

2022 MIDTERMS LOOK BACK SERIES: SUCCESSES IN THE 2022 MIDTERM ELECTIONS

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

FIRST SESSION

MARCH 10, 2023

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2022 MIDTERMS LOOK BACK SERIES: SUCSESSES IN THE 2022 MIDTERM ELECTIONS

Friday, March 10, 2023

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

The Subcommittee met, pursuant to notice, at 9:01 a.m., in room 1310, Longworth House Office Building, Hon. Laurel Lee [Chair of the subcommittee] presiding.

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

Staff present: Tim Monahan, Staff Director; Caleb Hays, Subcommittee Staff Director, General Counsel, Deputy Staff Director, Acting Parliamentarian; William Neitzel, Deputy Director of Member Services; Hillary Lassiter, Chief Clerk; Cade Alcock, Assistant Clerk; Jamie Fleet, Minority Staff Director; Khalil Abboud, Minority Chief Counsel; Sarah Nasta, Minority Elections Counsel; Eddie Flaherty, Minority Chief Clerk; Andrew Garcia, Minority Staff Assistant.

Chair LEE. The Subcommittee on Elections will come to order.

I note that a quorum is present. Without objection, the Chair may declare a recess at any time.

The meeting record will remain open for 5 legislative days. So members may submit any materials they wish to be included herein.

Thank you, Ranking Member Sewell and members of the subcommittee, for joining us today.

As the former Florida Secretary of State and Chief Elections Official, I am passionate about ensuring that every state administer safe and secure elections and that voters across America have confidence in our elections system.

Each member of this subcommittee brings unique experience with elections, and I look forward to the work we can accomplish together.

I believe both the Republicans and Democrats have a common goal of ensuring that every eligible American citizen has an opportunity to vote and for their ballot to be counted and to be secure.

Each of our states share many of the same challenges, and we will work together to ensure we're addressing cyber and physical infrastructure, emergency management strategies, and that we pro-

vide insight to states across America about best practices and tried and true methods for conducting secure and accurate elections.

Where we see states succeeding, we will shine a light on their important work. Where we see states falling short, we will work to bring transparency to their challenges and to serve as a resource to help improve their elections process.

While we may not always agree about the best policies to implement or recommend to the states, I am confident in our ability to promote our shared interest and to always work professionally and efficiently together.

The Constitution tells us that states, not the federal government, have primary authority and responsibility to set election laws and to administer federal elections. To that end, I am pleased to welcome today's witnesses from Ohio, Louisiana, and Florida, three states that are getting elections right and can share some of the policies and practices that have led to their success. It's important to hear from them about what their states are doing well.

Now, as a member from Florida, I am the first to acknowledge that our state didn't always run smooth elections. Most people here will still be familiar with the infamous hanging chad election of 2000. But, over the last two decades, we've continued to identify areas for improvement and led the way to addressing those issues without top-down mandates from Washington, DC.

Today, Florida has an effective and thorough elections code, procedures, and safeguards. I'm proud that Florida is now a national leader in election administration and is an example of how continual review and improvement can lead to sustained success in elections integrity and administration.

Data show that after some states implement key election integrity measures, they experience increased voter turnout. That's why I think a great place to start this discussion is by reflecting on the 2022 midterms that just occurred where elections administration was performed at a very high level.

I'd like to applaud the vast majority of states and localities for their work. We should celebrate those states, like those represented here today, that have continually found ways to improve their process and to build voter turnout and voter confidence.

It's simple: When voters have confidence that their ballot will count, they are more likely to vote.

In Georgia, following efforts to increase voter confidence through Senate Bill 202 after lessons learned in previous years, there was all-time record turnout for a midterm election with more votes cast than in any previous midterm.

Despite enduring criticisms of election integrity measures and aspersions claiming that election turnout would be suppressed by reforms, Georgia had record-breaking midterm early voting turnout, record-breaking midterm absentee votes cast, and more election day cast in the 2022 runoff than on election day in the 2022 general election, the January 2021 runoff, or on general election day in 2020.

In Louisiana, their midterms featured several strong voter integrity measures like requiring photo identification to vote in person and the state offering to provide free voter ID for voters that did

not have one, not to mention the state's efforts to conduct elections during hurricane season.

Ohio just signed into law key election integrity measures, including requiring photo ID to vote both in person and by absentee mail ballot, and now they are working to improve transparency even more.

These are all huge wins for voters, and these efforts should be celebrated.

Over the past 20 years, we've seen distrust in our elections processes and outcomes on both sides of the aisle, and while this will always be a process with room for improvement, it's important that we take a moment to celebrate the successes many states have achieved over the past several years to build election integrity and promote voters' faith in elections and confidence in their outcomes while also working to promote voter turnout and engagement.

We will work wherever possible to share accurate information with the public about elections and the integrity of our process, and as all our states learn how to better serve their voters through improvements and efforts in elections administration, this committee should promote information sharing between the states so they can learn from each other and implement best practices regarding elections without pushing a D.C.-based takeover or mandates.

I look forward to hearing more from our witnesses about how states can continue to strengthen our nation's elections. Together, through collaboration and commitment to effective policies and voter education, we can strengthen our nation's elections infrastructure and work toward building confidence in the security of each state's elections, the strength of our infrastructure, and the integrity of our results.

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

Ms. SEWELL. Good morning.

As the new ranking member of the Subcommittee on Elections, I would like to thank Chair Lee for welcoming all of us this morning, and I look forward to working with her and all of my fellow colleagues on this Subcommittee.

Providing oversight over federal election administration and ensuring every American has free and equitable access to the ballot is vital to our democracy.

I represent Alabama's Seventh Congressional District, a district with a long, storied history in this country's struggle for free and fair access to the ballot box. I get to represent every day the historic cities of Birmingham, Montgomery, and my hometown of Selma, Alabama.

I am excited to join the subcommittee and continue this critical work.

Last week, we marked the 58th anniversary of Bloody Sunday in my hometown of Selma with a visit from President Biden, a bipartisan delegation of Members of Congress, civil rights leaders, and many of the surviving foot soldiers of the march from Selma to Montgomery. This annual pilgrimage serves as a reminder that the violent struggle for voting rights and equal access to the ballot box is not one of a distant past.

As we sit here today, discussing the 2022 midterm elections, we must not lose sight of the fact that the struggle for equal voting rights that occurred on the Edmund Pettus Bridge 58 years ago continues today.

There are successes, to be sure, in the 2022 midterms. Millions of Americans cast their ballots. Those ballots were counted, and election workers across the nation performed admirably despite the threats and harassment that many faced over the last 2 years. The election was secure, as it was in 2020.

Those who continued to perpetuate the big lie that the last presidential election was stolen and who traffic in falsehoods about the security of our elections lost many of their races for critical statewide offices. Furthermore, according to the Brennan Center for Justice, in 2022, at least 12 states enacted laws that expanded access to the vote.

On the opposite side of the spectrum, however, the Brennan Center found that another 12 states enacted restrictive or election interference legislation.

We should applaud increases in voter turnout, not respond to them with new restrictions to voting.

Additionally, while many minority communities overcome barriers to cast their ballot, it does not make their barriers fair, and it certainly does not justify or validate their existence.

In the years since the Supreme Court's egregious decision in the *Shelby v. Holder* decision, states with a history of voter discrimination are no longer required to preclear their voting laws to ensure that they are not discriminatory, allowing a wave of anti-voter laws to be adopted across this nation.

Today, the Supreme Court continues to dismantle the Voting Rights Act of 1965.

I am proud to be the lead cosponsor or the lead sponsor and author of the John Robert Lewis Voting Rights Advancement Act, a bill that would update and reinstate the full force of the Voting Rights Act of 1965, a law that protected voters from discrimination for more than 50 years.

Additionally, House Democrats have repeatedly passed pro-democracy legislation that will protect voters' access to the ballot box.

Generations of Americans fought for this sacred right to vote, many in my district, overcoming barriers and violence to move us forward in this fight for democracy. The people of Alabama and this country have marched, bled, been jailed, some even died for that sacred right to vote that all of us are entrusted to make sure occurs. The work, as we, as Members of Congress, and as members of this committee, will honor, that legacy.

I look forward to the hearing today. I look forward to working with the chairwoman and the whole of this committee as we continue to lean forward in making sure that the equal right to vote and access to the ballot box for all Americans is given.

Thank you. I yield back.

Chair LEE. Thank you.

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

The CHAIR. Thank you very much, Chair Lee.

I just want to congratulate you on holding your first subcommittee hearing today. I can't think of anyone better to serve as chair of this subcommittee with your background in the state of Florida, an election system that is now really the gold standard for the United States.

Ranking Member Sewell, I have an affinity for that position, as I sat as the ranking member in this committee last cycle. I'm sure there's a high bar, though. The minority last Congress had unanimous votes the entire duration of the Congress. Now, as some may know, that was easier said than done because I was the only member of the minority on this committee last Congress. I can tell you I never disagreed with myself.

Mr. Butterfield and I did have a great relationship.

I think we have an opportunity here to find some real common ground on areas where we can make it easy to vote and hard to cheat. There will also be some probably robust conversations where we will disagree, but this committee, in my opinion, is the oldest committee in Congress.

We have our debates. I know my friend from Ways and Means may view it otherwise, but I do think it's this committee because this committee, the Committee on Elections, was created in 1789 as the first standing committee of the First Congress. I think that's pretty great because it shows you the significance and importance of the work that we do here.

In a serious sense, I really do look forward to working with everyone to continue to identify ways to bolster confidence, promote faith in our elections, and strengthen election integrity.

I think one of the things that we really see, as the data shows, is that, when we have strong elections, strong integrity in our elections, we actually see increased voter turnout. I think that's going to be something that we're going to hear time and time again throughout this Congress.

When people know they can trust their ballot is going to be counted, they are going to be more likely to go and vote.

Also, we know the Constitution demands that the role of the federal government is limited in this regard. It makes it clear that states have the primary role in administering elections, and we must uphold that federalist approach.

Today, we'll hear from witnesses who help run state elections in Louisiana, Ohio, and Florida, and states that do things right. I hope to learn from their example and look forward to having House Administration, specifically this subcommittee, help facilitate those discussions.

Thank you, Chair Lee. I yield back.

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

Mr. MORELLE. Good morning. Thank you so much, Chair Lee, not only for yielding time but for convening this important discussion.

Unlike the standing Chair, Mr. Steil, I often disagree with myself. I would not be unanimous if I were the only member, but I'm grateful for the opportunity to be here.

I want to also thank my dear friend and the Ranking Member, Terri Sewell. It's great to have you leading our efforts on this important subcommittee. So thank you.

After the last 2 years' baseless claims of fraud and repeated attacks on our democracy, it is important to recognize the 2022 election was secure and applaud the country's election officials for their hard work.

Elections and democracy do not function without them. For far too many and in far too many places, those election workers have faced a shameful amount of harassment and threats, something we should all be deeply concerned about.

As we examine the 2022 election, it's also important to highlight that many states took steps forward to expand access to the ballot. I'm proud to say that, in my home state of New York, we've made significant strides in recent years to improve and expand access to the ballot for every voter, and there was zero evidence that the pro-voter policies put in place in my state have in any way compromised the security and integrity of those elections.

Last Congress I was proud to cosponsor and vote for H.R. 1, the For the People Act, which would have set national standards for voter access and required a host of pro-voter, pro-democracy reforms. That's what we should be all about, pro voter, pro-democracy reforms.

I was also proud to co-sponsor and vote for H.R. 4, the John R. Lewis Voting Rights Advancement Act, which Ranking Member Sewell sponsored and her bill to reinstate the full force of the Voting Rights Act of 1965.

If we truly wish to be a great democracy, we can and must be committed to expanding access to the ballot for every single American.

The Committee's role in conducting oversight of federal elections is critical. We must continue to fight to protect our elections, improve access to the ballot for every voter, and ensure states and localities have the funding and resources necessary to conduct elections freely, fairly, and securely to combat the continued spread of election-related mis- and dis-information, and ensure the safety of election workers and voters.

American democracy persevered in the 2022 election, but more progress is needed to protect our institutions from the next election denialism and attempts to invalidate lawfully cast votes.

I look forward to today's hearing, and certainly look forward to hearing from our witnesses, the discussion that I'm sure will ensue, as well as the discussion in the months ahead. So I'm grateful for the opportunity to say a few words.

With that, Madam Chair, I yield back.

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

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

Chair LEE. If the witnesses would please rise to be sworn in.

[Witnesses sworn.]

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

They may be seated.

Our first witness, Secretary Kyle Ardoin, serves as Louisiana's 44th Secretary of State. Secretary Ardoin previously served as

president of the National Association of Secretaries of State, currently serves on the Election Infrastructure Subsector Government Coordinating Council, and became a Certified Elections Registration Administrator in 2021.

He brings to the Secretary's office more than 30 years of experience working in both the private and public sectors.

Our next witness, Mr. Chris Anderson, was appointed by Florida Governor Ron DeSantis as the supervisor of elections in Seminole County in January 2019.

In 2020, Mr. Anderson was elected to office as the first African-American constitutional officer in the history of Seminole County.

Enlisting in the U.S. Army following 9/11 terrorist attacks, Mr. Anderson retired as a combat veteran of Operation Enduring Freedom and became a deputy sheriff.

I now yield to my House Administration colleague, Mr. Carey of Ohio, for the purpose of introducing our next witness, Ohio Secretary of State, Mr. LaRose.

Mr. CAREY. Thank you, Madam Chair and Ranking Member. I appreciate the opportunity to be on the subcommittee today.

I really want—I'm really just honored that I'm able to introduce my dear friend, the Ohio Secretary of State, Frank LaRose.

Frank has dedicated his life to public service. After graduating from high school, he enlisted in the United States Army, and he became a decorated combat veteran. He is a U.S. Army Special Forces Green Beret and earned a bronze star for his service in Iraq.

Before he was elected Secretary of State, Frank served in the Ohio Senate from 2011 and 2018. As somebody who often went into his office in the State Senate, I always found him to be very engaging and asking many, many questions.

Frank has overseen many unprecedented challenges as Secretary of State of Ohio. The 2020 election took place during a global pandemic, and even so, it had the highest voter turnout in Ohio's history.

Frank is a patriot, revered public servant, and he will be a great witness for us to learn more about what we can do to make our elections safe, secure, so that voters remain confident in the election system.

Thank you. I yield back.

Chair LEE. Thank you, Mr. Carey.

Finally, we welcome Mr. Damon Hewitt, President and Executive Director of the Lawyers' Committee.

Prior to joining the Lawyers' Committee, Mr. Hewitt served as inaugural executive director of the Executives' Alliance for Boys and Men of Color and as an attorney at the NAACP Legal Defense and Education Fund for over a decade.

We appreciate each of our witnesses for being here today, your expertise, your experience, and your service in the realm of elections, and we look forward to your testimony.

As a reminder, we have read your written statement, and it will appear in full in the hearing record.

Under Committee rule 9, you are to limit your oral presentation to a brief summary of your written statement, unless I extend this time period in consultation with Ranking Member Sewell.

Please remember to press the button on the microphone in front of you so that it is on and the members can hear you. When you begin to speak, the light in front of you will turn green. After 4 minutes, the light will turn yellow. When the red light comes on, your 5 minutes has expired, and we would ask that you please wrap up.

I now recognize Secretary Ardoin for 5 minutes.

**STATEMENT OF THE HONORABLE KYLE ARDOIN, LOUISIANA
SECRETARY OF STATE**

Mr. ARDOIN. Chair Lee, Ranking Member Sewell, and distinguished members of this committee, good morning and thank you for having me here today.

I'm especially pleased to be speaking before you today because Louisiana has unique experience in election preparation that lent itself to successful execution of our 2020, 2021, and 2022 statewide elections.

In 2020, not only did Louisiana face the challenges of COVID-19 pandemic, but we also had to contend with several hurricanes and tropical storms in a major election cycle, the last of which made landfall just 6 days before the presidential election.

In 2021, we had to contend with another major storm, Hurricane Ida, which made landfall in southeast Louisiana 6 weeks prior to a statewide election. The damage caused by Ida was so widespread and severe that we were forced to reschedule the election.

Thankfully, we developed a contingency plan in 2020 called Operation Geaux Vote, which gave our office, election workers, and partners across the state the tools necessary to successfully implement these major elections. In fact, despite the storms and ongoing pandemic, over 70.1 percent of eligible voters in Louisiana participated in the presidential election.

Since 2014, Louisiana has successfully carried out nine statewide elections in a row. This track record of success was, once again, on display in the 2022 congressional midterm elections where we were able to roll back our COVID restrictions and, thankfully, did not have to contend with any major storms.

As usual, we finalized the tabulation of results in a matter of hours.

Consistency is why the Louisiana legislative auditor released a 45-page report just last year which confirmed the effectiveness of our policies and procedures. The report stated overall—quote: Overall, we found the Department of State has procedures and practices to ensure election integrity, end quote.

The policies they cite, in addition to my office's work with the legislature, have been vital in promoting integrity and efficiency in Louisiana's elections. We have worked to pass legislation that banned ballot harvesting, provides more accurate data from Louisiana Department of Health to conduct more accurate audits of our voter rolls, and strengthened the testing of our voting equipment.

Further, I'm happy to say that Louisianans overwhelming are in favor of a constitutional—excuse me—voted in favor of a constitutional amendment in December of last year that prohibits noncitizens from registering or voting in any election in our state.

Participation in our democracy is both a right of American citizens and a tremendous responsibility for those that exercise it. It is how we as Americans exercise political power over our government, our nation, and, ultimately, each other.

As citizens, we rely on the assumption that those who have a say over how we govern ourselves are our fellow citizens. That is why the practice of noncitizen voting is particularly egregious. It is wrong in principle and in practice. It could open the door for foreign nationals with no loyalty to our communities and our country to exercise political power over our fellow citizens.

These types of laws have the potential to irreparably weaken one of the strongest ties that binds us together as a nation. Even The Washington Post Editorial Board agrees.

Our state utilizes a top-down approach to the administration, preparation, and execution of its elections, whereby our policies and procedures are set in the Secretary of State's office and flow downstream to the registrars of voters and the clerks of court in all 64 parishes.

This gives Louisiana much-needed uniformity in our elections. Whether a voter is in St. Bernard parish, Beauregard parish, or Bossier parish, they will be voting on the same system, in the same manner, with the same procedures for tabulation and reporting.

This top-down approach to elections is what allowed us to have over 1.4 million votes tabulated within 5 hours of poll closure on election night in 2022. It is this system that keeps Louisianans from having to wait 2 weeks to learn who their elected representatives are going to be.

Despite the resources available to election officials, it took some states days and weeks to tabulate their results. This, in turn, has created space for some to question the integrity of their state's elections.

As election officials, we have to get it right the very first time, every time. Any deviation from that standard risks losing the trust of the voters. That trust is the lifeblood of our democracy.

The best way for officials to counter claims of fraud or interference is to leave no room for doubt. Zero room for doubt gives voters every reason to trust their elections and our democracy.

[The prepared statement of Mr. Ardoin follows:]

Chairwoman Lee, Ranking Member Sewell, and distinguished members of this committee: good morning and thank you for having me. I am especially pleased to be speaking before you today because Louisiana has unique experience in election preparation that lent itself to the successful execution of our 2020, 2021, and 2022 statewide elections.

In 2020, not only did Louisiana face the challenges of the COVID-19 pandemic—as did my colleagues across the country—but we also had to contend with several hurricanes and tropical storms in a major election cycle, the last of which made landfall six days before the Presidential Election. In 2021, we had to contend with another major storm, Hurricane Ida, which made landfall in southeast Louisiana six weeks prior to a statewide election. The damage caused by Ida was so widespread and severe that we were forced to reschedule the election.

Thankfully, we developed a contingency plan in 2020—Operation Geaux Vote—which gave our office, election workers, and partners across the state the tools necessary to successfully execute these major elections. In fact, despite the

storms and ongoing pandemic, over 70.1 percent of eligible voters in Louisiana participated in the 2020 Presidential Election.

Since 2014, Louisiana has successfully carried out nine statewide elections in a row. This track record of success was once again on display in the 2022 congressional midterm elections, where we were able to roll back our COVID restrictions and, thankfully, did not have to contend with any major storms. As usual, we finalized the tabulation of results in a matter of hours.

This consistency is why the Louisiana Legislative Auditor released a 45-page report last year which confirmed the effectiveness of our policies and procedures. The report stated that “overall, we found the Department of State has procedures and practices to ensure election integrity.”

The policies they site, in addition to my office’s work with the legislature, have been vital in promoting integrity and efficiency in Louisiana’s elections.

We have worked to pass legislation that banned ballot harvesting, provides more accurate data from the Louisiana

Department of Health to conduct more accurate audits of our voter rolls, holds managed service providers accountable, and strengthened the testing of our voting equipment. I have also taken the step of banning TikTok from the Louisiana Department of State's devices and network as a means of protecting our constituents' personally identifiable information. I am pleased to say that our governor, at my urging, followed suit and banned the app from devices and networks under his jurisdiction. This app has strong ties to the Chinese Communist Party and has no business being anywhere near government devices.

Further, I am happy to say that Louisianians overwhelmingly voted in favor of a constitutional amendment in December that prohibits non-citizens from registering or voting in any election in our state. Participation in our democracy is both a right of American citizens, and a tremendous responsibility for those that exercise it. It is how we, as Americans, exercise political power over our government, our nation, and ultimately, each other. As citizens, we rely on the assumption that those who have a say over how we govern ourselves are our countrymen.

That is why the practice of non-citizen voting is particularly egregious. It is wrong in principle, and in practice it could open the door for foreign nationals with no loyalty to our communities and country to exercise political power over our citizens.

The Washington Post's editorial board even expressed their opposition to the bill that has been recently become law in Washington, D.C. that allows for non-citizen voting in local elections. I am grateful to the House for moving swiftly to block this measure. Unfortunately, your colleagues in the Senate did not follow suit. This law has the potential to irreparably weaken one of the strongest ties that binds us together as a nation. I would suggest that other states move swiftly to enact legislation or amendments similar to Louisiana's. It is yet another safeguard that ensures our election integrity.

Our state utilizes a top-down approach to the administration, preparation, and execution of its elections, whereby our policies and procedures are set in the Secretary of State's office and flow downstream to the Registrars of Voters and Clerks of Court in all 64 parishes. This gives Louisiana much-needed uniformity in

our elections. Whether a voter is in St. Bernard, Beauregard, or Bossier Parish, they will be voting on the same system, in the same manner, with the same procedures for tabulation and reporting.

This top-down approach to elections is what allowed us to have over 1.4 million votes tabulated within five hours of poll closure on election night. It is this system that keeps Louisianians from having to wait two weeks to learn who their elected representatives are going to be. Where some states counted their returns in terms of days and weeks, we counted ours in terms of hours.

Unfortunately, there are some states across the union that failed to produce timely results during the most recent election cycle. We are 22 years removed from the logistical and operational debacle of *Bush v. Gore*, and despite the resources available to election officials, it took some states days and weeks to tabulate their results. This, in turn, has created space for some to question the integrity of their state elections.

As election officials, we have to get it right the first time, every time—any deviation from that standard risks losing the trust of

the voters. That trust is the lifeblood of our democracy. Our social contract rests on the assumption that the power we delegate to our elected officials is done so in a uniform, fair, and consistent manner. If we as election officials fail to maintain the voters' faith in their elections, then the political health and long-term stability of the republic is put at risk.

The best way for officials to counter claims of stolen elections, fraud, or interference is to leave no room for doubt. I would humbly suggest that other states look to Louisiana as a model for conducting elections and maintaining their integrity. Consider adopting some of the standards and practices Louisiana has in place. If we leave zero room for doubt, we will give the voters every reason to trust in their elections and our democracy.

Chair LEE. Thank you, Secretary Ardoin.
I now recognize Supervisor Anderson for 5 minutes.

**STATEMENT OF THE HONORABLE CHRIS ANDERSON,
SUPERVISOR OF ELECTIONS, SEMINOLE COUNTY, FLORIDA**

Mr. ANDERSON. Good morning, Chair Lee. I'm sorry.

Good morning, Chair Lee. To Ranking Member Sewell and to all the distinguished members of the committee, thank you for the opportunity to testify before you today.

I'm Chris Anderson. I'm the Supervisor of Elections respecting Seminole County, Florida. On November 3, 2020, I was elected into office as the first African American to serve in this capacity. I also became the first African American to serve as the first constitutional officer in Seminole County.

I'm proud to say that I stand on the shoulders of giants, like my grandmother, Ida Anderson. She was my mother. I was raised by a single father.

My grandmother told me stories of how she had to clean old juke joints to make extra money. She told me she had to pick fruit just to put food on the table to feed five children. On cold winter days in north Florida, she had to dress especially warm because she wasn't allowed to ride in the front of the trucks. Because of the color of her skin, she had to ride in the back.

It's because of struggles like hers and the struggles of so many others, I'm able to sit here today, and for that I am grateful.

Now, I would be remiss if I didn't recognize my fellow current and former servicemen and—women. Let us not forget that many of them paid or made the ultimate sacrifice for the freedoms that we enjoy. In the words of President Reagan, when our fallen heroes die, they give up two lives: the lives that they were living and the lives that they could have lived. They give up their opportunity to be parents, to be grandparents, to grow old, and be revered.

Although, we can never repay them, we can honor them with our service, and that is why I do everything in my power to make sure that every voter, every eligible voter has the opportunity to cast a ballot. I don't do that alone. I have to enlist almost 1,000 election professionals to accomplish that mission.

These men and women are among the most dedicated and hard-working professionals I have ever served with. Their commitment to excellence is unparalleled. Their devotion to the voters is inspiring. Because I believe that inspiration leads to effective change, and effective change leads to success and, in this case, the success of the 2022 midterm elections.

I've watched election professionals sacrifice the most precious moments a family can have in their service to America's democracy. Without these quiet keepers of our democracy, our government would fail. These individuals are beyond dedicated.

To the election—to the executives in elections administration to the frontline election professionals, they make our government exist, exist the way it should be: of, by, and for the people.

If it's not too much to ask, I'd ask that you all join me in a round of applause for these election professionals because, without them, there would be no success. Without them, there would be no gold standard.

Thank you very much.
[The prepared statement of Mr. Anderson follows:]



CHRIS ANDERSON SEMINOLE COUNTY SUPERVISOR OF ELECTIONS

1500 EAST AIRPORT BLVD, SANFORD, FL 32773

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House Administration and Elections subcommittee

Good morning Chairwoman Lee, and to all members of the Committee. Thank you for inviting me to testify today.

I'm Chris Anderson. I was appointed to office by Governor Ron DeSantis in 2019, and I was elected into office in 2020, as the first African American constitutional officer in the history of Seminole County as Supervisor of Elections. I will also become the first Supervisor of Elections serving the voters of Seminole County to graduate with his Master Florida Certification in elections administration from the nationally awarded Florida Certified Election Professionals Program (MFCEP) facilitated by Florida State University.

Prior to my appointment, I served in the United States Army serving in combat in Afghanistan in support of Operation Enduring Freedom. I am a former law enforcement professional serving as a major crimes detective, background investigator, and truth verification examiner. Most importantly, I've been married for over 20 years to my high school sweetheart, Ebony Anderson. We have three beautiful children, Christopher, Christiana and Christian. It is my distinct honor to be here.

I'd like to take a moment to share some statistics from Seminole County. Currently, Seminole County has a total of 345,141 voters. There are 117,204 Republicans, 114,490 Democrats and 113,447 NPA/minor party affiliated voters, essentially, a third, a third, and a third. Of our voting population, there are 37,336 African American registered voters and 57,871 registered Hispanic voters. During the 2022 election cycle, 22,213 African Americans and 28,264 Hispanic voters cast a ballot.

As election officials across the country are presently preparing for the extremely busy 2024 election cycle, we pause to reflect on the lessons and improvements Florida has undertaken to transform itself from a punchline in 2000 to the gold standard for elections in 2022.

Over the last two decades, Florida has put the needs of the voter first, culminating in easy and accessible access to the ballot, as well as timely and accurate reporting of results.

We offer a no-excuse vote-by-mail option that has proven to be quite popular, especially in 2020, with heightened health concerns. Setting Florida apart from many other states, vote-by-mail ballots are allowed to be verified, opened, and tabulated in the weeks prior to the election. This process allows us to publish nearly complete vote-by-mail totals as soon as polls close on election night. In addition, if there is an issue with a mail ballot signature, we have more time to contact the voter, providing them an opportunity to "CURE" their ballot. This early opening process is advantageous to both election administrators and voters. As an early adopter of in-person Early Voting, Florida forged its own path, creating a model uniquely serving all 67 counties, large and small.

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ENSURING YOUR CHOICE COUNTS



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All counties are required to offer Early Voting, but each county has the freedom and flexibility to determine the length of time, the voting hours, and the number of Early Voting sites that will work best for its size.

Echoing lessons learned from 2000, Florida has also revamped its laws and procedures for recounts and post-election audits. This system provides clear guidelines for election administrators and candidates, and gives certainty to voters when election results are close.

Understanding that professional partnerships are crucial to the enhancement and continued refinement of our procedures, Florida's supervisors, legislators, and stakeholders have come together to ensure that Florida's elections remain safe, secure, efficient, and accurate while facing the challenges of administering elections in the 21st century.

In recent years election security has become a top priority. Partnerships between local, state, and federal agencies have strengthened our ability to defend against cyberattacks from nation-state actors and other groups.

In 2017, the Department of Homeland Security designated elections as critical infrastructure, and the Center for Internet Security formed the Elections Infrastructure Information Sharing and Analysis Center (EI-ISAC). Through EI-ISAC, election officials have access to a cyber defense suite, including sector-specific threat intelligence products, incident response and remediation, threat and vulnerability monitoring, cybersecurity awareness and training products, and tools for implementing security best practices. Florida has used HAVA dollars to fund election security grant programs for local offices, where they have been incredibly successful.

There have also been significant efforts in raising the professionalism of election officials. Since 2000, over 1,300 election professionals have received their national Certified Elections Registration Administrator designation, with 119 of those from Florida. I am proud to say I am well on my way to gaining the Certified Elections and Registration Administrator certification as well.

Going a step further, the Florida Supervisors of Elections Association developed the nationally awarded Florida Certified Elections Professional program. The FCEP program consists of 30 core courses, renewal courses, and 120 hours of content instructed by experts on topics such as voter registration, election law, election worker recruitment, and more.

Since its inception in 2009, we have had over 800 participants, with 245 obtaining their Master Florida Certified Elections Professional designation.

I'd like to thank you again for the opportunity to appear before the Committee today, and I look forward to your questions.

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ENSURING YOUR CHOICE COUNTS

Mr. LAROSE. Well, thank you so much, Chair Lee——

Chair LEE. I now recognize Secretary LaRose for 5 minutes.

**STATEMENT OF THE HONORABLE FRANK LAROSE, OHIO
SECRETARY OF STATE**

Mr. LAROSE. I got ahead of you.

Thank you so much, Chair Lee. Thank you so much, Ranking Member Sewell, as well as all of the members of the subcommittee.

I want to thank Representative Carey for that generous introduction.

My name is Frank LaRose. I'm proud to serve the people of Ohio as their 51st Ohio Secretary of State, and I'm happy to talk with you all today about the things that we're doing in the Buckeye state to keep the ball moving forward.

Federal elections, of course, are the foundation of our democratic republic. They serve to document and to certify what Thomas Jefferson called the consent of the governed, that precious permission that the citizens give each and every one of us to serve them as public officeholders.

Of course, access to and the integrity of our elections is vital to that representative government on which our states and nation have thrived. With integrity comes confidence in the system and a belief by the electorate that each election had a sure winner and a sure loser.

Integrity and confidence. They go hand in hand, and yet our nation faces a crisis of confidence in our elections. Republicans and Democrats alike are losing faith in the electoral system. That hasn't always been the case, and it must end.

You've all likely heard the phrase "as goes Ohio, so goes the Nation." For decades, the Buckeye state has served as one of the nation's bellwethers when it comes to elections. With that moniker comes intensive scrutiny and attention, that spotlight that we've been under, the kind of scrutiny and attention that empowered Ohio to implement election protocols that have made our state a gold standard for conducting elections.

Over the past two decades, Ohio has never rested on our laurels. The only way to stay ahead of the curve is with innovation, continuous improvement. With the crisis of confidence our nation now faces, immediate action is now required. Ohio is stepping up to the bat once again with two significant advancements designed to strengthen that public trust. I look forward to sharing those advancements with you today.

First, a focus on strengthening election transparency through technology. More than 60 years ago, Congress enacted the Civil Rights Act of 1960 seeking, in part, to prevent acts of voter suppression and discrimination through the retention of paper election records.

The idea was simple: to allow for the scrutiny of election-related records so that the public could ensure that lawful votes weren't being altered or stolen. This requirement established a tradition of transparency that has served to protect the voting rights of all Americans for decades.

The problem, however, lies in the fact that this legislation was written, of course, in an analogue era. It resulted in a patchwork

of state and local practices that have not kept pace with modern technology or the expectations of the public.

States have done little, if anything, to codify the retention of electronic election records. They lack consistent standards for defining important election data, and they have never set clear guidelines on how and for how long that electronic voter data should be stored or even whether or how it should be disclosed for analysis.

A comparative analysis with colleagues in other states finds antiquated, inconsistent data retention practices that fall considerably short of the transparency we all expect, and in many cases, election officials update their records by simply saving over old data. What this does is it oftentimes cause confusion and lack of transparency.

In other cases, efforts to clean the rolls may even result in making things more confusing.

As the Secretary of State in one of the nation's biggest political battlegrounds, I'm leading an effort to change this. Working with our state legislature, we've introduced legislation that we call the DATA Act. It codifies key election definitions and retention requirements for voter registration and for the records of ballots cast.

I'm asking my colleagues in other states to consider using this legislation as a framework for their own reforms, and together we can adopt uniform standards that will increase the trust that people have because of the transparency that we have in our elections.

Second, an innovation that we've brought to Ohio recently is called the Public Integrity Division. A review of our office's capabilities demonstrated that there was room to strengthen the investigative functions far beyond what they were.

For too long questions of election law violations or campaign finance violations were left up to election clerks, dedicated and purposeful individuals but people that were not trained as law enforcement professionals and didn't know how to conduct a professional investigation.

Demonstrating integrity comes with the very direct and positive impact of increasing participation in our elections, and that's what our Public Integrity Division is all about, investigating those rare instances or voter fraud so that we can keep them rare and increase the trust that people have in our elections.

In Ohio, where our efforts have maintained the confidence of voters, we're seeing great success both in turnout and in participation, and that's something that we're proud of in the Buckeye state.

I look forward to your questions.

[The prepared statement of Mr. LaRose follows:]

Chairwoman Lee, Ranking Member Sewell, and members of the U.S. House of Representatives Elections Subcommittee, thank you for the opportunity to submit testimony on the state of our elections and what Ohio is doing to keep moving the ball forward.

Fair elections are the foundation of our democratic republic. They serve to document and certify what Thomas Jefferson called “the consent of the governed,” and their integrity is vital to the representative government on which our states and nation have thrived. With integrity comes confidence in the system, and a belief by the electorate that each election had a sure winner and a sure loser.

Integrity and confidence. They go hand in hand. And yet, today our nation faces a crisis of confidence. Republicans and Democrats alike are losing faith in the electoral system. That hasn't always been the case.

You've all likely heard the phrase, “as Ohio goes, so goes the nation”. For decades, the Buckeye State served as the nation's bellwether. With that moniker comes intensive scrutiny and attention – the kind of scrutiny and attention that empowered Ohio to implement election protocols that made our state the gold standard.

Over the past two decades, Ohio has never rested on our laurels. The only way to stay ahead of the curve is with innovation. With the crisis of confidence our nation now faces, immediate action is required. So Ohio is stepping up to bat once again with two significant advancements designed to strengthen the public trust.

First, a focus on strengthening election transparency through technology:

More than 60 years ago, Congress enacted the Civil Rights Act of 1960 seeking, in part, to prevent acts of voter suppression and discrimination through the retention of paper election records.

The idea was simple: to allow for the scrutiny of election-related records so the public could ensure that lawful votes weren't being altered or stolen. This requirement established a tradition of transparency that served to protect the voting rights of all Americans for decades. The problem, however, lies in the fact that this legislation, written in an analog era, resulted in a patchwork of state and local practices that have not kept pace with modern technology or expectations.

States have done little, if anything, to codify the retention of electronic election records. They lack consistent standards for defining important election data. They've never set

clear guidelines on how and for how long electronic voter data should be stored, or even whether and how it should be disclosed for analysis. These digital records should be used to make our elections more accessible, searchable, and transparent. However, the opposite too often is true.

A comparative analysis with colleagues in other states finds antiquated, inconsistent data retention practices that fall considerably short of the transparency we all expect. In many cases, election officials update their records by erasing or “saving over” old data sets to accommodate limited storage capacity. In other cases, efforts to “clean the rolls” by removing deceased or relocated voters have removed critical data, limiting the ability of researchers to cross-check and validate election outcomes months after the votes are cast and counted. This antiquated, patchwork of procedures does little to inspire confidence in the process and often renders attempts at post-election analysis useless.

As the Secretary of State in one of the nation’s biggest political battlegrounds, I’m leading an effort to change this. Working with our state legislature, we have introduced legislation, the DATA Act, that codifies key election data definitions and retention requirements for voter registration data and non-federal election ballots. I’m asking my colleagues in other states to consider using this legislation as a framework for their own reforms. Together, we can adopt uniform standards for retaining and disclosing electronic election data. This is a common sense, bipartisan solution to the growing crisis of confidence in our democracy, and it’s long overdue.

Our second new initiative is the Public Integrity Division.

A review of our office’s capabilities demonstrated there was room to strengthen our investigative functions far beyond what they were. For too long, questions of election law violations, campaign finance reporting, and more were left to election officials whose primary mission is to execute on a successful election. They weren’t trained, nor should they be expected to know how to properly investigate election law violations. Our Public Integrity Division now consolidates our investigative capabilities under one umbrella and is led by a team of investigators who know what to look for, how to look for it, and how to prepare information for prosecutors.

Demonstrating integrity comes with a very direct and positive impact: increased participation in elections thanks to elevated levels of voter confidence. By strengthening investigative capabilities as well as enhancing the transparency of security protocols & outcomes, voters will have greater confidence their vote has value, and the integrity of Ohio’s election system is secure.

We have to remember that every vote really matters. Since 2020, 31 different contests have ended in ties across Ohio with many dozens of others coming down to a very small number or even being decided by a single vote. In these cases, a single vote can impact the trajectory of a community. Our renewed focus on integrity will better ensure the will of the people is followed.

In Ohio, where our efforts have maintained the confidence of voters, we're seeing great success. Both in turnout, where the 2022 elections saw the 2nd highest number of voters ever for a midterm election, and in accuracy, where post-election audits once again demonstrated a 99.9 percent accuracy rate.

This is happening because Ohio embraces our role as a laboratory of democracy, always striving to be the best – where it's easy to vote and hard to cheat. That balance is possible, and it's happening in Ohio.

I look forward to your questions.

Chair LEE. I now recognize Mr. Hewitt for 5 minutes.

STATEMENT OF THE HONORABLE DAMON HEWITT, PRESIDENT AND EXECUTIVE DIRECTOR OF THE LAWYERS' COMMITTEE

Mr. HEWITT. Good morning, Chair Lee, Ranking Member Sewell, and members of the Subcommittee on Elections.

My name is Damon Hewitt. I am President and Executive Director of the Lawyers' Committee for Civil Rights Under Law.

I thank you for the chance to testify today about the successes and challenges of the 2022 midterm elections.

Our organization litigates voting rights cases extensively. We also convened the nation's largest voter protection effort, the Election Protection Coalition, over 300 organizations nationwide.

We also administer the 866-OUR-VOTE hotline where thousands of volunteer attorneys every year field calls for assistance from voters nationwide.

Our litigation, our advocacy, our partnerships in the field, and our firsthand accounts from hundreds of thousands of voters from all across this nation tell a story, and they inform our testimony today. They tell a story of progress yet continued peril with respect to our elections infrastructure.

Any notion of success of the 2022 midterm elections must be put into context in order to understand the fragility of our democratic system and the ongoing efforts to undermine it.

Last weekend I was in Selma, Alabama, participating in the annual bridge-crossing jubilee honoring the sacrifice of those who were attacked on Bloody Sunday in 1965. I marched across the Edmund Pettus Bridge. I joined some of the original foot soldiers, and I also joined Ranking Member Sewell as well. We were marching for justice. We were marching for voting rights.

Now, the eventually successful march in 1965, after Bloody Sunday, put a spotlight of moral clarity on the denial of the right to vote and helped to usher in the Voting Rights Act of 1965, the most transformative piece of legislation this nation, perhaps, has ever seen.

Nearly 60 years later, people from all walks of life continue to march across that bridge because they know, and they do not want America to forget, that the right to vote is still under attack today.

The 2022 midterms made one thing crystal clear: The measure of success must not only be how many people were able to vote. Certainly, there were impressive numbers in many jurisdictions, but we must also do an analysis of which people were able to vote and the types of barriers they had to overcome in order to do so.

Black voters and other voters of color continue to face unnecessary obstacles to casting a ballot. At the bridge crossing this year, we encountered so many amazing people, volunteers who saw burdensome laws that make it harder to register to vote, voters who encountered unnecessary hurdles themselves, and even election administrators who marched with us who have received threats simply for trying to do their job in good faith; those everyday heroes.

The Lawyers' Committee stands with them as we all carry the burden of keeping our democracy running and we expend significant time, effort, and resources to do so.

Last year, defenders of democracy were forced to jam our fingers into the door of democracy to keep that door open whereas so many state legislatures sought to slam that door shut. We've seen in the last couple of years laws at the state level that ban drop boxes, restrict early voting hours, shorten the number of days voters can request absentee ballots, threaten new criminal and financial penalties against those election administrator, those heroes. Counter-intuitive.

These were all efforts, we believe, designed to erect barriers to voting, not to make voting easier. In many cases, these laws were made possible and even popular by the Supreme Court's decision in *Shelby County v. Holder* in 2013, which essentially gutted the strongest provision of the Voting Rights Act, the preclearance provision.

To overcome these barriers, so many thousands of advocates at the Lawyers' Committee and our allied organizations around the country had to scramble to provide accurate, nonpartisan, reliable information to voters regarding their ability and eligibility to cast a ballot.

Election administrators had to develop new materials under serious time constraints because of these newly changed rules, and also we all had to battle rampant misinformation and disinformation from across the board.

Just this week, the Lawyers' Committee won summary judgment in the lawsuit in federal court involving robocalls sent to Black voters targeting them, telling them that, if they vote by mail, that the information will be used to execute outstanding warrants, to track them down to collect outstanding debts, and also to force mandatory vaccinations.

The same individuals who perpetrated this horror were also prosecuted in a couple of different states, but the problems have not abated. We have to continue to be vigilant.

Another thing to note about the 2022 midterms is the widening gap in participation. This is one of the key indicators under the Voting Rights Act. We have seen gaps of 13 percent in Georgia, 16 percent in North Carolina, and a whopping 35 percent in Ohio. This is not success. Democracy demands more. This is no time to claim mission accomplished. We have work to do.

Thank you for your questions.

[The prepared statement of Mr. Hewitt follows:]



**STATEMENT OF DAMON T. HEWITT
PRESIDENT AND EXECUTIVE DIRECTOR
LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW**

**U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON ADMINISTRATION
SUBCOMMITTEE ON ELECTIONS
HEARING ON
“2022 MIDTERMS LOOK BACK SERIES:
SUCCESES IN THE 2022 MIDTERM ELECTIONS”**

MARCH 10, 2023

I. Introduction

Chairwoman Lee, Ranking Member Sewell, and Members of the Subcommittee on Elections of the U.S. House of Representatives Committee on House Administration, my name is Damon T. Hewitt, and I am the President and Executive Director of the Lawyers’ Committee for Civil Rights Under Law (“Lawyers’ Committee”). Thank you for the opportunity to testify today on the successes and the challenges of the 2022 midterm elections.

The Lawyers’ Committee uses legal advocacy to achieve racial justice, fighting inside and outside the courts to ensure that Black people and other people of color have voice, opportunity, and power to make the promises of our democracy real. The Lawyers’ Committee convenes the nation’s largest nonpartisan voter protection effort, the Election Protection coalition, which includes a suite of voter assistance hotlines including 866-OUR-VOTE which the organization administers. The Election Protection Coalition worked year-round with almost four hundred national, state, and community partners to provide Americans from coast to coast with comprehensive voting information and resources during the 2022 midterm elections. Our work lets us stand shoulder to shoulder with the thousands of election workers, volunteers, administrators, and organizers who carry the burden of keeping our democracy functioning at great personal costs of time, effort, and money.

On March 7, 1965, over five-hundred civil rights “foot soldiers” marched from Selma to Montgomery, Alabama to protest the denial of their right to vote.¹ These true patriots played a “significant, powerful, and historic role” during the civil rights movement of the 1960s.² They were thousands of unsung Black people, White people and other people of color, who marched not only across the Edmund Pettus bridge, but all across the South to demand their full citizenship rights. During the march from Selma, the foot soldiers gathered on the Edmund Pettus Bridge in peaceful protest.³ However, as they attempted to cross the bridge, Alabama state troopers “used tear gas . . . and beat them with clubs and whips.”⁴ Their courage and sacrifice ultimately led to the passage of the Voting Rights Act of 1965.⁵

Today, the modern foot soldiers of our democracy are the volunteers, poll workers, and organizers who work tirelessly across the country to ensure that every

¹ *Who were Selma’s ‘Bloody Sunday’ marchers? Project seeks names of civil rights foot soldiers*, AL.COM (Oct. 3, 2021), <https://www.al.com/news/2021/10/who-were-selmas-bloody-sunday-marchers-project-seeks-names-of-civil-rights-foot-soldiers.html>.

² *Foot Soldiers Oral Histories*, 58TH SELMA, <https://www.selmajubilee.com/foot-soldiers> (last visited Mar. 8, 2023).

³ Hazel Scott, *‘Bloody Sunday’ Exhibit to Identify Foot Soldiers*, ASU (Apr. 22, 2022), <https://www.alasu.edu/bloody-sunday-exhibit-identify-foot-soldiers>.

⁴ *Id.*

⁵ *About*, 58TH SELMA, <https://www.selmajubilee.com/mission-history> (last visited Mar. 7, 2023).

American can vote free from racial discrimination and unnecessary barriers that suffocate democracy.

Last weekend, I and other Lawyers' Committee staff had the opportunity to march with some of the original foot soldiers, as well as a new cohort of modern defenders of democracy. I was one of many thousands who had the honor of crossing the Edmund Pettis bridge with Ranking Member Sewell during the Bridge Crossing Jubilee—the annual event that honors the sacrifice of those attacked on Bloody Sunday.

But the purpose of this event is not to celebrate the end of a past problem that has now been solved. Thousands of people from all walks of life march across that bridge every year so that America does not forget that the right to vote is *still* under attack today. On that bridge this year were voters who have confronted unnecessary hurdles to the ballot box, volunteers who have seen burdensome election laws make it harder for voters to register, and election administrators, many of whom confront threats, simply for trying to do their job in good faith. While the Selma to Montgomery March includes the surviving heroes of the original march, they are joined by thousands who march with them because they know that voters—predominantly voters of color—still face unnecessary obstacles when all they want to do is cast their vote and have that vote be counted.

As Congressman John Lewis said, “Voting is the most powerful, non-violent tool we have to create a more perfect union.”⁶ Whether the sacrifice for the right to vote came in 1965 or 2022, whether it came in the form of spilled blood yesterday or standing up to intimidation today, as President Lyndon Baines Johnson said upon signing the Voting Rights Act, “denial of the right to vote is still a deadly wrong.”⁷ Congress must honor those who have sacrificed for the right to vote by fulfilling the promise of our Constitution and ensuring every American can exercise that right on an equal and non-discriminatory basis without obstruction or capricious repercussion under law.

As some have noted, the midterm elections of 2022 were a success, but we must be clear about what that success was, and what it took to achieve. We had success in a relative sense despite all the obstacles that stood in the way – but how much, and at what cost in time, talent, and treasure to get there? It was successful in terms of the size of overall voter turnout, though, as discussed below there were significant disparities between White and Black turnout in several states. But it was *not*

⁶ John Lewis, *The March for Civil Rights*, NAT'L CONST. CTR. (Sept. 17, 2013), <https://constitutioncenter.org/news-debate/americas-town-hall-programs/congressman-john-lewis-the-march-for-civil-rights>.

⁷ Lyndon B. Johnson, *Remarks in the Capitol Rotunda at the Signing of the Voting Rights Act*, AM. PRESIDENCY PROJECT (Aug. 6, 1965), <https://www.presidency.ucsb.edu/documents/remarks-the-capitol-rotunda-the-signing-the-voting-rights-act>.

successful in terms of the ease of voting. The “success” of the 2022 election was built on the shoulders of those who expended time, money, and effort that was needed to overcome unnecessary burdens to voting. The “success” occurred despite onerous government restrictions on ballot access and tremendous pressure and threats directed towards the administrators and workers, who were instrumental in helping the elections run smoothly. The elections were “successfully” certified, despite attacks based on racist stereotypes and lies.⁸

This is not to ignore progress. Many states and localities offered early voting, voting by mail, election day registration, and other voting options, which were especially critical in an ongoing pandemic.⁹ Indeed, all of the states where the percentage of turnout of eligible voters exceeded 55% (Colorado, Maine, Michigan, Minnesota, Oregon, Vermont, Washington, and Wisconsin), offered some combination of election day registration, no excuse voting by mail, and in-person early voting. Overall, an estimated 46.6 percent of eligible voters participated – a generally high level for a mid-term election in this country, though not as high as in 2018.¹⁰ While these successes are real, and the volunteers, election workers, and officials deserve to be proud of their accomplishments, a true accounting of the 2022 elections must include not just how many are able to vote, but which people are able to vote, and the barriers they are forced to overcome to do so.

The fact is that some people—predominantly voters of color—face barriers to the ballot box that make it more difficult and more costly for them to vote than for other people. The past two years have demonstrated the precarity of this grand experiment called participatory democracy. Each election cycle, we are left to wonder and worry whether barriers to vote and attacks on democratic infrastructure will have their intended effect in suppressing the political power of voters of color, or if our infrastructure to scaffold democracy—made possible by organizations that provide voter education or assistance, and litigate—can once more hold up despite these challenges.

Now more than ever, our elections are a work in progress that requires much from the foot soldiers of our democracy. This is certainly no time to proclaim, “Mission Accomplished”. Democracy demands more.

II. Voter Suppression Before and During the 2022 Election

⁸ Erin Banco, *People are fearful: Threats to midterm election workers spur law enforcement response across U.S.*, POLITICO (Nov. 3, 2022), <https://www.politico.com/news/2022/11/03/threats-midterm-election-workers-law-enforcement-00065017>.

⁹ *Early In-Person Voting*, NCSL (Aug. 30, 2022), <https://www.ncsl.org/elections-and-campaigns/early-in-person-voting>.

¹⁰ *2022 November General Election Turnout Rates*, US ELECTIONS PROJECT (Jan. 10, 2023), <https://www.electproject.org/2022g>.

This testimony contextualizes what we saw in the non-partisan, nationwide Election Protect Coalition, spotlights analysis of the growing racial disparity in participation rates; surveys of the barriers Election Protection efforts encounter in one key state (Georgia); and showcases voter experiences documented by litigation we brought in another jurisdiction (Beaumont, Texas).

Too often in 2022 election workers, civil rights organizers, litigators, and voters were forced to jam their fingers into the doorframe of opportunity while state legislators and hostile elections officials sought to slam the door closed on them. No eligible voting-age citizen, particularly historically disenfranchised Black voters, should be confronted with barriers designed to make it more difficult for them to register to vote or cast a ballot. Nor should they be limited to “participating in an empty ritual” in which the ballots cast are rejected or are rendered meaningless by discriminatory procedures or redistricting practices.¹¹

We are less than two months away from the 10th anniversary of the *Shelby County v. Holder* decision, which ripped preclearance protections from the Voting Rights Act (VRA). The floodgates of voter suppression have long been reopened. Justice Ginsberg’s famous dissenting admonishment that “[t]hrowing out preclearance when it has worked and is continuing to work to stop discriminatory changes is like throwing away your umbrella in a rainstorm because you are not getting wet” seems more prophetic with each new wave of suppressive voting laws.¹² Voters of color are feeling the storm. Moreover, it must be stressed that there is no justification for the rash of restrictive election laws. They are garnished with the rhetoric of making it “harder to cheat,” but there is no evidence of widespread cheating affecting election outcomes. In fact, such claims have been widely debunked and dismissed by numerous courts and the public at large.

Throughout 2021 and 2022, states enacted bills banning or limiting the use of drop boxes for mail-in ballots, restricting early voting hours, shortening the window of time that voters had to request – and otherwise limiting use of – absentee ballots, creating new criminal and financial penalties for election administrators, and giving partisan poll watchers unfettered access to the polls. Restrictive voting laws passed in 2021 and 2022 had a meaningful impact on their intended targets—voters of color.

Texas rejected roughly one out of every eight mail ballots in the 2022 primaries due to onerous administrative requirements, such as requiring that voters list the

¹¹ MARTIN LUTHER KING, JR., A TESTAMENT OF HOPE: THE ESSENTIAL WRITINGS AND SPEECHES 307 (2003).

¹² *Shelby County, Ala. v. Holder*, 570 U.S. 529, 590 (2013) (Ginsburg, J., dissenting).

same identification number they originally used to register; the impact fell disproportionately on Latino and Black voters¹³

Georgia passed new restrictive measures that targeted and limited voting methods, like early in-person voting, voting by absentee ballot, and ballot drop boxes, all of which were used much more extensively by voters of color than voting in-person on recent election days. In the November 2022 election, Georgia had a 13.3 percentage point gap between White (58.3%) and Black (45.0%) turnout of registered voters, which was significantly greater than the 8.3 percentage point gap (62.2% to 53.9%) of the previous midterm election in 2018.¹⁴ Notably turnout amongst both Black and White voters fell in 2022 as compared to 2018 despite the significant interest in Georgia elections.¹⁵

Extolling the “success” of the 2022 elections rings hollow to voters, disproportionately voters of color, who waited for hours in line at polling locations or at the only drop box in their county.¹⁶ The Election Protection coalition documents the numerous delayed openings, ballot shortages, and equipment failures which negatively affected voters, particularly voters of color, who have work, school, childcare, eldercare, or other responsibilities, and who were not always able to endure long wait times and, as a result, were unable to cast a ballot. The suppressive new requirements and rules enacted by state legislatures over the past two years that make election administration more taxing for election workers magnified the issues that communities of color have historically faced at the polls. Furthermore, these newly enacted laws have already had and will continue to have a chilling effect on patriotic citizens who would otherwise serve as election administrators. People who have worked as election administrators and workers for decades now fear prosecution, intimidation, and violence. They are citing these as reasons why they are retiring at a rapid rate, taking their skills and institutional memory with them. Most nonsupervisory election workers are nonpartisan volunteers over the age of 60.¹⁷ In fact, 1 in 5 local election officials have already declared that they will likely

¹³ Natalia Contreras, *Voters of color had mail-in ballots rejected at higher rates than white voters in Texas’ March primary*, TEX. TRIBUNE (Oct. 20, 2022), <https://www.texastribune.org/2022/10/20/voting-texas-ballot-rejections/>.

¹⁴ *Georgia Election Results*, GA. SEC’y STATE, <https://sos.ga.gov/page/georgia-election-results> (last visited Mar. 8, 2023).

¹⁵ Sara Loving & Kevin Morris, *Georgia’s Racial Turnout Gap Grew in 2022*, BRENNAN CTR. JUST. (Dec. 16, 2022), <https://www.brennancenter.org/our-work/analysis-opinion/georgias-racial-turnout-gap-grew-2022>.

¹⁶ Hannah Klain et al., *Waiting to Vote: Racial Disparities in Election Day Experiences*, BRENNAN CTR. JUST. (June 3, 2020), <https://www.brennancenter.org/our-work/research-reports/waiting-vote>.

¹⁷ Michael Barthel & Galen Stocking, *Older People Account for Large Shares of Poll Workers and Voters in U.S. General Elections*, PEW RES. CTR. (Apr. 6, 2020), <https://www.pewresearch.org/fact-tank/2020/04/06/older-people-account-for-large-shares-of-poll-workers-and-voters-in-u-s-general-elections/>.

step down before the 2024 elections.¹⁸ This mass exodus of election officials and election workers is certain to lead to staffing shortages that will require polling places to be closed or consolidated—a practice that has disproportionately happened in Black communities and other communities of color.¹⁹

One thing about the 2022 election cycle is clear: the magnitude of issues we experienced cannot be allowed to become the new normal. Defenders of democracy, from civil rights litigators to volunteer poll workers, have been put in a position where their collective efforts must triumph in a contest every election cycle when facing voter suppression laws that make it harder to vote, where disinformation and misinformation is disseminated with the intent of scaring voters away from voting, where there is intimidation at polling places and harassment of voters and poll workers, where poll watchers are recruited and trained to question the eligibility of voters at the polls, and where mass challenges on voter eligibility are lodged right before voting begins. These are all deliberate attacks on the right to vote, and unfortunately combating them means having a robust rapid response plan every cycle that includes election protection and emergency litigation. The Election Protection coalition will stand ready each time. This election, we largely got ahead of these threats and were able to support voters against numerous attempts to challenge, confuse, and silence them.

But we face real and growing obstacles. The worst voter suppression laws in the country—in states like Texas—are still on the books. Congress has done nothing to either stop the laws that have already been passed or to stop states from enacting even more. We also know that some who deny the very validity of fair and free elections won their races or have been appointed to oversee future elections, raising the specter of hostile state and local election officials acting in explicitly partisan and not-so-subtle racist ways in 2024.

We will continue to confront these dynamics. This means inoculating disinformation, providing voter education, launching timely legal challenges, and sustaining an election protection infrastructure that continues to take voters through every step of the voting process. From needlessly confusing registration requirements, to unnecessary challenges, to onerous ballot curing procedures, we will be there for voters.

Yet Congress and State Government must not ask voters to keep bearing these burdens with no relief in sight. The Lawyers' Committee will continue to provide

¹⁸ Miles Parks, *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>.

¹⁹ *Democracy Diverted: Polling Place Closures and the Right to Vote*, LEADERSHIP CONF. EDUC. FUND (Sept. 2019), <http://civilrightsdocs.info/pdf/reports/Democracy-Diverted.pdf>.

support and guidance for every eligible voter nationwide, but we will also continue to call on Congress to act now. Democracy is only as strong as our willingness to fight for it—and we are fighting for it. We need Congress to do the same.

III. Indicators of Problems in the 2022 Midterm Elections

Comprised of 389 local, state, and national partners, Election Protection provides Americans from coast to coast with comprehensive information and assistance at all stages of voting—from registration to absentee and early voting, to casting a vote at the polls, to overcoming obstacles to their participation—and works to remove barriers to voting.

Voters can call our suite of voter protection hotlines to seek information, ask questions, and report problems—no matter how simple or complex—and receive assistance from highly trained legal volunteers. In addition to the 866-OUR-VOTE Hotline, the suite of hotlines include 888-VE-Y-VOTA (in Spanish), administered by the National Association of Latino Elected and Appointed Officials Educational Fund, to provide identical assistance to Spanish-speaking voters; 888-API-VOTE which provides assistance in Mandarin, Cantonese, Korean, Vietnamese, Tagalog, Urdu, Hindi, and Bengali, administered by APIAVote and Asian Americans Advancing Justice-AAJC and 844-YALLA-US, administered by the Arab American Institute which provides assistance in Arabic. Voters can also reach the hotline for assistance by text; through chat from the www.866ourvote.org; by direct message through the @866ourVote Twitter account and at facebook.com/866OurVote.

In addition to the hotlines, Election Protection provides both legal and grassroots assistance at polling places in 33 states. In every major election, thousands of attorneys and grassroots volunteers monitor polling locations, meet with election officials, develop legal and voter outreach materials, and engage in legal and policy advocacy, including litigation when necessary. National partner Common Cause coordinates the grassroots program along with state and local partners. Legal and grassroots volunteers work collaboratively to answer questions and aid voters at the polls during early vote and on Election Day.

Since 2004, Election Protection has amassed a record of the systemic problems Americans face when exercising their right to vote, at every step of the voting process from registration to ensuring their ballot is counted. Using this data, we have developed concrete election reform policy proposals at the local, state, and federal levels that address the true problems voters face, as well as supporting high-impact litigation to ensure our elections are free, fair, and accessible to all eligible voters.

In 2022, the 866-OUR-VOTE hotline's call volume was similar to the 2018 midterm call volume. However, there were some marked trends that are of particular note for assessing the 2022 election.

A. Timing of Calls

The timing of requests for information and assistance changed between 2018 and 2022. In 2018, almost 50% of call volume occurred on Election Day; in 2022, only about 20% of calls came in on Election Day. Although the number of calls is similar, many more voters are choosing to vote early or by mail, indicating that the massive spike in absentee voting in 2020 due to the pandemic may have caused a long-term change to the way voters interact with the election system. Although Election Protection is often thought of as an Election Day effort, the coalition works year-round to educate voters, engage election officials, and provide assistance to voters throughout the election cycle.

B. Polling Place Access and Equipment Issues

Reports to Election Protection show a small but noticeable increase in polling place access and equipment issues. Polling place access issues included late openings and early closings of voting locations; lack of language and disability access; and general access concerns, such as lack of signage and privacy. In 2022, 1.9% of all calls to the hotline regarded late openings and early closings of polling places. This represents a proportional increase from 2020 when 1.7% of calls reported access concerns. According to our database, equipment issues impacted numerous voting locations across the country on Election Day, often creating or exacerbating access concerns.

Voting equipment issues, problems with electronic poll books, scanners, insufficient supplies of paper and other voting equipment related issues, led to some polls opening late in several states, including in Georgia, Michigan, South Carolina, Arizona, Illinois, Texas and New Jersey, Utah, and Delaware, among others, and generated calls to the Election Protection hotline.

In some instances, poll managers deployed emergency paper ballots to help alleviate long lines or courts ordered extensions of the time when polls would close.²⁰

C. Voter Intimidation

Additionally, we documented increased reports of voter intimidation. Our Election Protection infrastructure received 1,648 calls regarding voter intimidation incidents, representing a small proportional increase over the 2018 midterm elections. Incidents related to later publicized reports of coordinated voter

²⁰ Julia Mueller, *Here's where voting hours were extended on Tuesday*, THE HILL (Nov. 8, 2022), <https://thehill.com/homenews/campaign/3726186-heres-where-voting-hours-were-extended/>.

intimidation campaigns,²¹ also formed a basis for litigation intervention, which is discussed in detail further below.²²

IV. Racial Disparities in Voter Turnout Continued to Grow in 2022

Racialized gaps in turnout suggest troubling disparities in how barriers to voting disproportionately, and effectively, burden communities of color. The uptick of suppressive voting laws enacted since 2020 and targeted at voters of color suggested that this disparity would worsen. Recent history since the *Shelby County* decision has also offered discouraging indications of racial disparity when voting protections have been loosened. As a Brennan Center for Justice report found, “between 2012 and 2020, the White-Black turnout gap grew between 9.2 and 20.9 percentage points across five of the six states originally covered by Section 5 of the Voting Rights Act.”²³

In 2020, turnout by voters of color continued a trend of being consistently lower than White turnout, with 70.9 percent of White voters ultimately able to cast ballots compared to only 58.4 percent of voters of color.²⁴ Changes to voting laws can have cross-cutting effects, with suppressive changes to voting practices met by grassroots mobilization, voter education and election protection efforts to counter them. However, even with efforts to mobilize voters and ensure they are able to register and vote, gaps in participation rates between racial groups can highlight the uneven burden applied by targeted voter suppression measures that can be obscured by focus on general turnout rates.²⁵

Overall voter turnout metrics cannot tell the whole story when the intent of suppressive voter legislation is to make it more difficult to vote for a targeted minority. According to Bernard L. Fraga, a professor, and elections expert “changes in [overall] voter turnout are an incomplete metric for gauging the impact of

²¹ Ali Dukakis, *Cases of alleged intimidation at Arizona ballot boxes continue to rise*, ABC NEWS (Nov. 7, 2022), <https://abcnews.go.com/US/cases-alleged-intimidation-arizona-ballot-boxes-continue-rise/story?id=92811526>.

²² *Lawyers’ Committee for Civil Rights Under Law Gets Relief for Black Voters Facing Voter Intimidation in Texas*, LAWYER’S COMM. C.R. UNDER LAW (Nov. 8, 2022), <https://www.lawyerscommittee.org/lawyers-committee-for-civil-rights-under-law-gets-relief-for-black-voters-facing-voter-intimidation-in-texas/>.

²³ Kevin Morris et al., *Racial Turnout Gap Grew in Jurisdictions Previously Covered by the Voting Rights Act*, BRENNAN CTR. JUST. (Aug. 20, 2021), <https://www.brennancenter.org/our-work/research-reports/racial-turnout-gap-grew-jurisdictions-previously-covered-voting-rights>.

²⁴ Kevin Morris & Coryn Grange, *Large Racial Turnout Gap Persisted in 2020 Election*, BRENNAN CTR. JUST. (Aug. 6, 2021), <https://www.brennancenter.org/our-work/analysis-opinion/large-racial-turnout-gap-persisted-2020-election>.

²⁵ John Kuk et al., *A disproportionate burden: strict voter identification laws and minority turnout*, TAYLOR & FRANCIS ONLINE (Aug. 28, 2019), <https://www.tandfonline.com/doi/full/10.1080/21565503.2020.1773280>.

election law policies or changes in policies on the burdens citizens face.”²⁶ That is because voters take steps to counter barriers to voting, and those steps are “not evidence that the barrier does not exist.”²⁷

Racial disparities in voting seem to have grown across states. This can be seen best in those states where voters are asked to provide race data when they register to vote. Above, I provided statistics from Georgia showing the large and growing disparity in White and Black turnout. In North Carolina, 58% of White registered voters voted in the 2022 general election compared to 41.8% percent of Black or African American voters. In North Carolina White voters had the highest voter turnout percentage compared to all other racial groups.²⁸ Statewide, the gap in turnout between White and Black voters in midterms is soaring, growing from 5 percentage points in 2014 and 8 points in 2018, compared to a roughly 16 percentage point gap in 2022.²⁹

My home state of Louisiana also had a shameful racial disparity in participation. 52.56% of White eligible voters cast a ballot in 2022 compared with only 37.85% of eligible Black voters.³⁰

Further, some states that have passed suppressive voting laws have seen *overall* turnout fall. In Florida, sixty-three percent of voters voted in the 2018 general election compared to 54% in 2022.³¹ Ohio had similar trends, with a fifty-five percent turnout rate in 2018,³² and then dropping down to fifty-two percent in 2022.³³ An estimated 61.2 percent of eligible White voters participated in Ohio’s 2022 election, compared to just 26.2 percent of eligible Black voters, a 35-point difference.³⁴

²⁶ Sur-Rebuttal Report of Bernard L. Fraga, In re Georgia Senate Bill 202, No. 1:21-CV-01229-JPB, 2022 WL 3573076 4 (N.D. Ga. Aug. 18, 2022).

²⁷ *Id.* at 5.

²⁸ 2022 General Election Turnout, N.C. STATE BD. ELECTIONS, <https://www.ncsbe.gov/results-data/voter-turnout/2022-general-election-turnout> (last visited Mar. 7, 2023).

²⁹ Bob Hall, *NC voter turnout in the midterms: What the data show for various groups*, THE PULSE (Dec. 8, 2022), <https://pulse.ncpolicywatch.org/2022/12/08/nc-voter-turnout-in-the-midterms-what-the-data-show-for-various-groups/#sthash.QNHeOdH5.w2aLakDb.dpbs>.

³⁰ *State Wide Post Election Statistical Report*, LA. SEC’Y STATE, https://electionstatistics.sos.la.gov/Data/Post_Election_Statistics/statewide/2022_1108_sta.pdf (last visited Mar. 8, 2023).

³¹ *Voter Turnout*, FLA. DIVISION OF ELECTIONS (Feb. 27, 2023), <https://www.dos.myflorida.com/elections/data-statistics/elections-data/voter-turnout/>.

³² *Voter Turnout in General Elections*, OHIO SEC’Y OF STATE, <https://www.ohiosos.gov/elections/election-results-and-data/historical-election-comparisons/voter-turnout-in-general-elections/> (last visited Mar. 7, 2023).

³³ *Voter Turnout by County*, OHIO SEC’Y OF STATE, <https://www.ohiosos.gov/globalassets/elections/2022/gen/11-8-22-voter-turnout-summary.xlsx> (last visited Mar. 7, 2023).

³⁴ Lawyers’ Committee estimate. Turnout by race estimated using Ecological Inference.

It is troubling that large racial disparities, and in some cases, drops in overall turnout, have shadowed the 2022 election.

V. Voters Overcame Obstacles in Georgia, but Structural Barriers and Challenges Continue to Grow

Georgia serves as an example of how new laws that target Black voters and make it harder to vote have been confronted by Election Protection and litigation efforts. It is also a stark reminder of the difficulty and substantial resources required by advocates to address voter suppression.

Leading up to the 2022 midterm elections, administrators in Georgia across party lines spoke out against recently passed state laws that made election administration more difficult.³⁵ Despite the fact that Secretary of State Brad Raffensperger and Georgia elections official Gabriel Sterling confirmed that there was no evidence of widespread voter fraud in Fulton County or anywhere else in Georgia during the 2020 election,³⁶ the state legislature passed SB 202, which included provisions that target and make early in-person voting, voting by absentee ballot, and using ballot drop boxes more difficult, all of which were used much more extensively by voters of color than voting in-person on election day. SB 202 not only increased criminal penalties for election administrators in Georgia, but also included state takeover provisions that allow members of the State Elections Board—the majority of whom are appointed by the state legislature—to completely takeover election administration in counties and fire career election administrators.³⁷ These provisions were clearly meant to target Fulton County and other counties with a significant Black population in Georgia.

After the passage of SB 202, the Election Protection coalition received calls from voters having trouble obtaining absentee ballots. In 2020, nearly 30 percent of Black voters in Georgia voted by mail, while only 24 percent of White voters cast their ballot by mail.³⁸ Then, the Georgia legislature included several provisions that make it harder to vote by mail in SB 202. One of these provisions requires any voter who

³⁵ 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>.

³⁶ Bart Jansen, *Georgia Election Official: Trump Legal Team 'Intentionally Misled' Voters on Election Fraud*, USA TODAY (Jan. 4, 2021), <https://www.usatoday.com/story/news/politics/elections/2021/01/04/gabriel-sterling-trump-team-misled-voters-election-fraud-georgia/4130374001/>.

³⁷ Domingo Morel, *As Georgia's New Law Shows, When Black People Gain Local Power, States Strip That Power Away*, WASH. POST (Apr. 1, 2021), <https://www.washingtonpost.com/politics/2021/04/01/georgias-new-law-shows-when-black-people-gain-local-power-states-strip-that-power-away/>.

³⁸ Kevin Morris, *Georgia's Proposed Voting Restrictions Will Harm Black Voters Most*, BRENNAN CTR. JUST. (Mar. 6, 2021), <https://www.brennancenter.org/our-work/research-reports/georgias-proposed-voting-restrictions-will-harm-black-voters-most>.

wishes to vote absentee to print out a hard copy of an absentee ballot application, sign it with a pen, and then either return it by mail or scan the application after signing it in ink and uploading it online.³⁹ Previously, voters could simply apply for an absentee ballot online without printing and scanning the form.⁴⁰ This requirement increased the volume of paper absentee ballot applications that county elections offices across the state have to process by hand and decreased access to absentee voting for Black voters and other voters of color who do not have access to printers or scanners at home and would otherwise have to pay money to meet this strenuous requirement.

Another provision of SB 202 also had a negative impact even before the primary election day in Georgia: it cut the window for voters to request an absentee ballot by more than half from 180 days before an election to just 78 days before an election. This unnecessarily restricted the time that voters had to request absentee ballots and that election administrators had to process requests and send the ballots out.⁴¹ Unsurprisingly, many voters in Georgia did not receive their vote by mail ballots by Election Day, including many out of state Georgia college students. Over one thousand ballots simply were not mailed out at all, due to burdens on administrators caused by the law.⁴² Our Election Protection Coalition helped numerous voters who received their absentee ballots late, including two college students who were so eager to vote that they had returned their ballots to their county by express mail, but they still had not been delivered.

Perhaps the gravest threat we saw in 2022 was the abuse of citizen challenges. Made possible by a provision in SB 202 amending Georgia challenge laws⁴³ more than 65,000 Georgia voters had their eligibility challenged; one man alone challenged the eligibility of 31,000 Forsyth County voters.⁴⁴

Approximately 3,200 of those challenges had been sustained prior to November 1, 2022. Challenges in Georgia are approved by county election boards, and if approved, they take effect immediately. Often voters were caught unaware.

³⁹ *Absentee Ballot Request*, GA. SEC'Y OF STATE, <https://securemyabsenteeballot.sos.ga.gov/s/> (last visited Mar. 8, 2023).

⁴⁰ Patricia McKnight, *Georgia Sued Over Rule That Absentee Ballot Applications Be Signed in Ink*, NEWSWEEK (May 2, 2022), <https://www.newsweek.com/georgia-sued-over-rule-that-absentee-ballot-applications-signed-ink-1702733>.

⁴¹ S.B. 202, Ga. Gen. Assemb. (2021).

⁴² *Over 1K absentee ballots never mailed to some Georgia voters*, GPB (Nov. 7, 2022), <https://www.gpb.org/news/2022/11/07/over-1k-absentee-ballots-never-mailed-some-georgia-voters>.

⁴³ Mark Niese, *Voter vs. voter: Georgia conservatives target thousands for cancellation*, THE ATLANTA J. CONST. (July 26, 2022), <https://www.ajc.com/politics/voter-vs-voter-right-wing-residents-target-thousands-for-cancellation/WORGNRFPWJAF3D2PVFWP346BGI/>.

⁴⁴ Mark Niese, *Eligibility challenges impede several Georgia voters at the polls*, THE ATLANTA J. CONST. (Nov. 1, 2022), <https://www.ajc.com/politics/several-georgia-voters-report-hurdles-after-eligibility-challenges/WOUAH77TLRBD5A5HLLFSJV3S44/>.

The Election Protection coalition continued to receive reports of eligible voters appearing at their polling place seeking to cast a ballot in the 2022 general election, only to be told that they had been challenged and had to provide additional evidence of residence. Election workers then risked exacerbating the burdens of the recent change in the law due to unfamiliarity and inadequate training. One voter was initially told during early voting in Fulton County, Georgia, that she would have to cast a provisional ballot, even though she was properly registered and eligible to vote in Fulton County.⁴⁵ She contacted Election Protection and worked with our long-time coalition partner in Georgia to resolve the issue and was able to cast a regular ballot.⁴⁶

Further challenges in the 2022 elections were created by a significant number of county elections administrators retiring or resigning after the state enacted SB 202. The chief county elections administrators in the three counties that include Macon,⁴⁷ Augusta,⁴⁸ and Atlanta⁴⁹—three of the four largest cities in the state of Georgia—all resigned. They had each served in their roles for 10, 28, and 8 years respectively. The former elections director in Macon-Bibb County cited “rapidly changing elections laws” as making her job overwhelmingly stressful and motivating her decision to resign.⁵⁰

The Lawyers’ Committee sued Georgia officials over SB 202 on behalf of the Georgia State Conference of the NAACP, Common Cause, the Georgia Coalition for the People’s Agenda, Inc., the GALEO Latino Community Development Fund, Inc., League of Women Voters of Georgia, and the Lower Muskogee Creek Tribe in federal court.⁵¹ We specifically sued over SB 202’s provisions allowing the State Elections

⁴⁵ *Id.*

⁴⁶ Carlisa N. Johnson, *Early voters in Georgia face obstacles under state’s new election law*, THE GUARDIAN (Oct. 22, 2022), <https://www.theguardian.com/us-news/2022/oct/22/georgia-early-voting-obstacles-new-election-law>.

⁴⁷ Liz Fabian, *Macon-Bibb Elections Supervisor Resigns Due to Stress, Workload, New Election Laws*, WMAZ-TV (Jan. 10, 2022), <https://www.13wmaz.com/article/news/local/macon-bibb-elections-supervisor-resigns/93-8fc78126-6601-4de6-b46e-cbcaf56f8ae5>.

⁴⁸ Susan McCord, *Lynn Bailey, Richmond County elections chief, announces retirement after 28 years*, THE AUGUSTA CHRONICLE (June 15, 2021), <https://www.augustachronicle.com/story/news/local/2021/06/15/lynn-bailey-director-elections-richmond-county-augusta-ga-to-retain/7698364002/>.

⁴⁹ Jeff Amy & Kate Brumback, *Election Director in Georgia’s Fulton County Resigning*, ASSOCIATED PRESS (Nov. 3, 2021), <https://apnews.com/article/elections-voting-georgia-atlanta-0980431ec0eeba03471216fc264895ee>.

⁵⁰ Liz Fabian, *Macon-Bibb Elections Supervisor Resigns Due to Stress, Workload, New Election Laws*, WMAZ-TV (Jan. 10, 2022), <https://www.13wmaz.com/article/news/local/macon-bibb-elections-supervisor-resigns/93-8fc78126-6601-4de6-b46e-cbcaf56f8ae5>.

⁵¹ *Georgia’s SB202 is a Culmination of Concerted Efforts to Suppress the Participation of Black Voters and Other Voters of Color*, LAWYERS’ COMM. C.R. UNDER LAW, (Mar. 29, 2021), <https://www.lawyerscommittee.org/georgias-sb202-is-a-culmination-of-concerted-efforts-to-suppress-the-participation-of-black-voters-and-other-voters-of-color/>.

Board to “take over county election boards, which would give the State Elections Board unprecedented authority to target jurisdictions with a large population of Black voters and other voters of color.”⁵² Last December, the court denied the State’s attempt to dismiss our case, allowing our clients to move forward with their claims and finding that the organizations we represent have stated a plausible discriminatory purpose claim.

When the state legislature seemed poised to pass a second round of restrictions last year, one Republican member of the Forsyth County board of elections warned state lawmakers in Georgia “you’re going to cause me to lose poll workers...I have 400 poll workers that work for our board. That is 400 people that I could see telling me after May, ‘Have a nice life,’ and it’s hard enough to keep them right now.”⁵³ Despite these bipartisan warnings, state lawmakers in Georgia passed an election police force bill that gives the Georgia Bureau of Investigations the power to investigate any violation of the state’s election code, which will almost certainly include investigations of elections workers and administrators in Georgia’s predominantly Black counties.⁵⁴ In fact, elections administrators warned state legislators that involving the GBI would throw a wrench in their efforts to run elections smoothly. Specifically, Douglas County Election Director Milton Kidd warned that allowing the GBI to initiate investigations “could have a ‘chilling effect’ on poll workers and voters who might fear becoming targets of unfounded fraud accusations.”⁵⁵ The GBI could also target election administrators and poll workers for making minor, innocent administrative mistakes, prosecuting those individuals for the kinds of slip ups that do not affect the final vote count in any way.

VI. Beaumont, Texas Voter Discrimination Examples

Texas has a well-documented history of voter intimidation by poll watchers that has disproportionately affected voters of color. The courts have acknowledged this pattern before: in 2014, a federal district court described this very issue: “Minorities continue to have to overcome fear and intimidation when they vote. . . . [T]here are still Anglos at the polls who demand that minority voters identify themselves, telling them that if they have ever gone to jail, they will go to prison if

⁵² Complaint, Georgia State Conference of the NAACP v. Brad Raffensperger, (N.D. Ga. 2021), <https://lawyerscommittee.org/wp-content/uploads/2021/03/2021-03-28-complaint-as-filed-with-temporary-case-number.pdf>.

⁵³ 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>.

⁵⁴ Brad Dress, *Georgia Lawmakers Pass Bill Empowering Election Force to Investigate Voter Fraud*, THE HILL (Apr. 5, 2022), <https://thehill.com/news/3259631-georgia-lawmakers-pass-bill-empowering-election-force-to-investigate-voter-fraud/>.

⁵⁵ Stanley Dunlap, *Poll Supervisors Fret as Senate Considers Another Election Overhaul*, GEORGIA RECORDER (Mar. 22, 2022), <https://thecurrentga.org/2022/03/22/poll-supervisors-fret-as-senate-considers-another-election-overhaul/>.

they vote. Additionally, there are poll watchers who dress in law enforcement-style clothing for an intimidating effect to which voters of color are often the target.”⁵⁶

However, in this cycle we received disturbing reports of similar intimidation stemming not from poll watchers, but from poll workers themselves. During the early voting period leading up to Election Day in 2022, 866-OUR-VOTE, received complaints from voters at a historically Black polling location in Beaumont, Texas of white poll workers exclusively asking Black voters to recite their addresses out loud after their voter eligibility had already been confirmed.⁵⁷ Our team immediately investigated the allegations, and quickly filed suit on behalf of the Beaumont Branch of the NAACP and an individual Texas voter alleging that Black voters were being targeted and intimidated by White poll workers in the John Paul Davis Community Center polling place, which was located in a predominantly Black neighborhood in Beaumont.

Black voters, poll workers, and voter assistants in Beaumont provided several firsthand accounts of what they witnessed. These are just a few of their stories:

*I have never witnessed what I saw that day at the Community Center, a White poll worker loudly demanding that an elderly Black woman recite her address out loud even though she already verified her address one time and seemed to be checked in.*⁵⁸

- Declaration of Plaintiff Jessica Daye

[V]oters who I was serving at Theodore Johns Library told me that they had previously attempted to vote at the John Paul Davis Community Center and had been unable to vote. One voter was a man and one was a woman. They were both Black. One of these two voters informed me that they had requested a mail ballot and did not receive it in the mail. This voter told me that they were told they could vote a provisional ballot when they attempted to vote at the John Paul Davis Community Center. The other voter told me that they were not informed why they could not have voted at the John Paul Davis Community Center and did not know why

⁵⁶ *Veasey v. Perry*, 71 F. Supp. 3d 627, 636–37 (S.D. Tex. 2014), *aff’d and reversed on other grounds*, *Veasey v. Abbott*, 830 F.3d 216 (5th Cir. 2016).

⁵⁷ *Lawyers’ Committee For Civil Rights Under Law Gets Relief for Black Voters Facing Voter Intimidation in Texas*, LAWYERS’ COMM. C.R. UNDER LAW (Nov. 8, 2022) <https://www.lawyerscommittee.org/lawyers-committee-for-civil-rights-under-law-gets-relief-for-black-voters-facing-voter-intimidation-in-texas/>.

⁵⁸ Complaint at 3, *Beaumont Chapter of the NAACP v. Jefferson County, Tex.*, 1:22-cv-00488-MJT (E.D. Tex., 2022).

*they had been turned away. Based on my knowledge and experience as a poll worker, there was no reason indicated by the poll pad that these voters could not have voted. They voted at the Theodore Johns Library.*⁵⁹

- Declaration of Poll Worker Wilmeretta Lowe

*[O] my routine trips through the polling place with voters who had requested assistance, I noticed that Black voters were repeatedly and aggressively asked to recite their address by White poll workers as they were checking in at the polling place. Again and again I saw Black voters being interrogated about their address, even after handing over their license to the poll worker and confirming their address was still correct...I saw plenty of White voters cast ballots while I was in the Community Center, but I never saw a single White voter be questioned about their address, their identification, or anything else.*⁶⁰

*Over the course of the ten days that I assisted voters at the Community Center, I spent a lot of time outside the polling place waiting for voters who asked for my assistance. During this time, I often talked to community members who were heading into the polls to vote or heading out of the polls having already voted. What is most alarming to me is that over the course of ten days of early voting, more than sixty voters told me they felt intimidated, uneasy, and uncomfortable voting in the Community Center. All of these stories came from Black voters. And they all centered on the same issues I was noticing: an aggressive interrogation when Black voters tried to check in, surveillance of Black voters as they worked their way through the polling place, and a failure to assist Black voters in successfully casting their votes using the new scanning machines. I have never heard so much negative feedback about the voting process in my life, but it was important for me to hear it as it motivated me to work even harder to identify voters that were in need of assistance during the voting process, and to closely observe the events happening around me.*⁶¹

- Declaration of Joyce Roper (Voter Assistant)

After the Lawyers' Committee and our pro bono partner Latham & Watkins, LLP, sued in federal court, a federal judge held an emergency hearing the evening before

⁵⁹ *Id.*

⁶⁰ *Id.* at 2.

⁶¹ *Id.* at 4.

Election Day, that ran for over two hours. Ultimately, the judge issued an order granting our clients a temporary restraining order, prohibiting all election judges, clerks, workers, volunteers, or watchers at the Beaumont polling place from engaging in intimidation, including asking voters to publicly recite their addresses before allowing them to vote, standing close enough to voters to view who they were voting for, refusing to provide voters assistance with scanning their ballots, or otherwise turning eligible voters away.⁶²

VII. Conclusion

The 2022 election cycle was a “success,” but one with a cost. It still presented challenges to voters and election administrators—intimidation of election workers and administrators, rampant disinformation, staffing shortages, and unprecedented restrictions on voters. That elections proceeded, and did so “successfully,” was due to the sacrifices of voters, organizers, poll workers, election administrators, and litigators focused on protecting “the right preservative of all rights.”⁶³ They have done their part, going above and beyond what should be required of them in a free and democratic society. Now Congress must act immediately to ensure that future elections are administered safely, adequately funded, and freed from suppressive and malicious barriers to registering, casting, and counting ballots so that our democracy can continue to function and Black voters and other voters of color have equal access to the fundamental, precious right to vote.

⁶² Alexa Ura, *Texas Tribune, Federal judge tells Beaumont election officials not to harass or discriminate against Black voters*, TEXAS TRIBUNE (Nov. 8, 2022), <https://www.texastribune.org/2022/11/07/voting-discrimination-lawsuit-beaumont/>; Order on TRO, Beaumont Chapter of the NAACP v. Jefferson County, Tex., Case 1:22-cv-00488-MJT Document 14 (E.D. Tex., 2022).

⁶³ *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886).

Chair LEE. Thank you.

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

I now recognize myself for the purpose of questioning our witnesses.

Thank you, Secretary Ardoin and Secretary LaRose for joining us here today for our first Election Subcommittee hearing of the 118th Congress. It is always nice to hear from my former colleagues from NASS about their state's successes and best practices.

Of course, Supervisor Anderson, it is a true pleasure to have part of our Florida team that is so very unified around the state with our shared goal of elections administration.

I am just thrilled to have all of our witnesses here today.

Secretary Ardoin, I'd like to start with you.

One of the things that is a common challenge for elections officials around our country is the concept of emergency management and emergency preparedness. In your opening remarks, you made reference to something that in Louisiana you refer to as Operation Geaux Vote that is related to hurricane preparedness.

Would you please share with us a little bit more about what that program is and how it works?

Mr. ARDOIN. Absolutely. I just want to say that we spell it G-e-a-u-x, like Geaux Tigers. We had a really good year this year in football. So I think that's what kept the hurricanes away from us this round.

Chair Lee, what we did was, when we realized in 2020 we were going to have significant issues, I called upon our retired adjutant general of the National Guard who had just retired and asked him if he would assist us in preparing for the election, for the presidential, knowing we couldn't move the presidential election. We can't move any federal election.

Luckily—he had been through Katrina and other national disasters—he immediately said yes. What we did was, under his leadership, we set up a task force within our agency, agencywide, both the elections division, the IT division, the procurement division, et cetera. We had a weekly meeting, and we set goals, and we set strategic operational needs, and then we worked on that.

We were able to also work with our state partners and our federal partners. Unfortunately, after Hurricane Ida, we weren't able to work with our state partners, and our federal partners didn't come to any aid for us. We were on our own but it was that strategic move and that stability of having already operated it.

I called upon my IT director, who had also just finished serving in Guantanamo Bay. He's an active Coast Guard reservist, and they were called onto it. I called him in. We still utilized General Curtis as a consultant.

Once we had the initial task force set up, we knew what to do internally. It took us a lot more work after Ida, but that is, I think, a best practice that other states might want to look at because it was very strategic. We were able to get more resources, and the communication was the most important of what we needed, how we needed to get it, and all hands on deck.

Chair LEE. Thank you.

My next question is for Supervisor Anderson. One thing I know that was implemented in Florida was something called the Joint Election Security Initiative, which was really the first of its kind, a partnership where state and local election officials worked together, not just by sharing information and best practices but truly to integrate the cybersecurity risk assessments and review of our statewide infrastructure to strengthen the cybersecurity and physical posture of that infrastructure.

Would you, please, share with us a little bit about how that program worked and your assessment of why it is significant?

Mr. ANDERSON. Absolutely. Thank you for the question.

It was a great partnership between the Florida Department of State that was led by then Secretary Laurel Lee, Madam Chair, and it was unprecedented because now all 67 counties were working with the Department of State in strengthening their cybersecurity infrastructure.

We had cyber navigators from the Department of State come and meet with our IT professionals. They scanned our networks. They gave us best practices. I'm very happy to report that, in Seminole County, we passed with flying colors.

We also established—the cyber navigators became—they had an area of assignment. Now you had someone that had an expertise in cybersecurity that you could reach out to within your area. This was especially important for those smaller counties in the state of Florida, those more rural counties, because, as they will tell you, they have more livestock than they do people, and their budgets are smaller.

They are constrained by what they can purchase and things they can do. This was something that would not affect their budgets but was greatly needed to strengthen the cybersecurity of our elections.

I was very proud to participate with the chair in JESI, as it's called, too, and it was unprecedented, and I'm very glad that we got a chance to do it.

Chair LEE. Secretary Ardoin, back to you.

This is something that I know you and Secretary LaRose, I believe, both share, but I believe Louisiana's program was one of the first of its kind related to an election integrity unit that was designed to actually identify where there did occur instances of fraud or potentially criminal conduct a response unit.

Would you please tell us about that and how that works in your state?

Mr. ARDOIN. Yes, ma'am.

I've been in the Secretary of State's office since 2010, and that program is prior to my even becoming, first, assistant or Secretary of State.

We have four what we call—excuse me—six compliance officers. We have them stationed in different parts of the state, different regions, and they are called upon to investigate any allegations of election fraud.

We also use them to enforce laws that are on the books, whether it's for access to the polls or preventing individuals who shouldn't be at the polls. For example, people who are campaigning for a candidate. They are very strategic.

We don't interfere in the election. Our investigations are sealed until we make a report to the local district attorney, who is the enforcement officer in their districts for any election fraud issues. We investigate anything from a candidate or a group coercing voters to register in the wrong districts.

We had a recent case of that where an individual pled out because he was moving people from outside of his district into his district simply by voter registrations.

We also conduct investigations and cooperate with our federal partners. The FBI just made arrests of two individuals, a current officeholder and former officeholder, for vote buying.

We will work with any law enforcement agency in order to make sure that our elections are fair and free of fraud.

Chair LEE. Alright, thank you.

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

Ms. SEWELL. Thank you.

I join with Chair Lee in thanking our witnesses for your testimony.

Mr. Ardoin, my question—I only have 5 minutes, so a simple yes or no answer.

Were the 2020 and 2022 Midterm Elections in Louisiana fair and secure? Yes or no?

Mr. ARDOIN. Yes.

Ms. SEWELL. Mr. LaRose, were the 2020 and the 2022 elections in Ohio fair and secure?

Mr. LAROSE. Yes, ma'am.

Ms. SEWELL. Likewise, Mr. Anderson, would you say that, in Florida, the 2020 and 2022 elections were fair and secure?

Mr. ANDERSON. Absolutely.

Ms. SEWELL. Mr. Hewitt, my question to you is regarding federal oversight.

Now, while it's true that our mandate comes from the Constitution, that the time, manner, and place of elections definitely is in the purview of the states, but it also, the Constitution says, but the Congress may at any time, by law, or alter such regulations.

Since the *Shelby v. Holder* decision 10 years ago, would you say there have been more restrictive laws passed by states or less? Can you talk about that for a minute?

Mr. HEWITT. Without question.

I think, you know, we heard it in your opening statement, Ranking Member Sewell, the number of new legislations that we've seen all around the country, and even those that weren't adopted created a climate of fear, a chilling effect that we want to almost make voting harder for everyone. That's really what the tenor has been.

I don't believe that's shared by election professionals, but that certainly is what's shared by the politics.

You know, section 5 was the most powerful part of the Voting Rights Act. That was the prophylactic, right. That was the thing that stopped fires before they happened.

Section 2 is kind of like your fire hose, right, and even that has been weakened. The Supreme Court is poking holes in it with deci-

sions in cases like Brnovich, and now what's before the Supreme Court and threatens to cut the fire hose off altogether.

You would be holding a hose with no water in it, and the fires will flame. Those fires are exactly what you're talking about, the legislation that is designed to make it more difficult to vote.

Ms. SEWELL. My next question: Could you elaborate further on why voter turnout alone is not a good indicator of whether or not voting laws are restrictive or discriminatory?

Mr. HEWITT. Certainly.

We have to go back to the Voting Rights Act at its inception and the formula, even, throughout the years as it was revised to take a critical look at not just how many people voted overall but what were their registration rates, what were their racial disparities, and also the disparities in participation.

That's what I alluded to in my verbal testimony and also in my written testimony as well because we're looking at all of the chilling effects, the things that make it harder to vote, the things that may be legal but the things that may be legal under state law but that are designed to frustrate the intent of Congress and the Constitution.

Ms. SEWELL. How has the rise of election denial and the lies about election outcomes contributed to voter intimidation and some of the violence that we even see against poll workers?

Mr. HEWITT. It's created extreme confusion, confusion for election administrators at the local level, perhaps at the state level, although my colleagues can answer that, and also for the people who tried to help voters in a nonpartisan and completely legal way.

It creates a climate in which people don't know what the rules are because the rules keep changing, and they are going in the wrong direction.

Ms. SEWELL. Secretary Ardoin, is there rampant voter fraud in Louisiana? Yes or no?

Mr. ARDOIN. No.

Ms. SEWELL. Is it more the exception than the rule?

Mr. ARDOIN. I believe so.

Ms. SEWELL. What about you, Mr. LaRose? Is there rampant voter fraud in your state of Ohio?

Mr. LAROSE. Thankfully, no, and we work to keep it rare.

Ms. SEWELL. Likewise to you, Mr. Anderson.

Mr. ANDERSON. No, ma'am.

Ms. SEWELL. You know, in my last few minutes, I just want to say that we have an awesome task on this committee to make sure that federal elections are fair and secure. Right now, because the Supreme Court has struck down Holder—you know, section 5 and now looking at section 2 with an Alabama case, I think it's important to note that there is no federal oversight of states.

While most states—I mean, I would say the majority of the states do not seek to provide more restrictive laws, but if the effect of it is to discriminate or to make it harder for certain people to vote, we as a body, Congress, need to step in and make sure that we give the proper oversight.

I look forward to working with you, Chair Lee, in not only addressing violence at the polls, voter intimidation, but also, when states do enact egregious state laws that actually have the effect

of limiting the people to vote, certain people to vote, that we will seek to try to figure out ways that we can have federal oversight to overturn those.

Obviously, I think that my bill, the Voting Rights Advancement Act, named after John Lewis, is the right vehicle to do that. Clearly I'm willing to work in a bipartisan manner in which we can put back federal oversight.

Thank you. I yield back the rest of my time.

Chair LEE. Alright. Thank you, Ranking Member Sewell.

I was just going to share with you a little bit of a logistic update. Apparently, votes have been called. So our committee, we're going to carry on for a few more minutes here with questions, and then we will have to take a recess and return after the members have an opportunity to vote.

At this moment, I now recognize Mr. Loudermilk for 5 minutes for the purpose of questioning our witnesses.

Mr. LOUDERMILK. Well, thank you, Madam Chair, and congratulations on this position. It's well-deserved, and I'm looking forward to working with you throughout this Congress, as well as the members of the minority party.

This is an extremely important role. Traditionally this committee has just been seen as the Administrative Committee, and the Parking Committee, but as you're seeing now, we're taking a more, I'll say, aggressive role or a role in taking our tasks very seriously. Not that it wasn't done in the past, but I think we're in a place now where it's very important that we do look at the role of government, federal government, state government, and especially integrity in our elections.

Again, I agree with the things that's been said. According to the Constitution, the states take the predominant role. The federal government's role in that, time to time, is limited to who can vote more than how they vote, and so we leave that to the states.

I think it's important we set the record straight, especially being from Georgia as to the 2022 election. Georgia's new election law was chief among I think some of the successes that we saw of post-2020 and going into the 2022 elections, and these laws were passed over the past several years. As a former member of the legislature, I can attest that we have always taken election laws very seriously in Georgia.

There is always going to be some level of fraud. We're never going to eliminate all of it, but we do have to make sure that our elections have the integrity and the people feel that their vote really matters.

Unfortunately, there was a lot of falsehoods about Georgia's election law pushed by many, especially many in Washington, DC, claiming that it was going to create massive voter suppression, which even The Washington Post and other major media outlets identified that these claims were false, even before the election happened.

So, first, let me ask Secretary LaRose, because I understand you may not be able to stay with us through the recess.

In January of this year, Governor DeWine signed House Bill 458 requiring in-person voters to present a photo identification instead of other forms of identification and absentee voters had to provide

a copy of their photo ID, their Ohio driver's license or ID number or the last four digits of their Social Security number.

This bill has also shortened the ballot receipt and ballot cure deadlines.

After the successful run of 2022 midterm elections, can you explain how Ohio's existing election integrity laws and the addition of H.B. 458 will improve election administration?

Mr. LAROSE. Thank you so much, Mr. Loudermilk. I really appreciate the question.

Ohio wants to continue to innovate and to lead. We have a heritage of doing that. One of the things that this bill does, of course, as you said, is require a mandatory photo ID. We also included in this bill a provision that allows any Ohioan that can't afford one to get an ID for free, or if you're part of a religious group that doesn't believe in being photographed, then you can sign an affidavit to state as much.

Of course, we believe that this will increase participation because we think that Ohioans will trust their elections even more than they already have.

Seventy-five percent of Ohioans in repeated polling have said that, of course, you should prove your identity with a photo ID when you come to vote, just like for so many other aspects of life.

We're working right now to implement that bill, and it will be in place for the spring primary that's coming up here in just a month in the state of Ohio, despite the fact that activist groups from out of state are trying to sue us to block the implementation of that bill.

Mr. LOUDERMILK. Thank you very much.

Secretary Ardoin? Did I pronounce that properly?

Mr. ARDOIN. Ardoin.

Mr. LOUDERMILK. Ardoin. Okay. My wife is from Louisiana. So I knew that there would be multiple ways that could be pronounced.

Mr. ARDOIN. You should hear my own people pronounce it.

Mr. LOUDERMILK. I'm good friends with Jeff Landry. So I understand.

Louisiana's election law features several strong voter integrity measures. Just like my home state of Georgia, Louisiana law requires voters to present photo identification. To vote in person prohibits ballot harvesting and doesn't allow same day voter registration.

We're seeing that more people have confidence in the process in Georgia. How have these measures affected election administration in your state?

Mr. ARDOIN. We have not seen a negative impact. Of course, you know, Louisiana has had—required photo ID since 1997, and it was precleared by the Clinton administration's Department of Justice.

Also, we accept any form of state ID or any form of ID that has a picture and a signature on it. So it's not limited just to a state ID. But we also provide free IDs for individuals who can't afford one.

The ballot harvesting has only increased the confidence in our elections, and we passed it, and a Democratic Governor signed it into law, prior to the presidential election of 2020. We had a robust

turnout of 70.1 percent in that particular election. We haven't seen any negative impacts.

Mr. LOUDERMILK. Well, thank you for that.

I will just say the feedback I hear from people in Georgia, from both parties, is it's Okay if my neighbor votes differently than me and cancels my vote, but it's not Okay if somebody who's not supposed to vote cancels my vote.

I yield back.

Chair LEE. Alright. At this time, the members of the committee need to head over to the floor to vote. We will then return and reconvene this hearing shortly. We will shoot for around 10:20 to be back in this chamber.

The committee stands in recess, subject to the call of the Chair.
[Recess.]

Chair LEE. The Subcommittee on Elections will come to order.

Welcome back, everyone.

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

Mr. MORELLE. Thank you, Madam Chair.

I thank the witnesses for being here and for testifying and for all of your good work.

I do want to state my extreme disappointment that Mr. LaRose is not here. I'm not sure what the taxpayers of Ohio invested in his visit to Washington, but the fact that he couldn't stay for 90 minutes with us to comment on the sole topic on which I'm sure he was here in Washington is very, very disappointing, particularly since he has appeared on panels about "They Stole it Legally."

I had a number of questions for him, not the least of which is that a disparity between Black and White voters in terms of turnout in Ohio being 35 percent is the problem that seems to me he ought to be working on the most. If he really truly believes what he said in his testimony relative to Thomas Jefferson's quote about consent of the governed, I think he should have taken a little more care in planning his schedule so he can be with us.

I'd hate to think that his leaving early was an effort to avoid any questions about what's happening in Ohio.

I want that in the record. I'm extremely disappointed and feel like it was an effort to evade questioning by this panel.

I do want to thank the witnesses who managed to stay with us for this period of time and thank them for what they do.

If I could just start—and I apologize if I do this wrong—Secretary Ardoin?

Mr. ARDOIN. Very good.

Mr. MORELLE. I wonder if you could tell me, do you believe Joe Biden won the 2020 election?

Mr. ARDOIN. I do believe he won.

Mr. MORELLE. You do.

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

Mr. ANDERSON. Yes.

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

Mr. HEWITT. Wearing my nonpartisan hat, yes, I do.

Mr. MORELLE. Well, thank you.

I do have a couple of questions just from the testimony.

Secretary Ardoin, what happened prior to 2014 relative to statewide elections? I notice that your testimony said since 2014 you successfully carried out nine statewide elections in a row.

What happened prior to that? Why were they unsuccessful?

Mr. ARDOIN. They weren't unsuccessful. We just didn't have elections that were back to back to back. For whatever reason, we had special elections and issues that were put on the ballot by the legislature. So it was—we basically have four elections each year, and we usually had 1 year off, and we haven't had that since that time.

Mr. MORELLE. Oh, I see. What you meant to say—what you were talking about is the fact that you've had statewide elections in each of those 9 years?

Mr. ARDOIN. Correct.

Mr. MORELLE. Oh, I'm sorry. Okay.

How do you define ballot harvesting?

Mr. ARDOIN. Ballot harvesting would be collecting of ballots by individuals that aren't in control of—that aren't the voter themselves. We—our law outlawed it for political candidates, political parties, nonprofits, 501(c)(3)'s, 501(c)(4)'s, and political parties.

Mr. MORELLE. Are prohibited in Louisiana?

Mr. ARDOIN. Are prohibited, that's correct.

Mr. MORELLE. If you're a nursing home operator and a number of individuals filled out ballots and it was collected by the nursing home to be sent in or to be delivered to the Board of Elections, would that be considered ballot harvesting?

Mr. ARDOIN. That would be, yes, sir.

Mr. MORELLE. Interesting.

I also want to ask, since you made a point—a significant point in your testimony, how many noncitizens were registered to vote prior to your constitutional amendment in Louisiana?

Mr. ARDOIN. I don't know how you track noncitizens because the federal government doesn't provide us any information with regards to that.

Mr. MORELLE. You have a constitutional amendment prohibiting noncitizens from registering. How do you—are you required to show proof of citizenship now to register to vote in Louisiana?

Mr. ARDOIN. Yes, sir.

Mr. MORELLE. You're required to show proof of citizenship?

Mr. ARDOIN. Yes, sir.

Mr. MORELLE. Are you purging noncitizens?

Mr. ARDOIN. Only when we get notice from the federal judiciary in our state or the local judiciary that someone filled out a card saying they couldn't serve because they were a noncitizen.

Mr. MORELLE. You don't—do you have an estimate of how many noncitizens will vote in Louisiana?

Mr. ARDOIN. I do not.

Mr. MORELLE. Okay.

Mr. ARDOIN. If I may, Congressman. The constitutional amendment prevents any local governing authority to allow noncitizens to vote in their elections. It was already in the Constitution that noncitizens couldn't vote.

Mr. MORELLE. In Louisiana?

Mr. ARDOIN. In Louisiana.

Mr. MORELLE. Gotcha.

I had a question. You talked about—you said: Our state utilizes a top-down approach to the administration, preparation, and execution of elections.

You talked a little bit about how much—how important that is.

Do you think that's important for the federal government to take a top-down approach, or does that only apply to states?

Mr. ARDOIN. I think it should only applies to states.

Mr. MORELLE. What's the difference between the two governments that you think a top-down approach at state governments is superior than to a top-down approach from the federal government when it comes to federal elections?

Mr. ARDOIN. Because I think states should be sovereign with regards to elections.

Mr. MORELLE. I'm sorry. I only have 5 minutes. I appreciate your testimony, and I'll submit questions in writing.

Thank you, Madam Chair. I yield back.

Chair LEE. Thank you.

Again, I would like to thank our witnesses for joining us here today and for sharing—

Mr. MORELLE. I think we have additional witnesses—or members.

Chair Lee. My apologies. Mrs. Torres, I did not see you come in the room.

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

Mrs. TORRES. Thank you.

Mr. Hewitt, thank you for being here to discuss the successes and the challenges of the 2022 midterm election. I appreciate the work that you are doing to advocate for communities across our country.

In your testimony you discuss how states across the country are enacting rules that prevent people who have the right to vote from voting and rules that lead to problems for election workers.

In my opinion, you know, our ability to vote shouldn't depend on the type of job that you have, whether or not you have access to a vehicle to drive miles and miles to get, you know, to your polling place, access to childcare. You shouldn't have to drag your kids if you don't want to. When I was a child, I enjoyed going because they had a youth vote ballot where we can vote for—in presidential elections. That's not the case anymore, or the ability to stand in line for 12-plus hours.

In that vein, what are some of—can you speak more about some of the challenges that you are seeing as states across the country begin to change some of their laws?

Mr. HEWITT. Certainly. We're seeing basic election administration challenges, lines that are so long that people who have to go back to work or go to a second job or go pick up their children find themselves in this catch-22, whether—do I use and exercise my democratic rights, or do I take care of my children or make sure I have a roof over my head? That is an unfair choice.

We're seeing—you know, I believe Secretary Ardoin testified—we testified together in the Senate last year: Oh, we're out of paper; can't vote today or can't vote—or can't get the backup today because you're out of paper.

We're also, however, seeing these tricky requirements: Well, your signatures don't match or the signature you used on this ballot doesn't match the—absentee or mail ballot doesn't match what you had on your driver's license.

Mrs. TORRES. I have tendonitis. My signature never matches my previous signature.

Mr. HEWITT. Right. Exactly, right. I wonder how doctors do it, then, with their handwriting. Right?

Also this thing of: Well, you didn't write the date.

Which date do you write? Do you write the date that you actually submit the date or the date that is your date of birth?

These types of confusions are unnecessary, and it makes me think about poll taxes, literacy tests, allegedly facially neutral means but knowing full well that we're going to trick people into not being able to vote. It's almost like an entrapment of democracy.

Mrs. TORRES. So let's now talk about the workers. It used to be very pleasurable to go into polling place for me and see my neighbors working and volunteering there. They know who I am, not because I was a councilwoman, a mayor, or a state representative or now a Member of Congress. They know who I am because I shop at the same grocery stores. I, you know, go to the same fast food places, and my kids play with their grandchildren on the same team.

When I have had to go to a different city to vote because last minute my polling place was closed, that has an impact on me, and it has an impact on the election workers also. Misinformation has had the biggest input—the biggest problems—has caused the biggest problems for our election workers, the threats that they are receiving as a result of that disinformation.

Can you speak about the mass exodus that we are seeing of these types of workers that traditionally have been the friendliest faces that we have seen?

Mr. HEWITT. You're so right, Congresswoman. I know in the community where I grew up, it was the people who lived there who administered elections at the very precinct level. We are losing too many good people. We're losing people who have institutional memory. We're losing people who have relationships and who have—who can convey trust, right, in the process.

Mrs. TORRES. Experience and the proper training?

Mr. HEWITT. Right, or experience and proper—proper training is a challenge. You know, Secretary Ardoyn talked about the voter ID requirement in Louisiana. The actual other part of that is that you don't have to have an ID to vote in Louisiana. You can submit a written affidavit in lieu of that ID. But do the people at the precincts know that because they are brand new and they have been told otherwise?

Mrs. TORRES. I'm going to interrupt you for a minute because I had a devastating fire in my home in 2005. I lost everything that I owned, including my wallet, which carried my license and everything. Try to get a duplicate of that ID in a quick turnaround time.

Mr. HEWITT. Right. If I may—

Mrs. TORRES. I understand that I am over my time, but I yield back. I hope to continue to have this conversation with you.

Chair LEE. Thank you.

Again, I would like to thank our witnesses for joining us today and for sharing more about how their states are administering free, accurate, and fair elections and working to build voter confidence around our country.

While there will always be areas for improvement, I would like to, once again, commend the majority of states and localities that ran smooth midterm elections and are working so hard to advance the causes of voter access and election integrity.

I will note for the record that Secretary LaRose was able to stay longer, but due to our unanticipated recess to go and vote, he did leave; otherwise would have been here for Morelle's question period.

When we identify areas for improvement, our states and localities and voters are leading the charge to make elections work better. As we've learned today, the states that have implicated—or implemented safeguards have been successful both in rebuilding trust in our elections process and in building increased voter turnout.

I look forward to continuing the conversation with all of you and with election administrators and officials from other states around our country to work to keep information flowing between states without the need for the federal government to get in the way of effective elections administration.

Ultimately, I hope more states will follow the lead of Florida, Ohio, Louisiana, those states that have set the standard even higher and higher and continue to review their own processes to identify ways we can make elections better and better: As we say, easy to vote, hard to cheat.

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

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

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

Without objection, the committee stands adjourned.

[Whereupon, at 10:37 a.m., the committee was adjourned.]

LAUREL M. LEE, FLORIDA
CHAIR

BARRY LOUDERMILK, GEORGIA
STEPHANIE I. BICE, OKLAHOMA
ANTHONY D'ESPOSITO, NEW YORK

BRYAN STEIL, WISCONSIN
FULL COMMITTEE
CHAIRMAN

One Hundred Eighteenth
Congress of the United States
House of Representatives

SUBCOMMITTEE ON ELECTIONS
COMMITTEE ON HOUSE ADMINISTRATION
1309 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6157
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FULL COMMITTEE
RANKING MINORITY MEMBER

April 17, 2023

The Honorable Kyle Ardoin
Louisiana Secretary of State
8585 Archives Avenue
Baton Rouge, LA 70809

Dear Secretary Ardoin,

Thank you for testifying during the March 10, 2023, Committee on House Administration Subcommittee Hearing on the “2022 Midterms Look Back Series: Successes in the 2022 Midterm Elections.” The Committee requests you respond to additional questions that will be made part of the official public hearing record. Please provide your responses to the following questions to the Committee by April 25, 2023.

Majority

1. Was Louisiana only able to implement Operation Geaux because of its top-down approach to the administration, preparation, and execution of its elections?
2. Why is it important that states, not Congress, run elections?
3. The gubernatorial races in New Jersey and Virginia in 2021 were the first major elections since 2020. Stemming from Virginia’s successfully run 2021 election is what many are calling the “Virginia model” of recruiting, training, and deploying citizen volunteers to watch every step of the election process so that all sides can be confident in the election result. This citizen engagement is written into statutes of virtually every state.
 - Why is this citizen oversight so essential to our election process?
 - Can you speak to the importance of ensuring this public process—voting—is accessible and open to the public so that voters know they can trust the results?
4. When people have more confidence that their vote is actually going to count, they tend to show up to the polls more. Polling shows that the American people care a great deal about election integrity, support voter ID, and other common-sense reforms.
 - As someone who serves as the chief elections official, have you witnessed an increased a level of confidence from voters when voter ID and other common-sense reforms are in place?

5. Louisiana requires a statutory reason to vote absentee except for military or overseas voters. New York also requires a statutory reason to vote absentee, such as being absent from your county on Election Day or unable to appear at the polls due to temporary or permanent illness or disability. In fact, in 2021 there was a proposal on the ballot in New York to allow no-excuse absentee voting but was rejected by the voters along with the proposal to allow same day voter registration.

- Do Louisiana voters tend to prefer voting in person?
- Has your state's absentee ballot law had any effect on voter turnout?

Minority

1. Secretary Ardoin, how was federal funding used in your state for the 2022 midterm elections? How is Louisiana planning to use federal election grant funding?
2. Secretary Ardoin, election workers have been subjected to a significant number of threats over the last two years. How has the state of Louisiana handled threats to election workers? As Secretary, what are you doing to support local election workers throughout the state?
3. In 2016, a lawsuit was filed alleging that Louisiana was discriminating against naturalized citizen by requiring them to provide citizenship documents when registering to vote. It is our understanding that the Governor of Louisiana signed legislation that same year repealing the law. Additionally, courts, including the Supreme Court, have found attempts to amend the federal voter registration form to require documentary proof of citizenship to register by states such as Arizona, Georgia, and Kansas to violate federal law.
 - Secretary Ardoin, during the hearing you stated that people are required to show proof of citizenship to register to vote in Louisiana. What, beyond what is required by the federal voter registration form, does Louisiana require as proof of citizenship to register to vote?

If you have any questions concerning this matter, please feel free to contact Hillary Lassiter on the Committee staff at (202) 225-8281.

Sincerely,



Laurel Lee
Chair
Subcommittee on Elections
Committee on House Administration

SECRETARY OF STATE
State of Louisiana

R. KYLE ARDOIN
Secretary of State



P.O. Box 94125
Baton Rouge, LA 70804-94125

MAJORITY

1. Louisiana was only able to implement Operation Geaux Vote because of our top-down approach. Rather than multiple parishes attempting to coordinate with agencies such as DHS, USPS, FEMA, Louisiana Public Service Commission, the Governor's office, and agencies under his umbrella, my staff and I were able to hold regular meetings to relay the varied concerns and needs of our local partners at once. Without a top-down approach, Louisiana's response to disasters vis-à-vis election administration would not have been as successful as it has since 2020.
2. Congress and federal bureaucrats do not know the needs of citizens in Louisiana, or indeed the other 49 individual states, as it relates to elections. What works in one state may not work for another. Had Congress been running elections in 2020 and 2021, our ability to respond to hurricanes in the run-up to statewide elections would have been severely hampered. Furthermore, and if for no other reason, Congress should not be in the business of running elections because Article I, Section 4 gives that authority to states.
3. An election process that is transparent and open to the public is one of the keys to ensuring secure elections that are trusted by voters. In Louisiana, our process is open and transparent from start to finish, including allowing the public to witness the testing and sealing of voting equipment, the opening of our voting machines post-election, and the counting of absentee ballots on Election Day. There would be no way to ensure trust in our processes if my constituents were not able to see said processes in action.
4. Louisiana voters are more confident in our election processes and procedures because of safeguards such as voter ID laws, laws that prohibit ballot harvesting, and a constitutional amendment that prohibits non-citizens from voting in any Louisiana election. I believe that their confidence will only grow with the passage of a constitutional amendment to prohibit the private funding of election administration, which was supported by 73% of the electorate in October's election. Everywhere I have spoken as Secretary of State, voters have encouraged me to continue to defend our state's common-sense, pro-election integrity policies, and even when challenged from local governments such as New

Orleans or outside special interests groups, I have done just that.

5. Louisiana voters prefer voting in person. The best proof of this is an analysis of the 2020 election in our state. While COVID-19 was still a concern for many, an emergency election plan I authored allowed for a temporary, moderate adjustment to our absentee ballot law, which allowed for those with COVID-19, those under quarantine, those caring for individuals in quarantine, or those at higher risk of severe illness from COVID-19 to vote absentee-by-mail. Despite this change, 93% of Louisiana's voters in 2020 voted in-person. That year, voter turnout was the highest it had been since 1996.

MINORITY

1. Federal funding from 2022 was placed in a fund for the future acquisition of new voting equipment in Louisiana.
2. Louisiana has not seen an alarming number of threats against election workers. However, should any election worker be threatened, we have provided adequate training to instruct them on what to do, and I have instructed my staff to take such threats seriously. Threats to election workers anywhere are unacceptable.
3. In Louisiana, voters must attest to being a citizen of the United States on our state's voter registration form. Furthermore, if they do not possess a Louisiana driver's license or Louisiana special ID, they are required to provide the last four digits of their Social Security number.

LAUREL M. LEE, FLORIDA
CHAIR
 BARRY LOUDERMILK, GEORGIA
 STEPHANIE I. BICE, OKLAHOMA
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JOSEPH D. MORELLE, NEW YORK
 FULL COMMITTEE
 RANKING MINORITY MEMBER

April 17, 2023

The Honorable Frank LaRose
 Ohio Secretary of State
 22 North Fourth Street, 16th Floor
 Columbus, Ohio 43215

Dear Secretary LaRose,

Thank you for testifying during the March 10, 2023, Committee on House Administration Subcommittee Hearing on the “2022 Midterms Look Back Series: Successes in the 2022 Midterm Elections.” The Committee requests you respond to additional questions that will be made part of the official public hearing record. Please provide your responses to the following questions to the Committee by April 25, 2023.

Majority

1. You are championing Senate Bill 71, also known as the DATA Act, which seeks to boost election transparency through technology and modernize the way Ohio defines and archives election records. You’ve stated that, “This is another example of Ohio leading the way. It’s all about making sure that the public is empowered with accurate data so they can look at how elections are run and have confidence in knowing that when the election is over, that the true voice of the people was heard.”
 - a. How important are accurate voter registration lists and voter data to the administration of elections?
 - b. What would you suggest to other states to improve on the laws already on the books with respect to election data and records?
2. Why is it important that states, not Congress, run elections?
3. The gubernatorial races in New Jersey and Virginia in 2021 were the first major elections since 2020. Stemming from Virginia’s successfully run 2021 election is what many are calling the “Virginia model” of recruiting, training, and deploying citizen volunteers to watch every step of the election process so that all sides can be confident in the election result. This citizen engagement is written in statutes of virtually every state.
 - a. Why is this citizen oversight so essential to our election process?

b. Can you speak to the importance of ensuring this public process—voting—is accessible and open to the public so that voters know they can trust the results?

4. When people have more confidence that their vote is actually going to count, they tend to show up to the polls more. Polling shows that the American people care a great deal about election integrity, support voter ID, and other common-sense reforms.

a. As someone who serves as the chief elections official, have you witnessed an increased level of confidence from voters when voter ID and other common-sense reforms are in place?

Minority

1. Secretary LaRose, you recently spoke on a panel at the annual CPAC conference titled “They Stole it From Us Legally.” The panel featured several noted election deniers. We read your public explanation that the panel was originally described to you differently, but can we just confirm a few basic points – we would appreciate a yes or no format.

- a. Do you believe Joe Biden won the 2020 presidential election?
- b. Do you believe the 2020 presidential election was stolen?
- c. Do you believe any congressional races in the 2020 election were stolen?
- d. Do you believe that any state or local races in Ohio in 2020 were stolen?
- e. Additionally, please explain who is the “they” and what is it that you allege “they” stole?

2. Secretary LaRose, you were invited to provide testimony to the Subcommittee on the successes of the 2022 midterm elections. Unfortunately, after only 60 minutes of Subcommittee proceedings, largely filled with opening remarks and witness oral testimony, you left and did not return following a brief recess. This was disappointing. Why was it necessary for you to leave before the majority of Subcommittee members were able to ask you questions and learn from your experience managing Ohio’s elections?

3. Secretary LaRose, you stated in your testimony that “today our nation faces a crisis of confidence” in our elections. What exactly is this “crisis”? Has this crisis not been perpetuated by the continued repetition of lies and misinformation about our election systems and election results?

4. Secretary LaRose, in his testimony Mr. Hewitt noted that there was a 35-point gap in participation between eligible White voters (61.2%) and eligible Black voters (26.2%) in Ohio in the 2022 election.

- a. As Secretary of State, what are you doing to address this gap in participation?
- b. What are you doing to ensure all eligible Ohio voters are able to participate in each election?

5. Secretary LaRose, how was federal election funding used in your state for the 2022 midterm elections?

6. Secretary LaRose, election workers have been subjected to a significant number of threats over the last two years. How has the state of Ohio handled threats to election workers? As Secretary, what are you doing to support local election workers throughout the state?

If you have any questions concerning this matter, please feel free to contact Hillary Lassiter on the Committee staff at (202) 225-8281.

Sincerely,



Laurel Lee
Chair
Subcommittee on Elections
Committee on House Administration



Subcommittee on Elections
Committee on House Administration
1309 Longworth House Office Building
Washington, DC 20515-6157

April 25, 2023

Dear Chair Laurel Lee and Subcommittee Members,

I was honored to offer testimony to the Committee on House Administration's Subcommittee on Elections on March 10 as part of its "2022 Midterms Look Back Series: Successes in the 2022 Midterm Elections" hearing. I am deeply appreciative of the tremendous leadership provided by Chair Laurel Lee and her efforts to ensure that our nation's elections are secure and accurate.

As I noted in my testimony, Ohio is a state that maintains the confidence of its voters because our elections are run securely, professionally, and accurately. Every element of an Ohio election is bipartisan – Democrats and Republicans working hand in glove every day to deliver an election that is convenient and inclusive to any Ohioan who is eligible to vote, secure from any potential voter fraud or disruption, and timely and accurate in its results.

I believe that Ohio has established the blueprint for other states to follow, and I am grateful for the time you provided me to share our elections administration model with lawmakers in other states who might be frustrated with their own systems. Elections are the very essence of politics, but Ohio has eliminated politics from election *administration* by requiring bipartisan collaboration throughout the process. Amid the partisan discord in Washington, I would be hard pressed to think of a more refreshing, hopeful example of bipartisanship and good government cooperation for our nation than what our Ohio county boards of elections do on behalf of the people of Ohio every day.

For your review, I have attached my March 10 testimony to the Subcommittee on Elections, as well as testimony I gave to the Ohio General Assembly on February 21 and

March 14 that further explains why Ohioans continue to recognize that our state's elections are accessible, secure, and accurate.

It was a privilege to address the Subcommittee, and I regret the fact that the Congressional voting schedule interrupted our discussion and cut our time shorter than what I would have preferred. Nonetheless, I am comfortable in allowing the two testimonies shared here to speak for themselves and believe that they are sufficiently responsive to the questions you raised in your April 17 letter to me.

Thank you for inviting me to address the Subcommittee, and I am always at your service if I can ever help advance the patriotic, democratic values that we all share.

Yours in service,



Frank LaRose
Ohio Secretary of State



Chairwoman Lee, Ranking Member Sewell, and members of the U.S. House of Representatives Elections Subcommittee, thank you for the opportunity to submit testimony on the state of our elections and what Ohio is doing to keep moving the ball forward.

Fair elections are the foundation of our democratic republic. They serve to document and certify what Thomas Jefferson called "the consent of the governed," and their integrity is vital to the representative government on which our states and nation have thrived. With integrity comes confidence in the system, and a belief by the electorate that each election had a sure winner and a sure loser.

Integrity and confidence. They go hand in hand. And yet, today our nation faces a crisis of confidence. Republicans and Democrats alike are losing faith in the electoral system. That hasn't always been the case.

You've all likely heard the phrase, "as Ohio goes, so goes the nation". For decades, the Buckeye State served as the nation's bellwether. With that moniker comes intensive scrutiny and attention – the kind of scrutiny and attention that empowered Ohio to implement election protocols that made our state the gold standard.

Over the past two decades, Ohio has never rested on our laurels. The only way to stay ahead of the curve is with innovation. With the crisis of confidence our nation now faces, immediate action is required. So Ohio is stepping up to bat once again with two significant advancements designed to strengthen the public trust.

First, a focus on strengthening election transparency through technology:

More than 60 years ago, Congress enacted the Civil Rights Act of 1960 seeking, in part, to prevent acts of voter suppression and discrimination through the retention of paper election records.

The idea was simple: to allow for the scrutiny of election-related records so the public could ensure that lawful votes weren't being altered or stolen. This requirement established a tradition of transparency that served to protect the voting rights of all Americans for decades. The problem, however, lies in the fact that this legislation, written in an analog era, resulted in a patchwork of state and local practices that have not kept pace with modern technology or expectations.

States have done little, if anything, to codify the retention of electronic election records. They lack consistent standards for defining important election data. They've never set clear guidelines on how and for how long electronic voter data should be stored, or even whether and how it should be disclosed for analysis. These digital records should be used to make our elections more accessible, searchable, and transparent. However, the opposite too often is true.

A comparative analysis with colleagues in other states finds antiquated, inconsistent data retention practices that fall considerably short of the transparency we all expect. In many cases, election officials update their records by erasing or "saving over" old data sets to accommodate limited storage capacity. In other cases, efforts to "clean the rolls" by removing deceased or relocated voters have removed critical data, limiting the ability of researchers to cross-check and validate election outcomes months after the votes are cast and counted. This antiquated, patchwork of procedures does little to inspire confidence in the process and often renders attempts at post-election analysis useless.

As the Secretary of State in one of the nation's biggest political battlegrounds, I'm leading an effort to change this. Working with our state legislature, we have introduced legislation, the DATA Act, that codifies key election data definitions and retention requirements for voter registration data and non-federal election ballots. I'm asking my colleagues in other states to consider using this legislation as a framework for their own reforms. Together, we can adopt uniform standards for retaining and disclosing electronic election data. This is a common sense, bipartisan solution to the growing crisis of confidence in our democracy, and it's long overdue.

Our second new initiative is the Public Integrity Division.

A review of our office's capabilities demonstrated there was room to strengthen our investigative functions far beyond what they were. For too long, questions of election law violations, campaign finance reporting, and more were left to election officials whose primary mission is to execute on a successful election. They weren't trained, nor should they be expected to know how to properly investigate election law violations. Our Public Integrity Division now consolidates our investigative capabilities under one umbrella and is led by a team of investigators who know what to look for, how to look for it, and how to prepare information for prosecutors.

Demonstrating integrity comes with a very direct and positive impact: increased participation in elections thanks to elevated levels of voter confidence. By strengthening investigative capabilities as well as enhancing the transparency of security protocols & outcomes, voters will have greater confidence their vote has value, and the integrity of Ohio's election system is secure.

We have to remember that every vote really matters. Since 2020, 31 different contests have ended in ties across Ohio with many dozens of others coming down to a very small number or even being decided by a single vote. In these cases, a single vote can impact the trajectory of a community. Our renewed focus on integrity will better ensure the will of the people is followed.

In Ohio, where our efforts have maintained the confidence of voters, we're seeing great success. Both in turnout, where the 2022 elections saw the 2nd highest number of voters ever for a midterm election, and in accuracy, where post-election audits once again demonstrated a 99.9 percent accuracy rate.

This is happening because Ohio embraces our role as a laboratory of democracy, always striving to be the best – where it's easy to vote and hard to cheat. That balance is possible, and it's happening in Ohio.

I look forward to your questions.

Yours in service,



Frank LaRose
Ohio Secretary of State



Chairwoman Manning, Ranking Member Jarrells, and members of the committee, thank you for the opportunity to testify today on our office's budget request for the upcoming biennium.

As Secretary of State, I have two main duties under the law: to help Ohioans build a business and to help all eligible voters participate in our democracy. I'm happy to report that we've been successful in that mission, but there's more work to do. Like many in public office, our first term was marked by unprecedented challenges over the last four years, from the enormous uncertainties of a global pandemic and the ongoing legal battle over redistricting, to the impacts of an inflationary economy on new business growth. As you would expect, like all Ohioans, our office has been resilient under the circumstances.

We've set records in everything from voter participation to new business filings. In fact, last year marked the second-highest year on record for Ohioans starting a new business, topped only by the previous year's all-time record. Just last week, we announced the largest number of new Ohio businesses ever created in the month of January. During our first term, Ohio has set records for voter registration and participation with the historic 2020 election breaking every previous record as Ohioans took advantage of our convenient and secure options for voting. We've been successful in our mission because we haven't stopped innovating and improving our operation. We've made it easy to vote and hard to cheat. We've worked to modernize and streamline our services so business creation can happen faster than ever before, without the bureaucracy of paper records and long trips to a government office.

We've worked with this General Assembly to pass the most significant business modernization reform in nearly 30 years. We created the first-ever Public Integrity Division in the Secretary of State's office to keep elections and business filings honest. We've invested in critical infrastructure, cyber security, and poll worker recruitment and training. This week, I'll be announcing a major initiative – the first of its kind in the nation – to archive and analyze election data.

As you consider where to invest Ohio's resources in this next fiscal year, you have my renewed commitment to fiscal discipline and wise stewardship. In fiscal year 2020, my office voluntarily reduced its General Revenue Fund appropriations by approximately 20 percent. In fiscal year 2021, we again voluntarily returned one million dollars in GRF appropriations, relying instead on our internal operating fund to sustain our operations. As we embark on another biennium, my office again will not request an increase in GRF, instead following Governor DeWine's proposed budget that maintains our appropriation level from the previous fiscal year. We are one of only two statewide executive offices under the proposed budget that would not receive a GRF increase. While this funding model is sustainable in the short-term through conservative management and a reliance on other revenue sources into our office, particularly business filing fees, it is arguably not sustainable long-term. This topic should be revisited and reconsidered within the next two years, as business filing revenue could be impacted by a downturn in the national economy.

Our Priorities

Even as we maintain our fiscally conservative approach, my office has an ambitious agenda, one that's critical to the integrity of our elections and the growth of our economy. I'm honored to say that many of

our initiatives are already included in Governor Mike DeWine's proposed budget, and I'd like to briefly address some of our top priorities.

Investing in Cybersecurity and Election Infrastructure

Building confidence in our elections is one of my most important duties. Technology has produced great advancements in the voting process, but it requires our constant vigilance. The emerging threat posed by cyber criminals, rogue nation-states, and other malicious actors should not be ignored or underestimated. I am regularly briefed on potential threats to our infrastructure, including classified briefings from the Department of Homeland Security, and my team is constantly working to stay one step ahead of the next vulnerability. Vigilance is our watchword as the bad guys only have to be right once and we have to be right every day.

During my administration, we have issued successive Security Directives applicable to both our office and the county boards of elections. These directives have created a highly resilient system against domestic and foreign attackers – one that has served as a model for other states across the nation. Those who intend to interfere with our elections constantly evolve their strategies and tactics. As these bad actors continue to change, we must be dynamic in our approach to election security.

Our budget request prioritizes a historic and ongoing investment in platforms that have provided excellent tracking, blocking, and monitoring of malicious attempts to enter our network systems and those of our 88 county boards of elections. These services, in the past paid for with federal Help America Vote Act (HAVA) funds, are transitioning to our office's General Revenue operating budget, as we work to reduce reliance on uncertain federal support. In addition to these cyber and technology resources, our budget also supports a regional cyber security team that works directly with county boards of elections on mitigating their vulnerabilities and making them more resilient against emerging tech threats.

Expanding Public Integrity, Data and Transparency

Building confidence in our elections also means keeping them honest and accountable. Our budget request expands on our announcement last year of the office's first-ever Public Integrity Division – one that this General Assembly is already considering codifying into permanent law.

This division unifies and manages many of the office's investigative functions, including campaign finance reporting, voting system certification, voter registration integrity, investigation of election law violations, data retention and transparency and cybersecurity protocols, as well as several important operations run by our business division. By supporting these priorities, we'll be able to fully operationalize the new division and make it a model for other states to follow. As I mentioned, we plan to announce in the coming days a major initiative to archive and analyze Ohio's elections data, which will require a significant investment as we look to gather that information from the counties, archive it for posterity, and make it available for public transparency and analysis.

On the business services side of our operation, we plan to work with this General Assembly to codify and promote important safeguards against the growing threat of business identity theft. We also intend to prioritize the training and transparency of Ohio's notary services, an important but often overlooked function of our office.

Keeping Vulnerable Voters Safe at Home

Finally, we ask for the General Assembly's partnership as we work to expand a program designed to protect Ohio's most vulnerable voters. The Safe at Home program ensures that victims of domestic abuse, stalking, human trafficking, and other violent offenses can exercise their right to vote without revealing their physical location. We can and should do more to encourage participation in this confidentiality program so no Ohioan has to choose between their personal safety and their right to vote.

Those are just a few of our most urgent priorities in the upcoming year. I want to thank the members of this General Assembly for your continued partnership in helping Ohioans build a business and participate in democracy. You have truly allowed us to make our state the gold standard and a leader in that important mission.

Conclusion

Thank you, Chairwoman Manning and members of the committee, for allowing me to testify on behalf of the Office of the Secretary of State. I look forward to answering any questions you may have about our budget request.

Yours In service,



Frank LaRose

Ohio Secretary of State



Chairman Rulli, Vice Chair Schuring, Ranking Member DeMora, and Members of the Senate General Government Committee, thank you so much for allowing me to provide **proponent testimony on Senate Bill 71 ("the DATA Act") on behalf of Secretary of State Frank LaRose.**

My name is Mandi Grandjean and I have the honor of serving as the Senior Advisor to the **Secretary and Deputy Assistant Secretary of State.** Throughout Secretary LaRose's first term, I served as Director of Elections and Deputy Assistant Secretary of State. Since **elected to this office, Secretary LaRose's mission has been to help Ohioans pursue the American Dream of building a business and participating in democracy.** During the **Secretary's first term, Ohio has set records for voter registration and participation with the historic 2020 election breaking every previous record as Ohioans took advantage of our convenient and secure options for voting.** We've been successful in our mission because we haven't stopped innovating and improving our operation. The DATA Act is a continuation of the momentum we have built in the Buckeye State, whereas I testify today, several other states are looking to introduce this legislation into their state legislatures.

First, why do we call it the DATA Act? DATA stands for Data Analysis Transparency Archive. At a high level, this legislation seeks to achieve four goals: (1) codify key election data definitions; (2) require that the retention of election data and non-federal election ballots is consistent with post-election canvass timelines; (3) **require that the Secretary of State's Office disclose and archive election data;** and (4) standardize election data so that it be accurately analyzed.

The DATA Act accomplishes these goals by codifying definitions for the **"elector's voter registration date" and "voting history" and requiring that "last activity date" and other key election data points** be defined through the Chapter 119 rulemaking process. In our bottom-up election administration system, the 88 county boards of elections may have differing definitions for these terms. Although that may seem innocuous, this creates a challenge when comparing voting history between counties and may even give the impression that ballots are missing from the final canvass, or Ohio has same day registration.

The DATA Act will require the boards of elections to create a daily record of its voter registration database each day starting on Uniformed and Overseas Citizens Absentee

Voting Act Friday (the 46th day before the election) and transmit that record to the Secretary of State's Office for publication and archiving.

In addition to establishing a standardized set of election term definitions, the DATA Act requires the Secretary of State to establish the Office of Data Analytics and Archives. The DATA Act will strengthen Ohio voters' sense of confidence in the integrity and security of our elections by requiring the Secretary of State's Office to "pull back the curtain" and transparently publish election data in an illustrative and easy to understand way to the public.

Further, please allow me to provide you with a real-world example of what can happen without the DATA Act becoming law:

Following the November 2018 General Election, Miami County inadvertently left out over 6,000 ballots from its official canvass. We learned about this almost immediately upon entering office in January 2019. Upon receiving this information, Secretary LaRose immediately placed the board under administrative oversight and launched an investigation, which involved conducting many interviews of all board members and board employees. Ultimately, it was determined that a machine was improperly shut down because of human error. Unfortunately, by the time the error was discovered, it was legally too late to amend the official results. While the uncounted ballots did not change the outcome of the election, this is unacceptable in Ohio's elections.

With the enactment of the DATA Act, the Miami County incident could have been avoided. The board of elections and the public would have immediately realized the number of voters who voted did not equal the number of ballots that were counted. By enacting the reforms outlined in the DATA Act, we can eliminate the risk of this happening again.

In addition to the improvements the DATA Act will create for Ohio's election data system, the county boards of elections will realize significant time and cost savings. Our hard-working boards of elections will save valuable time and money because election data that was previously gathered via daunting survey requests will be automatically reported from the boards of elections to the statewide voter registration database, which is publicly available on the Secretary of State's website.

To be clear, the DATA Act will not change the bottom-up nature of Ohio's election ecosystem. The DATA Act does not change how Ohio's elections are administered. The DATA Act is not an unfunded mandate.

Thank you again for the opportunity to provide proponent testimony on the DATA Act. I would also like the opportunity to thank Senator Gavarone for her leadership on this

important issue, as well as the Ohio Association of Election Officials, the America First Policy Institute, Massachusetts Institute of Technology Election Data and Science Lab, and the Bipartisan Policy Center, who were incredibly helpful through the stakeholder process. I am happy to answer any questions that you may have.

HEARING
SUBCOMMITTEE ON ELECTIONS
OF THE
COMMITTEE ON HOUSE ADMINISTRATION
2022 MIDTERMS LOOK BACK SERIES: SUCCESS IN THE 2022 MIDTERMS
MARCH 10, 2023

MINORITY QUESTIONS FOR THE RECORD
FOR
MR. DAMON HEWITT
PRESIDENT AND EXECUTIVE DIRECTOR
LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW

1. **Mr. Hewitt, the spread of election-related mis- and disinformation has fueled conspiracy theories and made it difficult for voters to receive accurate information about elections and their voting options. We also saw evidence that mis- and disinformation campaigns were targeted at communities of color. In a case brought by the Lawyers' Committee, a federal judge recently ruled that defendants violated the Voting Rights Act, the Ku Klux Klan Act, and other federal and state civil rights laws by targeting Black voters with intimidating robocalls before the 2020 General Election.**

- a. **How has the spread of false or misleading election information been targeted at Black voters and other communities of color?**

Bad actors often target Black voters and other communities of color with election mis- and disinformation that is tailor-made to get their attention and prey on justified fears. For example, in the case described above, *National Coalition on Black Civic Participation v. Wohl*, the Lawyers' Committee sued two citizens who made robocalls targeted at Black voters, claiming to be a woman with a linguistically Black name, and telling them that if they voted by mail, the police would track them down, debt collectors would come after them, and the CDC would force them to take the vaccine. These calls used threats that echo historical ills specific to Black people, like the Tuskegee experiment and over-policing of communities of color, to target them.

- b. **How has mis- and disinformation been weaponized to attempt to intimidate voters?**

The disinformation above intentionally played into stereotypical fears that Black communities had during the pandemic and discouraged them from exercising their right to vote. Not only is this kind of disinformation plainly false - it is dangerous and specifically meant to suppress Black electoral power. This weaponization of disinformation isn't limited to Black voters, but much of the mis-information and dis-information we've seen attempts to prey upon communities of color by using facets of their identity and issues relevant to their communities to make them

apprehensive about voting, confused about where they can vote, or misled about when or how to vote. This is not only gravely wrong, but also illegal and discriminatory.

c. Can you elaborate on the court's ruling? How did the actions of the defendants in the case violate federal law?

On March 8, 2023, the United States District Court for the Southern District of New York granted summary judgment for Plaintiffs on liability. The district court ruled that the two election robocall fraudsters we sued in 2020 violated the Voting Rights Act, Ku Klux Klan Act, and other federal and state civil rights laws with their intimidating robocalls targeting Black voters. Using a recorded script that falsely suggested law enforcement, credit card companies, and the CDC would use mail-in voting data to track people down for arrest, debt collection, and involuntary vaccination, Defendants Jacob Wohl and Jack Burkman broadcasted approximately 85,000 calls across five states. These robocalls told voters to “beware of vote by mail” and instilled fear, stress, and anxiety among voters. They also forced civil rights organizations to reallocate critical resources to counter the robocalls just weeks before the election.

The court recognized that these robocalls were an illegal and discriminatory voter suppression tactic that targeted Black voters and granted the motion for summary judgment that we filed on behalf of the National Coalition on Black Civic Participation and individual voters who received the robocalls. The New York Office of the Attorney General also joined the case on behalf of the People of New York as co-plaintiffs. In his ruling, U.S. District Court Judge Marrero said the Defendants’ actions embodied “an attempt to disturb the election process itself” and concluded that Defendants’ conduct was “intimidating, threatening, or coercive towards voters, especially Black voters.” We co-counseled this case along with our pro-bono partners at Orrick, Herrington & Sutcliffe LLP.

The case is scheduled to go to trial on damages in August 2023.

2. Mr. Hewitt, we are approaching the ten-year anniversary of *Shelby County v. Holder*.

a. How have the Supreme Court decisions in *Shelby* and then in *Brnovich v. DNC* negatively impacted voters and shifted the burden from the states to voters and litigators?

Racial discrimination in voting diminishes our democracy. The Voting Rights Act of 1965, and particularly Section 2 and Section 5, have been indispensable tools in the fight against such discrimination. Section 5 has already been effectively eviscerated by the Supreme Court’s decision in *Shelby County v. Holder*, which gutted the preclearance formula used in Section 5. By making jurisdictions with a history of discrimination preclear changes to their election system, the burden was on states to show that their laws and maps were non-discriminatory before they were adopted. Now, litigators and voters must combat suppressive laws after they take effect. Even if the challenges are successful, discriminatory harm has been done to voters in the meantime.

The Supreme Court's ruling in *Brnovich v. DNC* was especially painful because in *Shelby County v. Holder*, the Court lifted up Section 2 of the Voting Rights Act as still being available to plaintiffs seeking to sue over racially discriminatory voting laws after it immobilized Section 5. Yet in *Brnovich*, the Supreme Court weakened Section 2 as well. Specifically, in *Brnovich v. DNC*, the Supreme Court made it unnecessarily more difficult for plaintiffs to bring cases under the portion of Section 2 of the Voting Rights Act that governed vote denial "results" cases. Prior to the U.S. Supreme Court's decision in *Brnovich*, Section 2 of the VRA functioned as a vehicle for civil rights litigants to stop discriminatory voting laws after they had already gone into effect. But after *Brnovich*, plaintiffs may be required to address unrealistic and nonevidence-based factors such as whether the practice they are challenging would have been discriminatory prior to 1982 – a year before the internet was even invented.

The result has emboldened states who seek to make voting harder. Throughout 2021 and 2022, states enacted bills banning or limiting the use of drop boxes for mail-in ballots, restricting early voting hours, shortening the window of time that voters had to request – and otherwise limiting use of – absentee ballots, creating new criminal and financial penalties for election administrators, and giving partisan poll watchers unfettered access to the polls. Restrictive voting laws passed in 2021 and 2022 had a meaningful impact on their intended targets—voters of color.

Texas rejected roughly one out of every eight mail ballots in the 2022 primaries due to onerous administrative requirements, such as requiring that voters list the same identification number they originally used to register; the impact fell disproportionately on Latino and Black voters. Georgia passed new restrictive measures that targeted and limited voting methods, like early in-person voting, voting by absentee ballot, and ballot drop boxes, all of which were used much more extensively by voters of color than voting in-person on recent election days.

Both Georgia and Texas were subject to preclearance prior to the Supreme Court's decision in *Shelby County*. If preclearance still in effect, neither Georgia's omnibus voting bills nor Texas' would have been enacted without approval from either the Department of Justice or a three-judge panel from the U.S. District Court for the District of Columbia.

b. Depending on the outcome of *Merrill v. Milligan* and its impact on Section 2 of the Voting Rights Act, what is the potential impact on voters, and what can Congress do to protect access to the ballot?

If the Court accepts Alabama's argument in *Merrill v. Milligan*, it will reject 40 years of precedent and narrow the availability of the Voting Rights Act provides as a remedy for racial discrimination in the redistricting process. The State of Alabama had the obligation – under settled legal standards – to create an additional Black majority district, but refused to do so, robbing Black voters of their right to participate equally in the political process. An adverse decision in *Merrill v. Milligan* will further neuter the Voting Rights Act, which has for decades helped to ensure that Black voters and other voters can exercise political power and self-determination in choosing their representatives.

Congress must restore the full protections of the Voting Rights Act of 1965 by undoing the damage the Supreme Court has already done to Section 4(b), Section 5, and Section 2 of the landmark legislation. The Supreme Court may weaken the Voting Rights Act even further with its decision in *Merrill*, so it is imperative that the legislation Congress passes be responsive to it. It is incumbent on Congress to repair any damage to the Voting Right Act, including any damage the Court creates in the wake of a *Merrill* decision.

3. Mr. Hewitt, in your written testimony you discuss how overall voter turnout numbers do not tell the whole story as to whether or not a law or voting procedure change is restrictive, suppressive, or has a discriminatory impact—that we must look below the surface-level numbers and examine gaps in participation.

a. Can you discuss further what the racial disparity in turnout was in the last election?

Racial disparities in voting seem to have grown across states. This can be seen best in those states where voters are asked to provide race data when they register to vote.

In the November 2022 election, Georgia had a 13.3 percentage point gap between White (58.3%) and Black (45.0%) turnout of registered voters, which was significantly greater than the 8.3 percentage point gap (62.2% to 53.9%) of the previous midterm election in 2018.¹⁴ Notably turnout amongst both Black and White voters fell in 2022 as compared to 2018 despite the significant interest in Georgia elections.

In North Carolina, 58% of White registered voters voted in the 2022 general election compared to 41.8% percent of Black or African American voters. In North Carolina, White voters had the highest voter turnout percentage compared to all other racial groups. Statewide, the gap in turnout between White and Black voters in midterms is soaring, growing from 5 percentage points in 2014 and 8 points in 2018, compared to a roughly 16 percentage point gap in 2022.

My home state of Louisiana also had a shameful racial disparity in participation. 52.56% of White eligible voters cast a ballot in 2022 compared with only 37.85% of eligible Black voters. Further, some states that have passed suppressive voting laws have seen overall turnout fall. In Florida, sixty-three percent of voters voted in the 2018 general election compared to 54% in 2022.³¹ Ohio had similar trends, with a fifty-five percent turnout rate in 2018, and then dropping down to fifty-two percent in 2022. An estimated 61.2 percent of eligible White voters participated in Ohio's 2022 election, compared to just 26.2 percent of eligible Black voters, a 35-point difference.

In South Carolina turnout among voters of color was the lowest it had been in at least a generation, according to South Carolina election participation data.¹ In the Palmetto State, while overall turnout among registered voters was 45.9 percent, White voter turnout was slightly higher

¹ 35 Zak Koeske, Non-white SC voter participation plummeted in 2022 midterms, THE STATE (Dec. 31, 2022), <https://www.thestate.com/news/politics-government/article270262872.html>.

at 50.6 percent and non-White turnout was significantly lower at 34.99 percent. That is a greater than 15 percentage point gap in turnout between White voters and voters of color.

b. Why is the racial disparity gap in participation a better indicator when measuring elections than overall turnout?

The point of voter suppression has always been to stop certain portions of the electorate from voting, commonly communities of color. The intent is to target voters of a particular group and have them vote at lower rates than others, in order to manipulate the outcome of elections.

Overall voter turnout metrics cannot tell the whole story when the intent of suppressive voter legislation is to make it more difficult to vote for a targeted minority. According to Bernard L. Fraga, a professor, and elections expert “changes in [overall] voter turnout are an incomplete metric for gauging the impact of election law policies or changes in policies on the burdens citizens face.”² That is because voters take steps to counter barriers to voting, and those steps are “not evidence that the barrier does not exist.” Just because voters manage to show up to vote, does not mean that they have been unnecessarily burdened and -worse – burdened in a racially discriminatory manner in connection with their right to vote. That expensive and time-consuming counter-mobilization efforts to combat burdensome and discriminatory voting practices may yield success does not make such practices legally or morally right.

Comparing the rates of participation between racial and ethnic groups is a better metric for examining our elections, because burdens designed to fall more heavily on particular people will be more likely to be seen than when only comparing the rates at which everyone, including those not targeted by barriers, vote.

4. Mr. Hewitt, requiring voters to present photo identification when voting has been raised as a measure necessary to increase voter confidence in elections and prevent fraud.

a. How do voter ID laws impact low-income communities and communities of color?

Voter ID laws have been shown to have a disproportionate impact on voters of color. For example, in *Veasey v. Abbott*, where the U.S. Court of Appeals for the Fifth Circuit found that Texas’ 2013 Photo ID law was racially discriminatory, the plaintiffs presented evidence showing that 1.2 million eligible Texas voters lacked a form of government-issued photo ID that would have been accepted under the new law — and minorities would be hit the hardest. The court credited testimony that African-American registered voters were 305 percent more likely and Hispanic registered voters 195 percent more likely than white registered voters to lack photo ID that can be used to vote. Voter ID laws also often play favorites, accepting types of IDs likely to be carried by some groups of the electorate more than others. They also are harder barriers to

² 6 Sur-Rebuttal Report of Bernard L. Fraga, In re Georgia Senate Bill 202, No. 1:21-CV-01229-JPB, 2022 WL 3573076 4 (N.D. Ga. Aug. 18, 2022)

overcome for those who rely on public transportation to get an ID, don't already own a certain type of ID, or cannot afford to miss work or childcare duties to get the right type of ID.

- b. During the hearing, Secretary Ardoin raised that Louisiana has had a voter ID law in place for many years and that the law was precleared by the Clinton Administration Department of Justice. How did the preclearance process protect voters from discriminatory voter ID laws? How does the lack of preclearance put voters at risk of being subjected to voter ID laws that have a discriminatory impact?**

Louisiana's law was only precleared because in Louisiana, voters are allowed to present alternative forms of identification if they do not have a photo ID. This is made clear on the Louisiana Secretary of State's website: "If you do not have a driver's license, Louisiana Special ID, a United States military identification card that contains your name and picture or some other generally recognized picture ID that contains your name and signature, you may still cast your vote by signature on a voter affidavit."³

This distinction shows exactly why preclearance was so important. Were it not for preclearance, Louisiana may have tried to pass a stricter version of its voter ID law as many states have done since the Supreme Court issued its decision in *Shelby County*.

- c. Is there any evidence that there is widespread fraud that would be prevented by voter ID laws?**

No. There is no evidence that voter or photo ID laws prevent widespread voter fraud.

³ Vote on Election Day, Louisiana Secretary of State, (last visited Apr. 24, 2023)
<https://www.sos.la.gov/ElectionsAndVoting/Vote/VoteOnElectionDay/Pages/default.aspx>.

Cathy Darling Allen
County Clerk/Registrar of Voters
Shasta County, California
March 10, 2023

**Written Testimony submitted for the record of the House Administration Committee--
Subcommittee on Elections' hearing entitled: "2022 Midterms Look Back Series: Successes
in the 2022 Midterm Elections."**

Chair Lee, Ranking Member Sewell, and members of the House Administration Subcommittee
on Elections,

I commend this Committee for holding a hearing on the 2022 midterms, and I thank you for
inviting me to submit testimony for the record.

Election officials across the country worked long hours, stretched scarce resources, and made do
with aging equipment to ensure that the 2022 midterm elections were safe and secure. In Shasta
County, where I have been elected five times to serve as the Clerk & Registrar of Voters, we
were concerned that the spread of conspiracy theories in our community would lead to
disruptions or attacks on election processes. We prepared for the worst, but we were extremely
grateful that the November 2022 election was conducted successfully and peacefully.

The months since that election, however, have not been peaceful. The Shasta County Board of
Supervisors, inspired by repeatedly disproven conspiracy theories, has undermined our county's
election system and the people who operate it. Their actions have placed the security of our
elections at risk and created a dangerous precedent encouraging outsiders to undermine our
elections at the county-level.

Six weeks ago, the Board of Supervisors took extreme action by [canceling the county's contract
with Dominion Voting Systems](#) over concerns about local voters' trust in the voting system that
surfaced immediately after the results of the 2020 election were published, with no plan in place
to conduct future elections.

The move effectively left Shasta County without a voting system, leaving the Elections
Department in the vulnerable position of not being able to accomplish its primary mission: to
conduct elections.

Last week, the Board of Supervisors [voted](#) to create a hand count-only election system. Board
Chair Patrick Jones cited ['concerns' about the 2020 election](#), and has previously expressed in

public forums that he does not believe that technology is required to conduct free and fair elections.

He is wrong.

Such a system puts as yet unknown constraints on the ability of the county to provide legally required services to voters under California and federal law, and to report results in a timely manner. Moreover, [extensive research tells](#) us that hand counting ballots at a large scale is less secure and less accurate than machines. Shasta County currently has more than 111,000 voters.

Most troublingly, such a system would disenfranchise voters with disabilities.

The Help America Vote Act of 2002 and California Elections Code are specific in their requirements to allow all voters to vote privately and independently regardless of their physical capability. That requires technology. Voters with visual impairments can listen to an audio version of a ballot, or increase the text size. Touchscreens and handheld controllers can also provide voters with additional assistance to ensure they're able to exercise their freedom to vote privately.

Hand counting ballots at this scale is not only less accurate, it is also far more expensive than machine counting. Even with California's long canvass period, the complexity of our ballots that include races down to local fire board, could lead to delays in result reporting. The use of technology allows ballot tabulation to occur in a non-biased process; human counting will always have an element of bias. Supervisor Kevin Crye announced during the most recent Board of Supervisors' meeting that he has found a source to fund this effort: MyPillow CEO Mike Lindell. [Supervisor Crye reached out to Lindell](#), who offered a hand-count voting plan of uncertain provenance and promised to "provide all of the resources necessary, including financial and legal for this fight."

The Shasta County Board of Supervisors is on the verge of creating a large liability and risk for the county and the state in the form of lawsuits. Mr. Lindell is promising to pick up the tab for those lawsuits, and for the hand counting system itself, but we should not [mortgage our democracy](#) to any one person.

Some members of the Board of Supervisors' embrace of unproven conspiracy theories is deeply troubling. Unfortunately, the situation we are facing is not limited to our jurisdiction here in northern California. There are similar conversations happening in other parts of the state, including [Kern County](#), all rooted in the same nefarious movement to undermine American elections.

It is time for this attack on democracy in Shasta County to stop. Over 6 million voters in California voted for Donald Trump in the November 2020 election, and those voices are most clearly heard in rural communities like Shasta County. Some of those voters are angry and do not feel heard. Because of disinformation there remains a lack of trust in the system of conducting elections, a challenge felt all around the country. A functioning democracy requires all of us – Republicans, Democrats, and independents – to work together to keep our elections free, safe, secure and trusted. Any effort to jeopardize this founding principle must be defeated.

While it is right and proper for this hearing to focus on successes in election administration during the 2022 midterm elections—Shasta County’s elections certainly fit into that definition—the spread of conspiracy theories and lies that I have experienced, along with hundreds of my colleagues across the country, threatens the success of future elections.

I ask that the elections subcommittee come to Shasta County. Conduct a field hearing in our elections office. I promise to give you a full tour of our processes and answer any questions you may have. See for yourselves where the new frontline in the fight to preserve our republic and democracy has been drawn.

August 12, 2021



Report

**The Elections Clause:
States' Primary Constitutional Authority Over Elections**

**Representative Rodney Davis (IL-13)
Ranking Member**

**U.S. House of Representatives
Committee on House Administration**

*Report:**The Elections Clause: States' Primary Constitutional Authority over Elections*

Executive Summary

Republicans believe that every eligible voter who wants to vote must be able to do so, and all lawful votes must be counted according to state law. Through an examination of history, precedent, the Framers' words, debates concerning ratification, the Supreme Court, and the Constitution itself, this document explains the constitutional division of power envisioned by the Framers between the States and the federal government with respect to election administration. Article I, Section 4 of the Constitution explains that the States have the primary authority over election administration, the "times, places, and manner of holding elections". Conversely, the Constitution grants the Congress a purely secondary role to alter or create election laws only in the extreme cases of invasion, legislative neglect, or obstinate refusal to pass election laws. As do other aspects of our federal system, this division of sovereignty continues to serve to protect one of Americans' most precious freedoms, the right to vote.

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The¹ Constitution reserves to the States the primary authority to set election legislation and administer elections—the “times, places, and manner of holding of elections”—and Congress’ power in this space is purely secondary to the States’ power. Congress’ power is to be employed only in the *direst* of circumstances.² Despite Democrats’ insistence that Congress’ power over elections is unfettered and permits Congress to enact sweeping legislation like H.R. 1, it is simply not true. History, precedent, the Framers’ words, debates concerning ratification, the Supreme Court, and the Constitution itself make this exceedingly clear.

The Framing Generation grappled with the failure of the Articles of Confederation, which provided for only a weak national government incapable of preserving the Union. Under the Articles, the States had *exclusive* authority over federal elections held within their territory;³ but, given the difficulties the national government had experienced with State cooperation (*e.g.*, the failure of Rhode Island to send delegates to the Confederation Congress),⁴ the Federalists, including Alexander Hamilton, were concerned with the possibility that the States, in an effort to destroy the federal government, simply might *not hold* elections or that an emergency, such as an invasion or insurrection, might prevent the operation of a State’s government, leaving the Congress without Members and the federal government unable to respond. Indeed, as counsel for the Democrat Members of our Committee so keenly observed:

For the Founders, particularly during the Federal Constitutional Convention, the primary concern was informing the discussions of federal elections in Article I was the risk of uncooperative states. For example, Alexander Hamilton noted that by providing states the authority to run congressional elections, under Article I, Section 4, “risk[ed] ‘leaving the existence of the Union entirely at their mercy.’” Following the failings of the Articles of Confederation, the Founders looked for processes that would insulate Congress from recalcitrant states. Indeed, “[t]he dominant purpose of the Elections Clause, the historical record bears out, was to empower Congress to override state election rules, not to restrict the way States enact legislation[.]” and that “*the Clause ‘was the Framers’ insurance*

¹ A version of this Report was delivered by Ranking Member Rodney Davis as his opening remarks at the Committee on House Administration’s July 12, 2021, hearing, *The Elections Clause: Constitutional Interpretation and Congressional Exercise*.

² See Robert G. Natelson, *The Original Scope of the Congressional Power to Regulate Elections*, 13 U. PA. J. CONST. L. 1 (Nov. 2010) (describing the origins of the Elections Clause, the meaning of “manner of” versus “manner of holding” elections, the debates leading to its adoption, and the promises made and compromises reached that led the author to conclude quite plainly, “In any event, the ratifiers clearly informed future generations how to resolve such questions: The power of Congress to regulate its own elections is a power that, while necessary to address unusual situations, nevertheless invites self-dealing and abuse. In cases of doubt, it must be narrowly construed.” (*Id.* At 15.))

³ ARTS. OF CONFED’N, Art. 5, Sec. 1.

⁴ Robert G. Natelson, *The Original Scope of the Congressional Power to Regulate Elections*, 13 U. PA. J. CONST. L. 1, 12 (Nov. 2010) (citing to various historical documents).

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*against the possibility that a State would refuse to provide for the election of representatives to the Federal Congress.”*⁵

Quite plainly, Alexander Hamilton, a leading Federalist and proponent of our Constitution, understood the Elections Clause as serving only as a sort of emergency fail-safe, not as a cudgel used to nationalize our elections process.⁶ Writing as Publius to the people of New York, Hamilton further expounds on the correct understanding of the Elections Clause: “[t]he natural order of the subject leads us to consider, in this place, that provision of the Constitution which authorizes the national legislature to regulate, *in the last resort*, the election of its own members.”⁷

When questioned at the States’ constitutional ratifying conventions with respect to this provision, the Federalists confirmed this understanding of a constitutionally limited, secondary congressional power under Article I, Section 4.⁸

Maryland: “[C]onvention delegate James McHenry added that the risk to the federal government [without a fail-safe provision] might not arise from state malice: An insurrection or rebellion might prevent a state legislature from administering an election.”⁹

N. Carolina: “An occasion may arise when the exercise of this ultimate power of Congress may be necessary . . . if a state should be involved in war, and its legislature could not assemble, (as was the case of South Carolina and occasionally of some other states, during the [Revolutionary] war).”¹⁰

Pennsylvania: “Sir, let it be remembered that this power *can only operate in a case of necessity*, after the factious or listless disposition of a particular state has rendered an interference essential to the *salvation* of the general government.”¹¹

John Jay made similar claims in New York.¹² And, as constitutional scholar Robert Natelson, notes in his invaluable article, *The Original Scope of the Congressional Power to Regulate Elections*,

⁵ Sean J. Wright, *The Origin of Disputed Elections: Case Studies of Early American Contested Congressional Elections*, 81 ALB. L. REV. 609 (2017-2018) (internal citations omitted) (alterations in original).

⁶ See Robert G. Natelson, *The Original Scope of the Congressional Power to Regulate Elections*, 13 U. PA. J. CONST. L. 1, 11 (Nov. 2010) (quoting *Federalist* no. 59).

⁷ Alexander Hamilton (writing as Publius), *Federalist* no. 59, *Concerning the Power of Congress to Regulate the Election of Members*, N.Y. PACKET (Fri., Feb. 22, 1788), available at <https://guides.loc.gov/federalist-papers/text-51-60#s-lg-box-wrapper-25493435> (emphasis added).

⁸ See, generally, Robert G. Natelson, *The Original Scope of the Congressional Power to Regulate Elections*, 13 U. PA. J. CONST. L. 1 (Nov. 2010).

⁹ Robert G. Natelson, *The Original Scope of the Congressional Power to Regulate Elections*, 13 U. PA. J. CONST. L. 1, 12 (Nov. 2010).

¹⁰ *Id.*

¹¹ *Id.* at 13.

¹² *Id.* at 13.

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Alexander Contee Hanson, a member of Congress whose pamphlet supporting the Constitution proved popular, stated flatly that Congress would exercise its times, places, and manner authority *only in cases of invasion, legislative neglect or obstinate refusal to pass election laws* [providing for the election of Members of Congress], or if a state crafted its election laws with a ‘sinister purpose’ or to injure the general government.”¹³

Cementing his point, Hanson goes further to decree, “The exercise of this power must at all times be so very invidious, that congress will not venture upon it without some very cogent and substantial reason.”¹⁴ In Floor debate during the 117th Congress concerning H.R. 1, the Democrats’ intended nationalization of elections, Ranking Member Davis argued, as he has many other times, that:

According to Article 1, Section 4 of the Constitution, States have the primary role in establishing “[t]he Times, Places and Manner of holding Elections for Senators and Representatives.” Under the Constitution, Congress has a purely secondary role in this space and must restrain itself from acting improperly and unconstitutionally. Federal election legislation should never be the first step and must never impose burdensome, unfunded federal mandates on state and local elections officials. When Congress does speak, it must devote its efforts only to resolving highly significant and substantial deficiencies. State legislatures are the primary venues to correct most issues.¹⁵

In fact, had the Democrats’ view of the Elections Clause been accepted at the time of the Constitution’s drafting—that is, that it offers Congress unfettered power over federal elections—it is likely that the Constitution would not have been ratified or that an amendment to this language would have been required. Indeed, at least seven¹⁶ of the original 13 states—over half and enough to prevent the Constitution from being ratified—expressed specific concerns with the language of the Elections Clause. However, “[l]eading Federalists . . .” assured them, “. . . that, even without amendment, the [Elections] Clause should be construed as limited to emergencies.”¹⁷

¹³ *Id.* at 12-13 (quoting in part *infra* n. 11).

¹⁴ Alexander Contee Hanson (writing as Astrides), *Remarks on the Proposed Plan: 31 January*, reprinted in John P. Kaminski, Gaspare J. Saladino, and Richard Leffler (eds.), *3 Commentaries on the Constitution, public and private 18 December 1787 to 31 January 1788* 522-26 (1984), available at <https://digioll.library.wisc.edu/cgi-bin/History/History-idx?type=goto&id=History.DHRCv15&isize=M&submit=Go+to+page&page=522>.

¹⁵ Ranking Member Rodney Davis, U.S. H. of Reps. Comm. on H. Admin., *Republican Election Law Principles*.

¹⁶ A record of congressional debate of August 21, 1789, as recorded in the *Annals of Congress*, suggests Maryland might also be included, which would bring the total to eight states. 1 *Annals of Cong.* 799 (1789), Joseph Gales (ed.) (1834), available at <http://memory.loc.gov/cgi-bin/ampage?collId=llac&fileName=001/llac001.db&recNum=401>.

¹⁷ See *supra* n. 7 at 12.

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Three states, New York, North Carolina, and Rhode Island, specifically made their ratification contingent on this understanding being made express:¹⁸

New York:

Under these impressions and declaring that the rights aforesaid cannot be abridged or violated, and the Explanations aforesaid are consistent with the said Constitution, And in confidence that the Amendments which have been proposed to the said Constitution will receive early and mature Consideration: We the said Delegates, in the Name and in [sic] the behalf of the People of the State of New York Do by these presents Assent to and Ratify the said Constitution. In full Confidence . . . that the Congress will not make or alter any Regulation in this State respecting the times places and manner of holding Elections for Senators or Representatives unless the Legislature of this State shall neglect or refuse to make laws or regulations for the purpose, or from any circumstance be incapable of making the same, and that in those cases such power will only be exercised until the Legislature of this State shall make provision in the Premises[.]¹⁹

N. Carolina:²⁰

That Congress shall not alter, modify, or interfere in the times, places, or manner of holding elections for senators and representatives, or either of them, except when the legislature of any state shall neglect, refuse or be disabled by invasion or rebellion, to prescribe the same.

Rhode Island:

Under these impressions, and declaring, that the rights aforesaid cannot be abridged or violated, and that the explanations aforesaid, are consistent with the said constitution, and in confidence that the amendments hereafter mentioned, will receive an early and mature consideration, and conformably to the fifth article of said constitution, speedily become a part thereof; We the said delegates, in the name, and in [sic] the behalf of the People, of the State of

¹⁸ *Id.* at 13.

¹⁹ *Ratification of the Constitution by the State of New York* (July 26, 1788), available at https://avalon.law.yale.edu/18th_century/ratny.asp. See also *Id.* at 13 and n. 189.

²⁰ North Carolina's ratification document handled the issue slightly differently. It included a Declaration of Rights and several proposed amendments to the Constitution. The Convention "[r]esolved, That a Declaration of Rights, asserting and securing from encroachment the great Principles of civil and religious Liberty, and the unalienable Rights of the People, together with the Amendments to the most ambiguous and exceptional Parts of the said Constitution of Government, ought to be laid before Congress, and the Convention of States that shall or may be called for the Purpose of Amending the said Constitution, for their consideration, previous to the ratification of the Constitution aforesaid, on the part of the State of North Carolina." *Ratification of the Constitution by the State of North Carolina* (Nov. 21, 1789), available at https://avalon.law.yale.edu/18th_century/ratnc.asp.

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Rhode-Island and Providence-Plantations, do by these Presents, assent to, and ratify the said Constitution. In full confidence . . . That the Congress will not make or alter any regulation in this State, respecting the times, places and manner of holding elections for senators and representatives, unless the legislature of this state shall neglect, or refuse to make laws or regulations for the purpose, or from any circumstance be incapable of making the same; and that [i]n those cases, such power will only be exercised, until the legislature of this State shall make provision in the Premises[.]²¹

This clearly demonstrates that the Framers designed and the ratifying States understood the Elections Clause to serve solely as a protective backstop to ensure the preservation of the Federal Government,²² not as a font of limitless power for Congress to wrest control of federal elections from the States.

This understanding was also reinforced by debate during the first Congress that convened under the Constitution. “During the first session of the First Congress . . . Representative Aedanus Burke unsuccessfully proposed a constitutional amendment to limit the Times, Places and Manner Clause to emergencies.”²³ But those on both sides of the Burke amendment debate *already understood the Elections Clause to limit Federal elections power to emergencies*.

For example, the recorded description of opponent Representative Goodhue’s comments notes that he believed the Elections Clause as written was intended to prevent “. . . the State Governments [from] oppos[ing] and thwart[ing] the general one to such a degree as finally to overturn it. Now, to guard against this evil, he wished the Federal Government to possess every power necessary to its existence.”²⁴ With any change to the original text therefore unnecessary to achieve Burke’s desired goal, Mr. Goodhue voted against the proposed amendment.²⁵

Similarly, proponent Representative Smith of South Carolina also believed the original text of the Elections Clause already limited the Federal Government’s power over federal elections to emergencies and so thought there would be no harm in supporting an amendment to make that language express.²⁶ So, even the records of the First Congress reflect a recognition of the emergency nature of congressional power over federal elections.

²¹ *Ratification of the Constitution by the State of Rhode Island* (May 29, 1790), available at https://avalon.law.yale.edu/18th_century/ratri.asp. See also Robert G. Natelson, *The Original Scope of the Congressional Power to Regulate Elections*, 13 U. PA. J. CONST. L. 1, 13 and at n. 183 (Nov. 2010).

²² See *supra* n. 5 (“EVERY GOVERNMENT OUGHT TO CONTAIN IN ITSELF THE MEANS OF ITS OWN PRESERVATION.”). See also Robert G. Natelson, *The Original Scope of the Congressional Power to Regulate Elections*, 13 U. PA. J. CONST. L. 1, 12 (Nov. 2010).

²³ Robert G. Natelson, *The Original Scope of the Congressional Power to Regulate Elections*, 13 U. PA. J. CONST. L. 1, 13 (Nov. 2010) (citing 1 Annals of Cong. 797 (1789), Joseph Gales (ed.) (1834), available at <http://memory.loc.gov/cgi-bin/ampage?collId=llac&fileName=001/llac001.db&recNum=400>).

²⁴ 1 Annals of Cong. 801 (1789), Joseph Gales (ed.) (1834), available at <http://memory.loc.gov/cgi-bin/ampage?collId=llac&fileName=001/llac001.db&recNum=402>.

²⁵ *Id.*

²⁶ *Id.* at 799.

*Report:**The Elections Clause: States' Primary Constitutional Authority over Elections*

Similarly, the Supreme Court has supported this understanding. In *Smiley v. Holm*, the Court held that Article 1, Section 4 of the Constitution reserved to the States the primary

. . . *authority to provide a complete code for congressional elections*, not only as to times and places, but in relation to notices, registration, supervision of voting, protection of voters, prevention of fraud and corrupt practices, counting of votes, duties of inspectors and canvassers, and making and publication of election returns; in short, to enact the numerous requirements as to procedure and safeguards which experience shows are necessary in order to enforce the fundamental right involved. And these requirements would be nugatory if they did not have appropriate sanctions in the definition of offenses and punishments. All this is comprised in the subject of “times, places and manner of holding elections,” and involves lawmaking in its essential features and most important aspect.²⁷

This holding, of course, is consistent with the understanding of the Elections Clause since the framing of the Constitution. The *Smiley* Court also held that while Congress maintains the authority to “ . . . supplement these state regulations or [to] substitute its own[]”, such authority remains merely “a general supervisory power over the whole subject.”²⁸ More recently, the Court noted in *Arizona v. Inter-Tribal Council of Ariz., Inc.* that “[t]his grant of congressional power [that is, the fail-safe provision in the Elections Clause] was the Framers’ insurance against the possibility that a State would refuse to provide for the election of representatives to the Federal Congress.”²⁹ The Court explained that the Elections Clause “ . . . imposes [upon the States] the duty . . . to prescribe the time, place, and manner of electing Representatives and Senators[.]”³⁰ And, while, as the Court noted, “[t]he power of Congress over the ‘Times, Places and Manner’ of congressional elections ‘is paramount, and may be exercised at any time, and to any extent which it deems expedient; and so far as it is exercised, and no farther, the regulations effected supersede those of the State which are inconsistent therewith[.]’”,³¹ the *Inter-Tribal* Court explained, quoting extensively from *The Federalist no. 59*, that it was clear that the congressional fail-safe included in the Elections Clause was intended for the sorts of governmental self-preservation discussed in this Report: “[E]very government ought to contain in itself the means of its own preservation[.]”; “[A]n exclusive power of regulating elections for the national government, in the hands of the State legislatures, would leave the existence of the Union entirely at their mercy. They could at any moment annihilate it by neglecting to provide for the choice of persons to administer its affairs.”³²

²⁷ *Smiley v. Holm*, 285 U.S. 355, 366 (1932).

²⁸ *Id.* (also quoting *Ex parte Siebold*, 100 U.S. 371, 387 (1879)).

²⁹ *Arizona v. Inter-Tribal Council of Arizona, Inc.*, 570 U.S. 1, 7-9 (2013).

³⁰ *Id.* at 8.

³¹ *Id.* at 9 (quoting U.S. CONST., Art. 1, Sec. 4 and *Ex parte Siebold*, 100 U.S. at 392).

³² *Inter-Tribal*, 285 U.S. at 8.

Conclusion

It is clear in every respect that the congressional fail-safe described in the Elections Clause vests purely secondary authority over federal elections in the federal legislative branch and that the primary authority rests with the States. Congressional authority is intended to be, and as a matter of constitutional fact is, limited to addressing the worst imaginable issues, such as invasion or other matters that might lead to a State not electing representatives to constitute the two Houses of Congress.³³ Our authority has never extended to the day-to-day authority over the “Times, Places and Manner of Election”³⁴ that the Constitution clearly reserves to the States. Unfortunately for Democrats, this clear restriction on congressional authority means that we do not have the power to implement the overwhelming majority—if not the entirety—of their biggest legislative priority, H.R. 1 and related legislation, which would purport to nationalize our elections and centralize their administration in Washington, D.C. Thankfully, the Framers had the foresight to write our Constitution so as to prevent those bad policies from going into effect and preserve the health of our republic.

³³ See, e.g., *supra* n. 4.

³⁴ U.S. CONST., Art. I, Sec. 4.



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[Home](#) > [News & Announcements](#) > University of Georgia Poll Finds 99% of Georgia Voters Reported No Issue Casting Ballot

January 24th, 2023

Atlanta, GA – MIT's Election Data and Science Lab, in conjunction with the School of Public and International Affairs at the University of Georgia surveyed registered voters on various aspects of the voting process in Georgia. The [November 2022 Post-Election Voter Satisfaction Survey](#) showed positive results for Georgia voters.

Secretary of State Brad Raffensperger was pleased with the results of the survey, noting that "Georgia voters found the 2022 election to be safe, secure, and accessible. The data reflects the hard work that our 159 election directors did to make it a success. They are our everyday heroes and should be praised for their work."

The survey highlights several wins for Georgia voters:

- 98.9% of voters reported no issues casting a ballot.
- 95.3% reported a wait time of less than 30 minutes.
- 97% of voters rated their interactions with poll workers as "good" or "excellent".
- 99% of voters felt safe in their polling location.
- 89.7% of voters feel confident in the elections process.
- 77.4% of voters felt that SB202 didn't impact their ability to cast a ballot, with 14.8% saying SB202 made it easier to cast a ballot.
- 90.7% of voters feel that it's easy to vote in Georgia.



Georgia
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Brad Raffensperger



voting process, which in Georgia is easy, offering the options to vote by mail, early in person, or on Election Day. Lines appear to be short for most voters, and they have confidence in the public servants of both parties who ensure their votes are counted accurately. This is a remarkable accomplishment, considering the years of false attacks on the integrity of Georgia's elections."

The survey polled 1253 registered voters in Georgia who voted in the 2022 midterm election.

Georgia is recognized as a national leader in elections. It was the first state in the country to implement the trifecta of automatic voter registration, at least 17 days of early voting (which has been called the "gold standard"), and no-excuse absentee voting. Georgia continues to set records for voter turnout and election participation, seeing the largest increase in average turnout of any other state in the 2018 midterm election and record turnout in 2020, and 2022. 2022 achieved the largest single day of in-person early voting turnout in Georgia midterm history utilizing Georgia's secure, paper ballot voting system.

###

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Secretary Raffensperger Announces Successful GARViS Test in Municipal Elections



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[Home](#) > [News & Announcements](#) > Georgia Voters Set New Midterm Turnout Record; Day One Voting Nears Presidential Level

October 18th, 2022

(Atlanta) - Monday, October 17th marked the first day of Early Voting for the November 8th midterm election. Georgia voters turned out in record numbers for a midterm election. As of Tuesday, October 18th just over 131,000 Georgia voters have cast their ballot during Early Voting. This is up from 70,849 on the first day of Early Voting in the 2018 midterm election, marking an 85% increase, and nears the day one Early Voting turnout in the 2020 Presidential election.

Statewide, reports of long lines were minimal, though there were some reports of voters waiting in line for more than 30 minutes from a few popular voting locations in metro areas. Early voting turnout is expected to increase during the final week of early voting, and all Georgia counties will have an Early Voting Saturday this upcoming Saturday, October 22nd. To find early voting locations and hours in your county, visit the Secretary of State's [My Voter Page](#).

Turnout Numbers Through 10/17/2022

Total Turnout: 143,077

Early In-Person: 131,318

Absentee: 11,759

New Turnout Since Previous Day: N

Early In-Person Since Previous Day:

TOP



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Early in-Person: 136,739

Turnout Numbers Through Same Day in 2018:

Early In-Person: 70,849

More information can be found on the Secretary of State's Data Hub:
[Data Hub - 2022 General Election](#) | [Georgia Secretary of State \(ga.gov\)](#)

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