor

Procedural Interference	Participation Interference	Fraud	Delegitimization of Election Results
<p>Non-Comprehensive (Rating changed from Comprehensive):</p> <p><del>“None or misleading content about the timing, place or manner of eligibility requirements associated with any local or national elections in the state.”</del></p> <p>“False or misleading information that could prevent or discourage people from voting, cause their votes not to be counted, or interfere with the election process.”</p>	<p>Non-Comprehensive (Rating changed from None):</p> <p>“False or misleading information that could prevent or discourage people from voting, cause their votes not to be counted, or interfere with the election process.”</p>	<p>Non-Comprehensive (Rating did not change during election cycle):</p> <p>“When offering or seeking goods or services on Nextdoor, make sure that you’re complying with local laws and not engaging in illegal transactions.”</p>	<p>Non-Comprehensive (Rating changed from None):</p> <p>“False or misleading information that could prevent or discourage people from voting, cause their votes not to be counted, or interfere with the election process.”</p> <p>“False or misleading claims about the results of an election that could lead to interference with the election process.”</p>

## TikTok

Procedural Interference	Participation Interference	Fraud	Delegitimization of Election Results
<p>Non-Comprehensive (Rating did not change during election cycle):</p> <p>“Content that misleads community members about elections or other civic processes.”</p> <p>“Claims relating to polling stations on election day that have not yet been verified.”</p> <p>“Content that misrepresents the date of an election.” [Oct. 7]</p>	<p>Non-Comprehensive (Rating changed from None):</p> <p>“Attempts to intimidate voters or suppress voting.”</p> <p>TikTok will redirect search results with terms associated with “incitement to violence.”</p> <p>TikTok will block future livestreaming from an account whose livestream “seeks to incite violence or promote hateful ideologies, conspiracies, or disinformation.”</p> <p>TikTok will add a banner pointing viewers to our election guide content with...“attempts to dissuade people from voting by exploiting COVID-19 as a voter suppression tactic.” [Oct. 7]</p>	<p>Non-Comprehensive (Rating did not change during election cycle):</p> <p>“Content may be removed if it relates to activities or goods that are regulated or illegal in the majority of the region or world, even if the activities or goods in question are legal in the jurisdiction of posting.”</p>	<p>Comprehensive (Rating changed from Non-Comprehensive):</p> <p>“False claims that seek to erode trust in public institutions, such as claims of voter fraud resulting from voting by mail or claims that your vote won’t count.” [Oct. 7]</p> <p>“Content that misleads community members about elections or other civic processes.”</p> <p>“Reviewed content that shares unverified claims, such as a premature declaration of victory before results are confirmed.” [Oct. 7]</p>

## F. Methodology for Evaluating Platform Policy

## Snapchat

Procedural Interference	Participation Interference	Fraud	Delegitimization of Election Results
Non-Comprehensive (Rating changed from No election-related policies): "We prohibit spreading false information that causes harm or is malicious, such as denying the existence of tragic events, unsubstantiated medical claims, or undermining the integrity of civic processes."	None	Non-Comprehensive (Rating changed from No election-related policies): We prohibit the promotion and use of certain regulated goods, as well as the depiction or promotion of criminal activities.	Non-Comprehensive (Rating changed from No election-related policies): "We prohibit spreading false information that causes harm or is malicious, such as denying the existence of tragic events, unsubstantiated medical claims, or undermining the integrity of civic processes."

## F.1 Assessing our methodology

The purpose of this framework is to provide a clear visualization of civic integrity policies across multiple social media platforms, and to create a single standard upon which all platforms could be evaluated. The community guidelines and terms of service that moderate user content vary widely among platforms, and do not use standardized vocabulary. By directly comparing the language of multiple platforms, the framework provides insight into the policies of each platform. This allowed our analysis to act as an advocate for specific policy recommendations at a platform level by highlighting existing shortfalls. Finally, the framework is intended to be a resource for civil society, academia, and citizens to understand what election-related speech popular platforms moderate.

At the same time, there are limitations to this methodology that are equally important to reflect on. First, the framework doesn't consider that each platform functions differently in the information environment. For example, we didn't explore whether messaging platforms such as WhatsApp should have different policies from a video platform like YouTube when it comes to election-related content.

Second, this framework's rating system was centered on policy language and not how these policies were applied in practice, which may give a misleading impression that one platform is better than another in mitigating misinformation and disinformation. Although many platform policies are accessible to the general public, platforms also have internal guidance specifying more nuances of their externally facing rules, including deciding how to apply these policies. The opacity of platform decision-making serves as another limitation to the accuracy of our framework; for example, some gaps we identified in platform policies could be accounted for by internal mechanisms, or some proficiencies nullified by a company's reluctance to enforce at scale; there may be unknown pitfalls about these policies that we don't see externally.

Lastly, as our categories were created before the election, we didn't know how effective they would be in accurately capturing and describing the content that we came across in our monitoring. As we applied these categories in practice, some of them narrowed while others expanded. For example, the category of Fraud presented a challenge to our original definition because the term "fraud" was used broadly to cast doubt on the election. The scope for our fraud category was limited to a strict definition of content that encouraged people to commit fraud. Thus, the unfounded accusations of fraud fell into the Delegitimization category, which, looking back at our data, encompassed the majority of the incidents we monitored. Therefore, in contrast to the specificity we tried to capture in the other categories, Delegitimization as a category became very expansive.

# THE LONG FUSE:

## MISINFORMATION AND THE 2020 ELECTION

**T**he Election Integrity Partnership was officially formed on July 26, 2020 – 100 days before the 2020 presidential election – as a coalition of research entities who would focus on supporting real-time information exchange between the research community, election officials, government agencies, civil society organizations, and social media platforms. The Partnership was formed between four of the nation's leading institutions focused on understanding misinformation in the social media landscape: the Stanford Internet Observatory, Graphika, the Atlantic Council's Digital Forensic Research Lab, and the University of Washington's Center for an Informed Public. This is the final report of their findings.



Stanford | Internet Observatory  
Cyber Policy Center

W CENTER FOR AN INFORMED PUBLIC  
UNIVERSITY of WASHINGTON

ISBN 978-1-7367627-1-4

Cover design & illustration:  
Alexander Atkins Design, Inc.



## HEARING ON THE JANUARY 6TH INVESTIGATION

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Thursday, June 16, 2022

U.S. HOUSE OF REPRESENTATIVES,  
SELECT COMMITTEE TO INVESTIGATE THE JANUARY 6TH  
ATTACK ON THE UNITED STATES CAPITOL,  
*Washington, DC.*

The Committee met, pursuant to notice, at 1:02 p.m., in room 390, Cannon House Office Building, Hon. Bennie G. Thompson [Chairman of the Committee] presiding.

Present: Representatives Thompson, Cheney, Lofgren, Schiff, Aguilar, Murphy, Raskin, Luria, and Kinzinger.

Chairman THOMPSON. The Select Committee to Investigate the January 6th Attack on the United States Capitol will be in order.

Without objection, the Chair is authorized to declare the Committee in recess at any point.

Pursuant to House Deposition Authority Regulation 10, the Chair announces the Committee's approval to release the deposition material presented during today's hearing.

Good afternoon.

"There is no idea more un-American than the notion that any one person could choose the American President."

"No idea more un-American." I agree with that—which is unusual because former Vice President Mike Pence and I don't agree on much.

These are his words, spoken a few months ago about Donald Trump's attempt to pressure the former Vice President—pressure him into going along with an unlawful and un-Constitutional scheme to overturn the 2020 election and give Donald Trump a second term in office that he did not win.

Today, the Select Committee is going to reveal the details of that pressure campaign.

But what does the Vice President of the United States even have to do with a Presidential election? The Constitution says that the Vice President of the United States oversees the process of counting the electoral college votes, a process that took place on January 6, 2021.

Donald Trump wanted Mike Pence to do something no other Vice President has ever done. The former President wanted Pence to reject the votes and either declare Trump the winner or send the votes back to the States to be counted again.

Mike Pence said no. He resisted the pressure. He knew it was illegal. He knew it was wrong. We are fortunate for Mr. Pence's

courage on January 6th. Our democracy came dangerously close to catastrophe.

That courage put him in tremendous danger. When Mike Pence made it clear that he wouldn't give in to Donald Trump's scheme, Donald Trump turned a mob on him—a mob that was chanting “Hang Mike Pence,” a mob that had built a hangman's gallows just outside the Capitol.

Thanks in part to Mike Pence, our democracy withstood Donald Trump's scheme and the violence of January 6th. But the danger hasn't receded. Led by my colleague Mr. Aguilar, today we will lay out the facts for the American people.

But, first, I will recognize my colleague from Wyoming, Ms. Cheney, for any opening statement she would care to offer.

Vice Chair CHENEY. Thank you very much, Mr. Chairman.

Let me take just a few minutes today to put the topic of our hearing in broader context.

In our last hearing, we heard unequivocal testimony that President Trump was told his election fraud allegations were complete nonsense. We heard this from members of the Trump campaign. We heard this from President Trump's campaign lawyers. We heard this from President Trump's former Attorney General, Bill Barr. We heard this from President Trump's former Acting Attorney General, Jeff Rosen. We heard this from President Trump's former Acting Deputy Attorney General, Richard Donoghue. We heard from members of President Trump's White House staff as well.

Today, we are focusing on President Trump's relentless effort to pressure Mike Pence to refuse to count electoral votes on January 6th.

Here, again, is how the former Vice President phrased it in a speech before the Federalist Society, a group of conservative lawyers.

Vice President PENCE. I heard this week that President Trump said I had the right to overturn the election. But President Trump is wrong. I had no right to overturn the election. The Presidency belongs to the American people and the American people alone. And frankly, there is no idea more un-American than the notion that any one person could choose the American President.

Vice Chair CHENEY. What the President wanted the Vice President to do was not just wrong; it was illegal and un-Constitutional.

We will hear many details in today's hearing, but please consider these two points:

First, President Trump was told repeatedly that Mike Pence lacked the Constitutional and legal authority to do what President Trump was demanding he do.

This is testimony from Marc Short, the Vice President's chief of staff, who served in the Trump administration in multiple positions over 4 years.

Mr. HEAPHY. But just to pick up on that, Mr. Short, is it—was it your impression that the Vice President had directly conveyed his position on these issues to the President, not just to the world through a Dear Colleague letter, but directly to President Trump?

Mr. SHORT. Many times.

Mr. HEAPHY. And he'd been consistent in conveying his position to the President?

Mr. SHORT. Very consistent.

Mr. HEAPHY. Okay.



Vice Chair CHENEY. But President Trump plotted with a lawyer named John Eastman to pressure Pence to do so anyway.

As a Federal court has explained, “Based on the evidence, the Court finds that it is more likely than not that President Trump and Dr. Eastman dishonestly conspired to obstruct the Joint Session of Congress on January 6, 2021.”

What exactly did President Trump know? When exactly did President Trump know that it would be illegal for Mike Pence to refuse to count electoral votes?

Here is one sample of testimony given by one of the witnesses before us today, the Vice President’s general counsel.

Mr. WOOD. Did John Eastman ever admit, as far as you know, in front of the President that his proposal would violate the Electoral Count Act?

Mr. JACOB. I believe he did on the 4th.

Vice Chair CHENEY. That was January 4th, 2 days before the attack on Congress.

A second point: Please listen to testimony today about all of the ways that President Trump attempted to pressure Vice President Pence, including Donald Trump’s tweet at 2:24 p.m. condemning Vice President Mike Pence when President Trump already knew a violent riot was under way at the Capitol.

In future hearings, you will hear from witnesses who were present inside the White House, who were present inside the West Wing on that day. But, today, we focus on the earnest efforts of Mike Pence, who was determined to abide by his oath of office.

As Vice President Pence prepared a statement on January 5th and 6th explaining that he could not illegally refuse to count electoral votes, he said this to his staff:

Mr. JACOB. I mean, the Vice President had said, “This may be the most important thing I ever say.”

Mr. HEAPHY. “This,” meaning the statement?

Mr. JACOB. The statement. And he really wanted to make sure that it was just so.

Vice Chair CHENEY. You will hear today that President Trump’s White House Counsel believed that the Vice President did exactly the right thing on January 6th, as did others in the White House, as did Fox News Host Sean Hannity.

Vice President Pence understood that his oath of office was more important than his loyalty to Donald Trump. He did his duty. President Trump unequivocally did not.

Thank you, Mr. Chairman. I yield back.

Chairman THOMPSON. Without objection, I recognize the gentleman from California, Mr. Aguilar, for an opening statement.

Mr. AGUILAR. Thank you, Mr. Chairman.

Today we intend to show the American people that January 6th was not an isolated incident. In the weeks culminating before, it was a legal scheme and deception.

We have already learned that President Trump knew he lost the 2020 election. Shortly after, he began to look for a way to circumvent our country’s most fundamental civic tradition: The peaceful transfer of power.

The President latched on to a dangerous theory and would not let go, because he was convinced it would keep him in office.

We witnessed first-hand what happened when the President of the United States weaponized this theory. The Capitol was overrun. Police officers lost their lives. The Vice President was taken to a secure location because his safety was in jeopardy.

Let's take a look at the effect of Donald Trump's words and actions. I want to warn our audience that the video contains explicit content.

President TRUMP. Mike Pence is going to have to come through for us. And if he doesn't, that will be a—a sad day for our country.

And Mike Pence, I hope you're going to stand up for the good of our Constitution and for the good of our country. And if you're not, I'm going to be very disappointed in you, I will tell you right now.

VOICE. I'm telling you what, I'm hearing that Pence—hearing that Pence just caved.

VOICE. No.

VOICE. Is that true?

VOICE. I didn't hear it.

VOICE. I'm hear—I'm hearing reports that Pence caved.

VOICE. No way.

VOICE. I'm telling you, if Pence caved, we're going to drag motherfuckers through the streets. You fucking politicians are going to get fucking drug through the streets.

VOICE. Yes.

VOICE. I guess the hope is that there's such a show of force here that Pence will decide to—

VOICE. Just do his job.

VOICE [continuing]. Do the right thing, according to Trump.

CROWD. Where is Pence? Bring him out! Bring out Pence! Bring him out! Bring out Pence! Bring him out! Bring out Pence!

CROWD. Hang Mike Pence! Hang Mike Pence! Hang Mike Pence! Hang Mike Pence! Hang Mike Pence! Hang Mike Pence! Hang Mike Pence! Hang Mike Pence! Hang Mike Pence! Hang Mike Pence!

Mr. AGUILAR. How did we get to this point? How did we get to the point where President Trump's most radical supporters led a violent attack on the Capitol and threatened to hang President Trump's own Vice President?

You will hear from witnesses that Donald Trump pressured Mike Pence to adopt a legally and morally bankrupt idea that the Vice President could choose who the next President can be.

You will hear about how the Vice President, the White House Counsel, and others told Donald Trump that the Vice President had no such authority, but President Trump would not listen.

You will hear how Vice President Pence withstood an onslaught of pressure from President Trump, both publicly and privately—a pressure campaign that built to a fever pitch with a heated phone call on January 6th.

You will also hear that the President knew there was a violent mob at the Capitol when he tweeted at 2:24 p.m. that the Vice President did not have the “courage” to do what needed to be done.

Let me be clear: Vice President Pence did the right thing that day. He stayed true to his oath to protect and defend the Constitution.

I look forward to hearing from our witnesses this afternoon.

Mr. Chairman, I yield back.

Chairman THOMPSON. Thank you, Mr. Aguilar.

We are honored to have two distinguished witnesses who advised the Vice President regarding his role on January 6th.

Judge J. Michael Luttig is one of the leading conservative legal thinkers in the country. He served in the administrations of President Ronald Reagan and George H.W. Bush. He was appointed by the latter to serve on the U.S. Court of Appeals for the Fourth Circuit, where he served from 1991 to 2006.

He provided critical advice for Vice President Pence regarding the role of the Vice President in the joint session of Congress shortly before that fateful moment.

He has written that the Vice President does not have the power to select the next President of the United States. He has also written that the contrary theory, espoused by one of his own former law clerks, was “incorrect at every turn.”

We are also joined today by one of the people who was with Vice President Pence on January 6th. Greg Jacob was counsel to Vice President Pence.

He conducted a thorough analysis of the role of the Vice President in the joint session of Congress under the Constitution, the Electoral Count Act, and 230 years of historical practice.

But he also has first-hand information about the attack on the Capitol because he lived through it. He was with the Vice President, and his own life was in danger.

I will now swear in our witnesses. The witnesses will please stand and raise their right hands.

[Witnesses sworn.]

Chairman THOMPSON. Thank you. You may be seated.

Let the record reflect the witnesses answered in the affirmative.

I now recognize myself for questions.

In the United States, the people choose our representatives, including the highest official in the land, the President of the United States. The American people did this on November 3, 2020.

But President Trump did not like the outcome. He did everything he could to change the result of the election.

He tried litigation—62 cases, in fact—and that failed.

He tried to pressure State legislatures to reverse the results of the election in their States, but they refused.

He tried to enlist the Department of Justice in his efforts to overturn election results, but officials leading the Department refused to comply.

So, eventually, he latched on to a completely nonsensical and antidemocratic theory that one man, his own Vice President, could determine the outcome of the election. He wanted the Vice President to unilaterally select the President.

This theory, that the Vice President could unilaterally select the President, runs completely contrary to our Constitution, our laws, and the entirety of our American experience. But that didn’t matter to President Trump.

I would now like to explore how President Trump came to latch onto this ridiculous legal theory that the Vice President can select the President of the United States.

Mr. Jacob, how did this theory first come to your attention?

Mr. JACOB.<sup>1</sup> The first time that I had a conversation with the Vice President about the 12th Amendment and the Electoral Count Act was in early December, around December 7th.

The Vice President called me over to his West Wing office and told me that he had been seeing and reading things that suggested that he had a significant role to play on January 6th in announcing the outcome of the election.

He told me that he had been first elected to Congress in 2000 and that one of his earliest memories as a Congressman was sitting in on the 2001 certification, and he recalled that Al Gore had gaveled down a number of objections that had been raised to Florida.

He asked me, “Mechanically, how does this work at the joint session? What are the rules?”

I told the Vice President that, in fact, I had a fairly good idea of how things worked, that actually there aren’t rules that govern the joint session, but what there is is a provision of the Constitution that is just one sentence long and then an Electoral Count Act that had been passed in 1887.

I told the Vice President that I could put a memo together for him overnight that would explain the applicable rules.

Chairman THOMPSON. So, Mr. Jacob, when you looked at this theory, what did you conclude?

Mr. JACOB. So, we concluded that what you have is a sentence in the Constitution that is inartfully drafted. But the Vice President’s first instinct, when he heard this theory, was that there was no way that our Framers, who abhorred concentrated power, who had broken away from the tyranny of George III, would ever have put one person—particularly not a person who had a direct interest in the outcome because they were on the ticket for the election—in a role to have decisive impact on the outcome of the election.

Our review of text, history, and, frankly, just common sense, all confirmed the Vice President’s first instinct on that point. There is no justifiable basis to conclude that the Vice President has that kind of authority.

Chairman THOMPSON. Thank you, Mr. Jacob.

We will hear more today about how, despite this conclusion by you and other top legal advisors, the former President used this discredited theory in his campaign to pressure the Vice President to decide the outcome of the Presidential election.

I now recognize the gentlewoman from Wyoming, Ms. Cheney, for questions.

Vice Chair CHENEY. Thank you very much, Mr. Chairman.

Judge Luttig, thank you, as well, for being here with us today.

You issued a very important statement earlier today, which I urge all Americans to read. I would like to ask you, Judge, about one of the sentences in your statement and ask if you could explain to us the significance of it.

You say, “Had the Vice President of the United States obeyed the President of the United States, America would immediately have

<sup>1</sup>The prepared statement of Mr. Jacob has been included in the Appendix and may be found on page 653.

been plunged into what would have been tantamount to a revolution within a paralyzing Constitutional crisis.”

Would you elaborate on that for us, Judge?

Judge LUTTIG.<sup>2</sup> Thank you, Madam Vice Chair.

That passage in my statement this morning referenced the most foundational concept in America, which is the rule of law. Thus, as I interpret your question, you are asking about that foundational truth of these United States which we call “America.”

The foundational truth is the rule of law. That foundational truth is, for the United States of America, the profound truth.

But it is not merely the profound truth for the United States; it is also the simple truth, the simple foundational truth of the American Republic.

Thus, in my view, the hearings being conducted by this Select Committee are examining that profound truth—namely, the rule of law in the United States of America.

The specific question, of course, before you and before the Nation—not before me—is whether that foundational rule of law was supremely violated on January 6, 2021.

Now, to the question specifically that you asked, Madam Vice Chair, I believe that had Vice President Pence obeyed the orders from his President—and the President of the United States of America—during the joint session of the Congress of the United States on January 6, 2021, and declared Donald Trump the next President of the United States, notwithstanding that then-President Trump had lost the electoral college vote as well as the popular vote in the 2020 Presidential election, that declaration of Donald Trump as the next President would have plunged America into what I believe would have been tantamount to a revolution within a Constitutional crisis in America, which, in my view—and I am only one man—would have been the first Constitutional crisis since the founding of the Republic.

Vice Chair CHENEY. Thank you very much, Judge, for your solemn attention to these issues and for your appearance here today.

We are going to describe and discuss in detail what happened, and, as we do, I am going to describe a few of the details now of some of the actions taken by a gentleman named Kenneth Chesebro.

After the electoral college met and cast their votes on December 14th—actually, the day before they met—Kenneth Chesebro sent a memo to Rudy Giuliani, the President’s lead outside counsel.

Mr. Chesebro wrote to Mayor Giuliani that the Vice President is charged with, “making judgments about what to do if there are conflicting votes.”

Mr. Chesebro wrote that, when the joint session of Congress got to Arizona in the alphabetical list of States, the Vice President should not count the Biden votes, “because there are two slates of votes.”

His justification, which we will learn more about in our next hearing, was that a group of Trump supporters in Arizona and other swing States decided to proclaim themselves the true electors

<sup>2</sup>The prepared statement of Judge Luttig has been included in the Appendix and may be found on page 655.

for the State, creating two sets of electors—the official electors selected by the State and a group of fake electors.

This document was ordered to be produced to the Select Committee by a Federal district court judge. As you will see on the screen shortly, Judge David Carter wrote, “The draft memo pushed a strategy that knowingly violated the Electoral Count Act . . . ”

The judge concluded that “the memo is both intimately related to and clearly advanced the plan to obstruct the joint session of Congress on January 6, 2021.”

A few days later, Professor John Eastman took up this cause. Eastman was at the time a law professor at Chapman University Law School.

He prepared a memo outlining the nonsensical theory that the Vice President could decide the outcome of the election at the joint session of Congress on January 6th. You will see portions of this memo on the screen.

In the first line, he wrote, “7 States have transmitted dual slates of electors to the President of the Senate.”

But Dr. Eastman goes on to rely on those so-called “dual slates of electors” to say that Vice President Pence could simply declare President Trump the winner of the 2020 election.

Mr. Jacob, were there, in fact, dual slates of electors from 7 States?

Mr. JACOB. No, there were not.

Vice Chair CHENEY. Just a few days after that, Dr. Eastman wrote another memo, this one “war gaming” out several scenarios. He knew the outcome he wanted, and he saw a way to go forward if he simply pretended that fake electors were real.

You will see that memo up on the screen now.

Here, Dr. Eastman says the Vice President can reject the Biden electors from the States that he calls “disputed.” Under several of the scenarios, the Vice President could ultimately just declare Donald Trump the winner, regardless of the vote totals that had already been certified by the States.

However, this was false. Dr. Eastman knew it was false. In other words, it was a lie.

In fact, on December 19, 2020, just 4 days before Dr. Eastman sent this memo, Dr. Eastman himself admitted in an email that the fake electors had no legal weight, referring to the fake electors as “dead on arrival in Congress,” because they did not have a certification from their States.

Judge Luttig, did the Trump electors in those 7 States, who were not certified by any State authority, have any legal significance?

Judge LUTTIG. Congresswoman, there was no support whatsoever in either the Constitution of the United States nor the laws of the United States for the Vice President, frankly, ever to count alternative electoral slates from the States that had not been officially certified by the designated State official in the Electoral Count Act of 1887.

I did notice in the passage from Mr. Eastman’s memorandum, and I took a note on it. Correct me if I am wrong, but he said in that passage that there was both legal authority as well as historical precedent.

I do know what Mr. Eastman was referring to when he said that there was historical precedent for doing so. He was incorrect. There was no historical precedent from the beginning of the founding in 1789, even as mere historical precedent, as distinguished from legal precedent, that would support the possibility of the Vice President of the United States “counting” alternative electoral slates that had not been officially certified to the Congress pursuant to the Electoral Count Act of 1887.

I would be glad to explain that historical precedent if the Committee wanted, but it would be a digression.

Vice Chair CHENEY. Thank you very much, Judge. I know my colleagues will be pursuing that issue in more depth.

Now I would like to yield back, Mr. Chairman.

Chairman THOMPSON. Thank you very much.

Pursuant to section 5(c)(8) of House Resolution 503, the Chair recognizes the gentleman from California, Mr. Aguilar, and staff counsel, Mr. John Wood, for questioning.

Mr. AGUILAR. Thank you, Mr. Chairman.

We are fortunate to have a bipartisan staff. Senior Investigative Counsel John Wood previously served as United States attorney in Missouri under President George W. Bush. He and I will share today’s lines of questioning.

Mr. Wood.

Mr. WOOD. Thank you, Mr. Aguilar.

Judge Luttig, I had the incredible honor of serving as one of your law clerks. Another person who did was John Eastman.

You have written that Dr. Eastman’s theory that the Vice President could determine who the next President of the United States is is, in your words, “incorrect at every turn.”

Could you please explain briefly your analysis?

Judge LUTTIG. It was my honor, Mr. Wood, to have you serve as my law clerk.

I could answer that question perfectly if I had at my disposal either Mr. Eastman’s tweet or my own analytical tweet of September 21st, but I don’t.

But, that said, let me try to remember Mr. Eastman’s analysis.

Mr. WOOD. Judge, I can read to you and to the audience I think what was really a key passage from your very insightful analysis, when you wrote, “I believe(d) that Professor Eastman was incorrect at every turn of the analysis in his January 2 memorandum, beginning with his claim that there were legitimate, competing slates of electors presented from 7 States.”

You have already addressed that issue.

But your next sentence said: “. . . continuing to his conclusion that the Vice President could unilaterally decide not to count the votes from the 7 States from which competing slates were allegedly presented.”

So, what was your basis for concluding that Dr. Eastman was incorrect in his conclusion that the Vice President could unilaterally decide not to count the votes from these disputed States?

Judge LUTTIG. I understand.

As I previously stated in response to Congresswoman Cheney, there was no basis in the Constitution or laws of the United States at all for the theory espoused by Mr. Eastman—at all. None.

With all respect to my co-panelist, he said, I believe in partial response to one of the Select Committee's questions, that the single sentence in the 12th Amendment was, he thought, inartfully written.

That single sentence is not inartfully written. It was pristine clear that the President of the Senate on January 6th, the incumbent Vice President of the United States, had little substantive Constitutional authority, if any at all.

The 12th Amendment, the single sentence that Mr. Jacob refers to, says in substance that, following the transmission of the certificates to the Congress of the United States and, under the Electoral Count Act of 1887, the Archivist of the United States, that the presiding officer shall open the certificates in the presence of the Congress of the United States in joint session.

It then says, unmistakably, not even that the Vice President himself shall count the electoral votes. It clearly says merely that the electoral count votes shall then be counted.

It was the Electoral Count Act of 1887 that filled in, if you will, the simple words of the 12th Amendment in order to construct for the country a process for the counting of—the sacred process for the counting of—the electoral votes from the States that neither our original Constitution nor even the 12th Amendment had done.

The irony, if you will, is that, from its founding until 1887, when Congress passed the Electoral Count Act, the Nation had been in considerable turmoil during at least 5 of its Presidential elections, beginning as soon thereafter from the founding as 1800. So, it wasn't for almost 100 years later until the Electoral Count Act was passed.

So that is why, in my view, that piece of legislation is not only a work in progress for the country but, at this moment in history, an important work in progress that needs to take place.

That was long-winded, I understand.

Mr. WOOD. Well, Judge Luttig, at the risk of oversimplifying for the non-lawyers who are watching, is it fair to say that the 12th Amendment basically says two things happen: the Vice President opens the certificates, and the electoral votes are counted.

Is it that straightforward?

Judge LUTTIG. I would not want that to be my testimony before the Congress of the United States. The language of the 12th Amendment is that simple.

Mr. WOOD. Thank you, Judge.

Mr. Jacob, I have a question for you. I believe during your deposition before this Committee you said something to the effect of you had read every word written about the 12th Amendment, the Electoral Count Act, and historical practice.

I know in response to the Chairman's earlier question you gave your bottom-line conclusion, but can you tell us a little bit about the process that you and your colleagues went through of researching this issue and what conclusion you came to after your thorough research?

Mr. JACOB. So, as a lawyer who is analyzing a Constitutional provision, you start with the Constitutional text, you go to structure, you go to history.



So, we started with the text. We did not think that the text was quite as unambiguous as Judge Luttig indicated. In part, we had a Constitutional crisis in 1876 because, in that year, multiple slates of electors were certified by multiple States, and, when it came time to count those votes, the antecedent question of which ones had to be answered.

That required the appointment of an independent commission. That commission had had to resolve that question. The purpose of the Electoral Count Act of 1887 had been to resolve those latent ambiguities.

Now, I am in complete agreement with Judge Luttig; it is unambiguous that the Vice President does not have the authority to reject electors. There is no suggestion of any kind that it does. There is no mention of rejecting or objecting to electors anywhere in the 12th Amendment. So the notion that the Vice President could do that certainly is not in the text.

But the problem that we had, and that John Eastman raised in our discussions was, we had all seen that in Congress, in 2000, in 2004, in 2016, there had been objections raised to various States, and those had even been debated in 2004. So here you have an amendment that says nothing about objecting or rejecting and yet we did have some recent practice of that happening within the terms of the Electoral Count Act.

So, we started with that text. I recall, in my discussion with the Vice President, he said, "I can't wait to go to heaven and meet the Framers and tell them, 'The work that you did in putting together our Constitution is a work of genius. Thank you. It was divinely inspired. There is one sentence that I would like to talk to you a little bit about.'"

So, then we went to structure. Again, the Vice President's first instinct here is so decisive on this question. There is just no way that the Framers of the Constitution, who divided power and authority, who separated it out, who had broken away from George III and declared him to be a tyrant—there was no way that they would have put in the hands of one person the authority to determine who was going to be President of the United States.

Then we went to history. We examined every single electoral vote count that had happened in Congress since the beginning of the country. We examined the Electoral Count Act. We examined practice under the Electoral Count Act.

Critically, no Vice President in 230 years of history had ever claimed to have that kind of authority, hadn't claimed authority to reject electoral votes, had not claimed authority to return electoral votes back to the States. In the entire history of the United States, not once had a joint session ever returned electoral votes back to the States to be counted.

In the crisis of 1876, Justice Bradley of the U.S. Supreme Court, who supplied the decisive final vote on that commission, had specifically looked at that question and said, first, the Vice President clearly doesn't have authority to decide anything and, by the way, also does not have authority to conduct an investigation by sending things back out for a public look at things.

So, the history was absolutely decisive.

Again, part of my discussion with Mr. Eastman was, if you were right, don't you think Al Gore might have liked to have known in 2000 that he had authority to just declare himself President of the United States? Did you think that the Democrat lawyers just didn't think of this very obvious quirk that he could use to do that? Of course, he acknowledged Al Gore did not and should not have had that authority at that point in time.

But so text, structure, history. I think what we had was some ambiguous text that common sense and structure would tell you the answer cannot possibly be that the Vice President has that authority—as the Committee already played the Vice President's remarks, there is almost no idea more un-American than the notion that any one person would choose the American President—and then unbroken historical practice for 230 years that the Vice President did not have such an authority.

Mr. WOOD. Thank you.

I reserve the remainder of my time.

Mr. AGUILAR. Mr. Jacob, you weren't the only one who knew that the legal theory was wrong, though. Here is what various advisors to the President thought about that theory.

Mr. HEAPHY. Had you been clear repeatedly with Mr. Meadows about you and the Vice President having a different view about his authority on January 6th?

Mr. SHORT. I believe I had.

Mr. HEAPHY. Did Mr. Meadows ever explicitly or tacitly agree with you, or say, "Yeah, that makes sense, okay"?

Mr. SHORT. I believe that—that Mark did agree.

Mr. HEAPHY. What makes you say that?

Mr. SHORT. I believe that's what he told me. But, as I mentioned, I think Mark had told so many people so many different things that it was not something that—that I would necessarily accept as okay, well, that means that's resolved.

Mr. HEAPHY. I see. Tell me more what—what he told you on this topic.

Mr. SHORT. Well, I think it was that, you know, the Vice President doesn't have any broader role. I think he was understanding of that.

Mr. HEAPHY. So, despite the fact that he may have said other things to the President or others, to you he said he understands the Vice President has no role.

Mr. SHORT. Yes.

Mr. HEAPHY. Okay. Did he say that to you several times?

Mr. SHORT. A couple of times, um-hmm.

Mr. HEAPHY. Before January 6th?

Mr. SHORT. Yes.

Mr. JASON MILLER. The way it was communicated to me was that Pat Cipollone thought the idea was—was nutty and had at one point confronted Eastman basically with the same sentiment.

Mr. SHORT. Pat expressed his admiration for the Vice President's actions on the day of the 6th and said that he concurred with the legal analysis that—that our team had—had put together to reach that point.

Mr. HERSCHMANN. It made no sense to me that, in all the protections that were built into the Constitution for a President to get elected and steps that had to be taken, that the—or to choose the next President would be sitting at—with the Vice President.

Mr. GEORGE. Do you know if Mr. Clark or Mr. Morgan—is it Morgan—viewed about that—thought about that, Mr. Eastman's advice?

Mr. JASON MILLER. Yeah, they thought he was crazy.

Mr. GEORGE. Do you know if they ever expressed an opinion on whether they thought the Vice President had the power that John Eastman said he did?

Mr. JASON MILLER. I know for a fact I heard both say that his theory was crazy, that there was no validity to it in any way, shape, or form.

Mr. GEORGE. And did they express that before January 6th?

Mr. JASON MILLER. Yes.

Mr. GEORGE. To whom?

Mr. JASON MILLER. I think anyone who would listen.

Mr. WOOD. Okay. What were your prior interactions with Eastman?

Mr. HERSCHMANN. He described for me what he thought the ambiguity was in the statute, and he was walking through it at that time. And I said, "Hold on a second. I want to understand what you're saying. You're saying that you believe the Vice President, acting as President of the Senate, can be the sole decision maker as to, under your theory, who becomes the next President of the United States."

And he said, "Yes."

And I said, "Are you out of your effing mind?" Right? And I—you know, that was pretty blunt.

I said, "You're completely crazy."

I said, "You're going to turn around and tell 78-plus million people in this country that your theory is this is how you're going to invalidate their votes, because you think the election was stolen?"

And I said, "They're not going to tolerate that." Said: "You're going to cause riots in the streets."

And he said words to the effect of: There has been violence in the history of our country, Eric, to protect the democracy or protect the Republic.

Mr. AGUILAR. In fact, there was a risk that the lawyers in the White House Counsel's Office would resign.

For example, Fox News Host Sean Hannity expressed concern that the entire White House Counsel's Office could quit. As you can see from these texts, Mr. Hannity wrote to White House Chief of Staff Mark Meadows that, "we can't lose the entire WH counsels office. I do NOT see January 6 happening the way he is being told."

A few days later, on January 5th, Mr. Hannity wrote to Mr. Meadows that, "I'm very worried about the next 48 hours." "Pence pressure. WH counsel will leave."

While Sean Hannity was apparently very concerned about the possibility that the White House Counsel would resign in protest of the President's effort to force the Vice President to violate the Constitution, some others close to the President were more dismissive of the White House Counsel's position.

Here is what Trump's son-in-law and senior advisor, Jared Kushner, said during his deposition regarding White House Counsel Pat Cipollone's threats to resign.

Vice Chair CHENEY. Jared, are you aware of instances where Pat Cipollone threatened to resign?

Mr. KUSHNER. I—I kind-of—like I said, my interest at that time was on trying to get as many pardons done. And I know that, you know, he was always—to him and the team were always saying, Oh, we're going to resign. We're not going to be here if this happens, if that happens. So, I kind-of took it up to just be whining to be honest with you.

Mr. AGUILAR. The President's own lead outside counsel, Rudy Giuliani, also seemed to concede that the Vice President did not have the authority to decide the outcome of the election or send it back to the States.

Here is what White House attorney Eric Herschmann said about his call with Mayor Giuliani on the morning of the 6th.

Mr. HERSCHMANN. The morning of January 6th, I think he called me out of the blue, right? And I was like getting dressed. And we had an intellectual discussion that—about Eastman's—I don't know if it's Eastman's theory per se, but the VP's role. And, you know, he was asking me my view and analysis and then the practical implications of it. And when we finished, he said, like, "I believe that, you know, you're probably right."

I think he thought, when we were done, that it would be something he'd have to consider if he was sitting on the bench, but he'd probably come down in that, you know, you couldn't interpret it or sustain the argument long-term.

Mr. AGUILAR. Of course, the fact that Mayor Giuliani seemed to admit that the theory was wrong did not stop him from going be-

fore the crowd just a few hours later on January 6th and saying the exact opposite.

Here is Mayor Giuliani's speech at the Ellipse rally on January 6th.

Mr. GIULIANI. We're here just very briefly to make a—very important two points. No. 1, every single thing that has been outlined as the plan for today is perfectly legal. I have Professor Eastman here with me to say a few words about that. He's one of the preeminent constitutional scholars in the United States.

It is perfectly appropriate, given the questionable constitutionality of the Election Counting Act of 1887, that the Vice President can cast it aside, and he can do what a President called Jefferson did when he was Vice President. [applause]

He can decide—he can decide on the validity of these crooked ballots, or he can send it back to the legislatures, give them 5 to 10 days to finally finish the work.

Mr. AGUILAR. Here is what Dr. Eastman said in his speech at the Ellipse on January 6th.

Mr. EASTMAN. And all we are demanding of Vice President Pence is this afternoon at 1 o'clock he let the legislatures of the State look into this, so we get to the bottom of it and the American people know whether we have control of the direction of our Government or not. [applause]

Mr. AGUILAR. Even Dr. Eastman knew his theory didn't hold water.

Mr. Jacob, you discussed and even debated this theory at length with Dr. Eastman. Did Dr. Eastman ever tell you what he thought the U.S. Supreme Court would do if it had to decide this issue?

Mr. JACOB. Yes. We had an extended discussion, an hour-and-a-half to 2 hours, on January 5th. When I pressed him on the point, I said, "John, if the Vice President did what you are asking him to do, we would lose 9 to nothing in the Supreme Court, wouldn't we?"

He initially started, "Well, I think maybe you would lose only 7–2," and after some further discussion acknowledged, "Well, yes, you are right, we would lose 9–nothing."

Mr. AGUILAR. I appreciate that.

In our investigation, the Select Committee has obtained evidence suggesting that Dr. Eastman never really believed his own theory. Let me explain.

On the screen, you can see a draft letter to the President from October 2020. In this letter, an idea was proposed that the Vice President could determine which electors to count at the joint session of Congress. But the person writing in blue eviscerates that argument.

The person who wrote the comments in blue wrote, "The 12th Amendment only says that the President of the Senate opens the ballots in the joint session and then, in the passive voice, that the votes shall then be counted."

The comments in blue further state, "Nowhere does it suggest that the President of the Senate gets to make the determination on his own."

Judge Luttig, does it surprise you that the author of those comments in blue was, in fact, John Eastman?

Judge LUTTIG. Yes, it does, Congressman.

But let me—watching this unfold, let me try to unpack what was at the root of what I have called "the blueprint to overturn the 2020 election," and it is this. I foreshadowed this answer in my earlier testimony to Congresswoman Cheney.

Mr. Eastman, from the beginning, said to the President that there was both legal as well as historical precedent for the Vice President to overturn the election. What we have heard today, I believe, is what happened within the White House and elsewhere as all the players, led by Mr. Eastman, got wrapped around the axle by the “historical evidence” claim by Mr. Eastman.

Let me explain very simply. This is what I have said would require a digression that I would be glad to undertake if you wish.

In short, if I had been advising the Vice President of the United States on January 6th, and even if then-Vice President Jefferson and even then-Vice President John Adams and even then-Vice President Richard Nixon had done exactly what the President of the United States wanted his Vice President to do, I would have laid my body across the road before I would have let the Vice President overturn the 2020 election on the basis of that historical precedent.

But what this body needs to know—and now America needs to know—is that that was the centerpiece of the plan to overturn the 2020 election. It was the historical precedent in the years and with the Vice Presidents that I named, as Congressman Raskin understands well.

The effort by Mr. Eastman and others was to drive that historical precedent up to and under that single sentence, single pristine sentence, in the 12th Amendment to the United States Constitution, taking advantage of, if you will, what many have said is the inartful wording of that sentence in the 12th Amendment.

Scholars before 2020 would have used that historical precedent to argue not that Vice President Pence could overturn the 2020 election by accepting noncertified State electoral votes, but they would have made arguments as to some substantive, not merely procedural, authority possessed by the Vice President of the United States on the statutorily prescribed day for counting the electoral college votes.

This is Constitutional mischief.

Mr. AGUILAR. Judge, I think that is a good point. I think it kind of begs the question that if the Vice President had this power to determine the outcome of a Presidential election, why hasn't it ever been used before? Why hasn't that ever happened? Why hasn't a Vice President simply rejected the outcome of an election and declared someone else the winner?

Instead, as the Chairman mentioned in his opening, for over two centuries Vice Presidents have presided over the joint sessions of Congress in a purely ceremonial role.

This even includes, as Mr. Jacob mentioned, Vice President Al Gore. For those of us who are old enough to remember, the 2000 election came down to one State: Florida. There were weeks of recounts and litigation after the election, and Al Gore conceded.

Of course, Al Gore was the Vice President at the time, but he never suggested that he could simply declare himself the winner of the 2000 election when he presided over the counting of the electoral votes.

Let's hear what Vice President Gore said when he described the situation he faced in 2000.

Vice President GORE. [I]mportance of the United States of America in all of human history, in Lincoln's phrase, we still are the last best hope of humankind. And the choice between one's own disappointment in your personal career and upholding the—the noble traditions of America's democracy, it's a pretty easy choice when it comes down to it.

Mr. AGUILAR. Mr. Jacob, did Dr. Eastman say whether he would want other Vice Presidents, such as Al Gore after the 2000 election, or Kamala Harris after the 2024 election, to have the power to decide the outcome of the election?

Mr. JACOB. So, this was one of the many points that we discussed on January 5th. He had come into that meeting trying to persuade us that there was some validity to his theory. I viewed it as my objective to persuade him to acknowledge he was just wrong.

I thought this had to be one of the most powerful arguments: "I mean, John, back in 2000, you weren't jumping up and saying Al Gore had this authority to do that. You would not want Kamala Harris to be able to exercise that kind of authority in 2024 when I hope Republicans will win the election, and I know you hope that too, John."

He said, "Absolutely. Al Gore did not have a basis to do it in 2000. Kamala Harris shouldn't be able to do it in 2024. But I think you should do it today."

Mr. AGUILAR. Marc Short told the Select Committee that Vice President Pence consulted with one of his predecessors, Vice President Dan Quayle, regarding the role of the Vice President. Vice President Quayle confirmed Pence's view that the role was purely ceremonial.

Mr. Short also told the Committee that he, Mr. Short, received a call from former House Speaker Paul Ryan. Here is Mr. Short's description of his conversation with Speaker Ryan.

Mr. SHORT. Speaker Ryan wanted to call and say, "You know, you don't have any greater authority." And I—I said to him, "Mr. Speaker you—you know, Mike, you know he doesn't—you know, he recognizes that." And we sort-of laughed about it, and he said, "I get it." And he later spoke to the Vice President, too, to I think have the same conversation.

Mr. AGUILAR. Fortunately for the fate of our Republic, Vice President Pence refused to go along with President Trump's demands that he determine the outcome of the Presidential election.

Mr. Jacob, what was the Vice President's reaction when you discussed with him the theory that the Vice President could decide the outcome of the election?

Mr. JACOB. Congressman, as I have testified, the Vice President's first instinct was that there was no way that any one person, particularly the Vice President, who is on the ticket and has a vested outcome in the election, could possibly have the authority to decide it, by rejecting electors, or to decisively alter the outcome by suspending the joint session for the first time in history in order to try to get a different outcome from State legislatures.

Mr. AGUILAR. Despite the fact that the Vice President had a strongly held and correct view that he could not decide the outcome of the election, President Trump launched a multi-week campaign of both public and private pressure to get Vice President Mike Pence to violate the Constitution.

Here are some examples of the intense pressure the Vice President faced from all sides and what his chief of staff thought of it.

President TRUMP. And I hope Mike Pence comes through for us. I have to tell you. [applause] I hope that our great Vice President—our great Vice President comes through for us. He's a great guy. Of course, if he doesn't come through, I won't like him quite as much. [laughter]

Mr. HEAPHY. Was it your impression that the Vice President had directly conveyed his position on these issues to the President, not just to the world through a Dear Colleague letter, but directly to President Trump?

Mr. SHORT. Many times.

Mr. HEAPHY. And he'd been consistent in conveying his position to the President?

Mr. SHORT. Very consistent.

Mr. GIULIANI. I am—I am aware of the fact that the President was upset with the way Pence acted.

Mr. BANNON. Are we to assume that this is going to be a climactic battle?

Mr. EASTMAN. Well, I think a lot of that depends on the courage and the spine of the individuals involved.

Mr. BANNON. That would be a nice way to say a guy named Mike—Vice President Mike Pence?

Mr. EASTMAN. Yes.

Mr. SHORT. I think we'd been clear as to what the Vice President's role was. I think the Vice President made clear with the President. And I think I'd been clear with Mark Meadows.

Mr. JASON MILLER. I think the Vice President is going to throw down tomorrow and do the right thing because, Lou, like I said before, this is a time for choosing. People are going to look back at this moment tomorrow and remember where every single one of their elected officials were.

Did they vote for the rule of law in getting these elections right? Or did they give it away to the Democrats and the people who cheated and stole their way through this election?

Definitely the—you know, I got back into town approximately like the 5th and the 6th. The President was, you know, all the attention was on what Mike would do or what Mike wouldn't do.

Mr. SHORT. The Vice President really was not wavering in his commitment to what he—what his responsibility was. And so, yeah, was it—was it painful? Sure.

Mr. AGUILAR. The President's pressure campaign started in December. For example, although the Vice President made his views clearly and unmistakably known to the President and others in the White House on December 23rd, President Trump retweeted a memo from an individual named Ivan Raiklin, entitled "Operation Pence Card," that called on the Vice President to refuse the electoral college votes from certain States that had certified Joe Biden as the winner.

President Trump started his pressure campaign in December, but he dialed up the pressure as January 6th approached.

The testimony we have received in our investigation indicates that by the time January 4th arrived, President Trump had already engaged in a "multi-week campaign" to pressure the Vice President to decide the outcome of the election.

This had included private conversations between the two leaders, Trump's tweets, and at least one meeting with Members of Congress.

We understand that the Vice President started his day on January 4th with a rally in Georgia for the Republican candidates in the U.S. Senate runoff.

When the Vice President returned to Washington, he was summoned to meet with the President regarding the upcoming joint session of Congress.

Mr. Jacob, who attended that meeting?

Mr. JACOB. The attendees were the Vice President, the President, Marc Short, the chief of staff to the Vice President, myself, and John Eastman. There was about a 5-minute period where Mark Meadows came in on a different issue.

Mr. AGUILAR. Let's show a photo of that meeting.

Mr. Jacob, during that meeting between the President and the Vice President, what theories did Dr. Eastman present regarding the role of the Vice President in counting the electoral votes?

Mr. JACOB. During the meeting on January 4th, Mr. Eastman was opining that there were two legally viable arguments as to authorities that the Vice President could exercise 2 days later on January 6th.

One of them was that he could reject electoral votes outright. The other was that he could use his capacity as presiding officer to suspend the proceedings and declare essentially a 10-day recess, during which States that he deemed to be disputed—there was a list of 5 to 7 States that the exact number changed from conversation to conversation—but that the Vice President could sort-of issue a demand to the State legislatures in those States to reexamine the election and declare who had won each of those States.

So, he said that both of those were legally viable options. He said that he did not recommend, upon questioning, he did not recommend what he called the more aggressive option, which was reject outright, because he thought that that would be less politically palatable, that the imprimatur of State legislature authority would be necessary to ultimately have public acceptance of an outcome in favor of President Trump.

So, he advocated that the preferred course of action would be the procedural route of suspending the joint session and sending the election back to the States.

Mr. AGUILAR. Mr. Jacob, I know you won't discuss the direct conversations between the President and the Vice President, so rather than asking you what the Vice President said in that meeting, I will ask you a more general question.

Did the Vice President ever waver in his position that he could not unilaterally decide which electors to accept?

Mr. JACOB. The Vice President never budged from the position that I have described as his first instinct, which was that it just made no sense, from everything that he knew and had studied about our Constitution, that one person would have that kind of authority.

Mr. AGUILAR. Did the Vice President ever waver in his position that he could not delay certification and send it back to the States?

Mr. JACOB. No, he did not.

Mr. AGUILAR. Did Dr. Eastman admit in front of the President that his proposal would violate the Electoral Count Act?

Mr. JACOB. So, during that meeting on the 4th, I think I raised the problem that both of Mr. Eastman's proposals would violate several provisions of the Electoral Count Act.

Mr. Eastman acknowledged that that was the case, that even what he viewed as the more politically palatable option would violate several provisions, but he thought that we could do so because in his view the Electoral Count Act was unconstitutional.



When I raised concerns that that position would likely lose in court, his view was that the court simply wouldn't get involved. They would invoke the political question doctrine and therefore we could have some comfort proceeding with that path.

Mr. AGUILAR. Mr. Wood.

Mr. WOOD. But just to reiterate, he told you—maybe this was in a later conversation—but he told you at some point that if, in fact, the issue ever got to the Supreme Court, his theory would lose 9–0, correct?

Mr. JACOB. The next morning, starting around 11 or 11:30, we met for an hour-and-a-half to 2 hours. In that meeting, I have already described the text, structure, history conversation, but we started walking through all of that.

I said, “John, basically what you have is some texts that may be a little bit ambiguous, but then nothing else that would support it, including the fact that nobody would ever want that to be the rule. Wouldn't we lose 9 to nothing in the Supreme Court?”

Again, he initially started, “Well, maybe you would only lose 7–2,” but ultimately acknowledged that, no, we would lose 9–0, no judge would support his argument.

Mr. AGUILAR. After his meeting with the Vice President, Donald Trump flew to Georgia for a rally in support of the Republican candidates in the U.S. Senate runoff.

Even though the Vice President had been steadfast in resisting the President's pressure, President Trump continued to publicly pressure Vice President Pence in his Georgia speech.

Rather than focusing exclusively on the Georgia Senate runoff, Trump turned his attention to Mike Pence. Here is what the President said during that rally in Georgia.

President TRUMP. [Pence comes through for us. I have to tell you. [applause] I hope that our great Vice President—our great Vice President comes through for us. He's a great guy. Of course, if he doesn't come through, I won't like him quite as much. [laughter]

Mr. AGUILAR. So, the President had been told multiple times that the Vice President could not affect the outcome of the election, but he nonetheless publicly pressured Mike Pence to do exactly that by saying, “If he doesn't come through, I won't like him as much.”

Let's turn now to January 5th.

Mr. Wood.

Mr. WOOD. Thank you.

That morning, meaning January 5th, the President issued a tweet expressly stating that the Vice President had the power to reject electors.

Let's look at what the President wrote. “The Vice President has the power to reject fraudulently chosen electors.”

Mr. Jacob, you have already told us about your meeting with Dr. Eastman and the President on January 4th, and you briefly made reference to the meeting you had with Dr. Eastman the next day, January 5th.

Can you tell us a little bit more about that meeting with Dr. Eastman on January 5th? For example, where was the meeting? Who was there?

Mr. JACOB. So, at the conclusion of the meeting on the 4th, the President had asked that our office meet with Mr. Eastman the

next day to hear more about the positions he had expressed at that meeting, and the Vice President indicated that—offered me up as his counsel to fulfill that duty.

So, we met in Marc Short's office in the Executive Office Building across the way from the White House. Dr. Eastman had a court hearing by Zoom that morning, so it didn't start first thing, but rather started around 11.

That meeting went for about an hour-and-a-half, 2 hours. Chief of Staff Marc Short was at that meeting most of the time. There were a few times that he left. Essentially, it was an extended discussion.

What most surprised me about that meeting was that when Mr. Eastman came in, he said, "I am here to request that you reject the electors."

So on the 4th, that had been the path that he had said, "I am not recommending that you do that," but on the 5th, he came in and expressly requested that.

I grabbed a notebook because I was heading into the meeting. I didn't hear much new from him to record, but that was the first thing I recorded in my notes, was, "Request that the VP reject."

Mr. WOOD. Just to be clear, you are saying that Dr. Eastman urged the Vice President to adopt the very same approach that Dr. Eastman appeared to abandon in the Oval Office meeting with the President the day before. Is that correct?

Mr. JACOB. He had recommended against it the evening before, and then on the 5th came in—and I think it was probably his first words after introductions and as we sat down were, "I am here to request that you reject the electors in the disputed States."

Mr. WOOD. You referenced a moment ago some handwritten notes, which you have provided to the Select Committee. I would now like to show you those notes.

As you can see, you wrote there at the top—the writing is a little bit faint in the copy—but you wrote, "Requesting VP reject."

Does that accurately reflect what Dr. Eastman asked of you in your meeting on January 5th?

Mr. JACOB. Yes.

Mr. WOOD. What was your reaction when Dr. Eastman said on January 5th that he was there to ask the Vice President of the United States to reject electors at the joint session of Congress?

Mr. JACOB. I was surprised, because I had viewed it as one of the key concessions that we had secured the night before from Mr. Eastman, that he was not recommending that we do that.

Mr. WOOD. So what did you say to him?

Mr. JACOB. Well, as I indicated, to some extent it simplified my task because there are more procedural complexities to the "send it back to the States" point of view. I actually had spent most of my evening the night before writing a memorandum to the Vice President explaining all of the specific provisions of the Electoral Count Act that that plan would violate.

So instead, since he was pushing the sort-of robust unilateral power theory—I have already walked the Committee through the discussions that we had—again, I started out with our points of commonality—or what I thought were our points of commonality—we are conservatives, we are small government people, we believe

in originalism as the means by which we are going to interpret this.

So we walked through the text, we walked through the history. The Committee has shown footage of Mr. Eastman on the stage on the 6th claiming that Jefferson supported his position in a historical example of Jefferson.

In fact, he conceded in that meeting Jefferson did not at all support his position, that in the election of 1800 there had been some small technical defect with the certificate in Georgia. It was absolutely undisputed that Jefferson had won Georgia.

Jefferson did not assert that he had any authority to reject electors. He did not assert that he had any authority to resolve any issue during the course of that.

So, he acknowledged by the end that there was no historical practice whatsoever that supported his position. He had initially tried to push examples of Jefferson and Adams.

He ultimately acknowledged they did not work, as we have covered. He acknowledged it would lose 9–0 in the Supreme Court.

He again tried to say, “But I don’t think the courts will get involved in this. They will invoke the political question doctrine. So if the courts stay out of it, that will mean that we will have the 10 days for the States to weigh in and resolve it. Then they will send back the Trump slates of electors, and the people will be able to accept that.”

I expressed my vociferous disagreement with that point. I did not think that this was a political question.

Among other things, if the courts did not step in to resolve this, there was nobody else to resolve it. You would be in a situation where you have a standoff between the President of the United States and, counterfactually, the Vice President of the United States, saying that we have exercised authorities that, Constitutionally, we think we have by which we have deemed ourselves the winners of the election.

You would have an opposed House and Senate disagreeing with that. You would have State legislatures that, to that point, I mean, Republican leaders across those legislatures had put together—had put out statements—and we collected these for the Vice President as well—that the people had spoken in their States and that they had no intention of reversing the outcome of the election.

We did receive some signed letters that Mr. Eastman forwarded us by minorities of leaders in those States, but no State had any legislative house that indicated that it had any interest in it.

So, you would have had just an unprecedented Constitutional jump ball situation with that stand-off. As I expressed to him, that issue might well then have to be decided in the streets. Because if we can’t work it out politically, we have already seen how charged up people are about this election. So, it would be a disastrous situation to be in.

So, I said I think the courts will intervene. I do not see a commitment in the Constitution of the question whether the Vice President has that authority to some other actor to resolve. There are arguments about whether Congress and the Vice President jointly have a Constitutional commitment to generally decide electoral vote issues.

I don't think that they have any authority to object or reject them. I don't see it in the 12th Amendment. But nonetheless.

I concluded by saying, "John, in light of everything that we have discussed, can't we just both agree that this is a terrible idea?"

He couldn't quite bring himself to say yes to that, but he very clearly said, "Well, yes, I see we are not going to be able to persuade you to do this."

That was how the meeting concluded.

Mr. WOOD. You just described a terrifying scenario. It sounds like there could have been chaos under the Eastman approach. You have described it as it potentially could be decided in the streets. You described several concessions that Dr. Eastman made throughout that discussion or even debate that you had with him.

At some point during that meeting on January 5th, did Dr. Eastman seem to admit that both of the theories that he had presented to the United States the day before—so the theory that the Vice President could reject electors outright and declare Donald Trump the winner, and his less aggressive theory that the Vice President could simply send it back to the States—at some point in that conversation on the 5th, did Dr. Eastman seem to admit that both of these theories suffered from similar legal flaws?

Mr. JACOB. So I had at least one, possibly two other conversations with Dr. Eastman later that day.

In the earlier meeting, we really were focused, because his request that he made had been reject the electors outright, on why that theory was wrong, and why we certainly would not be doing that.

Later that day, he pivoted back to, "Well, we hear you loud and clear, you are not going to reject. But remember last night, I said that there was this more prudent course where you could just send it back to the States. Would you be willing to do that?"

During the course of our discussion about his renewed request that we consider that option, he acknowledged to me—he put it—both Mr. Eastman and myself are graduates of the University of Chicago Law School, and he said, "Look, as graduates of that august institution, you and I will mutually understand that the underlying legal theory of plenary Vice Presidential authority is what you have to have to get there."

Because this new theory, as I was pointing out to him—or the procedural theory—still violates several provisions of the Electoral Count Act, as he acknowledged. The only way that you could ever be able to ignore several provisions of statutory law is if it was pretty clear that they were unconstitutional.

The only way they could be unconstitutional is if the Vice President had the plenary authorities that formed the basis for the reject the votes as well.

So, he acknowledged in those conversations that the underlying legal theory was the same. He just thought that the "send it back to the States" option would be more politically palatable and he hoped more palatable to the Vice President for that reason.

Mr. WOOD. In fact, when Dr. Eastman made this concession during that meeting, according to your earlier deposition, Dr. Eastman said, "Just between us University of Chicago chickens." Is that right?

Mr. JACOB. I don't think that the University of Chicago is going to start a Chicago chickens fundraising fund. But, yes, that is the terminology that he used. He said, you know, "Just between us Chicago chickens, we will understand, as lawyers who have studied the Constitution, that the underlying basis really is the same."

Mr. WOOD. I reserve the remainder of my time.

Mr. AGUILAR. Thank you, Mr. Wood.

Mr. Jacob, the President and the Vice President meet again on that same topic the next day, January 5th, correct?

Mr. JACOB. After my extended meeting with Mr. Eastman that morning, during that time the Vice President had been back at his residence working on his statement to the Nation that we released the next day.

He got down to the White House some point between 1 o'clock and 2 o'clock as my meeting with Mr. Eastman was wrapping up. When we, Marc Short and I, went over to meet with the Vice President and—actually, we thought maybe we had good news. We felt like we had sort-of defeated Mr. Eastman. He was sort-of acknowledging that there was no "there" there.

But the Vice President was then asked down to the Oval Office, and he went down to the Oval Office while Marc and I stayed back in the Vice President's office.

Mr. AGUILAR. You weren't in that meeting?

Mr. JACOB. I was not.

Mr. AGUILAR. In the book "Peril" journalists Bob Woodward and Robert Costa write that the President said, "If these people say you have the power, wouldn't you want to?"

The Vice President says, "I wouldn't want any one person to have that authority."

The President responds, "But wouldn't it almost be cool to have that power?"

The Vice President is reported to have said, "No. Look, I have read this, and I don't see a way to do it. We have exhausted every option. I have done everything I could and then some to find a way around this. It is simply not possible. My interpretation is no."

To which the President says, "No, no, no, you don't understand, Mike. You can do this. I don't want to be your friend anymore if you don't do this."

We asked Marc Short about this during his deposition.

Mr. SHORT. [A]n understanding that I would have. In other conversations with the Vice President, he articulated to me that, no, he wouldn't want that power bestowed upon any one person.

Mr. AGUILAR. Mr. Jacob, did you, Mr. Short, and the Vice President have a call later that day again with the President and Dr. Eastman?

Mr. JACOB. So, yes, we did.

Mr. AGUILAR. What did Dr. Eastman request on that call?

Mr. JACOB. On that phone call, which I believe was around 5 o'clock that afternoon, Mr. Eastman stated that he had heard us loud and clear that morning, we were not going to be rejecting electors, but would we be open to considering the other course that we had discussed on the 4th, which would be to suspend the joint session and request that State legislatures reexamine certification of the electoral votes.

Mr. AGUILAR. That same day, January 5th, *The New York Times* ran a story about the disagreement between the President and the Vice President about whether the Vice President could determine the outcome of the election.

Even though *The New York Times* story was indisputably correct, Donald Trump denied it. Trump issued a statement claiming that the Vice President had agreed that he could determine the outcome of the election, despite the fact that the Vice President had consistently rejected that position.

Let's look at what the President said in his statement. "The New York Times report regarding comments Vice President Pence supposedly made to me today is fake news. He never said that. The Vice President and I are in total agreement that the Vice President has the power to act."

Mr. Jacob, how did the Vice President's team react to this statement from the President that the Vice President could take an active role in determining the winner of the Presidential election?

Mr. JACOB. So, we were shocked and disappointed, because whoever had written and put that statement out, it was categorically untrue.

Mr. AGUILAR. The Vice President's Chief of Staff, Marc Short, had an angry phone call with Trump campaign senior advisor Jason Miller about this statement. Here is what Mr. Short and Mr. Miller told the Committee about that call.

Mr. HEAPHY. Okay. Tell me about the conversation you had with Jason.

Mr. SHORT. It was brief. I was irritated and expressed displeasure that a statement could have gone out that misrepresented the Vice President's viewpoint without consultation.

Mr. HEAPHY. The statement says the Vice President and I are in total agreement, that the Vice President has the power to act. Is that incorrect?

Mr. SHORT. I think the record shows that that's incorrect.

Mr. HEAPHY. Yeah.

Mr. SHORT. I mean, we've—we've been through many documents that clarify that this is not where the Vice President was.

Mr. HEAPHY. Right. So, essentially, the President is sending out a baldly false statement about being in alignment, purported alignment, with the Vice President despite all of the predicate that you indicated had gone before about their respective positions. Is that effectively what happened?

Mr. SHORT. I interpret the statement is false. I'll let you figure out who sent it out.

Mr. GEORGE. When Marc Short contacted you, he—he was upset. Is that what you said?

Mr. JASON MILLER. He clearly was not pleased.

Mr. GEORGE. Tell us what he said.

Mr. JASON MILLER. What's the process for putting out a statement for a meeting where only two people were in the room?

Mr. GEORGE. Did he ask you to retract the statement?

Mr. JASON MILLER. No, he just—I think it went right to what's the process for putting out a statement for a meeting when only two people were in the room.

Mr. GEORGE. And he clearly disagreed with the substance though, right, because he said that—he said the Vice President doesn't agree with this.

Mr. JASON MILLER. I'm trying to think what exactly he said. I mean, the—the tone was very clearly that he'd—that he'd used some language to strongly infer that the Vice President disagreed with—with that take, but I don't remember what that language was.

Mr. HEAPHY. Did he dictate this statement?

Mr. JASON MILLER. We—he dictated—he dictated most of it. I mean, typically on these—typically on these, I might have a couple of wording suggestions, or maybe I'd, you know, have a—a sense or a rough framework or something of that. But I—I know with—specifically on this one that it was me and him on the phone talking through it, and ultimately the way this came out was the way that he wanted to.

Mr. AGUILAR. The dispute between the President and the Vice President had grown to the point where the Vice President's Chief of Staff, Marc Short, was concerned that the President could, in Mr. Short's words, "lash out" at the Vice President on January 6th.

In fact, Mr. Short was so concerned about it that he talked with the head of the Vice President's Secret Service detail on January 5th. Here is Mr. Short.

Mr. SHORT. Concern was for the Vice President's security, and so I wanted to make sure the head of the Vice President's Secret Service was aware that—that likely, as these disagreements became more public, that the President would lash out in some way.

Mr. AGUILAR. After the recess, we will hear that Marc Short's concerns were justified. The Vice President was in danger.

Mr. Chairman, I reserve.

Chairman THOMPSON. Pursuant to the order of the Committee of today, the Chair declares the Committee in recess for a period of approximately 10 minutes.

[Accordingly, at 2:41 p.m., the Committee recessed until 2:53 p.m., when it was called to order by the Chairman.]

Chairman THOMPSON. The gentleman from California, Mr. Aguilar, is recognized.

Mr. AGUILAR. I would now like to turn to the events of January 6, 2021, which turned out to be a fateful day in our Nation's history.

Despite the fact that the Vice President consistently told the President that he did not have and would not want the power to decide the outcome of the Presidential election, Donald Trump continued to pressure the Vice President, both publicly and privately.

As you will hear, things reached a boiling point on January 6th, and the consequences were disastrous.

In the middle of the night on January 5th, into the morning of the 6th, around 1 a.m., President Trump tweeted "at" the Vice President, meaning that the comments in response to the President's tweet would also show up on the Vice President's Twitter feed.

The tweet stated that the Vice President could "come through for us" and "send it back" to the States.

Then, around 8 a.m. on January 6th, President Trump again tweeted, this time to say that the Vice President could send it back to the States and "We win," and that "this is the time for extreme courage."

Mr. Short told us during his deposition that the Vice President started a meeting on January 6th in prayer. Here is what Mr. Short said.

Mr. HEAPHY. You arrived at the Vice President's residence.

Mr. SHORT. As would often be the case, I recall, that knowing it would be an important day, we gathered in prayer. And often that would be something the staff member would—would lead. So, it would have just been at that time, I believe, the Vice President, myself, Greg, and Chris.

And we would have just asked for guidance and wisdom, knowing that the day was going to be a challenging one.

Mr. AGUILAR. Mr. Jacob, did you go to the Vice President's Residence on the morning of January 6th?

Mr. JACOB. Yes.

Mr. AGUILAR. Who else was with you?

Mr. JACOB. Marc Short, Devin O'Malley, our communications director, and Chris Hodgson, our legislative affairs director.

Mr. AGUILAR. Did the Vice President have a call with the President that morning?

Mr. JACOB. He did.

Mr. AGUILAR. Were you with the Vice President during the call?

Mr. JACOB. So, we had been putting—the Vice President had finalized his statement overnight. We were in the process of proofing it so that we could get that out. We were told that a call had come in from the President. The Vice President stepped out of the room to take that call, and no staff went with him.

Mr. AGUILAR. The President had several family members with him in the Oval that morning for that call. I would like to show you what they and others told the Select Committee about that call, along with never-before-seen photographs of the President on that call from the National Archives.

Mr. HERSCHMANN. When I got in, somebody called me and said that the family and others were in the Oval. And do I want to come up. So I—I went upstairs.

Mr. WOOD. And who do you recall being in the Oval Office?

Mr. HERSCHMANN. Don, Jr., Eric, Lara, Kimberly. I believe Meadows was there. At some point, Ivanka came in.

Ms. TRUMP. It wasn't a specific, formal discussion. It was very sort-of loose and casual.

Mr. WOOD. So, then you said at some point there's a telephone conversation between the President and the Vice President. Is that correct?

Mr. HERSCHMANN. Yes.

Ms. TRUMP. When I entered the office the second time, he was on the telephone with who I later found out to be was the—the Vice President.

Mr. WOOD. Could you hear the Vice President or only hear the President's end?

Mr. HERSCHMANN. Only hear the President's end. And at some point, it started off as a calmer tone, and everything, and then it became heated.

Ms. TRUMP. The conversation was—was pretty heated.

Mr. HERSCHMANN. I think 'til it became somewhat, you know, louder tone, I don't think anyone was paying attention to it initially.

Mr. GEORGE. Did you hear any part of the phone call, even if just this—the end that the President was speaking from?

Mr. LUNA. I did. Yes.

Mr. GEORGE. All right. And what did you hear?

Mr. LUNA. So, as I was dropping off the note, I—my memory—I remember hearing the word "wimp."

Either he called him a wimp—I don't remember if he said, "You are a wimp," "You'll be a wimp." "Wimp" is the word I remember.

Mr. GEORGE. It's also been reported that the President said to the Vice President that—something to the effect of, "You don't have the courage to make a hard decision."

General KELLOGG. Worse. I don't remember exactly either, but it was something like that. Yeah.

Mr. GEORGE. Do you—

General KELLOGG [continuing]. Being—you're—you're not tough enough to make the call.

Ms. TRUMP. It was a different tone than I'd heard him take with the Vice President before.

Mr. TONOLLI. Did Ms. Trump share with you any more details about what had happened or any details about what had happened in the Oval Office that morning?

Ms. RADFORD. That her dad had just had an upsetting conversation with the Vice President.

Mr. ROSELMAN. Do you recall anything about her demeanor either during the meeting or when you encountered her in Dan Scavino's office?

Mr. HERSCHMANN. I don't remember specifically. I mean, I think she was uncomfortable over the fact that there was obviously that type of interaction between the two of them.

Mr. LUNA. Something to the effect this is—the wording is wrong. I made the wrong decision 4 or 5 years ago.



Mr. TONOLLI. And the—the word that she related to you that the President called the Vice President, I apologize for being impolite, but do you remember what she said her father called him?

Ms. RADFORD. The P-word.

Mr. AGUILAR. Mr. Jacob, how would you describe the demeanor of the Vice President following that call with the President?

Mr. JACOB. When he came back into the room, I would say that he was steely, determined, grim.

Mr. AGUILAR. Of course, the most dangerous part of what Donald Trump did on January 6th was what he did himself. As will be discussed in detail in a future hearing, our investigation found that early drafts of the January 6th Ellipse speech prepared for the President included no mention of the Vice President. But the President revised it to include criticism of the Vice President and then further ad-libbed.

Here is what the President said on January 6th after his call with Vice President Pence.

President TRUMP. I hope Mike is going to do the right thing. I hope so. I hope so. Because if Mike Pence does the right thing, we win the election.

All Vice President Pence has to do is send it back to the States to recertify, and we become President. And you are the happiest people. And I actually—I just spoke to Mike.

I said, “Mike, that doesn’t take courage. What takes courage is to do nothing.” That takes courage. And then we’re stuck with a President who lost the election by a lot, and we have to live with that for 4 more years. We’re just not going to let that happen.

And Mike Pence is going to have to come through for us. And if he doesn’t, that will be a—a sad day for our country.

And they want to recertify their votes. They want to recertify. But the only way that can happen is if Mike Pence agrees to send it back.

So, I hope Mike has the courage to do what he has to do. And I hope he doesn’t listen to the RINOs and the stupid people that he’s listening to.

Mr. AGUILAR. Of course, we all know what happened next. The President’s words had an effect. President Trump’s supporters became angry. When the Vice President issued his public letter, the crowd at the Capitol erupted in anger. The rioters, who had erected makeshift gallows, began chanting, “Hang Mike Pence!”

Testimony in our investigation has made clear what the target of the rioters’ ire was: Vice President Mike Pence.

The rioters breached the Capitol at 2:13 p.m.

[Video shown.]

Mr. AGUILAR. Now, let’s take a look at what was going on at the White House at this time.

We received testimony that the President’s Chief of Staff, Mark Meadows, was notified of the violence at the Capitol by 2 p.m. and likely earlier.

The testimony further establishes that Mr. Meadows quickly informed the President and that he did so before the President issued his 2:24 p.m. tweet criticizing Vice President Pence for not having “courage” to do what needed to be done.

Here is what the President wrote in his 2:24 p.m. tweet while the violence at the Capitol was going on. Here is what the rioters thought.

VOICE. [N]othing but a traitor, and he deserves to burn with the rest of ‘em.

VOICE. So this—so this all escalated after Pence—what—what happened? Did Pence—Pence, yeah, Pence didn’t do what we wanted.

VOICE. Pence voted against Trump.

VOICE. Okay. And that's when all this started?

VOICE. Yup. That's when we marched on the Capitol. We've been shot at with rubber bullets, tear gas.

Mr. FUENTES. We just heard that Mike Pence is not going to reject any fraudulent electoral votes.

CROWD. Boo!

VOICE. You're a traitor!

Mr. FUENTES. That's right. You've heard it here first. Mike Pence has betrayed the United States of America.

CROWD. Boo!

VOICE. Fuck you, Mike Pence!

Mr. FUENTES. Mike Pence has betrayed this President, and he has betrayed the people of the United States, and we will never, ever forget.

VOICE. It's real simple. Pence betrayed us, which apparently everybody knew he was going to, and the President mentioned it like five times when he talked. You can go back and watch the President's video.

VOICE. This is our Capitol. Let's be respectful to it.

VOICE. There's four million people coming in. So, there's a lot of—

VOICE. We love you guys. We love the cops.

VOICE. [inaudible]

VOICE. It's only a matter of time. Justice is coming.

Mr. AGUILAR. Although the President's Chief of Staff, Mark Meadows, has refused to testify before this Committee, Mr. Meadows's aide, Ben Williamson, and White House Deputy Press Secretary Sarah Matthews testified that Mr. Meadows went to the dining room near the Oval Office to tell the President about the violence at the Capitol before the President's 2:24 p.m. tweet.

In future hearings you will hear more about exactly what was happening in the White House at that time. But here is what some White House staff told the Select Committee.

Mr. GEORGE. Do you know where he went?

Mr. WILLIAMSON. Yes, I followed him down the hallway, and I followed him into the Outer Oval corridor, which is the hallway between the Oval Office hallway and the Outer Oval section of the Oval Office. I followed him into that little corridor hallway. I saw him walk into Outer Oval. I maybe took a step into Outer Oval and then left. And I don't know where he went outside of that, but it looked like he was headed in the direction of the Oval Office.

Ms. MATTHEWS. You know, we had all talked about—at that point—about how it was bad and the, you know, situation was getting out of hand. And I—I know Ben Williamson and I were conferring, and we thought that the President needed to tweet something and tweet something immediately. And I think when Kayleigh gave us that order of don't say anything to the media, I told her that I thought the President needed to tweet something.

And then I remember—then I remember getting a notification on my phone. And I was sitting in a room with Roma and Ben, and we all got a notification. So, we knew it was a tweet from the President, and we looked down and it was a—a—a tweet about Mike Pence.

Mr. WILLIAMSON. I believe I had sent him a text saying that we may want to put out some sort of statement because the situation was—was getting a little hairy over at the Capitol. And then it was common for after I would text him, I would just go down and—and see him in person.

Mr. GEORGE. You went down to speak with Mark Meadows after this. What was that conversation?

Mr. WILLIAMSON. Very brief. I went down and told him the same thing I have in the text that I can recall. And I—I don't remember anything that was said between us other than I told him that and to my recollection he immediately got up and—and left his office.

Mr. AGUILAR. Our investigation found that immediately after the President's 2:24 p.m. tweet, the crowds, both outside the Capitol and inside the Capitol, surged.

The crowds inside the Capitol were able to overwhelm the law enforcement presence, and the Vice President was quickly evacu-

ated from his ceremonial Senate office to a secure location within the Capitol complex.

CROWD. Whose house?

CROWD. Our house!

Mr. AGUILAR. By 2:24 p.m., the Secret Service had moved Vice President Pence from the Senate Chamber to his office across the hall.

Mr. HODGSON. The noise from the rioters became audible, at which point we recognized that maybe they had gotten into the building.

Mr. AGUILAR. Then President Trump tweeted, “Mike Pence didn’t have the courage to do what should have been done to protect our Country and our Constitution, giving States a chance to certify a corrected set of facts, not the fraudulent or inaccurate ones which they were asked to previously certify. USA demands the truth!”

VOICE. Bring out Pence!

VOICE. Bring him out!

Ms. MATTHEWS. It was clear that it was escalating and escalating quickly.

CROWD. Hang Mike Pence. Hang Mike Pence.

Ms. MATTHEWS. So then when that tweet—the Mike Pence tweet—was sent out, I remember us saying that that was the last thing that needed to be tweeted at that moment. The situation was already bad, and so it felt like he was pouring gasoline on the fire by tweeting that.

Mr. AGUILAR. Thirty seconds later, rioters already inside the Capitol opened the East Rotunda door just down the hall. And just 30 seconds after that, rioters breached the Crypt one floor below the Vice President.

Mr. HODGSON. The Secret Service couldn’t control the situation and do their job of keeping him safe.

Mr. AGUILAR. At 2:26 p.m., Secret Service rushed Vice President Pence down the stairs.

Mr. JACOB. I think they had been trying to figure out whether they had a clear route to get us to where they—it was that they wanted to move us to.

Mr. HODGSON. We moved pretty quickly down the stairs and through various hallways and tunnels to the secure location. Upon arriving there, there was further discussion as to whether or not we were going to leave the Capitol complex or stay where we were.

Mr. AGUILAR. Vice President Pence and his team ultimately were led to a secure location where they stayed for the next 4½ hours, barely missing rioters a few feet away.

Mr. AGUILAR. Approximately 40 feet, that is all there was, 40 feet between the Vice President and the mob.

Mr. Jacob, you were there. Seeing that for the first time, does it surprise you to see how close the mob was to the evacuation route that you took? Forty feet is the distance from me to you, roughly.

Mr. JACOB. I could hear the din of the rioters in the building while we moved, but I don’t think I was aware that they were as close as that.

Mr. AGUILAR. Make no mistake about the fact that the Vice President’s life was in danger. A recent court filing by the Department of Justice explains that a confidential informant from the Proud Boys told the FBI that the Proud Boys would have killed Mike Pence if given a chance.

This witness, whom the FBI affidavit refers to as “W-1,” “stated that other members of the group talked about things they did that day, and they said that anyone they got their hands on they would have killed, including Nancy Pelosi.”

W-1 further stated that members of the Proud Boys said that they would have killed Mike Pence if given a chance.

We understand that Congressional leaders and others were evacuated from the Capitol complex during the attack. We would like to show you what happened after the Vice President was evacuated from the Senate.

Mr. AGUILAR. The Select Committee has obtained never-before-seen photos from the National Archives that show Vice President Pence sheltering in a secure, underground location as rioters overwhelmed the Capitol.

At 4:19 p.m., Vice President Pence is seen looking at a tweet the President had just sent, a tweet asking the rioters to leave the Capitol.

After 4½ hours spent on working to restore order, the Vice President returned to the Senate floor to continue the certification of electors.

Mr. AGUILAR. So, Vice President Pence was a focus of the violent attack.

Mr. Jacob, did the Vice President leave the Capitol complex during the attack?

Mr. JACOB. He did not.

Mr. AGUILAR. Could you please explain why the Vice President refused to leave the Capitol complex?

Mr. JACOB. When we got down to the secure location the Secret Service directed us to get into the cars, which I did. Then I noticed that the Vice President had not. So, I got out of the car that I had gotten into, and I understood that the Vice President had refused to get into the car.

The head of his Secret Service detail, Tim, had said, "I assure you; we are not going to drive out of the building without your permission." The Vice President had said something to the effect of, "Tim, I know you, I trust you, but you are not the one behind the wheel."

The Vice President did not want to take any chance that the world would see the Vice President of the United States fleeing the United States Capitol. He was determined that we would complete the work that we had set out to do that day that it was his Constitutional duty to see through, and that the rioters who had breached the Capitol would not have the satisfaction of disrupting the proceedings beyond the day on which they were supposed to be completed.

Mr. AGUILAR. Let me see if I understand this right. You were told to get in the cars. How many of the Vice President's staff got in the cars while he did not?

Mr. JACOB. Most of us.

Mr. AGUILAR. During our investigation, we received testimony that while the Vice President was in a secure location within the Capitol complex, he continued the business of Government.

We understand that the Vice President reached out to Congressional leaders, like the Acting Secretary of Defense and others, to check on their safety and to address the growing crisis.

In addition, the Vice President's Chief of Staff, Marc Short, made several calls to senior Government officials.

Here is Mr. Short's testimony regarding his call with Representative Kevin McCarthy.

Mr. SHORT. He indicated that he had had some conversation. I don't recall whether it was with the President or somebody at the White House, but I think he expressed frustration that—not taking the circumstances seriously as they should at that moment.

Mr. HEAPHY. So, Mr. McCarthy indicated he'd been in touch with someone at the White House, and he conveyed to you that they weren't taking this as seriously as they should. You have to answer. Yes or no?

Mr. SHORT. Yes, yes.

Mr. HEAPHY. Okay.

Mr. AGUILAR. While the Vice President made several calls to check on the safety of others, it was his own life that was in great danger.

Mr. Jacob, did Donald Trump ever call the Vice President to check on his safety?

Mr. JACOB. He did not.

Mr. AGUILAR. Mr. Jacob, how did Vice President Pence and Mrs. Pence react to that?

Mr. JACOB. With frustration.

Mr. WOOD. Mr. Jacob, immediately before you and the Vice President were evacuated to a secure location within the Capitol, you hit "send" on an email to John Eastman explaining why his legal theory about the Vice President's role was wrong.

You ended your email by stating that, "thanks to your bullshit, we are now under siege." We will take a look at that email.

Dr. Eastman replied—and this is hard to believe—but his reply back to you was, "The 'siege' is because you and your boss," presumably referring to the Vice President of the United States, "did not do what was necessary to allow this to be aired in a public way so the American people could see for themselves what happened."

Mr. Jacob, later that day you wrote again to Dr. Eastman. Let's show that email on the screen.

In that email you wrote, and I quote, "Did you advise the President that in your professional judgement the Vice President DOES NOT have the power to decide things unilaterally?" You ended that email saying, "[I]t does not appear that the President ever got the memo."

Dr. Eastman then replied, "He has been so advised." He ends his email with, "But you know him. Once he gets something in his head, it is hard to get him to change course."

Mr. Jacob, when Dr. Eastman wrote, "Once he gets something in his head, it is hard to get him to change course," did you understand the "he" in that email to refer to the President of the United States?

Mr. JACOB. I did.

Mr. WOOD. Mr. Jacob, did you hear from Dr. Eastman further after the riot had been quelled? If so, what did he ask?

Mr. JACOB. Late that evening, after the joint session had been reconvened, the Vice President had given a statement to the Nation saying that violence was not going to win, freedom wins, and that the people were going to get back to doing their work.

Later that evening, Mr. Eastman emailed me to point out that, in his view, the Vice President's speech to the Nation violated the Electoral Count Act, that the Electoral Count Act had been violated because the debate on Arizona had not been completed in 2 hours—of course, it couldn't be, since there was an intervening riot of several hours—and that the speeches that the Majority and Minority leaders had been allowed to make also violated the Electoral Count Act, because they hadn't been counted against the debate time.

Then he implored me: Now that we have established that the Electoral Count Act isn't so sacrosanct as you have made it out to be, I implore you one last time, can the Vice President please do what we have been asking him to do these last 2 days, suspend the joint session, send it back to the States?

Mr. WOOD. We will show you the text of that email, which Dr. Eastman wrote at 11:44 p.m. on January 6th.

So, after the attack on the Capitol and after law enforcement had secured the Capitol, he still wrote, as you described, "So now that the precedent has been set that the Electoral Count Act is not quite so sacrosanct as was previously claimed, I implore you to consider one more relatively minor violation and adjourn for 10 days to allow the legislatures to finish their investigations . . ."

So, even after the attack on the Capitol had been quelled, Dr. Eastman requested, in writing no less, that the Vice President violate the law by delaying the certification and sending the question back to the States.

Is that correct, Mr. Jacob?

Mr. JACOB. It is.

Mr. WOOD. Did you eventually share Dr. Eastman's proposal with Vice President Pence?

Mr. JACOB. Not right at that time, because the Vice President was completing the work that it was his duty to do. But a day or two later, back at the White House, I did show him that final email from Mr. Eastman.

Mr. WOOD. What was Vice President Pence's reaction when you showed him the email where Dr. Eastman, after the attack on the Capitol, still asked that the Vice President delay certification and send it back to the States?

Mr. JACOB. He said, "That's rubber room stuff."

Mr. AGUILAR. I am sorry, Mr. Wood.

He said it is "rubber room stuff"?

Mr. JACOB. Yes, Congressman.

Mr. AGUILAR. What did you interpret that to mean?

Mr. JACOB. I understood it to mean that, after having seen play out what happens when you convince people that there is a decision to be made in the Capitol legitimately about who is to be the President and the consequences of that, that he was still pushing us to do what he had been asking us to do for the previous 2 days, that that was certifiably crazy.

Mr. AGUILAR. We know that the Vice President did not do what Dr. Eastman requested, because he presided over the completion of the counting of electoral votes late in that evening.

Vice President PENCE. The number of electors appointed to vote for President of the United States is 538. Within that whole number, a majority is 270. The votes for President of the United States are as follows: Joseph R. Biden, Jr., of the State of Delaware has received 306 votes. Donald J. Trump of the State of Florida has received 232 votes.

The whole number of electors appointed to vote for Vice President of the United States is 538. Within that whole number, a majority is 270. The votes for Vice President of the United States are as follows: Kamala D. Harris of the State of California has received 306 votes. Michael R. Pence of the State of Indiana has received 232 votes.

The announcement of the state of the vote by the President of the Senate shall be deemed a sufficient declaration of the persons elected President and Vice President of the United States, each for the term beginning on the 20th day of January, 2021, and shall be entered, together with the list of the votes, on the Journals of the Senate and the House of Representatives.

Mr. AGUILAR. Mr. Jacob, we heard earlier that you and the Vice President and the team started January 6th with a prayer. You

faced a lot of danger that day. This is a personal question, but how did your faith guide you on January 6th?

Mr. JACOB. My faith really sustained me through it. I, down in the secure location, pulled out my Bible, read through it, and just took great comfort.

Daniel 6 was where I went. In Daniel 6, Daniel has become the second in command of Babylon, a pagan nation that he completely faithfully serves. He refuses an order from the king that he cannot follow, and he does his duty, consistent with his oath to God. I felt that that is what had played out that day.

Mr. AGUILAR. It spoke to you.

Mr. JACOB. Yes.

Mr. AGUILAR. At the end of the day, Marc Short sent the Vice President a text message with a Bible verse. Here is what he told the Select Committee.

Mr. SHORT. At 3:50 in the morning, when we finally adjourned and headed our ways, I remember texting the Vice President a passage from 2 Timothy, chapter 4, verse 7 about, "I fought the good fight, I finished the race, I have kept the faith."

Mr. AGUILAR. He started his day with a prayer and ended his day with a Bible verse: "I have fought the good fight, I have finished the race, I have kept the faith."

White House attorney Eric Herschmann testified that the next day, January 7th, he received a call from Dr. Eastman. Here is Mr. Herschmann's account of that call.

Mr. HERSCHMANN. The day after, Eastman—I don't remember why—he called me—or he texted me or called me, wanted to talk with me, and he said he couldn't reach others. And he started to ask me about something dealing with Georgia and preserving something potentially for appeal.

And I said to him, "Are you out of your f-ing mind?"

I said—I said I only want to hear two words coming out of your mouth from now on, "Orderly transition." And I said I don't want to hear any other f-ing words coming out of your mouth no matter what other than "orderly transition." Repeat those words to me.

Mr. WOOD. What did he say?

Mr. HERSCHMANN. Eventually he said, "Orderly transition."

I said, "Good, John. Now I'm going to give you the best free legal advice you're ever getting in your life. Get a great f-ing criminal defense lawyer. You're going to need it." And then I hung up on him.

Mr. AGUILAR. In fact, just a few days later, Dr. Eastman emailed Rudy Giuliani and requested that he be included on a list of potential recipients of a Presidential pardon. Dr. Eastman's email stated, "I've decided that I should be on the pardon list, if that is still in the works."

Dr. Eastman did not receive his Presidential pardon. So, let's see what Dr. Eastman did as a result when he was deposed by this Committee.

Mr. EASTMAN. I assert my Fifth Amendment right against being compelled to be a witness against myself.

Mr. WOOD. Did the Trump legal team ask you to prepare a memorandum regarding the Vice President's role in the counting of electoral votes at the joint session of Congress on January 6, 2021?

Mr. EASTMAN. Fifth.

Mr. WOOD. Dr. Eastman, did you advise the President of the United States that the Vice President could reject electors from 7 States and declare that the President had been reelected?

Mr. EASTMAN. Fifth.

Mr. WOOD. Dr. Eastman, the first sentence of the memo starts off by saying 7 States have transmitted dual slates of electors to the President of the Senate. Is that statement in this memo true?

Mr. EASTMAN. Fifth.

Mr. WOOD. Has President Trump authorized you to discuss publicly your January 4, 2021, conversation with him?

Mr. EASTMAN. Fifth.

Mr. WOOD. Are—so, is it your position that you can discuss in the media direct conversations you had with the President of the United States, but you will not discuss those same conversations with this Committee?

Mr. EASTMAN. Fifth.

Mr. AGUILAR. Dr. Eastman pled the Fifth 100 times.

Finally, let's hear from a Federal court judge, the only one to date who has opined on whether the President was involved in criminal activity.

Page 36 of Judge Carter's ruling says, "Based on the evidence, the Court finds it more likely than not that President Trump corruptly attempted to obstruct the Joint Session of Congress on January 6, 2021."

Page 40 of the ruling says, "Based on the evidence, the Court find that it is more likely than not that President Trump and Dr. Eastman dishonestly conspired to obstruct the Joint Session of Congress on January 6, 2021."

Page 44: "Dr. Eastman and President Trump launched a campaign to overturn a democratic election, an action unprecedented in American history. Their campaign was not confined to the ivory tower—it was a coup in search of a legal theory."

Mr. JACOB, what would have happened to our democracy if Vice President Pence had gone along with this plan and certified Donald Trump as the winner of the 2020 election?

Mr. JACOB. So, there would have been short-term and long-term effects.

The short term I have previously described: A Constitutional jump-ball situation, political chaos in Washington, lawsuits, and who knows what happening in the streets. You would have had the Vice President of the United States having declared that the outcomes of these State elections were incorrect.

So, for all of those reasons, there would have been significant short-term consequences.

But in the long term, we would have established a situation where a Vice President would have asserted that one person could have the authority to determine the outcome of an election—which is antithetical to everything in our democracy, antithetical to the rule of law.

So, it would have been significant impacts both in the short and the long term.

Mr. AGUILAR. Judge Luttig, in the statement you released earlier today, you wrote that the efforts by President Trump to overturn the 2020 election were, "the most reckless, insidious, and calamitous failures in both legal and political judgment in American history."

What did you mean by that?

Judge LUTTIG. Exactly what I said, Congressman.

Mr. AGUILAR. Thank you, Judge.

Thank you, Mr. Jacob.



Mr. Chairman, this was an informative hearing, a powerful hearing. I am grateful for your leadership and the leadership of the distinguished Vice Chair.

Donald Trump knew he lost the 2020 election, but he could not bring himself to participate in the peaceful transfer of power. So, he latched on to a scheme that, once again, he knew was illegal. When the Vice President refused to go along with it, he unleashed a violent mob against him.

When we began, I asked how we got to this place. I think the answer to that question starts with the fact that people in positions of power put their political party before their country. It cannot be allowed to continue.

I will yield back now, Mr. Chairman.

Chairman THOMPSON. Thank you very much.

Without objection, the Chair recognizes the gentlewoman from Wyoming, Ms. Cheney, for a closing statement.

Vice Chair CHENEY. Thank you very much, Mr. Chairman.

Thank you to my colleague, Representative Aguilar.

Thank you very much to our witnesses today, Mr. Jacob and Judge Luttig. Thank you for being here with us.

We have seen so far in our hearings that President Trump knew that his claims of a stolen election were false. You have seen that he knew that Mike Pence could not legally refuse to count electoral votes. You have seen what President Trump did to pressure Mike Pence into taking illegal action.

Over the course of our next hearings, you will see information about President Trump's efforts, John Eastman's efforts, the Trump legal team's efforts to apply pressure to Republican State legislatures, State officials, and others.

Judge Carter has recently written, "Dr. Eastman's actions in these few weeks indicate that his and President Trump's pressure campaign to stop the electoral count did not end with Vice President Pence. It targeted every tier of Federal and State elected officials."

We will examine all of those threats. We will examine the Trump team's determination to transmit materially false electoral slates from multiple States to officials of the Executive and Legislative branches of our Government. We will examine the pressures put on State legislatures to convene to reverse lawful election results.

An honorable man receiving the information and advice that Mr. Trump received from his campaign experts and his staff, a man who loved his country more than himself, would have conceded this election. Indeed, we know that a number of President Trump's closest aides urged him to do so.

This Committee will address all of these issues in greater detail in the coming weeks.

Mr. Chairman, I yield back.

Chairman THOMPSON. The gentlelady yields back.

Judge Luttig and Mr. Jacob, our Nation owes you a great debt for your knowledge, integrity, and your loyalty to our Constitution. You and Vice President Pence are exactly the people our Nation needed at a critical time. You had the courage to do what was right.

In the weeks leading up to January 6th, many people failed this test when they had to choose between their oath to the country or the demands of Donald Trump. But there were others who, like you, stood tall in the face of intimidation and put our democracy first.

They include the judges who rejected the bogus claims of election fraud, the senior Justice Department officials who stood up to Donald Trump, and the State officials whom we will hear from at our next hearing.

We are deeply grateful for your courage and devotion to our country.

There are some who think the danger has passed, that even though there was violence and a corrupt attempt to overturn the Presidential election, the system worked. I look at it another way: Our system nearly failed and our democratic foundation destroyed but for people like you.

Judge Luttig, I want to give you an opportunity to share your thoughts on the on-going threat.

You have written, "The clear and present danger to our democracy now is that former President Donald Trump and other political allies appear prepared . . . to seize the Presidency in 2024 if Mr. Trump or one of his anointed candidates is not elected by the American people."

What do you mean by this?

Judge LUTTIG. Mr. Chairman, I am honored beyond words by your words. I was honored on January 6, 2021, then also honored beyond words, to have been able to come to the aid of Vice President Mike Pence.

I prayed that day, just like the Vice President prayed that day. I believe we may have prayed the same prayer to the same God. I prayed that same prayer with my wife this morning before I came into these hearings.

I have written, as you said, Chairman Thompson, that, today, almost 2 years after that fateful day in January 2021, that, still, Donald Trump and his allies and supporters are a clear and present danger to American democracy.

That is not because of what happened on January 6th. It is because, to this very day, the former President, his allies and supporters pledge that, in the Presidential election of 2024, if the former President or his anointed successor as the Republican Party Presidential candidate were to lose that election, that they would attempt to overturn that 2024 election in the same way that they attempted to overturn the 2020 election but succeed in 2024 where they failed in 2020.

I don't speak those words lightly. I would have never spoken those words ever in my life except that that is what the former President and his allies are telling us.

As I said in that *New York Times* op-ed wherein I was speaking about the Electoral Count Act of 1887, the former President and his allies are executing that blueprint for 2024 in open and plain view of the American public.

I repeat: I would have never uttered one single one of those words unless the former President and his allies were candidly and proudly speaking those exact words to America.

Chairman, thank you for the opportunity to appear here today for these proceedings.

Chairman THOMPSON. Thank you again, Judge Luttig.

As a part of the Select Committee's charge to make recommendations that are informed by other investigative findings, we will be reviewing the views shared by Judge Luttig and other experts on potential improvements to the Electoral Count Act, among a range of other initiatives.

I know the information we have presented over the last week is shocking—the idea that a President of the United States would orchestrate a scheme to stay in power after the people have voted him out of office.

We are able to present this information because so many witnesses have cooperated with our probe. But the fact is, there are more people with direct knowledge, with evidence germane to our investigation. I ask those who might be on the fence about cooperating to reach out to us.

The Committee's website address is being displayed behind me: *january6th.house.gov*. There, you can view the evidence we presented in our hearings and find a tip line to submit any information you might think would be helpful for our investigation. Despite how you might not think it is important, send us what you think.

I thank those who have sent us evidence for their bravery and patriotism.

Without objection, Members will be permitted 10 business days to submit statements for the record, including opening remarks and additional questions for the witnesses.

The Chair requests those in the hearing room remain seated until the Capitol Police have escorted Members from the room.

Without objection, the Committee stands adjourned.

[Whereupon, at 3:45 p.m., the Committee was adjourned.]



## APPENDIX

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PREPARED STATEMENT OF GREGORY F. JACOB

JUNE 16, 2022

It was the honor of a lifetime to serve a Vice President whose devotion to the Constitution, and whose commitment to his Oath before God to uphold it, were the cornerstone by which he daily faithfully discharged the duties of his Office.

I first spoke to Vice President Pence about the Twelfth Amendment and the Electoral Count Act in early December 2020. The Vice President's first instinct was that the Framers of our Constitution, who abhorred concentrated power, would never have entrusted any one person with the unilateral authority to alter the outcome of a Presidential election—particularly not a person who is on the ticket. The Vice President never wavered from that view.

I will briefly summarize the legal work my office performed at the Vice President's direction in December 2020 and January 2021. We analyzed the various theories of unilateral Vice Presidential power that were presented to us, and we explained the reasons those theories were inconsistent with the Constitution and the law. We successfully resisted, with the assistance of the United States Department of Justice, two lawsuits filed against the Vice President that sought to compel him to exercise imagined extraconstitutional authority to personally determine whether duly ascertained electoral votes should be counted. We engaged with the Senate Parliamentarian to revise the parliamentary scripts for the January 6, 2021 Joint Session to ensure that they complied fully with all requirements of the Electoral Count Act, and transparently explained to the viewing public that only one duly ascertained slate of electors had been received from each State. We also assisted the Vice President with drafting the statement he released prior to the electoral vote count explaining to Congress and to the American people the basis for his firm conclusion that the Vice President's role in counting electoral votes is purely ministerial.

By the time the first lawsuit was filed against the Vice President on December 23, and well before John Eastman appeared on our radar screen on January 4, my legal team had pulled together and analyzed the records for every electoral vote count in our nation's history, the history of the disputed Election of 1876 and the Electoral Commission that was created to resolve it, the Electoral Count Act of 1887 and its legislative history, and every law review article written on the subject of the Electoral Count Act's constitutionality. Our office was determined that no one would ever be able to say that the Vice President's conclusion about the limits of his constitutional authority was the result of a failure to examine relevant law, history, or practice. I want to thank Matt Sheehan, Lindsay Pickell, Devin Petricca, and Ugonna Eze for their service to the Vice President and our country. Thanks to their diligent work through late nights and holidays, no lawsuit or lawyer was ever able to confront us with a legal argument or an asserted account of history with which we were not already intimately familiar, which proved critical in the fast-paced days leading up to January 6.

I hope the Vice President found the legal advice my staff and I provided him helpful as he handled a charged constitutional moment, but it was not determinative of the outcome. Vice President Pence loves the Constitution. He studied the law and history, he read law review articles, he ably rebutted John Eastman's arguments. He concluded that although the relevant text of the Twelfth Amendment is inartfully drafted, the Framers could not possibly have intended to empower the Vice President to reject duly ascertained electoral votes, or to unilaterally suspend the constitutionally mandated vote counting proceedings. When asked last year by a student at an event at the University of Iowa to name the person who told him that he was required to certify the 2020 election, the Vice President accurately answered: James Madison.

This Committee is considering changes to our statutory laws to prevent a recurrence of January 6. I agree that changes should be made. The truth is, however, that our enacted laws were already clear that the Vice President did not possess the extraordinary powers others urged upon him. New statutes will make little difference if we do not first inculcate in our citizens and demand in our leaders unfailing fidelity to our Constitution and the rule of law. That means you always follow them, even when it hurts. You stand up for them, even where there is a cost.

We are losing—I pray we have not lost—a common devotion to the first principles that have bound our people together for more than two centuries, and have made America a beacon of hope and freedom in the world. Our Declaration of Independence recognizes as a self-evident truth that our God-given and unalienable rights to life and liberty depend for their security on the just administration of the laws in accordance with the consent of the governed.

The law is not a plaything for Presidents or judges to use to remake the world in their preferred image. Our Constitution and our laws form the strong edifice within which our heartfelt policy disagreements are to be debated and decided. When our elected and appointed leaders break, twist, and fail to enforce our laws in order to achieve their partisan ends, or to accomplish frustrated policy objectives they consider existentially important, they are breaking America. We should not feign surprise when our citizens treat the law and the Constitution with the same level of respect that our leaders do.

So in considering changes to our laws governing the counting of electoral votes, I respectfully suggest that Congress should with humility study and acknowledge how it has fulfilled its own constitutionally prescribed role over the last 20 years. Memories of the 2020 election are fresh, but history records that in four of the last six Presidential elections—a majority of the Presidential elections in the last two decades—efforts were made in Congress to reverse election outcomes. On January 6, 2001, several Members objected to counting the electoral votes of Florida. On January 6, 2005, a broader effort was made to reject Ohio's electoral votes. There was no evidence of fraud in Ohio. Yet dozens of Members voted to disenfranchise Ohio's voters, and more than 120 others abstained from that vote, placing political self-interest ahead of the rights of Ohio's voters to have their votes counted. On January 6, 2017, Members lodged objections to counting the electoral votes of Alabama, Florida, Georgia, Michigan, Mississippi, North Carolina, South Carolina, and Wisconsin.

The objectors to the elections of 2000, 2004, and 2016 likely did not believe their efforts to reverse State outcomes would succeed. They were simply using the Joint Session and the Electoral Count Act for purposes of political theater, without giving much thought to their constitutionally appropriate role. But by the time January 2021 arrived, John Eastman was able to point to a well-worn road suggesting that momentous decisions about the outcome of Presidential elections can legitimately be made in the United States Capitol on January 6.

The events of January 6, 2021 have, I hope, settled any lingering questions about the Vice President's constitutionally appropriate role in certifying the results of Presidential elections. The text, structure, and history of the Twelfth Amendment, comprehensively and fairly considered, supply a decisive answer, as does the Electoral Count Act of 1887. As Vice President Pence has said: "Frankly, there is almost no idea more un-American than the notion that any one person could choose the American President."

As this Committee considers recommending legislative changes concerning Congress's own role in certifying Presidential elections, I commend to it the text of the Twelfth Amendment, and the specific and limited duties that Congress is assigned. I also commend to it Federalist No. 68. There Alexander Hamilton wrote that the Constitution does "not ma[ke] the appointment of President to depend on any preexisting bodies of men," which he warned might be subject "to cabal, intrigue, and corruption." For precisely this reason, the Constitution prohibits Senators and Representatives from serving as electors. Hamilton also warned that any body meeting in one location to choose the President would be exposed to "heats and ferments" that could "convulse the community with [] extraordinary or violent movements."

How prescient.

I'll close by borrowing a few words that were used by James Madison 210 years ago when he endorsed a national call to prayer at the outset of the War of 1812: May Almighty God guide our councils, animate our patriotism, and inspire our nation with a love of justice and concord.

## PREPARED STATEMENT OF HON. J. MICHAEL LUTTIG \*

JUNE 16, 2022

Honorable Members of the House Select Committee—

A stake was driven through the heart of American democracy on January 6, 2021, and our democracy today is on a knife's edge.

America was at war on that fateful day, but not against a foreign power. She was at war against herself. We Americans were at war with each other—over our democracy.

January 6 was but the next, foreseeable battle in a war that had been raging in America for years, though that day was the most consequential battle of that war even to date. In fact, January 6 was a separate war unto itself, a war for America's democracy, a war irresponsibly instigated and prosecuted by the former president, his political party allies, and his supporters. Both wars are raging to this day.

A peaceful end to these wars is desperately needed. The war for our democracy could lead to the peaceful end to the war for America's cultural heart and soul. But if a peaceful end to the war for America's democracy is not achievable, there is little chance for a peaceful end to that war. The settlement of this war over our democracy is necessary to the settlement of any war that will ever come to America, whether from her shores or to her shores. Though disinclined for the moment, as a political matter of fact only the party that instigated this war over our democracy can bring an end to that war.

Like our war from a distant time, these twin wars are “testing whether th[is] nation or any nation . . . so conceived in Liberty . . . can long endure.” We must hope that January 6 was the final battle of at least the deadly war for America's democracy.

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These senseless wars are of our own making, and they are now being waged throughout the land, in our city centers and town squares, in our streets and in our schools, where we work and where we play, in our houses of worship—even within our own families. These wars were conceived and instigated from our Nation's Capital by our own political leaders collectively and they have been cynically prosecuted by them to fever pitch, now to the point that they have recklessly put America herself at stake.

America is now the stake in these unholy wars.

Serious thinkers about the American experiment who are not given to apocalyptic prophesying question whether America is on the verge of a literal civil war. But is even this figurative civil war to be our generation's legacy to posterity?

These wars that we are waging against each other are immoral wars, not moral ones, being immorally waged over morality itself. We Americans no longer agree on what is right or wrong, what is to be valued and what is not, what is acceptable behavior and not, and what is and is not tolerable discourse in civilized society. Let alone do we agree on how we want to be governed or by whom, or where we go from here and with what shared national ideals, values, beliefs, purposes, goals, and objectives—if any at all.

America is adrift. We pray that it is only for this fleeting moment that she has lost her way, until we Americans can once again come to our senses.

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The war on democracy instigated by the former president and his political party allies on January 6 was the natural and foreseeable culmination of the war for America. It was the final fateful day for the execution of a well-developed plan by the former president to overturn the 2020 Presidential election at any cost, so that he could cling to power that the American People had decided to confer upon his successor, the next president of the United States instead. Knowing full well that he had lost the 2020 Presidential election, the former president and his allies and

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\*With my respect to the Select Committee, I did not submit this statement prior to my testimony today pursuant to the Rules of the U.S. House of Representatives, so to avoid any appearance or suggestion that my testimony is that of an interested political party partisan or is on behalf of the Select Committee or any person involved with, on, or after January 6, or is that of a witness in any other way “interested” in these hearings.

I testify today only as a private citizen, and as a non-partisan, disinterested, independent former Federal Judge on the United States Court of Appeals who happens to have been a fact witness to the events surrounding January 6. The views, the thoughts, and the words herein are mine and mine alone, submitted to the Select Committee on my own behalf and no one else's.

supporters falsely claimed and proclaimed to the Nation that he had won the election, and then he and they set about to overturn the election that he and they knew the former president had lost.

The treacherous plan was no less ambitious than to steal America's democracy. Called to Washington D.C. that day by the president, the president himself, and the president's followers, supporters, and allies gathered near The White House for a "Stop the Steal" rally. The president maintained at that rally that the 2020 Presidential election had been "fraudulently stolen" from him. The president addressed his faithful followers thus: "We're going to the Capitol . . . We're going to try and give them [the Republicans in the Congress, presumably] the kind of pride and boldness that they need to take back our country . . . We will never give up. We will never concede."

Inflamed, the gathered mob marched up the hill from The White House to the United States Capitol to protest, disrupt and prevent the counting of the electoral votes for the presidency, which the president falsely charged were wrongly about to be counted by the Congress in his political opponent's winning favor and in his own losing favor.

Once staged at the Capitol, the mob soon erected gallows on the United States Capitol grounds, chanting that Vice President Mike Pence should be hanged. Hanged, the mob chanted, for "cowardly" refusing the president's lawless entreaties that his Vice President declare their president reelected, against the will of the American People, though he had lost both the Electoral College and the popular vote for the presidency.

There were many coward on the battlefield on January 6. The Vice President was not among them.

Soon thereafter, the rioters stormed the Capitol itself, breaching, occupying, and ransacking the temple of our democracy for seemingly endless wrenching hours—at the precise democratic moment when the Congress of the United States convened in Joint Session to begin the constitutional counting of the votes for the presidency of the United States.

Not until over 3 hours after the riot had begun, and then only after the siege had achieved what by that time was its truncated objective to interrupt and indefinitely delay the counting of the vote, did the president finally yield to the pleas and prayers from his own family, friends, and political allies, and grudgingly ask his supporters in a hastily forced video tweet to disperse and return to their homes.

The Nation wept during the evening of January 6, as the Capitol police began to clear and resecure the Capitol at day's end. Finally, at 8 o'clock p.m. on January 6, 7 hours after the siege on the Capitol had begun, Vice President Pence gaveled the Joint Session back into order with measured, understated resolve: "Today was a dark day in the history of the United States Capitol . . . Let's get back to work."

January 6 was a dark day in the history of the United States, too.

It was not until the next day, January 7, 2021, at 3:42 a.m. in the morning—almost 15 hours after the Joint Session had first been gaveled into session by Speaker Nancy Pelosi—that the Vice President finally declared that Joe Biden had been elected the 46th President of the United States.

On January 6, 2021, the prescribed day for choosing the American president, there was not to be a peaceful transfer of power—for the first time in the history of our Republic.

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Over a year and a half later, in continued defiance of our democracy, both the former president and his political party allies still maintain that the 2020 Presidential election was "stolen" from him, despite all evidence—all evidence now—that that is simply false. All the while, this false and reckless insistence that the former president won the 2020 Presidential election has laid waste to Americans' confidence in their national elections. More alarming still is that the former president pledges that his reelection will not be "stolen" from him next time around, and his Republican Party allies and supporters obeisantly pledge the same.

False claims that our elections have been stolen from us corrupt our democracy, as they corrupt us. To continue to insist and persist in the false claim that the 2020 Presidential election was stolen is itself an affront to our democracy and to the Constitution of the United States—an affront without precedent.

Those who think that because America is a republic, theft and corruption of our national elections and electoral process are not theft and corruption of our democracy are sorely mistaken. America is both a republic and a representative democracy, and therefore a sustained attack on our national elections is a fortiori an attack on our democracy, any political theory otherwise notwithstanding.



Accordingly, if, and when, one of our national elections is actually stolen from us, our democracy will have been stolen from us. To steal an election in the United States of America is to steal her democracy.

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As in all things, the essence of our participation in democracy is not knowledge, but judgment—studied, discerning judgment. No more so is this true than in the Constitution and in the Law.

Very few ever have the honor of counseling the President of the United States of America. That highest of honors carries with it the highest of obligations. Counsel provided to the President of the United States must be the product of not only exquisite, penetrating legal analysis but also profound, insightful legal judgment. These two combined are so far from mere technical legal competence as almost to be its polar opposite. The President and the country deserve nothing less from those who counsel the President, so consequential are the stakes for the Nation when the President acts upon the advice of his or her Counsel.

Whatever else, the President of the United States did not receive such counsel during his sustained effort to overturn the 2020 Presidential election. It is as much the former president's fault as anyone's that he did not.

Irrespective of the merits of the legal arguments that fueled the former president's efforts to overturn that election—irrespective of them, though there were none—those arguments, and therefore those efforts, by the former president were the product of the most reckless, insidious, and calamitous failures in both legal and political judgment in American history.

From their inception, the legal arguments that underlaid the efforts to overturn the 2020 election were, in that context, little more than beguiling and frivolous, perhaps appropriate for academic classroom debate, but singularly inappropriate as counsel to the President of the United States of America in his effort to overturn the Presidential election—an election he had lost fair and square and as to which there was not then, and there is not to this day, evidence of fraud.

It is breathtaking that these arguments even were conceived, let alone entertained by the President of the United States at that perilous moment in history.

Had the Vice President of the United States obeyed the President of the United States, America would immediately have been plunged into what would have been tantamount to a revolution within a paralyzing constitutional crisis.

The former president's accountability under the law for the riot on the United States Capitol on January 6 is incidental to his responsibility and accountability for his attempt to steal the 2020 Presidential election from the American People and thereby steal America's democracy from America herself. This said, willful ignorance of law and fact is neither excuse nor defense in law. Willful ignorance, thus, is neither political nor legal excuse or defense available to the former President of the United States, his allies, and his supporters.

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On January 6, 2021, revolutionaries, not patriots, assaulted America and American democracy. The walls of all three of our institutions of democracy were scaled and breached on that appalling day. And almost 2 years thence, one of America's two political parties cannot even agree whether that day was good or bad, right or wrong. Worse, it cannot agree over whether January 6 was needed, or not. Needed or not. Pause for a moment and reflect on that. The former president and his party cannot decide whether the revolt at the United States Capitol to disrupt and prevent the constitutional counting of the votes for the presidency was needed, and therefore whether another revolt might be needed at a future date to accomplish that which the previous revolt failed to accomplish.

If one of our national political parties—one of the two political guardians of our democracy—cannot agree even as to whether the violent riot and occupation of the United States Capitol, inspired by the President of the United States and carried out by his followers to prevent Congress from counting the votes for the presidency of those same United States, was reprehensible insurrection or needed, legitimate political discourse, we all can agree on nothing.

Nor should we.

The former president's party cynically and embarrassingly rationalizes January 6 as having been something between hallowed, legitimate public discourse and a visitors tour of the Capitol that got out of hand. January 6, of course, was neither, and the former president and his party know that. It was not legitimate public discourse by any definition. Nor was it a civics tour of the Capitol Building—though that day proved to be an eye-opening civics lesson for all Americans.

January 6 was, rather, a defining, and a redefining, day in American history—defining and redefining of America itself. On that day, America finally came face to face with the raging war that it had been waging against itself for years. So blood-chilling was that day for our democracy, that America could not believe her eyes and she turned them away in both fear and shame. Even so, many have already forgotten, and many more have chosen to forget. Some who rioted and occupied the Capitol that day had already decided how this war for our democracy must end, while others of their compatriots, upon sober reflection afterward, decided that no, no, this war must end now, before there is further bloodshed.

As did we, these latter saw how this war ends, and they realized that no one should want for such end.

For their part, the former president and many of his party remain to this day undecided as to which end of this war they will commit themselves—undecided, that is, as to which end they want to commit themselves. To be undecided today as to whether to end this war over our democracy is to have decided how one wants this war to end.

Thus, for the rest of us Americans, the time has come for us to decide whether we allow this war over our democracy to be prosecuted to its catastrophic end or whether we ourselves demand the immediate suspension of this war and insist on peace instead.

We must make this decision because our political leaders are unwilling and unable, even as they recklessly prosecute this war in our name. We Americans begin to make this consequential decision this week, when Congress, rightly if painfully, takes us back to that day in January we want so much to forget but mustn't, and reminds us of what was at stake that day and still, in what is this most unholy of wars.

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America is at a perilous crossroads. Who is it that we have become and what is it that America has become? Is this who we want to be and what we want America to be? And if not, just who is it that we Americans want to be? And just what is it that we want our America to be?

Many will again turn their eyes away, miscalculating that this is the last time they must see, and thus remember. The partisan mercenaries, who have no interest in either understanding or peace, will be the first who turn away and, in their determined ignorance, ignore. The mercenaries know better than we that what we forcibly put out of our minds or what we forget, we are destined to repeat.

No American ought to turn away from January 6, 2021, until all of America comes to grips with what befell our country that day, and we decide what we want for our democracy from this day, forward.

The genius that is America's democracy is this. The Constitution vests all power in "We the People." We agreed in the Constitution to delegate our power to our representatives, only during their time in our service, and at that, exclusively for the purpose of representing our interests in the Nation's Capital, not theirs. Our democracy is the process through which our representatives, using the power that we have delegated to them, in turn and in trust, govern us. We choose in our national elections those who we want to represent us, including most importantly the President of the United States. It is for this simple reason that to steal an election for the presidency from us is to steal our democracy from us.

America's democracy was almost stolen from us on January 6.

Our democracy has never been tested like it was on that day and it will never be tested again as it was then if we learn the lessons of that fateful day. On the other hand, if we fail to learn the lessons that are there to be learned, or worse, deny even that there are lessons there to be learned, we will consign ourselves to another January 6 in the not-too-distant future, and another after that, and another after that. While for some, that is their wish, that cannot be our wish for America.

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America can withstand attacks on her democracy from without. She is helpless to withstand them from within. The relentless assaults on America and its democracy from within, such as January 6, which designedly call into question the very legitimacy of the institutions and instrumentalities of our democracy, are simply not contemplated by the Constitution of the United States and are therefore not provided for by that Great Charter for our governance.

America is not in constitutional crisis until and unless the Constitution and the institutions and instrumentalities of our democracy are under withering, unsustainable, and unendurable attack from within. Then, and only then, is the constitutional order in hopeless constitutional disorder. Only then is America in peril.

Today, America is in constitutional crisis—and at a foreboding crossroads with disquieting parallels to the fateful crossroads we came to over a century and a half ago.

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It is no wonder that America is at war over her democracy. Every day for years now we have borne witness to vicious partisan attacks on the bulwarks of that democracy—our institutions of government and governance and the institutions and instrumentalities of our democracy—by our own political leaders and fellow citizens. Every day for years now we have witnessed vicious partisan attacks on our Institutions of Law themselves, our Nation's Judiciary, and our Constitution and the Laws of the United States—the guardians of that democracy and of our freedom. For years, we have been told by the very people we trust, and entrust, to preserve and to protect our American institutions of democracy and law that these institutions are no longer to be trusted, no longer to be believed in, no longer deserving of cherish and protection.

If that is true, then it is because those with whom we entrusted these institutions have themselves betrayed our sacred trust.

And, indeed, it does seem at the moment that we no longer agree on our democracy. Nor do we any longer seem to agree on the ideals, values, and principles upon which America was founded and that were so faithfully nurtured and protected by the generations and generations of Americans that came before us. Yet we agree on no other foundational ideals, values, and principles, either.

All of a sudden it seems that we are in violent disagreement over what has made America great in the past and over what will make her great in the future. In poetic tragedy, political campaign slogan has become divisive political truth. And there is no reason to believe that agreement about America by we Americans is anywhere on the horizon, if for no other reason than that none of us is interested in agreement. In the moral catatonic stupor America finds itself in today, it is only disagreement that we seek, and the more virulent that disagreement, the better.

This is not who we Americans are or who we want to be. Nor is this America or what we want America to be.

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Reeling from twin wars, leaderless, and rudderless, America is in need of help. Our polarized political leaders have shamefully and shamelessly failed us. They have summoned our worst demons at the very moment when we needed summoned our better angels.

As a consequence, America finds itself in desperate need of either a reawakening and quickening to the vision, truths, values, principles, beliefs, hopes, and dreams upon which the country was founded and that have made America the greatest nation in the world—a revival of America and the American spirit.

Or, if it is to be, we are in need of a revival around a new vision, new truths, new values, new principles, new beliefs, new hopes and dreams that hopefully could once again bind our divided nation together into the more perfect union that "We the People" originally ordained and established it to be.

We cannot hobble along much longer, politically paralyzed and hopelessly divided, directionless and undecided as to which revival it will be—if any at all.

Where do we begin? This is the easier question. Who has the patriotic and political courage to go first? This is the harder question.

As to the first question, we begin where the reconciliation of all broken human relationships, be they broken from war, anger, betrayal, or love, begins—by talking with each other, and listening to one another again, as human beings and fellow citizens who share the same destiny and the same belief in America and hope for her future. For years now, taking the lead from our politicians, we Americans have spoken only coarse, desensitizing, dehumanizing political vile at each other, which enables us to speak to each other without guilt or regret. For too many years now, we have spoken to each other as charlatanic political gladiators in an arena that today has become annihilative of America's future, not promising of that future.

By constitutional order, We the People of this great Nation confer upon our elected representatives the power that they are then, by solemn constitutional obligation, directed to wield on our behalf and on America's behalf. But today our politicians live in a different world from the rest of us, and in a different world than that ordained by the Constitution. They live in a fictional world of divided loyalties between party and country, a world of their own unfaithful making.

Today's politicians believe that they never have to choose between partisan party politics and country, when in fact they are obliged by oath to choose between the two every day, and every day they defiantly refuse to choose. For today's politicians,

never the twain shall meet between partisan ambition and country, and never the latter before the former, either. The politicians in today's America only sponsor partisan incitement and only traffic in the same, rather than sponsor bi-partisan reason and lead in thoughtful deliberation. They have purposely led us down the road not in the direction toward the bridging of our differences, but in the direction away from the bridging of those differences. They have proven themselves incapable of leading us.

But still, all it would take to turn America around is a consensus among some number of these political leaders who possess the combined necessary moral authority and who would agree to be bound together by patriotic covenant, to stand up, step forward, and acknowledge to the American People that America is in peril.

In order to end these wars that are draining the lifeblood from our country, a critical mass of our two parties' political leaders is needed, to whom the remainder would be willing to listen, at least without immediate partisan recrimination. The logic for reconciliation of these wars being waged in America today dictates that this number needs to include a critical mass of leaders from the former president's political party and that those leaders need to go first. All of these leaders then need to summon first the moral courage and then the political courage, the strength, and the patriotic will to extend their hands, and ask of the others—and of all Americans—"Can we talk? America needs us."

While Memorial Day is still fresh in our minds, we would all do well to remind ourselves of the immortal words spoken to the West Point cadets at the United States Military Academy a half century ago: "Duty, Honor, Country." Those three sacred words of profound American obligation were spoken on that occasion to reassure those who had given their lives for their country in the past, and who would give them in the future, that their sacrifice would not be in vain. Those words are as apt today for this occasion as they were on that day for that occasion, if not more.

Then we need to get back to work, and quickly. We need to get back to the solemn business of preserving, protecting, and defending the Constitution of the United States and the United States of America.

The hour is late. God is watching us.

## HEARING ON THE JANUARY 6TH INVESTIGATION

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**Tuesday, June 21, 2022**

U.S. HOUSE OF REPRESENTATIVES,  
SELECT COMMITTEE TO INVESTIGATE THE JANUARY 6TH  
ATTACK ON THE UNITED STATES CAPITOL,  
*Washington, DC.*

The Committee met, pursuant to notice, at 1:01 p.m., in room 390, Cannon House Office Building, Hon. Bennie G. Thompson [Chairman of the Committee] presiding.

Present: Representatives Thompson, Cheney, Lofgren, Schiff, Aguilar, Murphy, Raskin, Luria, and Kinzinger.

Chairman THOMPSON. The Select Committee to Investigate the January 6th Attack on the United States Capitol will be in order.

Without objection, the Chair is authorized to declare the Committee in recess at any point.

Pursuant to House Deposition Authority Regulation 10, the Chair announces the Committee's approval to release the deposition material presented during today's hearing.

Good afternoon. In our last hearing, we told the story of a scheme driven by Donald Trump to pressure former Vice President Mike Pence to illegally overturn the election results. We showed that, when the pressure campaign failed and Mike Pence fulfilled his Constitutional obligation, Donald Trump turned a violent mob loose on him. We showed that the mob came within roughly 40 feet of the Vice President.

Today, we will show that what happened to Mike Pence wasn't an isolated part of Donald Trump's scheme to overturn the election. In fact, pressuring public servants into betraying their oath was a fundamental part of the playbook.

A handful of election officials in several key States stood between Donald Trump and the upending of American democracy.

As we began today, it is important to remember, when we count the votes for President, we count the votes State by State. For the most part, the candidates who win the popular vote in a State wins all the State's electoral college votes. Whoever wins a majority of the electoral college votes wins the Presidency.

So, when Donald Trump tried to overturn the election results, he focused on just a few States. He wanted officials at the local and State level to say the vote was tainted by wide-spread fraud and throw out the results, even though, as we showed last week, there wasn't any voter fraud that could have overturned the election results.

Like Mike Pence, these public servants wouldn't go along with Donald Trump's scheme. When they wouldn't embrace the Big Lie and substitute the will of the voters with Donald Trump's will to remain in power, Donald Trump worked to ensure they'd face the consequences. Threats to people's livelihood and lives. Threats of violence that Donald Trump knew about and amplified.

In our other hearings, we can't just look backward at what happened in late 2020 and early 2021 because the danger hasn't gone away. Our democracy endured a mighty test on January 6th and in the days before. We say our institutions held. But what does that really mean? Democratic institutions aren't abstractions or ideas. They are local officials who oversee elections, secretaries of state, people in whom we have placed our trust that they will carry out their duties. But what if they don't?

Two weeks ago, New Mexico held its primary elections. One county commission refused to certify the results, citing vague, unsupported claims dealing with Dominion voting machines. The courts stepped in, saying New Mexico law required the commission to certify the results.

Two of the three members of the commission finally relented. One still refused, saying his vote, "isn't based on any evidence. It's not based on any facts. It's only based on my gut feeling and my own intuition, and that's all I need." By the way, a few months ago, this county commissioner was found guilty of illegally entering the Capitol Grounds on January 6th.

This story reminds us of a few things. First, as we have shown in our previous hearings, claims that wide-spread voter fraud tainted the 2020 Presidential election have always been a lie. Donald Trump knew they were a lie, and he kept amplifying them anyway.

Everything we describe today, the relentless, destructive pressure campaign on State and local officials, was all based on a lie. Donald Trump knew it. He did it anyway.

Second, the lie hasn't gone away. It is corrupting our democratic institutions. People who believe that lie are now seeking positions of public trust. As seen in New Mexico, their oath to the people they serve will take a backseat to their commitment to the Big Lie. If that happens, who will make sure our institutions don't break under the pressure? We won't have close calls. We will have a catastrophe.

My distinguished colleague from California, Mr. Schiff, will present much of the Select Committee's findings on this matter. First, I am pleased to recognize our Vice Chair, Ms. Cheney of Wyoming, for any opening statement she would care to offer.

Vice Chair CHENEY. Thank you very much, Mr. Chairman.

Today we will begin examining President Trump's effort to overturn the election by exerting pressure on State officials and State legislatures.

Donald Trump had a direct and personal role in this effort, as did Rudy Giuliani, as did John Eastman. In other words, the same people who were attempting to pressure Vice President Mike Pence to reject electoral votes illegally were also simultaneously working to reverse the outcome of the 2020 election at the State level.

Each of these efforts to overturn the election is independently serious. Each deserves attention, both by Congress and by our De-

partment of Justice. But, as a Federal court has already indicated, these efforts were also part of a broader plan. All of this was done in preparation for January 6th.

I would note two points for particular focus today. First, today you will hear about calls made by President Trump to officials of Georgia and other States. As you listen to these tapes, keep in mind what Donald Trump already knew at the time he was making those calls. He had been told over and over again that his stolen election allegations were nonsense. For example, this is what former Attorney General Bill Barr said to President Trump about allegations in Georgia.

Attorney General BARR. We took a look—a hard look—at this ourselves. And based on our review of it, including the interviews of the key witnesses, the Fulton County allegations were—had no merit. The ballots under the table were legitimate ballots. They weren't in a suitcase. They had been pre-opened for eventually feeding into the machine. All the stuff about the water leak and that there was some subterfuge involved—we felt there was some confusion, but there was no evidence of a subterfuge to create an opportunity to feed things into the count. And so, we didn't see any evidence of fraud in the Fulton County episode.

Vice Chair CHENEY. And Acting Deputy Attorney General Richard Donoghue told Donald Trump this.

Acting Deputy Attorney General DONOGHUE. And I said something to the effect of, "Sir, we've done dozens of investigations, hundreds of interviews. The major allegations are not supported by the evidence developed."

Vice Chair CHENEY. Mr. Trump was told by his own advisors that he had no basis for his stolen election claims. Yet he continued to pressure State officials to change the election results.

Second, you will hear about a number of threats and efforts to pressure State officials to reverse the election outcome. One of our witnesses today, Gabriel Sterling, explicitly warned President Trump about potential violence on December 1, 2020, more than a month before January 6th. You will see excerpts from that video repeatedly today.

Mr. STERLING. It's all gone too far. All of it. Joe diGenova today asked for Chris Krebs, a patriot who ran CISA, to be shot. A 20-something tech in Gwinnett County today has death threats and a noose put out saying he should be hung for treason because he was transferring a report on batches from an EMS to a county computer, so he could read it.

It has to stop. Mr. President, you have not condemned these actions or this language. Senators, you have not condemned this language or these actions. This has to stop. We need you to step up, and if you're going to take a position of leadership, show some.

My boss, Secretary Raffensperger—his address is out there. They have people doing caravans in front of their house. They've had people come on to their property . . .

It has to stop. This is elections. This is the backbone of democracy. And all of you who have not said a damn word are complicit in this.

Vice Chair CHENEY. The point is this: Donald Trump did not care about the threats of violence. He did not condemn them. He made no effort to stop them. He went forward with his fake allegations anyway.

One more point: I would urge all of those watching today to focus on the evidence the Committee will present. Don't be distracted by politics. This is serious. We cannot let America become a Nation of conspiracy theories and thug violence.

Finally, I want to thank our witnesses today, for all of your service to our country. Today all of America will hear about the selfless

actions of these men and women who acted honorably to uphold the law, protect our freedom, and preserve our Constitution.

Today, Mr. Chairman, we will all see an example of what truly makes America great.

Thank you, Mr. Chairman. I yield back.

Chairman THOMPSON. Without objection, the Chair recognizes the gentleman from California, Mr. Schiff, for an opening statement.

Mr. SCHIFF. Thank you, Mr. Chairman and Madam Vice Chair.

On November 3, 2020, Donald Trump ran for reelection to the Office of the Presidency, and he lost. His opponent, Joe Biden, finished ahead in the key battleground States of Arizona, Michigan, Wisconsin, Pennsylvania, Georgia, and elsewhere.

Nevertheless, and for the first time in history, the losing Presidential candidate fought to hold on to power. As we have seen in previous hearings, he did so through a variety of means.

On election day, he sought to stop the counting of the vote, knowing that the millions of absentee ballots elections officials would be counting on election day and thereafter would run strongly against him and deliver a victory to Joe Biden.

Next, and when he could not stop the counting, he tried to stop State legislatures and Governors from certifying the results of the election. He went to court and filed dozens of frivolous lawsuits, making unsubstantiated claims of fraud.

When that too failed, he mounted a pressure campaign directed at individual State legislators to try to get them to go back into session and either declare him the winner, decertify Joe Biden as the winner, or send two slates of electors to Congress, one for Biden and one for him, and pressure Vice President Pence to choose him as the winner.

But the State legislatures wouldn't go along with this scheme, and neither would the Vice President. None of the legislatures agreed to go back into special session and declare him the winner. No legitimate State authority in the States Donald Trump lost would agree to appoint fake Trump electors and send them to Congress.

But this didn't stop the Trump campaign either. They assembled groups of individuals in key battleground States and got them to call themselves electors, created phony certificates associated with these fake electors, and then transmitted these certificates to Washington and to the Congress to be counted during the joint session of Congress on January 6th.

None of this worked. But, according to Federal District Judge David Carter, former President Trump and others likely violated multiple Federal laws by engaging in this scheme, including conspiracy to defraud the United States. You will hear evidence of the former President and his top advisers' direct involvement in key elements of this plot, or what Judge Carter called a "coup in search of a legal theory."

For, as the judge explained, "President Trump's pressure campaign to stop the electoral count did not end with Vice President Pence—it targeted every tier of federal and state elected officials. Convincing state legislatures," he said, "to certify competing elec-



tors was essential to stop the count and ensure President Trump's reelection."

As we have seen in our prior hearings, running through this scheme was a Big Lie that the election was plagued with massive fraud and somehow stolen.

You will remember what the President's own Attorney General, Bill Barr, said he told the President about these claims of massive fraud affecting the outcome of the election.

Attorney General BARR. And I told him that the stuff that his people were shoveling out to the public were bull—was bullshit. I mean that the claims of fraud were bullshit.

Mr. SCHIFF. The President's lie was and is a dangerous cancer on the body politic. If you can convince Americans that they cannot trust their own elections, that any time they lose it is somehow illegitimate, then what is left but violence to determine who should govern?

This brings us to the focus of today's hearing. When State elections officials refused to stop the count, Donald Trump and his campaign tried to put pressure on them. When State executive officials refused to certify him the winner of States he lost, he applied more pressure. When State legislatures refused to go back into session and appoint Trump electors, he amped up the pressure yet again. Anyone who got in the way of Donald Trump's continued hold on power after he lost the election was the subject of a dangerous and escalating campaign of pressure.

This pressure campaign brought angry phone calls and texts, armed protests, intimidation, and, all too often, threats of violence and death. State legislators were singled out. So too were Statewide elections officials. Even local elections workers diligently doing their jobs were accused of being criminals and had their lives turned upside down.

As we will show, the President's supporters heard the former President's claims of fraud and the false allegations he made against State and local officials as a call to action.

CROWD. Stop-the-steal! Stop-the-steal! Stop-the-steal! [inaudible]

VOICE. You're a threat to democracy! [inaudible] You're a threat to free and honest elections.

VOICE. We love America. We love our rights and our freedoms. [inaudible]

VOICE. You are a tyrant. You are a felon. And you must turn yourself into authorities immediately. [inaudible]

Michigan Secretary of State BENSON. And then about 45 minutes later, we started to hear the noises outside my home, and that's when my stomach sunk. And I thought, "It's me." And there—and then it's just—we don't know what's going on—the uncertainty of that was what—was the fear. Like, are they coming with guns? Are they going to attack my house? I'm in here with my kid. You know, I'm trying to put him to bed. And so, it was—yeah, that was the scariest moment just not knowing what was going to happen.

Mr. SCHIFF. This pressure campaign against State and local officials spanned numerous contested States, as you will see in this video produced by the Select Committee.

Mr. ROSELMAN. My name is Josh Roselman. I'm an investigative counsel for the House Select Committee to Investigate the January 6th Attack on the United States Capitol.

Beginning in late-November 2020, the President and his lawyers started appearing before State legislators urging them to give their electoral votes to Trump even though he lost the popular vote.

Mr. GIULIANI. I represent President Trump along with Jenna Ellis. And this is our fourth or fifth hearing.

President TRUMP. This election has to be turned around because we won Pennsylvania by a lot, and we won all of these swing States by a lot.

Mr. ROSELMAN. This was a strategy with both practical and legal elements. The Select Committee has obtained an email from just 2 days after the election in which a Trump campaign lawyer named Cleta Mitchell asked another Trump lawyer, John Eastman, to write a memo justifying the idea.

Mr. GEORGE. When do you remember this coming up as an option in the post-election period for the first time?

Ms. MITCHELL. Right after the election. It might have been before the election.

Mr. ROSELMAN. Eastman prepared a memo attempting to justify this strategy, which was circulated to the Trump White House, Rudy Giuliani's legal team, and State legislators around the country. And he appeared before the Georgia State Legislature to advocate for it publicly.

Mr. EASTMAN. You could also do what the Florida legislature was prepared to do, which is to adopt a slate of electors yourselves. And when you add in the mix of the significant statistical anomalies, and sworn affidavits, and video evidence of outright election fraud, I don't think it's just your authority to do that. But quite frankly, I think you have a duty to do that, to protect the integrity of the election here in Georgia.

Mr. ROSELMAN. But Republican officials in several States released public statements recognizing that President Trump's proposal was unlawful. For instance, Georgia Governor Brian Kemp called the proposal "unconstitutional," while Arizona House Speaker Rusty Bowers wrote that the idea would undermine the rule of law. The pressure campaign to get State legislators to go along with the scheme intensified when President Trump invited delegations from Michigan and Pennsylvania to the White House.

Mr. HARRIS. Either you or Speaker Chatfield, did you make the point to the President that you were not going to do anything that violated Michigan law?

Mr. SHIRKEY. I believe we did. Whether or not—was those exact words or not, we're—I think the words that I would have more likely used is, "We are going to follow the law."

Mr. ROSELMAN. Nevertheless, the pressure continued. The next day President Trump tweeted, "Hopefully the Courts and/or Legislatures will have . . . the COURAGE to do what has to be done to maintain the integrity of our Elections, and the United States of America itself. THE WORLD IS WATCHING!!!" He posted multiple messages on Facebook, listing the contact information for State officials and urging his supporters to contact them to, "Demand a vote on decertification." In one of those posts, President Trump disclosed Mike Shirkey's personal phone number to his millions of followers.

Mr. SHIRKEY. All I remember is receiving over—just shy of 4,000 text messages over a short period of time calling to take action . . .

It was a loud noise—loud consistent cadence of, "You know, we hear that—that the Trump folks are calling and asking for changes in the electors, and you guys can do this." Well, you know, they were—they were believing things that were untrue.

Mr. ROSELMAN. These efforts also involved targeted outreach to State legislators—

Ms. MCCALLUM. Hi, Representative. My name is Angela McCallum. I'm calling from Trump campaign headquarters in Washington, DC. You do have the power to reclaim your authority and send a slate of electors that will support President Trump and Vice President Pence.

Mr. ROSELMAN [continuing]. From President Trump's lawyers and from Trump himself.

President TRUMP. And I've become friendly with legislators that I didn't know 4 weeks ago.

Mr. ROSELMAN. Another legislator, Pennsylvania House Speaker Bryan Cutler, received daily voicemails from Trump's lawyers in the last week of November.

Mr. GIULIANI. Mr. Speaker, this is Rudy Giuliani and Jenna Ellis. We're calling you together because we'd like to discuss obviously the election.

Ms. ELLIS. Hello, Mr. Speaker. This is Jenna Ellis and I'm here with Mayor Giuliani.

Mr. GIULIANI. Hey, Bryan. It's Rudy. I really have something important to call to your attention that I think really changes things.

Mr. ROSELMAN. Cutler felt that the outreach was inappropriate and asked his lawyers to tell Rudy Giuliani to stop calling. But Giuliani continued to reach out.

Mr. GIULIANI. I understand that you don't want to talk to me now. I just want to bring some facts to your attention and talk to you as a fellow Republican.

Mr. ROSELMAN. On December 30th, Trump ally Steve Bannon announced a protest at Cutler's home.

Mr. BANNON. We're getting on the road, and we're going down to Cutler. We're going to start going to offices. And if we have to, we're going to go to homes, and we're going to let them know what we think about them.

Pennsylvania Speaker CUTLER. There were multiple protests. I actually don't remember the exact number. There was at least three, I think, outside of either my district office or my home. And you're correct, my son—my then-15-year-old son was home by himself for the first one . . .

All of my personal information was doxxed on-line. It was my personal email, my personal cell phone, my home phone number. In fact, we had to disconnect our home phone for about 3 days because it would ring all hours of the night and would fill up with messages.

VOICE. Bryan Cutler, we are outside.

VOICE. Clerks facing felony charges in Michigan. Poll watchers denied access in Pennsylvania—

Mr. ROSELMAN. These ads were another element in the effort. The Trump campaign spent millions of dollars running ads on-line and on television.

VOICE. The evidence is overwhelming. Call your Governor and legislators. Demand they inspect the machines and hear the evidence.

Mr. ROSELMAN. Public pressure on State officials often grew dangerous in the lead-up to January 6th.

CROWD. Let-us-in. Let-us-in. Let-us-in. Let-us-in.

CROWD. Special session. Special session. Special session.

Mr. ALEXANDER. We'll light the whole shit on fire.

Mr. FUENTES. What are we going to do? What can you and I do to a State legislator besides kill him? Although, we should not do that. I'm not advising that, but I mean, what else can you do? Right?

VOICE. The punishment for treason is death.

Mr. SCHIFF. The State pressure campaign and the danger it posed to State officials and to State capitols around the Nation was a dangerous precursor to the violence we saw on January 6th at the U.S. Capitol.

Today, you will hear from Rusty Bowers, the Republican speaker of the Arizona House of Representatives. He will tell us about his conversations with the President, Rudy Giuliani, and John Eastman, and what the President's team asked of him, and how his oath of office would not permit it.

You will then hear from Brad Raffensperger, the Republican Secretary of State of Georgia, who Trump directed to "find 11,780 votes" that did not exist but just the exact number of votes needed to overtake Joe Biden.

You will also hear from Gabriel Sterling, his chief operating officer, about the spurious claims of fraud in the elections in Georgia and who, responding to a cascading set of threats to his elections team, warned the President to stop, that someone was going to get killed.

You will hear from Wandrea "Shaye" Moss, a former local elections worker in Fulton County, Georgia, about how all the lies about the election impacted the lives of real people who administer our elections and still do.

You will hear what they experienced when the most powerful man in the world, the President of the United States, sought to cling to power after being voted out of office by the American people.

The system held, but barely. The system held because people of courage, Republicans and Democrats, like the witnesses you will

hear today, put their oath to the country and Constitution above any other consideration. They did their jobs, as we must do ours.

Thank you, Mr. Chairman. I yield back.

Chairman THOMPSON. I now welcome our first panel of witnesses. We are joined today by a distinguished legislator from Arizona, Rusty Bowers, who is the Republican speaker of the Arizona House of Representatives.

Mr. Bowers was first elected to the State legislature in 1993 and has served as speaker since 2019.

Welcome, Speaker Bowers.

Brad Raffensperger is the 29th secretary of state of Georgia, serving in this role since 2019. As an elected official and a Republican, Secretary Raffensperger is responsible for supervising elections in Georgia and maintaining the State's public records.

Welcome, Mr. Secretary.

Gabriel Sterling is the chief operating officer in the Georgia Secretary of State's Office. Mr. Sterling was the State-wide voting systems implementation manager for the 2020 election in Georgia, responsible for leading the secretary of state's response to the COVID pandemic and rolling out modernized voting equipment.

I will swear in our witnesses.

The witnesses will please stand and raise their right hands.

[Witnesses sworn.]

Thank you. Please be seated.

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

Speaker Bowers, thank you for being with us today. You are the speaker of the Arizona house and a self-described conservative Republican. You campaigned for President Trump and with him during the 2020 election.

Is it fair to say that you wanted Donald Trump to win a second term in office?

Mr. BOWERS. Yes, sir.

Chairman THOMPSON. Please.

Mr. BOWERS. Yes, sir. Thank you.

Chairman THOMPSON. Is it your understanding that President Biden was the winner of the popular vote in Arizona in 2020?

Mr. BOWERS. Yes, sir.

Chairman THOMPSON. Thank you.

Pursuant to section 5(c)(8) of House Resolution 503, the Chair recognizes the gentleman from California, Mr. Schiff, for questions.

Mr. SCHIFF. Speaker Bowers, thank you for being with us today. Before we begin with the questions that I have prepared for you, I wanted to ask you about a statement that former President Trump issued, which I received just prior to the hearing. Have you had a chance to review that statement?

Mr. BOWERS. My counsel called from Arizona and read it to me. Yes, sir.

Mr. SCHIFF. In that statement—I won't read it in its entirety—former President Trump begins by calling you a RINO, Republican in name only. He then references a conversation in November 2020 in which he claims that you told him that the election was rigged and that he had won Arizona.

To quote the former President, “During the conversation, he told me the election was rigged and that I won Arizona.”

Did you have such a conversation with the President?

Mr. BOWERS. I did have a conversation with the President. That certainly isn’t it. There were parts of it that are true, but there are parts that are not, sir.

Mr. SCHIFF. The part that I read you. Is that false?

Mr. BOWERS. Anywhere, anyone, any time has said that I said the election was rigged, that would not be true.

Mr. SCHIFF. When the former President in his statement today claimed that you told him that he won Arizona, is that also false?

Mr. BOWERS. That is also false.

Mr. SCHIFF. Mr. Bowers, I understand that, after the election—and I don’t know whether this is the conversation the former President is referring to—but, after the election, you received a phone call from President Trump and Rudy Giuliani, in which they discussed the results of the Presidential election in Arizona. If you would, tell us about that call and whether the former President or Mr. Giuliani raised allegations of election fraud.

Mr. BOWERS. Thank you. My wife and I had returned from attending our church meetings. It was on a Sunday. We were still in the driveway, and I had received a call from a colleague telling me that the White House was trying to get in touch with her and I, and that she said: “Please, if you get a call, let’s try to take this together.”

Immediately, I saw that the White House on my Bluetooth was calling, and I took the call and was asked by the, I would presume, the operator at the White House if I would hold for the President, which I did. And Mr. Giuliani came on first, and niceties. Then Mr. Trump, President Trump, then-President Trump, came on, and we initiated a conversation.

Mr. SCHIFF. During that conversation, did you ask Mr. Giuliani for proof of these allegations of fraud that he was making?

Mr. BOWERS. On multiple occasions, yes.

Mr. SCHIFF. When you asked him for evidence of this fraud, what did he say?

Mr. BOWERS. He said that they did have proof. I asked him: “Do you have names?”

For example, we have 200,000 illegal immigrants, some large number, 5,000 or 6,000 dead people, et cetera.

I said: “Do you have their names?”

“Yes.”

“Will you give them to me?”

“Yes.”

The President interrupted and said: “Give the man what he needs, Rudy.”

He said: “I will.”

That happened on at least two occasions, that interchange in the conversation.

Mr. SCHIFF. So, Mr. Giuliani was claiming in the call that there were hundreds of thousands of undocumented people and thousands of dead people who had purportedly voted in the election?

Mr. BOWERS. Yes.

Mr. SCHIFF. You asked him for evidence of that?

Mr. BOWERS. I did.

Mr. SCHIFF. Did you ever receive from him that evidence either during the call, after the call, or to this day?

Mr. BOWERS. Never.

Mr. SCHIFF. What was the ask during this call? He was making these allegations of fraud, but he had something or a couple things that they wanted you do. What were those?

Mr. BOWERS. The ones I remember were, first, that we would hold, that I would allow an official committee at the capitol so that they could hear this evidence and that we could take action thereafter.

I refused. I said, up to that time, the circus—I called it a circus—had been brewing with lots of demonstrations, both at the counting center, at the capitol, and other places, and I didn't want to have that in the house. I did not feel that the evidence, granted in its absence, merited a hearing. I didn't want to be used as a pawn if there was some other need that the committee hearing would fulfill. So, that was the first ask, that we hold an official committee hearing.

Mr. SCHIFF. What was his second ask?

Mr. BOWERS. I said: To what end? To what end, the hearing?

He said: "Well, we have heard by an official high up in the Republican legislature that there is a legal theory or a legal ability in Arizona that you can remove the electors of President Biden and replace them. And we would like to have the legitimate opportunity through the committee to come to that end and remove that."

And I said: That is totally new to me. I have never heard of any such thing.

And he pressed that point.

And I said: "Look, you are asking me do something that is counter to my oath when I swore to the Constitution to uphold it, and I also swore to the constitution and the laws of the State of Arizona. This is totally foreign as an idea or a theory to me, and I would never do anything of such magnitude without deep consultation with qualified attorneys."

And I said: "I have got some good attorneys, and I am going to give you their names. But you are asking me do something against my oath, and I will not break my oath."

I think that was up to that point.

Mr. SCHIFF. During the conversation—and you heard, I think, when we played a snippet of Mr. Giuliani calling other State legislators and saying he was calling as essentially a fellow Republican—did he make a similar appeal to you or bring up the fact that you shared a similar party?

Mr. BOWERS. Whether it was in that call or in a later meeting, he did bring that up more than once.

Mr. SCHIFF. How would he bring that up?

Mr. BOWERS. He would say: "Aren't we all Republicans here? I would think we would get a better reception. I mean, I would think you would listen a little more open to my suggestions—that we are all Republicans."

Mr. SCHIFF. This evidence that you asked him for that would justify this extraordinary step, I think you said they never produced. Why did you feel, either in the absence of that evidence or with it,

what they were asking you to do would violate your oath to the Constitution?

Mr. BOWERS. First of all, when the people—and in Arizona, I believe it is some 40-plus years earlier, the legislature had established the manner of electing our officials or the electors for the Presidential race.

Once it was given to the people, as in *Bush v. Gore*, illustrated by the Supreme Court, it becomes a fundamental right of the people. So, as far as I was concerned, for someone to ask me in—I will call it a paucity. There was no evidence being presented of any strength. Evidence can be hearsay evidence. It is still evidence, but it is still hearsay. But strong judicial-quality evidence, anything that would say to me, you have a doubt, deny your oath. I will not do that. On more than one occasion throughout all this, that has been brought up. It is a tenet of my faith that the Constitution is divinely inspired, one of my most basic foundational beliefs.

So, for me to do that because somebody just asked me to is foreign to my very being. I will not do it.

Mr. SCHIFF. During that conversation, Speaker Bowers, did you ask him if what he was proposing had ever been done before?

Mr. BOWERS. I did.

Mr. SCHIFF. What did he say?

Mr. BOWERS. He said: Well, I am not familiar with Arizona law or any other laws, but I don't think so.

That also was brought up in other conversations, both with him and with John Eastman and others.

Mr. SCHIFF. Speaker Bowers, I understand that, a week after that call, Mr. Giuliani appeared with others associated with President Trump's effort to overturn the result of the election at a purported legislative hearing in a hotel ballroom in Phoenix. Was this an official hearing of the State legislature?

Mr. BOWERS. It was not.

Mr. SCHIFF. Why was it not a real or official hearing of the legislature?

Mr. BOWERS. A legislator can hold a group meeting; he can call it a hearing. But, when they asked me to have an official hearing, we establish it by protocols, public notice, et cetera. It is typically held at the capitol, but it doesn't need to be. We can authorize a hearing off-campus.

In this case, I had been asked on several occasions to allow a hearing. I denied it but said, "You are free to hold a meeting, any meeting you want," to the person who asked, and which he ultimately did. I think he was a little frustrated, but he ultimately did.

Mr. SCHIFF. This meeting was the same day, I believe, that the Governor of Arizona, Doug Ducey, certified Biden as the winner of the Presidential election in Arizona.

Did you meet with Mr. Giuliani and his associates while they were in Phoenix sometime after that purported legislative hearing at the hotel?

Mr. BOWERS. Yes, I did, sir.

Mr. SCHIFF. At that meeting, did Mr. Giuliani raise any specific allegations of election fraud again?

Mr. BOWERS. His initial comments were, again, the litany of groups of illegal individuals or people deceased, et cetera. He had

brought that up. I wasn't alone in that meeting. There were others. Other members of the senate aggressively questioned him. Then I proceeded to question him on the proof that he was going to bring me, et cetera. But he did bring those up, yes.

Mr. SCHIFF. These other legislators were also Republican members of the senate?

Mr. BOWERS. They were. Yes, sir.

Mr. SCHIFF. Did they also press him for proof of those allegations?

Mr. BOWERS. They pressed him very strongly, two of them especially, very strongly.

Mr. SCHIFF. At some point, did Mr. Giuliani ask one of the other attorneys on his team to help him out with the evidence?

Mr. BOWERS. He did. He asked Jenna Ellis, who was sitting to his right. One thing was that it was more to the point of, was there sufficient evidence or action that we could justify the recalling of the electors? But, at that part of the conversation, I know he referred to someone else. But he did ask, "Do we have the proof," to Jenna, Ms. Ellis, and she said, "Yes."

And I said: "I want the names. Do you have the names?"

"Yes."

"Do you have how they voted?"

"We have all the information."

I said: "Can you get to me that information? Did you bring it with you?"

She said: "No."

Both Mr. Giuliani asked her and I asked generally if they had brought it with them.

She said: "No. It is not with me, but we can get it to you."

I said, "Then you didn't bring me the evidence," which was repeated in different iterations for some period of time.

Mr. SCHIFF. At some point, did one of them make a comment that they didn't have evidence, but they had a lot of theories?

Mr. BOWERS. That was Mr. Giuliani.

Mr. SCHIFF. What exactly did he say, and how did that come up?

Mr. BOWERS. My recollection, he said: "We've got lots of theories; we just don't have the evidence."

I don't know if that was a gaffe, or maybe he didn't think through what he said. But both myself and others in my group, the three in my group, and my counsel both remembered that specifically. Afterwards, we kind-of laughed about it.

Mr. SCHIFF. Getting back to the ask in that phone call that preceded this meeting, he wanted you to have the legislature dismiss the Biden electors and replace them with Trump electors on the basis of these theories of fraud?

Mr. BOWERS. He did not say it in those exact words, but he did say that Arizona law, according to what he understood, that that would be allowed and that we needed to come into session to take care of that, which initiated a discussion about, again, what I can legally and not legally do. I can't go into session in Arizona unilaterally or on my sole prerogative.

Mr. SCHIFF. This meeting or at any later time, did anyone provide you with evidence of election fraud sufficient to affect the outcome of the Presidential election in Arizona?



Mr. BOWERS. No one provided me ever such evidence.

Mr. SCHIFF. The Select Committee has uncovered evidence in the course of our investigation that at “stop the steal” protests at State capitols across the country, there were individuals with ties to the groups or parties involved in the January 6th attack on the U.S. Capitol. One of those incursions took place in the Arizona House of Representatives building as you can see in this footage.

[Arizona State Capitol video footage shown.]

Mr. SCHIFF. This is previously undisclosed video of protestors illegally entering and refusing to leave the building. One of the individuals prominently shown in this video is Jacob Chansley. Perhaps better known as the “QAnon Shaman,” this rioter entered the Capitol on January 6th, was photographed leaving a threatening note on the dais in the U.S. Senate Chamber, and was ultimately sentenced to 41 months in prison after pleading guilty to obstruction of an official proceeding.

Other protesters who occupied the Arizona House of Representatives building included Proud Boys, while men armed with rifles stood just outside the entrance.

I understand these protestors were calling for you by name, Speaker Bowers. Is that correct?

Mr. BOWERS. That is correct.

Mr. SCHIFF. Speaker Bowers, did the President call you again later in December?

Mr. BOWERS. He did, sir.

Mr. SCHIFF. Did you tell the President in that second call that you supported him, that you voted for him, but that you were not going to do anything illegal for him?

Mr. BOWERS. I did, sir.

Mr. SCHIFF. Nevertheless, his lawyer, John Eastman, called you some days later on January 4, 2021. He did have a very specific ask that would have required you to do just what you had already told the President you wouldn’t do, something that would violate your oath. Is that correct?

Mr. BOWERS. That is correct. It wasn’t just me. I had my counsel and others on the call.

Mr. SCHIFF. What did Dr. Eastman want you to do?

Mr. BOWERS. That we would in fact vote, take a vote to overthrow—or I shouldn’t say overthrow—that we would decertify the electors because we had plenary authority to do so. He cited Article II, section 1—I think it is clause 2—and said that, in his opinion, that gave us the authority if there was—I don’t recall him saying sufficient evidence, but there was some call or some strong reason to do so that we—or justification to do so, that we could do that, and that he was asking that we—his suggestion was that we would do it.

And I said: “Again, I took an oath. For me to take that—to do what you do would be counter to my oath.”

I don’t recall if it was in that conversation clearly that we talked more about the oath, but I said: “What would you have me do?”

He said: “Just do it and let the courts sort it out.”

I said: “You are asking me to do something that has never been done in history—the history of the United States—and I am going to put my State through that without sufficient proof, and that is

going to be good enough with me, that I would put us through that, my State, that I swore to uphold both in Constitution and in law? No, sir."

He said: Well, my suggestion would be just do it and let the courts figure it all out.

He didn't use that exact phrase, but that is what his meaning was. I declined, and I believe that was close to the end of our phone call.

Mr. SCHIFF. Again, this took place after you had recently spoken with President Trump and told him that you wouldn't do anything illegal for him. Is that right?

Mr. BOWERS. It wasn't days after—obviously, it was days after, but a few days had gone by.

Mr. SCHIFF. But you had told President Trump you would not do anything illegal for him.

Mr. BOWERS. I did, both times.

Mr. SCHIFF. You told Dr. Eastman that you did not believe there was legal support to justify what he was asking, but he still wanted you do it and effectively let the courts work it out.

Mr. BOWERS. I have been warned: Don't say things you think maybe he said. But I do remember him saying that the authority of the legislature was plenary and that you can do it.

I said: "Then you should know that I can't even call the legislature into session without a two-thirds majority vote. We are only 30 plus 1. There is no way that could happen."

Mr. SCHIFF. But, in your view, what he was asking you to do would have violated your oath to the Constitution, both the United States Constitution and the constitution of the State of Arizona?

Mr. BOWERS. Yes, sir.

Mr. SCHIFF. Did you also receive a call from U.S. Representative Andy Biggs of Arizona on the morning of January 6th?

Mr. BOWERS. I did.

Mr. SCHIFF. What did Mr. Biggs ask you to do?

Mr. BOWERS. I believe that was the day that the vote was occurring to each State to have certification or to declare the certification of the electors. He asked if I would sign on both to a letter that had been sent from my State and/or that I would support the decertification of the electors. I said I would not.

Mr. SCHIFF. Mr. Speaker, on December 4, 2020, shortly after your meeting with Rudy Giuliani and other allies of President Trump, you released a statement publicly addressing "calls for the legislature to overturn the 2020 certified election results." The statement is very straightforward in explaining the "breathtaking request," made by representatives of President Trump, "that the Arizona legislature overturn the certified results of last month's election and deliver the State's electoral college votes to President Trump." Why did you believe, as you wrote in this statement, that the rule of law forbid you from doing what President Trump and his allies wanted you to do?

Mr. BOWERS. Representative—I am sorry; I should be saying, Mr. Chairman and Representative Schiff—there is two sides to the answer. One is, what am I allowed to do, and what am I forbidden to do? We have no legal pathway, both in State law nor, to my knowledge, in Federal law, for us to execute such a request. I am

not allowed to walk or act beyond my authority. If I am not specifically authorized as a legislator—as a legislature—then I cannot act. To the point of calling us into session, some say that just a few legislators have plenary authority, and that has come as part of all of this discussion, I will call it.

So, to not have authority and be forbidden to act beyond my authority on both counts, I am not authorized to take such action, and that would deny my oath.

Mr. SCHIFF. In your statement, you included excerpts from President Ronald Reagan's inaugural address in 1981. The newly inaugurated President told the country, "The orderly transfer of authority as called for in the Constitution routinely takes place, as it has for almost two centuries, and few of us stop to think how unique we really are. In the eyes of many in the world, this every-4-year ceremony we accept as normal is nothing less than a miracle."

Tell us, if you would, Mr. Speaker, why did you include President Reagan's words in your public statement?

Mr. BOWERS. Mr. Chairman, Representative Schiff, because I have a lot of admiration for Ronald Reagan. I had the opportunity of going to his home with one other person and walking through. I have a lot of admiration for him.

When he pointed out, which is—I have lived in another country for a period of time and have visited a few countries. During election times, the fact that we allow an election, support an election, and stand behind an election, even in the past when there have been serious questions about the election, and then move on, without disturbance and with acceptance; that we choose—we choose—to follow the outcome of the will of the people, that will—it means a lot to me, and I know it meant a lot to him, and so we included that.

Mr. SCHIFF. Thank you, Speaker Bowers.

I now want to look even more deeply at the fake electors scheme. Every 4 years, citizens from all over the United States go to the polls to elect their President. Under our Constitution, when we cast our votes for President, we are actually voting to send electors pledged to our preferred candidate to the electoral college.

In December, the electors in each State meet, cast their votes, and send those votes to Washington. There is only one legitimate slate of electors from each State. On the 6th day of January, Congress meets in a joint session to count those votes, and the winner of the electoral college vote becomes the President.

In this next segment, you will hear how President Trump and his campaign were directly involved in advancing and coordinating the plot to replace legitimate Biden electors with fake electors not chosen by the voters. You will hear how this campaign convinced these fake electors to cast and submit their votes through fake certificates telling them that their votes would only be used in the event that President Trump won his legal challenges. Yet, when the President lost those legal challenges, when courts rejected them as frivolous and without merit, the fake elector scheme continued.

At this point, President Trump's own lawyers, so-called "Team Normal," walked away rather than participate in the planning. His own White House Counsel's Office said that the plan was not le-

gally sound. Let's play the following video produced by the Select Committee.

Ms. LUCIER. My name is Casey Lucier. I'm an investigative counsel for the House Select Committee to Investigate the January 6th Attack on the United States Capitol.

On November 18th, a lawyer working with the Trump campaign, named Kenneth Chesebro, wrote a memo arguing that the Trump campaign should organize its own electors in the swing States that President Trump had lost. The Select Committee received testimony that those close to President Trump began planning to organize fake electors for Trump in States that Biden won in the weeks after the election.

Mr. GEORGE. Who do you remember being involved in those early discussions around the Thanksgiving time regarding having alternate electors meet?

Ms. HUTCHINSON. Mr. Giuliani, several of Mr. Giuliani's associates, Mr. Meadows, Members of Congress, although it's difficult to distinguish if the Members I'm thinking of were involved during Thanksgiving or if they're involved as we progressed through December.

Ms. LUCIER. At the President's direct request, the RNC assisted the campaign in coordinating this effort.

Mr. WOOD. What did the President say when he called you?

Ms. MCDANIEL. Essentially, he turned the call over to Mr. Eastman who then proceeded to talk about the importance of the RNC helping the campaign gather these contingent electors in case any of the legal challenges that were on-going changed the result of any of the States. I think more just helping them reach out and assemble them. But that—my understanding is the campaign did take the lead, and we were just helping them in that—in that role.

Ms. LUCIER. As President Trump and his supporters continued to lose lawsuits, some campaign lawyers became convinced that convening electors in States that Trump lost was no longer appropriate.

Mr. JUSTIN CLARK. I just remember—I either replied or called somebody—saying, Unless we have litigation pending this, like, in these States, like, I don't think this is appropriate or, you know, this isn't the right thing to do. I don't remember how I phrased it, but I got into a little bit of a back-and-forth and I think it was with Ken Chesebro, where I said, All right, you know, you just get after it, like, I'm out.

Mr. MORGAN. At that point, I had Josh Finley email Mr. Chesebro politely to say, "This is your task. You are responsible for the electoral college issues moving forward."

And this was my way of taking that responsibility to zero.

Ms. LUCIER. The Committee learned the White House Counsel's Office also felt the plan was potentially illegal.

Mr. GEORGE. And so, to be clear, did you hear the White House Counsel's Office say that this plan to have alternate electors meet and cast votes for Donald Trump in States that he had lost was not legally sound?

Ms. HUTCHINSON. Yes, sir.

Mr. GEORGE. And who was present for that meeting that you remember?

Ms. HUTCHINSON. It was in our offices. Mr. Meadows, Mr. Giuliani, and a few of Mr. Giuliani's associates.

Ms. LUCIER. The Select Committee interviewed several of the individual fake electors as well as Trump campaign staff who helped organize the effort.

Mr. SINNERS. We were just, you know, kind-of—kind-of useful idiots or rubes at that point. You know, a strong part of me really feels that it's just, kind-of, as the road continued and as that was failure, failure, failure that that got formulated as what we have on the table. Let's just do it.

Ms. LUCIER. And now, after what we've told you today about the Select Committee's investigation, about the conclusion of the professional lawyers on the campaign staff—Justin Clark, Matt Morgan, and Josh Finley—about their unwillingness to participate in the convening of these electors, how does that contribute to your understanding of these issues?

Mr. SINNERS. I'm angry. I'm angry because I think—I think in a sense, you know, no one really cared if—if people were potentially putting themselves in jeopardy.

Ms. LUCIER. Would you have not wanted to participate in this any further as well?

Mr. SINNERS. I absolutely would not have had I known that the three main lawyers for the campaign that I'd spoken to in the past and were leading up were not on board. Yeah.

Mr. HITT. I was told that these would only count if a court ruled in our favor. So, that would have been using our electors—well, it would have been using our electors in ways that we weren't told about, and we wouldn't have supported.

Ms. LUCIER. Documents obtained by the Select Committee indicate that instructions were given to the electors in several States that they needed to cast their ballots in “complete secrecy.” Because this scheme involved fake electors, those participating in certain States had no way to comply with State election laws, like where the electors were supposed to meet. One group of fake electors even considered hiding overnight to ensure that they could access the State capitol as required in Michigan.

Mr. GEORGE. Did Mr. Norton say who he was working with at all on this effort to have electors meet?

Ms. COX. He said he was working with the President’s campaign . . .

He told me that the Michigan Republican electors were planning to meet in the capitol and hide overnight, so that they could fulfill the role of casting their vote in—per law—in the Michigan chambers. And I told him in no uncertain terms that that was insane and inappropriate.

Ms. LUCIER. In one State, the fake electors even asked for a promise that the campaign would pay their legal fees if they got sued or charged with a crime.

Ultimately, fake electors did meet on December 14, 2020, in Arizona, Georgia, Michigan, Pennsylvania, New Mexico, Nevada, and Wisconsin. At the request of the Trump campaign, the electors from these battleground States signed documents falsely asserting that they were the “duly elected electors,” from their State and submitted them to the National Archives and to Vice President Pence in his capacity as President of the Senate.

Here is what some of the fake electors’ certificates look like as compared to the real ones. But these ballots had no legal effect. In an email produced to the Select Committee, Dr. Eastman told a Trump campaign representative that it did not matter that the electors had not been approved by a State authority.

“The fact that we have multiple slates of electors demonstrates the uncertainty of either. That should be enough.” He urged that Pence “act boldly and be challenged.” Documents produced to the Select Committee show that the Trump campaign took steps to ensure that the physical copies of the fake electors’ electoral votes from two States were delivered to Washington for January 6th.

Text messages exchanged between Republican Party officials in Wisconsin showed that on January 4th, the Trump campaign asked for someone to fly their fake electors’ documents to Washington. A staffer for Wisconsin Senator Ron Johnson texted a staffer for Vice President Pence just minutes before the beginning of the joint session. This staffer stated that Senator Johnson wished to hand-deliver to the Vice President the fake electors’ votes from Michigan and Wisconsin. The Vice President’s aide unambiguously instructed them not to deliver the fake votes to the Vice President.

Even though the fake electors’ slates were transmitted to Congress and the Executive branch, the Vice President held firm in his position that his role was to count lawfully submitted electoral votes.

Vice President PENCE. Joseph R. Biden, Jr., of the State of Delaware has received 306 votes. Donald J. Trump of the State of Florida has received 232 votes.

Ms. LUCIER. . . . Which is what he did when the joint session resumed on January 6th after the attack on the Capitol.

Mr. SCHIFF. What we just heard in that video was an aide to the White House Chief of Staff telling this Committee that the White House Counsel’s Office felt that this “fake electors” plan was not legally sound.

Nevertheless, the Trump campaign went forward with the scheme anyway.

Speaker Bowers, were you aware that fake electors had met in Phoenix on December 14th and purported to cast electoral votes for President Trump?

Mr. BOWERS. I was not.

Mr. SCHIFF. When you learned that these electors had met and sent their electoral votes to Washington, what did you think?

Mr. BOWERS. Well, I thought of the book “The Gang That Couldn’t Shoot Straight.” I just thought, this is a tragic parody.

Mr. SCHIFF. Mr. Bowers, I understand that as you flew from Phoenix to Washington yesterday you reflected upon some passages

from a personal journal that you were keeping in December 2020 while all of this was taking place.

With your permission, I am wondering if you would be willing to share one passage in particular with us?

Mr. BOWERS. Thank you very much.

"It is painful to have friends who have been such a help to me turn on me with such rancor. I may, in the eyes of men, not hold correct opinions or act according to their vision or convictions, but I do not take this current situation in a light manner, a fearful manner, or a vengeful manner. I do not want to be a winner by cheating.

"I will not play with laws I swore allegiance to, with any contrived desire toward deflection of my deep foundational desire to follow God's will as I believe He led my conscience to embrace. How else will I ever approach Him in the wilderness of life, knowing that I ask of this guidance only to show myself a coward in defending the course He led me to take?"

Mr. SCHIFF. Thank you, Mr. Speaker. Those are powerful words.

I understand that taking the courageous positions that you did following the 2020 election in defense of the rule of law and protecting the voters of Arizona resulted in you and your family being subjected to protests and terrible threats.

Can you tell us how this impacted you and your family?

Mr. BOWERS. Well, as others in the videos have mentioned, we received, my secretaries would say, in excess of 20,000 emails and tens of thousands of voicemails and texts, which saturated our offices, and we were unable to work, or at least communicate.

But at home, up till even recently, it is the new pattern, or a pattern, in our lives to worry what will happen on Saturdays, because we have various groups come by, and they have had video-panel trucks with videos of me proclaiming me to be a pedophile and a pervert and a corrupt politician, and blaring loudspeakers in my neighborhood, and leaving literature both on my property and arguing and threatening with neighbors and with myself.

I don't know if I should name groups, but there was one gentleman that had the three bars on his chest, and he had a pistol and was threatening at my neighbor—not with the pistol but just vocally. When I saw the gun, I knew I had to get close.

At the same time, on some of these, we had a daughter who was gravely ill, who was upset by what was happening outside. And my wife is a valiant person, very, very strong, quiet, very strong woman.

So, it was disturbing. It was disturbing.

Mr. SCHIFF. Mr. Speaker, I want to thank you for your service to the State of Arizona and to the country.

Mr. Chairman, at this point, I think it would be appropriate to take a short recess. Accordingly, I reserve the balance of my time.

Chairman THOMPSON. The Chair requests that those in the hearing room remain seated until the Capitol Police have escorted Members and witnesses from the room.

Pursuant to the order of the Committee of today, the Chair declares the Committee in recess for a period of approximately 10 minutes.

[Accordingly, at 2:11 p.m., the Committee recessed until 2:25 p.m., when it was called to order by the Chairman.]

Chairman THOMPSON. President Trump's pressure campaign against State officials existed in all the key battleground States that he lost, but the former President had a particular obsession with Georgia.

Here is the President on the afternoon of January 6th after his own Attorney General warned him that the claims you are about to hear are patently false.

President TRUMP. They should find those votes. They should absolutely find that. Just over 11,000 votes, that's all we need. They defrauded us out of a win in Georgia, and we're not going to forget it.

Chairman THOMPSON. So, the State of Georgia is where we will turn our attention to next.

I want to emphasize that our investigation into these issues is still on-going. As I stated in our last hearing, if you have relevant information or documentary evidence to share with the Select Committee, we welcome your cooperation. But we will share some of our findings with you today.

Secretary Raffensperger, thank you for being here today.

You have been a public servant in Georgia since 2015, serving first as a member of the Georgia House of Representatives and then, since January 2019, as Georgia's secretary of state.

As a self-described conservative Republican, is it fair to say that you wanted President Trump to win the 2020 election?

Mr. RAFFENSPERGER.<sup>1</sup> Yes, it is.

Chairman THOMPSON. Mr. Secretary, many witnesses have told the Select Committee that election day, November 3, 2020, was a largely uneventful day in their home States.

In spite of the challenges of conducting an election during a pandemic, you wrote in *The Washington Post* that the election was "successful."

Tell us, what was your impression of how election day had proceeded in Georgia?

Mr. RAFFENSPERGER. On election day in November, our election went remarkably smooth.

In fact, we meet at the GEMA headquarters—that is the Georgia Emergency Management Association meeting location—but we were following wait times in line. In the afternoon, our average wait time was 3 minutes State-wide that we were recording for various precincts. It actually got down to 2 minutes.

At the end of the day, we felt that we had a successful election from the standpoint of the administration and the operation of the election.

Chairman THOMPSON. Thank you.

The Chair recognizes the gentleman from California, Mr. Schiff.

Mr. SCHIFF. Thank you, Mr. Chairman.

Secretary Raffensperger, did Joe Biden win the 2020 Presidential election in Georgia and by what margin?

Mr. RAFFENSPERGER. President Biden carried the State of Georgia by approximately 12,000 votes.

<sup>1</sup>The prepared statement of Mr. Raffensperger has been included in the Appendix and may be found on page 701.

Mr. SCHIFF. Mr. Secretary, as I understand it, your office took several steps to ensure the accuracy of the vote count in Georgia, reviewing the vote count in at least three different ways. These steps included a machine recount, a forensic audit, and full hand recount of every one of the 5 million ballots cast.

Did these efforts, including a recount of literally every ballot cast in the State of Georgia, confirm the result?

Mr. RAFFENSPERGER. Yes, they did.

We counted the ballots where the first tabulation would be scanned.

Then, when we did our 100 percent hand audit of all 5 million ballots in the State of Georgia—all cast in place, all absentee ballots—they were all hand recounted, and they came remarkably close to the first count.

Then, upon the election being certified, President Trump, because he was within a half-percent, could ask for a recount. Then we recounted them again through the scanners, and we got remarkably the same count.

Three counts, all remarkably close, which showed that President Trump did come up short.

Mr. SCHIFF. Nevertheless, as you will see, the President and his allies began making numerous false allegations of voter fraud—false allegations that you and Mr. Sterling, among others, had to address.

Mr. Sterling, thank you also for being here today.

Following the 2020 election, in addition to your normal duties, I understand that you became a spokesperson to try to combat disinformation about the election and the danger it was creating for elections officials, among others.

In a December 1 press conference, you addressed some of your remarks directly to President Trump. Let's take a look at what you said that day.

Mr. STERLING. Mr. President, it looks like you likely lost the State of Georgia. We're investigating. There's always a possibility—I get it, and you have the rights to go to the courts. What you don't have the ability to do, and you need to step up and say this, is stop inspiring people to commit potential acts of violence.

Someone's going to get hurt, someone's going to get shot, someone's going to get killed, and it's not right. I—I—it's not right.

Mr. SCHIFF. Mr. Sterling, what prompted you to make these remarks?

Mr. STERLING. Mr. Schiff, we had had a previously scheduled press conference that day, as we were in the habit of doing, trying to be as transparent as we could about the election and the counts going on.

A little after lunch that day, lunchtime, I received a call from the project manager from Dominion Voting Systems, who was oddly audibly shaken. She is not the kind of person I would assume would be that way. She has a master's from MIT, a graduate of the Naval Academy, and was very much on the ball and pretty unflappable.

She informed me about a young contractor they had who had been receiving threats from a video had been posted by some QAnon supporters. At that point, we had been sort-of steeping in this kind of stuff, so it was around us all the time, so I didn't take



note of it more than adding to the pile of other stuff we were having to deal with.

I did pull up Twitter, and I scrolled through it, and I saw the young man's name. It was a particular tweet that, for lack of a better word, was the straw that broke the camel's back. It had a young man's name. It was a very unique name. I believe it was a first-generation American. It said—had his name—"You committed treason. May God have mercy on your soul," with a slowly twisting GIF of a noose.

For lack of a better word, I lost it. I just got irate. My boss was with me at the time, Deputy Secretary Jordan Fuchs, and she could tell that I was angry. I tend to turn red from here up when that happens, and that happened at that time. She called Secretary Raffensperger to say, "We are seeing these kind of threats, and Gabe thinks we need to say something about it." The Secretary said, "Yes."

That is what prompted me to do what I did. I lost my temper, but it seemed necessary at the time, because it was just getting worse. I could not tell you why that particular one was the one that put me over the edge, but it did.

Mr. SCHIFF. Now, after you made this plea to the President, did Donald Trump urge his supporters to avoid the use of violence?

Mr. STERLING. Not to my knowledge.

Mr. SCHIFF. Now, as we know, the President was aware of your speech, because he tweeted about it later that day. Let's take a look at what the President said.

In the tweet, Donald Trump claims that there was, "massive voter fraud in Georgia."

Mr. Sterling, that was just plain false, wasn't it?

Mr. STERLING. Yes, sir.

Mr. SCHIFF. Nevertheless, the very next day, on December 2nd, President Trump released a lengthy video again making false claims of election fraud in Georgia.

Let's take a look at what he said this time.

President TRUMP. They found thousands and thousands of votes that were out of whack—all against me.

Mr. SCHIFF. In fact, the day after Donald Trump released that video—so, now we are talking just 2 days after the emotional warning that you gave that someone is going to get killed—representatives of President Trump appeared in Georgia, including Rudy Giuliani, and launched a new conspiracy theory that would take on a life of its own and threaten the lives of several innocent election workers.

This story falsely alleges that, sometime during election night, election workers at the State Farm Arena in Atlanta, Georgia, kicked out poll observers. After the observers left, the story goes, these workers pulled so-called "suitcases of ballots" from under a table and ran those ballots through counting machines multiple times.

Completely without evidence, President Trump and his allies claimed that these suitcases contained as many as 18,000 ballots, all for Joe Biden.

None of this was true.

But Rudy Giuliani appeared before a committee of the Georgia State Senate and played a surveillance video from State Farm Arena, falsely claiming that it showed this conspiracy taking place.

Here is sample of what Mr. Giuliani had to say during that hearing.

Mr. GIULIANI. And when you look at what you saw on the video, which to me was a smoking gun, powerful smoking gun, well, I don't—don't have to be a genius to figure out what happened. And I—I don't have to be a genius to figure out that those votes are not legitimate votes. You don't put legitimate votes under a table—

VOICE. No.

Mr. GIULIANI [continuing]. Wait until you throw the opposition out and, in the middle of the night, count them. We would have to be fools to think that.

Mr. SCHIFF. President Trump's campaign amplified Giuliani's false testimony in a tweet pushing out the video footage.

Giuliani likewise pushed out his testimony on social media. As you can see in this tweet, Mr. Giuliani wrote that it was, "now beyond doubt," that Fulton County Democrats had stolen the election.

Later in this hearing, we will hear directly from one of the election workers in this video about the effect these lies had on her and on her family.

Mr. Sterling, did the investigators in your office review the entire surveillance tape from the State Farm Arena on election night?

Mr. STERLING. They actually reviewed approximately 48 hours, going over the time period where action was taking place at the counting center at State Farm Arena.

Mr. SCHIFF. What did the tape actually show?

Mr. STERLING. Depending on which time you want to start—because, as was mentioned, this conspiracy theory took on a life of its own, where they conflated a water main break that wasn't a water main break, and throwing observers out, and a series of other things.

What it actually showed was Fulton County election workers engaging in normal ballot processing.

One of the specific things—one of the things that was very frustrating was the so-called "suitcases of ballots" from under the table. If you watched the entirety of the video, you saw that these were election workers who were under the impression they were going to get to go home around 10, 10:30. People are putting on their coats; they are putting ballots that are prepared to be scanned into ballot carriers that are then sealed with tamper-proof seals so that, you know, they are not messed with.

It is an interesting thing, because you watch all of—there are four screens of the video, and, as you are watching it, you can see the election monitors in the corner with the press as they are taking these ballot carriers and putting them under the table. You see it there. One of the other hidden ones, if you looked at the actual tape, was on the outside of the table. Just from the camera angle, you couldn't see it originally.

This goes under the "no good deed goes unpunished."

We were told at—we were at GEMA, as the secretary pointed out—and we were told that it looked like they were shutting down the Fulton County counting. The secretary expressed some displeasure at that because we wanted everybody to keep counting so we could get to the results and know what was happening.

So, our elections director called their elections director, who was at another election because this was election day; there was two different places where ballot things were being done by the Fulton County office. So, he called the elections director for Fulton, then called Ralph Jones, who was at the State Farm Arena, and said, "What the heck are you doing? Go ahead and stay."

As you watch the video itself, you see him take the phone call as people are putting things away and getting ready to leave. You can tell, for about 15, 20 seconds, he does not want to tell these people they have to stay. He walks over, he thinks about it for a second, you see him come back to the corner of a desk and kind-of slumps his shoulders and says, "Okay, y'all, we gotta keep on counting." Then you see them take their coats off, get the ballots out.

Then a secondary thing that you will see on there is, you will have people who are counting ballots who, a batch will go through, they will take them off and run that through again.

What happens there is a standard operating procedure if there is a mis-scan, if there is a misalignment, if it doesn't read right. These are high-speed, high-capacity scanners, so 3 or 4 will go through. After a mis-scan, you have to delete that batch and put it back through again.

By going through the hand tally, as the secretary pointed out, we showed that if there had been multiple ballots scanned without a corresponding physical ballot, your counts would have been a lot higher than the ballots themselves.

By doing the hand tally, we saw two specific numbers that were met. The hand tally got us to a .1053 percent off of the total votes cast and .0099 percent on the margin, which is essentially dead-on accurate. Most academic studies say on a hand tally you will have between 1 and 2 percent, but because we use ballot-marking devices, where it is very clear what the voter intended, it made it a lot easier for us to conduct that hand count and show that none of that was true.

Mr. SCHIFF. Now, I understand that when you reviewed these tapes and did the analysis, it disproved this conspiracy theory, but you still had to take a lot of steps to try to make sure the public knew the truth about these allegations, and you did frequent briefings for the press.

Let's take a look at one of those press briefings, Mr. Sterling, that you held on December 7th to make the point that you just did today.

Mr. STERLING. . . . move on to what I'm going to call, "Disinformation Monday." Out of the gate, many of you all saw the videotape from State Farm Arena. I spent hours with our POST-certified investigators. Justin Gray from WSB spent hours with us going over this video to explain to people that what you saw—the "secret suitcases" of magic ballots—were actually ballots that had been packed into those absentee ballot carriers by the workers in plain view of the monitors and the press . . .

And what's really frustrating is the President's attorneys had this same videotape. They saw the exact same things the rest of us could see. And they chose to mislead State senators and the public about what was on that video. I'm quite sure that they will not characterize the video if they try to enter into evidence because that is the kind of thing that can lead to sanctions because it's obviously untrue.

They knew it was untrue, and they continue to do things like this.

Mr. SCHIFF. Mr. Sterling, despite the efforts by your office to combat this misinformation by speaking out publicly and through local media, you were unable to match the reach of President Trump's platform and social media megaphone spreading these false conspiracy theories.

What was it like to compete with a President who had the biggest bully pulpit in the world to push out these false claims?

Mr. STERLING. For lack of a better word, it was frustrating. But oftentimes I felt our information was getting out but that there was a reticence of people, who needed to believe it, to believe it because the President of the United States, whom many looked up to and respected, was telling them it wasn't true, despite the facts.

I have characterized it at one point, it was kind-of like a shovel trying to empty the ocean. Yes, it was frustrating. I even have, you know, family members who I had to argue with about some of these things. I would show them things—and the problem you have is, you are getting to people's hearts.

I remember this one specific—an attorney that we know that we showed and walked him through: This wasn't true, "Okay, I get that," this wasn't true, "Okay, I get that," this wasn't true—five or six things, but at the end he goes, "I just know in my heart they cheated."

So, once you get past the heart, the facts don't matter as much. Our job, from our point of view, was to get the facts out, do our job, tell the truth, follow the Constitution, follow the law, and defend the institutions. The institutions held.

Mr. SCHIFF. Let's take a look at what you were competing with. This is the former President speaking in Georgia on December 5th.

President TRUMP. But it's a fraud. It's overwhelming. And again, I'm going to ask you to look up at that very, very powerful and very expensive screen.

VOICE. Hidden cases of possible ballots are rolled out from under a table. Four people under a cloud of suspicion . . .

President TRUMP. So, if you just take the crime of what those Democrat workers were doing—and by the way, there was no water main break. You know, they said there—there was no water main break. That's ten times more than I need to win this State. Ten times more. That's ten times, maybe more than that, but it's ten times more because we lost by a very close number.

Mr. SCHIFF. In this Committee's hearing last Monday, we heard from senior Federal law enforcement officials—from the senior-most Federal law enforcement official in Atlanta at the time, U.S. Attorney for the Northern District BJay Pak, as well as former Attorney General Bill Barr. They both testified that the allegations were thoroughly investigated and found to have no merit.

Here is U.S. Attorney Pak.

Mr. PAK. In particular to Attorney General Barr, I told him that we looked into it. We've done several things, including interviewing the witnesses. I listened to the tapes and reviewed the videotape myself and that there was nothing there. Giuliani was wrong in representing that this was a suitcase full of ballots.

Mr. SCHIFF. Here is what Attorney General Bill Barr had to say about the same allegations.

Attorney General BARR. Took a look—hard look—at this ourselves. And based on our review of it, including the interviews of the key witnesses, the Fulton County allegations were—had no merit.

Mr. SCHIFF. We also have testimony from senior Department of Justice officials establishing that they specifically told President

Trump that these allegations had been thoroughly investigated and were completely without merit.

Here is Acting Deputy Attorney General Richard Donoghue describing a phone conversation in which he specifically told President Trump that these allegations were false.

Acting Deputy Attorney General DONOGHUE. The President kept fixating on this suitcase that supposedly had fraudulent ballots and that the suitcase was rolled out from under the table. And I said, “No, sir. There is no suitcase. You can watch that video over and over. There is no suitcase. There is a wheeled bin where they carry the ballots.”

Mr. SCHIFF. “. . . where they carry the ballots.”

No matter how many times senior Department of Justice officials, including his own Attorney General, told the President that these allegations were not true, President Trump kept promoting these lies and putting pressure on State officials to accept them.

On January 2nd, the President had a lengthy telephone conversation with Secretary Raffensperger. Prior to the President’s call, though, I want to share a bit of important context.

First, the White House, including the former President’s Chief of Staff, Mark Meadows, repeatedly called or texted the secretary’s office some 18 times in order to set up this call. They were quite persistent.

Second, Chief of Staff Mark Meadows took the extraordinary step of showing up at a signature audit site in Georgia, where he met with Secretary Raffensperger’s chief investigator, Frances Watson, who was supervising that audit process.

Behind me is a photograph from that visit.

Third, the day after Meadows’s Georgia visit, he set up a call between President Trump and Frances Watson. On the call between President Trump and Georgia investigator Frances Watson, the former President continued to push the false claim that he had won the State of Georgia.

Let’s listen to that part of the conversation.

President TRUMP. You know, it’s just—you have the most important job in the country right now, because if we win Georgia—first of all, if we win, you’re gonna have two wins. They’re not going to win right now, you know. They’re down because the people of Georgia are so angry at what happened to me. They know I won—won by hundreds of thousands of votes. It wasn’t close.

Mr. SCHIFF. In this next clip, he told the State law enforcement official that she would be praised if she found the “right answer.”

President TRUMP. Hopefully, you know, I will—when—when the right answer comes out, you’ll be praised. I mean, I don’t know why, you know, they made it so hard. And you—they will be praised. People will say, “Great,” because that’s what it’s about: That ability to check and to—and to make it right. Because everyone knows it’s wrong. There’s just no way.

Mr. SCHIFF. Mr. Raffensperger, I know you weren’t on this call but that you have listened to it. President Trump didn’t win by hundreds of thousands of votes in Georgia, did he?

Mr. RAFFENSPERGER. No, he did not.

I have been traveling through the State of Georgia for a year now, and, simply put, in a nutshell, what happened in the fall of 2020 is that 28,000 Georgians skipped the Presidential race and yet they voted down-ballot in other races. The Republican Congressmen ended up getting 33,000 more votes than President Trump. That is why President Trump came up short.

Mr. SCHIFF. Thank you, Mr. Secretary.

The President, on this call, doesn't stop here. Let's listen to another part of the conversation between President Trump and Ms. Watson.

President TRUMP. Anyway, but whatever you can do, Frances, it would be—it's a great thing. It's an important thing for the country. So important. You have no idea, it's so important—

Ms. WATSON. Well, Mr. —

President TRUMP [continuing]. And I very much appreciate it.

Mr. SCHIFF. "Whatever you can do, Frances." This is the President of the United States calling an investigator looking into the election in which he is a candidate and asking her to do "whatever you can do."

Mr. Secretary, he placed this call to your chief investigator on December 23, 2020. The Select Committee has received text messages indicating that Mark Meadows wanted to send some of the investigators in her office, in the words of one White House aide, "a shitload of POTUS stuff," including "coins, actual autographed MAGA hats, et cetera." White House staff intervened to make sure that didn't happen.

It was clear at the time of this call that the former President had his sights set on January 6th. Listen to this portion, when he told Frances Watson about a "very important date."

President TRUMP. Do you think you'll be working after Christmas to keep it going fast? Because, you know, we have that date of the 6th, which is a very important date.

Mr. SCHIFF. That important date, of course, was the joint session of Congress, where Georgia's electoral votes would be counted for Joe Biden.

A little over a week after this call to Frances Watson, the President was finally able to speak with you, Secretary Raffensperger.

Bear in mind as we discuss this call today that, by this point in time, early January, the election in Georgia had already been certified, but, perhaps more important, the President of the United States had already been told repeatedly by his own top Justice Department officials that the claims he was about to make to you about massive fraud in Georgia were completely false.

Mr. Secretary, the call between you and the President lasted 67 minutes—over an hour. We obviously can't listen to the entire recording here today, although it is available on the Select Committee's website. But we will listen to selected excerpts of it now so that we can get your insights.

Let's begin with the President raising the thoroughly debunked allegations of suitcases of ballots.

President TRUMP. They weren't in an official voter box. They were in what looked to be suitcases or trunks, suitcases, but they weren't in—in voter boxes.

The minimum number it could be, because we watched it and they—they watched it and certified in slow motion, instant replay, if you can believe it. But it had slow motion, and it was magnified many times over. And the minimum it was, was 18,000 ballots, all for Biden.

Mr. SCHIFF. These are the allegations that the Department of Justice, the Attorney General, the Georgia Bureau of Investigation, and your office had all said were false. Is that right?

Mr. RAFFENSPERGER. Correct.

Even more importantly, when BJay Pak resigned as U.S. attorney of the Northern District, President Trump appointed as acting U.S. attorney of the Northern District Bobby Christine. Bobby Christine looked at that, and he was quoted in the *AJC* that he found nothing, and he dismissed that case early also.

Mr. SCHIFF. Thank you, Mr. Secretary.

The President references suitcases or trunks. Mr. Sterling, were the objects seen in these videos suitcases or trunks, or were they just the ordinary containers that are used by election workers?

Mr. STERLING. They are standard ballot carriers that allow for seals to be put on them so they are tamper-proof.

Mr. SCHIFF. Finally, the President claims that there was a minimum of 18,000 ballots somehow smuggled in, all for Biden. I take it, gentlemen, that was also categorically false?

Mr. STERLING. (A), there is no physical way you can know who those ballots are for.

But, secondarily, Fulton County for years has been an issue in our State when it comes to elections. They had a very difficult time during the primary, in large part because of COVID. So, we had put them under a consent decree the secretary negotiated where we had a monitor on-site, and his name is Carter Jones.

He took a notation. He had gone from State Farm to the English Street warehouse to look at election day activities, but before he left the State Farm Arena, he noted how many ballots had been counted on each one of the machines. When he came back after we found out they were working again, he took note again when they closed.

I believe the final number was something around 8,900 total ballots were scanned from the time he left to the time—about 12:30 or 1 o'clock in the morning, so way below 18,000.

Mr. SCHIFF. Let's play the next clip.

President TRUMP. I heard it was close, so I said, "There's no way." But they dropped a lot of votes in there late at night. You know that, Brad.

Mr. SCHIFF. Mr. Secretary, did somebody drop a lot of votes there late at night?

Mr. RAFFENSPERGER. No. I believe that the President was referring to some of the counties when they would upload. But the ballots had all been accepted, and had to be accepted by State law, by 7 p.m. So, there were no additional ballots accepted after 7 p.m.

Mr. SCHIFF. Let's play the next clip, in which the President makes claims about so-called "dead voters."

President TRUMP. The other thing, dead people. So, dead people voted. And I think the—the number is close to 5,000 people. And they went to obituaries. They went to all sorts of methods to come up with an accurate number. And a minimum is close to about 5,000 voters.

Mr. SCHIFF. Mr. Secretary, did your office investigate whether those allegations were accurate? Did 5,000 dead people in Georgia vote?

Mr. RAFFENSPERGER. No, it is not accurate. Actually, in their lawsuits, they allege 10,315 dead people.

We had found 2 dead people when I wrote my letter to Congress that is dated January 6th, and subsequent to that we found 2 more. That is—1, 2, 3—4 people, not 4,000, but just a total of 4, not 10,000, not 5,000.

Mr. SCHIFF. Let's play the next clip.

President TRUMP. And there's nothing wrong with saying that, you know, that you've recalculated because it's 2,236 in absentee ballots. I mean, they're all exact numbers that were—were done by accounting firms, law firms, et cetera. And even if you cut them in half, cut them in half, and cut them in half again, it's more votes than we need.

Mr. SCHIFF. Mr. Secretary, is there any way that you could have lawfully changed the result in the State of Georgia and somehow explained it away as a recalculation?

Mr. RAFFENSPERGER. No. The numbers are the numbers, and numbers don't lie.

We had many allegations, and we investigated every single one of them. In fact, I challenged my team, did we miss anything?

They said that there was over 66,000 underage voters. We found that there was actually zero. You can register to vote in Georgia when you are 17½. You have to be 18 by election day. We checked that out, every single voter.

They said that there was 2,423 nonregistered voters. There were zero.

They said that there was 2,056 felons. We identified less than 74 or less that were actually still on felony sentence.

Every single allegation we checked, we ran down the rabbit trail to make sure that our numbers were accurate.

Mr. SCHIFF. So, there is no way you could have recalculated except by fudging the numbers?

Mr. RAFFENSPERGER. The numbers were the numbers. We could not recalculate because we had made sure that we had checked every single allegation. We had many investigations; we had nearly 300 from the 2020 election.

Mr. SCHIFF. Mr. Secretary, you tried to push back when the President made these unsupported claims, whether they were about suitcases or ballots or that Biden votes were counted three times.

Let's play the next clip.

Secretary of State RAFFENSPERGER. Mr. President, they did not put that. We—we did an audit of that, and we proved conclusively that they were not scanned three times . . .

Yes, Mr. President, we'll send you the link from WSB—

President TRUMP. I don't care about a link. I don't need it. I have a much better—we're gonna have a much better link.

Mr. SCHIFF. You told the President you would send him a link from WSB, which I understand is a local television station that had an unedited video from the State Farm Arena, but the President wasn't interested in that. He said he had a "much better link."

Mr. Secretary, at the time that you were on the call with the President, as we have shown, both the FBI and the Georgia Bureau of Investigation had proven these claims to be nonsense. You told him about these investigations on the phone.

Let's listen to what President Trump had to say about the State and Federal law enforcement officers who investigated these false claims.

President TRUMP. There's no way they could—then they're incompetent. They're either dishonest—

Ms. MITCHELL. Well, what did they find?



President TRUMP. Then there's only two answers: dishonesty or incompetence. There's just no way. Look, there's no way.

Mr. SCHIFF. But the President didn't stop at insinuating that law enforcement officers were either dishonest or incompetent. He went on to suggest that you could be subject to criminal liability for your role in the matter.

Before I play that portion of the conversation, I would like to show you something that the President retweeted a couple weeks before your call with him.

Here is the President retweeting a post from one of his allies, a lawyer who was later sanctioned by a judge in Michigan for making false claims of election fraud. Let's take a look at that tweet.

The tweet read, "President Trump @realDonaldTrump is a genuinely good man. He does not really like to fire people. I bet he dislikes putting people in jail, especially 'Republicans.'" He gave @BrianKempGA & @GASecofState every chance to get it right. They refused. They will soon be going to jail."

So, on your call, this was not the first time the President was suggesting you might be criminally liable. With that, let's listen to this portion of the call.

President TRUMP. I think you're going to find that they are shredding ballots because they have to get rid of the ballots because the ballots are unsigned, the ballots are—are corrupt, and they're brand-new and they don't have seals and there's a whole thing with the ballots. But the ballots are corrupt and you're going to find that they are—which is totally illegal.

It's—it's more illegal for you than it is for them because you know what they did, and you're not reporting it. That's a—you know, that's a criminal—that's a criminal offense. And you know, you can't let that happen. That's—that's a big risk to you and to Ryan, your lawyer. And that's a big risk.

Mr. SCHIFF. Secretary Raffensperger, after making a false claim about shredding of ballots, the President suggested that you may be committing a crime by not going along with his claims of election fraud.

After suggesting that you might have criminal exposure, President Trump makes his most explicit ask of the call. Let's play a part of that conversation.

President TRUMP. So, look, all I want to do is this: I just want to find 11,780 votes, which is one more than we have because we won the State.

Mr. SCHIFF. Mr. Secretary, was the President here asking you for exactly what he wanted—one more vote than his opponent?

Mr. RAFFENSPERGER. What I knew is that we didn't have any votes to find. We had continued to look. We investigated, like I just shared the numbers with you. There were no votes to find. That was an accurate count that had been certified. As our general counsel said, there was no shredding of ballots.

Mr. SCHIFF. Mr. Secretary, after making this request, the President then goes back to the danger of having you deny these allegations of fraud.

Let's listen to that part of the clip.

President TRUMP. And I watched you this morning and you said, "Well, there was no criminality," but I mean, all of this stuff is—is very dangerous stuff. When you talk about "no criminality," I think it's very dangerous for you to say that.

Mr. SCHIFF. Secretary Raffensperger, you wrote about this in your book, and you said, "I felt then and still believe today that

this was a threat. Others obviously thought so, too, because some of Trump's more radical followers have responded as if it was their duty to carry out this threat."

Please tell us what you, your wife, even your daughter-in-law experienced regarding threats from Trump's more radical followers.

Mr. RAFFENSPERGER. Well, after the election, my email, my cell phone was doxxed, and so I was getting texts all over the country. Then eventually my wife started getting a text, and hers typically came in as sexualized texts, which were disgusting.

You have to understand that Trish and I, we met in high school. We have been married over 40 years now. So, they started going after her, I think, just to probably put pressure on me: "Why don't you just quit; walk away?" So, that happened.

Then some people broke into my daughter-in-law's home. My son has passed, and she is a widow and has two kids. So, we are very concerned about her safety also.

Mr. SCHIFF. Mr. Secretary, why didn't you just quit and walk away?

Mr. RAFFENSPERGER. Because I knew that we had followed the law and we had followed the Constitution. I think sometimes moments require you to stand up and just take the shots. You are doing your job. That is all we did.

You know, we just followed the law, and we followed the Constitution, and, at the end of the day, President Trump came up short. But I had to be faithful to the Constitution. That is what I swore an oath to do.

Mr. SCHIFF. During the remainder of the call, the former President continued to press you to find the remaining votes that would ensure his victory in Georgia. Let's listen to a little more.

President TRUMP. Why wouldn't you want to find the right answer, Brad, instead of keep saying that the numbers are right?

So, look, can you get together tomorrow? And Brad, we just want the truth. It's simple. And—and everyone's going to look very good if the truth comes out. It's okay. It takes a little while, but let the truth come out. And the truth—the real truth is, I won by 400,000 votes, at least.

So—so what are we going to do here, folks? I only need 11,000 votes. Fellas, I need 11,000 votes. Give me a break.

Mr. SCHIFF. Four days after the President's call to Secretary Raffensperger was January 6th. The President whipped up the crowd in front of the Ellipse, once again promoting the allegation that Secretary Raffensperger and the President's own Attorney General had told him was false.

Here he is on the Ellipse.

President TRUMP. In Fulton County, Republican poll watchers were ejected, in some cases physically, from the room under the false pretense of a pipe burst—water main burst. Everybody leave. Which we now know was a total lie. Then election officials pulled boxes—Democrats—and suitcases of ballots out from under a table—you all it saw on television—totally fraudulent, and illegally scanned them for nearly 2 hours, totally unsupervised. Tens of thousands of votes. This act coincided with a mysterious vote dump of up to 100,000 votes for Joe Biden, almost none for Trump. Oh, that sounds fair. That was at 1:34 a.m.

Mr. SCHIFF. Mr. Secretary, Mr. Sterling, I want to thank you for your service to the State of Georgia and to the country.

Speaker Bowers, likewise, I want to thank you for your service to the State of Arizona and to the country.

You have served not only your home States but our Nation and our democracy.

Mr. Chairman, I yield back.

Chairman THOMPSON. Thank you, Mr. Schiff.

I thank the witnesses for joining us today. You are now dismissed.

I now welcome our final witness this afternoon, Wandrea “Shaye” Moss.

Ms. Moss worked in the Department of Registration and Elections in Fulton County, Georgia, from 2017 until 2022. In that job, Ms. Moss handled voter applications and absentee-ballot requests and also helped to process the vote count for several elections.

In December 2020, Ms. Moss and her mother, Ms. Ruby Freeman, became the target of nasty lies spread by President Trump and his allies as they sought to overturn the election results in Georgia.

Ms. Moss and her mother, Ms. Freeman, are two of the unsung heroes in this country, doing the hard work of keeping our democracy functioning for every American.

Ms. Moss, welcome. Thank you for your service, and I thank you for being here today.

I will now swear you in. Please stand.

[Witness sworn.]

Chairman THOMPSON. Thank you. Please be seated.

Let the record reflect that the witness answered in the affirmative.

Ms. Moss, thank you very much for being here today.

I understand that you are here along with your mother today. Would you like to introduce your mama?

Ms. MOSS.<sup>2</sup> Yes. My mama.

Chairman THOMPSON. Hi, ma.

Ms. Moss, today we will be asking you about some of the threats that you received following the 2020 election.

Since you have been an election worker for over 10 years, I wanted to ask you, in your decade of service, had you ever experienced threats like these before?

Ms. MOSS. No.

Chairman THOMPSON. Don’t be nervous. Just—I understand.

So—and I want to make sure that the record reflects that you have done it for quite a while and you have never received a threat and your answer was, “No.”

Ms. MOSS. Correct.

Chairman THOMPSON. Thank you.

Pursuant to section 5(c)(8) of House Resolution 503, the Chair recognizes the gentleman from California, Mr. Schiff, for questions.

Mr. SCHIFF. Good afternoon, Ms. Moss. Thank you for being here.

I understand that you were employed by the Fulton County Registration and Elections Department for more than 10 years, and I understand that you loved that job.

Please tell us what made you so fond of the work that you did.

<sup>2</sup>The prepared statement of Ms. Moss has been included in the Appendix and may be found on page 702.

Ms. MOSS. Well, I have always been told by my grandmother how important it is to vote and how people before me, a lot of people, older people in my family did not have that right.

So, what I loved most about my job were the older voters. Younger people could usually do everything from their phone or go online, but the older voters like to call, they like to talk to you, they like to get my card, they like to know that every election I am here.

Like, even college students. A lot of parents trust in me to make sure their child does not have to drive home. They will get an absentee ballot; they can vote.

I really found pleasure in that. I liked being the one that—you know, if someone can't navigate My Voter Page or, you know, they want a new precinct card and they don't have a copy machine or a computer or all of that, I could put it in the mail for them.

I was excited always about sending out all the absentee ballots for the elderly, disabled people. I even remember driving to a hospital to give someone her absentee application. That is what I loved the most.

Mr. SCHIFF. So, you really enjoyed helping people vote and participate, and that was something, the right to vote, that your grandmother taught you was precious.

Ms. MOSS. Yes.

Mr. SCHIFF. Well, I know the events that we are here to talk about today are incredibly difficult to relive.

Your proud service as an election worker took a dramatic turn on the day that Rudy Giuliani publicized a video of you and your mother counting ballots on election night.

President Trump, Rudy Giuliani, and others claimed, on the basis of this video, that you and your mother were somehow involved in a plot to kick out observers, bring suitcases of false ballots for Biden into the arena, and then run them through the machines multiple times.

None of that was true, was it?

Ms. MOSS. None of it.

Mr. SCHIFF. I would like to show you some of the statements that Rudy Giuliani made in a second hearing before the Georgia State legislators a week after that video clip from State Farm Arena was first circulated by Mr. Giuliani and President Trump.

I want to advise viewers that these statements are completely false and also deeply disturbing.

Mr. GIULIANI. Tape earlier in the day of Ruby Freeman and Shaye Freeman Moss and one other gentleman quite obviously surreptitiously passing around USB ports as if they are vials of heroin or cocaine. I mean, it's our—it's obvious to anyone who's a criminal investigator or prosecutor they are engaged in surreptitious illegal activity again that day, and that's a week ago, and they're still walking around Georgia lying.

They should have been—they should have been—should have been questioned already. Their places of work, their homes, should have been searched for evidence of ballots, for evidence of USB ports, for evidence of voter fraud.

Mr. SCHIFF. That video was from Rudy Giuliani's appearance at a Georgia State house hearing on December 10.

How did you become aware—how did you first become aware that Rudy Giuliani, the President's lawyer, was accusing you and your mother of a crime?

Ms. MOSS. I was at work, like always. The former chief, Mr. Jones, asked me to come to his office. When I went to his office, the former director, Mr. Barron, was in there, and they showed me a video on their computer.

It was just, like, a very short clip of us working at State Farm. It had someone on the video, like, talking over the video, just saying that we were doing things that we weren't supposed to do, just lying throughout the video.

That is when I first found out about it.

Mr. SCHIFF. Were there social media posts that they showed you responding to those false claims?

Ms. MOSS. Well, when I saw the video, of course the first thing that I said was, like, "Why? Why are they doing this? What's going on?"

They, you know, just told me that Trump and his allies were not satisfied with the outcome of the election, and they were getting a lot of threats and being harassed on-line, and asked me, you know, have I been receiving anything, and I need to check on my mom.

I told them—you know, I was like, "Where? Where have they—you know, where have you been getting these threats? I don't believe I have any." Mr. Jones told me, like, they are attacking his Facebook. I don't really use Facebook. I have one. So, I went to the Facebook app.

I am just kind-of panicky at this point because this has never happened to me, and my mom is involved. I am, like, her only child.

So, I am just asking him, like, "Well, where are the messages? All I see is the feed. Like, how do you get to the messages?" He said, "It's another icon on your phone that says Messenger."

I went to that icon, and it was just a lot of horrible things there.

Mr. SCHIFF. Those horrible things, did they include threats?

Ms. MOSS. Yes, a lot of threats, wishing death upon me, telling me that, you know, I will be in jail with my mother, and saying things like, "Be glad it's 2020 and not 1920." That is—yes.

Mr. SCHIFF. Were a lot of these threats and vile comments racist in nature?

Ms. MOSS. A lot of them were racist. A lot of them were just hateful. But, yes, sir.

Mr. SCHIFF. In one of the videos we just watched, Mr. Giuliani accused you and your mother of passing some sort of USB drive to each other. What was your mom actually handing you on that video?

Ms. MOSS. A ginger mint.

Mr. SCHIFF. It wasn't just Rudy Giuliani; we heard President Trump make these false allegations repeatedly during his call with Secretary Raffensperger.

Let's listen to a portion of what he had to say about you and your mother.

President TRUMP. We had at least 18,000. That's on tape. We had them counted very painstakingly. 18,000 voters having to do with Ruby Freeman. That's—she's a vote scammer, a professional vote scammer and hustler.

Mr. SCHIFF. Donald Trump attacked you and your mother, using her name, 18 times on that call—18 times.

Ms. Moss, can you describe what you experienced listening to former President Trump attack you and your mother in a call with the Georgia secretary of state?

Ms. MOSS. I felt horrible. I felt like it was all my fault, like if I would have never decided to be an elections worker—like, I could have done anything else, but that is what I decided to do, and now people are lying and spreading rumors and lies and attacking my mom. I am her only child. Going to my grandmother's house—I am her only grandchild. And my kid. It is just—I felt so bad.

I just felt bad for my mom, and I felt horrible for picking this job and being the one that always wants to help and always there, never missing out one election. I just felt like it was my fault for putting my family in this situation.

Mr. SCHIFF. Well, it wasn't your fault.

Your mother was kind enough to come speak with us earlier. Let's listen to her story in her words.

Ms. FREEMAN. My name is Ruby Freeman. I've always believed it when God says that He'll make your name great, but this is not the way it was supposed to be. I could have never imagined the events that followed the Presidential election 2020. For my entire professional life, I was Lady Ruby. My community in Georgia, where I was born and lived my whole life, knew me as Lady Ruby.

I built my own business around that name, LaRuby's Unique Treasures, a pop-up shop catering to ladies with unique fashions. I wore a shirt that proudly proclaimed that I was, and I am, Lady Ruby.

Actually, I had that shirt on—I had that shirt in every color. I wore that shirt on election day 2020. I haven't worn it since, and I'll never wear it again.

Now I won't even introduce myself by my name anymore. I get nervous when I bump into someone I know in the grocery store who says my name. I'm worried about who's listening. I get nervous when I have to give my name for food orders. I'm always concerned of who's around me. I've lost my name, and I've lost my reputation.

I've lost my sense of security, all because a group of people, starting with Number 45 and his ally, Rudy Giuliani, decided to scapegoat me and my daughter Shaye—to push their own lies about how the Presidential election was stolen.

Mr. SCHIFF. Ms. Moss, how has this experience of being targeted by the former President and his allies affected your life?

Ms. MOSS. It has turned my life upside down. I no longer give out my business cards. I don't transfer calls. I don't want anyone knowing my name. I don't want to go anywhere with my mom because she might yell my name out over the grocery aisle or something. I don't go to the grocery store at all. I haven't been anywhere at all. I have gained about 60 pounds.

I just don't do nothing anymore. I don't want to go anywhere. I second-guess everything that I do. It has affected my life in a major way, in every way, all because of lies, of me doing my job, same thing I have been doing forever.

Mr. SCHIFF. Your mother also told the Select Committee about how she had to leave her own home for her safety and go into hiding after the FBI told her that it would not be safe for her there before January 6th and until the inauguration.

Let's listen to a clip of her story in her own words.

Ms. FREEMAN. Around the week of January 6th, the FBI informed me that I needed to leave my home for safety. And I left my home for safety around that time.

Ms. LUCIER. Understood. How—how long did you stay out, did you, you know, remain outside of your home for your own safety?

Ms. FREEMAN. I—I stayed away from my home for approximately 2 months . . . It was horrible. I felt homeless. I felt, you know, I can't believe—I can't believe this person has caused this much damage to me and my family. To have to leave

my home that I've lived there for 21 years. And, you know, I'm having to have my neighbors watch out for me. You know, and I have to go and stay with somebody.

It was hard. It was horrible.

Ms. LUCIER. And your conversation with the FBI about needing to leave your home for your own safety or perhaps recommending it. Do you remember was there a specific threat that prompted that or was it the accumulation of threats that you had received?

Ms. FREEMAN. What prompted it was—was getting ready to—January 6th was about to come. And they did not want me to be at home because of all the threats and everything that I had gotten. They didn't want me to be there in fear of, you know, that people were coming to my home. And I had a lot of that, so they didn't want me to be there just in case something happened.

I asked, "How long am I going to have to be gone?" They said, "At least until the inauguration."

Mr. SCHIFF. Ms. Moss, I understand that people once showed up at your grandmother's house. Tell us about that experience.

Ms. MOSS. I received a call from my grandmother. This woman is my everything. I have never even heard her or seen her cry ever in my life. She called me, screaming at the top of her lungs, like, "Shaye, Shaye, oh my God, Shaye," just freaking me out, saying that there were people at her home, and they, you know, they knocked on the door. Of course, she opened it and was seeing who was there, who it was. They just started pushing their way through, claiming that they were coming in to make a citizen's arrest. They needed to find me and my mom; they knew we were there. She was just screaming and didn't know what to do.

I wasn't there, so, you know, I just felt so helpless and so horrible for her. She was just screaming. I told her to close the door; don't open the door for anyone. You know, she's a 70-something—I won't say—year-old woman, and she doesn't like having restrictions. She wants to answer the door. She likes to get her steps in walking around the neighborhood. I had to tell her, like: You can't do that. You have to be safe.

You know, she would tell me that, at night, people would just continuously send pizzas over and over to her home, you know. They were expecting her to pay for these large amounts of pizzas. She went through a lot that she didn't have to. Once again, it made me just feel horrible.

Mr. SCHIFF. In addition to the personal impact this experience has had on you and your family, one of the things that I find most disturbing is how these lies discourage long-time election workers from continuing to do this important work. Tell us, if you would, of the other election workers shown in that State Farm Arena video and their supervisors, how many are still election workers in Fulton County?

Ms. MOSS. There is no permanent election worker or supervisor in that video that is still there.

Mr. SCHIFF. Did you end up leaving your position as well?

Ms. MOSS. Yes, I left.

Mr. SCHIFF. Ms. Moss, I want to thank you for coming in to speak with us and to thank you for service to our democracy. What we have just played is a truly horrible and appalling sample, but just a sample of the things that were said about you and your mother following the election.

I want to say how very sorry I think we all are for what you have gone through, and, tragically, you are not alone. Other election

workers around the country have also been the subject of lies and threats. No election worker should be subject to such heinous treatment just for doing their job.

With your permission, I would like to give mother the last word.

Ms. MOSS. Yes.

Mr. SCHIFF. We are just going to play the tape.

Ms. FREEMAN. There is nowhere I feel safe. Nowhere. Do you know how it feels to have the President of the United States to target you? The President of the United States is supposed to represent every American, not to target one. But he targeted me, Lady Rudy, a small business owner, a mother, a proud American citizen who stand up to help Fulton County run an election in the middle of the pandemic.

Mr. SCHIFF. Thank you, Ms. Moss.

Thank you, Ms. Freeman, or, as America now knows her, Lady Ruby, for your service to Fulton County, Georgia, our country, and our democracy.

Mr. Chairman, I yield back.

Chairman THOMPSON. Thank you, Mr. Schiff.

Ms. Moss.

Ms. MOSS. Yes, sir.

Chairman THOMPSON. I want to thank you for sharing with us the very troubling story of what you and your mother experienced. The harassment of election workers like you for simply doing your duty as public servants poses a threat to our democratic process.

Your testimony is an important contribution to the work of our Committee and serves as a reminder to all of us that the safety of local election officials is vital to ensuring that our elections are always free and fair.

I want to thank our witnesses for joining us today. The Members of the Select Committee may have additional questions for today's witnesses. We ask that you respond expeditiously in writing to those questions.

Without objection, Members will be permitted 10 business days to submit statements for the record, including opening remarks and additional questions for the witnesses.

Without objection, the Chair recognizes the gentleman from California, Mr. Schiff, for a closing statement.

Mr. SCHIFF. For more than 200 years, our democracy has been distinguished by the peaceful transfer of power. When an American raises their right-hand and takes the Presidential oath of office, they are transformed from an ordinary citizen into the most powerful person in the world, the President.

This is an awesome power to acquire. It is even more awesome when it is handed on peacefully.

When George Washington relinquished the Office of the Presidency, it set a precedent that served as a beacon for other nations struggling against tyranny.

When Ronald Reagan described it as a kind of miracle in the eyes of the world, he was exactly right. Other countries use violence to seize and hold power, but not in the United States, not in America.

When Donald Trump used the power of the Presidency to try to stay in office after losing the election to Joe Biden, he broke that sacred and centuries-old covenant. Whether his actions were crimi-



nal will ultimately be for others to decide. But what he did was without a doubt un-Constitutional. It was unpatriotic, and it was fundamentally un-American. When he used the power of his Presidency to put the enormous pressure on State, local, and local elections officials, and his own Vice President, it became downright dangerous. On January 6th, that pressure became deadly.

Ruby Freeman said that the President is supposed to protect every American, not target them. She is right. If the most powerful person in the world can bring the full weight of the Presidency down on an ordinary citizen, who was merely doing her job, with a lie as big and heavy as a mountain, who among us is safe? None of us is. None of us.

In city councils and town councils, on school boards and election boards, from the Congress to the courts, dedicated public servants are leaving their posts because of death threats to them and to their families. This is not who we are. It must not become who we are.

Our democracy held because courageous people like those you heard from today put their oath to the Constitution above their loyalty to one man or to one party. The system held, but barely. The question remains, will it hold again?

If we are able to communicate anything during these hearings, I hope it is this: We have been blessed beyond measure to live in the world's greatest democracy. That is a legacy to be proud of and to cherish, but it is not one to be taken for granted. That we have lived in a democracy for more than 200 years does not mean we shall do so tomorrow.

We must reject violence. We must embrace our Constitution with the reverence it deserves, take our oath of office and duties as citizens seriously, informed by the knowledge of right and wrong, and armed with no more than the power of our ideas and the truth carry on this venerable experiment in self-governance.

Thank you, Mr. Chairman. I yield back.

Chairman THOMPSON. Without objection, the Chair recognizes the gentlewoman from Wyoming, Ms. Cheney, for a closing statement.

Vice Chair CHENEY. Thank you very much, Mr. Chairman.

Lady Ruby and Shaye, thank you for your courage. Thank you for your strength. Thank you for being here today. It means so much for everyone to hear your story. So, thank you for that.

We have had tremendous testimony today. We have been reminded that we are a Nation of laws. We have been reminded by you and by Speaker Bowers and Secretary of State Raffensperger and Mr. Sterling that our institutions don't defend themselves; individuals do that.

We are reminded that it takes public servants. It takes people who have made a commitment to our system to defend our system.

We also have been reminded what it means to take an oath under God to the Constitution, and what it means to defend the Constitution. We were reminded by Speaker Bowers that our Constitution is indeed a divinely-inspired document.

So, it has been an honor to spend time with you and with our previous witnesses here today.

To date, more than 30 witnesses called before this Committee have not done what you have done but have invoked their Fifth Amendment rights against self-incrimination: Roger Stone took the Fifth. General Michael Flynn took the Fifth. John Eastman took the Fifth.

Others, like Steve Bannon and Peter Navarro, simply refuse to comply with lawful subpoenas, and they have been indicted.

Mark Meadows has hidden behind President Trump's claims of executive privilege and immunity from subpoenas. We are engaged now in litigation with Mr. Meadows.

The American people in our hearings have heard from Bill Barr, Jeff Rosen, Richard Donoghue, and many others who stood up and did what is right. They will hear more of that testimony soon.

But the American people have not yet heard from Mr. Trump's former White House Counsel, Pat Cipollone. Our Committee is certain that Donald Trump does not want Mr. Cipollone to testify here. Indeed, our evidence shows that Mr. Cipollone and his office tried to do what was right. They tried to stop a number of President Trump's plans for January 6th.

Today, and in our coming hearings, you will hear testimony from other Trump White House staff explaining what Mr. Cipollone said and did, including on January 6th.

But we think the American people deserve to hear from Mr. Cipollone personally. He should appear before this Committee, and we are working to secure his testimony.

Thank you, Mr. Chairman. I yield back.

Chairman THOMPSON. People answer the call to public service in such different ways. Some run for office. Some volunteer to make sure their neighbors can get to their voting locations. Some work at polling sites to help election day go smoothly. Some look into problems to guarantee our elections are secure and accurate, just to name a few.

As I mentioned at the start of this hearing, when we talk about our democratic institutions, we are talking about these individuals and many others who do these jobs across the country. They represent the backbone of our democracy at its most important moments: When the citizens cast their votes and when those votes are counted.

We have heard the stories of their courage. They have earned the thanks of a grateful Nation.

But, for Donald Trump, these witnesses and others like them were another roadblock to his attempt to cling to power.

On Thursday, we will hear about another part of that scheme, his attempt to corrupt the country's top law enforcement body, the Justice Department, to support his attempt to overturn the election.

Just as we heard today that Donald Trump was deeply involved in a scheme to pressure State officials to overturn the election results, we will hear on Thursday that Donald Trump was also the driving force behind an effort to corrupt the Justice Department. Listen to this clip from the former Acting Deputy Attorney General, Richard Donoghue.

Former Acting Deputy Attorney General DONOGHUE. The President said, "Suppose I do this. Suppose I replace him," Jeff Rosen, "with him," Jeff Clark. "What

do you do?" And I said, "Sir, I would resign immediately. There is no way I'm serving 1 minute under this guy." Jeff Clark.

Chairman THOMPSON. You will hear from Mr. Donoghue in person on Thursday, as my colleague, Mr. Kinzinger, presents details about this plan.

The Chair requests those in the hearing room remain seated until the Capitol Police have escorted Members from the room.

Without objection, the Committee stands adjourned.

[Whereupon, at 3:39 p.m., the Committee was adjourned.]



## A P P E N D I X

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PREPARED STATEMENT OF BRAD RAFFENSPERGER, GEORGIA SECRETARY OF STATE

Thank you for inviting me today and the honor to speak before my fellow Americans. Our Founders chose a Constitution and the Rule of Law, and I cherish both. No one is above the law, and before the law we are all equal.

After the 2020 election and the immediate charge of a stolen election due to voter fraud, I thought I had been transported back in time to 2018 when we heard the charge of a stolen election, that time due to voter suppression. Same coin—just the other side.

Will this become a nationwide trend where we see every candidate who loses a major election refuse to accept the results, and instead set out to raise money and build support on unfounded claims of fraud and corruption? If America wants to avoid that prospect, we must come to grips with the scope of the problem, but I realize this won't be comfortable for either party. I say either party because, in Georgia, I have been battling myths of stolen election claims from both sides in both 2018 and 2020.

On my first day in office in January 2019 I had nine lawsuits from the losing gubernatorial candidate and her allied organizations in 2018. The most striking aspect of the 2020 election claims was not its novelty, but the elevated assault on election integrity. In fact, many of the complaints following the 2020 election campaign lawsuits were nearly identical to complaints received following the 2018 election, and some 2020 lawsuits relied heavily on 2018 lawsuits to attempt to support their false claims.

Stolen election claims destroy voter confidence, and yet America is remarkably good at running elections. We have 50 States, and Georgia has 159 counties, who run our elections, and that effort is carried out in over 2,500 precincts in Georgia. Elections in Georgia, and indeed in our Nation, are both fairer and more secure than they have been at any point in our history. Today Georgia is recognized No. 1 in America for election integrity.

Stolen election claims have no space in the State of Georgia. We have seen what these claims lead to, and we need to hold both extremes accountable.

Briefly stated, here is what happened in Georgia in 2020—28,000 Georgians skipped the Presidential race and didn't vote for anyone at the top—they didn't vote for Donald J. Trump, Joseph R. Biden or Jo Jorgensen. They left that part blank yet voted down-ballot on other races. The Republican Congressman collectively received 33,000 more votes than President Trump. That is why President Trump came up short in Georgia.

There was never even close to enough illegal votes in Georgia to overturn the outcome of the 2020 election. The claims of voter suppression in the 2018 election were similarly false. I wrote a 10-page letter to Congress dated January 6th, 2021, and a book titled *Integrity Counts* to set the record straight about Georgia's elections of 2018 and 2020.

I believe what binds all Americans is our Declaration of Independence; our Constitution; and our fidelity to the Rule of Law and its commitment to freedom, integrity, and truth.

Thank you.

PREPARED STATEMENT OF WANDREA ARSHAYE "SHAYE" MOSS, FORMER REGISTRATION OFFICER, FULTON COUNTY DEPARTMENT OF REGISTRATION AND ELECTIONS, FULTON COUNTY, GEORGIA

JUNE 21, 2022

Thank you for inviting me to testify before the Select Committee to Investigate the January 6th Attack on the United States Capitol.

My name is Wandrea ArShaye Moss, but people call me Shaye. And I used to be an election worker. Almost everything else that people have heard about me is a lie.

There is a lot that I could never have imagined about the last 2 years. I certainly never imagined that I would be testifying before a congressional Committee because people spread lies about me and my family.

I was born in Georgia, and I have lived there my whole life. My family has a long history of serving our community. I am the third generation in my family to sign up for public service.

When I was growing up, my mom worked for Fulton County. My grandmother retired from DeKalb County. For as long as I can remember, I wanted to follow in their footsteps.

#### MY WORK FOR FULTON COUNTY

My first and only job was working for Fulton County Voter Registration and Elections. I worked there for more than 10 years. I loved my job. And I was really good at it. I didn't just clock in every day—I gave it my all. I worked hard to ensure that every lawful vote counted. I even created new procedures to make our process faster and more accurate.

I made sure Georgia residents were properly registered to vote. When I was young, my grandmother made sure I knew how important it was to vote, because it is an opportunity that a lot of members of my family before me did not have. I wanted to make sure that everyone had that opportunity.

I especially loved helping older voters. Younger voters could usually figure out how to register and vote on their own. But older people sometimes needed help. I remember driving to the hospital once to help an elderly woman who wanted to request an absentee ballot.

Registration forms and ballots aren't just pieces of paper to me. They represent real people: voters with disabilities, single parents, college students, and members of our military. I gave everyone my card so they would have an actual person to contact instead of an office.

I wanted them to know I valued their votes as much as they did.

My mom, Ruby, taught me that when you commit to a job, you do it well and you do it right. My job was not easy. It was work that required patience. It required commitment. It required checking, double checking, and focusing on the details—all on tight deadlines.

I was used to doing my job quietly, but well, even if that meant waking up way too early and coming home late. I missed so many of my son's activities because I had to work. Whenever I missed something, I knew how lucky I was that my grandmother could fill in for me. I wanted to show my son that hard work pays off.

#### THE LIES

Ever since December 2020, I have been under attack for just doing my job. My mom too.

My mother signed up to work as a temporary election worker in my office in the 2020 Presidential election. In the 2 weeks before Election Day, we worked from 7 a.m. to 7 p.m., seven days a week. During election week, we worked even longer shifts. After the election, we were proud of a job well done. And my mom was proud of me.

But in early December, former President Trump, Rudy Giuliani, and their allies started spreading terrible lies about my mother and me.

They said we snuck ballots into the State Farm Arena in a suitcase. That is a lie.

They said we lied about a water main break to kick observers out. That is a lie.

They said we counted ballots multiple times to try to steal the election. That is a lie.

And they said we passed around flash drives to try to hack voting machines. That's a lie, too—the thing they got so worked up about my mom passing to me was a ginger mint. Her favorite candy.

All of the accusations made against me and my mom were lies.

As Mr. B. J. Pak testified before the Select Committee on June 13, 2022, the Department of Justice and other State and Federal agencies investigated these accusations. Mr. Pak testified that the Attorney General of the United States asked him to “make it a priority” to “try to substantiate the allegation made by Mr. Giuliani” about there being a suitcase full of ballots. As part of that process, investigators interviewed my mom and me, as well as all of us who appeared in a video that Rudy Giuliani and others claimed showed us engaging in this voter fraud. That official investigation confirmed what my mom and I knew to be true: that, as Mr. Pak said, “nothing irregular happened in the counting and the allegations made by Mr. Giuliani were false.”

But it didn’t require a Federal investigation to know that these accusations were lies. They do not even make sense. Why do I say that? You cannot just walk suitcases full of fake ballots into a counting facility in Fulton County. There is a system to make sure that every vote counts.

Information on envelopes has to match information from real voters. Information from precincts has to match total votes counted. You cannot just invent large numbers of voters or votes.

Especially in a system with hand recounts, cameras everywhere, and campaign officials and State election officials monitoring your every move.

We know we are watched. We expect it and welcome it.

For the same reasons, you cannot just count ballots multiple times. The discrepancy would show up in the ultimate count.

And as for the water leak, it was a real thing that happened, with dozens of witnesses. But what can you say to people willing to say that up is down?

I helped count ballots in 2016 when President Trump won and 2018 when Stacey Abrams lost. I was proud of our work in those elections. It did not matter to me who won or lost because I am not a political person. This job was never about politics for me. It was about counting every vote.

But none of that mattered. Former President Trump, Rudy Giuliani, and their allies didn’t like the outcome of the election, so they made up lies about us even though we were simply doing our jobs.

#### THE HARM

As a result, I have been threatened and harassed. One stranger told me: “be glad [it’s] 2020 and not 1920.” Others told me I should hang alongside my mom for committing treason.

My son received some of those threats. They went after a child—my child. He heard horrible things about his mom, just because I did my job.

People showed up at my grandmother’s home trying to bust the door down and conduct a citizen’s arrest of my mom and me.

The threats followed me to work. People would email the general email address for our office so everyone could see their threats and the hateful messages directed at me.

These were people who did not even know us. They did not care about our dedication to our work, or our lives. They denied our humanity. All because they refused to accept the outcome of the election.

I have to live with these lies every single day. Before December 2020, I was never scared of people knowing my name. But after, I stopped giving out my business cards to voters. Now I worry when I’m at the grocery store. I worry when I go shopping with my mom and she calls my name out across an aisle. I worry when I pick up the phone and a voice I don’t recognize says my name.

I feel responsible for what happened to my family. Like somehow it is all my fault because I chose to work as an election worker. I wanted to help. I never imagined it would cause so much hurt.

Can you imagine what it’s like to feel responsible for your grandmother, your mother, and your teenage son being threatened and lied about, over and over again? To be singled out as a criminal? To be accused of treason in the only country you’ve ever called home?

I didn’t realize how much I loved my job until it was taken away from me by a few people who decided that their lie was more important than my life.

#### WHY MY STORY MATTERS

I am here today for more than myself and my family. I am here to speak for all the election workers out there who were, are, or will be threatened and attacked for just doing their jobs. I am here today because I want the truth to be heard.

Nobody should have to go through what I've been through. Especially not our election workers who do the heavy lifting our democracy depends on. They do not receive the recognition or respect they deserve for the service they provide to this country.

Yet they show up. I showed up. Every single day, every single election. I never missed one in ten years.

I am here because this has to stop. The people responsible for the lies need to be held accountable.

Congress needs to take action. Congress needs to protect our election workers and protect victims of disinformation like my family and me. If it doesn't, I know there will be many more just like me.

Because of the lies, my son had to grow up way too quickly. Because of the lies, there are some days I don't want to get out of bed. There are some days I want to curl up under the covers and disappear. Because of the lies, I've lost who I was. I will never again be able to do the work I felt called to do. My life will never be the same.

I have had to come to terms with the fact that there will always be people who believe these lies about me. There will always be someone who believes I should be in prison or that I should be dead. There is no way to fix what happened to me.

And I'm here to tell my truth to help sure this never happens to anyone else. My loss has got to be for something.

Thank you.



## HEARING ON THE JANUARY 6TH INVESTIGATION

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Thursday, June 23, 2022

U.S. HOUSE OF REPRESENTATIVES,  
SELECT COMMITTEE TO INVESTIGATE THE JANUARY 6TH  
ATTACK ON THE UNITED STATES CAPITOL,  
*Washington, DC.*

The Committee met, pursuant to notice, at 3:02 p.m., in room 390, Cannon House Office Building, Hon. Bennie G. Thompson (Chairman of the Committee) presiding.

Present: Representatives Thompson, Cheney, Lofgren, Schiff, Aguilar, Murphy, Raskin, Luria, and Kinzinger.

Chairman THOMPSON. The Select Committee to Investigate the January 6th Attack on the United States Capitol will be in order.

Without objection, the Chair is authorized to declare the Committee in recess at any point.

Pursuant to House Deposition Authority Regulation 10, the Chair announces the Committee's approval to release the deposition material presented during today's hearing.

Good afternoon.

In our previous hearings, the Select Committee showed that then-President Trump applied pressure at every level of government, from local election workers up to his own Vice President, hoping public servants would give in to that pressure and help him steal an election he actually lost.

Today, we will tell the story of how the pressure campaign also targeted the Federal agency charged with enforcement of our laws: The Department of Justice.

We have already covered part of Mr. Trump's effort. We heard Attorney General Bill Barr tell the Committee about the baseless claims Mr. Trump wanted the Justice Department to investigate and that Mr. Barr viewed those claims as nonsense.

Today, we will hear from Jeffrey Rosen, the person Mr. Trump appointed to run the Justice Department after Attorney General Barr resigned. We will hear from other senior Justice Department officials also.

Together, these public servants resisted Mr. Trump's effort to misuse the Justice Department as part of his plan to hold onto power. We will show that Trump's demands that the Department investigate baseless claims of election fraud continued into January 2021.

But Donald Trump didn't just want the Justice Department to investigate; he wanted the Justice Department to help legitimize his lies, to baselessly call the election corrupt, to appoint a special

counsel to investigate alleged election fraud, to send a letter to six State legislatures urging them to consider altering the election results.

When these and other efforts failed, Donald Trump sought to replace Mr. Rosen, the Acting Attorney General, with a lawyer who he believed would inappropriately put the full weight of the Justice Department behind the effort to overturn the election.

Let's think about what that means.

Wherever you live in the United States, there is probably a local government executive—a mayor or a county commissioner. There is also an official responsible for enforcing the laws—a district attorney or a local prosecutor.

Imagine if your mayor lost a reelection bid but, instead of conceding the race, they picked up the phone, called the district attorney and said, "I want you to say this election was stolen. I want you to tell the board of elections not to certify the results."

That is essentially what Donald Trump was trying to do with the election for President of the United States. It was a brazen attempt to use the Justice Department to advance the President's personal political agenda.

Today, my colleague from Illinois, Mr. Kinzinger, and our witnesses will walk through the Select Committee's findings on these matters.

But, first, I will recognize our distinguished Vice Chair, Ms. Cheney of Wyoming, for any opening statement she would care to offer.

Vice Chair CHENEY. Thank you very much, Mr. Chairman.

At this point, our Committee has just begun to show America the evidence that we have gathered. There is much more to come, both in our hearings and in our report. But I would like to take just a moment to put everything we have seen in context.

We have already seen how President Trump falsely declared victory on November 3, 2020; how he and his team launched a fraudulent media campaign that persuaded tens of millions of Americans that the election was stolen from him.

Donald Trump intentionally ran false ads on television and social media featuring allegations that his advisors and his Justice Department repeatedly told him were untrue.

We have also seen how Donald Trump launched a fraudulent fundraising campaign that raised hundreds of millions of dollars—again—based on those same false election fraud allegations.

We have seen how President Trump and his allies corruptly attempted to pressure Vice President Pence to refuse to count lawful electoral votes and obstruct Congress's proceedings on January 6th and how he provoked a violent mob to pursue the Vice President and others in our Capitol.

We have seen how the President oversaw and personally participated in an effort in multiple States to vilify, threaten, and pressure election officials and to use false allegations to pressure State legislators to change the outcome of the election.

We have seen how President Trump worked with and directed the Republican National Committee and others to organize an effort to create fake electoral slates and, later, to transmit those materially false documents to Federal officials—again—as part of his planning for January 6th.

We have seen how President Trump persuaded tens of thousands of his supporters to travel to Washington, DC, for January 6th. We will see in far more detail how the President's rally and march to the Capitol were organized and choreographed.

As you can tell, these efforts were not some minor or ad hoc enterprise concocted overnight. Each required planning and coordination. Some required significant funding. All of them were overseen by President Trump. Much more information will be presented soon regarding the President's statements and actions on January 6th.

Today, as Chairman Thompson indicated, we turn to yet another element of the President's effort to overturn the 2020 election, this one involving the Department of Justice.

A key focus of our hearing today will be a draft letter that our witnesses here today refused to sign. This letter was written by Mr. Jeff Clark with another Department of Justice lawyer, Ken Klukowski, and the letter was to be sent to the leadership of the Georgia State legislature. Other versions of the letter were intended for other States.

Neither Mr. Clark nor Mr. Klukowski had any evidence of widespread election fraud, but they were quite aware of what Mr. Trump wanted the Department to do. Jeff Clark met privately with President Trump and others in the White House and agreed to assist the President, without telling the senior leadership of the Department who oversaw him.

As you will see, this letter claims that the U.S. Department of Justice's investigations have "identified significant concerns that may have impacted the outcome of the election in multiple States, including the State of Georgia."

In fact, Donald Trump knew this was a lie. The Department of Justice had already informed the President of the United States repeatedly that its investigations had found no fraud sufficient to overturn the results of the 2020 election.

The letter also said this: "In light of these developments, the Department recommends that the Georgia General Assembly should convene in special session" and consider approving a new slate of electors.

It indicates that a separate, fake "slate of electors supporting Donald Trump" has already been "transmitted to Washington, DC."

For those of you who have been watching these hearings, the language of this draft Justice Department letter will sound very familiar. The text is similar to what we have seen from John Eastman and Rudy Giuliani, both of whom were coordinating with President Trump to overturn the 2020 election.

When one of our witnesses today, Mr. Donoghue, first saw this draft letter, he wrote this: "This would be a grave step for the Department to take, and it could have tremendous constitutional, political, and social ramifications for the country."

This Committee agrees. Had this letter been released on official Department of Justice letterhead, it would have falsely informed all Americans, including those who might be inclined to come to Washington on January 6th, that President Trump's election fraud allegations were likely very real.

Here is another observation about this letter. Look at the signature line. It was written by Jeff Clark and Mr. Klukowski not just

for Clark's signature but also for our witnesses today, Jeff Rosen and Richard Donoghue.

When it became clear that neither Mr. Rosen nor Mr. Donoghue would sign this letter, President Trump's plan necessarily changed. As you will hear today, Donald Trump offered Mr. Clark the job of Acting Attorney General, replacing Mr. Rosen, with the understanding that Clark would send this letter to Georgia and other States and take other actions the President requested.

One other point: Millions of Americans have seen the testimony of Attorney General Barr before this Committee. At one point in his deposition, the former Attorney General was asked why he authorized the Department of Justice to investigate fraud in the 2020 election at all; why not just follow the regular course of action and let the investigations occur much later in time, after January 6th? Here is what he said.

Attorney General BARR. I felt the responsible thing to do was to be—to be in a position to have a view as to whether or not there was fraud. And, frankly, I think the fact that I put myself in the position that I could say that we had looked at this and didn't think there was fraud was really important to moving things forward. And I—I sort-of shudder to think what the situation would have been if the—if the position of the Department was, "We're not even looking at this until after Biden's in office." I'm not sure we would have had a transition at all.

Vice Chair CHENEY. I want to thank each of our witnesses before us today for your role in addressing and rebutting the false allegations of fraud at the root of January 6th. Thank you for standing up for the Constitution and for the rule of law.

Of course, not all public officials behaved in the honorable way our witnesses did. At the close of today's hearing, we will see video testimony by three members of Donald Trump's White House staff. They will identify certain of the Members of Congress who contacted the White House after January 6th to seek Presidential pardons for their conduct.

Thank you, Mr. Chairman. I yield back.

Chairman THOMPSON. Without objection, the Chair recognizes the gentleman from Illinois, Mr. Kinzinger, for an opening statement.

Mr. KINZINGER. Thank you. Thank you, Mr. Chairman, and thank you to our witnesses for being here.

I would like to start with a personal story.

So, in May 2009, I returned from service in Iraq and I announced my intention to run for Congress. A big reason I decided to run for Congress was my motivation to ensure freedom and democracy were defended overseas.

I remember making a commitment—out loud a few times and in my heart repeatedly, even to today—that if we are going to ask Americans to be willing to die in service to our country, we as leaders must at least be willing to sacrifice our political careers when integrity and our oath requires it. After all, losing a job is nothing compared to losing your life.

Within the halls of power, in the face of a President, that commitment can easily be forgotten. Presidential pressure can be really hard to resist.

Today, we will focus on a few officials who stood firm against President Trump's political pressure campaign. When the President tried to misuse the Department and install a loyalist at its helm,

these brave officials refused and threatened to resign. They were willing to sacrifice their careers for the good of our country.

The Department of Justice is unique in the executive branch. The President oversees the Department of Justice, yet the President's personal or partisan interests must not shape or dictate the Department's actions.

The President cannot and must not use the Department to serve his own personal interest, and he must not use its people to do his political bidding, especially when what he wants them to do is to subvert democracy.

The President cannot pervert justice, nor the law, to maintain his power. Justice must, both in fact and law, be blind. That is critical to our whole system of self-governance.

During this hearing, you will hear time and time again about the President's request to investigate claims of widespread fraud. Our witnesses—Mr. Rosen, Mr. Donoghue, and Mr. Engel—stood firm in the face of overbearing political pressure because they understood that their oath was to the Constitution and not to the personal or political interests of the President.

The President and his allies became keenly aware that, with legal challenges exhausted and electoral votes certified, their only hope would be a last-ditch scheme to prevent Congress from certifying the win, thus throwing the entire system into constitutional chaos.

The President wanted the Department to sow doubt in the legitimacy of the election to empower his followers and Members of Congress to take action. If the Department could just lend its credibility to the conspiracies, people would have the justification they needed to spread the big lie.

So President Trump ultimately wanted the Department of Justice to say the election was "corrupt" and "leave the rest to me and the Republican Congressmen."

As you will hear today, the Department's top leadership refused.

Not surprisingly, President Trump didn't take "no" for an answer. He didn't accept it from Attorney General Barr, and he wouldn't accept it from Mr. Rosen either. So he looked for another Attorney General—his third in 2 weeks. He needed to find someone who was willing to ignore the facts. That is not the norm.

Let's look at what Attorneys General, Democrats and Republicans alike, have said about upholding their oath to the Constitution.

Attorney General SESSIONS. The Attorney General ultimately owes his loyalty to the integrity of the American people and to the fidelity to the Constitution and the legitimate laws of the country. That's what he's ultimately required to do.

Attorney General HOLDER. I will be an independent Attorney General. I will be the people's lawyer. If, however, there were an issue that I thought were that significant that would compromise my ability to serve as Attorney General in the way that I have described it as "the people's lawyer," I would not hesitate to resign.

Attorney General MUKASEY. As you and I discussed, if the President proposed to undertake a course of conduct that was in violation of the Constitution, that would present me with a—a difficult, but not a complex, problem. I would have two choices. I could either try to talk him out of it or leave. Those are the choices.

Attorney General LYNCH. The Attorney General's position as a Cabinet member is perhaps unique from all of the Cabinet members. Yes, a member of the President's Cabinet, but the Attorney General has a unique responsibility to provide independent and objective advice to the President or any agency when it is sought and sometimes, perhaps, even when it is not sought.

Mr. KINZINGER. Everyone in that video, from Eric Holder to Jeff Sessions, spoke as one about the independence of the Department. It is a point of pride at Justice to apply the law without the President's political self-interest tainting its actions or dictating how it uses its authorities.

But President Trump did find one candidate at Justice who seemed willing to do anything to help him stay in power. Let's hear what President Trump's own lawyer, Eric Herschmann, had to say about Jeff Clark's plan to overturn the election.

I would like to advise viewers, this video contains some strong language.

Mr. HERSCHMANN. And when he finished discussing what he planned on doing, I said good, fucking—excuse me, sorry—F'ing A-hole, congratulations. You just admitted your first step or act you take as Attorney General would be committing a felony and violating rule 6(e). You're clearly the right candidate for this job.

Mr. KINZINGER. So who is Jeff Clark? An environmental lawyer, with no experience relevant to leading the entire Department of Justice.

What was his only qualification? That he would do whatever the President wanted him to do, including overthrowing a free and a fair democratic election.

President Trump's campaign to bend the Justice Department to his political will culminated in a showdown on January 3rd. Today, we will take you inside that early evening Oval Office meeting, where top Justice Department officials met with the President. At stake: The leadership and integrity of the Department of Justice.

Mr. DONOGHUE. The meeting took about another 2½ hours from the time I entered. It was entirely focused on whether there should be a DOJ leadership change. I was sitting directly in front of the President. Jeff Rosen was to my right. Jeff Clark was to my left.

Acting Attorney General ROSEN. He looked at me, and I underscored, "Well, the one thing we know is you're not going to do anything. You don't even agree that the concerns that are being presented are—are valid. And here's someone who has—has a different view. So why shouldn't I do that?" You know, that's how the discussion then proceeded.

Mr. HERSCHMANN. Jeff Clark was proposing that—uh—Jeff Rosen be replaced by Jeff Clark, and I thought the proposal was asinine.

Mr. HEAPHY. What were Clark's purported bases for why it was in the President's interest for him to step in? What would he do? What would—how would things change according to Mr. Clark in the meeting?

Mr. DONOGHUE. He repeatedly said to the President that, if he was put in the seat, he would conduct real investigations that would, in his view, uncover widespread fraud. He would send out the letter that he had drafted and that this was a last opportunity to sort-of set things straight with this defective election and that he could do it and he had the intelligence and the will and the desire to pursue these matters in the way that the President thought most appropriate.

Mr. HERSCHMANN. And he was making a pitch, and every time he'd get clobbered over the head. He would, like, say, like, you know, he would call to order, you know, the President—"your decision. You get the chance to make this decision, and, you know, you've heard everybody, and you can make your determination." And then we jump back in, and, you know, they would clobber him.

Mr. DONOGHUE. I made the point that Jeff Clark is not even competent to serve as the Attorney General. He's never been a criminal attorney. He's never conducted a criminal investigation in his life. He's never been in front of a grand jury, much less a trial jury. And he kind of retorted by saying, "Well, I've done a lot of very complicated appeals in civil litigation, environmental litigation, and things like that." And I said, "That's right. You're an environmental lawyer. How about you go back to your office and we'll call you when there's an oil spill." And Pat Cipollone weighed in at one point. I remember saying, "You know, that letter that this guy wants to send, that letter is a murder-suicide pact. It's going to damage everyone

who touches it, and we should have nothing to do with that letter. I don't ever want to see that letter again." And so we went along those lines.

Mr. HERSCHMANN. I thought Jeff's proposal—Clark's proposal was nuts. I mean, this guy—at a certain point, "Listen, the best I can tell is the only thing you know about environmental and elections challenges is they both start with E, and based on your answers tonight, I'm not even certain you know that."

Mr. DONOGHUE. The President said, "Suppose I do this. Suppose I replace him, Jeff Rosen, with him, Jeff Clark. What do you do?"

Mr. KINZINGER. Well, we know these men before us did the right thing.

But think about what happens if these Justice officials make a different decision. What happens if they bow to the pressure? What would that do to us as a democracy? As a Nation?

Imagine a future where the President could screen applicants to the Justice Department with one question: Are you loyal to me or to the Constitution? It wouldn't take long to find people willing to pledge their loyalty to the man.

We know many of President Trump's vocal supporters on January 6th also wanted the Justice Department to do whatever he asked as long as it meant he could stay in power. They made sure Justice Department officials heard his message as they protested loudly in front of the Department on their way to the Capitol on January 6th.

CROWD. Do your job! Do your job! Do your job! Do your job! Do your job!

VOICE. Live in DC, we're marching to the Capitol. We are at the Department of Justice right now telling these cowards to do their job!

VOICE. We're going to take the Capitol.

Mr. KINZINGER. I want to take a moment now to speak directly to my fellow Republicans.

Imagine the country's top prosecutor—with the power to open investigations, subpoena, charge crimes, and seek imprisonment—imagine that official pursuing the agenda of the other party instead of that of the American people as a whole.

If you are a Democrat, imagine it the other way around.

Today, President Trump's total disregard for the Constitution and his oath will be fully exposed.

Now let's get this hearing under way so we can do our part to protect the freedoms that we often take for granted, so that we can see how close we came to losing it all.

I now yield back to the Chairman.

Chairman THOMPSON. We are joined today by three distinguished witnesses who each served in the Trump administration in the months preceding January 6th.

Mr. Jeffrey Rosen served at the Department of Justice from May 2019 until January 2021. With President Trump's nomination and the confirmation of the U.S. Senate, he became the United States Deputy Attorney General. In December 2020, he took the mantle of Acting Attorney General.

Mr. Richard Donoghue has served in the Department of Justice for over 14 years. Mr. Donoghue was a United States attorney for the Eastern District of New York; then became Mr. Rosen's Principal Associate Deputy Attorney General; and, finally, Acting Deputy Attorney General. Mr. Donoghue also served more than 20 years in the United States military, including the 82nd Airborne and the Judge Advocate General's Corps.

We are also joined by Mr. Steven Engel, the former Assistant Attorney General for the Office of Legal Counsel. He was nominated by the former President and confirmed by the Senate during the Trump administration. He served from November 2017 to January 2021 and has now returned to private practice.

I will now swear in our witnesses. The witnesses will please stand and raise their right hands.

[Witnesses sworn.]

Chairman THOMPSON. Thank you. You may be seated.

Let the record reflect the witnesses all answered in the affirmative.

I now recognize myself for questions.

First of all, gentlemen, thank you for being here today.

All of you served at former President Trump's pleasure at the Department of Justice in top leadership positions with tremendous responsibilities.

Former Attorney General Bill Barr told the Select Committee that, before he left the Department in December 2020, he told President Trump, on at least three occasions, there was no evidence of widespread election fraud that would have changed the results of the Presidential election and refuted numerous specific claims of election fraud the President was making.

Mr. Rosen, after Mr. Barr announced his resignation, did Donald Trump continue to demand that the Department of Justice investigate his claims of election fraud?

Mr. ROSEN.<sup>1</sup> Yes. He asserted that he thought the Justice Department had not done enough.

Chairman THOMPSON. Thank you.

From the time you took over from Attorney General Barr until January 3rd, how often did President Trump contact you or the Department to push allegations of election fraud?

Mr. ROSEN. So, between December 23rd and January 3rd, the President either called me or met with me virtually every day, with one or two exceptions, like Christmas Day.

Before that—because it had been announced that I would become the Acting Attorney General before the date I actually did—the President had asked that Rich Donoghue and I go over and meet with him, I believe on December 15th, as well.

Chairman THOMPSON. So, after you had some of these meetings and conversations with the President, what things did the President raise with you?

Mr. ROSEN. So the common element of all of this was the President expressing his dissatisfaction that the Justice Department, in his view, had not done enough to investigate election fraud.

But, at different junctures, other topics came up at different intervals. So, at one point, he had raised the question of having a special counsel for election fraud. At a number of points, he raised requests that I meet with his campaign counsel, Mr. Giuliani.

At one point, he raised whether the Justice Department would file a lawsuit in the Supreme Court. At a couple of junctures, there

<sup>1</sup>The prepared statement of Mr. Rosen has been included in the Appendix and may be found on page 747.



were questions about making public statements or about holding a press conference.

At one of the later junctures was this issue of sending a letter to State legislatures in Georgia or other States.

So there were different things raised at different parts of—or different intervals, with the common theme being his dissatisfaction about what the Justice Department had done to investigate election fraud.

I will say that the Justice Department declined all of those requests that I was just referencing because we did not think that they were appropriate, based on the facts and the law as we understood them.

Chairman THOMPSON. Thank you.

So, Mr. Donoghue, on December 15th, the day after Attorney General Barr announced his resignation, the President summoned you and Mr. Rosen to the White House.

At this meeting with the President, what did he want to discuss?

Mr. DONOGHUE. There were a number of topics of discussion that day, Mr. Chairman.

Much of the conversation focused on a report that had been recently released relating to Antrim County in Michigan. I believe on December 13th an organization called the Allied Security Group issued a report that alleged that the Dominion voting machines in that county had a 68 percent error rate.

The report was widely covered in the media. We were aware of it. We obtained a copy of it on the 14th of December, the day prior. We circulated it to the U.S. attorneys in Michigan for their awareness. We had a number of discussions internally.

But the conversation with the President on that day, the 15th, was largely focused on that, and he was essentially saying, “Have you seen this report?” He was adamant that the report must be accurate, that it proved that the election was defective, that he, in fact, won the election, and the Department should be using that report to basically tell the American people that the results were not trustworthy.

He went on to other theories as well, but the bulk of that conversation on December 15th focused on Antrim County, Michigan, and the ASOG report.

Chairman THOMPSON. Thank you.

Mr. Engel, we know that Attorney General Barr announced on December 1, 2020, that the Department of Justice had found no evidence of widespread fraud that could have changed the outcome of the election.

So, from December 1, 2020, until today, as you sit here, have you ever doubted that top-line conclusion?

Mr. ENGEL.<sup>2</sup> No, I have never had any reason to doubt Attorney General Barr’s conclusion.

Chairman THOMPSON. Thank you.

Pursuant to section 5(c)(8) of House Resolution 503, the Chair now recognizes the gentleman from Illinois, Mr. Kinzinger, for questions.

<sup>2</sup>The prepared statement of Mr. Engel has been included in the Appendix and may be found on page 764.

Mr. KINZINGER. Thank you, Mr. Chairman.

In the weeks leading to January 6th, the Department of Justice was fielding almost daily requests from the President to investigate claims of election fraud. Each claim was refuted time and time again—an effort Attorney General Barr described as “Whack-A-Mole.”

When each of the President’s efforts failed, he resorted to installing a new Attorney General to say the election was illegal and corrupt simply so he could stay in power.

President Trump started leaning on the Justice Department the first chance he got, on November 29th, his first television interview after the election.

Ms. BARTIROMO. Where is the DOJ and the FBI in all of this, Mr. President? You have laid out some serious charges here. Shouldn’t this be something that the FBI is investigating?

President TRUMP. Missing in action.

Ms. BARTIROMO. Are they? Is the DOJ investigating?

President TRUMP. Missing in action. Can’t tell you where they are.

Mr. KINZINGER. Republican Congressmen echoed the President just 2 days later. They wrote a letter to Attorney General Barr, laying into the Justice Department for a “shocking lack of action” in investigating the claims of election fraud.

That same day, Attorney General Barr stated publicly that President Trump’s claims had no merit.

Ignoring the top law enforcement officer in the country, Republican Congressmen amplified the “stolen election” message to the American public. Let’s listen.

Mr. GOHMERT. And so there’s widespread evidence of fraud ’cause people haven’t done their jobs. Durham and Barr will deserve a big notation in history when it’s written of the rise and fall of the United States if they don’t clean up this mess, clean up the fraud, do your jobs, and save this little experiment in self-government.

Mr. BIGGS. Again, I join my colleagues in calling on Attorney General Barr—to immediately let us know what he’s doing.

Mr. GOSAR. We’re already working on challenging the certified electors. And then what about the courts? How pathetic are the courts? [Crowd Boos]

Mr. GAETZ. January 6th, I’m joining with the fighters in the Congress, and we are going to object to electors from States that didn’t run clean elections. [Applause] Democracy is left undefended if we accept the results of a stolen election without fighting with every bit of vigor we can muster.

Mr. JORDAN. The ultimate date of significance is January 6. This is how the process works. The ultimate arbiter here, the ultimate check and balance, is the U.S. Congress. And when something is done in an unconstitutional fashion, which happened in several of these States, we have a duty to step forward and have this debate and have this vote on the 6th of January.

Mr. BROOKS. Today is the day American patriots start taking down names and kicking ass.

Mr. KINZINGER. Mr. Donoghue, on December 27th, you had a 90-minute conversation with the President where he raised false claim after false claim with you and Mr. Rosen.

How did you respond to what you called a “stream of allegations”?

Mr. DONOGHUE. The December 27th conversation was, in my mind, an escalation of the earlier conversations. As the former Acting AG indicated, there were a lot of communications that preceded that. As we got later in the month of December, the President’s entreaties became more urgent; he became more adamant that we weren’t doing our job, we needed to step up and do our job.

He had this arsenal of allegations that he wanted to rely on. So I felt in that conversation that it was incumbent upon me to make it very clear to the President what our investigations had revealed and that we had concluded, based on actual investigations, actual witness interviews, actual reviews of documents, that these allegations simply had no merit.

I wanted to try to cut through the noise, because it was clear to us that there were a lot of people whispering in his ear, feeding him these conspiracy theories and allegations. I felt that being very blunt in that conversation might help make it clear to the President these allegations were simply not true.

So, as he went through them—in what for me was a 90-minute conversation or so and what for the former Acting AG was a 2-hour conversation as the President went through them, I went piece by piece to say, “No, that’s false, that is not true,” and to correct him really in a serial fashion as he moved from one theory to another.

Mr. KINZINGER. Can you give me an example of one or two of those theories?

Mr. DONOGHUE. So one that was very clear at that point was the Antrim County, the ASOG report that I mentioned earlier. Allied Security Operations Group released this report that said 68 percent error rate.

There was, in fact, in Antrim County a hand recount. It had nothing to do with the Department. The Department did not request that. That was pursuant to litigation brought by other parties. But there was a hand recount. So they were able to compare the hand recount to what the machines had reported.

For the ballots that were actually counted by machine, more than 15,000, there was 1 error, 1 ballot. I did a quick calculation and came up with .0063 percent error rate, which is well within tolerance.

So I made it very clear to the President, because he was so fixated on the ASOG report in the December 15th conversation, that, in fact, our investigation revealed that the error rate was .0063 percent. “So that, Mr. President, is an example of what people are telling you that is not true and that you cannot and should not be relying on.”

So that was one very explicit one, and I think you see that reflected in my notes.

We went through a series of others. The truck driver who claimed to have moved an entire tractor trailer of ballots from New York to Pennsylvania, that was also incorrect. We did an investigation with the FBI, interviewed witnesses at the front end and the back end of that trailer’s transit from New York to Pennsylvania. We looked at loading manifests. We interviewed witnesses, including, of course, the driver. We knew it wasn’t true. Whether the driver believed it or not was never clear to me, but it was just not true. So that was another one that I tried to educate the President on.

There were a series of others, mostly in swing States. Of course, he wanted to talk a great deal about Georgia, the State Farm Arena video, which he believed for various reasons was, as he said it, “fraud staring you right in the face.”

Mr. KINZINGER. Were any of the allegations he brought up found credible? Did you find any of them credible?

Mr. DONOGHUE. No.

Mr. KINZINGER. So, during this conversation, did you take handwritten notes directly quoting the President?

Mr. DONOGHUE. I did.

To make it clear, Attorney General Rosen called me on my Government cell phone, said he had been on the phone with the President for some time, the President had a lot of these allegations. I was better versed in what the Department had done, just because I had closer contact with the investigations, and the AG asked me to get on the call. Of course, I agreed.

I begin taking notes only because, at the outset, the President made an allegation I had not heard. I had heard many of these things; I knew many of them were investigated. But when the President, at least when I came to the conversation, when he began speaking, he brought up an allegation I was completely unaware of. Of course, that concerned us. So I simply reached out and grabbed a notepad off my wife's nightstand and a pen, and I started jotting it down.

That had to do with an allegation that more than 200,000 votes were certified in the State of Pennsylvania that were not actually cast. Sometimes the President would say it was 205; sometimes he would say it was 250. But I had not heard this before, and I wanted to get the allegation down clearly so that we could look into it, if appropriate.

That is why I started taking those notes. Then, as the conversation continued, I just continued to take the notes.

Mr. KINZINGER. Let's take a look at the notes, if we could, right now.

As we can see on the screen, you actually quote President Trump asking, "Where's DOJ?", just like we heard him say in his first television interview.

How did you respond to that?

Mr. DONOGHUE. So both the Acting AG and I tried to explain to the President, on this occasion and on several other occasions, that the Justice Department has a very important, very specific, but very limited role in these elections. States run their elections. We are not quality control for the States.

We are obviously interested in and have a mission that relates to criminal conduct in relation to Federal elections. We also have related civil rights responsibilities. So we do have an important role, but the bottom line was, if a State ran their election in such a way that it was defective, that is to the State or Congress to correct. It is not for the Justice Department to step in.

I certainly understood the President, as a layman, not understanding why the Justice Department didn't have at least a civil role to step in and bring suit on behalf of the American people. We tried to explain that to him.

The American people do not constitute the client for the United States Justice Department. The one and only client of the United States Justice Department is the U.S. Government.

The U.S. Government does not have standing, as we were repeatedly told by our internal teams—OLC, led by Steve Engel, as well

as the Office of the Solicitor General researched it and gave us thorough, clear opinions that we simply did not have standing. We tried to explain that to the President on numerous occasions.

Mr. KINZINGER. Let's take a look at another one of your notes. You also noted that Mr. Rosen said to Mr. Trump, "DOJ can't and won't snap its fingers and change the outcome of the election."

How did the President respond to that, sir?

Mr. DONOGHUE. He responded very quickly and said, essentially, "That's not what I'm asking you to do. What I'm just asking you to do is just say it was corrupt, and leave the rest to me and the Republican Congressmen."

Mr. KINZINGER. So let's now put up the notes where you quote the President, as you were speaking to that.

You said the President said, "Just say the election was corrupt, and leave the rest to me and the Republican Congressmen."

So, Mr. Donoghue, that is a direct quote from President Trump, correct?

Mr. DONOGHUE. That is an exact quote from the President, yes.

Mr. KINZINGER. The next note shows that the President kept pressing.

Even though he had been told that there was no evidence of fraud, did the President keep saying that the Department was "obligated to tell people that this was an illegal, corrupt election"?

Mr. DONOGHUE. That is also an exact quote from the President, yes.

Mr. KINZINGER. Let me just be clear. Did the Department find any evidence to conclude that there was anything illegal or corrupt about the 2020 election?

Mr. DONOGHUE. There were isolated instances of fraud. None of them came close to calling into question the outcome of the election in any individual State.

Mr. KINZINGER. How would you describe the President's demeanor during that call?

Mr. DONOGHUE. He was more agitated than he was on December 15th. The President, throughout all of these meetings and telephone conversations, was adamant that he had won and that we were not doing our job. But it did escalate over time until ultimately the meeting on January 3rd, which was sort-of the most extreme of the meetings and conversations.

Mr. KINZINGER. So I want to make sure we don't gloss this over: "Just say it was corrupt, and leave the rest to us."

The President wanted the top Justice Department officials to declare that the election was corrupt, even though, as he knew, there was absolutely no evidence to support that statement.

The President didn't care about actually investigating the facts. He just wanted the Department of Justice to put its stamp of approval on the lies.

Who was going to help him? Well, Jeff Clark.

Mr. Rosen, on Christmas Eve, your first official day as the Acting Attorney General, President Trump called you. What did he want to talk about?

Mr. ROSEN. The same things he was talking about publicly. He wanted to talk about that he thought the election had been stolen

or was corrupt and that there was widespread fraud. I had told him that our reviews had not shown that to be the case.

So we had an extended discussion, probably 15, maybe 20 minutes, something like that, with him urging that the Department of Justice should be doing more with regard to election fraud.

Mr. KINZINGER. Did he mention Jeff Clark's name?

Mr. ROSEN. Yes. It was just in passing. He made what I regarded as a peculiar reference. I don't remember the exact quote, but it was something about, did I know Jeff Clark, or did I know who he was, or something like that. I told him I did, and then the conversation just moved on.

But when I hung up, I was quizzical as to, how does the President even know Mr. Clark? I was not aware that they had ever met or that the President had been involved with any of the issues in the Civil Division.

Mr. KINZINGER. So it was a bit of a surprise when he brought his name up?

Mr. ROSEN. Yes.

Mr. KINZINGER. So Mr. Clark was the acting head of the Civil Division and head of Environmental and Natural Resources Division at the Department of Justice.

Do either of those divisions have any role whatsoever in investigating election fraud, sir?

Mr. ROSEN. No. And, to my awareness, Jeff Clark had had no prior involvement of any kind with regard to the work that the Department was doing that Attorney General Barr has talked about to this Committee.

Mr. KINZINGER. So let's take a minute and explain why the President mentioned Jeff Clark's name to Mr. Rosen here on Christmas Eve.

On December 21st, some Republican Members of Congress met with President Trump in the White House to talk about overturning the 2020 election.

Let's hear Representative Marjorie Taylor Greene talk about how this meeting got set up.

Mrs. GREENE of Georgia. I was the only new Member at the meeting. I called President Trump on Saturday and—and said, "We've got to have a meeting. There's many of us that feel like this election has been stolen."

Mr. KINZINGER. So, on the screen, you will see that President Trump's chief of staff, Mark Meadows, tweeted about that meeting right after it happened.

He said, "Several Members of Congress just finished a meeting in the Oval Office with President Donald Trump, preparing to fight back against mounting evidence of voter fraud. Stay tuned."

On the same day he met with these Republican Members of Congress, President Trump called into a conservative political convention, and he used the opportunity to pressure the Department of Justice to investigate his bogus claims.

President TRUMP. The problem is we need a party that's going to fight, and we have some great Congressmen and—women that are doing it. And we have others, some great fighters. But we won this in a landslide. They know it, and we need backing from, like, the Justice Department. And other people have to finally step up.

Mr. KINZINGER. The Select Committee obtained records from the National Archives that show that Scott Perry was one of the Congressmen who joined that meeting.

We learned from White House records—that you will now see on the screen—that, the very next day, Representative Perry returned to the White House. This time, he brought a Justice Department official named Jeffrey Clark.

Representative Perry provided the following statement to his local TV affiliate. He said, “Throughout the past 4 years, I’ve worked with Assistant Attorney General Clark on various legislative matters. When President Trump asked if I would make an introduction, I obliged.”

But why Jeff Clark? Let’s hear Mr. Giuliani explain the kind of person that he and the President wanted at the top of Justice.

Mr. GEORGE. Do you remember ever recommending to anybody that Mr. Clark, meaning Jeffrey Clark, at DOJ be given election-related responsibilities?

Mr. GIULIANI. You mean beyond the President?

Mr. GEORGE. Correct.

Mr. GIULIANI. Well, beyond the President, I do recall saying to people that somebody should be put in charge of the Justice Department who isn’t frightened of what’s going to be done to their reputation because the Justice Department was filled with people like that.

Mr. KINZINGER. Should put somebody that is not frightened of what is going to be done to their reputation.

Mr. Donoghue, when you told the President that you wouldn’t pursue baseless claims of fraud, was it because you were worried about your reputation?

Mr. DONOGHUE. No. Not at all.

Mr. KINZINGER. Mr. Clark’s name was also mentioned in White House in late December and early January, as described by a top aide to Mark Meadows, Cassidy Hutchinson.

Mr. GEORGE. Was it your understanding that Representative Perry was pushing for a specific person to take over the Department?

Ms. HUTCHINSON. He wanted Mr. Clark—Mr. Jeff Clark to take over the Department of Justice.

Mr. KINZINGER. Mr. Rosen, after your call with President Trump on December 24th, you spoke with Mr. Clark on December 26th about his contact with the President.

Can you tell us about that conversation?

Mr. ROSEN. Yes.

Because I had been quizzical about why his name had come up, I called him, and I tried to explore if he would share if there was something I ought to know. After some back-and-forth, he acknowledged that shortly before Christmas he had gone to a meeting in the Oval Office with the President.

That, of course, surprised me. I asked him, how did that happen? He was defensive. He said it had been unplanned, that he had been talking to someone he referred to as “General Perry” but I believe is Congressman Perry, and that, unbeknownst to him, he was asked to go to a meeting, and he didn’t know it but it turned out it was at the Oval—he found himself at the Oval Office. He was apologetic for that.

I said, well, you didn’t tell me about it, it wasn’t authorized, and you didn’t even tell me after the fact. You know, this is not appropriate.

But he was contrite and said it had been inadvertent and it would not happen again and that if anyone asked him to go to such a meeting he would notify Rich Donoghue and me.

Mr. KINZINGER. Is there a policy that governs who can have contact directly with the White House?

Mr. ROSEN. Yes. So, across many administrations, for a long period of time, there is a policy that, particularly with regard to criminal investigations, restricts at both the White House end and the Justice Department end those more sensitive issues to the highest ranks.

So, for criminal matters, the policy for a long time has been that only the Attorney General and the Deputy Attorney General, from the DOJ side, can have conversations about criminal matters with the White House, or the Attorney General and the Deputy Attorney General can authorize someone for a specific item with their permission.

But the idea is to make sure that the top rung of the Justice Department knows about it and is in the thing to control it and make sure only appropriate things are done.

Mr. KINZINGER. Mr. Engel, from your perspective, why is it important to have a policy like Mr. Rosen just discussed?

Mr. ENGEL. Well, it is critical that the Department of Justice conducts its criminal investigations free from either the reality or any appearance of political interference.

So people can get in trouble if people at the White House are speaking with people at the Department. That is why—the purpose of these policies is to keep these communications as infrequent and at the highest levels as possible, just to make sure that people who are less careful about it, who don't really understand these implications, such as Mr. Clark, don't run afoul of those contact policies.

Mr. KINZINGER. Thank you.

So the Select Committee conducted an informal interview with the White House Counsel, Pat Cipollone, and his deputy, Pat Philbin, about their contact with Mr. Clark, though neither has yet agreed to sit for transcribed and videotaped interviews.

But Pat Cipollone told the Select Committee that he intervened when he heard Mr. Clark was meeting with the President about legal matters without his knowledge, which was strictly against White House policy.

Mr. Cipollone and Mr. Philbin, like Mr. Rosen, told Mr. Clark to stand down, and he didn't.

On the same day Acting Attorney General Rosen told Mr. Clark to stop talking to the White House, Representative Perry was urging Chief of Staff Mark Meadows to elevate Clark within the Department of Justice.

You can now see on the screen behind me a series of texts between Representative Perry and Mr. Meadows. They show that Representative Perry requested that Mr. Clark be elevated within the Department.

Representative Perry tells Mr. Meadows on December 26th that, "Mark, just checking in as time continues to count down. Eleven days to January 6th and 25 days to inauguration. We've got to get going."



Representative Perry followed up and says, “Mark, you should call Jeff. I just got off the phone with him, and he explained to me why the principal deputy won’t work, especially with the FBI. They will view it as not having the authority to enforce what needs to be done.”

Mr. Meadows responds with, “I got it. I think I understand. Let me work on the deputy position.”

Representative Perry then texts, “Roger. Just sent you something on Signal. Just sent you an updated file. Did you call Jeff Clark?”

Mr. Donoghue, Representative Perry called you the next day, on December 27th. Who told him to call you?

Mr. DONOGHUE. My understanding is the President did. At the outset of the call, Congressman Perry told me that he was calling at the behest of the President.

Mr. KINZINGER. What did he want to talk about?

Mr. DONOGHUE. He wanted to talk about Pennsylvania in particular. He gave me some background about, you know, why he in particular doesn’t trust the FBI and why the American people don’t necessarily trust the FBI.

Then he went into some allegations specific to Pennsylvania, which included, amongst others, this allegation that the secretary of state had certified more votes than were actually cast.

Mr. KINZINGER. Did you direct the local U.S. attorney’s office to investigate that claim?

Mr. DONOGHUE. So Mr. Perry said that he had a great deal of information, that investigations had been done, that there was some sort of forensic-type report that would be helpful to me.

I didn’t know Congressman Perry. I had never heard of him before this conversation. But I said, “Sir, if you’ve got something that you think is relevant to what the Justice Department’s mission is, you should feel free to send it to me.” He did.

I was en route from New York to Washington. I got it. I looked at it on my iPhone. Obviously, I couldn’t read the whole thing in transit like that, but I looked at it to get a feel for what it was. Then I forwarded it to the United States attorney for the Western District of Pennsylvania.

Mr. KINZINGER. Did they get back to you? What did they conclude?

Mr. DONOGHUE. Scott Brady looked at it. He was the Western District of Pennsylvania U.S. attorney. Took him a couple days, but he got back in relatively short order with a pretty clear explanation for why there was no foundation for concern.

The secretary of state had not certified more votes than were actually cast. The difference between the 5.25 that was actually certified by the secretary of state and the 5 million that was on a public-facing website was that the information on the website was incomplete because 4 counties had not uploaded their data.

Mr. KINZINGER. So no credibility to that claim?

Mr. DONOGHUE. There was zero to that, right.

Mr. KINZINGER. During that call, did Scott Perry mention Mr. Clark? What did he say about him, if so?

Mr. DONOGHUE. He did; he mentioned Mr. Clark. He said something to the effect of, “I think Jeff Clark is great, and I think he

is the kind of guy who could get in there and do something about this stuff.”

This was coming on the heels of the President having mentioned Mr. Clark in the afternoon call earlier that day.

Mr. KINZINGER. I would like to yield to the gentlewoman from Wyoming, Vice Chair Cheney.

Vice Chair CHENEY. Thank you very much, Mr. Kinzinger. I thank the gentleman for yielding.

As we discussed earlier, at the center of Mr. Clark’s plan to undo President Trump’s election loss was a letter.

Mr. Donoghue, on December 28th, Mr. Clark emailed you and Mr. Rosen a draft letter that he wanted you to sign and send to Georgia State officials. You testified that this could have “grave constitutional consequences.”

Mr. Donoghue, can you tell us what you meant by that?

Mr. DONOGHUE. Well, I had to read both the email and the attached letter twice to make sure I really understood what he was proposing because it was so extreme to me I had a hard time getting my head around it initially.

But I read it, and I did understand it for what he intended, and I had to sit down and sort-of compose what I thought was an appropriate response.

I actually initially went next door to the Acting AG’s office, but he was not there. We were both on that email. I knew we would both have probably a very similar reaction to it.

He was not in his office, so I returned to my office, and I sat down to draft a response because I thought it was very important to give a prompt response rejecting this out of hand.

In my response I explained a number of reasons this is not the Department’s role to suggest or dictate to State legislatures how they should select their electors. But more importantly, this was not based on fact. This was actually contrary to the facts as developed by Department investigations over the last several weeks and months.

So I responded to that. For the Department to insert itself into the political process this way I think would have had grave consequences for the country. It may very well have spiraled us into a constitutional crisis. I wanted to make sure that he understood the gravity of the situation because he didn’t seem to really appreciate it.

Vice Chair CHENEY. What was Mr. Clark’s reaction when you sent this email to him?

Mr. DONOGHUE. He didn’t respond directly to the email, but we met shortly after that. After I sent the email, the Acting AG returned. I went to his office. He had just read it. He had a very similar reaction to me. He was exasperated. He told me that he had told one of his administrative assistants to get Jeff Clark up here, we want to him talk face to face about this.

So the three of us then had a meeting probably around 1800 that night in the Deputy Attorney General’s conference room.

Vice Chair CHENEY. One of the things that you said to Mr. Clark is, “What you are doing is nothing less than the United States Justice Department meddling in the outcome of a Presidential election.”

I assume you conveyed that to him as well in your meeting that evening?

Mr. DONOGHUE. Yes, in those very words. It was a very contentious meeting. But, yes, that was said, amongst other things.

Vice Chair CHENEY. Despite this contentious meeting and your strong reaction to the letter, did Mr. Clark continue to push his concept in the coming days?

Mr. DONOGHUE. He did, yes. We had subsequent meetings and conversations. The Acting AG probably had more contact with him than I did.

But between the 28th and the 2nd, when we had another in-person meeting, he clearly continued to move down this path. He began calling witnesses and apparently conducting investigations of his own.

He got a briefing from DNI about purported foreign intelligence interference. We thought perhaps once it was explained to him that there was no basis for that part of his concern, that he would retreat.

But instead, he doubled down and said, "Well, okay, so there is no foreign interference. I still think there are enough allegations out there that we should go ahead and send this letter," which shocked me even more than the initial one because you would think after a couple days of looking at this, he, like we, would have come to the same conclusion that it was completely unfounded.

Vice Chair CHENEY. When you learned that he had been calling witnesses and conducting investigations on his own, did you confront him?

Mr. DONOGHUE. Yes.

Vice Chair CHENEY. What was his reaction?

Mr. DONOGHUE. He got very defensive. You know, as I said, there were a series of conversations through that week. I certainly remember very specifically the conversation and the meeting on January 2nd. That got even more confrontational.

But he was defensive. You know, similar to his earlier reaction when I said this is nothing less than Justice Department meddling in an election, his reaction was, "I think a lot of people have meddled in this election."

So he kind-of clung to that, and then spewed out some of these theories, some of which we had heard from the President, but others which were floating around the internet and media, and just kept insisting that the Department needed to act and needed to send those letters.

Vice Chair CHENEY. The Committee has also learned that Mr. Clark was working with another attorney at the Department named Ken Klukowski, who drafted this letter to Georgia with Mr. Clark.

Mr. Klukowski had arrived at the Department on December 15th with just 36 days left until the inauguration. He was specifically assigned to work under Jeff Clark.

Mr. Klukowski also worked with John Eastman, who we showed you at our hearing last week was one of the primary architects of President Trump's scheme to overturn the election.

The Georgia letter that we have been discussing specifically talks about some of Dr. Eastman's theories, including, "The purpose of

the special session the Department recommends would be for the General Assembly to determine whether the election failed to make a proper and valid choice between the candidates, such that a General Assembly could take whatever action is necessary to ensure that one of the slates of electors cast on December 14th will be accepted by Congress on January 6th.”

The Committee has also learned that the relationship between Dr. Eastman and Mr. Klukowski persisted after Mr. Klukowski joined the Justice Department.

Let’s take a look at an email recommending that Mr. Klukowski and Dr. Eastman brief Vice President Pence and his staff. Other recipients of this email included the chief of staff to Congressman Louie Gohmert.

The email says, “As stated last week, I believe the Vice President and his staff would benefit greatly from a briefing by John and Ken. As I also mentioned, we want to make sure we don’t over-expose Ken given his new position.”

This email suggests that Mr. Klukowski was simultaneously working with Jeffrey Clark to draft the proposed letter to Georgia officials to overturn their certified election and working with Dr. Eastman to help pressure the Vice President to overturn the election.

I want to thank all of our witnesses for being here today and for answering our questions about this letter and other issues.

We asked Mr. Clark some of the same questions that we have asked you, and here is how he answered.

Mr. WOOD. Did you discuss this draft letter to Georgia officials with the President of the United States?

Mr. CLARK. Fifth and executive privilege. Again, just restated for the abundance of caution.

Mr. WOOD. Okay. If you look again at the draft letter, in the first paragraph, second sentence says, “The Department will update you as we are able on investigatory progress, but at this time, we have identified significant concerns that may have impacted the outcome of the election in multiple States, including the State of Georgia.” Isn’t that, in fact, contrary to what Attorney General Barr had said on December 1, 2020?

Mr. CLARK. Fifth.

Vice Chair CHENEY. Mr. Chairman, I yield back.

Mr. KINZINGER. Mr. Chairman, I reserve.

Chairman THOMPSON. Pursuant to the order of the Committee of today, the Chair declares the Committee in recess for a period of approximately 10 minutes.

[Accordingly, at 4:08 p.m., the Committee recessed until 4:20 p.m., when it was called to order by the Chairman.]

Chairman THOMPSON. The Chair recognizes the gentleman from Illinois.

Mr. KINZINGER. Thank you, Mr. Chairman.

Mr. Chairman, around the time Mr. Clark was pushing for the Department to send the Georgia letter, the President and his supporters were pressuring the Justice Department to take other actions to change the outcome of the 2020 election.

Mr. Engel, you were the head of the Office of Legal Counsel. Can you first off explain your role? What is that?

Mr. ENGEL. Sure. One of the Attorney General's most important responsibilities is to provide legal advice to the President and to the executive branch.

As a practical matter, given the responsibilities of the Attorney General, the Assistant Attorney General for the Office of Legal Counsel exercises that job on a day-to-day basis.

So, in addition, the head of OLC often functions as a general counsel essentially to the Attorney General, and so is often the chief legal adviser to the AG as well as the White House and the executive branch more broadly.

Mr. KINZINGER. So given that role, can you kind-of describe your relationship with the President?

Mr. ENGEL. Well, in connection with my role at OLC, over the course of my tenure there there were a number of instances in which folks at the White House would seek to bring me in to provide legal advice to the President, sometimes discussing the legal options that could be pursued among various policy—to reach various policy objectives, sometimes to advise the President that a course of action that they had been discussing was not legally available.

Mr. KINZINGER. So I want to ask you about two things the President asked you and the Department to do. The first is reflected in this email that we are going to put on the screen.

The President sent a draft lawsuit to be filed by the Department and the Supreme Court. He wanted you, Mr. Rosen, and Mr. Cipollone specifically to review it. You and the Department opposed filing it.

We see on the screen here the talking points that you actually drafted on that. So you stated that, "There is no legal basis to bring this lawsuit. Anyone who thinks otherwise simply doesn't know the law, much less the Supreme Court."

Why was this the Department's position?

Mr. ENGEL. Well, I mean, I think the memo sort-of speaks to this.

But essentially this was a draft lawsuit that apparently was prepared by people outside the Department. It would be styled as brought by the United States and by the Acting Solicitor General as an original jurisdiction matter in the Supreme Court.

It was a meritless lawsuit that was not something that the Department could or would bring. You know, somebody obviously prepared it, handed it to the President, and he forwarded it on for our review.

But that memo explains why the Department of Justice, as Mr. Donoghue said earlier, doesn't have any standing to bring such a lawsuit. The lawsuit would have been untimely. The States had chosen their electors. The electors had been certified. They had cast their votes. They had been sent to Washington, DC.

Neither Georgia nor any of the other States on December 28th, or whenever this was, was in a position to change those votes. Essentially, the election had happened. The only thing that hadn't happened was the formal counting of the votes.

So, obviously, the person who drafted this lawsuit didn't really understand, in my view, you know, the law and/or how the Supreme Court works or the Department of Justice.

So it was just not something we were going to do. The Acting Attorney General asked me to prepare a memo with talking points so that he could explain our reasons when he spoke with the President about this.

Mr. KINZINGER. So would you say it was an unusual request?

Mr. ENGEL. Certainly. The request that the Department file a lawsuit from—drafted by outside lawyers—was certainly an unusual request.

Mr. KINZINGER. There was another issue you were asked to look into. In mid-December, did the White House ask Attorney General Barr to consider whether a special counsel could be appointed to look into election fraud issues?

Mr. ENGEL. Yes. I mean, I think the President was probably vocal at the time that he believed that a special counsel was something that should be considered to look into election fraud. There is a specific, you know, request where the Attorney General sought my legal advice in the middle of December.

Mr. KINZINGER. What was your conclusion? What conclusion did you reach?

Mr. ENGEL. So this request was whether the Attorney General could appoint as a special counsel a State attorney general to conduct an investigation.

I mean, as a legal matter, under Federal law the Attorney General actually has fairly wide discretion to delegate prosecutorial authority, including to State prosecutors, which happens to assist the Department, you know, and not uncommonly. Obviously, a State attorney general exercising prosecutorial authority on behalf of the Department of Justice would be fairly uncommon.

When we looked at the issue, what we saw is actually that the State law—the State was Louisiana—that the State law precluded the Louisiana attorney general from accepting any position, any official position on behalf of the U.S. Government. So that answered the question, that it was not legally available.

Mr. KINZINGER. So during your time at the Department, was there ever any basis to appoint a special counsel to investigate President Trump's election fraud claims?

Mr. ENGEL. Well, neither Attorney General Barr nor Acting Attorney General Rosen did appoint a special counsel. You would appoint a special counsel when the Department—when there is a basis for the investigation and the Department essentially has a conflict of interest.

It is important to get someone who is independent outside of the Department to handle such an investigation. Neither Attorney General Barr nor Acting Attorney General Rosen ever believed that that was appropriate or necessary in this case.

Mr. KINZINGER. In fact, Attorney General Barr had already told the President that there was no need for the special counsel. He actually stated that publicly, and we will see that here in a video from December 21st.

Attorney General BARR. To the extent that there's an investigation, I think that it's being handled responsibly and professionally currently within the—the Department, and to this point, I have not seen a reason to appoint a Special Counsel, and I have no plan to do so before I leave.

Mr. KINZINGER. So remember that December 21st was the same day President Trump met with Republican Members at the White House to strategize about how to overturn the election while his Attorney General is out telling the public, again, that there was no widespread evidence of election fraud. Yet, 2 days later, we have President Trump tweeting, again publicly pressuring the Department to appoint a special counsel.

He said, "After seeing the massive voter fraud in the 2020 Presidential election, I disagree with anyone that thinks a strong, fast, and fair special counsel is not needed immediately. This was the most corrupt election in the history of our country, and it must be closely examined."

The Select Committee's investigation revealed that President Trump went as far as to promise the job of special counsel to now discredited former Trump campaign lawyer Sidney Powell at a late-night meeting December 18th.

Ms. POWELL. I know on—on Friday he had asked me to be Special Counsel to address the election issues and to collect evidence, and he was extremely frustrated with the lack of, I would call it, law enforcement by any of the government agencies that are supposed to act to protect the rule of law in our republic.

Mr. KINZINGER. So let's think here. What would a special counsel do? With only days to go until election certification, it wasn't to investigate anything. An investigation led by a special counsel would just create an illusion of legitimacy and provide fake cover for those who would want to object, including those who stormed the Capitol on January 6th. All of President Trump's plans for the Justice Department were being rebuffed by Mr. Rosen, Mr. Donoghue, Mr. Engel, and others.

The President became desperate entering into the New Year with January 6th fast approaching. President Trump rushed back early from Mar-a-Lago on December 31st and called an emergency meeting with the Department's leadership.

Here is Mr. Donoghue describing the last-minute meeting held at the White House on New Year's Eve.

Mr. DONOGHUE. The President was a little more agitated than he had been on the meeting—in the meeting on the 15th. He discussed a variety of election matters. He did say, "This sounds like the kind of thing that would warrant appointment of a Special Counsel." There was a point at which the President said something about, "Why don't you guys seize machines?"

Mr. KINZINGER. Mr. Rosen, the President asked you to seize voting machines from State governments. What was your response to that request?

Mr. ROSEN. That we had seen nothing improper with regard to the voting machines. I told him that the real experts at that had been at DHS, and they had briefed us that they had looked at it and that there was nothing wrong with the voting machines. So that was not something that was appropriate to do.

Mr. KINZINGER. There would be no factual basis to seize machines?

Mr. ROSEN. I don't think there was legal authority either.

Mr. KINZINGER. Mr. Donoghue, can you explain what the President did after he was told that the Justice Department would not seize voting machines?

Mr. DONOGHUE. The President was very agitated by the Acting Attorney General's response. To the extent that machines and the technology was being discussed, the Acting Attorney General said that the DHS, Department of Homeland Security, has expertise in machines and certifying them and making sure that the States were operating them properly.

Since DHS had been mentioned, the President yelled out to his secretary, "Get Ken Cuccinelli on the phone." She did in very short order.

Mr. Cuccinelli was on the phone. He was No. 2 at DHS at the time. I was on the speaker phone. The President essentially said, "Ken, I am sitting here with the Acting Attorney General. He just told me it is your job to seize machines, and you are not doing your job." Mr. Cuccinelli responded.

Mr. KINZINGER. Mr. Rosen, did you ever tell the President that the Department of Homeland Security could seize voting machines?

Mr. ROSEN. No, certainly not.

Mr. KINZINGER. Mr. Donoghue, during this meeting, did the President tell you that he would remove you and Mr. Rosen because you weren't declaring there was election fraud?

Mr. DONOGHUE. Toward the end of the meeting the President, again, was getting very agitated, and he said, "People tell me I should just get rid of both of you, I should just remove you and make a change in the leadership, put Jeff Clark in, maybe something will finally get done."

I responded as I think I had earlier in the December 27th call: "Mr. President, you should have the leadership that you want. But understand the United States Justice Department functions on facts, evidence, and law, and those are not going to change. So you can have whatever leadership you want, but the Department's position is not going to change."

Mr. KINZINGER. The President's White House Counsel, Pat Cipollone, was also present. Do you remember what his position was?

Mr. DONOGHUE. Pat was very supportive. Pat Cipollone throughout these conversations was extremely supportive of the Justice Department. He was consistent. I think he had an impossible job at that point, but he did it well. He always sided with the Justice Department in these discussions.

Mr. KINZINGER. So let's pause for a second. It is New Year's Eve. President Trump is talking about seizing voting machines and making the same demands that had already been shot down by former Attorney General Barr on at least three occasions and by Mr. Rosen and Mr. Donoghue on multiple other occasions. Claim after claim knocked down, but the President didn't care.

The next day, Chief of Staff Mark Meadows sent a flurry of emails to you, Mr. Rosen, asking that the Department look into a new set of allegations. We are going to put those emails here on the screen.

Here we see three requests made on January 1st. One email is a request from Mr. Meadows to you, Mr. Rosen, to send Jeff Clark to Fulton County.

What did you do with this request?



Mr. ROSEN. Well, really nothing. Certainly didn't send Mr. Clark to Fulton County. But that email was the first corroboration I had seen of—Mr. Clark had told me at that point that the President was considering making the change by Monday, January 4th.

So Mr. Meadows' email was something of a corroboration that there were discussions going on that I had been—not been informed about by Mr. Clark or anybody else.

Mr. KINZINGER. Interesting.

The second request that you have is to have the Department of Justice lawyers investigate allegations of fraud related to New Mexico.

Mr. ROSEN, did you have concern about these emails?

Mr. ROSEN. Yes. Really two concerns about that one. One was that it was coming from a campaign or political party, and it was really not our role to function as, you know, an arm of any campaign for any party or any campaign. That wasn't our role. That is part of why I had been unwilling to meet with Mr. Giuliani or any of the campaign people before.

The other part was it was another one of these ones where lots of work had already been done and I thought it was a rehash of things that had been debunked previously.

Mr. KINZINGER. So the final email here included a completely baseless conspiracy theory that an Italian defense contractor uploaded software to a satellite that switched votes from Trump to Biden.

The Select Committee investigation found that this wild, baseless conspiracy theory made it from the recesses of the internet to the highest echelons of our Government. On December 31st, Mr. Meadows received this internet conspiracy theory from Representative Perry.

On the screen now is the text that Representative Perry sent to Mr. Meadows, copying a YouTube link with the message, "Why can't we just work with the Italian government?"

The next day, the President's chief of staff sent the YouTube link to Mr. Rosen, who forwarded it to Mr. Donoghue.

Mr. Donoghue, did you watch this video?

Mr. DONOGHUE. I did, Congressman.

Mr. KINZINGER. How long was the video?

Mr. DONOGHUE. Approximately 20 minutes.

Mr. KINZINGER. Let's just take a look at an excerpt of that video, if we may.

Mr. JOHNSON. What's being said out of Rome, out of Italy is that this was done in the U.S. Embassy, that there was a certain State Department guy whose name I don't know yet. I guess this is probably going to come out in Italy at some point. And he was the mastermind—not the mastermind, but the—but anyway, the guy running the operation of changing the votes. And that he was doing this in conjunction with some support from MI6, the CIA, and this Leonardo group.

Mr. KINZINGER. Mr. Donoghue, what was your reaction when you watched that entire 20-minute video?

Mr. DONOGHUE. I emailed the Acting Attorney General and I said, "pure insanity," which was my impression of the video, which was patently absurd.

Mr. KINZINGER. Mr. Rosen, you were asked by Mr. Meadows to meet with Mr. Johnson, who is the person in that video. What was your reaction to that request?

Mr. ROSEN. So, ordinarily, I would get an email like this and there was no phone call. It would just come over the transom.

But this one, he called me, Mr. Meadows, and asked me to meet with Mr. Johnson. I told him this whole thing about Italy had been debunked and that should be the end of that, and I certainly wasn't going to meet with this person.

He initially seemed to accept that. He said, "You know, well, why won't you meet with him?"

I said, "Because if he has real evidence, which this video doesn't show, he can walk into an FBI field office anywhere in the United States. There are 55 of them."

He said, "Okay."

But then he called me back a few minutes later and complained and said, "I didn't tell you, but this fellow, Johnson, is working with Rudy Giuliani, and Mr. Giuliani is really offended that you think they have to go to an FBI field office. That is insulting. So couldn't you just have the FBI or you meet with these guys?"

By then, I was somewhat agitated, and told him that there was no way on Earth that I was going to do that. I wasn't going to meet with Mr. Johnson. I certainly wasn't going to meet with Mr. Giuliani. I had made that clear repeatedly. So that is the end of that, you know, don't raise this with me again.

So because Mr. Donoghue and I had been exchanging our views about this—I think it was, yes, 7:13 on a Friday night of New Year's Day—had run out of patience. I sent the email that you are talking about where I made pretty clear that I had no interest in doing anything further with this.

Mr. KINZINGER. Just to button this up, Mr. Donoghue. Did you receive a follow-up call from a Department of Defense official about this conspiracy?

Mr. DONOGHUE. I did. I believe it was that same day.

Mr. KINZINGER. Can you give details on that at all?

Mr. DONOGHUE. I received a telephone call from Kash Patel, who I know was a DOD official at that time, worked for, I believe, Acting Secretary of Defense Miller, and he didn't know much about it. He basically said, "Do you know anything about this Italy thing and what this is all about?"

I informed him that the chief of staff had raised the issue with us in his office on December 29th, that we had looked into it a little bit. We had run the name that was provided to us by the chief of staff.

I learned that that individual was in custody in Italy. He had been arrested for a cyber offense of some sort in Italy. The allegation was that he had been exfiltrating data from his company. He was either an employee or a contractor of that company, and he was in custody. That the whole thing was very, very murky at best, and the video was absurd. But that we, the Department, were not going to have anything do with it and DOD should make up its own mind as to what they are going to do. But I made it clear to him that I didn't think it was anything worth pursuing.

Mr. KINZINGER. So you called the video absurd, and despite the absurdity of that conspiracy theory we learned that Mr. Meadows discussed it frequently in the White House.

Mr. Meadows didn't let the matter go. The request went from the Department of Justice to the Secretary of Defense, Christopher Miller. As you will hear, Secretary Miller actually reached out to a high-ranking official based in Italy to follow up on this claim.

Acting Secretary of Defense MILLER. The ask for him was, "Can you call out the Defense Attaché Rome and find out what the heck's going on because I'm getting all these weird, crazy reports and probably the guy on the ground knows more than anything?"

Mr. KINZINGER. The Select Committee confirmed that a call was actually placed by Secretary Miller to the attaché in Italy to investigate the claim that Italian satellites were switching votes from Trump to Biden.

This is one of the best examples of the lengths to which President Trump would go to stay in power—scouring the internet to support his conspiracy theories shown here, as he told Mr. Donoghue in that December 27th call, "You guys may not be following the internet the way I do."

President Trump's efforts to this point had failed. Stonewalled by Mr. Rosen and Mr. Donoghue, President Trump had only one option: He needed to make Clark Acting Attorney General.

Mr. Rosen, during a January 2nd meeting with Mr. Clark, did you confront him again about his contact with the President? If so, can you describe that?

Mr. ROSEN. So at this point Mr. Clark had told us that the President had asked him to consider whether he would be willing to replace me, supposedly on a time table by Monday the 4th.

So I had told Mr. Clark I thought he was making a colossal error in judgment, but I also hoped to persuade him to be more rational and to understand what we had understood, that there is not a factual basis for the fraud assertions that are being made.

So at this meeting, Mr. Donoghue and I met with Mr. Clark, and I guess my hopes were disappointed in that Mr. Clark continued to express a view that he thought there was fraud, even though he had not been a participant in the Department's review of that, and that he was dissatisfied that we knew what we were doing.

But he had acknowledged that he had had further—I don't know if it was a meeting or phone calls or what—but further discussion with the President despite having a week earlier said that he, (A), wouldn't do that, and if did, if he got an invitation to do that, he would let Rich Donoghue or me know.

So we had—it was a contentious meeting where we were chastising him that he was insubordinate, he was out of line, he had not honored his own representations of what he would do. He raised, again, that he thought that letter should go out and we were not receptive to that.

Mr. KINZINGER. Did he tell you in that that the President had offered him the job of Acting Attorney General?

Mr. ROSEN. That was a day later. On the 2nd, he said that the President had asked him to let him know if he would be willing to take it.

Subsequently, he told me that—on Sunday, the 3rd—he told me that the time line had moved up and that the President had offered him the job and that he was accepting it.

Mr. KINZINGER. Let me ask you about that.

What was your reaction to that?

Mr. ROSEN. Well, on the one hand, I wasn't going to accept being fired by my subordinate, so I wanted to talk to the President directly.

With regard to—the reason for that is I wanted to try to convince the President not to go down the wrong path that Mr. Clark seemed to be advocating.

It wasn't about me. There are only 17 days left in the administration at that point. I would have been perfectly content to have either of the gentleman on my left or right replace me if anybody wanted to do that.

But I did not want for Department of Justice to be put in a posture where it would be doing things that were not consistent with the truth, were not consistent with its own appropriate role, or were not consistent with the Constitution.

So I did four things as soon as Mr. Clark left my office on that Sunday, the 3rd.

No. 1, I called Mark Meadows and said I need to see the President right away. He was agreeable and set up a meeting for 6:15 that Sunday, so about 2 hours away.

No. 2, I called Pat Cipollone, the White House Counsel, told him what was going on, and he said he would go into the White House to make sure he was at the meeting, and he would be supporting the Justice Department's position as he had been doing consistently.

No. 3, I called Steve Engel, who was—I was at the Department. It was a Sunday, but there had been some reasons I needed to be there. Mr. Engel I called at home and asked him if he would come in and go to the meeting, which he did and proved to be quite helpful.

Then, No. 4, I asked Rich Donoghue and Pat Hovakimian, who had previously been my chief of staff, to get the Department's senior leadership on a call and let them know what was going on, which they did.

Then Eric Herschmann called me to tell me that he was going to go to the meeting and that he would be supporting the Department of Justice position as well.

So I knew that the meeting was on course and that I would have a number of people supportive of the Department of Justice's approach and not supportive of Mr. Clark's approach.

Mr. KINZINGER. Did Mr. Clark ask you to continue to stay at the Department?

Mr. ROSEN. At that Sunday meeting when he told me that he would be replacing me, he said he had asked to see me alone, because usually he had met with me and Mr. Donoghue, because he thought it would be appropriate in light of what was happening to at least offer me that I could stay on as his deputy.

I thought that was preposterous, told him that was nonsensical, and that there is no universe where I was going to do that, to stay

on and support someone else doing things that were not consistent with what I thought should be done.

So I didn't accept that offer, if I can put it that way.

Mr. KINZINGER. During that meeting, did Mr. Clark ask you to sign the Georgia letter?

Mr. ROSEN. That was on the Saturday meeting, January 2nd, that Mr. Donoghue and I had with him. He again raised with both of us that he wanted us both to sign that letter actually.

Mr. KINZINGER. So in that meeting, did Mr. Clark say he would turn down the President's offer if you reversed your position and signed the letter?

Mr. ROSEN. Yes.

Mr. KINZINGER. Did Mr. Clark—so you still refused to sign and send that letter, I take it?

Mr. ROSEN. That is right. I think Mr. Donoghue and I were both very consistent that there was no way we were going to sign that letter. It didn't matter what Mr. Clark's proposition was in terms of his own activities, we were not going to sign that letter as long as we were in charge of the Justice Department.

Mr. KINZINGER. Thank you for that, by the way.

Mr. Donoghue, were you expecting to have to attend a meeting at the White House on Sunday, January 3rd?

Mr. DONOGHUE. No. As the Acting AG indicated, we had a meeting that afternoon that related to preparations for January 6th.

So I was at the Department, but I had no expectation of leaving the Department. It was a Sunday afternoon, and I was there in civilian clothes, as we both were, and expected to have that meeting, do some other work.

But I had no expectation of going to the White House that day.

Mr. KINZINGER. So let's ask, so prior to that Oval Office meeting, did you set up a conference call with senior leadership at the Department? If so, tell us about that call.

Mr. DONOGHUE. Yes. So, obviously, it was a bit of a scramble that afternoon to prepare for the Oval Office meeting. We had discussed on several occasions, the Acting Attorney General and I, whether we should expand the circle of people who knew what was going on.

It was very important that Steve Engel know, and that is why I reached out to Steve on December 28th, because if Mr. Rosen were removed from the seat and the President did not immediately appoint someone else to serve as Attorney General, just by function of the Department's change of succession Mr. Engel would be in the seat. We wanted to make sure he knew what was going on should that occur.

So the three of us knew. We also brought Pat Hovakimian in. So the four of us knew. But no one else, aside from Jeff Clark, of course, knew what was going on until late that Sunday afternoon. We chose to keep a close hold because we didn't want to create concern or panic in the Justice Department leadership.

But at this point, I asked the Acting AG, "What else can I do to help prepare for this meeting at the Oval Office?"

He said, "You and Pat should get the AAGs on the phone and it is time to let them know what is going on. Let's find out what

they may do if there is a change in leadership, because that will help inform the conversation at the Oval Office.”

Pat Hovakimian subsequently set up that meeting. We got most, not all, but most of the AAGs on the phone. We very quickly explained to them what the situation was.

I told them, “I don’t need an answer from you right now. I don’t need an answer on this phone call. But if you have an answer, I need it in the next few minutes. So call me, email, text me, whatever it is, if you know what you would do if Jeff Clark is put in charge of the Department.”

Immediately Eric Dreiband, who was the AAG of the Civil Rights Division, said, “I don’t need to think about it. There is no way I am staying.”

Then the other AAGs began to chime in in turn and all essentially said they would leave. They would resign en masse if the President made that change in the Department leadership.

Mr. KINZINGER. Incredible.

I would like to look at the Assistant Attorney Generals on the screen, if we can pull that up, have their pictures.

Did every Assistant Attorney General that you spoke to, as you said, agree to resign?

Mr. DONOGHUE. Makan Delrahim was not on the call only because we had some difficulty reaching him.

But, yes, the other people on the screen were on the call and all without hesitation said that they would resign.

Mr. KINZINGER. So as part of the Select Committee’s investigation we found that while Mr. Rosen, Mr. Donoghue, and Mr. Engel were preparing for their meeting at the White House, Jeff Clark and the President were in constant communication, beginning at 7 a.m.

White House call logs obtained by the Committee show that by 4:19 p.m. on January 3rd, the White House had already begun referring to Mr. Clark as the Acting Attorney General. As far as the White House was concerned, Mr. Clark was already at the top of the Justice Department.

Two hours later, DOJ leadership arrived at the White House. The Select Committee interviewed every person who was inside the room during this Sunday evening Oval Office meeting.

Mr. Cipollone told the Committee that he was “unmistakably angry” during the meeting and that he, along with Eric Herschmann and Mr. Donoghue “forcefully challenged” Mr. Clark to produce evidence of his election fraud theories.

Mr. Rosen, can you describe how that meeting started?

Mr. ROSEN. Yes.

So after some preliminaries—so we—Mr. Meadows had ushered us all in, and then he left. So Mr. Cipollone did some introductions.

So after some preliminaries, the President turned to me, and he said, “Well, one thing we know is you, Rosen, you aren’t going to do anything. You don’t even agree with the claims of election fraud. This other guy at least might do something.”

Then I said, “Well, Mr. President, you are right that I am not going to allow the Justice Department to do anything to try to overturn the election. That is true. But the reason for that is because that is what is consistent with the facts and the law and that

is what is required under the Constitution. So that is the right answer and a good thing for the country. Therefore, I submit it is the right thing for you, Mr. President."

That kicked off another 2 hours of discussion in which everyone in the room was in one way or another making different points, but supportive of my approach for the Justice Department and critical of Mr. Clark.

Mr. KINZINGER. So at some point, Mr. Donoghue comes in the room. Can you explain what led to him coming in the room?

Mr. ROSEN. Oh, I forgot about that.

So initially, in part I think because he was underdressed, and we had not arranged—we had not yet told the President that he was going to come in—the White House had a list of who would be there that did include Mr. Engel, and the White House Counsel, and the Deputy White House Counsel, Mr. Herschmann.

We went in, and then we told the President, maybe 10 minutes into the meeting or something, I forget how far in, Mr. Donoghue was outside. He said, "Well, bring him in." Then Mr. Donoghue came in and joined the meeting.

Mr. KINZINGER. So, Mr. Donoghue, you enter that room. Can you set the scene for us and describe the tone you walked into?

Mr. DONOGHUE. Yes. But if I could just back up one moment, Congressman, because you put the pictures up on the screen of the AAGs.

I just want to make clear, one of the AAGs who was not on the screen was John Demers. John was the National Security Division AAG.

John was on the call. But I prefaced the call by saying, "John, we need you to stay in place. National security is too important. We need to minimize the disruption. Whether you resign is entirely up to you. Obviously, we will respect your decision either way. But I am asking you, please stay in place."

He did. So I don't want to leave the impression that he was not willing to resign, because I think he was.

Mr. KINZINGER. Great. Thank you for that.

Mr. DONOGHUE. So with regard to entering the Oval Office, I was sitting in the hallway. An administrative assistant passed by.

She asked me, "Are you supposed to be in this meeting with the President?"

I said, "No. I am simply here in case questions come up that other people don't have the answer to."

She walked away and then came back probably 30 seconds later and said, "The President wants you in the meeting."

I proceeded into the Oval Office. I took probably two or three steps in and I stopped, because I was, as the AG said, not exactly properly attired. I was wearing jeans and muddy boots and an Army T-shirt, and I never would arrive in the Oval Office this way.

I said, "Mr. President, I apologize. I am sorry. I didn't know I was going to be here."

He said, "No, no, no. Just come in, come in, come in."

So I went in. I attempted to take a seat on one of the couches that are behind the chairs arrayed in front of the President's desk. He said, "Oh, no, no, no. You are going to be up here."

Everyone kind-of laughed. They moved the chairs a little bit. Someone from the White House Counsel's Office picked up a spare chair and put it directly in front of the President and I took that seat.

Mr. KINZINGER. Was there discussion about Mr. Clark? Can you kind-of enlighten some of what that discussion was?

Mr. DONOGHUE. Yes. So the conversation at this point had moved beyond the specific allegations, whether it was State Farm Arena or Antrim County or Pennsylvania or whatever. We had discussed those repeatedly, and that was backdrop to the conversation.

But the conversation at this point was really about whether the President should remove Jeff Rosen and replace him with Jeff Clark. Everyone in the room, I think, understood that that meant that letter would go out.

So that was the focus. It was about a 2½-hour meeting after I entered. So there were discussions about the pros and cons of doing that.

Early on, the President said, "What do I have to lose?"

It was actually a good opening, because I said, "Mr. President, you have a great deal to lose."

I began to explain to him what he had to lose and what the country had to lose and what the Department had to lose, and this was not in anyone's best interest.

That conversation went on for some time. Everyone essentially chimed in with their own thoughts, all of which were consistent about how damaging this would be to the country, to the Department, to the administration, to him personally.

At some point the conversation turned to whether Jeff Clark was even qualified, competent to run the Justice Department, which in my mind he clearly was not.

It was a heated conversation. I thought it was useful to point out to the President that Jeff Clark simply didn't have the skills, the ability, and the experience to run the Department.

So I said, "Mr. President, you are talking about putting a man in that seat who has never tried a criminal case, who has never conducted a criminal investigation. He is telling you that he is going to take charge of the Department, 115,000 employees, including the entire FBI, and turn the place on a dime and conduct nationwide criminal investigations that will produce results in a matter of days. It is impossible. It is absurd. It is not going to happen. It is going to fail."

"He has never been in front of a trial jury, a grand jury. He has never even been to Chris Wray's office."

I said at one point, "If you walk into Chris Wray's office, No. 1, would you know how to get there? No. 2, if you got there, would he even know who you are? Do you really think that the FBI is going to suddenly start following your orders?"

"It is not going to happen. He is not competent."

That is the point at which Mr. Clark tried to defend himself by saying, "Well, I have been involved in very significant civil and environmental litigation. I have argued many appeals in appellate courts and things of that nature."



Then I pointed out that, yes, he was an environmental lawyer, and I didn't think that was appropriate background to be running the United States Justice Department.

Mr. KINZINGER. Did anybody in there support Mr. Clark?

Mr. DONOGHUE. No one.

Mr. KINZINGER. Mr. Rosen, it was you he was going to replace. So what was your view about the President's plan to appoint Mr. Clark?

Mr. ROSEN. Well, as I alluded to earlier, the issue really wasn't about me. It was—it would have been fine, as I said, to have had Rich Donoghue replace me. I would have said, "Great, I get 17 days vacation," or something.

But the issue was the use of the Justice Department. It is just so important that the Justice Department adhere to the facts and the law.

That is what it is there to do, and that is what our constitutional role was. So if the Justice Department gets out of the role that it is supposed to play, that is really bad for our country, and I don't know of a simpler way to say that. When you damage our fundamental institutions, it is not easy to repair them.

So I thought this was a really important issue—to try to make sure that the Justice Department was able to stay on the right course.

Mr. KINZINGER. Mr. Donoghue, did you eventually tell the President that mass resignations would occur if he installed Mr. Clark and what the consequences would be?

Mr. DONOGHUE. Yes. So this was in line with the President saying, "What do I have to lose?" Along those lines, he said, "So suppose I do this, suppose I replace him, Jeff Rosen, with him, Jeff Clark. What would you do?"

I said, "Mr. President, I would resign immediately. I am not working 1 minute for this guy," who I had just declared was completely incompetent.

So the President immediately turned to Mr. Engel, and he said, "Steve you wouldn't resign, would you?"

He said, "Absolutely I would, Mr. President. You leave me no choice."

Then I said, "And we are not the only ones. No one cares if we resign. If Steve and I go, that is fine. It doesn't matter. But I am telling you what is going to happen. You are going to lose your entire Department leadership. Every single AAG will walk out on you. Your entire Department leadership will walk out within hours. I don't know what happens after that. I don't know what the United States attorneys are going to do."

We have U.S. attorneys in districts across the country, and my guess would be that many of them would have resigned, and that would then have led to resignations across the Department in Washington.

I said, "Mr. President, within 24, 48, 72 hours, you could have hundreds and hundreds of resignations of the leadership of your entire Justice Department because of your actions. What is that going to say about you?"

Mr. KINZINGER. Wow.

Mr. Engel, what was—can you describe what your reaction was to that?

Mr. ENGEL. Yes. No, I think when the President—my recollection is that when the President turned to me and said, “Steve, you wouldn’t leave, would you?” I said, “Mr. President, I have been with you through four Attorneys General, including two Acting Attorneys General, but I couldn’t be part of this.”

Then the other thing that I said was that, you know, “Look, all anyone is going to sort-of think about when they see this—no one is going to read this letter. All anyone is going to think is that you went through two Attorneys General in 2 weeks until you found the environmental guy to sign this thing.”

“So the story is not going to be that the Department of Justice has found massive corruption that would have changed the results of the election. It is going to be the disaster of Jeff Clark.”

I think at that point Pat Cipollone said, “Yes, this is a murder-suicide pact, this letter.”

Mr. DONOGHUE. I would note too, Congressman, that it was in this part of the conversation where Steve pointed out that Jeff Clark would be left leading a graveyard. That comment clearly had an impact on the President. The leadership will be gone. Jeff Clark will be left leading a graveyard.

Mr. ENGEL. Again, the premise that—which Mr. Donoghue had said—but that Mr. Clark could come in and take over the Department of Justice and do something different was just an absurd premise. All he was doing, Mr. Clark, by putting himself forward, was blowing himself up. If the President were to have gone that course, you know, it would have been a grievous error for the President as well.

Mr. KINZINGER. Mr. Cipollone, the White House Counsel, told the Committee that Mr. Engel’s response had a noticeable impact on the President, that this was a turning point in the conversation.

Mr. Donoghue, toward the end of this meeting, did the President ask you what was going to happen to Mr. Clark?

Mr. DONOGHUE. He did. When we finally got to, I would say, the last 15 minutes of the meeting, the President’s decision was apparent. He announced it. Jeff Clark tried to scrape his way back and asked the President to reconsider. The President doubled down and said, “No, I have made my decision. That is it. We are not going to do it.”

Then he turned to me and said, “So what happens to him now?” meaning Mr. Clark, and he understood that Mr. Clark reported to me.

I didn’t initially understand the question. I said, “Mr. President?”

He said, “Are you going to fire him?”

I said, “I don’t have the authority to fire him. He is a Senate-confirmed Assistant Attorney General.”

He said, “Well who has the authority to fire him?”

I said, “Only you do, sir.”

He said, “Well, I am not going to fire him.”

I said, “All right. Well, then, we should all go back to work.”

Mr. KINZINGER. Did you get a call from the President later that night?

Mr. DONOGHUE. I did, I don't know, probably 90 minutes later or something like that.

Mr. KINZINGER. What was that about?

Mr. DONOGHUE. The President at this point—we left the White House, reconvened at the Department. I left the Department. I was back in my apartment. My cell phone rang, it was the President, and he had information about a truck supposedly full of shredded ballots in Georgia that was in the custody of an ICE agent whose name he had.

I told him that ICE was part of Department of Homeland Security. I hadn't heard about this. If Department of Homeland Security needed our assistance, we, of course, would provide it. But it was really up to DHS to make a call if their agent was involved.

He said, "Fine, I understand. Can you just make sure that Ken," meaning Ken Cuccinelli, "knows about this?"

I said fine, I would pass that along to him. I eventually contacted Ken Cuccinelli later that evening, and I said, "This is what the President told me. If you guys have anything you think should be brought to our attention, let me know."

He said, "Thank you." That was it.

Mr. KINZINGER. Mr. Cipollone left the meeting convinced the President would not appoint Mr. Clark, but he didn't think the President had actually accepted the truth about the election. Sure enough, all the same debunked theories appeared in his speech at the Ellipse 3 days later.

President TRUMP. In the State of Arizona, over 36,000 ballots were illegally cast by non-citizens, 11,600 more ballots than votes were counted, more than there were actual voters. You see that? In Wisconsin, corrupt Democrat-run cities deployed more than 500 illegal, unmanned, unsecured drop boxes, which collected a minimum of 91,000 unlawful votes.

Mr. KINZINGER. Mr. Donoghue, Mr. Rosen, Mr. Engel, and others stopped President Trump's efforts at least temporarily. Yet the message President Trump and his Republican allies pushed throughout December made its way to his supporters anyway. They kept up the pressure campaign on the way to storming the Capitol on January 6th.

Mr. Rosen, were you at the Department of Justice on January 6th?

Mr. ROSEN. Yes, I was there all day.

Mr. KINZINGER. Once the Capitol was under attack, I understand that you communicated with fellow Cabinet members and Capitol Hill leadership. Can you tell us who you spoke to?

Mr. ROSEN. Yes. I was basically on the phone virtually nonstop all day, some calls with our own DOJ folks, some with Cabinet counterparts at DHS and Defense and Interior, some with senior White House officials and with a number of congressional leaders.

I received calls from Speaker Pelosi, from Leader McCarthy, from Leader Schumer. I believe Leader McConnell's chief of staff called; a number of other Members of Congress as well.

You know, the basic thrust of the calls with the Members of Congress was, "There is a dire situation here, and can you help?" I reported to them that we were on a very urgent basis sending help from the Department.

We wound up sending over 500 agents and officers from FBI, ATF, and the U.S. Marshals to assist with restoring order at the Capitol.

So had a number of calls. As I say, it was more or less nonstop all afternoon.

Mr. KINZINGER. Did you speak to the Vice President that day?

Mr. ROSEN. Yes. Twice. The——

Mr. KINZINGER. No. Please, go ahead.

Mr. ROSEN. Well, I was going to say the first call was a one-on-one discussion, somewhat akin to the congressional leadership calls, updating him on what we were doing to assist.

The second call was a conference call around 7 o'clock with the Vice President, congressional leaders, senior White House staff, some other Cabinet officials, to address that order appeared to be close to being restored or restored, but security is still being determined, and the question being what time could the Congress reassemble. The answer was 8 o'clock. Thankfully Congress did reassemble and complete its constitutional duty.

There was one highlight of that second call with the Vice President, which is Mr. Donoghue had gone to the Rotunda of the Capitol to be able to give a first-hand account and was able to tell the folks on the call, including the Vice President, that we thought 8 o'clock would work.

Mr. KINZINGER. Did you speak to the President on January 6th?

Mr. ROSEN. No. I spoke to a number of senior White House officials, but not the President.

Mr. KINZINGER. Mr. Donoghue, on January 6th, we know from Mr. Rosen that you helped in the effort to reconvene the joint session. Is that correct?

Mr. DONOGHUE. Yes, sir.

Mr. KINZINGER. We see here in a video that we are going to play now you arriving with your security detail to help secure the Capitol.

Mr. Donoghue, 30 minutes after you arrived to the Capitol, did you lead a briefing for the Vice President?

Mr. DONOGHUE. I am not sure exactly what the time frame was, but I did participate in the call and participate in briefing the Vice President as well as the congressional leadership that night, yes.

Mr. KINZINGER. Where did you conduct that call at?

Mr. DONOGHUE. I was in an office. I am not entirely sure where it was. My detail found it, because the acoustics in the rotunda were such that it wasn't really conducive to having a call. So they found an office. We went to that office. I believe I participated in two phone calls, one at 1800 and one at 1900, that night from that office.

Mr. KINZINGER. What time did you actually end up leaving the Capitol?

Mr. DONOGHUE. I waited until the Senate was back in session, which I believe they were gaveled in a few minutes after 8 p.m. Once they were back in session and we were confident that the entire facility was secured and cleared, that there were no individuals hiding in closets or under desks, that there were no IEDs or other suspicious devices left behind, I left minutes later. I was probably gone by 8:30.

Mr. KINZINGER. Mr. Donoghue, did you ever hear from President Trump that day?

Mr. DONOGHUE. No. Like the AAG, the Acting AG, I spoke to Pat Cipollone and Mark Meadows and the Vice President and the congressional leadership, but I never spoke to the President that day.

Mr. KINZINGER. So today's hearing showcased the efforts of the Americans before us to stand up for democracy. Mr. Rosen and Mr. Donoghue stayed steadfastly committed to the oath they take as officials in the Department of Justice. On January 6th itself, they assisted during the attack while our Commander-in-Chief stayed silent. Their bravery is a high moment in the sordid story of what led to January 6th.

My colleagues and I up here also take an oath. Some of them failed to uphold theirs and, instead, chose to spread the big lie.

Days after the tragic events of January 6th, some of these same Republican Members requested pardons in the waning days of the Trump administration.

Five days after the attack on the Capitol, Representative Mo Brooks sent the email on the screen now. As you see, he emailed the White House, "pursuant to a request from Matt Gaetz," requesting a pardon for Representative Gaetz, himself, and unnamed others.

Witnesses told the Select Committee that the President considered offering pardons to a wide range of individuals connected to the President. Let's listen to some of that testimony.

Mr. WOOD. And was Representative Gaetz requesting a pardon?

Mr. HERSCHMANN. I believe so. The—the general tone was we may get prosecuted because we were defensive of, you know, the President's positions on these things. The pardon that he was discussing—requesting was as broad as you can describe, from beginning—I remember he's—from the beginning of time up until today for any and all things. Then he mentioned Nixon, and I said, "Nixon's pardon was never nearly that broad."

Vice Chair CHENEY. And are you aware of any Members of Congress seeking pardons?

Ms. HUTCHINSON. I guess Mr. Gaetz and Mr. Brooks, I know, have both advocated for there'd be a blanket pardon for Members involved in that meeting and a— a handful of other Members that weren't at the December 21st meeting as the preemptive pardons. Mr. Gaetz was personally pushing for a pardon, and he was doing so since early December. I'm not sure why Mr. Gaetz reached out to me to ask if he could have a meeting with Mr. Meadows about receiving a Presidential pardon.

Vice Chair CHENEY. Did they all contact you?

Ms. HUTCHINSON. Not all of them, but several of them did.

Vice Chair CHENEY. So you mentioned Mr. Gaetz, Mr. Brooks.

Ms. HUTCHINSON. Mr. Biggs did. Mr. Jordan talked about congressional pardons, but he never asked me for one. It was more for an update on whether the White House was going to pardon Members of Congress. Mr. Gohmert asked for one as well. Mr. Perry asked for a pardon, too, I'm sorry.

Vice Chair CHENEY. Mr. Perry? Did he talk to you directly?

Ms. HUTCHINSON. Yes, he did.

Vice Chair CHENEY. Did Marjorie Taylor Greene contact you?

Ms. HUTCHINSON. No, she didn't contact me about it. I heard that she had asked White House Counsel's Office for a pardon from Mr. Philbin, but I didn't frequently communicate with Ms. Greene.

Mr. WOOD. Are you aware of any conversations or communications regarding the possibility of giving Congressman Matt Gaetz a pardon?

Mr. MCENTEE. I know he had asked for it, but I don't know if he ever received one or what happened with it.

Mr. WOOD. How do you know that Congressman Gaetz asked for a pardon?

Mr. MCENTEE. He told me.

Mr. WOOD. Tell us about that.

Mr. MCENTEE. He told me he'd asked Meadows for a pardon.

Mr. WOOD. Were you involved in or did you witness any conversations about the possibility of a blanket pardon for everyone involved in January 6th?

Mr. MCENTEE. I had heard that mentioned, yeah.

Mr. WOOD. Do you know whether the President had any conversations about potentially pardoning any family members?

Mr. MCENTEE. I know he had hinted at a blanket pardon for the January 6th thing for anybody, but I think he had for all the staff and everyone involved, not with January 6th, but just before he left office, I know he had talked about that.

Mr. KINZINGER. The only reason I know to ask for a pardon is because you think you have committed a crime.

Thank you, Mr. Chairman. I yield back.

Chairman THOMPSON. I want to thank our witnesses for joining us today.

The Members of the Select Committee may have additional questions for today's witnesses, and we ask that you respond expeditiously in writing to these questions.

Without objection, Members will be permitted 10 business days to submit statements for the record, including opening remarks and additional questions for the witnesses.

Without objection, the Chair recognizes the gentleman from Illinois for a closing statement.

Mr. KINZINGER. Thank you, Mr. Chairman.

The Justice Department lawyers are not the President's personal lawyers. We count on them to be on the side of the law and to defend the best interests of the United States, not the best interests of any political campaign. That is how it has been since the Department was founded soon after the Civil War. Justice Department lawyers are supposed to play it 100 percent straight.

President Trump tried to erase his loss at the ballot box by parachuting an unqualified man into the top job at Justice. It was a power play to win at all costs, with no regard for the will of the American people. It was about ignoring millions of votes. Ignore them, throw them out, label them fraudulent, corrupt, illegal, whatever. Facts were clearly just an inconvenience.

From the Oval Office, President Trump urged others to bring his big lie to life. He begged, "Just say the election was corrupt, and leave the rest to me and the Republican Congressmen." He didn't care what the Department's investigations proved. What good were facts when they would only confirm his loss?

It is no surprise that all the far-out, fully fabricated, whack-job conspiracy theories collapsed under even the slightest scrutiny. That insanity went from the internet to the highest levels of Government in no time.

The bottom line? The most senior leadership of the Justice Department, from Attorney General Bill Barr to Jeff Rosen, his successor, and his deputy, Rich Donoghue—everyone except Jeff Clark—was telling President Trump the very same thing: The conspiracy theories were false. The allegation of a stolen election was a lie. The data left no room for doubt, nothing to question. The Constitution left no room for President Trump to change the outcome of the election.

But we are here today because the facts were irrelevant to President Trump. It was about protecting his very real power and very fragile ego, even if it required recklessly undermining our entire electoral system by wildly casting baseless doubt upon it.

In short, he was willing to sacrifice our Republic to prolong his Presidency. I can imagine no more dishonorable act by a President.

We owe a great debt of gratitude to these men you have heard from here today. Real leaders who stood for Justice when it was in grave peril, who put their country first when the leader of the free world demanded otherwise. They threatened to resign rather than corrupt our democracy. Thanks largely to each of them, President Trump's coup failed.

Contrast that to Jeff Clark, who would do exactly what the President wanted: Say there was massive fraud, forget the facts, and leave the rest to President Trump's congressional friends.

Mr. Clark refused to cooperate with this Committee. He pled the Fifth over 125 times. Why risk self-incrimination?

President Trump's congressional friends—some of them are angling for pardons? They knew that every bit of what they did was a lie and it was wrong.

That is all the more reason to respect those who came here to testify today. We thank them for their unflinching service in the face of incredible pressure.

As it is said, "The only thing necessary for evil to succeed is good men to do nothing." Thankfully, there were good people in the Department of Justice.

You heard from other good people, too, on Tuesday. They, too, defended us.

But I am still worried that not enough has changed to prevent this from happening again.

The oath that we take has to mean something. It has to cut to the core of who we are and be the driving force of our service to this Nation.

We on this Committee, we may be able to shine light on the darkness, but that is not enough. It is now up to every American, now and in the future, to stand for truth, to reject the lies, wherever we confront them—in our towns, in our capitals, in our friendships, in our families, and at the ballot box, and within our own minds and hearts.

Thank you, Mr. Chairman. I yield back.

Chairman THOMPSON. Without objection, the Chair recognizes the gentlewoman from Wyoming, Ms. Cheney, for a closing statement.

Vice Chair CHENEY. Thank you very much, Mr. Chairman.

I again want to thank the witnesses for being here today.

After today, I suspect that there will be some who label you agents of the deep state or something else conspiratorial or nonsensical meant to justify ignoring what you have said today, ignoring the facts.

That may be the short-term cost of acting honorably and telling the truth, but your actions should have an important long-term impact. They will help keep us on the course set by the Framers of our Constitution.

Let me paraphrase the words of John Adams and others: Whether ours shall continue to be a Government of laws and not of men is ultimately for the American people to decide.

Let me also today make a broader statement to millions of Americans who put their trust in Donald Trump.

In these hearings so far, you have heard from more than a dozen Republicans who have told you what actually happened in the weeks before January 6th. You will hear from more in the hearings to come. Several of them served Donald Trump in his administration; others, in his campaign. Others have been conservative Republicans for their entire careers.

It can be difficult to accept that President Trump abused your trust, that he deceived you. Many will invent excuses to ignore that fact. But that is a fact. I wish it weren't true, but it is.

Thank you, Mr. Chairman. I yield back.

Chairman THOMPSON. Again, I thank our witnesses and thank my colleagues for this hearing.

As we conclude our fifth hearing in this series, I want to remind the American people of a few things the Committee has shown.

Donald Trump lost the 2020 election. Top Republican officials who supported Trump knew that he lost and told him he lost. Trump knew he lost.

Those who say the election was affected by widespread voter fraud are lying. They were lying in 2020, they were lying in 2021, and, indeed, they are lying today.

Donald Trump went to court. That is the right of any candidate seeking to challenge the outcome of an election. Donald Trump lost in court dozens and dozens of times.

He lost in part because there was no evidence that voter fraud had any impact on the results of the election. To borrow a phrase from our witness earlier this week, Mr. Bowers, all he had was theories and no evidence.

As I have said, if you are running for office in the United States, that is the end of the line. You accept the court's judgment. You concede the race. You respect the rule of law and the will of the voters.

But for Donald Trump, that wasn't the end of the line. Not even close.

The voters refused to keep him in office. The courts refused to keep him in office. But he continued to lie. He went in search of anyone who would go along with his scheme.

As we have shown today, he pressured the Justice Department to act as an arm of his reelection campaign. He hoped law enforcement officials would give the appearance of legitimacy to his lies so he and his allies had some veneer of credibility when they told the country that the election was stolen.

Earlier this week, we showed how Donald Trump brought the weight of the Presidency down on local and State officials who were trying to do their jobs—and ultimately did. They investigated his claims and found them to be false. Then they endured Trump's pressure campaign, at great risk to themselves and their loved ones.

Of course, there was the scheme to get the former Vice President, Mike Pence, to violate the law and the Constitution by rejecting the electoral college votes on January 6th and blocking the peaceful transfer of power.

I mention the former Vice President last because, as we showed, when he refused to bow to the pressure in those critical moments



on January 6th, there was a back-up plan for stopping the transfer of power: The mob and their vile threats.

Up to this point, we have shown the inner workings of what was essentially a political coup—an attempt to use the powers of the Government, from the local level all the way up, to overturn the results of the election.

Find me the votes. Send fake electors. Just say the election was corrupt.

Along the way, we saw threats of violence; we saw what some people were willing to do. In service of the Nation? Of the Constitution? No. In service of Donald Trump.

When the Select Committee continues this series of hearings, we are going to show how Donald Trump tapped into the threat of violence; how he summoned the mob to Washington; and how, after corruption and political pressure failed to keep Donald Trump in office, violence became the last option.

Our investigation is ongoing. Those hearings have spurred an influx of new information that the Committee and our investigators are working to assess. We are committed to presenting the American people with the most complete information possible. That will be our aim when we reconvene in the coming weeks.

The Chair requests those in the hearing room remain seated until the Capitol Police have escorted Members from the room.

Without objection, the Committee stands adjourned.

[Whereupon, at 5:28 p.m., the Committee was adjourned.]



## APPENDIX

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PREPARED STATEMENT OF JEFFREY A. ROSEN, FORMER ACTING ATTORNEY GENERAL

JUNE 15, 2022

Chairman Thompson and Vice Chair Cheney, thank you for inviting me to appear here today with my former colleagues Richard Donoghue and Steven Engel. Serving alongside them and the many other dedicated employees of the Justice Department was an extraordinary honor. They were and are an exceptional team of public servants who always put the best interests of our Country first. In the interest of time, I have submitted a copy of my prior opening statements to the House Oversight Committee and Senate Judiciary Committee, and would ask that both be entered into the public record.

With respect to my tenure at the Department of Justice, my priority was to ensure the Department would always proceed on the basis of the facts and the legal merits, to enforce the Constitution and preserve the rule of law. We did that with unfailing fidelity under sometimes very challenging circumstances.

During my tenure as Acting Attorney General, the Justice Department maintained the position that the Department had been presented with no evidence of widespread voter fraud at a scale sufficient to change the outcome of the 2020 election. We thus held firm to the position that the Department would not participate in any campaign's or political party's legal challenges to the certification of the Electoral College votes. We also insisted that there must be an orderly and peaceful transfer of power under the Constitution. In particular, during my tenure, we appointed no special prosecutors; sent no letters to States or State legislators disputing the election outcome; and made no public statements saying the election was corrupt and should be overturned. We initiated no Supreme Court actions, nor filed or joined any other lawsuits, calling into question the legitimacy of our election and institutions. To the contrary, the only time the Department filed a brief in court, it was to say that a Congress Member's lawsuit to overturn the election should be dismissed, as it was.

Some argued to the former President and public that the election was corrupt and stolen. That view was wrong then and it is wrong today, and I hope our presence here today helps reaffirm that fact.

Thank you and I am happy to answer your questions.

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HEARING BEFORE THE U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON OVERSIGHT  
AND REFORM

MAY 12, 2021

TESTIMONY OF JEFFREY A. ROSEN, FORMER ACTING UNITED STATES ATTORNEY  
GENERAL AND DEPUTY ATTORNEY GENERAL

Chairwoman Maloney, Ranking Member Comer, and Members of the Committee, good morning and thank you for the opportunity to join this hearing today. Because this is my first appearance before this Committee since June 2005, please allow me to introduce myself again. I am Jeff Rosen, and from December 24, 2020 to January 20, 2021, I had the honor and privilege of serving as the Acting Attorney General of the United States. Since graduating from law school in 1982, I have lived and worked in our nation's capital region, including more than 9 years of public service at three different Federal agencies. My first position was as General Counsel of the Department of Transportation under Secretary Norman Mineta, followed by service as General Counsel and Senior Advisor at the Office of Management & Budget under then-Director, now-Senator Rob Portman. After several years back in private

practice, I was Deputy Secretary of Transportation under Secretary Elaine Chao, and after that I became Deputy Attorney General at the Department of Justice (“DOJ”) under William Barr. After Attorney General Barr’s departure in December 2020, I became the Acting Attorney General, leading the Department until the end of the Trump Administration. My testimony today relates to my time as Acting Attorney General, and I appreciate this opportunity to discuss the actions taken by DOJ on January 6, 2021, to help restore order at the Capitol and enable the completion of Congress’ certification of the 2020 Electoral College vote.

#### INTRODUCTION

The events of January 6 were a national travesty and an intolerable attack on our representative democracy. To those who risked their safety to protect everyone at the Capitol: I honor your bravery. To the families of the Capitol Police officers who were injured that day or died in the wake of the attack: I extend my deepest sympathy. And to all of you and your staff who lived through that day: I share the justified anger at what the violent mob of attackers put you through.

Although the storming of the Capitol was a tragic episode in our nation’s history, I take some comfort in the resilience of our institutions in the face of such an attack, as demonstrated by Congress’s ability to reconvene and fulfill its constitutional duties just hours after the breach. I am also proud of the efforts of DOJ, which urgently deployed more than 500 agents and officers from the Federal Bureau of Investigation (“FBI”); the Bureau of Alcohol, Tobacco, and Firearms (“ATF”); and the US Marshals Service (“USMS”) to assist in restoring order at the Capitol. These outstanding men and women moved with urgency to assist the Capitol Police and others in the midst of an unprecedented security breach, and helped to clear and secure the hallowed epicenter of representative government.

I am also proud of the swift action taken thereafter by DOJ personnel in the FBI and the DC US Attorney’s Office to investigate and work to hold accountable those responsible for the disgraceful attack on the Capitol. As I said publicly on January 7, 2021: “Yesterday, our Nation watched in disbelief as a mob breached the Capitol Building and required Federal and local law enforcement to help restore order. The Department of Justice is committed to ensuring that those responsible for this attack on our Government and the rule of law face the full consequences of their actions under the law. Our criminal prosecutors have been working throughout the night with special agents and investigators from the U.S. Capitol Police, FBI, ATF, Metropolitan Police Department and the public to gather the evidence, identify perpetrators, and charge Federal crimes where warranted. Some participants in yesterday’s violence will be charged today, and we will continue to methodically assess evidence, charge crimes and make arrests in the coming days and weeks to ensure that those responsible are held accountable under the law.” (attached as Ex. A).

I appreciate the importance of today’s oversight hearing, and I welcome the opportunity to share with you what I know about the January 6 events in light of my prior roles at the DOJ. The Justice Department plays a special role in our government, and must be guided by our Constitution and the rule of law. I can tell you that is what guided me. My focus was consistently on following the rule of law and enabling the orderly transition of power in the manner contemplated in our Constitution and laws. Upon learning of the events at the Capitol on January 6, my priorities were threefold: securing the Capitol following the breach, supporting the Congress as it sought to fulfill its duty to certify the Electoral College vote, and beginning the critical work of holding accountable those who committed wrongful acts at the Capitol.

I want to note as a threshold matter that there are some unavoidable limitations on the testimony I can provide today. For one, my access to information is limited because I am no longer with DOJ. Further, while the events of that day will be with me forever, my memory is unlikely to be perfect, as some aspects are seared in memory and others have become a blur. Moreover, I have only been authorized by DOJ to testify on certain topics, as I am bound to maintain certain information in confidence and must avoid making any statements that could interfere with the numerous ongoing investigations and prosecutions of individuals involved in the events of January 6. I appreciate your patience and understanding as to those, as I do my best to answer your questions.

#### I. DOJ ACTIONS PRIOR TO JANUARY 6

On December 24, 2020, with the departure of William Barr, I became Acting Attorney General. During my tenure, DOJ maintained the position publicly announced previously that the Department had been presented with no evidence of widespread voter fraud at a scale sufficient to change the outcome of the 2020 election, that it

would not participate in any campaign's or political party's legal challenges to the certification of the Electoral College votes, and that there would be an orderly and peaceful transfer of power under the Constitution. During my tenure, no special prosecutors were appointed, whether for election fraud or otherwise; no public statements were made questioning the election; no letters were sent to State officials seeking to overturn the election results; no DOJ court actions or filings were submitted seeking to overturn election results, and the only time DOJ did file a brief it was to seek a dismissal of Representative Gohmert's lawsuit aiming to decertify the electoral count—and that lawsuit was dismissed, as DOJ had urged.

In the days and weeks leading up to Congress's January 6 vote to certify the results of the Electoral College, DOJ, FBI, and other law enforcement agencies learned that there would likely be rallies and protests in Washington D.C. on that day, including near the Ellipse and the US Capitol, among other possible locations. By itself, that was not unusual: the National Capital Region periodically and with some regularity hosts protests, rallies, and other demonstrations that can pose safety or security threats. The District of Columbia Metropolitan Police Department ("MPD"), Park Police, and Capitol Police are all experienced at dealing with such events. For example, they had dealt with protest disturbances related to the election results as recently as November and December 2020, and the Capitol Police (which are a part of the legislative branch) handled days of protests pledging to "flood the Capitol" during the nomination hearing of now-Justice Kavanaugh in October 2018.

As you know, the police departments are not a part of DOJ, and DOJ does not have authority to control their activities. But as an investigative and prosecutorial agency, DOJ—primarily through the FBI—would normally focus on gathering intelligence about potential threats of violence and sharing information with police and Federal partner agencies about those threats, while the Department of Homeland Security ("DHS") Office of Intelligence and Analysis and the police were likewise gathering available intelligence as well.

From a leadership standpoint, my role was to ensure that the DOJ organization was appropriately fulfilling its functions. I fulfilled that obligation. Formal information coordination activities among DOJ, various police departments—including the Capitol Police and MPD—and various Federal agencies accelerated during the week of December 28. MPD initiated a Joint Operations Command Center. The FBI's Washington Field Office ("WFO") set up a regular command post to share information among the FBI, ATF, DHS, and each of the various police organizations in the District (including the Capitol Police who are part of the legislative branch and report to Congress). And the District of Columbia US Attorney's Office arranged a number of conference calls to coordinate among local and Federal law enforcement. On January 5, the FBI took the added step of setting up a national coordination center at its Strategic Information and Operations Center ("SIOC"). Located at FBI headquarters, the SIOC was geared toward facilitating better coordination and sharing of information, among the Federal agencies, including DHS, the Department of the Interior ("DOI"), and the Department of Defense ("DOD"). Each of these Federal agencies supplied personnel to staff the SIOC 24/7 beginning on January 5 and 6, and continuing for a period thereafter. It was my understanding that the SIOC also coordinated closely with the WFO post, and thus the partners located there as well.

I am aware that FBI Director Wray and Assistant Director Sanborn have testified publicly about the FBI's work regarding the events of January 6, and the work the FBI did, along with others, to gather intelligence about the planned events and the risk of violence. Based on the updates I received, I was confident that very substantial efforts were undertaken by DOJ personnel in advance of January 6 to understand and prepare for the potential threats, and share that information with law enforcement partners. During the week of December 28, I received reports that MPD and others estimated that between 10,000 and 30,000 people would be coming for the rallies or protests on January 6—a sizable, but not unprecedented number. Crowd size remained a continuing topic of conversation during the ensuing week, but, based on what was reported to me, projections did not materially change.

As is generally the case with large protests or demonstrations in the National Capital Region, it was expected that experienced police departments like the Capitol Police, the Park Police, and MPD would bear responsibility for crowd control and security in their respective jurisdictions.<sup>1</sup> The Department of Defense, which includes the Army National Guard, provided 340 personnel to assist MPD and placed others on standby. On January 4, MPD arrested the leader of the Proud Boys militia group for prior violent acts, and prosecutors obtained a judicial order barring him from the city on January 6. District of Columbia Mayor Muriel Bowser wrote

<sup>1</sup>In these types of situations, DOJ performs intelligence-gathering, information-sharing, and after-the-fact investigation and prosecution where warranted.

to Acting Defense Secretary Miller and me that MPD “is prepared for this week’s First Amendment Activities,” and that other than the logistical support of unarmed members of the DC National Guard, DC “has not requested personnel from any other Federal law enforcement agencies.” (attached as Ex. B.)

Nonetheless, although not specifically requested by MPD, Capitol Police, or any other agencies, my office directed various DOJ entities to take cautionary steps to alert or pre-position tactical teams if needed for support on January 6. For example, the FBI’s Hostage Rescue team and Render Safe teams were activated; an additional FBI SWAT team from Baltimore was repositioned to Washington, DC.; ATF Special Response Teams were pre-positioned in Virginia for activation if needed; and USMS Special Operations Group personnel were also pre-positioned in Virginia for deployment if needed.<sup>2</sup>

I believe that DOJ reasonably prepared for contingencies ahead of January 6, understanding that there was considerable uncertainty as to how many people would arrive, who those people would be, and precisely what purposes they would pursue. Unlike the police, DOJ had no frontline role with respect to crowd control. The FBI, ATF, DEA, and U.S. Attorneys’ offices, as investigative and prosecuting agencies, are generally not equipped for crowd control. But DOJ took appropriate precautions to have tactical support available if contingencies led to them being called upon.

## II. DOJ’S ACTIONS ON JANUARY 6

The demonstrations and protests expected for January 6 had been a significant focus of attention for DOJ and FBI leadership in the week prior, and they continued to be so on the day of the events. On the morning of January 6, Principal Associate Deputy Attorney General Richard Donoghue<sup>3</sup> and I met with FBI leadership for the latest updates and preparation. I continued to talk to Principal Associate Deputy Attorney General Donoghue and FBI Deputy Director David Bowdich throughout the day and their proactive engagement and decisionmaking were simply invaluable.

In the early afternoon, as President Trump was speaking to an audience at the Ellipse, I contacted the Acting US Attorney for the District of Columbia, Michael Sherwin, in part to inquire if the crowd size there was consistent with or larger than the forecasts. He was personally in the vicinity of the event and reported that the size of the crowd was on the lower side of the forecast and conceivably might have been below the lower end of the range. He also indicated that the crowd at the Ellipse did not appear to be violent or unruly.

Reports after that conversation were more negative. ATF was notified of potential explosive devices having been placed at the Republican and Democratic National Committee offices. ATF promptly sent a team of experts to deal with the explosive devices, in coordination with the Capitol Police and MPD. Subsequently, I observed on television the events as the crowd moved from the Ellipse, up Constitution Avenue, and then to the US Capitol. During that time, I recall receiving updates from Acting US Attorney Sherwin and others.

Sometime around 2 o’clock p.m., I was horrified and dismayed as I saw on television the crowd breaching the Capitol. I soon learned that ATF and FBI, among others, had just received requests for assistance from the Capitol Police and were beginning to respond. My office asked ATF, FBI, and the USMS to provide as much help as possible as quickly as possible, including deploying the pre-positioned resources. I also recall receiving phone calls from White House staff requesting that DOJ provide as much help as we could; I reported to them that we were doing so. I also received calls from multiple Members of Congress and staff, including members of leadership in both the House and Senate. I informed them that DOJ was sending help as quickly as possible. As I monitored the continuing events, I spoke multiple times with DOJ personnel who were onsite and coordinated with my counterparts across the Federal government.

My understanding is that ATF had some personnel arrive to the Capitol very quickly, with sizable numbers following by 2:40 p.m. FBI personnel, including from the Hostage Rescue and SWAT teams, and personnel from the USMS Special Operations Group also deployed urgently to the Capitol. In total, more than 500 DOJ personnel surged to the Capitol to help clear the building and secure it so that the Congress could resume its business. It is my understanding that DHS likewise sent

<sup>2</sup> Additionally, as it was conceivable that some protesters might be unhappy with DOJ’s not having filed court actions regarding the election outcome, DOJ arranged for tactical support from Bureau of Prisons personnel to supplement existing security at its own RFK Building.

<sup>3</sup> During this time, Principal Associate Deputy Attorney General Donoghue was performing the functions of the Deputy Attorney General, due to my taking the position of Acting Attorney General.

personnel from the Federal Protective Service and from Immigration and Customs Enforcement and that MPD and other local police departments also sent officers to assist the Capitol Police that afternoon.

My original plan had been to go to the FBI SIOC for the afternoon, which was at the FBI headquarters just across the street from my office, but the urgency of the phone discussions and the need to coordinate with my DOJ staff in responding to the attack on the Capitol complex prevented my doing so. Instead, Principal Associate Deputy Attorney General Donoghue went to the SIOC and provided me with ongoing updates. As the attack continued, he and FBI Deputy Director Bowdich personally went to the Capitol building, to the Rotunda, and continued to provide me with situation reports from inside the building as efforts to restore order remained underway. I shared information with others and sometimes facilitated others talking directly with Principal Associate Deputy Attorney General Donoghue and Deputy Director Bowdich. I also took steps to let the public know where DOJ stood with respect to the attacks: I directed my staff to begin drafting a statement condemning the attacks. After internal review at DOJ, this statement was released later that same afternoon (attached as Ex. B).

It is my understanding that by approximately 5 o'clock to 5:30 p.m., the efforts at the Capitol to clear out the attackers had largely succeeded in doing so with the help of the more than 500 DOJ agents and officers who had deployed, but work remained, as those DOJ personnel were then working with the Capitol Police and others to check for explosives and to otherwise secure the offices and chambers in the Capitol building, so that Congress could return that same day and complete the electoral count.

At 7 o'clock p.m., I, Principal Associate Deputy Attorney General Donoghue, and others from DOJ participated in a conference call that included congressional leaders and representatives from DHS and DOD, as well as others. Principal Associate Deputy Attorney General Donoghue provided a situation report, and congressional leaders wanted to know if it would be feasible for the Congress to return and complete its business that evening. Principal Associate Deputy Attorney General Donoghue told them he expected Congress could return by 8 o'clock p.m., which is what happened, with Vice President Pence reconvening the Senate at 8:06 p.m.

Accordingly, Congress returned and completed its constitutional role in certifying the votes of the Electoral College that evening. With the achievement of the twin objectives of restoring order at the Capitol and enabling Congress to fulfill its electoral count obligation under the Constitution, I was and remain extremely appreciative for the work done that afternoon and into the night by the women and men of the FBI, ATF, and USMS, as well as others at the DC US Attorney's Office and elsewhere in DOJ. They, and all the others from DHS, DOD, DOI, and the various police departments who went to that Capitol that afternoon to help restore order, accomplished a vital feat for our country, and we owe them our deepest gratitude.

### III. DOJ'S ACTIONS AFTER JANUARY 6

DOJ also immediately began work to ensure that those responsible for the attack on the Capitol would face the full consequences of their actions under the law. Acting US Attorney Sherwin and his team, along with the FBI and police counterparts, began charging participants in the violence as early as January 7. Within the first week after the attack, more than 70 individuals had been criminally charged, and DOJ had opened more than 170 investigations and gathered over 100,000 digital tips.

DOJ also sent the clear message that further violence would not be tolerated in the lead up to President-Elect Biden's inauguration. In a January 13 video message, I expressed DOJ's support for the exercise of constitutional rights but also strongly warned that "I want to send a clear message to anyone contemplating violence, threats of violence, or other criminal conduct: We will have no tolerance whatsoever for any attempts to disrupt the peaceful transfer of power on January 20th that our Constitution calls for . . . [t]he Department of Justice will seek to hold any violators accountable to the fullest extent of the law."

The work of investigating and prosecuting those who attacked the Capitol on January 6 continues to this day and is now in the capable hands of my former DOJ colleagues and the new DOJ leadership team. To avoid interfering in these ongoing matters, I must leave it to others to answer any questions regarding them as they deem appropriate.

### IV. CONCLUSION

January 6 was a dark and harrowing day for America. And though I remain saddened by the events of that day, I am nonetheless grateful that physical harm to

Members of Congress was avoided and that, because of the prompt work that was done to clear and secure the Capitol, Congress was able to complete its work that same evening. I am also proud of the role DOJ played in helping to restore order and all we were able to accomplish alongside our partners from various police forces, Federal departments and law enforcement agencies, and the National Guard.

What the attackers did that day was terrible in its violence, the loss of life, and injuries suffered. But it was also terrible because it constituted an assault on a building that is a fundamental symbol of our democracy, on the institution of Congress itself, and on an electoral process required by our Constitution. As a society, we need to restore greater respect and appreciation for our Constitution, our representative democracy, and the rule of law. As I have said before, violence and senseless criminal conduct are not the right way to resolve differences or promote change in our country. And they will not carry the day.

In closing, I would like to publicly thank my former DOJ colleagues and everyone who played a role in bringing order to chaos on January 6. I will leave it to others to assess why the security at the Capitol was not sufficient to protect the building that afternoon in the first instance, but the assistance that was provided after the breach occurred is something that deserves appreciation. I will also leave it to appropriate authorities to assess responsibility for what happened and determine any precipitating causes.


Finally, if any valuable lesson could come out of the disturbing events from the Capitol riots, perhaps it might be that Americans of all backgrounds and political affiliations could agree that we cannot have anything like that happen again. Our Constitution, our traditions, and our ideals as a nation must be respected and revered. I know that all of you share that wish as well.



**EXHIBIT A**

5/10/2021

Statement of Acting Attorney General Jeffrey A. Rosen | OPA | Department of Justice

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**Department of Justice**

Office of Public Affairs

FOR IMMEDIATE RELEASE

Thursday, January 7, 2021

**Statement of Acting Attorney General Jeffrey A. Rosen**

"Yesterday, our Nation watched in disbelief as a mob breached the Capitol Building and required federal and local law enforcement to help restore order. The Department of Justice is committed to ensuring that those responsible for this attack on our Government and the rule of law face the full consequences of their actions under the law. Our criminal prosecutors have been working throughout the night with special agents and investigators from the U.S. Capitol Police, FBI, ATF, Metropolitan Police Department and the public to gather the evidence, identify perpetrators, and charge federal crimes where warranted. Some participants in yesterday's violence will be charged today, and we will continue to methodically assess evidence, charge crimes and make arrests in the coming days and weeks to ensure that those responsible are held accountable under the law."

**Component(s):**Office of the Attorney General**Press Release Number:**

21-13

*Updated January 7, 2021*

**EXHIBIT B**



MURIEL BOWSER  
MAYOR

January 5, 2021

The Honorable Jeffery Rosen  
Acting United States Attorney General  
950 Pennsylvania Ave, NW  
Washington, DC 20530

The Honorable Ryan D. McCarthy  
Secretary of the Army  
101 Army Pentagon  
Washington, DC 20310

The Honorable Chris Miller  
Acting Secretary of Defense  
1000 Defense Pentagon  
Washington, DC 20301

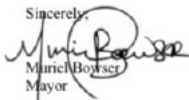
Dear Acting Attorney General Rosen, Secretary McCarthy, and Acting Secretary Miller:

As the law enforcement agency charged with protecting residents and visitors throughout the District of Columbia, the Metropolitan Police Department (MPD) is prepared for this week's First Amendment activities. MPD has coordinated with its federal partners, namely the US Park Police, US Capitol Police and the US Secret Service—all of whom regularly have uniformed personnel protecting federal assets in the District of Columbia. This week, MPD has additional logistical support of unarmed members of the DC National Guard, who will work under the direction of, and in coordination with, MPD.

The District of Columbia Government has not requested personnel from any other federal law enforcement agencies. To avoid confusion, we ask that any request for additional assistance be coordinated using the same process and procedures.

We are mindful that in 2020, MPD was expected to perform the demanding tasks of policing large crowds while working around unidentifiable personnel deployed in the District of Columbia without proper coordination. Unidentifiable personnel—in many cases, armed—caused confusion among residents and visitors and could become a national security threat with no way for MPD and federal law enforcement to decipher armed groups.

To be clear, the District of Columbia is not requesting other federal law enforcement personnel and discourages any additional deployment without immediate notification to, and consultation with, MPD if such plans are underway. The protection of persons and property is our utmost concern and responsibility. MPD is well trained and prepared to lead the law enforcement, coordination and response to allow for the peaceful demonstration of First Amendment rights in the District of Columbia.


Sincerely,  
  
 Muriel Bowser  
 Mayor

Cc: Congresswoman Eleanor Holmes Norton

## **EXHIBIT C**

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5/10/2021 Acting Attorney General Jeffrey A. Rosen Regarding the Overrunning of the U.S. Capitol Building | OPA | Department of Justice

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**Department of Justice**

Office of Public Affairs

FOR IMMEDIATE RELEASE

Wednesday, January 6, 2021

### **Acting Attorney General Jeffrey A. Rosen Regarding the Overrunning of the U.S. Capitol Building**

Acting Attorney General Jeffrey A. Rosen issued the following statement:

"The violence at our Nation's Capitol Building is an intolerable attack on a fundamental institution of our democracy. From the outset, the Department of Justice has been working in close coordination with the Capitol Police and federal partners from the Interior Department, the Department of Homeland Security, and the National Guard, as well as the Metropolitan Police and other local authorities. Earlier this afternoon, the Department of Justice sent hundreds of federal law enforcement officers and agents from the FBI, ATF, and the U.S. Marshals Service to assist the Capitol Police in addressing this unacceptable situation, and we intend to enforce the laws of our land."

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**Component(s):**  
[Office of the Attorney General](#)

**Press Release Number:**  
21-12

*Updated January 6, 2021*

1 UNITED STATES SENATE  
2 COMMITTEE ON THE JUDICIARY  
3 WASHINGTON, D.C.  
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8 INTERVIEW OF JEFFREY ROSEN  
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12

13 SATURDAY, AUGUST 7, 2021  
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15  
16

17 The interview was convened, pursuant to notice, at 10:00  
18 a.m., and was conducted at the Dirksen  
19 Senate Office Building, Washington, D.C.  
20  
21  
22  
23  
24  
25

1 record.

2           The letter of authorization from the Department of  
3 Justice dated July 26, 2021; the prior authorization, which  
4 remains in effect, which was May 9, 2021; and the letter of  
5 nonobjection from Doug Collins on behalf of former President  
6 Trump dated August 2, 2021. These authorize testimony that  
7 Mr. Rosen will give today.

8           Ms. Zdeb. Thank you. And those will be  
9 entered into the record.

10          Mr. Rosen. Okay. Well, thank you. I thought I'd  
11 offer some preliminary observations to help frame the  
12 discussion and facilitate some conversation. So thank you for  
13 the opportunity to make some preliminary observations as we  
14 begin the voluntarily transcribed interview. With both the  
15 current President and the former President having confirmed  
16 that they do not object to my responding to these questions,  
17 I'm here today to share with you, and the American public,  
18 information about events during the period that I served as  
19 the Acting Attorney General.

20          So I want to affirm at the outset that during  
21 my tenure at the Department of Justice, my priority was to  
22 ensure that the Department would always proceed on the basis  
23 of the facts and the legal merits to enforce the Constitution  
24 and preserve the rule of law. We did that. And I was honored  
25 to have led and have served alongside the extraordinary team



1 of public servants who always put the best interests of our  
2 country first.

3           During my tenure as the Acting Attorney  
4 General, which began on December 24 of last year, the  
5 Department of Justice maintained the position, publicly  
6 announced by former Attorney General William Barr, that the  
7 Department had been presented with no evidence of widespread  
8 voter fraud in a scale sufficient to change the outcome of the  
9 2020 election. We thus held firm to the position that the  
10 Department would not participate in any campaign's or  
11 political parties' legal challenges to the certification of  
12 the Electoral College votes, and that there must be an orderly  
13 and peaceful transfer under the Constitution.

14           In particular, then, during my tenure, we  
15 appointed no special prosecutors. We sent no letters to  
16 states or state legislators disputing the election outcome.  
17 We made no public comments saying the election was corrupt and  
18 should be overturned. We initiated no Supreme Court actions,  
19 nor filed or joined any other lawsuits, calling into question  
20 the legitimacy of the election and our institutions.

21           To the contrary, the only time the Department  
22 of Justice filed a brief in court regarding the election, it  
23 was to say that a Congressional member's lawsuit to overturn  
24 the election should be dismissed. And it was.

25           Back in April of 2019, when I appeared before

1 the Senate Judiciary Committee at my nomination hearing, I  
2 testified, "If the appropriate answer is to say no to  
3 somebody, then I will say no." That's exactly what I did.

4 At the outset, I want to comment on the  
5 actions of two people you will likely be interested in;  
6 President Trump, and former Acting Assistant Attorney General  
7 for the Civil Division, Jeffrey Clark.

8 President Trump's unwillingness to accept the  
9 results of the election is public and well known. I thought  
10 that was misguided, and I disagreed with things that President  
11 Trump suggested the Justice Department do with regard to the  
12 election, so we did not do them.

13 But when I and others told the President he was misinformed or  
14 wrong or that we would not take various actions to discredit  
15 the election's validity, he acquiesced to the Department's  
16 position.

17 The President was persistent with his inquiries.  
18 And I would have strongly preferred if he had chosen a  
19 different focus in the last month of his presidency. But as to  
20 the actual issues put to the Justice Department, DOJ  
21 consistently acted with integrity, and the rule of law held  
22 fast.

23 It was unfortunate that I ultimately had to  
24 seek a meeting with the President on the evening of January  
25 3rd, 2021, to persuade the President not to pursue a different

1 path endorsed by Jeffrey Clark, which would have ended my  
2 tenure. But with the support of the entire DOJ's senior  
3 leadership team, and the White House counsel as well, the  
4 President himself decided not to do that, not to pursue that  
5 alternative path.

6 To this day, I find Mr. Clark's actions  
7 inexplicable. I'll do my best to answer your questions today,  
8 recognizing my memory is unlikely to be perfect, as the events  
9 occurred many months ago during an extraordinary time for our  
10 country, and additional access to documents or other things to  
11 jog my memory could be useful.

12 But the key thing that I clearly remember,  
13 and will underscore today, is that during my time as Acting  
14 Attorney General, the Department of Justice maintained its  
15 integrity and maintained the rule of law with regard to last  
16 year's elections.

17 Having seen no widespread fraud sufficient to  
18 change the election result, we resisted entreaties from any  
19 source to take public actions or make public statements that  
20 would negate the results of the election.

21 So if there any further questions, I'll be  
22 happy to address them.

23 Ms. Zdeb. Thank you, Mr. Rosen, for that  
24 opening statement. We're glad to have the opportunity to  
25 speak with you. And as you can imagine, we do have some

PREPARED STATEMENT OF STEVEN A. ENGEL, FORMER ASSISTANT ATTORNEY  
GENERAL, OFFICE OF LEGAL COUNSEL, U.S. DEPARTMENT OF JUSTICE

JUNE 15, 2022

Good morning, Chairman Thompson, Vice Chairwoman Cheney, and Members of the committee. I appear this morning at the Committee's request, and I thank you for the opportunity to make an opening statement.

Although the topics to be discussed involve Presidential communications and the deliberative processes within the executive branch, the U.S. Department of Justice has authorized me to provide testimony on the particular subjects identified by the Committee, and former President Trump previously authorized Department officials to discuss these matters with the committees of Congress. I will therefore seek to answer the Committee's questions to the best of my ability.

I was privileged to serve as the Assistant Attorney General of the Office of Legal Counsel from November 2017 through January 2021. In that role, I served as the chief counsel to the Attorney General and the principal legal adviser to the executive branch. During that period, we sought to ensure that our legal advice would assist the President and his cabinet secretaries in discharging their responsibilities within the boundaries of the Constitution and laws of the United States, and in the interest of the people of the United States. Our commitment to that work remained the same both before and after the election of November 2020.

Following the November 2020 election, in an effort to promote confidence in the election results, Attorney General Barr authorized the Department to review and, where appropriate, to investigate reports of fraud and irregularities as they came in. The Department's senior officials ultimately concluded that there was no evidence of widespread voter fraud on a scale sufficient to change the outcome of the election, and Attorney General Barr reported that publicly in early December.

Although I was not personally responsible for these investigations, I did not doubt the judgment of the Attorney General and the Department's senior leadership. As a Presidential candidate, President Trump and his campaign had every right to pursue litigation in contesting the election results in the various Federal and State courts. But absent credible evidence of a violation of Federal law, the Department did not have any role to play in these election contests.

This view was widely shared among the Department's senior leadership, including by Acting Attorney General Rosen. Yet we discovered in late December that one of the Assistant Attorneys General, Jeff Clark, took a different view. Mr. Clark believed that the Department should publicly assert that the election results had been marred by fraud and should urge several of the States to replace their previously certified electors. Mr. Clark's views came to the attention of President Trump, who considered whether Mr. Clark should replace the Acting Attorney General at the helm of the Department of Justice.

The Department's senior leadership, as well as the White House Counsel, believed that Mr. Clark's plan lacked any factual or legal basis. On January 3, we met with the President and with Mr. Clark to explain why the Clark plan should not be pursued. We also made clear that the Department's leadership could not remain if the President chose to pursue that course. Following that discussion, President Trump agreed with us, and he retained Acting Attorney General Rosen through the end of his Administration.

It was a great honor to serve at the Department of Justice, and I was privileged during my time to work with many lawyers of integrity and honor, including those sitting beside me today. The Department's leadership clearly understood our responsibility to ensure the neutral enforcement of the law, to protect our Constitution, and to assist in the peaceful transfer of power.

Thank you for the opportunity to make this statement, and I will seek to answer the Committee's questions today to the best of my ability.

## HEARING ON THE JANUARY 6TH INVESTIGATION

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**Tuesday, June 28, 2022**

U.S. HOUSE OF REPRESENTATIVES,  
SELECT COMMITTEE TO INVESTIGATE THE JANUARY 6TH  
ATTACK ON THE UNITED STATES CAPITOL,  
*Washington, DC.*

The Committee met, pursuant to notice, at 1:01 p.m., in room 390, Cannon House Office Building, Hon. Bennie G. Thompson [Chairman of the Committee] presiding.

Present: Representatives Thompson, Cheney, Lofgren, Schiff, Aguilar, Murphy, Raskin, Luria, and Kinzinger.

Chairman THOMPSON. The Select Committee to Investigate the January 6th Attack on the United States Capitol will be in order.

Without objection, the Chair is authorized to declare the Committee in recess at any point.

Pursuant to House Deposition Authority Regulation 10, the Chair announces the Committee's approval to release the deposition material presented during this hearing.

Good afternoon. In our hearings over the previous weeks, the Select Committee has laid out the details of a multi-part pressure campaign driven by the former President aimed at overturning the results of the 2020 Presidential election and blocking the transfer of power. We have shown that this effort was based on a lie, a lie that the election was stolen, tainted by wide-spread fraud. Donald Trump's Big Lie.

In the weeks ahead, the Committee will hold additional hearings about how Donald Trump summoned a mob of his supporters to Washington, spurred them to march on the Capitol, and failed to take meaningful action to quell the violence as it was unfolding on January 6th.

However, in recent days, the Select Committee has obtained new information dealing with what was going on in the White House on January 6th and in the days prior, specific detailed information about what the former President and his top aides were doing and saying in those critical hours, first-hand details of what transpired in the Office of the White House Chief of Staff, just steps from the Oval Office, as the threats of violence became clear, and indeed violence ultimately descended on the Capitol in the attack on American democracy.

It is important that the American people hear that information immediately. That is why, in consultation with the Vice Chair, I have recalled the Committee for today's hearing.

As you have seen and heard in our earlier hearings, the Select Committee has developed a massive body of evidence, thanks to the many hundreds of witnesses who have voluntarily provided information relevant to our investigation. It hasn't always been easy to get that information because the same people who drove the former President's pressure campaign to overturn the election are now trying to cover up the truth about January 6th.

But, thanks to the courage of certain individuals, the truth won't be buried; the American people won't be left in the dark.

Our witness today, Ms. Cassidy Hutchinson, has embodied that courage.

I won't get into a lot of detail about what Ms. Hutchinson's testimony will show. I will allow her words to speak for themselves. I hope everyone at home will listen very closely.

First, I will recognize our distinguished Vice Chair, Ms. Cheney of Wyoming, for any opening statements she would care to offer.

Vice Chair CHENEY. Thank you very much, Mr. Chairman.

In our first five hearings, the Committee has heard from a significant number of Republicans, including former Trump administration Justice Department officials, Trump campaign officials, several members of President Trump's White House staff, a prominent conservative judge, and several others.

Today's witness, Ms. Cassidy Hutchinson, is another Republican and another former member of President Trump's White House staff.

Certain of us in the House of Representatives recall that Ms. Hutchinson once worked for House Republican Whip Steve Scalise. But she is also a familiar face on Capitol Hill because she held a prominent role in the White House Legislative Affairs Office and later was the principal aide to President Trump's chief of staff, Mark Meadows.

Ms. Hutchinson has spent considerable time up here on Capitol Hill representing the Trump administration, and we welcome her back.

Up until now, our hearings have each been organized to address specific elements of President Trump's plan to overturn the 2020 election. Today, we are departing somewhat from that model because Ms. Hutchinson's testimony touches on several important and cross-cutting topics, topics that are relevant to each of our future hearings.

In her role working for the White House chief of staff, Ms. Hutchinson handled a vast number of sensitive issues. She worked in the West Wing, several steps down the hall from the Oval Office. Ms. Hutchinson spoke daily with Members of Congress, with high-ranking officials in the administration, with senior White House staff, including Mr. Meadows, with White House counsel lawyers, and with Mr. Tony Ornato, who served as the White House Deputy Chief of Staff. She also worked on a daily basis with members of the Secret Service who were posted in the White House. In short, Ms. Hutchinson was in a position to know a great deal about the happenings in the Trump White House.

Ms. Hutchinson has already sat for four videotaped interviews with Committee investigators, and we thank her very much for her cooperation and for her courage. We will cover certain but not all

relevant topics within Ms. Hutchinson's knowledge today. Again, our future hearings will supply greater detail, putting the testimony today in a broader and more complete context.

Today, you will hear Ms. Hutchinson relate certain first-hand observations of President Trump's conduct on January 6th. You will also hear new information regarding the actions and statements of Mr. Trump's senior advisors that day, including his chief of staff, Mark Meadows, and his White House counsel. We will begin to examine evidence bearing on what President Trump and members of the White House staff knew about the prospect for violence on January 6th, even before that violence began.

To best communicate the information the Committee has gathered, we will follow the practice of our recent hearings, playing videotaped testimony from Ms. Hutchinson and others and also posing questions to Ms. Hutchinson live.

Mr. Chairman, I yield back.

Chairman THOMPSON. Thank you very much.

Our witness today is Ms. Cassidy Hutchinson, who served in the Trump administration in the White House Office of Legislative Affairs from 2019 to 2020 and as a special assistant to the President in the White House Chief of Staff's Office from March 2020 through January 2021.

I will now swear in our witness.

The witness will please stand and raise her right hand.

[Witness sworn.]

Chairman THOMPSON. Thank you. You may be seated.

Let the record reflect the witness answered in the affirmative.

I now recognize myself for questions.

Ms. Hutchinson, I would like to start with a few questions about your background. These are some photographs we have obtained highlighting your career.

These show you with Members of Congress, including Steve Scalise, as well as the White House with Leader Kevin McCarthy and Jim Jordan. Others show you with the President and Members of Congress aboard Air Force One.

Before you worked in the White House, you worked on Capitol Hill for Representative Steve Scalise, the Republican Whip, and Senator Ted Cruz. Then, in 2019, you moved to the White House and served there until the end of the Trump administration in 2020.

When you started at the White House, you served in the Office of Legislative Affairs. We understand that you were initially hired as a staff assistant but were soon promoted to a position of greater responsibility. Can you explain your role for the Committee?

Ms. HUTCHINSON. When I moved over to the White House Chief of Staff's Office with Mr. Meadows, when he became the fourth chief of staff, it is difficult to describe a typical day. I was a special assistant to the President and an advisor to the chief of staff. The days depended on what the President was doing that day, and that is kind-of how my portfolio was reflected.

I had a lot of outreach with Members of Congress, senior Cabinet officials. We would work—I would work on policy issues with relevant internal components and Members on the Hill, as well as se-

curity protocol at the White House complex for Mr. Meadows and the President.

Chairman THOMPSON. Then you received another promotion in March 2020. At that time, you became the principal aide to the new White House chief of staff, Mark Meadows. Is that right?

Ms. HUTCHINSON. That is correct, sir.

Chairman THOMPSON. What did a typical day look like for you in your work with Mr. Meadows?

Ms. HUTCHINSON. It varied with what was going on. We spent a lot of time on the Hill. I spent time on the Hill independently too, as I was his liaison for Capitol Hill. We did a lot of Presidential travel engagements, but mostly I was there to serve what the chief of staff needed, and a lot of times what the chief of staff needed was a reflection of what the President's schedule was detailed to do that day.

Chairman THOMPSON. So is it fair to say that you spoke regularly in your position both with Members of Congress and with senior members of the Trump administration?

Ms. HUTCHINSON. That is correct. That is a fair assessment, sir.

Chairman THOMPSON. Would you say that, in your work with Mr. Meadows, you were typically in contact with him and others in the White House throughout the day?

Ms. HUTCHINSON. That is correct, sir. Mr. Meadows and I were in contact almost pretty much throughout every day consistently.

Chairman THOMPSON. Although so much of grave importance happens in the West Wing of the White House, it is quite a small building.

Above me on the screen, you can see a map of the first floor of the West Wing of the White House. On the right, you can see the President's Oval Office; on the left, the chief of staff's office suite. Within the chief of staff's office suite, in the heart of the West Wing, was your desk, which was between the Vice President's office, Mr. Kushner's office, and the Oval Office.

Ms. Hutchinson, is this an accurate depiction of where you were located?

Ms. HUTCHINSON. It is accurate. It is a lot smaller than it looks.

Chairman THOMPSON. Absolutely.

Ms. Hutchinson, this is a photo that shows the short distance between your office and the President's Oval Office. It only takes 5 to 10 seconds or so to walk down the hall from your office to the Oval Office. Is that right?

Ms. HUTCHINSON. That is correct.

Chairman THOMPSON. Thank you.

Pursuant to section 5(c)(8) of House Resolution 503, the Chair recognizes the gentlewoman from Wyoming, Ms. Cheney, for questions.

Vice Chair CHENEY. Thank you very much, Mr. Chairman.

Mr. Chairman, we will begin today with an exchange that first provided Ms. Hutchinson a tangible sense of the on-going planning for the events of January 6th.

On January 2nd, 4 days before the attack on our Capitol, President Trump's lead lawyer, Mr. Giuliani, was meeting with White House Chief of Staff Mark Meadows and others.



Ms. Hutchinson, do you remember Mr. Giuliani meeting with Mr. Meadows on January 2, 2021?

Ms. HUTCHINSON. I do. He met with Mr. Meadows in the evening of January 2, 2021.

Vice Chair CHENEY. We understand that you walked Mr. Giuliani out of the White House that night, and he talked to you about January 6th. What do you remember him saying?

Ms. HUTCHINSON. As Mr. Giuliani and I were walking to his vehicle that evening, he looked at me and said something to the effect of: "Cass, are you excited for the 6th? It is going to be a great day."

I remember looking at him, saying: "Rudy, would you explain what is happening on the 6th?"

He responded something to the effect of: "We are going to the Capitol. It is going to be great. The President's going to be there. He is going to look powerful. He is going to be with the Members. He is going to be with the Senators. Talk to the chief about it. Talk to the chief about it. He knows about it."

Vice Chair CHENEY. Did you go back then up to the West Wing and tell Mr. Meadows about your conversation with Mr. Giuliani?

Ms. HUTCHINSON. I did. After Mr. Giuliani had left the campus that evening, I went back up to our office, and I found Mr. Meadows in his office on the couch. He was scrolling through his phone. I remember leaning against the doorway and saying: "I had an interesting conversation with Rudy, Mark. It sounds like we are going to go to the Capitol."

He didn't look up from his phone and said something to the effect of: "There is a lot going on, Cass, but I don't know; things might get real, real bad on January 6th."

Vice Chair CHENEY. Ms. Hutchinson, Mr. Meadows is engaged in litigation with the Committee to try to avoid testifying here. What was your reaction when he said to you "things might get real, real bad"?

Ms. HUTCHINSON. In the days before January 2nd, I was apprehensive about the 6th. I had heard general plans for a rally. I had heard tentative movements to potentially go to the Capitol.

But, when hearing Rudy's take on January 6th and then Mark's response, that was the first—that evening was the first moment that I remember feeling scared and nervous for what could happen on January 6th. I had a deeper concern for what was happening with the planning aspects of it.

Vice Chair CHENEY. Thank you, Ms. Hutchinson.

Today, we are going to be focusing primarily on the events of January 5th and 6th at the White House.

But, to begin and to frame the discussion, I want to talk about a conversation that you had with Mr. John Ratcliffe, the Director of National Intelligence. You had this conversation in December 2020.

Mr. Ratcliffe was nominated by President Trump to oversee U.S. intelligence—or U.S. intelligence community. Before his appointment, Mr. Ratcliffe was a Republican Member of Congress.

As you will see on this clip, Director Ratcliffe's comments in December 2020 were prescient.

Ms. HUTCHINSON. My understanding was Mr.—Director Ratcliffe didn't want much to do with the post-election period. Director Ratcliffe felt that it wasn't some-

thing that the White House should be pursuing. He felt it was dangerous to the President's legacy. He had expressed to me that he was concerned that it could spiral out of control and potentially be dangerous, either for our democracy or the way that things were going for the 6th.

Mr. GEORGE. When you say, "It wasn't something the White House should be pursuing," what is the "it"?

Ms. HUTCHINSON. Trying to fight the results of the election, finding missing ballots, pressuring—filing lawsuits in certain States where there didn't seem to be significant evidence and reaching out to State legislatures about that. So pretty much the way that the White House is handling the post-election period, he felt that there could be dangerous repercussions in terms of precedents set for elections, for our democracy, for the 6th. You know, he was hoping that we would concede.

Vice Chair CHENEY. So, Ms. Hutchinson, now we are going to turn to certain information that was available before January 4th and what the Trump administration and the President knew about the potential for violence before January 6th.

On the screen, you will see an email received by Acting Deputy Attorney General Donoghue on January 4th from the National Security Division of the Department of Justice.

Mr. Donoghue testified in our hearings last week. The email identifies apparent planning by those coming to Washington on January 6th to "occupy Federal buildings," and discussions of "invading the Capitol Building."

Here is what Mr. Donoghue said to us.

Acting Deputy Attorney General DONOGHUE. And we knew that if you have tens of thousands of very upset people showing up in Washington, DC, that there was potential for violence.

Vice Chair CHENEY. U.S. Secret Service was looking at similar information and watching the planned demonstrations. In fact, their Intelligence Division sent several emails to White House personnel like Deputy Chief of Staff Tony Ornato, and the head of the President's protective detail, Robert Engel, including certain materials listing events like those on the screen.

The White House continued to receive updates about planned demonstrations, including information regarding the Proud Boys organizing and planning to attend events on January 6th. Although Ms. Hutchinson has no detailed knowledge of any planning involving the Proud Boys or January 6th, she did note this:

Ms. HUTCHINSON. I recall hearing the word "Oath Keeper" and hearing the word "Proud Boys" closer to the planning of the January 6th rally when Mr. Giuliani would be around.

Vice Chair CHENEY. On January 3rd, the Capitol Police issued a special event assessment.

In that document, the Capitol Police noted that the Proud Boys and other groups plan to be in Washington, DC, on January 6th and indicated that, "Unlike previous post-election protests, the targets of the pro-Trump supporters are not necessarily the counter protesters as they were previously, but rather Congress itself is the target on the 6th."

Of course, we all know now that the Proud Boys showed up on January 6th, marched from the Washington Monument to the Capitol that day, and led the riotous mob to invade and occupy our Capitol.

Ms. Hutchinson, I want to play you a clip of one of our meetings when you described the call on January 4th that you received from

National Security Advisor Robert O'Brien on the same topic: Potential violence on January 6th.

Ms. HUTCHINSON. I received a call from Robert O'Brien, the National Security Advisor. He had asked if he could speak with Mr. Meadows about potential violent—words of violence that he was hearing that were potentially going to happen on the Hill on January 6th. I had asked if he connected with Tony Ornato because Tony Ornato had a conversation with him—with Mark about that topic. Robert had said, "I will talk to Tony," and then, you know, I don't know if Robert ever connected with Mark about the issue.

Vice Chair CHENEY. Ms. Hutchinson, can you describe for us Mr. Ornato's responsibilities as deputy chief of staff?

Ms. HUTCHINSON. The deputy chief of staff's position at the White House for operations is arguably one of the most important positions that somebody can hold. They are in charge of all security protocol for the campus and all Presidential protectees, primarily, the President and the First Family, but anything that requires security for any individual that has Presidential protection. So, the chief of staff or the National Security Advisor, as well as the Vice President's team too, Tony would oversee all of that. He was the conduit for security protocol between White House staff and United States Secret Service.

Vice Chair CHENEY. Thank you.

You also described a brief meeting between Mr. Ornato and Mr. Meadows on the potential for violence. The meeting was on January 4th. They were talking about the potential for violence on January 6th. Let's listen to a clip of that testimony.

Ms. HUTCHINSON. I remember Mr. Ornato had talked to him about intelligence reports. I just remember Mr. Ornato coming in and saying that we had intel reports saying that there could potentially be violence on the—on the 6th.

Vice Chair CHENEY. You also told us about reports of violence and weapons that the Secret Service were receiving on the night of January 5th and throughout the day on January 6th. Is that correct?

Ms. HUTCHINSON. That is correct.

Vice Chair CHENEY. There are reports that police in Washington, DC, had arrested several people with firearms or ammunition following a separate pro-Trump rally in Freedom Plaza on the evening of January 5th. Are those some of the reports that you recall hearing about?

Ms. HUTCHINSON. They are.

Vice Chair CHENEY. Of course, the world now knows that the people who attacked the Capitol on January 6th had many different types of weapons.

When a President speaks, the Secret Service typically requires those attending to pass through metal detectors, known as magnetometers or mags for short. The Select Committee has learned that people who willingly entered the enclosed area for President Trump's speech were screened so they could attend the rally at the Ellipse. They had weapons and other items that were confiscated: Pepper spray, knives, brass knuckles, tasers, body armor, gas masks, batons, blunt weapons. Those were just from the people who chose to go through the security for the President's event on the Ellipse, not the several thousand members of the

crowd who refused to go through the mags and watched from the lawn near the Washington Monument.

The Select Committee has learned about reports from outside the magnetometers and has obtained police radio transmissions identifying individuals with firearms, including AR-15s, near the Ellipse on the morning of January 6th. Let's listen.

MPD RADIO TRANSMISSION. There's an individual who's entering, gonna be a white male, about 6 feet tall, thin build, brown cowboy boots. He's got blue jeans and a blue jean jacket, and underneath the blue jean jacket, complainants both saw stock of an AR-15. He's gonna be with a group of individuals—about five to eight—five to eight other individuals. Two of the individuals in that group at the base of the tree near the porta potties were wearing green fatigues—green olive dress-style fatigues, about 5'8", 5'9", skinny—skinny White males, brown cowboy boots. They had Glock-style pistols in their waistbands.

MPD RADIO TRANSMISSION. 8736 with a message. That subject's weapon on his right hip—that's a negative. He's in the tree.

MPD RADIO TRANSMISSION. Motor 1, make sure PPD knows they have an elevated threat in the trees south side of Constitution Avenue. Look for the "Don't Tread On Me" flag, American flag facemask, cowboy boots, weapon on the right—right side hip.

MPD RADIO TRANSMISSION. I've got three men walking down the street in fatigues carrying AR-15. Copy at 14th and Independence.

Vice Chair CHENEY. AR-15s at 14th and Independence. As you saw in those emails, the first report that we showed we now know was sent in the 8 o'clock hour on January 6th. This talked about people in the crowd wearing ballistic helmets and body armor, carrying radio equipment and military-grade backpacks.

The second report we showed you on the screen was sent by the Secret Service in the 11 a.m. hour, and it addressed reports of a man with a rifle near the Ellipse.

Ms. Hutchinson, in prior testimony, you described for us a meeting in the White House around 10 a.m. in the morning of January 6th, involving Chief of Staff Meadows and Tony Ornato. Were you in that meeting?

Ms. HUTCHINSON. I was.

Vice Chair CHENEY. Let's listen to your testimony about that meeting, and then we will have some questions.

Mr. GEORGE. I think the last time we talked you mentioned that some of the weapons that people had at the rally included flag poles—oversized sticks or flag poles, bear spray. Is there anything else that you recall hearing about the people who had gathered [inaudible]?

Ms. HUTCHINSON. I recall Tony and I having a conversation with Mark probably around 10 a.m., 10:15 a.m., where I remember Tony mentioning knives, guns in the form of pistols and rifles, bear spray, body armor, spears, and flag poles. Spears were one item. Flag poles were one item. But then Tony had relayed to me something to the effect of "and these"—"I think people are fastening spears on to the ends of flag poles."

Vice Chair CHENEY. Ms. Hutchinson, here's a clip of your testimony regarding Mr. Meadows's response to learning that the rally attendees were armed that day.

Vice Chair CHENEY. What was Mark's reaction—Mr. Meadows' reaction to this list of weapons that people had in the crowd?

Ms. HUTCHINSON. When Tony and I went in to talk to Mark that morning, Mark was sitting on his couch on his phone, which is something typical. I remember Tony just got right into it, like, "Sir, I just want to let you know," and informed him, like, "This is how many people we have outside the mags right now. These are the weapons that we are known to have." It's possible he listed more weapons off that I just don't recall and gave him a brief, but inconcise, explanation but also fairly—fairly thorough. And I remember distinctly Mark not looking up from his phone. All right.

I remember Tony finishing his explanation and it taking a few seconds for Mark to say something, to the point I almost said, "Mark, did you hear him?" And then Mark chimed in and was, like, "All right. Anything else?" still looking down at his phone. And Tony looked at me and I looked at Tony, and Tony said, "No, sir. Do you have any questions?" He was, like, "What are you hearing?" And I looked at Tony, and I was, like, "Sir, he just told you about what was happening down at the rally." And then he was, like, "Yeah, yeah, I know." And then he looked up and said, "Have you talked to the President?" And Tony said, "Yes, sir. He is aware, too." And then he said, "All right. Good."

Vice Chair CHENEY. He asked Tony if Tony had informed the President?

Ms. HUTCHINSON. Yes.

Vice Chair CHENEY. And Tony said, yes, he had?

Vice Chair CHENEY. So, Ms. Hutchinson, is it your understanding that Mr. Ornato told the President about weapons at the rally on the morning of January 6th?

Ms. HUTCHINSON. That is what Mr. Ornato relayed to me.

Vice Chair CHENEY. Here's how you characterized Mr. Meadows's general response when people raised concerns about what could happen on January 6th.

Mr. GEORGE. So, at the time in the days leading up to the 6th, there were lots of public reports about how things might go bad on the 6th, even the potential for violence. If I'm hearing you correctly, what stands out to you is that Mr. Meadows did not share those concerns or at least didn't act on those concerns?

Ms. HUTCHINSON. Did not act on those concerns would be accurate.

Mr. GEORGE. But other people raised them to him? Like, in this exchange, you mention that Mr. Ornato pulled him aside.

Ms. HUTCHINSON. That's correct.

Vice Chair CHENEY. Ms. Hutchinson, we are going to show now an exchange of texts between you and Deputy Chief of Staff Ornato.

These text messages were exchanged while you were at the Ellipse. In one text, you write: "But the crowd looks good from that vantage point. As long as we get the shot. He was F'ing furious."

The text messages also stress that President Trump kept mentioning the OTR, an off-the-record movement. We are going to come back and ask you about that in a minute.

But could you tell us, first of all, who it is in the text who was furious?

Ms. HUTCHINSON. The "he" in that text that I was referring to was the President.

Vice Chair CHENEY. Why was he furious, Ms. Hutchinson?

Ms. HUTCHINSON. He was furious because he wanted the arena that we had on the Ellipse to be maxed out at capacity for all attendees. The advance team had relayed to him that the mags were free flowing. Everybody who had wanted to come in had already come in, but he still was angry about the extra space and wanted more people to come in.

Vice Chair CHENEY. Did you go to the rally in the Presidential motorcade?

Ms. HUTCHINSON. I was there, yes, in the motorcade.

Vice Chair CHENEY. Were you backstage with the President and other members of his staff and family?

Ms. HUTCHINSON. I was.

Vice Chair CHENEY. You told us, Ms. Hutchinson, about particular comments that you heard while you were in the tent area.

Ms. HUTCHINSON. When we were in the off-stage announce area tent behind the stage, he was very concerned about the shot, meaning the photograph that we would

get because the rally space wasn't full. One of the reasons, which I've previously stated, was because he wanted it to be full and for people to not feel excluded because they had come far to watch him at the rally, and he felt the mags were at fault for not letting everybody in. But another leading reason, and likely the primary reason, is because he wanted it full, and he was angry that we weren't letting people through the mags with weapons—what the Secret Service deems as weapons and are—are weapons.

Ms. HUTCHINSON. But when we were in the off-stage announce tent, I was part of a conversation—I was in the vicinity of a conversation where I overheard the President say something to the effect of, "You know, I don't F'ing care that they have weapons. They're not here to hurt me. Take the F'ing mags away. Let my people in. They can march to the Capitol from here. Let the people in. Take the F'ing mags away."

Vice Chair CHENEY. Just to be clear, Ms. Hutchinson, is it your understanding that the President wanted to take the mags away and said that the armed individuals were not there to hurt him?

Ms. HUTCHINSON. That's a fair assessment.

Vice Chair CHENEY. The issue wasn't with the amount of space available in the official rally area only but, instead, that people did not want to have to go through the mags.

Let's listen to a portion of what you told us about that.

Ms. HUTCHINSON. In this particular instance, it wasn't the capacity of our space. It was the mags and the people that didn't want to come through, and that's what Tony had been trying to relay to him that morning: "You know, it's not the issues that we encounter on the campaign. We have enough space, sir. They don't want to come in right now. They have weapons they don't want confiscated by the Secret Service, and they're fine on the Mall. They can see you on the Mall, and they want to march straight to the Capitol from the Mall."

Vice Chair CHENEY. The President apparently wanted all attendees inside the official rally space and repeatedly said, "They are not here to hurt me."

Vice Chair CHENEY. And—and just to be clear, so he was told again in—in that conversation—or was he told again in that conversation that people couldn't come through the mags because they had weapons?

Ms. HUTCHINSON. Correct.

Vice Chair CHENEY. And that people—and his response was to say, "They can march to the Capitol from—from the Ellipse?"

Ms. HUTCHINSON. Something to the effect of "take the F'ing mags away. They're not here to hurt me. Let them in. Let my people in. They can march to the Capitol after the rally is over. They can march from—they can march from the Ellipse. Take the F'ing mags away. Then they can march to the Capitol."

Vice Chair CHENEY. Ms. Hutchinson, what we saw when those clips were playing were photos provided by the National Archives showing the President in the offstage tent before his speech on the Ellipse. You were in some of those photos as well. I just want to confirm that that is when you heard the President say the people with weapons weren't there to hurt him and that he wanted the Secret Service to remove the magnetometers.

Ms. HUTCHINSON. That is correct. In the photos that you displayed, we were standing toward the front of the tent with the TVs really close to where he would walk out to go onto the stage. These conversations happened 2 to 3 minutes before he took the stage that morning.

Vice Chair CHENEY. Let's reflect on that for moment. President Trump was aware that a number of the individuals in the crowd had weapons and were wearing body armor. Here is what President Trump instructed the crowd to do.

President TRUMP. We're gonna walk down—and I'll be there with you. We're gonna walk down—we're gonna walk down—anyone you want but I think right here—we're gonna walk down to the Capitol.

Vice Chair CHENEY. The crowd, as we know, did proceed to the Capitol. It soon became apparent to the Secret Service, including the Secret Service teams in the crowd, along with White House staff that security at the Capitol would not be sufficient.

Ms. HUTCHINSON. I'd had two or three phone conversations with Mr. Ornato when we were at the Ellipse, and then I had four men on Mr. Meadows' detail with me in between those individuals and then a few other bodies on the ground, just Secret Service doing advance. They were getting notifications through their radios, and Mr. Ornato in one phone conversation had called me and said, "Make sure the chief knows that they are getting close to the Capitol. They are having trouble stacking bodies."

Vice Chair CHENEY. Ms. Hutchinson, when you said they were having trouble stacking bodies, did you mean that law enforcement at the Capitol needed more people to defend the Capitol from the rioters?

Ms. HUTCHINSON. It was becoming clear to us and to the Secret Service that Capitol Police officers were getting overrun at the security barricades outside of the Capitol Building, and they were having short—they were short people to defend the building against the rioters.

Vice Chair CHENEY. You mentioned that Mr. Ornato was conveying this to you because he wanted you to tell Mr. Meadows. So did you tell Mr. Meadows that people were getting closer to the Capitol and that Capitol Police was having difficulty?

Ms. HUTCHINSON. After I had the conversation with Mr. Meadows, Mr.—after I had the conversation with Ornato, I went to have the discussion with Mr. Meadows. He was in a secure vehicle at the time making a call. So, when I had gone over to the car, I went to open the door to let him know; he had immediately shut it. I don't know who he was speaking with. It wasn't something that he regularly did, especially when I would go over to give him information. So I was a bit taken aback, but I didn't think much of it and thinking that I was—I would be able to have the conversation with him a few moments later.

Vice Chair CHENEY. Were you able to have that conversation a few moments later?

Ms. HUTCHINSON. Probably about 20 to 25 minutes later. There was another period in between where he shut the door again. Then, when he finally got out of the vehicle, we had the conversation. But, at that point, there was a backlog of information that he should have been made aware of.

Vice Chair CHENEY. So you opened the door to the control car, and Mr. Meadows pulled it shut?

Ms. HUTCHINSON. That is correct.

Vice Chair CHENEY. He did that two times.

Ms. HUTCHINSON. That is correct.

Vice Chair CHENEY. When you finally were able to give Mr. Meadows the information about the violence at the Capitol, what was his reaction?

Ms. HUTCHINSON. He almost had a lack of reaction. I remember him saying "all right," something to the effect of: How much longer does the President have left in his speech?

Vice Chair CHENEY. Again, much of this information about the potential for violence was known or learned about the onset of the violence, early enough for President Trump to take steps to prevent it. He could, for example, have urged the crowd at the Ellipse not to march to the Capitol. He could have condemned the violence immediately once it began, or he could have taken multiple other steps.

But, as we will see today and in later hearings, President Trump had something else in mind.

One other question at this point, Ms. Hutchinson. Were you aware of concerns that White House Counsel Pat Cipollone or Eric Herschmann had about the language President Trump used in his Ellipse speech?

Ms. HUTCHINSON. There were many discussions the morning of the 6th about the rhetoric of the speech that day. In my conversations with Mr. Herschmann, he had relayed that we would be foolish to include language that had been included at the President's request, which had lines along to the effect of: Fight for Trump. We are going to march to the Capitol. I will be there with you. Fight for me. Fight for what we are doing. Fight for the movement.

Things about Vice President at the time too.

Both Mr. Herschmann and the White House Counsel's Office were urging the speechwriters to not include that language for legal concerns and also for the optics of what it could portray the President wanting to do that day.

Vice Chair CHENEY. We just heard the President say that he would be with his supporters as they marched to the Capitol. Even though he did not end up going, he certainly wanted to.

Some have questioned whether President Trump genuinely planned to come here to the Capitol on January 6th. In his book, Mark Meadows falsely wrote that, after President gave his speech on January 6th, he told Mr. Meadows that he was "speaking metaphorically about the walk to the Capitol."

As you will see, Donald Trump was not speaking metaphorically.

As we heard earlier, Rudy Giuliani told Ms. Hutchinson that Mr. Trump planned to travel to the Capitol on January 6th. I want to pause for just a moment to ask you, Ms. Hutchinson, to explain some of the terminology you will hear today. We have heard you use two different terms to describe plans for the President's movement to the Capitol or anywhere else. One of those is a "scheduled movement" and another one is "OTR." Could you describe for us what each of those mean?

Ms. HUTCHINSON. A scheduled Presidential movement is on his official schedule. It is notified to the press and to a wide range of staff that will be traveling with him. It is known to the public, known to the Secret Service, and they are able to coordinate the movement days in advance.

An off-the-record movement is confined to the knowledge of a very, very small group of advisors and staff. Typically, a very small group of staff would travel with him, mostly that are just included in the National Security package. You can pull an off-the-record movement together in less than an hour. It is a way to kind-of circumvent having to release it to the press, if that is the goal of it,



or to not have to have as many security parameters put in place ahead of time to make the moment happen.

Vice Chair CHENEY. Thank you.

Let's turn back now to the President's plans to travel to the Capitol on January 6th. We know that White House Counsel Pat Cipollone was concerned about the legal implications of such a trip, and he agreed with the Secret Service that it shouldn't happen.

Ms. Hutchinson, did you have any conversations with Pat Cipollone about his concerns about the President going to the Capitol on January 6th?

Ms. HUTCHINSON. On January 3rd, Mr. Cipollone had approached me, knowing that Mark had raised the prospect of going up to the Capitol on January 6th. Mr. Cipollone and I had a brief private conversation where he said to me: "We need to make sure that this doesn't happen. This would be legally a terrible idea for us. We have serious legal concerns if we go up to the Capitol that day."

He then urged me to continue relaying that to Mr. Meadows, because it is my understanding that Mr. Cipollone thought that Mr. Meadows was indeed pushing this along with the President.

Vice Chair CHENEY. We understand, Ms. Hutchinson, that you also spoke to Mr. Cipollone on the morning of the 6th, as you were about to go to the rally on the Ellipse. Mr. Cipollone said something to you like: "Make sure the movement to the Capitol does not happen."

Is that correct?

Ms. HUTCHINSON. That is correct. I saw Mr. Cipollone right before I walked out onto West Exec that morning, and Mr. Cipollone said something to the effect of: "Please make sure we don't go up to the Capitol, Cassidy. Keep in touch with me. We are going to get charged with every crime imaginable if we make that movement happen."

Vice Chair CHENEY. Do you remember which crimes Mr. Cipollone was concerned with?

Ms. HUTCHINSON. In the days leading up to the 6th, we had conversations about potentially obstructing justice or defrauding the electoral count.

Vice Chair CHENEY. Let's hear about some of those concerns that you mentioned earlier in one of your interviews with us.

Ms. HUTCHINSON. Having a private conversation with Pat late in the afternoon of the 3rd or 4th, that Pat was concerned it would look like we were obstructing justice or obstructing the electoral college count—and I apologize for probably not being very—

Vice Chair CHENEY. That's fine.

Ms. HUTCHINSON [continuing]. Clear with my legal terms here—but that it would look like we were obstructing what was happening on Capitol Hill, and he was also worried that it would look like we were inciting a riot or encouraging a riot to erupt on the Capitol—at the Capitol.

Vice Chair CHENEY. In fact, in the days before January 6th and on January 6th itself, President Trump expressed to multiple White House aides that he wanted to go to the Capitol after his speech.

Here is what various White House aides have told the Committee about the President's desire to go to the Capitol.

Mr. GEORGE. Did the President tell you this, that he wanted to speak at the Capitol?

Mr. LUNA. Correct. Yes.

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Mr. TONOLLI. During the meeting in the dining room, did the idea of the President proceeding or walking to the Capitol on the 6th after his speech come up?

Mr. MAX MILLER. Walking to the Capitol? No.

Mr. TONOLLI. Driving to the Capitol?

Mr. MAX MILLER. It came up.

Mr. TONOLLI. OK. How did it come up and what was discussed?

Mr. MAX MILLER. He brought it up. He said, "I want to go down to the Capitol."

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Mr. GEORGE. What about him marching to the Capitol on the 6th?

Mr. LUNA. Yes.

Mr. GEORGE. Tell us about that.

Mr. LUNA. So it's kind-of a general thing. I mean, to get into the specifics of it, I—I was aware of a desire of the President to potentially march to the—or—or accompany the rally attendees to the Capitol.

Mr. GEORGE. When did you first hear about this idea of the President accompanying rally attendees to the Capitol on the 6th?

Mr. LUNA. This was at the 6th. This was during the—after he finished his remarks.

Vice Chair CHENEY. When the President said that he would be going to the Capitol during his speech on the Ellipse, the Secret Service scrambled to find a way for him to go. We know this from witnesses and the Secret Service, also from messages among staff on the President's National Security Council. The NSC staff were monitoring the situation in real time. You can see how the situation evolved in the following chat log that the Committee has obtained.

As you can see, NSC staff believed that MOGUL—the President—was "going to the Capitol," and "they are finding the best route now."

From these chats, we also know the staff learned of the attack on the Capitol in real time. When President Trump left the Ellipse stage at 1:10, the staff knew that rioters had invaded the inaugural stage and Capitol Police were calling for all available officers to respond.

When Republican Leader Kevin McCarthy heard the President say he was going to the Capitol, he called you, Ms. Hutchinson. Isn't that right?

Ms. HUTCHINSON. That is correct.

Vice Chair CHENEY. In this text message, you told Tony Ornato, "McCarthy just called me too," and "Do you guys think you are coming to my office?"

Tell us about the call that day with Leader McCarthy during the President's speech on the Ellipse.

Ms. HUTCHINSON. I was still in the tent behind the stage. When you are behind the stage, you can't really hear what is going on in front of you. So, when Mr. McCarthy called me with this information, I answered the call, and he sounded rushed but also frustrated and angry at me. I was confused because I didn't know what the President had just said.

He then explained: "The President just said he is marching to the Capitol. You told me this whole week you aren't coming up here. Why would you lie to me?"

I said: "I am not lying. I wasn't lying to you, sir. I—we are not going to the Capitol."

He said: "Well, he just said it on stage, Cassidy. Figure it out. Don't come up here."

I said: "I will run the traps on this now. I will shoot you a text. I can assure you we are not coming up to the Capitol. We have already made that decision."

He pressed a little bit more, believing me, but I think frustrated that the President had said that. We ended the phone conversation after that.

I called Mr. Ornato to reconfirm that we weren't going to the Capitol, and—which is also in our text messages. I sent Mr. McCarthy another text telling him the affirmative, that we were not going up to the Capitol, and he didn't respond after that.

Vice Chair CHENEY. We understand, Ms. Hutchinson, that the plans for the President to come to the Capitol had included discussions at some point about what the President would do when he came up to the Capitol on January 6th.

Let's look at a clip of one of your interviews discussing that issue with the Committee.

Vice Chair CHENEY. When you were talking about a scheduled movement, did anyone say what the President wanted to do when he got here?

Ms. HUTCHINSON. No, not that I can specifically remember. I remember—I remember hearing a few different ideas discussed with—between Mark and Scott Perry, Mark and Rudy Giuliani. I don't know which conversations were elevated to the President. I don't know what he personally wanted to do when he went up to the Capitol that day. You know, I know that there were discussions about him having another speech outside of the Capitol before going in. I know that there was a conversation about him going into the House Chamber at one point.

Vice Chair CHENEY. As we have all just heard, in the days leading up to January 6th, on the day of the speech, both before and during and after the rally speech, President Trump was pushing his staff to arrange for him to come up here to the Capitol during the electoral vote count. Let's turn now to what happened in the President's vehicle when the Secret Service told him he would not be going to the Capitol after his speech.

First, here is the President's motorcade leaving the Ellipse after his speech on January 6th.

Ms. Hutchinson, when you returned to the White House in the motorcade after the President's speech, where did you go?

Ms. HUTCHINSON. When I returned to the White House, I walked upstairs toward the chief of staff's office, and I noticed Mr. Ornato lingering outside of the office. Once we had made eye contact, he quickly waved me to go into his office, which was just across the hall from mine.

When I went in, he shut the door, and I noticed Bobby Engel, who was the head of Mr. Trump's security detail, sitting in a chair looking somewhat discombobulated, a little lost.

I looked at Tony, and he had said: "Did you F'ing hear what happened in the Beast?"

I said: "No, Tony, I just got back. What happened?"

Tony proceeded to tell me that, when the President got in the Beast, he was under the impression from Mr. Meadows that the off-the-record movement to the Capitol was still possible and likely to happen but that Bobby had more information.

So, once the President had gotten into the vehicle with Bobby, he thought that they were going up to the Capitol, and when Bobby had relayed to him “we are not, we don’t have the assets to do it, it is not secure, we are going back to the West Wing,” the President had very strong, a very angry response to that.

Tony described him as being irate. The President said something to the effect of: “I am the F’ing President. Take me up to the Capitol now.”

To which Bobby responded: “Sir, we have to go back to the West Wing.”

The President reached up toward the front of the vehicle to grab at the steering wheel. Mr. Engel grabbed his arm and said: “Sir, you need to take your hand off the steering wheel. We are going back to the West Wing. We are not going to the Capitol.”

Mr. Trump then used his free hand to lunge toward Bobby Engel. When Mr. Ornato had recounted the story to me, he had motioned toward his clavicles.

Vice Chair CHENEY. Was Mr. Engel in the room as Mr. Ornato told you this story?

Ms. HUTCHINSON. He was.

Vice Chair CHENEY. Did Mr. Engel correct or disagree with any part of the story from Mr. Ornato?

Ms. HUTCHINSON. Mr. Engel did not correct or disagree with any part of the story.

Vice Chair CHENEY. Did Mr. Engel or Mr. Ornato ever after that tell you that what Mr. Ornato had just said was untrue?

Ms. HUTCHINSON. Neither Mr. Ornato nor Mr. Engel told me ever that it was untrue.

Vice Chair CHENEY. Despite this altercation, this physical altercation during the ride back to the White House, President Trump still demanded to go to the Capitol.

Here is what Kayleigh McEnany, the White House press secretary at the time, wrote in her personal notes and told the Committee about President Trump’s desire to go the Capitol after returning to the White House.

Mr. WOOD. When you wrote, “POTUS wanted to walk to the Capitol,” was that based solely on what the President said during his speech or anything that he or anybody else said afterwards?

Ms. MCENANY. So, to the best of my recollection, I believe when we got back to the White House he said he wanted to physically walk with the marchers, and according to my notes, he then said he’d be fine with just riding the Beast. But to the best of my recollection, he wanted to be a part of the march in some fashion.

Mr. WOOD. And just for the record, “the Beast” refers to the Presidential limousine?

Ms. MCENANY. Yes.

Vice Chair CHENEY. President Trump did not go to the Capitol that day. We understand that he blamed Mark Meadows for that.

Ms. HUTCHINSON. So, prior to leaving the rally site when he got off the stage and everybody was making the movement back to the motorcade, I’d overheard Mr. Meadows say to him then, as I had prior to Mr. Trump taking the stage that morning, that he was still working on getting an off-the-record movement to the Capitol. So, when Mr. Trump took the stage, he was under the impression by Mr. Meadows that it was still possible. So, when he got off the stage, I had relayed to Mr. Meadows that I had another conversation with Tony—the movement was still not possible. Mr. Meadows said, “OK.” And then as they proceeded to go to the motorcade and—Mr. Meadows had reiterated, “We’re gonna work on it, sir. Talk to Bobby. Bobby has more information.” Mark got into his vehicle. To my understanding,

Trump got into the Beast, and after we had all arrived back at the White House later in the day, it had been relayed to me via Mark that the President wasn't happy that Bobby didn't pull it off for him and that Mark didn't work hard enough to get the movement on the books.

Vice Chair CHENEY. The physical altercation that Ms. Hutchinson described in the Presidential vehicle was not the first time that the President had become angry about issues relating to the election.

On December 1, 2020, Attorney General Barr said in an interview that the Department of Justice had not found evidence of wide-spread election fraud sufficient to change the outcome of the election.

Ms. Hutchinson, how did the President react to hearing that news?

Ms. HUTCHINSON. Around the time that I understand the AP article went live, I remember hearing noise coming from down the hallway. So I poked my head out of the office, and I saw the valet walking toward our office.

He had said: Get the chief down to the dining room. The President wants him.

So, Mark went down to the dining room, came back to the office a few minutes later. After Mark had returned, I left the office and went down to the dining room, and I noticed that the door was propped open, and the valet was inside the dining room changing a tablecloth off of the dining room table. He motioned for me to come in and then pointed toward the front of the room near the fireplace mantle and the TV, where I first noticed there was ketchup dripping down the wall and there was a shattered porcelain plate on the floor.

The valet had articulated that the President was extremely angry at the Attorney General's AP interview and had thrown his lunch against the wall, which was causing them to have to clean up. So, I grabbed a towel and started wiping the ketchup off the wall to help the valet out.

He said something to the effect of: "He is really ticked off about this. I would stay clear of him for right now. He is really, really ticked off about this right now."

Vice Chair CHENEY. Ms. Hutchinson, was this the only instance that you are aware where the President threw dishes?

Ms. HUTCHINSON. It is not.

Vice Chair CHENEY. Are there other instances in the dining room that you recall where he expressed his anger?

Ms. HUTCHINSON. There were several times throughout my tenure with the chief of staff that I was aware of him either throwing dishes or flipping the tablecloth to let all the contents of the table go onto the floor, and likely break or go everywhere.

Vice Chair CHENEY. Ms. Hutchinson, Attorney General Barr described to the Committee the President's angry reaction when he finally met with President Trump. Let's listen.

Attorney General BARR. And I said, "Look, I know that you're dissatisfied with me and I'm glad to offer my resignation." And he pounded the table very hard—everyone sort-of jumped—and he said "Accepted."

Vice Chair CHENEY. Mr. Chairman, I reserve.

Chairman THOMPSON. The gentlewoman reserves.

The Chair requests those in the hearing room remain seated until the Capitol Police have escorted our witness from the room.

Pursuant to the order of the Committee of today, the Chair declares the Committee in recess for a period of approximately 10 minutes.

[Accordingly, at 2:01 p.m., the Committee recessed until 2:15 p.m., when it was called to order by the Chairman.]

Chairman THOMPSON. The Chair recognizes the gentlewoman from Wyoming, Vice Chair Cheney.

Vice Chair CHENEY. Thank you, Mr. Chairman.

Before we turn to what Ms. Hutchinson saw and heard in the White House during the violent attack on the Capitol on January 6th, let's discuss certain communications White House Chief of Staff Mark Meadows had on January 5th.

President Trump's associate, Roger Stone, attended rallies during the afternoon and the evening of January 5th in Washington, DC.

On January 5th and 6th, Mr. Stone was photographed with multiple members of the Oath Keepers who were allegedly serving as his security detail.

As we now know, multiple members of that organization have been charged with or pled guilty to crimes associated with January 6th. Mr. Stone has invoked his Fifth Amendment privilege against self-incrimination before this Committee. General Michael Flynn has also taken the Fifth before this Committee.

Mr. Stone previously had been convicted of other Federal crimes unrelated to January 6th. General Flynn had pleaded guilty to a felony charge also predating and unrelated to January 6th. President Trump pardoned General Flynn just weeks after the Presidential election. In July 2020, he commuted the sentence Roger Stone was to serve.

The night before January 6th, President Trump instructed his chief of staff, Mark Meadows, to contact both Roger Stone and Michael Flynn regarding what would play out the next day.

Ms. Hutchinson, is it your understanding that President Trump asked Mark Meadows to speak with Roger Stone and General Flynn on January 5th?

Ms. HUTCHINSON. That is correct. That is my understanding.

Vice Chair CHENEY. Ms. Hutchinson, is it your understanding that Mr. Meadows called Mr. Stone on the 5th?

Ms. HUTCHINSON. I am under the impression that Mr. Meadows did complete both a call to Mr. Stone and General Flynn the evening of the 5th.

Vice Chair CHENEY. Do you know what they talked about that evening, Ms. Hutchinson?

Ms. HUTCHINSON. I am not sure.

Vice Chair CHENEY. Is it your understanding that Mr. Giuliani, Mr. Eastman, and others had set up what has been called a "war room" at the Willard Hotel on the night of the 5th?

Ms. HUTCHINSON. I was aware of that the night of the 5th.

Vice Chair CHENEY. Do you know if Mr. Meadows ever intended to go to the Willard Hotel on the night of the 5th?

Ms. HUTCHINSON. Mr. Meadows had a conversation with me where he wanted me to work with Secret Service on a movement from the White House to the Willard Hotel so we could attend the

meeting, or meetings, with Mr. Giuliani and his associates in the war room.

Vice Chair CHENEY. What was your view as to whether or not Mr. Meadows should go to the Willard that night?

Ms. HUTCHINSON. I had made it clear to Mr. Meadows that I didn't believe it was a smart idea for him to go to the Willard Hotel that night. I wasn't sure everything that was going on at the Willard Hotel, although I knew enough about what Mr. Giuliani and his associates were pushing during this period. I didn't think that it was something appropriate for the White House chief of staff to attend or to consider involvement in. I made that clear to Mr. Meadows.

Throughout the afternoon, he mentioned a few more times going up to the Willard Hotel that evening, and then eventually dropped the subject the night of the 5th and said that he would dial in instead.

Vice Chair CHENEY. So General Flynn has appeared before this Committee. When he appeared before our Committee, he took the Fifth. Let's briefly view a clip of General Mike Flynn taking the Fifth Amendment.

Vice Chair CHENEY. General Flynn, do you believe the violence on January 6th was justified?

Mr. WARRINGTON. Can we have a minute?

Vice Chair CHENEY. Yes.

[1 minute, 36 seconds later.]

Mr. WARRINGTON. All right. I'm back. Congresswoman Cheney, could you repeat the question, please?

Vice Chair CHENEY. Yes. General Flynn, do you believe the violence on January 6th was justified?

Mr. WARRINGTON. Is that—can I get a clarification. Is that a moral question or a legal question?

Vice Chair CHENEY. I'm asking both.

General FLYNN. I said—I said the Fifth.

Vice Chair CHENEY. Do you believe the violence on January 6th was justified morally?

General FLYNN. Take the Fifth.

Vice Chair CHENEY. Do you believe the violence on January 6th was justified legally?

General FLYNN. Fifth.

Vice Chair CHENEY. General Flynn, do you believe in the peaceful transition of power in the United States of America?

General FLYNN. The Fifth.

Vice Chair CHENEY. Let's move on now to January 6th and the conduct of Donald Trump and Mark Meadows during the attack on the Capitol.

Ms. Hutchinson, I would like now for us to listen to a description, your description of what transpired in the West Wing during the attack. For context, in this clip you describe the time frame starting at about 2 p.m.

Ms. HUTCHINSON. So I remember Mark being alone in his office for quite some time. And, you know, I know we've spoken about Ben Williamson going in at one point, and I don't personally remember Ben going in. I don't doubt that he had gone in. But I remember him being alone in his office for most of the afternoon. Around 2 o'clock to 2:05—around 2 o'clock to 2:05, you know, we were watching the TV, and I could see that the rioters were getting closer and closer to the Capitol.

Mark still hadn't popped out of his office or said anything about it. So that's when I went into his office. I saw that he was sitting on his couch on his cell phone, same as the morning, where he was just kind-of scrolling and typing. I said, "Hey, are

you watching the TV, chief?" Because his TV was small and I—you can see it, but I didn't know if he was really paying attention.

I said, "You watching the TV, chief?" He was like, "Yeah." I said, "The rioters are getting really close. Have you talked to the President?" And he goes, "No, he wants to be alone right now"—still looking at his phone.

So I start to get frustrated because, you know, I sort-of felt like I was watching a—this is not a great comparison—but a bad car accident that was about to happen where you can't stop it but you want to be able to do something.

I just remember—I remember thinking, in that moment, Mark needs to snap out of this, and I don't know how to snap him out of this, but he—he needs to care. And I just remember I blurted out and I said, "Mark, do you know where Jim's at right now?" And he looked up at me at that point and said, "Jim?" And I said, "Mark, is—he was on the floor a little while ago giving a floor speech. Did you listen?" He said, "Yeah, it was real good. Did you like it?" And I said, "Yeah. Do you know where he's at right now?" He said, "No, I haven't heard from him." And I said, "You might want to check in with him, Mark." And I remember pointing at the TV, and I said, "The rioters are getting close. They might get in." And he looked at me and said something to the effect of, "All right. I'll—I'll give him a call."

Vice Chair CHENEY. Not long after the rioters broke into the Capitol, you described what happened with White House Counsel Pat Cipollone.

Ms. HUTCHINSON. No more than a minute, minute and a half later, I see Pat Cipollone barreling down the hallway toward our office, and he rushed right in, looked at me, said, "Is Mark in his office?" And I said, "Yes." He just looked at me and started shaking his head and went over, opened Mark's office door, stood there with the door propped open, and said something to—Mark is still sitting on his phone. I remember, like, glancing and he's still sitting on his phone.

And I remember Pat saying to him something to the effect of, "The rioters have gotten to the Capitol, Mark. We need to go down and see the President now." And Mark looked up at him and said, "He doesn't want to do anything, Pat." And Pat said something to the effect of—and very clearly had said this to Mark—something to the effect of, "Mark, something needs to be done or people are going to die, and the blood is going to be on your F-ing hands. This is getting out of control. I'm going down there."

And at that point, Mark stood up from his couch, both of his phones in his hand. He had his glasses on still. He walked out with Pat. He put both of his phones on my desk and said, "Let me know if Jim calls." And they walked out and went down to the dining room.

Vice Chair CHENEY. A few minutes later Representative Jordan called back.

Ms. HUTCHINSON. A couple minutes later, so likely around—between 2:15 and 2:25—I know the tweet went out at 2:24. I don't remember if I was there when the tweet went out or if it happened right afterwards, but Jim had called. I answered the phone, said, "One second." He knew it was—I guess he knew who it was and I introduced myself, but I—I don't remember if he called my cell phone or if he had called one of Mark's. But I answered the phone and said, "One sec. Mark's down the hall. I'm going to go hand the phone to him." And he said, "OK."

So I went down. I asked the valet if Mark was in the dining room. The valet said, "Yes." I opened the door to the dining room, briefly stepped in to get Mark's attention. I showed him the phone, like flipped the phone his way so he could see it said Jim Jordan. He had stepped to where I was standing there holding the door open, took the phone, talking to Jim with the door still propped open.

So I took a few steps back. So I probably was two feet from Mark. He was standing in the doorway going into the Oval Office dining room. They had a brief conversation. And in the crossfires—you know, I heard briefly, like, what they were talking about, but in the background, I had heard conversations in the Oval dining room with the—at that point talking about the "hang Mike Pence" chants.

Vice Chair CHENEY. That clip ended, Ms. Hutchinson, with you recalling that you heard the President, Mr. Meadows, and the White House counsel discussing the "Hang Mike Pence" chants, and then you described for us what happened next.

Ms. HUTCHINSON. It wasn't until Mark hung up the phone, handed it back to me, I went back to my desk. A couple of minutes later, him and Pat came back, possibly



Eric Herschmann, too. I'm pretty sure Eric Herschmann was there, but I'm—I'm confident it was Pat that was there. I remember Pat saying something to the effect of, "Mark, we need to do something more. They're literally calling for the Vice President to be F'ing hung."

And Mark had responded something to the effect of, "You heard him, Pat. He thinks Mike deserves it. He doesn't think they're doing anything wrong," to which Pat said something, "This is F'ing crazy. We need to be doing something more," briefly stepped into Mark's office.

And when Mark had said something—when Mark had said something to the effect of "he doesn't think they're doing anything wrong," knowing what I had heard briefly in the dining room, coupled with Pat discussing the "hang Mike Pence" chants in the lobby of our office and then Mark's response, I understood "they're" to be the rioters in the Capitol that were chanting for the Vice President to be hung.

Vice Chair CHENEY. Let me pause here on this point. The rioters chanted, "Hang Mike Pence."

The President of the United States, Donald Trump, said that "Mike deserves it," and that, "Those rioters were not doing anything wrong."

This is a sentiment that he has expressed at other times as well. In an interview with ABC News correspondent Jonathan Karl, President Trump was asked about the supporters chanting, "Hang Mike Pence," last year.

Instead of condemning them, the former President defended them.

Mr. KARL [continuing]. Saying "hang Mike Pence."

President TRUMP. Because it's—it's common sense, Jon. It's common sense that you're supposed to protect—how can you—if you know a vote is fraudulent, right, how can you pass on a fraudulent vote to Congress?

Vice Chair CHENEY. President Trump's view that the rioters were not doing anything wrong, and that "Mike deserved it," helps us to understand why the President did not ask the rioters to leave the Capitol for multiple hours. In fact, he put this tweet out at 2:24 p.m.

Ms. Hutchinson, do you recall seeing this tweet in which the President said the Vice President did not have the courage to do what needed to be done?

Ms. HUTCHINSON. I do.

Vice Chair CHENEY. Ms. Hutchinson, what was your reaction when you saw this tweet?

Ms. HUTCHINSON. As a staffer that works to always represent the administration to the best of my ability and to showcase the good things that he had done for the country, I remember feeling frustrated, disappointed. Really—it felt personal. I was really sad. As an American, I was disgusted.

It was unpatriotic. It was un-American. We were watching the Capitol Building get defaced over a lie. It was something that was really hard in that moment to digest, knowing what I had been hearing down the hall and the conversations that were happening, seeing that tweet come up and knowing what was happening on the Hill. It is something that I—I still struggle to work through the emotions of that.

Vice Chair CHENEY. Ms. Hutchinson, we have also spoken to multiple other White House staff about their reaction to Donald Trump's 2:24 tweet, condemning Mike Pence for not having the courage to refuse to count electoral votes, an act that would have been illegal.

Matthew Pottinger, a former Marine intelligence officer who served in the White House for 4 years, including as Deputy National Security Advisor, was in the vicinity of the Oval Office at various points throughout the day. When he saw that tweet, he immediately decided to resign his position.

Let's watch him describe his reaction to the President's tweet.

Mr. POTTINGER. One of my staff brought me a printout of a tweet by the President, and the tweet said something to the effect that "Mike Pence," the Vice President, "didn't have the courage to do what" he—"what should have been done." I—I read that tweet and made a decision at that moment to resign. That's where I knew that I was leaving that day once I read that tweet.

Vice Chair CHENEY. Ultimately, members of the White House staff, Sarah Matthews, Cabinet members Secretary Chao and Secretary DeVos resigned as well. Here is Secretary DeVos's resignation letter.

As can you see, in resigning on January 6th, Secretary DeVos said to the President, "There's no mistaking the impact your rhetoric had on the situation, and it is the inflection point for me."

Let's also look at Secretary Chao's resignation statement.

When Secretary Chao resigned, she spoke of the January 6th attack. She said, "As I am sure is the case with many of you, this has deeply troubled me in a way I simply cannot set aside."

Ms. Hutchinson, in our prior interviews, we have asked you about what the President's advisors were urging him to do during the attack. You have described roughly three different camps of thoughts inside the White House that day.

Can you tell us about those?

Ms. HUTCHINSON. There was a group of individuals that were strongly urging him to take immediate and swift action. I would classify the White House Counsel's Office, Mr. Herschmann, Ms. Ivanka Trump, in that category of really working to get him to take action and pleading with him to take action.

There was a more neutral group where advisors were trying to toe the line, knowing that Mr. Trump didn't necessarily want to take immediate action and condemn the riots, but knowing something needed to be done.

Then there was the last group which was deflect and blame. Let's blame Antifa. These aren't our people.

It is my understanding that Mr. Meadows was in the deflect-and-blame category. But he did end up taking a more neutral route, knowing that there were several advisors in the President's circle, urging him to take more action, which I think was reflected in the rhetoric released later that day in the videos.

Vice Chair CHENEY. You told us that the White House Counsel's Office was in the camp encouraging the President to tell the rioters to stop the attack and to leave the Capitol.

Let's listen.

Ms. HUTCHINSON. White House counsel's office wanted there to be a strong statement out to condemn the rioters. I'm confident in that.

Vice Chair CHENEY. Now let's look at just one example of what some senior advisors to the President were urging.

Ms. Hutchinson, could you look at the exhibit that we are showing on the screen now?

Have you seen this note before?

Ms. HUTCHINSON. That is a note that I wrote at the direction of the chief of staff on January 6th, likely around 3 o'clock.

Vice Chair CHENEY. It's written on a chief of staff note card. But that is your handwriting, Ms. Hutchinson?

Ms. HUTCHINSON. That is my handwriting.

Vice Chair CHENEY. Why did you write this note?

Ms. HUTCHINSON. The chief of staff was in a meeting with Eric Herschmann, potentially Mr. Philbin. They had rushed out of the office fairly quickly. Mark had handed me the note card with one of his pens, and sort-of dictating a statement for the President to potentially put out.

Vice Chair CHENEY. And—no. I am sorry. Go ahead.

Ms. HUTCHINSON. No, that is okay.

There were two phrases on there, one “illegal” and one “without proper authority”. The “illegal” phrase was the one that Mr. Meadows had dictated to me. Mr. Herschmann had chimed in and said also put “without legal authority”. There should have been a slash between the two phrases. It was an “or,” if the President had opted to put one of those statements out. Evidently, he didn't. Later that afternoon, Mark came back from the Oval dining room and put the palm card on my desk with “illegally” crossed out but said we didn't need to take further action on that statement.

Vice Chair CHENEY. So to your knowledge this statement was never issued.

Ms. HUTCHINSON. It was—to my knowledge it was never issued.

Vice Chair CHENEY. Ms. Hutchinson, did you understand that Ivanka Trump wanted her father to send people home?

Ms. HUTCHINSON. That is my understanding, yes.

Vice Chair CHENEY. Let's play a clip of you addressing that issue.

Ms. HUTCHINSON. I remember her saying at various points, you know, she wants him—she wanted her dad to send them home. She wanted her dad to tell them to go home peacefully, and she wanted to include language that he necessarily wasn't on board with at the time.

Vice Chair CHENEY. You will hear more about this at our later hearings. But we have evidence of many others, imploring Donald Trump and Mark Meadows to take action. Here is some of that evidence, text messages sent to Mark Meadows during the attack.

This is a text message at 2:32 from Laura Ingraham.

“Hey, Mark, the President needs to tell people in the Capitol to go home.”

The next message: “This is hurting all of us.”

Then: “He is destroying his legacy and playing into every stereotype. We lose all credibility against the BLM-Antifa crowd if things go south.”

The President's son, Don Jr., also urgently contacted Mark Meadows.

At 2:53, he wrote: “He's got to condemn this shit ASAP. The Capitol Police tweet is not enough.”

As you will see, these are just two of the numerous examples of Trump supporters and allies urging the President to tell his supporters to leave the Capitol. It would not have been hard for the President to simply walk down to the briefing room a few feet down the hall from the Oval Office, as Nora O'Donnell noted during an

interview with House Republican Leader Kevin McCarthy, where Leader McCarthy said he believed the attack was un-American.

Ms. O'DONNELL. I want to quickly bring in Kevin McCarthy, the House Minority Leader. Leader McCarthy, do you condemn this violence?

Mr. MCCARTHY. I completely condemn the violence in the Capitol. What we're currently watching unfold is un-American. I am—I'm disappointed. I'm sad. This is not what our country should look like. This is not who we are. This is not the First Amendment. This has to stop, and this has to stop now.

Ms. O'DONNELL. Leader McCarthy, the President of the United States has a briefing room steps from the Oval Office. It is—the cameras are hot 24/7, as you know. Why hasn't he walked down and said that now?

Mr. MCCARTHY. I—I conveyed to the President what I think is best to do, and I'm hopeful the President will do it.

Vice Chair CHENEY. Republican House Member Mike Gallagher also implored the President to call off the attack.

Mr. GALLAGHER. Mr. President, you have got to stop this. You are the only person who can call this off. Call it off. The election is over. Call it off. This is bigger than you. It's bigger than any Member of Congress. It is about the United States of America, which is more important than any politician. Call it off. It's over.

Vice Chair CHENEY. Despite the fact that many people close to Donald Trump were urging him to send people home, he did not do so until later, much later. At 4:17 p.m., Donald Trump finally told the rioters to go home, and that he loved them. Here is a portion of the video President Trump recorded from the White House.

President TRUMP. We have to have peace, so go home. We love you. You're very special. You've seen what happens. You see the way others are treated that are so bad and so evil. I know how you feel, but go home and go home in peace.

Vice Chair CHENEY. But as we will show in even greater detail in future hearings, Donald Trump was reluctant to put this message out. He still could not bring himself to condemn the attack. Ms. Hutchinson has told us that, too.

Vice Chair CHENEY. The one that he put out at 4:17?

Ms. HUTCHINSON. I'm sure you've discussed it and just to elaborate if I hadn't already at that point. I recall him being reluctant to film the video on the 6th. I was not involved in any of the logistics or the planning for that video. I just remember seeing the video go out and feeling a little shocked after it went out.

Vice Chair CHENEY. On the evening of January 6th and the day after, the President's family and his senior staff and others tried to encourage the President to condemn the violence and commit to the peaceful transition of power. At 3:31 p.m. on January 6th, Sean Hannity of Fox News texted Mark Meadows.

Mr. Hannity said, "Can he make a statement? I saw the tweet. Ask people to leave the Capitol."

Later that evening Mr. Hannity sent another text message to Mark Meadows. This time he shared a link to a tweet.

That tweet reported that President Trump's Cabinet Secretaries were considering invoking the 25th Amendment to remove President Trump from office.

As you can see on the screen, the 25th Amendment to the Constitution creates a process for the transition of power if a President is unfit or unable to serve. The 25th Amendment has never been used to remove a President. But the Committee has learned that after the attack on the U.S. Capitol, this was being discussed by members of President Trump's Cabinet as a way of stripping the full power of the Presidency from Donald Trump.

President Trump's supporters were worried. In addition to the tweet that he sent Mark Meadows after the attack, Sean Hannity apparently spoke with President Trump and warned him about what could happen.

We understand that this text message that Sean Hannity sent to Kayleigh McEnany on January 7th shows what Mr. Hannity said to the President. First, no more stolen election talk. Second, impeachment and 25th Amendment are real. Many people will quit.

Ms. Hutchinson, you told us that you were hearing about discussions related to the 25th Amendment. Here is part of what you said.

Ms. HUTCHINSON. Mr. Pompeo reached out to have the conversation with Mr. Meadows in case he hadn't heard the discussions amongst Cabinet Secretaries. And from what I understand, it was more of a, "This is what I'm hearing. I want you to be aware of it, but I also think it's worth putting on your radar because you are the chief of staff. You're technically the boss of all the Cabinet Secretaries. And, you know, if the conversations progressed, you should be ready to take action on this. I'm concerned for you and your positioning with this. Reach out to me if you have any questions or, like, if I can be helpful with you at all."

Vice Chair CHENEY. Inside the White House, the President's advisors, including members of his family, wanted him to deliver a speech to the country. Deputy White House Counsel Pat Philbin prepared the first draft of what would be the President's remarks on National healing delivered by a pre-taped video on January 7th.

When he arrived at the White House on the 7th, Mr. Philbin believed that more needed to be said. So, he sat down and started writing. He shared the draft with Pat Cipollone who also believed the President needed to say more. Mr. Cipollone agreed with the content, as did Eric Herschmann, who reviewed the draft. The Committee has learned that the President did not agree with the substance as drafted and resisted giving a speech at all.

Ms. Hutchinson, do you recall discussions about the President's speech on January 7th?

Ms. HUTCHINSON. I do.

Vice Chair CHENEY. Let's listen, Ms. Hutchinson, to what you told us about that and about the process of crafting those remarks.

Ms. HUTCHINSON. I learned from a conversation with Mark and overhearing between him and White House Counsel and Eric Herschmann as well that Trump didn't necessarily think he needed to do anything more on the 7th than what he had already done on the 6th. When he was convinced to put out a video on the 7th, he—I understand that he had a lot of opinions about what the context of that announcement were to entail.

I had original drafts of the speech where, you know, there were—several lines didn't make it in there about prosecuting the rioters or calling them violent. He didn't want that in there. He wanted to put in there that he wanted to potentially pardon them. And this is just with the increased emphasis of his mindset at the time which was he didn't think that they did anything wrong.

He—the people who did something wrong that day or the person who did something wrong that day was Mike Pence by not standing with him.

Vice Chair CHENEY. But the President's advisors urged him to give his speech.

Mr. GEORGE. Who convinced him to do the video on the 7th?

Ms. HUTCHINSON. I'm not sure who convinced him or if it was a group of people that convinced him.

Mr. GEORGE. Who was in the group that you're aware of?

Ms. HUTCHINSON. That I'm aware of: Mark, Ivanka, Jared Kushner, Eric Herschmann, Pat Cipollone, Pat Philbin. Those are the people that I'm aware of.

Mr. GEORGE. Do you know why that group of people thought it was necessary for him to release a statement?

Ms. HUTCHINSON. I believe Kayleigh McEnany as well. From what I understood at the time and from what the reports were coming in, there was a large concern of the 25th Amendment potentially being invoked, and there were concerns about what would happen in the Senate if it was—if the 25th was invoked. So the primary reason that I had heard other than, you know, we did not do enough on the 6th, we need to get a stronger message out there and condemn this is—otherwise this will be your legacy.

The secondary reason to that was, you know, think about what might happen in the final 15 days of your Presidency if we don't do this. There's already talks about invoking the 25th Amendment. You need this as cover.

Vice Chair CHENEY. The President ultimately delivered the remarks. Unlike many of his other speeches, he did not ad lib much. He recited them without significant alteration, except one. Even then, on January 7, 2021, the day after the attack on the U.S. Capitol, the President still could not bring himself to say, "But this election is now over."

One other point about the speech, Ms. Hutchinson, did you hear that Mr. Trump at one point wanted to add language about pardoning those who took part in the January 6th riot?

Ms. HUTCHINSON. I did hear that, and I understand that Mr. Meadows was encouraging that language as well.

Vice Chair CHENEY. Thank you.

Here is what you told us previously about that.

Mr. GEORGE. You said he was instructed not to include it. Who was instructing him not to include language about the pardon in that January 7th speech?

Ms. HUTCHINSON. I understood from White House counsel's office coming to our office that morning that they didn't think that it was a good idea to include that in the speech.

Mr. GEORGE. That being Pat Cipollone?

Ms. HUTCHINSON. That's correct. And Eric Herschmann.

Vice Chair CHENEY. Ms. Hutchinson, did Rudy Giuliani ever suggest that he was interested in receiving a Presidential pardon related to January 6th?

Ms. HUTCHINSON. He did.

Vice Chair CHENEY. Ms. Hutchinson, did White House Chief of Staff Mark Meadows ever indicate that he was interested in receiving a Presidential pardon related to January 6th?

Ms. HUTCHINSON. Mr. Meadows did seek that pardon, yes, ma'am.

Vice Chair CHENEY. Thank you, Ms. Hutchinson.

Mr. Chairman, I yield back.

Chairman THOMPSON. I want to thank our witness for joining us today.

The Members of the Select Committee may have additional questions for today's witness, and we ask that you respond expeditiously in writing to those questions.

Without objection, Members will be permitted 10 business days to submit statements for the record including opening remarks and additional questions for the witness.

Without objection, the Chair recognizes the Vice Chair for a closing statement.

Vice Chair CHENEY. Thank you very much, Mr. Chairman.

I want to begin by thanking Ms. Hutchinson for her testimony today. We are all in her debt. Our Nation is preserved by those who abide by their oaths to our Constitution. Our Nation is pre-

served by those who know the fundamental difference between right and wrong. I want all Americans to know that what Ms. Hutchinson has done today is not easy. The easy course is to hide from the spotlight, to refuse to come forward, to attempt to downplay or deny what happened.

That brings me to a different topic. While our Committee has seen many witnesses, including many Republicans, testify fully and forthrightly, this has not been true of every witness. We have received evidence of one particular practice that raises significant concern. Our Committee commonly asks witnesses connected to Mr. Trump's administration or campaign whether they have been contacted by any of their former colleagues or anyone else who attempted to influence or impact their testimony.

Without identifying any of the individuals involved, let me show you a couple of samples of answers we received to this question.

First, here is how one witness described phone calls from people interested in that witness's testimony: "What they said to me is, As long as I continue to be a team player, they know that I am on the right team. I am doing the right thing. I am protecting who I need to protect. You know, I will continue to stay in good graces in Trump World. And they have reminded me a couple of times that Trump does read transcripts and just keep that in mind as I proceed through my interviews with the committee."

Here is another sample in a different context. This is a call received by one of our witnesses: "A person let me know you have your deposition tomorrow. He wants me to let you know he is thinking about you. He knows you are loyal, and you are going to do the right thing when you go in for your deposition."

I think most Americans know that attempting to influence witnesses to testify untruthfully presents very serious concerns. We will be discussing these issues as a Committee carefully considering our next steps.

Mr. Chairman, thank you.

I yield back.

Chairman THOMPSON. The gentlewoman yields back.

Ms. Hutchinson, thank you. Thank you for doing your patriotic duty and helping the American people get a complete understanding of January 6th and its causes. Thank you for your courage in testifying here today. You have the gratitude of this Committee and your country. I know it wasn't easy to sit here today and answer these questions.

But after hearing your testimony in all its candor and detail, I want to speak directly to the handful of witnesses who have been outliers in our investigation, the small number who have defied us outright, those whose memories have failed them again and again on the most important details, and to those who fear Donald Trump and his enablers.

Because of this courageous woman and others like her, your attempt to hide the truth from the American people will fail. To that group of witnesses, if you have heard this testimony today and suddenly you remember things you couldn't previously recall, or there are some details you would like to clarify, or you discovered some courage you had hidden away somewhere, our doors remain open.

The Select Committee will reconvene in the weeks ahead as we continue to lay out our findings to the American people.

The Chair requests those in the hearing room remain seated until the Capitol Police have escorted the witness and Members from the room.

Without objection, the Committee stands adjourned.

[Whereupon, at 2:55 p.m., the Committee was adjourned.]



## HEARING ON THE JANUARY 6TH INVESTIGATION

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**Tuesday, July 12, 2022**

U.S. HOUSE OF REPRESENTATIVES,  
SELECT COMMITTEE TO INVESTIGATE THE JANUARY 6TH  
ATTACK ON THE UNITED STATES CAPITOL,  
*Washington, DC.*

The Committee met, pursuant to notice, at 1:01 p.m., in room 390, Cannon House Office Building, Hon. Bennie G. Thompson [Chairman of the Committee] presiding.

Present: Representatives Thompson, Cheney, Lofgren, Schiff, Aguilar, Murphy, Raskin, Luria, and Kinzinger.

Chairman THOMPSON. The Select Committee to Investigate the January 6th Attack on the United States Capitol will be in order.

Without objection, the Chair is authorized to declare the Committee in recess at any point.

Pursuant to House Deposition Authority Regulation 10, the Chair announces the Committee's approval to release the deposition material presented during today's hearing.

Good afternoon.

When I think about the most basic way to explain the importance of elections in the United States, there is a phrase that always comes to mind. It may sound straightforward, but it is meaningful: We settle our differences at the ballot box.

Sometimes my choice prevails; sometimes yours does. But it is that simple. We cast our votes. We count the votes. If something seems off with the results, we can challenge them in court. Then we accept the results.

When you are on the losing side, that doesn't mean you have to be happy about it. In the United States, there is plenty you can do to say so. You can protest. You can organize. You can get ready for the next election to try to make sure your side has a better chance the next time the people settle their differences at the ballot box.

But you can't turn violent. You can't try to achieve your desired outcome through force or harassment or intimidation.

Any real leader who sees their supporters going down that path, approaching that line, has a responsibility to say, "Stop. We gave it our best. We came up short. We'll try again next time. Because we settle our differences at the ballot box."

On December 14, 2020, the Presidential election was officially over. The electoral college had cast its vote. Joe Biden was the President-elect of the United States.

By that point, many of Donald Trump's supporters were already convinced that the election had been stolen, because that is what

Donald Trump had been telling them. So what Donald Trump was required to do in that moment—what would have been required of any American leader—was to say, “We did our best, and we came up short.”

He went the opposite way. He seized on the anger he had already stoked among his most loyal supporters. As they approached the line, he didn’t wave them off; he urged them on.

Today, the Committee will explain how, as a part of his last-ditch effort to overturn the election and block the transfer of power, Donald Trump summoned a mob to Washington, DC, and ultimately spurred that mob to wage a violent attack on our democracy.

Our colleagues Mrs. Murphy of Florida and Mr. Raskin of Maryland will lay out this story.

First, I am pleased to recognize our distinguished Vice Chair, Ms. Cheney of Wyoming, for any opening comments she would care to offer.

Vice Chair CHENEY. Thank you very much, Mr. Chairman.

Our Committee did not conduct a hearing last week, but we did conduct an on-the-record interview of President Trump’s former White House Counsel, Pat Cipollone.

If you have watched these hearings, you have heard us call for Mr. Cipollone to come forward to testify. He did. Mr. Cipollone’s testimony met our expectations.

We will save for our next hearing President Trump’s behavior during the violence of January 6th. Today’s hearing will take us from December 14, 2020, when the electoral college met and certified the results of the 2020 Presidential election, up through the morning of January 6th.

You will see certain segments of Pat Cipollone’s testimony today. We will also see today how President Trump summoned a mob to Washington and how the President’s “stolen election” lies provoked that mob to attack the Capitol. We will hear from a man who was induced by President Trump’s lies to come to Washington and join the mob and how that decision has changed his life.

Today’s hearing is our seventh. We have covered significant ground over the past several weeks. We have also seen a change in how witnesses and lawyers in the Trump orbit approach this Committee.

Initially, their strategy in some cases appeared to be to deny and delay. Today, there appears to be a general recognition that the Committee has established key facts, including that virtually everyone close to President Trump—his Justice Department officials, his White House advisors, his White House Counsel, his campaign—all told him the 2020 election was not stolen.

This appears to have changed the strategy for defending Donald Trump. Now the argument seems to be that President Trump was manipulated by others outside the administration, that he was persuaded to ignore his closest advisors, and that he was incapable of telling right from wrong.

This new strategy is to try to blame only John Eastman or Sidney Powell or Congressman Scott Perry or others and not President Trump. In this version, the President was “poorly served” by these outside advisors. The strategy is to blame people his advisors called “the crazies” for what Donald Trump did.

This, of course, is nonsense.

President Trump is a 76-year-old man. He is not an impressionable child. Just like everyone else in our country, he is responsible for his own actions and his own choices.

As our investigation has shown, Donald Trump had access to more detailed and specific information showing that the election was not actually stolen than almost any other American, and he was told this over and over again.

No rational or sane man in his position could disregard that information and reach the opposite conclusion. Donald Trump cannot escape responsibility by being willfully blind. Nor can any argument of any kind excuse President Trump's behavior during the violent attack on January 6th.

As you watch our hearing today, I would urge you to keep your eye on two specific points.

First, you will see evidence that Trump's legal team, led by Rudy Giuliani, knew that they lacked actual evidence of wide-spread fraud sufficient to prove that the election was actually stolen. They knew it. But they went ahead with January 6th anyway.

Second, consider how millions of American were persuaded to believe what Donald Trump's closest advisors in his administration did not. These Americans did not have access to the truth like Donald Trump did. They put their faith and their trust in Donald Trump. They wanted to believe in him. They wanted to fight for their country. He deceived them.

For millions of Americans, that may be painful to accept, but it is true.

Thank you, Mr. Chairman. I yield back.

Chairman THOMPSON. Without objection, the Chair recognizes the gentlewoman from Florida, Mrs. Murphy, and the gentleman from Maryland, Mr. Raskin, for opening statements.

Mrs. MURPHY. Thank you, Mr. Chairman.

We know beyond a shadow of a doubt that then-President Donald Trump lost in a free and fair election. Yet President Trump insisted that his loss was due to fraud in the election process rather than to the democratic will of the voters.

The President continued to make this claim despite being told again and again—by the courts, by the Justice Department, by his campaign officials, and by some of his closest advisors—that the evidence did not support this assertion.

This was the Big Lie, and millions of Americans were deceived by it. Too many of our fellow citizens still believe it to this day. It is corrosive to our country and damaging to our democracy.

As our Committee has shown in prior hearings, following the election, President Trump relentlessly pursued multiple, interlocking lines of effort, all with a single goal: To remain in power despite having lost.

The lines of effort were aimed at his loyal Vice President, Mike Pence; at State election and elected officials; and at the U.S. Department of Justice.

The President pressured the Vice President to obstruct the process to certify the election result. He demanded that State officials "find" him enough votes to overturn the election outcome in that State. And he pressed the Department of Justice to find wide-

spread evidence of fraud. When Justice officials told the President that such evidence did not exist, the President urged them to simply declare that the election was corrupt.

On December 14th, the electoral college met to officially confirm that Joe Biden would be the next President.

The evidence shows that, once this occurred, President Trump and those who were willing to aid and abet him turned their attention to the joint session of Congress scheduled for January 6th, at which the Vice President would preside.

In their warped view, this ceremonial event was the next, and perhaps the last, inflection point that could be used to reverse the outcome of the election before Mr. Biden's inauguration. As President Trump put it, the Vice President and enough Members of Congress simply needed to summon the "courage" to act.

To help them find that courage, the President called for backup. Early in the morning of December 19th, the President sent out a tweet urging his followers to travel to Washington, DC, for January 6th. "Be there, will be wild!" the President wrote. As my colleague Mr. Raskin will describe in detail, this tweet served as a call to action and, in some cases, as a call to arms for many of President Trump's most loyal supporters.

It is clear the President intended the assembled crowd on January 6th to serve his goal. As you have already seen and as you will see again today, some of those who were coming had specific plans. The President's goal was to stay in power for a second term despite losing the election. The assembled crowd was one of the tools to achieve that goal.

In today's hearing, we will focus on events that took place in the final weeks leading up to January 6th, starting in mid-December. We will add color and context to evidence you have already heard about, and we will also provide additional new evidence.

For example, you will hear about meetings in which the President entertained extreme measures designed to help him stay in power, like the seizure of voting machines.

We will show some of the coordination that occurred between the White House and Members of Congress as it relates to January 6th. Some of these Members of Congress would later seek pardons.

We will also examine some of the planning for the January 6th protest, placing special emphasis on one rally planner's concerns about the potential violence.

We will describe some of the President's key actions on the evening of January 5th and the morning of January 6th, including how the President edited and ad-libbed his speech that morning at the Ellipse, directed the crowd to march to the Capitol, and spoke off-script in a way that further inflamed an already angry crowd.

I yield to the gentleman from Maryland, Mr. Raskin.

Mr. RASKIN. Thank you, Mrs. Murphy.

Mr. Chairman, Madam Vice Chair, four days after the electors met across the country and made Joe Biden the President-elect, Donald Trump was still trying to find a way to hang on to the Presidency.

On Friday, December 18th, his team of outside advisors paid him a surprise visit in the White House that would quickly become the

stuff of legend. The meeting has been called “unhinged,” “not normal,” and the “craziest meeting of the Trump Presidency.”

The outside lawyers who had been involved in dozens of failed lawsuits had lots of theories supporting the Big Lie but no evidence to support it. As we will see, however, they brought to the White House a draft Executive Order that they had prepared for President Trump to further his ends.

Specifically, they proposed the immediate mass seizure of State election machines by the U.S. military. The meeting ended after midnight with apparent rejection of that idea.

In the wee hours of December 19th, dissatisfied with his options, Donald Trump decided to call for a large and “wild” crowd on Wednesday, January 6th, the day when Congress would meet to certify the electoral votes.

Never before in American history had a President called for a crowd to come contest the counting of electoral votes by Congress or engaged in any effort designed to influence, delay, or obstruct the joint session of Congress in doing its work required by our Constitution and the Electoral Count Act.

As we will see, Donald Trump’s 1:42 a.m. tweet electrified and galvanized his supporters, especially the dangerous extremists in the Oath Keepers, the Proud Boys, and other racist and White nationalist groups spoiling for a fight against the Government.

Three rings of interwoven attack were now operating toward January 6th. On the inside ring, Trump continued trying to work to overturn the election by getting Mike Pence to abandon his oath of office as Vice President and assert the unilateral power to reject electoral votes. This would have been a fundamental and unprecedented breach of the Constitution that would promise Trump multiple ways of staying in office.

Meanwhile, in the middle ring, members of domestic violent extremist groups created an alliance, both online and in person, to coordinate a massive effort to storm, invade, and occupy the Capitol. By placing a target on the joint session of Congress, Trump had mobilized these groups around a common goal, emboldening them, strengthening their working relationships, and helping build their numbers.

Finally, in the outer ring, on January 6th there assembled a large and angry crowd—the political force that Trump considered both the touchstone and the measure of his political power. Here were thousands of enraged Trump followers, thoroughly convinced by the Big Lie, who traveled from across the country to join Trump’s “wild” rally to “stop the steal.”

With the proper incitement by political leaders and the proper instigation from the extremists, many members of this crowd could be led to storm the Capitol, confront the Vice President and Congress, and try to overturn the 2020 election results.

All of these efforts would converge and explode on January the 6th.

Mr. Chairman, as you know better than any other Member of this Committee from the wrenching struggle for voting rights in your beloved Mississippi, the problem of politicians whipping up mob violence to destroy fair elections is the oldest domestic enemy of constitutional democracy in America.

Abraham Lincoln knew it too. In 1837, a racist mob in Alton, Illinois, broke into the offices of an abolitionist newspaper and killed its editor, Elijah Lovejoy.

Lincoln wrote a speech in which he said that no “trans-Atlantic military giant” could ever crush us as a Nation, even with all of the fortunes in the world. But if downfall ever comes to America, he said, we ourselves would be its “author and finisher.”

If racist mobs are encouraged by politicians to rampage and terrorize, Lincoln said, they will violate the rights of other citizens and quickly destroy the bonds of social trust necessary for democracy to work. Mobs and demagogues will put us on a path to political tyranny, Lincoln said.

As we will see today, this very old problem has returned with new ferocity today, as a President who lost an election deployed a mob, which included dangerous extremists, to attack the constitutional system of election and the peaceful transfer of power.

As we will see, the creation of the internet and social media has given today’s tyrants tools of propaganda and disinformation that yesterday’s despots could only have dreamed of.

I yield back to the gentlewoman of Florida, Mrs. Murphy.

Mrs. MURPHY. Article II of the United States Constitution establishes the electoral college. Each State’s laws provide that electors are to be chosen by a popular vote. On December 14, 2020, electors met in all 50 States and the District of Columbia to cast their votes.

Joseph Biden won by a margin of 306 to 232. The election was over. Mr. Biden was the President-elect.

Before the electoral college met, Donald Trump and his allies filed dozens of legal challenges to the election, but they lost over and over again, including in front of multiple judges President Trump had nominated to the bench.

In many of these cases, the judges were highly critical of the arguments put forward, explaining that no genuine evidence of widespread fraud had been presented.

For example, a Federal judge in Pennsylvania said:

[T]his Court has been presented with strained legal arguments without merit and speculative accusations . . . unsupported by evidence. In the United States of America, this cannot justify the disenfranchisement of a single voter, let alone all the voters of its sixth most populated State.

On December 15th, after the electoral college certified the outcome, the Republican Majority leader in the Senate acknowledged Mr. Biden’s victory.

Senator McCONNELL. Yesterday, electors met in all 50 States. So as of this morning, our country has officially a President-elect and a Vice President-elect. Many millions of us had hoped the Presidential election would yield a different result. But our system of government has processes to determine who will be sworn in on January the 20th. The electoral college has spoken. So today, I want to congratulate President-elect Joe Biden.

Mrs. MURPHY. Even members of President Trump’s Cabinet and his White House staff understood the significance of his losses in the courts and the absence of evidence of fraud. They also respected the constitutional certification by the electoral college.

Many of them told President Trump that it was time to concede the election to Mr. Biden. For example, then-Secretary of Labor

Gene Scalia, an accomplished lawyer and the son of late Justice Scalia, called President Trump in mid-December and advised him to concede and accept the rulings of the courts.

Secretary SCALIA. So, I had to put a call into the President. I might have called on the 13th. We spoke, I believe, on the 14th, in which I conveyed to him that I thought that it was time for him to acknowledge that President Biden had prevailed in the election.

But I communicated to the President that when that legal process is exhausted and when the electors have voted, that that's the point at which that outcome needs to be expected.

I told him that I did believe yes, that once those legal processes were run, if fraud had not been established that had affected the outcome of the election, then unfortunately, I believed that what had to be done was concede the outcome.

Mrs. MURPHY. As you have seen in prior hearings, President Trump's Justice Department, his White House staff, and his campaign officials were repeatedly telling him that there was no evidence of fraud sufficient to change the outcome of the election.

Last week, we conducted an 8-hour interview with President Trump's White House Counsel, Pat Cipollone. You will see a number of excerpts of that interview today and even more in our next hearing.

Mr. Cipollone told us that he agreed with the testimony that there was no evidence of fraud sufficient to overturn the election.

Mr. HEAPHY. I want to start by asking if you agree, Mr. Cipollone, with the conclusions of Matt Morgan and Bill Barr, of all of the individuals who evaluated those claims, that there is no evidence of election fraud sufficient to undermine the outcome in any particular State?

Mr. CIPOLLONE. Yes, I agree with that.

Mrs. MURPHY. Mr. Cipollone also specifically testified that he believed that Donald Trump should have conceded the election.

Mr. HEAPHY. Did you believe, Mr. Cipollone, that the President should concede once you made the determination based on the investigations that you credited—DOJ did. Did you in your mind form the belief that the President should concede the election loss at a certain point after the election?

Mr. CIPOLLONE. Well, again, I was the White House Counsel. Some of those decisions are political. So, to the extent that—but—but if your question is, Did I believe he should concede the election at a point in time? Yes, I did.

I believe Leader McConnell went on to the floor of the Senate, I believe in late December, and basically said, you know, the process is done. You know, that would be in line with my thinking on these things.

Mrs. MURPHY. As Attorney General Bill Barr testified, December 14th should have been the end of the matter.

Attorney General BARR. December 14th was the day that the States certified their votes and sent them to Congress. And in my view, that was the end of the matter. I didn't see—you know, I thought that this would lead inexorably to a new administration.

Mrs. MURPHY. Mr. Cipollone also testified that the President's chief of staff, Mark Meadows, said he shared this view.

Mr. HEAPHY. As early as that November 23rd meeting, we understand that there was discussion about the President possibly conceding the election. And specifically, we understand that Mark Meadows assured both you and Attorney General Barr that the President would eventually agree to a graceful exit. Do you remember Mr. Meadows making any such representation?

Mr. CIPOLLONE. Are you saying as part of that meeting or separately? Again, without—without getting into that meeting, I would say that that is a—that is a statement and a sentiment that I heard from Mark Meadows.

Mr. HEAPHY. I see. And again, do you know if it was on November 23rd or some point?

Mr. CIPOLLONE. Again, I—it was probably, you know, around that time and it was probably subsequent to that time. It wasn't a one-time statement.

Mrs. MURPHY. Mr. Meadows has refused to testify, and the Committee is in litigation with him. But many other White House officials shared the view that, once the litigation ended and the electoral college met, the election was over.

Here is President Trump's former press secretary.

Vice Chair CHENEY. I wanted to clarify, Ms. McEnany, so back to my previous question. It was your view then—or was it your view that the efforts to overturn the election should have stopped once the litigation was complete?

Ms. MCENANY. In my view, upon the conclusion of litigation was when I began to plan for life after the administration.

Mrs. MURPHY. This is what Ivanka Trump told us.

Mr. HEAPHY. December 14th was the day on which the electoral college met, when these electors around the country met and cast the electoral votes consistent with the—the popular vote in each State. And—and it was obviously a public proceeding or a series of proceedings that President Biden had obtained the requisite number of electors. Was that an important day for you? Did that affect sort-of your planning or your realization as to whether or not there was going to be an end of this administration?

Ms. TRUMP. I think so. I think it was my—my sentiment probably prior as well.

Mrs. MURPHY. Judd Deere was a White House deputy press secretary. This was his testimony about what he told President Trump.

Mr. DEERE. I told him that my personal viewpoint was that the electoral college had met, which is the system that our country is—is set under to elect a President and Vice President. And I believed at that point that the means for him to pursue litigation was probably closed.

Mr. WOOD. And do you recall what his response, if any, was?

Mr. DEERE. He disagreed.

Mrs. MURPHY. We have also seen this testimony from Attorney General Barr reflecting a view of the White House staff in late November 2020.

Attorney General BARR. And then at that point I left. And as I walked out of the Oval Office, Jared was there with Dan Scavino, who ran his—ran the President's social media and who I thought was a reasonable guy and believe is a reasonable guy. And I said, how long is—how long is he going to carry on with this stolen election stuff? Where is this going to go?

And by that time, Meadows had caught up with me and—leaving the office, and caught up to me and—and said that—he said, “Look, I—I think that he's becoming more realistic and knows that there's a limit to how far he can take this.” And then Jared said, “You know, yeah, we're working on this. We're working on it.”

Mrs. MURPHY. Likewise, in this testimony, Cassidy Hutchinson, an aide to Mark Meadows, described her conversations with President Trump's Director of National Intelligence, John Ratcliffe, a former Republican Congressman.

Ms. HUTCHINSON. He had expressed that he was concerned that it could spiral out of control and potentially be dangerous, either for our democracy or the way that things were going for the 6th.

Mrs. MURPHY. Of course, underlying all of this is the fundamental principle that the President of the United States cannot simply disregard the rulings of State and Federal courts, which are empowered to address specific election-related claims. The President cannot simply pretend that the courts had not ruled.

Vice Chair CHENEY. By that time, the President or his associates had brought—had lost 60 out of 61 cases that they had brought to challenge different aspects of



the election in a number of States. They lost 60 out of 61 of those cases. So, by the time we get to January 3rd, that's—that's been clear. I assume, Pat, that you would agree the President is—is obligated to abide by the rulings of the courts.

Mr. CIPOLLONE. Of course.

Vice Chair CHENEY. And I assume you also—

Mr. CIPOLLONE. Everybody is obligated to abide by rulings of courts.

Vice Chair CHENEY. And I assume you also would agree the President has a particular obligation to take care that the laws be faithfully executed.

Mr. CIPOLLONE. That is one of the President's obligations, correct.

Mrs. MURPHY. Yet President Trump disregarded these court rulings and the counsel from his closest advisors and continued his efforts to cling to power.

In our prior hearings, you have heard considerable testimony about President Trump's attempts to corruptly pressure Vice President Pence to refuse to count electoral votes, to corrupt the Department of Justice, to pressure State officials and State legislatures, and to create and submit a series of fake electoral slates.

Now we will show you what other actions President Trump was taking between December 14, 2020, and January 6th.

I yield to the gentleman from Maryland, Mr. Raskin.

Mr. RASKIN. Thank you, Mrs. Murphy.

Throughout our hearings, you have heard how President Trump made baseless claims that voting machines were being manipulated by foreign powers in the 2020 election.

You have also heard Trump's Attorney General, Bill Barr, describe such claims as "complete nonsense," which he told the President. Let's review that testimony.

Attorney General BARR. I saw absolutely zero basis for the allegations. But they were made in such a sensational way that they obviously were influencing a lot of people—members of the public—that there was this systemic corruption in the system and that their votes didn't count and that these machines controlled by somebody else were actually determining it, which was complete nonsense.

And it was being laid out there. And I told them that it was—it was crazy stuff, and they were wasting their time on that. And it was doing a great, grave disservice to the country.

Mr. RASKIN. We have learned that President Trump's White House Counsel agreed with the Department of Justice about this.

Mr. HEAPHY. Attorney General Barr made a public announcement on December 1st, less than a month after the election, that he had seen no systemic fraud sufficient to undermine the outcome of the election. Is it fair to say that by December 1st, you had reached the same conclusion?

Mr. CIPOLLONE. It's fair to say that I agreed with Attorney General's—Attorney General Barr's conclusion on December 1st. Yes, I did. And I supported that conclusion.

Mr. RASKIN. However, the strong rejection of the Attorney General and the White House Counsel of these claims did not stop the President from trying to press them in public.

But that is not all they did. Indeed, as you will see in this clip, the President asked Attorney General Bill Barr to have the Department of Justice seize voting machines in the States.

Attorney General BARR. My recollection is the President said something like, "Well, we could get to the bottom—you know, some people say we could get to the bottom of this if—if the Department seizes the machines." It was a typical way of raising a point. And I said, absolutely not. There's no probable cause, and I'm not going to seize any machines. And that was that.

Mr. HEAPHY. Yeah.

Mr. RASKIN. But this wasn't the end of the matter. On the evening of December 18, 2020, Sidney Powell, General Michael Flynn, and others entered the White House for an unplanned meeting with the President—the meeting that would last multiple hours and become hot-blooded and contentious.

The Executive Order behind me on the screen was drafted on December the 16th, just 2 days after the electoral college vote, by several of the President's outside advisors over a luncheon at the Trump International Hotel.

As you can see here, this proposed order directs the Secretary of Defense to seize voting machines "effective immediately."

But it goes even further than that.

Under the order, President Trump would appoint a Special Counsel with the power to seize machines and then charge people with crimes, with "all resources necessary to carry out her duties."

The specific plan was to name Sidney Powell as Special Counsel, the Trump lawyer who had spent the post-election period making outlandish claims about Venezuelan and Chinese interference in the election, among others.

Here is what White House Counsel Pat Cipollone had to say about Sidney Powell's qualifications to take on such expansive authority.

Mr. CIPOLLONE. I don't think Sidney—Sidney Powell would say that I thought it was a good idea to appoint her Special Counsel. I was vehemently opposed—I didn't think she should have been appointed to anything.

Mr. RASKIN. Sidney Powell told the President that these steps were justified because of her evidence of foreign interference in the 2020 election. However, as we have seen, Trump's allies had no such evidence and, of course, no legal authority for the Federal Government to seize State voting machines.

Here is Mr. Cipollone again denouncing Sidney Powell's "terrible idea."

Mr. CIPOLLONE. There was a real question in my mind and a real concern, you know, particularly after the Attorney General had reached a conclusion that there wasn't sufficient election fraud to change the outcome of the election when other people kept suggesting that there was. The answer is, what is it? And at some point, you have to put up or shut up. That was my view.

Mr. HEAPHY. Why was this, on a broader scale, a bad idea for the country?

Mr. CIPOLLONE. To have the Federal Government seize voting machines? That's a terrible idea for the country. That's not how we do things in the United States. There's no legal authority to do that. And there is a way to contest elections. You know, that—that happens all the time. But the idea that the Federal Government could come in and seize election machines, no. That—that's—I don't—I don't understand why we even have to tell you why that's a bad idea for the country. It's a terrible idea.

Mr. RASKIN. For all of its absurdity, the December 18th meeting was critically important, because President Trump got to watch up close for several hours as his White House Counsel and other White House lawyers destroyed the baseless factual claims and ridiculous legal arguments being offered by Sidney Powell, Mike Flynn, and others.

President Trump now knew all these claims were nonsense, not just from his able White House lawyers but also from his own Department of Justice officials and, indeed, his own campaign officials.

As White House Counsel Cipollone told us:

Mr. CIPOLLONE. With respect to the whole election fraud issue, it to me is sort of if you're going to make those kind of claims—and people were open to them early on because people were making all sorts of claims. And the real question is: show the evidence. Okay?

Mr. RASKIN. It wasn't just the Justice Department, the Trump Campaign, and the Trump White House lawyers who knew it. Even Rudy Giuliani's own legal team admitted that they did not have any real evidence of fraud sufficient to change the election result.

Here is an email from Rudy Giuliani's lead investigator, Bernie Kerik, on December 28, 2020, to Chief of Staff Mark Meadows. Mr. Kerik did not mince any words. "We can do all the investigations we want later, but if the President plans on winning, it's the legislators that have to be moved, and this will do just that."

Mr. Kerik wanted the President to win. What he didn't say in this email was what he would later tell the Select Committee in a letter that his lawyer wrote to us in November.

The letter said, "It was impossible for Mr. Kerik and his team to determine conclusively whether there was wide-spread fraud or whether that wide-spread fraud would have altered the outcome of the election."

In other words, even Rudy Giuliani's own legal team knew before January 6th that they hadn't collected enough actual evidence to support any of their "stolen election" claims.

Here is what Trump Campaign Senior Advisor Jason Miller told the Committee about some of the so-called evidence of fraud that the campaign had seen from the Giuliani team.

Mr. GEORGE. So do you know what the examples of fraud—numbers, names, and supporting evidence—was that you sent to Mo Brooks's office. And when I say you, I mean you or the campaign.

Mr. JASON MILLER. There are some very, very general documents as far as—as far as, say, for example, here are the handful of dead people in several different States. Here are explanations on a couple of the legal challenges as far as the saying that the—rules were changed an unconstitutional manner. But it was—to say that it was spin is—is probably an understatement.

Mr. RASKIN. Here is how President Trump's deputy campaign manager described the evidence of fraud that the campaign had seen.

Ms. LUCIER. You never came to learn or understand that Mayor Giuliani had—had produced evidence of election fraud. Is that fair?

Mr. JUSTIN CLARK. That's fair.

Mr. RASKIN. Here is testimony that we received from the speaker of the Arizona House of Representatives, Rusty Bowers, about an exchange that he had with Rudy Giuliani after the election.

Mr. SCHIFF. At some point, did one of them make a comment that they didn't have evidence but they had a lot of theories?

Mr. BOWERS. That was Mr. Giuliani.

Mr. RASKIN. Chief of Staff Mark Meadows told people that he thought Trump should concede around the time the electoral college certified the result. But, nonetheless, he later worked to try to facilitate President Trump's wishes.

Here is what Cassidy Hutchinson told us.

Ms. HUTCHINSON. During this period, he—I perceived his goal with all of this to keep Trump in office. You know, he had very seriously and deeply considered the allegations of voter fraud. But when he began acknowledging that maybe there wasn't enough voter fraud to overturn the election, you know, I—I witnessed him

start to explore potential constitutional loopholes more extensively, which I then connected with John Eastman's theories.

Mr. RASKIN. The startling conclusion is this: Even an agreed-upon complete lack of evidence could not stop President Trump, Mark Meadows, and their allies from trying to overturn the results of a free and fair election.

So, let's return to that meeting at the White House on the evening of December 18th. That night, a group showed up at the White House, including Sidney Powell, retired Lieutenant General Michael Flynn, and former Overstock.com CEO Patrick Byrne.

After gaining access to the building from a junior White House staffer, the group made their way to the Oval Office. They were able to speak with the President by himself for some time until White House officials learned of the meeting.

What ensued was a heated and profane clash between this group and President Trump's White House advisors, who traded personal insults, accusations of disloyalty to the President, and even challenges to physically fight.

The meeting would last over 6 hours, beginning here in the Oval Office, moving around the West Wing, and many hours later ending up in the President's private residence.

The Select Committee has spoken with six of the participants, as well as staffers who could hear the screaming from outside the Oval Office. What took place next is best told in their own words, as you will see from this video.

Mr. HARRIS. Did you believe that it was going to work, that you were going to be able to get to see the President without an appointment?

Ms. POWELL. I had no idea.

Mr. HARRIS. In fact, you did get to see the President without an appointment.

Ms. POWELL. We did.

Mr. HARRIS. How much time did you have alone with the President? I say alone, you had other people with you—

Ms. POWELL. Right.

Mr. HARRIS [continuing]. But, I think from his aides before the crowd came running.

Ms. POWELL. Probably no more than 10 or 15 minutes.

Mr. HARRIS. Was in that—

Ms. POWELL [continuing]. I bet Pat Cipollone set a new land speed record.

Mr. CIPOLLONE. I got a call either from Molly or from Eric Herschmann that I needed to get to the Oval Office.

Ms. HUTCHINSON. So that was the first point that I had recognized, okay, there is nobody in there from the White House. Mark's gone. What's going on right now.

Mr. CIPOLLONE. I opened the door, and I walked in. I saw General Flynn; I saw Sidney Powell sitting there. [ . . . ]

I was not happy to see the people who were in the Oval Office.

Mr. HEAPHY. Explain why.

Mr. CIPOLLONE. Well, again, I—I don't think they were providing—well, first of all, the Overstock person I—I've never met—never. I never knew who this guy was. Actually, the first thing I did, I walked in, I looked at him, and I said, who are you? And he told me. I don't think—I don't think any of these people were providing the President with good advice. And so, I—I—I didn't understand how they had gotten in.

Mr. HARRIS. In the short period of time that you had with the President, did he seem receptive to the presentation that you were making?

Ms. POWELL. He was very interested in hearing particularly about the CISA findings and the terms of 13848 that apparently nobody else had bothered to inform him of.

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Mr. HERSCHMANN. And I was asking, like, are you're claiming the Democrats were working with Hugo Chavez, Venezuelans, and whomever else. And at one point, General Flynn took out a diagram that supposedly showed IP addresses all over the world. And—or ISP—who was—who was communicating with whom via the machines and some comment about like Nest thermostats being hooked up to the internet.

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Mr. GEORGE. So, it's been reported that during this meeting Ms. Powell talked about Dominion voting machines and made various election fraud claims that involve foreign countries such as Venezuela, Iran, and China. Is that accurate?

General FLYNN. The Fifth.

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Mr. GEORGE. Was the meeting tense?

Mr. LYONS. Oh yeah. I—it was not a casual meeting.

Mr. GEORGE. Explain.

Mr. LYONS. I mean, at times, there were people shouting at each other, hurling insults at each other. It wasn't just sort of people sitting around on the couch like chit-chatting.

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Ms. LUCIER. Do you recall whether he raised to Ms. Powell the fact that she and the campaign had lost all of the 60 cases that they had brought in litigation?

Mr. CIPOLLONE. Yes. He raised that.

Ms. LUCIER. And what was the response?

Mr. CIPOLLONE. I don't remember what she said. I don't think it was a good response.

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Ms. POWELL. Cipollone and Herschmann and whoever the other guy was showed nothing but contempt and disdain of the President.

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Mr. CIPOLLONE. I remember the three of them were really sort-of forcefully attacking me verbally. Eric, Derek, and we were pushing back, and we were asking one simple question as a—as a general matter: Where is the evidence? So——

Mr. HEAPHY. What response did you get when you asked Ms. Powell and her colleagues where's the evidence?

Mr. CIPOLLONE. A variety of responses based on my current recollection including, you know, I can't believe you would say something, like, you know, things like this. Like, "What do you mean where's the evidence? You should know." Yeah, I—things like that or, you know, a disregard, I would say, a general disregard for the importance of actually backing up what you say with facts.

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Mr. LYONS. And, you know, then there was discussion of, well, you know, we don't have it now, but we will have it or whatever.

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Ms. POWELL. I mean, if—if it had been me sitting in his chair, I would have fired all of 'em that night and had 'em escorted out of the building.

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Mr. HERSCHMANN. Which Derek and I both challenged what she was saying. And she says, "Well, the judges are corrupt." And I was like, every one? Every single case that you've done in the country you guys lost, every one of them is corrupt? Even the ones we appointed? And [inaudible] I'm being nice. I was much more harsh to her.

Ms. APECECHEA. So, one of the other things that's been reported that was said during this meeting was that President Trump told White House lawyers, Mr. Herschmann and Mr. Cipollone, that they weren't offering him any solutions, but Ms. Powell and others were. So, why not try what Ms. Powell and others were proposing? Do you remember anything along those lines being said by President Trump?

Mr. LYONS. I do. That sounds right.

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Mr. HERSCHMANN. I think that it got to the point where the screaming was completely, completely out there. [ . . . ]

I mean, you had people walk in, it was late at night, had been a long day. And what they were proposing, I thought, was nuts.

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Mr. GIULIANI. I'm gonna—I'm gonna categorically describe it as: You guys are not tough enough. Or maybe I put it another way: You're a bunch of pussies. Excuse the expression, but that—that's I—I'm almost certain the word was used.

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Mr. HERSCHMANN. Flynn screamed at me that I was a quitter and everything, kept on standing up and turning around and screaming at me. And at a certain point, I had it with him. So, I yelled back: Better come over, better sit your F'ing ass back down.

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Mr. GIULIANI. The President and the White House team went upstairs to the residence, but to the public part of the residence. You know, the big—the big parlor where you can have meetings in the conference room.

Mr. HARRIS. Yellow oval. They call that the yellow oval.

Mr. GIULIANI. Yes, exactly. The yellow oval office. I always called it the upper. And I'm not exactly sure where the Sidney group went. I think maybe the Roosevelt Room. And I stayed in the Cabinet Room, which is kind of cool. I really liked that, all my—all by myself.

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Mr. LYONS. At the end of the day, we landed where we started the meeting, at least from a structural standpoint, which was Sidney Powell was fighting. Mike Flynn was fighting. They were looking for avenues that would enable—that would result in President Trump remaining President Trump for a second term.

Mr. RASKIN. The meeting finally ended after midnight.

Here are text messages sent by Cassidy Hutchinson during and after the meeting.

As you can see, Ms. Hutchinson reported that the meeting in the West Wing was “unhinged.”

The meeting finally broke up after midnight, during the early morning of December 19th. Cassidy Hutchinson captured the moment of Mark Meadows escorting Rudy Giuliani off the White House grounds to “make sure he didn't wander back to the mansion.”

Certain accounts of this meeting indicate that President Trump actually granted Ms. Powell a security clearance and appointed her to a somewhat-ill-defined position of Special Counsel.

Ms. POWELL. He asked Pat Cipollone if he had the authority to name a Special Counsel, and he said yes. And then he asked him if he had the authority to give me whatever security clearance I needed, and Pat Cipollone said yes. And then the President said, “Okay, you know, I'm naming her that, and I'm giving her security clearance.” And then shortly before we left and it totally blew up, that's when Cipollone and/or Herschmann and whoever the other young man was said, “You can name her whatever you want to name her, and no one's going to pay any attention to it.”

Mr. HARRIS. How did he respond? How did the President respond to that?

Ms. POWELL. Something like, “You see what I deal with. I deal with this all the time.”

Mr. RASKIN. Over the ensuing days, no further steps were taken to appoint Sidney Powell. But there is some ambiguity about what the President actually said and did during the meeting.

Here is how Pat Cipollone described it.

Mr. CIPOLLONE. I don't know what her understanding of whether she had been appointed, what she had been appointed to, okay? In my view, she hadn't been appointed to anything and ultimately wasn't appointed to anything, because there had to be other steps taken. And that was my view when I left the meeting. But she may have a different view, and others may have a different view, and—and the President may have a different view.

Vice Chair CHENEY. Were any steps taken, including the President himself telling her she'd been appointed?

Mr. CIPOLLONE. Again, I'm not going to get into what the President said in the meeting. You know, my recollection is you're not appointed even—you're not appointed until—until steps are taken to get the paperwork done, get—and when I left the meeting, okay—I guess—I guess what I'm trying to say is I'm not going to get into what the President said or want—said he wanted.

Mr. RASKIN. Mr. Cipollone, when the matter continued to flare up over the next several days, was it your understanding that Sidney Powell was still seeking an appointment or that she was asserting that she had been appointed by the President at the December 18th meeting?

Mr. CIPOLLONE. You know, now that you mention it, probably both, you know, in—in terms of like I think she was—I think she may have been of the view that she had been appointed and was seeking to, you know, get—get that done, and—and—and that she should be appointed.

Mr. RASKIN. As you listen to these clips, remember that Ms. Powell, the person who President Trump tried to make Special Counsel, was ultimately sanctioned by a Federal court and sued by Dominion Voting Systems for defamation. In her own defense to that lawsuit, Sidney Powell argued that “no reasonable person would conclude that the statements were truly statements of fact.”

Not long after Sidney Powell, General Flynn, and Rudy Giuliani left the White House in the early hours of the morning, President Trump turned away from both his outside advisors' most outlandish and unworkable schemes and his White House Counsel's advice to swallow hard and accept the reality of his loss. Instead, Donald Trump issued a tweet that would galvanize his followers, unleash a political firestorm, and change the course of our history as a country.

Trump's purpose was to mobilize a crowd. How do you mobilize a crowd in 2020? With millions of followers on Twitter, President Trump knew exactly how to do it.

At 1:42 a.m. on December 19, 2020, shortly after the last participants left the unhinged meeting, Trump sent out the tweet with his explosive invitation.

Trump repeated his Big Lie and claimed it was “statistically impossible to have lost the 2020 election” before calling for a “Big protest in D.C. on January 6th. Be there, will be wild!”

Trump supporters responded immediately.

Women for America First, a pro-Trump organizing group, had previously applied for a rally permit for January 22nd and 23rd in Washington, DC, several days after Joe Biden was to be inaugurated. But in the hours after the tweet, they moved their permit to January 6th, 2 weeks before. This rescheduling created the rally where Trump would eventually speak.

The next day, Ali Alexander, leader of the Stop the Steal organization and a key mobilizer of Trump supporters, registered

WildProtest.com, named after Trump's tweet. WildProtest.com provided comprehensive information about numerous newly-organized protest events in Washington. It included event times, places, speakers, and details on transportation to Washington, DC.

Meanwhile, other key Trump supporters, including far-right media personalities, began promoting the wild protest on January 6th.

Mr. JONES. It's Saturday, December 19th. The year is 2020, and one of the most historic events in American history has just taken place. President Trump, in the early morning hours today, tweeted that he wants the American people to march on Washington, DC, on January 6, 2021.

Mr. POOL. And now Donald Trump is calling on his supporters to descend on Washington, DC, January 6th.

Mr. JONES. He is now calling on we the people to take action and to show our numbers.

Mr. BRACKEN. We're going to only be saved by millions of Americans moving to Washington, occupying the entire area, if—if necessary, storming right into the Capitol. You know, they're—we know the rules of engagement. If you have enough people, you can push down any kind of a fence or a wall.

Mr. POOL. This could be Trump's last stand. And it's a time when he has specifically called on his supporters to arrive in DC. That's something that may actually be the big push Trump supporters need to say: This is it. It's now or never.

SALTY CRACKER. Ya better understand something, son. Ya better understand something. Red wave, bitch. Red wed—there's gonna be a red wedding going down January 6th.

Mr. POOL. On that day, Trump says: Show up for a protest. It's gonna be wild. And based on what we've already seen from the previous events, I think Trump is absolutely correct.

SALTY CRACKER. Motherfucker, you better look outside. You better look out—January 6th. Kick that fucking door open, look down the street. There're gonna be a million plus geeked up, armed Americans.

Mr. JONES. The time for games is over. The time for action is now. Where were you when history called? Where were you when you and your children's destiny and future was on the line?

Mr. RASKIN. In that clip, you heard one of Trump's supporters predict a "red wedding," which is a pop culture reference to mass slaughter.

But the point is that Trump's call to Washington reverberated powerfully and pervasively online.

The Committee has interviewed a former Twitter employee who explained the effect that Trump had on the Twitter platform. This employee was on the team responsible for platform and content moderation policies on Twitter throughout 2020 and 2021.

The employee testified that Twitter considered adopting a stricter content moderation policy after President Trump told the Proud



Boys to “stand back and stand by” from the lectern at the September 29th Presidential debate, but Twitter chose not to act.

Here is the former employee, whose voice has been obscured to protect their identity, discussing Trump’s “stand back and stand by” comment and the effect it had.

FORMER TWITTER EMPLOYEE. My concern was that the former President, for seemingly the first time, was speaking directly to extremist organizations and giving them directives. We had not seen that sort-of direct communication before, and that concerned me.

Mr. GLICK. So, just to clarify further, you were worried, others at Twitter were worried, that the President might use your platform to speak directly to folks who might be incited to violence?

FORMER TWITTER EMPLOYEE. Yes. I believe that Twitter relished in the knowledge that they were also the favorite and most used service of the former President and enjoyed having that sort of power within the social media ecosystem.

Mr. GLICK. If President Trump were anyone else, would it have taken until January 8, 2021, for him to be suspended?

FORMER TWITTER EMPLOYEE. Absolutely not. If Donald—if former-President Donald Trump were any other user on Twitter, he would have been permanently suspended a very long time ago.

Mr. RASKIN. Despite these grave concerns, Trump remained on the platform completely unchecked. Then came the December 19th tweet and everything it inspired.

FORMER TWITTER EMPLOYEE. It was—it felt as if—if a mob was being organized, and they were gathering together their weaponry and their logic and their reasoning behind why they were prepared to fight.

Prior to December 19th, again, it was—it was vague. It was—it was nonspecific but very clear that individuals were ready, willing, and able to take up arms. After this tweet on December 19th, again, it became clear not only were these individuals ready and willing, but the leader of their cause was asking them to join him in this cause and in fighting for this cause in DC on January 6th as well.

I will also say what shocked me was the responses to these tweets, right? So, these were—a lot of the “locked and loaded,” “stand back, stand by,” those tweets were in response to Donald Trump saying things like this, right? So, there would be a response that said, “Big protest in DC on January 6th, be there, be wild,” and someone would respond and say, “I’m locked and loaded and ready for civil war part two,” right?

I very much believe that Donald Trump posting this tweet on December 19th was essentially staking a flag in DC on January 6th for his supporters to come and rally.

Mr. GLICK. And you were concerned about the potential for this gathering becoming violent?

FORMER TWITTER EMPLOYEE. Absolutely.

Mr. RASKIN. Indeed, many of Trump’s followers took to social media to declare that they were ready to answer Trump’s call.

One user asked: “Is the 6th D-Day? Is that why Trump wants everyone there?”

Another asserted: “Trump just told us all to come armed. Fucking A, this is happening.”

A third took it even further: “It ‘will be wild’ means we need volunteers for the firing squad.”

Jim Watkins, the owner of 8kun, the fringe online forum that was birthplace of the QAnon extremist movement, confirmed the importance of Trump’s tweet.

Mr. GLICK. Why did you first decide to go to DC for January 6th?

Mr. WATKINS. When—when the President of the United States announced that he was going to have a rally, then I bought a ticket and went.

Mr. RASKIN. Watkins was at the Capitol on January 6th. Some who have since been indicted for their involvement in the attack on the Capitol also responded. One of them posted on the 19th:

“Calling all patriots. Be in Washington, DC, January 6th. This wasn’t organized by any group. DJT has invited us, and it is going to be ‘wild.’”

Some of the online rhetoric turned openly homicidal and White nationalist.

Such as: “Why don’t we just kill them? Every last Democrat, down to the last man, woman, and child?”

And: “It’s time for the day of the rope. White revolution is the only solution.”

Others realized that police would be standing in the way of their effort to overturn the election.

So one wrote: “I am ready to die for my beliefs. Are you ready to die police?”

Another wrote on TheDonald.win: “Cops don’t have ‘standing’ if they are laying on the ground in a pool of their own blood.”

TheDonald.win was an openly racist and antisemitic forum.

The Select Committee deposed that site’s founder, Jody Williams. He confirmed how the President’s tweet created a laser-like focus on the date of January the 6th.

Mr. WILLIAMS. And people had been talking about going to DC since the election was over.

Mr. GLICK. And do you recall whether or not the conversation around those dates centered on the 6th after the President’s tweet?

Mr. WILLIAMS. Oh, sure. Yeah. I mean after it was announced that, you know, he was going to be there on the 6th to talk, yes. Then—then anything else was kind of shut out, and it was just gonna be on the 6th.

Mr. GLICK. Okay. And that was pretty clearly reflected in the—the content on—on the site?

Mr. WILLIAMS. Yeah. Yeah, sure.

Mr. RASKIN. On that site, many shared plans and violent threats. “Bring handcuffs and wait near the tunnels,” wrote one user.

A commenter replied suggesting “zip ties” instead. One post encouraged others to come with “body armor, knuckles, shields, bats, pepper spray, whatever it takes.” All of those were used on the 6th.

The post concluded: “Join your local Proud Boys chapter as well.”

TheDonald.win featured discussions of the tunnels beneath the Capitol Complex, suggestions for targeting Members of Congress, and encouragement to attend this once-in-a-lifetime event.

While Trump supporters grew more aggressive online, he continued to rile up his base on Twitter.

He said there was overwhelming evidence that the election was the “biggest scam in our nation’s history.”

As you can see, the President continued to boost the event, tweeting about it more than a dozen times in the lead-up to January the 6th.

Mr. Chairman, I reserve.

Chairman THOMPSON. The Chair requests that those in the hearing room remain seated until the Capitol Police have escorted Members from the room.

Pursuant to the order of the Committee of today, the Chair declares the Committee in recess for a period of approximately 10 minutes.

[Accordingly, at 2:08 p.m., the Committee recessed until 2:33 p.m., when it was called to order by the Chairman.]

Chairman THOMPSON. The Chair recognizes the gentleman from Maryland, Mr. Raskin.

Mr. RASKIN. Mr. Chairman, President Trump's tweet drew tens of thousands of Americans to Washington to form the angry crowd that would be transformed on January the 6th into a violent mob.

Dr. Donell Harvin, who was the chief of Homeland Security and Intelligence for D.C., told the Committee how his team saw Trump's December 19th tweet unite violent groups across the spectrum on the far right.

Dr. HARVIN. We got derogatory information through OSINT suggesting that some very, very violent individuals were organizing to come to D.C.; and not only were they organizing to come to D.C., but they were—these groups, these nonaligned groups were aligning.

And so all the red flags went up at that point, you know, when you have armed militia, you know, collaborating with White supremacy groups, collaborating with conspiracy theory groups online all toward a common goal, you start seeing what we call in, you know, terrorism, a blended ideology, and that's a very, very bad sign. [ . . . ]

[T]hen, when they were clearly across—not just across one platform but across multiple platforms of these groups coordinating, not just like chatting, “Hey, how's it going? What's the weather like where you're at?” But like, “What are you bringing? What are you wearing? You know, where do we meet up? Do you have plans for the Capitol?” That's operational—that's like preoperational intelligence, right, and that is something that's clearly alarming.

Mr. RASKIN. The Proud Boys and the Oath Keepers are two key groups that responded immediately to President Trump's call. The Proud Boys are a far-right street-fighting group that glorifies violence and White supremacy.

The Oath Keepers are extremists who promote a wide range of conspiracy theories and sought to act as a private paramilitary force for Donald Trump. The Department of Justice has charged leaders of both groups with seditious conspiracy to overthrow the Government of the United States on January the 6th.

Trump's December 19th tweet motivated these two extremists groups, which have historically not worked together, to coordinate their activities.

December 19th, at 10:22 a.m., just hours after President Trump's tweet, Kelly Meggs, the head of the Florida Oath Keepers, declared an alliance among the Oath Keepers, the Proud Boys, and the Florida Three Percenters, another militia group. He wrote: “We have decided to work together and shut this shit down.”

Phone records obtained by the Select Committee show that, later that afternoon, Mr. Meggs called Proud Boys leader Enrique Tarrio, and they spoke for several minutes. The very next day, the Proud Boys got to work.

The Proud Boys launched an encrypted chat called the Ministry of Self-Defense. The Committee obtained hundreds of these messages, which show strategic and tactical planning about January the 6th, including maps of Washington, DC, that pinpoint the location of police.

In the weeks leading up to the attack, leaders in both the Proud Boys and the Oath Keepers worked with Trump allies. One such ally was Lieutenant General Michael Flynn, Trump's former National Security Advisor and one of the participants in the unhinged meeting at the White House on December 18th.

He also had connections to the Oath Keepers.

This photo from December 12th shows Flynn and Patrick Byrne, another Trump ally, who was present at that December 18th meeting, guarded by indicted Oath Keeper Roberto Minuta.

Another view of the scene shows Oath Keepers leader Stewart Rhodes in the picture as well.

Another central figure with ties to this network of extremist groups was Roger Stone, a political consultant and long-time confidant of President Trump. He pardoned both Flynn and Stone in the weeks between the election on November 3rd and January 6th.

In the same time frame, Stone communicated with both the Proud Boys and the Oath Keepers regularly. The Committee obtained encrypted content from a group chat called Friends of Stone, FOS, which included Stone, Rhodes, Tarrio, and Ali Alexander. The chat focused on various pro-Trump events in November and December of 2020, as well as January 6th.

As you can see here, Stewart Rhodes himself urged the Friends of Stone to have people go to their State capitols if they could not make it to Washington for the first Million MAGA March on November 14th.

These Friends of Roger Stone had a significant presence at multiple pro-Trump events after the election, including in Washington on December the 12th. On that day, Stewart Rhodes called for Donald Trump to invoke martial law promising blood-shed if he did not.

Mr. RHODES. He needs to know from you that you are with him—that if he does not do it now, when he is Commander in Chief, we’re going to have to do it ourselves later in a much more desperate, much more bloody war. Let’s get it on now while he is still the Commander in Chief. Hooah!

Mr. RASKIN. That night, the Proud Boys engaged in violence on the streets of Washington and hurled aggressive insults at the police.

VOICE. You’re oath breakers. Do your fucking job! Give us 1 hour! One hour!

Mr. RASKIN. Just the previous night, the co-host of InfoWars issued an ominous warning at a rally alongside Roger Stone and Proud Boys leader Enrique Tarrio.

VOICE. I don’t give a shit. [inaudible]

Mr. SHROYER. We will be back in January! [applause]

Mr. RASKIN. Encrypted chats obtained by the Select Committee show that Kelly Meggs, the indicted leader of the Florida Oath Keepers, spoke directly with Roger Stone about security on January 5th and 6th. In fact, on January 6th, Stone was guarded by two Oath Keepers who have since been criminally indicted for seditious conspiracy.

One of them later pleaded guilty and, according to the Department of Justice, admitted that the Oath Keepers were ready to use “lethal force, if necessary, against anyone who tried to remove President Trump from the White House, including the National Guard.”

As we have seen, the Proud Boys were also part of the Friends of Stone network. Stone’s ties to the Proud Boys go back many years. He has even taken their so-called “Fraternity Creed” required for the first level of initialization to the group.

Mr. STONE. Hi, I'm Roger Stone. I'm a Western chauvinist, and I refuse to apologize for creating the modern world.

VOICE. Thank you, Roger.

Mr. RASKIN. Kellye SoRelle, a lawyer who assists the Oath Keepers and a volunteer lawyer for the Trump Campaign, explained to the Committee how Roger Stone and other figures brought extremists of different stripes and views together.

Mr. CHILDRESS. You mentioned that Mr. Stone wanted to start this Stop the Steal series of rallies. Who did you consider the leader of these rallies? It sounds like from what you just said it was Mr. Stone, Mr. Jones, and Mr. Ali Alexander. Is that correct?

Ms. SoRELLE. Those are the ones that became, like, the center point for everything.

Mr. RASKIN. We will learn more from Mrs. Murphy about these individuals and their involvement in the days leading up to the violent attack on January 6th. We will also hear how they were allowed to speak at a rally for President Trump the night before January 6th, even though organizers had expressed serious concerns about their violent and extremist rhetoric directly to Mark Meadows.

You will hear testimony from White House aides who were with the President as he watched the crowd from the Oval Office and will testify about how excited he was for the following day.

Let me note now that our investigation continues on these critical issues. We have only shown a small fraction of what we have found.

I look forward to the public release of more of our findings later, Mr. Chairman.

I now yield back.

Chairman THOMPSON. The gentleman yields back.

The Chair recognizes the gentlewoman from Florida, Mrs. Murphy.

Mrs. MURPHY. During our most recent hearing, the Committee showed some evidence of what President Trump, Chief of Staff Mark Meadows, and other White House officials knew about the potential for violence on January 6th. Despite this information, they made no effort to cancel the rally, halt the march to the Capitol, or even to lower the temperature among President Trump's supporters.

Katrina Pierson, one of the organizers of January 6th rally and a former campaign spokeswoman for President Trump, grew increasingly apprehensive after learning that multiple activists had been proposed as speakers for the January 6th rally. These included some of the people we discussed earlier in this hearing: Roger Stone, a long-time outside advisor to President Trump; Alex Jones, the founder of the conspiracy theory website InfoWars; and Ali Alexander, an activist known for his violent political rhetoric.

On December 30th, Ms. Pierson exchanged text messages with another key rally organizer about why people like Mr. Alexander and Mr. Jones were being suggested as speakers at the President's rally on January 6th.

Ms. Pierson's explanation was: "POTUS."

She remarks that the President "likes the crazies."

The Committee asked Ms. Pierson about these messages, and this is what she said:

Mr. TONOLLI. So when you said that he likes the crazies, were you talking about President Trump?

Ms. PIERSON. Yes, I was talking about President Trump. He loved people who viciously defended him in public.

Mr. TONOLLI. But consistent in terms of the support for these people, at least with what the President likes, from what you could tell?

Ms. PIERSON. Yes. The—the people that would be very, very vicious in publicly defending him.

Mrs. MURPHY. On January 2nd, Ms. Pierson's concerns about the potential rally speakers had grown serious enough that she reached out to Mr. Meadows directly.

She wrote: "Good afternoon. Would you mind giving me a call regarding this January 6th event? Things have gotten crazy, and I desperately need some direction. Please."

According to phone records obtained by the Committee, Ms. Pierson received a phone call from Mr. Meadows 8 minutes later. Here is what Ms. Pierson said about that conversation.

Mr. TONOLLI. So what specifically did you tell him, though, about other—other events?

Ms. PIERSON. Just that there were a bunch of entities coming in. Some were very suspect, but they're going to be on other—on other stages, some on other days. A very, very brief overview of what was actually happening and why I raised red flags.

Mr. TONOLLI. And when you told him that people were very suspect, what—what did—did you tell him what you meant by that, or what did you convey to him about what you were—the problems with these folks?

Ms. PIERSON. I think I even texted him some of my concerns. But I did briefly go over some of the concerns that I had raised to everybody with Alex Jones or Ali Alexander and some of the rhetoric that they were doing. I probably mentioned to him that they had already caused trouble at the other capitols or at the previous event—the previous march that they did for protesting. And I just had a concern about it.

Mrs. MURPHY. Ms. Pierson was especially concerned about Ali Alexander and Alex Jones because, in November 2020, both men and some of their supporters, had entered the Georgia State Capitol to protest the results of the 2020 election.

Ms. Pierson believed that she mentioned this to Mark Meadows on this January 2nd call. Notably, January 2nd is the same day on which, according to Cassidy Hutchinson, Mr. Meadows warned her of things—that things might get "real, real bad" on January 6th.

After her January 2nd call with Mr. Meadows, Katrina Pierson sent an email to fellow rally organizers. She wrote: "POTUS expectations are to have something intimate at the Ellipse and call on everyone to march to the Capitol."

The President's own documents suggest that the President had decided to call on his supporters to go to the Capitol on January 6th but that he chose not to widely announce it until his speech on the Ellipse that morning.

The Committee has obtained this draft, undated tweet from the National Archives. It includes a stamp stating: "President has seen."

The draft tweet reads: "I will be making a big speech at 10 a.m. on January 6th at the Ellipse south of the White House. Please arrive early. Massive crowds expected. March to the Capitol after. Stop the Steal."

Although this tweet was never sent, rally organizers were discussing and preparing for the march to the Capitol in the days leading up to January 6th.

This is a January 4th text message from a rally organizer to Mike Lindell, the MyPillow CEO. The organizer says: “You know, this stays between us. We are having a second stage at the Supreme Court again after the Ellipse. POTUS is going to have us march there/the Capitol. It cannot get out about the second stage because people will try and set up another and sabotage it. It can also not get out about the march because I will be in trouble with the National Park Service and all the agencies. But POTUS is going to just call for it ‘unexpectedly.’”

The end of the message indicates that the President’s plan to have his followers march to the Capitol was not being broadly discussed. Then, on the morning of January 5th, Ali Alexander, whose firebrand style concerned Katrina Pierson, sent a similar text to a conservative journalist.

Mr. Alexander said: “Tomorrow: Ellipse then U.S. Capitol. Trump is supposed to order us to the Capitol at the end of his speech, but we will see.”

President Trump did follow through on his plan, using his January 6th speech to tell his supporters to march to the Capitol on January 6th. The evidence confirms that this was not a spontaneous call to action, but rather was a deliberate strategy decided upon in advance by the President.

Another part of the President’s strategy involves certain Members of Congress who amplified his unsupported assertions that the election had been stolen. In the weeks after the election, the White House coordinated closely with President Trump’s allies in Congress to disseminate his false claims and to encourage members of the public to fight the outcome on January 6th.

We know that the President met with various Members to discuss January 6th well before the joint session.

The President’s private schedule for December 21, 2020, shows a private meeting with Republican Members of Congress. We know that Vice President Pence, Chief of Staff Mark Meadows, and Rudy Giuliani also attended that meeting. We obtained an email that was sent from Congressman Mo Brooks of Alabama to Mark Meadows setting up that meeting.

The subject line is: “White House meeting December 21st regarding January 6th.”

In his email, Congressman Brooks explained that he had not asked anyone to join him in the “January 6th effort,” because in his view “only citizens can exert the necessary influence on Senators and Congressmen to join this fight against massive voter fraud and election theft.”

At this point, you may also recall testimony given in our earlier hearing by Acting Deputy Attorney General Richard Donoghue, who said that the President asked the Department of Justice to “Just say that the election was corrupt and leave the rest to me and the Republican Congressmen.”

According to White House visitor logs obtained by the Committee, Members of Congress present at the White House on December 21st included Congressmen Brian Babin, Andy Biggs, Matt Gaetz, Louie Gohmert, Paul Gosar, Andy Harris, Jody Hice, Jim Jordan, and Scott Perry. Then-Congresswoman-elect Marjorie Taylor Greene was also there.

We heard testimony in an early hearing that a pardon was ultimately requested by Congressman Mo Brooks and other Members of Congress who attended this meeting. We have asked witnesses what happened during the December 21st meeting, and we have learned that part of the discussion centered on the role of the Vice President during the counting of the electoral votes.

These Members of Congress were discussing what would later be known as the Eastman theory, which was being pushed by attorney John Eastman. In one of our earlier hearings, you heard in great detail that President Trump was trying to convince Vice President Pence to do something illegal.

His White House counsel confirmed all of that in testimony last week.

Mr. HEAPHY. And tell us your view, Mr. Cipollone, upon those discussions with Mr. Philbin, with Greg Jacob, what was your assessment as to what the Vice President could or could not do at the joint session?

Mr. CIPOLLONE. What was my assessment—

Mr. HEAPHY. Yes.

Mr. CIPOLLONE [continuing]. About what he could or couldn't do?

Mr. HEAPHY. Yes, your view of the issue.

Mr. CIPOLLONE. My view was that the Vice President didn't have the legal authority to do anything except what he did.

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Mr. HEAPHY. They have both told us, Mr. Philbin and Mr. Jacob, that they looked very closely at the Eastman memos, the Eastman theory, and thought that it had no basis, that it was not a strategy that the President should pursue. It sounds like that's consistent with your impression as well.

Mr. CIPOLLONE. My impression would've been informed, certainly, by them.

Mrs. MURPHY. Campaign senior advisor Jason Miller told us that Mr. Cipollone thought John Eastman's theories were nutty. Something Mr. Cipollone wouldn't refute.

Mr. HEAPHY. We've received testimony from various people about this. One was Jason Miller, who was on the campaign. He said that, "The way it was communicated to me was that Pat Cipollone thought the idea was nutty, and at one point, confronted Eastman basically with the same sentiment."

Mr. CIPOLLONE. I don't have any reason to contradict what he said.

Mrs. MURPHY. On January 4th, John Eastman went to the White House to meet with the President and Vice President. Mr. Cipollone tried to participate in this meeting, but he was apparently turned away.

Mr. HEAPHY. You didn't go to the meeting in the Oval Office where Eastman met with the President and Vice President. Do you remember why you didn't personally attend?

Mr. CIPOLLONE. I did walk to that meeting, and I did go into the Oval Office with the idea of attending that meeting. And then, I ultimately did not attend that meeting.

Mr. HEAPHY. Why not?

Mr. CIPOLLONE. The reasons for that are privileged.

Mr. HEAPHY. Okay. Were you asked to not attend the meeting, or did you make a personal decision not to attend the meeting?

Mr. CIPOLLONE. Again, without getting into.

Mr. PURPURA. Privilege.

Mrs. MURPHY. Recall that Greg Jacob, the Vice President's counsel, stated that Mr. Eastman acknowledged he would lose 9 to 0 if his legal theory were challenged in the Supreme Court. Mr. Cipollone had reviewed Mr. Eastman's legal theory and expressed



his view repeatedly that the Vice President was right. He even offered to take the blame for the Vice President's position.

Mr. CIPOLLONE. I thought that the Vice President did not have the authority to do what was being suggested under a proper reading of the law. I conveyed that. Okay? I think that I had actually told somebody that, you know, in the Vice President's—just blame me, I'm not a politician. And, you know, I just said, "I'm a lawyer. This is my legal opinion."

But, let me tell you this, can I say a word about the Vice President?

Mr. HEAPHY. Please.

Mr. CIPOLLONE. I think the Vice President did the right thing. I think he did the courageous thing. I have a great deal of respect for Vice President Pence. I worked with him very closely. I think he understood my opinion. I think he understood my opinion afterwards as well. I think he did a great service to this country, and I think I suggested to somebody that he should be given the Presidential Medal of Freedom for his actions.

Mrs. MURPHY. Earlier this year, a Federal district court judge concluded that President Trump and Mr. Eastman relying on Mr. Eastman's theory more likely than not violated multiple Federal criminal laws in their pressure campaign against the Vice President.

Also, recall earlier in this hearing, we saw that Rudy Giuliani's team did not have actual evidence of fraud sufficient to change the result of the election. That is important because, as January 6th approached, the Republican Members of the House and Senate were looking for reason to object to the electors. No real evidence was ever given to them.

We know that Republican Members of the House received a memorandum from the Chairwoman of the House Republican Conference in the days before January 6th explaining in detail the many constitutional and legal problems with objections and describing the principal judicial rulings dismissing the claims of widespread fraud.

But their plan to object to the certification of the election on January 6th went forward anyway. The next day on January 5th, the day before the attack on the Capitol, tens of thousands of people converged on Washington. While certain close associates of President Trump privately expressed concerns about what would occur on January 6th, other members of the President's inner circle spoke with great anticipation about the events to come.

The Committee has learned from the White House phone logs that the President spoke to Steve Bannon, his close advisor at least twice on January 5th.

The first conversation they had lasted for 11 minutes. Listen to what Mr. Bannon said that day, after the first call he had with the President.

Mr. BANNON. All hell is going to break loose tomorrow.

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Mr. BANNON. It's all converging, and now we're on, as they say, the point of attack. Right? The point of attack tomorrow.

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Mr. BANNON. I'll tell you this, it's not going to happen like you think it's going to happen. Okay? It's going to be quite extraordinarily different. And all I can say is, strap in . . .

Mrs. MURPHY. From those same phone logs, we know that the President and Mr. Bannon spoke again on the phone that evening this time for 6 minutes.

That same day, on the eve of January 6th, supporters of President Trump gathered in Washington, DC, at another rally. This rally was held at Freedom Plaza, which is located near the White House and featured some of the speakers who Katrina Pierson and others deemed too extreme to share the stage with the President the next morning.

As this rally was under way, the President asked members of his staff to come to the Oval Office. Let's hear from the White House aides who were in the Oval Office that night.

Mr. LUNA. I was in the office—in the Oval Office—and he had asked me to open the door so that he could hear, I guess, there was a concert or a—or something going on.

Mr. GEORGE. Did he say anything other than just, "Open the door"?

Mr. LUNA. He—he made a comment, I don't remember specifically what he said, but there was a lot of energy.

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Ms. MATTHEWS. When we walked in the staff was kind-of standing up and assembled along the wall, and the President was at the desk. And Dan Scavino was on the couch. And the President was dictating a tweet that he wanted Scavino to send out. Then, the President started talking about the rally the next day.

He had the door of the Oval open to the Rose Garden because you could hear the crowd already assembled outside on the Ellipse. And they were playing music. And it was so loud that you could feel it shaking in the Oval.

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Ms. MATTHEWS. He was in a very good mood. And I say that because he had not been in a good mood for weeks leading up to that. And then it seemed like he was in a fantastic mood that evening.

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Mr. DEERE. He asked if—if Members of Congress would be with him tomorrow. Mr. WOOD. And what did you understand by—meaning voting in his favor, as opposed to physically with him or anything like that?

Mr. DEERE. Yeah, I took that to mean not voting to certify the election.

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Ms. MATTHEWS. Then, he did look to the staff and asked for ideas of how, if I recall, he said that we could make the RINOs do the right thing, is the way he phrased it. And no one spoke up initially because I think everyone was trying to process what that—he meant by that.

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Ms. CRAIGHEAD. The President was making notes—talking then about: "We should go up to the Capitol. What's the best route to go to the Capitol?"

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Mr. DEERE. I said he should focus on policy accomplishments, and I didn't mention the 2020 election.

Mr. WOOD. What was his response?

Mr. DEERE. He acknowledged that and said, "We've had a lot." Something along those lines. And then, he fairly quickly moved to how fired up the crowd is—was going to be.

Mr. WOOD. And what did he say about it?

Mr. DEERE. Just that they were—they were fired up. They were angry. They feel like the election's been stolen, that the election was rigged.

Mr. WOOD. Did he give you any indication of how he knew that the crowd was fired up or angry?

Mr. DEERE. He continued to reference being able to hear them outside.

Mrs. MURPHY. Through the open door of the Oval Office, the President could hear the sound of the crowd and the music at the rally at the Freedom Plaza. These are some of the things that they were saying there at the plaza just blocks from where the President sat that evening excited for the next day.

Mr. STONE. This is nothing less than an epic struggle for the future of this country between dark and light. Between the godly and the godless. Between good and evil. And we will win this fight or America will step off into a thousand years of darkness.

General FLYNN. Tomorrow, tomorrow, trust me, the American people that are standing on the soil that we are standing on tonight—and they're gonna be standing on this soil tomorrow—this is soil that we have fought over, fought for, and we will fight for in the future.

The Members, the Members of Congress, the Members of the House of Representatives, the Members of the United States Senate, those of you who are feeling weak tonight, those of you that don't have the moral fiber in your body, get some tonight because tomorrow, we the people are going to be here, and we want you to know that we will not stand for a lie. We will not stand for a lie.

Mr. ALEXANDER. I want them to know that 1776 is always an option. These degenerates in the deep state are going to give us what we want, or we are going to shut this country down.

Mr. JONES. It's 1776! 1776! 1776! 1776!

CROWD. 1776!

Mrs. MURPHY. At 5:05 p.m., as the Freedom Plaza rally was under way just blocks away, President Trump tweeted: "Washington is being inundated with people who don't want to see an election victory stolen by emboldened radical left Democrats. Our country has had enough. They won't take it anymore."

To the crowds gathering in D.C., he added: "We hear you and love you from the Oval Office."

The Committee has learned that on January 5th, there were serious concerns at Twitter about the anticipated violence the next day. Listen to what the Twitter witness told us about their desperate efforts to get Twitter to do something.

Mr. JACKSON. What was your gut feeling on the night of January 5th?

FORMER TWITTER EMPLOYEE. I believe I sent a Slack message to someone that said something along the lines of, "When people are shooting each other tomorrow, I will try and rest in the knowledge that we tried."

And so, I went to—I don't know that I slept that night to be honest with you. I—I was on pins and needles. Because, again, for months, I had been begging and anticipating and attempting to raise the reality that if nothing—if we made no intervention into what I saw occurring, people were going to die.

And on January 5th, I realized no intervention was coming. And even as hard as I had tried to create one or implement one, there was nothing. And we were—we were at the whims and mercy of a violent crowd that was locked and loaded.

Mr. JACKSON. And just for the record, this was content that was echoing Statements from the former President but also Proud Boys and other known violent extremist groups?

FORMER TWITTER EMPLOYEE. Yes.

Mrs. MURPHY. There were also concerns among Members of Congress. We have a recently released recording of a conversation that took place among Republican Members in the U.S. Capitol on the eve of January 6th. This is Republican Congresswoman Debbie Lesko from Arizona, who led some of the unfounded objections to the election results.

Mrs. LESKO. I also asked leadership to come up with a safety plan for Members. I'm actually very concerned about this because we have who knows how many hundreds of thousands of people coming here. We have Antifa. We also have, quite honestly, Trump supporters who actually believe that we are going to overturn the elec-

tion. And when that doesn't happen—most likely will not happen, they are going to go nuts.

Mrs. MURPHY. That same evening, as President Trump listened to the rally from the Oval Office, he was also working on his speech to be delivered the next day. Based on documents we have received from the National Archives, including multiple drafts of the President's speech, as well as from witness testimony, we understand how that speech devolved into a call to action and a call to fight.

One of the first edits President Trump made to his speech was to incorporate his 5:05 p.m. tweet, revising his speech to say: "All of us here today do not want to see our election victory stolen by emboldened radical left Democrats. Our country has had enough. We will not take it anymore."

He also added: "Together, we will Stop the Steal."

President Trump's edits continued into the morning of January 6th.

As you can see from the President's daily diary here, the President spoke to his chief speechwriter Stephen Miller for over 25 minutes that morning. Following his call with Mr. Miller, President Trump inserted for the first time a line in his speech that said: "And we will see whether Mike Pence enters history as a truly great and courageous leader. All he has to do is refer the illegally submitted electoral votes back to the States that were given false and fraudulent information where they want to recertify."

No prior version of this speech had referenced Vice President Pence or his role during the joint session on January 6th. These last-minute edits by President Trump to his speech were part of the President's pressure campaign against his own Vice President.

But not everyone wanted these lines regarding the Vice President included in the President's speech, including White House lawyer Eric Herschmann.

Mr. GEORGE. Did you ever speak to anybody in the White House at the time about this disagreement between the President and the Vice President, other than the President, based on the objection from your counsel?

Mr. STEPHEN MILLER. Maybe had a brief conversation about it with Eric Herschmann.

Mr. GEORGE. Tell me about that. What do you remember him saying to you about this disagreement?

Mr. STEPHEN MILLER. I just remember him saying that—that he had a—I'm trying to remember. I don't want to get this wrong. Sort-of something to the effect of thinking that it would be counterproductive, I think he thought to—to discuss the matter publicly.

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Mr. GEORGE. So it came up in the context of editing the President's speech on January the 6th?

Mr. STEPHEN MILLER. It just came up in the conversation where Eric knew it was in the speech, and so he had a—a sidebar with me about it.

Mrs. MURPHY. So the speechwriters took that advice and removed the lines about Vice President Pence. Later that morning at 11:20 a.m., President Trump had a phone call with the Vice President.

As the Committee detailed in an earlier hearing, that phone call was, by all accounts, tense and heated.

During this call, the Vice President told the President that he would not attempt to change the outcome of the election. In re-

sponse, the President called the Vice President of the United States a “wimp” and other derogatory words.

As you can see in this email, after Vice President Pence told President Trump that he would not unilaterally deliver him a second term in office, the speechwriters were directed to reinsert the Mike Pence lines. Here is how one of the speechwriters described President Trump’s last-minute change to the speech.

Mr. HALEY. And as I recall, there was a very tough—a tough sentence about the Vice President that was—that was added.

Mrs. MURPHY. President Trump wanted to use his speech to attack Vice President Pence in front of a crowd of thousands of angry supporters who had been led to believe the election was stolen. When President Trump arrived at the Ellipse to deliver his speech, he was still worked up from his call with Vice President Pence. Although Ivanka Trump would not say so, her chief of staff gave the Committee some insight into the President’s frustration.

Mr. HEAPHY. It’s been reported that you ultimately decided to attend the rally because you hoped that you would calm the President and keep the event on an even keel. Is that accurate?

Ms. TRUMP. No. I don’t know who said that or where that came from.

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Mr. TONOLLI. What did she share with you about why it was concerning that her father was upset or agitated after that call with Vice President Pence in relation to the Ellipse rally? Why did that matter? Why did he have to be calmed down, I should say.

Ms. RADFORD. Well, she shared that he had called the Vice President a not—an expletive word. I think that bothered her. And I think she could tell, based on the conversations and what was going on in the office, that he was angry and upset and people were providing misinformation. And she felt like she might be able to help calm the situation down, at least before he went onto stage.

Mrs. MURPHY. The President did go on stage, and then he gave the speech that he wanted to give. It included the formal changes he had requested the night before and in that morning, but also many important last-minute, ad-libbed changes.

A single, scripted reference in the speech to Mike Pence became eight. A single, scripted reference to rally-goers marching to the Capitol became four, with President Trump ad-libbing that he would be joining the protesters at the Capitol. Added throughout his speech were references to fighting and the need for people to have courage and to be strong. The word “peacefully” was in the staff-written script and used only once.

Here are some of these ad-libbed changes that the President made to his speech.

President TRUMP. Because you’ll never take back our country with weakness. You have to show strength, and you have to be strong.

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President TRUMP. So, I hope Mike has the courage to do what he has to do. And I hope he doesn’t listen to the RINOs and the stupid people that he’s listening to.

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President TRUMP. We fight like hell, and if you don’t fight like hell, you’re not going to have a country anymore.

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President TRUMP. But we’re going to try and give our Republicans—the weak ones, because the strong ones don’t need any of our help. We’re going to try and

give them the kind of pride and boldness that they need to take back our country. So, let's walk down Pennsylvania Avenue.

Mrs. MURPHY. White House counsel Pat Cipollone and his deputy did not attend the speech, and they were concerned that the statements in the speech about the election were false. In fact, the message that President Trump delivered that day was built on a foundation of lies. He lied to his supporters that the election was stolen. He stoked their anger. He called for them to fight for him. He directed them to the U.S. Capitol. He told them he would join them, and his supporters believed him, and many headed toward the Capitol.

As a result, people died. People were injured. Many of his supporters' lives will never be the same.

President Trump's former campaign manager Brad Parscale recognized the impact of the speech immediately, and this is what he said on January 6th in excerpts from text messages to Katrina Pierson.

Mr. Parscale said: "This is about Trump pushing for uncertainty in our country. A sitting President asking for civil war."

Then when he said, "This week I feel guilty for helping him win," Katrina Pierson responded: "You did what you felt right at the time, and, therefore, it was right."

Mr. Parscale added: "Yeah, but a woman is dead."

And: "Yeah. If I was Trump and I knew my rhetoric killed someone."

When Ms. Pierson replied, "It wasn't the rhetoric," Mr. Parscale said: "Katrina, yes, it was."

Thank you, Mr. Chairman.

I yield back.

Chairman THOMPSON. The gentlewoman yields back. We are joined today by Mr. Jason Van Tatenhove and Mr. Stephen Ayres. Mr. Tatenhove is an artist and journalist. He is a former spokesman of the Oath Keepers and a former close associate of Elmer Stewart Rhodes, the founder and president of the Oath Keepers, who has been charged with seditious conspiracy in relation to the Capitol attack.

Mr. Van Tatenhove broke with the Oath Keepers and has since spoken out forcefully against the violent group.

Mr. Ayres is a former supporter of President Trump. He answered the President's call to come to Washington, DC, on January 6th. He marched to the Capitol on the President's orders. He pleaded guilty last month to disorderly and disruptive conduct at the Capitol.

Mr. Ayres, who no longer supports President Trump, came forward voluntarily to share his story as a warning.

I will now swear in our witnesses.

The witnesses will please stand and raise their right hands.

[Witnesses sworn.]

Chairman THOMPSON. Thank you. You may be seated.

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

I recognize myself for questions.

Today we have discussed how President Trump summoned an angry mob of supporters to Washington, DC, many of whom came prepared to do battle against police and politicians alike.

We are fortunate enough to be joined by two witnesses who can help us understand who was in the mob that day, both hard-core violent extremists like the Oath Keepers and Proud Boys and average Trump supporters swept up in the fervor of the day.

Mr. Van Tatenhove, can you help us understand who the Oath Keepers are?

Mr. VAN TATENHOVE.<sup>1</sup> I can. Thank you. My time with the Oath Keepers began back at Bundy Ranch at that first stand-off when I went to cover them as an independent journalist. I then subsequently covered two more stand-offs, the Sugar Pine Mine stand-off and the White Hope Mine stand-off. It was at that time that I was offered a job as national media director and an associate editor for the web page.

So I spent a few years with the Oath Keepers, and I can tell you that they may not like to call themselves a militia, but they are. They are a violent militia, and they are largely Stewart Rhodes. They—I think, rather than try to use words, I think the best illustration for what the Oath Keepers are happened January 6th when we saw that stacked military formation going up the stairs of our Capitol.

I saw radicalization that started with the beginning of my time with them and continued over a period of time as the member base and who it was that Stewart Rhodes was courting drifted further and further right into the alt-right world, into White nationalists, and even straight-up racists.

It came to a point where I could no longer continue to work for them, but the Oath Keepers are a dangerous militia that is in large part fed by the ego and drive of Stewart Rhodes, who, at times, seemed to see himself as this paramilitary leader. I think that drove a lot of it.

So, in my opinion, the Oath Keepers are a very dangerous organization.

Chairman THOMPSON. Well, thank you very much. You have talked a little bit about that danger. So what is the Oath Keepers' vision for America and why should Americans be concerned about it?

Mr. VAN TATENHOVE. I think we saw a glimpse of what the vision of the Oath Keepers is on January 6th. It doesn't necessarily include the rule of law. It doesn't necessarily include—it includes violence. It includes trying to get their way through lies, through deceit, through intimidation, and through the perpetration of violence. The swaying of people who may not know better through lies and rhetoric and propaganda that can get swept up in these moments. I will admit I was swept up at one point as well, too.

But I don't know if that answers the question.

Chairman THOMPSON. Well, it does. You talk about being swept up. So at what point did you break with the Oath Keepers?

<sup>1</sup>The prepared statement of Mr. Van Tatenhove has been included in the Appendix and may be found on page 835.

Mr. VAN TATENHOVE. There came a point—there were many red flags, and I probably should have broke with them much earlier than I did, but the straw that broke the camel's back really came when I walked into a grocery store. We were living up in the very remote town of Eureka, Montana, and there was a group of core members of the group—of the Oath Keepers and some associates, and they were having a conversation at that public area where they were talking about how the Holocaust was not real.

That was, for me, something I just could not abide. You know, we were not—we were not wealthy people at all. We were barely surviving, and it didn't matter. I went home to my wife and my kids, and I told them that I have got to walk away at this point. I don't know how we are going to survive or where we are going to go or what we are going to do, but I just can no longer continue, and I put in my resignation.

Chairman THOMPSON. Thank you very much.

Mr. Ayres, there were many people in the crowd that day January 6th, including you, who were not part of an extremist group. I would like to start by having you tell the American people a little bit about yourself.

Can you tell us about your life before January 6th?

Mr. AYRES. Yeah. Basically nothing but a family man and a working man. Worked at the company, a cabinet company up in northeast Ohio for going on 20 years. You know, family is my life. You know, I was a supervisor there. So that took up a lot of my other—you know, a lot of my free time. Other than that, I'm with my family, camping, playing basketball, playing games with my son.

Chairman THOMPSON. Just what any ordinary, American citizen, family man would do.

Mr. AYRES. Yep, exactly.

Chairman THOMPSON. So this Committee has reviewed thousands of hours of surveillance footage from January 6th. During this review, we identified you entering the Capitol, as we see in this video.

Mr. Ayres, why did you decide to come to Washington on January 6th?

Mr. AYRES. For me personally, you know, I was, you know, pretty hard core into the social media, Facebook, Twitter, Instagram. I followed, you know, President Trump, you know, on all the websites, you know. He basically put out, you know: Come to Stop the Steal rally.

You know, and I felt like I needed to be down here.

Chairman THOMPSON. So, you basically learned about the rally on social media and at some point made a decision to come to Washington?

Mr. AYRES. Yep, yep. I had some friends I found out were coming down. I just hopped—you know, hopped on with them right at the tail end when I found out, and came down here with them.

Chairman THOMPSON. Thank you very much.

The Chair recognizes the Vice Chair, Ms. Cheney of Wyoming, with any questions she may have.

Vice Chair CHENEY. Thank you very much, Mr. Chairman.



Mr. Ayres, when you entered the Capitol last year, did you believe that the election had been stolen?

Mr. AYRES. At that time, yeah. You know, everything that I was seeing online, I definitely believed that that is exactly what—that was the case.

Vice Chair CHENEY. When you heard from President Trump that the election was stolen, how did that make you feel?

Mr. AYRES. Oh, I was very upset, as were most of his supporters. You know, that is basically what got me to come down here.

Vice Chair CHENEY. Do you still believe the election was stolen?

Mr. AYRES. Not so much now. I got away from all the social media when January 6th happened, basically deleted it all. You know, I started doing my own research and everything. For me, for me—for something like that to be that—for that to actually take place, it is too big, you know. There is no way to keep something like that quiet, as big as something like that, you know. With all the—you know, all the lawsuits being shot down one after another, that was mainly what convinced me.

Vice Chair CHENEY. Well, and I think that is very important. We've also talked about today and in previous hearings the extent to which the President himself was told that the election hadn't been stolen, by his Justice Department, by his White House counsel, by his campaign.

Would it have made a difference to you to know that President Trump himself had no evidence of wide-spread fraud?

Mr. AYRES. Oh, definitely, you know. Who knows, I may not have come down here then, you know.

Vice Chair CHENEY. Thank you very much.

Mr. Chairman, I yield back.

Chairman THOMPSON. The gentlewoman yields back.

The Chair recognizes the gentlewoman from Florida, Mrs. Murphy.

Mrs. MURPHY. Thank you, Mr. Chairman.

You know, earlier today we showed how Donald Trump's December 19th tweet summoned both extremist groups as well as rank-and-file supporters of President Trump to come to Washington, DC, average Americans. He told them to "Be there, Will be wild," and they came. We showed how President Trump repeatedly told them fight, fight, fight, and they marched to the Capitol.

Mr. Ayres, you were in that crowd at the rally and then the crowd that marched to the Capitol. When you arrived on the Ellipse that morning, were you planning on going to the Capitol?

Mr. AYRES. No, we didn't actually plan to go down there. You know, we went basically to see the Stop the Steal rally, and that was it.

Mrs. MURPHY. So why did you decide to march to the Capitol?

Mr. AYRES. Well, basically, you know, the President, he had got everybody riled up, told everybody to head on down. So, we basically were just following what he said.

Mrs. MURPHY. After the President's speech, as you were marching down to the Capitol, how did you feel?

Mr. AYRES. You know, I am angry, you know, after everything that was basically said in the speech. You know, a lot of the stuff he said he already put out in tweets. A lot of it I had already seen

it and heard it before. So, I mean, I was already worked up, and so were most of the people there.

Mrs. MURPHY. So as you started marching, did you think there was still a chance the election would be overturned?

Mr. AYRES. Yeah, at that time I did, because everybody was kind-of, like, in the hope that, you know, Vice President Pence was not going to certify the election. You know, also, the whole time on our way down there, we kept hearing about this big reveal I remember us talking about, and we kind-of thought maybe that was it. So that hope was there.

Mrs. MURPHY. Did you think that the President would be marching with you?

Mr. AYRES. Yeah. I think everybody thought he was going to be coming down. You know, he said in his speech, you know, kind-of like he was going to be there with us. So, I mean, I believed it.

Mrs. MURPHY. I understand.

We know that you illegally entered the Capitol that afternoon and then left the Capitol area later on. What made you decide to leave?

Mr. AYRES. Basically when President Trump put his tweet out, we literally left right after that come out. You know, to me, if he would have done that earlier in the day, 1:30, you know, we wouldn't be in this—maybe we wouldn't be in this bad of a situation or something.

Mrs. MURPHY. Thank you.

Mr. Chairman, I yield back.

Chairman THOMPSON. The Chair recognizes the gentleman from Maryland, Mr. Raskin.

Mr. RASKIN. Thank you, Mr. Chairman.

Mr. Van Tatenhove, in the run-up to January 6th, Stewart Rhodes publicly implored President Trump to invoke the Insurrection Act, the 1807 law that allows the President to call up militias to put down a rebellion against the United States. I want to get your thoughts about this in the context of your prior relationship with Stewart Rhodes.

I understand that you had conversations with Rhodes about the Insurrection Act. Why was he so fixated on that and what did he think it would enable the Oath Keepers to do?

Mr. VAN TATENHOVE. Well, I think it gave him a sense of legitimacy, that it was a path forward to move forward with his goals and agendas.

I think we need to quit mincing words and just talk about truths. What it was going to be was an armed revolution. I mean, people died that day. Law enforcement officers died this day. There was a gallows set up in front of the Capitol. This could have been the spark that started a new civil war, and no one would have won there. That would have been good for no one.

He was always looking for ways to legitimize what he was doing, whether by wrapping it in the trappings of it is not a militia, it is community preparedness team. We're not a militia, we're an educational outreach group. It is a veterans support group. But, again, we've got to stop with this dishonesty and the mincing of words and just call things for what they are. You know, he is a militia leader. He had these grand visions of being a paramilitary leader,

and the Insurrection Act would have given him a path forward with that. You know, the fact that the President was communicating, whether directly or indirectly, messaging, you know, kind-of—that gave him the nod. All I can do is thank the gods that things did not go any worse that day.

Mr. RASKIN. What did the Oath Keepers see in President Trump?

Mr. VAN TATENHOVE. They saw a path forward that would have legitimacy. They saw opportunity I think, in my opinion, to become a paramilitary force, you know.

Mr. RASKIN. Last week the Department of Justice indicated that it has evidence of the Oath Keepers bringing not just firearms, but explosives to Washington, ahead of January 6th. The Committee has also learned that Stewart Rhodes stopped to buy weapons on his way to Washington and shipped roughly \$7,000 worth of tactical gear to a January 6th rally planner in Virginia before the attack.

Did you ever hear Rhodes discuss committing violence against elected political leaders?

Mr. VAN TATENHOVE. Yeah. I mean, that went back from the very beginning of my tenure. One of the first assignments that he brought to me wanting me to do as more of a graphic artist function was to create a deck of cards. You may remember back to the conflict in the Middle East where our own military created a deck of cards, which was a who's who of kind-of the key players on the other side that they wanted to take out. Stewart was very intrigued by that notion and influenced by it, I think, and he wanted me to create a deck of cards that would include different politicians, judges, including up to Hillary Clinton as the queen of hearts.

This was a project that I refused to do, but from the very start, we saw that. There was always the push for military training, including there were courses in that community that went over explosives training. So, yeah, this all falls in line.

Mr. RASKIN. Mr. Van Tatenhove, you say in your very thoughtful written testimony that we received today that you fear what the next election cycle will bring, and you also say that we have been exceedingly lucky in that we have not seen more bloodshed so far. I wonder if you would elaborate on those two statements.

Mr. VAN TATENHOVE. I think as far as the luck goes, we've had the potential from Bundy Ranch on, I mean, being boots on the ground at these stand-offs—and they were stand-offs—where there were firearms pointed across lines at Federal law enforcement agencies, you know, whatever it may be with that particular stand-off. But I do—I think we have gotten exceedingly lucky that more bloodshed did not happen because the potential has been there from the start, and we got very lucky that the loss of life was—and as tragic as it is, was that we saw on January 6th, the potential was so much more.

Again, all we have to look at is the iconic images of that day with the gallows set up for Mike Pence, for the Vice President of the United States, you know. I do fear for this next election cycle because who knows what that might bring. If a President that is willing to try to instill and encourage to whip up a civil war amongst his followers using lies and deceit, and snake oil, and regardless of

the human impact, what else is he going to do if he gets elected again? All bets are off at that point, and that is a scary notion. I have three daughters. I have a granddaughter. I fear for the world that they will inherit if we do not start holding these people to account.

Mr. RASKIN. Thank you for your testimony, Mr. Van Tatenhove.

Mr. Ayres, I first want to ask you about what finally caused you to leave on January the 6th. We know that the medieval-style combat with our police, the occupation of the building, this was going on for several hours until the President issued at 4:17 a tweet, I believe, that included a video telling people to go home.

Did you see that and did that have any effect on what you were doing?

Mr. AYRES. Well, we were there. As soon as that come out, everybody started talking about it, and it seemed like it started to disperse, you know, some of the crowd. Obviously, you know, once we got back to the hotel room, we seen that it was still going on, but it definitely dispersed a lot of the crowd.

Mr. RASKIN. Did you leave at that point?

Mr. AYRES. Yeah, we did. Yeah, we left.

Mr. RASKIN. So, in other words, that was the key moment when you decided to leave when President Trump told people to go home?

Mr. AYRES. Yeah, yep. We left right when that come out.

Mr. RASKIN. You were not a member of an organized group like the Oath Keepers or the Proud Boys as most of the crowd wasn't. I wonder, on January 6th, was it your view that these far-right groups, like the Oath Keepers and Proud Boys and Three Percenters and others were on your side? Did you have any reservations about marching with them and rallying with them?

Mr. AYRES. Well, I definitely didn't have a problem, you know. I was probably following them online myself. You know, I liked—I thought, you know, hey they're on our team. Good. That is how I kind-of looked at it at the time, you know, like, I didn't have a problem with it. I thought it was a good thing.

Mr. RASKIN. I am interested in hearing about what has happened to you since the events of January 6th. You told the Vice Chair that you no longer believe Trump's Big Lie about the election, but that is what brought you originally to Washington. Looking back on it now, how do you reflect on the role that you played in the crowd that day and what is going on in your life?

Mr. AYRES. Basically, you know, I lost my job since this all happened, you know, pretty much sold my house. So everything that happened with the charges, you know, thank God, a lot of them did get dismissed because I was just holding my phone, but at the same time I was there. So, I mean, it definitely—it changed my life, you know, and not for the good, definitely not for, you know, the better. Yeah, I mean, that is what I would say.

Mr. RASKIN. Well, President Trump is still promoting the Big Lie about the election. How does it make you feel?

Mr. AYRES. It makes me mad because I was hanging on every word he was saying. Everything he was putting out, I was following it. I mean, if I was doing it, hundreds of thousands or millions of other people are doing it or maybe even still doing it. It

is like he just said about that, you know, you have got people still following and doing that. Who knows, the next election could come out, you know, they could end up being down the same path we are right now. I mean, you just don't know.

Mr. RASKIN. Mr. Ayres, I see that your wife has joined you today, and welcome to Washington. We know this has been very difficult on you both and your family.

What lessons finally do you want the American people to learn from the way you and your family have suffered as a result of these events?

Mr. AYRES. The biggest thing is, I consider myself a family man, and I love my country. I don't think any one man is bigger than either one of those. I think that is what needs to be taken. You know, people dive into the politics, and for me, I felt like I had, you know, like, horse blinders on. I was locked in the whole time. The biggest thing for me is take the blinders off and make sure you step back and see what's going on before it is too late.

Mr. RASKIN. Well, I want to thank you for your testimony and for appearing, both of you, today.

Mr. Chairman, I yield back to you.

Chairman THOMPSON. The gentleman yields back.

I want to thank our witnesses for joining us today.

The Members of the Select Committee may have additional questions for today's witnesses, and we ask that you respond expeditiously in writing to those questions.

Without objection, the Members will be permitted 10 business days to submit statements for the record, including opening remarks and additional questions for the witnesses.

Without objection, the Chair recognizes the gentleman from Maryland, Mr. Raskin, for a closing statement.

Mr. RASKIN. Thank you, Mr. Chairman.

When Donald Trump sent out his tweet, he became the first President ever to call for a crowd to descend on the Capital City to block the constitutional transfer of power.

He set off an explosive chain reaction amongst his followers. But no one mobilized more quickly than the dangerous extremists that we have looked at today. Seizing upon his invitation to fight, they assembled their followers for an insurrectionary showdown against Congress and the Vice President. On January 6th, Trump knew the crowd was angry. He knew the crowd was armed. He sent them to the Capitol anyway.

You might imagine that our Founders would have been shocked to learn that an American President would one day come to embrace and excuse political violence against our own institutions or knowingly send an armed mob to attack the Capitol to usurp the will of the people.

But, you know, Mr. Chairman, the Founders were pretty wise about certain things. At the start of the Republic, they actually warned everyone about Donald Trump, not by name, of course, but in the course of advising about the certain prospect that ambitious politicians would try to mobilize violent mobs to tear down our own institutions in service of their insatiable ambitions.

In the very first Federalist Paper, Alexander Hamilton observed that history teaches that opportunistic politicians who desire to

rule at all costs will begin first as demagogues pandering to the angry and malignant passions of the crowd but then end up as tyrants trampling the freedoms and the rights of the people.

A violent insurrection to overturn an election is not an abstract thing as we've heard. Hundreds of people were bloodied, injured, and wounded in the process, including more than 150 police officers, some of them sitting in this room today.

I want to give you an update on one officer who was badly wounded in the attack and is well-known to the Members of this Committee because he testified before us last year.

Sergeant Aquilino Gonell is an Army veteran who spent a year on active combat duty in the Iraq War, and then 16 years on the Capitol force. Nothing he ever saw in combat in Iraq, he has said, prepared him for the insurrection where he was savagely beaten, punched, pushed, kicked, shoved, stomped, and sprayed with chemical irritants, along with other officers, by members of a mob carrying hammers, knives, batons, and police shields taken by force and wielding the American flag against police officers as a dangerous weapon.

Last month, on June 28th, Sergeant Gonell's team of doctors told him that permanent injuries he has suffered to his left shoulder and right foot now make it impossible for him to continue as a police officer. He must leave policing for good and figure out the rest of his life.

Sergeant Gonell, we wish you and your family all the best. We are here for you. We salute you for your valor, your eloquence, and your beautiful commitment to America.

I wonder what former President Trump would say to someone like Sergeant Gonell who must now go about remaking his life. I wonder if he could even understand what motivates a patriot like Sergeant Gonell.

In his inaugural address Trump introduced one commanding image, "American carnage." Although that turn of phrase explained little about our country before he took office, it turned out to be an excellent prophecy of what his rage would come to visit on our people.

Mr. Ayres just described how the trust he placed in President Trump as a camp follower derailed his life and nearly wrecked his reputation and his family.

A few weeks ago, we heard Shaye Moss and her mother, Ruby Freeman, Speaker Rusty Bowers from Arizona, and Georgia's secretary of state, Brad Raffensperger, describe how hate-filled intimidation campaigns by Trump and his followers made them prisoners in their homes and drove their stress and anxiety to soaring new heights when they refused to do Trump's bidding.

American carnage, that is Donald Trump's true legacy. His desire to overthrow the people's election and seize the Presidency—interrupt the counting of electoral college votes for the first time in American history—nearly toppled the constitutional order, and brutalized hundreds and hundreds of people. The Watergate break-in was like a Cub Scout meeting compared to this assault on our people and our institutions.

Mr. Chairman, these hearings have been significant for us and for millions of Americans, and our hearing next week will be a pro-

found moment of reckoning for America. But the crucial thing is the next step: What this Committee, what all of us will do to fortify our democracy against coups, political violence, and campaigns to steal elections away from the people.

Unlike Mr. Ayres and Mr. Van Tatenhove, people who have recovered and evolved from their descent into the hell of fanaticism, Donald Trump has only expanded his Big Lie to cover January 6th itself. He asserts the insurrection was the real election and the election was the real insurrection. He says his mob greeted our police officers on January 6th with hugs and kisses.

He threatens to take one of America's two major political parties with him down the road to authoritarianism, and it is Abraham Lincoln's party, no less.

The political scientists tell us that authoritarian parties have two essential features in common in history and around the world: They do not accept the results of democratic elections when they lose, and they embrace political violence as legitimate. The problem of incitement to political violence has only grown more serious in the internet age as we have just heard.

But this is not the problem of one party. It is the problem of the whole country now. American democracy, Mr. Chairman, is a precious inheritance, something rare in the history of the world and even on earth today. Constitutional democracy is the silver frame, as Lincoln put it, upon which the golden apple of freedom rests. We need to defend both our democracy and our freedom with everything we have and declare that this American carnage ends here and now. In a world of resurgent authoritarianism and racism and antisemitism, let's all hang tough for American democracy.

Thank you, Mr. Chairman. I yield back.

Chairman THOMPSON. The gentleman yields back.

Without objection, the Chair recognizes the gentlewoman from Florida, Mrs. Murphy, for a closing statement.

Mrs. MURPHY. Thank you, Mr. Chairman.

At one of our first hearings, Chairman Thompson explained that the Members of this Committee would not spend much time talking about ourselves. Rather, we would let the evidence play the leading role. The Chairman was right because this isn't about promoting ourselves as individuals. It is about protecting the country we love. It is about preserving what actually makes America great, the rule of law, free and fair elections, and the peaceful transfer of power from one elected leader to the next.

But if I may say a word about myself, and why I am proud to serve on this Committee, I am the only Member of this Committee who is not blessed to be born an American. I was born in Vietnam after the Vietnam War, and my family and I fled a communist government, and were rescued by the U.S. Navy, and were given sanctuary in America. My patriotism is rooted in my gratitude for America's grace and generosity. I love this country.

On January 6th, four decades after my family fled a place where political power was seized through violence, I was in the United States Capitol, fleeing my fellow Americans.

Members of the angry mob had been lied to by a President and the other powerful people who tried to convince them without evidence that the election had been stolen from them. Some of them

then tried to use physical violence to overturn the outcome of a free and fair election.

Our Committee's overriding objective is to fight fiction with facts, to create a full account for the American people and for the historical record, to tell the truth of what happened and why it happened, to make recommendations so it never happens again, to defend our democracy. To me, there is nothing more patriotic than that.

Thank you, Mr. Chairman. I yield back.

Chairman THOMPSON. The gentlewoman yields back.

Without objection, the Chair recognizes the gentlewoman from Wyoming, Ms. Cheney, for a closing statement.

Vice Chair CHENEY. Thank you very much, Mr. Chairman.

Mr. Chairman, let me put what you have seen today in a broader context. At the very outset of our hearings, we described several elements of President Trump's multi-part plan to overturn the 2020 election. Our hearings have now covered all but one of those elements: An organized campaign to persuade millions of Americans of a falsehood that the 2020 election was stolen by wide-spread fraud; a corrupt effort to pressure Vice President Pence to refuse to count electoral votes; an effort to corrupt the U.S. Department of Justice; efforts to pressure State election officials and legislators to change State election results; a scheme to create and submit fake electoral slates for multiple States.

Today, you saw how President Trump summoned a mob to Washington for January 6th, and then knowing that that mob was armed, directed that mob to the United States Capitol.

Every one of these elements of the planning for January 6th is an independently serious matter. They were all ultimately focused on overturning the election, and they all have one other thing in common: Donald Trump participated in each substantially and personally. He oversaw or directed the activity of those involved.

Next week, we will return to January 6th itself. As we have shown in prior hearings, Donald Trump and his legal team, led by Rudy Giuliani, were working on January 6th to delay or halt Congress's counting of electoral votes. The mob attacking and invading the Capitol on that afternoon of January 6th was achieving that result. For multiple hours, Donald Trump refused to intervene to stop it. He would not instruct the mob to leave or condemn the violence. He would not order them to evacuate the Capitol and disperse.

The many pleas for help from Congress did no good. His staff insisted that President Trump call off the attack. He would not.

Here are a few of the many things you will hear next week from Mr. Cipollone.

Mr. HEAPHY. My question's exactly that. It sounds like you, from the very onset of violence at the Capitol right around 2 o'clock, were pushing for a strong statement that people should leave the Capitol. Is that right?

Mr. CIPOLLONE. I was and others were as well.

Mr. HEAPHY. Was it necessary for you to continue to push for a statement directing people to leave all the way through that period of time until it was ultimately issued after 4—

Mr. CIPOLLONE. I felt it was my obligation to continue to push for that, and others felt that it was their obligation as well.



Mr. HEAPHY. Would it have been possible at any moment for the President to walk down to the podium in the briefing room and talk to the Nation at any time between when you first gave him that advice at 2 o'clock and 4:17 when the video statement went out? Would that have been possible?

Mr. CIPOLLONE. Would that have been possible?

Mr. HEAPHY. Yes.

Mr. CIPOLLONE. Yes, it would have been possible.

Vice Chair CHENEY. You will hear that Donald Trump never picked up the phone that day to order his administration to help. This is not ambiguous. He did not call the military. His Secretary of Defense received no order. He did not call his Attorney General. He did not talk to the Department of Homeland Security. Mike Pence did all of those things; Donald Trump did not.

We will walk through the events of January 6th next week minute by minute.

One more item. After our last hearing, President Trump tried to call a witness in our investigation, a witness you have not yet seen in these hearings. That person declined to answer or respond to President Trump's call, and instead alerted their lawyer to the call. Their lawyer alerted us, and this Committee has supplied that information to the Department of Justice.

Let me say one more time, we will take any efforts to influence witness testimony very seriously.

Thank you, Mr. Chairman. I yield back.

Chairman THOMPSON. Thank you. The gentlewoman yields back.

In my opening, I mentioned how we look to our leaders to serve as a fail-safe if people in this country refuse to accept the results of an election. That is part of the way those in positions of public trust uphold their oath, how they show fidelity to the Constitution.

In the run-up to January 6th, Donald Trump had an obligation to tell his supporters to accept the results of the election. Instead, he urged them further along the path toward mob violence.

The idea of mob violence makes me think of another sort of fail-safe. All across this country, there are different ideas about what role the Federal Government should play in our lives. In fact, up here on this dais, there are plenty of different ideas. But there are moments when the institutions of our Federal Government are the fail-safe.

I am from a part of the country where had it not been for the Federal Government and the Constitution, my parents and many more Americans like them would have continued to be treated as second-class citizens. The freedom to be able to vote without harassment, travel in relative safety, and dine and sleep where you choose is because we have a Government that looks over the well-being of its citizens.

This is especially important in moments of crisis. When we have a natural disaster that State governments can't handle on their own, when there is an emergency that requires action by our public health services or our military, we have the Federal Government.

What happened on January 6, 2021, was another one of those moments in history that tests the strength of our Federal Government. January 6th was an attack on our country. It was an attack on our democracy, on our Constitution. A sitting President with a violent mob trying to stop the peaceful transfer of power from one President to another, it still makes my blood boil to think of it.

In a moment like that, what would you expect to see? You expect to see the President of the United States sitting behind the Resolute desk in the Oval Office assuring the American people that the attack would be repelled and the threat would be dealt with. You would expect to be reassured that there was a fail-safe.

Instead, the President of the United States sent the mob. He disregarded the advice of the people who had taken an oath to the Constitution. He oversaw a scheme aided by people whose loyalty was only to Donald Trump.

There is nothing we could compare that to. There is nothing in our great Nation's history that has ever come close to that sort of betrayal and dereliction. Thank goodness our system of government held in spite of a Commander-in-Chief who worked in opposition to what the Constitution designed.

When this Committee reconvenes, we will tell the story of that supreme dereliction by the Commander-in-Chief, how close we came to a catastrophe for our democracy, and how we remain in serious danger.

The Chair requests those in the hearing room remain seated until the Capitol Police have escorted witnesses and Members from the room.

Without objection, the Committee stands adjourned.

[Whereupon, at 3:57 p.m., the Committee was adjourned.]

## APPENDIX

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PREPARED STATEMENT OF JASON VAN TATENHOVE, FORMER NATIONAL MEDIA  
DIRECTOR FOR THE OATH KEEPERS

JULY 12, 2022

My name is Jason Van Tatenhove, and I am a journalist and author living in Colorado. I am here giving testimony to the Select Committee to Investigate the January 6th Attack on the United States Capitol because, for a short period, I had access to an inside view of both the inner workings of the Oath Keepers and its founder and president, Stewart Rhodes. From the beginning, I knew this would be a story that the world would someday need to hear. I am deeply saddened by how correct this intuition was.

I come from a family of artists and writers and have always worked in some way as an artist and journalist. I am local to Colorado, where I have written for several outlets in Northern Colorado. It is important for me to be here today in front of the Select Committee because all Americans need to pay attention to the genuine danger that extremist groups like the Oath Keepers pose to us and our society. Because of the actions taken on January 6th and the increased political and ideological polarization in our society, I fear what the next election cycle will bring. We need to re-learn how to communicate with one another without guns, body armor, or standoffs. I am trying to make amends for what I did during my time with the Oath Keepers because I am remorseful for helping them push their dangerous propaganda. In light of the Select Committee's work and the truth they have uncovered, I am optimistic that this experience and my voice can help to shed light on these issues and to embolden others to walk away from extremist groups like the Oath Keepers.

I want to note at the outset that my first-hand knowledge of the Oath Keepers stopped when I resigned, as I will describe. But given my insider access and close proximity to Stewart Rhodes—including during several months when he lived in my basement—I can help to paint a picture of the Oath Keepers, how they worked, how they operated, and how dangerous they are. I do not know about the planning or execution of events surrounding what happened at the Capitol on January 6th, 2021. Still, from my experience with the ever-radicalizing organization, I know the troubling signs were there years before.

My journey with the Oath Keepers began during the 2014 Bundy Ranch Standoff. I was embedded with Stewart Rhodes in his vehicle as he made his second trip down to the standoff in the desert of Nevada. I was given unprecedented access to Stewart Rhodes and the Oath Keepers, including the organization's inner workings. This access continued as I covered the subsequent two standoffs: the Sugar Pine Mine standoff and the White Hope Mine standoff.

This culminated in a job offer with the Oath Keepers after my name was included in a press release by the group, which led to my resignation from working for the State of Montana. I was offered a job as the National Media Director and Webpage Associate Editor for the organization. I worked closely with Stewart Rhodes for the next year and a half and often traveled with him to various events throughout the United States.

During this period, I saw Stewart Rhodes courting members of the alt-right. Having issues with this radicalization, I knew I had to make a break with the group, even if it would be financially devastating to my family. There came the point when I walked in on a conversation in a local grocery store where long-standing, influential Oath Keeper members and associates were discussing their thoughts openly, denying that the Holocaust had ever actually happened. At that moment, I decided that no matter what, I would need to break ties with this ever-radicalizing group.

I am not a racist, I am not an anti-Semite, I am not a white supremacist, I am not violent, and I could no longer be associated with the Oath Keepers, whatever the consequences might have been.

I now view it as my obligation to sound the alarm and raise public awareness about the Oath Keepers and to get my perspective on this paramilitary group into the public conversation. While this may come as a surprise to some, many of the true motivations of this group revolve around raising funds, and not the propaganda they push. Stewart Rhodes and the Oath Keepers insert themselves into crises, situations that they would not usually have any part of, and seek to make themselves relevant and fundraise on the back of these conflicts to increase the membership rolls.

Recruitment is a crucial focus for the Oath Keepers, and a target demographic is people that feel marginalized. I have seen these individuals whipped up into dangerous action by the group's leadership, just as we saw on January 6th.

This, combined with catering to the conspiracy theories of the day and an attempt to connect with ever-radicalizing communities within the alt-right, white nationalists, and even outright racists to gain more influence and money, is a dangerous proposition for our country. We cannot allow these groups to continue threatening our democracy. We must focus on understanding this reality and, most importantly, combating them.

There have been times when I have personally discounted the reach of this group and its violent messaging. This was a mistake. Because in the end, they were able to muster a group of heavily armed and outfitted members who had been trained in modern warfare techniques, including those we now know had explosives, to storm the Capitol to stop the process of inaugurating the duly elected president.

We have been exceedingly lucky in that we have not seen much more bloodshed. But luck is not a good strategy for a country looking for better ways to move forward.

It is time to speak the truth about these groups and the violent influence they wield. It is time to show an exit ramp to others like me who may have been caught up in the rhetoric of these groups and used as pawns in a dishonest campaign to capture more money, influence, and power. I have been frightened by what I saw when I was associated with the Oath Keepers and even more so by what I saw on January 6th. I am honored to provide my perspective to the Select Committee and the American people.

## HEARING ON THE JANUARY 6TH INVESTIGATION

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Thursday, July 21, 2022

U.S. HOUSE OF REPRESENTATIVES,  
SELECT COMMITTEE TO INVESTIGATE THE JANUARY 6TH  
ATTACK ON THE UNITED STATES CAPITOL,  
*Washington, DC.*

The Committee met, pursuant to notice, at 8:01 p.m., in room 390, Cannon House Office Building, Hon. Liz Cheney (Vice Chair of the Committee) presiding.

Present: Representatives Thompson, Cheney, Lofgren, Schiff, Aguilar, Murphy, Raskin, Luria, and Kinzinger.

Vice Chair CHENEY. The Committee will be in order.

Chairman THOMPSON. Good evening. Earlier this week, I received a positive COVID diagnosis. Per CDC guidelines, I received the initial two shots and all of the boosters. Thus far, I have been blessed to experience very minimal symptoms. Because I am still quarantined, I cannot participate in person with my colleagues. I have asked our Vice Chair, Ms. Cheney, to preside over this evening's hearing, including maintaining order in the room and swearing in our witnesses.

Over the last month and a half, the Select Committee has told the story of a President who did everything in his power to overturn an election. He lied. He bullied. He betrayed his oath. He tried to destroy our democratic institutions. He summoned a mob to Washington.

Afterwards, on January 6th, when he knew that the assembled mob was heavily armed and angry, he commanded the mob to go to the Capitol, and he emphatically commanded the heavily-armed mob to "fight like hell." For the weeks between the November election and January 6th, Donald Trump was a force to be reckoned with. He shrugged off the factually and legally correct sober advice of his knowledgeable and sensible advisers. Instead, he recklessly blazed a path of lawlessness and corruption, the cost of which democracy be damned.

Then he stopped. For 187 minutes on January 6th, this man of unbridled, destructive energy could not be moved, not by his aides, not by his allies, not by the violent chants of rioters, or the desperate pleas of those facing down the riot. More tellingly, Donald Trump ignored and disregarded the desperate pleas of his own family, including Ivanka and Don, Jr. Even though he was the only person in the world who could call off the mob he sent to the Capitol, he could not be moved to rise from his dining room table and walk the few steps down the White House hallway into the Press

Briefing Room where cameras were anxiously and desperately waiting to carry his message to the armed and violent mob, savagely beating and killing law enforcement officers, ravaging the Capitol, and hunting down the Vice President and various Members of Congress.

He could not be moved. This evening, my colleagues Mr. Kinzinger of Illinois and Mrs. Luria of Virginia will take you inside the White House during those 187 minutes. We also remind you of what was happening at the Capitol minute by minute, as a final violent tragic part of Donald Trump's scheme to cling to power unraveled, while he ignored his advisers, stood by, and watched it unfold on television.

Let me offer a final thought about the Select Committee's work so far. As we have made clear throughout these hearings, our investigation goes forward. We continue to receive new information every day. We continue to hear from witnesses. We will reconvene in September to continue laying out our findings to the American people.

But, as that work goes forward, a number of facts are clear. There can be no doubt that there was a coordinated, multi-step effort to overturn an election, overseen and directed by Donald Trump. There can be no doubt that he commanded a mob, a mob he knew was heavily armed, violent and angry, to march on the Capitol to try to stop the peaceful transfer of power, and he made targets out of his own Vice President and the lawmakers gathered to do the people's work.

These facts have gone undisputed. So there needs to be accountability, accountability under the law, accountability to the American people, accountability at every level, from the local precincts in many States where Donald Trump and his allies attacked election workers for just doing their jobs, all the way up to the Oval Office, where Donald Trump embraced the illegal advice of insurrectionists that a Federal judge has already said was "a coup in search of a legal theory."

Our democracy withstood the attack on January 6th. If there is no accountability for January 6th for every part of this scheme, I fear that we will not overcome the on-going threat to our democracy. There must be stiff consequences for those responsible.

Now, I will turn things over to our Vice Chair to start telling this story.

Vice Chair CHENEY. Thank you, Mr. Chairman.

Without objection, the presiding officer is authorized to declare the Committee in recess at any point. Pursuant to House Deposition Authority Regulation 10, I announce that the Committee has approved the release of the deposition material presented during today's hearing.

Let me begin tonight by wishing Chairman Thompson a rapid recovery from COVID. He has expertly led us through eight hearings so far, and he has brought us to the point we are today. In our initial hearing, the Chairman and I described what ultimately became Donald Trump's seven-part plan to overturn the 2020 Presidential election, a plan stretching from before election day through January 6th.

At the close of today's hearing, our ninth, we will have addressed each element of that plan. But, in the course of these hearings, we have received new evidence, and new witnesses have bravely stepped forward. Efforts to litigate and overcome immunity and executive privilege claims have been successful, and those continue. Doors have opened, new subpoenas have been issued, and the dam has begun to break.

Now, even as we conduct our ninth hearing, we have considerably more to do. We have far more evidence to share with the American people and more to gather. So, our Committee will spend August pursuing emerging information on multiple fronts before convening further hearings this September.

Today, we know far more about the President's plans and actions to overturn the election than almost all Members of Congress did when President Trump was impeached on January 13, 2021, or when he was tried by the Senate in February that year. Fifty-seven of 100 Senators voted to convict President Trump at that time, and more than 20 others said they were voting against conviction because the President's term had already expired. At the time, the Republican leader of U.S. Senate said this about Donald Trump:

Senator McCONNELL. A mob was assaulting the Capitol in his name. These criminals were carrying his banners, hanging his flags, and screaming their loyalty to him. It was obvious that only President Trump could end this. He was the only one.

Vice Chair CHENEY. Leader McConnell reached those conclusions based on what he knew then without any of the much more detailed evidence you will see today. Lawlessness and violence began at the Capitol on January 6, 2021, before 1 p.m., and continued until well after darkness fell. What exactly was our Commander-in-Chief doing during the hours of violence? Today, we address precisely that issue.

Everything you've heard in these hearings thus far will help you understand President Trump's motives during the violence. You already know Donald Trump's goal: To halt or delay Congress's official proceedings to count certified electoral votes. You know that Donald Trump tried to pressure his Vice President to illegally reject votes and delay the proceedings. You know he tried to convince State officials and State legislators to flip their electoral votes from Biden to Trump, and you know Donald Trump tried to corrupt our Department of Justice to aid his scheme.

But, by January 6th, none of that had worked. Only one thing was succeeding on the afternoon of January 6th. Only one thing was achieving President Trump's goal. The angry armed mob President Trump sent to the Capitol broke through security, invaded the Capitol, and forced the vote counting to stop. That mob was violent and destructive, and many came armed.

As you will hear, Secret Service agents protecting the Vice President were exceptionally concerned about his safety and their own. Republican Leader Kevin McCarthy was scared, as were others in Congress, even those who themselves helped to provoke the violence. As you will see today, Donald Trump's own White House Counsel, his own White House staff, members of his own family all implored him to immediately intervene to condemn the violence and instruct his supporters to stand down, leave the Capitol, and disperse.

For multiple hours, he would not. Donald Trump would not get on the phone and order the military or law enforcement agencies to help. For hours, Donald Trump chose not to answer the pleas from Congress from his own party and from all across our Nation to do what his oath required. He refused to defend our Nation and our Constitution. He refused to do what every American President must.

In the days after January 6th, almost no one of any political party would defend President Trump's conduct, and no one should do so today.

Thank you. I now recognize the gentlewoman from Virginia.

Mrs. LURIA. Thank you, Madam Vice Chair.

Article II of our Constitution requires that the President swear a very specific oath every 4 years.

Every President swears or affirms to faithfully execute the office of the President of the United States and, to the best of their ability, preserve, protect, and defend the Constitution of the United States. The President also assumes the constitutional duty to take care that our Nation's laws be faithfully executed, and as the Commander-in-Chief of our military.

Our hearings have shown the many ways in which President Trump tried to stop the peaceful transfer of power in the days leading up to January 6th. With each step of his plan, he betrayed his oath of office and was derelict in his duty. Tonight, we will further examine President Trump's actions on the day of the attack on the Capitol.

Early that afternoon, President Trump instructed tens of thousands of supporters at and near the Ellipse rally, a number of whom he knew were armed with various types of weapons, to march to the Capitol.

After telling the crowd to march multiple times, he promised he would be with them, and finished his remarks at 1:10 p.m. like this:

President TRUMP. We're going to walk down and I'll be there with you. We're going to walk down—[applause]—we're going to walk down, anyone you want, but I think right here we're going to walk down to the Capitol. [applause] So let's walk down Pennsylvania Avenue.

Mrs. LURIA. At this time, the Vice President was in the Capitol. The joint session of Congress to certify Joe Biden's victory was under way, and the Proud Boys and other rioters had stormed through the first barriers and begun the attack. Radio communications from law enforcement informed Secret Service and those in the White House Situation Room of these developments in real time.

At the direction of President Trump, thousands more rioters marched from the Ellipse to the Capitol, and they joined the attack. As you will see in great detail tonight, President Trump was being advised by nearly everyone to immediately instruct his supporters to leave the Capitol, disperse, and halt the violence. Virtually everyone told President Trump to condemn the violence in clear and unmistakable terms, and those on Capitol Hill and across the Nation begged President Trump to help.

But the former President chose not to do what all of those people begged. He refused to tell the mob to leave until 4:17, when he



tweeted out a video statement filmed in the Rose Garden ending with this.

President TRUMP. So go home. We love you. You're very special. You've seen what happens. You see the way others are treated that are so bad and so evil. I know how you feel but go home and go home in peace.

Mrs. LURIA. By that time, two pipe bombs had been found at locations near the Capitol, including where the Vice President-elect was conducting a meeting. Hours of hand-to-hand combat had seriously injured scores of law enforcement officers. The Capitol had been invaded. The electoral count had been halted as Members were evacuated. Rioters took the floor of the Senate. They rifled through desks and broke into offices. They nearly caught up to Vice President Pence. Guns were drawn on the House floor, and a rioter was shot attempting to infiltrate the Chamber.

We know that a number of rioters intended acts of physical violence against specific elected officials. We know virtually all the rioters were motivated by President Trump's rhetoric that the election had been stolen, and they felt they needed to take their country back.

This hearing is principally about what happened inside of the White House that afternoon.

From the time when President Trump ended his speech until the moment when he finally told the mob to go home, was a span of 187 minutes, more than 3 hours. What you will learn is that President Trump sat in his dining room and watched the attack on television while his senior-most staff, closest advisers, and family members begged him to do what is expected of any American President.

I served proudly for 20 years as an officer in the United States Navy. Veterans of our Armed Forces know first-hand the leadership that is required in a time of crisis, urgent and decisive action that puts duty and country first.

But, on January 6th, when lives and our democracy hung in the balance, President Trump refused to act because of his selfish desire to stay in power.

I yield to the gentleman from Illinois, Mr. Kinzinger.

Mr. KINZINGER. Thank you. Thank you, Mrs. Luria.

One week after the attack, Republican Leader Kevin McCarthy acknowledged the simple truth: President Trump should have acted immediately to stop the violence.

During our investigation, General Mark Milley, the Chairman of the Joint Chiefs of Staff, also remarked on the President's failure to act.

Let's hear what they had to say.

Mr. MCCARTHY. The President bears responsibility for Wednesday's attack on Congress by mob rioters. He should have immediately denounced the mob when he saw what was unfolding. These facts require immediate action by President Trump.

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General MILLEY. Yeah. You know, Commander in Chief, you got an assault going on on the Capitol of the United States of America, and there's nothing? No call? Nothing? Zero?

Mr. KINZINGER. Like my colleague from Virginia, I am a veteran. I served in the Air Force, and I serve currently in the Air National Guard. I can tell you that General Milley's reaction to President

Trump's conduct is 100 percent correct, and so was Leader McCarthy's.

What explains President Trump's behavior? Why did he not take immediate action in a time of crisis? Because President Trump's plan for January 6th was to halt or delay Congress's official proceeding to count the votes. The mob attacking the Capitol quickly caused the evacuation of both the House and the Senate. The count ground to an absolute halt and was ultimately delayed for hours. The mob was accomplishing President Trump's purpose, so of course he didn't intervene.

Here is what will be clear by the end of this hearing: President Trump did not fail to act during the 187 minutes between leaving the Ellipse and telling the mob to go home; he chose not to act.

But there were hundreds that day who honored their oaths and put their lives on the line to protect the people inside the Capitol and to safeguard our democracy.

Many of them are here tonight with us, and many more are watching from home. As you already know, and we will see again tonight, their service and sacrifice shines a bright light on President Trump's dishonor and dereliction of duty.

I yield to the Vice Chair.

Vice Chair CHENEY. Thank you very much, Mr. Kinzinger.

I would like to begin by welcoming our witnesses this evening. Tonight, we are joined by Mr. Matthew Pottinger. Mr. Pottinger is a decorated former Marine intelligence officer who served this Nation on tours of duty in Afghanistan and Iraq. He served in the Trump White House from the first day of the administration through the early morning hours of January 7, 2021. The last role in which he served in the White House was as Deputy National Security Advisor to the President of United States.

We are also joined by Sarah Matthews. Ms. Matthews started her career in communications working on Capitol Hill serving on the Republican staffs of several House committees. She then worked as Deputy Press Secretary for President Trump's reelection campaign before joining the Trump White House in June 2020. She served there as Deputy Press Secretary and Special Assistant to the President until the evening of January 6, 2021.

I will now swear in our witnesses. The witnesses will please stand and raise their right hands.

[Witnesses sworn.]

Vice Chair CHENEY. Thank you. You may be seated. Let the record reflect that the witnesses answered in the affirmative.

Thank you, both, again for being here tonight.

Mr. Pottinger, thank you for your service to the Nation as well as for joining us this evening.

Can you please briefly explain what your responsibilities were as Deputy National Security Advisor to the President?

Mr. POTTINGER. Thank you, Madam Vice Chair.

When I started at the White House, I was a senior director for Asia on the National Security Council staff. So that was a job that involved helping coordinate the President's Asia policy. I supported the President when he met or interacted with Asian leaders. Later, in 2019, I was promoted to the job of Deputy National Security Advisor. In that role, I was the chairman of the Deputies Committee.

That is an NSC meeting of all of the Deputy Cabinet Secretaries. We would settle important matters of National policy related to our National security, and we would also tee up options for the President and for his Cabinet Members.

It was—I felt then as I do now it was a privilege to serve in the White House. I am also very proud of President Trump's foreign policy accomplishments. We were able to finally compete with China. We were also able to broker peace agreements between Israel and three Arab states. I mean, those are some examples of the types of policies that I think made our country safer.

Vice Chair CHENEY. Thank you, Mr. Pottinger.

Were you in the White House during the attack on the Capitol on January 6th?

Mr. POTTINGER. For most of the day, I was in the White House. Although, when the President was speaking at the rally, I was actually offsite at a scheduled meeting with India's Ambassador to the United States. The National Security Council staff was not involved in organizing the security for what was a domestic event, the rally, but I did return to the White House at roughly 2:30 p.m.

Vice Chair CHENEY. Thank you. I know my colleagues will have additional questions for you about that afternoon.

Let me turn now to you, Ms. Matthews.

How did you come to join President Trump's White House staff?

Ms. MATTHEWS. Thank you, Madam Vice Chair.

As you outlined, I have been a lifelong Republican. I joined the Trump reelection campaign in June 2019. I was one of the first communication staffers actually on board for his reelection campaign. During that time, I traveled all around the country and met Kayleigh McEnany, who was also working on his reelection campaign.

I worked there for a year, and I formed a close relationship with Ms. McEnany, and she moved over to the White House in April 2020 to start as White House Press Secretary, and she brought over a group of campaign staff with her. So I joined her over at the White House in June 2020 to start as her deputy.

Vice Chair CHENEY. Were you, Ms. Matthews, at work in the White House on January 6th?

Ms. MATTHEWS. Yes. I was working out of the West Wing that day.

Vice Chair CHENEY. Thank you.

Now I would like to recognize the gentlewoman from Virginia and the gentleman from Illinois.

Mrs. LURIA. Thank you, Madam Vice Chair.

As you have seen in our prior hearings, President Trump summoned the mob to D.C. on January 6th. Before he went on stage, he knew some of them were armed and prepared for combat. During his speech, he implored them to march to the Capitol, as he had always planned to do. By the time he walked off the stage, his supporters had already breached the outer perimeter of the Capitol at the foot of Capitol Hill.

Since our last hearings, we have received new testimony from a security professional working in the White House complex on January 6th with access to relevant information and responsibility to report to National security officials. This security official told us that

the White House was aware of multiple reports of weapons in the crowd that morning. We as a Committee are cognizant of the fear of retribution expressed by certain National security witnesses who have come forward to tell the truth. We have therefore taken steps to protect this National security individual's identity.

Listen to that clip from their testimony.

Ms. DAYANANDA. What was the consistent message from the people about this idea of the President to walk to the Capitol?

ANONYMOUS WHITE HOUSE SECURITY OFFICIAL. To be completely honest, we were all in a state of shock.

Ms. DAYANANDA. Because why?

ANONYMOUS WHITE HOUSE SECURITY OFFICIAL. Because—because it just—one, I think the actual physical feasibility of doing it, and then also we all knew what that implicated and what that meant; that this was no longer a rally; that this was going to move to something else if he physically walked to the Capitol. I—I don't know if you want to use the word "insurrection," "coup," whatever. We all knew that this would move from a normal, democratic, you know, public event into something else.

Ms. DAYANANDA. What was—what was driving that sentiment considering this—this—this part of it, the actual breach of the Capitol, hadn't happened yet?

ANONYMOUS WHITE HOUSE SECURITY OFFICIAL. Why were we alarmed?

Ms. DAYANANDA. Right.

ANONYMOUS WHITE HOUSE SECURITY OFFICIAL. The President wanted to lead tens of thousands of people to the Capitol. I think that was enough grounds for us to be alarmed.

Mrs. LURIA. Even though he understood many of his supporters were armed, the President was still adamant to go to the Capitol when he got off the stage at the Ellipse, but his Secret Service detail was equally determined to not let him go. That led to a heated argument with the detail that delayed the departure of the motorcade to the White House.

We have evidence from multiple sources regarding an angry exchange in the Presidential SUV, including testimony we will disclose today from two witnesses who confirmed that a confrontation occurred. The first witness is a former White House employee with National security responsibilities. After seeing the initial violence at the Capitol on TV, the individual went to see Tony Ornato, the deputy chief of staff, in his office. Mr. Ornato was there with Bobby Engel, the President's lead Secret Service agent.

This employee told us that Mr. Ornato said that the President was "irate when Mr. Engel refused to drive him to the Capitol." Mr. Engel did not refute what Mr. Ornato said.

The second witness is retired Sergeant Mark Robinson of the D.C. Police Department, who was assigned to the President's motorcade that day. He sat in the lead vehicle with the Secret Service agent responsible for the motorcade, also called the TS agent. Here is how Sergeant Robinson remembered the exchange.

Ms. DAYANANDA. Was there any description of what—of what was occurring in the car?

Sergeant ROBINSON. No. Only that on—the only description I received was that the President was upset and was adamant about going to the Capitol, and there was a heated discussion about that.

Ms. DAYANANDA. And when you say "heated," is that your word or is that the word that was described by the TS agent?

Sergeant ROBINSON. No. The word described by the TS agent, meaning that the President was upset, and he was saying there was a heated argument or discussion about going to the Capitol.

Mr. SCHIFF. About how many times would you say you've been part of that motorcade with the President?

Sergeant ROBINSON. Probably over a hundred times.

Mr. SCHIFF. And in that hundred times, have you ever witnessed another discussion of—an argument or heated discussion with the President where the President was contradicting where he was supposed to go or what the Secret Service believed was safe?

Sergeant ROBINSON. No.

Mrs. LURIA. Like other witnesses, Sergeant Robinson also testified that he was aware that individuals in the crowd were armed.

Sergeant ROBINSON. Yes, I believe we was on special events channel, and I was monitoring the traffic. And so I could hear some of the units pointing out to individuals that there were individuals along Constitution Avenue that were armed, that were up in the trees, and I can hear the units responding to those individuals. So there's always a concern when there's a POTUS in the area.

Mrs. LURIA. Like other witnesses, Sergeant Robinson told us that the President still wanted to travel to the Capitol even after returning to the White House.

Ms. DAYANANDA. So, at the end of the speech, what was the plan supposed to be?

Sergeant ROBINSON. So, at the end of the speech, we do know that while inside the limo, the President was still adamant about going to the Capitol. That's been relayed to me by the TS agent. And so we did depart the Ellipse, and we responded back to the White House. However, we—the motorcade—POTUS motorcade was placed on standby. And so we were told to stand by on the West Exec until they confirmed whether or not the President was going to go to the Capitol. And so I may have waited, I would just estimate, maybe 45 to—45 minutes to an hour waiting for Secret Service to make that decision.

Mrs. LURIA. The motorcade waited at the White House for more than 45 minutes before being released. The Committee is also aware that accounts of the angry confrontation in the Presidential SUV have circulated widely among the Secret Service since January 6th. Recent disclosures have also caused the Committee to subpoena yet further information from the Secret Service, which we have begun to receive and will continue to assess. The Committee is also aware that certain Secret Service witnesses have now retained new private counsel. We anticipate further testimony under oath and other new information in the coming weeks.

After the Secret Service refused to take President Trump to the Capitol, he returned to the White House.

What you see on the screen is a photo of him inside the Oval Office immediately after he returned from the rally, still wearing his overcoat. A White House employee informed the President as soon as he returned to the Oval about the riot at the Capitol. Let me repeat that: Within 15 minutes of leaving the stage, President Trump knew that the Capitol was besieged and under attack.

At 1:25, President Trump went to the private dining room off the Oval Office. From 1:25 until 4 o'clock, the President stayed in his dining room. Just to give you a sense where the dining room is situated in the West Wing, let's take look at this floor plan.

The dining room is connected to the Oval Office by a short hallway. Witnesses told us that, on January 6th, President Trump sat in his usual spot, at the head of the table facing a television hanging on the wall. We know from the employee that the TV was tuned to Fox News all afternoon. Here you can see Fox News on the TV showing coverage of the joint session that was airing that day at 1:25.

Other witnesses confirmed that President Trump was in the dining room with the TV on for more than 2½ hours. There was no official record of what President Trump did while in the dining room. On the screen is the Presidential call log from January 6th.

As you can see, there is no official record of President Trump receiving or placing a call between 11:06 and 6:54 p.m.

As to what the President was doing that afternoon, the Presidential daily diary is also silent. It contains no information from the period between 1:21 p.m. and 4:03 p.m.

There are also no photos of President Trump during this critical period between 1:21 in the Oval Office and when he went outside to the Rose Garden after 4 o'clock. The chief White House photographer wanted to take pictures because it was, in her words, very important for his archives and for history, but she was told "no photographs."

Despite the lack of photos or an official record, we have learned what President Trump was doing while he was watching TV in the dining room, but before we get into that, it is important to understand what he never did that day. Let's watch.

Vice Chair CHENEY. So are you aware of any phone call by the President of the United States to the Secretary of Defense that day?

Mr. CIPOLLONE. Not that I'm aware of, no.

Vice Chair CHENEY. Are you aware of any phone call by the President of the United States to the Attorney General of the United States that day?

Mr. CIPOLLONE. No.

Vice Chair CHENEY. Are you aware of any phone call by the President of the United States to the Secretary of Homeland Security that day?

Mr. CIPOLLONE. I—I'm not aware of that, no.

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Mr. GEORGE. Did you ever hear the Vice President—excuse me, the President ask for the National Guard?

General KELLOGG. No.

Mr. GEORGE. Did you ever hear the President ask for a law enforcement response?

General KELLOGG. No.

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Mr. GEORGE. So, as somebody who works in the national security space and with the National Security Council, if there were going to be troops present or called up for a rally in Washington, DC, for example, is that something that you would have been aware of?

General KELLOGG. Yeah, I would have.

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Mr. GEORGE. Do you know if he asked anybody to reach out to any of those that we just listed off—National Guard, DOD, FBI, Homeland Security, Secret Service, Mayor Bowser, or the Capitol Police—about the situation at the Capitol?

Mr. LUNA. I am not aware of any of those requests. No, sir.

Mrs. LURIA. We have confirmed in numerous interviews with senior law enforcement and military leaders, Vice President Pence's staff and D.C. government officials, none of them—not one—heard from President Trump that day. He did not call to issue orders. He did not call to offer assistance. This week, we received additional testimony from yet another witness about why the President didn't make any efforts to quell the attack.

The former White House employee with National security responsibilities told us about a conversation with senior advisor Eric Herschmann and Pat Cipollone, the top White House lawyer. This

conversation was about a pending call from the Pentagon seeking to coordinate on the response to the attack.

Mr. Herschmann turned to Mr. Cipollone and said the President didn't want to do anything.

So, Mr. Cipollone had to take the call himself.

So, if President Trump wasn't calling law enforcement or military leaders, what did President Trump spend his time doing that afternoon while he first settled into the dining room? He was calling Senators to encourage them to delay or object to the certification. Here is Kayleigh McEnany, his Press Secretary, to explain.

Mr. WOOD. All right. That says "back there" and "he wants list of Senators," and then "he's calling them one by one." Do you know which ones he called?

Ms. MCENANY. To the best of my recollection, no. As I say in my notes, he wanted a list of the Senators, and, you know, I left him at—at that point.

Mrs. LURIA. Because the Presidential call log is empty, we do not yet know precisely which Senators President Trump was calling. But we do know from Rudy Giuliani's phone records that President Trump also called him at 1:39, after he had been told that the riot was under way at the Capitol.

Mr. Giuliani was President Trump's lead election attorney. According to the phone records, the President's call with him lasted approximately 4 minutes. Recall that Fox News was on in the dining room. Let's take a look at what was airing as this call was ending.

FOX NEWS REPORTER. The President, as we all saw, fired this crowd up. They've all—tens of thousands, maybe 100,000 or more, have gone down to the Capitol or elsewhere in the city, and they're very upset.

Now, I jumped down as soon as we heard the news that Bret gave you about Mike Pence. I started talking to these people. I said, "What do you think?" One woman, an Air Force veteran from Missouri, said she was, quote, "disgusted to hear that news and that it was his duty to do something." And I told her—I said, "There's nothing in the Constitution unilaterally that Vice President Pence could do." She said, "That doesn't matter. He should have fought for Trump."

Mrs. LURIA. At 1:49, here is what was happening at the Capitol with President Trump's fired-up supporters.

METROPOLITAN POLICE DEPARTMENT TRANSMISSION. We're going to give—fire a warning. We're going to try to get compliance, but this is now effectively a riot.

METROPOLITAN POLICE DEPARTMENT TRANSMISSION. 1349 hours declaring it a riot.

Mrs. LURIA. What did President Trump do at 1:49, as the D.C. Police at the same time were declaring a riot at the Capitol?

As you can see on the screen, he tweeted out a link to the recording of his Ellipse speech. This was the same speech in which he knowingly sent an armed mob to the Capitol, but President Trump made no comment about the lawlessness and the violence.

I yield to the gentleman from Illinois.

Mr. KINZINGER. The next action President Trump took was to tweet at 2:24 p.m. What happened during the 35 minutes between his last tweet at 1:49 and 2:24? His staff repeatedly came into the room to see him and plead that he make a strong public statement condemning the violence and instructing the mob to leave the Capitol. He did not relent until after 4 o'clock when he went out to go to the Rose Garden to film his now infamous "go home" message.

Pat Cipollone was a top White House lawyer. Here is what he told us about his reaction to seeing the violence and his advice throughout the afternoon.

Mr. HEAPHY. When did you first realize that there was actual violence or rioting?  
 Mr. CIPOLLONE. I—I first realized it may have been on television or it may have been Tony or it may have been Philbin. But I found out that people were—you know, they weren't in the Capitol yet, but they were, you know—and then I started watching it, and, you know, then I was aware.

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Mr. HEAPHY. What specifically did you think needed to be done?  
 Mr. CIPOLLONE. I think I was pretty clear there needed to be an immediate and forceful response statement—public statement that people need to leave the Capitol now.

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Mr. HEAPHY. My question is exactly that, that it sounds like you from the very onset of violence at the Capitol, right around 2 o'clock, were pushing for a strong statement that people should leave the Capitol. Is that right?  
 Mr. CIPOLLONE. I was, and others were as well.

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Vice Chair CHENEY. Pat, you—you said that you expressed your opinion forcefully. Could you tell us exactly how you did that?  
 Mr. CIPOLLONE. Yeah, I can't—I don't have—you know, I have to—on the privilege issue, I can't talk about conversations with the President, but I can generically say that I said, you know, people need to be told—there needs to be a public announcement fast that they need to leave the Capitol.  
 Vice Chair CHENEY. And, Pat, could you let us know approximately when you said that?  
 Mr. CIPOLLONE. Approximately when? Almost immediately after I found out people were getting into the Capitol or approaching the Capitol in a way that was—was violent.

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Mr. HEAPHY. Do you remember any discussion with Mark Meadows with respect to his view that the President didn't want to do—was somehow resistant to wanting to say something along the lines that you suggested?  
 Mr. CIPOLLONE. Tony [inaudible]—just to be clear, many people suggested it, not just me. Many people felt the same way. I'm sure I had conversations with Mark about this during the course of the day and expressed my—my opinion very forcefully that this needs to be done.

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Mr. HEAPHY. So your advice was to tell people to leave the Capitol, and it took over 2 hours when there were subsequent statements made, tweets put forth, that in your view were insufficient. Did you continue, Mr. Cipollone, throughout the period of time up until 4:17—continue, you and others, to push for a stronger statement?  
 Mr. CIPOLLONE. Yes.  
 Mr. HEAPHY. Were you joined in that effort by Ivanka Trump?  
 Mr. CIPOLLONE. Yes.  
 Mr. HEAPHY. Eric Herschmann?  
 Mr. CIPOLLONE. Yes.  
 Mr. HEAPHY. And Mark Meadows?  
 Mr. CIPOLLONE. Yes.

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Ms. HUTCHINSON. White House Counsel's Office wanted there to be a strong statement out to condemn the rioters. I'm confident in that. I'm confident that Ivanka Trump wanted there to be a strong statement to condemn the rioters. I don't know the private conversation she had with Mr. Trump, but I remember when she came to the office one time with White House counsel's office—when she came to the Chief of Staff's office with White House counsel's office, she was talking about the speech later that day and trying to get her dad on board with saying something that was more direct than he had wanted to at the time and throughout the afternoon.

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Mr. CIPOLLONE. I think Mark also wanted—got—I remember him getting Ivanka involved, because—said, "Get Ivanka down here," because he thought that would be



important. I don't think Jared was there in the morning, but I think he came later. I remember thinking it was important to get him in there, too.

And—and of course, Pat Philbin, you know, was expressing the same things. I mean, Pat Philbin, you know, was very—as I said, I don't think there was one of these meetings where—there might have been, but for the most part, I remember the both of us going down together, going back, getting on phone calls. He was also very clearly expressing this view.

Mr. KINZINGER. Pat Cipollone and Cassidy Hutchinson, an aide to Chief of Staff Mark Meadows, also told us about the “hang Mike Pence” chants. As you will see, Mr. Cipollone recalled conversations about those chants in the West Wing, but he relied on executive privilege to maintain confidentiality over his and others’ direct communications with the President. Although Mr. Cipollone was unwilling to provide more detail, Ms. Hutchinson provided more explicit information filling in those blanks. See that for yourself.

Ms. HUTCHINSON. It wasn't until Mark hung up the phone, handed it back to me, I went back to my desk. A couple of minutes later, him and Pat came back, possibly Eric Herschmann, too. I'm pretty sure Eric Herschmann was there, but I'm—I'm confident it was Pat that was there. I remember Pat saying something to the effect of, “Mark, we need to do something more. They're literally calling for the Vice President to be F'ing hung.” And Mark had responded something to the effect of, “You heard him, Pat. He thinks Mike deserves it. He doesn't think they're doing anything wrong.” To which Pat said something, “This is F'ing crazy. We need to be doing something more,” and briefly stepped into Mark's office.

Mr. HEAPHY. Do you remember any discussion at any point during the day about rioters at the Capitol chanting “hang Mike Pence?”

Mr. CIPOLLONE. Yes, I remember—I remember hearing that—about that, yes. I don't know if I observed that myself on TV.

Mr. HEAPHY. I'm just curious. I understand the—the privilege line you've drawn, but do you remember what you can share with us about the discussion about those chants, the “hang Mike Pence” chants?

Mr. CIPOLLONE. I can tell you my view of that.

Mr. HEAPHY. Yes, please.

Mr. CIPOLLONE. My view of that is that is outrageous. And for anyone to suggest such a thing of the Vice President of the United States, for people in that crowd to be chanting that I thought was terrible. I thought it was outrageous and wrong, and I expressed that very clearly.

Mr. SCHIFF. With respect to your conversations with Mr. Meadows, though, did you specifically raise your concern over the Vice President with him, and—and how did he respond?

Mr. CIPOLLONE. I believe I raised the concern about the Vice President, and I—and I—again, the nature of his response, without recalling exactly, was he—you know, people were doing all that they could.

Mr. SCHIFF. And what about the President, did he indicate whether he thought the President was doing what needed to be done to protect the Vice President?

Mr. PURPURA. Privilege.

Mr. HEAPHY. You have to assert it. That question would—

[Crosstalk.]

Mr. CIPOLLONE [continuing]. I'm being instructed on privilege.

Mr. HEAPHY. I see.

Mr. KINZINGER. In addition, Mr. Cipollone testified that it would have been feasible, as commentators on television were suggesting, for President Trump to immediately appear at the podium in the press room to address the Nation.

Mr. HEAPHY. Would it have been possible at any moment for the President to walk down to the podium in the Briefing Room and tell—talk to the Nation at any time between when you first gave him that advice at 2 o'clock and 4:17 when the video statement went? Would that have been possible?

Mr. CIPOLLONE. Would it have been possible?

Mr. HEAPHY. Yes.

Mr. CIPOLLONE. Yes, it would have been possible.

Mr. KINZINGER. We just heard Mr. Cipollone say that President Trump could have gone to the Press Briefing Room to issue a statement at any moment. To give you a sense of just how easy that would have been, let's take a look at a map of the West Wing.

As we saw earlier, the President's private dining room is at the bottom of the map. The Press Briefing Room is at the top highlighted in blue, and the Rose Garden, where the President ultimately his "go home" video is on the right, next to the Oval Office, and that is highlighted in green.

Ms. Matthews, how quickly could the President have gotten on camera in the Press Briefing Room to deliver a statement to the Nation?

Ms. MATTHEWS. So, as you outlined, it would take probably less than 60 seconds from the Oval Office dining room over to the Press Briefing Room. For folks that might not know, the Briefing Room is the room that you see the White House Press Secretary do briefings from with the podium and the blue backdrop. There is a camera that is on in there at all times. So, if the President had wanted to make a statement and address the American people, he could have been on camera almost instantly.

Conversely, the White House Press Corps has offices that are located directly behind the Briefing Room. So, if he had wanted to make an address from the Oval Office, we could have assembled the White House Press Corps probably in a matter of minutes to get them into the Oval for him to do an on-camera address.

Mr. KINZINGER. Thank you. Other witnesses have given us their views on that question. For example, General Keith Kellogg told us that some staff were concerned that a live appearance by the President at the microphones at that moment could actually make matters worse. He told us he recommended against doing a press conference because, during his 4 years in the Trump administration: "There wasn't a single clean press conference we had had."

President Trump's advisers knew his state of mind at that moment, and they were worried about what he would say in unscripted comments.

I yield to the gentlewoman from Virginia.

Mrs. LURIA. Thank you.

As you've heard, by 2 o'clock, multiple staff members in the White House recognized that a serious situation was under way at the Capitol. Personally, I recall being evacuated from the House office building where we were sitting by—before this time, and it was due to the discovery of two pipe bombs in nearby buildings.

Ms. Matthews, around the same time, you were watching the violence unfold on television and social media with colleagues, including with Ben Williamson, a senior aide to Mark Meadows and the acting director of communications.

You told us before President Trump sent his next tweet at 2:24, Mr. Williamson got up to go see Mr. Meadows, and you got up to go see Kayleigh McEnany.

Why did you both do that?

Ms. MATTHEWS. So, Ben and I were watching the coverage unfold from one of the offices in the West Wing, and we both recognized

that the situation was escalating, and it was escalating quickly, and that the President needed to be out there immediately to tell these people to go home and condemn the violence that we were seeing. So, I told him that I was going to make that recommendation to Kayleigh, and he said he was going to make the same recommendation to the Chief of Staff Mark Meadows.

Mrs. LURIA. Thank you. One of your colleagues in the press office, Judd Deere, told us he also went to see Ms. McEnany at that time. Let's hear what he said about this critical period of time right as the rioters were getting into the Capitol.

Mr. WOOD. And why did you think it was necessary to say something?

Mr. DEERE. Well, I mean, it appears that individuals are storming the U.S. Capitol Building. They also appear to be supporters of Donald Trump who may have been in attendance at the rally. We're going to need to say something.

Mr. WOOD. Did you have a view as to what should be said by the White House?

Mr. DEERE. If I recall, I told Kayleigh that I thought that we needed to encourage individuals to stop, to respect law enforcement, and to go home.

Mrs. LURIA. Although President Trump was aware of the ongoing riot, he did not take any immediate action to address the lawlessness. Instead, at 2:03, he called Rudy Giuliani again, and that call lasted for over 8 minutes.

Moments later, at 2:13, rioters broke into the Capitol itself. One of the Proud Boys charged with seditious conspiracy, Dominic Pezzola, used an officer's shield to smash a window and rioters flooded into the building.

CROWD. Go, go, go, go. Go in the Capitol. Go, go, go.

Mrs. LURIA. As rioters were entering the building, the Secret Service held Vice President Pence in his office right off the Senate Chamber for 13 minutes as they worked to clear a safe path to a secure location.

Now listen to some of that radio traffic and see what they were seeing as the protesters got just feet away from where the Vice President was holding.

SECRET SERVICE RADIO TRANSMISSION. They're taking the building. Hold.

Harden that door up.

If you are moving, we need to move now.

Copy.

If we lose any more time, we may have—we may lose the ability to—to leave. So, if we're going to leave, we need to do it now.

They've gained access to the second floor, and I've got public about 5 feet from me down here below.

Okay. Copy.

They are on the second floor moving in now. We may want to consider getting out and leaving now. Copy.

Will we encounter the people once we make our way?

Repeat.

Encounter any individuals if we made our way to the—to the——

There's six officers between us and the people that are 5 to 10 feet away from me.

Stand by. I'm going down to evaluate.

Go ahead.

We have a clear shot if we move quickly. We've got smoke downstairs. Stand by. Unknown smoke from downstairs. By the protesters?

Is that route compromised?

We have the—is secure. However, we will bypass some protesters that are being contained. There is smoke, unknown what kind of smoke it is. Copy.

Clear. We're coming out now. All right? Make a way.

Mrs. LURIA. The President's National Security Council staff was listening to these developments and tracking them in real time.

On the screen, you can see excerpts from the chat logs among the President's National Security Council staff. At 2:13, the staff learned that the rioters were kicking in the windows at the Capitol. Three minutes later, the staff said the Vice President was being pulled, which meant agents evacuated him from the Senate floor. At 2:24, the staff noted that the Secret Service agents at the Capitol did not "sound good right now."

Earlier, you heard from a security professional who had been working in the White House complex on January 6th with access to relevant information and a responsibility to report to National security officials. We asked this person, what was meant by the comment that the Secret Service agents did not "sound good right now"?

In the following clip of that testimony, which has been modified to protect the individual's identity, the professional discusses what they heard from listening to the incoming radio traffic that day.

Ms. DAYANANDA. Okay. That last entry in the page is "Service at the Capitol does not sound good right now."

ANONYMOUS WHITE HOUSE SECURITY OFFICIAL. Correct.

Ms. DAYANANDA. What does that mean?

ANONYMOUS WHITE HOUSE SECURITY OFFICIAL. Well, members of the VP detail at this time were starting to fear for their own lives. There were a lot of—there was a lot of yelling, a lot of—a lot of very personal calls over the radio. So it was disturbing. I don't like talking about it, but there were calls to say goodbye to family members, so on and so forth. It was getting—for whatever the reason was on the ground, the VP detail thought that this was about to get very ugly.

Ms. DAYANANDA. And do—did you hear that over the radio?

ANONYMOUS WHITE HOUSE SECURITY OFFICIAL. Correct.

Ms. DAYANANDA. Okay. What was the response by the agents who were—Secret Service agents who were there?

ANONYMOUS WHITE HOUSE SECURITY OFFICIAL. Everybody kept saying—you know, at that point it was just reassurances or—I think there were discussions of reinforcements coming, but—but, again, it was just chaos, and they were just—

Ms. DAYANANDA. Obviously, you've conveyed that's disturbing, but what—what prompted you to put it into an entry as it states there, "Service at the Capitol—

ANONYMOUS WHITE HOUSE SECURITY OFFICIAL. They were running out of options, and they were getting nervous. It—it sounds like we're—that we came very close to either Service having to use lethal options or—or worse. Like, at—at that point I don't know. Is the VP compromised? Is the detail—like, I—I don't know. Like, we didn't have visibility, but it doesn't—if they're screaming and—and saying things like say goodbye to the family, like, the floor needs to know this is going to on a whole 'nother level soon.

Mrs. LURIA. As the next video shows, the rioters' anger was focused primarily on Vice President Mike Pence.

Ms. BUHLER. This woman came up to the side of us and she says, "Pence folded." So it was kind-of, like, okay, well—in my mind, I was thinking, well, that's it, you know. Well, my son-in-law looks at me and he says, "I want to go in."

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STOP THE STEAL TRANSMISSION. What percentage of the crowd is going to the Capitol?

Ms. WATKINS. 100 percent. It is—it has spread like wildfire that Pence has betrayed us, and everybody is marching on the Capitol, all million of us. It's insane.

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VOICE. Mike Pence will not stick up for Donald Trump. Mike Pence, traitor.

VOICE. Mike Pence has screwed us in case you haven't heard yet.

VOICE. What happened? What happened?

VOICE. I keep hearing that Mike Pence has screwed us. That's the word. I keep hearing reports that Mike Pence has screwed us.

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Mr. CHILDRESS. Did people appear angry as you were walking to the Capitol?

Mr. AYRES. Yeah, a lot of people—a lot of people seemed like they were very upset.

Mr. CHILDRESS. Tell us some of the things they were saying, if you recall.

Mr. AYRES. Oh, there was—they were saying all type—you know, people were screaming all types of stuff. They were mad that Vice President Pence was going to accept the electorals. I mean, it was—I mean, it was a load of—if you can—if you can think it up, that's—you are hearing it.

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VOICE. I believe that Vice President Pence was going to certify the electoral votes and—or not certify them. But I guess that's just changed. Correct? And it's a very big disappointment. I think there's several hundred thousand people here that are very disappointed.

Mrs. LURIA. President Trump did not try to calm his thousands of disappointed supporters. Instead, at almost the same moment violence was getting completely out of hand, Donald Trump sent his 2:24 tweet.

The President said, "Mike Pence didn't have the courage to do what should have been done to protect our Country and our Constitution."

Despite knowing the Capitol had been breached and the mob was in the building, President Trump called Mike Pence a coward and placed all the blame on him for not stopping the certification. He put a target on his own Vice President's back.

Mr. Pottinger and Ms. Matthews, when we asked you about your reaction to seeing the 2:24 tweet in real time, you both used the same imagery to describe it: President Trump was adding fuel to the fire.

Mr. Pottinger, you made the decision to resign after seeing this tweet. Can you please tell us why?

Mr. POTTINGER. Yes. So that was pretty soon after I—or shortly before I had gotten back to the White House. I had come from off-site. I began to see for the first time those images on TV of the chaos that was unfolding at the Capitol.

One of my aides handed me a sheet of paper that contained a tweet that you just read. I read it and was quite disturbed by it. I was disturbed and worried to see that the President was attacking Vice President Pence for doing his constitutional duty.

So, the tweet looked to me like the opposite of what we really needed at that moment, which was a de-escalation. That is why I had said earlier that it looked like fuel being poured on the fire.

So, that was the moment that I decided that I was going to resign, that that would be my last day at the White House. I simply didn't want to be associated with the events that were unfolding on the Capitol.

Mrs. LURIA. Thank you.

Ms. Matthews, what was your reaction to the President's tweet about Vice President Pence?

Ms. MATTHEWS. So, it was obvious that the situation at the Capitol was violent and escalating quickly. So, I thought that the tweet about the Vice President was the last thing that was needed in that moment.

I remember thinking that this was going to be bad for him to tweet this, because it was essentially him giving the green light to these people, telling them that what they were doing at the steps of the Capitol and entering the Capitol was okay, that they were justified in their anger.

He shouldn't have been doing that. He should have been telling these people to go home and to leave and to condemn the violence that we were seeing.

I am someone who has worked with him, you know, I worked on the campaign, traveled all around the country, going to countless rallies with him, and I have seen the impact that his words have on his supporters. They truly latch onto every word and every tweet that he says.

So, I think that in that moment for him to tweet out the message about Mike Pence, it was him pouring gasoline on the fire and making it much worse.

Mrs. LURIA. Thank you both.

Let's watch what others also told us about their reactions to this tweet.

Mr. CIPOLLONE. I don't remember when exactly I heard about that tweet, but my reaction to it is that's a—terrible tweet, and I disagreed with the sentiment, and I thought it was wrong.

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Mr. WOOD. What was your reaction when you saw that tweet?

Mr. DEERE. Extremely unhelpful.

Mr. WOOD. Why?

Mr. DEERE. It—it—it wasn't the message that we needed at—at that time. It wasn't going to—the—the scenes at the U.S. Capitol were only getting worse at that point. This was not going to help that.

Mr. WOOD. Were you concerned it could make it worse?

Mr. DEERE. Certainly.

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Vice Chair CHENEY. Ms. Hutchinson, what was your reaction when you saw this tweet?

Ms. HUTCHINSON. As a staffer that works to always represent the administration to the best of my ability and to showcase the good things that he had done for the country, I remember feeling frustrated, disappointed, and really, it—it felt personal. I—I was really sad. As an American, I was disgusted. It was unpatriotic. It was un-American. We were watching the Capitol Building get defaced over a lie.

Mrs. LURIA. As you will see, at 2:26 the Vice President had to be evacuated to safety a second time and came within 40 feet of the rioters. The attack escalated quickly right after the tweet.

VOICES. [Unintelligible.]

Mrs. LURIA. During this chaos, what did President Trump do at that point? He went back to calling Senators to try to further delay the electoral count.

While the Vice President was being evacuated from the Senate, President Trump called Senator Tommy Tuberville, one of his strongest supporters in the Senate. As Senator Tuberville later recalled, he had to end the call so that he could evacuate the Senate Chamber himself.

Let's listen.

Senator TUBERVILLE. He called—didn't call my phone. Called somebody else and they handed it to me. And I—I basically told him—I said, "Mr. President, we're—we're not doing much work here right now because they just took our Vice President out, and matter of fact, I'm gonna have to hang up on you. I've got to leave."

Mrs. LURIA. Senator Josh Hawley also had to flee. Earlier that afternoon, before the joint session started, he walked across the East Front of the Capitol.

As you can see in this photo, he raised his fist in solidarity with the protesters already amassing at the security gates.

We spoke with the Capitol Police Officer who was out there at the time. She told us that Senator Hawley's gesture riled up the crowd. It bothered her greatly, because he was doing it in a safe space, protected by the officers and the barriers.

Later that day, Senator Hawley fled after those protesters he helped to rile up stormed the Capitol.

See for yourself.

Think about had what we've seen: undeniable violence at the Capitol. The Vice President being evacuated to safety by the Secret Service. Senators running through the hallways of the Senate to get away from the mob.

As the Commander-in-Chief, President Trump was oath- and duty-bound to protect the Capitol. His senior staff understood that.

Vice Chair CHENEY. Do—do you believe, Jared, that the President has an obligation to ensure a peaceful transfer of power?

Mr. KUSHNER. Yes.

Vice Chair CHENEY. And do you think the President has an obligation to defend all three branches of our government?

Mr. KUSHNER. I believe so.

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Vice Chair CHENEY. And I assume you also would agree the President has a particular obligation to take care that the laws be faithfully executed.

Mr. CIPOLLONE. That is one of the President's obligations, correct.

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Vice Chair CHENEY. No, I mean, I asked what his duty is.

General KELLOGG. Well, I mean, there's a—there's a constitutional duty—I—what he has—he's the Commander in Chief, and that was the—the—that was my biggest issue with him as National Security Advisor.

Mrs. LURIA. Rather than uphold his duty to the Constitution, President Trump allowed the mob to achieve the delay that he hoped would keep him in power.

I reserve.

Vice Chair CHENEY. The gentlewoman reserves.

I request that those in the hearing room remain seated until the Capitol Police have escorted Members and witnesses from the room.

I now declare the Committee in recess for a period of approximately 10 minutes.

[Accordingly, at 9:11 p.m., the Committee recessed until 9:24 p.m., when it was called to order by the Vice Chair.]

Vice Chair CHENEY. I now recognize the gentleman from Illinois.

Mr. KINZINGER. We left at the recess just after President Trump's 2:24 tweet attacking the Vice President. By this time, the President had been in his dining room for an hour.

I want you to just think of what you would have done if you were in his shoes and had the power to end the violence. You would have immediately and forcefully told the rioters to stop and leave, like, stop and leave, done.

As you heard, that's exactly what his senior staff had been urging him do. But he resisted and he kept resisting for another almost 2 hours.

In the mean time, all the President did was post two tweets, one at 2:38 and the other at 3:13. One said "stay peaceful." The other said "remain peaceful."

But the President already knew that the mob was attacking the police and had invaded the Capitol. Neither tweet condemned the violence or told the mob to leave the Capitol and disperse.

To appreciate how obvious it was that President Trump was not meeting this moment, it is helpful to look at the real-time reactions of his own son, Don Jr., to the first tweet captured in a series of text messages with Mark Meadows. I warn the audience that these messages contain some strong language.

As you can see, Don Jr. first texted Mr. Meadows at 2:53. He wrote, "He's got to condemn this shit. ASAP. The Capitol police tweet is not enough."

Mr. Meadows replied, "I am pushing it hard. I agree."

Don Jr. responded, "This [is] one you go to the mattresses on. They will try to fuck his entire legacy on this if it gets worse."

Here's what Don Jr. told us he meant by "go to the mattresses."

Mr. TONOLLI. At 2:58 when you say that he need—that Mr. Meadows needs to go to the mattresses on this issue, when you say "go to the mattresses," what does that mean?

Mr. Trump, Jr. It's just a reference for going all in. I think it's a "Godfather" reference.

Mr. KINZINGER. Sean Hannity agreed, and he also turned to Mark Meadows for help after the President's second tweet.

As you can see, Mr. Hannity texted at 3:31 to say Trump needed to deliver a statement to the Nation telling the rioters to leave the Capitol. Mr. Meadows respond that he was "on it."

Don Jr. and Sean Hannity were not the only ones who implored Mr. Meadows to get the President to speak to the Nation and tell the mob to leave, to go home, go home. Throughout the attack, Mr. Meadows received texts from Republican Members of Congress, from current and former Trump administration officials, from media personalities, and from friends. Like President Trump's staff, they knew President Trump had to speak publicly to get the mob to stop.

Let's look at just a few of these text messages.

Fox News personality Laura Ingraham said, "The President needs to tell the people in the Capitol to go home." Former Chief of Staff Mick Mulvaney urged, "Mark, he needs to stop this now." Fox News personality Brian Kilmeade said, "Please get him on TV. Destroying everything that you guys have accomplished."

When we interviewed White House Counsel Pat Cipollone, he told us that he knew that the President's two tweets were not enough.

Let's listen to what he said.

Mr. HEAPHY. I think the question is, did you believe that the tweets were not anything about your advice to the President?

Mr. CIPOLLONE. No, I believe more needed to be done. I believed that a public statement needed to be made.



Vice Chair CHENEY. When you talk about others on the staff thinking more should be done or thinking that the President needed to tell people to go home, who—who would you put in that category?

Mr. CIPOLLONE. Well, I—I would put Pat Philbin, Eric Herschmann, overall Mark Meadows, Ivanka; once Jared got there, Jared; General Kellogg. I'm probably missing some, but those are—Kayleigh, I think, was—was there, but I don't—Dan Scavino.

Vice Chair CHENEY. And who on the staff did not want people to leave the Capitol?

Mr. CIPOLLONE. On the staff?

Vice Chair CHENEY. In the White House, how about?

Mr. CIPOLLONE. I don't—I—I can't think of anybody, you know, on that day who didn't want people to get out of the—the Capitol once the—you know, particularly once the violence started, no. I mean—

Mr. SCHIFF. What about the President?

Vice Chair CHENEY. Yeah.

Mr. CIPOLLONE. She said the staff, so I answered.

Vice Chair CHENEY. No, I said in the White House.

Mr. CIPOLLONE. Oh, I'm sorry. I—I apologize. I thought you said who—who else on the staff. I—I—I can't reveal communications, but obviously, I think, you know—yeah.

Mr. KINZINGER. Let's pause on that last statement. Although Pat Cipollone is being careful about executive privilege, there really is no ambiguity about what he said. Almost everybody wanted President Trump to instruct the mob to disperse. President Trump refused.

To understand how inadequate the President's tweets were, let's examine his 2:38 tweet in more detail. For context, here is what was happening at that time.

VOICE. They broke the glass.

VOICE. Everybody, stay down. Get down.

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UNITED STATES CAPITOL POLICE TRANSMISSION. Doors barricaded. There's people flooding the hallways outside. We have no way out.

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Mr. WELCH. We were just told that there has been tear gas in the rotunda, and we're being instructed to each of us get a gas mask.

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FOX NEWS HOST. We went from a peaceful protest, and this is a very dangerous situation right now. That there are—I'm being told these protesters on the inside are around both Chambers, and there is now tear gas inside the Capitol Rotunda. In fact, Members locked in the House are being instructed to put on masks.

Mr. KINZINGER. Ms. Matthews, after President Trump's tweet about Vice President Pence, you told us you spoke to—immediately you spoke to Kayleigh McEnany. What did you tell her and where did she go afterwards?

Ms. MATTHEWS. After the tweet about the Vice President, I found Kayleigh and told her that I thought the President needed to immediately send out a tweet that condemned the violence that we were seeing and that there needed to be a call to action to tell these people to leave the Capitol. She agreed and walked over to the Oval dining room to find the President.

Mr. KINZINGER. We interviewed Ms. McEnany and others who were in the dining room with the President urging him to put out a statement.

Ms. Matthews, Ms. McEnany told us she came right back to the press office after meeting with the President about this particular

tweet. What did she tell you about what happened in that dining room?

Ms. MATTHEWS. When she got back, she told me that a tweet had been sent out. I told her that I thought the tweet did not go far enough, that I thought there needed to be a call to action and he needed to condemn the violence.

We were in a room full of people, but people weren't paying attention. So, she looked directly at me and in a hushed tone shared with me that the President did not want to include any sort of mention of peace in that tweet and that it took some convincing on their part, those who were in the room.

She said that there was a back-and-forth going over different phrases to find something that he was comfortable with. It wasn't until Ivanka Trump suggested the phrase "stay peaceful" that he finally agreed to include it.

Mr. KINZINGER. The President resisted writing "stay peaceful" in a tweet. He told Mark Meadows that the rioters were doing what they should be doing. The rioters understood they were doing what President Trump wanted them to do.

President Trump's message was heard clearly by Stop the Steal organizer Ali Alexander.

At 2:38 he told another organizer, "POTUS is not ignorant of what his words would do."

Rioters storming the Capitol also heard President Trump's message. In this video, you will see surveillance footage from the Rotunda that shows a group of Oath Keepers, including Jessica Watkins, who was been charged with seditious conspiracy.

You will hear her walkie-talkie communications with others as they share intelligence and communicate about President Trump's 2:38 tweet in real time. Again, we warn the audience that this clip also contains strong language.

VOICE. CNN just said that they evacuated all Members of Congress into a safety room.

VOICE. There is no safe place in the United States for any of these motherfuckers right now, let me tell you.

VOICE. I hope they understand that we are not joking around.

VOICE. Military principle 105, military principle 105, cave means grave.

VOICE. Trump just tweeted, "Please support our Capitol Police. They are on our side. Do not harm them."

VOICE. That's saying a lot by what he didn't say. He didn't say not to do anything to the Congressmen.

VOICE. Well, he did not ask them to stand down. He just said stand by the Capitol Police. They are on our side and they are good people. So it's getting real down there. I got it on TV, and it's—it's looking pretty friggin' radical to me.

VOICE. CNN said that Trump has egged this on, that he is egging it on, and that he is watching the country burn 2 weeks before he leaves office. He is not leaving office. I don't give a shit what they say.

Ms. WATKINS. And we are in the mezzanine. We are in the main dome right now. We are rocking it. They're throwing grenades. They're frickin' shooting people with paintballs, but we're in here.

VOICE. Be safe, be safe. God bless and Godspeed and keep going.

VOICE. Get it, Jess. Do your shit. This is what we fucking lived up for, everything we fucking trained for.

VOICE. Took over the Capitol, overran the Capitol.

VOICE. We're in the fucking Capitol Complex.

Mr. KINZINGER. We have now seen how President Trump's supporters reacted to his tweets.

Mr. Pottinger, you told us that you consider the tweets sent to this point to be “wholly inadequate . . . given the urgency of the crisis.”

What, in your view, would have been needed?

Mr. POTTINGER. Yes. It was insufficient. I think what—you could count me among those who was hoping to see an unequivocal strong statement clearing out the Capitol, telling people to stand down, leave, go home. I think that’s what we were hoping for.

Mr. KINZINGER. So, something a lot more kind-of definitive and not ambiguous.

Mr. POTTINGER. Yes.

Mr. KINZINGER. Because he has that power over his folks.

Ms. Matthews, you told us about a colleague who said during the attack that the President should not condemn the violence. Can you please tell us about that moment and your reaction?

Ms. MATTHEWS. Yes. So a conversation started in the press office after the President sent out those two tweets that I deemed were insufficient. A colleague suggested that the President shouldn’t condemn the violence because they thought it would be “handing a win to the media,” if he were to condemn his supporters.

I disagreed. I thought that we should condemn the violence and condemn it unequivocally. I thought that he needed to include a call to action and to tell these people to go home. A debate ensued over it.

I became visibly frustrated and my colleagues were well aware of that. I couldn’t believe that we were arguing over this in the middle of the West Wing, talking about the politics of a tweet, being concerned with handing the media a win, when we had just watched all of that violence unfold at the Capitol.

So, I motioned up at the TV. I said, “Do you think it looks like we’re F’ing winning? Because I don’t think it does.”

I again reiterated that I thought that the President needed to condemn the violence, because it didn’t matter if it was coming from the left or the right, that you should condemn violence 100 percent of the time.

Mr. KINZINGER. We have heard this evening how everyone in the President’s orbit was pushing him to do more, to tell the mob to leave the Capitol.

One of these people—one of those people was Republican Leader Kevin McCarthy. He managed to get the President on the phone and told him to call off his supporters.

As you will hear, the President refused. So, Leader McCarthy reached out for help to Ivanka Trump, who was at the White House, and Jared Kushner, who that afternoon had just arrived back on a flight from the Middle East.

Ms. LUCIER. So, at some point in the afternoon, Mr. McCarthy placed a phone call to Mr. Scavino’s desk line, and it was transferred to the President. Is that correct?

Ms. MICHAEL. That’s generally what I recall.

Ms. LUCIER. Okay. Were you involved in making that—transferring that call?

Ms. MICHAEL. I—I—yes.

Ms. LUCIER. Okay. Where was the President at the time that he took that call?

Ms. MICHAEL. He was in the dining room.

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FOX NEWS HOST. Would you personally reach out to the President for more support?

Mr. MCCARTHY. I've already talked to the President. I called him. I think we need to make a statement, make sure that we can calm individuals down.

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Mr. HEAPHY. Did Mr. McCarthy indicate that he had been in touch with President Trump?

Mr. SHORT. He indicated that he had had some conversation. I don't recall whether it was with the—with the President or with somebody at the White House. But I think he—he expressed frustration that—not taking the circumstance as seriously as they should in that moment.

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Ms. HERRERA BEUTLER. You know, I asked Kevin McCarthy, who's the Republican Leader, about this, and—and he said he called Donald—he finally got through to Donald Trump, and he said, "You have got to get on TV. You've got to get on Twitter. You've got to call these people off." You know what the President said to him? This is as it's happening. He said, "Well, Kevin, these aren't my people. You know, these are—these are Antifa."

And Kevin responded and said, "No, they're your people. They literally just came through my office windows, and my staff are running for cover. I mean, they're running for their lives. You need to call them off." And the President's response to Kevin, to me, was chilling. He said, "Well, Kevin, I guess they're just more upset about the election, you know, theft than you are."

And that's—you know, you've seen widespread reports of—of Kevin McCarthy and the President having a—basically a swearing conversation. That's when the swearing commenced, because the President was basically saying, nah, I—I'm okay with this.

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CBS NEWS HOST. Leader McCarthy, the President of the United States has a Briefing Room steps from the Oval Office. It is—the cameras are hot 24/7, as you know. Why hasn't he walked down and said that now?

Mr. MCCARTHY. I conveyed to the President what I think is best to do, and I'm hopeful the President will do it.

CBS NEWS HOST. And have you spoken with his chief of staff?

Mr. MCCARTHY. I've spoken to the President. I've spoken to other people in there and to the White House as well.

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Mr. TONOLLI. Who else reached out to Mr. Trump that you know of that afternoon about the attack on the Capitol?

Ms. RADFORD. I believe at one point McCarthy did.

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Mr. KUSHNER. So, my—I heard my phone ringing, turn the shower off, saw it was Leader McCarthy, who I had a good relationship with. He told me it was getting really ugly over at the Capitol and said, "Please, you know, anything you could do to help, I would appreciate it."

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Mr. KUSHNER. I don't recall a specific ask, just anything you could do. Again, I got the sense that, you know, they were—they were—you know, they were scared.

Mr. HEAPHY. "They" meaning Mr.—Leader McCarthy and people on the Hill because of the violence?

Mr. KUSHNER. That he—he was scared, yes.

Mr. KINZINGER. Think about that. Leader McCarthy, who was one of the President's strongest supporters, was scared and begging for help. President Trump turned him down. So, he tried to call the President's children.

Republican House Member Mike Gallagher also implored the President to call off the attack.

Mr. GALLAGHER. Mr. President, you have got to stop this. You are the only person who can call this off. Call it off. The election is over. Call it off.

Mr. KINZINGER. President-elect Joe Biden also went live on TV to demand that President Trump tell the mob to leave.

President-elect BIDEN. I call on President Trump to go on national television now, to fulfill his oath and defend the Constitution, and demand an end to this siege.

Mr. KINZINGER. There was a desperate scramble for everyone to get President Trump to do anything. All this occurred and the President still did not act.

I yield to my friend from Virginia.

Mrs. LURIA. Thank you, Mr. Kinzinger.

President Trump finally relented to the pleas from his staff, his family, and from Capitol Hill for him to do something more at 4:17, 187 minutes, more than 3 hours after he stopped speaking at the Ellipse, after he stopped speaking to a mob that he had sent armed to the Capitol.

That is when he tweeted a video telling the rioters to go home, while also telling them that they were special and that he loved them.

By that time, although the violence was far from over, law enforcement had started to turn the tide, reinforcements were on the way, and elected officials were in secure locations. The writing was already on the wall: The rioters would not succeed.

Here is what was showing on Fox News, the channel the President was watching all afternoon.

FOX NEWS HOST. Back to Bret Baier with more information now. Bret, what do you have?

Mr. BAIER. You know, our Pentagon team—Jen Griffin, Lucas Tomlinson—confirming the Defense Department has now mobilized the entire D.C. National Guard, 1,800 troops. Takes several hours, as I was mentioning before, to get them up and running. The Army Secretary, Ryan McCarthy, is setting up a headquarters at the FBI. You just heard from David Spunt that the FBI is also sending troops to the Capitol.

Mrs. LURIA. It is no coincidence then that President Trump finally gave in and went out to the Rose Garden at 4:03. His staff had prepared a script for him to read, but he refused to use it.

As you can see on the screen, you can see the script is stamped “President Has Seen.” The script said, “I am asking you to leave the Capitol Hill region NOW and go home in a peaceful way.”

The President was urged to stick to this script, but he spoke off the cuff.

Eric Herschmann and Nick Luna went with the President to film the message in the Rose Garden. Let’s hear what they had to say and see the never-before-seen raw footage of the President recording this video message.

Mr. GEORGE. Ultimately, these remarks that we’re looking at here in Exhibit 25 were not the remarks that the President delivered in the Rose Garden. Do you know why the President decided not to use these?

Mr. LUNA. I—I don’t know, sir. No, I do not know why.

Mr. GEORGE. Did the President use any written remarks, to your knowledge, or did he just go off the cuff?

Mr. LUNA. To my knowledge, it was off the cuff, sir.

WHITE HOUSE STAFF [off-mic]. When you’re ready, sir.

President TRUMP. You tell me when.

WHITE HOUSE STAFF. When you’re ready, sir.

President TRUMP. Who’s behind me?

WHITE HOUSE STAFF. He’s gone. He’s gone. We’re all clear now.

President TRUMP. I know your pain. I know you're hurt. We had a election—let me say. I know your pain. I know you're hurt. We had an election that was stolen from us. It was a landslide election and everyone knows it, especially the other side, but you have to go home now. We have to have peace. We have to have law and order. We have to respect our great people in law and order.

We don't want anybody hurt. It's a very tough period of time. There's never been a time like this where such a thing happened where they could take it away from all of us, from me, from you, from our country. This was a fraudulent election, but we can't play into the hands of these people.

We have to have peace. So go home. We love you. You're very special. You've seen what happens. You see the way others are treated that are so bad and so evil. I know how you feel but go home and go home in peace.

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Mr. KUSHNER. When I got there, basically the President just had finished filming the video, and I think he was basically retiring for the day.

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Mr. WOOD. Was there any discussion about the President releasing a second video that day?

Mr. HERSCHMANN. Not that I recall. When—when he finished his video, I think everyone was, like, day's over. People were pretty drained.

Mr. WOOD. Were pretty what?

Mr. HERSCHMANN. Drained.

Mr. WOOD. When we say day—day over are we—there were still people in the Capitol at that point, weren't there?

Mr. HERSCHMANN. There were people in the Capitol, but I believe by this stage law enforcement—I'd have to go back and look, but I believe law enforcement was either there or moving in or going to take charge. And I just think people were emotionally drained by the time that videotape was done.

Mrs. LURIA. Emotionally drained? At the White House?

Here is what was happening at the same time at the Capitol. We warn the audience that this clip also contains strong language and violence.

VOICE. Keep pushing. Don't lose the momentum. [Indistinguishable.]

METROPOLITAN POLICE DEPARTMENT TRANSMISSION. We've got another officer unconscious at the terrace. West Terrace.

VOICE. Everybody, we need gas masks. We need weapons. We need strong, angry patriots to help our boys. They don't want to leave.

Mrs. LURIA. While President Trump refused to even lift another finger to help, other leaders honored their oaths and acted to clear the Capitol and resume the joint session.

For instance, here are never-before-seen photos and video of congressional leaders in action during the attack. The video is a portion of a call they had at approximately 4:45 with Acting Secretary of Defense Chris Miller.

Senator McCONNELL. We're not going to let these people keep us from finishing our business. So we need you to get the building cleared. Give us the okay so we can go back in session and finish up the people's business as soon as possible.

Acting Secretary MILLER. Amen, sir.

Senator SCHUMER. Mr. Secretary, it's Senator Schumer. Some people here in the Capitol Police believe it would take us several days to secure the building. Do you agree with that analysis?

Acting Secretary MILLER. I'm not on the ground, but I do not agree with that analysis.

Senator SCHUMER. So what is the earliest that we could safely resume our proceedings in the Senate and House Chambers—the earliest we could safely resume?

Acting Secretary MILLER. I—here's my assessment, but I prefer to be on the ground, which I personally would prefer to be right now, but I need to be here. I would say, best case, we're looking at 4 to 5 hours.

Mrs. LURIA. The Vice President also worked the phones from his own secure evacuation location, including conversations with Act-

ing Secretary of Defense Miller and other military leaders—well past President Trump’s 4:17 video.

Let’s look at some never-before-seen photographs of the Vice President during this critical time and hear about the Vice President’s conversation with military leaders to secure the Capitol and ensure everyone was safe.

General MILLEY. Vice President Pence? There were two or three calls with Vice President Pence. He was very animated, and he issued very explicit, very direct, unambiguous orders. There was no question about that. And he was—and I can get you the exact quotes, I guess, from some of our records somewhere, but he was very animated, very direct, very firm and—to Secretary Miller: “Get the military down here, get the Guard down here, put down this situation,” et cetera.

Mrs. LURIA. As you heard earlier in the hearing, the President did not call the Vice President or anyone in the military, Federal law enforcement, or D.C. government, not a single person.

But General Milley did hear from Mark Meadows. The contrast between that call and his calls with Vice President Pence tells you everything you need to know about President Trump’s dereliction of duty.

Let’s listen.

General MILLEY. He said—this is from memory. He said, “We have—we have to kill the narrative that the Vice President is making all the decisions. We need to establish the narrative that, you know, that the President is still in charge and that things are steady or stable.” Or words to that effect. I immediately interpret that as politics, politics, politics. Red flags for me personally, no action, but I remember it distinctly and—and I don’t do political narratives.

Mrs. LURIA. So, while President Trump and his advisers were “drained,” other leaders upheld their oaths to do the right thing. Maybe it was exhausting to get the President to put out that video, but think about the law enforcement officers who were attacked by the mob that day that President Trump had summoned them himself to Washington.

What about President Trump? He watched TV, tweeted, called Senators to try to delay the count of electoral votes, called Rudy Giuliani, and argued with his staff who were insisting that he should call off the attack.

Ms. Matthews, what was your reaction to President Trump’s message to the mob at 4:17?

Ms. MATTHEWS. I was struck by the fact that he chose to begin the video by pushing the lie that there was a stolen election. As the video went on, I felt a small sense of relief because he finally told these people to go home.

But that was immediately followed up by him saying, “We love you. You’re very special.” That was disserving to me, because he didn’t distinguish between those that peacefully attended his speech earlier that day and those that we watched cause violence at the Capitol.

Instead, he told the people who we had just watched storm our Nation’s Capitol with the intent on overthrowing our democracy, violently attack police officers, and chant heinous things like, “Hang Mike Pence,” “We love you. You’re very special.”

As a spokesperson for him, I knew that I would be asked to defend that. To me, his refusal to act and call off the mob that day and his refusal to condemn the violence was indefensible.

So, I knew that I would be resigning that evening. So, I finished out the workday, went home and called my loved ones to tell them of my decision, and resigned that evening.

Mrs. LURIA. Thank you.

Indefensible.

Let's hear what some of your colleagues in the press office told us about their reaction to the same 4:17 message.

Mr. DEERE. I felt like it was the absolute bare minimum of what could have been said at that point for something on camera.

Mr. WOOD. What else do you think should have been said?

Mr. DEERE. So a more forceful—a more forceful dismissal of the violence, a more forceful command to go home, a more forceful respect for law enforcement, even a comparison to the respect that we had given law enforcement as it relates to what was done to them in the prior summer. And I thought it was important that an acknowledgment be given to the U.S. Capitol Building itself, what it's a symbol of, what it means, not only to the people that work there, but to the American people generally and the work of Congress that, by law, needed to be conducted that day.

Mr. WOOD. Do you wish in hindsight that the President had asked the protesters to leave the Capitol earlier than he ended up asking them to do that?

Ms. MCENANY. Of course, I would have loved if the go home message would have happened earlier in the day.

Mrs. LURIA. The President's words matter. We know that many of the rioters were listening to President Trump.

We heard from one last week, Stephen Ayres. Let's listen to what he had to say about the 4:17 message from the President and see how rioters reacted to the President's message in real time.

Mr. AYRES. Well, when we were there, as soon as that come out, everybody started talking about it, and that's—it seemed like it started to disperse, you know, some of the crowd—

Mr. ANGELI. I'm here delivering the President's message. Donald Trump has asked everybody to go home.

VOICE. That's our order.

VOICE. He says, go home. He says, go home.

VOICE. Yeah, he said to go home.

Mrs. LURIA. But just as Mr. Ayres said, police were still fending off the last throes of the brutal assault.

I yield to the gentleman from Illinois.

Mr. KINZINGER. While everyone else was working to get Congress back in session, what did President Trump do? At 6:01, just 1 minute after the city-wide curfew went into effect, he posted his last tweet of the day.

After officers engaged in multiple hours of hand-to-hand combat, with over 100 of them sustaining injuries, President Trump tweeted at 6:01 and justified the violence as a natural response to the election.

He said, "These are the things and events that happen when a sacred landslide victory is so unceremoniously & viciously stripped away from great patriots who have been badly & unfairly treated for so long. Go home with love & in peace. Remember this day forever!"

He called the mob "great patriots." He told people to remember the day forever. He showed absolutely no remorse.



A few minutes later, at 6:27, the President left the dining room and he went up to the White House residence for the night.

On the screen is the last photograph of the President that night as he went into the residence. As he was gathering his things in the dining room to leave, President Trump reflected on the day's events with a White House employee. This was the same employee who had met President Trump in the Oval Office after he returned from the Ellipse. President Trump said nothing to the employee about the attack. He said only, "Mike Pence let me down."

Ms. Matthews, what was your reaction to President Trump's 6:01 tweet?

Ms. MATTHEWS. At that point I had already made the decision to resign and this tweet just further cemented my decision. I thought that January 6, 2021, was one of the darkest days in our Nation's history and President Trump was treating it as a celebratory occasion with that tweet. So, it just further cemented my decision to resign.

Mr. KINZINGER. Others agreed with your assessment of that tweet. Let's look at what they had to say.

Mr. GEORGE. Who asked you about this tweet before it was sent?

Mr. LUNA. The President.

Mr. GEORGE. Tell us about that conversation and everything that you said and he said to the best of your recollection.

Mr. LUNA. Sure. So he said, "What do you think of this?" And I believe I saw the text message or the—on his phone. And I—I remember saying to him the wording on the first sentence—I guess it's one long sentence. But the wording on the first sentence would lead some to believe that potentially he had something to do with the events that happened at the Capitol.

Mr. GEORGE. And what did he say?

Mr. LUNA. I don't recall him saying anything in response to that, and I believe that was the end of the conversation.

Mr. GEORGE. Did he change anything in light of your comments?

Mr. LUNA. No, sir, he did not.

Mr. GEORGE. And what about this made you think that someone might perceive the President having a role in the violence at the Capitol?

Mr. LUNA. It—it was my interpretation of the words. I mean, I'm—I'm not a—you know, I don't write speeches or anything, but the phrase, "these are the things that happen," to me, sounded as if—as if culpability was associated with it. To me.

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Mr. MURTAUGH. I don't think it's a patriotic act to attack the Capitol, but I have no idea how to characterize the people other than they trespassed, destroyed property, and assaulted the U.S. Capitol. I think calling them "patriots" is, let's say, a stretch to say the least.

Mr. AGANGA-WILLIAMS. Is that all it is, a stretch? Or just flatly wrong?

Mr. MURTAUGH. I don't think it's a patriotic act to attack the U.S. Capitol.

Mr. AGANGA-WILLIAMS. Would you call it unpatriotic?

Mr. MURTAUGH. Criminal. Unpatriotic, sure.

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Mr. CIPOLLONE. What happened at the Capitol cannot be justified in any form or fashion. It was wrong and it was tragic and a lot—and it—and it was a terrible day. It was a terrible day for this country.

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Mr. JACOB. I thought it was inappropriate.

Mr. WOOD. Why?

Mr. JACOB. To my mind, it was a day that should be remembered in infamy. That wasn't the tenor of this tweet.

Mr. KINZINGER. Despite the violence of the day, the effort to delay the certification continued. That evening, Rudy Giuliani

called several of President Trump's closest political allies in the hour before the joint session resumed—Representative Jim Jordan and Senators Marsha Blackburn, Tommy Tuberville, Bill Haggerty, Lindsey Graham, Josh Hawley, and Ted Cruz.

We know why Mr. Giuliani was calling them, because at 7:02 he left a voicemail for Senator Tuberville, which later became public.

Let's listen to just the start of it.

Mr. GIULIANI. Hello. Senator Tuberville? Or I should say Coach Tuberville. This is Rudy Giuliani, President's lawyer. I'm calling you because I want to discuss with you how they're trying to rush this hearing and how we need you, our Republican friends, to try to just slow it down so we can get these legislatures to get more information to you.

Mr. KINZINGER. Mr. Giuliani did not even mention the attack on the Capitol. Instead, he was pushing on behalf of President Trump to get Members of Congress to further delay the certification.

Even though some Members did proceed with objections, Vice President Pence and Congress stood firm and successfully concluded the joint session in the early morning hours of January 7th.

Here is some of what members of the President's party said in the days and weeks after the attack.

Senator MCCONNELL. There's no question, none, that President Trump is practically and morally responsible for provoking the events of the day. No question about it. The people who stormed this building believed they were acting on the wishes and instructions of their President, and having that belief was a foreseeable consequence of the growing crescendo of false statements, conspiracy theories, and reckless hyperbole which the defeated President kept shouting into the largest megaphone on planet Earth.

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Mr. MCCARTHY. The violence, destruction, and chaos we saw earlier was unacceptable, undemocratic, and un-American. It was the saddest day I've ever had as serving as a Member of this institution.

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Mr. ROY. Madam Speaker, today the people's House was attacked which is an attack on the Republic itself. There is no excuse for it. A woman died, and people need to go to jail. And the President should never have spun up certain Americans to believe something that simply cannot be.

Mr. KINZINGER. Well after 3 in the morning, Congress certified the 2020 election results. Soon after, this statement by President Trump was posted on Dan Scavino's Twitter account because the President's account by now had been suspended.

As you can see, President Trump stuck with his Big Lie that the election was stolen. But he did say there would be an orderly transition. We learned, though, that the statement was not necessarily his idea.

Jason Miller, a campaign adviser, told us that after the joint session started, he heard nothing from President Trump or the White House about assuring the Nation that the transfer of power would take place. So, Mr. Miller took it upon himself to draft a statement and called the President at 9:23 that night to convince him to put it out.

Let's listen to what he had to say about the call.

Mr. HEAPHY. Did he disagree with something that you had put in the statement, some particular word or phrase that—that he did not want included?

Mr. JASON MILLER. I'd say just that he wanted to say "peaceful" transition, and I said that ship's kind-of already sailed so we're going to say "orderly" transition.

That was—that was about the extent of disagreement or—or pushback from the conversation.

Mr. KINZINGER. The last person President Trump spoke to by phone that night was Johnny McEntee, his head of personnel. Mr. McEntee told us that they talked about the events of the day and the multiple resignations by administration officials.

The decision whether to resign was one that weighed heavily on people in the administration. On the one hand, people like Mr. Pottinger and Ms. Matthews here, as proud as they were to have served, refused to be associated with President Trump's dereliction of duty. But others were sincerely worried that leaving President Trump to his own devices would put the country at continued risk.

Listen to what we heard about that tension from Pat Cipollone, from General Mark Milley, and Eugene Scalia, who was the Secretary of Labor.

Mr. CIPOLLONE. And then after that some people were resigning, obviously, over January 6th. We know who they—they were. Did I consider it? Yes. Did I do it? No.

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Mr. CIPOLLONE. Concerned about is if people in the counsel's office left, who would—who would replace me? And I had some concerns that it might be somebody who, you know, had been giving bad advice.

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Secretary SCALIA. On the morning of the 7th, the decision I arrived at was that the most constructive thing I could think of was to seek a meeting of the Cabinet. You know, I thought that trying to work within the administration to steady the ship was likely to have, you know, greater value than simply resigning, after which point I would have been powerless to really affect things with the administration.

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Mr. CIPOLLONE. Eugene thought that there should be a Cabinet meeting.

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Mr. HEAPHY. Do you know why Mark thought it would not be productive?

Mr. CIPOLLONE. I—I—I don't remember why. I—I think it probably had something to do with Mark's view of how the President might react and that he—you know, but things like that.

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General MILLEY. There was a couple of the calls where, you know, Meadows and/or Pompeo, but more Meadows, you know, how—how is the President doing? Like, Pompeo might say, "How's the President doing?" And Meadows would say, "Well, he's in a really dark place." Like here's one, for example, on the 7th of January. So this is a day after, right? "POTUS is very emotional and in a bad place," Meadows.

Mr. KINZINGER. As you heard Secretary Scalia wanted President Trump to convene a Cabinet meeting. He put his request in a memo to the President, and here is what it said.

You can see that Secretary Scalia recommended that the President "No longer publicly question the election results. After Wednesday, no one can deny this is harmful."

Secretary Scalia also highlighted the importance of the public knowing the President would invoke his Cabinet in decision making and not "certain private individuals."

Though Secretary Scalia did not say it, he was referring to Rudy Giuliani and the rest of the so-called clown car working with President Trump to try to overturn the election. Secretary Scalia under-

stood that the President needed to do more to reassure the public about the last few weeks of the Trump administration.

Mr. POTTINGER, when you made the decision to resign, did you walk out of the White House immediately?

Mr. POTTINGER. No. I wanted to first talk to my immediate boss that was the National Security Advisor, Robert O'Brien. Robert O'Brien was traveling on the 6th. I reached him at about 4:30 p.m. and told him that I was submitting my resignation. He accepted the resignation. But he also asked whether I could stay until he could get back to the White House, and I agreed to that. We both wanted to make sure that I was leaving in a responsible way.

We still have foreign adversaries to worry about, you know, hackers, terrorists, nation-states, and I did not want to leave my chair empty given that I was the top National security staffer in the White House. So, I ended up staying at my desk through the night. When Robert O'Brien arrived back at the White House the next morning, the morning of the 7th, I debriefed with him and left for the last time.

Mr. KINZINGER. So, you and I both share a passion for National security of our country. Can you share with me, what is your view on how January 6th impacted our National security?

Mr. POTTINGER. Well, when you have a Presidential transition, even under the best circumstances, it's a time of vulnerability. It's a time of vulnerability. For—when you have a contested election, I was certainly concerned that some of our adversaries would be tempted to probe or test U.S. resolve. As an example, in late December, the Iranian Government attacked the U.S. Embassy in Baghdad. They did that using some of their terrorist proxies.

President Trump did handle that. He sent a very clear warning to the ayatollah and his regime, which I think had a useful effect. I think that we would have handled other threats of that nature, and luckily no other threats materialized before the inauguration on the 20th.

But our National security was harmed in a different way by the 6th of January, and that is that it—I think it emboldened our enemies by helping give them ammunition to feed a narrative that our system of government doesn't work, that the United States is in decline. China, the Putin regime in Russia, Tehran, they're fond of pushing those kinds of narratives.

By the way, they're wrong. You know, we've been hearing for the entirety of U.S. history from kings and despots that the United States is in decline, and those kings and despots have been proven wrong every single time. But, nonetheless, January 6th helped feed a perception that I think emboldens our adversaries.

You know, the other part I think is simply our allies. I heard from a lot of friends in Europe, in Asia, allies, close friends and supporters of the United States, that they were concerned about the health of our democracy. So, I think it's incumbent upon us to put their minds at ease, to put our own hearts at ease by investigating what happened on the 6th and making sure that it never happens again.

Mr. KINZINGER. Look, I've always said democracies are not defined by bad days; they're defined by how they recover from those bad days. That's what we're doing here, is to bring accountability

to that so we can actually come back even stronger than when we went into January 6th.

Ms. Matthews, as you left the White House for the last time that night on January 6th, what did you think Americans needed to hear from President Trump?

Ms. MATTHEWS. I think that the American people needed to hear and see him publicly commit to a peaceful or at least orderly transition of power. In the aftermath of the Capitol attack, it wasn't just enough for us to ask him to condemn the violence. He needed to agree that he would peacefully transfer power over to the incoming administration because that's one of our fundamentals in what it means to live in a democracy.

So, that evening when I resigned, the resignation statement that I drafted, I referenced this, and I said our Nation needs a peaceful transfer of power in hopes that it would put some sort of public pressure on the White House and President Trump to publicly agree to an orderly transition.

Mr. KINZINGER. Thank you.

I yield to my friend from Virginia.

Mrs. LURIA. Thank you, Mr. Kinzinger.

The staff who remained at the White House on the morning of January 7th knew the President needed to address the Nation again and they had a speech prepared for him that morning, but he refused for hours to give it.

As you heard Cassidy Hutchinson testify previously, President Trump finally agreed to record an address to the Nation later that evening, the evening of January 7th, because of concerns he might be removed from power under the 25th Amendment or by impeachment. We know these threats were real. Sean Hannity said so himself in a text message that day to Press Secretary Kayleigh McEnany.

He wrote: "No more stolen election talk. Yes, impeachment and 25th Amendment are real."

We obtained the never-before-seen raw footage of the President recording his address to the Nation that day on January 7th, more than 24 hours after the last time he had addressed the Nation from the Rose Garden. Let's talk a look.

WHITE HOUSE STAFF. Whenever you're ready, sir.

President TRUMP. I would like to begin by addressing the heinous attack yesterday—

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President TRUMP [continuing]. And to those who broke the law, you will pay. You do not represent our movement. You do not represent our country. And if you broke the law—I can't say that. I'm not gonna—I already said you will pay.

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President TRUMP. The demonstrators who infiltrated the Capitol have defied the seat of—it's defiled, right? See, I can't see it very well. I'll do this. I'm going to do this. Let's go.

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President TRUMP. But this election is now over. Congress has certified the results. I don't want to say the election's over. I just want to say Congress has certified the results without saying the election's over, okay?

Ms. TRUMP. But Congress has—now Congress has—

President TRUMP. Yeah, right.

Ms. TRUMP. Now Congress—

President TRUMP. I didn't say over. So, let—let me see. Go to the paragraph before.

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President TRUMP. Okay? I would like to begin by addressing the heinous attack yesterday. Yesterday is a hard word for me.

Ms. TRUMP. Just take it out. Say "heinous attack."

WHITE HOUSE STAFF. Say "heinous attack on our Nation."

President TRUMP. Ah, good. Take the word "yesterday" out because it doesn't work. The heinous attack on our country. Say "on our country." Want to say that?

Ms. TRUMP. No, keep it.

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President TRUMP. My only goal was to ensure the integrity of the vote—my only goal was to ensure the integrity of the vote.

Mrs. LURIA. On January 7th, 1 day after he incited an insurrection based on a lie, President Trump still could not say that the election was over.

Mr. Pottinger, you've taken the oath multiple times in the Marines and as an official in the Executive branch.

Can you please share with us your view about the oath of office and how that translates into accepting election results and a transfer of power?

Mr. POTTINGER. Sure. You know, this isn't the first time that we've had a close election in this country. President Trump certainly had every right to challenge in court the results of these various elections. But, once you've had due process under the law, you have to conform with the law, no matter how bitter the result. Once you've presented your evidence in court, judges have heard that evidence. Judges have ruled. If you continue to contest an election, you're not just contesting an election anymore; you're actually challenging the Constitution itself. You are challenging the societal norms that allow us to remain unified.

I think that one example, for example, you've got Vice President Richard Nixon back in 1960 had lost the hard-fought election against Senator John F. Kennedy. There were irregularities in that vote according to a lot of the histories, and a lot of Vice President Nixon's supporters asked him to fight. Contest it. Don't concede. But, in one of his finest moments, Vice President Nixon said no. He said it would tear the country to pieces, and he conceded to Jack Kennedy and announced that he was going to support him as the next President.

We have an example of a Democratic candidate for President, Vice President Al Gore, who faced a very similar dilemma. He strongly disagreed with the Supreme Court decision that lost his election bid and allowed President George W. Bush to take office, but he gave a speech of concession in late December—mid- or late December 2000, where he said: This is for the sake of the unity of us as a people and for the strength of our democracy, I also am going to concede. I'm going to support the new President.

His speech is actually a pretty good model, I think, for any candidate for any office up to and including the President and from any party to read, particularly right now. You know, the oath that our Presidents take, it's very similar to the oath of office I took as a U.S. Marine officer and the oath I took as a White House official. It is to support and defend the Constitution. It's to protect the Constitution, to bear truth, faith, and allegiance to the Constitution. It

is a sacred oath. It's an oath that we take before our families. We take that oath before God.

I think that we have an obligation to live by that oath. I do still believe that we have the most ingenious system of government on Earth, despite its imperfections. I don't envy countries that don't have this system that actually allows for a predictable, peaceful transfer of government every 4 to 8 years, and it's not something that we should take for granted.

Mrs. LURIA. Thank you.

As we heard at the start of the hearing, in the immediate aftermath of January 6th, Republican Leader Kevin McCarthy understood that President Trump bore responsibility for that day and should have taken immediate action to stop the violence. He was even more candid in calls with Republican colleagues. As you'll hear in a moment, recordings of some of these calls that were made were later published by *The New York Times*, the context for these calls was that a resolution had been introduced in the House calling for Vice President Pence and the Cabinet to remove President Trump from power under the 25th Amendment.

Let's listen.

Mr. MCCARTHY. I've had it with this guy. What he did is unacceptable. Nobody can defend that, and nobody should defend it.

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Mr. MCCARTHY. The only discussions I would have with him is that I think this will pass, and it would be my recommendation he should resign. I mean, that would be my take, but I don't think he would take it, but I don't know.

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Mr. MCCARTHY. But let me be very clear to all of you, and I've been very clear to the President. He bears responsibility for his words and actions, no ifs, ands, or buts. I asked him personally today does he hold responsibility for what happened, does he feel bad about what happened. He told me he does have some responsibility for what happened, and he'd need to acknowledge that.

Mrs. LURIA. President Trump has never publicly acknowledged his responsibility for the attack. The only time he apparently did so was in that private call with Kevin McCarthy. There's something else President Trump has never acknowledged: The names and the memories of the officers who died following the attack on the Capitol.

We're honored to be joined tonight by police and first responders who bravely protected us on January 6th. Your character and courage give us hope that democracy can and should prevail, even in the face of a violent insurrection. We on this dais can never thank you enough for what you did to protect our democracy.

On January 9th, two of President Trump's top campaign officials texted each other about the President's glaring silence on the tragic death of Capitol Police Officer Brian Sicknick, who succumbed to his injuries the night of January 7th.

His campaign officials were Tim Murtaugh, Trump's director of communication, and one of his deputies, Matthew Wolking. Their job was to convince people to vote for President Trump, so they knew his heart, his mind, and his voice as well as anyone, and they knew how he connects with his supporters.

Here's what they had to say about their boss:

Murtaugh said: "Also shitty not to have acknowledged the death of the Capitol Police Officer."

Wolking responded: "That's enraging to me. Everything he said about supporting law enforcement was a lie."

To which Murtaugh replied: "You know what this is, of course, if he acknowledged the dead cop, he'd be implicitly faulting the mob. And he won't do that because they're his people, and he would also be close to acknowledging that what he'd lit at the rally got out of control. No way he acknowledges something that could ultimately be called his fault. No way."

President Trump did not then and does not now have the character or courage to say to the American people what his own people know to be true. He is responsible for the attack on the Capitol on January 6th.

Thank you, and I yield to the gentleman from Illinois.

Mr. KINZINGER. Thank you, Mrs. Luria.

Tonight's testimony and evidence is as sobering as it is straightforward. Within minutes of stepping off the Ellipse stage, Donald Trump knew about the violent attack on the Capitol. From the comfort of his dining room, he watched on TV as the attack escalated.

He sent tweets that inflamed and expressed support for the desire of some to literally kill Vice President Mike Pence.

For 3 hours, he refused to call off the attack. Donald Trump refused to take the urgent advice he received that day, not from his political opponents or from the liberal media, but from his own family, his own friends, his own staff, and his own advisers.

In the midst of an attack, when there was no time for politics, the people closest to Trump told him the truth: It was his supporters attacking the Capitol, and he alone could get through to them. So, they pled for him to act, to place his country above himself. Still he refused to lead and to meet the moment to honor his oath.

It was only once the Vice President and Members of Congress were in secure locations and the officers defending the Capitol began to turn the tide, that then-President Trump engaged in the political theater of telling the mob to go home. Even then, he told them all they were special and that he loved them.

Whatever your politics, whatever you think about the outcome of the election, we as Americans must all agree on this: Donald Trump's conduct on January 6th was a supreme violation of his oath of office and a complete dereliction of his duty to our Nation. It is a stain on our history. It is a dishonor to all those who have sacrificed and died in service of our democracy.

When we present our full findings, we will recommend changes to laws and policies to guard against another January 6th. The reason that's imperative is that the forces Donald Trump ignited that day have not gone away. The militant, intolerant ideologies, the militias, the alienation and the disaffection, the weird fantasies and disinformation, they're all still out there ready to go. That's the elephant in the room.

But, if January 6th has reminded us of anything, I pray it has reminded us of this: Laws are just words on paper. They mean



nothing without public servants dedicated to the rule of law and who are held accountable by a public that believes oaths matter more than party tribalism or the cheap thrill of scoring political points.

We the people must demand more of our politicians and ourselves. Oaths matter. Character matters. Truth matters. If we do not renew our faith and commitment to these principles, this great experiment of ours, our shining beacon on the hill, will not endure.

I yield to the gentlewoman from Virginia.

Mrs. LURIA. Thank you, Mr. Kinzinger.

Throughout our hearings, we've provided many facts and painted a vivid picture of the events of January 6th: The violence; the human toll, both emotional and physical, including the tragic loss of life; the threats to our Constitution, the rule of law, and the danger to this Nation, a Nation we all love as Americans.

In tonight's hearing, we've gone into great detail about the events inside the White House on January 6th. We've described how the President of the United States, who was bound by oath to the Constitution and by duty to ensure the laws are faithfully executed, took no action when the cornerstone of our democracy, a peaceful transition of power, was under attack.

But it's more than that. Donald Trump summoned a violent mob and promised to lead that mob to the Capitol to compel those he thought would cave to that kind of pressure. When he was thwarted in his effort to lead the armed uprising, he instigated the attackers to target the Vice President with violence, a man who just wanted to do his constitutional duty. So, in the end, this is not as it may appear, a story of inaction in a time of crisis. But, instead, it was the final action of Donald Trump's own plan to usurp the will of the American people and remain in power.

Not until it was clear that his effort to violently disrupt or delay the counting of the election results had failed did he send his message—a message to his supporters in which he commiserated with their pain and he told them affectionately to go home. That was not the message of condemnation and just punishment for those who broke the law that we expect from a President, whose oath and duty is to ensure the laws are faithfully executed. But, instead, it was his newest version of “stand back and stand by.”

To me, this is personal. I first swore an oath to support and defend the Constitution against enemies, foreign and domestic, when I entered the U.S. Naval Academy at age 17. I spent two decades on ships at sea defending our Nation from known and identifiable foreign enemies who sought to do us harm. I never imagined that enemy would come from within. I was not as prescient as Abraham Lincoln, who 23 years before the Civil War said: “If destruction be our lot, we must ourselves be its author and its finisher.”

Donald Trump was the author, and we the people, for ourselves and our posterity, should not let Donald Trump be a finisher.

Thank you. I yield to the Vice Chair.

Vice Chair CHENEY. Thank you very much, Mrs. Luria.

I want to thank our witnesses for joining us today. The Members of the Select Committee may have additional questions for today's witnesses, and we ask that you respond expeditiously in writing to those questions.

Without objection, Members will be permitted 10 business days to submit statements for the record, including opening remarks and additional questions from our witnesses.

I'd now like to turn things to Chairman Thompson for a few closing words.

Chairman THOMPSON. The Members of the Committee and I appreciate and thank all persons who have come forward voluntarily to provide information to help protect our democracy. Our work continues. As we made clear throughout these hearings, our investigation is going forward. We continue to receive new information every day. We are pursuing many additional witnesses for testimony. We will reconvene in September to continue laying out our findings to the American people and pushing for accountability.

In the first hearing of this series, I asked the American people to consider the facts and judge for themselves. The facts are clear and unambiguous. I thank the American people for their attention over the past several weeks. I wish you all a pleasant evening.

Vice Chair CHENEY. Let me, again, thank our witnesses today. We've seen bravery and honor in these hearings.

Ms. Matthews and Mr. Pottinger, both of you will be remembered for that, as will Cassidy Hutchinson. She sat here alone, took the oath and testified before millions of Americans. She knew all along that she would be attacked by President Trump and by the 50-, 60-, and 70-year-old men who hide themselves behind executive privilege. But, like our witnesses today, she has courage, and she did it anyway.

Cassidy, Sarah, and our other witnesses including, Officer Caroline Edwards, Shaye Moss and her mother, Ruby Freeman, are an inspiration to American women and to American girls. We owe a debt to all of those who have and will appear here.

That brings me to another point. This Committee has shown you the testimony of dozens of Republican witnesses, those who served President Trump loyally for years. The case against Donald Trump in these hearings is not made by witnesses who were his political enemies. It is instead a series of confessions by Donald Trump's own appointees, his own friends, his own campaign officials, people who worked for him for years, and his own family. They have come forward, and they have told the American people the truth.

For those of you who seem to think the evidence would be different if Republican Leader McCarthy had not withdrawn his nominees from this Committee, let me ask you this: Do you really think Bill Barr is such a delicate flower that he would wilt under cross-examination? Pat Cipollone? Eric Herschmann? Jeff Rosen? Richard Donoghue? Of course they aren't. None of our witnesses are.

At one point in 2016, when he was first running for office, Donald Trump said this: "I could stand in the middle of Fifth Avenue and shoot somebody, and I wouldn't lose any voters."

That quote came to mind last week when audio from Trump adviser Steve Bannon surfaced from October 31, 2020, just a few days before the Presidential election. Let's listen.

Mr. BANNON. And what Trump's going to do is declare victory, right? He's going to declare victory, but that doesn't mean he's a winner. He's just gonna say he's a winner.

Mr. BANNON. The Democrats—more of our people vote early that count. Theirs vote in mail. And so they're going to have a natural disadvantage and Trump's going to take advantage—that's our strategy. He's gonna declare himself a winner. So, when you wake up Wednesday morning, it's going to be a firestorm.

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Mr. BANNON. Also—also, if Trump is—if Trump is losing by 10 or 11 o'clock at night, it's going to be even crazier because he's gonna sit right there and say they stole it. If Biden's winning, Trump is going to do some crazy shit.

Vice Chair CHENEY. Of course, 4 days later, President Trump declared victory when his own campaign advisers told him he had absolutely no basis to do so. What the new Steve Bannon audio demonstrates is that Donald Trump's plan to falsely claim victory in 2020, no matter what the facts actually were, was premeditated. Perhaps worse, Donald Trump believed he could convince his voters to buy it, whether he had any actual evidence of fraud or not. The same thing continued to occur from election day onward until January 6th. Donald Trump was confident that he could convince his supporters the election was stolen, no matter how many lawsuits he lost, and he lost scores of them.

He was told over and over again in immense detail that the election was not stolen. There was no evidence of widespread fraud. It didn't matter. Donald Trump was confident he could persuade his supporters to believe whatever he said, no matter how outlandish, and ultimately that they could be summoned to Washington to help him remain President for another term.

As we showed you last week, even President Trump's legal team led by Rudy Giuliani, knew they had no actual evidence to demonstrate the election was stolen. Again, it didn't matter. Here's the worst part: Donald Trump knows that millions of Americans who supported him would stand up and defend our Nation were it threatened. They would put their lives and their freedom at stake to protect her. He is preying on their patriotism. He is preying on their sense of justice. On January 6th, Donald Trump turned their love of country into a weapon against our Capitol and our Constitution.

He has purposely created the false impression that America is threatened by a foreign force controlling voting machines or that a wave of tens of millions of false ballots were secretly ejected into our election system or that ballot workers have secret thumb drives and are stealing elections with them. All complete nonsense.

We must remember that we cannot abandon the truth and remain a free Nation. In late November 2020, while President Trump was still pursuing lawsuits, many of us were urging him to put any genuine evidence of fraud forward in the courts and to accept the outcome those cases. As January 6th approached, I circulated a memo to my Republican colleagues explaining why our congressional proceedings to count electoral votes could not be used to change the outcome of the election.

But what I did not know at the time was that President Trump's own advisers, also Republicans, also conservatives, including his White House counsel, his Justice Department, his campaign officials, they were all telling him almost exactly the same thing I was telling my colleagues: There was no evidence of fraud or irregular-

ities sufficient to change the election outcome. Our courts had ruled. It was over.

Now we know that it didn't matter what any of us said because Donald Trump wasn't looking for the right answer legally or the right answer factually. He was looking for a way to remain in office.

Let's put that aside for a moment and focus just on what we saw today. In our hearing tonight you saw an American President faced with a stark and unmistakable choice between right and wrong. There was no ambiguity. No nuance. Donald Trump made a purposeful choice to violate his oath of office, to ignore the on-going violence against law enforcement to threaten our constitutional order. There is no way to excuse that behavior. It was indefensible.

Every American must consider this: Can a President who is willing to make the choices Donald Trump made during the violence of January 6th ever be trusted with any position of authority in our great Nation again?

In this room, in 1918, the Committee on Women's Suffrage convened to discuss and debate whether women should be granted the right to vote. This room is full of history. We on this Committee know we have a solemn obligation not to idly squander what so many Americans have fought and died for.

Ronald Reagan's great ally Margaret Thatcher said this: Let it never be said that the dedication of those who love freedom is less than the determination of those who would destroy it.

Let me assure every one of you this: Our Committee understands the gravity of this moment, the consequences for our Nation. We have much work yet to do, and we will see you all in September.

I request those in the hearing room remain seated until the Capitol Police have escorted witnesses and Members from the room.

Without objection, the Committee stands adjourned.

[Whereupon, at 10:45 p.m., the Committee was adjourned.]

