

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA,
PENNSYLVANIA DEPARTMENT OF
STATE, and VERONICA DEGRAFFENREID,
Acting Secretary of the Commonwealth of
Pennsylvania,

Petitioners,

No. ___ MD 2021

v.

SENATOR CRIS DUSH, SENATOR JAKE
CORMAN, and THE PENNSYLVANIA
STATE SENATE INTERGOVERNMENTAL
OPERATIONS COMMITTEE,

Respondents.

NOTICE TO PLEAD

To: Senator Cris Dush, Senator Jake Corman, and the Pennsylvania State Senate Intergovernmental Operations Committee.

You are hereby notified to file a written response to the enclosed petition within thirty (30) days from service hereof, in accordance with Pennsylvania Rule of Appellate Procedure 1516(b), or a judgment may be entered against you.

Dated: September 23, 2021

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NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within thirty (30) days after this complaint and notice are served, in accordance with Pennsylvania Rule of Appellate Procedure 1516(b), by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THESE OFFICES MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

MidPenn Legal Services
213-A North Front Street
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CORMAN, and THE PENNSYLVANIA
SENATE INTERGOVERNMENTAL
OPERATIONS COMMITTEE,

Respondents.

No. ____ MD 2021

**PETITION FOR REVIEW IN THE NATURE OF A COMPLAINT IN
EQUITY AND FOR DECLARATORY JUDGMENT**

Introduction

1. Pennsylvania citizens have constitutionally guaranteed rights to free and fair elections and to the protection of their personal information. Both fundamental rights are threatened by the abuse of power at the center of this case.

2. The Commonwealth of Pennsylvania, the Department of State, and Acting Secretary of the Commonwealth Veronica Degraffenreid bring this action to protect nine million Pennsylvania voters from an unlawful attempt to subpoena—and share with unknown third parties—their private information.

3. The Pennsylvania State Senate's Intergovernmental Operations Committee has demanded voters' private information from the Pennsylvania Department of State, not to conduct a good-faith investigation or to further secure Pennsylvania's elections but instead to pursue a disproven narrative designed to undermine faith in the results of Pennsylvania's 2020 presidential election.

4. As has been repeatedly demonstrated, Pennsylvania's 2020 general election was free, fair, and secure.

5. More than that, it was a model of civic engagement. A record number of voters participated. In the face of unprecedented challenges, Pennsylvania's election workers, Republican, Democratic, and Independent, did their jobs. They conducted the election fairly and followed the law.

6. Pennsylvania voters elected candidates from both parties. They awarded their presidential electors to the Democratic candidate and elected a Democratic Attorney General, while simultaneously electing Republicans to the offices of Auditor General and State Treasurer. They also elected a congressional delegation evenly divided between the parties and maintained Republican majorities in the State House and State Senate.

7. Yet for the first time in our nation's modern history, the losing candidate for president refused to accept the outcome of the election. From before the polls closed, former President Trump claimed, without evidence, that there

would be widespread fraud in Pennsylvania and other states. Undaunted by facts disproving his wild allegations, former President Trump continued spreading that message after Election Day.

8. This claim, of course, was a lie. Two separate audits of the results confirmed that President Biden won Pennsylvania. Despite the unprecedented attention that Pennsylvania has received since last November, there is no evidence of widespread fraud in connection with the 2020 election. In fact, a later report on the election found that just three individual cases of fraud in all of Pennsylvania had been identified.

9. Judges across the Commonwealth, in federal and state courts, rejected the barrage of legal cases brought by the former President and his allies.

10. But the notion that the 2020 election was corrupted in some way has persisted, not simply because former President Trump has continued to repeat it, but because his partisans, including those in Pennsylvania, have perpetuated his false claims.

11. To further the false claims, the Intergovernmental Operations Committee, now chaired by Senator Cris Dush and acting at the direction of Senator Jake Corman, is purporting to conduct an investigation into supposed election irregularities—even though the Intergovernmental Operations Committee has no experience, authority, or jurisdiction to oversee election matters.

12. This effort has been under discussion for months, during which time it has been called by different names, led by different members of the State Senate, and focused on different supposed allegations of fraud.

13. Throughout, the purpose has remained the same: To placate former President Trump and his political base and propagate his false allegations while avoiding the embarrassment that has resulted from previous efforts to provide evidence of voter fraud that does not exist.

14. Now, in furtherance of this improper and unprecedented effort, Respondents have issued a broad-ranging, unlawful subpoena to the Secretary of the Commonwealth, demanding constitutionally protected personal information on more than nine million Pennsylvania voters.

15. Among the information requested are driver's license numbers and partial Social Security Numbers for every registered voter in the Commonwealth.

16. Respondents do not plan to (and could not) analyze this private, personal data themselves; rather, they have publicly stated their intention to hand it over to an unknown third-party vendor or vendors. They conceded that it is "absolutely possible" that the vendor will have connections to the perpetrators of some of the most vicious lies about the 2020 election.

17. In addition to jeopardizing Pennsylvanians' privacy, the subpoena also threatens the fundamental right to vote. Pennsylvania citizens will rightly fear that the mere act of registering to vote could subject their personal information to disclosure.

18. For all these reasons, Respondents' subpoena should be declared unlawful and should be quashed and enjoined by this Court.

Jurisdiction

19. The Commonwealth of Pennsylvania, an agency of the Commonwealth government, and an officer of the Commonwealth government are petitioners here. Officers of the Commonwealth government are respondents. This Court therefore has original jurisdiction under 42 Pa. Cons. Stat. § 761(a)(1), (2).

Parties

20. Petitioners in this matter are the Commonwealth of Pennsylvania, the Pennsylvania Department of State, and Veronica Degraffenreid in her role as Acting Secretary of the Commonwealth.

21. Senator Cris Dush, a respondent in this matter, was elected to the Pennsylvania Senate in 2020 to represent the 25th district. He is the Chair of the Pennsylvania State Senate's Intergovernmental Operations Committee. As Chair of that committee, Senator Dush is empowered to sign subpoenas it approves.

22. Senator Jake Corman, a respondent in this matter, was most recently elected to the Pennsylvania Senate in 2018 to represent the 34th district. He currently serves as President Pro Tempore of the Pennsylvania Senate. In that role, he appoints the Chair, Vice Chair and members of all Senate Standing Committees and is an ex-officio member of those same committees.

23. The Intergovernmental Operations Committee (the “Committee”), a respondent in this matter, is a standing committee of the Pennsylvania State Senate. The Committee is chaired by Senator Dush and currently has seven members from the Republican Party and four members from the Democratic Party.

Statement of Facts

I. The 2020 and 2021 Elections in Pennsylvania Were Free, Fair, and Secure

A. Pennsylvania Election Law Establishes How Votes are Cast, Counted, and Certified

24. The Constitution of Pennsylvania protects the right of all eligible citizens of the Commonwealth to vote. It guarantees that “[e]lections shall be free and equal” and that “no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.” Pa. Cons. art. I, § 5. It further provides that “secrecy in voting shall be preserved.” Pa. Cons. art. VII, § 4.

25. Elections are governed by Pennsylvania’s Election Code and subject to federal law.

26. As required by federal law, any qualified person wishing to register to vote in Pennsylvania must provide a driver's license number or the last four digits of their Social Security number. 52 U.S.C. § 21083(a)(5)(i). Someone who has not been issued either still may register to vote, but will be identified on the Commonwealth's voter rolls by a unique number that the Commonwealth creates for all registered voters. 52 U.S.C. § 21083(a)(5)(ii).

27. Under the Election Code, elections are overseen by individual boards of elections, the vast majority of which are bipartisan. 25 Pa. Stat. § 2641(b). Among other duties, county boards of elections tabulate and certify votes in their respective counties and report those results to the Secretary of the Commonwealth. 25 Pa. Stat. § 2642(k).

28. The Secretary of the Commonwealth, who oversees the Department of State, also performs a number of responsibilities under the Election Code. For instance, the Secretary tabulates the results provided by county boards. 25 Pa. Stat. § 2621(f). The Secretary also provides assistance to the county boards, including by issuing guidance on issues relating to election administration.

29. The Election Code also establishes four exclusive mechanisms to recount or contest election results before the results are officially certified by the Secretary. *See infra* ¶¶ 31, 33, 34, 36.

30. For any election, counties first complete a computation of the votes. 25 Pa. Stat. § 3154(e), (f).

31. A county will conduct a recount or recanvass of the votes in an election district if, prior to completing its computation of the votes, there is a discrepancy in the returns or three voters allege an error. 25 Pa. Stat. § 3154(e).

32. Counties must send unofficial election results to the Secretary no later than a week after Election Day. 25 Pa. Stat. § 3154(f).

33. The Secretary will order a statewide recount or recanvass if the unofficial returns show that a candidate in a statewide race lost by 0.05% or less of the votes cast for that office. 25 Pa. Stat. § 3154(g).

34. A court of common pleas will order a recount or recanvass of the votes in an election district if, within five days after the county completes its computation of the votes but prior to certification, three voters in an election district file a petition alleging fraud or error. 25 Pa. Stat. §§ 3261-3263.

35. If there has been no petition for a recount or recanvass, counties certify their returns five days after reporting their unofficial results and then transmit the certification to the Secretary. 25 Pa. Stat. § 3154(f).

36. A court or legislative body will adjudicate an election contest if, after the county has certified the results, a group of voters file a petition alleging that the election was illegal. 25 Pa. Stat. §§ 3291-3474. The time to file a petition, the

number of voters who must sign the petition, and the court or legislative body that adjudicates the contest depends on the class of election contested. 25 Pa. Stat. §§ 3291, 3312-3313, 3351, 3376, 3401, 3431, 3456. To contest a presidential election, at least one hundred voters must file a petition in this Court within 20 days after the election. 25 Pa. Stat. §§ 3291, 3351-52, 3456-74; 42 Pa. Cons. Stat. § 764(1).

37. After receiving certified returns from the counties, the Secretary counts the votes and certifies the final count. 25 Pa. Stat. § 3159. For presidential elections, the Secretary presents the final returns to the Governor, who issues a certificate of election to the winning candidate. 25 Pa. Stat. § 3166.

B. The General Assembly Adopted Act 77 on a Bipartisan Basis to Expand Voting Opportunities

38. Nearly two years ago, Pennsylvania's General Assembly enacted landmark election legislation, known as Act 77, on a strong bipartisan basis. It received more Republican than Democratic votes in the General Assembly, and was signed into law by a Democratic Governor. Act 77 enhanced Pennsylvanians' opportunity to participate in the democratic process by allowing, for the first time, all qualified voters in Pennsylvania to vote by mail, among other provisions. 25 Pa. Stat. § 3150.11

39. While Act 77 greatly expanded the opportunity for democratic participation, it also raised novel challenges for administering the 2020 primary and general elections—the first two conducted with Act 77 in effect.

40. The 2020 election was also conducted during the ongoing COVID-19 pandemic, which presented a unique set of challenges for election officials.

41. The Department issued several guidance documents to county boards in 2020. Many of these documents provided information for county boards on the implementation of Act 77, including issues relating to the canvassing and counting of mail-in votes. *See, e.g., Pennsylvania Absentee and Mail-in Ballot Return Guidance* (Aug. 19, 2020).

42. These guidance documents were updated throughout the election season as needed to ensure that counties had current information. For instance, the Department issued updated guidance documents in response to litigation that affected the 2020 election.¹

¹ *See, e.g.,* Pa. Dep’t of State, *Guidance Concerning Civilian Absentee and Mail-in Ballots Procedures (Version 1.0)* at 5 (Sept. 28, 2020), <https://www.dos.pa.gov/VotingElections/OtherServicesEvents/Documents/DOS%20Guidance%20Civilian%20Absentee%20and%20Mail-In%20Ballot%20Procedures.pdf>; Pa. Dep’t of State, *Canvassing Segregated Mail-in and Civilian Absentee Ballots Received by Mail After 8:00 P.M. on Tuesday, November 3, 2020 and Before 5:00 P.M. on Friday, November 6, 2020 (Version 1.0)* (Nov. 1, 2020), <https://www.dos.pa.gov/VotingElections/OtherServicesEvents/Documents/Canvassing-Segregated-Ballot-Guidance.pdf>.

C. *The 2020 Election was Free, Fair, and Secure*

43. On November 3, 2020, election officials of every political stripe in all 67 of Pennsylvania’s counties conducted the Commonwealth’s general election.

44. Despite numerous obstacles, more than 6.9 million people voted in Pennsylvania in 2020.² This record turnout included more than 2.2 million general election voters who cast a mail-in ballot, *see id.* at 20, and nearly 375,000 who voted by absentee ballot, *see id.* at 12.

45. Pennsylvania voters awarded the Commonwealth’s 20 electoral votes to Joe Biden, who won the Commonwealth by more than 80,000 votes.³

46. Joe Biden received a majority of all electoral votes and was lawfully elected President of the United States.

47. Pennsylvania voters also elected a Democratic Attorney General, a Republican Treasurer, a Republican Auditor General, and a federal congressional delegation that was evenly divided between the parties, with nine Republicans and nine Democrats. They also elected a Republican State House and State Senate.

² See Pa. Dep’t of State, *Report on the 2020 General Election* at 8 (May 14, 2021), <https://www.dos.pa.gov/VotingElections/Documents/2020-General-Election-Report.pdf> (“Act 35 Report”).

³ Commonwealth of Pennsylvania Certificate of Ascertainment of Presidential Electors (Nov. 24, 2021), <https://www.archives.gov/files/electoral-college/2020/ascertainment-pennsylvania.pdf>.

48. Additionally, Senator Dush was elected in 2020 to represent Pennsylvania's 25th Senatorial District. Senators David Argall, Scott Hutchinson, and Douglas Mastriano, all of whom are members of the Committee, also were elected in 2020.

49. The election in which Senators Dush, Argall, Hutchinson, and Mastriano ran was conducted fairly and securely, and their elections reflected the will of their voters.

50. Overall, Pennsylvania's 2020 general election was administered fairly, securely, and in accordance with Pennsylvania law by election officials in the Commonwealth's 67 counties.

51. As of May 2021, there were only three documented cases of voter fraud in the 2020 general election in Pennsylvania.⁴

52. There is no evidence of any election fraud or voter fraud that changed the outcome of the 2020 election.

53. For the 2020 presidential election, the statutory basis for a statewide recount was not triggered, no court of common pleas ordered a recount or recanvass, and no election contest was initiated.

⁴ See Act 35 Report, *supra* note 2 at 34.

54. Because counties were not allowed to pre-canvass ballots until Election Day, 25 Pa. Stat. § 3146.8(g)(1.1), and in light of the record turnout, Pennsylvania took several days to report its unofficial election results.

55. For the 2020 presidential election, then-Secretary of the Commonwealth Kathy Boockvar certified the winner on November 24, 2020. That same day, Governor Tom Wolf sent a Certificate of Ascertainment of Pennsylvania’s members of the Electoral College to the National Archives as directed by federal law. 3 U.S.C. § 6.

D. Post-Election Audits and Reviews Confirm the Accuracy of the 2020 Election Results

56. As a routine part of the canvassing process that county boards of elections perform under the Election Code, every Pennsylvania county conducted “a statistical recount of a random sample of ballots . . . using manual, mechanical or electronic devices of a type different than those used for the specific election.” 25 Pa. Stat. § 3031.17. The statistical sampling included at least 2,000 ballots or ballots equaling 2 percent of all votes cast in the county. *Id.* Every candidate, or her representative, had a right to be present for that sampling.

57. After certification of the election results, sixty-three of sixty-seven counties participated in a “risk-limiting audit” pilot.⁵ Risk-limiting audits use

⁵ Lancaster, Greene, Franklin, and Beaver were the four counties that declined to participate. Former President Trump won each county by a significant margin. PA Dep’t of

“statistical methods to confirm whether reported election outcomes are correct and to detect possible interference.”⁶ They do so by “examin[ing] a random sample of paper ballots, comparing the votes on paper to the totals reported by the vote-counting machines to ensure that the winner actually won.”⁷

58. Pennsylvania’s risk-limiting audit of the 2020 presidential election reviewed more than 45,000 randomly sampled ballots to ensure the accuracy of the presidential election results.⁸ The results of that audit “provided strong evidence of the accuracy of the count of votes cast in the November 2020 presidential election” as the “results of the sample mirrored the reported presidential election results across the participating counties within a fraction of a percentage point.”⁹

State, *Official Returns – Lancaster* (Nov. 3, 2020), <https://www.electionreturns.pa.gov/General/CountyResults?countyName=Lancaster&ElectionID=83&ElectionType=G&IsActive=0>; PA Dep’t of State, *Official Returns – Greene* (Nov. 3, 2020), <https://www.electionreturns.pa.gov/General/CountyResults?countyName=Greene&ElectionID=83&ElectionType=G&IsActive=0>; PA Dep’t of State, *Official Returns – Franklin* (Nov. 3, 2020), <https://www.electionreturns.pa.gov/General/CountyResults?countyName=Franklin&ElectionID=83&ElectionType=G&IsActive=0>; PA Dep’t of State, *Official Returns – Beaver* (Nov. 3, 2020), <https://www.electionreturns.pa.gov/General/CountyResults?countyName=Beaver&ElectionID=83&ElectionType=G&IsActive=0>.

⁶ See Risk-Limiting Audit Pilot of November 2020 Presidential Election Finds Strong Evidence of Accurate Count, Pennsylvania Pressroom (Feb. 5, 2021), <https://www.media.pa.gov/pages/state-details.aspx?newsid=453>.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

59. After those audits, both chambers of Pennsylvania’s legislature conducted hearings, heard testimony from witnesses, and gave due consideration to potential legislative changes to state election law based on lessons learned from the 2020 election.

60. In May 2021, the House State Government Committee published a “Comprehensive Review of Pennsylvania’s Election Laws” following “ten hearings with roughly 31.5 hours of total hearing time and hearing from 52 total testifiers including 7 House Members.”¹⁰ The “extensive hearings on the Commonwealth’s election law and administration of elections” sought to “fix any identified problem within the election system and to regain the voters’ trust in [Pennsylvania’s] elections.”¹¹

61. In June 2021, the Senate’s Special Committee on Election Integrity and Reform produced a similar report after holding a series of hearings regarding the administration of elections in Pennsylvania and best practices in other states.¹²

¹⁰ House State Government Committee, *A Comprehensive Review of Pennsylvania’s Election Laws: How Pennsylvania Can Guarantee Rights and Integrity in Our Election System* (May 10, 2021), <http://www.pahousegop.com/Display/SiteFiles/1/OtherDocuments/Election%20Oversight%20Hearing%20Final%20Report.pdf>.

¹¹ *Id.*

¹² Senate Special Committee on Election Integrity and Reform, *Report on the Special Committee’s Findings and Recommendations to the Senate and the Senate State Government Committee* (June 2021), <https://pasenelectioncommittee.com/wp-content/uploads/sites/106/2021/06/election-integrity-report-final.pdf>.

Senator Corman praised the Special Committee, saying “I am extremely proud of the members of this committee for working together across party lines to approach these issues in an open and honest way.”¹³ Senator Corman also said, “I am hopeful that we can build upon [the Special Committee’s] efforts to enact real and meaningful reforms to ensure all Pennsylvanians have an election system they can believe in.”¹⁴

62. Neither committee report identified any fraud or irregularity during the 2020 election that would have affected election results.

E. Unbiased Experts Confirm the Integrity of the 2020 Election

63. Unbiased experts have confirmed that the 2020 general election was free, fair, and secure, in Pennsylvania and elsewhere.

64. On November 12, 2020, the federal Election Infrastructure Government Coordinating Council Executive Committee issued a statement concluding that “[t]he November 3rd election was the most secure in American history,” and that “[t]here is no evidence that any voting system deleted or lost votes, changed votes, or was in any way compromised. While we know there are many unfounded claims and opportunities for misinformation about the process of

¹³ Sen. Jake Corman, *Senate Special Committee Releases Report on Election Reforms* (June 14, 2021), <https://www.senatorcorman.com/2021/06/14/senate-special-committee-releases-report-on-election-reforms/>.

¹⁴ *Id.*

our elections, we can assure you we have the utmost confidence in the security and integrity of our elections, and you should too.”¹⁵

65. Chris Krebs, the head of the U.S. Department of Homeland Security’s Cybersecurity and Infrastructure Security Agency during the 2020 general election, wrote on December 1, 2020, that “[t]he 2020 election was the most secure in U.S. history.”¹⁶

66. That same day, then-Attorney General William Barr told the Associated Press that U.S. Attorneys and FBI agents had been investigating and following up on specific complaints and information about the conduct of the election. Attorney General Barr said, “to date, we have not seen fraud on a scale that could have effected a different outcome in the election.”¹⁷

67. Three political scientists from the University of Chicago and Stanford University reviewed eight of the most widespread assertions about fraud in the

¹⁵ Cybersecurity & Infrastructure Security Agency, *Joint Statement From Elections Infrastructure Government Coordinating Council & The Election Infrastructure Sector Coordinating Executive Committees* (Nov. 12, 2020), <https://www.cisa.gov/news/2020/11/12/joint-statement-elections-infrastructure-government-coordinating-council-election>.

¹⁶ Christopher Krebs, *Trump fired me for saying this, but I’ll say it again: The election wasn’t rigged*, Wash. Post, (Dec. 1, 2020), https://www.washingtonpost.com/opinions/christopher-krebs-trump-election-wasnt-hacked/2020/12/01/88da94a0-340f-11eb-8d38-6aea1adb3839_story.html.

¹⁷ Michael Balsamo, *Disputing Trump, Barr says no widespread election fraud*, Assoc. Press (Dec. 1, 2020), <https://apnews.com/article/barr-no-widespread-election-fraud-b1f1488796c9a98c4b1a9061a6c7f49d>.

2020 election, many centered on Pennsylvania, and found “none of them is even remotely convincing. The common logic behind these claims is that, if the election were fairly conducted, some feature of the observed 2020 election result would be unlikely or impossible. In each case, we find that the purportedly anomalous fact is either not a fact or not anomalous.”¹⁸

F. The 2021 Municipal Primary Was Conducted Without Incident

68. On May 28, 2021, Pennsylvania conducted its municipal primary election. In addition to primary elections, Pennsylvanians voted on three constitutional amendments.

69. More than 2.2 million people voted in the 2021 municipal primary election. Of those, more than 550,000 voted through a mail-in ballot.

70. Pennsylvania’s 2021 municipal primary election was administered fairly, securely, and in accordance with Pennsylvania Law.

71. Pennsylvania’s administration of the 2021 municipal primary election has not been beset by allegations of improprieties.

¹⁸ Andrew C. Eggers, et al., *No Evidence for Voter Fraud: A Guide to Statistical Claims about the 2020 Election* at 1 (Feb. 3, 2021), https://stanforddpl.org/papers/eggers_et_al_2021_stastical_claims_election/.

II. The 2020 Presidential Election Has Been Subjected to an Unprecedented Campaign of Unfounded Attacks

72. The 2020 presidential election was the first time in our nation's modern history that the losing candidate and his supporters refused to acknowledge the true results of a free and fair election. Former President Trump and his supporters have promoted a lie that President Biden's electoral victory was the result of a "rigged election." As a so-called "swing state," Pennsylvania has been a primary target of this disinformation campaign.

73. This false narrative amplified a message that then-President Trump started spreading even before the 2020 presidential election.

74. Repeated false claims of a rigged election deliberately eroded the confidence that Pennsylvania voters once felt in election results.

75. Senator Dush, Senator Corman, and other members of the Committee have followed former President Trump's lead and persistently worked to undermine voters' confidence in the integrity of Pennsylvania's 2020 presidential election.

76. These attacks on the 2020 election have taken many different forms. Former President Trump and his supporters—including Respondents—have filed and supported frivolous lawsuits that unsuccessfully sought to overturn the results in various states. The same people have encouraged federal and state elected officials to disregard the votes of their constituents and declare President Trump

the winner, culminating in the attack on the U.S. Capitol on January 6. And they have continued to undermine the election by pushing for needless and redundant “audits” to manufacture evidence of fraud.

A. Former President Trump and Pennsylvania Legislators Falsely Alleged that the 2020 Election Was Fraudulent

77. Former President Trump began preparing to question a possible electoral defeat before the election was held. In the weeks leading up to November 3, he repeatedly alleged that the election would be stolen from him. For example, at an August 17, 2020, campaign rally, Trump said, “The only way we’re going to lose this election is if the election is rigged.”¹⁹ During a September 29, 2020, presidential debate, Trump falsely told the more than 73 million Americans watching that “[i]t’s a rigged election,” that Democrats “cheat,” and that “bad things happen in Philadelphia [elections]. Bad things.”²⁰

78. His efforts intensified the evening of the election. He sent multiple false tweets claiming that he had won; that the election was being stolen from him; and that he was the victim of widespread voter fraud. For example, early on the morning of November 4, 2020, he sent two Tweets saying “We are up BIG, but

¹⁹ Terrance Smith, *Trump has longstanding history of calling elections ‘rigged’ if he doesn’t like the results*, ABC News (Nov. 11, 2020), <https://abcnews.go.com/Politics/trump-longstanding-history-calling-elections-rigged-doesnt-results/story?id=74126926>.

²⁰ September 29, 2020 Presidential Debate Transcript, <https://www.debates.org/voter-education/debate-transcripts/september-29-2020-debate-transcript/>.

they are trying to STEAL the election.”²¹ In another tweet sent early on November 4, he said, “I will be making a statement tonight. A Big WIN!”²² And later that morning he tweeted, “Last night I was leading, often solidly, in many key States, in almost all instances Democrat run & controlled. Then, one by one, they started to magically disappear as surprise ballots dumps were counted.”²³

79. Pennsylvania was a primary focus of these efforts. For example, the then-President falsely tweeted that “[t]hey are finding Biden votes all over the place — in Pennsylvania, Wisconsin, and Michigan. So bad for our Country!”²⁴ He later falsely claimed that “They are working hard to make [our] 500,000 vote advantage in Pennsylvania disappear — ASAP...”²⁵

80. In fact, Pennsylvania’s bipartisan election officials were performing their duties under the Election Code and methodically counting all votes. Because the Election Code does not authorize county boards of elections to pre-canvass

²¹ Donald Trump (@realDonaldTrump), Twitter (Nov. 4, 2020, 12:44 am), <https://www.thetrumparchive.com>; Donald Trump (@realDonaldTrump), Twitter (Nov. 4, 2020, 12:49 am), <https://www.thetrumparchive.com> .

²² Donald Trump (@realDonaldTrump), Twitter (Nov. 4, 2020, 12:45 am), <https://www.thetrumparchive.com>

²³ Donald Trump (@realDonaldTrump), Twitter (Nov. 4, 2020, 10:04 am), <https://www.thetrumparchive.com>.

²⁴ Donald Trump (@realDonaldTrump), Twitter (Nov. 4, 2020, 11:55 am), <https://www.thetrumparchive.com>.

²⁵ Donald Trump (@realDonaldTrump), Twitter (Nov. 4, 2020, 12:01 pm), <https://www.thetrumparchive.com>.

mail-in votes before Election Day, the counting of all mail-in votes took several days following Election Day.

81. After election results confirmed President Biden’s victory, former President Trump amplified his lies about the election. He repeatedly concocted allegations about the election, including that Dominion Voting Systems deleted or switched Pennsylvanians’ votes from then-President Trump to President Biden. On November 28, 2020, then-President Trump falsely tweeted that “[m]ore than one million Pennsylvania mail ballots were ‘created out of thin air.’”

82. Regrettably, many of Pennsylvania’s legislative leaders refused to condemn the then-President’s attacks and refused to defend the integrity of the Commonwealth’s bipartisan election officials. Many even perpetuated the same lies.

83. In fact, the Majority Leader of the Pennsylvania State Senate stated that her house would be “bombed tonight” if she resisted claims that the election was rigged.²⁶

84. Shortly after unofficial results showed that President Biden won the 2020 presidential election, Senator Mastriano claimed at a rally with former

²⁶ John Bowden, *Pennsylvania GOP leader on breaking with Trump on election: ‘I’d get my house bombed tonight’*, The Hill (Dec. 9, 2020), <https://thehill.com/homenews/state-watch/529580-pennsylvania-gop-leader-on-breaking-with-trump-on-election-id-get-my>.

President Trump’s supporters that “[Democrats] want to cheat in the election, and they will.”²⁷

85. About three weeks after the election, Senator Mastriano staged a hearing in Gettysburg, joined by former President Trump and members of his legal team, including Rudolph Giuliani. Senator Mastriano introduced poll watchers who claimed to have witnessed irregularities that led to a stolen election.²⁸

86. Senator Dush has asserted that “nobody in the Commonwealth of Pennsylvania can tell you who the winner was in any of these races from November 2020.”²⁹

B. Numerous Lawsuits Failed to Provide Any Evidence of Irregularities During the 2020 Election

87. While former President Trump and his supporters were continuing to make false statements about the 2020 Election, his attorneys and others were trying to block the election results by filing factually baseless and frivolous lawsuits.

²⁷ Stephen Caruso, *State Lawmakers, militia Rally at State Capitol Staring Down Trump Loss*, Penn. Capital Star (Nov. 7, 2020), <https://www.penncapital-star.com/livefeed/state-lawmakers-militia-rally-at-state-capitol-staring-down-trump-loss/>.

²⁸ Eliza Griswold, *Trump’s Battle to Undermine the Vote In Pennsylvania*, The New Yorker (Nov. 27, 2020), <https://www.newyorker.com/news/us-journal/trumps-battle-to-undermine-the-vote-in-pennsylvania>.

²⁹ Jan Murphy, *Pa. Sen. Cris Dush Talk About Election Review, His Doubts of the Vote Count and How Donald Trump ‘Is Watching’*, PennLive (Aug. 27, 2021), <https://www.pennlive.com/news/2021/08/pa-sen-cris-dush-talks-about-election-review-his-doubts-of-the-vote-count-and-how-donald-trump-is-watching.html>.

88. Those lawsuits repeated many of the same frivolous allegations that former President Trump and his supporters had made.

89. Those lawsuits were universally rejected by courts.

90. For instance, the Trump Campaign, in a federal court lawsuit filed by Mr. Giuliani, sought to block certification of the results of Pennsylvania's presidential election. That lawsuit alleged that counties with Democratic majorities broke the law to advantage Democratic voters and accused Pennsylvania election officials of "favor[ing] Biden over Trump" leading to "over 70,000 mail and other mail ballots which favor Biden [being] improperly counted."

91. Both the district court and the court of appeals rejected these allegations. The district court described the suit as based on "strained legal arguments without merit and speculative accusations, unpled in the operative complaint and unsupported by evidence." *Donald J. Trump for President, Inc. v. Boockvar*, 502 F. Supp. 3d 899, 906 (M.D. Pa. 2020). The United States Court of Appeals for the Third Circuit wrote, "Free, fair elections are the lifeblood of our democracy. Charges of unfairness are serious. But calling an election unfair does not make it so. Charges require specific allegations and then proof. We have neither here." *Donald J. Trump for President, Inc. v. Sec'y of Pennsylvania*, 830 F. App'x 377, 381 (3d Cir. 2020).

92. As a result of his conduct in the Pennsylvania lawsuit, during the Gettysburg hearing, and in other cases, Mr. Giuliani’s New York law license was suspended by the Appellate Division of the New York Supreme Court, First Judicial Department, pending completion of a full investigation into his conduct. *In re Giuliani*, 146 N.Y.S.3d 266 (N.Y. App. Div. 2021).

93. The court found that there was “uncontroverted evidence that [Mr. Giuliani] communicated demonstrably false and misleading statements to courts, lawmakers and the public at large in his capacity as lawyer for former President Donald J. Trump.” *Id.* at 268. The court specifically identified numerous false and misleading statements he had made regarding the 2020 election in Pennsylvania, including allegations regarding the total number of mail-in and absentee ballots requested and returned during the election. *See id.* at 273-75.

94. It further determined: “These false statements were made to improperly bolster [Mr. Giuliani’s] narrative that due to widespread voter fraud, victory in the 2020 United States presidential election was stolen from his client. *Id.* at 268.

95. Separately, Republican Members of Congress filed a lawsuit seeking to stop the certification of the 2020 election results, arguing that Act 77—which had been passed more than one year prior to the election, and had been in effect for

the 2020 primary—was unconstitutional. *See Kelly v. Commonwealth*, No. 620 M.D. 2020 (Pa. Commw. Ct. filed Nov. 20, 2020)

96. The Pennsylvania Supreme Court rejected this lawsuit, and the U.S. Supreme Court declined to review that decision. *Kelly v. Commonwealth*, 240 A.3d 1255 (Pa. 2020); *Kelly v. Pennsylvania*, 141 S. Ct. 1449 (2021) (denying certiorari).

97. Nevertheless, members of the Pennsylvania General Assembly, including Senators Dush and Mastriano, filed an amicus brief with the U.S. Supreme Court explicitly requesting that the Court issue an injunction to prevent certification of the 2020 presidential election results. *See Br. for Members of the Pennsylvania General Assembly as Amicus Curiae Supporting Petitioners, Kelly v. Pennsylvania*, No. 20A98 (2020) (Dec. 4, 2020).³⁰

98. Several members of the General Assembly who signed this amicus brief in support of the challenge to Act 77 had, in fact, voted for Act 77 the prior year.

99. On December 7, 2020, the State of Texas, later joined by seventeen other states, sought leave to file an original action in the U.S. Supreme Court challenging the election results in Pennsylvania and three other states. Motion for

³⁰ Motion For Leave To File Brief As Amicus Curiae And Brief For Members Of The Pennsylvania General Assembly, As Amicus Curiae In Support Of Applicants/Petitioners, *Kelly v. Pennsylvania*, S. Ct. No. 20A98, 2020 WL 7391540 (filed Dec. 4, 2020).

Leave to File Bill of Complaint, *Texas v. Pennsylvania*, No. 22O155 (S. Ct. Dec. 7, 2020). Texas’s action repeated many of the same frivolous claims that had been repeatedly rejected by courts.

100. On December 10, 2020, Senators Corman, Mastriano, Argall, Hutchinson, and Judy Ward—all members of the Committee—filed an amicus brief in support of Texas’s request that the U.S. Supreme Court stop Pennsylvania from certifying the results of its 2020 presidential election. *See* Brief on Behalf of Certain Select Pennsylvania State Senators as Amici Curiae in Support of No Party, *Texas v. Pennsylvania*, No. 22O155 (S. Ct. Dec. 10, 2020).

101. On December 11, 2020, the Supreme Court denied Texas’s request for leave to file the complaint, concluding that Texas lacked “a judicially cognizable interest in the manner in which another State conducts its elections.” *Texas v. Pennsylvania*, 141 S. Ct. 1230 (2020) (No. 22O155).

C. Former President Trump and Pennsylvania Legislators Attempt to Obstruct Counting of Electoral College Votes

102. Under the Electoral Count Act, Congress meets in a joint session on January 6 of the year following a presidential election to count the electoral votes cast by the states. *See* 3 U.S.C. § 15. The Vice President presides over this joint session of Congress.

103. Once it became clear that he had lost the election, then-President Trump and his supporters carried out a campaign to have Congress reject the

legitimate electors from Pennsylvania and other states and replace them with electors who supported President Trump.

104. On November 28, 2020, Senator Mastriano stated on Steve Bannon’s podcast that “We’re going to take our power back; we’re going to seat the [Trump] electors.”³¹ Despite citing no evidence, Mastriano claimed that Secretary Boockvar and other Democrats “cheated.”³²

105. On November 30, 2020, Senator Mastriano and three other senators asked the Pennsylvania General Assembly to “take back the power to designate Presidential electors of the State of Pennsylvania for the December 2020 meeting of the Electoral College” from the voters of the Commonwealth.³³ Although the request referenced purported election anomalies, the Senators cited no specific instances of election fraud.

106. On December 2, 2020, fourteen Republican members of the General Assembly, including Senator Dush, petitioned the Governor to convene a Special Session on election issues, claiming that “substantial questions remain that have

³¹ Jon Alexander, *Pa. state senator urges GOP to vote in Trump electors*, The Morning Call (Nov. 28, 2020), <https://www.pressreader.com/search?query=%22state%20senator%20urges%20GOP%20to%20vote%20in%20Trump%20electors%22>.

³² *Id.*

³³ Michael Cooper-White, *State Sen. Mastriano Seeks to Invalidate Election*, Gettysburg Times (Nov. 30, 2020), https://www.gettysburgtimes.com/news/local/article_ae6130cc-8a56-53f9-84f0-524a70a72c08.html.

thus far gone unanswered regarding the 2020 election” warranting further legislative oversight of election agencies.³⁴

107. On December 4, 2020, sixty Republican members of the General Assembly, including Senators Dush, Mastriano, and Judy Ward, asked Pennsylvania’s congressional delegation to reject the electors for Joe Biden.³⁵

108. On December 23, 2020, Senator Dush co-wrote a letter to then-Vice President Michael Pence asking him “to consider and weigh the validity of purported Electors and Electoral votes representing the Commonwealth of Pennsylvania.”³⁶ The letter listed numerous purported “infringements” to the Commonwealth’s election and explicitly asked the Vice President “to reject the Electoral College votes received from the Commonwealth of Pennsylvania during the Joint Session of Congress on January 6, 2021.”³⁷ Senator Dush stated that he

³⁴ Rep. Daryl Metcalfe, *PA Lawmakers Circulating Petition for Special Session on Election Issues* (Dec. 4, 2020), <http://www.pahousegopnews.com/Broadcast/ViewBroadcastV2.ashx?%252fJWN6tSbSGykwu0N10MzXmsrpG0Sv9vLac%252bECSB53yzp0eIWYAn02g%253d%253d>.

³⁵ Letter from Rep. Seth Grove, et al. to Hon. Bob Casey, et al. (Dec. 4, 2020), [http://www.pahousegopnews.com/AttachedFiles/12.04.20%20Congress%20Election%202020%20\(002\).pdf](http://www.pahousegopnews.com/AttachedFiles/12.04.20%20Congress%20Election%202020%20(002).pdf).

³⁶ Letter from Russ Diamond, et al. to Vice President Michael R. Pence (Dec. 23, 2020), <https://web.archive.org/web/20210124112906/http://www.repdiamond.com/>.

³⁷ *Id.*

and his fellow Senators “are prepared to appoint Electors for President and Vice President, if called upon to do so.”³⁸

109. On December 29, 2020, Senator Mastriano tweeted that “Electoral irregularities are real and prevalent in Pennsylvania. Sadly, despite evidence, our Governor and State Department Secretary refuse to investigate.”³⁹

110. On December 30, 2020, Senators Dush, Mastriano, and Judy Ward—among others—wrote a letter to Senator Mitch McConnell asserting that the “2020 presidential election should not have been certified in Pennsylvania” based on “mounting and overwhelming evidence depicting election irregularities and extensive potential fraud.”⁴⁰ The letter listed as “key findings” a number of theories with no basis in fact.⁴¹ The Senators asked that Senator McConnell use his powers to “dispute the certification until an investigation is completed.”⁴²

111. On January 1, 2021, Senator Dush posted a lengthy diatribe on his public Facebook profile entitled, “THERE WAS NOT A LAWFUL ELECTION

³⁸ *Id.*

³⁹ Doug Mastriano (@SenMastriano), Twitter (Dec. 29, 2020, 12:12 PM), <https://mobile.twitter.com/senmastriano/status/1343968123859427328>.

⁴⁰ Letter from Sen. Doug Mastriano, et al. to Senator Mitch McConnell (Dec. 30, 2021), <https://senatorjudyward.com/wp-content/uploads/sites/92/2021/01/1-McConnell-investigatetr.pdf>.

⁴¹ *Id.*

⁴² *Id.*

IN PENNSYLVANIA NOVEMBER 3rd!”⁴³ In the post, Senator Dush made a number of legally and factually dubious claims purporting to demonstrate that the election was “fraudulent.” Among those claims was a baseless assertion that “there have been many reports of unlawful acts as well as malfeasance, misfeasance and possible fraudulent activities,” which according to Senator Dush furthered “the original crime against The People of Pennsylvania in the conducting of what was fraudulently called an ‘election’ on November 3rd.” In the post, Senator Dush proclaimed, without basis, “There was no election. There was a scam.”

112. On January 2, 2021, then-President Trump pressured Georgia Secretary of State Brad Raffensperger to “find” 11,780 votes—one more than Joe Biden’s margin of victory in Georgia. Then-President Trump told Secretary Raffensperger that “there’s nothing wrong with saying that, you know, um, that you’ve recalculated.”⁴⁴

113. On January 4, 2021, Republican members of the Pennsylvania Senate, including Senators Corman and Dush, wrote a letter to Senator McConnell and Representative Kevin McCarthy asking that Congress to delay certification of the

⁴³ Sen. Cris Dush, Facebook (Jan. 1, 2021), <https://www.facebook.com/SenatorCrisDushPA/posts/3574068596003258>.

⁴⁴ John Bowden, *Trump asked Georgia secretary of state to ‘find’ 11.7k ballots, recalculate election result*, The Hill (Jan. 3, 2021), <https://thehill.com/homenews/administration/532433-trump-asked-georgia-secretary-of-state-to-find-116k-ballots>.

election results based on alleged “inconsistencies” in the election and stating incorrectly that there was a pending case before the U.S. Supreme Court that might affect the outcome of Pennsylvania’s election.⁴⁵

114. At a January 5, 2021, rally in Harrisburg, held to encourage state legislators to decertify President Biden’s electoral victory, Senator Dush again questioned the legality of the November 2020 election. Senator Dush repeated his assertions that the November election was “unlawful,” and further proclaimed that the “judicial branch and executive branch” have “taken it upon themselves to take your sovereignty and write law.” Senator Dush urged people to take action against the certification of the presidential electors: “Let’s get spines in the backs of people who are called lesser magistrates, if someone tries to enforce something, . . . the lesser magistrates have a responsibility not to comply.”⁴⁶

115. On January 6, 2021, then-President Trump proclaimed during a rally of his supporters near the U.S. Capitol that “[t]hey rigged it like they’ve never rigged an election before.” Then-President Trump explained that his election assault would not relent, stating “[w]e will never concede, it doesn’t happen. You

⁴⁵ Letter from Sen. Jake Corman, et al. to Sen. Mitch McConnell and Rep. Kevin McCarthy (Jan. 4, 2021), <https://www.scribd.com/document/489945100/GOP-Senate-letter-to-Congress>.

⁴⁶ Steve Marroni & Chris Mautner, *‘Hear Us Roar’ rally in Harrisburg seeks to decertify Pa. ’s votes*, PennLive (Jan. 5, 2021), <https://www.pennlive.com/elections/2021/01/hear-us-roar-rally-in-harrisburg-seeks-to-decertify-pas-votes.html>.

don't concede when there's theft involved. Our country has had enough. We will not take it anymore and that's what this is all about.”

116. At the same rally, then-President Trump described purported election fraud in Pennsylvania that, he claimed, was outcome determinative. Then-President Trump falsely claimed that there were more votes cast than voters in Pennsylvania, that thousands of dead people voted in Pennsylvania, that “[o]ver 14,000 ballots were cast by out-of-state voters,” and that “[f]our hundred thousand ballots appeared from nowhere right after the election.”

117. Then-President Trump asserted that some Pennsylvania State Senators were prepared to “recertify their votes. They want to recertify. But the only way that can happen is if Mike Pence agrees to send it back. Mike Pence has to agree to send it back.”

118. Once the rally ended, attendees and others stormed the U.S. Capitol in an effort to prevent members of Congress and then-Vice President Pence from discharging their constitutional duty to count the Electoral College votes. Although the insurrection did not succeed, multiple people died during or after the riot and over 100 police officers were injured while protecting the Capitol.

119. After the attack on the U.S. Capitol was repulsed, and as those who stormed the Capitol were being removed, then-President Trump tweeted, “These are the things and events that happen when a sacred landslide election victory is so

unceremoniously & viciously stripped away from great patriots who have been badly & unfairly treated for so long.”

120. Senator Mastriano was a scheduled speaker for at the January 6, 2021, rally at the U.S. Capitol.⁴⁷ Video evidence suggests Senator Mastriano was at the Capitol as it was attacked, and was approaching a police barrier near the Capitol that was being removed by someone who was not a uniformed officer.⁴⁸

121. Even after the Capitol was stormed, eight of Pennsylvania’s eighteen members of Congress voted against certifying the 2020 Presidential election.⁴⁹

122. After the violent attack on the U.S. Capitol, Senator Corman stated that he stood by his decision to ask Congress to delay certification.

123. The day that President Biden was sworn into office, Senator Dush introduced Senate Resolution 9, declaring that Pennsylvania’s election was

⁴⁷ Randy DeSoto, *Pro-Trump January 6 rally promises to be ‘wild’ time*, The Western Journal (Jan. 1, 2021) (identifying Mastriano as a scheduled speaker), <https://www.westernjournal.com/pro-trump-january-6-rally-capitol-hill-promises-wild-time/>; *see also* WildProtest.com (Jan. 6, 2021, 12:50 AM) (same), <https://archive.ph/6RzUY> (archiving <https://wildprotest.com/>).

⁴⁸ *Id.*; *see also* Jeremy Roebuck et al., *Pa. GOP lawmaker Doug Mastriano says he left the Capitol area before the riot. New videos say otherwise*, Philadelphia Inquirer (May 25, 2021), <https://www.inquirer.com/news/doug-mastriano-capitol-riot-pennsylvania-video-20210525.html>; Josephine Harvey, *Videos Contradict State Lawmaker’s Claim He Left Capitol While It Was ‘Still Peaceful.’*, Huffington Post (May 26, 2021), https://www.huffpost.com/entry/doug-mastriano-capitol-riot_n_60ac5e99e4b019ef10de09c7.

⁴⁹ Karen Yourish et al., *The 147 Republicans Who Voted to Overturn Election Results*, N.Y. Times (Jan. 7, 2021), <https://www.nytimes.com/interactive/2021/01/07/us/elections/electoral-college-biden-objectors.html>.

“unlawful, void ab initio and invalid, and that the Commonwealth of Pennsylvania has failed to appoint electors of President and Vice President on the day prescribed by law.”⁵⁰

D. Former President Trump and Pennsylvania Legislators Continue to Stoke Distrust in Election Results

124. Months after President Biden’s inauguration, former President Trump continues to promote the false narrative of his victory and assail public officials and others who do not do the same.

125. Former President Trump is still attempting to coerce state officials to declare him the winner of the 2020 presidential election. On September 17, 2021, former President Trump sent Secretary Raffensperger a letter falsely asserting that there had been fraud in the Georgia election and demanding that Raffensperger “start the process of decertifying the Election, or whatever the correct legal remedy is, and announce the true winner.”⁵¹

126. To discredit the presidential election results, former President Trump is also encouraging “audits” of state elections.⁵²

⁵⁰ Senate Resolution No. 9 (introduced Jan. 20, 2021), <https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2021&sessInd=0&billBody=S&billTyp=R&billNbr=0009&pn=0047>.

⁵¹ Liz Harrington (@realLizUSA), Twitter (Sept. 17, 2021, 11:22 AM), <https://twitter.com/realLizUSA/status/1438886054380154884/photo/1>.

⁵² See Jeremy Stahl, *Pennsylvania’s So-Called Election Audit Is Another Attempt to Discredit Trump’s 2020 Loss*, Slate.com (Sept. 15, 2021), <https://slate.com/news-and-politics/2021/09/pennsylvania-gop-audit-trump-2020-loss.html>.

127. In June 2021, after Senator Corman complimented the work of the Senate’s Special Committee on Election Integrity and Reform and expressed a hope for meaningful reforms, former President Trump released a statement asking “Why is State Senator Jake Corman of Pennsylvania fighting so hard that there not be a Forensic Audit of the 2020 Presidential Election Scam? Corman is fighting as though he were a Radical Left Democrat.... Other State Senators want this Forensic Audit to take place—immediately. I feel certain that if Corman continues along this path of resistance, with its lack of transparency, he will be primaried and lose by big numbers.”⁵³

128. In Arizona, insistence that the results of the 2020 presidential election were fraudulent inspired some state senators to subpoena ballots and election apparatus from Maricopa County to perform a “forensic audit.” The “audit” was initiated after independent, federally accredited auditors had completed their work and after an official hand count audit of ballots found no irregularities in the county’s votes.

129. The Arizona State Senate hired Cyber Ninjas, a company with no experience auditing elections, to lead the “audit.”

⁵³ Donald J. Trump, *Statement by Donald J. Trump, 45th President of the United States of America* (June 14, 2021), <https://www.donaldjtrump.com/news/statement-by-donald-j-trump-45th-president-of-the-united-states-of-america-06.14.21-02>.

130. Once underway, the Maricopa County “audit” was marred by a lack of transparency, questionable methodologies, bizarre practices—such as scouring ballots for bamboo fibers—and troubling security concerns. One Cyber Ninjas subcontractor drove undisclosed election data and other materials to a private home in Montana to perform unknown tests without any disclosed processes or oversight.⁵⁴

131. These documented problems have led election officials of both political parties to denounce the Maricopa County “audit.” The Republican Chairman of the Maricopa County Board of Supervisors described the “audit” as a “grift disguised as an audit.”⁵⁵

132. Despite the Maricopa County “audit” being widely discredited, the Arizona State Senate and Cyber Ninjas have made outlandish claims about what the “audit” has purportedly revealed, including that the county deleted voter

⁵⁴ Maritsa Georgiou, Arizona voting system data sent to Montana lab as part of latest audit, NBC Montana (June 3, 2021), <https://nbcmontana.com/news/local/arizona-voting-system-data-sent-to-montana-lab-as-part-of-latest-audit>.

⁵⁵ Michael Wines, *Arizona Vote Review Is ‘Political Theater’ and ‘Sham,’ G.O.P. Leaders Say*, N.Y. Times (May 17, 2021), <https://www.nytimes.com/2021/05/17/us/arizona-audit-trump.html>.

databases⁵⁶ and that there were 74,000 plus “extra” ballots voted in the county.⁵⁷

While several false claims were later retracted, they were first used as proof that the election was “rigged.”⁵⁸

E. Threats Against Election Workers and Voters

133. As a result of the lies and misinformation spread about the 2020 election, election workers in Pennsylvania and elsewhere have been subject to harassment, intimidation, and threats.

134. For instance, a Republican Commissioner in Philadelphia has received numerous threats, including messages calling him “a traitor.” He has been told he would be “FATALLY SHOT” and that there would be “HEADS ON SPIKES” as a result of his actions.⁵⁹

⁵⁶ Jane C. Timm, *Arizona GOP's election auditors backtrack on destroyed data claim*, NBC News (May 19, 2021), <https://www.nbcnews.com/politics/elections/company-conducting-arizona-gop-s-election-audit-backtracks-deleted-database-n1267900>.

⁵⁷ Steve Goldstein & Mark Brodie, *How 2 Arizona Journalists Debunked Cyber Ninjas' Claim About 74,000 Ballots*, KJZZ (Aug. 4, 2021), <https://kjzz.org/content/1705516/how-2-arizona-journalists-debunked-cyber-ninjas-claim-about-74000-ballots>.

⁵⁸ *Arizona Republican calls Trump 'deleted database' statement 'unhinged'*, The Guardian (May 16, 2021), <https://www.theguardian.com/us-news/2021/may/16/arizona-republican-trump-deleted-database-statement-unhinged>; <https://apnews.com/article/technology-joe-biden-arizona-government-and-politics-ap-fact-check-0e7fad7e5bdf02d953c6b90a474267cc>; Jonathan Cooper, *AP FACT CHECK: Trump makes false claims about Arizona audit*, AP News (July 17, 2021), <https://apnews.com/article/technology-joe-biden-arizona-government-and-politics-ap-fact-check-0e7fad7e5bdf02d953c6b90a474267cc>

⁵⁹ Brennan Center for Justice & the Bipartisan Policy Center, *Election Officials Under Attack How to Protect Administrators and Safeguard Democracy* (June 16, 2021), https://www.brennancenter.org/sites/default/files/2021-06/BCJ-129%20ElectionOfficials_v7.pdf (emphasis original).

135. Other county election officials have been threatened in the wake of activities undertaken by members of the Committee.

136. In response to such threats, the U.S. Department of Justice launched a task force on threats against election workers in June 2021. At the time, the Deputy Attorney General noted that there had “been a significant increase in the threat of violence against Americans who administer free and fair elections throughout our Nation.”⁶⁰

137. Since the beginning of 2020, approximately one-third of Pennsylvania’s election workers have left their jobs.⁶¹

138. Efforts to delegitimize Pennsylvania’s 2020 election results are now directly contributing to poll worker attrition and the Commonwealth is now facing a shortage of people willing to staff polling places on Election Day. Election workers have told county administrators that they have been harassed and intimidated by people claiming that the results of the last election were fraudulent.

139. In the summer of 2021, some residents of York County began reporting that people were coming to their doors to make inquiries about how they

⁶⁰ Dep. Atty. Gen. Lisa O. Monaco, Guidance Regarding Threats Against Election Workers (June 25, 2021), <https://www.justice.gov/dag/page/file/1406286/download>.

⁶¹ Anthony Izaguirre, *Exodus of election officials raises concerns of partisanship*, AP (June 13, 2021), <https://apnews.com/article/election-officials-leave-trump-2020-threats-misinformation-3b810d8b3b3adee2ca409689788b863f>.

had voted in the 2020 general election. After receiving complaints about the activity, the York County Commission referred the issue to the police.⁶² A similar door knocking effort was planned in Lancaster County in August.⁶³

III. The Committee Has Initiated an Unlawful “Investigation” of Pennsylvania’s Elections

140. In the wake of the prolonged and concerted effort to cast doubt on the results of the 2020 presidential election, and in spite of comprehensive hearings already conducted by the Senate’s Special Committee on Election Integrity and Reform and the House State Government Committee, *see supra* ¶¶ 59-62, the Intergovernmental Operations Committee has begun an unlawful “investigation” into the November 2020 and May 2021 elections. Pursuant to this investigation, the Committee has improperly issued the subpoena challenged here.

⁶² Teresa Boeckel, ‘*This is 100% voter intimidation*’: Residents in York County questioned about their vote, York Daily Record (July 29, 2021), <https://www.ydr.com/story/news/2021/07/29/york-county-voter-intimidation-alleged-residents-asked-about-elections-investigation-follows/5418312001/>; Logan Hullinger, ‘Election integrity committee’ in York County accused of voter intimidation, York Dispatch (July 29, 2021), *available at* 2021 WLNR 24541847.

⁶³ Carter Walker, *Online Group Planning Door Knocking Campaign in Lancaster County in Attempt to Audit 2020 Election*, LancasterOnline (Aug 6, 2021), https://lancasteronline.com/news/politics/online-group-planning-door-knocking-campaign-in-lancaster-county-in-attempt-to-audit-2020-election/article_22c94daa-f62e-11eb-ae92-e7453d40446f.html.

A. *The Committee’s Attempts to “Audit” and “Investigate” Recent Elections*

141. The Committee’s current effort began earlier this summer, when then-Chair of the Committee Senator Mastriano publicly pushed to “audit” Pennsylvania’s recent elections.

142. In June 2021, Senators Mastriano and Dush toured the facility where Cyber Ninjas was performing its Maricopa County “audit.” After his visit, Senator Mastriano wrote that “[a] county audit like the one authorized by the Arizona State Senate is critically necessary for our Commonwealth.”⁶⁴ Senator Dush praised the Arizona audit as “very professional”⁶⁵ and opined that it “is what we should be doing here in Pennsylvania.”⁶⁶ Senator Dush added that the Cyber Ninjas are “going to set the standard for any future forensic audits of elections.”⁶⁷

143. On July 7, 2021, Senator Mastriano, as Chair of the Committee, issued a “Request for Information Pertaining to the 2020 General Election and

⁶⁴ Sen. Doug Mastriano, *Op-Ed: Observations after touring Arizona’s Election Audit Operation*, SenatorMastriano.com (June 9, 2021), <https://senatormastriano.com/2021/06/09/op-ed-observations-after-touring-arizonas-election-audit-operation/>.

⁶⁵ Sen. Cris Dush, *Sen. Dist. 25 Telephone Town Hall*, Facebook (July 13, 2021), https://www.facebook.com/watch/live/?v=510629936819053&ref=watch_permalink.

⁶⁶ Marcie Schellhammer, *Pa. state senator visits Ariz., pushes for election audit*, Olean Times Herald (June 5, 2021), https://www.oleantimesherald.com/news/pa-state-senator-visits-ariz-pushes-for-election-audit/article_5efd09f4-7c0e-54d0-ab84-871c09d19aed.html?fbclid=IwAR1b84EKgSqUXWrL9-bBMMaI_V-oCMB2HI3yBwYyen2T5SwtwANOMx-dL9I.

⁶⁷ Sen. Cris Dush, *My Trip to Arizona and Other Updates*, Facebook (June 4, 2021), <https://www.facebook.com/SenatorCrisDushPA/videos/688676965258866>.

2021 Primary Election” to the Boards of Elections of Philadelphia, Tioga, and York counties. A true and correct copy of Senator Mastriano’s letter to the Philadelphia Board of Elections is attached as Exhibit A. The stated intent of the Request for Information was to conduct a “forensic investigation of the election results and processes for the 2020 General Election and 2021 Primary.” Ex. A at 3.

144. The Request for Information sought access to and disclosure of 48 different categories of election materials, including electronic voting systems, tabulation equipment, ballot marking and sorting equipment, and ballots cast, as well as voter rolls, voter identification information, and more.

145. On July 14, 2021, the York County Board of Commissioners responded that they would not comply, and corrected Senator Mastriano’s claim that certain election practices had “damaged the integrity and confidence in our election process.”⁶⁸ The letter explained all the ways in which the Board had “upheld [its] commitment of being transparent and accountable not only in elections but in all we do for the residents of York County.”⁶⁹

146. On July 29, 2021, the Tioga County Commissioners also responded that they would not comply with the request for information.⁷⁰

⁶⁸ Ltr. from Julie Wheeler, et al., to Sen. Mastriano (July 14, 2021).

⁶⁹ *Id.*

⁷⁰ Ltr. from Christopher P. Gabriel to Sen. Mastriano (July 29, 2021).

147. On July 30, 2021, the Philadelphia City Commissioners declined to provide the requested materials or participate in the “forensic investigation.” In doing so, the Commissioners noted that Philadelphia’s election equipment had been certified by state and federal authorities, that courts had repeatedly found no evidence of election malfeasance, and that Philadelphia had participated in all required audits, reviews and certifications of the elections.⁷¹

148. On information and belief, the Tioga County Board of Election commissioners received death threats as a result of declining to participate in the “forensic audit.”⁷²

149. On August 20, 2021, Senator Corman removed Senator Mastriano as Chair of the Committee, and appointed Senator Dush to replace him.⁷³

150. On August 20, 2021, Senator Dush said in a statement that “[t]here have been stories that Senate Pro Tempore Corman has moved this investigation to me for the purpose of killing it. The opposite is true. We should have been having

⁷¹ Ltr. from Lisa Deeley to Sen. Mastriano (July 30, 2021).

⁷² See John Beauge, *Election audit supporter condemns death threats received by Tioga County commissioners*, PennLive (Aug. 2, 2021), <https://www.pennlive.com/news/2021/08/election-audit-supporter-condemns-death-threats-received-by-tioga-county-commissioners.html>; Rhea Jah, *Tioga County officials reportedly received death threats amidst election audit debate* (July 22, 2021), <https://www.mytwintiers.com/news-cat/politics/tioga-county-officials-reportedly-received-death-threats-amidst-the-election-audit-decision/>.

⁷³ Sen. Jake Corman, *Corman Issues Statement on Forensic Investigation of Recent Elections, Mastriano Obstruction* (Aug. 20, 2021), <https://www.senatorcorman.com/2021/08/20/corman-issues-statement-on-forensic-investigation-of-recent-elections-mastriano-obstruction/>.

hearings and moving toward a more formalized plan to conduct an investigation weeks ago.”⁷⁴

151. On September 2, 2021, Senator Dush announced that the Committee was conducting an “investigation into Pennsylvania’s election system” and “into the 2020 General Election and the 2021 Primary Election.”⁷⁵

152. That same day, Senator Dush also launched a website to “encourag[e] Pennsylvanians to share any potential violations of election law or voting irregularities they ha[d] witnessed personally.”⁷⁶ The Senate Special Committee on Election Integrity and Reform had already received more than 20,000 public comments on the 2020 election.⁷⁷ The Special Committee did not identify any comment as containing a credible allegation of fraud or misconduct.

⁷⁴ Pennsylvania Senate Republicans, *Senator Cris Dush Issues Statement on Election Integrity Review* (Aug. 20, 2021), <https://www.pasenategop.com/blog/senator-cris-dush-issues-statement-on-election-integrity-review/>.

⁷⁵ Pa. Senate Republicans, *Senate Intergovernmental Operations Committee Plans First Public Hearing of Election Investigation* (Sept. 2, 2021), <https://www.pasenategop.com/blog/senate-intergovernmental-operations-committee-plans-first-public-hearing-of-election-investigation/>.

⁷⁶ Pennsylvania Senate Republicans, *Senate Intergovernmental Operations Committee Invites Public to Submit Sworn Testimony in Election Investigation* (Sept. 2, 2021), <https://www.pasenategop.com/blog/senate-intergovernmental-operations-committee-invites-public-to-submit-sworn-testimony-in-election-investigation/>; Pennsylvania Senate Intergovernmental Operations Comm., *Election Investigation Sworn Testimony*, <https://intergovernmental.pasenategop.com/electioninvestigation/> (last visited Sept. 20, 2021).

⁷⁷ Senate Special Committee in Election Integrity and Reform, *Report on the Special Committee’s Findings and Recommendations to the Senate and the Senate State Government Committee* at 7, <https://pasenelectioncommittee.com/wp-content/uploads/sites/106/2021/06/election-integrity-report-final.pdf>.

153. After Senator Corman directed the Committee’s leadership change, he said former President Trump is “comfortable with where we’re heading and so we’re going to continue that work.”⁷⁸

154. Senator Corman said in defense of the investigation, “I don’t necessarily have faith in the [election] results. . . . I think there were many problems in our election that we need to get to the bottom of.”⁷⁹

155. Senator Dush told PennLive that he had been in touch with former President Trump regarding his audit plans. “He congratulated me and said that he wanted to have confidence in me,” Senator Dush said of his conversation with the former President. “He’s going to be watching me.”⁸⁰

B. The Committee’s September 9 Hearing Supplies No Evidence of Fraud

156. As the first step of its “investigation,” the Committee held a “Public Hearing on the Investigation of the 2020 General Election and the 2021 Primary

⁷⁸ Marc Levy & Sam Dunklau, *Hearings in election ‘investigation’ to begin this week, Corman says*, WITF (Aug. 23, 2021), <https://www.witf.org/2021/08/23/hearings-in-election-investigation-to-begin-this-week-corman-says/>.

⁷⁹ Andrew Seidman, *Top Pa. GOP lawmaker says hearings will begin this week to start ‘forensic investigation’ of 2020 election*, The Philadelphia Inquirer (Aug. 24, 2021), <https://www.inquirer.com/politics/pennsylvania/jake-corman-pennsylvania-election-audit-hearings-20210823.html>.

⁸⁰ Sara Murray, *Republican state senator kicks off audit push in Pennsylvania*, CNN.com (Sept. 9, 2021), <https://www.cnn.com/2021/09/09/politics/pennsylvania-audit-state-senator/index.html>.

Election” on September 9, 2021. A true and correct copy of the September 9 hearing transcript is attached as Exhibit B.⁸¹

157. Fulton County Commissioner Stuart Ulsh was the only official to testify at the September 9 hearing.

158. Commissioner Ulsh is a supporter of former President Trump’s efforts to undermine confidence in the results of the 2020 presidential election. For example, on November 9, 2020, two days after the Pennsylvania race was called for President Biden, Commissioner Ulsh wrote in an email to two Pennsylvania legislators:

The people are asking who all is in this fight with Senator Mastriano It couldn’t hurt the Trump campaign if our state representatives all got involved. If we don’t stop this election problems, next will be worse. If there were 109 House and 27 Senate with Senator Mastriano, it would all -- it would be a big help.⁸²

159. Commissioner Ulsh testified that a company he authorized to “investigate” how Fulton County conducted the 2020 general election, did not identify any fraud in Fulton County’s election. Ex. B at 52:10-55:10, 63:3-16,

⁸¹ See also Senate Intergovernmental Operations Committee, *Public Hearing on the Investigation of the 2020 General Election and the 2021 Primary Election* (Sept. 9, 2021), <https://intergovernmental.pasenategop.com/intergovernmental-090821/>.

⁸² *Fulton County Commissioners Ask Sen. Judy Ward and Rep. Jesse Topper To Help Overturn Election Results In November*, Penn. Spotlight (Aug. 11, 2021), <http://www.paspotlight.org/2021/fulton-county-commissioners-ask-sen-judy-ward-and-rep-jesse-topper-to-help-overturn-election-results-in-november>.

66:9-13. The company investigated Fulton County at the behest of Senators Mastriano and Judy Ward.⁸³

160. Secretary Degraffenreid provided written testimony, but did not attend the September 9 hearing in light of pending litigation, including litigation with Commissioner Ulsh and other Fulton County officials concerning election matters.⁸⁴

C. The Committee’s September 15 Hearing to Approve the Subpoena

161. On September 15, 2021, the Committee held a “Voting Meeting – Consideration of a Motion to Authorize the Issuance of Subpoenas.” A true and correct copy of the September 15 hearing transcript is attached as Exhibit C.⁸⁵

162. Senator Dush began by moving to issue a subpoena and read a list of document requests into the record. Ex. C at 5:22-8:19. In introducing the subpoena, Senator Dush framed the Committee’s investigation in broad terms, referring to

⁸³ Jeremy Duda, *Group led by ‘kraken’ lawyer Sidney Powell hired the firm recounting AZ’s election to probe election in Fulton Co.*, Pennsylvania Capital-Star (May 24, 2021), <https://www.penncapital-star.com/government-politics/group-led-by-kraken-lawyer-sidney-powell-hired-the-firm-recounting-azs-election-to-probe-a-pa-election/>; Jeremy Duda, *Wake Technology Services audited a Pennsylvania election as part of the #StopTheSteal movement* (May 21, 2021), <https://www.azmirror.com/2021/05/21/wake-technology-services-audited-a-pennsylvania-election-as-part-of-the-stopthesteal-movement/>

⁸⁴ See Letter from Acting Secretary Veronica Degraffenreid to Senator Cris Dush & Senator Anthony Williams (Sept. 9, 2021), <https://intergovernmental.pasenategop.com/wp-content/uploads/sites/14/2021/09/090921-Degraffenreid-letter-to-Senate-IOC.pdf>.

⁸⁵ See also Senate Intergovernmental Operations Committee, *Voting Meeting – Consideration of a motion to authorize the issuance of subpoenas* (Sept. 15, 2021), <https://intergovernmental.pasenategop.com/intergovernmental-091521/>.

“this body’s investigation into the 2020 general election and 2021 primary election and how the election code is working after the sweeping changes of Act 77 of 2020.” Ex. C at 4:14-16. In response to questions, however, Senator Dush described a very different focus: an audit to verify the identity of Pennsylvanians who voted in the 2020 general election and their eligibility to vote.

SENATOR SANTARSIERO: Thank you, Mr. Chairman. I just have a few questions, if I may. First, I’m trying to understand the breadth of the subpoena and what is being requested. Can you explain why it is that the proposed subpoena would be requesting Social Security and driver’s license numbers?

SENATOR DUSH: Those documents are part of any audit that the auditor general would conduct or anybody who is **looking to verify the identity of individuals and their place of residence and their eligibility to vote.**

SENATOR SANTARSIERO: Okay. Well, why are we trying to verify the identity of these individuals? There are almost seven million people, for example, who voted in the November 20 2020 elections, both in person and by mail-in and absentee ballot. Why are we trying to verify their identities?

SENATOR DUSH: **Because there have been questions regarding the validity of people who have voted, whether or not they exist. Again, we are not responding to proven allegations. We are investigating the allegations to determine whether or not they are factual.**

Id. at 16:22-17:20 (emphasis added); *see also id.* at 16:18-21 (Social Security and driver’s license numbers are needed to assess the “veracity of the individual voters and whether or not they were authorized”); *id.* at 19:12-13 (“Again, it is to verify

the individuals.”); *id.* at 20:2-5 (“This is an investigation to determine if there are failures with regard to ensuring the integrity of the voter registration system.”).

163. When questioned, Senator Dush indicated that he would retain a third-party vendor to conduct an investigation. *Id.* at 20:12-14. He explained that the vendor had not been chosen but would be selected by Senator Dush, his team, Senate Republican legal counsel, and possible outside counsel. *Id.* at 20:15-25. But Senator Dush declined to identify who exactly would be vetting potential vendors and did not describe the vetting process being used. *Id.* at 20:6-26:17.

164. Senator Dush declined to identify which vendors he was considering for the job and what access they would have to the information requested. *Id.* at 22:10-25:13. He would not rule out retaining vendors associated with former Trump campaign lawyer Sidney Powell or those who had worked for candidates in the elections under investigation. *Id.* at 25:21-26:11, 39:10-40:11.

165. Senator Dush did not identify any *evidence* of fraud or other material irregularities in the 2020 or 2021 elections that would justify the subpoena. In fact, Senator Dush conceded that he believes the prior election audits were done properly and accurately, on a bipartisan basis, and that Republican election commissioners acknowledge that the audits were done accurately and effectively. *Id.* at 60:4-25.

166. Rather, Senator Dush and other Republican members claimed that the investigation was based on “questions” about the integrity of the election. *See id.* at 17:15-20 (statement of Sen. Dush); 56:18-20 (Sen. Judy Ward referring to the unanswered “questions” of her “outraged” constituents). These “questions” are the same ones pushed by former President Trump and his supporters—including Senators Dush and Corman—to falsely claim that President Biden did not win Pennsylvania in the 2020 general election.

167. Senator Dush indicated that the investigation would be open ended:

SENATOR WILLIAMS: Well, I got that, but do we know what the magnitude of costs of this activity may be? Have you gotten estimates about what this may cost?

SENATOR DUSH: We’re getting estimates on specific elements and then if evidence leads to further inquiry, ***then that has the potential to grow***. So, as it relates right now, we’re working on a limited scope and a limited investigation within the questions that have been raised about what has gone on so far, and then we’ll see where it goes from there.

Id. at 62:2-12 (emphasis added).

168. The Committee voted on party lines to authorize Senator Dush to issue a subpoena *duces tecum* (the “Subpoena”), with all seven Republican

members voting in favor, and all four Democratic members voting in opposition.

See id. at 65:1-66:12.⁸⁶

D. The Subpoena

169. On September 15, 2021, the Committee issued and served the Subpoena, demanding that the Secretary produce seventeen categories of documents no later than October 1, 2021 at 4:00 p.m. A true and correct copy of the Subpoena is attached as Exhibit D. A true and correct copy of the Certificate of Service is attached as Exhibit E.

170. The Subpoena seeks detailed information about *every* Pennsylvania registered voter, including names, addresses, dates of birth, detailed voting history, driver's license numbers, and partial Social Security numbers.

171. The Subpoena also seeks information about the Department of State's communications with county election officials between May 1, 2020 and May 31, 2021; election procedures and policies in effect between August 1, 2020 and June 30, 2021; materials used to train election workers between August 1, 2020 and June 30, 2021; a copy of the certified results of the November 2020 general election and 2021 primary election; reports of audits and/or reviews of the Statewide Uniform Registry of Electors (SURE) system from 2018 to the present;

⁸⁶ *See also* Senate Committee Roll Call Votes, Intergovernmental Operations Committee (Sept. 15, 2021), <https://www.legis.state.pa.us/cfdocs/legis/RCC/Public/listVoteSummary.cfm?sYear=2021&sInd=0&cteeCde=57&theDate=09/15/2021&RollCallId=457>.

and 2021 voter registration reports submitted to the Department of State. Ex. D at 1-3.

172. The Subpoena is signed by Senator Dush in his capacity as Chair of the Committee and purports to be “issued pursuant to permission granted to the Chair of the Senate Intergovernmental Operations Committee and in accord with the Constitution and Rules of the Senate of Pennsylvania.” *Id.* at 3.

E. The Committee Has Not Identified Adequate Measures to Protect the Private, Personal Information It Demands

173. When Pennsylvania law permits disclosure of personal information about Pennsylvania voters, the law circumscribes disclosure to protect privacy and personal security.

174. Although the Department of State and counties release certain voter information in “public information lists” upon request, Pennsylvania law limits what personal information can be disclosed. 25 Pa. Cons. Stat. § 1404; 4 Pa. Code § 183.14.

175. All or part of a voter’s Social Security and driver’s license number cannot be disclosed. 25 Pa. Cons. Stat. § 1404(a)(1); 4 Pa. Code § 183.14(c)(3). In addition, state and federal judges, state and federal law enforcement officers, state prosecutors, parole officers, correctional employees, individuals with a Protection from Abuse order, individuals granted a protection order due to stalking, and other

individuals who can demonstrate a threat to personal safety can request that their home addresses be not disclosed. 4 Pa. Code § 183.14(c)(4)-(5).

176. Public information lists can be used only for purposes related to elections, political activities, or law enforcement, and a person obtaining the list must so attest in writing. 25 Pa. Cons. Stat. § 1404(b)(3), (c)(2); 4 Pa. Code § 183.14(b)(4)-(5). The lists cannot be used for commercial purposes. 25 Pa. Cons. Stat. § 1207(b). The lists also cannot be published on the Internet. 4 Pa Code § 183.14(k).

177. The Department and counties must also release certain voter information in “street lists” upon request, and Pennsylvania law likewise limits when the information is disclosed, who receives the information, and what can be disclosed. 25 Pa. Cons. Stat. § 1403; 4 Pa. Code § 183.13.

178. A county must also release absentee and mail-in voters’ names and addresses upon request, but cannot provide driver’s license numbers, or all or part of the Social Security numbers. 25 Pa. Stat. §§ 3146.9(b), (c), 3150.17(b), (c).

179. The Department and counties must allow public inspection by a Pennsylvania voter of certain records in controlled circumstances. 25 Pa. Stat. §§ 2622, 2648, 1207. Even then, personal voter information cannot be used for commercial or improper purposes. 25 Pa. Cons. Stat. § 1207(b). Counties cannot make partial Social Security numbers or driver’s license numbers available for

public inspection. 25 Pa. Stat. §§ 3146.9(a); 3150.17(a); 2602(z.5). Likewise, the Department does not make partial Social Security or driver's license numbers available for public inspection.

180. The Department takes additional steps to protect the personal information of Pennsylvania voters. For example, the Department and counties have SURE kiosks that allow access to certain voter information, but only if the user of the kiosk first attests that the information will only be used for purposes related to elections, political activities, or law enforcement. The kiosk does not allow access to Social Security or driver's license numbers and can only display a limited number of records. In addition, if a court needs to access the SURE system as part of a nomination challenge or other election matter, the Department has created a separate SURE view to avoid sharing Social Security or driver's license numbers in open court.

181. Upon information and belief, the Committee has not implemented basic security protocols to ensure that the information requested in the Subpoena remains safe and secure and is not misused.

182. Instead, Senator Dush, his staff, Senate Republican legal counsel, and possible outside counsel intend to transfer the requested information to unknown third-party vendor. Ex. C at 20:8-21:22. Upon information and belief, Senator Dush has not yet selected a vendor nor established the scope of access the vendor

will have to the personal information of more than nine million Pennsylvania voters. *Id.* 20:8-21:4, 23:13-25:13. Senator Dush refused to share any information about the prospective vendors, whether they are qualified to securely handle the personal information of more than nine million Pennsylvania voters, and whether they have conflicts of interest. *See supra* ¶¶ 163-164.

183. Senate Majority Leader Kim Ward acknowledged that Pennsylvanians are rightfully concerned about the disclosure of their private, personal information sought in the Subpoena, and admitted that even she does not know what will happen with that information: “And yeah, (the last four digits of your Social Security is) scary — and the license. So, I don’t know what’s going to happen with those things.”⁸⁷

CLAIM I
Declaratory Judgment and Injunctive Relief
(Violation of the Right to Privacy)

184. Petitioners reallege and incorporate by reference the preceding allegations in this Petition as if fully set forth herein.

185. “[T]he legislature’s investigative role, like any other governmental activity, is subject to the limitations placed by the Constitution on governmental

⁸⁷ Bob Mayo, *Voters’ private info subpoenaed by State Senate Republicans; Democrats challenge move in court*, WTAE Pittsburg (Sept. 21, 2021), <https://www.wtae.com/article/voters-private-info-subpoenaed-by-state-senate-republicans-democrats-challenge-move-in-court/37671056#>.

encroachments on individual freedom and privacy.” *Com. ex rel. Carcaci v. Brandamore*, 459 Pa. 48, 53 (1974); *see also Annenberg v. Roberts*, 333 Pa. 203, 216 (1938).

186. The Pennsylvania Constitution protects the right of Pennsylvanians to informational privacy, which includes the right to control access to and the dissemination of personal information. Pa. Cons. art. I, § 1; *Pennsylvania State Educ. Ass’n v. Commonwealth Dep’t of Cmty. & Econ. Dev.*, 637 Pa. 337, 350-54 (2016).

187. Before the disclosure of any private, personal information, the Pennsylvania Constitution requires a balancing of whether the right of informational privacy outweighs the public’s interest in disclosure. *See, e.g., Reese v. Pennsylvanians for Union Reform*, 643 Pa. 530, 555-57 (2017).

188. People whose personal information is subject to potential disclosure must be given notice and an opportunity to be heard. *City of Harrisburg v. Prince*, 219 A.3d 602, 619 (Pa. 2019).

189. The Commonwealth has a quasi-sovereign interest in protecting Pennsylvanians’ right to privacy.

190. The Pennsylvania Constitution also protects Pennsylvanians’ reasonable expectations of privacy. Pa. Cons. art. I, § 8.

191. “[W]hen the legislature undertakes to investigate a matter, and in the course thereof it seeks to obtain records in which one has a reasonable expectation of privacy, a subpoena therefor should not issue except upon a showing of probable cause that the particular records sought contain evidence of civil or criminal wrongdoing.” *Lunderstadt v. Pennsylvania House of Representatives Select Comm.*, 513 Pa. 236, 248 (1986).

192. Paragraphs 4 through 13 of the Subpoena demand access to and disclosure of the name, address, date of birth, driver’s license number, and last four digits of the Social Security number for each of more than nine million registered voters in Pennsylvania.

193. A person’s address, date of birth, driver’s license number, and last four digits of the Social Security number are, both independently and in the aggregate, personal information protected by the Pennsylvania Constitution’s guarantee of informational privacy.

194. The Committee has identified no public interest that would be served by disclosure of Pennsylvanians’ private information.

195. Pennsylvania voters have a well-recognized privacy interest in their personal information that heavily outweighs any public interest the Committee purports to have in obtaining personal information for all Pennsylvania voters.

196. Pennsylvanians also have a reasonable expectation of privacy in their date of birth, driver's license number, and last four digits of the Social Security number, both independently and in the aggregate.

197. Various federal and state laws exhibit the privacy interest held in all or part of a Social Security number, a driver's license number, an address, and a date of birth.

198. The personal information requested in the Subpoena is personally identifiable—*i.e.*, it permits the identity of the individual to be directly inferred.

199. The personal information requested by the Subpoena—*i.e.*, name, birth date, address, driver's license number, and last four digits of the Social Security number—can be used to commit identity theft and financial fraud because this information is used by federal, state, and local agencies, as well as by financial institutions and other businesses, as a means of identifying an individual.

200. The personal information requested by the Subpoena—*i.e.*, name, birth date, address, and driver's license number or last four digits of the Social Security number—can be used to tamper with and change an individual's voter registration.⁸⁸ Changes include changing the voter's name, the voter's address, and the voter's party affiliation.

⁸⁸ See, e.g., Pa. Dep't of State, *Voter Registration Application*, <https://www.pavoter services.pa.gov/Pages/VoterRegistrationApplication.aspx>.

201. The personal information requested by the Subpoena—*i.e.*, name, birth date, address, and driver’s license number or last four digits of the Social Security number—also can be used to request a mail-in ballot for the voter and have it sent to a different mailing address.

202. The Committee’s interest in the requested information is not in furtherance of a legitimate legislative purpose, and so does not outweigh the privacy interests of over nine million Pennsylvanians.

203. Even if the Committee’s Subpoena was issued for a legitimate legislative purpose, there is no discernible reason—and the Committee has not articulated one—why the Committee must obtain the partial Social Security number, driver’s license number, address, and date of birth for more than nine million Pennsylvania voters to take legislative action.

204. The Committee’s interest in the requested information also does not outweigh the risks attendant to the Committee’s, or an unidentified third party’s, unregulated access to over nine million Pennsylvanians’ private, personal information.

205. The Committee has not demonstrated probable cause that the partial Social Security number, driver’s license number, and date of birth for more than nine million voters contain evidence of civil or criminal wrongdoing.

206. Because compliance with the Subpoena would violate Pennsylvanians' constitutional right to privacy and because the Subpoena was issued without probable cause, paragraphs 4 through 13 of the Subpoena are unenforceable.

CLAIM II
Declaratory Judgment and Injunctive Relief
(Violations of the Right to Free Elections and the Right to Vote under the
Pennsylvania and U.S. Constitutions)

207. Petitioners reallege and incorporate by reference the preceding allegations in this Petition as if fully set forth herein.

208. “[T]he legislature’s investigative role, like any other governmental activity, is subject to the limitations placed by the Constitution on governmental encroachments on individual freedom and privacy.” *Carcaci*, 459 Pa. at 53; *see also Annenberg*, 333 Pa. at 216.

209. In Pennsylvania, the right to vote in democratic elections is fundamental. *See Banfield v. Cortes*, 631 Pa. 229, 265 (2015).

210. To protect the integrity of the fundamental right to vote, the Pennsylvania Constitution requires that “Elections shall be free and equal; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.” Pa. Cons. art. I, § 5.

211. The so-called “free and equal” clause is “given the broadest interpretation, one which governs all aspects of the electoral process.” *League of Women Voters v. Commonwealth*, 645 Pa. 1, 117 (2018).

212. The “expansive sweep of the words ‘free and equal’” is “indicative of the framers’ intent that all aspects of the electoral process, to the greatest degree possible, be kept open and unrestricted to the voters of our Commonwealth, and, also, conducted in a manner which guarantees, to the greatest degree possible, a voter’s right to equal participation in the electoral process for the selection of his or her representatives in government.” *Id.* at 100.

213. Pennsylvania’s “free and equal” clause safeguards against acts that “shall impair the right of suffrage rather than facilitate or reasonably direct the manner of its exercise.” *Id.* at 108-09 (quoting Charles R. Buckalew, *An Examination of the Constitution of Pennsylvania. Exhibiting The Derivation and History of Its Several Provisions*, Article I at 10 (1883)). The “free and equal” clause therefore must be interpreted to avoid “discouraging voters from participating in the electoral process,” as may be the case if, for example, a voter believes their vote does not count. *Id.* at 117.

214. Under the U.S. Constitution, “all qualified voters have a constitutionally protected right to vote.” *Reynolds v. Sims*, 377 U.S. 533, 554

(1964). The right to vote is a “fundamental political right” because it is “preservative of all rights.” *Id.* at 562.

215. Violations of the U.S. Constitution may arise when government action has a deterrent or chilling effect on a person’s willingness to exercise a constitutional right. *Laird v. Tatum*, 408 U.S. 1, 11 (1972).

216. The Commonwealth has a quasi-sovereign interest in Pennsylvanians’ willingness to exercise their fundamental right to vote.

217. The Committee has demanded a package of voters’ private, personal information, including partial Social Security numbers, driver’s license numbers, dates of birth, addresses, and names, and has publicly stated it plans to transfer that information to an unidentified third party.

218. If the Committee receives and shares with an unknown third party voters’ private, personal information, including partial Social Security numbers, driver’s license numbers, dates of birth, and addresses, current and prospective voters will fear that voting in future elections may risk the disclosure of private, personal information to either partisan actors or unknown third parties. They will also fear the intentional or unintentional misuse of that private, personal information.

219. Qualified voters who fear that voting will risk the intentional or unintentional misuse of private, personal information will be discouraged from

exercising their fundamental right to vote and from participating in the electoral process.

220. Actions that discourage voters from exercising the fundamental right to vote interfere with the free exercise of the right of suffrage.

221. Because compliance with the Subpoena would violate both the Pennsylvania Constitution and U.S. Constitution, the Subpoena is unenforceable.

CLAIM III
Declaratory Judgment and Injunctive Relief
(Not In Furtherance of a Legitimate Legislative Purpose)

222. Petitioners reallege and incorporate by reference the preceding allegations in this Petition as if fully set forth herein.

223. The Pennsylvania General Assembly has statutory authority to issue subpoenas and compel testimony. 46 Pa. Stat. § 61; Senate Rule 14(d)(3).

224. The Pennsylvania General Assembly's investigatory power and subpoena power are not unlimited. *See Carcaci*, 459 Pa. at 53.

225. Courts protect against legislative compulsion to disclose information where the investigation will not further a legitimate legislative purpose. *Watkins v. United States*, 354 U.S. 178, 187, (1957); *see also Trump v. Mazars USA, LLP*, 140 S. Ct. 2019, 2031-32 (2020); *Carcaci*, 459 Pa. at 53.

226. At the hearing to approve the subpoena, Senator Dush claimed that the purpose for the subpoena was to gather private, personal information on millions of

voters to verify the identity of Pennsylvanians who voted in the 2020 general election and their eligibility to vote. He made this claim despite the fact that Senator Dush and Committee members have not identified any evidence of voter fraud in that election.

227. Fraud investigations are the domain of the executive branch, and thus the search for election fraud does not serve any legitimate legislative purpose. *See Mazars*, 140 S. Ct. at 2032.

228. Further, there is no discernible reason—and the Committee has not articulated one—why the Committee must obtain the partial Social Security number, driver’s license number, address, and date of birth for more than nine million Pennsylvania voters to take legislative action.

229. Nor is the Committee’s investigation a genuine effort to assess “how the election code is working after the sweeping changes of Act 77 of 2020” and inform future legislation. Ex. C at 4:14-16.

230. In fact, Senators Corman and Dush—as well as other Committee and other state and national elected officials— have engaged in a prolonged, bad faith campaign to stoke distrust in Pennsylvania’s election administration.

231. Senator Dush has a long history of parroting former President Trump’s baseless allegations of widespread voter fraud, has sought to disenfranchise millions of Pennsylvanians by attempting to overturn the results of

the 2020 election, and has spent nearly a year promoting baseless conspiracy theories and allegations of widespread fraud in a blatant attempt to sow distrust in Pennsylvania’s elections and American democracy. *See supra* ¶¶ 72–132.

232. The Subpoena cannot be divorced from the effort by former President Trump and his supporters, including Senators Corman and Dush, to promote distrust in the 2020 presidential election generally, and the results of Pennsylvania’s election particularly. *See supra* ¶¶ 72–132.

233. The demand for private, personal information of more than nine million Pennsylvania voters is disconnected from any legitimate legislative need.

234. Because the Subpoena is not in furtherance of a legitimate legislative purpose, it is unenforceable.

CLAIM IV
Declaratory Judgment and Injunctive Relief
(Outside the Committee’s Subject Matter Area and
Issued Without Authority)

235. Petitioners reallege and incorporate by reference the preceding allegations in this Petition as if fully set forth herein.

236. Pennsylvania’s Senate Rules authorize each Standing Committee “[t]o maintain a continuous review of the work of the Commonwealth agencies concerned with their subject areas and the performance of the functions of government within each such subject area.” Pa. Senate Rule 14(d)(1).

237. The Senate established the Committee in a 2011 resolution amending the Rules of the Senate. *See* Pennsylvania Senate Resolution No. 45, Session of 2011 (Feb. 28, 2011). As former Senate President Pro Tempore Joe Scarnati explained ahead of the Resolution, the new Committee on Intergovernmental Operations would allow for intensive review of plans to overhaul state agencies or to redirect their operations.⁸⁹

238. Senator Lloyd Smucker, the first Committee Chair, echoed this scope, announcing that the Committee would “have jurisdiction over proposals to restructure state government, such as consolidating state agencies, with the purpose of cutting costs and improving efficiency.”⁹⁰

239. Senator Mastriano—a current Committee member and its former Chair—has acknowledged the limited focus of the Committee, describing it as focused on “review[ing] proposals aimed at reducing red tape, streamlining government operations, enhancing government transparency and reforming the state’s regulatory code.”⁹¹

⁸⁹ *Senator Smucker Named Committee Chairman*, States News Service (Jan. 4, 2011).

⁹⁰ *Id.*

⁹¹ *See* Sen. Doug Mastriano, *Mastriano Reappointed Chair of Senate Intergovernmental Operations Committee* (Jan. 13, 2021), <https://senatormastriano.com/2021/01/13/mastriano-reappointed-chair-of-senate-intergovernmental-operations-committee/>.

240. A review of Committee votes since its inception also demonstrates that its authority and expertise does not extend to elections. Until issuance of the Subpoena for election records, the Committee had never taken a vote that concerned Pennsylvania voting and election procedures in the nine years of its existence.⁹²

241. By comparison, the State Government Committee has held four Committee votes in 2021 alone that involve voting and election procedures.⁹³ This is consistent with the long-standing understanding that election matters fall under the jurisdiction of the State Government Committee, and consistent practice of referring such matters to that committee.

⁹² See Senate Committee Roll Call Votes: Intergovernmental Operations 2011 – 2012 Regular Session, <https://www.legis.state.pa.us/cfdocs/legis/RCC/PUBLIC/listVotes.cfm?SPick=20110&chamber=S&cteeCde=57> (five votes in 2012); Senate Committee Roll Call Votes: Intergovernmental Operations 2013 – 2014 Regular Session, <https://www.legis.state.pa.us/cfdocs/legis/RCC/PUBLIC/listVotes.cfm?SPick=20130&chamber=S&cteeCde=57> (four votes in 2013-14); Senate Committee Roll Call Votes: Intergovernmental Operations 2015 – 2016 Regular Session, <https://www.legis.state.pa.us/cfdocs/legis/RCC/PUBLIC/listVotes.cfm?SPick=20150&chamber=S&cteeCde=57> (two votes in 2015-16); Senate Committee Roll Call Votes: Intergovernmental Operations 2017 – 2018 Regular Session, <https://www.legis.state.pa.us/cfdocs/cteeInfo/index.cfm?Code=57&CteeBody=S&SessYear=2017> (no votes in 2017-18); Senate Committee Roll Call Votes: Intergovernmental Operations 2019 – 2020 Regular Session, <https://www.legis.state.pa.us/cfdocs/legis/RCC/PUBLIC/listVotes.cfm?SPick=20190&chamber=S&cteeCde=57> (eight votes in 2019-20); Senate Committee Roll Call Votes: Intergovernmental Operations 2021 – 2022 Regular Session, <https://www.legis.state.pa.us/cfdocs/legis/RCC/PUBLIC/listVotes.cfm?SPick=20210&chamber=S&cteeCde=57> (six votes in 2021).

⁹³ See Senate Committee Roll Call Votes, Senate of Pennsylvania Session of 2021 - 2022 Regular Session, Recent Committee Roll Calls: State Government 2021 – 2022 Regular Session, <https://www.legis.state.pa.us/cfdocs/legis/RCC/PUBLIC/listVotes.cfm?SPick=20210&chamber=S&cteeCde=41> (reflecting votes on legislation amending the Pennsylvania Election Code and provisions of the Pennsylvania Constitution regarding electors).

242. The Senate President Pro Tempore consistently designates the State Government Committee as the standing committee responsible for reviewing regulations related to the Department of State. *See, e.g.*, 51 Pa. B. 775 (Feb. 13, 2021); 49 Pa. B. 597 (Feb. 9, 2019). Furthermore, the Department of State regularly works with and reports to the State Government Committee on election and voting matters. *See, e.g.*, 25 Pa. Stat. § 2627; 71 Pa. Stat. § 279.6.

243. A legislature’s internal rules are enforceable. *See, e.g., Barenblatt v. U.S.*, 360 U.S. 109, 116 (1959). And it is fundamental that a Senate committee’s investigative authority is tied to the scope of the authority vested in it by the Senate. *See Watkins*, 354 U.S. at 206.

244. When evaluating subpoenas issued by a legislative committee, courts properly consider “whether the inquiry is within the authority of the issuing party.” *Lunderstadt*, 513 Pa. at 242. Legislative committees “are not to set themselves up as courts or grand juries rather than as entities intended to investigate and report on conditions for the information of members of the legislature.” *Id.* at 245; *see also McGinley v. Scott*, 401 Pa. 310, 323 (1960) (“[L]egislative investigations must be kept strictly within their proper bounds if the orderly and long-established processes of our coordinate branches of government are to be maintained.”).

245. The Intergovernmental Operations Committee is not responsible for voting and elections; this responsibility lies with the State Government Committee.

Instead, the Intergovernmental Operations Committee is tasked with overseeing agency regulatory activity, with a particular focus on matters related to the Regulatory Review Act.

246. The Subpoena is unenforceable because elections are outside the Committee’s subject area and the Intergovernmental Operations Committee did not have authority to issue the Subpoena.

CLAIM V
Declaratory Judgment and Injunctive Relief
(Unlawful Demand for Critical Infrastructure Information)

247. Petitioners reallege and incorporate by reference the preceding allegations in this Petition as if fully set forth herein.

248. Federal law, including the Critical Infrastructure Information Act of 2002, 6 U.S.C. §§ 671-674, and the USA PATRIOT Act, 42 U.S.C. § 5195c, protect critical infrastructure and critical infrastructure information.

249. “Critical infrastructure” is “systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters.” 42 U.S.C. § 5195c.

250. In January 2017, the U.S. Department of Homeland Security designated election systems as critical infrastructure.

251. “Critical infrastructure information” is “information not customarily in the public domain and related to the security of critical infrastructure or protected systems,” including information about “infrastructure or protected system to resist [] interference, compromise, or incapacitation, including any planned or past assessment, projection, or estimate of the vulnerability of critical infrastructure or a protected system, including security testing, risk evaluation thereto, risk management planning, or risk audit.” 6 U.S.C. § 671(3).

252. The Protected Critical Infrastructure Information (PCII) Program protects critical infrastructure information from public disclosure. 6 U.S.C. § 673.

253. If a State has voluntarily submitted critical infrastructure information as part of the PCII Program and the submission is not in lieu of compliance with any regulatory requirement, then the information cannot (1) be made available under any State or local public records law, (2) be disclosed or distributed to any party without written consent of the person or entity submitting the information, or (3) “be used other than for the purpose of protecting critical infrastructure or protected systems, or in furtherance of an investigation or the prosecution of a criminal act.” 6 U.S.C. § 673(a)(1)(E).

254. Paragraph 16 of the Subpoena demands critical infrastructure information that the Department has properly submitted to the U.S. Department of Homeland Security under the PCII Program.

255. Because paragraph 16 of the Subpoena demands PCII, those records are protected from disclosure by federal law. The records can only be accessed in accordance with strict safeguarding and handling requirements, and only by those with an absolute need to know in order to perform homeland security duties.

256. The Committee is not authorized to access PCII. It does not perform homeland security duties and it is not requesting the information for the purpose of protecting critical infrastructure. Nor has the Committee implemented basic protocols to safeguard the security and privacy of information requested in the Subpoena.

257. The Subpoena is unenforceable to the extent it demands PCII in violation of federal law.

CLAIM VI
Declaratory Judgment and Injunctive Relief
(Unlawful Demand for Material Protected by
the Deliberative Process Privilege)

258. Petitioners reallege and incorporate by reference the preceding allegations in this Petition as if fully set forth herein.

259. Under the deliberative process privilege, government agencies may withhold “confidential deliberations of law or policymaking, reflecting opinions, recommendations or advice.” *Comm. v. Vartan*, 557 Pa. 390, 399 (1999) (quoting

Redland Soccer Club, Inc. v. Dep't of the Army of the United States, 55 F.3d 827, 853 (3d Cir. 1995)).

260. The deliberative process privilege exists “to allow the free exchange of ideas and information within government agencies.” *Vartan*, 557 Pa. at 399. As a result, it “benefits the public, and not the officials who assert the privilege.” *Id.* at 400.

261. The Subpoena demands “all reports of audits and/or reviews of the SURE system conducted by or for the Department of State between 2018 and the present.” Ex. D at 2, ¶ 16.

262. Included within the scope of this request may be confidential reviews and audits, prepared for the purpose of considering future changes to the SURE system, as well as discussions about these potential changes.

263. The Subpoena also demands a “copy of each and every version of all directives, guidance(s), policies, or procedures in effect at any time between August 1, 2020 and June 30, 2021 relating to elections, election systems, mail-in ballot applications, ballots, voting, compliance with state or federal election laws, polling places, and/or poll watchers.” Ex. D at 1, ¶ 2.

264. Although the best reading of paragraph 2 refers only to final directives, guidance, policies, and procedures, the Committee may intend the Subpoena to reach draft documents and discussions about those drafts.

265. Materials covered by paragraphs 2 and 16 are deliberative in character and that were made before the relevant deliberative process was completed. As a result, those materials are protected by the deliberative process privilege.

266. The Subpoena is unenforceable to the extent it seeks the production of material protected by the deliberative process privilege.

CLAIM VII
Declaratory Judgment and Injunctive Relief
(Overbreadth)

267. Petitioners reallege and incorporate by reference the preceding allegations in this Petition as if fully set forth herein.

268. The Subpoena demands production of seventeen separate categories of information and is overly broad and unduly burdensome.

269. Of the categories, eleven demand records, including private, personal information about Pennsylvania voters. Ten of these requests would require production of millions of such records, while the eleventh would require generating a non-existent compilation of information.

270. The Committee has not demonstrated why its investigation justifies the production of such an enormous volume of private, personal data.

271. The Subpoena is therefore unenforceable.

PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully request that the Court order the following relief:

- (A) Declare that the Subpoena *Duces Tecum* issued by the Pennsylvania State Senate Intergovernmental Operations Committee on September 15, 2021 is invalid and unenforceable because it:
 - i. Was not issued for a legitimate legislative purpose;
 - ii. Concerns matters outside the Intergovernmental Operations Committee’s subject matter area;
 - iii. Was issued without probable cause to seek information in which Pennsylvanians have a reasonable expectation of privacy;
 - iv. Demands information protected by the deliberative process privilege; and
 - v. Is overbroad.

- (B) Declare that compliance the Subpoena *Duces Tecum* issued by the Pennsylvania State Senate Intergovernmental Operations Committee on September 15, 2021 would:

- i. Violate the informational privacy rights of the more than nine million registered voters in Pennsylvania under Article I, Section 1 of the Pennsylvania Constitution;
- ii. Violate the guarantee that elections shall be free and equal under Article I, Section 5 of the Pennsylvania Constitution;
- iii. Interfere with the free exercise of the right of suffrage, in violation of Article I, Section 5 of the Pennsylvania Constitution;
- iv. Violate the fundamental right to vote under the First and Fourteenth Amendments of the U.S. Constitution; and
- v. Violate 6 U.S.C. § 673, prohibiting the disclosure of Critical Infrastructure Information.

(C) Enjoin Respondents from taking any further action to enforce the Subpoena *Duces Tecum* issued on September 15, 2021.

(D) Grant such other relief as is appropriate.

Dated: September 23, 2021

Respectfully submitted,

Josh Shapiro
Attorney General
Commonwealth of Pennsylvania

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/s/ Michael J. Fischer

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Attorneys for Petitioners

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

Dated: September 23, 2021

Josh Shapiro
Attorney General
Commonwealth of Pennsylvania

/s/ Michael J. Fischer

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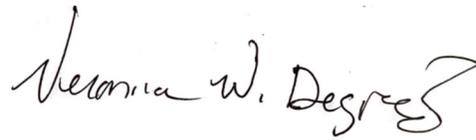
Attorneys for Petitioners

VERIFICATION

I hereby verify that the statements made in the foregoing Petition for Review are true and correct based upon my personal knowledge or information and belief.

I understand that false statements therein are subject to penalties of 18 Pa. Con. Stat. § 4904, relating to unsworn falsification to authorities.

September 23, 2021



Veronica Degraffenreid
Acting Secretary of the Commonwealth

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing document upon the following persons by certified mail, which service satisfies the requirements of

Pa.R.A.P. 121:

Senator Cris Dush
16 East Wing, Main Capitol
Harrisburg, PA 17120-3025

Senator Jake Corman
Room 350 Main Capitol Building
Harrisburg, PA 17120-3034

c/o Senator Jake Corman, Senate President Pro Tempore
Senate Intergovernmental Operations Committee
350 Main Capitol Building
Harrisburg, PA 17120-3034

c/o Senator Cris Dush, Committee Chair
Senate Intergovernmental Operations Committee
16 East Wing, Main Capitol
Harrisburg, PA 17120-3025

September 23, 2021

/s/ Michael J. Fischer

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EXHIBIT A



Senate Committee on Intergovernmental Operations

Senator Doug Mastriano

Chair

Senate Box 203033 • Harrisburg, PA 17120-3033 • (717) 787-4651 • www.senatormastriano.com

TO: City Commissioner Lisa Deeley
Philadelphia County Board of Elections
1400 John F Kennedy Blvd, Room 130
Philadelphia, PA 19107

CC: Al Schmidt, Vice Chair, Philadelphia City Commissioners
Veronica Degraffenreid, Acting Secretary, Department of State

FROM: Senator Doug Mastriano

DATE: July 7, 2021

SUBJECT: Request for Information Pertaining to the 2020 General Election and 2021 Primary Election

Chairwoman Deeley,

A combination of legislative updates to the election code, the COVID-19 pandemic, actions by our Secretary of State in October and November, and late decisions by the Supreme Court of Pennsylvania presented unprecedented challenges and substantive changes to our Commonwealth's election process in 2020. These factors combined to cause a great burden on counties and county officials during the general election cycle.

Additionally, this was the first election in Pennsylvania with "mass" mail-in voting. In 2020, there were 2.7 million ballots cast by mail and absentee compared to about 263,000 absentee ballots cast in 2016. Many of these ballots were counted at offsite locations with limited outside observation or oversight. Furthermore, mail ballots without signature verification were permitted to be counted across the Commonwealth.

The damage to the integrity and confidence in our election process will not be undone with the passing of time. I believe the only way to restore confidence in our Commonwealth's election process is to undertake a forensic investigation of the election results. By doing this, faith in our election system will be restored.

The case for a forensic investigation of election results is well-defined.

In the weeks leading up to the election, the Pennsylvania Department of State repeatedly altered the manner in which Pennsylvania's election was conducted. The constantly changing guidance delivered to counties contradicted Election Code language that the department is obligated to uphold. Those who voted in person were held to a higher standard than those who mailed in their ballots. Signatures required for mail-in ballots were rendered meaningless as the PA Supreme Court ruled that ballots could not be rejected based on an analysis of the voter's signature.

On September 17th, the PA Supreme Court ruled that counties had to count ballots received up to three days after Election Day.

A week before the election, the Department of State told the U.S. Supreme Court that ballots received after 8 p.m. on November 3rd would be segregated. But the department changed the rules two days before the election and directed counties to canvass those ballots as soon as possible upon receipt. The U.S. Supreme Court had to eventually step in and order the counties to segregate the ballots.

Just hours before the polls opened on November 3, the department changed the rules again by providing last-second guidance on how to help voters whose mail-in or absentee ballots were incorrectly completed. The late release of this "guidance" resulted in inconsistent application across the Commonwealth. Some counties contacted voters as directed and while others did not. There was no basis for that guidance in current or case law.

The fundamental changes to the manner and conduct of the election undermined the faith of our citizens. A January poll from Muhlenberg University showed that 40% of Pennsylvania voters are not confident that the final results of the 2020 Election accurately reflected how Pennsylvanians voted. It is critical to the health of our Republic for people to trust in the election system.

Election process problems were not limited to 2020. During the May Primary, multiple poll locations ran out of their supply of ballots. This occurred even though counties are required to print at least 10% more ballots than the highest number of votes cast in any of the previous three municipal primary elections. In some precincts, voting machines improperly labeled the headers of Republican ballots as Democrat while the GOP races still appeared. In one county, a "printing issue" caused both Democratic and Republican ballots to be rejected. These errors occurred in a lower-turnout election, where mistakes should be least likely to occur.

The Intergovernmental Operations Committee is a standing committee of the Pennsylvania State Senate with oversight and investigatory responsibilities regarding activities relating to or conducted between two or more governments or levels of government, including the administration of elections across the Commonwealth.

As set forth in Pennsylvania Senate Rule 14 (d), each standing committee is empowered with the authority to inspect and investigate the books, records, papers, documents, data, operation, and physical plant of any public agency in this Commonwealth, including county boards of elections.

As the Chair of the Intergovernmental Operations Committee and in accordance with the Pennsylvania Constitution and the rules of the Senate of Pennsylvania, I request the items outlined in "Exhibit A" as part of the Committee's investigative authority.

The items requested by this committee are sufficiently specific and the items sought are reasonably relevant to its investigation of the 2020 General Election and 2021 Primary.

The Supreme Court of Pennsylvania has consistently recognized that the legislative branch's "power to investigate is an essential corollary of the power to legislate. The scope of this power of inquiry extends to every proper subject of legislative action." (Carcaci v. Brandamore)

Further, as stated in McGinley v. Scott, "The right to investigate in order to acquire factual knowledge concerning particular subjects which will, or may, aid the legislators in their efforts to determine if, or in what manner, they should exercise their powers, is an inherent right of a legislative body."

A thorough investigation is necessary for the General Assembly to adequately consider future legislation to reform and amend Pennsylvania's Election Code. This includes, but is not limited to; in-person voting, mail

ballot voting, absentee ballot voting, voter registration, voter identification, ballot collection facilities, inspection rights during the canvassing of ballots, election machine security, mail and absentee ballot security, information technologies, infrastructure and controls, and election integrity.

I request that you provide, and permit inspection, testing, or sampling of the items identified in the attached "Exhibit A" to the Intergovernmental Operations Committee.

In addition, please instruct all employees of the Commissioner's Office to cooperate and, if requested, participate, under the direction of the Intergovernmental Operations Committee, or its designees, in the inspection, testing, or sampling of the items.

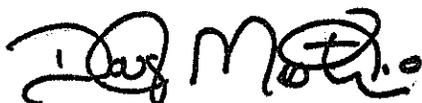
Please respond declaring that the Commissioner's Office will plan to comply with the Senate Intergovernmental Operations Committee's request by **July 31, 2021** with a proposed timeline regarding inspection, testing, or sampling of items.

A subpoena may be issued if a plan to comply with the requests of this letter and Exhibit A is not presented to the Intergovernmental Operations Committee within the stated period of time. The Intergovernmental Operations Committee is open to considering any requests that you may have to facilitate transport and maintain the security of responsive materials.

A forensic investigation of election results and processes for the 2020 General Election and 2021 Primary will go a long way toward restoring trust and support in our system. Voting is the bedrock of American virtue and the most fundamental right of all citizens. We should continually look for ways to improve the voting process to ensure our elections are secure and accurate.

I look forward to your response and full cooperation in assisting the Intergovernmental Operations Committee to review and improve Pennsylvania's election process.

Sincerely,

A handwritten signature in black ink that reads "Doug Mastriano". The signature is written in a cursive, slightly stylized font.

Doug Mastriano
State Senator, 33rd District
Chair, Intergovernmental Operations

Exhibit A

Pertaining to the November 2020 General Election and May 2021 Primary, the Intergovernmental Operations Committee requests access to the following books, letters, or other documentary evidence from your county for the purpose of forensic analysis:

1. All ballot production, processing, and tabulation equipment from satellite election offices and any other location used to count votes.
2. The software and bootable media, hardware tokens (security keys) for the equipment described in item #1, and the election management system that was used.
3. Forensic images of all election equipment:
 - Servers – Election management server, file servers, network servers, dial-up servers, or any other server utilized for the processing or storage of election results or data required to run an election.
 - Tabulators – high speed and normal speed
 - Ballot marking devices – including accessibility, or for normal voting
 - Desktops & laptops – Utilized within the Election Management System for any purpose including but not limited to: EMS Client, adjudication, registration, creation of ballots or designs, processing results, uploading results or anything similar
 - Signature matching and ballot sorting equipment
 - Switches, routers or other network equipment – This includes normal networking equipment as well as any specialized systems such as Intrusion Detection Systems, Firewalls, Intrusion Prevention Systems or similar
4. Forensic images of all removable media (including, but not limited to USB thumb drives, external hard drives, backup tape cassettes, memory cards, PCMCIA cards, Compact Flash, CD/DVD or similar) used as part of the election process or to load software, configuration, or programming.
5. Forensics images of the firmware of any device associated with the election that does not have a hard drive; including any tooling required to extract that firmware, if applicable.
6. Forensic images of all SIM cards used for wireless 3G/4G LTE/5G communications.
7. Forensics on all machines utilized for absentee ballot processing to include:
 - All logs from the system
 - Backups of the system
 - Offsite cloud storage associated with the system
 - Media used to transfer data (USB drives, compact flash, external hard drives)
8. Logs from all routers, switches, firewalls, IDS, IPS or similar devices. This includes, but is not limited to:
 - Netflows (or equivalent)
 - DHCP logs
 - Access logs
 - VPN logs
 - PPP logs
 - RDP logs
 - Splunk logs

- Any remote administration tool logs

9. Logs from all computer systems, servers, desktops, laptops, or similar including but not limited that was used in the design, management, and running of the election:

- Windows Event logs
- Access logs
- Firewall logs
- IDS / IPS / Malware / Virus Scan Logs
- Database logs
- All logs generated from applications associated in any way with the election

10. Logs from all EMS Server(s), EMS Clients, tabulators, ballot marking devices, ballot on demand printers, scanners, voting systems, or other election equipment including, but not limited to:

- Error logs
- Access logs
- Debug output
- Audit logs
- Administrator logs

11. Election Log Files XML, EML, JSON, DVD and XSLT other election files and logs for:

- Tabulators
- Result pair resolution
- Result files
- Provisional votes
- RTM logs
- SQL database files and logs
- Signature checking & sorting machine

12. List of all IP addresses utilized at any location where election equipment was utilized during the entire election period. This includes the time from when the election equipment was ready to receive a cast ballot to when the certified results were officially published. This shall include, but is not limited to:

- IP addresses of any cellular modems utilized by voting equipment
- IP addresses of any routers utilized at any location where votes were cast, counted, tallied, or reported
- IP addresses of any dial-up connections utilized
- IP addresses of any computers utilized to process, send or upload election results

13. Access or control of ALL routers, tabulators or combinations thereof (some routers are inside the tabulator case) in order to gain access to all the system logs.

14. Election Settings:

- Ranked profiles and entire change history of audit trail logs
- Ranked contests and entire change history audit trail logs
- Rejected ballots report by reason code
- All configuration files utilized to control the election

15. Accounts and Tokens:

- Username & Passwords (Applications, Operation Systems, Routers, Switches, Firewalls, etc)
- File and/or Harddrive Encryption Passwords or keys (Bitlocker, Veracrypt, Etc)
- Security Tokens (iButton, Yubikey, SmartCard, Etc)

16. ES&S Express VoteXL Specific:

- All Paper Vote Summary Cards
- All USB Flash Drives

17. Voter Rolls:

- Database of voter rolls
- Forensic Image of computer/device used to work with voter rolls
- Copy of media device used to transfer voter rolls

18. Records required from the voting system- Daily and cumulative voter records for those who voted with sufficient definition to determine:

- Voter's name and Registered Voting address
- Address for correspondence (mailing address)
- D.O.B.
- Voter ID number
- How Voted (mail, in-person early, in person Election Day)
- Where Voted (if applicable)
- Date voted (if applicable)
- Party affiliation (if recorded)
- Ballot by mail Request Date
- Ballot by mail sent date
- Ballot by mail voted date (if applicable)
- Ballot cancelled date (if applicable)
- RAW, HTML, XHTML and SVG files (Ballot Images)

19. Access needed to physically and forensically examine all date and time-stamped paper ballots as required:

- Voter Tally Paper Rolls, Test Ballots, Ballot Test Matrix

20. Paper samples from all ballot paper utilized during the 2020 election cycle.

21. All ballots cast or attempted to cast during the 2020 General Election. This includes, but is not limited to:

- Mail in and absentee ballots
- Provisional Ballots
- Early Voting Ballots
- Accessibility Ballots
- Spoiled Ballots
- UOCAVA ballots
- Election Day Ballots

22. All request forms for mail ballots and absentee ballots.

23. All envelopes for mail in and absentee ballots.

24. All reports detailing all ballots that were rejected prior to election day and the process to contact the voter to cure the ballot.

25. All cartridges from all voting machines and scanners.

26. All affidavits for assistance.

27. All envelopes of requested ballots that were returned as undeliverable.

28. All training materials used to train County Employees including temporary employees, Judges of Election, Inspectors, Clerks, and all persons who staffed the satellite voting offices.
29. All duplicated ballots and all logs that would allow the duplicate to be compared to the original.
30. Chain of custody records and procedures for all ballots from the start of the election through the current date.
31. All pollbooks from all precincts, wards, and divisions.
32. All supplemental pollbooks from all precincts, wards and divisions.
33. A list of all voters who cast an absentee or mail ballot and voted on the machines at the polls on Election Day.
34. All contracts and agreements between the Philadelphia Commissioners Office and the City of Philadelphia Office of Innovation and Technology.
35. All contracts and agreements between the Philadelphia Commissioners Office and the City of Philadelphia Office of the Managing Director.
36. All contracts and agreements between the Philadelphia Commissioners Office and the City of Philadelphia Office of the Mayor including all Departments under the direction of the Mayor.
37. All contracts and agreements between any vendor or contractor that supplies voting equipment of any type, software utilized in the election process, ballot paper, election design support, election equipment support, or election support. This includes, but is not limited to contracts dealing with:
 - Ballot Marking Devices, Tabulators, Election Management Systems, or similar
 - Election Design Software, Tabulation Software, Voting Registration Software, Duplication Software, Adjudication Software, Signature Verification Software, or anything similar related to the election
 - Ballot Paper, Printing Services, Mailing Services, Scanning Services, Address Validation Services
 - Election Design Services, Election Equipment Repair, Election Equipment Service, Election Processing, or other Election support services
 - Internet service provider, cellular service provider
38. Timeline (1 month prior to the election to 1 month after the election) for each location that utilized a piece of election equipment that includes:
 - Who accessed the equipment (the organization they represent and their position in the organization), on what date, for what purpose, what electronic media was used, and what records were kept
 - Any tests that were performed during the access of the equipment (voters on election day are not to be included)
39. A complete end-to-end election setup for use in a laboratory:
 - This would include all the equipment necessary to simulate an election and recreate the precise scenarios of election day in 2020
 - Central Server, tabulators (high speed and normal), poll pads, etc.
 - This specifically includes all of the passwords, security tokens, physical keys, key fobs, etc., needed to use each piece of equipment
 - Instruction manuals on how to use the end-to-end setup
 - Duplicate copy of election tabulator bootable media for multiple selected locations
 - Ballots used in the locations selected

40. All precincts return sheets with the paper tapes:
 - Any return sheets that were unusable, needed to be recreated, or fixed in somehow should also be included with their notes (front and back)
41. Dates/times of the technicians/people of LAT testing that had access to election equipment.
42. Dates/times of software updates on election computers and servers.
43. Dates/times of certification of the equipment (servers, election computers, election hardware devices).
44. Details of all CTCL related activities, included but not limited to:
 - Equipment purchased by CTCL
 - Number and locations of drop boxes installed
 - List of resources CTCL had access to, including voter rolls or other data
45. Details and data surrounding the SURE system including:
 - A full copy of the database holding all records and change records in the SURE system
 - A copy of all logs showing all changes to the voter rolls as well as the username, name, IP address, or other details of the individual making the change
 - A list of individuals and organizations with access to the SURE system and any of its Application Programming Interfaces
 - Manuals and programmer documentation for interfacing with the SURE system
46. List of where the clerk stores all election equipment and data along with list of individuals that have access to these areas.
47. Information related to voting system design, architecture, and configuration.
48. Information pertaining to cybersecurity protocols and settings put into place.

EXHIBIT B

Page 1

TRANSCRIPTION OF
PUBLIC HEARING ON THE INVESTIGATION OF THE 2020
GENERAL ELECTION AND THE 2021 PRIMARY ELECTION
SEPTEMBER 9, 2021

REPORTED BY: MARICOPA REPORTING, INC.
SOMMER E. GREENE, RMR 8686 E. SAN ALBERTO, #300
CERTIFIED COURT REPORTER SCOTTSDALE, ARIZONA 85258
CERTIFICATE NO. 50622 480.597.4744

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1 SEPTEMBER 9, 2021
2
3
4
5 SENATOR DUSH: I now call this public
6 hearing of the Senate Intergovernmental Operations
7 Committee to order.
8 Today, we will be hearing testimony
9 regarding the Pennsylvania Department of State's
10 last-minute guidance before the 2020 general
11 election. Today's hearing and the investigation we
12 are conducting in this committee are not about
13 President Trump as some have -- as some reports in
14 the news have implied.
15 This investigation is not about
16 overturning the results of any election, as some
17 would suggest. That horse is out of the barn as
18 far as this investigation is concerned.
19 Rather, this investigation is about
20 looking intensely into the general election held
21 November 2020 and the primary election held in May
22 of 2021, to evaluate our election code is working
23 and to confirm whether or not these things and
24 their worth -- if there were things that need to be
25 changed in the law to make our elections run better

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1 for everyone.
2 It's particularly important that we
3 perform these reviews as an aid in determining --
4 determining if legislative changes are necessary
5 now because the 2020 general election and '21
6 primary represent some of the first elections under
7 Act 77 of 2020 and Act 12 of 2021. I don't believe
8 anyone would argue that Act 77 significantly
9 changed how Pennsylvania conducts its elections at
10 the municipal, county, and state levels of
11 government.
12 Consequently, the impacts and execution
13 of our election code must be looked in -- looked at
14 to determine if further legislation is needed to
15 correct any ambiguous sections, confusing sections,
16 and/or sections that our sister branch of
17 government deemed unconstitutional. That is our
18 job as the legislative branch.
19 However, some of our fellow
20 Pennsylvanians may not clearly understand why this
21 is our job as the legislative branch and, more
22 specifically, why this committee was selected to
23 conduct this investigation. Those are appropriate
24 questions.
25 In fact, the first question, which must

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1 be asked and answered in the affirmative by any
2 governmental authority is, do we have the authority
3 to take this action?
4 The initial part of this hearing will
5 lay out that authority to the people of the
6 Commonwealth so that if someone asked that question
7 in the future, all one has to do is refer the
8 questioner to the video of this hearing.
9 The Pennsylvania senate's authority,
10 responsibility, and organization are primarily
11 governed by four documents; three of which are
12 specific to Pennsylvania.
13 These are the US Constitution, the
14 Pennsylvania Constitution, the Rules of the Senate
15 and Mason's Manual of Legislative Procedure.
16 For this investigation, we really start
17 with the Pennsylvania Constitution. And that's
18 appropriate. It is -- it is comprised of 11
19 articles or sections. The 11 articles are often
20 considered to be in order of importance, especially
21 the first several.
22 For instance, Article I is our written
23 Declaration of Rights as Pennsylvanians. We, the
24 people of Pennsylvania, wanted to make sure the
25 government we created could never overstep its

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1 given authority and never infringe upon this list
 2 of 29 precious rights. Unfortunately, most people
 3 don't realize that in Pennsylvania, we actually do
 4 have 29 enumerated rights listed clearly in our
 5 Constitution. I recommend everyone actually look
 6 up and see what your 29 rights as Pennsylvanians
 7 actually are.

8 Before we go further, let me quickly
 9 describe where the concept of our constitutional
 10 government come -- came from. You see, people have
 11 always had a dis- -- a distrust, rightly so, of
 12 those who have influence and authority over their
 13 daily lives. There is something within each and
 14 every American and Pennsylvanian that understands
 15 that those who have such power can possibly have
 16 motivations to abuse it to their own ends.

17 In the United States, the people
 18 understood this at our founding. They understood
 19 the inherent propensity in this fallen world for
 20 those who have power to seek even greater power,
 21 especially through government.

22 The system of checks and balances that
 23 this Republican form of government was set up in a
 24 manner in which acknowledges that inherent
 25 propensity, while also recognizing the need of

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1 having a civil government capable of protecting the
 2 rights of the individual.

3 The quote from Commentaries on the
 4 Constitution of Pennsylvania by Thomas Raeburn
 5 White, a book that I think everybody in the
 6 Commonwealth should get as part of their seventh
 7 grade civics course or Pennsylvania government
 8 course, the book most often cited by the
 9 Pennsylvania courts on constitutional principles
 10 under the law.

11 I quote, When the Declaration of
 12 Independence severed the bonds which joined the
 13 American colonies to the government of Great
 14 Britain, the sovereignty, formally exercised by the
 15 King and Parliament, descended upon the American
 16 people. As the ordinary governmental functions
 17 could not be exercised by the people acting
 18 directly, it became necessary for them to establish
 19 governments to which they could delegate certain of
 20 their powers, end quote.

21 Let me reemphasize two points in that
 22 comment.

23 One, sovereignty. One usually uses the
 24 term in regard to kings, emperors, Caesar, and
 25 other -- other monarchical governments -- monarchical

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1 government systems. Sovereigns make the rules.
 2 The people of America recognize that they were in
 3 the position of making the rules in America.

4 Second, they also realize that they
 5 could not all be making their own rules about how
 6 to -- they and their neighbors should interact with
 7 one another on a one-by-one basis, but needed some
 8 form of governance by which they could come to --
 9 to agreement on rules to solve this. They chose a
 10 Republican form of governance under covenants
 11 called constitutions.

12 Again, quoting from Commentaries, the
 13 definition of the term "constitution." Quote,
 14 Whatever may be the definition of constitution in
 15 its broad sense, in America, it is understood to
 16 mean a written instrument enacted by the people
 17 acting directly in their sovereign capacity.

18 Again, the people are the sovereigns.
 19 The sovereigns acting collectively make the rules.
 20 The sovereigns have chosen to use a covenant called
 21 the Constitution to set those rules in place.

22 Now, let's go back to the -- how the
 23 Senate is governed and how it derives its
 24 authority, responsibilities, and organizations.
 25 After declaring our rights in the first

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1 article, the most important articles, our ancestors
 2 in Pennsylvania set up the next most important
 3 thing in forming a government, the legislature.
 4 The legislature is the rules committee. The
 5 legislature is set up in Article II and the process
 6 of legislation is set up in Article III.

7 You see, the legislature makes all the
 8 laws or rules necessary for the government to
 9 function through being the cont- -- continual and
 10 most direct voice of Pennsylvanians within
 11 government.

12 Without the legislation making --
 13 without the legislature making the laws, there
 14 wouldn't be much of an organized functioning
 15 society able to sys- -- systematically function,
 16 economically settle disputes, and provide a safe
 17 place to live.

18 Immediately, in Article II and III, the
 19 Senate, along with the House of Representatives, is
 20 established and given the job of legislating,
 21 passing laws. It clearly states this is our job.

22 Now, forgetting for a moment all the
 23 serious concerns and some unfortunate jokes
 24 Pennsylvanians have about how good our lawmaking
 25 is, we do try our best to pass good laws. But as

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1 we all know from our everyday lives, in everything
 2 we do as humans, there is room for improvement;
 3 nothing is perfect.
 4 Sometimes, although we try to
 5 anticipate the effects of our laws and how they
 6 will work in as many different situations as
 7 possible, sometimes circumstances arise that we
 8 just can't anticipate. And in those situations,
 9 the law we've written may not be sufficiently
 10 developed to adapt to and accommodate those
 11 circumstances in a way that comports to our
 12 original -- original intent.
 13 Unfortunately, I think many
 14 Pennsylvanians will agree with this last point. We
 15 don't always see the impacts of the laws we create
 16 beforehand. We don't always see the second and
 17 third order impacts of what will happen before we
 18 make that vote.
 19 In those cases, we need to go back and
 20 investigate those impacts to improve the law. This
 21 is what we are doing here.
 22 The legislature did not fully see the
 23 impacts of 77 -- Act 77 and what they would do to
 24 our electoral system, particularly when combined
 25 with a pandemic and how the people of Pennsylvania

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1 would feel about it before it was passed. Now
 2 we're going back to take a look and see if anything
 3 needs to change.
 4 Some people will say that what I just
 5 explained is not enough to justify why our
 6 committee is doing what it's doing. So let me
 7 explain a little more about how the Senate operates
 8 and why the Intergovernmental Operations Committee
 9 is the lead -- is leading the Senate election
 10 investigation.
 11 In Article II, Section 11, entitled,
 12 Powers of Each House, in addition to what the
 13 Pennsylvania Constitution says about how the Senate
 14 should operate, it states that the Senate will also
 15 determine the rules of our proceedings. This is
 16 where the third document that govern -- governs the
 17 Senate comes into play, the Senate rules.
 18 Every session, the Senate votes to
 19 approve the rules, ru- -- rules which these days
 20 only change slightly from session to session. The
 21 current -- current 38 Senate rules are necessary to
 22 govern how day-to-day operations occur. Things
 23 that are important, but not so much that they need
 24 to be part of the Constitution.
 25 But since the consti- -- Constitution

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1 specifically states that each house of the General
 2 Assembly has the power to make their own rules and
 3 no other branch has the authority to dispute our
 4 rules and how the Senate operates, these rules are
 5 vitally important.
 6 The last document I mentioned that
 7 governs how the Senate operates really is an
 8 extension of the Senate rules and is also something
 9 the majority of America's state legislatures use to
 10 guide how they operate. It's Mason's Manual of
 11 Legislative Procedure.
 12 In fact, Senate Rule No. 26 states in
 13 summary that, whatever is not covered by our
 14 specific Pennsylvania Senate rules, Mason's Manual
 15 is the authority and our rule book.
 16 In fact, it is so well recognized to
 17 both the United States and the Pennsylvania Supreme
 18 Courts quote it as an authoritative voice or source
 19 in their decisions.
 20 So why are we here in the
 21 Intergovernmental Operations Committee?
 22 Well, Senate Rule 14 establishes what
 23 all of our committees will be for the session.
 24 Committees are smaller groups of senators that
 25 focus on specific areas of law or legislation.

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1 Currently, we have 22 committees. There is nothing
 2 specifically establishing a committee's
 3 jurisdiction, but we try to use commonsense names
 4 of committees to indicate what they are typically
 5 responsible for handling.
 6 For example, the Banking Insurance
 7 Committee regularly focuses on and is -- has
 8 responsibility for any legislation or legal matter
 9 regarding banking and insurance.
 10 It is the same concept for the Aging
 11 and Youth Committee and the Education Committee.
 12 We can guess, looking at their names, what top- --
 13 what topics are likely to come before them.
 14 The concept is no different for this
 15 committee. The Intergovernmental Operations
 16 Committee, although we can certainly understand if
 17 the general public might not immediately associate
 18 the committee's name with elections. However, the
 19 meaning of the Intergovernmental -- of
 20 intergovernmental is multiple levels of government
 21 and how they interact.
 22 So while our local government committee
 23 focuses just on municipal and county government
 24 issues, and our state government committee focuses
 25 on state government issues, an appropriate focus

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1 for the Intergovernmental Operations Committee is
 2 legislation and laws that involve multiple levels
 3 of government.
 4 I already mentioned how elections are a
 5 multilevel enterprise that runs the entire gamut of
 6 levels of government. Election law and execution
 7 of all federal, state, county, and municipal
 8 governments, which fits right into the definition
 9 of intergovernmental, multiple level -- levels of
 10 government.
 11 Now, we know why we're here in the
 12 Intergovernmental Operations Committee. But still,
 13 some people still might say we don't have the power
 14 to investigate elections.
 15 Well, according to our rules, whose
 16 power and authority comes directly from the
 17 Pennsylvania Constitution, we do.
 18 Senate Rule 14 governs committee
 19 actions. While there may be details contained in
 20 it, Rule 14 specifically states, the standing
 21 committee is authorized to require public
 22 officials -- "A standing committee is authorized to
 23 require public officials and employees and private
 24 individuals to appear before the standing committee
 25 for the purpose of submitting information to it."

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1 It goes on to say that this is necessary, as we
 2 discussed earlier, to enable us to write good and
 3 effective legislation because we need information
 4 to make the best decisions we can.
 5 This is also referred to as an
 6 investigation. It's not a criminal investigation,
 7 but rather an investigation to gather and study
 8 evidence on a particular topic. This hearing is on
 9 the impacts of Act 77 on the Pennsylvania
 10 elections.
 11 Going another step further, Mason's
 12 Manual, the countrywide recognized manual for
 13 legislative operations and the extension of our
 14 Senate rules, mentions legislation -- legislative
 15 investigations many times. In fact, Chapter 73 is
 16 an entire chapter dedicated to just how to conduct
 17 legislative investigations.
 18 Critical specific passages from Mason's
 19 Manual include Section 795, paragraph 1, "The right
 20 of the legislative body to make investigations in
 21 order to assist it in the preparation of wise and
 22 timely laws must exist as an indispensable incident
 23 and auxiliary to the proper exercise of legislative
 24 power."
 25 This has been recognized from the

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1 earliest times in the history of the US
 2 legislation, both federal and state, and from even
 3 earlier -- earlier epochs in the development of
 4 British jurisprudence.
 5 Mason's Manual Section 795, paragraph
 6 2, "The legislature has the power to investigate
 7 any subject regarding which it may desire
 8 information in connection with the proper discharge
 9 of its function to enact, amend or reveal statutes
 10 or to perform any other act delegated to it by the
 11 Constitution."
 12 Section 795, paragraph 13, "In the
 13 exercise of its power to make investigations, a
 14 legislature may incur reasonable necessary expenses
 15 payable out of the public funds."
 16 Section 757, paragraph 2, "Legislatures
 17 use several mechanisms to oversee the operation of
 18 the executive branch. These include program
 19 evaluation and performance auditing units, review
 20 and analysis of agency budgets, and review of
 21 administrative regulations."
 22 It cannot be disputed that elections
 23 are subject -- are a subject on which the
 24 legislation is appropriate. Our United States
 25 Constitution provides at Article I, Section 4, that

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1 at times -- that the times, places, and manner of
 2 holding elections for senators and representatives
 3 are to be prescribed by the state legislatures.
 4 Our Pennsylvania Constitution contains
 5 an entire article, Article VII, on elections and
 6 specifically contemplates in Section 6, the passage
 7 of laws, regulating the holding of elections,
 8 placing certain parameters on those laws, and
 9 specifying the General Assembly's role in the
 10 passage of those general laws on elections. This
 11 committee, therefore, is clearly gathering
 12 information on a subject on which the legislature
 13 is permitted to enact laws.
 14 So with all that being said, this is
 15 why we find ourselves here today. To -- continuing
 16 to investigate if our election laws are correct as
 17 written or if they need to be modified.
 18 Our big evidence that we need to be
 19 modified is the very fact that so many court cases
 20 were filed and litigated over the November 2020
 21 election. Most of these cases were filed because
 22 the parties alleged an ambiguity in the law that
 23 related to the -- that needed to be clarified and
 24 resolved for the operation of whatever -- whatever
 25 upcoming election existed.

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1 Our sister branch of government
 2 ultimately decided there were ambiguous --
 3 ambiguous sections, confusing sections and/or
 4 unconstitutional sections.
 5 Therefore, we're going to gather as
 6 much evidence as necessary to figure out what our
 7 election laws need to be and to restore the faith
 8 of Pennsylvanians in that election system.
 9 One last thing before I end my remarks.
 10 Subpoenas. There's been news,
 11 speculations and public arguments about subpoenas.
 12 As the chairman of this committee, it is my firm
 13 position with respect to subpoenas that we will
 14 follow the advice of counsel and longstanding
 15 Senate precedent in determining whether and when
 16 subpoenas are necessary. The power to issue a
 17 subpoena isn't unlimited and we must ensure sound
 18 legal footing before we proceed down that path.
 19 In addition, we must be ready, willing,
 20 and able to actually review and utilize
 21 meaningfully any information that we receive in
 22 response to our subpoenas. Having a hearing like
 23 this one that we're having today allows us the room
 24 to satisfy -- satisfy those consi- --
 25 considerations.

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1 Keep in mind, also, that the power to
 2 issue a subpoena is not held by one person. The
 3 issuance of a subpoena is a committee action.
 4 In conclusion, this committee
 5 appreciates the foundational work conducted by the
 6 bipartisan Senate Special Committee on Election
 7 Integrity and Reform chaired by Senators Langerholc
 8 and Street. We -- we will build on their excellent
 9 work, not repeat it.
 10 This committee also appreciates the
 11 foundational work of Representative Gross, House
 12 State Government Committee, and the report they
 13 produced summarizing their efforts.
 14 I now defer to Sen- -- Senator
 15 Williams, the Democratic Chair of the
 16 Intergovernmental Operations Committee to offer
 17 introductory remarks.
 18 SENATOR WILLIAMS: Thank you,
 19 Mr. Chairman. And thank you all for gathering here
 20 today.
 21 I'll say a majority of my life, my
 22 family and I have been involved in what we would
 23 consider the advancement of this country. That's
 24 not a perfect union. It, nonetheless, is a
 25 construct of perspectives' opinions in different

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1 types of human beings.
 2 Our family in particular admitted
 3 itself to this country generations ago. It's noted
 4 through its military service, its sacrifice in
 5 public service, and a variety of other means.
 6 I personally, through my childhood,
 7 experienced some of the greatest moments in the
 8 transition and evolution of this country during the
 9 civil rights movement. But not only people of
 10 color, but women, disabled, and veterans benefitted
 11 by extraordinary legislation and public policy
 12 which advanced this nation to truly include all
 13 Americans in the American dream.
 14 This is expressed singly and most
 15 importantly through one's right to vote. Democrats
 16 since the '60s have been very committed to the
 17 process of opening up the opportunity to express
 18 itself -- express one's self through the right to
 19 vote. Certainly, the historic legislation that
 20 allowed every individual, and particularly
 21 African-Americans, the right to vote in the '60s,
 22 up until currently advancing mail-in voting.
 23 Today, I'm almost in disbelief. I sit here mostly
 24 in frustration.
 25 I've been a member of the General

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1 Assembly for over 30 years. Two-thirds of that
 2 time has been in this body. In all my time here,
 3 through all the great victories and upsetting
 4 defeats, bipartisan breakthroughs and partisan
 5 obstructions, my resolve to work with whomever and
 6 however to help the people of this Commonwealth,
 7 the constituents in my district, as well as yours,
 8 achieve a better life has never wavered.
 9 What is occurring today is the exact
 10 opposite of that objective. What is happening here
 11 today is a travesty, plain and simple. This isn't
 12 about gathering information to help improve the
 13 election process and it certainly isn't about
 14 seeking truth on behalf of the citizens of
 15 Pennsylvania. This isn't even a real
 16 investigation. This exercise is one part of the
 17 ongoing nationally orchestrated attack on our
 18 electoral system.
 19 This is an attack on one of our
 20 greatest freedoms. It's an attack on our right to
 21 vote. This entire tragic charade has been going on
 22 for ten months now. Although, in actuality, the
 23 first seeds were planted even before the election
 24 took place last year. But here we sit, in
 25 September 2021, still giving oxygen to the big lie.

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1 Because as long as that lie exists, it will remain
 2 a rallying cry in the deceptive attempts to sow
 3 doubt in the minds of electorate and help promote
 4 changes to our electoral system that are partisan
 5 and create a system to overturn election results
 6 that are unfavorable -- unfavorable to one party.
 7 This sham review is not the pursuit of
 8 transparency. The goal is simply to stoke distrust
 9 and division with not just in our political
 10 families, but across this country. And the most
 11 exasperating part of it all is that everyone on
 12 this panel knows that, we know this, and you know
 13 this. And yet here we sit, witnessing the
 14 exploitation of the people out there who honestly
 15 believe that the lies they've been told about
 16 so-called irregularities and rigging is the basis
 17 of which is not founded in fact. Because they
 18 trust what they are told and by whom they are told.
 19 This is sad and it's wrong. Notwithstanding the
 20 sheer ruthlessness and cruelty of which I just
 21 described, let's go through the other reasons why
 22 this is such an appalling situation.
 23 While the rules of the Senate may seem
 24 tenuous -- tedious and sometimes admittedly
 25 archaic, they are rules. The rules are grounded in

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1 the ideals of openness and fairness and they aren't
 2 rules that we're just supposed to follow. They are
 3 rules that we as a body vote on and approve at the
 4 beginning of each legislative session. Underscore
 5 collectively vote upon these rules, including the
 6 committee structure and its purposes.
 7 Within these rules is the outline of
 8 our committee structure and what each specific
 9 committee struc- -- functions and jurisdiction is
 10 within the confines of our branch's role in the
 11 system of checks and balances.
 12 That leads me to here. Where I can
 13 tell you, as both the current ranking member of
 14 this committee and as a part of the ranking member
 15 of the state government committee, we have no
 16 authority to over- -- or oversight or subpoena
 17 power over -- over any election-related matters.
 18 We all know, at least those of us who
 19 know how to do our jobs and our obligation to
 20 our -- to our oath of office know, the state
 21 government committee oversees matters of elections
 22 and matters of election code.
 23 While it is our job to protect the
 24 people's right to vote and ensure the ballot access
 25 for all, this committee is operating out of its

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1 purview, and it's acting recklessly in that -- in
 2 that process, with only political motive in mind.
 3 We are fearful. This sets a dangerous
 4 precedent in which it becomes a super committee.
 5 And with self-appointed authority that has no
 6 checks and no balances and no limits.
 7 Another reminder I have for everyone is
 8 that Act 77, which includes the most significant
 9 updates to the Pennsylvania election code in
 10 decades, included provisions that allow for vote by
 11 mail. It was passed with overwhelming bipartisan
 12 votes in both chambers of the General Assembly.
 13 But now that they didn't get the result
 14 they wanted in only one race on the ballot, mind
 15 you, they're calling for an investigation that
 16 could potentially be used as an exercise to get rid
 17 of mail-in voting and other means that make voting
 18 more accessible to all citizens of Pennsylvania.
 19 There are legislators who filed suit
 20 just last week to have the law ruled
 21 unconstitutional and overturned. The very law,
 22 that of the 13, 11 voted for. I was involved as a
 23 Democratic chair of the state government committee.
 24 People fought tooth and nail to get that
 25 legislation passed as swiftly as possible so that

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1 provisions would be in place in time for the 2020
 2 election.
 3 The last time I checked, we support the
 4 freedom to vote. So why are senate republicans
 5 looking to disrupt that freedom with an anti-voter
 6 investigation? Voters pick the leaders. Our
 7 leaders do not pick which voters to hear and which
 8 voters to silence. This is making a mockery of
 9 that sacred right.
 10 The 2020 election has been litigated
 11 many times and each claim of any impropriety has
 12 been proven false. Multiple legitimate audits have
 13 been conducted and the election has been certified
 14 since late last year. The call for additional
 15 reviews of election results that have been audited
 16 multiple times and certified for over nine months
 17 only serves to challenge our values as
 18 Pennsylvanians.
 19 Audits at the -- at the -- the county
 20 level and state levels have already been conducted
 21 pursuant to state law. We do not need further
 22 evidence that our elections were properly
 23 administered and free of fraud, particularly
 24 through audits lacking any legal authority.
 25 All the facts clearly show that the

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1 election results were fair and valid. Over 50
 2 courts across the country, independently of one
 3 another, have examined these claims and found them
 4 to be completely baseless. And speaking of the
 5 2020 election results, half of the Senate was on
 6 that same ballot. Let me repeat. And in speaking
 7 of 2020 election results, half of the Senate,
 8 Republican and Democrat, was on the same ballot.
 9 Including a dozen Republican state senators who
 10 won -- who won reelection and other winning
 11 elections to the Senate for the first time and some
 12 who are on this committee. Yet one of them
 13 questions the integrity of these results.
 14 And least we not forget, for the first
 15 time in 60 years, Pennsylvanians elected
 16 Republicans to the post of state treasurer,
 17 defeating an incumbent Democrat, an auditor
 18 general, and came within reach of out-sitting a
 19 sitting Democratic Attorney General.
 20 This is not a sign of a stolen
 21 election. This is a betrayal of a sacred trust.
 22 This is about the big lie that may have been begun
 23 by feeding into the whims of a former president
 24 that has quickly spread like wildfire throughout
 25 this country and it's corrupting our discourse and

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1 retribution is sought at all levels of elected
 2 office.
 3 But if you don't want to believe me,
 4 because my candidate was on the winning side of the
 5 election, take it from the reputable Republicans,
 6 reputable Republicans who stand firmly with this
 7 truth.
 8 This ill-conceived investigation is
 9 also a gross misuse of taxpayers' money for
 10 political purposes. Wasteful spending by counties
 11 being forced to chase a basic conspiracy -- basis
 12 conspiracy theory is no way to use taxpayers'
 13 money.
 14 Further unnecessary investigations are
 15 going to be expensive and a waste.
 16 And speaking of counties who may be
 17 strapped with this burden, just a few days ago,
 18 Senate Republicans could not even cite which
 19 counties their investigations would focus upon.
 20 Again, no one is looking for the
 21 answers to made-up problems that are dangling in
 22 front of the people. Those answers don't exist
 23 because this is a sham. It's all just perpetuating
 24 a lie to get as many people upset and as confused
 25 to the point where they are too turned against --

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1 too turned off about the process to participate or
 2 worse. You fall into the category of those who are
 3 trying to disenfranchise under the ruse of election
 4 security reforms.
 5 Instead of a sham investigation being
 6 conducted on the big lie, we encourage our
 7 colleagues to focus on real election improvements.
 8 And our counties are pleading for -- to -- are
 9 pleading for us to assist them in carrying our
 10 elections more efficiently and inclusively. Both
 11 Democratic and Republican counties are asking for
 12 precanvassing of mail-in ballots. Democrat and
 13 Republican counties are asking for drop-box
 14 security. Democrat and Republican counties are
 15 asking for sufficient resources to support poll
 16 workers. Democrat and Republican counties are
 17 asking for new technology requirements. These
 18 calls are not new. Counties have been asking for
 19 our help since 2020 primary in June.
 20 We had the entire summer and fall to
 21 pass a measure that would relieve some of these
 22 burdens in time for the November election. They
 23 warned us of the challenges they face and beg- --
 24 begged us for help in upgrading the process.
 25 And yet, the majority in charge of

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1 setting the agenda won't act to implement those
 2 needed improvements.
 3 In a time where we have real issues to
 4 tackle in Pennsylvania, why would Senate
 5 Republicans waste valuable time and resources in
 6 pursuit of the big lie?
 7 Anyone who is making the sham review a
 8 priority is not showing concern for our collective
 9 constituents. How will this review benefit
 10 constituents?
 11 Will it keep people in their homes?
 12 Will it create new jobs?
 13 Will it help individuals making a fair
 14 living wage?
 15 Will it help businesses recover from
 16 the economic hardships of the pandemic which has
 17 been caused?
 18 Will it provide our students with
 19 educational opportunities?
 20 Will it provide broadband
 21 infrastructure so people in rural Pennsylvania and
 22 urban communities can have access to today's
 23 technology?
 24 Will it eradicate toxic schools?
 25 Address the gun violence that is

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1 devastating so many areas across Pennsylvania?
 2 Will it keep our elderly nursing home
 3 residents residing safe and healthy?
 4 Will it help clean up those victims
 5 from climate change and the floods which are
 6 occurring almost every month?
 7 The 2020 presidential election results
 8 reflect votes made by Americans, making key
 9 decisions that impact their lives, like pandemic
 10 relief, health care and economic well-being. This
 11 anti-voter investigation disregards those decisions
 12 and the values that guided voting across the
 13 commonwealth. We see through those people who
 14 spread lies, refuse to govern in our interests, and
 15 pass laws -- laws to silence our votes and our
 16 voices.
 17 Pennsylvanians deserve leadership that
 18 deliver for our families and implement standards
 19 that protect our rights, not those that stifle
 20 them. Doing the right thing is difficult and
 21 shouldn't be deemed courageous. It's what we were
 22 sent here to do. That's what I was sent here to do
 23 over 30 years ago. It's our sworn duty and our
 24 moral obligation.
 25 Living with the fact of knowing, lying

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1 at the expense of those who put their trust in us,
 2 is a real burden to carry. Let us move past
 3 further review of the fair and credible election
 4 results of 2020 and get down to doing the people's
 5 business.
 6 Thank you, Mr. Chairman.
 7 SENATOR DUSH: Thank you, Chairman.
 8 Before we continue, I'd like to run
 9 through some quick housekeeping items for the
 10 members and panelists.
 11 First, everyone is muted until their --
 12 it's their turn to speak. Members, you will be
 13 unmuted when asking a question and will remain
 14 unmuted through the duration of the answer. In an
 15 effort to get as many questions as possible, with
 16 the exception of the chairs, members are limited to
 17 one question at a time and we will allow as many
 18 questions as possible to stay within our timeframe.
 19 Members, please continue to contact
 20 committee staff to participate in each round.
 21 As a reminder to all members and
 22 testifiers, this hearing is being recorded and
 23 live-streamed. Testimony and the hearing's
 24 recording will be available on our committee's
 25 website.

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1 At this time, we'll move to testimony
 2 and we are blessed to have Stuart Ulsh,
 3 Commissioner of the Fulton County, with us to
 4 testify. And Mr. Ulsh, you're recognized for your
 5 testimony.
 6 COMMISSIONER ULSH: All right. Thank
 7 you, Chairman.
 8 Good afternoon, Senators. My name is
 9 Stuart Ulsh. I am a chairman of the Fulton County
 10 Board of Commissioners, county commissioners, and
 11 the board of elections. I want to thank you all
 12 for the opportunity for testifying before your
 13 committee.
 14 Prior to the 2020 general election, the
 15 board of elections received numerous guidance and
 16 other directives from the Secretary of the
 17 Commonwealth, Kathy Bookvar, including the night
 18 before the election.
 19 Our board, along with all of our
 20 election employees, worked very hard to understand
 21 and follow with the information and guidance
 22 received from Secretary Bookvar. I personally had
 23 numerous conversations with her before, during, and
 24 after the November general election. Our board of
 25 election has the power under the Pennsylvania law

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1 to inspect, investigate, and safeguard our own
 2 elections in Fulton County.
 3 In December of last year, we decided to
 4 authorize Wake TSI to review our handling of the
 5 elections --
 6 SENATOR DUSH: Commissioner, can I -- I
 7 apologize. I forgot, I neglected something. I
 8 need you to -- if you'd please rise and raise your
 9 right hand.
 10 COMMISSIONER ULSH: Oh.
 11 SENATOR DUSH: I've got to get you
 12 sworn in. And that's my fault.
 13 Do you swear the statements that you've
 14 already made and that you are going to proceed to
 15 make, and the answers to questions will be
 16 truthful, honest and complete to the best of your
 17 knowledge, so help you God?
 18 COMMISSIONER ULSH: I do.
 19 SENATOR DUSH: Thank you.
 20 COMMISSIONER ULSH: And thank you,
 21 Chairman.
 22 Okay. Our election board has the power
 23 under Pennsylvania law to inspect, investigate and
 24 safeguard our own elections of Fulton County. In
 25 December of last year, we decided to authorize Wake

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1 TSI to review our handling of the elections and to
 2 provide us with a report.
 3 After Wake TSI conducted its
 4 investigation of the elections, Fulton County
 5 posted a copy of the Wake's report on the county's
 6 website. At that point, we were asked to provide
 7 the acting Secretary of the Commonwealth, Veronica
 8 Dagraffenreid, a letter explaining, excuse me, what
 9 was done during our investigation. We provided a
 10 letter as requested by the acting Secretary.
 11 Shortly thereafter, we were notified by the acting
 12 Secretary by -- that both Fulton County Dominion
 13 machines were decertified.
 14 With no other options available, Fulton
 15 County has been forced to initiate litigation
 16 against the acting Secretary, challenging her
 17 decision to decertify Fulton County election
 18 machines.
 19 Our case against the acting Secretary
 20 is currently pending in the Commonwealth courts. I
 21 have been asked by my legal counsel to refrain from
 22 answering questions regarding the litigation at
 23 this time, so I will -- I will not be answering
 24 such questions. But I am here today to speak in
 25 the effects of guidance, often confusing and some

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1 time contradictory in the elections of 2020.
 2 Thank you, sir.
 3 SENATOR DUSH: Thank you, Commissioner.
 4 And we do have some questions. I'm going to start
 5 with Senator Ward.
 6 SENATOR WARD: Thank you so much,
 7 Chairman. Thank you, Commissioner Ulsh, for being
 8 here today.
 9 First of all, how long have you been a
 10 commissioner?
 11 COMMISSIONER ULSH: Five and a half
 12 years.
 13 SENATOR WARD: Okay. And in that time,
 14 you have overseen quite a few elections. Is that
 15 correct?
 16 COMMISSIONER ULSH: Yes.
 17 SENATOR WARD: You mentioned in your
 18 testimony that previous Secretary of State, Kathy
 19 Boockvar, contacted you before, during, and after
 20 the November 2020 election. Is that correct?
 21 COMMISSIONER ULSH: Yes. She's
 22 contacted me quite a few times.
 23 SENATOR WARD: Was that customary for
 24 the Department of State to reach out and especially
 25 the Secretary herself?

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1 COMMISSIONER ULSH: This was the first
 2 I've talked to the Secretary of the Commonwealth.
 3 I haven't -- I haven't had any conversations with
 4 her in any other elections, no.
 5 SENATOR WARD: What sort of questions
 6 did she ask?
 7 COMMISSIONER ULSH: The one -- the one
 8 conversation was calling to see -- this was on
 9 election day -- was calling to see if we had any
 10 counts of how many absentee and mail-in ballots
 11 we've received.
 12 And then on another call, she called
 13 and asked how things was going and if we needed any
 14 help with anything, that they was there to help us
 15 if we was having problems with anything.
 16 SENATOR WILLIAMS: Mr. Chairman? I'm a
 17 need -- I -- I need to interrupt.
 18 I heard the witness testify to the fact
 19 that he was not able to answer questions based upon
 20 litigation. I'm listening to my colleague ask
 21 questions, which, in fact, can be parts of evidence
 22 introduced into trial. So I need to understand
 23 what the standard's going to be, because if the
 24 gentleman's going to answer questions, we're going
 25 to ask questions and we're not going to be

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1 constrained by the questions that we're going to
 2 ask. But we are going to be respectful of the
 3 gentleman as he relates to being controlled by his
 4 litigation.
 5 So I understand that the gentleman
 6 wants to cooperate, but he's already set a standard
 7 by which we need to -- to operate in, and I just
 8 need to have clarity -- we, as members of this
 9 committee, need to have clarity about what that
 10 line's going to be and how far we're allowed to go.
 11 SENATOR DUSH: Commissioner, your
 12 litigation does not include -- is not directed at
 13 the -- the plethora of guidances that came out from
 14 the Secretary and the -- the meetings and the
 15 conversations that happened as a result of that.
 16 Am I correct?
 17 COMMISSIONER ULSH: No, our litigation
 18 doesn't have anything to do with what went on on
 19 election day.
 20 SENATOR DUSH: Thank you.
 21 Senator Ward, go ahead.
 22 SENATOR WARD: Thank you.
 23 I just -- had you -- had you completed
 24 your thought about what sorts of questions
 25 Secretary Boockvar, then-Secretary Boockvar, asked

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1 of you?

2 COMMISSIONER ULSH: In the one -- one

3 occasion she called back and asked me, on election

4 day, this had been in the afternoon, if we had any

5 counts of ballots received. And then she went on

6 to another phone call and called and asked me if I

7 had any counts between Trump and Biden. And

8 that's -- and there was other calls, but I didn't

9 answer anything after that.

10 SENATOR WARD: Okay. I -- I -- just

11 hearing that, I find that very, very unusual.

12 Especially the Secretary of State calling you

13 herself. She must have, I'm assuming, felt

14 concerned about what was happening in Fulton

15 County.

16 I find this just another example of

17 activities that created confusion and concerns

18 about the election process. And this is why I

19 believe that this committee needs to strongly

20 pursue answers to these and other questions.

21 And I have a great deal of respect for

22 the Minority Chair, greatly respect him, but I have

23 constituents that are asking questions. They want

24 answers. And if you believe that these results of

25 the election were accurate, it should be no problem

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1 to go over the process and to investigate these

2 questions. I think it speaks to the very

3 foundation of our Democratic society.

4 I want to thank Commissioner Ulsh for

5 being here today and for his steadfast commitment

6 to voter integrity.

7 Thank you very much.

8 COMMISSIONER ULSH: Thank you, Senator.

9 SENATOR WILLIAMS: Mr. Chairman, I'm

10 still not clear. Well, let me -- for the record,

11 I -- I want all my colleagues, Democrat and

12 Republican, to understand that the manner in which

13 we do our work today hopefully will be civil and

14 that's my intent. And I appreciate the comments by

15 my colleague and I respect her as well. And I

16 understand our constituents are asking us questions

17 because they've been presented facts that frankly

18 aren't accurate.

19 Nonetheless, the comments about the

20 Secretary will be a part of a -- a hear- -- of a

21 case, potential litigation.

22 Is that your attorney sitting to your

23 left?

24 COMMISSIONER ULSH: Yes.

25 SENATOR WILLIAMS: All right. If

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1 that's part of the litigation and we're making

2 comments to that, we're setting a record. We are

3 estab- -- we're -- we're estab- -- we are

4 establishing a profile on behalf of the Secretary.

5 She's not able to be here because of the

6 litigation. It's inappropriate --

7 SENATOR DUSH: Chairman -- Chairman,

8 one -- one point of content. Individuals have the

9 right against self-incrimination.

10 SENATOR WILLIAMS: They do.

11 SENATOR DUSH: The department does not.

12 SENATOR WILLIAMS: But -- well --

13 SENATOR DUSH: And we're -- when it

14 comes to the litigation, the litigation, my

15 understanding, is against the Department. Is that

16 not correct? Is it the Secretary? Is she included

17 individually?

18 All right. When it comes to this

19 testimony, those actions before that -- the

20 Secretary had taken, as comes before this

21 committee, it is -- I know what I want to say and

22 I'm having -- I'm having a difficult time with it.

23 These committee hearings are necessary

24 to get to the bottom of the questions and the

25 actions that the Department took. These -- these

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1 actions, these last-minute directives, again, those

2 are not part of the litigation. However, I don't

3 know if there's any intent to use those actions as

4 part of that case.

5 But I can tell you right now that we

6 have just cause to ask these questions as it

7 relates to those last-minute guidances and how they

8 impacted the operations of the county elections

9 offices, as well as even down to the precinct

10 level.

11 SENATOR WILLIAMS: Mr. Chairman, I

12 would suggest this. That certainly those questions

13 will be asked and they'll probably be asked in the

14 court of law. And for those who will give

15 guidance, establishing a profile of the Secretary

16 who heads a department in which the litiga- --

17 litigation is being engaged is a challenge to not

18 step beyond a line.

19 If we choose to do that, then, again, I

20 will -- I will remind the gentleman, we will ask

21 questions and we'll ask questions that will be

22 balanced.

23 The portrayal of the Secretary asking

24 questions clearly implied that there was a purpose

25 beyond her given sworn responsibilities as the

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1 Secretary. I think the term was used "odd," which
 2 will lead to a further investigation. That
 3 certainly implies something. Implication is a part
 4 of a process of building a case. That's all I'm
 5 saying.
 6 If you choose to ask the questions,
 7 that's your right. If you choose to incriminate
 8 himself, that's his right. I'm not sure he would
 9 do it in front of a responsible attorney, but
 10 that's what they choose to do. If you choose to do
 11 that, we are going to ask questions. We're
 12 prepared to cooperate with the committee in any
 13 manner and format that it lays out, but some of the
 14 questions are making all of us very uncomfortable
 15 in the manner in which we're approaching it.
 16 SENATOR DUSH: Chairman, I appreciate
 17 that and we're not going to stop questions. If the
 18 commissioner's attorney deems this that we tread
 19 in -- that we're treading into that area, then he
 20 has a responsibility to ensure that his client does
 21 not so tread. And we will proceed along those
 22 lines.
 23 Are there any other questions?
 24 Commissioner, I have a couple.
 25 What do you feel were the most

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1 significant pieces of last-minute guidance, whether
 2 officially as a guidance document or less formally
 3 in e-mail communications generally? As it relates
 4 to what was given to the county election officials
 5 by the Department of State.
 6 COMMISSIONER ULSH: I don't know.
 7 There was a lot coming up to it and we're a small
 8 county and, of course, we have a small staff.
 9 It -- there -- it was all pretty much put together
 10 at a last minute.
 11 I guess the biggest -- the hard- -- our
 12 hardest thing was, is to make sure we kept things
 13 straight with the mail-ins and the absentees, as
 14 far as what we dealt with in our office.
 15 SENATOR DUSH: The -- so there was a --
 16 was this amount of guidance, was that unusual for
 17 an election?
 18 COMMISSIONER ULSH: This is the first
 19 I've seen any of this. And I -- I don't remember
 20 of anything coming up to an election of the prior
 21 elections.
 22 SENATOR DUSH: Would -- would you say
 23 it's a small amount, a significant amount, or was
 24 it overwhelming to you? How -- your own words, how
 25 would you characterize it?

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1 COMMISSIONER ULSH: It was overwhelming
 2 for a small county and a small staff.
 3 SENATOR DUSH: What -- what kind of
 4 impacts did that have on you and your staff?
 5 COMMISSIONER ULSH: Everybody was -- we
 6 double-checked everything that we was doing as we
 7 was working along with it to make sure we was
 8 following protocol. Went back, researched and
 9 everything that we received. So, basically, it
 10 was -- it -- it cost a lot more work for everybody.
 11 SENATOR DUSH: Did it interfere with
 12 any of your other duties as it relates to the
 13 election, you or your election staff?
 14 COMMISSIONER ULSH: It -- it was a
 15 burden, it was actually -- it worked everybody
 16 extra. Everybody put more hours in. We had to
 17 actually -- the people that does it have other
 18 jobs, too. We had to put everything completely off
 19 and their only thing was -- was sat in that room
 20 and take care of everything that was coming in.
 21 SENATOR DUSH: Was this election
 22 conducted any differently than previous elections
 23 due to the last-minute guidances?
 24 COMMISSIONER ULSH: We just had a lot
 25 more time in it. And we -- of course there was --

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1 there -- there was a lot of different -- like in
 2 the protocols, things you had to do different.
 3 So, basically, just the storage and
 4 the -- everything. I mean, just keeping other
 5 containers to keep ballots in and all that,
 6 everything that led up to it.
 7 SENATOR DUSH: What would you suggest
 8 to correct or mitigate those kinds of impacts in
 9 future elections?
 10 COMMISSIONER ULSH: Don't change
 11 election laws up to six months before an election.
 12 SENATOR DUSH: Thank you.
 13 Would -- did any of the instructions,
 14 suggestions or recommendations from the Department
 15 leading up to the election, in your mind, diverge
 16 from what you believed the election code required?
 17 COMMISSIONER ULSH: Now repeat that.
 18 Sorry.
 19 SENATOR DUSH: Title 25, under which
 20 the election -- which is the election code, were
 21 there any of the instructions or suggestions from
 22 the Department that you're aware of that diverge
 23 from Title 25?
 24 COMMISSIONER ULSH: I -- I can't tell
 25 you it didn't. I -- I would have to read across it

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1 all to see. I mean, I -- I can't -- nothing comes
 2 out to me without reading it.
 3 SENATOR DUSH: All right.
 4 Are there any other questions, any
 5 other -- who want to offer questions?
 6 Senator Costa.
 7 SENATOR COSTA: Thank you very much,
 8 Mr. Chairman, and thank you for testifying.
 9 Just a couple of a detailed questions.
 10 You serve as the chairman of the commission, board
 11 of commissioners?
 12 COMMISSIONER ULSH: I do.
 13 SENATOR COSTA: Are you also on the
 14 board of elections as well?
 15 COMMISSIONER ULSH: I'm a chairman of
 16 the board of elections also.
 17 SENATOR COSTA: Is there an election
 18 director in your department -- in your county or do
 19 you serve in that capacity as well?
 20 COMMISSIONER ULSH: No, we have an
 21 election director.
 22 SENATOR COSTA: And that election
 23 director is the one I presume who was also very
 24 active in this con- -- in things you described,
 25 many of the changes that took place. Is that

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1 correct?
 2 COMMISSIONER ULSH: Yes.
 3 SENATOR COSTA: He's not here today.
 4 Is that correct?
 5 COMMISSIONER ULSH: It's a lady, but,
 6 no, she's not here.
 7 SENATOR COSTA: She's not here, excuse
 8 me.
 9 As it relates to -- as I understand
 10 your testimony, you're stating that there were some
 11 changes that were implemented during the course of
 12 the election via the Secretary's guidance that were
 13 burdensome and caused folks to work a little extra
 14 and sort of missed the opportunity to do other
 15 things they should have been doing. And I can
 16 understand that.
 17 Would you agree that this is one of the
 18 highest vote totals we've ever had in your county?
 19 COMMISSIONER ULSH: It's the highest we
 20 had in -- since I was commissioner, yes.
 21 SENATOR COSTA: And --
 22 COMMISSIONER ULSH: But not -- not
 23 major major, but it was higher.
 24 SENATOR COSTA: Okay. And do you know
 25 whether or not, based upon -- my understanding was

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1 you went back and checked to make sure you did
 2 things you were supposed to do and you did them in
 3 accordance with the guidelines. Is that correct?
 4 COMMISSIONER ULSH: We -- we went back
 5 and reviewed as things was going just to -- before
 6 we -- like even before election day, we looked at
 7 things over, looked -- just re- -- re- -- re- --
 8 get it familiar with us.
 9 SENATOR COSTA: And through that
 10 review, did you determine that there were any
 11 irregularities that occurred that you had done that
 12 needed to be significantly modified, or were any
 13 fraudulent activities taking place in your review?
 14 Did you determine that at all?
 15 COMMISSIONER ULSH: There was stuff as
 16 it went on that looked like -- there was things
 17 that went on as we was reading across it. It was
 18 like changing the one was put in right before, like
 19 contradicting what was already in. So which made
 20 things a little confusing.
 21 SENATOR COSTA: Okay. It was
 22 confusing, but not fraudulent?
 23 COMMISSIONER ULSH: I don't know if it
 24 was fraudulent or not. It was confusing to us.
 25 SENATOR COSTA: That's all the

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1 questions I have, Mr. Chairman.
 2 SENATOR DUSH: Thank you. The Chair
 3 recognizes Senator Gephardt.
 4 SENATOR GEPHARDT: Commissioner Ulsch,
 5 good afternoon. Thank you for taking the time to
 6 appear before our committee today. I'd really just
 7 like to ask you a few questions about the mail-in
 8 ballots and specifically the ones that arrived
 9 without a secrecy envelope with them.
 10 When -- If a -- if a ballot did arrive
 11 and it wasn't in the secrecy envelope, did you
 12 count those ballots once they were received?
 13 COMMISSIONER ULSH: Yes, Senator, thank
 14 you.
 15 We -- as we got them, we didn't have a
 16 lot of that in Fulton County. But there was -- it
 17 was changed back and forwards.
 18 I mean, as we was reading their
 19 directives, what to do. And if -- if there was one
 20 that wasn't in the secret envelope, it was
 21 followed, you know, with what was said to do with
 22 it.
 23 But then we had some -- we had some
 24 that wasn't returned and, of course, they
 25 provisional voted and then we had to go through all

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1 that procedure.

2 So I mean, I can't tell you how many it

3 was, but anything that -- anything that did

4 receive, it was followed to protocol with what the

5 directive said.

6 SENATOR GEPHARDT: Right.

7 And have you had any discussions, do

8 you know or have you heard of any counties that

9 might have handled it differently than that?

10 COMMISSIONER ULSH: I haven't talked to

11 no other counties. No.

12 SENATOR GEPHARDT: Okay. And did the

13 Department of State's guidance to count and then

14 the Supreme Court's decision not to count ballots

15 without secrecy envelopes, did that cause any

16 confusion or any lack of confidence in how you were

17 processing them?

18 COMMISSIONER ULSH: It -- it was -- it

19 was definitely confusing.

20 Actually, we have a -- a contact number

21 that we'd call if there was something going on, you

22 need a quick answer. There was calls made from our

23 director to them just to get a quick answer on what

24 to do in the cases that was coming up. And it

25 was -- it basically was dealt with at that time,

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1 what they told her on the answer, whenever she was

2 on the call with them.

3 SENATOR GEPHARDT: That -- that was my

4 final question. Thank you for your time.

5 COMMISSIONER ULSH: All right. Thanks.

6 SENATOR DUSH: Chairman Santarsiero --

7 I mean Senator Santarsiero.

8 SENATOR SANTARSIERO: Thank you. Thank

9 you, Mr. Chairman.

10 Commissioner Ulsh, I want to first make

11 sure I'm pronouncing that correctly. With my last

12 name, I'm sensitive to that.

13 Let me -- let me ask you first,

14 Commissioner, if I may, prior to the start of the

15 hearing this afternoon, did any member of the

16 General Assembly or any staff person talk to you

17 about this hearing today?

18 COMMISSIONER ULSH: Not about the

19 hearing, other than just if I was available to come

20 down to testify.

21 SENATOR SANTARSIERO: Okay. So the

22 extent of the -- and who did you speak to about

23 that?

24 COMMISSIONER ULSH: I talked to Joseph.

25 SENATOR SANTARSIERO: Joseph?

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1 COMMISSIONER ULSH: I don't know his

2 last name.

3 SENATOR SANTARSIERO: Okay.

4 SENATOR DUSH: My chief of staff.

5 SENATOR SANTARSIERO: Okay. Okay.

6 Thank you, Mr. Chairman.

7 You didn't have any other conversation

8 about any other topic?

9 COMMISSIONER ULSH: No. Just other

10 than with my attorney.

11 SENATOR SANTARSIERO: Okay. So in a

12 May 4, 2001, letter -- 2021 letter to the

13 Department of State, Ms. Hess, who's the elections

14 director. Correct?

15 COMMISSIONER ULSH: Hess? Yes.

16 SENATOR SANTARSIERO: She said, "In

17 December 2020, various members of the Pennsylvania

18 legislature contacted the Fulton County election

19 office and asked if we would allow Wake TSI to do

20 an audit to prove to the voters that the 2020

21 general election was run appropriately."

22 Who were the members of the General

23 Assembly who contacted the elections office?

24 COMMISSIONER ULSH: Well, I'd -- I was

25 in conversation with Senator Ward.

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1 SENATOR SANTARSIERO: Senator Ward?

2 COMMISSIONER ULSH: Yes.

3 SENATOR SANTARSIERO: Okay. Did you

4 have a conversation with any other senator?

5 COMMISSIONER ULSH: No.

6 SENATOR SANTARSIERO: Okay. Did anyone

7 else on the board of commissioners or in the

8 elections office have conversations at that time

9 with any other senator or representative?

10 COMMISSIONER ULSH: Not that I'm aware

11 of.

12 SENATOR SANTARSIERO: Okay. And what

13 was -- what did Senator Ward say to you?

14 COMMISSIONER ULSH: She just asked me

15 if I would -- if I had -- would be interested or if

16 I had any thoughts of doing an investigation of our

17 elections.

18 SENATOR SANTARSIERO: Okay. What was

19 your response?

20 COMMISSIONER ULSH: What was my

21 response?

22 SENATOR SANTARSIERO: Correct.

23 COMMISSIONER ULSH: I -- I actually,

24 with all the -- the changes and everything that was

25 going on, it was already on my mind, wondering what

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1 to do to double-check ourselves. And when the
 2 question was asked to me, I -- I wanted to know
 3 myself if everything was done properly.
 4 SENATOR SANTARSIERO: Okay. And did
 5 you share that conversation, the substance of your
 6 conversation, with your other commissioners?
 7 COMMISSIONER ULSH: We talked -- I -- I
 8 made the remark that I wouldn't make any decisions
 9 without having it brought up in our meeting, in our
 10 commissioners' meeting.
 11 SENATOR SANTARSIERO: That you had that
 12 conversation with both of the other commissioners?
 13 COMMISSIONER ULSH: Yes.
 14 SENATOR SANTARSIERO: Okay. And who
 15 proposed this company, Wake TSI?
 16 COMMISSIONER ULSH: The name was brung
 17 up from the senators, but I -- it wasn't guaranteed
 18 that that was who was doing it. I actually Googled
 19 them and checked them out to see what credentials
 20 they had.
 21 And after looking at that, I had no
 22 reason not to think that they couldn't do the job
 23 that we was wanting them to do. So then I
 24 actually, at that point, was in contact with them.
 25 SENATOR SANTARSIERO: Okay. You -- you

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1 just said that was brought up by the senators. Who
 2 were the senators who brought up that name?
 3 COMMISSIONER ULSH: Well, it was
 4 just -- the name was just brung up. It was
 5 whenever me and Judy was talking, the name was
 6 brought up that -- that this would be somebody that
 7 you could contact.
 8 SENATOR SANTARSIERO: Okay. Did -- did
 9 she suggest that it was someone -- the company that
 10 you should contact or one of others that you could
 11 consider?
 12 COMMISSIONER ULSH: It was just the
 13 name that I could -- that I could talk to, if I was
 14 interested.
 15 SENATOR SANTARSIERO: Okay. So she
 16 wanted you to contact them, if you were interested?
 17 COMMISSIONER ULSH: She -- she referred
 18 to the name and said if I -- if I wanted to contact
 19 them, I was welcome to.
 20 SENATOR SANTARSIERO: What -- and did
 21 you, at that point, contact Wake TSI?
 22 COMMISSIONER ULSH: I did.
 23 SENATOR SANTARSIERO: Okay. And
 24 what -- and what -- then when you talked to them, I
 25 assume the -- the issue of what the investigation

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1 would cost came up, did it not?
 2 COMMISSIONER ULSH: I -- I talked --
 3 talked to them and asked them what extent they
 4 would do in the investigation.
 5 SENATOR SANTARSIERO: Okay.
 6 COMMISSIONER ULSH: And what all it
 7 would consist of.
 8 SENATOR SANTARSIERO: Okay. And --
 9 COMMISSIONER ULSH: And basically when
 10 they would be available to do it.
 11 SENATOR SANTARSIERO: Okay. And did
 12 they tell you what the cost would be? I'm
 13 assuming, as a commissioner, you were concerned
 14 about that, were you not?
 15 COMMISSIONER ULSH: There wasn't no
 16 cost involved with us.
 17 SENATOR SANTARSIERO: It was --
 18 COMMISSIONER ULSH: We have a report --
 19 their report's on our -- the County of Fulton's
 20 website. I put it there for transparency reasons.
 21 SENATOR SANTARSIERO: Yeah --
 22 COMMISSIONER ULSH: I want everybody to
 23 know what it says. You're more than welcome to go
 24 in there and pull it off. It tells you everything
 25 about that.

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1 SENATOR SANTARSIERO: I'm going to get
 2 to that in a moment, but --
 3 COMMISSIONER ULSH: Okay.
 4 SENATOR SANTARSIERO: -- but first I
 5 want to try and understand.
 6 So they -- they told you that this was
 7 going to be -- they could do this at no cost to the
 8 county.
 9 COMMISSIONER ULSH: I would like for
 10 you to refer to our Wake Technology report on our
 11 website.
 12 SENATOR SANTARSIERO: Oh, I --
 13 COMMISSIONER ULSH: I can't remember
 14 everything word for word it says on it. I don't
 15 want to say something and it's not exactly word for
 16 word. I'd refer to that.
 17 SENATOR SANTARSIERO: No, and I
 18 appreciate that, but I'm trying to ask you now your
 19 recollection of your conversation with Wake TSI
 20 when you contacted them about potentially using
 21 them to do this investigation.
 22 I'd assume -- as a former township
 23 supervisor, I know cost was always an issue for our
 24 board, I'm sure for your board of commissioners it
 25 is, too. They told you that it would be no cost to

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1 the county. What was your understanding as to who
 2 was paying for this?
 3 COMMISSIONER ULSH: Myself was, as same
 4 as you, I might worry about the cost for the Fulton
 5 County, too, for the taxpayers.
 6 SENATOR SANTARSIERO: Right.
 7 COMMISSIONER ULSH: Whenever I say it
 8 was free to you, that's all I was concerned about.
 9 SENATOR SANTARSIERO: Okay. So you --
 10 you made no inquiry as to who was -- who was paying
 11 for it?
 12 COMMISSIONER ULSH: I just wanted to
 13 make sure Fulton County taxpayers wasn't paying for
 14 it.
 15 SENATOR SANTARSIERO: Did you -- did
 16 you ever wonder yourself as to who might be paying
 17 for this?
 18 COMMISSIONER ULSH: I actually made the
 19 offer that I would kick into it if I had to.
 20 SENATOR SANTARSIERO: Okay. And what
 21 was the response?
 22 COMMISSIONER ULSH: You don't need to
 23 worry about it, it's paid for.
 24 SENATOR SANTARSIERO: Okay. They
 25 didn't explain who paid for it?

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1 COMMISSIONER ULSH: I honestly never
 2 asked the question.
 3 SENATOR SANTARSIERO: Okay. So you
 4 were talking a moment ago --
 5 SENATOR DUSH: Senator, I want to go on
 6 to others and then we'll circle back to you.
 7 SENATOR SANTARSIERO: Okay. Thank you,
 8 Mr. Chairman.
 9 SENATOR DUSH: Next, Senator Argall.
 10 SENATOR ARGALL: Thank you,
 11 Mr. Chairman.
 12 Commissioner, in my academic work in
 13 previous years, I've spent a lot of time studying
 14 and teaching about the distrust of government.
 15 Sometimes my students would come to class and say,
 16 well, it was because of something that happened in
 17 Iraq or Afghanistan, and I would talk to them about
 18 growing up during the Vietnam era and Watergate.
 19 And some of my more astute students would take it
 20 all the way back to the Declaration of
 21 Independence. Americans, for a lot of good
 22 reasons, have always had a pretty considerable
 23 distrust to government.
 24 I'm curious, and you've got a broad
 25 jurisdiction as a county commissioner, how often

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1 are you asked questions about -- from your
 2 constituents, about people who are distrustful of
 3 the way that we conduct elections here in
 4 Pennsylvania, especially 2020, 2021?
 5 SENATOR ULSH: It was actually talked
 6 about how do we know things was right, how do we --
 7 how do we have trust in everything? I've had
 8 multiple people say they'll never vote again
 9 because of everything that they seen on TV.
 10 Everything that they heard was going on. That was
 11 one of the things that led me to do what I done.
 12 66 -- 67 counties in Pennsylvania.
 13 Fulton County made it 66 counties still talk about
 14 it. Fulton County doesn't.
 15 SENATOR ARGALL: In -- in terms of
 16 the -- the ranking, would this be in the distrust
 17 of government, the conduct of elections, would this
 18 be in the top 10 issues that people address you at
 19 when you're at the Eagle Scout banquet or the
 20 county commissioners' meeting? Would it be in the
 21 top three? Is it -- is it number one? How -- how
 22 does it rank in -- in all of the issues --
 23 COMMISSIONER ULSH: As far as
 24 government, it's -- it's probably five.
 25 SENATOR ARGALL: Okay.

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1 COMMISSIONER ULSH: It's probably in
 2 the middle.
 3 SENATOR ARGALL: Okay.
 4 COMMISSIONER ULSH: But as far as local
 5 government, I'm really big on transparency.
 6 Anybody that knows me in Fulton County knows --
 7 knows that. They don't really talk about that in
 8 Fulton County as a local government because they
 9 know I'm an open book.
 10 SENATOR ARGALL: Uh-huh.
 11 COMMISSIONER ULSH: So I guess I would
 12 put it a five.
 13 SENATOR ARGALL: Okay. How can this
 14 Senate help you to answer those questions from
 15 people that are distrusting the process?
 16 COMMISSIONER ULSH: My biggest thing
 17 is -- and, of course, we've -- we went through an
 18 investigation, so I -- I put that behind me. I had
 19 to sign papers that proven the results. I wanted
 20 to sleep at night knowing that they was correct to
 21 my -- best of my knowledge. I put mine behind me.
 22 As far as anybody else that would have
 23 that question and go to sleep at night, I -- I
 24 couldn't even imagine doing that. I -- I think if
 25 there's nothing odd, you feel there's nothing odd,

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1 there's no reason to show it.
 2 And there possibly could be a problem.
 3 An accident they made on their own. But without
 4 doing it, how you ever knowing that? As yourself,
 5 how do you ever know that?
 6 So, I mean, I guess you probably should
 7 follow your heart on it, I guess. I don't know how
 8 else to put it.
 9 SENATOR ARGALL: Okay. Now it's been
 10 suggested to us that from time to time that we
 11 should ignore the -- the -- the thousands of
 12 constituents who have contacted us, just as they've
 13 contacted you, and I, for one, simply I'm not about
 14 to ignore my constituents. I think we need to help
 15 them get the answers that they deserve. Thank you.
 16 Thank you, Mr. Chairman.
 17 SENATOR DUSH: Thank you.
 18 And I'll remind the members, we
 19 sunshined -- sunshined this as reference to Act 77
 20 and how the regulatory issues of the last-minute
 21 guidances came down that impacted it, and I think
 22 we're going a little bit far afield in some of
 23 these lines of questioning and I'd appreciate
 24 members sticking to that.
 25 Next we have Senator Hughes.

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1 SENATOR HUGHES: Thank you,
 2 Mr. Chairman.
 3 Chairman Ulsh, good to see you. Good
 4 to meet you, sir.
 5 So you're chair of the -- the
 6 commission. Right?
 7 COMMISSIONER ULSH: Yes, Senator --
 8 SENATOR HUGHES: Okay. How long --
 9 COMMISSIONER ULSH: Good to meet you,
 10 too, yes.
 11 SENATOR HUGHES: Okay. How long have
 12 you served in that position, sir?
 13 COMMISSIONER ULSH: I've been there
 14 like five -- five and a half years.
 15 SENATOR HUGHES: Always as chair?
 16 COMMISSIONER ULSH: Yes.
 17 SENATOR HUGHES: Okay. Very good.
 18 Thank you.
 19 And just -- just so I can have the --
 20 the facts in -- in my mind, the total vote in
 21 Fulton County for president was -- what was that
 22 number?
 23 COMMISSIONER ULSH: 9,000, 9500.
 24 SENATOR HUGHES: About 9500 votes
 25 total. Okay. And, of course, there were about 7.8

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1 million votes cast for president in the 2020
 2 election and there's about 9500 in Fulton County.
 3 So in the -- in the -- your
 4 investigation, was there any fraudulent voting ever
 5 found out? Found in the votes.
 6 COMMISSIONER ULSH: Our report come
 7 back -- it's in our report, but, no, nothing was
 8 found. Everything was ran in Fulton County --
 9 SENATOR HUGHES: Everything was square,
 10 up and up, no fraudulent voting?
 11 COMMISSIONER ULSH: That's -- that's
 12 what our report has, yes.
 13 SENATOR HUGHES: That's what the report
 14 says?
 15 COMMISSIONER ULSH: Uh-huh.
 16 SENATOR HUGHES: Okay. Well, that's
 17 good. That's good. That's a testimony of you,
 18 sir, and your operation.
 19 COMMISSIONER ULSH: I'm sleeping good
 20 at night.
 21 SENATOR HUGHES: All right. And -- and
 22 all of those hard-working folks who put off
 23 everything, we -- that was observed, that is a -- a
 24 reality across the state. You know, I mean, you
 25 know, I'm from Philly, so, you know, kind of like

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1 central conversation and -- and lots of workers,
 2 you know, lots of cameras and things like that.
 3 So the scrutiny was -- was intense and
 4 the workers put a lot of extra time in -- into the
 5 process. But congratulations on there and not
 6 finding any fraudulent, fraudulent activity.
 7 Did you feel it -- as chairman, when
 8 you -- this was Act 77, we got a lot of new -- a
 9 lot of new rules coming in. This is probably the
 10 biggest change in -- in election law in
 11 Pennsylvania for decades. Okay? You know, first
 12 time really full effect of mail-in voting, right,
 13 in a major way. It -- it would -- it would seem to
 14 me that getting a call directly from the Secretary
 15 would be a welcome thing, because in this case,
 16 she's -- she was the boss, right? You know,
 17 that -- you're hearing from the boss about how the
 18 rules should be played out in a major change in
 19 election with a record turnout.
 20 What was your -- what was your take on
 21 that?
 22 COMMISSIONER ULSH: I -- as far as her
 23 calling me? To me, it's just another day. That --
 24 on election day, it was just another day to me.
 25 SENATOR HUGHES: Uh-huh.

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1 COMMISSIONER ULSH: But it -- I was
 2 there in prior elections. Actually, I called her
 3 on one occasion and she never returned my phone
 4 call.
 5 SENATOR HUGHES: Okay.
 6 COMMISSIONER ULSH: But that was back a
 7 couple years earlier.
 8 SENATOR HUGHES: Previously?
 9 COMMISSIONER ULSH: Yes.
 10 SENATOR HUGHES: Prior to the act,
 11 prior to the --
 12 COMMISSIONER ULSH: Yes, it was before
 13 the 2020 election.
 14 SENATOR HUGHES: Yeah, yeah.
 15 COMMISSIONER ULSH: And I have yet to
 16 get that phone call back.
 17 SENATOR HUGHES: Okay. All right.
 18 Well, we had a big election since then that --
 19 COMMISSIONER ULSH: Well, I mean, I'm
 20 glad to hear from her. I -- I was glad she was
 21 there.
 22 SENATOR HUGHES: Well, we got a new
 23 Secretary now, so, you know.
 24 So -- so record turnout, lots of staff
 25 time put in to make sure everything worked right.

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1 And in the end -- and it wasn't even -- it wasn't
 2 even close in Fulton County, as I understand it,
 3 all right. It was about a big, big difference
 4 between Trump and Biden in Fulton County. Would
 5 that be correct?
 6 COMMISSIONER ULSH: That's what I read.
 7 SENATOR HUGHES: Yeah, that's what you
 8 read, okay.
 9 And so -- and so, no -- in -- in -- in
 10 your efforts, your analysis, Wake TSI, whatever,
 11 no -- no fraudulent voting.
 12 COMMISSIONER ULSH: Our report says
 13 there was no findings.
 14 SENATOR HUGHES: No findings. I think
 15 it's important for the record, all right, and
 16 it's -- I think it's a testimony to yourself, to
 17 fellow commissioners, but especially to the -- the
 18 staff, you know, the folks who, you know, grind it
 19 out every day in that process, that their hard work
 20 has been verified, certified, if you will, that
 21 there was no issues or no problems that they did a
 22 damn good job on that -- on that election in Fulton
 23 County to make sure everything ran according to
 24 Hoyle, even with a lot of changes happening moving
 25 up to election day.

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1 So, Mr. Chairman, I have no further
 2 questions. But I do want to commend you, Chairman,
 3 and -- and your folks who -- who had to grind it
 4 out in a very turbulent environment. So thank you
 5 very much.
 6 COMMISSIONER ULSH: Thank you.
 7 SENATOR HUGHES: Appreciate you.
 8 SENATOR DUSH: Thank you, Senator
 9 Hughes.
 10 For the second time, Senator
 11 Santarsiero.
 12 SENATOR SANTARSIERO: Thank you,
 13 Mr. Chairman, Commissioner Ulsch.
 14 I just want to go back to that issue of
 15 the Wake TSI report and the payment for it.
 16 So, sitting here today, do you have an
 17 understanding as to who paid for that report?
 18 COMMISSIONER ULSH: It's -- it's in our
 19 report. I -- I believe it was -- I can't even
 20 remember what it was. There's been so much stuff
 21 through my head here. I can't even remember
 22 honestly.
 23 SENATOR SANTARSIERO: Okay. So you
 24 mentioned before that the report is -- is posted
 25 online. My understanding is there was a draft of

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1 the report issued back in February. Do you recall
 2 that?
 3 COMMISSIONER ULSH: Repeat that. Sorry
 4 about that.
 5 SENATOR SANTARSIERO: Excuse me?
 6 COMMISSIONER ULSH: Repeat that.
 7 Sorry.
 8 SENATOR SANTARSIERO: Sure.
 9 My understanding is that there was an
 10 initial draft of the Wake TSI report issued back in
 11 February.
 12 COMMISSIONER ULSH: There was an
 13 initial draft that actually was confidential.
 14 SENATOR SANTARSIERO: Okay.
 15 COMMISSIONER ULSH: It wasn't a report,
 16 it was a draft for proofreading.
 17 SENATOR SANTARSIERO: Okay.
 18 COMMISSIONER ULSH: I don't know how
 19 you got that. That never should have been out.
 20 SENATOR SANTARSIERO: Well, its -- its
 21 reference to it and quotes from it are -- are
 22 reported in the press. I think the Washington Post
 23 did --
 24 COMMISSIONER ULSH: I've -- I've been
 25 trying to find out how that got out because I would

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1 like to know that.

2 SENATOR SANTARSIERO: Okay. Well, be

3 that as it -- as it may, the -- the initial draft

4 report said in two places that the person who had

5 requested the audit in Fulton was Pennsylvania

6 State Senator Mariscano. Now, as an Italian

7 American, I know our names are often butchered. I

8 assume that was a reference to Senator Mastriano.

9 Does that comport with your memory, did

10 Senator Mastriano was he involved in asking for

11 this -- this audit?

12 COMMISSIONER ULSH: We still talking

13 about the draft report?

14 SENATOR SANTARSIERO: Correct.

15 COMMISSIONER ULSH: I don't want to --

16 don't want to make any comment about the draft

17 report because my e-mail was hacked. I would like

18 to know how you got that.

19 SENATOR SANTARSIERO: Well, I'm -- I'm

20 reading this from an article in the Washington

21 Post. That's how I got it.

22 COMMISSIONER ULSH: Okay.

23 SENATOR SANTARSIERO: And I can tell

24 you the date of that article is June 6, 2021.

25 COMMISSIONER ULSH: Okay. Thank you.

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1 SENATOR SANTARSIERO: Okay. But,

2 again, my -- my question stands --

3 COMMISSIONER ULSH: I -- I -- I know

4 Doug Mastriano afterwards was involved with the

5 conversations. But before the -- before the -- the

6 analysis, before the investigation happened, I had

7 no conversation with Doug Mastriano about any of

8 it. I didn't know he was even involved with it. I

9 had no conversation with Doug Mastriano.

10 SENATOR SANTARSIERO: Oh, so -- Okay.

11 So just so I understand, when did you understand

12 that he was involved? When did you first

13 understand that?

14 COMMISSIONER ULSH: After the

15 investigation was done and the report come out.

16 SENATOR SANTARSIERO: Okay.

17 SENATOR DUSH: Senator, if we could

18 stick to the -- what was actually sunshined in this

19 hearing, which is the actions that led up to and

20 during the last-minute guidance from the Secretary.

21 That's what we were sunshined for and I would

22 appreciate if we would stick to that.

23 SENATOR SANTARSIERO: Okay. Well,

24 Mr. Chairman, I -- I -- I appreciate that. I -- my

25 understanding is, though, that Commissioner Ulsh

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1 has been asked here today as a representative of

2 Fulton County. This hearing is about Fulton County

3 and the election that happened last November. And

4 that seems to me to be inexplicably linked to the

5 subsequent event of the request to have this

6 outside company, Wake TSI, come in and perform an

7 alleged investigation. So I would think that that

8 is relevant to our discussion here today.

9 Are you saying that I should not be

10 asking any questions about Wake TSI?

11 SENATOR DUSH: There -- the Wake TSI

12 investigation is -- as it relates to the specific

13 actions that we sunshined, which are the -- the

14 guidances which led up to this election, as well as

15 during the election, that is what has been

16 sunshined and I'd appreciate it if you stick to

17 the -- the purpose that is stated in the sunshine

18 law for this hearing.

19 SENATOR SANTARSIERO: Okay. But -- and

20 I -- and I -- I do want to respect that,

21 Mr. Chairman, so I'm just trying to understand what

22 the parameters are.

23 If the Wake TSI investigation dealt

24 with that topic, then I would assume that there

25 would be no objection to my asking questions about

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1 the Wake TSI investigation.

2 SENATOR DUSH: As it relates to how

3 Wake TSI described what happened during that --

4 during those guidances, I don't have any problem

5 with. But, as I said, I do want to stick with what

6 the law requires us to sunshine and if you would

7 stick to that subject matter, I'd appreciate it.

8 Thank you.

9 SENATOR SANTARSIERO: Okay. Well --

10 okay. Let me -- let me -- let me try it this way

11 then.

12 I want to try to understand the

13 distinctions that were made or the differences

14 between the draft report that came out in February

15 and then the one that was ultimately made public in

16 May. And is that -- that's when it was posted by

17 the county, correct, in May, the final report from

18 Wake TSI?

19 SENATOR DUSH: Yes.

20 SENATOR SANTARSIERO: Okay. Again, my

21 understanding is that in the draft report, the --

22 the report concluded, quote, That no anomalous or

23 unusual incidents reported during the election

24 process and that the election was, quote, Well run,

25 followed all commonwealth and federal guidelines

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1 and was conducted in a diligent and effective
 2 manner, end quote.
 3 And I want to share my colleague
 4 Senator Hughes in congratulating you on that and --
 5 and that conclusion.
 6 But then the final version of the
 7 report that was posted in May went beyond that in
 8 that same notation and it -- it included a number
 9 of issues and those included three related to
 10 Dominion voting systems, and I wondered whether you
 11 could tell us why that was changed, why that was
 12 added into the report that was not in the original
 13 draft.
 14 COMMISSIONER ULSH: Okay. Senator,
 15 first of all, I didn't write the report, so I had
 16 no -- I -- I didn't write it, didn't tell them what
 17 to put in it. The report's what they did in the
 18 investigation and they filed it.
 19 As far as the draft report, I won't
 20 make any comment on that because that's not public
 21 information.
 22 SENATOR SANTARSIERO: Okay. But you
 23 did receive that draft report.
 24 COMMISSIONER ULSH: I -- I'm just
 25 saying that's not public information.

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1 SENATOR SANTARSIERO: Well --
 2 COMMISSIONER ULSH: That's not. My --
 3 my e-mail was hacked.
 4 SENATOR SANTARSIERO: Your e-mail -- so
 5 you're saying that your e-mail that had the draft
 6 report in it was hacked.
 7 COMMISSIONER ULSH: I'm just saying
 8 that shouldn't have been out because that was
 9 confidential. It wasn't a final report.
 10 SENATOR SANTARSIERO: Let me --
 11 SENATOR DUSH: Senator --
 12 SENATOR SANTARSIERO: Yes.
 13 SENATOR DUSH: We're going far afield
 14 again from the actions of the directives that were
 15 implemented. I'm going to move on. I've got a
 16 list of other things that we have to do for the --
 17 for this.
 18 Are there any other members who have
 19 any questions before I move on to the Secretary?
 20 Yes, Chairman Williams.
 21 SENATOR WILLIAMS: Thank you,
 22 Mr. Chairman.
 23 We looked at the -- the website and we
 24 could not find any related information with regard
 25 to cost. Where else can we find it and who paid?

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1 COMMISSIONER ULSH: You said you looked
 2 at our website and there's nothing on it?
 3 SENATOR WILLIAMS: The website that you
 4 referred us to earlier in your testimony, which you
 5 said --
 6 COMMISSIONER ULSH: County of Fulton.
 7 SENATOR WILLIAMS: There's no --
 8 there's no --
 9 COMMISSIONER ULSH: There's no report
 10 on that?
 11 SENATOR WILLIAMS: No.
 12 COMMISSIONER ULSH: I -- I can assure
 13 you there is.
 14 SENATOR WILLIAMS: The report's there,
 15 but the cost is not.
 16 COMMISSIONER ULSH: The cost, I don't
 17 know. I honestly can't tell you, but it tells you
 18 in there who paid for it, is what I said. I don't
 19 know nothing about cost. I have no idea what it
 20 cost. I just said it says in there who paid for
 21 it.
 22 SENATOR WILLIAMS: Right. So where
 23 will we find in your public records --
 24 COMMISSIONER ULSH: I --
 25 SENATOR WILLIAMS: -- who paid for it?

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1 COMMISSIONER ULSH: I don't have that
 2 in my public records because it didn't come out of
 3 our budget. I don't know -- I don't know what it
 4 cost. I honestly can't tell you that. But it does
 5 report in there who paid for it.
 6 SENATOR WILLIAMS: So we're saying that
 7 there's no record in Fulton County --
 8 COMMISSIONER ULSH: We keep records on
 9 our budget what we --
 10 SENATOR WILLIAMS: Okay.
 11 COMMISSIONER ULSH: -- out of our
 12 budget.
 13 SENATOR WILLIAMS: I understand that,
 14 but it's a related item. It's a related expense
 15 and you said you don't have it, fine.
 16 But you're also suggesting that
 17 there's -- that you don't have knowledge of where
 18 to find who paid for this?
 19 COMMISSIONER ULSH: It --
 20 SENATOR WILLIAMS: You do -- before --
 21 Let me phrase this before you answer. And I --
 22 because you may not want to answer. Because, you
 23 know, that kind of answer was you don't know and we
 24 can't find it is a significant issue in the public
 25 domain. If the public -- Let me finish.

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1 If we as public officials cannot
 2 identify where that kind of cost was, who paid for
 3 it, there is implicit in that there's potential
 4 conflict of interest, which is part of why we're
 5 here today.
 6 So your answer's troubling because
 7 you're not giving us any guideline of where to go
 8 to find out who paid it. That to me is kind of
 9 shocking to suggest that the person who heads this
 10 area doesn't have any knowledge of where...
 11 If you don't know who paid for it, I'll
 12 accept that. It's hard for me to accept that you
 13 don't know where to go to find it. That's what I'm
 14 confused about.
 15 COMMISSIONER ULSH: You're saying you
 16 want to know who paid for it?
 17 SENATOR WILLIAMS: Yes.
 18 COMMISSIONER ULSH: And I told you it's
 19 on our report on our website. It says that in
 20 there who paid for it.
 21 SENATOR WILLIAMS: Did we just not look
 22 for that? We've had three people look for it and
 23 they've not found it.
 24 COMMISSIONER ULSH: Could you give me a
 25 minute?

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1 SENATOR WILLIAMS: Absolutely.
 2 COMMISSIONER ULSH: We don't have the
 3 report. There anything else you could talk about
 4 while I'm looking for this or -- this thing is
 5 80-some pages long?
 6 SENATOR WILLIAMS: It's how many pages?
 7 Is there anybody else who could get that for you
 8 that you could ask them to forward to us?
 9 COMMISSIONER ULSH: I don't mind. I
 10 don't rely on people to get things done.
 11 SENATOR DUSH: Commissioner, did you
 12 say it's 80-some pages long?
 13 THE WITNESS: It's like 80-some pages
 14 long. 70-some pages.
 15 SENATOR DUSH: All right. We're not
 16 going to -- we're not going to wait for that --
 17 COMMISSIONER ULSH: I don't know -- I
 18 don't know where it's at in it, though. I couldn't
 19 tell you.
 20 SENATOR DUSH: If you can get the
 21 information to us --
 22 COMMISSIONER ULSH: I can do that.
 23 SENATOR DUSH: We will forward that.
 24 We have --
 25 SENATOR WILLIAMS: I have one last

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1 question.
 2 SENATOR DUSH: Thank you, Commissioner.
 3 Go ahead.
 4 SENATOR WILLIAMS: The comment about
 5 the Secretary calling you, does that suggest that
 6 that affected any operation, other than time and
 7 guidance? Did it affect your directives to people
 8 or did it affect any portion of the election or --
 9 or any outcome?
 10 COMMISSIONER ULSH: If anything I did,
 11 I talked to my office personnel, wanted to know if
 12 things was going okay, if there was a problem
 13 because it made me feel like there was a flag going
 14 up in Harrisburg, that we was doing something
 15 wrong.
 16 SENATOR WILLIAMS: Okay. But that's
 17 your personal interpretation.
 18 COMMISSIONER ULSH: Yeah. No as far
 19 as -- as far as what everybody was doing, everybody
 20 did their job.
 21 SENATOR WILLIAMS: And she did not
 22 say -- you said you were concerned by her call,
 23 that a yellow flag went up because of her call. I
 24 guess because she didn't call you two years ago or
 25 call you back, I could understand that. What I'm

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1 saying to you, though, there's nothing she actually
 2 said that suggested or implied or inferred that
 3 there was a problem in Fulton County from her
 4 department's perspective?
 5 COMMISSIONER ULSH: And I didn't say
 6 yellow flag, I said red flag.
 7 SENATOR WILLIAMS: Okay. Let's say --
 8 let's say fire flag, whatever.
 9 COMMISSIONER ULSH: Okay. But -- but
 10 I'm just letting you know that whenever she called
 11 me, this was the first time I've ever got a call
 12 from the Department of State.
 13 SENATOR WILLIAMS: I got it, but you're
 14 not answering.
 15 COMMISSIONER ULSH: So, the first thing
 16 about they're seeing something on the computer that
 17 we're doing that's making a question.
 18 SENATOR WILLIAMS: That's your
 19 interpretation.
 20 COMMISSIONER ULSH: Because -- that's
 21 my interpretation. And all I did was called my
 22 people and say, what's going on? Are you'uns okay?
 23 And everything was fine.
 24 SENATOR WILLIAMS: I noticed you have a
 25 ring on your finger. Are you a married guy?

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1 COMMISSIONER ULSH: Say again.
 2 SENATOR WILLIAMS: I noticed you have a
 3 ring on your finger. Are you a married guy?
 4 COMMISSIONER ULSH: Yeah.
 5 SENATOR WILLIAMS: Okay.
 6 COMMISSIONER ULSH: I don't know what
 7 it has to do with this.
 8 SENATOR WILLIAMS: I'm going to tell
 9 you what it has to do with it. I'll tell you
 10 directly what it has to do with it. I'm a married
 11 guy, too. You said your interpretation. You're a
 12 married guy, I'm a married guy. When my wife says
 13 something, and I start interpreting, I get in
 14 trouble. Okay?
 15 So I'm suggesting to you that you're
 16 testifying here today for a reason. Your
 17 interpretation -- and I asked you a very specific
 18 question. I said did she say anything
 19 specifically, you didn't give me an answer. You
 20 went to your interpretation. I'm asking you for
 21 her words, out of her mouth, without your
 22 interpretation, without you editing it, without you
 23 providing other colorization to it. I'm asking
 24 you: Did she say anything in her comments to you
 25 that suggested or said directly, there's a problem

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1 in Fulton County?
 2 COMMISSIONER ULSH: I -- I told what
 3 you she asked me. I didn't say anything else other
 4 than that.
 5 SENATOR WILLIAMS: So the answer to my
 6 question is?
 7 COMMISSIONER ULSH: I -- I told you the
 8 questions that she asked me and I took that for
 9 what it was. She just asked me the questions and I
 10 answered her.
 11 SENATOR WILLIAMS: So there's nothing
 12 she said --
 13 COMMISSIONER ULSH: I never -- I never
 14 said she made me worried. I just asked my people
 15 if everything was fine.
 16 SENATOR WILLIAMS: All right. Fine.
 17 Thank you.
 18 SENATOR DUSH: All right. Chairman
 19 Williams -- Well, no, all right.
 20 You have closing remarks? I'm going to
 21 be doing my closing remarks and I'm going to be
 22 listing a few questions that we would have been
 23 asking the Department of State should they be
 24 there.
 25 Please, go ahead.

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1 SENATOR WILLIAMS: Well, let me --
 2 apologies, Mr. --
 3 One, I would hope that from this brief
 4 exchange that those who are watching across the
 5 Commonwealth of Pennsylvania would understand that
 6 those of us who are on the Democratic side of the
 7 aisle are not in opposition to any investigation,
 8 any review, or, in fact, any audit that would be
 9 required by facts, evidence, information, that
 10 would suggest that something was done improperly
 11 during the course of this past election cycle
 12 that's under review today. Be very clear that
 13 members on this side of the aisle in the past have
 14 actually asked for those review and investigations
 15 of individuals, as well as organizations that are
 16 involved in areas that we have found to be of
 17 question as it relates to this past election cycle.
 18 And, in fact, we've asked that of a
 19 member of the Senate who was involved in activity
 20 that we thought undergirded this actual election
 21 cycle. And to date we've gotten no response.
 22 To the gentleman who testified, we
 23 thank him for his service. We thank him for his
 24 information and we look forward to the details that
 25 we've asked of the committee and we ask that all of

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1 us receive that information because we do believe
 2 it may shed some light on questions that have been
 3 raised and, Mr. Chairman, we thank you for
 4 organizing the process. Thank you.
 5 SENATOR HUGHES: Mr. Chairman.
 6 SENATOR DUSH: Senator Hughes.
 7 SENATOR HUGHES: Yeah. If -- if I may,
 8 I'm -- I'm reading from a Pennsylvania Spotlight
 9 article, dated August 11th, that refers to
 10 communication -- e-mail communication from Fulton
 11 County commissioner -- Fulton County commissioners.
 12 It says -- and I can share this with the committee
 13 if you would like, Mr. Chairman.
 14 SENATOR DUSH: You may.
 15 SENATOR HUGHES: Commissioner Ulsh
 16 e-mailed Commissioner Bunch, Senator Ward and
 17 Representative Topper from his private e-mail
 18 account on November 9th stating, quote, The people
 19 are asking who all is in this fight with Senator
 20 Mastriano, end quote. He continued --
 21 SENATOR DUSH: Senator Hughes, this --
 22 again, we sunshined this for a specific reason.
 23 SENATOR HUGHES: Well, this relates to
 24 the -- this relates to the validity of -- of -- of
 25 the election and validity of everything that

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1 occurred leading up to it, Mr. Chairman.
 2 If you -- if you read the rest of
 3 what's been reported here as a quote, "It couldn't
 4 hurt the Trump campaign if our state
 5 representatives all got involved. If we don't stop
 6 this election problems, next will be worse. If
 7 there were 109 House and 27 Senate with Senator
 8 Mastriano, it would all -- it would be a big help.
 9 The people need this. Respect their vote."
 10 SENATOR DUSH: Okay. Senator Hughes,
 11 I've listened --
 12 SENATOR HUGHES: I'm -- I'm reading
 13 from -- from August 11th --
 14 SENATOR DUSH: Senator Hughes.
 15 SENATOR HUGHES: -- article written
 16 in --
 17 SENATOR DUSH: Senator Hughes, you're
 18 out of order. This was specifically sunshined --
 19 SENATOR HUGHES: I'm not out of order.
 20 I'm very much in order, sir. Okay?
 21 SENATOR DUSH: This was specific
 22 sunshined for the last-minute guidance. We're on a
 23 very divergent track right now. And --
 24 SENATOR HUGHES: All of this relates,
 25 Mr. Chairman.

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1 SENATOR DUSH: This -- again --
 2 SENATOR HUGHES: All of this relates.
 3 SENATOR DUSH: It's not --
 4 SENATOR HUGHES: But I guess in the
 5 end, since the report indicated there was no
 6 fraudulent voting that occurred in Fulton County, I
 7 guess it's not an issue, which is really what we're
 8 trying to get at. But we need to be real careful
 9 how we conduct this proceeding if there's
 10 communications talking that kind of lean to a
 11 slight or a slant one per -- one candidate versus
 12 the other. And how this process works.
 13 SENATOR DUSH: Senator Hughes, we have
 14 invited the Secretary of State to be here to answer
 15 to these questions and others. The Department of
 16 State has refused to now participate in this and
 17 this line of questioning, as relates to
 18 Commissioner Ulsh, is over. We're going to move on
 19 to the next session.
 20 Commissioner, and I do appreciate your
 21 time and your attendance here, as well as your
 22 testimony. And on behalf I'm sure of members on
 23 both sides of the aisle here, the -- our heartfelt
 24 thanks go out to the precincts, the people who
 25 worked the precincts and who worked in the county

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1 voting election offices. I've seen it myself.
 2 It's -- the training that goes into it ahead of
 3 time is pretty arduous. Some of the changes that
 4 came down last minute were very stressful, I know,
 5 to you and other counties that I've talked with.
 6 And I do appreciate, again, all of those people
 7 because without all of you, the wheels come off the
 8 bus. None of us would be sitting up here. There
 9 wouldn't be anybody in a sworn elective position.
 10 So my thanks to you very much and to
 11 your staff, as well as those throughout the
 12 Commonwealth in all 67 counties. Thank you.
 13 COMMISSIONER ULSH: Thank you,
 14 Chairman. Thanks, all you senators.
 15 SENATOR DUSH: And before we close,
 16 since the Department of State declined to attend
 17 today's hearing to testify, I would like to read
 18 some of the questions for the Department into the
 19 record.
 20 And we received a declination notice
 21 last week, and then we received another one half an
 22 hour before the hearing. And again they had stated
 23 that the purpose -- the reason for their not
 24 attending was that they had pending litigation --
 25 litigation and I will reiterate that government

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1 agencies do not have the right against
 2 self-incrimination and that the actions that were
 3 taken -- if actions were taken, then we have the
 4 right to proceed as a legislature because we have
 5 an upcoming election here in November. We have
 6 another one -- another primary coming -- coming in
 7 the spring.
 8 And just as we did several times over
 9 the last year and a half with COVID-19, we've shown
 10 that we can respond with alacrity. That we can get
 11 out there and get things done and pass bills and
 12 get them done with speed and with a purpose. So
 13 there is no time to sit on the sidelines with this.
 14 And, for the record, some of the
 15 questions: One, would you please define the
 16 guidance -- define guidance for the committee and
 17 what guidance is legally binding.
 18 Under what statutory authority is the
 19 guidance binding?
 20 Under what statutory authority is it
 21 issued?
 22 Is official guidance the only way that
 23 counties are provided with feedback, instructions,
 24 or recommendations in administering elections or
 25 interpreting the code?

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1 What are other ways -- what other ways
 2 are counties provided with explanations from the
 3 department regarding how to administer the
 4 election?
 5 Who typically sends those e-mail
 6 questions to the county?
 7 Before a guidance is issued or an
 8 informal e-mail is sent, is there an internal
 9 process that the guidance or e-mail goes through in
 10 terms of review before it's issued to the counties?
 11 Who's typically involved in that
 12 process?
 13 Is the process the same regardless of
 14 whether it's a guidance or an e-mail?
 15 Are guidances in e-mails to be given
 16 legal standing?
 17 Under what statutory authority do they
 18 have any legal standing?
 19 How often on average are e-mails
 20 typically sent to the counties providing feedback,
 21 recommendations, and instructions on administering
 22 elections?
 23 In the 2020 general election, were
 24 there more or less e-mails than usual sent to the
 25 counties? If more, why?

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1 What about during the '21 primary, the
 2 2021 primary, were there more or less e-mails than
 3 average that were sent to the counties? Again, why
 4 do you think that might be?
 5 I understand the Deputy Secretary
 6 Jonathan Marks sent an e-mail giving guidance
 7 regarding ballots received after 8 p.m. of election
 8 night and before 5 p.m. Friday, November 5th. What
 9 was the major need to send this guidance so close
 10 to the election?
 11 Who decided to send the guidance so
 12 close to the election?
 13 What other kinds of issues were
 14 addressed in e-mails sent by the Department leading
 15 up to the 2020 general election?
 16 How many examples of e-mails sent to --
 17 sent leading up to 20- -- we would like to have
 18 examples of the e-mails sent leading up to the 2020
 19 election.
 20 Could you please provide copies of all
 21 the e-mails that were transmitted to county
 22 election officials regard- -- regarding guidance
 23 from August 1st until November 30th?
 24 Is it true that the Department of State
 25 issued guidance that the counties should count

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1 naked ballots, ballots that have been placed
 2 directly in a return envelope and are missing the
 3 secrecy envelope, but the -- the Pennsylvania
 4 Supreme Court ruled against that guidance?
 5 When Secretary Boockvar testified
 6 before Representative Grove's committee in the
 7 House, she stated that guidance was issued because
 8 counties did not know what to do about the
 9 signatures. The signature verification has been
 10 part of our election security for a very long time.
 11 What was it about the November 2020 election that
 12 suddenly made this a significant issue?
 13 Isn't signature verification part of
 14 the in-person voting process?
 15 How was signature verification supposed
 16 to occur for in-person voting?
 17 Prior to the election, the Pennsylvania
 18 courts heard a suit over whether voters could or
 19 should be given the ability to correct defects in
 20 their mail-in ballots or cure them.
 21 Are you aware that Secretary Boockvar,
 22 in the PA Supreme Court case on curing ballots in
 23 November 2020, stated that "Logistical policy
 24 decisions like the ones implicated herein are more
 25 properly addressed by the legislature and not the

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1 courts"?)
 2 Is it evident through Secretary
 3 Boockvar's statement that it was not the purview of
 4 the Executive Branch to construct electoral -- or
 5 election logistical policy? Therefore, would you
 6 agree with Secretary Boockvar and the PA Department
 7 of State that the Pennsylvania General Assembly
 8 legislation -- the Pennsylvania General Assembly
 9 legislate election logistical policy?
 10 Are you aware that in the same court
 11 case mentioned previously that the Pennsylvania
 12 Supreme Court decision specifically stated that
 13 these logistical issues should be decided through
 14 legislation stating that in light of the open
 15 policy questions, attendant to that decision
 16 relating to curing ballots, including what the
 17 precise contours of the proced- -- procedure would
 18 be, how the con- -- concomitant burdens would be
 19 addressed and how the procedure would impact the
 20 confidentiality and counting of ballots, all of
 21 which are best left to the legislative branch of
 22 the Pennsylvania government?
 23 Is it true that Secretary Boockvar,
 24 when she petitioned the PA Supreme Court concerning
 25 signature verification in October of 2020, stated

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1 that she could -- was concerned that counties might
 2 improvise ad hoc procedures which would vary from
 3 county to county creating a significant risk of
 4 error and uncertainty in the review of ballots.
 5 Despite the Secretary and the Court
 6 stating that the matter of curing ballots should
 7 proceed through the legislative process, did the
 8 Department issue guidance or recommendations on
 9 curing ballots?
 10 To your knowledge, were the -- were
 11 there counties who permitted voters to, in any way,
 12 cure their ballots?
 13 What's your understanding of how
 14 counties permitted such cure?
 15 How many counties permitted these cure
 16 processes?
 17 Did they all use the same processes, to
 18 your understanding?
 19 We have heard that both the executive
 20 and judicial branches specifically stated that
 21 creating the logistical process of curing ballots
 22 is the purview of the legislature. However, prior
 23 to writing such logistical election policy, would
 24 you agree that it would be incumbent on the General
 25 Assembly -- Assembly to thoroughly study the matter

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1 of curing ballots?
 2 Is it true that Secretary Boockvar,
 3 when she petitioned the PA Supreme Court concerning
 4 signature verification in October 2020, stated that
 5 she was concerned that there are no standards or
 6 guidelines contained within the code governing how
 7 an election official should perform such a
 8 comparison?
 9 Would it follow, then, that if the
 10 legislature desired to legislate signature
 11 verification back into the election code, the
 12 General Assembly would need to provide standards
 13 and guidelines for counties to follow specifically
 14 and to uniformly conduct such signature
 15 verification?
 16 Would it also follow that the General
 17 Assembly, before legislating such standards and
 18 guidelines, study the matter in depth to ensure the
 19 best signature verification standards and
 20 procedures are contained in our election code?
 21 I will add that the auditor general --
 22 the Democratic auditor general -- in 2019 issued a
 23 scathing examination of what our next hearing is
 24 going to cover. The SURE system. And I would
 25 request that the Secretary be prepared and the

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1 Department be prepared to testify on that audit
 2 report and to have answers to the findings that
 3 were in that report.
 4 I now recess this Senate
 5 Intergovernmental --
 6 SENATOR HUGHES: Mr. Chairman --
 7 Mr. Chairman --
 8 SENATOR DUSH: -- Operations Committee
 9 until the --
 10 SENATOR HUGHES: Mr. Chairman, before
 11 you recess --
 12 SENATOR DUSH: -- call of the chair.
 13 SENATOR HUGHES: -- I wanted to do
 14 something for the record. Before you recess the
 15 meeting. It's a re- -- it's a request --
 16 SENATOR DUSH: We're at ease. We're at
 17 ease.
 18 SENATOR HUGHES: Thank you.
 19 SENATOR DUSH: The letter is submitted
 20 for the record.
 21 SENATOR HUGHES: Mr. Chairman, I now --
 22 SENATOR DUSH: I now recess this Senate
 23 Intergovernmental Operations Committee. The letter
 24 will be posted on the Senate's web page.
 25

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1 CERTIFICATE
 2
 3 I, Sommer E. Greene, Certified Court
 4 Reporter for the State of Arizona, certify:
 5 That the foregoing proceedings were
 6 transcribed by me, that the audio transcription was
 7 taken down by me in shorthand and thereafter
 8 reduced to print by computer-aided transcription
 9 under my direction; that the foregoing pages are a
 10 full, true, and accurate transcript of all
 11 proceedings, all to the best of my skill and
 12 ability.
 13 I FURTHER CERTIFY that I am in no way
 14 related to nor employed by any of the parties
 15 hereto, nor am I in any way interested in the
 16 outcome hereof.
 17 DATED this 16th day of September, 2021.
 18
 19
 20 _____
 21 Sommer E. Greene
 22 Certified Court Reporter No. 50622
 23 For the State of Arizona
 24
 25

EXHIBIT C

1 PENNSYLVANIA SENATE INTERGOVERNMENTAL
2 OPERATIONS COMMITTEE

3 + + + + +

4 VOTING MEETING -
5 CONSIDERATION OF A MOTION TO AUTHORIZE
6 THE ISSUANCE OF SUBPOENAS

7 + + + + +

8 Wednesday, September 15, 2021

9 + + + + +

10 A public hearing of the Pennsylvania Senate
11 Intergovernmental Operations Committee convened,
12 pursuant to notice, at 9:30 EDT; Senator Cris Dush,
13 Chairman, presiding.

14 SENATE COMMITTEE MEETING MEMBERS PRESENT:

15 OFFICERS:

16 CRIS DUSH, Chairperson

17 ANTHONY H. WILLIAMS, Minority Chair

18 MAJORITY:

19 SCOTT E. HUTCHINSON, Vice Chair

20 JAKE CORMAN, Ex-Officio

21 DAVID G. ARGALL

22 CHRIS GEBHARD

23 DOUG MASTRIANO

24 JUDY WARD

25 MINORITY:

JAY COSTA

VINCENT J. HUGHES

STEVEN J. SANTARSIERO

STAFF:

NATHANIEL R. SANKO, Legislative
Assistant/Clerk

The transcript constitutes the minutes from
the Senate Intergovernmental Operations Committee held
on September 15, 2021.

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T-A-B-L-E O-F C-O-N-T-E-N-T-S

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3	authorize the issuance of subpoenas	4
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6	Adjournment	59
7	Reporter's Certificate	60

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1 SENATOR SANTARSIERO: Here.

2 THE CLERK: Judy Ward?

3 SENATOR WARD: Here.

4 THE CLERK: Anthony Williams?

5 SENATOR WILLIAMS: Present.

6 THE CLERK: Dush?

7 SENATOR DUSH: Present.

8 THE CLERK: Corman?

9 SENATOR CORMAN: Here.

10 SENATOR DUSH: A quorum having been

11 established, good morning everyone. It has been made

12 plain that the Department of State and Acting Secretary

13 Degraffenreid are not willing to participate in this

14 body's investigation into the 2020 general election and

15 2021 primary election and how the election code is

16 working after the sweeping changes of Act 77 of 2020.

17 In order to determine the necessity and

18 scope, in terms of legislative action, it is essential

19 that the Legislature have access to the relevant

20 information in regarding -- in regard to the

21 aforementioned elections.

22 As such, pursuant to the powers granted to

23 the Senate Committees via Senate Rule 14D and Article

24 II, Section 11 of the Pennsylvania Constitution as well

25 as Pennsylvania Statue 46 subsection 61, I make the

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P-R-O-C-E-E-D-I-N-G-S

1 (9:30 a.m.)

2 SENATOR DUSH: We will now call this meeting

3 of the Senate Intergovernmental Operations Committee to

4 order.

5 In order to establish a quorum, Nate, please

6 call the role.

7 THE CLERK: Argall?

8 SENATOR ARGALL: Here.

9 THE CLERK: Costa?

10 SENATOR COSTA: Here.

11 THE CLERK: Gebhard?

12 SENATOR GEBHARD: Here.

13 THE CLERK: Hughes?

14 UNIDENTIFIED: Proxy.

15 SENATOR HUGHES: Here.

16 UNIDENTIFIED: He was here. I don't know

17 where he went.

18 UNIDENTIFIED: He went to the restroom.

19 UNIDENTIFIED: Restroom. Okay.

20 THE CLERK: Hutchinson?

21 SENATOR HUTCHINSON: Here.

22 THE CLERK: Mastriano?

23 SENATOR MASTRIANO: Proxy here.

24 THE CLERK: Santarsiero?

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1 motion to authorize and direct the senate secretary to

2 prepare a subpoena directed to the Acting Secretary of

3 State, Veronica Degraffenreid, requesting the following

4 information:

5 (1) any and all communications; emails,

6 letters, notes of calls and/or meetings or otherwise

7 from the Department of State to any county election

8 director or member of a county election board between

9 May 1st, 2020 and May 31st, 2021;

10 (2) a copy of each and every version of all

11 directives, guidances, policies and procedures in

12 effect at any time between August 1st, 2020 and June

13 30th, 2021 relating to elections, election systems,

14 mail-in ballot applications, ballots, voting,

15 compliance with state or federal election laws, polling

16 places and/or poll watchers;

17 (3) All training materials used to train

18 county election workers, poll workers, poll watchers,

19 judges of elections, inspectors, clerks and all persons

20 who staffed voting offices between August 1st, 2020 and

21 May 31st, 2021;

22 (4) a complete list containing the name, date

23 of birth, driver's license number, last four digits of

24 Social Security number, address and date of last voting

25 activity of all registered voters within the

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1 Commonwealth of Pennsylvania as of May 1st, 2021 by
 2 county;
 3 (5) A complete list containing the name, date
 4 of birth, driver's license number, last four digits of
 5 Social Security number, address and date of last voting
 6 activity of all registered voters within the
 7 Commonwealth of Pennsylvania as of November 1st, 2020
 8 by county;
 9 (6) a complete list containing the name, date
 10 of birth, driver's license number, last four digits of
 11 Social Security number and address of all individuals
 12 who voted in person in the November 2020 General
 13 election by county;
 14 (7) a complete list containing the name, date
 15 of birth, driver's license number, last four digits of
 16 Social Security number and addresses of all individuals
 17 who voted by mail-in ballot in the November 2020
 18 General election by county;
 19 (8) a complete list containing the name, date
 20 of birth, driver's license number, last four digits of
 21 Social Security number and address of all individuals
 22 who voted by absentee ballot in the November 2020
 23 General election by county;
 24 (9) a complete list containing the name, date
 25 of birth, driver's license number, last four digits of

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1 Social Security number and address of all individuals
 2 who voted by provisional ballot in the November 2020
 3 General election by county;
 4 (10) a complete list containing the name,
 5 date of birth, driver's license number, last four
 6 digits of Social Security number and address of all
 7 individuals who voted in person in the May 2021 primary
 8 election by county;
 9 (11) a complete list containing the name,
 10 date of birth, driver's license number, last four
 11 digits of Social Security number and address of all
 12 individuals who voted in person in the May 2021 primary
 13 election by county;
 14 (12) a complete list containing the name,
 15 date of birth, driver's license number, last four
 16 digits of Social Security number and address of all
 17 individuals who voted by absentee ballot in the May
 18 2021 primary election by county;
 19 (13) a complete list containing the name,
 20 date of birth, driver's license number, last four
 21 digits of Social Security number and address of all
 22 individuals who voted by provisional ballot in the May
 23 2021 primary election by county;
 24 (14) a complete list of all changes to voter
 25 records made between May 31st, 2020 and May 31st, 2021;

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1 (15) a copy of the certified results for each
 2 and every race and or ballot question on the May 2020
 3 general and the May 2021 primary elections;
 4 (16) a copy of all reports of audits and/or
 5 reviews of the Sure System conducted by or for the
 6 Department of State between 2018 and the present,
 7 including but not limited to any audits conducted under
 8 25 Pennsylvania Consolidated Statutes 1803(a);
 9 (17) a copy of the annual reports submitted
 10 to the Department in 2021 pursuant to Title 4,
 11 Pennsylvania Code 183.7; 4 PA Code 183.7.
 12 These subpoenas shall direct the production
 13 of requested records be made to the Office of General
 14 Counsel for the Senate Republican Caucus by no later
 15 than 4:00 p.m. on Friday, October 1st, 2021.
 16 The senate secretary shall further be
 17 authorized to, in turn, direct senate security to
 18 appropriately serve these subpoenas as required by law.
 19 Is there a second to the motion?
 20 SENATOR CORMAN: Mr. Chairman? Mr. Chairman?
 21 SENATOR DUSH: Senator Ward seconds the
 22 motion. Are there any questions or discussion
 23 regarding the motion? The Chair recognizes the
 24 minority chair, Senator Williams.
 25 SENATOR WILLIAMS: I have attempted to

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1 accommodate the process, even though I differ with the
 2 process. I came here prepared to follow what was
 3 outlined in terms of what was going to happen. There
 4 was an opening statement, which I feel and felt was
 5 important to provide with regard to perspective about
 6 what the proceedings are today.
 7 I did interrupt and ask for acknowledgement
 8 on the seconding of the motion, which was not
 9 recognized. I want to ask that I have latitude in
 10 responding to these subpoenas, in terms of the comments
 11 I may make. I'm asking on behalf of myself solely, not
 12 the other members, so that I can get as a part of the
 13 record a reaction on the side of the minority portion.
 14 SENATOR DUSH: Senator, you're recognized for
 15 the comments.
 16 SENATOR WILLIAMS: Thank you, Mr. Chairman.
 17 In January, Senator Pro Tem, Jake Corman, created and
 18 appointed, along with recommendations from Senator Jay
 19 Costa, members to the Special Commission on Election
 20 Integrity. From this bipartisan committee, there were
 21 recommendations on how to improve, protect, and support
 22 voter participation.
 23 During those proceedings, the County
 24 Commissioner's Association of Pennsylvania, a non-
 25 profit and non-partisan association, representing 67

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1 counties, provided specific insight and guidance of
 2 needed resources for counties across the Commonwealth
 3 of Pennsylvania. To date, none of those
 4 recommendations have been enacted.

5 Nonetheless, here we sit prepared to vote on
 6 subpoenas that may or may not be a violation of federal
 7 law, that may or may not be jurisdictionally
 8 appropriate based upon this committee and based upon
 9 the non-participation in our last hearing at the
 10 Department of State.

11 Regardless of the fact that the Department
 12 has before the election and since the election provided
 13 specific comment reported before committees regarding
 14 their activities. Regardless of the fact that this
 15 committee and the republicans are quite aware that they
 16 have taken the Department to court and, therefore,
 17 limit what the Department can say in public
 18 proceedings.

19 We're also here based upon the testimony of
 20 the Fulton County Commissioner, Stuart Ulsh, which,
 21 frankly, raises more questions than provided answers or
 22 insight. What was stated on the record, there was no
 23 evidence of fraud in his county nor consequence of
 24 election manipulation.

25 Further, he provided what many of us see as

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1 an alarming line of information, information that a
 2 private vendor potentially without sunshine or public
 3 knowledge, has access to their voter file information.

4 The entirety of our proceedings today,
 5 issuing subpoenas, is based upon such a non-credible
 6 foundation, going well beyond and is very troubling,
 7 and, in fact, leads us to darker days in this country,
 8 such as when hearings like these during the McCarthy
 9 era were held, where voices were silenced and liberties
 10 were denied, being bullied by the power of the
 11 government.

12 It is no exaggeration to say to protect one's
 13 right to vote, is parallel to those dark days and space
 14 in this country. This equates to a pure, unadulterated
 15 power grab, unfounded in fact, widely unpopular and
 16 aimed to suppress voters' rights targeted to stack the
 17 deck, aimed at gross misuse of taxpayers' dollars.
 18 This is an attack on our country's greatest freedom.
 19 It's an attack on our right to vote.

20 Today the republicans are taking a giant leap
 21 from fanning the flames of voter obstruction to a
 22 blowtorch on democracy. Not only are the subpoenas
 23 that you are set to authorize being carelessly rushed
 24 without evidence to warrant them, there's also no
 25 ground to stand on. This action is clearly a violation

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1 of the separation of powers. This investigation is
 2 either a untimely election contest or an election
 3 audit, probably both. The senate does not have the
 4 authority to perform either.

5 And in the substance of these subpoenas, the
 6 public should be forewarned of the overreaching,
 7 overarching nature contained in these subpoenas,
 8 specifically for the government to have access to your
 9 Social Security numbers should be scary to all of us.

10 This information that will be provided will
 11 be forwarded to a private vendor. For those who come
 12 from counties that are truly concerned about the
 13 government, its overreaching and desire your privacy,
 14 this should be seen as a betrayal of those who are here
 15 to represent you.

16 Further, the information that we now see
 17 based upon the activity going on in Arizona, and make
 18 no mistake, this is an attempt, and an Arizona type
 19 forensic audit is being investigated by the federal
 20 Department of Justice and may well be, in fact, a
 21 violation of federal law.

22 As my friend, Senator Costa and others last
 23 week and others before him have stated, we're at a
 24 crossroads. For those of us who want to preserve the
 25 constitution, it is our sworn responsibility to follow

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1 it in this commonwealth, this is a clear, clear pattern
 2 that troubles all of us.

3 Senator Corman suggested today, in a
 4 published newspaper article, that there should be an
 5 investigation. We agree. We agree with him. We
 6 believe that what has been revealed by testimony in
 7 careless newspaper reports, there seems to be potential
 8 for a legal activity conspiring to change the results
 9 of this election, information being --

10 SENATOR DUSH: Mr. Chairman, you're
 11 questioning the integrity of the integrity of the chair
 12 and going to motives. Under Rule 10(b), I've clearly
 13 laid out where the purpose of this investigation and
 14 what it's to be used for. It is not for several of the
 15 points that you've made. I've given, you know, some
 16 latitude, but at this point, you have to stop making
 17 false accusations about the intent of this
 18 investigation and of the chair. You're going to the
 19 motives of the chair, which under senate rules is not
 20 authorized. You may proceed.

21 SENATOR WILLIAMS: Thank you. For the
 22 record, I am not questioning the motives of the chair.
 23 There's nothing in my statement that suggests it's the
 24 motives of the chair. It doesn't even personalize it
 25 to the extent that the member is involved.

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1 SENATOR DUSH: Senator --
 2 SENATOR WILLIAMS: But it does --
 3 SENATOR DUSH: -- when you say that the
 4 motive of this is for some purpose other than the
 5 stated motives and the intent of this committee and
 6 this investigation, you are questioning the motive of
 7 the chair.
 8 SENATOR WILLIAMS: I'm reacting to what has
 9 been publicly documented in a newspaper article --
 10 SENATOR DUSH: Not on this chairman's
 11 directives and my statements. You're using other
 12 people's comments. You are not using the statements of
 13 this chairman. And I'm the one who determines the
 14 direction of this investigation.
 15 SENATOR WILLIAMS: This committee is
 16 sanctioned by the body as a total. No committee
 17 operates independent of the senate. It only operates
 18 from the permission of those who are in leadership. So
 19 with all due respect, there's nothing that any
 20 committee chair, including you, can certainly suggest
 21 operates independently of that process.
 22 So, therefore, with all due respect, Mr.
 23 Chairman, this is a response to a statement made by the
 24 member that sanctions the committee, that appoints the
 25 chairman of this committee, and allows for the work of

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1 this committee and directed the work of this committee
 2 and stated publicly in many and numerous newspaper
 3 reports, including today.
 4 So to suggest that the chairman is solely
 5 responsible and solely under attack, is not consistent
 6 with the facts, nor is it consistent with any pattern
 7 that has occurred within the senate prior to his
 8 arrival as a chairman or will go forward. That's the
 9 reality. That's not an exaggeration. That's a
 10 statement of the fact. So I would like to continue
 11 with regard to how the senate is proceeding, not the
 12 chairman.
 13 SENATOR DUSH: Proceed.
 14 SENATOR WILLIAMS: Thank you. We believe now
 15 that has been revealed by testimony in countless
 16 newspaper reports, that there seems to be the potential
 17 for activity, which may be considered to be illegal.
 18 Information being given to a private vendor without a
 19 public notification and a continuing drumbeat to avoid
 20 any kind of rescission of that potentially illegal
 21 activity is of great concern.
 22 While this reminds us, again, of another era.
 23 When the Watergate Committee began its investigation,
 24 it headed in one direction, and quickly discovered by
 25 the statement of facts and details that indeed there

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1 were unscrupulous and illegal activities in a pointedly
 2 different direction. We suggest that Senator Corman
 3 and the like indeed investigate those significant
 4 findings and those proceedings.
 5 Lastly, we sit in the shadow of 911 where we
 6 as a collective nation weep and mourn and remember the
 7 tragedy which occurred. And I'm drawn to the comments
 8 made by former President Bush, "We're greater as a
 9 collective as opposed to divided."
 10 So while we sit here in the minority, we will
 11 continue the battle and the fight for those of us who
 12 believe in what President Bush believes in and every
 13 good and godly given American in Pennsylvania believes
 14 in, their God-given right to be considered equal. And
 15 that's expressed through their franchise and their
 16 right to vote. Thank you, Mr. Chairman.
 17 SENATOR DUSH: Thank you, Chairman. Are
 18 there any other questions or discussion on the motion?
 19 THE CLERK: Senator Santarsiero, Mr.
 20 Chairman.
 21 SENATOR DUSH: Senator Santarsiero.
 22 SENATOR SANTARSIERO: Thank you, Mr.
 23 Chairman. I just have a few questions, if I may.
 24 First, I'm trying to understand the breadth of the
 25 subpoena and what is being requested. Can you explain

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1 why it is that the proposed subpoena would be
 2 requesting Social Security and driver's license
 3 numbers?
 4 SENATOR DUSH: Those documents are part of
 5 any audit that the auditor general would conduct or
 6 anybody who is looking to verify the identity of
 7 individuals and their place of residence and their
 8 eligibility to vote.
 9 SENATOR SANTARSIERO: Okay. Well, why are we
 10 trying to verify the identity of these individuals?
 11 There are almost seven million people, for example, who
 12 voted in the November 2020 elections, both in person
 13 and by mail-in and absentee ballot. Why are we trying
 14 to verify their identities?
 15 SENATOR DUSH: Because there have been
 16 questions regarding the validity of people who have
 17 voted, whether or not they exist. Again, we are not
 18 responding to proven allegations. We are investigating
 19 the allegations to determine whether or not they are
 20 factual.
 21 SENATOR SANTARSIERO: Toward what end?
 22 Toward what end would you?
 23 SENATOR DUSH: If we have some errors within
 24 the voter registration system which allow for such
 25 activity, then we have a responsibility as a

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1 Legislature to create legislation, which will prevent
 2 that from happening in future elections.
 3 SENATOR SANTARSIERO: Well, we have
 4 legislation right now that requires certain threshold
 5 requirements for someone to be able to vote. Why
 6 specifically would we need this information for the
 7 nearly seven million people who voted. We've heard
 8 through our special committee earlier this year from a
 9 number of county elections officials across
 10 Pennsylvania and we heard as recently as last week from
 11 a county election official in Fulton County that there
 12 were no issues. Why do we need this information?
 13 SENATOR DUSH: The commissioner from Fulton
 14 County was commenting on the counts. He was not
 15 commenting on the veracity of the individual voters and
 16 whether or not they were authorized. And to the first
 17 part of your question, if all those protections that
 18 you described are in place and we still discover that
 19 there were issues, then we do have a responsibility to
 20 clarify or improve on the legislation that you've
 21 described.
 22 SENATOR SANTARSIERO: Beyond understanding
 23 that someone may or may not have voted properly, what
 24 are you going to use this information for? I'm still
 25 trying to struggling with the information. You're

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1 asking for a lot of information. You're asking for the
 2 identification, the Social Security numbers and
 3 driver's license numbers for nearly seven million
 4 people. What do you hope to do with that information?
 5 SENATOR DUSH: That's already been asked and
 6 answered.
 7 SENATOR SANTARSIERO: Well, I don't know that
 8 you've really answered the question, because there have
 9 been allegations about last year's election. I
 10 understand that. They've been proven to be without
 11 merit. Why do we now need this information?
 12 SENATOR DUSH: Again, it is to verify the
 13 individuals. I will -- and as to your comments on the
 14 outside vendors for this purpose, we have the Secretary
 15 of State authorized that distribution of that exact
 16 same information to a number of third-party vendors up
 17 to the election.
 18 SENATOR SANTARSIERO: Mr. Chairman, I don't
 19 think I've asked any questions about outside vendors
 20 yet. I --
 21 SENATOR DUSH: Actually, you did.
 22 SENATOR SANTARSIERO: You may be anticipate,
 23 but you said so we could verify the voter, but why do
 24 we need to verify -- I'm trying to understand why we
 25 need to verify -- why does this committee -- this body

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1 need to verify those voters from 2020?
 2 SENATOR DUSH: That question again has been
 3 asked and answered. This is an investigation to
 4 determine if there are failures with regard to ensuring
 5 the integrity of the voter registration system.
 6 SENATOR SANTARSIERO: All right. Let me go
 7 on to another topic that I would like to try to get
 8 some understanding of. If this information, if the
 9 subpoenas are voted out today, and the information is
 10 provided, who is going to have access to the
 11 information?
 12 SENATOR DUSH: We are still working on
 13 getting the contracts finalized on a vendor who is
 14 capable of conducting such an investigation.
 15 SENATOR SANTARSIERO: Who is we in that
 16 sentence, if I could?
 17 SENATOR DUSH: Myself and my team.
 18 SENATOR SANTARSIERO: And who is your team?
 19 SENATOR DUSH: My staff as well as the legal
 20 counsel who will be assisting.
 21 SENATOR SANTARSIERO: And who is that legal
 22 counsel?
 23 SENATOR DUSH: The senate republican legal
 24 counsel right now. There's a possibility of hiring
 25 outside counsel too. We haven't finalized that.

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1 SENATOR SANTARSIERO: All right. So the
 2 senate republican caucus is going to determine who is
 3 going to be hired to review this information? Am I
 4 understanding that correctly?
 5 SENATOR DUSH: I have been tasked with
 6 running this committee. I will be making a choice
 7 after conferring with legal counsel, and then we will
 8 proceed from there. But that has not been finalized
 9 yet.
 10 SENATOR SANTARSIERO: All right. In any
 11 event, it's legal counsel that you are going to choose.
 12 SENATOR DUSH: That is correct.
 13 SENATOR SANTARSIERO: Okay. And do you have
 14 a list of vendors right now that you're considering
 15 that you can share with the committee?
 16 SENATOR DUSH: I don't have anybody that I'm
 17 willing to share at this point.
 18 SENATOR SANTARSIERO: That you're willing to
 19 share at this point. And why is that? Why would you
 20 not be willing to share that information right now?
 21 SENATOR DUSH: Because I have not completed
 22 vetting those candidates.
 23 SENATOR SANTARSIERO: Okay. Are they vendors
 24 that are located inside the Commonwealth of
 25 Pennsylvania?

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1 SENATOR DUSH: Both inside and outside.

2 SENATOR SANTARSIERO: Okay. Are they vendors

3 located within the United States of America?

4 SENATOR DUSH: Absolutely.

5 SENATOR SANTARSIERO: Okay. And are these

6 vendors, do they -- who's funding these vendors.

7 SENATOR DUSH: It will come out of senate

8 funds.

9 SENATOR SANTARSIERO: It will come out of

10 senate funds. The vendors themselves, do we know who

11 their clients are outside of potentially this

12 committee?

13 SENATOR DUSH: As I said, I'm in the process

14 of vetting those possible vendors.

15 SENATOR SANTARSIERO: Okay. And when you've

16 completed your what you describe as your vetting, are

17 you going to be sharing that publicly?

18 SENATOR DUSH: I'm sorry. Could you repeat

19 the question?

20 SENATOR SANTARSIERO: Well, so my question,

21 what I'm trying to get to, Mr. Chairman, is, obviously,

22 I think it should be the goal of this committee,

23 certainly the goal of the state senate to operate in as

24 open and transparent a manner as possible. I'm a bit

25 concerned about what you're describing now, because it

Page 23

1 seems contrary to that goal. But my question is with

2 respect to this vetting that you're doing, are you

3 ultimately going to make that information available to

4 the public?

5 SENATOR DUSH: That information will be made

6 available, but at this point, we're off the topic of

7 the subpoenas in particular. And as to the

8 understanding --

9 SENATOR SANTARSIERO: Mr. Chairman?

10 SENATOR DUSH: I would ask the member if you

11 have questions regarding the subpoenas and we will

12 proceed from there.

13 SENATOR SANTARSIERO: Mr. Chairman, I

14 strongly, with all due respect, disagree with that.

15 You are proposing that this committee vote on the issue

16 of subpoenas that potentially would result in the

17 production of a voluminous amount of information about

18 individual Pennsylvania citizens.

19 The question is about what happens to that

20 information when it comes in? Who has access to that

21 information? Who are those people? And how are they

22 chosen? I think are direct -- those are questions that

23 are directly relevant to the question before this

24 committee, which is whether or not we should issue

25 these subpoenas.

Page 24

1 How can we vote on whether we should issue

2 these subpoenas if we don't know, ultimately, what's

3 going to happen to this information and who's going to

4 have access to it? So I would respectfully disagree.

5 Now, my question is whoever --

6 SENATOR DUSH: Well, to answer your question,

7 the senate secretary is going to prepare the subpoena,

8 directing the Secretary of State to produce the

9 documents and these will come to the senate, and they

10 will be held in the legal counsel's office until such

11 time as we have a finalized agreement and a contract

12 for the investigator.

13 And, again, I go back we need to be pursuing

14 questions on the substance of this subpoena. We have

15 the authority to do this, and we are working to ensure

16 that everything is in proper place. The storage of

17 that information will be held in a secure location and

18 capable under the counsel's office, just like any other

19 legal documents are secured within the senate legal

20 offices, and we will take proper care of it.

21 Are there any other questions --

22 SENATOR SANTARSIERO: I have several others,

23 if I may, Mr. Chairman. So will this whatever vendor

24 is ultimately chosen, will this vendor have complete

25 access to all the information that is produced as a

Page 25

1 consequence of these subpoenas?

2 SENATOR DUSH: Could you repeat the question?

3 SENATOR SANTARSIERO: Will the vendor who is

4 ultimately chosen have complete access to all the

5 information that may be produced as a consequence of

6 the issuance of these subpoenas?

7 SENATOR DUSH: Potentially yes. That will be

8 part of the discussion that I will be having with our

9 legal team as to what specifically will be given.

10 SENATOR SANTARSIERO: So to understand your

11 answer the scope of the access that the vendor will

12 have will be decided by you and your legal team?

13 SENATOR DUSH: That is correct.

14 SENATOR SANTARSIERO: Okay. And in going

15 through this vetting process, is one of the factors

16 you're discussing what kind of experience these vendors

17 have with reviewing election results?

18 SENATOR DUSH: Absolutely. And as well any

19 similar investigative capabilities that may be

20 required.

21 SENATOR SANTARSIERO: Okay. Getting back to

22 the issue of the vendors, do we know whether any of

23 these vendors have any relationship with the lawyer,

24 Sydney Powell?

25 SENATOR DUSH: You're off topic on this.

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1 SENATOR SANTARSIERO: No, I don't think so,
 2 Mr. Chairman, with all due respect. You're talking
 3 about vetting vendors who potentially, we don't know,
 4 because you haven't really answered.
 5 SENATOR DUSH: Actually, the answer to that
 6 is I really don't know, because it is not something
 7 that is relevant to my determination as to whether
 8 these people have qualities. You're going --
 9 SENATOR SANTARSIERO: So it's possible then.
 10 SENATOR DUSH: It's absolutely possible.
 11 Putting a man on the moon was found to be possible.
 12 SENATOR SANTARSIERO: Is it possible that
 13 these vendors are in any way receive funding from the
 14 Lydon Harry Bradley Foundation?
 15 SENATOR DUSH: Again, I don't know.
 16 SENATOR SANTARSIERO: Okay. But it's
 17 possible.
 18 SENATOR DUSH: Do you have a point?
 19 SENATOR SANTARSIERO: Yeah. I would have
 20 thought that the point was self-evident.
 21 SENATOR DUSH: Have a point that is relevant
 22 to this.
 23 SENATOR SANTARSIERO: It's absolutely
 24 relevant. Mr. Chairman, with all due respect, you are
 25 asking this committee to consider the issuance of a

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1 subpoena that is requesting personal information about
 2 nearly seven million Pennsylvanians. You have yet to
 3 explain who exactly is going to have access to that
 4 information.
 5 You have not indicated that there would be
 6 anyone making decisions regarding the access to that
 7 information other than yourself and some undefined
 8 legal team that may or may not yet have been chosen.
 9 And you're asking this committee to vote on whether
 10 these subpoenas should be issued without having any of
 11 that information.
 12 And I would argue that each one of us, as
 13 elected representatives of nearly 260,000 people in
 14 each of our districts, that we have duty to those
 15 people, many of whom voted in last November's election
 16 to know exactly where their information is going and
 17 who's going to have access to it. They cast votes
 18 under the law, under their freedom as Americans to cast
 19 votes in an election, with no expectation, no
 20 reasonable expectation that some private company not
 21 chosen by them, not chosen in a democratic fashion,
 22 because this committee doesn't seem to have any ability
 23 to make that decision.
 24 SENATOR DUSH: I think that --
 25 SENATOR SANTARSIERO: Allow me to finish,

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1 please, if I may.
 2 SENATOR DUSH: Well, I want to make a point
 3 here. The Secretary of State issued authorization for
 4 people to have access to all of that to one
 5 subcontractor, a political activist organization, which
 6 then was given the ability to, without any kind of
 7 vetting, push that out to others. I think there was
 8 somewhere around forty of them that had access to all
 9 of that information. So I have a hard time
 10 understanding your line of questioning on this.
 11 SENATOR SANTARSIERO: Mr. Chairman, when --
 12 SENATOR DUSH: You're --
 13 SENATOR SANTARSIERO: Mr. Chairman, the
 14 Secretary --
 15 SENATOR DUSH: The governor's own
 16 department --
 17 SENATOR SANTARSIERO: The Secretary of the
 18 Commonwealth has legal authority to conduct
 19 investigations into the conduct of elections. Now --
 20 SENATOR DUSH: That was not an investigation.
 21 SENATOR SANTARSIERO: Now, Mr. --
 22 SENATOR DUSH: That was authorization to Sure
 23 system.
 24 SENATOR SANTARSIERO: Mr. Chairman? Mr.
 25 Chairman, what you are proposing today, which is the

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1 issue in front of us, not what any secretary of state
 2 may or may not have done at any time in the past, is
 3 whether this committee should issue subpoenas that
 4 include personal information for nearly seven million
 5 Pennsylvanians. And you are incapable right now today,
 6 while we are considering this vote, to tell the members
 7 of this committee and the public who exactly is going
 8 to have access to that information, how that
 9 information is going to be used, and whether or not
 10 that information is going to be made public.
 11 You can't even tell us today who is going to
 12 be part of your team making those decisions. You're
 13 not willing to let us know what vendors are being
 14 considered. You're not describing what you term as
 15 vetting process is, and yet you're asking us to vote on
 16 the issuance of a subpoena that will collect that
 17 information.
 18 And, Mr. Chairman, I think, you know, we come
 19 here today asked to vote on something as substantial as
 20 this, that we should have that information in front of
 21 us, and, frankly, the public should have that
 22 information in front of us. I'm very concerned, very
 23 concerned that this committee, and ultimately this body
 24 is not being transparent. Moreover, I'm concerned that
 25 everything you're describing, in terms of the decisions

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1 in this process, the decisions as who should be hired
 2 as a vendor to review this information, the decisions
 3 about how that investigation, that review should take
 4 place is a partisan one. You've said it yourself.
 5 It's the republican caucus that will be
 6 making these decisions. Now, it may well be, and I
 7 think we all know, that this chamber has a majority of
 8 republicans, but the state senate, democrats and
 9 republicans alike, were elected to represent the people
 10 of this commonwealth in the state senate of
 11 Pennsylvania.
 12 And what you're now describing sounds very
 13 much to me like a partisan investigation, so much so
 14 that you're not even willing to share the details of
 15 that --
 16 SENATOR DUSH: All right. I'm done. Again,
 17 you're going to Rule 10(b), questioning the motives of
 18 the chair. The chair now recognizes Senator Corman.
 19 SENATOR CORMAN: Thank you, Mr. Chairman.
 20 Just a couple comments. You know when my friends over
 21 here, you know, pose something, which is certainly
 22 within their right. That's allowed. But when people
 23 are many times opposed to things, the best way to get
 24 other people to oppose to things is to make them
 25 scared. They should be scared of something. I guess

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1 my question for all of us is what are we scared of?
 2 SENATOR WILLIAMS: Mr. Chairman? Mr.
 3 Chairman, if I could just briefly interrupt. The
 4 chairman just criticized my colleague for impugning the
 5 motives --
 6 SENATOR CORMAN: That's a fair point. Fair
 7 point.
 8 SENATOR WILLIAMS: -- impugning the motives
 9 and -- thank you, sir.
 10 SENATOR CORMAN: Fair point.
 11 SENATOR WILLIAMS: Please recognize that.
 12 Thank you.
 13 SENATOR CORMAN: Fair point.
 14 SENATOR DUSH: The chair recognizes that
 15 and --
 16 SENATOR CORMAN: Fair point.
 17 SENATOR DUSH: Thank you.
 18 SENATOR CORMAN: But the question, in
 19 general, is, you know, what would any of us,
 20 republican, democrat, people of Pennsylvania, be afraid
 21 of, of this investigation? You know, all we're doing
 22 is seeking facts, seeking information, so that we can
 23 make better public policy.
 24 My good friend, Senator Williams, made
 25 mention of some public comments of my own, talking

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1 about we're looking to undermine an election. That's
 2 far from the truth. The Legislature, let me be very
 3 clear, Legislature has not authority to overturn an
 4 election. When there was a lot of human cry back in
 5 December about reappointing electors under the federal
 6 constitution, we said no. We can't do that.
 7 The state statute is very clear, that the
 8 winner of the popular vote certified by the Department
 9 of State, appoints the electors of that party. And we
 10 made no move in this general assembly or this senate to
 11 change that. That is the law.
 12 Any contest of any election, whether it be
 13 for the President of the United States, whether it be
 14 or governor, whether it be for Legislature, whether it
 15 be for county commissioner, whatever, are done through
 16 the courts. All contests are done through the courts.
 17 And the courts will ultimately have the say as they did
 18 in this particular last election on numerous races.
 19 And they made a decision. So there's no movement or
 20 discussion of that point.
 21 The point is we have public that is concerned
 22 about how the last election was conducted. And just as
 23 there was many concerns in 2016 from my friends, and
 24 particularly in Washington, D.C. on the other side of
 25 the aisle, there was a great debate about Russian

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1 collusion for two years why the democrats in D.C. were
 2 in the minority and then when they came into the
 3 majority, conducted investigations into Russian
 4 collusion. And even though there was, you know, very
 5 little facts behind that, they continued and continued
 6 and continued until, ultimately, an independent council
 7 was appointed, and then the final --
 8 SENATOR WILLIAMS: Mr. Chairman? Mr.
 9 Chairman, I have no problem with the gentleman speaking
 10 extemporaneously about Russian or China or whatever he
 11 wants to talk about, but I do know for the record, that
 12 when my colleague was attempting to question specific
 13 items he was constrained. Also, for the record, to my
 14 friend, I didn't suggest, and I didn't say in my
 15 comments anything about undermining what I said was
 16 comments in the paper talked about an investigation, of
 17 which we will follow up and support him in that effort
 18 to follow the details and the facts.
 19 So all I'm suggesting is that whatever we're
 20 going to do, the pattern be the same for every member
 21 of the committee. And certainly I respect my
 22 colleague, and I always have for a long time, and if he
 23 has full reign to talk about things such as that on the
 24 national stage, I only think it's appropriate that we
 25 have the same consideration.

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1 SENATOR DUSH: Thank you, Chairman. And I do
 2 agree. Let's try and keep this on topic.
 3 SENATOR CORMAN: So the point is I think that
 4 someone who I believe who has served with my colleagues
 5 for 20 years plus that, whether we agree to disagree
 6 credibility is important for all of us. And,
 7 obviously, this investigation, which gets a lot of
 8 attention, will be judged by its results. And what is
 9 most important to me, is the credibility of it. And I
 10 understand some of the questions by the gentleman from
 11 Bucks County and his concerns about the credibility.
 12 I could tell you this from my perspective,
 13 and I'm not speaking for the chair. The chair will
 14 make these decisions, you know, we didn't went outside
 15 sources when we talked about this paying for this,
 16 because, you know, republicans wouldn't like it if
 17 George Soros was funding investigations, right, nor
 18 should democrats like it if people with partisan
 19 leanings are paying for this on the outside. We felt
 20 very uncomfortable and didn't believe -- this is
 21 something the senate believes in. This is something
 22 that needs to be done. Then, you know, this is a
 23 public event, and the public, you know, should do that.
 24 And individuals who, ultimately are hired by the chair
 25 in this committee, should have that same type of

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1 credibility.
 2 People that have a track record of doing
 3 whatever investigations in their past that have that
 4 credibility. I think that is the most important, so
 5 that when we look at the results of this, when we look
 6 at the results of this at the end of the day, that
 7 whether it's your eyes or my eyes or independent eyes,
 8 we can look at what we found is credible and then
 9 hopefully, it'll accomplish one of two things; either
 10 will give us action items to better our laws moving
 11 forward for the next election, or we can dispel a lot
 12 of the concerns about the last election.
 13 One of those two things will happen at the
 14 end of the day. And I think both of those are good. I
 15 think both of those are productive for our
 16 commonwealth. Either we better our laws or we dispel a
 17 lot of the concerns that the people of Pennsylvania
 18 have. And you may not agree with those concerns, but I
 19 can tell you in my years in the senate, I have not had
 20 any issue and I've received more phone calls, more
 21 voter contacts, more people walking up to me in the
 22 street, and, look perception is reality.
 23 Not to get too far off topic, but I'm sure
 24 many people thought about the Russian collusion. That
 25 was their perception, that was their reality. And so,

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1 that investigation found out there was nothing. So
 2 people were more comfortable with the fact that Russia
 3 didn't get involved in our elections in 2016. Maybe
 4 that'll be the same here. I don't know. But, again,
 5 one of two things will happen, either we will fins
 6 things where we can improve our laws, or we will find
 7 nothing that will then dispel a lot of people's
 8 concerns, and we call can be more confident in our
 9 system moving forward.
 10 So, you know, I'd say well, we can do this
 11 together. We can do it with credibility. That is our
 12 goal, and I think that's the goal of the chair. That's
 13 the goal of myself as the pro tem. I know that's a
 14 goal. And we've had these discussions at caucus. If
 15 we're going to do this, let's do it right, so that the
 16 people of Pennsylvania will have confidence in whatever
 17 result we obtain. Thank you, Mr. Chair.
 18 SENATOR COSTA: Mr. Chairman, may I --
 19 SENATOR DUSH: I'm going to, as I'm looking
 20 at the clock, we're getting it to the point where if
 21 we're going to have the vote on this motion, we're
 22 going to have to limit further comments to about five
 23 minutes per member. And I will go to -- are there any
 24 members who have yet to speak that have comments?
 25 SENATOR WILLIAMS: Mr. Chairman --

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1 SENATOR DUSH: One moment. I'd like to have
 2 an answer to that question first, Mr. Chairman. Are
 3 there others?
 4 SENATOR COSTA: I just have one follow up
 5 question.
 6 SENATOR WILLIAMS: Mr. Chairman? Wait. Wait
 7 a minute. Mr. Chairman, you made a comment, and if
 8 we're going to follow a process, then you make a
 9 comment, we get to react.
 10 SENATOR DUSH: And I'm going to recognize --
 11 SENATOR WILLIAMS: And --
 12 SENATOR DUSH: -- Senator Costa.
 13 SENATOR WILLIAMS: -- before you do that, you
 14 put parameters on my members of five minutes prior to
 15 after another gentleman on committee spoke for ten.
 16 SENATOR DUSH: Senator --
 17 SENATOR WILLIAMS: And so Mr. Chair --
 18 SENATOR DUSH: Senator Santarsiero had more
 19 than time.
 20 SENATOR WILLIAMS: I'm not discussing any
 21 particular member. I'm talking about going forward.
 22 SENATOR DUSH: We've --
 23 SENATOR WILLIAMS: I'm suggesting to you that
 24 you put a time limit on the members, and to my
 25 knowledge, there's no other business other than this

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1 today. So if it takes the entire day, so be it. This
 2 is a significant moment. This is a significant asking
 3 of the general public. And there are several items to
 4 be discussed as we proceed.

5 Now, I have no idea as to whether members
 6 want to talk for two minutes, ten seconds or 20
 7 minutes. I don't know. But I do find it a bit
 8 disingenuous to make an announcement that we are now
 9 confined to five minutes after my friend, colleague and
 10 leader of the senate speaks at length about a variety
 11 of items. That doesn't -- that's not consistent with
 12 what we should do as a body.

13 SENATOR DUSH: Chairman, the individual who
 14 spoke prior to that and took even longer, and that was
 15 member of your side. So, and there were a number of
 16 topics discussed by him as well. From this point
 17 forward, given the time constraints that we have, I am
 18 going to limit until five minutes. And then if we've
 19 got time, we'll come back for a second round. Senator
 20 Costa, you're recognized.

21 SENATOR COSTA: Mr. Chairman, I would ask
 22 that you recognize Senator Santarsiero, then Senator
 23 Hughes and then myself. That was what we'd hoped to be
 24 able to achieve at this point.

25 SENATOR SANTARSIERO: And I will not take

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1 anywhere near five minutes, Mr. Chairman. You have my
 2 word on that.

3 SENATOR DUSH: Thank you.

4 SENATOR SANTARSIERO: If I may? Thank you.
 5 Mr. chairman, I just want to say, first, I
 6 wholeheartedly agree with Senator Corman that
 7 credibility is a critical issue here. So I guess I
 8 have another question for you, if I may. Leaving aside
 9 the payment information, as to where the founding comes
 10 from the vendor, can you say to us today that no vendor
 11 will be chosen who has at any time had any connection
 12 with any of the candidates, particularly the
 13 presidential candidates, but, frankly, any of the
 14 candidates who ran in last November's election?

15 SENATOR DUSH: That would be a very difficult
 16 task given that there is going to be a need to have
 17 multiple investigators, multiple areas of expertise,
 18 and the relationships that one has with how narrowly
 19 defined are we going to be going with these
 20 relationships? We live in a world where people are
 21 getting more and more actively involved with the
 22 political sphere. So am I going to be examining this
 23 in a way that will try and engender confidence on the
 24 part of the people of the commonwealth as to the
 25 outcomes.

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1 So the vetting process will be rigorous. We
 2 will be making sure that we're applying some
 3 significant measure of ensuring that the people will
 4 have faith in that. I'm not going to be hiring
 5 political activists to become investigators.

6 SENATOR SANTARSIERO: But it is possible,
 7 based on what you just said, that the vendor or vendors
 8 hired may have worked for one or more campaigns in last
 9 year's elections.

10 SENATOR DUSH: Again, anything is possible,
 11 but it's not where I'm going with this.

12 SENATOR SANTARSIERO: Thank you, Mr.
 13 Chairman. I have no further questions.

14 SENATOR DUSH: The chair recognizes Senator
 15 Hughes.

16 SENATOR HUGHES: Thank you, Mr. Chairman.
 17 And I'll try to get -- be as succinct as I possibly
 18 can, although there is a tremendous amount of
 19 information and conversation that needs to be had with
 20 this; obviously, I'll be voting no on the motion to
 21 subpoena documents and records with the Department of
 22 State.

23 We have every reason, every right to be
 24 candid about what happens with these documents, with
 25 this information. It's profuse public information --

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1 driver's licenses, voting records, Social Security
 2 information -- when Republican members of the Senate
 3 will obviously have access to this information and
 4 those Republican members of the Senate were involved in
 5 the insurrection and, in fact -- excuse me --

6 SENATOR DUSH: The Senator is out of line.

7 SENATOR HUGHES: I am not out of line; I am
 8 very much in line.

9 You are asking for prolific information --

10 SENATOR DUSH: The hearing will be at ease.
 11 The hearsay is at ease.

12 Cut the feed.
 13 (Pause)

14 SENATOR DUSH: The committee is back in
 15 session.

16 SENATOR HUGHES: May I continue, Mr.
 17 Chairman?

18 SENATOR DUSH: You may.

19 SENATOR HUGHES: All right. Mr. Chairman, the
 20 information that you're requesting is going to be made
 21 available to, at least, we can only infer, to at least
 22 Republican members of this committee. Don't know if
 23 it's going to be available to Democratic members.

24 We do know that Republican members of the
 25 Senate were in Washington, D.C. on January 6th, which

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1 was Insurrection Day. We do know that Republican
 2 members of this committee were in communication with
 3 last week's testifier about, within a week after the
 4 November 3rd election about how to impact the results
 5 of the election.

6 So, we do not have a full --
 7 SENATOR DUSH: Senator --
 8 SENATOR HUGHES: -- understanding --
 9 SENATOR DUSH: -- we're at ease.

10 (Pause)
 11 SENATOR DUSH: If we could wrap this up?
 12 SENATOR HUGHES: Thank you, Mr. Chairman.
 13 Mr. Chairman, I've been a member of the
 14 Pennsylvania Legislature for 34 years. I have
 15 introduced thousands of bills, worked with hundreds of
 16 staffers who assisted me in drafting legislation and
 17 advised me on the information that we needed to draft
 18 those bills.

19 I can honestly say that never in my 34 years
 20 has someone told me I needed the names, addresses,
 21 driver's license numbers, and Social Security numbers
 22 of my fellow Pennsylvanians to draft a bill. Never.

23 If that's the reason the majority gives us
 24 for needing this information and for issuing the
 25 subpoena to help draft legislation, Mr. Chairman,

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1 that's absurd and the majority knows it; however, the
 2 majority also knows it needs to create a legislative
 3 purpose to justify their fishing expedition for voters'
 4 personal information or their subpoenas will likely
 5 with declared invalid by the courts.

6 So here we are. Be clear: We don't need any
 7 voters' name, address, driver's license number, or
 8 Social Security number to draft legislation on any
 9 subject. We don't need the name, address, driver's
 10 license number, or Social Security number of every
 11 person who voted in person in 2020 to draft voting
 12 legislation. We certainly don't need that information
 13 from 6.9 million Pennsylvania voters, which is what the
 14 subpoena seeks. We don't need the personal information
 15 from 6.9 million Pennsylvania voters to draft
 16 legislation on in-person voting, or absentee voting, or
 17 mail-in voting, or voting by provisional ballot. We
 18 don't need subpoena records about when a voter last
 19 exercised his or her right to vote to draft
 20 legislation.

21 A person's constitutional right to vote and
 22 First Amendment rights includes the right not to vote
 23 if he or she does not want to. And whether a person
 24 exercises that right consistently or occasionally, is
 25 none of this committee's business.

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1 That is the information that the subpoena
 2 seeks and it is just wrong. But these are not the only
 3 reasons that aisle be voting no.

4 It struck me driving here today that for all
 5 of our differences about the 2020 election and this
 6 process, Republicans and Democrats claim to agree on
 7 two things: we want this process to be transparent and
 8 we want the results to be credible.

9 Democrats thought we took a small step
 10 forward in that regard with Senator Dush, yourself, Mr.
 11 Chairman, replaced Mr. Mastriano as chairman, amid
 12 accusations that Mr. Mastriano retreated from
 13 conducting an investigation and that he was only ever
 14 interested in politics and showmanship and not actually
 15 getting things done.

16 SENATOR DUSH: All right. The member is
 17 suspended from further comment, because he is, again,
 18 violating Rule 10 --

19 SENATOR HUGHES: I'm just quoting -- I'm
 20 quoting the comments.

21 SENATOR DUSH: It's not a quote --

22 SENATOR HUGHES: These are public comments
 23 that were made public, Mr. Chairman.

24 SENATOR DUSH: Senator, you're out of order.
 25 The chairman recognizes Senator Costa.

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1 SENATOR COSTA: Thank you very much, Mr.
 2 Chairman.

3 As it relates to --

4 SENATOR HUGHES: So, I'm done speaking; is
 5 that what the deal is?

6 SENATOR COSTA: That's exactly what the
 7 chairman has ruled.

8 SENATOR HUGHES: So, I'm done speaking by
 9 quoting the public record by yourself and the president
 10 pro tem?

11 SENATOR DUSH: We're at ease.

12 SENATOR HUGHES: These are comments about why
 13 the change was made.

14 SENATOR COSTA: We are extremely disappointed
 15 that the nature of our comments and the length of our
 16 comments are being cut off by you. I think this was
 17 mentioned by Senator Williams. This is a significant
 18 conversation and as we mentioned earlier, we're at the
 19 crossroads here in terms of who we are and what we're
 20 going to do as a Commonwealth and as a committee and as
 21 a body -- a section of our Senate.

22 We strongly believe that and continue to
 23 believe that we have a lot of issues here. My
 24 colleague has eloquently talked about the concerns that
 25 have been raised with respect to the release of all of

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1 this information. Nearly seven million individuals'
 2 Social Security numbers, addresses, other information
 3 that's being requested here; again, not known who's
 4 going to have access to them, not known what their ties
 5 or relationships with or other organizations.
 6 None of that vetting process is being done in
 7 a bipartisan way; it's strictly being done by you and
 8 your small team that you've indicated.
 9 And the question that I have, and one I'd
 10 like to have answered, will the individuals who are on
 11 this committee who participated in the full county
 12 election issue that took place when they audited that
 13 election -- where they found no fraud, by the way --
 14 will those individuals be directly involved in your
 15 discussions, with respect to your vetting and making a
 16 determination of who's going to be involved and what
 17 entity or third-party contractor will be selected?
 18 SENATOR DUSH: We have not made that
 19 determination yet. We are in the process of working
 20 with the legal team on how that is going to occur.
 21 SENATOR COSTA: When you say, "Working with
 22 the legal team," would a legal team determine for you
 23 whether or not the senators who were referenced in the
 24 previous testimony from the gentleman from Fulton
 25 County, who will make that determination to what

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1 degree?
 2 Because, as was indicated by Senator
 3 Williams, there are a lot of concerns about what took
 4 place there, which is another path that we may need to
 5 be looking at, collectively, and quite frankly, given
 6 what the Department of Justice has issued to, and the
 7 courts have issued, with respect to the Arizona
 8 situation, which is analogous to what is being done
 9 here, in our view, we believe that there are a lot of
 10 concerns about folks who were involved in that
 11 conversation that we need to look at, as well.
 12 So, my question is, will you not have members
 13 who participated in the Fulton County conversation
 14 regarding that audit, not participate in your decision-
 15 making process?
 16 SENATOR DUSH: I will be making that
 17 determination. I have not made that determination as
 18 of yet.
 19 SENATOR COSTA: Mr. Chairman, again, we
 20 reiterate our concern about a lot of decisions that
 21 have not been head at this point. And you're asking us
 22 to cast votes on a significant matter, as was described
 23 multiple times by my colleagues.
 24 It's wholly inappropriate to us to go down
 25 this path without having the ample knowledge and

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1 information.
 2 Mr. Chairman, to that end, I move that we
 3 table these subpoena motions to such a time that we
 4 have more information about who's going to be involved,
 5 what members of this committee who participated in
 6 various activities outside of this place and outside of
 7 this Commonwealth, and in other ways, until we know
 8 who's going to be involved in your discussions about
 9 who's going to be selected along those lines.
 10 So, I move that we table these subpoenas
 11 until such time as we have more information about the
 12 scope of the subpoenas and the nature of what's going
 13 to be done with this information, nearly seven million
 14 records.
 15 SENATOR SANTARSIERO: I second that.
 16 THE CLERK: So, moved and seconded, that we
 17 table the motion; Senator Santarsiero seconded.
 18 SENATOR DUSH: The chair recognizes the
 19 motion and the second by Senator Santarsiero on the
 20 move to table this vote.
 21 Nate, will you take a roll.
 22 THE CLERK: Argall?
 23 SENATOR ARGALL: No.
 24 THE CLERK: Argall, no.
 25 Costa?

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1 SENATOR COSTA: Aye.
 2 THE CLERK: Costa, aye.
 3 Gebhard?
 4 SENATOR GEBHARD: No.
 5 THE CLERK: Gebhard, no.
 6 Hughes?
 7 SENATOR HUGHES: Aye.
 8 THE CLERK: Hughes, aye.
 9 Hutchison?
 10 SENATOR HUTCHINSON: No.
 11 THE CLERK: Hutchison, no.
 12 Mastriano?
 13 SENATOR MASTRIANO: Proxy, no.
 14 THE CLERK: Mastriano, proxy, no.
 15 Santarsiero?
 16 SENATOR SANTARSIERO: Aye.
 17 THE CLERK: Santarsiero, aye.
 18 Judy Ward?
 19 SENATOR WARD: No.
 20 THE CLERK: Judy Ward, nay.
 21 Anthony Williams?
 22 SENATOR WILLIAMS: No -- I mean, aye. Sorry.
 23 THE CLERK: Williams, aye.
 24 Dush?
 25 SENATOR DUSH: Nay.

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1 THE CLERK: Dush, nay.
 2 Corman?
 3 SENATOR CORMAN: No.
 4 THE CLERK: No.
 5 SENATOR DUSH: The vote is 7:4. The motion
 6 fails.
 7 SENATOR WILLIAMS: Mr. Chairman, as a matter
 8 of record, did the gentleman provide a proxy to the
 9 committee?
 10 SENATOR DUSH: He has.
 11 SENATOR COSTA: Mr. Chairman, may I
 12 continual?
 13 SENATOR DUSH: Senator Costa is recognized.
 14 SENATOR COSTA: Thank you, Mr. Chairman.
 15 Mr. Chairman, I guess to summarize our
 16 position in this matter is that we believe that despite
 17 how it is being labeled by our colleagues on the other
 18 side of the aisle as, say, an investigation, a review,
 19 whatever you want to call it, we believe that it is
 20 clearly, clearly -- all sides indicate that it an
 21 election contest; something that this committee simply
 22 has no jurisdiction over or no ability to do.
 23 This is clearly a "separation of powers"
 24 issue. This is a Legislature trying to engage itself
 25 into a process by which our statutes clearly define

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1 when election contests take place: immediately after
 2 the election, 20-some-days or so before they have to be
 3 filed, and the courts determine whether there's any
 4 validity to those allegations that were made in that
 5 election contest.
 6 We cannot, some 10, 11 months later come back
 7 and try to do another election contest. That is what
 8 the crux of this is about.
 9 Secondly, there is another issue that we
 10 continue to raise with respect to the authority of this
 11 particular intergovernmental affairs committee that we
 12 talked about in the past and what's been raised in the
 13 past. We continue to believe that the purview of this
 14 subject matter belongs in the Secretary of State and
 15 our State Government Committee, chaired by Senator --
 16 Member, Senator Williams, a longtime standing member
 17 and chairperson of that committee. We believe that
 18 that's where this conversation should be taking place.
 19 This committee, as the chairman knows, and my
 20 colleague, Senator Corman knows, was created about 10
 21 years ago, not for the purpose of doing what we're
 22 doing today; but simply, quite frankly, to add another
 23 committee so we had enough members serving committee
 24 assignments as chairpersons -- let's be frank -- and
 25 that's why it was created. And it has never had the

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1 authority to deal with these types of matters.
 2 Historically, for generations and decades and
 3 decades and decades, the State Government Committee had
 4 jurisdiction over election matters, not this committee;
 5 in fact, this committee, even in a published record in
 6 the "Pennsylvania Bulletin," signed by the President
 7 Pro Tem Corman, states unequivocally, as it relates to
 8 regulatory activities, which is what we're looking at
 9 here, and guidelines and the like, that that
 10 jurisdiction for elections in the Department of State
 11 falls within the Department of State.
 12 In fact, the only place, the only thing cited
 13 for this committee, and that document that was
 14 published in the "Pennsylvania Bulletin," was
 15 independent regulatory review commission matters.
 16 That's the only identify -- the opportunity for this
 17 committee to examine those types of things.
 18 And, historically, if you go back and look at
 19 every single piece of legislation that's been
 20 introduced into this committee since its creation,
 21 none, if any, have dealt with election law, at any
 22 point in time, other than this conversation that's
 23 taking place.
 24 So, to summarize our position, there is --
 25 this is a situation where it's a "separation of powers"

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1 issue and that no matter you want to call it, however
 2 you want to color it, it is an election contest. It's
 3 not permitted by the statutes. It's not permitted by
 4 this committee to exercise.
 5 And the second issue, as it relates to this
 6 authority, this committee, we continue to hold that,
 7 and those are going to be the issues that we're going
 8 to continue to rise through this process.
 9 We are elected to vote -- to make sure that
 10 we protect the people's privacy, with respect to their
 11 ballot, with respect to their vote. And we believe in
 12 looking to do the things that are taking place here,
 13 with respect to Social Security numbers, with respect
 14 to addresses, driver's licenses, you name it, clearly
 15 violates that authority for us to be able to do that
 16 and protect people's ability to vote and the sanctity
 17 of their vote, and that's really what's at issue here,
 18 and that's what we're going to continue to take
 19 exception to.
 20 Thank you, Mr. Chairman.
 21 SENATOR DUSH: Thank you, Senator.
 22 And just one quick --
 23 THE CLERK: Mr. Chairman?
 24 SENATOR DUSH: -- response.
 25 THE CLERK: You need to recognize Jake.

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1 SENATOR DUSH: Senator Corman?
 2 SENATOR CORMAN: I will be very brief, and I
 3 appreciate the second time.
 4 First of all, we, as the Senate, determine
 5 jurisdiction. Clearly, intergovernmental affairs,
 6 elections are held by both, local and state government.
 7 So, clearly if we determined that intergovernmental
 8 affairs is the proper place to review something like
 9 this, it is our decision and we have made it.
 10 Secondly, and most importantly, something
 11 that I have always tried to be, and I think my
 12 colleagues on the other side would agree, I like to
 13 stand up for the institution of the Senate. It is
 14 something that I something that I have been a part of
 15 almost all of my life and it's something that is very,
 16 very important to me, the institution, itself.
 17 And I believe in the institution, that part
 18 of our process is to gather sensitive information, and
 19 so we will be responsible and make sure that that
 20 information is kept secure and there is no process that
 21 it gets leaked out in and used for other purposes.
 22 You know, hopefully -- not hopefully -- we
 23 will do a much better job than what we've seen in this
 24 administration, who has had significant data breaches
 25 over their time here; more than any administration I've

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1 ever dealt with. So, the institution, the Senate will
 2 do its job; we will gather sensitive information, we
 3 will review sensitive information, and then we will
 4 secure that information. That is my pledge. That is
 5 something that is paramount.
 6 Again, the institution of the Senate has the
 7 right, and should, perform oversight over State
 8 Government Executive Branch. That is our role and we
 9 will continue to provide that role.
 10 Thank you, Mr. Chairman.
 11 SENATOR COSTA: Mr. Chairman, can I just
 12 briefly respond to a couple of things?
 13 SENATOR DUSH: No.
 14 SENATOR COSTA: Very briefly, please.
 15 SENATOR DUSH: One second.
 16 SENATOR COSTA: Thank you.
 17 SENATOR DUSH: I went, specifically, on the
 18 hearing last week over the elements of the
 19 Constitution, the statute, the Senate Rules, and
 20 Mason's Manual that clearly identify the authority of
 21 this body in the Senate and this committee, in
 22 particular, to conduct these investigations.
 23 I invite anyone, anyone who has questions
 24 about that authority to go and watch that hearing --
 25 it's available online -- then to examine for yourself

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1 where we have it. And if you want to go in and examine
 2 the Constitution, the statute, the Senate Rules, or the
 3 Mason's Manual, in which the Senate has delegated some
 4 of that guidance, then I invite you to take a look at
 5 it.
 6 The Chair recognizes Senator Ward.
 7 SENATOR WARD: Thank you, Chairman.
 8 I sit here and I listen to my colleagues on
 9 the other side of the aisle and like Pro Tempore
 10 Corman, and, you know, we had a data breach in the
 11 Department of Health that released personal health
 12 information on our Pennsylvanians and I have not heard
 13 any comments from my colleagues on the other side of
 14 the aisle.
 15 This investigation is a process and we have
 16 to get it right. There are many steps in this process
 17 and they have to have integrity.
 18 My constituents, I say this all the time,
 19 have been outraged by -- their questions have gone on
 20 answered. They want us to look at the process.
 21 It is paramount to our democratic process.
 22 We must restore their trust and the trust of all
 23 Pennsylvanians.
 24 Thank you, Mr. Chairman.
 25 SENATOR DUSH: Thank you, Senator Ward.

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1 And for a second time, Senator Costa.
 2 SENATOR COSTA: Thank you, Mr. Chairman.
 3 And just very briefly, in response to the
 4 president pro tem's comments about the institution, we
 5 all share the concerns and respect for this
 6 institution; that's precisely why we raise the issue
 7 with respect to the jurisdiction of this committee.
 8 The gentleman indicated that we decide what
 9 committees, what jurisdiction they have. My
 10 recollection was we had no vote. I don't remember this
 11 committee deciding whether or not we would accept
 12 subject matter jurisdiction over this matter.
 13 So, while that may have been a unilateral
 14 decision that was made, it's one that we continue to
 15 disagree with.
 16 With respect to the concern about the
 17 information that's going to be shared with these third-
 18 party vendors, I, too, believe that we have an
 19 obligation to ensure that not only our members do not
 20 disseminate this information, but more importantly,
 21 that the third-party vendors do not disseminate it.
 22 And while we take great steps in terms of
 23 confidentiality, and more importantly, both, for
 24 members, staff, attorneys, outside counsel, and these
 25 third-party folks, there needs to be significant

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1 consequences to any breach of that duty. And we need
 2 to lay out -- and any agreement that you're preparing
 3 needs to include things where there are significant
 4 impacts to those folks who are doing that.

5 If it's a member of this committee or the
 6 members of our body that does something, they need to
 7 be sanctioned in a significant way, because this is
 8 extremely important, relevant data information that
 9 people have. It is not -- again, we continue to
 10 believe that it is not our authority or duty to this,
 11 to issue these subpoenas, but it is the Secretary of
 12 State's and her responsibility to do those types of
 13 things that were done; it was mentioned earlier.

14 But, clearly, we have an obligation to
 15 protect this vital information of folks and we need to
 16 make certain that those sanctions are significant along
 17 those lines.

18 Thank you, Mr. Chairman.

19 SENATOR ARGALL: Mr. Chairman, if I may?

20 SENATOR DUSH: Senator Argall?

21 SENATOR ARGALL: The question of which
 22 committee should move forward with this has been
 23 discussed at great length.

24 As the Chairman of the State Government
 25 Committee, I suggested several months ago, because of a

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1 considerable workload with State Committee
 2 congressional redirecting, lobbying reform, election
 3 reform legislation that I'm moving ahead with the
 4 minority chairman, Senator Sharif Street, and a host of
 5 other issues, that it would be helpful to balance the
 6 labor and, in my mind, this committee makes perfect
 7 sense to move forward on this issue.

8 The subject of separation of powers has also
 9 been discussed. I spent most of my academic career in
 10 reviewing those kinds of issues and I think we would
 11 all agree on this committee that the Senate of
 12 Pennsylvania should not act as the governor's lap dog.
 13 We should not act as the lap dog for the Secretary of
 14 the Commonwealth.

15 We should provide oversight and I believe
 16 that is exactly what we should do beginning today with
 17 the issuing of these subpoenas.

18 SENATOR DUSH: Thank you, Senator.

19 Senator Williams, for final comments before
 20 the vote.

21 SENATOR WILLIAMS: Thank you, Mr. Chairman.
 22 I actually have questions. So, to that end,
 23 does the chair or the body acknowledge that the
 24 Department of State is the agency that has the
 25 responsibility to oversee election procedures, review

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1 them, update them, and maintain the integrity of the
 2 process of the Commonwealth of Pennsylvania?

3 SENATOR DUSH: The chair recognizes that.

4 SENATOR WILLIAMS: Does the chair acknowledge
 5 the fact that audits were, in fact, done and, in fact,
 6 Pennsylvania was, I guess, the first of a few states to
 7 actually do these types of audits.

8 Does the chair acknowledge that those audits
 9 were done properly and accurately?

10 SENATOR DUSH: Having seen the reports, but
 11 not having access to the actual investigators, I
 12 believe that they are, but I do not know for certain.

13 SENATOR WILLIAMS: Does the chair acknowledge
 14 the fact that the manner in which those audits were
 15 done included a bipartisan process; meaning that the
 16 commissioners on the ground, whether they were
 17 Democrats or Republicans, were involved?

18 SENATOR DUSH: The chair so recognizes.

19 SENATOR WILLIAMS: Does the chair recognize
 20 that, in fact, many areas that would be deemed as
 21 "Republican areas" that those commissioners, in fact,
 22 acknowledge that audits were done and done accurately
 23 and effectively?

24 SENATOR DUSH: Within the scope of the
 25 audits, it does.

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1 SENATOR WILLIAMS: To the question at hand,
 2 which the public will, I guess, at some point in time,
 3 catch up with what we're doing -- I'm sure they will
 4 ask why we're doing it -- the question I have is, of
 5 the committee, who will pay?

6 I don't necessarily mean what vendor, because
 7 I understand that not to be deemed yet, but will this
 8 be a taxpayer-paid activity or a "funded by a non-
 9 outside entity" activity?

10 SENATOR DUSH: The chair has been asked and
 11 answered that question before, and, again, our intent
 12 right now, and as far as I know, we're going to be able
 13 to do it, it will be funded within the Senate.

14 SENATOR WILLIAMS: So, it will be a
 15 taxpayers-paid audit?

16 SENATOR DUSH: Correct -- well, no. It will
 17 be a taxpayer-funded investigation, to verify.

18 SENATOR WILLIAMS: Okay. Taxpayer-funded
 19 event -- investigation -- whatever way we're describing
 20 it -- I'm not caught up in that -- but the taxpayers
 21 will be paying for this?

22 SENATOR DUSH: That is correct.

23 SENATOR WILLIAMS: Does the gentleman know
 24 what the limitations are of what that expense might be?

25 SENATOR DUSH: They're going to have to fall

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1 within our budget.

2 SENATOR WILLIAMS: Well, I got that, but do

3 we know what the magnitude of costs of this activity

4 may be? Have you gotten estimates about what this may

5 cost?

6 SENATOR DUSH: We're getting estimates on

7 specific elements and then if evidence leads to further

8 inquiry, then that has the potential to grow.

9 So, as it relates right now, we're working on

10 a limited scope and a limited investigation within the

11 questions that have been raised about what has gone on

12 so far, and then we'll see where it goes from there.

13 SENATOR WILLIAMS: Is it hundreds of

14 thousands of dollars or millions of dollars?

15 SENATOR DUSH: Again, I don't have the full

16 -- I don't have that yet.

17 SENATOR WILLIAMS: Before that determination

18 of how the taxpayers will pay this or how much they

19 will pay, will that be made available to the public or

20 at least to all bodies involved in this committee?

21 SENATOR DUSH: Yes.

22 SENATOR WILLIAMS: And, lastly, to the point

23 of this has to be done with credibility, just for those

24 who need to know, our early audits were done in a

25 bipartisan manner.

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1 I reflect upon my friend and colleague who

2 talked about the State Government activity. While I

3 appreciate his recommendation, there's a phrase: The

4 tyranny of the majority.

5 I'm not to say that he's a part of the

6 tyranny but be very clear. An arbitrary decision made

7 by an individual member of this process has never been

8 the process that we have followed. That's why we are

9 conflicted with whether this committee actually should

10 have the jurisdiction.

11 So, my decision to say it shouldn't and his

12 decision to say it should, is not the manner in which

13 we should be proceeding. We should be proceeding in a

14 public manner that the public is engaged and

15 acknowledges such recommendations and shift in powers

16 or responsibilities.

17 We've not done that. The rules of the Senate

18 laid out what our committee responsibilities are at the

19 beginning of our session. There's not ever been a

20 discussion about how we change that, and to that end,

21 again, remains the question about whether this

22 committee is allowed to do what it's doing today.

23 And, lastly, to my friend's comment about

24 credibility, both my friends' comments about

25 credibility, credibility is borne out of the public

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1 trust. That means the public needs to be engaged.

2 That means all parties of the public, Democratic and

3 Republican, need to be involved.

4 So, if there's any expectation that out of

5 this investigation, this particular investigation, will

6 come some elevated confidence of what was done, that

7 can't be done without full inclusion of all the

8 decisions which are being made. And to date, the

9 vendors who are being selected, the lawyers who are

10 involved are not Democrat and Republican; they're

11 simply Republican. I'm not admonishing. I'm not

12 suggesting ill-intent, but I am being very, very clear;

13 that only underscores that which divides us and is

14 consistently pushing us towards extremes in this

15 endeavor and the manner in which we operate in our

16 political events to date.

17 I would suggest to the chair that if they're

18 going to proceed in this investigation, that all

19 parties should be involved, including vetting who those

20 vendors may be.

21 Thank you, Mr. Chairman.

22 SENATOR DUSH: Thank you, Chairman.

23 SENATOR ARGALL: Mr. Chairman, a question?

24 SENATOR DUSH: We're going to --

25 SENATOR ARGALL: Question, Mr. Chairman.

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1 SENATOR DUSH: Nate, please call the roll on

2 the motion.

3 SENATOR ARGALL: A question, Mr. Chairman?

4 One more question; it's a yes-or-no answer.

5 THE CLERK: Argall?

6 SENATOR ARGALL: Aye.

7 THE CLERK: Costa?

8 SENATOR COSTA: No.

9 THE CLERK: Costa, no.

10 Gebhard?

11 SENATOR GEBHARD: Aye.

12 THE CLERK: Gebhard, aye.

13 Hughes?

14 SENATOR HUGHES: No.

15 THE CLERK: Hughes, no.

16 Hutchison?

17 SENATOR HUTCHINSON: Aye.

18 THE CLERK: Hutchison, aye.

19 Mastriano?

20 SENATOR MASTRIANO: Proxy, aye.

21 THE CLERK: Santarsiero?

22 senator SANTARSIERO: No.

23 THE CLERK: Santarsiero, no.

24 Ward, Judy?

25 SENATOR WARD: Yes.

1 THE CLERK: Ward, Judy, yes.
 2 Williams, Anthony?
 3 SENATOR WILLIAMS: No.
 4 THE CLERK: Anthony Williams, no.
 5 Dush?
 6 SENATOR DUSH: Aye.
 7 THE CLERK: Dush, aye.
 8 Corman?
 9 SENATOR CORMAN: Aye.
 10 THE CLERK: Corman, aye.
 11 SENATOR DUSH: By a vote of 7:4, the majority
 12 having voted in the affirmative, the motion carries.
 13 The Senate Intergovernmental Operations
 14 Committee now stands in recess until call of the chair.
 15 (Whereupon, at 10:48 a.m., the committee
 16 hearing concluded.)
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1 CERTIFICATE
 2 This is to certify that the foregoing transcript
 3 In the matter of: Voting Meeting -
 4 Consideration of a motion
 5 to authorize the issuance of subpoenas
 6 Before: Pennsylvania Senate
 7 Intergovernmental Operations
 8 Committee
 9 Date: September 15, 2021
 10 Place: 172 Main Capitol, Room 8 EB East
 11 Wing, Harrisburg, Pennsylvania, 17120
 12 was duly recorded and accurately transcribed under my
 13 direction; further, that said transcript is a true and
 14 accurate record of the proceedings.
 15
 16
 17
 18
 19 /s/ CHRIS HOFER
 20
 21
 22
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 25

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EXHIBIT D

Senate of Pennsylvania



COPY

HARRISBURG, PA

Subpoena Duces Tecum

In the Senate of Pennsylvania

From: Intergovernmental-Operations Committee

To: The Honorable Veronica Degraffenreid, Acting Secretary
Department of State
302 North Office Building
401 North Street
Harrisburg, Pennsylvania 17120

You are hereby ordered by the Senate Intergovernmental Operations Committee to supply the following documents listed below. This material shall be delivered to the General Counsel, Senate Republican Caucus, Crystal H. Clark, Esquire, at Room 350 Main Capitol Building, Harrisburg, Pennsylvania, no later than Friday, October 1, 2021 at 4:00 p.m.

1. Any and all communications (emails, letters, notes of calls and/or meetings, or otherwise) from the Department of State to any County Election Director or member of a County's Elections Board between May 1, 2020 and May 31, 2021.
2. A copy of each and every version of all directives, guidance(s), policies, or procedures in effect at any time between August 1, 2020 and June 30, 2021 relating to elections, election systems, mail-in ballot applications, ballots, voting, compliance with state or federal election laws, polling places, and/or poll watchers.
3. All training materials used to train County election workers, poll workers, poll watchers, Judges of Election, inspectors, clerks, and all persons who staffed voting offices between August 1, 2020 and May 31, 2021.
4. A complete list containing the name, date of birth, driver's license number, last four digits of social security number, address, and date of last voting activity of all registered voters within the Commonwealth of Pennsylvania as of May 1, 2021, by County.
5. A complete list containing the name, date of birth, driver's license number, last four digits of social security number, address, and date of last voting activity of all registered voters within the Commonwealth of Pennsylvania as of November 1, 2020, by County.

6. A complete list containing the name, date of birth, driver's license number, last four digits of social security number, and address of all individuals who voted in person in the November 2020 General Election, by County.
7. A complete list containing the name, date of birth, driver's license number, last four digits of social security number, and address of all individuals who voted by mail-in ballot in the November 2020 General Election, by County.
8. A complete list containing the name, date of birth, driver's license number, last four digits of social security number, and address of all individuals who voted by absentee ballot in the November 2020 General Election, by County.
9. A complete list containing the name, date of birth, driver's license number, last four digits of social security number, and address of all individuals who voted by provisional ballot in the November 2020 General Election, by County.
10. A complete list containing the name, date of birth, driver's license number, last four digits of social security number, and address of all individuals who voted in person in the May 2021 Primary Election, by County.
11. A complete list containing the name, date of birth, driver's license number, last four digits of social security number, and address of all individuals who voted by mail-in ballot in the May 2021 Primary Election, by County.
12. A complete list containing the name, date of birth, driver's license number, last four digits of social security number, and address of all individuals who voted by absentee ballot in the May 2021 Primary Election, by County.
13. A complete list containing the name, date of birth, driver's license number, last four digits of social security number, and address of all individuals who voted by provisional ballot in the May 2021 Primary Election, by County.
14. A complete list of all changes to voter records made between May 31, 2020 and May 31, 2021.
15. A copy of the certified results for each and every race and/or ballot question on the 2020 General or 2021 Primary elections.
16. A copy of all reports of audits and/or reviews of the SURE system conducted by or for the Department of State between 2018 and the present, including, but not limited to, any audits conducted under 25 Pa.C.S. 1803(a).
17. A copy of the annual reports submitted to the Department in 2021 pursuant to 4 Pa. Code 183.17.

COPY

This subpoena is issued pursuant to permission granted to the Chair of the Senate Intergovernmental Operations Committee and in accord with the Constitution and Rules of the Senate of Pennsylvania.



Senator Cris Dush, Chair
Senate Intergovernmental
Operations Committee

Attest:



Megan Martin, Secretary
Senate of Pennsylvania

9/15/21

Date

COPY

SENATOR COSTA-RCUD
'21 SEP 15 PM 12:05

EXHIBIT E

Senate of Pennsylvania



HARRISBURG, PA

COMMONWEALTH OF PENNSYLVANIA)
) SS:
COUNTY OF DAUPHIN)

Daniel Billings, being duly sworn according to law, says that he resides at 216 Ring Neck Drive, Harrisburg, Pennsylvania, in the County of Dauphin, that he is the Chief Sergeant-at-Arms of the Senate of Pennsylvania, specially deputized.

That he served on The Honorable Veronica Degraffenreid, Acting Secretary of the Commonwealth of Pennsylvania, VIA email to Timothy Gates, Chief Counsel, Pennsylvania Department of State, on the 15th day of September 2021, at 4:50 p.m., a subpoena duces tecum to require the furnishing of certain documents to the Senate Intergovernmental Operations Committee, via Crystal H. Clark, Esquire, 350 Main Capitol Building, Harrisburg, Pennsylvania, **no later than October 1, 2021 at 4:00 p.m.**, by command of The Honorable Cris Dush, Chair, Senate Intergovernmental Operations Committee, Senate of the Commonwealth of Pennsylvania, and The Honorable Megan Martin, Secretary of the Senate of the Commonwealth of Pennsylvania.



Daniel Billings

Daniel Billings
Chief Sergeant-at-Arms
Senate of Pennsylvania

In attached e-mail Daniel Billings

Received by