

Michigan Election Issues 2020 and Ripple Effects

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Michigan Fair Elections Institute (MFEI)

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This report was prepared by the Michigan Fair Elections Institute ("MFEI"), a nonprofit educational and research organization and reflects MFEI's review of publicly available records, government documents, court filings, statutes, administrative materials, academic sources, and other information believed to be reliable as of the date of publication.

The principal research, drafting, data collection, and analysis reflected in this report were performed by unpaid volunteers. Except where expressly identified, the individuals who researched, drafted, edited, or otherwise contributed to this report are not licensed attorneys and do not provide legal services on behalf of MFEI.

The report contains legal analysis and discussion of constitutional, statutory, regulatory, and case-law authorities. That analysis reflects MFEI's assessment of the available evidence and applicable legal authorities and is provided to assist policymakers, attorneys, researchers, journalists, public officials, and interested citizens in evaluating the issues presented. Courts, governmental agencies, attorneys, and other qualified professionals may reach different conclusions regarding the facts, applicable law, or significance of the matters discussed.

MFEI has made reasonable efforts to verify the accuracy of the information presented. Nevertheless, nothing in this report should be construed as a formal legal opinion, expert report, or statement of legal position on behalf of any attorney, law firm, court, governmental entity, or client.

This report constitutes an ongoing investigative work product prepared by MFEI. As additional evidence, testimony, public records, expert analysis, or legal authority becomes available, MFEI may supplement, amend, revise, correct, or update this report.

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Purpose of report

This report presents educational and investigative research concerning election administration, administrative law, election oversight, and federal civil rights compliance. It is intended to assist policymakers, attorneys, researchers, and public officials in evaluating questions relating to Michigan election administration and its ripple effects.

This report is intended for educational, research, and public-policy purposes only and does not constitute legal advice.

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Michigan Fair Elections Institute (MFEI) is a nonprofit 501(c)(3) educational organization, IRS tax-exempt #92-3943258, P.O. Box 41, Stockbridge, MI 49285. Telephone: 517-299-8002.

To learn more about Michigan Fair Elections Institute (MFEI) go to https://www.mifairelections.org/

Michigan Fair Elections Institute

About the Michigan Fair Elections Institute

The Michigan Fair Elections Institute (MFEI), founded in 2022, has grown in just three-and-a-half years into Michigan's leading election integrity organization. MFEI, a nonprofit 501(c)(3) educational organization (EIN 92-3943258), operates alongside its affiliate Pure Integrity Michigan Elections (PIME), a 501(c)(4), to combine rigorous investigative research with direct civic action across all 83 Michigan counties.

MFEI's mission: *Restore and preserve election integrity through a permanent infrastructure of statewide operations via local chapters and task forces.*

MFEI's Two Foundational Pillars

Election Oversight	Educational Outreach
• Legislative analysis of 90+ bills in 2025 • Oversight & documentation of election law violations • Active FOIA litigation (3 lawsuits in 2025-26) • Data Evaluation of Election Processes (DEEP) • 3 Amici Briefs to the U.S. Supreme Court	• Original investigative reports (10 published since 2022) • 182 news articles published in 2025 • Local task forces and county chapters in 42 counties • Underserved Voter Outreach Team Engagement (UVOTE)

2025 - 26 Impact Highlights

2,500 + Volunteers	**213,000+** Ineligible voter registrations removed	**35** Legislative hearings attended	7 Investigative reports	3 FOIA Lawsuits	3 Amici Briefs to U.S. Supreme Court

In 2025, MFEI's work reached the highest levels of national policy. MFEI's *Title 52 Reform Recommendations* and *Request for EAC OIG Assessment of Audit Risk* were hand-delivered to the White House, and the President's Executive Order 14248 soon followed, featuring ten specific provisions which closely mirror MFEI's recommendations, including identical statutory citations. MFEI also secured a landmark victory at the U.S. Supreme Court when the High Court

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cited the MFEI-Wisconsin-Pennsylvania amicus brief in *Bost v. IL State Board of Elections*, establishing candidates' standing to challenge vote-counting procedures.

MFEI's *Lights Out Michigan* report, first published in 2022, preceded the U.S. Secretary of Education, Linda McMahon, directing universities to cease sharing students' personally identifiable information (PII) with political vendors in violation of the Family Educational Rights and Privacy Act (FERPA). This demonstrates a tangible, delayed policy victory that reflects MFEI's long-term research model.

Our Approach

MFEI does more than merely identify problems. The organization implements solutions. Volunteers partner directly with local clerks, testify before legislative committees, and conduct independent data analysis. MFEI operates strictly on evidence: its three-tier evidentiary standard — Established Fact, Logical Inference, and Conditional Conclusion — ensures that every finding presented to policymakers, courts, and the public meets a rigorous, documented standard.

As a nonpartisan 501(c)(3), MFEI focuses on process, law, and transparency — not party or candidate outcomes. Over 2,500 volunteers in 42 of Michigan's 83 counties represent diverse backgrounds. All are united in the shared commitment to the principle that every eligible citizen deserves one undiluted vote per election and that informed citizens are the foundation of our nation's constitutional republic.

No one can do everything. But everyone can do something.

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Executive Summary

Overview

This report presents the Michigan Fair Elections Institute's (MFEI) comprehensive investigation into the administration of Michigan's November 3, 2020, General Election and related election-administration developments through the 2026 election cycle. The investigation is organized into fifteen Counts. Each addresses a distinct category of apparent legal violation, structural deficiency, documented irregularity, or federal election-law compliance issue.

Each Count examines a distinct subject. Combined, the Counts document a recurring pattern that accelerated following the 2019 transition in executive leadership. This transition was characterized by the increasing use of executive orders and actions that bypassed constitutionally required legislative enactment. The legally unauthorized actions include administrative guidance, contractual arrangements, memoranda, and administrative rulemaking to establish, modify, or administer election practices. Each Count evaluates a different manifestation of that pattern against applicable constitutional provisions, statutes, administrative law, and federal election requirements.

Findings are labeled according to evidentiary category: Established Fact (supported by primary sources including court records, sworn testimony, official documents, and audited data), Logical Inference (conclusions that follow necessarily from established facts), Conditional Conclusions (findings that depend on disputed or unverified evidence), and Judicial Findings.

While this report was researched and substantially written before the U.S. Department of Justice Civil Rights Division's July 7, 2026, correspondence to Michigan Secretary of State Jocelyn Benson, the Department's stated enforcement priorities largely parallel the issues examined throughout these fifteen Counts. The Department identified suspected deficiencies in state election officials' maintenance of voter registration list accuracy, federal election record retention, compliance with the National Voter Registration Act (NVRA), the Help America Vote Act (HAVA), preservation of election records under 52 U.S.C. § 20701, maintenance of statewide voter registration systems, and the prevention of noncitizen voting—all as matters warranting immediate attention.

These same statutory subjects recur throughout this report and are addressed through documentary evidence, statutory analysis, court decisions, sworn testimony, official records, and forensic examination. Accordingly, the report is intended not only as a historical examination of the 2020 election, but also as a resource for evaluating continuing compliance with federal election law.

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Structural and Regulatory Findings (Counts 1–2)

Count 1 (Executive Branch Overreach) documents a thirty-year, bipartisan pattern of executive consolidation of election-rulemaking authority through executive reorganization orders rather than legislative enactment. The culmination occurred with Governor Whitmer's 2019 creation of the Michigan Office of Administrative Hearings and Rules (MOAHR), an entity that oversees elections rulemaking and adjudication of issues. Among all 24 states that use a dual rulemaking oversight system, Michigan is an outlier. It alone deploys zero of five standard independence protections.

MFEI's April 2026 report, *Compromised Checkpoints: Restoring Independence in Michigan's Election Oversight*, documents that MOAHR operates without statutory authorization, Senate confirmation, qualification requirements, fixed terms, or budgetary independence.

This structural deficiency is an established fact confirmed by MFEI's 24-state comparative analysis and by the Michigan Court of Claims in *Genetski v. Benson* (2021), which held that at least one statewide election directive governing the 2020 election constituted an invalid administrative rule. The recent dismissal of the People v. Stephanie Scott case with the judge ruling the felony charges were an "error of law" further corroborates the executive branch's pattern of conflating its rules to have the force of law without basis underlying statute.

The Count further documents that Rule Sets 2025-13, 2025-14, 2025-15, and 2025-63, containing more than forty election-rule changes that substantially affect the 2026 election cycle, advanced through this same compromised oversight process when JCAR failed to achieve a quorum, allowing rules to take automatic effect without affirmative legislative concurrence. MFEI characterizes this procedural outcome as the "MCL 168.497 Inversion."

Count 2 (Unauthorized Guidance) addresses the Secretary of State's use of informal directives to govern statewide election administration outside the Michigan Administrative Procedures Act's rulemaking requirements. The Count documents the legal consequences of governance-by-guidance and provides an evidentiary record of specific directives that were issued and enforced without lawful promulgation authority.

Voter Roll Integrity (Counts 3–4)

HAVA Count 3 examines the integrity of Michigan's Qualified Voter File (QVF). It documents programming errors that deleted approximately 491,873 voting-history records for voters who updated their registrations between October 2019 and February 2020, apparently violating MCL 168.509q's five-year retention requirement. It also documents the Bureau of Elections' apparent partial correction of those deletions without public acknowledgment or legislative notification. Finally, the Count examines unresolved HAVA compliance questions arising from Grand Valley State University's government-sponsored student voter-registration and get-out-the-vote

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(GOTV) activities, its reported election-data arrangements with outside organizations, and the Bureau's threshold dismissal of MFEI's verified complaint without a hearing on the merits.

Count 4 (ERIC / DPPA) addresses Michigan's participation in the Electronic Registration Information Center (ERIC) and related concerns regarding the use of Department of Motor Vehicles data under the Driver's Privacy Protection Act (DPPA). The Count examines whether Michigan's participation in ERIC and its associated voter-roll management practices are authorized under applicable federal and state law, including HAVA, HAVA grant funding, and the Driver's Privacy Protection Act.

Oversight, Speech, and Overseas Voter Concerns (Counts 5–6)

Count 5 (Suppression of Free Speech and Election Oversight) documents MDOS actions that MFEI contends improperly restricted the rights of citizens, challengers, and researchers to monitor and report on election administration, including the withholding of eLearning Portal training materials from legislative subpoenas, a dispute that culminated in the Michigan House of Representatives formally holding Secretary of State Benson and MDOS in civil contempt (House Resolution No. 117, May 22, 2025).[1] Count 6 (UOCAVA / Noncitizen Voting Exposure) examines compliance with the Uniformed and Overseas Citizens Absentee Voting Act and related concerns about the integrity of overseas voter registration processes.

Absentee Ballot and Election Day Administration (Counts 7–8)

Count 7 (Absentee Ballot Controls) reviews the adequacy of controls governing drop box placement, ballot transportation, and absentee ballot processing during the 2020 election. Count 8 (Election Day / Signature Verification) addresses signature verification procedures on Election Day, including the administration of absentee ballot signature-matching requirements and the legal basis for verification directives issued by the Secretary of State, whose 2020 directive to assume all absentee ballot signatures were "valid" was overturned in court.[2]

Poll Challenger, Voting System, and Canvass Integrity (Counts 9–11)

Count 9 (Poll Challenger / Rule Set 2025-15) documents restrictions on the statutory rights of poll challengers and addresses Rule Set 2025-15's imposition of state-compelled speech requirements and training mandates on challengers without legislative authorization. Count 10 (Voting System Security / RFP 114) examines procurement and security concerns related to

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[1] Mich. H.R. No. 117, 103rd Legislature, Regular Session (May 22, 2025). Michigan House of Representatives formally held Secretary of State Jocelyn Benson and MDOS in civil contempt for failure to comply with legislative subpoenas for eLearning Portal training materials.

[2] RNC v Benson, No. 24-000148-MZ, Court of Claims, Oct. 10, 2024.

Michigan's voting system infrastructure. Count 11 (Canvass Integrity) addresses reconciliation failures across Michigan's election jurisdictions, including the Wayne County Board of Canvassers member Monica Palmer finding that approximately 71 percent of Detroit's 134 absent voter counting boards (AVCBs) did not balance[3] (meaning the number of ballots did not match the number of recorded voters). Under Michigan law this condition renders those precincts ineligible for a hand recount, and the Detroit absent voter count non-auditable through ordinary legal processes.

Third-Party Involvement and Physical Evidence of Ballot Irregularities (Counts 12–14)

Count 12 examines the role of a third-party voter outreach contractor, GBI Strategies, in Michigan's 2020 election administration and the legal and ethical implications of that involvement. Count 13 (TCF Obstruction) documents the systematic exclusion of Republican poll challengers from the TCF Center counting floor in Detroit, including affidavit testimony from challenger Jessy Jacob that supervisors directed workers to backdate thousands of late-arriving absentee ballots to November 2, 2020, corroborated by two sticky notes she passed to election supervisors and GOP poll challengers in real time.

Count 14 (Chain of Custody Failures) provides the most extensive physical evidentiary record in the report. It documents: the transport of absentee ballots in open USPS trays without seals, manifests, or background-checked couriers; a post-deadline delivery of an estimated 50–60 boxes of ballots to the TCF Center sally port at 3:25 a.m. on November 4, 2020; and the findings of Speckin Forensics LLC, whose physical examination of two of Detroit's 134 AVCBs found that 12 to 20 percent of ballot envelopes had no corresponding signed application as required by MCL 168.759, extrapolating to an estimated 13,600 to 34,000 potentially ineligible counted ballots across all 134 boards.

The Count also documents the Bureau of Elections' directive to delete electronic poll book data within seven days of each election, in apparent conflict with the 22-month federal retention requirement of 52 U.S.C. § 20701. In Ann Arbor Compromises Election Integrity during 2022 Election, July 2023, MFEI/PIME investigators documented more than 600 post-deadline absentee ballots counted and official voter registration records altered to conceal the post-deadline timestamps.

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[3] TCF Center challenger affidavits, hearing testimonies, and written statements re: November 2020 election available at Michigan Senate Oversight hearing video, Dec. 1, 2020; Written testimony received in Oversight committee 12.1.20.pdf; and Costantino v. City of Detroit, No. 20-14780-AW, Wayne Co. Cir. Ct., Nov. 13, 2020. See Monica Palmer Affidavit, November 18, 2020 (notarized, Oakland County). States during the August 2020 primary 72% of Detroit absentee precincts were out of balance; November 2020 general: more than 70% of Detroit's 134 AVCBs did not balance, many without explanation. Cited in Trump v Benson, Court of Claims Case No.: 20-000225-MZ. Palmer Affidavit in Appendix M herein.

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Election Infrastructure Procurement in the AI Era (Count 15)

Count 15 (RFP 260000000114 / RFP214) examines Michigan's pending voting-system procurement against the backdrop of a documented shift in the offense-defense balance in cybersecurity. AI systems have progressed from automating routine security tasks to autonomously discovering exploitable software vulnerabilities and generating working exploits from public advisories, as demonstrated by Google Project Zero's "Big Sleep" project, DARPA's AI Cyber Challenge, and an April 2026 Cloud Security Alliance assessment.

Because a state's voting-system selection typically locks in that architecture for roughly a decade, the Count evaluates the procurement, issued January 14, 2026, with a superseding RFP214 not yet obtained by MFEI, against three governing principles: software independence (the paper ballot, not software, as the vote of record), human-checkable verifiability (native support for risk-limiting audits), and transparency over vendor secrecy.

Measured against the visible RFP material, the Count identifies unresolved gaps rather than concluded violations: no explicit hand-marked-paper-ballot mandate, no categorical prohibition on network-capable tabulation hardware, no requirement that vendor systems natively support risk-limiting audits, and an evaluation framework in which 62 percent of the 500 available scoring points (310 points, spanning Statement of Work Section 1.0 and the Vendor Questions Worksheet) are awarded on vendor self-report rather than independent verification.

The Count also documents that RFP Section 16.f shifts the cost of defending FOIA litigation over vendor trade-secret redactions to the bidder rather than the State, removing the State's financial incentive to contest vendor secrecy claims. Because RFP214 and the full Statement of Work remain unobtained, the Count frames its findings as an evaluation framework and document-production agenda rather than as concluded adjudication. It closes with eight specific DOJ/EAC OIG production requests and a set of MFEI-recommended non-negotiable procurement requirements (hand-marked paper ballots, air-gapped tabulation, open-source software, mandatory risk-limiting audits, and independent security testing).

Cross-Cutting Themes and Continuing Relevance

Three structural themes run throughout the fifteen Counts. First, the destruction or unavailability of audit records through EPB deletion, QVF voting history purges, missing ballot applications, and defective ballot containers has rendered significant portions of the 2020 Detroit election record non-auditable through ordinary legal processes, making many of the documented failures effectively irreversible.

Second, the same structural oversight deficiencies that governed the 2020 election remain operative today: MOAHR retains zero independence protections; JCAR has no effective

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enforcement authority; and the rule sets promulgated since 2020 have expanded rather than corrected the authority gaps identified here.

Third, this investigation is explicitly forward-looking. The findings in each Count are presented to federal and state enforcement authorities not only as a historical record but as a predicate for oversight actions necessary to protect the integrity of Michigan's 2026 elections and beyond.

Count 15 is the clearest expression of this theme in the report: rather than examining a completed election, it evaluates a live, decade-defining procurement decision while a window for corrective action still remains open.

Recommended Investigative Actions

Each Count concludes with specific recommended actions directed to one or more of the following: the U.S. Department of Justice Civil Rights Division and Election Crimes Branch, the Election Assistance Commission Office of Inspector General, the Michigan Attorney General, and the Michigan Legislature.

Priority areas for Department of Justice review include the State's election rulemaking and administrative oversight process, particularly where that process resulted in the Michigan Bureau of Elections' electronic poll book (EPB) deletion directive and related election-record preservation practices. These practices include the deletion or alteration of electronic poll book records, Qualified Voter File (QVF) voting-history records, ballot applications, audit records, and other electronic election records that may be subject to the federal record-retention requirements of 52 U.S.C. § 20701.

The report also identifies for further review the forensic examination of all 134 Detroit absent voter counting board (AVCB) ballot envelopes and their corresponding signed ballot applications, including consideration of the findings of Speckin Forensics LLC regarding missing ballot applications and ballot eligibility documentation.

In addition, the report recommends DOJ review of Michigan's statewide voter registration list maintenance practices, including procedures governing the identification, verification, and removal of ineligible registrations under the National Voter Registration Act (NVRA) and the Help America Vote Act (HAVA), as well as review of state policies governing voter eligibility and citizenship verification.

The report further recommends DOJ Civil Rights Division and EAC Office of Inspector General review of RFP 260000000114 and its superseding RFP214, including production of the full Statement of Work and Schedules D–J, an accounting of award-recommendation scoring that distinguishes points awarded on vendor self-report from points awarded following independent verification, and an assessment of the Section 16.f indemnification provision's effect on the State's incentive to contest vendor trade-secret claims over voting-system architecture.

Additional recommendations include an Election Assistance Commission Office of Inspector General assessment of HAVA fund compliance in light of the chain-of-custody, audit, and election-administration deficiencies documented in this report; legislative enactment of statutory authorization and structural independence protections for the Michigan Office of Administrative Hearings and Rules (MOAHR); and DOJ monitoring of People v. Stephanie Scott for its implications concerning election-record retention directives and the administration of Michigan election law.

Note on Evidentiary Standards

This report grounds all findings in primary sources: statutes, court rulings, audit reports, official records, sworn testimony, and FOIA-obtained documents. Media accounts are treated as secondary. The volume of media coverage of any claim is not treated as evidence of that claim's truth. Where evidence is disputed or unverified, conclusions are stated as conditional. Findings labeled Established Fact reflect primary-source documentation that MFEI investigators have independently verified.

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Count 1. Executive Branch Consolidation of Election Oversight Authority and Displacement of Legislative Authority over Michigan Election Administration

§I. Issues Summary

Count 1 examines whether Michigan's constitutional allocation of authority over election administration has been progressively displaced from the Legislature to the Executive Branch over approximately three decades. Although both the United States Constitution and the Michigan Constitution assign primary responsibility for regulating the "Times, Places and Manner" of elections to the Legislature, this Count documents a series of executive actions that concentrated rulemaking, implementation, and adjudicatory authority within executive-branch entities while correspondingly diminishing meaningful legislative oversight. [4] [5]

The evidence presented identifies two principal structural developments. First, successive governors used Executive Reorganization Orders to create and expand centralized executive offices responsible for reviewing, approving, and ultimately adjudicating election rules.

Michigan now stands alone among twenty-four states with comparable dual rulemaking oversight systems in operating such a structure without statutory creation or the standard independence protections adopted elsewhere. Second, constitutional amendments adopted in 2018 and 2022 transferred significant election policy from statute into the Michigan Constitution, limiting the Legislature's ability to modify those provisions through ordinary legislation. Together, these developments substantially altered the institutional balance contemplated by the Elections Clause and the Michigan Constitution.

These structural questions became concrete after the 2024 election. When the Michigan House sought to investigate election administration, it was unable to obtain key training materials, databases, and administrative guidance despite formal records requests, subpoenas, contempt proceedings, and litigation. This Count therefore examines not only how Michigan's current election-governance structure developed, but also whether it has impaired the Legislature's

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[4] Elections Clause, U.S. Constitution Elections Clause, Art. I, § 4, cl. 1, "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators."

[5] Elections Clause, Constitution of Michigan of 1963, Article II § 4 Elections: "(2) Except as otherwise provided in this constitution or in the constitution or laws of the United States the legislature shall enact laws to regulate the time, place and manner of all nominations and elections, to preserve the purity of elections, to preserve the secrecy of the ballot, to guard against abuses of the elective franchise, and to provide for a system of voter registration and absentee voting."

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ability to exercise the oversight responsibilities that the state and federal constitutions assign to it. This Count provides the constitutional and administrative framework for many of the federal election issues discussed throughout the remainder of this Report.

A. Executive reorganization orders (EROs)

Among the twenty-four states employing centralized dual rulemaking oversight systems, Michigan is the only state whose oversight office lacks both a statutory foundation and the standard structural independence protections found elsewhere. MFEI's fifty-state review found that every comparable state created its oversight body through legislation, while Michigan's thirty-year succession of oversight offices was created and expanded through executive reorganization orders.

That evolution culminated in Governor Gretchen Whitmer's 2019 creation of the Michigan Office of Administrative Hearings and Rules (MOAHR), which now reviews election rules while also exercising adjudicatory authority. MFEI concludes that this arrangement presents constitutional questions because no statute expressly created MOAHR or authorized its expansion into election rulemaking (specifically protected in the constitutions) and adjudication.

Some proponents point to MCL 24.234 as authorization for this lineage of offices. MFEI's position is that the statute's black-letter text acknowledges the earlier existence of the Office of Regulatory Reform (ORR) but does not purport to create it, and does not authorize ORR's later expansion — through successive executive reorganization orders — into election rulemaking or self-adjudication by any successor office, including MOAHR.

B. Constitutional Reallocation of Legislative Authority

At the same time executive authority expanded through administrative reorganization, substantial areas of Michigan election law were removed from the ordinary legislative process. Proposal 3 of 2018 and Proposal 2 of 2022 constitutionalized numerous election procedures previously governed by statute, limiting the Legislature's ability to revise those provisions through ordinary legislation and raising questions under the federal Elections Clause.

The practical significance of these structural changes became apparent after the 2024 election. Despite records requests, subpoenas, contempt proceedings, and litigation, the Michigan House was unable to obtain MDOS election-training materials, databases, and guidance documents needed to evaluate election administration.

This Count documents the evolution of these structural conditions from approximately 1995 through 2026. It examines their implications for election administration, administrative law, legislative oversight, and federal elections conducted in Michigan.

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The core question this Count asks the DOJ to consider is this: Does this concentration of rulemaking, implementation, and adjudicatory authority in the state's executive branch violate separation of powers under the federal Elections Clause and the Michigan Constitution?

C. Current Federal Enforcement Interest

On July 7, 2026, Harmeet K. Dhillon, Assistant Attorney General for the Civil Rights Division, notified Michigan Secretary of State Jocelyn Benson that the Department of Justice is reviewing the State's compliance with federal election laws governing voter eligibility, election-record preservation, statewide voter registration systems, HAVA compliance, and the administration of federal elections. (See letter in Appendix L)

The Department's letter does not itself reach the separation-of-powers and Elections Clause questions presented in this Count. It is nonetheless relevant here for a structural reason: the executive rulemaking and oversight apparatus examined in this Count is the same apparatus through which Michigan implements the federal statutory obligations the Department has now placed under active review.

Whether that apparatus rests on lawful delegated authority is therefore not a peripheral question — it bears on whether Michigan's compliance with the federal requirements identified below has been implemented through a constitutionally sound chain of authority. This Count accordingly supplies necessary structural context for the count-specific federal issues that follow.

D. Topics Covered

- Executive-Branch Consolidation of Election Rulemaking and Adjudicatory Authority
- Creation and Evolution of MOAHR Through Executive Reorganization Orders
- Absence of Statutory Foundation and Structural Independence Protections
- Displacement of Legislative Authority Under the Elections Clause
- Constitutional Entrenchment Through Proposals 3 of 2018 and 2 of 2022
- Michigan's Dual MOAHR–JCAR Rulemaking Oversight Structure
- The MCL 24.245a Legislative-Concurrence "Inversion"
- Administrative Rule Sets 2025-13, 2025-14, 2025-15, and 2025-63
- Ultra Vires Rulemaking and Michigan Administrative-Law Standards
- Legislative Access to Election Training Materials, Databases, and Guidance
- House Subpoenas, Contempt Proceedings, and Related Litigation
- Federal Interests in Election Administration, HAVA Compliance, and Record Preservation

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§II. Legal Argument

This Count examines a thirty-year pattern in which election-rulemaking, implementation, and adjudicatory functions migrated from the Michigan Legislature toward executive-branch institutions. The principal legal question is whether Michigan's process for adopting and enforcing election rules preserves the role assigned to the Legislature by the Elections Clause and the separation-of-powers provisions of the Michigan Constitution.

The evidentiary record supporting this Count is organized around three related questions. First, whether executive reorganization orders, culminating in the 2019 creation of the Michigan Office of Administrative Hearings and Rules ("MOAHR"), transferred rulemaking and adjudicatory authority over elections to the executive branch without the statutory authorization the Michigan Constitution requires. Second, whether the migration of election-administration policy from statute into the state constitution, through Proposal 3 of 2018 and Proposal 2 of 2022, placed that policy beyond the Legislature's ordinary amendment power in a manner implicating the federal Elections Clause. Third, whether the Legislature's post-2024 efforts to obtain election-administration records, training materials, and rulemaking documentation demonstrate that this structural arrangement has, in practice, foreclosed meaningful legislative oversight. The sections that follow address each question in turn.

§III. Factual and Procedural Background

A. Michigan Compared to Peer States.

As documented in Michigan Fair Elections Institute's investigative report, *Compromised Checkpoints: Restoring Independence in Michigan's Election Oversight* (April 2026), Michigan's current election-rulemaking structure is built on an executive-order-created oversight regime that lacks statutory foundation, structural independence, Senate confirmation, qualification requirements, fixed terms, or budgetary separation from the Governor's office.

MFEI investigators examined the rulemaking oversight system of all 50 states. All told, they identified 24 states, including Michigan, that utilize a dual-central-panel oversight system. Then the researchers examined each state's application of five standard safeguards designed to ensure legal and fair rulemaking. Unlike Michigan, all twenty-three other states adopted a statutory foundation for their centralized systems, and only Michigan has adopted no safeguards to preserve and protect the independence of the two oversight offices.

As the tables below depict, of the twenty-four states with dual oversight bodies, Michigan alone operates its Michigan's Office of Administrative Hearings and Rules (MOAHR) with zero of five standard independence protections.

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Protection	Michigan (MOAHR)	23 Other Central-Panel States
Statutory Foundation (allocated by law)	✕ None	23 of 23 (100%)
Qualification Requirements	✕ None	21 of 23 (91%)
Structural / Budgetary Independence	✕ None	20 of 23 (87%)
Senate Confirmation	✕ None	10 of 23 (43%)
Fixed / Independent Term	✕ None	10 of 23 (43%)
TOTAL SCORE	**0 / 5 (0%)**	**Avg: 3.65 / 5 (73%)**

*Figure 1: **State by state breakdown**:*
Tier 1 — Statutory / Full Independence (4–5/5): 12 states. Tier 2 — Structural / Civil Service Independence (2–3/5): 11 states. Tier 3 — Executive Capture (0/5): Michigan only. Source: Compromised Checkpoints, Abridged Edition,[6] April 2026, page 6.

Michigan alone permits the same executive-created body to both advance administrative rules regarding elections and later to adjudicate disputes arising from those same rules. State comparisons are provided in Appendix D of this report.

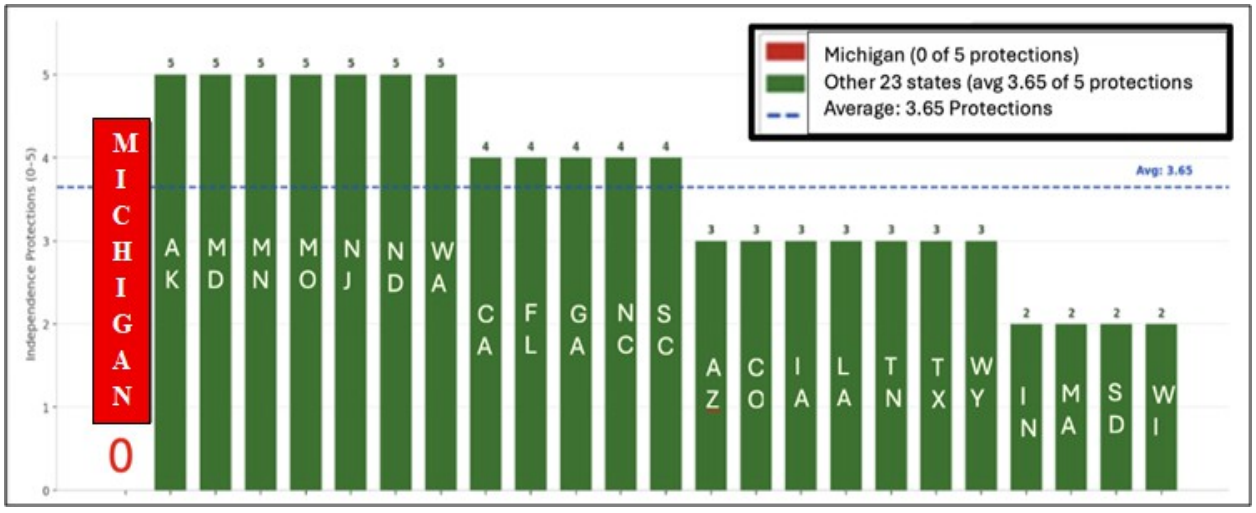


*Figure 2: **Twenty-four States Operate Dual Central Rulemaking Oversight Offices.***

[6] Patrice Johnson, Compromised Checkpoints, Abridged Edition, Michigan Fair Elections Institute (MFEI), April 2026, p. 6.

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Twenty-three of those states adopt some layer of independence protections. Together, all the other 23 states average 73% adoption of Standard Independence Protections. Michigan is an outlier, adopting zero.

Scale: 5 standard protections. Michigan (MOAHR): 0 of 5. Non-Michigan, 23-state average: 3.65 of 5 (73%). Tier One (4-5 of 5): 12 states. Tier Two (2-3 of 5): 11 states. Tier Three (0 of 5): Michigan only. Source: Compromised Checkpoints: Restoring Independence in Michigan's Election Oversight.[7] *See also state-by-state analysis of all 24 states in Appendix D herein.*

The structural defect originated in 1995. Republican Governor John Engler established the Office of Regulatory Reform ("ORR") by Executive Reorganization Order rather than through legislation.[8] Contemporary state documents cite this order under two numbers: Executive Order No. 1995-6 and Executive Reorganization Order No. 1995-5. Both orders refer to the same instrument, compiled at MCL 10.151.[9] But this action bypassed Article V, Section 2 of the Michigan Constitution, which requires that executive offices be "allocated by law." [10]

Four years later, the Legislature acknowledged ORR's existence in statute. MCL 24.234, added by 1999 PA 262, recognizes ORR as "an independent and autonomous type 1 agency" and incorporates by reference the powers and duties set out in Executive Order No. 1995-6 (Executive Reorganization Order No. 1995-5). [11] [12]

This recognition, however, does not cure the underlying constitutional defect, and it does not extend beyond its own terms. The statute acknowledges an office was created via executive order. **It does not purport to create or authorize the office**. Nor does it establish ORR's structure, appointment process, qualifications, terms, or governance. ORR's enumerated duties under the statute are limited to reviewing proposed rules, coordinating rule processing among agencies, streamlining the rulemaking process, and improving public access to it.[13]

---

[7] Patrice Johnson et al., Compromised Checkpoints: Restoring Independence in Michigan's Election Oversight, MFEI, April 2026, Figure 3, p. 10

[8] E.R.O. No. 1995-5, MCL 10.151, eff. June 1, 1995.

[9] Compare MCL 10.151 (captioned "E.R.O. No. 1995-5") with MCL 445.2021(8) (describing the office as "created... under Executive Order 1995-6, MCL 10.151"). Both citations refer to the same instrument; the discrepancy reflects Michigan's practice of numbering executive orders within a general annual sequence while separately numbering the subset of "reorganization" orders.

[10] Article V, Section 2, Michigan Constitution, § 2 Principal departments, "All executive and administrative offices, agencies and instrumentalities of the executive branch of state government and their respective functions, powers and duties, except for the office of governor and lieutenant governor, and the governing bodies of institutions of higher education provided for in this constitution, shall be allocated by law among and within not more than 20 principal departments. They shall be grouped as far as practicable according to major purposes."

[11] MCL 24.234, added by 1999 PA 262, eff. Apr. 1, 2000.

[12] MCL 24.234 states, "**Compiler's Notes:** For transfer of powers and duties of the office of regulatory reform from the department of management and budget to the office of regulatory reform, see E.R.O. No. 2000-1, compiled at MCL 10.152 of the Michigan compiled laws."

[13] MCL 24.234(2).

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Nothing in MCL 24.234 authorized ORR's later expansion into election rulemaking or adjudication of its own rules, and nothing in it names or ratifies any of the successor offices, including SOAHR via Gov. Granholm, ORRI via Gov. Snyder, or MOAHR via Gov. Whitmer. Instead, subsequent governors each terminated the prior governor's office and created new offices, again via Executive Reorganization Orders. The full text of MCL 24.234 is reproduced in Appendix S.

MFEI recognizes that the Michigan Supreme Court has held that Article V, Section 2 itself authorizes the Governor to reorganize the executive branch by Executive Reorganization Order, subject only to the Legislature's 60-day disapproval window, and that this authority is not constrained by the Executive Organization Act of 1965.[14] The Court's holding, however, addressed the reallocation of existing statutory functions between legislatively created departments. It did not address, and does not resolve, whether that reorganization power extends to conferring new categories of authority over elections (specifically protected in the U.S. and Michigan Constitutions) or adjudicative authority over its own rulemaking.

This Count addresses the question as to whether the ERO lineage, culminating with Governor Whitmer's ERO creating the Michigan Office of Administrative Hearings and Rules (MOAHR),[15] falls within the scope of permissible "reorganization" under Article V, Section 2, or whether that lineage reflects the creation (and usurpation) of substantive powers the Legislature never granted.

MFEI advances three related conclusions: (1) the Legislature never allocated these authorities to ORR or to any successor office in the first instance; (2) the Legislature never allocated authority to oversee election rules or to exercise adjudicatory authority over disputes arising from those rules; and (3) the independence protections the Legislature required of ORR by statute — independence protections that MOAHR's present structure conspicuously lacks — were never extended to any successor office.

Successive Michigan governors of both parties perpetuated and expanded the statutorily unfounded office through a series of Executive Reorganization Orders, repeatedly recreating and modifying the office without express legislative authorization of its later powers. Today, that evolution has culminated in Governor Whitmer's Michigan Office of Administrative Hearings and Rules ("MOAHR"), which the governor created via Executive Order 2019-06 and modified by Executive Order 2019-13.

MOAHR now serves as the state's rulemaking gatekeeper while simultaneously exercising adjudicatory authority over election-related rules. Meanwhile, MOAHR administrative judges

[14] House Speaker v Governor, 443 Mich 560 (1993). "…under Const 1963, art 5, § 2, the Governor has the authority to transfer all the authority, powers, duties, functions, and responsibilities of a legislatively created principal department to a gubernatorially created principal department."

[15] Michigan Office of Administrative Hearings and Rules (MOAHR), Michigan.gov.

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adjudicate hearings and pronounce rulings of their own department's rulemaking. The concentration of these functions within a single executive office was never expressly created, but its lack of independence was expressly prohibited in statute.[16]

Nor is this an error due to a simple misunderstanding. Among 24 comparable states with dual rulemaking-oversight systems, Michigan's MOAHR is the only such body lacking statutory foundation. Peer states with comparable rulemaking-oversight systems average roughly three of five standard independence protections; whereas MOAHR has none.

Equipping MOAHR with no substantive independence protections did not happen out of ignorance or incompetence. A mere four months after creating MOAHR without protections, Governor Whitmer created two appeals commissions for the insurance industry and equipped them with standard independence protections, including Senate confirmation, fixed terms, statutory qualification requirements, and even an additional nonpartisan conduct obligation.[17]

Proponents attribute MCL 24.234 as legislative authorization for subsequent governors' recreation of new offices. However, this 1999 statute, enacted five years after Governor Engler created ORR via ERO 1995-5 and EO 1995-6, states ORR must be "**an independent and autonomous** type 1 agency within the department of management and budget."

The law reads as follows, emphasis added:

> ***ADMINISTRATIVE PROCEDURES ACT OF 1969 (EXCERPT)***
>
> ***Act 306 of 1969***

[16] Executive Order 2019-06; Executive Order 2019-13; Michigan Office of Administrative Hearings and Rules (MOAHR), Michigan.gov.

[17] Johnson et al, *Compromised Checkpoints*, Michigan Fair Elections Institute, Figure 26, p. 84.

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24.234 Office of regulatory reform; agency; powers and duties.
Sec. 34.

(1) The office of regulatory reform is an ***independent and autonomous*** *type 1 agency within the department of management and budget. The office of regulatory reform has the powers and duties as set forth in executive order no. 1995-6 (executive reorganization order no. 1995-5), MCL 10.151, and shall exercise the powers and perform the duties prescribed by subsection (2) independently of the principal executive departments of this state, including, but not limited to, personnel, budgeting, procurement, and management-related functions.*

(2) In addition to any other powers and duties described in subsection (1), the office of regulatory reform shall review proposed rules, coordinate processing of rules by agencies, work with the agencies to streamline the rule-making process, and consider efforts designed to improve public access to the rule-making process.

History: *Add. 1999, Act 262, Eff. Apr. 1, 2000*
Compiler's Notes: *For transfer of powers and duties of the office of regulatory reform from the department of management and budget to the office of regulatory reform, see E.R.O. No. 2000-1, compiled at MCL 10.152 of the Michigan compiled laws.*
Popular Name: *Act 306*
Popular Name: *APA*

B. Executive Branch Usurpation of Legislative Authority

MFEI argues that the Michigan Department of State (MDOS), acting through the Secretary of State and aided by MOAHR's administrative-review process, exercised authority reserved to the Legislature under Article II, § 4[18] of the Michigan Constitution and Article I, § 4[19] of the United States Constitution. It did so by adopting election-administration requirements that exceeded the scope of executive powers.

This *ultra vires* conduct is of particular concern because the Elections Clause specifically assigns authority over the "Times, Places and Manner" of elections to the state Legislature.[20]

According to MFEI's analysis, MDOS did more than implement existing statutes. Through administrative guidance, manuals, directives, and promulgated rule sets, the Department established substantive election-administration requirements affecting voter registration, election-day procedures, poll challenger conduct, canvassing, and record-retention practices. This Count examines the legal question as to whether those actions exceeded statutory authority.

In 2025, the Secretary of State through MDOS promulgated Rule Sets 2025-13, 2025-14, and 2025-15. Collectively these rules packages impose more than forty substantive election-rule

[18] Michigan Constitution, Article II, Section 4.

[19] United States Constitution, Article I, § 4, Elections Clause.

[20] The Elections Clause, United States Constitution, Article I, § 4.

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changes affecting every phase of election administration, from voter registration to election-day operations and from poll challenger conduct to canvassing and post-election record retention.[21] Additional rule packages promulgated or advanced after April 2026 extend the same structural concerns into the 2026 election cycle.

MOAHR and the Joint Committee on Administrative Rules ("JCAR") performed dysfunctionally and were incapable of meaningful oversight as a "dual checkpoint" system. As an example, MOAHR approved all three rule sets despite MDOS's failure to disclose, as required in MCL 24.253, the need for the new rules or the content of the proposed rules in its Annual Regulatory Plan, due July 1, 2024. Then, JCAR, which cannot veto rules, lacked effective enforcement authority. Plus, it suffered from structural and procedural paralysis and was unable to convene a quorum, let alone to vote to object to the promulgated rules.

As a result, rules conflicting with federal law, state statutes, constitutional protections, and federal record-preservation requirements advanced without substantive correction. Among other examples, Rule Set 2025-14 mandates destruction of electronic poll-book data after seven days despite the federal twenty-two-month retention mandate of 52 U.S.C. § 20701.

The significance of that rule extends beyond state administrative law because federal law independently requires preservation of election records relating to federal elections. Whether the administrative rulemaking process may authorize practices inconsistent with those federal preservation requirements is one of the recurring questions addressed throughout this report.

Rule Set 2025-13 creates (or so strongly implies so as to have the effect of creating) materially different voter-registration challenge procedures for overseas and domestic voters. Meanwhile, Rule Set 2025-15 inserts government-compelled regulations on poll-challenger speech and training without sufficiently specific legislative authorization.

Although the rules principally examined here were promulgated from 2025 forward, MFEI traces the underlying administrative structure to 1995. As documented in *Compromised Checkpoints*, this pattern did not begin in 2019. It originated in 1995 and spans four gubernatorial administrations. The issue is therefore presented as a bipartisan structural pattern rather than the conduct of a single administration.

Michigan courts have repeatedly emphasized that administrative agencies possess only the authority granted to them by statute. In *In re Complaint of Rovas Against SBC Michigan*,[22] the Michigan Supreme Court reaffirmed that courts must independently interpret statutes and may not defer to agency interpretations that conflict with legislative intent:

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[21] Johnson et al, *Compromised Checkpoints*, Michigan Fair Elections Institute.

[22] *Rovas v. SBC Michigan*, 482 Mich. 90, Michigan Supreme Court, July 23, 2008.

"[W]e hold and reaffirm that an agency's interpretation of a statute is entitled to 'respectful consideration,' but courts may not abdicate their judicial responsibility to interpret statutes by giving unfettered deference to an agency's interpretation. Courts must respect legislative decisions and interpret statutes according to their plain language. An agency's interpretation, to the extent it is persuasive, can aid in that endeavor."

This principle is consistent with earlier Michigan authorities, including *Luttrell v. Department of Corrections*[23] and *Coffman v. State Board of Examiners in Optometry*.[24] In these cases, courts recognize that administrative agencies may not enlarge, modify, or exceed powers granted by the Legislature.

MFEI concludes that the election-administration actions examined in this Count warrant review under these authorities because they raise questions about the expansion of statutory power, displacement of legislative functions, and implementation of election policy through executive action.

Count 1 identifies at least two constitutional structural defects in MOAHR itself and concludes that Michigan's present oversight framework violates separation-of-powers principles independently recognized under Articles I, III, IV, V, and VI of the Michigan Constitution. It further identifies persuasive authority from other jurisdictions, including *Whiley v. Scott* [25] and *Evers v. Marklein*,[26] both of which invalidated structurally similar arrangements in which executive or non-legislative entities exercised unauthorized gatekeeping authority over delegated rulemaking power.

These issues bear directly on federal elections because the same rules govern voter registration, election-day administration, canvassing, record preservation, and adjudication involving ballots cast for federal office. Rule Set 2025-15 additionally affects adjudicatory procedures tied to election disputes. The asserted constitutional and statutory conflicts therefore provide a potential basis for federal review, subject to the jurisdictional and remedial limits applicable to each claim.

The administrative structure examined in this Count also governs practices that the Department of Justice has identified as matters of continuing federal oversight, including voter-registration systems, election-record preservation, HAVA compliance, and the administration of federal elections.

B. Structural Consolidation of Election Authority Within the Executive Branch

[23] Luttrell v. Dep't of Corrections, 421 Mich. 93, Jan. 29, 1985.

[24] Coffman v. State Bd. of Examiners in Optometry, Michigan Supreme Court, Dec. 3, 1951.

[25] Whiley v. Scott, 79 So.3d 702, Fla. 2011, Aug. 16, 2011.

[26] Evers v. Marklein, 2025 WI 36, July 8, 2025.

1. Executive Reorganization Order 2019-06, Pre-2020 Guidance Framework, and the Authority Structure Governing the General Election on November 3, 2020

The institutional structure governing Michigan's November 3, 2020, General Election was the product of a twenty-five-year evolution in centralized executive review of administrative rulemaking and election guidance.

That evolution spanned four gubernatorial administrations (two Republican and two Democrat). John Engler (R), Jennifer Granholm (D), Rick Snyder (R), and Gretchen Whitmer (D). MFEI characterizes the resulting displacement of legislative authority as a structural, rather than partisan, concern.

A concrete instance of this structural consolidation arose in October 2021 when the Bureau of Elections directed an elected township clerk to cease performing her statutory election duties altogether. In a letter dated October 15, 2021, Director Brater instructed Adams Township Clerk Stephanie Scott to permit vendor maintenance on her voting equipment, conduct required Public Accuracy Testing, and use only Bureau-certified equipment, warning that willful failure to comply with a lawful Secretary of State order is a misdemeanor under MCL 168.931(h). See letter in Appendix O herein.

When Clerk Scott's October 17, 2021 response did not confirm compliance with all three directives, Brater's October 25, 2021 follow-up letter (Appendix P herein) did not merely renew the instruction: it directed her to "refrain from administering any elections held in Adams Township, including the upcoming November 2, 2021 election," transferred her statutory election-day, logic-and-accuracy-testing, and canvass-reporting duties to the Hillsdale County Clerk, suspended her access to the Qualified Voter File, and directed that Adams Township be billed for the cost of the county's substitute administration. The letter cited the Secretary's general supervisory authority under MCL 168.21, 168.31, and 168.32, and Secretary of State v Berrien Co Bd of Election Comm'rs, 373 Mich 526, 530–531 (1964), for the proposition that local election officials must comply with Secretary of State instructions.

The letter is significant here because it demonstrates that the Bureau construes its MCL 168.31 supervisory authority as extending to the wholesale reassignment of a locally elected clerk's statutory election functions to a different official, an assertion of authority considerably broader than the guidance-and-advisement power the statute's text describes.

2. Usurpation of Legislative Authority — Definition and Usage

The term *usurpation* is used in this Count as a legal term of art rather than political characterization. Courts and legal commentators have long used the term to describe circumstances in which one branch of government assumes authority constitutionally assigned to another branch.

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MFEI concludes that the constitutional questions presented by Michigan's administrative-review structure warrant examination under this framework because executive-branch entities exercise functions traditionally associated with legislative oversight of delegated rulemaking authority.

MFEI relies upon the analysis in *Whiley v. Scott*[27] as persuasive authority addressing similar questions concerning executive creation of rulemaking gatekeepers without express legislative authorization.

The bipartisan duration of the practice documented in this Count, spanning four gubernatorial administrations over approximately thirty years, suggests that the issue is structural rather than partisan. Accordingly, the term *usurpation* is used only where MFEI concludes the evidentiary record supports that characterization.

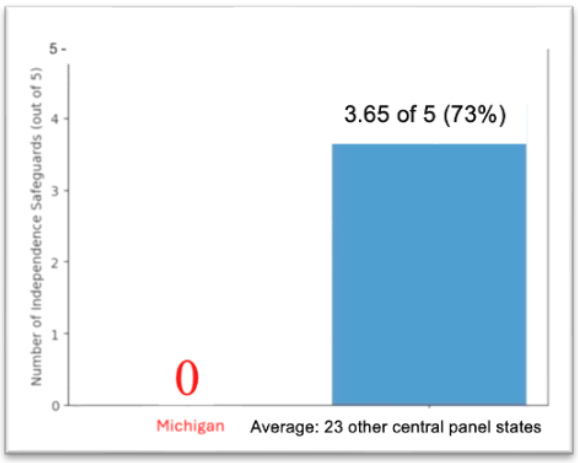


Figure 3: ***Structural Independence Protections Among Twenty-Four Administrative Review Systems.*** *This figure summarizes the presence or absence of five commonly used independence protections among states utilizing centralized administrative-review structures and illustrates Michigan's comparative position. Source: Patrice Johnson et al., Compromised Checkpoints, MFEI, April 2026, Figure 1, p. 9.*[28]

The significance of Executive Reorganization Order 2019-06 extended beyond administrative organization. Governor Whitmer's order centralized both election rulemaking and adjudicatory functions inside a structurally dependent executive office while simultaneously granting formal independence protections to other commissions created during the same period. MFEI documented that the omission of comparable protections for MOAHR was explicit in the executive order itself.

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[27] Whiley v. Scott.

[28] Johnson, Compromised Checkpoints: Restoring Independence in Michigan's Election Oversight, Michigan Fair Elections Institute (MFEI), Apr. 2026, p. 9.

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This consolidation occurred immediately before the 2020 presidential election cycle and established the institutional framework governing Michigan's 1,690 election jurisdictions during the November 3, 2020, General Election. By that time, operational direction from the Michigan Department of State (MDOS) flowed primarily through informal guidance mechanisms, including the Election Officials Manual, frequently asked questions (FAQs), instructional memoranda, and interpretive directives issued outside the rulemaking requirements of the Michigan Administrative Procedures Act (MAPA).

These guidance materials were not promulgated as formal administrative rules. They were not subjected to legislative review through the Joint Committee on Administrative Rules ("JCAR"), nor did they undergo the legislative concurrence procedures required under MCL 24.245a. As a result, statewide election administration increasingly operated through informal executive directives rather than rules lawfully enacted under Michigan's statutory rulemaking process.

Period	Governor / Party	Office / Independence Protections
1995–2005	Gov. Engler (R)[29]	Office of Regulatory Reform (ORR): Zero protections. Exec. Reorg. Order 1995-5: "The Office of Regulatory Reform is hereby created." Claim: Type I Transfer. Actual: Creation
2005–2011	Gov. Granholm (D)[30]	State Office of Admin. Hearings & Rules (SOAHR): Zero protections. Maintained exclusion of election law matters. E.R.O. 2005-1. Claim: Type I Transfer. Actual: Creation
2011–2019	Gov. Snyder (R)[31]	MAHS / Office of Regulatory Reinvention (ORRI): Zero protections. 2011–16: LARA Director reviewed his own department's rules. E.R.O. 2011-5. Claim: Type I Transfer. Actual: Creation
2019–Present	Gov. Whitmer (D)[32]	Michigan Office of Administrative Hearings and Rules (MOAHR): Zero protections. E.R.O. 2019-06: First time election law matters, hearings and adjudication were included under consolidated executive review. Claim: Type I Transfer. Actual: Creation

Figure 4: ***Evolution of Executive Consolidation of Rulemaking Oversight Spanning Four Governors and 31 Years,*** *(1995–present).*

Source: Compromised Checkpoints (Michigan Fair Elections Institute, Apr. 2026), Figure 3, p. 10.[33]

[29] Exec. Reorg. Order 1995-5 (Mich., Gov. Engler, 1995). Created the Office of Regulatory Reform by executive order rather than statute. Claim: Type I Transfer. Actual: Creation of new office..

[30] Exec. Reorg. Order 2005-1 (Mich., Gov. Granholm), Jan. 14, 2005.

[31] Exec. Reorg. Order 2011-5 (Mich., Gov. Snyder), Feb. 23, 2011.

[32] Exec. Reorg. Order 2019-06 (Mich. Gov. Whitmer, Feb. 20, 2019).

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MFEI further concluded that the structural deficiencies within MOAHR implicate multiple provisions of the Michigan Constitution of 1963 independently prohibiting executive assumption of legislative authority. These include Article V, § 2[34] ("allocated by law"); Article III, § 2[35] (separation of powers); Article IV, § 1[36] (vesting of legislative power exclusively in the Legislature); Article IV, § 37[37] (bicameralism and presentment requirements); and Article I, § 17[38] (fair and just treatment in executive proceedings).

MFEI identified, in addition, persuasive authority from other jurisdictions addressing similar constitutional defects. In *Whiley v. Scott*[39], the Florida Supreme Court invalidated an executive-order-created rulemaking gatekeeper operating without legislative authorization. In *Evers v. Marklein*, the Wisconsin Supreme Court applied bicameralism principles derived from *INS v. Chadha* to invalidate legislative committee control over rulemaking authority. MFEI identified *Blank v. Department of Corrections* as the controlling Michigan separation-of-powers authority relevant to MOAHR's constitutional structure.

The significance of this structural consolidation extends directly into the 2026 election cycle. MFEI documented that Rule Sets 2025-13, 2025-14, and 2025-15, collectively containing forty election-related provisions alleged to conflict with federal law, Michigan statutes, and constitutional requirements, advanced through the same structurally compromised oversight process without correction by either MOAHR or JCAR. Additional packages, for example Rule Set 2025-63 and Rule Set 2026-22, are currently advancing through the hearing process and will further expand executive authority over election administration without express statutory authorization.

C. The Legally Unauthorized Displacement of Legislative Election Authority Through Ballot Initiative

The United States Constitution and Michigan Constitution both vest primary authority over election regulation in the Legislature. Article I, § 4 of the United States Constitution ("Elections Clause") provides that the "Times, Places and Manner" of congressional elections "shall be prescribed in each State by the Legislature thereof." Similarly, Article II, § 4 of the Michigan

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[33] Johnson, Compromised Checkpoints, MFEI, p. 10.

[34] Article V, § 2, ("allocated by law"), Michigan Constitution of 1963.

[35] Article III, § 2 (separation of powers), Michigan Constitution of 1963, Michigan Constitution of 1963.

[36] Article IV, § 1 (vesting of legislative power exclusively in the Legislature),

[37] Article IV, § 37 (bicameralism and presentment requirements), Michigan Constitution of 1963.

[38] Article I, § 17 (fair and just treatment in executive proceedings), Michigan Constitution of 1963.

[39] Whiley v. Scott.

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Constitution provides that "the legislature shall enact laws to regulate the time, place and manner of all nominations and elections."

Beginning in 2018 and accelerating through the adoption of Proposal 2 in 2022, Michigan voters approved constitutional amendments directly regulating substantial aspects of federal-election administration through the statewide initiative process authorized by Article XII, § 2 of the Michigan Constitution. Those amendments established or expanded numerous election procedures previously governed by statute, including automatic voter registration, absentee voting rights, ballot drop boxes, prepaid absentee-ballot postage, early voting, voter-identification procedures, straight-ticket voting, and post-election audit requirements. The constitutional concerns were documented contemporaneously by MFEI. See "Prop 2: Stop It — Join the Manhattan Project to Save Michigan" [40] (MFEI, 2022).

Critics, including several Michigan legislators, argued that the constitutionalizing these election procedures diminished the Legislature's institutional authority over federal-election regulation by placing major policies beyond ordinary legislative amendment or repeal. That theory formed the basis of *Lindsey v. Whitmer.*[41]

The legislators alleged that the Elections Clause assigns authority specifically to the "Legislature" of each state and that constitutional amendments adopted through direct democracy improperly displaced the Legislature's constitutionally assigned role. The complaint sought to enjoin executive officials from enforcing the 2018 and 2022 constitutional amendments as applied to federal elections.

The Sixth Circuit ultimately dismissed the case on standing grounds without hearing the merits of the Elections Clause claims. The court held that the individual legislators had not sued on behalf of the Legislature as an institution or as a controlling legislative bloc. The later decision in *Bost v. Illinois State Board of Elections* may affect standing analysis in future litigation, but it did not adjudicate the merits of *Lindsey*'s Elections Clause theory. [42]

In reaching its decision in 2024, however, the Western District court articulated the governing framework for claims involving alleged institutional displacement of legislative authority. The court distinguished between "individual injuries of legislators" and "institutional injuries of a legislature," explaining that only the Legislature itself, or a controlling legislative bloc, may litigate claims alleging "usurpation" or "complete nullification" of legislative authority.

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[40] Patrice Johnson, "*Prop 2: Join the Manhattan Project to Save Michigan*," MFEI (2022), mifairelections.org.

[41] *Lindsey et al. v. Whitmer et al.*, No. 1:23-cv-01025, W.D. Mich. Sept. 28, 2023.

[42] *Bost v. Illinois State Board of Elections*, 607 U.S. __, No. 24-568, Jan. 14. 2026.

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The court relied heavily upon *Arizona State Legislature v. Arizona Independent Redistricting Commission*,[43] which permitted the Arizona Legislature itself to challenge a voter-adopted constitutional amendment transferring redistricting authority to an independent commission because the amendment allegedly "completely nullifie[d] any vote by the Legislature" regarding congressional redistricting.

The Sixth Circuit emphasized that the Michigan legislators did not fall within that narrow exception because they did not sue on behalf of the Legislature, as an institution, and did not allege that they possessed sufficient votes to enact or defeat legislation allegedly nullified by the constitutional amendments. The court further noted that the Michigan Legislature had continued enacting and implementing legislation related to the constitutional amendments, including statutes governing automatic voter registration and absentee-ballot drop boxes.

A separate 2020 case reached the merits of a closely related question — whether the Secretary of State could exercise an authority the statute reserves to another actor — where *Lindsey* was dismissed on standing grounds. In *Davis v Secretary of State*, 333 Mich App 588; 963 NW2d 653 (2020) (Docket No. 354622; Court of Claims LC No. 20-000099-MM), the Court of Claims (Judge Cynthia Stephens) held on August 25, 2020, that the Secretary's authority to mail unsolicited absent voter ballot applications to Michigan's 7.7 million registered voters was inherent in her constitutional role as chief election officer, notwithstanding the absence of express statutory authorization. The Court of Appeals affirmed on September 16, 2020, in a 2-1 decision.

Judge Patrick M. Meter dissented in part, reasoning that MCL 168.759(3) enumerates three exclusive methods by which an absent voter ballot application may be obtained, that subsection (3)(b) expressly assigns the distribution function to local clerks, and that under the doctrine of *expressio unius est exclusio alterius* (the expression of one thing is the exclusion of the other.") the Legislature's specification of clerk authority operated to exclude the Secretary's. In Judge Meter's view, the Secretary's supervisory authority over local election officials could not be used to supply a distribution power the Legislature had not granted.

The Michigan Supreme Court denied leave to appeal on December 28, 2020, in a 6-1 order; Justice David Viviano dissented from the denial on the ground that the Court of Appeals' partial dissent raised issues warranting review, without reaching the merits. *Davis* and *Lindsey* together illustrate this Count's pattern from two procedural postures. In *Lindsey*, a court declined to reach the merits of a challenge to unilateral SOS action; in Davis, a court reached the merits and split, with one judge concluding the Secretary had exercised authority the Legislature reserved to another office.

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[43] *Arizona State Legislature v. Arizona Independent Redistricting Commission*, 576 U.S. 787, Mar. 3, 2015.

Although *Lindsey* did not resolve the underlying Elections Clause questions, the litigation framed constitutional concerns that resurfaced later during legislative oversight disputes between the Michigan House of Representatives and the Michigan Department of State (MDOS). Those disputes focused not merely on access to election materials, but on whether executive agencies had assumed policy-making and supervisory authority reserved to the Legislature under Article I, § 4[44]of the United States Constitution and Article II, § 4[45] of the Michigan Constitution.

The controversy intensified after Republicans regained majority control of the Michigan House of Representatives in November 2024. House leadership initiated coordinated efforts to investigate election administration, clerk training procedures, Qualified Voter File ("QVF") management, and Bureau of Elections rulemaking practices. Representative Rachelle Smit, the then-anticipated chair of the House Election Integrity Committee ("EIC"), joined Representatives Jay DeBoyer and Ann Bollin in seeking election-training materials and administrative records from MDOS.

In December 2024, legislators submitted formal FOIA requests seeking election-clerk training materials and access to the MDOS eLearning Portal. MDOS produced certain records but withheld Portal materials, asserting that disclosure would "degrade the security and integrity of elections in Michigan." Subsequent legislative requests, formal subpoenas, and oversight proceedings culminated in the Michigan House of Representatives adopting House Resolution No. 117[46] on May 22, 2025, formally holding Secretary of State Jocelyn Benson and MDOS in civil contempt for failure to comply with legislative subpoenas.

The House specifically determined that "[r]eviewing election training materials is a valid legislative purpose justifying the issuance of a subpoena."[47] The contempt resolution invoked Michigan Constitution Article IV, § 1; MCL 4.101[48]; MCL 4.541[49]; and House Rule 36(2)[50] as authority for enforcement of legislative subpoenas, including through civil contempt proceedings.

House leadership characterized the dispute not merely as a records disagreement, but as a separation-of-powers conflict involving the Legislature's constitutional authority to oversee

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[44] Article I, § 4, Elections Clause, United States Constitution.

[45] Article II, § 4, "Place and Manner of Elections," Michigan Constitution of 1963.

[46] House Resolution No. 117, House adopted resolution to hold Secretary of State Jocelyn Benson and the Department of State in civil contempt of the Michigan House of 3 Representatives, (May 22, 2025) https://www.legislature.mi.gov/Bills/Bill?ObjectName=2025-HR-0117

[47] Ibid.

[48] Mich. Compiled Law, MCL 4.101

[49] Mich. Compiled Law, MCL 4.541, "Subpoenaing Records and Files."

[50] Mich. House Rule 36(2), "Standing Rules of the House of Representatives in Accordance with the Michigan Constitution Article IV, Section 16."

election administration and determine whether executive guidance complied with Michigan election law. (According to the Michigan Information & Research Service Inc. (MIRS), Secretary Benson has been the defendant in more elections-related lawsuits than last four secretaries of states combined." [51] Five include *RNC v Benson*;[52] *Genetski* v Benson;[53] *Carra v Benson*;[54] *Johnson v Benson*;[55] and *O'Halloran v Benson*.[56])

The dispute illustrates a broader institutional question examined throughout this Count: whether the Legislature can effectively exercise its constitutional oversight and lawmaking responsibilities when access to election-administration information is restricted.

The issue extends beyond the production of records. The Legislature's oversight also parallels the federal government's statutory authority to obtain and inspect election records maintained pursuant to federal law, underscoring the continuing importance of preserving and producing election-administration records when requested by lawful oversight authorities.

The Michigan House's efforts to obtain election-administration information ultimately evolved to subpoenas and contempt proceedings, and then to active litigation, including the *Michigan House of Representatives v. Benson*, Case No. 25-000096-MZ,[57] in the Michigan Court of Claims. On June 11, 2025, the court entered a preservation order.

Regardless of the ultimate merits of the parties' positions, the dispute demonstrates the practical importance of legislative access to information in the exercise of constitutional oversight responsibilities.

On November 3, 2025, Judge Sima G. Patel denied competing motions for summary disposition, leaving the constitutional and statutory questions unresolved.

Viewed collectively, the sequence of constitutional amendments, executive implementation, agency rulemaking, and subsequent legislative oversight disputes reflects an escalating institutional conflict over whether Michigan election governance has progressively migrated away from direct legislative control toward a consolidated executive-administrative structure insulated from ordinary legislative amendment, supervision, and correction.

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[51] "Benson In More Elections-Related Lawsuits Than Last 4 SOS Combined," according to data compiled by the Michigan Information & Research Service Inc. (MIRS) based on information from the Legislative Service Bureau for Rep. Steve Carra (R-Three Rivers), May 5, 2025.

[52] RNC v Benson, Case No. 24-000148-MZ, Court of Claims, Oct. 10, 2024.

[53] Genetski v Benson. Case No. 20-000216-MM.

[54] Carra v Benson. Case No. 20-000211-MZ.

[55] Johnson v Benson. Civil Action No. 1:20-cv-948.

[56] O'Halloran v Benson. Case No. 22-000162-MZ.

[57] Michigan House of Representatives v. Benson, No. 25-000096-MZ, Mich. Ct. Cl., Judge Patel, Nov. 3, 2025.

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The following section documents how the structural conditions present in 2020 were codified, expanded, and litigated in the period 2021–2026.

D. Post-2020 Developments Derived from the 2020 Election

Rule Sets 2025-13, 2025-14, 2025-15, and 2025-63; the MCL 24.245a Legislative-Concurrence "Inversion"; and Related Litigation

In 2021–2026, the Secretary of State codified, expanded, and litigated the authority structure operative in 2020. Rather than remedying deficiencies identified in *Genetski* and subsequent proceedings, the SOS used MAPA rulemaking to entrench those deficiencies as formal rules.

From 2021 through 2026, MDOS increasingly converted practices associated with the 2020 election-administration framework into formal administrative rules. Rather than remedying deficiencies identified in *Genetski* and subsequent proceedings, MFEI contends that MDOS used APA rulemaking to codify disputed practices rather than resolve the underlying questions of statutory authority.

Rule Sets 2025-13, 2025-14, 2025-15, and 2025-63 cite only MCL 168.31[58] as their principal authority and use regulatory-impact language describing portions of the packages as a codification of existing practice. No quorum was achieved at the relevant JCAR proceedings in 2025, and the rules advanced under MCL 24.245a[59] without affirmative legislative concurrence — a result this report calls the "MCL 24.245a Inversion."

Active litigation illustrates the practical consequences of these disputes. *Michigan House of Representatives v. Benson* concerns legislative access to election-administration materials, while *People v. Stephanie Scott*[60] (Hillsdale Circuit Court) turns on the legal effect of administrative directives, including eLearning Portal training materials and electronic-pollbook deletion directives that were operative in 2020 and remain operative today.

These developments connect the authority structure operative in 2020 with the formal rulemaking and litigation that followed. The detailed provisions of each rule set are addressed in the Legal Framework, Evidentiary Record, and Findings sections below.

§IV. Legal Framework

[58] MCL 168.31. Secretary of state; duties as to elections; rules.

[59] MCL 168.497.

[60] MCL 168.497.

A. The Elections Clause (U.S. Const. Art. I, § 4, cl. 1)

The Elections Clause[61] vests authority to prescribe the "Times, Places and Manner" of federal elections in the "Legislature" of each state, subject to congressional override. The term "Legislature" means the state's legislative body, not the executive branch, not administrative agencies, and not the Secretary of State acting unilaterally through rulemaking. This Court-construed meaning has been affirmed in *Smiley v. Holm*,[62] 285 U.S. 355 (1932), and most recently reaffirmed in *Moore v. Harper*.[63]

When a Secretary of State exercises rulemaking authority in ways that substantively alter the administration of federal elections without legislative authorization, that conduct raises Elections Clause questions cognizable by federal courts and federal enforcement authorities. The *Watson v. RNC* amicus brief filed by MFEI and other organizations with the U.S. Supreme Court[64] addresses the Elections Clause theory directly in the context of post-Election Day ballot receipt.

B. Michigan Constitution, Art. II, § 4 and Separation of Powers (Art. III, § 2)

Michigan's Constitution vests the conduct of elections in the Legislature and places structural limits on the Governor's and Secretary of State's authority to alter election rules by executive action. Art. III, § 2 provides that the legislative, executive, and judicial powers shall be exercised by separate branches. Michigan courts have repeatedly held that administrative agencies may not use rulemaking authority to exceed the scope of their statutory delegation. *See In re Certified Questions*[65] (Whitmer/EPGA), 506 Mich. 332 (2020) (limits executive emergency power).

C. MCL 24.245a — The Legislative Concurrence Requirement

MCL 24.245a is the central statutory provision at issue in this Count. It provides that rules promulgated by the Secretary of State governing elections are subject to legislative concurrence before they may take effect. The Joint Committee on Administrative Rules (JCAR), created under MCL 24.235, is a bipartisan legislative body that exercises this oversight function. MCL 24.245a represents the Legislature's deliberate effort to preserve its constitutional authority over election administration in the face of executive-branch rulemaking.

The MFEI report *Compromised Checkpoints* identifies what it terms the "MCL 24.245a Inversion." Through a combination of procedural tactics and JCAR's structural inability to act

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[61] U.S. Constitution Elections Clause, Art. I, § 4, cl. 1

[62] *Smiley v. Holm*, 285 U.S. 355, April 11, 1932.

[63] *Moore v. Harper*, 600 U.S. 1 (2023).

[64] *Watson v. RNC,* No. 24-1260, MFEI et al Amici Brief, U.S., Election Day.

[65] *In re Certified Midwest Inst. of Health*, PLLC v. Governor of Mich., Midwest Inst. of Health, PLLC v. Governor of Mich., 506 Mich. 332, 958 N.W. 2d 1.

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(not partisan gridlock, but actual absence of quorum), multiple SOS rule sets were allowed to take effect without the legislative concurrence MCL 24.245a requires. Under MCL 24.245a, if JCAR takes no action within fifteen session days, rules automatically advance and take effect. The result is that rules substantively altering the conduct of Michigan's elections took effect not because the Legislature approved them, but because the Legislature was procedurally unable to act and the SOS treated that failure as consent.[66]

This structural failure was publicly characterized as a "50-50 deadlock" in November 2025 coverage by PIME of a formal legislative request to U.S. Attorney General Pam Bondi for federal election monitoring, confirming that JCAR's inability to act was understood and documented outside of MFEI's internal analysis as a structural condition, not a temporary procedural anomaly.[67]

D. MOAHR Constitutional Vulnerabilities

Governor Whitmer created the Michigan Office of Administrative Hearings and Rules (MOAHR) via executive order without legislative authorization. *Compromised Checkpoints* identifies four structural fault lines in MOAHR's constitutional design:

- **EO Creation without Legislative Authorization**: MOAHR was established by Exec. Reorg. Order 2019-06,[68] not statute, raising questions about whether it possesses the constitutional authority to adjudicate disputes involving statutory rights, especially election law disputes.
- Dual-Function Problem: MOAHR simultaneously promulgates administrative rules (a legislative-type function) and adjudicates disputes arising under those rules (a judicial-type function). This dual function raises due process and separation of powers concerns analogous to those addressed by the U.S. Supreme Court in *Lucia v. SEC*, 585 U.S. 237 (2018).[69]
- Controlling Michigan Authority: The Michigan Supreme Court invalidated JCAR's statutory veto on separation-of-powers grounds in *Blank v. Department of Corrections*. MFEI argues that Blank is relevant in assessing whether an executive-created office may occupy rulemaking-review authority not expressly conferred by statute.

The authorities below address related, but not identical, structural questions under U.S., Michigan, Florida, and Wisconsin law:

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[66] *Compromised Checkpoints,* (structural inversion and automatic advancement provision), pp. 26 and 87.

[67] Patrice Johnson, "Michigan Republicans Request Federal Election Monitoring," Nov. 14, 2025.

[68] Whitmer, Executive Order 2019-02.

[69] *Lucia v. SEC,* U.S. Supreme Court, 585 U.S. 237 (2018).

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***Blank v. Dept. of Corrections*: Controlling Michigan Authority**. The Michigan Supreme Court struck down JCAR's statutory veto as violating separation of powers. Governors then inserted MOAHR by executive order into legislature-allocated space that even the legislature was not allowed to hold. The controlling Michigan precedent for separation-of-powers challenges to executive administrative structures. See *Blank v. Dept. of Corrections*, 462 Mich. 103 (2000).[70] MFEI's full legal analysis applies this precedent to MOAHR's dual function in Section IV of its full *Compromised Checkpoints*.[71]

The constitutional argument is not theoretical. Michigan, Florida, and Wisconsin Supreme Courts have reached these conclusions on identical facts:

Whiley v. Scott: Persuasive Authority (Florida Supreme Court, 2011)

Florida Governor Rick Scott issued an executive order to create the Office of Fiscal Accountability and Regulatory Reform (OFARR), the same mechanism used to create MOAHR. OFARR served as a mandatory gatekeeper over agency rulemaking, just as MOAHR does in Michigan. The Florida Supreme Court struck OFARR down. The court held that, absent legislative authorization, a governor may not insert an executive-branch office as a mandatory gatekeeper over legislature-delegated rulemaking authority. The structural parallel to MOAHR is exact on every element. MOAHR has never faced judicial review of its constitutional legitimacy. The absence of a ruling does not indicate constitutionality. It merely reflects unchallenged unlawful behavior. See *Whiley v. Scott*, 79 So.3d 702 (Fla. 2011).[72]

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[70] Blank v. Dept. of Corrections, 462 Mich. 103, June 20, 2000.

[71] Ibid.

[72] Whiley v. Scott and Compromised Checkpoints, § IV.A; Fig. 21.

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Evers v. Marklein: Persuasive Authority (Wisconsin Supreme Court, 2025)

The Wisconsin Supreme Court struck down a legislative committee's authority to pause, object to, or suspend administrative rules. It applied the SCOTUS ruling in *INS v. Chadha*[73] and the principle that any body altering legal rights outside the full legislative branch must comply with bicameralism and presentment. Michigan's own Art. IV, § 37[74] embedded this same principle in 1963. JCAR's structure faces the same analysis. See *Evers v. Marklein*, 2025 WI 36.[75] Compromised Checkpoints § IV.B

The pinkish-orange boxes below represent executive offices as inserted through executive reorganization orders without legislative authorization. The state executive branch inserted this new office above the legislature's own, constitutionally and statutorily allocated JCAR committee.

[73] INS v. Chadha.

[74] Art. IV, § 37.

[75] Evers v. Marklein, 2025 WI 36.

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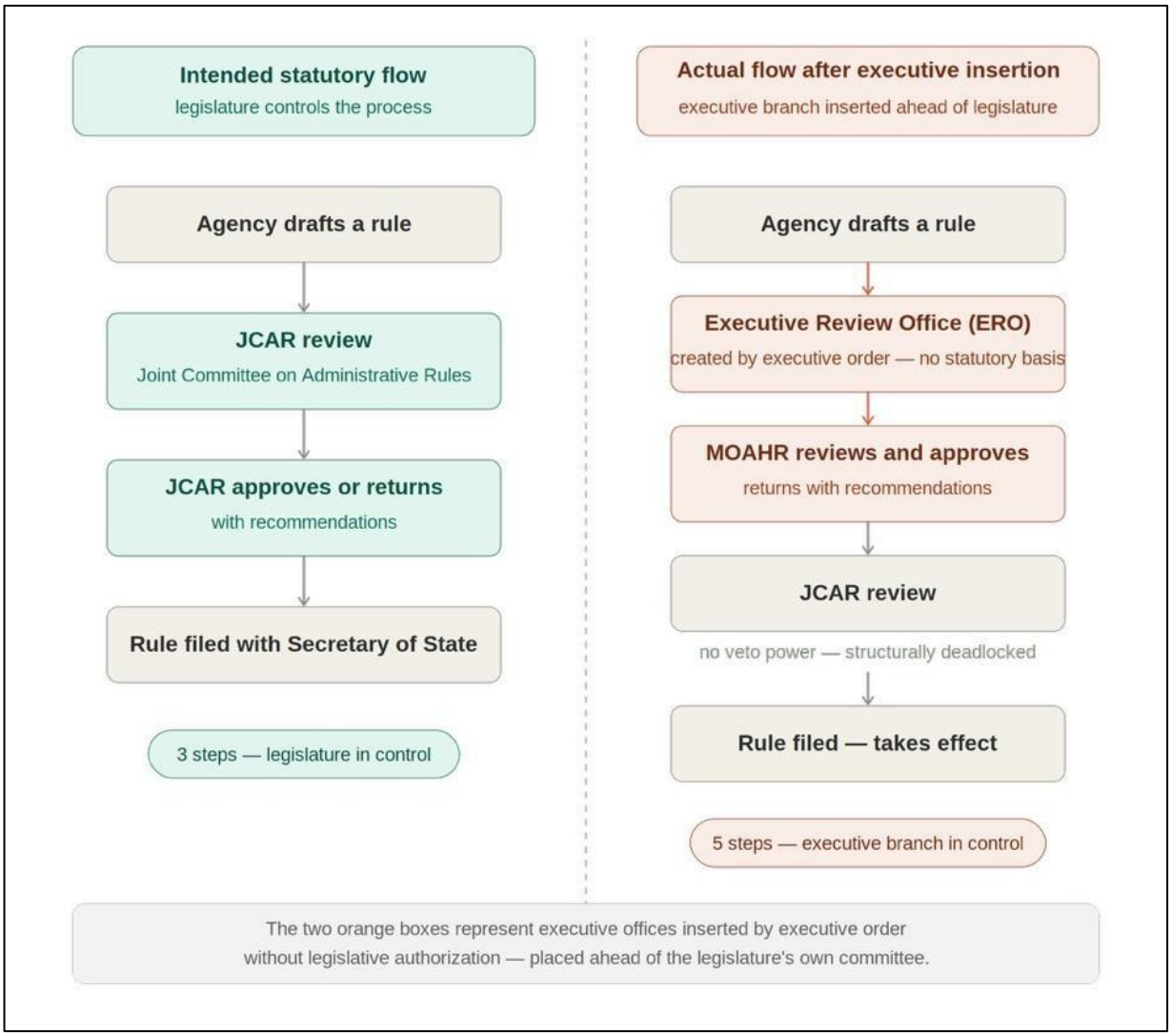


Figure 5: ***Statutory Rulemaking Flow and Current Administrative Review Structure.***
JCAR Committee (L) compared to Executive Branch Office (R). The U.S. and Michigan Constitutions require that Executive Branch offices be statutorily allocated, but MOAHR was inserted through Executive Reorganization Orders without legislative or statutory authorization. This figure compares the rulemaking process prescribed by statute with the administrative review structure operating after creation of MOAHR and identifies the additional review stage introduced through executive reorganization orders. Compromised Checkpoints (CC) Abridged Edition, p. 5.[76]

- ALJ Independence and Due Process: MOAHR's administrative law judges lack the structural independence required by due process when they adjudicate disputes in proceedings governed by rules that MOAHR itself drafted. The applicable standard is

[76] Compromised Checkpoints (CC) Abridged Edition, p. 5.

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Caperton v. A.T. Massey Coal Co., 556 U.S. 868 (2009) (structural bias in adjudication violates due process).[77]

Feature	Minnesota OAH (Constitutional)	Michigan MOAHR (Challenged)
Created by	Statute — Legislature, 1975	Executive Order only; no statute
Independence	ALJs must be free of political pressure (explicit)	None
Rulemaking review	Legal/procedural compliance only; cannot block on policy	Substantive gatekeeping; can block or reshape rules
Adjudication finality	Agencies retain final authority over most decisions	MOAHR ALJs issue binding election-dispute determinations
Legislative oversight	Separate committee notified of all rulemaking	JCAR bypassed by MCL 24.245a automatic advancement
Transparency	Disapproval findings go to Gov., Legislature, AG, Revisor	No multi-branch transparency requirement
Court validation	Structural features withstand scrutiny	Never judicially tested

Figure 6: **Michigan MOAHR deviates significantly from Minnesota OAH — the one other state combining adjudication with rulemaking review** — which has statutory foundation, explicit independence protections, and no substantive policy gatekeeping. Source: Compromised Checkpoints, p. 71.[78]

E. Separation of Powers Concerns

What Michigan's *Constitution* Requires

Provision	Requirement	MFEI Assessment
Art. V, § 2	Requires all executive offices to be "allocated by law" through legislative enactment with public hearings and recorded vote.	MOAHR was created through executive reorganization order rather than a separate legislative enactment.
Art. III, § 2	No branch may exercise powers assigned to another except as expressly provided.	MFEI concludes MOAHR's structure raises separation-of-powers questions because executive entities review legislature-delegated rulemaking

[77] *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009).
[78] *Compromised Checkpoints* (MFEI, April 2026), Figure 22, p. 71.

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authority.

Art. IV, § 1	Legislative power is vested in the Legislature.	MFEI concludes MOAHR affects legislative oversight of delegated rulemaking authority.
Art. IV, § 37	Legislative action affecting legal rights ordinarily requires bicameral passage and presentment.	MFEI concludes the administrative-review structure warrants examination under bicameralism principles discussed in *Blank*, *Whiley*, and *Evers*.
Art. I, § 17	Guarantees fair and just treatment in executive proceedings.	MFEI concludes MOAHR's combined review and adjudicatory functions raise due-process questions warranting examination.

Protection	Two Other MI Commissions (E.O. 2019-13, June 2019)	MOAHR Election Oversight (E.R.O. 2019-06, Feb. 2019)
Statutory Foundation	**No** — Executive Order (same as MOAHR)	**No** — Executive Order
Senate Confirmation	**Yes** — required	**No**
Term Limits	**Yes** — four years	**No** — at-will removal
Qualification Requirements	**Yes** — bar membership + 5 years' experience	**No**
Structural Independence	**No** — tied to department	**No** — nominal independence negated
Nonpartisan Conduct Obligation	**Yes** — explicit	**No**
Total Protections	**3 of 5 standard** + nonpartisan conduct	**0 of 5 — zero standard independence protections**

Figure 7: **Governor Whitmer granted Senate confirmation, term limits, qualifications, and a nonpartisan conduct obligation to two other EO-created appeals commissions** (E.O. 2019-13, June 2019), signed four

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months after creating MOAHR — but granted none of those protections to MOAHR. Source: Compromised Checkpoints, p. 84.[79]

F. The Canvasser Certification Statute: PA 269 of 2023

Public Act 269 of 2023[80] amended Michigan election law to declare that the certification of election results by county and state canvassers is "ministerial, clerical, and nondiscretionary." This language eliminates canvasser discretion to withhold certification based on identified irregularities. The effect is to convert certification (historically a safeguard function) into a rubber stamp. MFEI's amicus brief in *Bost v. Illinois SBE* (No. 24-568, U.S. Supreme Court), co-filed with PAFE and WVA, addressed the competitor standing theory applicable to illegally structured election administrative environments. The *Bost* majority is now cited as authority in *Watson v. RNC*.

G. MCL 168.842(5) — The Ministerial Canvass Clause

MCL 168.842(5) is among the most categorical limitation clauses in the Michigan Election Law. It provides that the canvass duty of the Board of State Canvassers is "ministerial, clerical, and nondiscretionary," and that certification must be based "solely on the certified statements of votes from counties."

This provision operates as a double-edged structural constraint. It limits the Board's own discretion (the Board cannot refuse to certify based on identified irregularities), but it simultaneously constrains the MDOS. The Secretary of State cannot supplant the county-to-Board certification flow with an executive-branch substitute because the Board's duty is expressly tied to county-certified statements, not to Bureau of Elections staff action. R 168.55(2) of Rule Set 2025-63, which authorizes Bureau of Elections staff to "complete duties assigned to the board of state canvassers in the act," sits in direct tension with MCL 168.842(5)'s structural design.

The *MFEI Synthesis Memorandum*[81] identifies MCL 168.842(5) as a load-bearing textual barrier to the R 168.55(2) delegation: "Ministerial duties are categorically not delegable to executive-branch employees if they are constitutional functions of a constitutionally established body." The Synthesis Memo further notes that "the board's consent to a particular delegation may not cure a structural reallocation" where the constitutional design requires a bipartisan four-member body to exercise the function.

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[79] Compromised Checkpoints, April 2026, Figure 26, p. 84.

[80] Mich. 2023 PA 269 (amending MCL 168.882. History: -- Am. 2018, Act 614, Eff. Mar. 28, 2019 ;-- Am. 2023, Act 269, Eff. Feb. 13, 2024 ;-- Am. 2024, Act 74, Eff. Apr. 2, 2025).

[81] *MFEI Synthesis Memorandum,* Authority Allocation in MDOS Rule Sets 2025-13-ST, 2025-14-ST, 2025-15-ST, 2025-63-ST, and Campaign Finance Rule Set 2026-22-ST.

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MCL 168.22(1) reinforces this analysis: the Board of State Canvassers is made "subject to section 7 of article II of the state constitution of 1963," anchoring the Board's composition and function directly in the Michigan Constitution rather than leaving them to statutory or administrative modification. No MDOS rule can alter a constitutionally fixed structural arrangement.

H. Michigan Ultra Vires Doctrine — The Five-Step Framework

Michigan's administrative law applies a strict ultra vires framework that provides no Chevron-style deference to agency interpretations of their enabling statutes. The MFEI Synthesis Memorandum integrates the controlling decisions (*In re Complaint of Rovas*,[82] 482 Mich. 90 (2008); *Luttrell v. Dept. of Corrections*, 421 Mich. 93 (1984); *Coffman v. State Bd. of Examiners in Optometry*,[83] 331 Mich. 582 (1951); and *Genetski v. Benson*, Mich. Ct. Cl. Mar. 9, 2021), into a five-step test applicable to each MDOS rule set:

Step 1 — Constitutional Baseline: Does the rule operate in a domain where Art. II, § 4(2) commits time-place-and-manner regulation to the Legislature; where Art. II, § 7 fixes a bipartisan four-member canvassing structure; or where Art. VII recognizes local elected officers whose duties come from statute? If yes, the constitutional baseline frames the entire inquiry.

Step 2 — Statutory Grant: Trace the rule to an express or necessarily-implied grant in MCL 168.31 or another section of the Election Law. If the only hook is the general MCL 168.31 grant and the rule sets substantive content the Legislature did not set, the trace is weak. Under Michigan's *expressio unius* principle, where the Legislature wanted MDOS to set binding rules in a particular domain, it said so explicitly, as exemplified in MCL 168.31a and 168.765a(8). The absence of parallel express grants in the domains covered by Rule Sets 2025-13 through 2025-63 is itself evidence.

Step 3 — APA Discipline (*Genetski* Test): Is the rule of general applicability and does it implement or apply the Election Law? If yes, it is a "rule" that must run the APA gauntlet. For the rule sets at issue, this step is procedurally satisfied; the question shifts to substance.

Step 4 — Ultra Vires Limit (*Rovas* / *Luttrell* / *Coffman*): Does the rule add obligations the statute did not impose, conflict with statutory text, or expand the agency's grant beyond its four corners? Under *Rovas*, agency interpretations of enabling statutes receive "respectful consideration" but are not binding; where the statute is unambiguous, the agency's contrary interpretation is given no weight. Under *Luttrell*, a rule in conflict with its implementing statute

[82] Supreme Court of Michigan, *In re Complaint of Rovas,* 482 Mich. 90, July 23, 2008, "Courts must respect legislative decisions and interpret statutes according to their plain language."

[83] Supreme Court of Michigan, *Coffman v. State Bd. of Examiners in Optometry,* Dec. 3, 1951.

is ultra vires in either direction, whether adding obligations or subtracting protections. Under *Coffman*, an agency cannot by rule enlarge the statutory grant under which it operates.

Step 5 — Structural Displacement: Does the rule transfer a function the Election Law assigns to a clerk or to a county or state board of canvassers? MCL 168.842(5)'s declaration that the canvass is "ministerial, clerical, and nondiscretionary" is a particularly strong textual barrier. MCL 168.24a grants county boards of canvassers exclusive authority over county canvass functions. Any MDOS rule that absorbs a county-canvass function confronts this statutory monopoly.

Applied across the four rule sets, this framework identifies R 168.55(2) of Rule Set 2025-63 as the most constitutionally exposed provision, which is the only provision that, if applied as written, could result in single-officer executive-branch staff exercising functions the Michigan Constitution of 1963 assigns to a bipartisan four-member body. The provisions most exposed to ultra vires challenge under Steps 2 and 4 are R 168.252 and R 168.256 of Rule Set 2025-13 (substantive definitions of "reliable information" and "personal knowledge" supplied by rule for terms the Election Law leaves undefined) and R 168.220(3) of Rule Set 2025-15 (routing of challenger-conduct appeals to Bureau of Elections rather than local or county boards of canvassers).

§V. Evidentiary Record

A. The SOS Rulemaking Program: Rule Sets 2025-13, 2025-14, 2025-15, and 2025-63.

1. Overview: A Pattern, Not Isolated Events

Between 2019 and 2025, the Michigan Secretary of State promulgated at least seven rule sets governing election administration. This Count focuses on the four rule sets for which MFEI and PIME have compiled the most complete evidentiary record: Rule Sets 2025-13, 2025-14, 2025-15, and 2025-63. These rule sets are not isolated regulatory actions; they are sequential elements of a systematic program to reshape election administration through executive rulemaking without legislative authorization.

PIME filed formal objections to Rule Sets 2025-13, 2025-14,[84] and 2025-15. PIME filed a formal objection to Rule Set 2025-63.[85] MFEI published a public analysis of Rule Set 2025-63 in an April 16, 2026, blog article by Patrice Johnson. The MFEI Synthesis Memorandum (May 13,

[84] PIME Submission in Opposition to Rule Set 2025-14 ST, Public Hearing, Sept. 17, 2025.

[85] PIME Submission in Opposition to Rule Set 2025-63 ST, Public Hearing, Apr. 2026.

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2026, Revised July 4, 2026) provides a comprehensive cross-rule authority-shift analysis, applying the five-step ultra vires framework (Section I.G above) to each rule set individually and collectively.

Two structural features are common to all four rule sets and are documented in the Synthesis Memorandum. First, all four cite only MCL 168.31, the SOS's general rulemaking grant, as their statutory authority, without citing any more specific grant for the substantive content being added. Second, every Regulatory Impact Statement uses substantially identical template language asserting that the rule "codifies current practice," "clarifies legal requirements," and imposes "no additional regulations": framing that is in tension with operative rule text imposing new mandatory standards, new MDOS-approved forms and media, new release-of-security memoranda, and new evidentiary thresholds. The Synthesis Memo characterizes this as the RIS framing conflating "codification of MDOS practice that previously operated as guidance" with "clarification of legislative requirements," a distinction with significant legal consequences under *Rovas* and *Luttrell*.

MFEI's Synthesis Memorandum[86] further finds that this pattern is not confined to election administration: a fifth rule set, 2026-22-ST (Campaign Finance General Provisions), exhibits the same single-general-hook and "codifies current practice" architecture under a different statute (MCL 169.215). That rule set does not implicate Art. II § 7 or the Elections Clause questions at issue in this Count, and its final draft provisions are undetermined as of this writing; it is noted here only as corroborating evidence of a recurring executive-rulemaking pattern, not as a basis for this Count's constitutional claims.

2. Rule Set 2025-13: Voter Registration and QVF Procedures

Rule Set 2025-13 (R 168.1 et seq., as amended) governs voter registration procedures and interaction with Michigan's Qualified Voter File (QVF). Key concerns identified in PIME's analysis include:

- Provisions that appear to authorize voter registration processes inconsistent with federal NVRA requirements, including list maintenance procedures that may conflict with the 22-month federal retention standard
- Delegation of functions to Bureau of Elections staff in ways that may exceed the SOS's statutory authority under MCL 168.509aa et seq.
- Promulgation through the MOAHR process without adequate JCAR review, raising MCL 24.245a concurrence questions[87]

[86] MFEI Synthesis Memorandum, Authority Allocation in MDOS Rule Sets 2025-13-ST, 2025-14-ST, 2025-15-ST, 2025-63-ST, and Campaign Finance Rule Set 2026-22-ST; Issued May 13, 2026, Revised July 4, 2026.
[87] PIME Submission in Opposition, Rule Set 2025-13 ST, Public Hearing, Sept. 5, 2025.

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3. Rule Set 2025-14: Electronic Pollbooks and Voter Credit

Rule Set 2025-14 governs electronic pollbook procedures, voter credit, and pollbook reconciliation. Key concern identified in PIME's analysis: Rule 168.48, promulgated as part of this rule set, requires deletion of electronic pollbook records within 7 days of an election. This directly conflicts with the federal NVRA and HAVA requirements for 22-month and 2-year retention of election records, respectively.

The 7-day deletion rule raises not only federal records retention concerns, but structural questions about whether the SOS used rulemaking authority to eliminate records that would be subject to post-election audit, recount, and FOIA review. The practical effect is to reduce the window for post-election accountability to less than one week.

MFEI has identified *Bennett v. Michigan Bureau of Elections* as a proceeding in which Rule 168.48 has been directly challenged. Jo DeMarco (Ada Township Clerk) is identified as a potential named plaintiff in AFPI litigation challenging Rule 168.48.[88]

4. Rule Set 2025-15: Absentee Ballot Processing and Chain of Custody

Rule Set 2025-15 governs absentee ballot processing procedures. Key concerns identified in PIME's analysis include:

- Provisions modifying absentee ballot chain-of-custody requirements in ways that appear to weaken existing statutory protections
- Rules governing the processing of absentee ballots in advance of Election Day that appear to exceed the SOS's authority under MCL 168.764a
- Interaction with PA 82 of 2023[89] (signature cure extended to 3 days post-election; slight dissimilarities resolved in voter's favor) creating a combined statutory-regulatory framework that substantially reduces ballot integrity controls.[90]

5. Rule Set 2025-63 ST: The Adjudicatory Restructuring

Rule Set 2025-63 (R 168.51 through R 168.58) restructures the adjudicatory process for election law disputes, including the procedures by which election-related complaints and appeals are

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[88] PIME Opposition RS-14, (Sept. 17, 2025). R 168.48: mandates deletion of electronic pollbook records within 7 days of an election. Conflicts: (1) 52 U.S.C. § 20701 (22-month federal retention); (2) NVRA, 52 U.S.C. § 20507; (3) HAVA, 52 U.S.C. §§ 21081, 21083; (4) MCL 168.811 (6-year state retention). Eliminates keystroke-level audit trail before FOIA, recounts, or audits. R 168.42 adds unauthorized FOIA exemptions.

[89] Mich. 2023 PA 82 (signature cure; absentee ballot), available at legislature.mi.gov.

[90] PIME Opposition RS-15, Rule Set 2025-15 ST (Dec. 2025). R 168.203(4), R 168.207: mandatory training (Legislature made voluntary in MCL 168.733; compelled speech). R 168.205: unauthorized liaison gatekeeping. R 168.208: four-ground challenge restriction. R 168.214, R 168.217: vague ejection standards (Mansky, 585 U.S. 1 (2018)). Training materials subject to Michigan House of Representatives v. Benson, No. 25-000096-MZ; preservation order in place.

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processed within the SOS's administrative framework. PIME's formal objection and MFEI's April 16, 2026 analysis[91] identify three distinct structural problems:

a. Bureau Staff Performing Board of State Canvassers Functions

R 168.55(2) authorizes Bureau of Elections staff to be "authorized by the board to complete duties assigned to the board of state canvassers in the act." The MFEI Synthesis Memorandum (May 13, 2026) identifies this as "the most vulnerable provision across all four rule sets and the strongest litigation candidate" and as "qualitatively different" from the other authority shifts in Rule Sets 2025-13 through 2025-15: while those rule sets operate at the level of how clerks and challengers carry out their work, R 168.55(2) operates at the level of who exercises a constitutionally established body's duties.

Three structural defects are identified in the Synthesis Memo. First, the "complete duties" language has no limiting principle: it does not restrict which duties may be delegated, what oversight the Board must maintain, how delegated actions are attributable to the Board, or whether the Board's constitutional bipartisan balance is preserved. Second, the Board's consent

to a particular delegation may not cure the structural reallocation, because Art. II, § 7 requires a bipartisan four-member body, a single executive-branch officer consenting on behalf of the

Board does not reconstitute that structure. Third, R 168.55(2) does not distinguish between staff assistance (unobjectionable) and staff exercise of judgment (constitutionally problematic): it authorizes "completion" of board duties, not merely administrative support.

The Synthesis Memo concludes that under *Rovas*,[92] *Luttrell*, *Coffman*, and the structural reasoning of *Davis v. Secretary of State*, 468 Mich. 449 (2003), R 168.55(2) is "the provision most likely to be invalidated on litigation." The argument is structural and constitutional; it does not depend on a procedural *Genetski* hook and does not require proof of any specific harm from a specific delegation. [93]

b. SOS Authority Over Clerk Internal Delegation

R 168.58 and related provisions appear to authorize the Secretary of State to dictate internal delegation procedures within local election clerk's offices. This raises separation of powers and home-rule concerns: local clerks derive their authority from Michigan statute and the Michigan

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[91] Patrice Johnson, "The Secretary of State Is Enforcing Laws She Wrote Herself," MFEI, April 17, 2026.
[92] Supreme Court of Michigan, *In Re Complaint Rovas* (Rovas v. SBC Michigan), 482 Mich. 90 (2008).
[93] PIME Objection RS-63, Rule Set 2025-63 ST (Apr. 2026), Sec. IV (Objection 1); Synthesis Memo, Secs. 4.4, 5.5. R 168.55(2): "Bureau of elections' staff shall serve as assistants to the board of state canvassers and may be authorized by the board to complete duties assigned to the board of state canvassers in the act." Constitutional anchors: Const 1963, Art. II, § 7; MCL 168.22(1); MCL 168.842(5) (ministerial/nondiscretionary clause). MCL 168.31 rulemaking authority does not extend to structural reorganization of a constitutionally established body.

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Constitution, not from SOS administrative rules, and the SOS's rulemaking authority does not extend to restructuring local governmental functions.[94]

c. Importation of Campaign Finance and Government Ethics Definitions

R 168.58 imports definitions from the Michigan Campaign Finance Act and the Government Ethics Act into the election administration adjudicatory framework. This definitional importation appears to expand the scope of what constitutes a disqualifying "conflict of interest" in election administration proceedings in ways that were not authorized by the Legislature and that could be used to disqualify election officials, challengers, or witnesses in proceedings under pretextual conflict grounds.

MFEI's analysis of Rule Set 2025-63 makes the structural due process argument under *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009): when the same executive-branch official who promulgates the rules also adjudicates disputes arising under those rules, the structural arrangement itself — regardless of any actual bias — violates due process. This argument was reflected in the op-ed drafted for Rep. Rachelle Smit (R, 43rd House District, House Election Integrity Committee chair).[95]

B. The MCL 24.245a Inversion: JCAR Structural Failure

1. JCAR's Function and the Legislative Concurrence Requirement

The Joint Committee on Administrative Rules (JCAR) is a bipartisan joint legislative committee with authority under MCL 24.245a and the Administrative Procedures Act to review and concur in or to disapprove administrative rules before they take effect. MCL 24.245a specifically applies this requirement to SOS election rules. JCAR's concurrence function is not advisory; it is a substantive precondition to rule effectiveness.

Compromised Checkpoints documents that JCAR failed to achieve quorum at three consecutive hearings at which review of SOS election rule sets was scheduled. This was not a partisan

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[94] PIME Objection RS-63, Rule Set 2025-63 ST (Apr. 2026), Sec. V (Objection 2). R 168.56(2) and R 168.57(2): county clerk duties "may be delegated to the county clerk's staff or assistants as prescribed by the county clerk … or by the secretary of state under section 21 of the act." County and township clerks are independent constitutional officers: Const 1963, Art. VII, § 4; MCL 168.363, 168.29, 168.21. MCL 168.29 grants delegation power to the clerk, not the SOS. PIME requests deletion of "or by the secretary of state under section 21 of the act, MCL 168.21" from both rules.

[95] PIME Objection RS-63, Rule Set 2025-63 ST (Apr. 2026), Sec. VI (Objection 3). R 168.58 imports: (a) "Candidate" from MCL 169.203 (Campaign Finance Act); (b) "Elective office" from MCL 169.205; (c) "Public officer" from MCL 15.181 (Government Ethics Act, 1978 PA 566). Caperton structural due process argument: bias where SOS promulgates rules and MOAHR adjudicates disputes without structural independence violates due process. Caperton v. A.T. Massey Coal Co., 556 U.S. 868 (2009). See Patrice Johnson, "The Secretary of State Is Enforcing Laws She Wrote Herself — and Hiding the Rulebook," MFEI (Apr. 16, 2026).

deadlock but a structural failure: JCAR simply did not have enough members present to constitute a quorum. In the absence of JCAR action, the rules proceeded to effectiveness. [96]

2. The Inversion Argument

Compromised Checkpoints frames the MCL 24.245a problem as an "inversion." The statutory design contemplated that rules would take effect only with affirmative legislative concurrence. The operational result, whether by design or by exploitation of JCAR's structural dysfunction, is that rules take effect through legislative inaction. The Legislature's inability to act is treated as functional consent.

This inversion is legally significant for two reasons. First, it violates the affirmative-concurrence design of MCL 24.245a. Second, it raises Elections Clause concerns: if the "Legislature" has not affirmatively authorized the rules, and if the rules govern federal election administration, the constitutional authority for those rules becomes the Secretary of State's executive order rather than a legislative act. Under *Moore v. Harper*'s[97] state-law approach to the Elections Clause, executive-only rulemaking affecting federal elections is constitutionally suspect.[98]

3. Active Litigation: Michigan House of Representatives v. Benson

The constitutional theory underlying this Count is not merely academic. The Michigan House of Representatives filed suit in Ingham County Circuit Court (Case No. 25-000096-MZ) challenging the Secretary of State's rulemaking authority on separation of powers grounds. Compromised Checkpoints documents this litigation and its relationship to the broader legal theory.[99]

4. Federal Lawsuit: *Lindsey v. Whitmer* — Elections Clause via Ballot Initiative

In September 2023, eleven Michigan state legislators filed a federal lawsuit in the Western District of Michigan challenging Proposals 2 (2022) and 3 (2018) as violations of the Elections Clause. *Lindsey et al. v. Whitmer et al.*[100] Counsel for Plaintiffs: Erick G. Kaardal and Elizabeth

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[96] Compromised Checkpoints (CC), Sec. VI (Second Checkpoint Failure — JCAR Paralysis), p. 87 et seq. "No quorum was established at any of JCAR's election Rule Set hearings held during 2025, meaning no vote was ever taken." CC, Sec. IX, p. 109. Automatic advancement: MCL 24.245a. JCAR's post-2000 authority limited to: (1) Notice of Objection (MCL 24.245, temporary delay); (2) non-binding modification request; (3) legislation. MDOS also failed to disclose rule sets in its Annual Regulatory Plan 2024–2025 (filed July 1, 2024), depriving JCAR of advance notice under MCL 24.253. CC, Sec. VI, pp. 87–92.

[97] *Moore v. Harper*, 600 U.S. 1, U.S. Supreme Court. (2023).

[98] Ibid., p. 22 et seq.

[99] Ibid., p. 22 et seq.

[100] *Lindsey et al. v. Whitmer et al.*, No. 1:23-cv-01025 (W.D. Mich., filed Sept. 28, 2023) No. 1:23-cv-01025, ECF No. 1 (W.D. Mich.), Judge Jane M. Beckering, Sept. 28, 2023.

A. Nielsen, Mohrman, Kaardal & Erickson P.A. (Minneapolis); David A. Kallman and Stephen P. Kallman, Great Lakes Justice Center (Lansing). MFEI co-sponsored the litigation.

Plaintiffs were Senators Jonathan Lindsey and James Runestad; Representatives James DeSana, Rachelle Smit, Steve Carra, Joseph Fox, Matt Maddock, Angela Rigas, Josh Schriver, Neil Friske, and Brad Paquette. Defendants were Governor Gretchen Whitmer, Secretary of State Jocelyn Benson, and Director of Elections Jonathan Brater, each sued in official capacity only.

The complaint[101] alleged that Michigan's citizen ballot-initiative process under Michigan Constitution, Art. XII, Sec. 2, cannot be used to regulate the times, places, and manner of federal elections because the Elections Clause assigns that authority exclusively to the "Legislature," not to direct-democracy processes that bypass the Legislature entirely. The complaint sought a declaratory judgment that the 2018 and 2022 constitutional amendments are constitutionally invalid as to federal elections, and injunctive relief barring enforcement of those amendments to regulate federal elections. Jurisdiction: 42 U.S.C. §§ 1983, 2201, 2202; 28 U.S.C. § 1331.

The district court dismissed the complaint[102] under Civil Rule 12(b)(1) for lack of standing. The Sixth Circuit affirmed on December 20, 2024. *Lindsey et al. v. Whitmer et al.*, No. 24-1413 (6th Cir. Dec. 20, 2024) (*Sutton*, C.J.; *Bush* and *Murphy*, JJ.). The Sixth Circuit held that individual legislators lack Article III standing to assert the institutional injuries of a legislature, applying *Raines v. Byrd*[103] and *Virginia House of Delegates v. Bethune-Hill*.[104] The court did not reach the Elections Clause merits.

The *Lindsey* dismissal is significant for this Count in two respects. First, it confirms that the Elections Clause question raised by Michigan's direct-democracy constitutional amendment process — whether citizen ballot initiatives may be used to regulate federal elections without legislative approval — remains unresolved on the merits. Second, it establishes that the individual-legislator vehicle for litigating that question is foreclosed under current standing doctrine, making the Department of Justice the appropriate federal actor to raise the Elections Clause question the courts have not yet addressed. Count 1's primary Elections Clause theory concerns the SOS's administrative rulemaking program through MOAHR and the MCL 24.245a Inversion, a distinct but related pathway to the same constitutional violation: the exclusion of the Legislature from its constitutionally assigned role in regulating the times, places, and manner of federal elections.[105]

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[101] Ibid.

[102] Ibid.

[103] Raines v. Byrd, 521 U.S. 811 (1997).

[104] Virginia House of Delegates v. Bethune-Hill, 587 U.S. 658 (2019).

[105] Lindsey et al. v. Whitmer et al., No. 1:23-cv-01025, ECF No. 1 (W.D. Mich. Sept. 28, 2023); aff'd No. 24-1413 (6th Cir. Dec. 20, 2024); MFEI, "MI Legislators File Federal Election-related Lawsuit," mifairelections.org (Sept. 28, 2023).

C. Comparative Analysis: Michigan Among Central-Panel States

Compromised Checkpoints provides a 24-state comparative analysis of central-panel election administration structures: the 23 non-Michigan states that use a central-panel model, plus Michigan. The report's authoritative dataset covers 24 states; Illinois was excluded (although its body was EO-created, it is not a true central panel state). Among the 23 non-Michigan central-panel states:

- 23 of 23 states have statutory authorization for their central-panel structures
- 10 of 23 require Senate confirmation for the central panel's chief officer
- 10 of 23 establish fixed terms for the chief officer
- 21 of 23 require qualifications for the position
- 20 of 23 have structural independence provisions

Michigan scores 0 out of 5 on these metrics: the only state in the study in Tier 3. The non-Michigan average is 3.65 out of 5, or 73%. Michigan's MOAHR, created by executive order without statutory authorization and lacking fixed terms, Senate confirmation, qualifications requirements, or structural independence provisions, is a structural outlier among comparable states.

This comparative data establishes that Michigan's approach is not merely unusual, it is uniquely deficient. Among the 24 central-panel states examined, Michigan alone combines EO creation, no Senate confirmation, no fixed term, no qualifications requirement, and no structural independence. This combination is the foundation for the four MOAHR fault lines identified in *Compromised Checkpoints*.[106]

§VI. Findings

A. Established Facts

Established Fact 1-A-1

Between 1995 and 2019, successive governors used executive reorganization orders to create, dissolve, and recreate administrative oversight offices exercising review authority over administrative rulemaking and elections without express statutory creation. However, the Michigan Constitution limits the Executive Branch to twenty (20) legislature-approved

[106] Compromised Checkpoints, Sec. I (Michigan as a National Outlier), p. 9 et seq.; Figure 5 (24-state comparison, p. 18); Figure 4 (0/5 protections, p. 12). Tier 1: 12 states (4–5/5, legislative enactment); Tier 2: 11 states (statutory foundation, partial protections); Tier 3: Michigan only (0/5, Executive Capture). Statistics: 23/23 statutory foundation; 10/23 Senate confirmation; 10/23 fixed terms; 21/23 qualifications; 20/23 structural independence. Non-Michigan average: 3.65/5 (73%). Illinois excluded.

offices:

"All executive and administrative offices, agencies and instrumentalities of the executive branch of state government and their respective functions, powers and duties, except for the office of governor and lieutenant governor, and the governing bodies of institutions of higher education provided for in this constitution, shall be allocated by law among and within not more than 20 principal departments. They shall be grouped as far as practicable according to major purposes."[107]

Established Fact 1-A-2

Executive Reorganization Order 2019-06 created the Michigan Office of Administrative Hearings and Rules ("MOAHR"), consolidating election-rule review and adjudicatory functions within a single executive-branch entity immediately before the 2020 election cycle.

Established Fact 1-A-3

Among twenty-four states utilizing comparable dual-review administrative systems, Michigan alone operates with none of the five standard structural independence protections identified in MFEI's comparative-state analysis.

Established Fact 1-A-4

During the 2020 election cycle, substantial aspects of statewide election administration were governed through manuals, guidance documents, FAQs, memoranda, and directives that were not promulgated as formal administrative rules.

Established Fact 1-A-5

[107] Constitution of Michigan of 1963, State Constitution Excerpt, MCL - Article V § 2.

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Legislative efforts to obtain election-administration records, training materials, databases, voter-file information, and related materials culminated in House Resolution 117, contempt proceedings, legislative subpoenas, and litigation concerning legislative access to election-administration information.

Established Fact 1-A-6 (Re: Rulemaking Without Legislative Authorization)

The Michigan Secretary of State promulgated Rule Sets 2025-13, 2025-14, 2025-15, and 2025-63 through the MOAHR administrative process. These rule sets govern voter registration, electronic pollbooks, absentee ballot processing, and election dispute adjudication, respectively — all functions directly applicable to the administration of federal elections in Michigan.

Established Fact 1-A-7 (Re: Rulemaking Without Legislative Authorization)

MCL 24.245a requires that SOS election rules receive affirmative legislative concurrence through JCAR before taking effect. Compromised Checkpoints (Section VI, p. 87 et seq.) documents that no quorum was established at any of JCAR's election Rule Set hearings held during 2025, meaning no vote was ever taken. Because the procedural threshold for a concurrent majority was never reached, the rules proceeded to take automatic effect after fifteen legislative days, the result not of partisan gridlock, but of structural inaction. CC, Section IX, p. 109.

Established Fact 1-A-8 (Re: Rulemaking Without Legislative Authorization)

PIME filed formal objections to Rule Sets 2025-13, 2025-14, and 2025-15. Key substantive findings: Rule Set 2025-13, R 168.256(2)(b) imposes a personal knowledge requirement (FRE 602 standard) exceeding MCL 168.512; R 168.252 makes clerk investigations optional, violating NVRA reasonable-effort mandate (52 U.S.C. § 20507(a)(4)). Rule Set 2025-14, R 168.48 mandates 7-day deletion conflicting with 52 U.S.C. § 20701 and MCL 168.811. Rule Set 2025-15, R 168.203(4) and R 168.207 impose mandatory training the Legislature made voluntary in MCL 168.733; R 168.205 creates unauthorized liaison gatekeeping. Sources:

PIME Submissions and Analyses for RS 2025-13, 2025-14, 2025-15.

Established Fact 1-A-9 (Re: Rulemaking Without Legislative Authorization)

PIME filed a formal objection to Rule Set 2025-63 identifying three structural problems: Bureau staff performing BSC functions, SOS authority over clerk internal delegation, and importation of Campaign Finance/Government Ethics Act definitions. MFEI's April 16, 2026, blog analysis (Johnson) adds the *Caperton* structural due process argument.

Established Fact 1-A-10 (Re: MOAHR Constitutional Vulnerabilities)

MOAHR was created by executive order (Exec. Reorg. Order 2019-06) without legislative authorization. Among the 24 central-panel states examined in Compromised Checkpoints, Michigan is the only state whose central-panel structure lacks statutory foundation. CC, Section I, p. 9; Figure 5, p. 18; Michigan entry in the 24-state comparison table (Tier 3 — Executive Capture, 0/5 protections). The other 23 dual-central-panel states used affirmative legislative action to establish its oversight office. CC, Section I, Figure 20, p. 63.

Established Fact 1-A-11 (Re: MOAHR Constitutional Vulnerabilities)

Among the 24 central-panel states examined, Michigan scores 0 out of 5 on *Compromised Checkpoints*' five structural independence metrics (statutory authorization, Senate confirmation, fixed term, qualifications, structural independence). The non-Michigan average is 3.65 out of 5 (73%). Michigan is the sole Tier 3 state. CC, Section I, pp. 9–21; Figure 4, p. 12; Figure 5, p. 18; Summary Statistics, p. 9. Confirmed breakdown: 23/23 statutory foundation; 10/23 Senate confirmation; 10/23 fixed terms; 21/23 qualifications; 20/23 structural independence.

Established Fact 1-A-12 (Re: Federal Records Retention Conflict)

Rule 168.48, promulgated as part of Rule Set 2025-14, mandates deletion of electronic pollbook records within 7 days of an election. This conflicts with: (1) Federal Records

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Retention Act, 52 U.S.C. § 20701 (22-month retention); (2) NVRA, 52 U.S.C. § 20507 (list maintenance records); (3) HAVA, 52 U.S.C. §§ 21081, 21083 (auditable records, database accuracy); and (4) MCL 168.811 (6-year retention of voter records, a direct conflict with an express Michigan legislative mandate). Source: PIME Opposition RS-14, Rule Set 2025-14 ST.

Established Fact 1-A-13 (Re: Federal Records Retention Conflict)

MFEI has identified *Bennett v. Michigan Bureau of Elections* as a proceeding in which Rule 168.48 has been directly challenged. MFEI is pursuing AFPI litigation targeting Rule 168.48, with Jo DeMarco (Ada Township Clerk) as a potential named plaintiff.

Established Fact 1-A-14 (Re: Canvasser Certification Stripping — PA 269 of 2023)

PA 269 of 2023 declared that canvasser certification of election results is "ministerial, clerical, and nondiscretionary." This language eliminates canvasser authority to withhold certification based on identified irregularities, converting certification from an independent check into a mechanical administrative step.

Established Fact 1-A-15 (Re: Canvasser Certification Stripping — PA 269 of 2023)

MFEI's amicus brief in *Bost v. Illinois SBE* (No. 24-568, U.S. Supreme Court), co-filed with PAFE and WVA, advanced the competitor standing theory applicable to illegally structured competitive election environments. The *Bost* majority is now cited as authority in *Watson v. RNC* (No. 24-1260). Together, these cases establish that structural irregularities in election administration, and not merely individual vote manipulation, are cognizable injuries for standing purposes.

Established Fact 1-A-16 (Re: *People v. Stephanie Scott* — Retroactive Rule Application)

People v. Stephanie Scott (Hillsdale Circuit Court, Judge Lisznyai) involves a former township clerk facing felony charges arising in part from alleged violations of SOS-promulgated rules. At the April 13, 2026, hearing, defense attorney Thomas Lambert argued that promulgated rules cannot support felony charges, and that rules made effective four years after the conduct at issue raise ex post facto concerns. Judge Lisznyai appeared receptive to these arguments.

Established Fact 1-A-17 (Re: Cross-Rule Authority-Shift Pattern — Synthesis Memorandum Findings)

MFEI's Synthesis Memo identifies a template RIS pattern: every RIS for all four rule sets uses substantially identical disclaimer language asserting that the rule "codifies current practice," "clarifies legal requirements," and imposes "no additional regulations." This template framing conflicts with operative rule text imposing new mandatory standards, new MDOS-approved forms and media, new release-of-security memoranda, new sworn-to-MDOS-materials oaths, and new BOE-as-appellate-body routing. The framing conflates codification of MDOS practice previously operating as guidance with clarification of legislative requirements, a distinction with significant consequences under *Rovas* and *Luttrell*. Source: MFEI Synthesis Memorandum, Section 5.2.

Established Fact 1-A-18 (Re: Cross-Rule Authority-Shift Pattern — Synthesis Memorandum Findings)

The Synthesis Memorandum documents two provisions that reroute decisional authority from locally accountable officers to MDOS: R 168.220(3) of Rule Set 2025-15 (challenger-conduct appeals routed to Bureau of Elections rather than local or county boards of canvassers) and R 168.254(4)/R 168.255(3) of Rule Set 2025-13 (cancellation act seated with the Secretary of State rather than the clerk). Both provisions move decisional authority from the locally accountable officer or body to the executive branch. Source: MFEI Synthesis Memorandum, Section 5.4.

C. Judicial Findings

Judicial Finding 1-B-1

In *Genetski v. Benson*, the Michigan Court of Claims held that the Secretary of State's absentee-ballot signature-matching guidance constituted an invalid administrative rule because it had not been promulgated in accordance with the Administrative Procedures Act.

C. Legal Arguments

Legal Argument 1-C-1

U.S. Const. Art. I, § 4, cl. 1 (Elections Clause) — The SOS's promulgation of rule sets (RS 2025-13, RS 2025-14, RS 2025-15, RS 2025-63) governing the time, place, and manner of federal elections without affirmative legislative authorization appears to conflict with the Elections Clause's assignment of that authority to the "Legislature." The MCL 24.245a Inversion, rules taking effect through JCAR's structural inability to act rather than through affirmative legislative concurrence, further undermines the constitutional basis for these rules.

Legal Argument 1-C-2

U.S. Const. Amend. XIV, § 1 (Due Process) — MOAHR's dual-function structure (promulgating rules and adjudicating disputes under those rules) raises structural due process concerns under *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009). The structural arrangement, and not any individual act of bias, is the constitutional violation.

Legal Argument 1-C-3

52 U.S.C. § 20507, 52 U.S.C. § 21083 (NVRA/HAVA) — R 168.48's 7-day pollbook deletion requirement appears to directly conflict with federal 22-month and 2-year records retention requirements under NVRA and HAVA, and with MCL 168.811's 6-year state retention mandate. Promulgation of a rule that conflicts with federal law and applies to federal elections raises both federal preemption and Elections Clause concerns.

Legal Argument 1-C-4

MCL 24.245a — The SOS's election rule sets (RS 2025-13, RS 2025-14, RS 2025-15, RS 2025-63) appear to have taken effect without the affirmative legislative concurrence MCL 24.245a requires, through JCAR's structural inability to achieve quorum. Under MCL 24.245a, rules automatically take effect if JCAR fails to act within fifteen session days. Rules effective without statutory concurrence lack valid legal authority under Michigan law.

Legal Argument 1-C-5

Michigan Constitution, Art. III, § 2 (Separation of Powers) — The SOS's exercise of rulemaking authority to create substantive election law obligations, combined with MOAHR's adjudicatory authority over disputes arising under those rules, concentrates legislative and judicial functions in the executive branch in apparent conflict with Michigan's separation of powers doctrine.

Legal Argument 1-C-6

PA 269 of 2023 — While PA 269 is itself a legislative act, its elimination of canvasser discretion to withhold certification appears to conflict with the canvassers' constitutional function as an independent check on election administration. When combined with MOAHR's adjudicatory restructuring and the MCL 24.245a Inversion, PA 269 contributes to a system in which no independent institutional actor retains authority to pause or question the certification of election results.

Legal Argument 1-C-7

MCL 168.31 et seq. — The SOS's rulemaking appears to exceed the authority granted by the Legislature under the Election Law, which authorizes the SOS to promulgate rules implementing existing statutory standards, not to create new substantive obligations or override existing statutory protections through administrative action.

D. MFEI Conclusions

MFEI Conclusion 1-D-1

MFEI concludes that the cumulative effect of executive reorganization orders, centralized administrative review, ballot-initiated constitutional amendments, and limitations on legislative access to election-administration information diminished the Legislature's practical ability to oversee and regulate election administration in Michigan.

MFEI Conclusion 1-D-2

Because the challenged rules, procedures, and administrative structures govern federal elections conducted in Michigan, the issues documented in this Count implicate federal election-administration interests and warrant review under applicable federal constitutional and statutory standards.

MFEI Conclusion 1-D-3 (Re: Rulemaking Without Legislative Authorization)

Compromised Checkpoints frames the structural problem as the functional inverse of best-practice state design: Michigan's automatic advancement mechanism (MCL 24.245a) treats legislative inaction as consent. CC documents that Maryland can hold rules pending review and Colorado rules expire unless the legislature affirmatively acts; Michigan places the burden on the legislature to stop a rule rather than on the agency to justify one. CC, Section VI, pp. 87–92. The MCL 24.245a(4) inversion argument (harder to challenge a registration than to create one) is documented in CC, Section II, Rule Set 2025-13 analysis.

MFEI Conclusion 1-D-4 (Re: MOAHR Constitutional Vulnerabilities)

The structural arrangement of MOAHR — irrespective of any individual actor's conduct — raises due process concerns under *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009), because the same executive-branch entity that promulgates the rules adjudicates disputes under those rules without structural independence from the executive official whose rules are at issue.

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MFEI Conclusion 1-D-5 (Re: Federal Records Retention Conflict)

The seven-day deletion window eliminates the primary electronic record of poll-book activity, including metadata regarding voter check-ins, ballot curing, registration and voting timestamps, ballot-stub mismatches, plus the ability to reconcile local versus state pollbook data, before most post-election audit, recount, or FOIA processes are complete.

MFEI Conclusion 1-D-6 (Re: Canvasser Certification Stripping — PA 269 of 2023)

The combination of PA 269's certification-stripping language, MOAHR's adjudicatory restructuring under Rule Set 2025-63, and the MCL 24.245a Inversion creates a system in which: (a) rules are effective without legislative concurrence; (b) disputes are adjudicated by the same executive entity that promulgated the rules; and (c) canvassers lack authority to pause certification even if they identify irregularities.

MFEI Conclusion 1-D-7 (Re: *People v. Stephanie Scott* — Retroactive Rule Application)

The Scott prosecution illustrates the practical stakes of the MCL 24.245a Inversion: when rules of disputed constitutional validity are used as the predicate for criminal prosecution, the rule-validity question directly determines whether the prosecution is constitutionally sustainable. If the rules at issue lacked valid legal authority because they took effect without MCL 24.245a concurrence, criminal charges predicated on those rules raise serious constitutional questions.

MFEI Conclusion 1-D-8 (Re: Cross-Rule Authority-Shift Pattern — Synthesis Memorandum Findings)

The MFEI Synthesis Memorandum (May 13, 2026) applies the five-step ultra vires framework to all four rule sets and reaches a qualified yes to the working question of whether the rule sets remove authority from local clerks and boards of canvassers and consolidate it within MDOS. The four rule sets do not individually or collectively abolish clerk or board-of-

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canvassers authority, but they exhibit a consistent pattern of: (i) elevating MDOS-set standards into operative legal text governing functions the Election Law lodges with local officials; (ii) routing clerk discretion through MDOS-approved forms, manuals, training, and approval gates; and (iii) most clearly in R 168.55(2), authorizing Bureau of Elections staff to perform duties the Election Law and Michigan Constitution assign to the Board of State Canvassers. Source: MFEI Synthesis Memorandum, Section 5.

MFEI Conclusion 1-D-9 (Re: Cross-Rule Authority-Shift Pattern — Synthesis Memorandum Findings)

The Synthesis Memo identifies a single-statutory-hook pattern: all four rule sets cite only MCL 168.31(1)(a) as their statutory authority, without citing any more specific grant for the substantive content being added. Under Michigan's expressio unius principle, where the Legislature wanted MDOS to set binding rules in a particular domain it said so explicitly (see MCL 168.31a and MCL 168.765a(8)). The absence of parallel express grants in the domains covered by Rule Sets 2025-13 through 2025-63 is documented evidence of legislative non-authorization. Source: MFEI Synthesis Memorandum, Section 5.1.

MFEI Conclusion 1-D-10 (Re: Cross-Rule Authority-Shift Pattern — Synthesis Memorandum Findings)

Read together, the four rule sets convert MDOS supervisory authority, which MCL 168.21 limits to supervision of clerk duties as the Election Law defines them, into an operational gatekeeping role over the substantive standards, forms, training, data, and decisional pathways of election administration. The aggregate effect is a meaningful, though not wholesale, shift of operational and decisional authority from local clerks and boards of canvassers to MDOS. Source: MFEI Synthesis Memorandum, Section 7.2.

§VII. Potential Federal Interests

A. Federal Interests Warranting DOJ Review

The issues documented in this Count may warrant federal review in the following areas:

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- Whether Michigan's election-rulemaking structure implicates the Elections Clause where administrative rules govern federal elections.
- Whether election-related rulemaking adopted through executive agencies exceeded legislative delegations under applicable constitutional standards.
- Whether limitations on legislative access to election-administration information affect federal-election oversight responsibilities.
- Whether rulemaking procedures governing federal voter registration, election administration, canvassing, and election-record retention warrant review under federal law.
- Whether administrative practices affecting federal election administration raise issues concerning the Help America Vote Act (HAVA), the National Voter Registration Act (NVRA), or federal election-record retention requirements under 52 U.S.C. §§ 20701–20702.

B. Evidentiary Summary

1. **Compromised Checkpoints: Restoring Independence in Michigan's Election Oversight**. MFEI full 212-page report (April 2026). Sections: I (Michigan as national outlier, p. 9); II (Rule Set conflicts, p. 22); III (MOAHR constitutional analysis, p. 48); IV (Constitutional precedents, p. 68); V (Intentional design, p. 78); VI (JCAR paralysis, p. 87); VII (Federal-state conflicts, p. 93); IX (Model complaint, p. 109). Key figures: Figure 4 (p. 12), Figure 5 (p. 18), Figure 20 (p. 63), Figure 26 (p. 84). JCAR quorum failure confirmed: no quorum at any 2025 election rule set hearing; automatic advancement under MCL 24.245a.
2. **Compromised Checkpoints Abridged**, 20-page dual-audience summary (April 2026).
3. **PIME Objection RS 2025-13** PIME Public Hearing Submission (Sept. 5, 2025) and Analysis (Nov. 2025). R 168.252: optional investigations (NVRA § 20507(a)(4) violation); 20-year inactivity retention (exceeds NVRA 4-year limit). R 168.256(2)(b): personal knowledge requirement (FRE 602) exceeding MCL 168.512; notarized affidavit burden. MCL 24.245a(4) Inversion: harder to challenge than to register. HAVA § 21083(a)(4) database accuracy. MFEI data: 104,137 excess ballots in 2020; 70,713 in 2022.
4. **PIME Opposition RS-14** (Sept. 17, 2025). R 168.48: 7-day deletion of electronic pollbook records. Conflicts: 52 U.S.C. § 20701 (22-month federal retention); NVRA § 20507; HAVA §§ 21081, 21083; MCL 168.811 (6-year state retention). Eliminates keystroke audit trail before FOIA/recount/audit. R 168.42: unauthorized FOIA exemptions. EAC OIG Audit No. G23MI0031-24-13 referenced.

5. **PIME Opposition RS-15** (Dec. 2025). R 168.203(4), R 168.207: mandatory training (Legislature made voluntary in MCL 168.733); compelled speech (Barnette, 319 U.S. 624 (1943)).[108] R 168.205: liaison gatekeeping contradicts MCL 168.733 direct-challenge procedure. R 168.208: four-ground challenge restriction excludes deceased voters, duplicates, ballot harvesting. R 168.214, R 168.217: vague ejection standards (*Mansky*). Training materials subject to *Michigan House of Representatives v. Benson*, Case No. 25-000096-MZ; court preservation order.
6. **PIME Objection RS-63** PIME_Objection_RS2025-63_links_260427.docx (submitted April 20, 2026; public hearing May 22, 2026). Objection 1: R 168.55(2) — Bureau staff to "complete duties" of BOSC (Const 1963, Art. 2, § 7; MCL 168.842(5)). Objection 2: R 168.56(2), R 168.57(2) — SOS authority over clerk internal delegation (Const 1963, Art. VII, § 4; MCL 168.29). Objection 3: R 168.58 — imports Campaign Finance Act (MCL 169.203, 169.205) and Government Ethics Act (MCL 15.181) definitions as regulatory hooks for undisclosed future rules.
7. **MFEI Blog (Apr. 2026)** Johnson, "The Secretary of State Is Enforcing Laws She Wrote Herself — And Hiding the Rulebook." *Caperton* due process argument and RS 2025-63 analysis.
8. ***House of Reps. v. Benson*** Case No. 25-000096-MZ, Ingham County Circuit Court. Michigan House of Representatives challenge to SOS rulemaking authority on separation of powers grounds.
9. ***Lindsey et al. v. Whitmer et al.*** No. 1:23-cv-01025 (W.D. Mich., filed Sept. 28, 2023, Judge Beckering); No. 24-1413 (6th Cir. Dec. 20, 2024) (*Sutton*, C.J., recommended for publication). District court dismissed for lack of standing; Sixth Circuit affirmed. Elections Clause merits not reached. 11 legislator plaintiffs challenging Proposals 2 and 3 as unconstitutional use of ballot initiative to regulate federal elections. Counsel: Kaardal and Nielsen, Mohrman, Kaardal & Erickson P.A.; Kallman, Great Lakes Justice Center. MFEI co-sponsored. Source: ECF No. 1; 6th Cir. opinion at opn.ca6.uscourts.gov/opinions.pdf/24a0273p-06.pdf.
10. ***Watson v. RNC*** **Amicus** No. 24-1260, U.S. Supreme Court. MFEI co-filer (with WVA, PAFE, VFAF). "Consummation" theory; Election Day as firm receipt deadline; Elections Clause framework.
11. ***Bost v. Illinois State Board of Elections*** and **MFEI et al Amicus,** No. 24-568, U.S. Supreme Court. MFEI co-filer (with PAFE, WVA). Competitor standing; illegally

[108] West Virginia State Board of Education v. Barnette.

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structured competitive environment; 100-meter-dash analogy adopted by SCOTUS 2026. Now cited as authority in *Watson*.

12. ***People v. Stephanie Scott*** Hillsdale Circuit Court (Judge Lisznyai). April 13, 2026, hearing: defense argued rules cannot support felony charges; ex post facto concerns re: rules effective 4 years post-conduct. Hillsdalian article covers dismissal.

13. **PA 269 of 2023**. MCL 168.871 et seq. as amended. Canvasser certification declared "ministerial, clerical, and nondiscretionary." Eliminates canvasser discretion to withhold certification. PA 269's language mirrors MCL 168.842(5) and, combined with R 168.55(2) of RS 2025-63, creates conditions in which neither the County Board of Canvassers, the State Canvassers, or the executive branch retains an independent check on certification.

14. **PA 82 of 2023** (signature cure to 3 days post-election); **PA 85 of 2023** (mandatory drop boxes, video monitoring delayed); and Proposal 2 of 2022 **MCL 168.759e and MCL 168.6** (Permanent Mail Voter List as part of the constitutional ballot initiative).

C. Recommended Further Investigation

1. DOJ Civil Rights Division / Voting Section inquiry into whether the SOS's promulgation of rule sets governing federal election administration without affirmative legislative concurrence under MCL 24.245a violates the Elections Clause (Art. I, § 4, cl. 1). Specifically: (a) an assessment of whether Rule Sets 2025-13, 2025-14, 2025-15, and 2025-63 were promulgated with the required JCAR concurrence; (b) an examination of the JCAR quorum-failure record for the relevant hearing dates; and (c) a determination of whether the rules' effectiveness is constitutionally supported under Elections Clause doctrine as clarified in *Moore v. Harper*.

2. The need for DOJ involvement is further underscored by the Sixth Circuit's December 20, 2024 ruling in *Lindsey et al. v. Whitmer et al.*, No. 24-1413. In that case, eleven Michigan state legislators, represented by Kaardal and Nielsen of Mohrman, Kaardal & Erickson P.A., challenged Michigan's use of citizen ballot initiatives (Proposals 2-2022 and 3-2018) to regulate federal elections, arguing that the Elections Clause assigns that authority exclusively to the Legislature. The Sixth Circuit affirmed the district court's dismissal for lack of standing, holding that individual legislators cannot assert the institutional injuries of a legislature.

   The Elections Clause merits were not reached.

   The *Lindsey* dismissal forecloses the individual-legislator vehicle for litigating both the ballot-initiative Elections Clause question and, by extension, the administrative rulemaking Elections Clause question raised in this Count. The Department of Justice, as a federal enforcement actor with no Article III standing problem, is uniquely positioned

to present both Elections Clause theories (the ballot-initiative bypass and the MOAHR rulemaking bypass) to a federal court for the first time on the merits.

3. DOJ Civil Rights Division / Voting Section review of Rule 168.48's 7-day pollbook deletion requirement for conflict preemption with 52 U.S.C. § 20507(i) (NVRA) and 52 U.S.C. § 21083(a)(5) (HAVA). If Rule 168.48 is preempted by federal law, its continued enforcement in Michigan counties is a federal records violation for each election conducted under its authority.

4. DOJ review of MOAHR's constitutional structure, specifically its dual rulemaking/adjudication function and EO creation without legislative authorization, for consistency with the Fourteenth Amendment's due process requirements as applied in *Lucia v. SEC*[109] and *Caperton v. Massey*.[110] DOJ should assess whether federal election disputes adjudicated by MOAHR under constitutionally defective procedural rules may warrant federal intervention.

5. Congressional oversight inquiry into: (a) the JCAR quorum failures and whether they resulted from deliberate procedural obstruction; (b) the SOS's use of MOAHR rulemaking to implement election policy changes that failed to secure legislative approval through the normal legislative process; and (c) the relationship between the SOS's rulemaking program and the concurrent legislative changes made through PA 82, PA 85, PA 86, and PA 269. For contemporaneous legislative context, see Janine Iyer's, "*Michigan's Legislature in 2023: Wait, What? Lansing's Priorities*."[111] (MFEI)

6. Federal subpoena or administrative inquiry directed to MOAHR for: (a) the administrative record of JCAR hearings at which SOS election rule sets were scheduled for review, including quorum certification records; (b) MOAHR's internal procedures for determining when a rule takes effect in the absence of JCAR action; and (c) MOAHR's legal authority opinions regarding the effect of JCAR quorum failure on rule effectiveness.

7. Investigation of the Scott prosecution (*People v. Stephanie Scott*) as a case study of the consequences of rule-validity disputes for individual criminal defendants: if rules promulgated without MCL 24.245a concurrence cannot support felony charges, DOJ should assess whether any other prosecutions in Michigan have been predicated on similarly challenged rule sets.

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[109] U.S. Supreme Court in Lucia v. SEC, 585 U.S. 237, 2018.

[110] Caperton v. A. T. Massey Coal Co. 556 U.S. 868, Supreme Court of the United States, June 8, 2009.

[111] Janine Iyer, Michigan's Legislature in 2023: Wait, What? Lansing's Priorities, MFEI, January 29, 2024.

§VIII. Summary and Conclusion

Count 1 documents a long-term structural migration of election-administration authority from the Legislature toward executive and administrative institutions. MFEI contends that this migration occurred through executive reorganization orders, informal guidance, formal rulemaking, constitutional amendment, and limitations on legislative access to election-administration information.

Four mechanisms are central to the above conclusion:

First, MOAHR operates as a rulemaking gatekeeper while also extending its oversight into elections and housing adjudicatory functions. MFEI contends that the SOS has used MOAHR rulemaking to create substantive election-law obligations the Legislature never enacted, including in the case of Rule 168.48, obligations that directly conflict with federal law.

Second, the MCL 24.245a Inversion has allowed those rules to take effect without the legislative concurrence the statute requires and as the result of JCAR's structural inability to act.

Third, Rule Set 2025-63 has restructured the adjudicatory process for election disputes so that disputes arising under SOS-promulgated rules are resolved by the same executive entity that wrote them, an arrangement MFEI contends raises Caperton due-process concerns.

Fourth, PA 269's certification-stripping language, combined with the above, has narrowed the canvassers' traditional role as an independent check on the certification process.

Fifth, Michigan's comparative position (with zero of five independence protections in MFEI's twenty-four-state study) does not itself establish a constitutional violation. It does, however, provide context for evaluating whether Michigan's arrangement supplies the statutory foundation, institutional independence, and legislative accountability ordinarily associated with centralized rulemaking review. It underscores that Michigan's MOAHR is, among comparable states, an outlier in the structural protections that guard against concentrating election-administration authority in a single executive-branch official.

Therefore, MFEI requests federal review of the specific constitutional and statutory questions identified in this Count, particularly where Michigan administrative rules govern federal voter registration, election records, canvassing, poll-challenger activity, and other aspects of federal-election administration.

§IX. Authorities, Sources, and Works Cited

A. Cases

Arizona State Legislature v. Arizona Independent Redistricting Commission, 576 U.S. 787 (2015) https://supreme.justia.com/cases/federal/us/576/787/

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COUNT 2. Unauthorized Guidance, Manuals, and Election Directives

§I. Issues Summary

Between 2020 and 2026, the Michigan Department of State increasingly governed election administration through manuals, training materials, FAQs, directives, and other informal guidance. This Executive Branch guidance often functioned to impose binding operational standards without undergoing the rulemaking procedures required by the Michigan Administrative Procedures Act.

This Count examines the legal and constitutional implications of that parallel governance system, including judicial decisions invalidating unauthorized guidance and the ongoing *House of Representatives v. Benson* litigation over the Department's refusal to disclose approximately 22 gigabytes of election-administration training materials used to instruct local election officials.

A. Current Federal Enforcement Interest

Subsequent to this report's preparation, the United States Department of Justice reaffirmed the continuing federal interest in election-record preservation, voter-registration maintenance, HAVA compliance, and adherence to federal election statutes. Many of the operational practices addressed in that federal guidance are implemented through the manuals, training materials, directives, FAQs, and instructional documents examined in this Count. Accordingly, the informal guidance mechanisms discussed herein provide important context for understanding how federal election requirements are communicated and administered throughout Michigan's election system.

B. Topics Covered

- The Michigan Election Law Manual functions as binding guidance on local election officials even though it was never adopted through statutory rulemaking.
- Clerk training materials operate as a de facto rule, imposing standards on election administration that were never disclosed through a formal rulemaking process.
- Absentee ballot processing directives implement PA 82 in ways that exceed the authorization the Legislature actually granted.
- Drop box and chain-of-custody guidance directs local election administration despite lacking any statutory basis for that administrative action.
- The Genetski standard establishes that undisclosed directives of this kind are procedurally invalid under the APA.

§II. Legal Argument

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A. Governance Through Informal Administrative Guidance

MFEI argues that Michigan election administration increasingly relied upon manuals, guidance memoranda, FAQs, training materials, eLearning Portal content, and other informal administrative instruments to perform functions that were traditionally associated with administrative rules. However, these rules were sometimes issued without undergoing the rulemaking procedures required by the Administrative Procedures Act of 1969 ("MAPA"), MCL 24.201 et seq.[112]

This Count examines the extent to which election administration in Michigan was conducted through these informal administrative mechanisms rather than through statutes enacted by the Legislature or rules promulgated under APA. Although such materials are frequently presented as guidance, they often serve as the operational instructions governing how election officials perform their duties.

Michigan election law grants supervisory and rulemaking authority to the Secretary of State, but that authority is subject to the Legislature's statutory limitations and procedural safeguards. Formal rulemaking provides mechanisms for public participation, legislative review, judicial review, and transparent publication of binding standards. Informal guidance documents do not ordinarily undergo those processes.

Unlike formally promulgated rules, they generally were not subject to public notice and comment, regulatory-impact review, legislative oversight through the Joint Committee on Administrative Rules (JCAR). Neither were they published in the Michigan Administrative Code[113] or the Administrative Rulemaking System (ARS).[114]

The anchor document for this Count is the Michigan Court of Claims' November 3, 2025, Opinion and Order in *House of Representatives v. Benson*, No. 25-000096-MZ. [115] That litigation arose from the Michigan House Oversight Committee's effort to obtain the contents of the Michigan Department of State's eLearning Portal, a repository containing approximately 22 gigabytes of election-administration training materials provided to local election officials. The Secretary of State declined to produce the materials, asserting that disclosure would "degrade the security and integrity of elections in Michigan."

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[112] Administrative Procedures Act (APA), MCL 24.201 et seq.

[113] Michigan Administrative Code.

[114] Administrative Rulemaking System (ARS).

[115] *Michigan House of Representatives v. Benson*, No. 25-000096-MZ, Mich. Ct. Cl., Judge Patel, Nov. 3, 2025.

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The dispute in *House v. Benson* (discussed in the Factual and Procedural Background below) placed before the judiciary broader questions concerning the role of administrative training materials, guidance documents, and operational instructions in Michigan election administration. The inability of legislators to review the materials used to instruct election officials likewise limits the public's ability to determine whether statewide election practices reflect statutory requirements, administrative policy choices, or unpromulgated operational directives in violation of MAPA.

Five principal findings emerge from the evidence examined in this Count:

- The Michigan Department of State operates an extensive eLearning Portal of election-administration training materials that function as a comprehensive governance framework for election administration, yet the contents of that system were withheld from legislative review during ongoing litigation.
- The Secretary of State has issued manuals, FAQs, directives, instructional memoranda, and training materials that function as statewide operational standards for approximately 1,690 election jurisdictions. But these instructions were often issued outside the formal rulemaking process as MAPA requires.
- Michigan courts have, in multiple instances, have determined that the Secretary of State issued guidance in regard to elections that exceeded statutory authority and/or constituted legally unauthorized rules that should have been promulgated in accordance with MAPA.
- The guidance program examined in this Count operates alongside the formal rulemaking program examined in Count 1. Together, those mechanisms form a substantial portion of the election-administration framework governing Michigan elections between 2020 and 2026.
- The dispute over access to election-administration training materials raises broader questions concerning transparency, legislative oversight, public accountability, and the ability of courts, legislators, and citizens to determine what standards are being used to govern election administration.

§III. Factual and Procedural Background

This Count documents a pattern in which Michigan election administration was conducted through manuals, guidance memoranda, FAQs, instructional directives, clerk training materials, and eLearning Portal content that were not promulgated in accordance with the Administrative Procedures Act (MAPA), MCL 24.201 et seq.

The issue is not whether election officials require guidance. They do. Rather, the question examined here is whether certain guidance materials functioned as de facto administrative rules while operating outside the procedural safeguards established by the Legislature for rulemaking.

The evidentiary significance of this issue was addressed directly in *Genetski v. Benson*.[116] The Court of Claims held that the Secretary of State issued guidance concerning absentee-ballot signature verification that constituted a "rule" within the meaning of MAPA because it established standards of general applicability governing election administration. The court further held that the guidance had not been properly promulgated under MAPA and therefore could not be enforced as written.

Genetski was not an isolated event. Since 2020, multiple judicial proceedings have examined SOS election-related guidance and have raised questions concerning the scope of administrative authority, compliance with statutory requirements, and the distinction between permissible guidance and binding rules. Collectively, these proceedings form an important part of the factual record examined in this Count.

The most recent of these disputes arose in *House of Representatives v. Benson*. Beginning in late 2024 and continuing year to date 2026, members of the Michigan House of Representatives sought access to election-administration training materials maintained within the Michigan Department of State's eLearning Portal. After Legislative requests, subpoenas, and oversight proceedings failed, the Legislature filed litigation with the Michigan Court of Claims.

According to the case filings, the Secretary of State declined to produce the materials, asserting that disclosure would compromise election security. The House of Representatives, in contrast, argued that meaningful legislative oversight requires access to the materials used to train election officials and implement legislature-approved election policy. The eLearning Portal contains approximately 22 gigabytes of election-administration training materials used to instruct local election officials regarding the conduct of elections.

On June 11, 2025, the Court of Claims entered a preservation order preventing modification or destruction of the materials while litigation remains pending. On November 3, 2025, the court denied summary disposition, allowing the dispute to proceed. As of the date of this report, the substantive contents of the eLearning Portal remain unavailable to the Legislature and the public.

The significance of the dispute extends beyond the specific materials at issue. The case raises broader questions concerning the role of training materials, guidance memoranda, operational directives, FAQs, manuals, and other informal administrative instruments in Michigan election administration. Those questions are particularly relevant because election administration in Michigan relies upon approximately 1,690 local jurisdictions. Guidance and training materials issued from the Secretary of State heavily influence the local jurisdictions' day-to-day practices and operations. Local clerks are progressively finding themselves in the untenable position of having to choose between following statue or SOS guidance.

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[116] Genetski v. Benson, Michigan Court of Claims, Mar. 9, 2021.

§IV. Legal Framework

A. Administrative Procedures Act (APA)

The Administrative Procedures Act ("APA"), MCL 24.201 et seq., establishes the procedures state agencies must follow when adopting rules of general applicability. APA requires notice, public participation, regulatory review, legislative oversight, and publication before rules acquire the force and effect of law.

The distinction between guidance and a rule is therefore significant. Agencies may issue explanatory guidance concerning existing law, but when guidance establishes standards of general applicability, creates new obligations, or effectively directs conduct in a manner equivalent to a rule, APA's procedural requirements may be implicated.

MAPA Requirement	Formal Rulemaking	MDOS Guidance Program
Public notice (MCL 24.241)	✓ Required	✗ Not provided
Public comment period	✓ Required	✗ Not provided
Regulatory impact review	✓ Required	✗ Not conducted
JCAR legislative review (MCL 24.245a)	✓ Required	✗ Bypassed entirely
Publication in Administrative Code	✓ Required	✗ Not published
Judicial review record (MCL 24.264)	✓ Formal record available	✗ No formal record to review

Figure 8: **APA Procedural Requirements: Formal Rulemaking vs. MDOS Guidance Program**

This table compares the procedural safeguards required under the Michigan Administrative Procedures Act for formal rulemaking against the procedures followed by the MDOS guidance program examined in this Count. The comparison identifies which safeguards are bypassed when election-administration standards are established through guidance rather than through formal rulemaking.

Source: MCL 24.201 et seq.; MCL 24.245a (JCAR review); MFEI analysis (2026).

B. Election Rulemaking Authority Under Michigan Law

Michigan election law assigns the Legislature primary responsibility for establishing the legal framework governing elections. Core election policies, including voter registration requirements,

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election procedures, absentee voting, canvassing, and the time, place, and manner of elections, are established through Legislatively-enacted statutes enacted by the Legislature and constitutional provisions adopted by the people. The Michigan Department of State (MDOS) is responsible for administering and implementing those laws.

The distinction between legislative policymaking and administrative implementation is significant. Administrative agencies possess only those powers granted by statute and may not create new legal obligations through guidance, training materials, manuals, or administrative practice. While MDOS routinely issues instructions, advisories, manuals, and training materials to assist local election officials, those materials derive their authority from existing law rather than serving as an independent source of law.

Recent election-related legislation illustrates this framework. Significant election-administration changes have been adopted through constitutional amendments and legislative enactments, including implementation of Proposal 2 of 2022 and statutory changes concerning automatic voter registration. These measures demonstrate that substantive election policy changes ordinarily originate through legislative or constitutional action, while MDOS is tasked with administering and implementing those policies within the bounds established by law.

The legal issue is therefore not whether MDOS may provide guidance to election officials, but whether particular guidance documents, training materials, manuals, or directives are ultra vires, crossing the line from implementation of law into manufacturing rules of general applicability, in noncompliance with MAPA.

C. Judicial Limits on Administrative Authority

Michigan courts have repeatedly emphasized that administrative agencies possess only those powers granted by statute and may not enlarge their authority through interpretation, guidance, or administrative practice.

The Michigan Supreme Court reaffirmed that courts retain the responsibility to interpret statutes and may not defer to administrative interpretations that conflict with legislative intent *In re Complaint of Rovas against SBC Michigan*.[117] *Rovas* is significant in that it rejects the proposition that administrative agencies may effectively define the scope of their own authority through guidance, interpretation, or practice. Instead, statutory authority originates with the Legislature and remains subject to judicial interpretation.

The Court stated:

[117] In re Complain Rovas v. SBC Michigan, Supreme Court of Michigan, 482 Mich. 90, July 23, 2008.

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"[W]e hold and reaffirm that an agency's interpretation of a statute is entitled to 'respectful consideration,' but courts may not abdicate their judicial responsibility to interpret statutes by giving unfettered deference to an agency's interpretation. Courts must respect legislative decisions and interpret statutes according to their plain language. An agency's interpretation, to the extent it is persuasive, can aid in that endeavor."

Earlier Michigan decisions articulated similar principles. In *Luttrell v. Department of Corrections*, 421 Mich. 93 (1984),[118] and *Coffman v. State Board of Examiners in Optometry*, 331 Mich. 582 (1951),[119] Michigan courts emphasized that administrative agencies may not create powers for themselves that the Legislature has not granted. Administrative convenience cannot substitute for legislative authorization.

These decisions provide the legal framework for evaluating whether election-administration guidance remains within the Secretary of State's delegated authority or instead operates as an unauthorized exercise of rulemaking power.

D. *Genetski v. Benson*

Genetski v. Benson[120] is the most significant judicial decision directly addressing election-administration guidance. Michigan Court of Claims, Case No. 20-000216-MM (March 9, 2021). The dispute concerned guidance the Secretary of State issued instructing local clerks regarding absentee-ballot signature verification procedures. Plaintiffs argued that the guidance established standards of general applicability governing election administration and therefore constituted a "rule" under MAPA.

The Court of Claims agreed, holding that the Secretary of State's guidance on absentee-ballot signature verification functioned as a rule under the APA because it prescribed standards governing how election officials were required to perform a statutory duty, and that because the guidance had not been properly promulgated through the administrative rulemaking process, it was invalid and unenforceable.

Genetski is significant not merely because of the specific guidance at issue, but because it established a framework for evaluating other election-administration directives. The decision recognizes that a document labeled "guidance" may nevertheless constitute a rule when it establishes standards of general applicability governing official conduct. But it may not exceed the law.

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[118] Luttrell v. Dep't of Corrections, 421 Mich. 93, 1984.

[119] Supreme Court of Michigan, Coffman v. State Bd. of Examiners in Optometry, December 3, 1951.

[120] *Genetski v. Benson,* Michigan Court of Claims, Case No. 20-000216-MM, March 9, 2021.

Accordingly, *Genetski* provides an analytical framework for evaluating manuals, FAQs, training materials, instructional memoranda, and eLearning Portal content discussed throughout this Count.

E. *House of Representatives v. Benson*

House of Representatives v. Benson, No. 25-000096-MZ (Mich. Ct. Cl. 2025), [121]is the most recent litigation relevant to this Count. Unlike the cases above, which concerned the validity of specific guidance documents, *House v. Benson* concerns legislative access to the administrative training infrastructure itself.

The evidentiary significance of the dispute is that it placed before the judiciary the question whether the Legislature may compel access to election-administration training materials that MDOS asserts are protected from disclosure. The full procedural history and evidentiary record are set forth in Evidentiary Record §V.F. below.

For present purposes, the evidentiary significance of the dispute is that it placed before the judiciary the question whether the Legislature may compel access to election-administration training materials that MDOS asserts are protected from disclosure.

F. Elections Clause — Legislative Authority Over Federal Election Procedures (MFEI Legal Argument)

MFEI advances the legal argument that Proposals 3 (2018) and 2 (2022), placed on the Michigan ballot by citizen initiative and bypassing the Michigan Legislature, violate U.S. Const. Art. I, §4, cl. 1 (Elections Clause). The Elections Clause vests authority over the times, places, and manner of federal elections exclusively in the state legislature, not in the governor, the attorney general, the secretary of state, or the initiative process.

Under *Moore v. Harper* state courts retain supervisory authority over legislative election regulation, but that authority does not extend to bypassing the legislature entirely through citizen initiative. The constitutional merits of this argument have yet to be adjudicated. This argument is directly related to Count 2's core theory: that Michigan election procedures have been adopted and modified through channels that lack legislative authorization under the APA and the Elections Clause. The evidentiary record of the Elections Clause challenge is set forth in Evidentiary Record below.

G. Facts and Conclusions

As of the preparation of this report, the substantive contents of the eLearning Portal remain unavailable to the Legislature and the public.

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[121] *Michigan House of Representatives v. Benson*, No. 25-000096-MZ, Mich. Ct. Cl., Judge Patel, Nov. 3, 2025.

The continuing dispute over access to election-administration training materials raises important questions concerning transparency, legislative oversight, and the ability of elected lawmakers to evaluate how election laws are being interpreted and implemented throughout Michigan's election system.

The House of Representatives litigation does not establish that the eLearning materials are unlawful. Rather, it demonstrates that the content of those materials remains a subject of ongoing dispute and that meaningful legislative review has been delayed while litigation proceeds.

§V. Evidentiary Record

The evidentiary record examined in this Count consists of election-administration manuals, training materials, guidance memoranda, FAQ directives, court opinions, legislative records, subpoenas, preservation orders, correspondence, and other documents used by the Michigan Department of State (MDOS) to communicate election-administration standards to local election officials.

#	Case	Guidance at Issue	Court Holding	Date
1	*Genetski v. Benson* (Ct. Cl.)	Absentee ballot signature-verification guidance	Invalid unpromulgated APA rule under MCL 24.207	Mar. 2021
2	*RNC v Benson*, No. 24-000148-MZ, Court of Claims, Oct. 10, 2024.	Poll challenger guidelines. Judge Brock Swartzle Ruled that for mail ballots to be cast and counted properly requires ballot serial number matching..	Exceeded SOS statutory authority. SOS Directive to assume all absentee ballot signatures are valid was in error	Oct. 2024
3	*RNC v. Benson* (24-000041)	Signature "initial presumption of validity"	Incompatible with Michigan Constitution and law	Jul. 2024

Figure 9: **Court Findings of Unauthorized SOS Election Guidance (2021–2024)**

This table consolidates six judicial proceedings in which Michigan courts determined that election-administration guidance issued by the Secretary of State exceeded statutory authority, conflicted with existing law, or constituted an unpromulgated rule under APA. The pattern spans four years, three courts, and multiple categories of election guidance.

Source: Case records cited in Legal Framework §IV.D–E and Authorities §IX.A; MFEI EAC OIG Audit Assessment (Jan. 2024), Section III.O, Figures 22–26

Category	Examples	Scope	APA Status
Election Officials' Manuals	Election Officials' Manual (current ed.)	Statewide; ~1,690 jurisdictions	Not promulgated
eLearning Portal	~22 GB training materials; ~content undisclosed	Withheld from Legislature	Not promulgated; *House v. Benson* active
FAQ Directives	Pre-election FAQ memoranda; instructional letters	Statewide operational standards	Not promulgated
Signature-Matching Guidance	AV signature verification procedures	Statewide; struck down in *Genetski*	Invalid per Court of Claims

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Category	Examples	Scope	APA Status
Drop Box / Chain of Custody	Ballot drop box procedures; chain-of-custody standards	Statewide	Not promulgated
EPB Deletion Directive	BOE instruction to delete e-pollbook data 7 days post-certification	Statewide; basis for Scott prosecution	Not promulgated; conflicts with 52 U.S.C. § 20701

Figure 10: ***Categories of MDOS Election-Administration Guidance Examined in This Count***

This table categorizes the types of informal administrative instruments examined in the Evidentiary Record. Each category identifies the scope of the guidance, examples, and its status under APA.

Source: Evidentiary Record §V.A–F; MFEI analysis (2026).

The significance of these materials derives not from their titles but from their practical effect. Election administration in Michigan depends upon approximately 1,690 local jurisdictions whose clerks, election inspectors, canvassing boards, and election workers rely heavily upon MDOS-issued guidance and training materials. As a result, documents characterized as guidance may nevertheless function as operational standards governing the administration of elections throughout the state.

The materials reviewed in this Count fall into five principal categories:

1. Election Officials' Manuals
2. eLearning Portal Training Materials
3. FAQ Directives and Instructional Memoranda
4. Election-Specific Administrative Guidance
5. Judicial Decisions Evaluating Election Guidance.

This Count addresses each category separately below.

A. Michigan Election Officials' Manuals

Michigan Election Officials' Manuals serve as comprehensive instructional resources for local election administrators. Although the manuals are not codified within the Michigan Administrative Code, they are routinely used by clerks and election officials as authoritative references governing election procedures, absentee-ballot processing, canvassing practices, voter-registration administration, and election-day operations.

The manuals occupy a unique position within Michigan election administration. They do not possess the formal status of promulgated administrative rules, yet they frequently provide detailed procedural instructions where statutes are silent, ambiguous, or broadly phrased.

Consequently, local election officials frequently rely on SOS-provided manuals as their primary operational references governing numerous election-administration functions.

MDOS publishes and distributes Election Officials' Manuals that provide detailed procedural instructions concerning the administration of elections throughout Michigan.

To the extent that Election Officials' Manuals establish standards of general applicability that direct official conduct, questions may arise concerning whether specific provisions function as guidance, interpretation, or administrative rules under APA.

B. eLearning Portal Training Materials

Because the contents of the 22-gigabyte eLearning Portal remain unavailable, neither legislators nor members of the public can independently evaluate the extent to which those materials supplement, interpret, expand upon, or merely explain existing election law.

C. FAQ Directives and Instructional Memoranda

In addition to formal manuals and training materials, MDOS has regularly issued FAQ documents, instructional memoranda, bulletins, advisories, and election-specific directives addressing a wide range of election-administration issues. These materials are distributed to clerks and election officials and frequently provide operational instructions concerning the implementation of election law.

Unlike administrative rules promulgated under APA, FAQ directives and instructional memoranda are generally issued without public notice and comment, regulatory-impact analysis, legislative review, or publication in the Michigan Administrative Code. Nevertheless, local election officials often rely upon them when performing statutory duties.

The significance of these materials depends not upon how they are labeled, but upon how they function. A document styled as guidance may merely explain existing law, or it may establish standards of general applicability governing official conduct. Michigan courts have recognized that distinction and have evaluated guidance documents based upon their practical effect rather than their title.

MDOS has issued election-related FAQ documents, instructional memoranda, advisories, and guidance materials addressing election-administration procedures.

These materials are distributed to local election officials and are intended to guide the performance of election-related duties.

Certain election-administration guidance documents examined in this Count appear to function as operational standards governing official conduct rather than merely explanatory materials.

Whether a particular guidance document constitutes a rule under APA depends upon its substance, scope, and practical effect rather than the terminology used to describe it.

D. Signature-Matching Guidance and *Genetski v. Benson*

One of the most significant examples of election-administration guidance examined by Michigan courts involved absentee-ballot signature verification procedures.

Michigan law requires election officials to verify absentee-ballot signatures before ballots are accepted and counted. In advance of the 2020 election, the Secretary of State issued guidance instructing local clerks regarding the standards to be used when comparing voter signatures. The guidance directed clerks to presume the validity of signatures despite certain inconsistencies and provided instructions concerning how signature comparisons should be conducted.

Plaintiffs challenged the guidance in *Genetski v. Benson*, arguing that the directives established standards of general applicability governing election administration and therefore constituted a rule under APA.

The Court of Claims agreed.

In *Genetski v. Benson*, the Michigan Court of Claims concluded that the Secretary of State's absentee-ballot signature-verification guidance constituted a rule within the meaning of APA because it prescribed standards governing election administration.

The Court of Claims further held that the guidance had not been promulgated in accordance with MAPA and therefore could not be enforced as written.

Genetski is significant because it demonstrates that election-administration guidance may be treated as a rule when it establishes standards of general applicability governing official conduct. The decision provides a framework for evaluating other election-administration materials discussed throughout this Count.

Genetski suggests that the legal validity of election-administration guidance depends upon its operational effect rather than its label. Documents characterized as guidance may nevertheless trigger APA requirements when they establish binding standards for election officials.

E. Other Election-Administration Guidance Examined by Courts

Genetski was not the only judicial proceeding to examine election-administration guidance issued by the Secretary of State.

Since 2020, multiple cases have considered whether election-related directives, memoranda, instructions, and guidance materials exceeded statutory authority or conflicted with legislative enactments governing election administration. Although the specific issues differed from case to

case, the recurring theme involved the relationship between administrative guidance and legislative authority.

Multiple judicial proceedings since 2020 have examined the legality of election-related guidance issued by the Secretary of State.

Several courts concluded that specific election-administration directives exceeded statutory authority, conflicted with legislative enactments, or otherwise failed to comply with applicable legal requirements.

Taken together, these proceedings reflect an ongoing legal dispute concerning the proper boundary between administrative implementation of election law and administrative creation of election policy.

The recurring nature of these disputes suggests that the issues examined in this Count are structural rather than isolated to any single guidance document or election cycle.

F. *House of Representatives v. Benson* and the eLearning Portal

The most significant ongoing dispute concerning election-administration guidance in Michigan is *House of Representatives v. Benson*, No. 25-000096-MZ (Mich. Ct. Cl. 2025). Unlike earlier litigation focused upon individual guidance documents, this case concerns legislative access to the Michigan Department of State's election-administration training materials and the Legislature's ability to evaluate how election laws are being interpreted and implemented throughout the state.

The dispute arose following legislative efforts to obtain materials maintained within the Michigan Department of State's eLearning Portal. According to court filings, the portal contains approximately 22 gigabytes of election-administration training materials used to instruct local election officials concerning election procedures, voter registration, absentee-ballot administration, canvassing activities, and other election-related responsibilities.

Beginning in late 2024 and continuing through 2025, members of the Michigan House of Representatives sought access to those materials through legislative requests, oversight proceedings, subpoenas, and related inquiries. The requests were made in connection with broader legislative investigations concerning election administration, election-related rulemaking, clerk training, and implementation of election law.

The Secretary of State declined to produce the materials, asserting that disclosure would compromise election security and the integrity of Michigan's election system. The House of Representatives, by contrast, argued that access to the materials was necessary for the Legislature to perform its constitutional oversight responsibilities and evaluate whether election officials were being trained in accordance with Michigan law.

The resulting litigation placed before the Court of Claims a dispute extending beyond the production of documents. At issue was whether the Legislature could meaningfully evaluate election administration without access to the materials used to train election officials and implement election policy throughout the state.

The procedural history of *House v. Benson*, including the June 11, 2025, preservation order and the November 3, 2025, denial of summary disposition, is set forth in the Factual and Procedural Background above. The House Oversight Committee's concerns were reflected in meeting minutes quoted within the court's opinion. Those minutes asserted that legislative review of election-administration training materials was necessary to determine whether the guidance provided to local election officials was consistent with Michigan election law. The statement reflects the position of the House Oversight Committee and should not be construed as a judicial finding.

The eLearning Portal (described in the Factual and Procedural Background above) contains election-administration training materials used to instruct local election officials.

The Michigan House of Representatives sought access to the eLearning Portal materials through legislative requests, subpoenas, oversight proceedings, and subsequent litigation.

The Secretary of State declined to produce the materials, asserting that disclosure would compromise election security and election integrity.

The Court of Claims entered a preservation order and denied summary disposition in *House v. Benson* (procedural history set forth in the Factual and Procedural Background above).

As of the preparation of this report, the substantive contents of the eLearning Portal remain unavailable to the Legislature and the public.

The dispute demonstrates the practical importance of legislative access to election-administration information. Legislative authority depends not only upon the power to enact laws but also upon the ability to evaluate how those laws are interpreted and implemented by executive agencies.

When operational election standards are contained within training materials, guidance documents, or electronic learning systems that are unavailable for independent review, meaningful legislative oversight becomes more difficult and public accountability may be reduced.

The issues presented in *House of Representatives v. Benson* extend beyond a records dispute and raise broader questions concerning transparency, administrative governance, legislative oversight, and the role of informal guidance in Michigan election administration.

G. Relationship Between Informal Guidance and Formal Rulemaking

The guidance materials examined throughout this Count do not exist in isolation. Rather, they operate alongside the formal administrative-rulemaking process discussed in Count 1.

In some instances, guidance documents preceded formal rulemaking and appear to have established operational standards before those standards were incorporated into promulgated rules. In other instances, guidance addressed subjects not covered by formal rulemaking or supplied detailed instructions beyond those contained in statutes and rules.

As a result, election administration in Michigan has frequently involved two parallel mechanisms for communicating operational requirements: formal administrative rules and informal administrative guidance.

Michigan election administration relies upon both formally promulgated rules and informal guidance materials.

Guidance documents, manuals, training materials, FAQs, and instructional memoranda continue to play a significant role in the day-to-day administration of elections.

The interaction between formal rulemaking and informal guidance warrants examination because the two systems collectively shape election administration throughout Michigan's election infrastructure.

The issues examined in this Count are not limited to the 2020 election cycle. Similar guidance mechanisms continued operating after 2020 and remain relevant to election administration, legislative oversight, and election-related rulemaking through 2026.

§VI. Findings

The findings below are organized according to the evidentiary framework adopted throughout this report:

- Established Facts are supported with documentary evidence, court records, official publications, or other verifiable sources.
- Judicial Findings are determinations made by courts.
- Legal Arguments are legal theories advanced by MFEI based upon the evidentiary record.
- MFEI Conclusions are reasoned conclusions drawn from the evidence examined in this Count.

A. Established Facts

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Established Fact 2-A-1
The Michigan Department of State publishes Election Officials' Manuals, training materials, instructional memoranda, advisories, and election-administration guidance used by local election officials throughout the state.

Established Fact 2-A-2
The Michigan Department of State maintains an eLearning Portal containing approximately 22 gigabytes of election-administration training materials used to train local election officials.

Established Fact 2-A-3
The Michigan House of Representatives sought access to eLearning Portal materials through legislative requests, oversight proceedings, subpoenas, and litigation.

Established Fact 2-A-4
The Secretary of State declined to produce the requested materials, asserting that disclosure would compromise election security and election integrity.

Established Fact 2-A-5
In *House v. Benson* (procedural history set forth above), the Court of Claims entered a preservation order and denied summary disposition, confirming that the dispute presents justiciable questions.

Established Fact 2-A-6

Established Fact 2-A-6
Election administration in Michigan relies extensively upon guidance materials, manuals, FAQs, training materials, and instructional memoranda in addition to statutes and formally promulgated administrative rules.

Established Fact 2-A-7
On September 28, 2023, eleven Michigan state legislators filed a federal Elections Clause lawsuit challenging Proposals 3 (2018) and 2 (2022) as adopted through citizen initiative rather than the legislature. The case was dismissed on standing grounds in April 2024. The legislators announced intent to appeal. Under *Bost v. Illinois State Board of Elections*, 607 U.S. ___(2026), a federal candidate may now assert this challenge without the standing barrier that defeated the 2023 action. The constitutional merits have not been adjudicated. Sources: Legislators' Complaint (September 2023); MFEI release (April 2024); *Bost* (2026).

C. Judicial Findings

Judicial Finding 2-B-1
In *Genetski v. Benson*, the Michigan Court of Claims concluded that absentee-ballot signature-verification guidance issued by the Secretary of State constituted a rule under the Michigan Administrative Procedures Act and had not been properly promulgated.

Judicial Finding 2-B-2
Michigan courts have repeatedly recognized that administrative agencies possess only those powers granted by statute and may not expand their authority through administrative interpretation or practice. See, e.g., *In re Complaint of Rovas* Against SBC Michigan; *Luttrell* v. Department of Corrections; and *Coffman v. State Board of Examiners in Optometry*.

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Judicial Finding 2-B-3
The Court of Claims denied summary disposition in *House of Representatives v. Benson* and preserved the disputed training materials while litigation remains pending.

C. Legal Arguments

Legal Argument 2-C-1
MFEI argues that certain election-administration guidance documents functioned as rules of general applicability and therefore should have been promulgated through the procedures required by APA.

Legal Argument 2-C-2
MFEI argues that election-administration guidance operating outside formal rulemaking may reduce the effectiveness of legislative oversight mechanisms established by the Legislature, including public participation requirements and JCAR review.

Legal Argument 2-C-3
MFEI argues that operational standards communicated through manuals, training materials, FAQs, and instructional memoranda should be subject to the same transparency principles that apply to formally promulgated administrative rules when those materials effectively direct official conduct.

Legal Argument 2-C-4

Legal Argument 2-C-4
Proposals 3 (2018) and 2 (2022) were adopted by citizen initiative, bypassing the Michigan Legislature. MFEI argues this process violates the Elections Clause, U.S. Const. Art. I, §4, cl. 1, which vests authority over federal election administration in the state legislature. This argument has not been adjudicated on the merits. It is legally related to Count 2's core APA/*Genetski* theory: both rest on the proposition that election procedures cannot be lawfully established outside the channels of legislative authorization. Sources: PIME/Kaardal, Legislators' Lawsuit (September 2023); *Moore v. Harper*, 600 U.S. 1 (2023); *Bost*, 607 U.S. ___(2026).

D. MFEI Conclusions

MFEI Conclusion 2-D-1 — Logical Inference
The evidentiary record demonstrates that informal administrative guidance occupies a significant role in Michigan election administration and functions as an important component of the state's election-governance structure.

MFEI Conclusion 2-D-2 — Logical Inference
The recurring litigation examined in this Count suggests that disputes concerning election-administration guidance are structural rather than isolated and have persisted across multiple election cycles.

MFEI Conclusion 2-D-3 — Conditional Conclusion
The relationship between informal guidance and formal rulemaking warrants continued examination because both mechanisms collectively influence election administration throughout Michigan. Resolution depends on the outcome of *House of Representatives v. Benson* and any subsequent APA rulemaking clarifying the relationship between informal guidance and formal rules.

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MFEI Conclusion 2-D-4 — Logical Inference
The continuing dispute over access to eLearning Portal materials highlights the importance of transparency, legislative oversight, and public accountability in election administration.

MFEI Conclusion 2-D-5 — Logical Inference
The issues examined in this Count extend beyond the 2020 election cycle and remain relevant to election administration, legislative oversight, election training, and election-related rulemaking through 2026.

E. The Michigan Legislators' Elections Clause Lawsuit (2023–2025)

On September 28, 2023, eleven Michigan state legislators filed a federal civil rights lawsuit in the U.S. District Court for the Western District of Michigan challenging Proposals 3 (2018) and 2 (2022) as violations of U.S. Const. Art. I, §4, cl. 1. Lead counsel: Erick G. Kaardal, Mohrman, Kaardal & Erickson PA. Plaintiffs: Senators Jonathan *Lindsey* and Jim Runestad; Representatives Steve Carra, James DeSana, Joseph Fox, Neil Friske, Matt Maddock, Brad Paquette, Angela Rigas, Joshua Schriver, and Rachelle Smit.

Kaardal at the September 28, 2023, press conference: "The president can't issue executive orders regulating times, places, and manner of elections. The governor can't. The attorney general can't. The secretary of state can't. And the reason they can't is because the state legislature needs to be involved."

The U.S. District Court dismissed on standing grounds in April 2024. The legislators announced intent to appeal. MFEI and Wisconsin Voter Alliance filed an amicus brief in a related Pennsylvania legislators' standing case (May 29, 2024). Under *Bost v. Illinois State Board of Elections*, 607 U.S. ___(2026), a federal candidate competing in Michigan's 2026 elections may now challenge Proposals 3 and 2 on their constitutional merits without proving in advance how the rules affected the outcome. The constitutional merits of the Elections Clause challenge have not been adjudicated. Sources: Legislators' Complaint (September 28, 2023); MFEI, *Eleven Michigan Legislators Vow to Appeal* (April 12, 2024); *Bost*, 607 U.S. ___(2026).

§VII. Potential Federal Interests

The issues documented in this Count may warrant federal review in the following areas:

Federal Interest 2-1

Whether election-administration guidance, training materials, manuals, FAQs, instructional memoranda, and other informal administrative instruments may affect the administration of federal elections when such materials establish standards governing the conduct of election officials.

Federal Interest 2-2

Whether election-administration directives that function as rules of general applicability should be evaluated under applicable state administrative-procedure requirements when those directives govern federal-election processes.

Federal Interest 2-3

Whether the use of unpublished or non-public election-administration standards raises transparency concerns affecting public confidence in the administration of federal elections.

Federal Interest 2-4

Whether limitations on legislative access to election-administration training materials, guidance documents, or operational instructions affect the ability of elected lawmakers to oversee the administration of federal elections.

Federal Interest 2-5

Whether election-administration training materials funded in whole or in part through federal election-administration programs should be subject to additional transparency, accountability, or oversight requirements.

Federal Interest 2-6

Whether operational guidance governing voter registration, absentee voting, ballot processing, canvassing, election records, or election-day procedures implicates federal interests under the Help America Vote Act of 2002 ("HAVA"), the National Voter Registration Act ("NVRA"), or other federal election statutes.

Federal Interest 2-7

Whether the maintenance, preservation, and accessibility of election-administration training materials, instructional documents, and related records satisfy applicable federal record-retention requirements governing federal elections.

Federal Interest 2-8

Whether election-administration practices implemented through guidance rather than formal rulemaking may affect the uniformity, transparency, and accountability of federal-election administration across Michigan's election jurisdictions.

Federal Interest 2-9

Whether the continued operation of election-administration guidance systems examined in this Count after 2020 contributed to the development, implementation, or enforcement of election-related rule sets adopted between 2020 and 2026.

Federal Interest 2-10

Whether the interaction between formal administrative rulemaking and informal administrative guidance warrants further examination where both systems collectively influence the administration of federal elections.

Federal Interest 2-11

Whether election-administration guidance funded, maintained, or relied upon in connection with federal elections should remain available for inspection by lawful oversight authorities responsible for enforcing federal election statutes.

§VIII. Summary and Conclusion

Count 2 examines the role of informal administrative guidance in Michigan election administration between 2020 and 2026. The evidentiary record demonstrates that manuals, training materials, FAQs, instructional memoranda, and other guidance documents played a significant role in communicating operational standards to election officials throughout the state.

The judicial decisions discussed in this Count establish that election-administration guidance may, under certain circumstances, constitute a rule subject to the requirements of theAdministrative Procedures Act. The continuing litigation in *House of Representatives v. Benson* further demonstrates the ongoing dispute concerning transparency, legislative oversight, and access to election-administration training materials.

The purpose of this Count is not to determine the ultimate legality of every guidance document issued by the Michigan Department of State. Rather, it is to document the existence, scope, and operational significance of informal guidance mechanisms and to identify questions concerning their relationship to formal rulemaking, legislative oversight, and the administration of federal elections.

The *Genetski* decision established that guidance of general applicability may constitute a rule under the Michigan Administrative Procedures Act regardless of the label assigned to the document. The judicial proceedings discussed in this Count further demonstrate that Michigan

courts have repeatedly examined election-administration guidance and, in several instances, concluded that specific directives exceeded statutory authority or failed to comply with applicable legal requirements. The ongoing eLearning Portal litigation raises related questions concerning the role of training materials and operational guidance in Michigan election administration and the extent to which those materials are subject to legislative oversight and public review.

The guidance mechanisms examined in this Count continued operating after the 2020 election and formed part of the broader administrative framework through which election procedures, training programs, and election-related rule sets were developed and implemented between 2020 and 2026.

Together with the formal rulemaking system examined in Count 1, the guidance program documented in this Count became a principal mechanism through which election procedures, clerk training, operational standards, and election-related practices were communicated throughout Michigan between 2020 and 2026. Whether guidance documents constituted permissible implementation or unpromulgated rulemaking remains the central legal question documented by the evidentiary record.

Cross-reference to Count 5:

The constitutional dimension of the eLearning Portal training materials—compelled affirmation of government viewpoint as a condition of exercising challenger rights—is addressed in Count 5. The APA/*Genetski* procedural-invalidity analysis of the underlying training materials is addressed in this Count; the First Amendment compelled-speech issues arising from Rule 168.204's mandatory "working knowledge" certification requirement and Rule 168.215's oath are addressed there.

§IX. Authorities, Sources, and Works Cited

A. Cases

Case / Authority	Holding / Significance	Relevance to Count 2
Genetski v. Benson, (Mich. Ct. Cl. 2021) https://files.causeofamerica.org/docs/2021-mar-09-mi-legal-exhibit-10-*Genetski*-vs-benson-court-of-claims.pdf	MDOS signature matching guidance held invalid as unpromulgated APA rule	Foundational precedent; defines "rule" under MCL 24.207
House of Representatives v. Benson, No. 25-000096-MZ (Nov. 3, 2025) https://www.courts.michigan.gov/4aa8b8/siteassets/case-documents/opinions-orders/coc-opinions-(manually-curated)/2025/25-000096-mz.pdf	Summary disposition denied; preservation order on 22GB eLearning Portal; active litigation	Anchor document; establishes scale of informal guidance program
RNC v. Benson, Case No. 24-000041, (July 30, 2024) https://www.democracydocket.com/wp-content/uploads/2024/03/2024-07-30-Final-Order-and-Judgment.pdf	"'initial presumption'" of validity in signature verification of absentee-ballot applications and envelopes mandated by the December 2023 guidance manual issued by Defendants is incompatible with the Constitution and laws of the State of the Michigan'"	Court findings pattern — Finding 2-A-6
RNC v Benson, Case No. 24-000148-MZ, Court of Claims, (Oct. 3, 2024) https://prod-static.gop.com/media/documents/10.03.24_MI_Opinion_and_Order_1728307092.pdf	Poll challenger guidelines. Judge Brock Swartzle ruled that for mail ballots to be cast and counted properly requires ballot serial number matching.	Exceeded SOS statutory authority
In re Complaint of *Rovas* v. SBC Michigan, Supreme Court of Michigan, Docket Nos. 134493, 134500, July 23, 2008 https://caselaw.findlaw.com/court/mi-supreme-court/1117168.html	Courts must respect legislative intent; agency interpretations not binding; unambiguous statute controls.	Ultra vires framework for guidance analysis
Luttrell v. Dept. of Corrections, 421 Mich. 93 (1984) https://law.justia.com/cases/michigan/supreme-court/1985/70188-4.html	Rule conflicting with implementing statute is ultra vires	Ultra vires framework applied to guidance adding to statute

Case / Authority	Holding / Significance	Relevance to Count 2
Moore v. Harper, 600 U.S. 1 (2023) https://www.supremecourt.gov/opinions/22pdf/21-1271_3f14.pdf,	Elections Clause authority vests in state legislature, not executive	Constitutional dimension of guidance program
Trump v. Mazars, USA, 591 U.S. 848 (2020) https://supreme.justia.com/cases/federal/us/591/19-715/	Legislative subpoena must serve valid legislative purpose; not law enforcement	Framework for *House v. Benson* legislative purpose analysis
West Virginia State Board of Education v. Barnette, 319 U.S. 624 (1943) https://supreme.justia.com/cases/federal/us/319/624/	Government may not compel individual to accept or profess government viewpoint as condition of exercising a right	Cross-reference to Count 5 compelled-speech claim (R 168.204 / R 168.215)
Wooley v. Maynard, 430 U.S. 705 (1977) https://supreme.justia.com/cases/federal/us/430/705/	Government cannot compel individual to be courier of government ideological message	Cross-reference to Count 5 compelled-speech claim
Minnesota Voters Alliance v. Mansky, 585 U.S. 1 (2018) https://supreme.justia.com/cases/federal/us/585/16-1435/	Viewpoint discrimination in election context; vague ejection standards	Compelled speech / election viewpoint context (Count 5)
People v. Stephanie Scott (Hillsdale Circuit Court, Judge Lisznyai), Circuit court # 25-49-6230 FH, District court 24-0498 FY, "Felony Case Against Michigan Township Clerk Collapses After Judge Finds Prior Ruling Was "Error of Law" https://www.mifairelections.org/post/felony-case-against-michigan-township-clerk-collapses-after-judge-finds-prior-ruling-was-error-of-l	Former Adams Township Clerk; four felonies for refusing to destroy EPB records per BOE directive	EPB deletion directive consequences — Finding 2-A-5; also Count 5 Channel 4
Bost v. Illinois State Board of Elections , 607 U.S. ___(2026), No. 24-568 https://www.supremecourt.gov/opinions/25pdf/24-568_gfbh.pdf	Established competitor standing for federal candidates challenging election administration structures without requiring proof in advance of how illegal rules affected the outcome	Removes standing barrier that defeated the 2023 legislators' Elections Clause challenge; merits now reachable — Legal Argument 2-C-4; cross-reference Count 6

B. Primary Sources and Documents

#	Source	Description
1	MFEI EAC OIG Audit Assessment / Request for Assessment of Audit Risk (January 29, 2024; 426 pages) https://aa3979fb-9421-4dd8-ba7d-8ead2d346103.usrfiles.com/ugd/aa3979_785b0d23cd8b45e9a91a401f2e06daac.pdf	Submitted to EAC OIG IG Brianna Schletz. Section III.O, Figures 22–26 document court proceedings that found SOS Benson issued legally unauthorized election guidance. [Exhibit L]. File No. 24-0056.
2	Bill Richardson, Dee Davey, Judi *Bennett*, Louis Avallone, and Patrice Johnson, MFEI/PIME, July 2023. https://aa3979fb-9421-4dd8-ba7d-8ead2d346103.usrfiles.com/ugd/aa3979_3f7675ea36234fc9b346754879bdbe42.pdf Ann Arbor Compromises Election Integrity during 2022 Election https://aa3979fb-9421-4dd8-ba7d-8ead2d346103.usrfiles.com/ugd/aa3979_3f7675ea36234fc9b346754879bdbe42.pdf	Post-deadline ballot counting (600+; 120 cast Nov. 9); erroneous SOS Twitter guidance; voter history record alteration; state computer programmer modification of voting systems; electioneering at satellite offices.
3	*People v. Stephanie Scott* (Hillsdale Circuit Court, Judge Lisznyai) *People v. Stephanie Scott* (Brater admissions) https://www.mifairelections.org/post/breaking-news-michigan-bureau-of-elections-director-admits-his-statewide-instruction-to-delete-poll	Former Adams Township Clerk charged with four felonies for refusing to destroy EPB records per BOE directive. August 2025 probable cause hearing: Brater testified he did not recall consulting DOJ before issuing deletion directive. Rule-validity defense; NVRA conflict.
4	Rule Set 2025-15 ST https://ars.apps.lara.state.mi.us/Transaction/RFRTransaction?TransactionID=1588	R 168.201–168.220. APA formalization of Challenger Manual content. R 168.204 (working knowledge certification); R 168.215 (oath binding challengers to SOS-designated materials). Compelled speech analysis in Count 5.
5	MFEI Synthesis Memorandum, Authority Allocation in MDOS Rule Sets (May 13, 2026) https://6c736125-995a-47e4-8fc2-91eea0bc377a.usrfiles.com/ugd/6c7361_e0f6941c6c494b08810cad251d4ef78b.pdf,	*Genetski* framework; *Rovas*/*Luttrell* ultra vires test applied to Rule Sets 2025-13-ST through 2025-63-ST.

#	Source	Description
6	PIME Formal Objection, Rule Set 2025-15, (December 2025) https://b6d83fed-d9cb-4cb1-9e2f-60cfa1575f8d.filesusr.com/ugd/aa3979_1ccf3e02176d46899f96838990b07572.pdf	Compelled speech, ultra vires, and First Amendment analysis. Basis for Count 5 compelled-speech claim.
7	Michigan Public Act 82 of 2023 https://www.legislature.mi.gov/Bills/Bill?ObjectName=2023-SB-0370	Prospectively authorized some post-deadline satellite-office ballot processes. Cannot retroactively cure November 8, 2022, violations of MCL 168.761(3) as it existed at that time. Cross-reference: Ann Arbor 2022 consequences in Finding 2-A-3 / 2-A-4.
8	MFEI, *People v. Stephanie Scott* Coverage (2025) https://www.mifairelections.org/post/breaking-news-michigan-bureau-of-elections-director-admits-his-statewide-instruction-to-delete-poll	MFEI coverage of Hillsdale Circuit Court prosecution. Brater August 2025 probable cause testimony that he could not recall consulting DOJ before issuing EPB deletion directive. Rule-validity defense; NVRA conflict. Cross-reference: Finding 2-A-5; Count 5 Channel 4.

C. Federal and Michigan Statutory Authorities

Statute	Relevance
U.S. Constitution Elections Clause, Art. I, § 4, cl. 1 (Elections Clause) https://constitution.congress.gov/browse/essay/artI-S4-C1-2/ALDE_00013577/	Legislative authority to prescribe Times, Places, Manner of federal elections; violated by executive-branch governance-by-guidance.
52 U.S.C. § 20701, (Federal Records Retention) https://www.govinfo.gov/app/details/USCODE-2019-title52/USCODE-2019-title52-subtitleII-chap207-sec20701	22-month election record preservation requirement; EPB deletion directive directly conflicts.
MCL 24.207, (APA — Definition of Rule) https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-24-207	Functional definition; guidance of general applicability implementing election law is a rule regardless of its label.
MCL 168.21 (SOS Supervisory Authority) https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-168-21	Bounded by "performance of duties under the provisions of this act" — does not authorize creation of new obligations.
MCL 168.31, (1)(a) (SOS Rulemaking Grant) https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-168-31	Limited to rules "in accordance with the laws of this state" — implementation only, not creation of new standards.

Statute	Relevance
MCL 168.730, (Challenger Statutory Rights) https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-168-730–168.733 https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-168-733	Statutory basis for poll challenger rights. Compelled speech claim in Count 5 arises from R 168.215 oath conditioning exercise of these rights.
MCL 168.761, (3) (8:00 p.m. Ballot Deadline) https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-168-761	Statutory in-person voting deadline violated by Nov. 8, 2022 Twitter guidance.
Michigan Const. Art. II, § 4 https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-ARTICLE-II-4	Legislature regulates Place and manner of elections.
Michigan Const. Art. III, § 2 https://legislature.mi.gov/Laws/MCL?objectName=mcl-Article-III-2	Separation of powers of government. Executive guidance cannot displace legislative authority.
MCL 24.245 (Automatic Advancement or rules to codification with force of law) https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-24-245 / MCL 24.245a https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-24-245a&highlight=211	15-session-day automatic advancement provision; even this deficient process is bypassed by the guidance program.
MCL 4.101 (Legislative Subpoena Authority) https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-4-101; MCL 4.541 https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-4-541	Legislative committee subpoena authority; basis for House Oversight Committee subpoenas in *House v. Benson*.
52 U.S.C. § 20702, (Prohibition on Election Record Alteration) https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title52-section20702&num=0&edition=prelim	Criminal prohibition on falsification or destruction of federally required election records. Implicated by Ann Arbor voter history record alterations following Nov. 8, 2022, Twitter guidance. Primary analysis in Count 12.

COUNT 3. Voter Registration List Maintenance, QVF Accuracy, and GVSU Student Registration

§I. Issues Summary

Count 3 documents four convergent concerns within Michigan's voter-registration system: (1) statistically documented anomalies in the 2020 and 2022 general elections that Michigan has never reconciled; (2) systematic post-certification modification of the QVF vote-history database that impairs independent reconstruction of those anomalies; (3) a regulatory response, Rule Set 2025-13, that made citizen and clerk oversight more difficult and less transparent; and (4) unresolved HAVA compliance questions arising from Grand Valley State University's government-sponsored student voter-registration and get-out-the-vote activities and its participation in third-party student-voting data programs. Michigan's ERIC enrollment presents a fifth, related concern intersecting with these potential federal voter-registration compliance issues and raises the statutory-authority questions presented in full in Count 4.

Count 3 examines the integrity of Michigan's Qualified Voter File (QVF). It documents programming errors that deleted approximately 491,873 voting-history records for voters who updated their registrations between October 2019 and February 2020, apparently violating MCL 168.509q's five-year retention requirement. It also documents the Bureau of Elections' apparent partial correction of those deletions without public acknowledgment or legislative notification. Finally, the Count examines unresolved HAVA compliance questions arising from Grand Valley State University's government-sponsored student voter-registration and GOTV activities, its reported election-data arrangements with outside organizations, and the Bureau's threshold dismissal of MFEI's verified HAVA complaint without a hearing on the merits.

Three independent MFEI documents confirm the primary statistical claim, all drawing on official Secretary of State data: Michigan's post-2020 election QVF contained 104,137 more counted ballots than recorded voters. Michigan has never reconciled this discrepancy. MFEI's September 2025 stratified sample of 542,121 long-inactive registrations found a 27.60% exception rate (likely error of 149,657 scaled), 73.44% with extreme inactivity, and a registration-to-CVAP (citizen voting age population) ratio of 108.9% as of May 2026.

In contrast, high-performing states typically run in the 90–95% range of CVAP, and because the CVAP figure is a five-year average, the 108.9% figure is arguably conservative. A subsequent April 2026 FOIA comparison documented 213,364 long-inactive registrations removed after sustained MFEI advocacy, confirming both that the problem was real and that correction was achievable.

The absence of citizenship verification at the point of an AVR transaction is not an inadvertent gap. It is a documented policy reversal. The Michigan Bureau of Elections' 2019 clerk training

manual required clerks to verify voter citizenship before issuing a ballot; if citizenship could not be confirmed, the clerk was directed not to issue the ballot. Then in 2024, the BOE's official elections manual reversed this standard.

The new manual directed clerks not to confirm citizenship and to permit a voter to receive a ballot even if citizenship status had not been verbally confirmed. Representative Rachelle Smit, Chair of the House Election Integrity Committee, documented this change in an official letter to Secretary Benson dated March 16, 2026 (Appendix B).

After the shift in the manual's guidelines, the average monthly net increase in voter registrations has climbed steadily. So far this year, about 21,000 to 22,000 registrations, per the SOS's website,[122] are entering the QVF every month through the AVR system now without a clerk-level citizenship check. This is by design under current MDOS guidance. See Established Fact 3-A-12.

The Department of Justice's July 2026 memorandum specifically identifies voter eligibility verification, citizenship attestations, and maintenance of accurate statewide voter registration lists as continuing federal responsibilities of state election officials, making the administrative changes documented above directly relevant to current federal oversight.

In the post-certification manipulation problem, as documented in *When Vote Totals Don't Match* (Woodward/MFEI, December 2024),[123] the Michigan Bureau of Elections adopted a random assignment algorithm producing 769,091 post-certification vote history location changes since the 2020 election. A 92% Statement of Votes Cast (SOVC) mismatch rate across 50+ responding counties confirms the scale of data integrity failure. BOE Director Jonathan Brater had represented in a prior memo that this issue was "resolved in 2019." It was not.

The manipulation indicates that a DOJ auditor working from the current QVF was using a dataset modified at massive scale, making production of original, unmodified QVF snapshots through FOIA or court process essential to any meaningful federal review.

A separate HAVA compliance question arises from government-sponsored student voter-registration activity at Grand Valley State University. In January 2024, MFEI and Jeffery Schaeper filed a verified HAVA administrative complaint alleging that GVSU used state resources for voter-registration and get-out-the-vote activities potentially inconsistent with EAC restrictions on the use of HAVA funds, and that its participation in third-party student-voting data programs raised questions under HAVA's requirement for a single, uniform, centralized statewide voter-registration system. The Michigan Bureau of Elections dismissed the complaint

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[122] Michigan Voter Information Center, Voter registration statistics, Michigan Department of State, (June 17, 2026) https://www.michigan.gov/sos/elections/election-results-and-data/voter-participation-dashboard.

[123] Frederick Woodward / MFEI, *When Vote Totals Don't Match: An Investigative Analysis,* (Dec. 2024).

on the threshold ground that GVSU was not an "election authority" without conducting a hearing or deciding the underlying allegations on their merits. The filing and dismissal are established facts; the alleged HAVA violations remain unadjudicated.

Rule Set 2025-13 was promulgated in the context of documented potential federal voter-registration compliance issues. Rather than reducing them, it created new procedural barriers: it makes clerk investigation optional; sets 20 years of inactivity as the reliable-information standard for list maintenance (against the NVRA's four-year framework); categorically excludes address-change information from the personal-knowledge standard the statute does not define; classifies the Secretary of State's own FOIA-sourced voter data as unreliable for list maintenance; centralizes cancellation authority in MDOS rather than locally elected clerks; and imposes notarized-affidavit costs estimated at $1,500+ per 100-voter challenge. The combined effect is structural, making it now procedurally easier to create a voter registration than to challenge one.

A. Current DOJ Enforcement Interest

Subsequent to the preparation of this report, the United States Department of Justice, Civil Rights Division, identified statewide voter registration list maintenance, voter eligibility verification, noncitizen registration, compliance with the National Voter Registration Act (NVRA), implementation of the Help America Vote Act (HAVA), and preservation of election records as continuing federal enforcement priorities. The factual record presented in this Count addresses each of these statutory subjects through official data, forensic analyses, public records, legislative materials, and documentary evidence. Although this report does not presume the outcome of any federal investigation, the evidence summarized herein may assist federal authorities in evaluating Michigan's continuing compliance with these federal requirements.

B. Topics Covered

1. Scale of QVF Inaccuracy — 8.3 Million Registrations, 108.9% of CVAP
2. Long-Inactive Registrations — 558,627 Inactive Since 2019
3. RS 2025-13 Ultra Vires Provisions — Administrative Suspension of List Maintenance
4. ERIC Relationship and Data Dependency — Outsourcing List Maintenance to a Private Consortium
5. Post-Certification Vote History Manipulation — 769,091 Record Changes (Woodward, December 2024)
6. Chinese National voter, Haoxiang Gao and the Noncitizen Registration Pipeline — PA 268 Automatic Registration without Citizenship Verification

GVSU Student Registration — Government-Sponsored Registration and GOTV Activity, Third-Party Student-Voting Data Programs, and Threshold Dismissal of the HAVA Complaint

§II. Legal Framework

The statutes discussed below impose affirmative obligations upon state election officials to maintain accurate statewide voter registration lists, preserve election records, administer federal elections in accordance with federal law, and prevent the registration and voting of persons who are not legally eligible to vote. The July 2026 guidance issued by the United States Department of Justice reaffirms these continuing statutory responsibilities.

A. Federal Law

1. National Voter Registration Act (NVRA), 52 U.S.C. § 20501 et seq.

- The NVRA imposes affirmative obligations on states to maintain accurate voter rolls while protecting eligible voters from improper removal. Key provisions:
- Section 20507(a)(4) — Reasonable Effort Standard: States must make a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters. Rule R 168.252's designation of clerk investigation as optional appears to conflict with this affirmative mandate.
- Section 20507(c)(2)(A) — Four-Year Inactivity Limit: States may not remove a voter solely due to inactivity unless the voter has failed to respond to a forwardable notice and has not voted in two consecutive federal elections following that notice. Rule R 168.252's enumeration of 20 years of inactivity vastly exceeds this threshold.
- Section 20507(d) — Required Removal Procedures: The NVRA prescribes specific procedural prerequisites for removal. Rule R 168.257(2)–(3)'s conversion of the challenge-based cancellation pathway into a notice-and-waiting-period pathway appears to alter the federally prescribed framework.
- Section 20507(i) — 22-Month Record Retention: States must retain all list-maintenance records for at least 22 months. Destruction of electronic pollbook data within seven days under Rule R 168.48 (addressed in Counts 7 and 12) appears in direct contradiction of this mandate and undermines the audit trail necessary to verify list maintenance compliance.

2. Help America Vote Act (HAVA), 52 U.S.C. § 21081 et seq.

- Section 21083 — QVF Maintenance and Database Accuracy: HAVA requires each State, acting through the chief State election official, to implement a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level. Section 21083(a)(1)(A)(ix) requires a unique identifier per legally registered voter.

Section 21084 — Minimum Requirements: Section 21084 provides that HAVA establishes minimum federal requirements and does not prevent a state from adopting election-technology and administration requirements that are more stringent, provided those requirements remain consistent with federal law. Section 21084 should not be characterized as an express prohibition against government-sponsored voter-registration or GOTV activity. The GVSU complaint's more direct federal questions arise under HAVA's statewide voter-registration-system requirements, the restrictions governing permissible uses of HAVA funds, and EAC Advisory Opinion FAO-08-005 (Appendix R herein).

EAC Advisory Opinion FAO-08-005:[124] The EAC advised that HAVA payments may not be used to conduct voter-registration drives or get-out-the-vote efforts, including related advertising, booths, or personnel costs. Accordingly, the relevant factual question is whether GVSU's activities used HAVA payments, HAVA-funded infrastructure, or personnel supported by those payments. The existing record establishes the filing and disposition of the complaint but does not, by itself, establish the source of every expenditure associated with GVSU's activities.

Count 4 addresses whether Michigan's ERIC arrangements are consistent with the State's responsibilities under HAVA §§ 21083–21084 and applicable restrictions on the use of HAVA funds.

- 52 U.S.C. § 20701–20702 — Federal Election Records Retention: 22-month preservation requirement for all records pertaining to federal elections. The post-certification vote history manipulation documented in this Count appears to violate this provision; see also § 20702 (criminal prohibition on willful alteration). Primary analysis in Count 12. See Legal Argument 3-C-4.
- 52 U.S.C. § 10307(c) — False Information in Registering and Voting — Makes it unlawful, in any election in which a federal candidate is on the ballot, to knowingly and willfully: (1) give false information as to name, address, or period of residence for purposes of establishing eligibility to register or vote; (2) pay, offer to pay, or accept payment for registering to vote or voting; or (3) conspire to vote illegally. Penalty: up to five years. Applicable to false attestations of citizenship in AVR transactions (Count 3) and fraudulent registration schemes (Count 14). DOJ Manual pp. 38–45. See Legal Argument 3-C-6.
- 52 U.S.C. § 10307(e) — Voting More than Once — Makes it a crime to vote more than once in any election in which a federal candidate is on the ballot. Penalty: up to five years. Applicable to the 26 confirmed duplicate ballot pairs, one absentee and one in-person ballot for the same voter ID, both counted in the November 3, 2020, certified

[124] Funding Advisory Opinion (FAO) 08-005, U.S. Elections Assistance Commission, Posted: September 14, 2010.

results, documented in Established Fact 3-A-10. The November 3, 2020, general election included federal candidates. DOJ Manual pp. 46–50.

- 18 U.S.C. § 611 — Voting by Aliens — Prohibits voting in a federal election by a person who is not a U.S. citizen and who knows they are not a citizen. General intent offense: knowledge of non-citizenship is required; knowledge that noncitizen voting is illegal is not required. Misdemeanor; up to one year. Applicable to noncitizen voting cases documented in Established Fact 3-A-13, including the Gao case. DOJ Manual pp. 63–64.
- 18 U.S.C. § 1015(f) — False Claims to Register or Vote — Applies to all elections, federal, state, and local, as well as initiatives, recalls, and referenda. Felony; up to five years. Broader than § 611 (which applies only to federal elections) and focuses on the registration act (false claim to register or vote) rather than the voting act. DOJ Manual p. 62.
- 18 U.S.C. § 911 — False Claims of Citizenship — Prohibits the knowing and willful false assertion of U.S. citizenship by a non-citizen. Penalty: up to three years. Since 1993 (NVRA), all states must state the citizenship requirement on voter registration forms and require applicants to sign under penalty of perjury attesting they meet it. Falsely checking the citizenship box on a Michigan voter registration form is therefore demonstrably willful under this statute. DOJ Manual p. 63.
- 18 U.S.C. § 242 — Deprivation of Rights Under Color of Law — Makes it unlawful for anyone acting under color of law to willfully deprive a person of any right secured by the Constitution or federal law. Does not require proof of a conspiracy. Applicable to the BOE's 2024 reversal of the clerk citizenship verification requirement (Established Fact 3-A-12), a public official acting under color of law directing the removal of a safeguard protecting the constitutional right to vote. DOJ Manual pp. 37–38.
- DOJ Election Crimes Branch, Federal Prosecution of Election Offenses (8th ed., December 2017)[125] — The operative DOJ framework for evaluating and prosecuting federal election crimes. Identifies two predicate questions for federal prosecution (p. 10): (1) whether the defendant's objective was to corrupt the registration or balloting process; (2) whether federal jurisdiction is present. Both criteria are met: Michigan's 2020, 2022, and 2024 general elections each included federal candidates. No Pocket Part has been posted as of June 2, 2026; the 8th edition remains current. The consultation requirement (JM 9-85.000) is currently suspended pending revision [June 2025].

3. Husted v. A. Philip Randolph Institute, 138 S. Ct. 1833 (2018)

[125] DOJ Election Crimes Branch, Federal Prosecution of Election Offenses, 8th ed., December 2017.

Judicial Finding. Husted[126], 138 S. Ct. 1833 (2018), upheld Ohio's voter list maintenance process under the NVRA. The Court confirmed that sending a forwardable notice after two years of non-voting and removing registrants who do not respond and fail to vote in two additional federal election cycles was lawful. Michigan allowing registrants inactive since 2019 to remain on rolls for 6+ years without initiating any prescribed notice process raises direct NVRA compliance questions. See Judicial Finding 3-B-1.

B. Michigan Law

- MCL 168.31(1)(a) — General Rulemaking Grant. Primary statutory authority cited for Rule Set 2025-13. Under *Rovas*/*Luttrell*, insufficient to support substantive definitions of legal standards not defined in more specific statutes.
- MCL 24.245a(4) — Registration Creation Threshold. Sets the threshold for creating a voter registration. The Inversion argument: under RS 2025-13, it is procedurally easier to create a registration than to challenge one.
- MCL 168.509aa et seq. — Qualified Voter File. Michigan's statewide voter registration database. HAVA designates maintenance as a core governmental function.
- MCL 168.509r — MCL 168.509r — QVF accuracy requirements; the persistent registration-to-CVAP ratio exceeding 100% and the documented exception rate in long-inactive registrations appear to conflict with this provision. (ERIC's data-sharing practices as a contributing factor to QVF inflation are addressed in Count 4.)
- MCL 168.512 — Voter Registration Challenge Procedure. Does not define 'personal knowledge.' Rule R 168.256(4) categorically excludes third-party address information from an undefined standard, amounting to the most litigation-ripe RS 2025-13 provision under *Rovas*/*Luttrell*.
- MCL 168.811 — Voter Record Retention. Requires retention of voter records for 6 years. Structural gap with R 168.48's 7-day pollbook deletion creates audit trail deficiency.
- MCL 168.932 — Prohibition on Falsifying Vote History Records. Potentially violated by the Bureau of Elections' random assignment algorithm, which produced 769,091 post-certification vote history location changes, according to analysis by Frederick Woodward/MFEI.
- MCL 168.939 — Duty to Report Violations. Every election inspector who knows, or has reason to believe, that an offense punishable under the Michigan Election Law has been committed must report it to the prosecuting attorney without delay. The formal documented notification of duplicate ballot evidence to Secretary Benson and BOE

[126] *Husted v. A. Philip Randolph Institute*, 138 S. Ct. 1833 (2018).

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Director Brater on December 12, 2021 (Email ID #ELE00706093), and the absence of any documented investigation or referral, is relevant to this provision. Avallone invoked this duty in at least three formal submissions to MDOS (December 2021; September 2, 2022 (two letters); September 6, 2022).

- MCL 168.940 — Duty to Prosecute. Every prosecuting attorney who receives credible information of a violation of the Michigan Election Law must cause it to be prosecuted. The formal notification with confirmed receipt (Email ID #ELE00706093) provides the documentary record from which credible information was conveyed to the chief state election officer.
- MCL 168.941 — Duty of Peace Officers. Every police officer, sheriff, or other peace officer with knowledge of any election law violation must forthwith institute criminal proceedings. This provision is implicated by the same documented notification chain.
- MCL 168.680 — Inspector Oath. Every election inspector is required to take an oath to faithfully perform the duties of the office and to prevent, to the best of their ability, all fraud, deceit, and abuse in conducting elections. The systematic QVF vote history deletions and the failure to investigate the surfaced duplicate ballot pairs are relevant to the scope of this duty.
- MCL 168.942 — Statute of Limitations. Election law offenses must be prosecuted within three years after the time the offense is discovered. Avallone's December 12, 2021 notification constitutes documented discovery by the chief state election officer of the duplicate ballot evidence. The limitations period on offenses documented in that notification ran in December 2024. This provision does not affect civil enforcement remedies available to DOJ under the NVRA and HAVA.

C. Michigan Constitution

- Michigan Constitution, Art. II, § 4(2) — Legislative authority over time, place, and manner of elections.
- Michigan Constitution, Art. VII — Establishes locally elected clerks as independent constitutional officers whose voter roll maintenance duties derive from statute, not MDOS administrative authority.
- U.S. Constitution, Elections Clause, Art. I, § 4, cl. 1 — The Times, Places and Manner of holding Elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof.

D. Ultra Vires Framework (Five-Step Test from Count 1)

As established in Count 1 and the MFEI Synthesis Memorandum (May 13, 2026), the following steps of the five-step ultra vires analysis are most directly applicable to voter roll maintenance under Rule Set 2025-13:

- Step 2 (Statutory Grant): MCL 168.509aa and 168.512 do not define 'reliable information' or 'personal knowledge.' MDOS supplies the legal standard by rule without express or necessarily implied delegation.
- Step 4 (*Rovas*/*Luttrell*): R 168.256(4)'s categorical exclusion of third-party address information from the undefined 'personal knowledge' standard is the most exposed provision. MCL 168.512 is silent on personal knowledge; a categorical exclusion is not necessarily implied by a silent statute.
- Step 5 (Structural Displacement): R 168.254(4)/255(3) seat the cancellation act with the Secretary of State, removing it from locally elected clerks who hold constitutional status as independent officers under Michigan Constitution Art. VII.

§III. Factual and Procedural Background: Voter Roll Anomalies

Michigan maintains one of the nation's largest statewide voter registration databases through the Qualified Voter File (QVF). Accurate maintenance of this database is required by both the NVRA and HAVA because it serves as the foundation for voter eligibility, election administration, and federal election recordkeeping. The evidence presented below documents four interrelated categories of concern: statistical anomalies, post-certification alteration of voter-history records, voter-roll maintenance deficiencies, and administrative actions that have made independent oversight more difficult. Before examining the individual categories of evidence, the following table summarizes the principal findings documented in this Count.

A. Summary of Principal Evidentiary Findings

The table below summarizes the key issues, findings, and documented facts:

Issue	Key Finding / Documented Fact
1. Ballot-Voter Discrepancy — 2020 General Election	104,137 more ballots counted than voters recorded in the QVF as of December 1, 2020. Michigan has never reconciled this figure. Three independent MFEI documents confirm it. Source: MFEI Investigation of Michigan Elections (Sept. 2025) [127]; EAC OIG Request[128] (Jan. 2024), Figs. 1–2, p. 5; Avallone (Dec. 2021).[129]

[127] Dee Davey and Patrice Johnson (Compilers), MFEI Investigation of Michigan Elections, Michigan Fair Elections Institute (MFEI), Sept. 2025, p. 7.

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Issue	Key Finding / Documented Fact
2. Ballot-Voter Discrepancy — 2022 General Election	17,974 excess ballots as of December 1, 2022. Grew to 70,713 against January 2024 QVF — demonstrating ongoing post-certification manipulation. Source: *MFEI Investigation of Michigan Elections* (Sept. 2025), Part A, Sec. 1.
3. Post-Certification Vote History Manipulation	769,091 vote history location changes applied to the QVF since the 2020 election via BOE random assignment algorithm. Zero in 2019 and March 2020. Spiked to 67,275 in January 2021 and 205,079 in April 2021. Source: Woodward/MFEI, *When Vote Totals Don't Match* (Dec. 2024), Figure 3.
4. 92% SOVC Mismatch Rate	92% of responding counties (50+) showed mismatches between Statement of Votes Cast and official Election Summary Reports. Isabella County: 11,000+ mismatches against ~32,000 total registered voters. BOE advised at least one clerk not to release data. Source: Woodward/MFEI (Dec. 2024).
5. Long-Inactive Registrations — 27.60% Exception Rate	558,627 registrations coded Active inactive since 2019 or earlier (March 2025). Stratified sample (n=384, 95% CI, 5% MOE): 27.60% exception rate = 149,657 scaled ineligible registrations. 73.44% of sampled registrations never voted or last voted in 2009 or earlier (398,121 scaled). Source: Vaeth et al., MFEI *Ensuring Electoral Integrity: Michigan's Voter Roll Maintenance* (Sept. 2025).
6. Registration Rate Exceeds CVAP — 108.9%	As of May 19, 2026: 8,331,635 QVF registrations vs. CVAP of 7,653,711 = 108.9% registration rate. Ohio: 84.6%; Florida: ~82.1%. A rate above 100% of eligible citizens is mathematically impossible if rolls are accurate. Source: Vaeth, MFEI QVF Analysis (May 2026[130]); U.S. Census Bureau ACS 5-Year Tabulation.

[128] MFEI Audit Committee (Mark Vaeth, Chair), Request for EAC OIG Assessment of Audit Risk, (Jan. 29, 2024; rev. Mar. 15, 2024), [hereinafter "*EAC OIG Request*"].

[129] Louis Avallone, 20-page Letter to Lawmakers Requesting Reform of Election Manual Guidelines, Pure Integrity Michigan Elections (PIME), December 2021.

[130] Mark Vaeth, MFEI Statistical Analysis of Michigan QVF, April 2026 FOIA Update, May 5, 2026.

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Issue	Key Finding / Documented Fact
7. April 2026 Cleanup — Scale and What It Reveals	MFEI advocacy produced a 38.2% reduction in long-inactive registrations (558,627 → 345,263; −213,364; 38.2%). 345,263 remaining from the original cohort. However, approximately 50,738 new registrants entered the tracked long-inactive pool during the same period, resulting in a net tracked pool of approximately 396,001 long-inactive registrations as of April 1, 2026. 87.8% of sampled pre-2010 registrations addressed through removal, re-coding to CH/V status, or reactivation. Net QVF projected to exceed 2024 peak by November 2026. The cleanup confirms prior inaction was not unavoidable. Source: Vaeth, April 2026 FOIA Update (May 5, 2026).
8. Oakland County CH/V Ballot Incident (2024)	476 absentee ballots mailed to registrants in Challenged/Verify status; 56 voted. Caused by 2024 QVF algorithm change. MCL 168.509aa prohibits issuing ballots to CH/V registrants. Described by SOS as a "glitch." Source: MFEI DEEP Team (Tim Vetter, Aug. 2025); *MFEI Investigation of Michigan Elections* (Sept. 2025), Sec. 7.
9. Duplicate Voter IDs (October 2024)	82,467 voter IDs linked to 125,428 records on October 28, 2024. Dismissed by SOS/BOE as a "glitch" without investigation. HAVA § 21083(a)(1)(A)(ix) requires a unique identifier per legally registered voter. Source: *MFEI Investigation of Michigan Elections* (Sept. 2025), Sec. 3.
10. January 1, 1900, Placeholder Dates	7,739 registrations in the long-inactive universe carry a 1/1/1900 registration date. 6,063 (78.34%) are in Stratum 1 (Wayne County–Detroit). Systemic QVF data quality failure. Source: MFEI Ensuring Electoral Integrity: Michigan's Voter Roll Maintenance (Sept. 2025).
11. East Lansing Case Study — 2020	9,077 anomalous registrations (36%) in East Lansing's November 2020 QVF (25,545 total). 1,935 ineligible votes cast (21% of anomalous registrants). Data from City Clerk FOIA, November 12, 2020. Source: Hill/PIME, Lights Out (May 2022).

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Issue	Key Finding / Documented Fact
12. Rule Set 2025-13 — Regulatory Barriers to Oversight	R 168.252: clerk investigation optional; 20-year inactivity standard (vs. NVRA 4-year); SOS voter file data classified "unreliable." R 168.256(4): address-change information excluded from undefined "personal knowledge" standard in MCL 168.512: most litigation-ripe provision under *Rovas*/*Luttrell*. R 168.256(2)(b): $1,500+ per 100-voter challenge cost. R 168.254(4)/255(3): cancellation controlled by SOS, displacing independent clerks. Source: Rule Set 2025-13 (LARA); MFEI Synthesis Memo (May 13, 2026).
13. Federal Enforcement Threshold Reached	U.S. DOJ sued Secretary Benson and Michigan on September 25, 2025, for failing to provide unredacted voter registration records (NVRA, HAVA, Civil Rights Act). Related SCOTUS litigation over 25,000+ deceased voters as of November 2025. 21 Michigan Republican legislators requested federal election monitors. Source: U.S. DOJ complaint; Michigan Legislature letter to AG Bondi (Nov. 13, 2025).
14. ERIC Data Sharing — See Count 4	The structural and legal issues arising from Michigan's enrollment of QVF data in the ERIC data-sharing arrangement, including HAVA § 21083 delegation prohibition, HAVA § 21084 minimum-requirements inconsistency, and DPPA violations, are presented in Count 4 of this Report.
15. Bureau of Elections Clerk Training — Citizenship Verification Removed (2019→2024)	The 2019 BOE clerk training manual required clerks to verify citizenship before issuing a ballot; if citizenship could not be confirmed, the clerk was directed not to issue a ballot. By 2024, the BOE elections manual had reversed this standard: clerks were directed not to confirm citizenship and to permit a voter to receive a ballot even if citizenship status had not been verbally confirmed. Documented by Rep. Rachelle Smit, Chair, House Election Integrity Committee, in an official letter to Secretary Benson (March 16, 2026); no public response received. MDOS has separately opposed HB 4765, which would require citizenship verification for voter registration. Source: Smit letter to Benson (March 16, 2026) Appendix B. See Established Fact 3-A-12. Cross-reference: Counts 1, 2, 8.

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Issue	Key Finding / Documented Fact
16. Noncitizen Registration Pipeline — Driver's License, SSN, and Attestation-Only Pathways	Neither a Michigan driver's license nor a Social Security Number constitutes proof of U.S. citizenship for voter registration purposes. MDOS confirms a driver's license is available to "foreign nationals who legally live in the U.S." Since April 1, 2024, an SSN may be obtained without visiting an SSA office or producing citizenship documentation (USCIS alert, March 28, 2024). MCL 24.245a(4) permits registration by affidavit alone with no ID. The Haoxiang Gao case (2024) documents a noncitizen who registered, voted, and whose ballot was counted. This illegal ballot was detected only through self-disclosure. A subsequent AG review identified 14 additional suspected noncitizen voters in 2024. Federal criminal exposure: 18 U.S.C. § 611, 1015(f), 911; 52 U.S.C. § 20511(2). Sources: MDOS driver's license guidance; USCIS (March 28, 2024); MCL 24.245a(4); Michigan AG (2025–2026); Bridge Michigan (May 2025). See Established Fact 3-A-13. Cross-reference: Counts 6, 8.
17. GVSU Student Registration and HAVA Complaint	In January 2024, MFEI and Jeffery Schaeper filed a verified HAVA administrative complaint concerning GVSU-sponsored student voter-registration and GOTV activities and GVSU's participation in third-party student-voting data programs. The complaint alleged potential noncompliance with HAVA's statewide voter-registration-system requirements and EAC restrictions on the use of HAVA funds for voter-registration and GOTV activity. The Michigan Bureau of Elections dismissed the complaint without a hearing on the ground that GVSU was not an "election authority." The dismissal did not resolve the allegations on their merits. Source: MFEI/Schaeper HAVA Complaint against GVSU (Jan. 10, 2024); BOE dismissal; EAC Advisory Opinion FAO-08-005. See Established Fact 3-A-14.

Figure 11: ***Key Issues, Findings, and Documented Facts.***

B. Michigan's Qualified Voter File: Overview and Registration Rate

Michigan maintains voter registration data in the Qualified Voter File (QVF), a centralized statewide database administered by MDOS and used by all county and local clerks for voter check-in, absentee ballot processing, and list maintenance. Michigan operates a highly decentralized election system with 1,690 local and county election officials, including 83 county clerks, 1,240 township clerks, 274 city clerks, and 93 village clerks.

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As of May 19, 2026, Michigan's QVF stood at 8,331,635 registered voters per the Michigan SOS Voter Count Dashboard. The official Citizen Voting Age Population (CVAP) for Michigan is 7,653,711 per the U.S. Census Bureau 2020–2024 ACS 5-Year Special Tabulation[131]. Michigan's registration rate as a percentage of CVAP is 108.9%, which is mathematically impossible if the voter rolls accurately reflect only eligible registered voters. By way of comparison, high-performing states typically run in the 90–95% range of CVAP, and because the CVAP figure is a 5-year average, Michigan's 108.9% figure is arguably conservative.

State	CVAP (2020–2024 ACS)	Registered Voters (May 2026)	Registration Rate
Michigan	7,653,711	8,331,635	108.9%
Ohio	8,956,209	7,580,955	84.6%
Florida	~7,800,000	~6,400,000	~82.1%[132]

Figure 12: ***Michigan's registration rate as a percentage of Citizen Voting Aged Population (CVAP) is 108.9%*** *— mathematically impossible if the voter rolls accurately reflect only eligible registered voters.*

Source: Mark Vaeth, MFEI analyst, using MDOS and Census data.

The structural and legal issues arising from Michigan's enrollment of QVF data in the ERIC data-sharing arrangement — including its contribution to registration rate inflation — are addressed in Count 4.

C. Statistical Anomalies: Excess Ballots Over Voters

1. 2020 General Election Ballot-Voter Discrepancy

The first available QVF after the November 3, 2020, general election showed 104,137 more counted ballots than recorded voters. Michigan has never reconciled this discrepancy. Three independent MFEI analytical documents confirm the figure: "Executive Summary," *MFEI Investigation of Michigan Elections* (September 2025)[133], the *EAC OIG Request* Section I.A (January 2024)[134], and the MFEI RS 2025-13 rulemaking submissions.

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[131] U.S. Census Bureau, 2020–2024 ACS 5-Year CVAP Special Tabulation. Michigan CVAP = 7,653,711.

[132] U.S. Census Bureau, 2020–2024 ACS 5-Year CVAP Special Tabulation; Michigan SOS Voter Count Dashboard; Mark Vaeth, MFEI Statistical Analysis of Michigan QVF, May 2026.

[133] Dee Davey and Patrice Johnson (Compilers), MFEI Investigation of Michigan Elections, Michigan Fair Elections Institute (MFEI), Sept. 2025.

[134] EAC OIG Request, Sec. I.A, January 2024.

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The earliest documented source (Avallone, December 2021), the Avallone analysis independently documented this discrepancy, finding that the January 2021 QVF showed only 5.48 million voting histories against the SOS's official figure of 5.56 million ballots cast. After partial restoration of deleted records in December 2021, the QVF voter count fell further to approximately 5.46 million, approximately 100,000 short of the official ballot total. The December 2021 restoration also uncovered 26 confirmed duplicate ballot pairs (one absentee and one in-person ballot, both counted for the same voter) and over 2,500 active voter duplicates.

The underlying dataset (HistoryDup20211201.csv on file with MFEI) further documents 97 total duplicate ballot pairs across 15 elections from 2012 through 2021, spanning 6 counties and 10 jurisdictions in the November 2020 data alone, indicating a multi-election, multi-county pattern. Secretary Benson and BOE Director Brater were formally notified of this evidence on December 12, 2021 (Email ID #ELE00706093); no public adjudication of the substantive allegations has been documented. See Established Facts 3-A-10 and 3-A-11.

QVF Date	Official Vote Total	Total QVF Votes	Missing Voter IDs
2020 General Election (11/3/2020) — Official SOS Vote Total: 5,579,317			
12/1/2020	5,579,317	5,475,180	104,137
1/1/2021	5,579,317	5,476,095	103,222
4/1/2021	5,579,317	5,511,303	68,014
10/1/2023	5,579,317	5,321,429	257,888
11/1/2023	5,579,317	5,314,009	265,308
12/1/2023	5,579,317	5,307,751	271,566
2022 General Election (11/8/2022) — Official SOS Vote Total: 4,500,400			
12/1/2022	4,500,400	4,482,426	17,974
1/1/2023	4,500,400	4,481,289	19,111
2/1/2023	4,500,400	4,477,556	22,844
3/1/2023	4,500,400	4,474,045	26,355
4/1/2023	4,500,400	4,469,659	30,741
5/1/2023	4,500,400	4,466,226	34,174
6/1/2023	4,500,400	4,461,222	39,178
7/1/2023	4,500,400	4,456,940	43,460
8/1/2023	4,500,400	4,453,010	47,390
9/1/2023	4,500,400	4,448,087	52,313
10/1/2023	4,500,400	4,444,635	55,765
11/1/2023	4,500,400	4,439,354	61,046
12/1/2023	4,500,400	4,434,954	65,446

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QVF Date	Official Vote Total	Total QVF Votes	Missing Voter IDs
1/1/2024	4,500,400	4,429,687	70,713

Figure 13: **QVF Ballot-Voter Discrepancy: 2020 and 2022 Federal Elections (Monthly Snapshots).** The QVF never had a total equaling either election's reported results.

Source: Michigan SOS Qualified Voter File; Reproduced from Request for EAC OIG Assessment of Audit Risk, (File No. 24-0056, Jan. 2024, rev. Mar. 2024), Figure 1 and Figure 2, p. 5. Bold entries indicate the first available post-election QVF snapshot and the final snapshot shown. 2020 discrepancy: 104,137 at certification (12/1/2020), growing to 271,566 by 12/1/2023. 2022 discrepancy: 17,974 at certification (12/1/2022), growing to 70,713 by 1/1/2024. The QVF never had a total equaling either election's reported results. Charts by Tim Mauro-Vetter, MFEI DEEP Team.

2. QVF Post-Certification Manipulation: 769,091 Location Changes

When Vote Totals Don't Match (Frederick Woodward/MFEI, December 2024)[135] indicates the Michigan Bureau of Elections adopted a policy of reassigning vote histories through what appears to be a random assignment algorithm following the 2020 election.

QVF Month	Vote History Location Changes
January 2019	ZERO — per BOE Director Brater memo, issue "resolved in 2019"
March 2020	ZERO
January 2021	67,275
April 2021	205,079
January–December 2022	25,000–43,000 per month (continuing)
Grand Total through Dec. 2022	769,091 location changes

Figure 14: Source: **"When Vote Totals Don't Match,"** (Woodward/MFEI, December 2024)[136].

[135] When Vote Totals Don't Match.

[136] Ibid, Figure 3.

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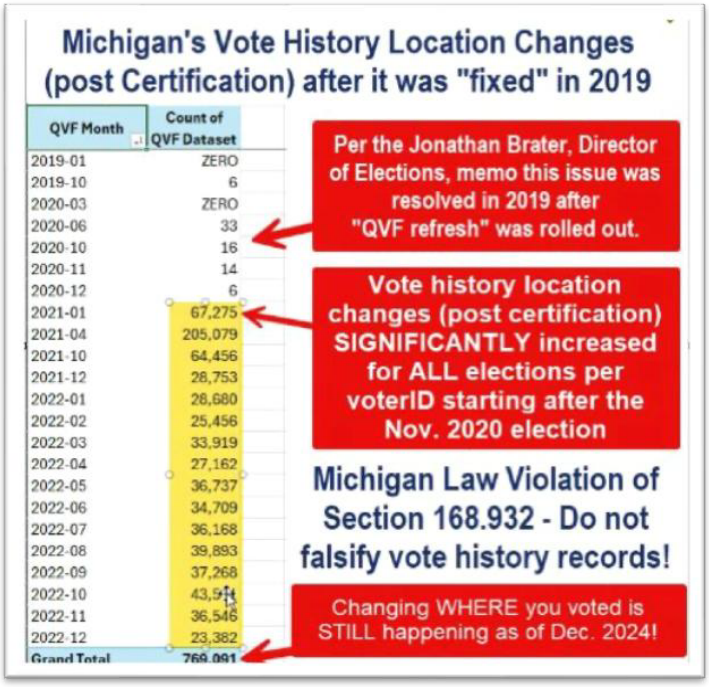


Figure 15: **VOTE HISTORY LOCATION CHANGES**:

Figure 3 from Woodward/MFEI "When Vote Totals Don't Match." Report contains full annotated data table showing vote history location changes by QVF month from January 2019 through December 2022, with callout annotations indicating the spike after November 2020 and the Brater 'resolved in 2019' notation.

When Vote Totals Don't Match documents six categories of post-certification vote history corruption: (1) transfer of vote histories to voter IDs other than those that originated them; (2) addition, deletion, and alteration of vote history records post-certification; (3) switching of vote history designations from in-person to absentee and vice versa; (4) movement of vote histories to locations other than those from which they originated; (5) state-level duplication of vote histories in contradiction to local records; and (6) scrubbing of vote histories from voters with active status who continue to participate in elections.

The same FOIA process documented a 92% SOVC mismatch rate across 50+ responding counties. Isabella County showed 11,000+ mismatches against approximately 32,000 total voters. Washtenaw County showed 2,000+; Kalamazoo County showed 3,000+. The BOE denied the initial FOIA request for November 2024 vote history records after the election had already been certified; one clerk reported receiving a call from the BOE advising her not to release the data.

The significance is structural. The QVF audit trail, needed to independently verify the 104,137 and 70,713 excess-ballot figures, is itself being continuously altered post-certification. A DOJ auditor attempting to verify these claims from the current QVF would be working from a dataset

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modified at massive scale. Independent production of the original QVF monthly snapshots through FOIA or court process is essential to any meaningful audit.

Beginning in early 2017, the QVF's record retention strategy was altered to provide only voting history records for voters registered at the time of each FOIA dataset's creation. This change made it "nearly impossible to obtain FOIA'ed QVF datasets with complete voting history records for all participants in any election" and is the mechanism that makes post-2020 manipulation nearly impossible to audit from current QVF data alone. Cross-reference: Count 12 addresses the 52 U.S.C. § 20701 implications.

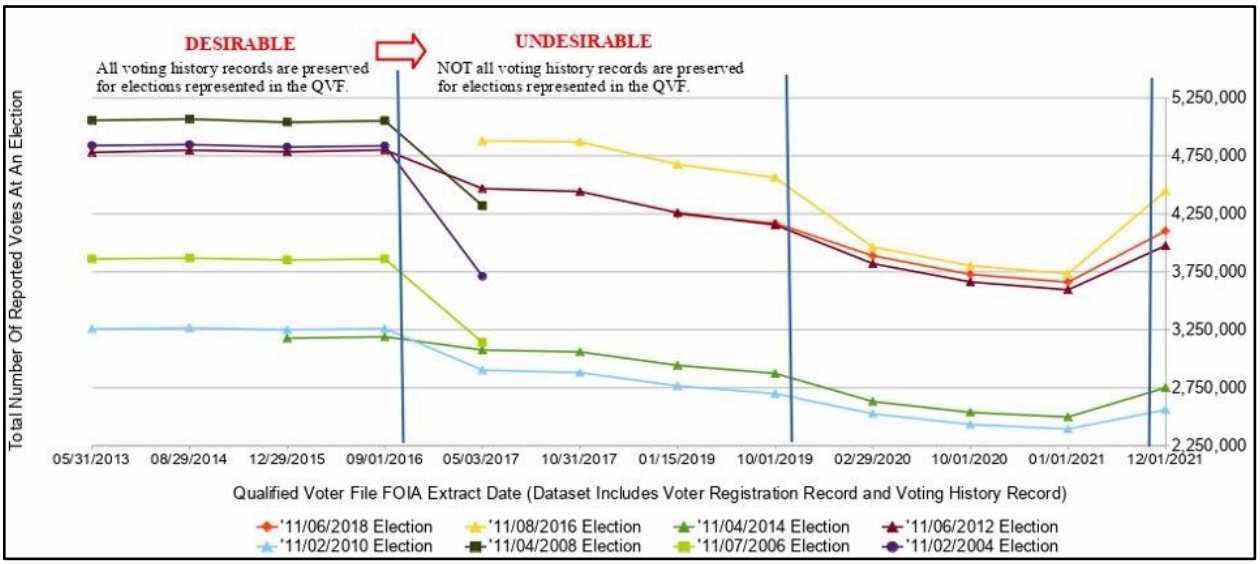


Figure 16: **QVF Voting History Suppression and Restoration, 11/08/2016 Election (2013–2021**).
Line chart tracks the November 6, 2018, general election voting histories across all FOIA QVF extract dates. Three labeled phases: DESIRABLE (pre-September 2016, all records preserved), UNDESIRABLE (post-September 2016, records declining), UNLAWFUL (records drop below official SOS vote total). Blue line drops to approximately 3.7 million by January 2021. Green horizontal reference line = 4.34 million (SOS official vote total). Red spike to approximately 4.2 million in December 2021. Annotation: "12/09/2021 update — Unlawfully deleted records appear to be restored in the FOIA QVF dataset created 12/01/2021."

Source: Louis Avallone, PIME 20-page Letter to Lawmakers Requesting Reform of Election Manual Guidelines (December 2021), based on official Michigan Qualified Voter File data.). See article by Patrice Johnson, "Citizen Analyst Uncovers Illegal Deletions of Voter History Records," PIME (Dec. 14, 2021).

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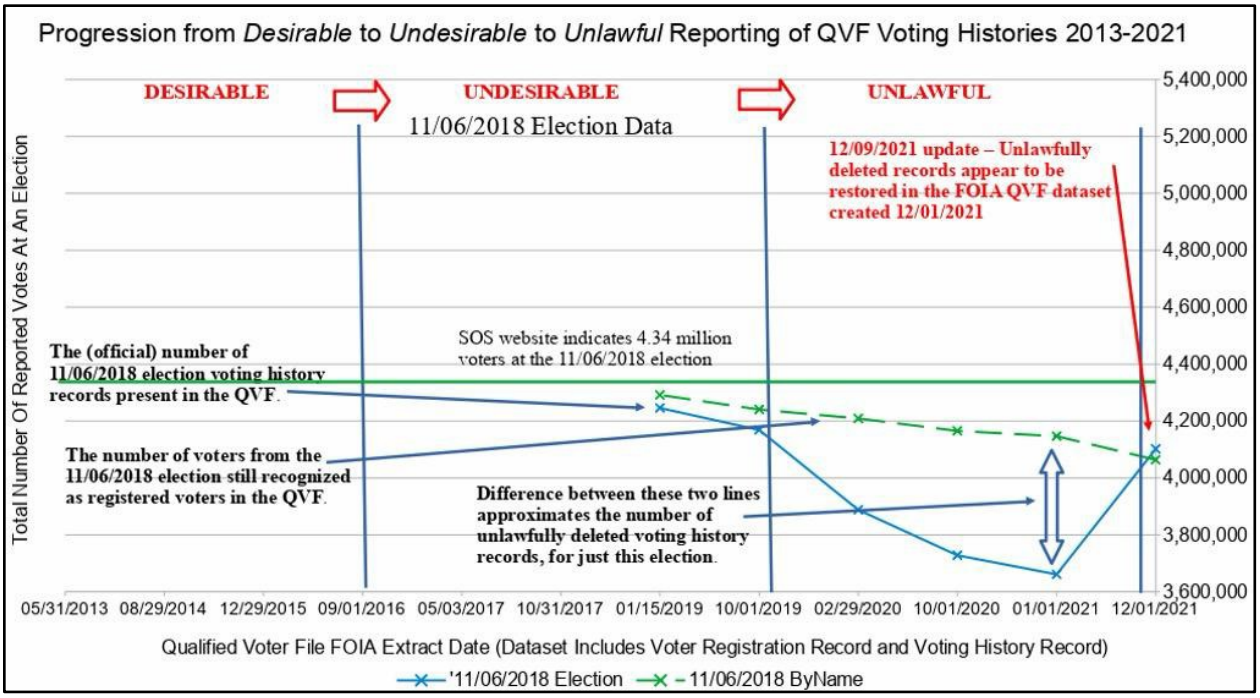


Figure 17: **QVF Voting History Suppression and Restoration, 11/08/2016 Election (2013–2021).**

Same three-phase structure as Fig 3-N for the November 8, 2016, general election. Blue line drops to approximately 3.7 million by January 2021. Green horizontal reference line = 4.87 million (SOS official vote total). Red spike to approximately 4.4 million in December 2021. Together with Fig 3-N, documents that the 2016 and 2018 elections alone account for more than one million unlawfully deleted and subsequently restored voting history records.

Source: Louis Avallone, PIME 20-page Letter to Lawmakers Requesting Reform of Election Manual Guidelines (December 2021), based on official Michigan Qualified Voter File data.

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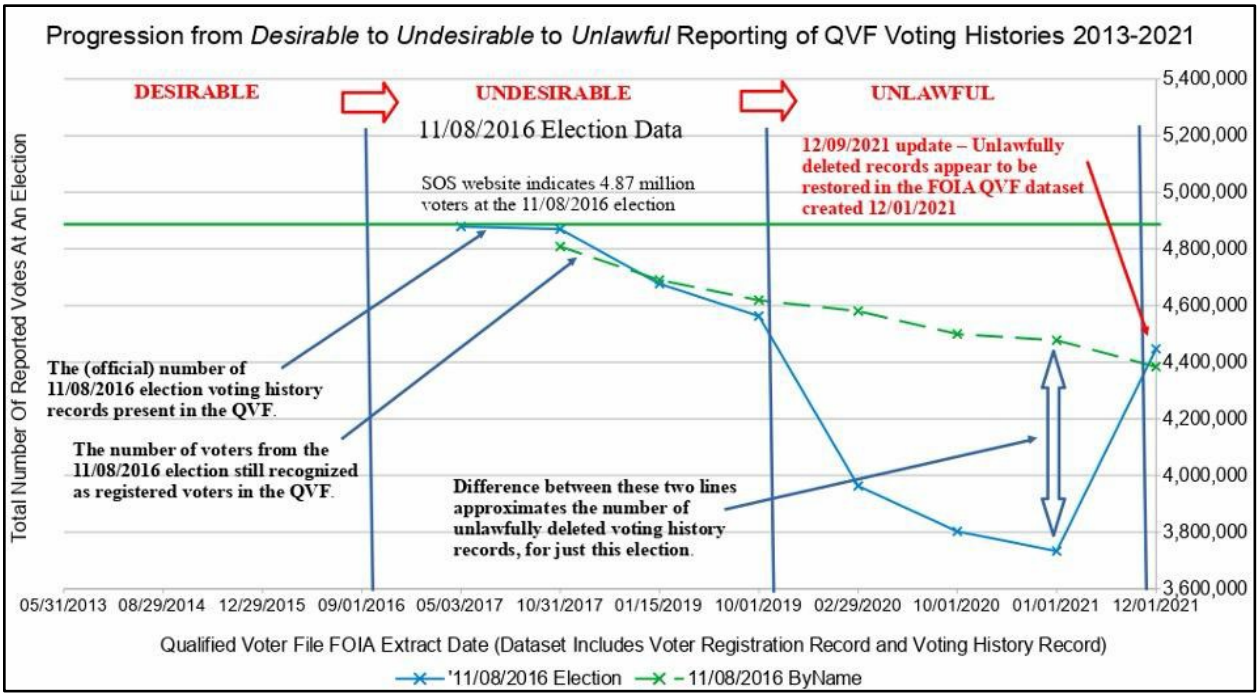


Figure 18: ***QVF Voting History Records by Election 2004 through 2020 (All-Election Overlay)***

Multi-line chart by Louis Avallone tracking voting history record counts for eight elections (November 2004 through November 2018) across all FOIA QVF extract dates, May 2013 through December 2021. Left panel (DESIRABLE, pre-September 2016): all lines stable, histories fully preserved. Right panel (UNDESIRABLE, post-September 2016): systematic decline across all election lines. Two vertical blue reference lines mark the September 2016 retention strategy change and October 2019. December 2021 partial restoration visible as upward inflection on right edge. Caption: "For nearly 20 years, the QVF tracked voting histories. Then in early 2017, its record retention and reporting strategy appears to have been altered to provide only the voting history records for registered voters at the time of the FOIA'ed QVF dataset's creation."

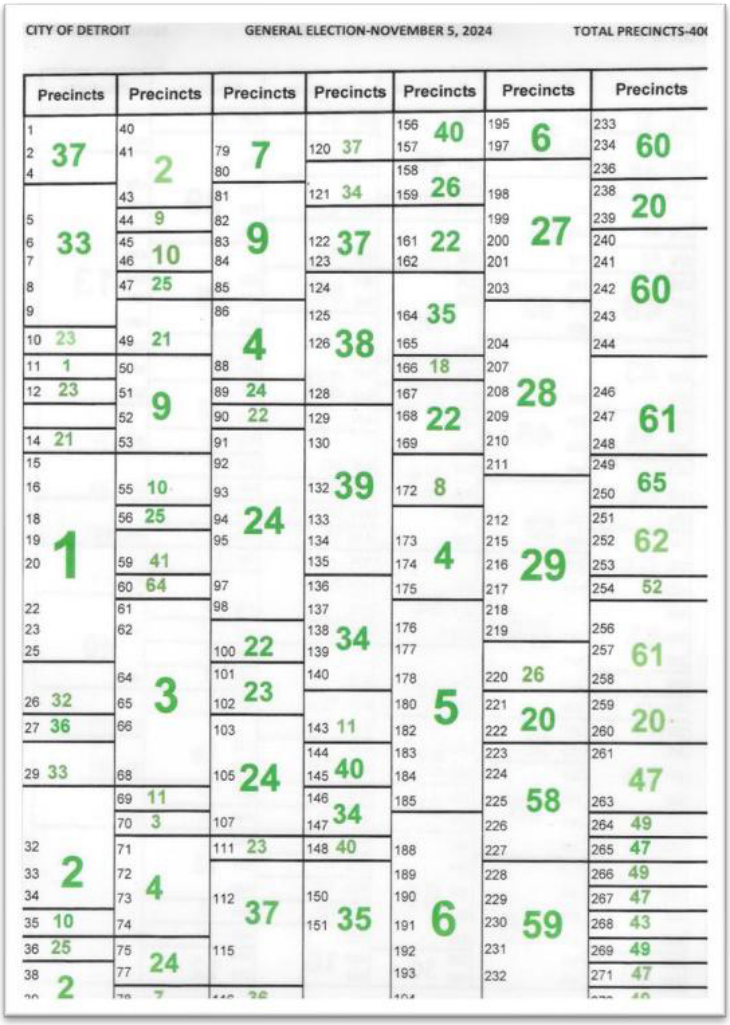
Source: Louis Avallone, 20 page Letter to Lawmakers Requesting Reform of Election Manual Guidelines (December 2021). Source: Line chart by Louis Avallone based on official Michigan Qualified Voter File data.

3. Reporting Inconsistencies: Detroit Precinct Consolidation and SOS-Local Divergences

The issues of unmatched votes to voters are compounded in Detroit, where counting boards combine voter results of multiple precincts, making independent audits structurally more difficult. Source: MFEI DEEP Team FOIA to Detroit City Clerk, November 2024 Election.[137]

[137] Davey and Johnson, MFEI Investigation of Michigan Elections.

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CITY OF DETROIT — GENERAL ELECTION-NOVEMBER 5, 2024 — TOTAL PRECINCTS-40

Precincts	Precincts	Precincts	Precincts	Precincts	Precincts	Precincts
1	40			156	195	233
2 37	41 2	79 7	120 37	157 40	197 6	234 60
4	43	80	121 34	158		236
5	44 9	81		159 26	198	238
6 33	45	82	122	161	199 27	239 20
7	46 10	83 9	123 37	162 22	200	240
8	47 25	84	124		201	241
9		85	125	164	203	242 60
10 23	49 21	86	126 38	165 35	204	243
11 1	50	88 4		166 18	207	244
12 23	51	89 24	128	167	208 28	246
	52 9	90 22	129	168 22	209	247 61
14 21	53	91	130	169	210	248
15		92			211	249
16	55 10	93	132 39	172 8		250 65
18	56 25	94 24	133		212	251
19		95	134	173	215	252 62
20 1	59 41		135	174 4	216 29	253
	60 64	97	136	175	217	254 52
22	61	98	137		218	
23	62		138	176	219	256
25		100 22	139 34	177		257 61
	64	101	140	178	220 26	258
26 32	65 3	102 23		180 5	221	259
27 36	66	103	143 11	182	222 20	260 20
			144	183	223	261
29 33	68	105 24	145 40	184	224	47
	69 11	146		185	225 58	263
	70 3	107	147 34		226	264 49
32	71	111 23	148 40	188	227	265 47
33 2	72			189	228	266 49
34	73 4	112	150	190	229	267 47
35 10	74	37	151 35	191 6	230 59	268 43
36 25	75	115		192	231	269 49
38 2	77 24			193	232	271 47

Figure 19: ***Detroit Consolidated Precincts.***

Green items represent the consolidated precincts for Detroit, the only city in Michigan allowed to consolidate precincts, making audits difficult.

Source: MFEI DEEP team FOIA to Detroit City Clerk, November 2024 Election. MFEI Investigation into Michigan Elections, p. 9. [138]

MFEI DEEP Team analysis also identified systematic reporting inconsistencies between SOS official results and local jurisdiction records, including:

a) Multiple names for the same candidates across reporting formats

b) Precinct numbers that do not match official QVF designations

c) Votes for one candidate appearing as votes for their opponent

[138] Davey and Johnson, MFEI Investigation of Michigan Elections.

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d) Totals that do not match between official SOS and local reports

e) Election totals sometimes appearing as individual candidate's votes

f) Data that took 6 months to receive from the SOS after FOIA request

g) Without local files, which under Rule Set 2025-13 will become difficult, expensive, and slow to obtain via FOIA, the public will be unable to ascertain discrepancies between SOS official results and local jurisdiction records.

Example: The City of Livonia's results for the November 2024 State Supreme Court race included unaccountable discrepancies between official SOS results and the local FOIA-obtained report. Source: MFEI DEEP Team, QVF FOIA of Michigan Qualified Voter File, June 2024.

Accurate Precinct Level Tabulator Results

Jurisdiction (source)	Precinct Identifier	KYRA HARRIS BOLDEN	PATRICK WILLIAM O'GRADY	Total
LIVONIA CITY	1A	972	434	1406
LIVONIA CITY	1B	365	236	601
LIVONIA CITY	2A	744	335	1079
LIVONIA CITY	3A	542	312	854
LIVONIA CITY	3B	810	503	1313
LIVONIA CITY	4A	833	665	1498
LIVONIA CITY	7A	668	449	1117
LIVONIA CITY	8A	447	451	898
LIVONIA CITY	8B	451	320	771
Total		5,842	3,705	9,537

SOS's **Official** Inaccurate Precinct Level Tabulator Results

City/Township Name	Precinct Identifier	KYRA HARRIS BOLDEN NP	KYRA HARRIS BOLDEN NP	PATRICK WILLIAM O'GRADY NP	PATRICK WILLIAM O'GRADY NP	Precinct Total
LIVONIA CITY	1	365	972	236	434	2,007
LIVONIA CITY	2	744	335	1079		
LIVONIA CITY	3	542	810	312	503	2,167
LIVONIA CITY	4	833	665	1498		
LIVONIA CITY	7	668	449	1117		
LIVONIA CITY	8	447	451	320	451	1,669
Total		2,599	3,682	4,562	1,388	5,834

Figure 20: **Livonia Reporting Discrepancy.**

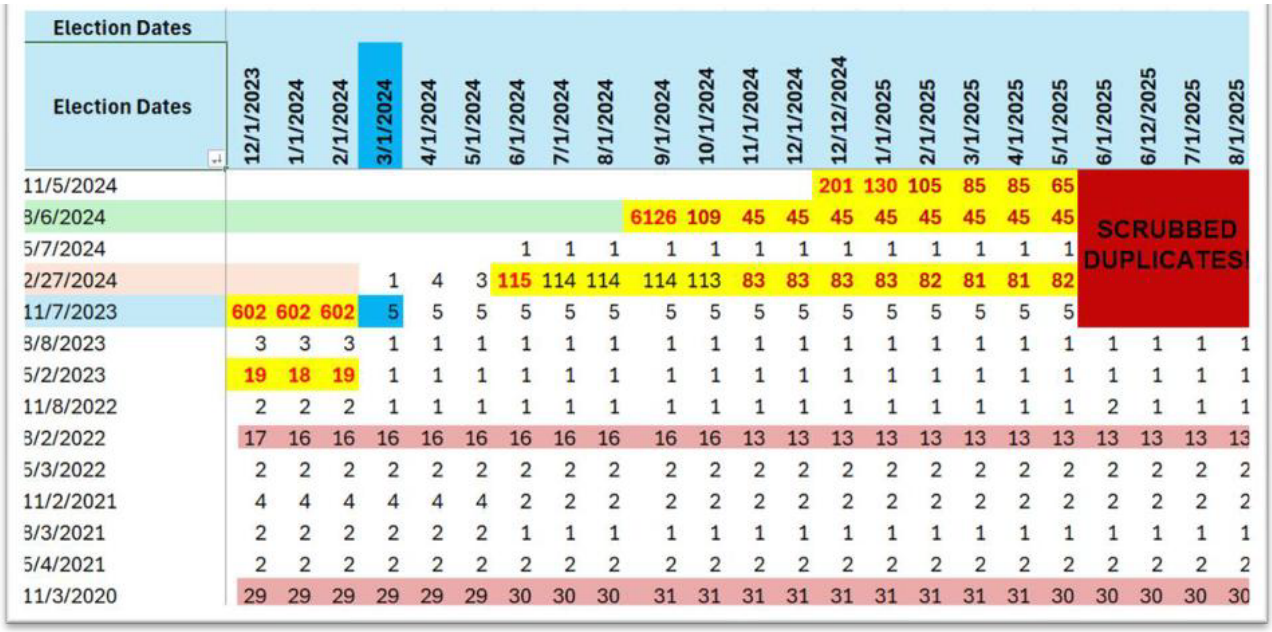
The SOS official results for a given jurisdiction do not reflect the accurate, local report obtained via FOIA from the local jurisdiction. As the example, the table above shows the City of Livonia's results for the November 2024 State Supreme Court race included unaccountable discrepancies.

Source: Data regarding Livonia obtained via FOIA of Michigan's Qualified Voter File as of June 2024. NP connotes nonpartisan. Chart by Tim Mauro-Vetter, MFEI DEEP Team data analyst.

4. Duplicate Voter IDs and Vote History Changes (2020–2025)

Analysis of QVF FOIA data, validated via Detroit FOIA requests, revealed duplicate vote history records with matching voter IDs and election dates. On June 1, 2025, the SOS/BOE removed duplicates from the past five elections without investigation. This involved registrants with identical voter IDs (VIDs) and election dates, indicating unaddressed duplicate vote records. MFEI is currently peer-reviewing this issue. Source: MFEI DEEP Team data analysis, August 25, 2025.

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Election Dates	12/1/2023	1/1/2024	2/1/2024	3/1/2024	4/1/2024	5/1/2024	6/1/2024	7/1/2024	8/1/2024	9/1/2024	10/1/2024	11/1/2024	12/1/2024	12/12/2024	1/1/2025	2/1/2025	3/1/2025	4/1/2025	5/1/2025	6/1/2025	6/12/2025	7/1/2025	8/1/2025
11/5/2024														201	130	105	85	85	65	SCRUBBED DUPLICATES!			
3/6/2024										6126	109	45	45	45	45	45	45	45	45				
5/7/2024							1	1	1	1	1	1	1	1	1	1	1	1	1				
2/27/2024				1	4	3	115	114	114	114	113	83	83	83	83	82	81	81	82				
11/7/2023	602	602	602	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5				
3/8/2023	3	3	3	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
5/2/2023	19	18	19	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
11/8/2022	2	2	2	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	2	1	1	1
3/2/2022	17	16	16	16	16	16	16	16	16	16	16	13	13	13	13	13	13	13	13	13	13	13	13
5/3/2022	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
11/2/2021	4	4	4	4	4	4	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
3/3/2021	2	2	2	2	2	2	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
5/4/2021	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
11/3/2020	29	29	29	29	29	29	30	30	30	31	31	31	31	31	31	31	31	31	30	30	30	30	30

Figure 21: **Statewide Vote History Duplicate Voter IDS Per Election.** Graph illustrates QVF FOIA data (2020–2024) analyzed for duplicate voter IDs and vote history changes. MFEI Investigation of Michigan Elections.

Chart by Tim Mauro-Vetter, MFEI DEEP Team data analyst, August 25, 2025.

As independent corroboration that the underlying data-quality problems documented above are not unique to Michigan, a national comparative analysis of voter-registration data quality across seven states (Georgia, Illinois, North Carolina, Nevada, Texas, Washington, and Wisconsin) found similar name-field and formatting irregularities that can prevent accurate in-state, cross-state, and obituary-based duplicate matching. This comparison does not establish that Michigan's registration-matching failures were intentional; it indicates that simple data-validation rules, if adopted, could resolve most such errors nationwide.

Figure 22: **National Voter-Registration Data Quality — Missing/Incomplete Name Fields.** Registrations lacking a full legal name (first-initial-only, no middle name, or middle-initial-only) across seven states.

Metric	GA	IL	NC	NV	TX	WA	WI
Registrations	7,913,293	8,307,901	7,496,728	2,331,270	20,603,853	5,389,258	3,843,500
First Initial Only	9,363	17,752	3,970	1,206	14,462	7,350	159
No Middle Name	951,160	1,935,612	742,839	415,776	3,092,688	100,618	255,548

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Metric	GA	IL	NC	NV	TX	WA	WI
Middle Initial Only	866,680	4,523,040	436,281	186,983	1,170,054	868,003	1,503,896
Total Flagged	1,827,203	6,476,404	1,183,090	603,965	4,277,204	975,971	1,759,603
% of Registrations	23%	78%	16%	26%	21%	18%	46%
Adjusted NMN	1,697,201	5,797,948	1,117,648	575,918	4,101,696	845,771	1,534,019
Adjusted %	21%	70%	15%	25%	20%	16%	40%

Note: an estimated 10–15% of registrations lack a middle name as a matter of course; that field should read "NMN." Source: Dr. Rick Richards, ELLY, Eagle AI, August 2025.

Figure 23: **National Voter-Registration Data Quality — Special/Foreign Characters in Name or Number Fields.** Occurrences of punctuation and special characters ("#", ".", parentheses, apostrophes, "&") in registration records across three states.

Character	GA	IL	NV
"#"	185,120	55,436	—
"."	201,976	59,385	125,582
"(" or ")"	881,061	62,615	684,721
"'"	112,667	1,697	181,486
"&"	6,064	6,188	14,175
Total	1,386,888	185,321	1,005,964
% of Registrations	18%	2%	43%

Note: special and foreign characters should not appear in text or number fields; each one prevents in-state, cross-state, and obituary matching. Source: Dr. Rick Richards, ELLY, Eagle AI, August 2025.

D. Long-Inactive Registrations: MFEI's Voter Roll Analysis (September 2025)

MFEI's comprehensive voter roll analysis, *Ensuring Electoral Integrity: Michigan's Voter Roll Maintenance* (September 2025)[139], was prepared by Mark Vaeth (CPA/MBA, former DoD Audit

[139] Mark Vaeth et al., Ensuring Electoral Integrity: Michigan's Voter Roll Maintenance, MFEI Audit Team, Sept. 2025.

Supervisor) with contributions from Tim Vetter, Patrice Johnson, Willis Hammond, and Elizabeth Bonner. The analysis used Michigan's official March 1, 2025, QVF data and employed a stratified random sampling methodology with a 95% confidence level and 5% margin of error.

E. Methodology and Universe

The analysis examined 558,627 long-inactive voter registrations, defined as registrants with an inactive status since 2019 or earlier. Of these, 542,121 were born in 1935 or later and were included in the sampling universe.

Stratum	Description	Registrations	Sample Size
Stratum 1	Wayne County (Detroit)	68,484	49
Stratum 2	Wayne County (excluding Detroit)	64,885	46
Stratum 3	Major Counties (Oakland, Macomb, Genesee)	118,491	84
Stratum 4	Mid-Tier Counties (Kent, Washtenaw, Saginaw, Ingham, Ottawa, Kalamazoo, Livingston, Muskegon, St. Clair, Monroe)	105,064	74
Stratum 5	Smaller Counties (69 rural counties)	185,197	131
TOTAL		542,121	384

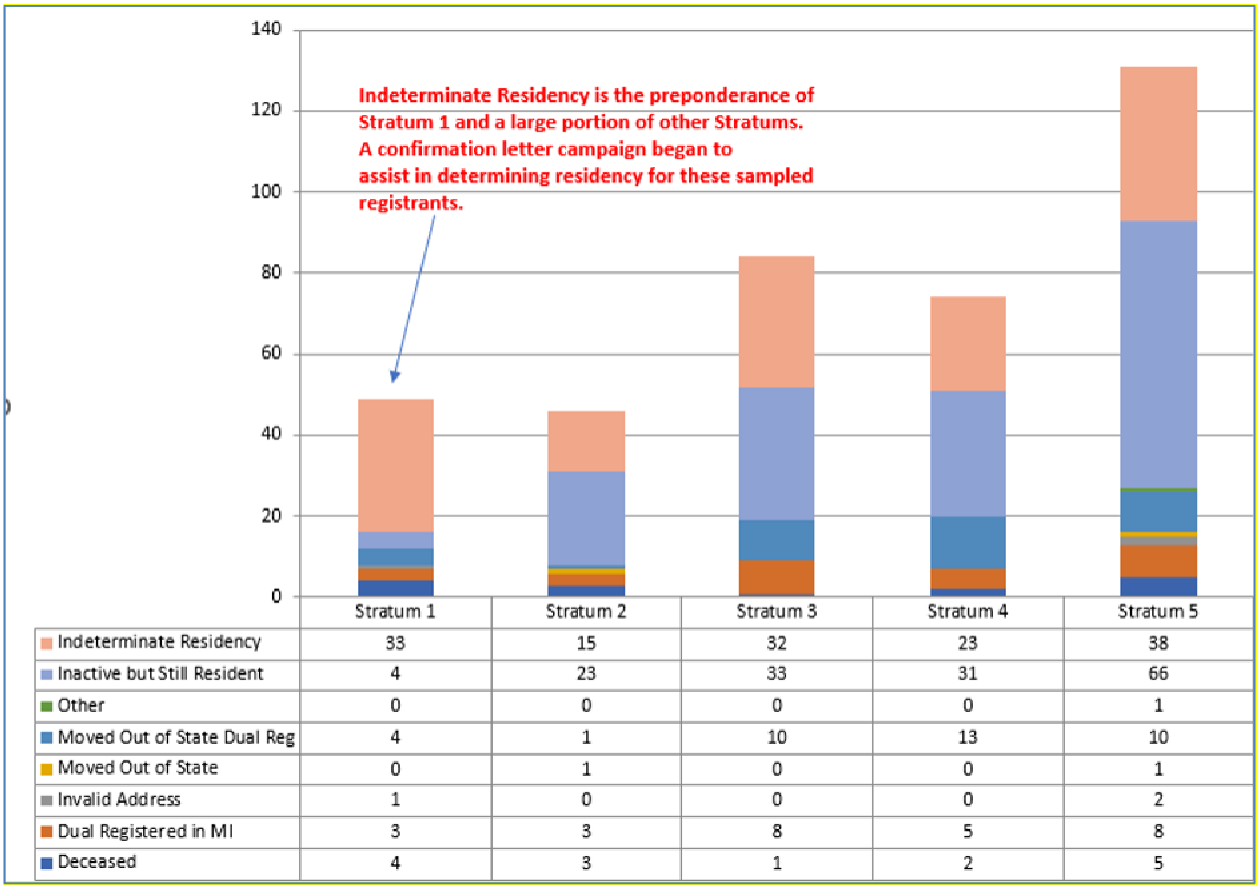
Figure 24: **Voter registration count and sample size for each stratum.**

MFEI conducted a letter campaign, mailing confirmation letters to all 384 voter registrants. There were 35 undeliverable letters returned, equating to a 9.11% returned rate, which was used to reclassify some indeterminate cases as likely nonresident, per MCL 168.509bb. Potential USPS handling issues may affect the undeliverable rate, particularly in high-mobility areas like Stratum 1 (Detroit), and Stratum 2 and Stratum 3.

Source: Mark Vaeth original research based on QVF and U.S. Postal National Change of Address data received via FOIA, Ensuring Electoral Integrity: Michigan's Voter Roll Maintenance, p. 6. [140]

[140] Ensuring Electoral Integrity: Michigan's Voter Roll Maintenance, p. 6.

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	Stratum 1	Stratum 2	Stratum 3	Stratum 4	Stratum 5
Indeterminate Residency	33	15	32	23	38
Inactive but Still Resident	4	23	33	31	66
Other	0	0	0	0	1
Moved Out of State Dual Reg	4	1	10	13	10
Moved Out of State	0	1	0	0	1
Invalid Address	1	0	0	0	2
Dual Registered in MI	3	3	8	5	8
Deceased	4	3	1	2	5

Figure 25: **Pre-Confirmation Letter Campaign Results of Sample of Long-Inactive Registrants.** Bar chart from MFEI's voter roll analysis report shows pre-campaign exception categories broken out by stratum.

Source: MFEI Audit team original research based on QVF and U.S. Postal National Change of Address data received via FOIA, Ensuring Electoral Integrity: Michigan's Voter Roll Maintenance, p. 8.[141]

The 22.40% exception rate indicates significant inaccuracies, e.g., deceased and dual registrations across Strata 1–5, with Stratum 1 (Detroit) and Stratum 3 (major counties) as critical areas due to high indeterminate cases and dual registrations.

[141] Ensuring Electoral Integrity: Michigan's Voter Roll Maintenance, p. 8.

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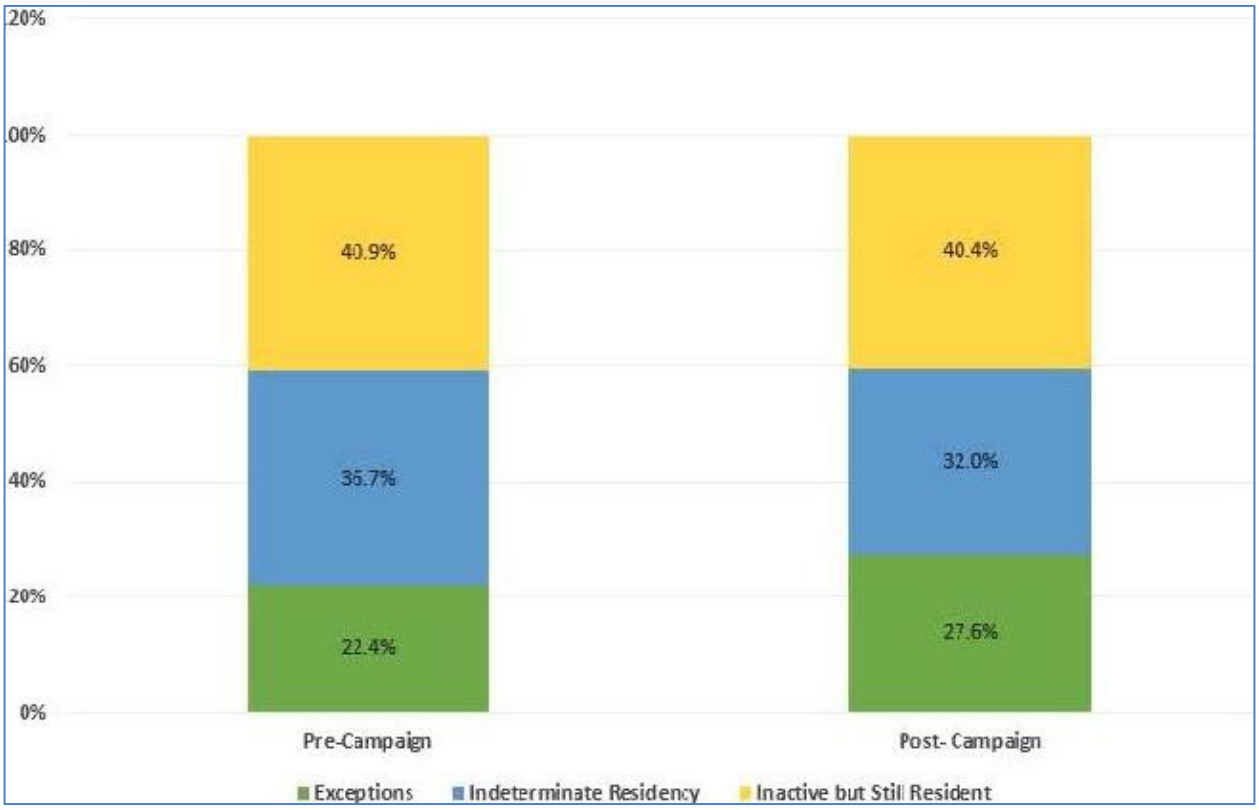


Figure 26: **Pre- vs Post-Campaign (Confirmation Letter) Status.**

Bar chart from the Ensuring Electoral Integrity report shows pre-campaign exception categories broken out by stratum. Ensuring Electoral Integrity: Michigan's Voter Roll Maintenance[142], p. 20.

F. Pre-Campaign Exception Rate: 22.40%

Initial analysis identified 86 exceptions (22.40%), including: 15 deceased registrants, 27 dual registrations in Michigan, 38 moved out-of-state dual registrations, 3 invalid addresses, 2 moved out-of-state, and 1 other. An additional 141 registrations (36.72%) were classified as indeterminate residency. Scaled to the 542,121-registration universe, the initial exception count projected to 149,657 ineligible registrations.

Category	Sample Count (384)	Scaled to Universe (542,121)
Deceased	15 (3.91%)	21,141
Dual registration in Michigan	27 (7.03%)	38,119

[142] Ibid, p. 12.

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Category	Sample Count (384)	Scaled to Universe (542,121)
Moved out-of-state dual registration	38 (9.90%)	53,702
Invalid address	3 (0.78%)	4,225
Moved out of state	2 (0.52%)	2,825
Likely nonresident (undeliverable mail)	19 (4.95%)	25,397
Other	2 (0.52%)	2,825
TOTAL EXCEPTIONS	106 (27.60%)	149,657
Indeterminate residency	123 (32.03%)	173,399
Inactive but still resident	155 (40.36%)	219,070

Figure 27: **Exceptions (likely ineligible) registrations**. Source: MFEI, Ensuring Electoral Integrity: Michigan's Voter Roll Maintenance (Vaeth, September 2025).[143]

G. Confirmation Letter Campaign: Post-Campaign Rate 27.60%

Beginning May 18, 2025, MFEI mailed confirmation letters to all 384 sampled registrants. Of 384 letters sent, 35 were returned undeliverable (9.11%). Total exceptions rose to 106 (27.60%). The *2024 EAC Election Administration and Voting Survey* (EAVS) found that nationally, nearly 70% of approximately 40 million confirmation notices sent by states were not returned, amounting to independent federal corroboration of the significance of Michigan's non-action.[144]

[143] Ibid, p. 12.

[144] 2024 EAC Election Administration and Voting Survey (EAVS), p. IV.

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Category	Stratum 1: Wayne-Detroit	Stratum 2: Wayne-Excl. Detroit	Stratum 3: Major Counties	Stratum 4: Mid-Tier Counties	Stratum 5: Smaller Counties	Total
Voter registrations	68,484	64,885	118,491	105,064	185,197	542,121
Exceptions (Count)	23,760	11,286	29,623	38,335	46,653	**149,657**
Exceptions (%)	34.69%	17.39%	25.00%	36.49%	25.19%	
Indeterminate (Count)	39,134	21,158	42,318	24,136	46,653	173,399
Indeterminate (%)	57.14%	32.61%	35.71%	22.97%	25.19%	
Inactive (Count)	5,591	32,443	46,550	42,594	91,892	219,070
Inactive (%)	8.16%	50.00%	39.29%	40.54%	49.62%	

Figure 28: **Scaled Statewide Projection.** This stratum-by-stratum projection table from the Ensuring Electoral Integrity report shows Exceptions (Count and %), Indeterminate (Count and %), and Inactive but Still Resident (Count and %) broken out by Strata 1–5 with totals.

Source: Vaeth, MFEI Ensuring Electoral Integrity: Michigan's Voter Roll Maintenance, September 2025[145], page 12.

H. Voting Activity Among Long-Inactive Registrations

Voting Activity	Sample (384)	Scaled to Universe
Never voted	100 (26.04%)	141,178
Last voted 2009 or earlier	182 (47.40%)	256,943
Combined: never voted or last voted ≤2009	282 (73.44%)	398,121
Last voted 2010–2016	81 (21.09%)	114,354
Last voted 2017 or later	21 (5.47%)	29,647

Figure 29: **VOTING ACTIVITY CROSS-TAB TABLES**:

Voting activity tables Ensuring Electoral Integrity: Michigan's Voter Roll Maintenance: (1) sample results cross-tabulated by period of voter registration vs. last voted category, and (2) the scaled universe equivalent. Table by Mark Vaeth, MFEI Audit Team

The NVRA envisions the notice-and-removal process beginning within approximately four years of inactivity per 52 U.S.C. § 20507(c)(2)(A). Michigan's sustained non-action has permitted

[145] Ensuring Electoral Integrity: Michigan's Voter Roll Maintenance, p. 20.

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registrations inactive for 15+ years to remain on the rolls without initiating the prescribed process.

I. January 1, 1900, Registration Date Anomaly

Of the 542,121 long-inactive registrations, 7,739 carry a registration date of January 1, 1900, almost certainly a system placeholder or data entry default. Of these, 6,063 (78.34%) are in Stratum 1 (Wayne County-Detroit).

Stratum	Registrations with 1/1/1900 Date	Percent of total reg. with 1/1/1900 Date
Stratum 1: Wayne – Detroit	6,063	78.34%
Stratum 2: Wayne – Excl. Detroit	49	0.63%
Stratum 3: Major Counties	136	1.76%
Stratum 4: Mid-Tier Counties	255	3.30%
Stratum 5: Smaller Counties	1,236	15.97%
GRAND TOTAL	7,739	100.00%

Figure 30: **Voting Activity Crosstab Tables**:

Voting activity tables from the Ensuring Electoral Integrity: Michigan's Voter Roll Maintenance report: (1) sample results cross-tabulated by period of voter registration vs. last voted category, and (2) the scaled universe equivalent. MFEI Ensuring Electoral Integrity: Michigan's Voter Roll Maintenance (Vaeth et al., September 2025), pg. 14. [146]

J. Stratum 1 (Wayne County-Detroit): Highest Risk Jurisdiction

Stratum 1 displayed consistently elevated anomaly indicators: 57.14% of sampled Stratum 1 registrations were classified as indeterminate residency (39,134 scaled stratum-wide), compared to a statewide indeterminate rate of 32.03%. Exception rates in Stratum 1 post-campaign were 34.69% (23,760 scaled). The January 1, 1900, date anomaly was concentrated at 78.34% statewide in this stratum.

K. April 2026 FOIA Comparison: Cleanup Progress and What It Reveals

A subsequent FOIA of the Michigan Secretary of State's inactive voter file for the period ending April 1, 2026, prepared by Mark Vaeth, documents significant progress following MFEI's

[146] Ibid, pg. 14.

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advocacy program. Full analysis: Michigan Voter Rolls Shed 213,000 Ghost Registrations After Citizen Advocacy Campaign[147].

Metric	Value
Long-inactive registrations (Sept. 2025 baseline)	558,627
Long-inactive registrations (April 1, 2026)	345,263
Net reduction	213,364 (38.2%)
Pre-2010 registrations sampled: addressed through removal, re-coding to CH/V, or reactivation	122 of 139 (87.8%)
Estimated statewide pre-2010 records cleaned/removed/re-coded	~187,333
New registrants added during same period	50,738
Total coded Active as of April 1, 2026	396,001
QVF as of May 19, 2026	8,331,635 (108.9% of CVAP)

Figure 31: Source: **Mark Vaeth, MFEI Statistical Analysis of Michigan QVF, April 2026 FOIA Update** (May 5, 2026)[148].

[147] Vaeth April 2026.

[148] Vaeth April 2026.

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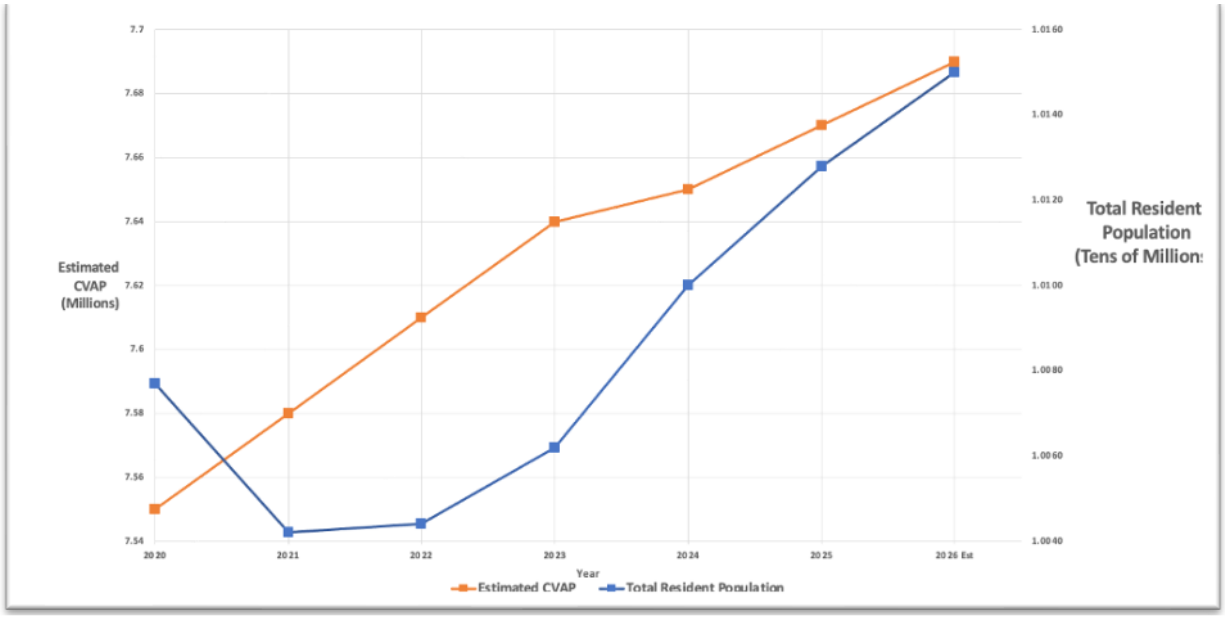


Figure 32: **Michigan Total Resident Population vs. Voter Roll (QVF) Growth vs. Citizen Voting Age Population (CVAP).**

The trend chart shows Michigan's total QVF registration count plotted against the CVAP benchmark line from the Mark Vaeth May 2026 analysis,[149] 2020 through May 2026, illustrating the persistent registration rate above 100% and the net failure to meaningfully reduce the number of ineligible voters on the rolls despite the April 2026 cleanup. See Appendix F.

Sources: Total Resident Population (2020–2025): U.S. Census Bureau[150], Annual Estimates of the Resident Population for Counties in Michigan, Vintage 2025. Methodology: 2024: Set to the official 5-year average (7,653,711); 2020–2023: back-calculated using a smooth upward trend consistent with the 5-year average; 2025 & 2026: Forward projection based on recent annual growth rates. Chart by Mark Vaeth.

The cleanup simultaneously reveals the original scale of the failure: 558,627 registrations were allowed to accumulate inactive for six or more years before any significant action. The Office of the Attorney General confirmed it would only perform informal follow-up on the 2022 Board of Elections audit; a full statistical sampling audit was stated to require until 2027 due to capacity constraints.

Michigan Average Monthly QVF Total — Same Month Comparison (2024 vs. 2026) with Projections

[149] Ibid.

[150] U.S. Census Bureau, 2020–2024 ACS 5-Year CVAP Special Tabulation.

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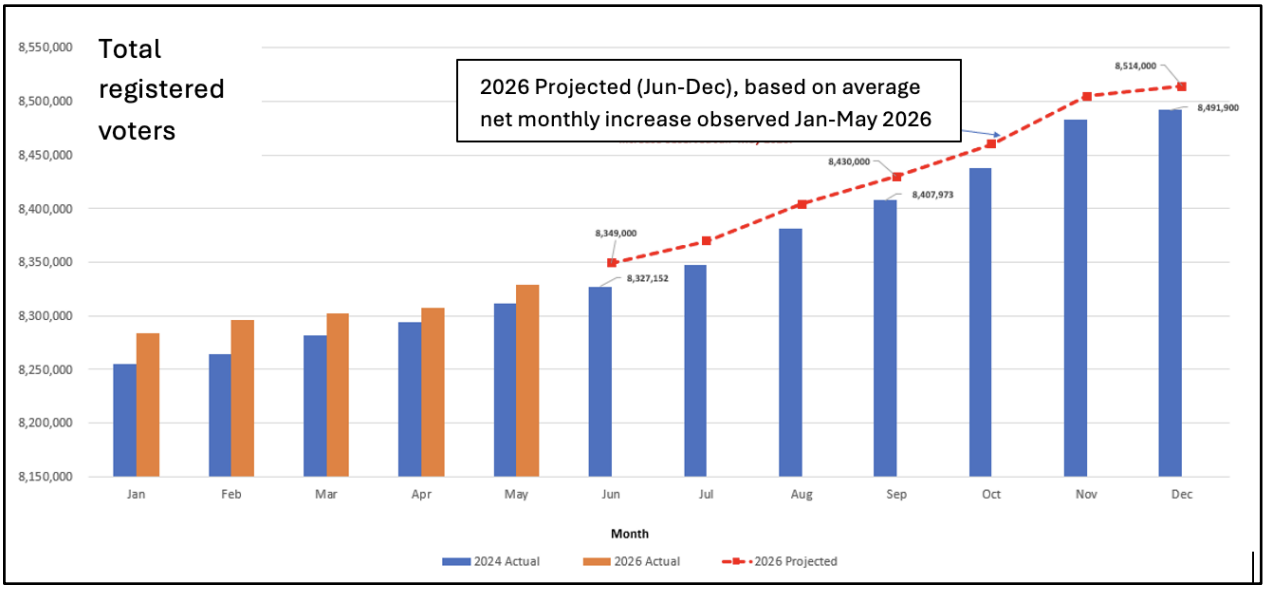


Figure 33: **Year-over-year comparison of average monthly QVF totals shows 2026 already exceeding 2024 levels despite cancellation activity**.

Projections based on the +21,800 average net monthly increase observed January–May 2026 indicate the upward trend will continue, meaning AVR-driven growth will likely widen the gap further. See Appendix F.

Source: Michigan SOS Voter Count Dashboard (https://mvic.sos.state.mi.us/VoterCount/Index). Chart and Analysis by Mark Vaeth, MFEI Analyst.[151]

The systemic failure reached a federal enforcement threshold on September 25, 2025, when the U.S. Department of Justice filed a lawsuit against Secretary Benson and the State of Michigan for failing to provide unredacted voter registration records, alleging violations of the Civil Rights Act, the NVRA, and HAVA. Separately, audits identified more than 25,000 deceased individuals remaining on Michigan voter rolls, prompting litigation that escalated to the U.S. Supreme Court as of November 2025. In November 2025, 21 Michigan Republican legislators formally requested that U.S. Attorney General Pam Bondi deploy federal election monitors for Michigan's 2026 elections.

L. East Lansing Case Study: University-Town List Maintenance Failure (2020)

Lights Out: Voter Roll Anomalies during the 2020 Election, East Lansing, Michigan[152] provides a granular municipal-level case study. East Lansing (13.5 sq. miles) is home to Michigan State University; MSU closed 19 of 27 dorms for the 2020–2021 academic year due to COVID-19.

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[151] Mark Vaeth, *MFEI Statistical Analysis of Michigan QVF*, May 2026. See Appendix F.

[152] Anne Hill, Bill Richardson, and Patrice Johnson, *Lights Out: Voter Roll Anomalies during the 2020 Election, East Lansing*, Pure Integrity Michigan Elections (PIME), May 14, 2022, pp. 2 – 3.

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Metric	Value
Total registered voters (November 2020 QVF)	25,545
Total anomalous registrations	9,077 (36%)
Total ineligible votes cast	1,935 (1,363 absentee + 572 in-person)
Ineligibility rate among anomalous registrants who voted	21%

Figure 34: Source: Hill, Richardson, Johnson, **Lights Out: Voter Roll Anomalies during the 2020 Election, East Lansing**, Pure Integrity Michigan Elections, May 14, 2022, pp. 2 – 3.

Category	Registrations	Votes Cast
Moved / no longer at QVF address	5,718	1,472 (1,043 absentee + 429 in-person)
Closed MSU dorms (19 of 27)	1,738	276 (174 absentee + 102 in-person)
Residence sold prior to Sept. 30, 2020	767	85
Fraternities/sororities/co-ops (Class 6 licensed)	526	50
Invalid addresses (demolished, non-existent streets)	165	47
Deceased (pre-Sept. 1, 2020)	58	5 absentee
Duplicate voter IDs (105 persons with 2+ IDs)	105+	Not separately tallied
TOTAL ANOMALOUS	9,077 (36%)	1,935 total votes

Figure 35: **Apparent ineligible registrations and votes cast.**

Source: Hill, Richardson, Johnson, Lights Out: Voter Roll Anomalies during the 2020 Election, East Lansing, Pure Integrity Michigan Elections, May 14, 2022, p. 2-3. Data from official state voter roll database QVF via FOIA, City of East Lansing Clerk's Office, received November 12, 2020.

Michigan Association of Municipal Clerks representative Clerk Chris Swope (Lansing City Clerk) testified before the Michigan Senate Election Committee on September 1, 2021: "There are other situations, such as University towns that end up pushing that limit, because every year

primarily a quarter of the kids move away, and so many of those we don't get them processed out."[153]



Figure 36: **College campuses vulnerable to inaccurate voter registrations**.

" …every year primarily a quarter of the kids move away, and so many of those we don't them get processed out," stated Chris Swope, Lansing City Clerk, before the Michigan Senate Elections Committee, Sept. 1, 2021, ~26:20 minutes.

The structural problem applies to every public-college town in Michigan, and approximately 537,083 students are enrolled in Michigan's colleges and universities.

M. The Noncitizen Registration Pipeline: Driver's Licenses, Social Security Numbers, and AVR without Citizenship Verification

Michigan law (MCL 168.492 and MCL 168.493a) conditions voter registration on U.S. citizenship. The question documented in this Section is whether Michigan's registration pathway, including automatic voter registration through driver's license transactions, verifies that condition before recording a registration in the QVF.

Neither a Michigan driver's license nor a Social Security Number constitutes proof of citizenship.

Michigan's own Department of State guidance establishes that a driver's license is available to "a foreign national who legally lives in the U.S." MDOS states that "legal presence" for a

[153] Chris Swope, Michigan Senate Election Committee, September 1, 2021. Video (Go to 14:25): https://imd0mxanj2.execute-api.us-west-2.amazonaws.com/ssr/watch/61f30784d48d55e44ec8dfd3

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driver's license is satisfied by being "either born in the U.S. or in a U.S. possession or territory, are a naturalized citizen or a foreign national who legally lives in the U.S."

Since a lawfully present non-citizen may obtain a Michigan driver's license and because Michigan's AVR system under PA 268 automatically registers individuals who interact with the SOS for driver's license transactions, a lawfully present non-citizen's driver's license interaction can trigger a QVF registration under current procedures.

A Social Security Number is similarly insufficient as a citizenship proxy. Since April 1, 2024, U.S. Citizenship and Immigration Services has allowed naturalization applicants to request an SSN or replacement SSA card when submitting Form N-400 without visiting an SSA field office and without producing documentation as evidence of citizenship status. The practical effect is that an SSN can now be obtained entirely through an online process without in-person identity verification of citizenship. Michigan's voter registration pathway requires either a Michigan driver's license/ID number or the last four digits of a Social Security Number. The USCIS change, effective April 1, 2024, removes the in-person verification that had previously distinguished SSN issuance from other registration inputs.[154]

For applicants who have neither a driver's license nor an SSN, MCL 24.245a(4) provides a third pathway: registration by affidavit alone using only a utility bill, bank statement, or government document as address verification. No citizenship verification applies to this pathway; attestation alone is sufficient.

The combined effect of these three pathways is that Michigan's voter registration system does not systematically verify citizenship at any stage. The system relies entirely on the applicant's attestation of eligibility.

N. The Haoxiang Gao Case (2024) — Attestation without Verification

The structural vulnerability was documented in a specific Michigan case. Haoxiang Gao, a Chinese national lawfully present on a student visa at the University of Michigan, registered to vote and cast a ballot in Ann Arbor during the October 2024 early voting period. His registration passed Michigan's normal eligibility checks. His ballot was accepted and tabulated. The ineligibility came to light only because Gao voluntarily disclosed it to election officials after voting. When he attempted to have his ballot removed, he was told it could not be retrieved. Gao was subsequently charged with election-related offenses.[155]

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[154] USCIS, "New Citizens Will Be Able to Seamlessly Request Social Security Updates," Mar. 28, 2024; Patrice Johnson, "ALERT: SSA Changes Citizenship Verification Process," MFEI, Apr. 4, 2024, mifairelections.org.

[155] Michigan AG press releases (2025–2026), michigan.gov/ag; Bridge Michigan, "Bench warrant issued," May 15, 2025.

A Michigan Attorney General review subsequently identified 14 additional suspected noncitizen voters in the 2024 election. All passed through the same registration and voting verification system.[156]

O. Federal Criminal Framework: 8 U.S.C. § 1373(c) and 1644

Federal law requires the federal government to respond to state and local agencies seeking to verify citizenship or immigration status. 8 U.S.C. § 1373(c) mandates such responses; 8 U.S.C. § 1644 prohibits restricting states from sending or receiving immigration status information from federal authorities. In October 2024, Texas, Florida, and Ohio each filed federal lawsuits alleging the Biden-Harris administration was refusing to respond to state requests for citizenship verification data for potentially ineligible registrants, in violation of these provisions. Michigan did not file a comparable suit.[157]

P. The Driver's License-to-Ballot Pipeline under PA 268

Public Act 268 of 2023 established automatic voter registration through driver's license and state ID transactions. Under PA 268, an individual who interacts with the SOS in connection with a driver's license transaction is automatically registered to vote unless they affirmatively opt out. The citizenship eligibility requirement depends entirely on the applicant's attestation at the time of the transaction. The attestation establishing "legal presence" for a driver's license is not the same as attestation of U.S. citizenship required for voter registration, but both are processed through the same system with no independent citizenship check interposed before the QVF registration entry.

The federal criminal statutes applicable to this pipeline — 52 U.S.C. § 10307(c) (false information in registering), 18 U.S.C. § 911 and 1015(f) (false claims of citizenship), and 18 U.S.C. § 611 (voting by aliens) — are addressed in Section II.A. See Section IV.H for documentation that the Bureau of Elections removed the clerk-level citizenship verification requirement from official training guidance between 2019 and 2024.

Q. DOJ Manual Framework

The federal criminal framework applicable to this Count is set forth in the DOJ Election Crimes Branch publication Federal Prosecution of Election Offenses (8th edition, December 2017), which identifies two predicate questions for federal prosecution: (1) whether the defendant's objective was to corrupt the process by which voters were registered, or by which

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[156] Bridge Michigan, 15 noncitizens suspected of voting, April 3, 2025.

[157] Margo Javelov and Patrice Johnson, "Can Foreigners Vote in U.S. Elections? (Part 1)," MFEI, Oct. 29, 2024.

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ballots were obtained, cast, or counted; and (2) whether the conduct is cognizable under applicable federal criminal statutes in an election that included a federal candidate. Both criteria are met here. Michigan's 2020, 2022, and 2024 general elections each included federal candidates.

The conduct documented in this Count, including post-certification alteration of vote history records, duplicate ballots both counted, noncitizen registration without verification, and systematic removal of citizenship verification from clerk training, implicates 52 U.S.C. §10307(c), 10307(e), 20511(2), and 20701–20702; and 18 U.S.C. § 241, 242, 611, 911, and 1015(f), as analyzed in the DOJ manual (pp. 10, 33–65, 75–80). No Pocket Part to the 8th edition has been posted as of June 2, 2026.

R. GVSU Student Registration and the HAVA Administrative Complaint

Grand Valley State University is a Michigan public university and state governmental institution. In January 2024, MFEI and Jeffery Schaeper filed a verified HAVA administrative complaint with the Michigan Bureau of Elections concerning GVSU-sponsored student voter-registration and get-out-the-vote activities.

The complaint alleged that GVSU's activities raised two distinct HAVA questions. First, it alleged that public resources associated with HAVA-funded election administration may have been used for voter-registration or GOTV purposes contrary to EAC Advisory Opinion FAO-08-005. Second, it alleged that GVSU's participation in student-voting data programs, including Tufts University's National Study of Learning, Voting, and Engagement, created or relied upon voter-related data processes outside the Secretary of State-administered QVF, raising questions under 52 U.S.C. § 21083.

The Michigan Bureau of Elections dismissed the complaint without a hearing, concluding that GVSU was not an "election authority" subject to Michigan's HAVA administrative-complaint process. The dismissal was therefore jurisdictional or threshold-based: it did not determine whether HAVA funds had been used, whether the challenged activities complied with EAC funding guidance, or whether the third-party data arrangements affected the administration of Michigan's centralized voter-registration system.

MFEI subsequently cited the GVSU dismissal in its amicus brief in Wisconsin Voter Alliance v. Millis as an example of the practical difficulty organizations may face in obtaining merits review of HAVA compliance allegations. That citation establishes the complaint's relevance to the broader enforcement question; it does not convert its unadjudicated allegations into established violations.

IV. Rule Set 2025-13: The Regulatory Response To Voter Roll Anomalies

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Rule Set 2025-13 (R 168.251 through R 168.258)[158] is Secretary of State Benson's administrative regulatory framework governing voter registration list maintenance by local clerks. The Rule Set was promulgated following public advocacy highlighting potential federal voter-registration compliance issues. Rather than addressing those anomalies directly, Rule Set 2025-13 creates new procedural barriers to citizen participation in list maintenance while centralizing cancellation authority in MDOS. The Rule Set's RIS template language "codifies current practice" confirms these practices were operating before promulgation.

A. R 168.252 — Discretionary Clerk Investigation and the 20-Year Inactivity Standard

Rule R 168.252 designates clerk investigation of potentially ineligible registrations as optional rather than mandatory. It also enumerates 20 years of inactivity as meeting the definition of reliable information that may trigger a list maintenance action.

D. NVRA Conflict (§ 20507(a)(4)): Making clerk investigation optional conflicts with the federal mandate to make a reasonable effort to remove ineligible voters.

E. NVRA Conflict (§ 20507(c)(2)(A)): The NVRA envisions the notice-and-removal process beginning within approximately four years of inactivity. Setting the reliable information standard at 20 years permits systematic non-action for five times the federally contemplated period.

Rule R 168.252(3) classifies online data as unreliable information. However, the databases tracking Michigan's Qualified Voter File obtain their voter data through monthly FOIA requests directly from the Secretary of State's office. So, the Secretary of State has classified her own voter file data, provided via FOIA from her own office, as unreliable for list maintenance purposes. Either Michigan's official voter file is unreliable (implicating HAVA § 21083), or the unreliability classification is an administrative determination designed to insulate ineligible registrations from citizen challenge.

B. R 168.256(4) — Categorical Exclusion of Address Information (Most Litigation-Ripe Provision)

Rule R 168.256(4) categorically excludes from the definition of "personal knowledge" reliable information that a voter has moved or other third-hand information for purposes of satisfying MCL 168.512's challenge standard. MCL 168.512 does not define personal knowledge. MDOS has supplied a substantive categorical exclusion by rule without express or necessarily implied statutory delegation. Excluding address-change information from personal knowledge directly undermines the utility of the challenge process for the most common category of ineligible

[158] Rule Set 2025-13 (R 168.251–168.258) (LARA Trans. No. 1586).

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registration: voters who have moved. Under *Rovas v. Secretary of State*[159] and *Luttrell v. Dept. of Corrections*[160], a rule that supplies a substantive legal standard the statute does not contain is ultra vires unless necessarily implied by the statute. A categorical exclusion of third-party address information is not necessarily implied by a statute silent on personal knowledge.

C. R 168.256(2)(b) — Notarized Affidavit Burden

Rule R 168.256(2)(b) imposes a personal-knowledge requirement on voter registration challenges under MCL 168.512. Combined with notarization requirements, this imposes an estimated cost of $1,500 or more per 100-voter challenge, effectively pricing ordinary citizens out of the list maintenance process. MCL 168.512 does not impose a personal-knowledge standard; MDOS has supplied this evidentiary threshold by rule without statutory authorization.

D. R 168.254(4) and R 168.255(3) — Centralization of Cancellation Authority

These provisions seat the act of cancellation with the Secretary of State rather than with the locally elected clerk, displacing a function that the Legislature assigned to constitutionally independent officers under Michigan Constitution Art. VII. If MDOS controls the cancellation act, MDOS effectively controls whether excess registrations identified by citizen challengers or clerk investigation are removed from the rolls.

E. R 168.257(2)–(3) — Conversion of Challenge Pathway

These provisions convert the challenge-based cancellation pathway in MCL 168.512 into a notice-and-waiting-period pathway by administrative rule, without statutory authorization. MCL 168.512 does not prescribe this notice-and-waiting framework.

F. R 168.258 — Restrictive Deceased-Voter Cancellation Standard

Rule R 168.258 restricts clerks to five MDOS-enumerated source types for deceased-voter cancellations. MCL 168.509aa and related provisions do not restrict clerks to enumerated source types. The restriction directly impedes removal of deceased registrants: the most clearly ineligible and easiest-to-confirm category of ineligible registrations.

G. The MCL 24.245a(4) Inversion

The combined effect of Rule Set 2025-13's provisions creates a structural asymmetry: it is procedurally easier to create a voter registration than to challenge one. A new registration may be created based on applicant-supplied information subject to ministerial verification. A citizen

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[159] In re Complaint of Rovas.

[160] Luttrell v. Dep't of Corrections, 421 Mich. 93 (1984).

challenger must meet a personal-knowledge standard the statute does not impose; third-party address information is categorically excluded; a notarized affidavit costs $1,500+ per 100 voters; the SOS's own voter file data is classified as unreliable; the cancellation act is controlled by MDOS; and a mandatory notice-and-waiting period is interposed. This Inversion is most acute where citizen oversight under MCL 168.512 serves as the primary check on registration accuracy.

H. The Clerk Training Manual Inversion (2019→2024)

Rule Set 2025-13's structural barriers to citizen challenges and list maintenance are reinforced by a parallel change in MDOS's official clerk training guidance. As documented by Representative Smit's March 16, 2026, letter to Secretary Benson, the Bureau of Elections removed citizenship verification from its clerk training standard between 2019 and 2024: the 2019 manual required clerks to verify citizenship and withhold ballots if citizenship could not be confirmed; the 2024 manual directed clerks not to confirm citizenship and to issue ballots regardless. The combined effect of Rule Set 2025-13 and the revised clerk training guidance is that the AVR system now registers voters without pre-transaction citizenship verification, the post-registration challenge process has been made procedurally burdensome under RS 2025-13, and clerks have been affirmatively instructed not to perform the citizenship check that MCL 168.493a's eligibility criteria presuppose. This convergence across multiple official MDOS outputs is documented in the legislative record. See Established Fact 3-A-12.

> Cross-reference — Count 2 (Unauthorized Guidance): The 2024 BOE manual change directing clerks not to confirm citizenship is Count 2 material: substantive guidance that conflicts with MCL 168.493a's citizenship prerequisite, issued without statutory authorization or rulemaking.
>
> Cross-reference — Count 8 (Clerk Training Manual Violations): The 2024 citizenship guidance change converges with Avallone's September 2022 findings that BOE clerk training manuals contained unlawful signature verification instructions. Together they document a pattern of MDOS clerk training guidance diverging from statutory requirements across independent dimensions.
>
> Cross-reference — Count 1 (Executive Overreach): Unilateral removal of citizenship verification from official clerk training, a substantive policy change made by administrative guidance without statute or rulemaking, is Count 1 under the five-step ultra vires test.

§V. Legal Argument

Based on the evidentiary record in Sections I through III, MFEI advances the following as Legal Argument, theories the Institute submits for review, not judicial findings or settled conclusions.

Each identifies conduct that appears to raise significant legal questions. All characterizations are made pursuant to MFEI's 501(c)(3) nonpartisan analytical mission.

A. NVRA Apparent Violations — Rule R 168.252

Rule R 168.252's optional-investigation designation appears to conflict with 52 U.S.C. § 20507(a)(4)'s affirmative reasonable effort mandate. The 20-year inactivity standard appears to conflict with § 20507(c)(2)(A)'s four-year threshold. The 558,627 registrations inactive since 2019, of which 213,364 were removed only after sustained MFEI advocacy, document the scale of inaction during the period when RS 2025-13 was operative. See Legal Argument 3-C-1.

B. HAVA Apparent Violations — QVF Accuracy and Unique Identifiers

The statistical anomalies (104,137 excess ballots over voters in 2020, approximately 800,000 potentially ineligible registrations, 82,467 voter IDs linked to 125,428 potential duplicates, and a 27.60% exception rate in sampled long-inactive registrations) raise significant questions about whether Michigan's QVF satisfies HAVA § 21083(a)(4)'s accuracy requirement and the unique-identifier mandate of § 21083(a)(1)(A)(ix).

HAVA delegation and preemption violations arising from the SOS-ERIC contract are addressed in Count 4. See Legal Argument 3-C-2.

C. Apparent Ultra Vires Rulemaking — Rule Set 2025-13

Multiple RS 2025-13 provisions appear to supply substantive legal standards without statutory authorization, in apparent conflict with *Rovas* and *Luttrell*:

F. R 168.256(4)[161]: Categorically excludes third-party address information from undefined personal knowledge standard in MCL 168.512: most litigation-ripe provision.

G. R 168.252(3)[162]: Excludes online name/DOB databases from the definition of "reliable information" for list maintenance purposes, a classification that raises an unresolved evidentiary question when the underlying data source is the Secretary of State's own official voter file obtained through monthly FOIA productions.

H. R 168.254(4) / R 168.255(3)[163]: Seats cancellation act with SOS, displacing constitutionally independent local clerks under Michigan Constitution Art. VII.

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[161] R 168.256(4), Rule Set 2025-13 ST.

[162] R 168.252(3), Rule Set 2025-13 ST.

[163] R 168.254(4)/R 168.255(3), Rule Set 2025-13 ST.

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I. R 168.257(2)–(3)[164]: Converts challenge-based pathway to notice-and-waiting pathway without statutory authority in MCL 168.512.

J. R 168.258[165]: Restricts deceased-voter cancellations to five MDOS-enumerated sources without foundation in MCL 168.509aa. See Legal Argument 3-C-3.

D. Apparent MCL 168.932 Violation — Post-Certification Vote History Manipulation

When Vote Totals Don't Match (MFEI, December 2024)[166] documents that the Bureau of Elections has adopted a random assignment algorithm that has produced 769,091 post-certification vote history location changes since the 2020 election. MCL 168.932, which prohibits falsifying vote history records, appears potentially implicated. Post-certification modification also appears to violate the 22-month federal record retention mandate of 52 U.S.C. § 20701. Primary analysis in Count 12.

E. Apparent Structural Inversion — MCL 24.245a(4)

The combined effect of RS 2025-13's substantive limitations on citizen challenges and clerk investigation, compared to the comparatively low threshold for creating a voter registration under MCL 24.245a(4), creates a structural asymmetry that appears to conflict with the Legislature's intent in MCL 168.512. See Legal Argument 3-C-5.

F. Apparent Violation of 52 U.S.C. § 10307(e) — Voting More than Once

The 26 confirmed duplicate ballot pairs identified in the December 1, 2021, QVF restoration and documented in Established Fact 3-A-10, each consisting of one absentee ballot and one in-person ballot for the same voter ID, both counted in the November 3, 2020, certified results, raise potential violations of 52 U.S.C. § 10307(e), which prohibits voting more than once in any election in which a federal candidate is on the ballot.

The November 3, 2020, general election included federal candidates. The statute applies to schemes to cast ballots attributed to voters who did not participate in the act, including absentee ballot fraud schemes. Secretary Benson and BOE Director Brater were formally notified of this evidence on December 12, 2021 (Email ID #ELE00706093, Established Fact 3-A-11). The DOJ's Federal Prosecution of Election Offenses (8th ed., 2017) identifies § 10307(e) as applicable to schemes involving absentee ballots cast without the voter's participation or consent (pp. 46–50).

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[164] R 168.257(2)–(3), Rule Set 2025-13 ST.

[165] R 168.258, Rule Set 2025-13 ST.

[166] When Vote Totals Don't Match.

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§VI. Evidentiary Record

The factual and statistical record supporting the findings in §VII is presented above in §III (Factual and Procedural Background), including MFEI's original data analyses, FOIA productions, and the third-party and governmental sources cited throughout that section.

§VII. Findings

A. Established Facts

Established Fact 3-A-1

MFEI's DEEP Team analysis of official SOS QVF data identified 104,137 more counted ballots than recorded voters in the 2020 general election and 70,713 more in 2022. Three independent MFEI documents confirm the 2020 figure: *MFEI Investigation of Michigan Elections* (September 2025)[167]; EAC OIG Request Section I.A (January 2024)[168]; MFEI RS 2025-13 rulemaking submissions. Michigan has never reconciled these discrepancies.

Established Fact 3-A-2

MFEI's September 2025 report identified 558,627 long-inactive voter registrations (inactive since 2019); a 27.60% exception rate (149,657 scaled) in the sampled universe of 542,121; 173,399 scaled indeterminate residency cases; 73.44% of sampled registrations either never voted or last voted in 2009 or earlier; and 7,739 registrations carrying a January 1, 1900 date (6,063 in Wayne County-Detroit). Source: MFEI *Ensuring Electoral Integrity: Michigan's Voter Roll Maintenance* (September 2025)[169].

Established Fact 3-A-3

MFEI's analysis identified 82,467 voter identification numbers linked to 125,428 distinct registration records in October 2024, later characterized by MDOS as a glitch and removed

[167] Davey and Johnson, MFEI Investigation of Michigan Elections.

[168] EAC OIG Request, Sec. I.A.

[169] Ensuring Electoral Integrity: Michigan's Voter Roll Maintenance, Sept. 2025.

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without investigation. HAVA § 21083(a)(1)(A)(ix) requires a unique identifier per legally registered voter. Source: *MFEI Investigation of Michigan Elections* (September 2025)[170], Section 3; MFEI DEEP Team data analysis.

Established Fact 3-A-4

Rule R 168.252(3) classifies internet-sourced data as unreliable information for voter registration list maintenance purposes. MFEI obtains its voter file data through monthly FOIA requests fulfilled by the Secretary of State's office, making the SOS's own official voter data the underlying source of the classified-unreliable information. Source: Rule Set 2025-13, R 168.252(3)[171]; MFEI Synthesis Memorandum (May 13, 2026), Section 4.1.

Established Fact 3-A-5

MFEI's April 2026 FOIA comparison documented a 38.2% reduction in long-inactive registrations: from 558,627 to 345,263, a net reduction of 213,364. Of sampled pre-2010 registrations, 87.8% (122 of 139) were addressed through removal, re-coding to Challenged/Verify (CH/V) status, or reactivation.

As of May 19, 2026, the QVF stands at 8,331,635, 108.9% of CVAP. Sources: Mark Vaeth, MFEI Statistical Analysis of Michigan QVF, April 2026 FOIA Update[172]; U.S. Census Bureau CVAP[173]; Michigan SOS Voter Count Dashboard.

Established Fact 3-A-6

The Michigan Bureau of Elections, according to analysis by Frederick Woodward/MFEI, adopted a random assignment algorithm that produced 769,091 post-certification vote history location changes since the 2020 election. BOE Director Jonathan Brater had previously represented in a memo that the location-change issue was 'resolved in 2019.' Across 50+

[170] Davey and Johnson, MFEI Investigation of Michigan Elections.

[171] R 168.252(3), Rule Set 2025-13 ST; Synthesis Memo, Sec. 4.1 (C3-09, C3-10).

[172] Vaeth April 2026.

[173] U.S. Census Bureau CVAP.

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responding counties, 92% showed mismatches between SOVC data and official Election *When Vote Totals Don't Match* (Woodward/MFEI, December 2024)[174], Figure 3; EAC OIG Request (January 2024)[175], Figure 31, p. 59.

Established Fact 3-A-7

In Oakland County, 476 absentee ballots were sent to registrants in Challenged (CH) or Verify (V) status in 2024, with 56 voting. A 2024 QVF algorithm change automatically included CH/V registrants in absentee ballot mailing label printing. MCL 168.509aa prohibits ballots to CH/V registrants. Source: Michigan QVF, December 2024; Tim Vetter, MFEI DEEP Team, August 2025; *MFEI Investigation of Michigan Elections* (September 2025)[176], Section 7.

Established Fact 3-A-8

Lights Out (PIME/Hill, Richardson & Johnson, May 2022)[177] identified 9,077 anomalous registrations in East Lansing's November 2020 QVF (36% of 25,545 registered voters), of which 1,935 ineligible votes were cast (1,363 absentee + 572 in-person), representing 21% of ineligible registered voters. Data from QVF FOIA, City of East Lansing Clerk's Office, received November 12, 2020.

Established Fact 3-A-9

The U.S. Department of Justice filed a lawsuit against Secretary Benson and the State of Michigan on September 25, 2025, for failing to provide unredacted voter registration records, alleging violations of the Civil Rights Act, NVRA, and HAVA, implying the federal government's own determination that Michigan's election administration has failed to meet its voter registration record-keeping and transparency obligations.

Established Fact 3-A-10

[174] When Vote Totals Don't Match.

[175] EAC OIG Request (Jan. 2024).

[176] Davey and Johnson, MFEI Investigation of Michigan Elections.

[177] Hill et al, Lights Out.

Analysis of the December 1, 2021, QVF FOIA dataset (the restored dataset produced following Senator Ruth Johnson's office interceding with MDOS) identified 26 confirmed duplicate cast ballot pairs in the November 3, 2020, general election. Each pair consists of one absentee ballot (AV=Y) and one in-person ballot (AV=N) recorded under the same Voter ID for the same election. Both ballots in each pair were counted in the certified election results.

The 26 pairs span 6 Michigan counties and 10 jurisdictions: Detroit City (Wayne County, 17 pairs); Clinton Township (Macomb, 1 pair); Eastpointe City (Macomb, 1 pair); Gibraltar City (Wayne, 1 pair); Harper Woods City (Wayne, 1 pair); Lansing City (Ingham, 1 pair); Oak Park City (Oakland, 1 pair); Plainfield Township (Kent, 1 pair); Rochester Hills City (Oakland, 1 pair); and Scio Township (Washtenaw, 1 pair).

The underlying machine-readable dataset (HistoryDup20211201.csv on file with MFEI) documents 97 total duplicate ballot pairs across 15 elections from 2012 through 2021, indicating a pattern not limited to the November 2020 general election. The November 2020 pairs were invisible in the January 1, 2021, QVF because the vote histories underlying them had been deleted; they surfaced only upon restoration of the deleted records in the December 1, 2021, QVF. Avallone noted that both ballots were counted in the certified results and that it was reasonable to assume that the nearly 100,000 additional deleted-and-unrestored voting history records might yield similar findings if fully examined.[178]

Established Fact 3-A-11

On December 12, 2021, on behalf of PIME, Louis Avallone formally notified Secretary of State Jocelyn Benson and Michigan Bureau of Elections Director Jonathan Brater of: (1) the deletion of more than one million voter history records from the QVF; (2) the 26 confirmed duplicate ballot pairs (absentee + in-person, same voter ID, both counted) surfaced by the December 1, 2021 restored QVF; (3) the discrepancy between the SOS official 2020 vote total (5.56 million) and the restored December 2021 QVF count (5.46 million voting history records); and (4) the potential implications of approximately 100,000 additional deleted-and-unrestored voting history records.

The notification was submitted via contactsos.michigan.gov and received a system confirmation assigned Email ID #ELE00706093. Avallone copied Senator Ruth Johnson, Senate Elections Committee Chair; Representative Ann Bollin, House Election and Ethics Committee Chair; Representative Matt Maddock, Holly Brandt, Patrice Johnson, and Joanne

[178] Louis Avallone, 20-page Letter to Lawmakers Requesting Reform of Election Manual Guidelines (December 2021). Email ID #ELE00706093; HistoryDup20211201.csv (MFEI evidentiary record); Patrice Johnson, "Citizen Analyst Uncovers Illegal Deletions of Voter History Records," PIME (Dec. 14, 2021).

Bakale. Senator Ruth Johnson's Chief of Staff Garrett Wheat confirmed on December 7, 2021, that the Senator's office had contacted the SOS about the missing voter histories. The SOS responded with characterizations that the deletion was a "technical issue, not done on purpose."

No public adjudication of the substantive allegations in Avallone's December 12, 2021, notification, including the 26 confirmed duplicate ballot pairs, has been documented in MFEI's evidentiary record. Avallone subsequently submitted two additional formal letters to SOS Benson and BOE Director Brater on September 2, 2022, addressing unlawful absentee ballot signature verification procedures and unlawful absentee ballot stub processing procedures, and a comprehensive summary letter on September 6, 2022, identifying seven categories of election manual deficiencies copied to the Board of State Canvassers and eight legislators. None received a substantive response. Avallone expressly stated in each submission that a lack of response would be interpreted as agreement that his analysis was not misinformation.[179]

Established Fact 3-A-12

In a March 16, 2026, letter (Appendix B) to Secretary Benson sent on MDOS letterhead in her official capacity, Representative Rachelle Smit, Chair of the Michigan House Election Integrity Committee, documented a reversal in the Bureau of Elections' official clerk training guidance on citizenship verification. The 2019 BOE clerk training manual directed clerks to verify voter citizenship before issuing a ballot; if citizenship could not be confirmed, the clerk was directed not to issue the ballot. The 2024 elections manual reversed this standard: clerks were directed not to confirm citizenship and to permit a voter to receive a ballot even if citizenship status had not been verbally confirmed. Representative Smit characterized this as "a highly problematic change in policy that allows eligibility to vote based off an individual's self-attestation rather than an election official's unbiased verification."

Secretary Benson acknowledged noncitizen voting as "a serious issue, one we must address" in her April 3, 2025, media release. Representative Smit's letter demanded a written response within seven business days. No public response from Secretary Benson has been documented in MFEI's evidentiary record. MDOS has separately, publicly opposed HB 4765, legislation before the House Election Integrity Committee that would require citizenship verification for

[179] Avallone, 20-page Letter to Lawmakers Requesting Reform of Election Manual Guidelines and Johnson ("Citizen Analyst Uncovers Illegal Deletions of Voter History Records."

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voter registration, making it the department that removed citizenship verification from clerk training and opposes its legislative restoration.[180]

Established Fact 3-A-13

Michigan's voter registration pathways do not systematically verify citizenship before recording a registration in the QVF. Three independent pathways document the structural gap:

First, a Michigan driver's license, one of the two primary registration credentials under MCL 168.492, is available to lawfully present non-citizens. MDOS's own guidance confirms that "legal presence" for a driver's license is satisfied by being "a foreign national who legally lives in the U.S." A driver's license transaction triggers automatic voter registration under PA 268. No citizenship verification is interposed between the transaction and the QVF registration entry.

Second, a Social Security Number, the alternative registration credential, can be obtained without in-person identity verification of citizenship since April 1, 2024, when USCIS announced that naturalization applicants may request an SSN through Form N-400 without visiting an SSA field office or producing citizenship documentation.

Third, MCL 24.245a(4) permits registration by affidavit alone, no driver's license or SSN required — using only a utility bill, bank statement, or government document. No citizenship verification applies to this pathway.

The practical consequences are documented. In 2024, Haoxiang Gao, a Chinese national on a student visa at the University of Michigan, registered to vote and cast a ballot in Ann Arbor. His registration passed Michigan's normal eligibility verification. His ballot was accepted and tabulated. His ineligibility came to light only through Gao's voluntary self-disclosure after voting. A Michigan Attorney General review subsequently identified 14 additional suspected noncitizen voters in the 2024 election.

Established Fact 3-A-14

In January 2024, Michigan Fair Elections Institute and Jeffery Schaeper filed a verified

[180] Representative Rachelle Smit, Chair, Michigan House Election Integrity Committee, letter to SOS Jocelyn Benson, Mar. 16, 2026, (Appendix B of this report).

HAVA administrative complaint concerning Grand Valley State University's government-sponsored student voter-registration and get-out-the-vote activities and its participation in third-party student-voting data programs. The Michigan Bureau of Elections dismissed the complaint without a hearing after determining that GVSU was not an "election authority" subject to Michigan's HAVA complaint process. The dismissal did not adjudicate whether HAVA funds were used, whether the activities complied with EAC Advisory Opinion FAO-08-005, or whether the challenged data arrangements complied with 52 U.S.C. § 21083. MFEI later cited the dismissal in its amicus brief in Wisconsin Voter Alliance v. Millis. Source: MFEI/Schaeper HAVA Complaint against GVSU (Jan. 10, 2024); Michigan Bureau of Elections dismissal; EAC Advisory Opinion FAO-08-005 (Appendix R); MFEI amicus brief, Wisconsin Voter Alliance v. Millis, No. 25-1288.

B. Judicial Findings

Judicial Finding 3-B-1

In *Husted v. A. Philip Randolph Institute*, 138 S. Ct. 1833 (2018), the U.S. Supreme Court upheld Ohio's voter list maintenance process under the NVRA, holding that a state may remove a registrant from the rolls where the state sends a forwardable notice after two years of non-voting and the registrant then fails to respond and fails to vote in the two subsequent federal general elections. Michigan permits registrations inactive since 2019 to remain on the rolls for six or more years without initiating this notice-and-response process. See Legal Argument 3-C-1.

C. Legal Argument

Legal Argument 3-C-1

Rule R 168.252's designation of clerk investigation as optional appears to conflict with 52 U.S.C. § 20507(a)(4)'s affirmative reasonable-effort mandate, and its 20-year inactivity standard appears to conflict with § 20507(c)(2)(A)'s four-year threshold. The 558,627 registrations inactive since 2019, of which 213,364 were removed only after sustained MFEI advocacy, document the scale of inaction during the period Rule Set 2025-13 was operative. See Judicial Finding 3-B-1.

Legal Argument 3-C-2

The statistical anomalies documented in this Count, 104,137 excess ballots over voters in 2020, approximately 800,000 potentially ineligible registrations, 82,467 voter IDs linked to 125,428 potential duplicates, and a 27.60% exception rate in sampled long-inactive registrations, raise significant questions as to whether Michigan's QVF satisfies HAVA § 21083(a)(4)'s accuracy requirement and the unique-identifier mandate of § 21083(a)(1)(A)(ix). HAVA delegation and preemption issues arising from the SOS-ERIC contract are addressed separately in Count 4.

Legal Argument 3-C-3

Multiple Rule Set 2025-13 provisions appear to supply substantive legal standards without statutory authorization, in apparent conflict with *Rovas v. Secretary of State* and *Luttrell v. Dept. of Corrections*: R 168.256(4)'s categorical exclusion of third-party address information from the undefined personal-knowledge standard in MCL 168.512; R 168.252(3)'s exclusion of the Secretary of State's own FOIA-sourced voter data from the definition of reliable information; R 168.254(4)/255(3)'s transfer of the cancellation act to the Secretary of State, displacing constitutionally independent local clerks under Michigan Constitution Art. VII; R 168.257(2)–(3)'s conversion of the statutory challenge pathway to a notice-and-waiting pathway; and R 168.258's restriction of deceased-voter cancellations to five MDOS-enumerated sources without foundation in MCL 168.509aa.

Legal Argument 3-C-4

The Bureau of Elections' random assignment algorithm, which produced 769,091 post-certification vote history location changes since the 2020 election, appears to potentially implicate MCL 168.932's prohibition on falsifying vote history records and the 22-month federal record retention mandate of 52 U.S.C. § 20701. Primary analysis is presented in Count 12.

Legal Argument 3-C-5

The combined effect of Rule Set 2025-13's substantive limitations on citizen challenges and clerk investigation, compared to the comparatively low threshold for creating a voter registration under MCL 24.245a(4), creates a structural asymmetry that appears to conflict with the Legislature's intent in MCL 168.512: it is procedurally easier to create a registration than to challenge one.

Legal Argument 3-C-6

The 26 confirmed duplicate ballot pairs identified in the December 1, 2021, QVF restoration and documented in Established Fact 3-A-10, each consisting of one absentee ballot and one in-person ballot for the same voter ID, both counted in the November 3, 2020, certified results, an election that included federal candidates, raise potential violations of 52 U.S.C. § 10307(e), which prohibits voting more than once in an election in which a federal candidate is on the ballot. Secretary Benson and BOE Director Brater were formally notified of this evidence on December 12, 2021 (Established Fact 3-A-11).

Legal Argument 3-C-7

The GVSU administrative record presents two legally distinct HAVA questions that require factual development. First, if HAVA payments, HAVA-funded personnel, or HAVA-funded election infrastructure supported university-sponsored voter-registration or GOTV activities, those expenditures may conflict with EAC Advisory Opinion FAO-08-005 (Appendix R). Second, if election-related student data were transmitted to or processed through outside organizations in a manner that supplemented, modified, or operated apart from Michigan's official QVF, the arrangement may implicate the statewide-list requirements of 52 U.S.C. § 21083. The Bureau of Elections' threshold dismissal did not resolve either question. Section 21084 should be treated as a minimum-requirements provision, not as a standalone prohibition on university voter-registration activity.

D. MFEI Conclusion

MFEI Conclusion 3-D-1

The Paradox: The SOS's classification of her own FOIA-sourced voter data as unreliable for list maintenance purposes raises a necessary inference: either Michigan's official voter file is unreliable (implicating HAVA § 21083 accuracy requirements), or the unreliability classification is an administrative determination designed to insulate ineligible registrations from citizen challenge. No third explanation consistent with the documented facts is apparent from the regulatory record.

MFEI Conclusion 3-D-2

The 213,364-registration reduction documented in the April 2026 FOIA comparison,

concentrated in the pre-2010 cohort MFEI targeted, establishes that the prior accumulation of 558,627 long-inactive registrations was not the result of unavoidable administrative constraints. It was the result of a failure to initiate the federally prescribed notice-and-removal process within the NVRA's four-year framework. The scale and concentration of the cleanup necessarily implies that prior inaction was not routine compliance.

MFEI Conclusion 3-D-3

Rule Set 2025-13's combined effect, optional clerk investigation, 20-year inactivity standard, classification of SOS-sourced data as unreliable, categorical exclusion of address information from personal knowledge, centralization of cancellation authority in MDOS, and notice-and-waiting period conversion, creates a regulatory framework structurally less effective at removing ineligible registrations than the statutory framework it purports to implement. The inference that this framework was designed to protect excess registrations from citizen correction is raised by the systematic nature and convergent direction of the barriers created. See: Rule Set 2025-13[181]; MFEI Synthesis Memorandum (May 13, 2026), Section 4.1.

MFEI Conclusion 3-D-4

Whether the post-certification vote history manipulations (769,091 location changes since November 2020) constitute willful alteration of federally required election records under 52 U.S.C. § 20702 or falsification of vote history records under MCL 168.932 will be established through production of original, unmodified QVF monthly snapshots, QVF system audit logs, and examination of the BOE's authorization and documentation for this process. The framework is confirmed; the legal characterization is pending production of records.

MFEI Conclusion 3-D-5

The timing of the registration reductions documented in Established Fact 3-A-5 coincides with the Chair's letters to Rep. Rachelle Smit, House Oversight Committee hearings addressing QVF maintenance, and FY26 budget appropriations language on QVF list maintenance. MFEI's own public analysis of this timing states that the pattern strongly suggests sustained public pressure accelerated the Bureau's cleanup activity, while stopping short of asserting proof of causation. Source: MFEI, "Michigan Voter Rolls Shed 213,000 Ghost Registrations

[181] Rule Set 2025-13 ST.

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After Citizen Advocacy Campaign" (mifairelections.org, May 2026). This is MFEI's inference from the temporal correlation among the Chair's advocacy, legislative activity, and the registration-reduction timeline. It is not a documented admission by the Department that its actions were driven by MFEI's advocacy, and it is presented here as MFEI Conclusion, not Established Fact.

The Secretary of State's office has not, to MFEI's knowledge, attributed the specific reductions in Established Fact 3-A-5 to any advocacy effort. State officials characterizing comparable list-maintenance activity have consistently done so as routine maintenance conducted under the National Voter Registration Act, consistent with the Department's standing public position on registration-list maintenance generally. MFEI has not obtained a Department document or statement tying the timing of these particular reductions to MFEI's advocacy specifically, and the Department's routine-maintenance characterization should be read alongside the conclusion above rather than in place of it.

§VIII. Potential Federal Interests

A. The conduct documented in this Count raises questions that may warrant federal review.

MFEI does not assert that any violation has been adjudicated; it identifies the federal interests below as questions for the Department's consideration:

1. NVRA, HAVA, and related federal statutes governing voter eligibility. Whether Michigan's current voter registration procedures, automatic voter registration policies, citizenship attestation process, and statewide list maintenance program satisfy the continuing obligations imposed by the NVRA, HAVA, and related federal statutes governing voter eligibility.

2. HAVA list-accuracy oversight (52 U.S.C. § 21083). Whether a statewide registration total that has persisted above 100% of citizen voting-age population, together with the documented exception rate in long-inactive registrations, is consistent with HAVA's requirement that the State maintain an accurate, centralized, regularly updated voter registration list.

3. NVRA list-maintenance enforcement (52 U.S.C. § 20507). Whether the State's sustained non-action on registrations inactive since 2019, and the rule provisions designating clerk investigation as optional and setting a 20-year inactivity threshold, are consistent with the NVRA's reasonable-effort mandate and its four-year notice-and-removal framework.

4. Federal records retention (52 U.S.C. § 20701–20702). Whether the post-certification vote-history location changes documented in this Count, and the QVF retention practices that limit reconstruction of prior states of the file, are consistent with the 22-month

preservation requirement and the prohibition on willful alteration of federal election records.

5. Elections Clause and rulemaking authority (U.S. Const. art. I, § 4). Whether administrative rules that supply substantive standards the Legislature did not enact, and that shift cancellation authority from locally elected clerks to the Secretary of State, raise Elections Clause and separation-of-powers questions concerning who prescribes the manner of federal elections in Michigan.

6. Citizenship verification and noncitizen registration. Whether the 2024 reversal of clerk citizenship-verification guidance, issued without rulemaking, together with AVR pathways that record registrations without an independent citizenship check, implicates federal statutes governing false claims of citizenship and voting by noncitizens (18 U.S.C. § 611, 911, 1015(f); 52 U.S.C. § 10307).

7. Government-sponsored student voter-registration activity and HAVA administration. Whether GVSU's voter-registration and GOTV activities used HAVA payments, HAVA-funded infrastructure, or personnel supported by those payments; whether GVSU's third-party student-voting data arrangements affected the administration of Michigan's centralized QVF; and whether Michigan's HAVA complaint process provides a meaningful avenue for merits review when a state institution participating in election-related activity is deemed not to be an "election authority."

8. Due process and equal administration. Whether challenge procedures that impose evidentiary and cost burdens not found in statute, while registration creation faces a lower threshold, raise due-process or uniform-administration concerns under federal law.

B. DOJ Investigative Requests

1. **Full independent audit of Michigan's QVF against independent data sources**. DOJ or EAC OIG[182] should consider commissioning an independent audit against USPS NCOA data, Social Security Death Index records, and DMV records to verify or refute MFEI's excess-ballot and exception-rate findings.

2. **Production of QVF monthly snapshots from 2019 through 2026**. Given the documented post-certification manipulation per *When Vote Totals Don't Mat*ch (Woodward/MFEI, December 2024)[183], DOJ should require production of all archived QVF monthly snapshots from November 2020 forward.

3. **FOIA production of QVF system audit logs**. Including records of modifications, database access by external entities, write-access events by non-governmental parties, and list maintenance activity logs for 2019 to 2026.

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[182] EAC OIG.

[183] When Vote Totals Don't Match.

4. **Review of ultra vires RS 2025-13 claims for federal NVRA implications**. DOJ should assess whether R 168.256(4), R 168.252(3), and R 168.254(4)/255(3) also constitute unlawful interference with NVRA rights under 52 U.S.C. § 20507.
5. **Investigation of BOE authorization for post-certification vote history algorithm**. DOJ should require all documentation authorizing, implementing, and overseeing the random assignment algorithm. The BOE's instruction to at least one clerk not to release SOVC data should also be examined.
6. **EAC OIG follow-through on the January 2024 MFEI Request**. The MFEI Audit Committee submitted a 426-page Request for EAC OIG Assessment of Audit Risk[184] on January 29, 2024. The subsequent EAC OIG Audit Report No. G23MI0031-24-13 (August 15, 2024)[185] focused narrowly on financial compliance and failed to evaluate voter roll maintenance as required by HAVA Titles I and II.
7. **Production of all Bureau of Elections clerk training manuals from 2019 through 2026**, with documentation of each change to citizenship verification guidance, the authorization for each change, and any legal review conducted before the 2024 reversal. DOJ should assess whether the 2024 guidance directing clerks not to confirm citizenship conflicts with MCL 168.493a's citizenship prerequisite, 52 U.S.C. § 21083's QVF accuracy requirements, and the Elections Clause, and whether the guidance change constituted ultra vires rulemaking under *Rovas* and *Luttrell*.
8. **Investigation of DOJ lawsuit and deceased voter litigation**. DOJ should track the September 25, 2025, lawsuit against Secretary Benson and the related U.S. Supreme Court litigation regarding 25,000+ deceased individuals on Michigan voter rolls as parallel proceedings bearing directly on this Count.
9. **Investigation of citizenship verification gaps in Michigan's AVR pathway**. DOJ should assess: (1) whether Michigan's AVR system under PA 268 systematically verifies citizenship before recording registrations in the QVF, and if not, how many of the approximately 152,000–181,000 monthly AVR transactions (a figure that includes renewals and address updates for already-registered voters, not solely new

[184] EAC OIG Request.

[185] EAC OIG Michigan HAVA Audit Report No. G23MI0031-24-13, Aug. 15, 2024.

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registrations)[186] entered the QVF without a citizenship check, and specifically how many of the approximately 20,000–22,000 new voter registrations added monthly (see §I; n.91) lacked verification; (2) whether Michigan requested citizenship verification data from federal authorities under 8 U.S.C. § 1373(c) and 1644, and if so, whether those requests were fulfilled; (3) the full scope of noncitizen voter registrations and ballots cast in Michigan's 2024 election beyond the 14 cases identified by the Michigan AG; and (4) whether the USCIS SSN change effective April 1, 2024 has affected the reliability of a Social Security Number as a citizenship proxy in Michigan's voter registration system.

10. Production and review of the GVSU HAVA administrative record. DOJ or the EAC OIG should obtain the complete MFEI/Schaeper complaint record, the Bureau of Elections' dismissal materials, GVSU records identifying the funding and personnel used for student voter-registration and GOTV activities, and agreements or data-transfer records involving Tufts University's NSLVE program or other outside election-data organizations. The review should determine: (1) whether HAVA payments or HAVA-funded infrastructure supported the challenged activities; (2) whether any outside data arrangement supplemented, altered, or operated apart from the official QVF; and (3) whether Michigan's threshold dismissal left alleged HAVA violations without an available merits-review mechanism.
11. ERIC data-sharing records, DPPA compliance review, and the PIME HAVA complaint administrative record are addressed in Count 4.

§IX. Authorities, Sources and Works Cited

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§X. Summary and Conclusion

Component One: Statistical Anomalies and Their Confirmation

Michigan's 2020 general election recorded 104,137 more ballots cast than voters credited, and 70,713 more in 2022. These figures are confirmed by three independent MFEI documents drawing on official SOS QVF data. MFEI's September 2025 stratified sample found a 27.60% exception rate (149,657 scaled), 73.44% of sampled registrations with extreme inactivity, and a registration-to-CVAP ratio of 108.9% as of May 2026.[187] In contrast, high-performing states typically run in the 90–95% range of CVAP, and because Michigan's CVAP figure is a 5-year average, the 108.9% figure is arguably conservative.

The East Lansing case study documents 9,077 anomalous registrations (36% of the city's voter rolls) and 1,935 ineligible votes cast in a single municipality in 2020. The April 2026 FOIA comparison documents that sustained MFEI advocacy produced a 38.2% reduction in long-inactive registrations, confirming both that the problem was real and that correction was achievable when pursued.

Component Two: Post-Certification Vote History Manipulation

The Michigan Bureau of Elections appears to have adopted a random assignment algorithm producing 769,091 post-certification vote history location changes since the 2020 election,

[187] Vaeth April 2026.

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according to MFEI analyst Frederick Woodward. A 92% SOVC mismatch rate across responding counties confirms systemic data integrity failure. This pattern makes independent reconciliation of ballots to voters nearly impossible and destroys the audit trail needed to verify the core excess-ballot claims, making production of original, unmodified QVF snapshots through FOIA or court process essential to any meaningful federal review.

Component Three: Rule Set 2025-13 as Regulatory Barrier

Rule Set 2025-13[188] was promulgated in the context of documented potential issues with federal voter-registration compliance issues. Rather than reducing them, the Rule Set created new procedural barriers to the citizen and clerk oversight mechanisms that the Legislature designed to maintain roll accuracy. The Rule Set's most problematic provisions (the classification of the Secretary of State's own voter data as unreliable (R 168.252(3)), the categorical exclusion of address-change information (R 168.256(4)), the centralization of cancellation authority in MDOS (R 168.254(4)/255(3)), and the conversion of the challenge pathway to a notice-and-waiting-period pathway (R 168.257)) each appear to exceed MDOS's rulemaking authority under *Rovas*[189] and *Luttrell*[190]. The April 2026 cleanup confirms this: the massive scale of removals achieved only after sustained MFEI advocacy demonstrates that the prior inaction was not inevitable.

Component Four: GVSU Student Registration and the Unresolved HAVA Questions

The GVSU administrative record presents a related question about the boundaries of Michigan's official voter-registration system. MFEI's verified complaint alleged that a public university conducted student voter-registration and GOTV activities using public election resources and participated in election-related data arrangements with outside organizations. The Bureau of Elections dismissed the complaint on the threshold ground that GVSU was not an "election authority," without determining whether HAVA funds were used or whether the reported data arrangements affected the single statewide voter-registration system required by § 21083. Those questions remain unresolved and warrant production of the underlying funding, program, and data-transfer records.

The Convergence

These four components converge on a broader structural concern: Michigan's voter-registration system combines documented accuracy and preservation problems with administrative barriers to

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[188] Rule Set 2025-13 ST.

[189] *In re Complaint of Rovas*, 482 Mich. 90 (2008).

[190] *Luttrell v. Dep't of Corrections*, 421 Mich. 93 (1984).

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correction and unresolved questions about government-sponsored registration activity outside the ordinary clerk-administered framework. The statistical anomalies document the scale. The post-certification manipulation destroys the audit trail. Rule Set 2025-13 appears to have fortified the anomalies against citizen correction. The April 2026 cleanup documents that correction was achievable all along.

The citizenship verification question is not left entirely to inference. The Bureau of Elections' own clerk training guidance was changed between 2019 and 2024 to remove the requirement that clerks verify citizenship before issuing a ballot: a policy reversal documented by the Chair of the House Election Integrity Committee in official correspondence to the Secretary of State (Rep. Smit to Sec. Benson, March 16, 2026) that has received no public response. The manual shift means that the statistical anomalies documented in this Count, the 104,137 excess ballots, the 27.60% exception rate, the 108.9% QVF-to-CVAP ratio, are occurring in a system where the front-line citizenship check was affirmatively removed from official clerk guidance. See Established Fact 3-A-12.

The Department of Justice is respectfully requested to review the evidentiary record presented in this Count, to commission the independent audits and document productions identified in Section VIII, and to assess whether federal enforcement action is warranted under the NVRA, HAVA, 52 U.S.C. § 20701–20702, and related federal statutes.

Cross-reference — ERIC: The legal and factual analysis of Michigan's unauthorized ERIC data-sharing arrangement is presented in Count 4 of this Report and includes a fourth structural failure intersecting with the potential issues with federal voter-registration compliance issues documented above.

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COUNT 4. ERIC Violations, DPPA Breaches, and Privatization of Voter Roll Infrastructure

§I. Issues Summary

Count 4 documents five categories of apparent legal violation arising from Secretary of State Jocelyn Benson's January 9, 2019, enrollment of Michigan in the Electronic Registration Information Center (ERIC), a private Delaware nonprofit corporation, without express statutory authorization and without legislative approval. The violations documented in Count 3 (voter roll failures and QVF inaccuracy) did not arise in a vacuum. They arose from a data-sharing architecture that Michigan's chief election officer constructed unilaterally, outside the framework Congress established in HAVA, and that remains shielded from public scrutiny by a contractual FOIA barrier the membership agreement itself imposed.

As of May 2026, Michigan remains a member of ERIC. The statutory authority question has not been adjudicated on the merits. Michigan's QVF stood at 108.9% of the Citizen Voting Age Population (CVAP) as of May 19, 2026, a ratio that began with ERIC enrollment in January 2019 and has not been corrected. A formal HAVA § 21112 complaint filed by PIME and Patrice Johnson on September 21, 2022, was dismissed on procedural grounds without substantive merits review.

A 426-page audit risk assessment submitted to the EAC Office of Inspector General on January 29, 2024 (File No. 24-0056) remains pending substantive response. The ERIC agreement's own text states that ERIC is not performing a government function and is not an agent of the Secretary of State, language that simultaneously defeats the DPPA's government function exception and confirms that Michigan delegated a core HAVA function to an entity that explicitly disclaimed governmental status.

This Count is not primarily concerned with whether ERIC functions effectively as a voter list maintenance tool. Rather, it examines whether Michigan's enrollment in ERIC was authorized under federal and state law, whether the resulting data-sharing architecture complies with HAVA and the Driver's Privacy Protection Act (DPPA), and whether unresolved structural questions identified in 2019 continue to affect election administration through 2026.

The central issue is not merely what occurred, but whether the legal and administrative structures established in 2019 continue to operate without judicial or administrative review of their statutory validity.

A. Current Federal Enforcement Interest

Subsequent to the preparation of this report, the United States Department of Justice advised Michigan that federal law imposes continuing obligations upon state election officials to

maintain accurate statewide voter registration lists, ensure that only eligible citizens register and vote in federal elections, preserve election records, and comply with the National Voter Registration Act (NVRA) and the Help America Vote Act (HAVA).

This Count examines one component of the administrative structure through which Michigan carries out those responsibilities: its participation in the Electronic Registration Information Center (ERIC). The legal theories presented herein are the independent legal analyses of MFEI and PIME and should not be construed as positions adopted by the Department of Justice. The factual record concerning voter list administration, data sharing, and statewide voter registration maintenance may, however, assist federal authorities in evaluating Michigan's continuing compliance with applicable federal election laws.

B. Topics Covered

- **a.** Delegation of HAVA Responsibilities to a Private Organization
- **b.** Federal Preemption Under the Help America Vote Act
- **c.** Driver's Privacy Protection Act (DPPA) and Disclosure of Motor Vehicle Records
- **d.** ERIC's Get-Out-the-Vote (GOTV) Activities and Federal Grant Compliance
- **e.** Qualified Voter File (QVF) Write Access, Administrative Control, and Election Integrity

§II. Legal Argument

The following legal theories are advanced by MFEI and PIME based on the evidentiary record documented in this Count. They represent MFEI's legal analysis and are presented as Legal Arguments, not adjudicated holdings.

A. HAVA Delegation Theory (MFEI Legal Argument)

MFEI and PIME advance the legal argument that Secretary Benson's unilateral enrollment of Michigan in ERIC (a private Delaware nonprofit corporation) constitutes an unauthorized delegation of the core HAVA §21083 governmental function of maintaining the statewide voter registration list. HAVA authorizes database coordination only with the state motor vehicle authority and the Commissioner of Social Security; ERIC fits neither category. The PIME HAVA Complaint (September 21, 2022) develops this argument in full. It has not been adjudicated on the merits.[191]

B. DPPA Five-Part Violation Theory (MFEI Legal Argument)

The EAC OIG Request for Assessment of Audit Risk (January 2024) develops a five-part argument that Michigan's data-sharing with ERIC violates the Driver's Privacy Protection Act,

[191] PIME HAVA Complaint Against Secretary Benson (Sept. 21, 2022).

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18 U.S.C. § 2721: (1) ERIC is not an agent of the SOS per the agreement's own text, defeating the government function exception of § 2721(b)(1); (2) transmission frequency is unnecessarily frequent; (3) other states perform the same functions without DPPA disclosure; (4) the government function exception cannot apply because the SOS–ERIC contract is preempted under HAVA; and (5) ERIC excludes citizenship indicators, directly conflicting with HAVA's citizenship requirement. This theory has not been adjudicated.[192]

C. HAVA Minimum-Requirements Theory (MFEI Legal Argument)

MCL 168.509o(5), the SOS's claimed state-law authority for ERIC participation, itself violates HAVA by authorizing data sharing beyond what Congress permitted in § 21083, and is therefore inconsistent with the minimum requirements 52 U.S.C. § 21084 imposes as a condition on any stricter state election-administration standard.

Mutual Pharmaceutical Co. v. Bartlett, 570 U.S. 472, 479–80 (2013), confirms that state laws conflicting with valid federal law are without effect. This is a settled judicial principle applied here as MFEI's legal argument to the ERIC enrollment context.[193]

§III. Factual and Procedural Background

A. Michigan Joins ERIC (January 9, 2019)

On January 9, 2019, Secretary of State Jocelyn Benson enrolled Michigan in the Electronic Registration Information Center (ERIC), a private Delaware nonprofit corporation founded, per its own documentation, "for the reform of the election system in the United States", without express statutory authorization and without legislative approval. Under the signed ERIC Membership Agreement, Michigan agreed to: transmit all active and inactive voter files plus all motor vehicle licensing and identification records to ERIC at least every 60 days; contact at least 95% of eligible-but-unregistered citizens identified by ERIC's data; allow ERIC to share Michigan voter data with undisclosed third-party contractors and subcontractors; indemnify ERIC from liability; and withhold ERIC-related data from public FOIA requests unless compelled by court order. The agreement states on its face that ERIC is not performing a government function and is not an agent, partner, or joint venture of the Secretary of State.[194]

B. Terms of the Membership Agreement

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[192] MFEI Audit Committee, Request for EAC OIG Assessment of Audit Risk, File No. 24-0056 (Jan. 29, 2024; rev. Mar. 15, 2024), Section I.C–E.

[193] *Mutual Pharmaceutical Co. v. Bartlett*, 570 U.S. 472 (2013).

[194] Signed ERIC Membership Agreement, Michigan Secretary of State, Jan. 9, 2019 (Exhibit A to EAC OIG Request; Exhibit B to PIME HAVA Complaint).

The signed ERIC Membership Agreement contains the following provisions directly at issue in this Count:

Agreement Provision	Summary	Legal Issue
§ 2(b) — 60-Day Data Transmission Mandate	Michigan must transmit all inactive and active voter files plus all motor vehicle licensing and ID records to ERIC at least every 60 days. Fields include name, address, DL/state ID number, SSN last four digits, date of birth, citizenship documentation, phone, and email.	Transmits minor driver data (age 14+) without individual consent. Frequency exceeds voter roll maintenance necessity. DPPA § 2721 implicated.
§ 4 — Third-Party Data Sharing	ERIC may share Michigan voter data with its "agents, contractors, and subcontractors" — parties not identified in the agreement, not subject to FOIA, and not state or federal entities.	PII of Michigan residents, including minors, shared with undisclosed third parties. ERIC–CEIR pipeline documented by PILF FOIA records (Rhode Island, Jan. 12, 2021).
§ 5(a) — GOTV Mandate (95% Contact)	Michigan must contact at least 95% of eligible-but-unregistered citizens identified by ERIC data by October 1 or 15 days before close of registration. Failure to certify compliance results in automatic removal from ERIC.	Mandates state-funded GOTV activity. EAC guidance FAO-08-005 prohibits use of HAVA funds for GOTV. Program is inherently selective, implicating HAVA § 241(b) nondiscrimination requirement.
Indemnification Clause	Michigan must indemnify ERIC from liability for any harm caused by ERIC's data handling practices, including sharing Michigan voter data with undisclosed third parties.	Michigan taxpayers bear legal risk of ERIC's actions. Legislature never authorized this indemnification.
FOIA Shield — § 4(a)	Michigan must not disclose ERIC-related data in response to public records requests without first obtaining a court order compelling disclosure.	Contractually overrides Michigan's statutory FOIA obligations. BOE attorney Fracassi-Wier cited this provision to deny a citizen FOIA request (April 2022).

Agreement Provision	Summary	Legal Issue
Non-Government-Function Disclaimer	ERIC is not performing a government function and is not an agent, partner, or joint venture of the Secretary of State.	Defeats DPPA § 2721(b)(1) government function exception on the agreement's own terms. Simultaneously confirms Michigan delegated a core HAVA function to an entity disclaiming governmental status.

Figure 37: **Signed ERIC Membership *Agreement***, *Michigan Secretary of State, Jan. 9, 2019; PIME/Johnson, Confessions of a FOIA Denial, Apr. 11, 2022.*

C. Subsequent Administrative Proceedings

1. PIME HAVA Complaint (September 21, 2022)

On September 21, 2022, Pure Integrity Michigan Elections and Patrice Johnson filed a formal HAVA § 21112 administrative complaint against Secretary of State Benson, represented by Erick G. Kaardal, Mohrman, Kaardal & Erickson P.A. / Special Counsel for Thomas More Society, and Daniel J. Hartman (Michigan Bar P52632). The complaint's core theory: HAVA § 21083(a)(1)(A) requires each State, acting through the chief State election official, to implement a statewide voter registration list defined, maintained, and administered at the State level, a core governmental function that cannot be delegated to any other organization (complaint ¶ 15). ERIC is a non-profit corporation that is neither a "state" nor an "election official" under HAVA (complaint ¶¶ 35–36). HAVA § 21083 authorizes database coordination only with the state motor vehicle authority and the Commissioner of Social Security; ERIC fits neither (complaint ¶ 53).[195]

2. BOE Dismissal Without Merits Review

The complaint was dismissed by the Michigan Bureau of Elections on procedural grounds without substantive merits review of the federal delegation question. No administrative hearing was convened under § 21112(a)(2)(E) as requested. No finding was made on whether ERIC enrollment violated HAVA § 21083 or the DPPA. The Bureau's written response declined to address the legal theory of the complaint, citing jurisdictional and procedural grounds. The federal delegation question (whether Michigan lawfully delegated a core HAVA governmental function to a private nonprofit corporation) has never been adjudicated on the merits by any

[195] PIME HAVA Complaint Against Secretary Benson (Sept. 21, 2022), ¶¶ 15, 35–36, 53.

tribunal. This disposition is consistent with the structural HAVA complaint deficiencies documented in Count 2.[196]

3. EAC OIG Submission (January 2024)

On January 29, 2024 (revised March 15, 2024), MFEI Audit Committee submitted a 426-page Request for Assessment of Audit Risk to EAC OIG Inspector General Brianna Schletz (File No. 24-0056). The submission develops parallel DPPA violation analysis, HAVA preemption argument, GOTV unallowable funds analysis (FAO-08-005, Appendix R), and QVF-to-VAP ratio trend analysis. The signed ERIC Membership Agreement appears as Exhibit A. As of June 2026, the submission remains pending substantive response.[197]

§IV. Legal Framework

A. Federal Statutory Framework

1. HAVA, 52 U.S.C. § 21083

HAVA, 52 U.S.C. § 21083(a)(1)(A), requires each State, acting through the chief State election official, to implement in a uniform and nondiscriminatory manner a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level. Section 21083(a)(5)(B) authorizes database coordination only with the state motor vehicle authority and the Commissioner of Social Security. ERIC fits neither authorized category. HAVA § 21083 does not authorize coordination with private nonprofit corporations.

2. HAVA, 52 U.S.C. § 21084 (Minimum Requirements)

HAVA's minimum-requirements provision, 52 U.S.C. § 21084, establishes the subchapter's requirements as a floor and permits states to adopt stricter election-technology and administration requirements, so long as those state requirements are not inconsistent with HAVA's minimum requirements. The PIME HAVA Complaint argues that MCL 168.509o(5) fails this consistency condition.

3. Driver's Privacy Protection Act (DPPA), 18 U.S.C. § 2721

The DPPA prohibits the disclosure of personal information obtained by a Department of Motor Vehicles in connection with a motor vehicle record except for enumerated permissible purposes.

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[196]Michigan Bureau of Elections, response to PIME HAVA Complaint; cross-reference Count 2.

[197]MFEI Audit Committee, Request for EAC OIG Assessment of Audit Risk, File No. 24-0056 (Jan. 29, 2024; rev. Mar. 15, 2024).

The government function exception of § 2721(b)(1) does not apply when the receiving entity is not an agent of the state, as the ERIC agreement's own text confirms.

4. EAC Guidance FAO-08-005

EAC Guidance FAO-08-005 (Appendix R) states in operative part that HAVA funds may not be used for voter registration or get-out-the-vote activities. These activities are specifically excluded from the allowable uses of HAVA funds under Sections 101, 102, and 251 of HAVA. This guidance is directly implicated by ERIC Section 5(a)'s 95% GOTV contact mandate.

5. NVRA Public Disclosure Provision, 52 U.S.C. § 20507(i)

The National Voter Registration Act of 1993 (NVRA), 52 U.S.C. § 20507(i), provides an independent federal basis for compelling disclosure of ERIC-related state records. It requires each State to maintain for at least 2 years and make available for public inspection all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters. This provision is separate from HAVA § 21112 and carries its own private right of action (52 U.S.C. § 20510) for any person who is aggrieved by a violation. PILF invoked this provision specifically to obtain ERIC-related communications held by Secretary of State Benson, a demand Benson refused, leading to the Sixth Circuit's ruling in *Public Interest Legal Foundation v. Benson*, 136 F.4th 613 (6th Cir. 2025), discussed in Section V.C below.

B. Michigan Statutory Framework

1. MCL 168.509o(5)

MCL 168.509o(5) is the Secretary of State's claimed state-law authority for ERIC participation. It authorizes the SOS to participate in multistate programs for the limited purpose of "assisting in verification of current residence and voter registration status of electors." The PIME HAVA Complaint (paragraphs 56–58) argues this provision itself violates HAVA by authorizing data sharing beyond what Congress permitted in § 21083. The statute additionally prohibits participation in any multistate program if the program's data are not being adequately secured or protected, a condition MFEI contends was not met.

2. QVF Statutes (MCL 168.509aa et seq.)

MCL 168.509aa et seq. designates Michigan's QVF as the official statewide voter registration database. HAVA § 21083 designates maintenance of this database as a core governmental function. The SOS–ERIC contract's delegation of QVF-related maintenance functions to a private non-profit, combined with ERIC's contractual write access to the QVF, appears to conflict with the core governmental function framework of § 21083.

3. MCL § 257.307 (Driver License Act)

MCL § 257.307(1)(a), (2) governs SOS disclosure of driver's license information. Combined with 18 U.S.C. § 2721, this reinforces the prohibition on disclosure of minor driver data (biometric information, date of birth, address, and birth certificate scan) to a private Delaware nonprofit and its undisclosed subcontractors without individual written consent.

C. Constitutional Framework

1. Elections Clause (U.S. Const. Art. I, § 4, cl. 1)

The Elections Clause provides the constitutional foundation for Congress's authority to enact HAVA and regulate statewide voter registration system databases. The PIME HAVA Complaint (paragraph 10) invokes this Clause and argues that ERIC's contractual mandates supplant both Congressional and State legislative prerogatives in the absence of explicit election policy authorization.

2. Michigan Constitution Art. II, § 4

Michigan Constitution Art. II, § 4 assigns elections authority to the Legislature. The SOS's unilateral enrollment of Michigan in ERIC and delegation of voter roll maintenance functions to a private non-profit, without legislative authorization, raises questions under this provision.

§V. Evidentiary Record

A. ERIC Structure and Membership Requirements

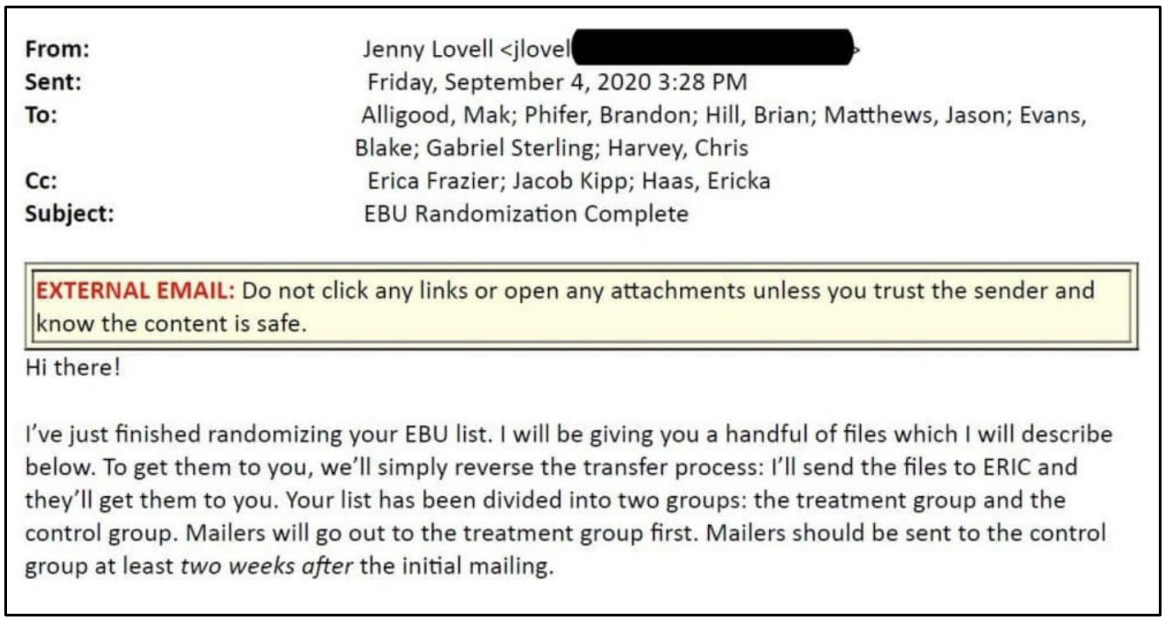
The Electronic Registration Information Center (ERIC) is a private nonprofit organization incorporated in Delaware. Its membership agreement states it was founded "for the reform of the election system in the United States." ERIC is not a federal agency. It is not established by federal statute. It is a private third-party nonprofit corporation not subject to FOIA transparency requirements, a fact the ERIC agreement contractually extends to member states' ERIC-related data. As of May 2026, only 27 states and D.C. participate. ERIC has filed no publicly available annual report since 2017.

B. Data Sharing and Third-Party Access

1. The ERIC–CEIR Pipeline

Separate FOIA requests of public records obtained in two states established the data-sharing relationship between ERIC and CEIR (Center for Election Innovation and Research). On January 12, 2021, Rhode Island Elections Director Rob Rock emailed ERIC Executive Director Shane Hamlin to seek clarification on sharing data with CEIR. Hamlin confirmed the arrangement and

noted that the same process used to provide the EBU list to CEIR should continue, confirming that transmission of eligible-but-unregistered lists to CEIR was already an established practice.



From: Jenny Lovell <jlovel[redacted]>
Sent: Friday, September 4, 2020 3:28 PM
To: Alligood, Mak; Phifer, Brandon; Hill, Brian; Matthews, Jason; Evans, Blake; Gabriel Sterling; Harvey, Chris
Cc: Erica Frazier; Jacob Kipp; Haas, Ericka
Subject: EBU Randomization Complete

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Hi there!

I've just finished randomizing your EBU list. I will be giving you a handful of files which I will describe below. To get them to you, we'll simply reverse the transfer process: I'll send the files to ERIC and they'll get them to you. Your list has been divided into two groups: the treatment group and the control group. Mailers will go out to the treatment group first. Mailers should be sent to the control group at least *two weeks after* the initial mailing.

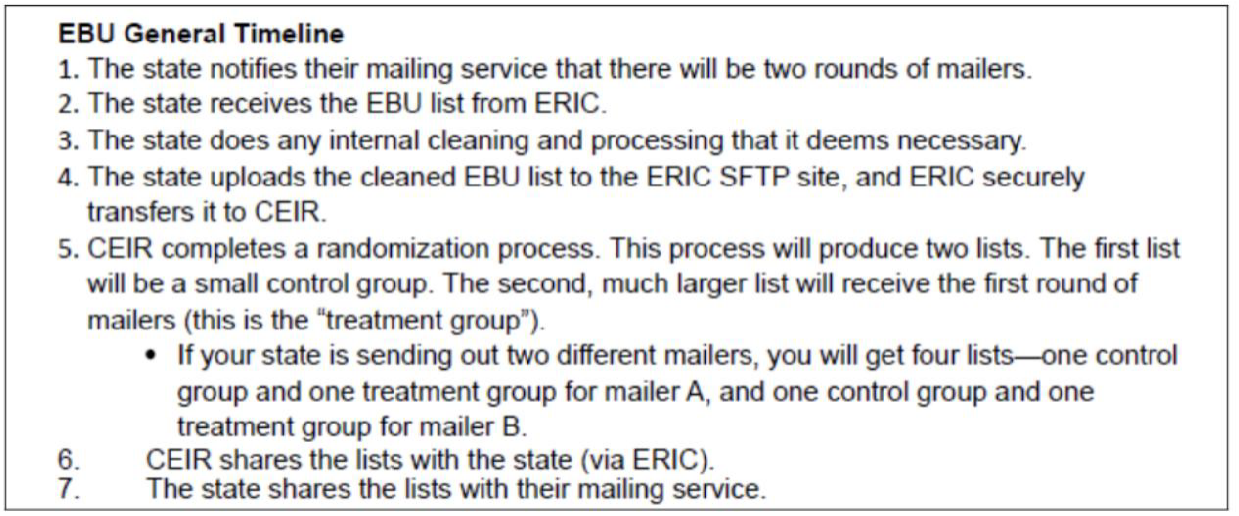
Figure 38: **Hayden Ludwig, "ERIC Caught Sharing Voter Data with CEIR**," Restoration News, March 21, 2023. Documents the ERIC–CEIR EBU data pipeline via PILF FOIA (Rhode Island, January 12, 2021, Hamlin email). Source: restoration-news.com/eric-caught-sharing-voter-data-with-ceir.[198]

The CEIR EBU General Timeline above establishes that Michigan's Bureau of Elections was an active participant in the CEIR pipeline, not merely a passive recipient. Under Step 4 of CEIR's own documented protocol, the state uploads its cleaned EBU list to the ERIC SFTP site, from which ERIC transfers it to CEIR for processing. This affirmative state action provides an independent basis for the HAVA delegation argument in Legal Argument 4-C-1: the Bureau of Elections actively transmitted Michigan's voter roll data to CEIR as a state-directed operational step, not merely as a downstream consequence of ERIC membership.

A separate public records request by Verity Vote produced a September 2020 Georgia email chain documenting the operational data flow: Georgia election officials transmit data through ERIC to CEIR; CEIR generates a list of eligible-but-unregistered individuals; that list is returned through ERIC to the states; the states then use it to send registration mailers at state expense.[199]

[198] Hayden Ludwig, "ERIC Caught Sharing Voter Data with CEIR," Restoration News, March 21, 2023. Documents the ERIC–CEIR EBU data pipeline via PILF FOIA (Rhode Island, January 12, 2021, Hamlin email). Source: restoration-news.com/eric-caught-sharing-voter-data-with-ceir.

[199] Ibid.



EBU General Timeline

1. The state notifies their mailing service that there will be two rounds of mailers.
2. The state receives the EBU list from ERIC.
3. The state does any internal cleaning and processing that it deems necessary.
4. The state uploads the cleaned EBU list to the ERIC SFTP site, and ERIC securely transfers it to CEIR.
5. CEIR completes a randomization process. This process will produce two lists. The first list will be a small control group. The second, much larger list will receive the first round of mailers (this is the "treatment group").
    - If your state is sending out two different mailers, you will get four lists—one control group and one treatment group for mailer A, and one control group and one treatment group for mailer B.
6. CEIR shares the lists with the state (via ERIC).
7. The state shares the lists with their mailing service.

Figure 39: **CEIR "EBU General Timeline"** operational document, obtained via Verity Vote Georgia Public Records Request.
Step 4 confirms states upload their cleaned EBU lists to the ERIC SFTP site for transfer to CEIR. Step 5: CEIR randomizes into treatment and control groups. Step 6: CEIR returns processed lists to states via ERIC. Michigan's Bureau of Elections was an active participant, not merely a passive recipient. Source: Verity Vote, Georgia Public Records Request, June 17, 2022. [200]

Voter rolls are public records. However, people who choose not to register, many of whom are under-aged minors, likely have an expectation of, and right to, privacy. The hashing of the last four digits of a Social Security number provides superficial identity protection.

CEIR received a $70 million grant from Zuckerberg philanthropies in September 2020 for "voter education programs," with identified distribution targeting Pennsylvania, Michigan, Georgia, New York, and Arizona for 2020 voter mobilization activities. Michigan's EBU list passed through CEIR during the same period in which CEIR was administering this grant targeting Michigan. CEIR founder David Becker, also founded ERIC and remained a non-voting member of ERIC's board until March 2023. CEIR's own IRS Form 990 discloses "limited direct lobbying of state government officials to encourage passage of legislation to permit membership in ERIC.[201]

2. Washington "Abandoned Box of Ballots" Evidence

In April 2026, the Washington State Republican Party publicly documented the discovery of hundreds of undelivered election materials abandoned outside a commercial mailbox facility in

[200] Verity Vote, Georgia Public Records Request, ERIC Sharing Data with Zuckerburg-Funded NGO, June 17, 2022.

[201] PILF FOIA, Rhode Island (Jan. 12, 2021), publicinterestlegal.org/eric/; Verity Vote Georgia PRR (Sept. 2020), verityvote.us; CEIR IRS Form 990, ProPublica.

Renton, Washington. The materials included approximately 550 "Eligible But Unregistered" (EBU) voter-registration postcards generated through Washington's ERIC participation process and mailed over multiple election cycles.[202]

The significance of this discovery extends beyond the mishandling of election mail. Because ERIC's published documentation states that its EBU reports contain only identifying information necessary for voter-registration outreach and do not include race or ethnicity, the subsequent concentration of particular demographic groups documented in the Washington analysis raises questions regarding what processing occurred after ERIC generated the underlying EBU report. The documented Rhode Island and Georgia records establish that CEIR receives and processes EBU lists before they are returned to participating states. Together, these records raise questions regarding what filtering, prioritization, or selection criteria may be applied during that intermediate processing stage before states conduct taxpayer-funded voter-registration outreach.

The Washington materials therefore constitute evidence relevant to transparency rather than proof of unlawful conduct. They illustrate that neither participating states nor the public presently possess sufficient visibility into the criteria by which individuals ultimately receive EBU registration solicitations after the lists enter the ERIC-CEIR processing pipeline.

C. HAVA Complaint Record

On September 21, 2022, PIME and Patrice Johnson filed a formal HAVA § 21112 administrative complaint against Secretary of State Benson (counsel: Erick G. Kaardal, Mohrman, Kaardal & Erickson P.A.; Daniel J. Hartman, P52632). The complaint was dismissed by the Michigan Bureau of Elections on procedural grounds without substantive merits review. No administrative hearing was convened as requested. No finding was made on whether ERIC enrollment violated HAVA § 21083 or the DPPA. Michigan remains a member of ERIC as of May 2026. The statutory authority question remains unadjudicated.

The PIME HAVA complaint is not the only federal proceeding in which Benson refused to produce ERIC-related records. In a separate action under the NVRA's public disclosure provision, 52 U.S.C. § 20507(i), the Public Interest Legal Foundation (PILF) sued Secretary Benson for failing to conduct reasonable list maintenance and for refusing to allow inspection of public registration records, including communications between the state and ERIC. Benson refused to produce these records, and the Sixth Circuit affirmed summary judgment for Benson,

[202] Bruch/WAGOP EIC, Abandoned Box of Ballots, Apr. 28, 2026.

holding that PILF lacked standing because it is not a registered voter and had not claimed organizational standing on behalf of registered voters in the voting jurisdiction at issue.[203]

The Sixth Circuit's standing rule is in direct conflict with the First Circuit, the Ninth Circuit, and the Tenth Circuit, all of which recognize informational standing for public-interest organizations under the NVRA public disclosure provision. Because Michigan sits in the Sixth Circuit, the NVRA claims against the Michigan SOS are dismissed at the standing threshold that would survive in several other circuits. The circuit split means the legal consequence of Benson's refusal to produce ERIC-related communications is not a settled outcome on the merits; it is a jurisdictional accident of geography.[204]

D. DPPA Record

1. Minor Driver Data

Michigan permits driver's license applications as young as age 14 years 9 months. Data captured includes full legal name, date of birth, residence address, sex, eye color, signature, SSN last-four digits, photograph, and a scanned image of the birth certificate. Under the January 9, 2019, ERIC Membership Agreement, the Secretary of State transmits this DMV data to ERIC at least every 60 days for every active and inactive driver in the state, including minors who have never voted, never registered to vote, and never consented to any data sharing arrangement. Neither the Membership Agreement nor any publicly available ERIC documentation establishes that individual written consent was obtained from Michigan drivers, or that transmission falls within any enumerated DPPA exception.[205]

E. GOTV Mandate Record: ERIC Mandates; HAVA Prohibits.

ERIC Section 5(a) of Michigan's Membership Agreement mandates that Michigan contact at least 95% of eligible-but-unregistered (EBU) citizens identified by ERIC data by October 1 or 15 days before the close of registration of the next federal general election year. Failure to comply results in automatic removal from ERIC membership.

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[203] Pub. Int. Legal Found. v. Benson, 136 F.4th 613, 631 (6th Cir. 2025). *Public Interest Legal Foundation v. Benson*, Case No. 1:2021-cv-00929 (W.D. Mich.), March 01, 2024.

[204] Pub. Int. Legal Found. v. Bellows, 92 F.4th 36 (1st Cir. 2024); Public Interest Legal Found. v. Nago, 2026 WL 1144703 (9th Cir. 2026); Voter Reference Found., LLC v. Torrez, 160 F.4th 1068 (10th Cir. 2025).

[205] MFEI/Ayoub, ERIC Sacrifices Teens' Privacy on the Altar of Election Reform, June 14, 2023; ERIC Membership Agreement § 2(b).

EAC Guidance FAO-08-005 (Appendix R) expressly prohibits use of HAVA funds for GOTV activities. To the extent Michigan used HAVA administrative funds to comply with ERIC's GOTV mandate, those expenditures are facially impermissible under this guidance.[206]

The GOTV mandate raises an additional HAVA nondiscrimination concern. HAVA § 241(b) requires that voting methods be nondiscriminatory and afford each registered and eligible voter an equal opportunity to vote. A GOTV program directed specifically at eligible-but-unregistered citizens is inherently selective. The targeting of this population for state-funded outreach at the direction of a private organization raises equal protection concerns that compound the HAVA funding prohibition.

F. ERIC–CEIR Pipeline

The documented ERIC–CEIR EBU data pipeline (Section V.B above) establishes that Michigan voter and driver data (transmitted to ERIC every 60 days under the Membership Agreement) was accessible to CEIR through an NDA arrangement not disclosed in Michigan's Membership Agreement and not disclosed to Michigan legislators at the time of enrollment. The co-occurrence of CEIR's role as the EBU pipeline intermediary and CEIR's role as administrator of a $70 million voter mobilization grant specifically targeting Michigan has not been adjudicated.

G. QVF Inflation and Membership Outcomes

Michigan's QVF stands at 8,331,635 registered voters as of May 19, 2026 (108.9% of CVAP of 7,653,711). Ohio, which withdrew from ERIC in March 2023, maintains an 84.6% registration rate with a larger CVAP.[207]

Post-departure cleanup in Alabama provides direct comparative evidence that ERIC membership suppresses routine list maintenance: Alabama announced a major voter roll cleanup only after its 2023 withdrawal from ERIC, a cleanup that had been suppressed during membership. Seven states withdrew from ERIC by March 2023: Iowa, Ohio, Missouri, Florida, West Virginia, Alabama, and Louisiana. Ohio Secretary of State Frank LaRose's withdrawal letter specifically

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[206] U.S. Election Assistance Commission, Funding Advisory Opinion (FAO) 08-005 September 14, 2010; ERIC Membership Agreement § 5(a).

[207] Mark Vaeth et al, MFEI Audit Committee, Request for EAC OIG Assessment of Audit Risk, Jan. 29, 2024, Section II; U.S. Census Bureau, 2020–2024 ACS 5-Year CVAP; Michigan SOS Voter Count Dashboard, mvic.sos.state.mi.us.

cited ERIC's transmission of private data to CEIR founder David Becker's organization as the proximate cause of Ohio's departure.[208]

H. Noncitizen Registration Issues

ERIC's bylaws prohibit member states from transmitting records indicating an individual is a noncitizen, meaning ERIC's eligible-but-unregistered lists cannot distinguish between citizen and noncitizen individuals. Combined with Michigan's automatic voter registration at the DMV, this creates a structural pathway in which DMV transactions by noncitizens generate auto-registrations that are incorporated into QVF data transmitted to ERIC, which then generates outreach lists that exclude noncitizen flags. State Senator Ruth Johnson (former Michigan SOS, 2011–2019) disclosed to the Senate Elections Committee on January 19, 2022, that a non-citizen processed a vehicle registration transfer at a Michigan SOS office and was automatically registered to vote without requesting registration: a felony for non-citizens. [209]

On October 12, 2022, Colorado Secretary of State Jena Griswold publicly acknowledged that the state had mailed EBU voter registration postcards to approximately 30,000 non-citizens through the ERIC EBU process, the same process Michigan is contractually obligated to use under Section 5(a) of its Membership Agreement. The Colorado incident establishes that the ERIC EBU pipeline produces non-citizen contact lists at scale: not a rare error, but a documented, state-level outcome of the process itself. [210]

The Washington State WAGOP analysis of 550 undelivered ERIC EBU voter registration postcards (2020–2025, all addressed to the same commercial mail receiving agency in Renton, WA) documents a non-random ethnic-name concentration: 92% Chinese names in 2020 and 2022, shifting to 73–80% Central Asian names in 2023–2025. ERIC's own FAQ states its EBU output contains no race or ethnicity data. The ethnic concentration therefore cannot have originated from ERIC's raw EBU output and necessarily reflects filtering or selection applied somewhere in the pipeline between ERIC's data transmission and the Secretary of State's mailing.[211]

Year	Total Postcards	Dominant Group	% of Total
2020	146	Chinese	92%

[208]MFEI, Breaking: Alabama Announces Major Voter Roll Cleanup After Leaving ERIC, Sept. 2023; Ohio Secretary of State Frank LaRose, Ohio ERIC Withdrawal Letter, Mar. 17, 2023; Johnson/MFEI, Iowa Makes 7, Mar. 18, 2023.

[209]Patrice Johnson / MFEI, Call to Action: ERIC Slips Non-Citizens onto Voter Rolls, Feb. 8, 2022; Michigan Senate Elections Committee hearing, Jan. 19, 2022.

[210]James Anderson, "Colorado: 30,000 noncitizens got vote registration mailer," AP News, Oct. 10, 2022.

[211]ERIC, Frequently Asked Questions ("ERIC does not have information on political party affiliation, race, or ethnicity").

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Year	Total Postcards	Dominant Group	% of Total
2022	71	Chinese	92%
2023	105	Central Asian	73%
2024	167	Central Asian	80%
2025	61	Central Asian	74%

Figure 40: ***Washington State EBU Postcard Ethnic Composition, 2020–2025*** *(WAGOP, April 2026). ERIC's own FAQ states its output contains no race or ethnicity data; the concentration pattern documented above necessarily reflects post-ERIC pipeline filtering. Source: Abandoned Box of Ballots Exposes Evidence of Potential Large-Scale Coordinated Corruption in WA State Elections* [212]

§VI. Findings

The following findings are organized by evidentiary category in accordance with the MFEI four-category taxonomy. Within each category, findings are numbered sequentially:

A. Established Facts

Established Fact 4-A-1

Secretary of State Jocelyn Benson enrolled Michigan in ERIC effective January 9, 2019. The signed ERIC Membership Agreement (Exhibit B to the PIME HAVA Complaint; Exhibit A to the EAC OIG Request) confirms enrollment. Michigan remains a member of ERIC as of May 2026. The statutory authority question has not been adjudicated on the merits.[213]

Established Fact 4-A-2

Michigan agreed to transmit all active and inactive voter files plus all motor vehicle licensing and ID records to ERIC at least every 60 days.[214]

[212] Bruch/WAGOP EIC, Abandoned Box of Ballots, Apr. 28, 2026, https://billbruch.substack.com/p/abandoned-box-of-ballots-exposes.

[213] ERIC Membership Agreement; PIME HAVA Complaint (Sept. 21, 2022); EAC OIG Request (File No. 24-0056).

[214] Ibid. § 2(b).

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Established Fact 4-A-3

Michigan agreed to contact at least 95% of eligible-but-unregistered individuals identified by ERIC at least every 60 days by October 1 or 15 days before close of registration of the next federal general election year. Failure to certify compliance results in automatic removal from ERIC.[215]

Established Fact 4-A-4

The ERIC agreement states on its face that ERIC is not performing a government function and is not an agent, partner, or joint venture of the Secretary of State. This self-designation is confirmed in the agreement itself and states that ERIC is not performing a governmental function and is not an agent, partner, or joint venture of the Secretary of State.[216]

Established Fact 4-A-5

The ERIC agreement restricts disclosure of ERIC-related records absent a court order compelling disclosure (§ 4(a)), contractually overriding Michigan's statutory FOIA obligations. In April 2022, BOE attorney Fracassi-Wier denied a citizen FOIA request for ERIC-related data by citing this provision, asserting that a private nonprofit's contractual terms override Michigan's statutory FOIA obligation.[217]

Established Fact 4-A-6

The PIME HAVA § 21112 complaint was filed September 21, 2022, and dismissed on procedural grounds without substantive review of the HAVA delegation question. No administrative hearing was convened under § 21112(a)(2)(E) as requested. No finding was

[215] Ibid. § 5(a).

[216] Ibid, and Exhibit A to EAC OIG Request; Exhibit B to PIME HAVA Complaint.

[217] ERIC Membership Agreement § 4(a); PIME/Johnson, Confessions of a FOIA Denial (Apr. 11, 2022).

made on whether ERIC enrollment violated HAVA § 21083 or the DPPA. The federal delegation question has never been adjudicated on the merits.[218]

Established Fact 4-A-7

Colorado Secretary of State Jena Griswold publicly acknowledged on October 12, 2022, that approximately 30,000 non-citizens received ERIC-generated EBU voter registration postcards. This is the first documented state-level admission that the ERIC EBU pipeline produces non-citizen contact lists at scale. The Colorado incident is structurally identical to Michigan's ERIC participation: the same Section 5(a) GOTV mandate, the same 60-day EBU transmission cycle, and the same reliance on state-level upstream citizenship filtering that ERIC acknowledges it does not independently verify.[219]

Established Fact 4-A-8

MFEI Investigation into Michigan Elections (September 2025, pp. 55–65) documents that external entities including ERIC and Rock the Vote have write access to Michigan's QVF — meaning these private organizations can modify Michigan's official voter registration database. Write access by non-governmental entities to the state's official statewide voter registration list is not authorized by HAVA § 21083, which requires the list to be defined, maintained, and administered at the State level.[220]

Established Fact 4-A-9

Michigan's QVF stands at 8,331,635 registered voters as of May 19, 2026 (108.9% of CVAP of 7,653,711). Ohio, with a larger CVAP, maintains an 84.6% registration rate after

[218] PIME HAVA Complaint, Kaardal/Hartman, Sept. 21, 2022; BOE response on file with MFEI.

[219] AP News, Oct. 10, 2022; ERIC Agreement § 5(a).

[220] Dee Davey et al., MFEI Investigation into Michigan Elections, Sept. 2025, pp. 55–65.

withdrawing from ERIC in March 2023. Michigan's over-100% ratio has persisted throughout ERIC membership.[221]

Established Fact 4-A-10

The ERIC–CEIR EBU data pipeline is established by public records: (1) Rhode Island Elections Director Rob Rock / ERIC Executive Director Shane Hamlin email (Jan. 12, 2021, PILF FOIA), confirming the same process used to provide the EBU list to CEIR; (2) Georgia email chain (Verity Vote PRR, Sept. 2020), documenting Georgia election officials transmitting data through ERIC to CEIR, CEIR generating the EBU list, and the list returning to state SOS for mailing. CEIR received a $70 million Zuckerberg grant targeting Michigan in the same period. Michigan's Membership Agreement does not disclose this pipeline.[222]

[221] Vaeth, MFEI Statistical Analysis of Michigan QVF, May 2026; U.S. Census Bureau 2020–2024 ACS 5-Year CVAP Tabulation.

[222] PILF FOIA (Rhode Island, Jan. 12, 2021); Verity Vote, Public Records Request, Sept. 2020; InfluenceWatch (CEIR funding).

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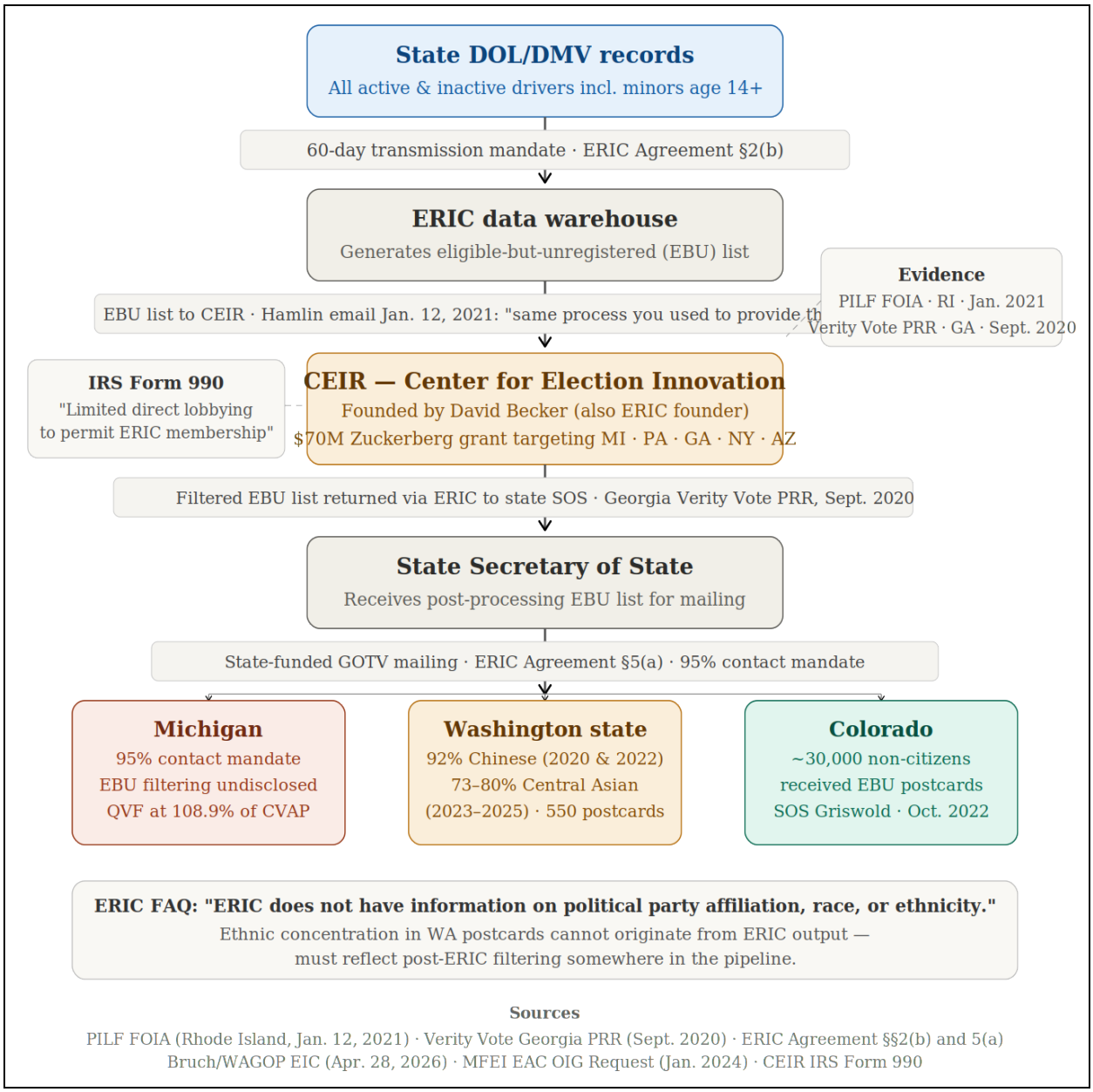


Figure 41: **ERIC-CEIR EBU Data Pipeline** (Documented Flow)

Established Fact 4-A-11

Seven states withdrew from ERIC by March 18, 2023: Iowa, Ohio, Missouri, Florida, West Virginia, Alabama, and Louisiana. Ohio Secretary of State Frank LaRose's withdrawal letter specifically cited ERIC's transmission of private data to CEIR founder David Becker's organization as the proximate cause. Following Alabama's withdrawal, Alabama announced a

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major voter roll cleanup, providing direct comparative evidence that ERIC membership suppresses routine list maintenance.[223]

B. Judicial Findings

Judicial Finding 4-B-1

State laws conflicting with valid federal law are preempted and without effect. This settled judicial principle is applied in Count 4 to the argument that MCL 168.509o(5) is preempted by 52 U.S.C. § 21084.[224]

C. Legal Arguments

Legal Argument 4-C-1

MFEI Investigation into Mich. Elections documents that external entities including ERIC and Rock the Vote have write-access to Michigan's QVF, meaning these private organizations can modify Michigan's official voter registration database. Write access by non-governmental entities to the state's official statewide voter registration list is not authorized by HAVA § 21083, which requires the list to be defined, maintained, and administered at the State level.[225]

Legal Argument 4-C-2

Enrollment in ERIC constitutes an unauthorized delegation under HAVA. HAVA § 21083(a)(1)(A) requires the statewide voter registration list to be defined, maintained, and administered at the State level. HAVA § 21083 authorizes database coordination only with

[223] LaRose, Ohio ERIC Withdrawal Letter, Mar. 17, 2023; Johnson/MFEI, Iowa Makes 7, Mar. 18, 2023; MFEI, Alabama Announces Major Voter Roll Cleanup, Sept. 2023.

[224] *Mutual Pharmaceutical Co. v. Bartlett*, 570 U.S. 472, 479–80 (2013).

[225] Davey and Johnson, MFEI Investigation into Mich. Elections (Sept. 2025), pp. 55–65.

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the state motor vehicle authority and the Commissioner of Social Security; ERIC fits neither category. MFEI and PIME therefore argue that delegation of statewide voter-list maintenance functions to a private Delaware nonprofit corporation exceeds the authority granted by HAVA. This argument is further supported by evidence that private entities, including ERIC and Rock the Vote, have been reported to possess write access to Michigan's Qualified Voter File (QVF), despite HAVA's requirement that the statewide voter registration list be defined, maintained, and administered at the State level.[226]

Legal Argument 4-C-3

MCL 168.509o(5) is preempted by HAVA § 21084. The PIME HAVA Complaint (paragraphs 56–58) argues that MCL 168.509o(5) itself violates HAVA by authorizing data sharing beyond what Congress permitted in § 21083. Under HAVA's minimum-requirements provision, any state law constituting election technology and administration requirements inconsistent with HAVA's provisions is preempted.[227]

Legal Argument 4-C-4

Michigan's ERIC participation violates the DPPA. The EAC OIG Request (Section I.C–E) develops a five-part DPPA violation theory: (1) ERIC is not an agent of the SOS per the agreement's own text, defeating § 2721(b)(1); (2) transmission frequency is unnecessarily frequent; (3) other states perform the same functions without DPPA disclosure; (4) the government function exception cannot apply because the SOS–ERIC contract is preempted under HAVA; (5) ERIC excludes citizenship indicators, conflicting with HAVA's citizenship requirement. This language may assist federal authorities in evaluating Michigan's continuing compliance with applicable federal election laws.[228]

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[226] PIME HAVA Complaint (Sept. 21, 2022), ¶¶ 15, 35–39, 53; MFEI Investigation into Mich. Elections (Sept. 2025), pp. 55–65.

[227] Ibid. pp. 56–58; 52 U.S.C. § 21084; *Mutual Pharmaceutical Co. v. Bartlett*.

[228] EAC OIG Request, File No. 24-0056, Section I.C–E.

Legal Argument 4-C-5

Use of HAVA-funded state resources for ERIC's 95% EBU outreach mandate conflicts with EAC Guidance FAO-08-005 (Appendix R). HAVA funds may not be used for voter registration or get-out-the-vote activities. To the extent Michigan used HAVA administrative funds to staff, mail, or otherwise carry out its ERIC GOTV obligation, those expenditures are facially impermissible under FAO-08-005.[229]

D. MFEI Conclusions

MFEI Conclusion 4-D-1 — Conditional Conclusion: Michigan's ERIC participation created a privatized voter-list maintenance structure operating outside express HAVA authorization. The ERIC agreement's own text disclaiming governmental status, combined with HAVA's exclusive list of authorized database-sharing partners (state motor vehicle authority and SSA Commissioner), confirms that no express authorization exists for the delegation. The PIME HAVA Complaint has not been adjudicated; the structural question remains open. Resolution depends on adjudication of the pending PIME HAVA Complaint or the EAC OIG's response to the January 2024 audit risk assessment.

MFEI Conclusion 4-D-2 — Logical Inference: The ERIC–CEIR pipeline lacks sufficient transparency to permit independent evaluation of how EBU lists are generated and processed. The Rhode Island and Georgia public records establish that CEIR receives and processes EBU data before it reaches state election officials, through an NDA arrangement not disclosed in Michigan's Membership Agreement. The Washington State EBU postcard ethnic-concentration findings are consistent with — and cannot be explained without — non-transparent filtering at the CEIR stage.

MFEI Conclusion 4-D-3 — Conditional Conclusion: The legal authority for Michigan's ERIC participation remains unresolved because no tribunal has adjudicated the underlying HAVA delegation question on the merits. The PIME HAVA complaint was dismissed procedurally after more than three years. The EAC OIG submission remains pending. The Bureau of Elections declined to address the legal theory. Resolution depends on merits adjudication of the underlying HAVA delegation question, whether through the PIME complaint, the EAC OIG submission, or future litigation.

[229] EAC Guidance FAO-08-005; ERIC Agreement § 5(a).

MFEI Conclusion 4-D-4 — Logical Inference: The effects of the 2019 enrollment decision continued through 2026. Michigan's QVF stood at 108.9% of CVAP as of May 2026. The ERIC agreement's FOIA shield continues to be cited to deny public records requests. ERIC write access to the QVF continues. The GOTV mandate continues to require Michigan to expand registrations at the direction of a private organization. None of these structural consequences have been corrected or adjudicated.

MFEI Conclusion 4-D-5 — Logical Inference: The ERIC data-sharing architecture (including the state's own affirmative upload of its cleaned EBU list to the ERIC SFTP site for transfer to CEIR (documented in the CEIR EBU General Timeline, Figure 3), and CEIR's subsequent transmission to undisclosed subcontractors under a non-public NDA) creates a transparency gap that prevents Michigan residents, legislators, and courts from independently verifying the full scope of downstream disclosure of voter and driver data, including data of minors. The hashing of the last four digits of a Social Security number provides limited identity protection when combined with name, date of birth, address, and photograph transmitted in the same data bundle. The ERIC agreement's FOIA shield and the absence of ERIC annual reporting since 2017 compound this gap. Unlike a passive data-sharing recipient, the Bureau of Elections was an active participant in each transmission cycle.

§VII. Potential Federal Interests

The following questions identify federal interests potentially implicated by the facts documented in Count 4. They are framed for DOJ review, not as conclusions.

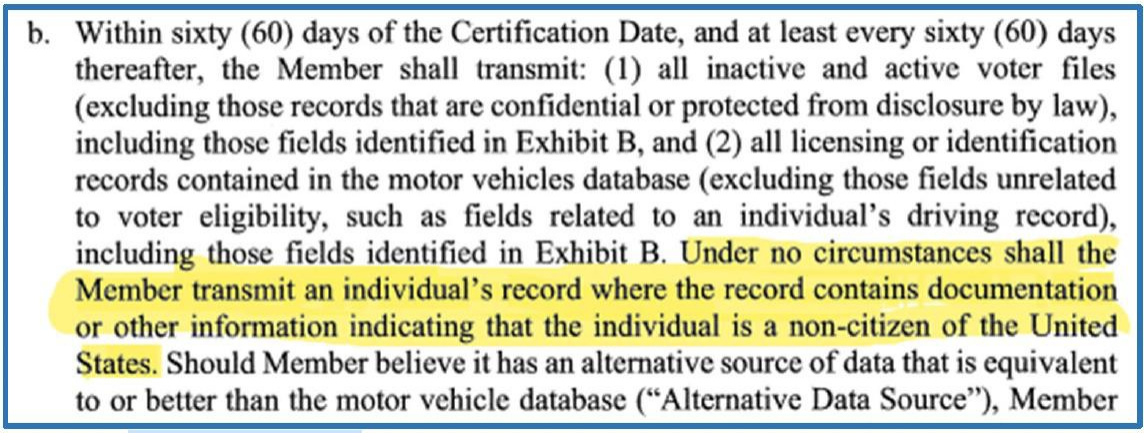
- Whether Michigan's ERIC participation is consistent with HAVA § 21083, which authorizes database coordination only with the state motor vehicle authority and the Commissioner of Social Security, and whether Secretary Benson's unilateral enrollment without express statutory authorization constitutes an unauthorized delegation of a core federal statutory function warranting review under HAVA § 21112 and the Elections Clause.
- Whether disclosure of motor vehicle records to ERIC, including records of minors as young as age 14, complies with the Driver's Privacy Protection Act, 18 U.S.C. § 2721, given that the ERIC agreement's own text defeats the government function exception of § 2721(b)(1).
- Whether HAVA-funded resources were used for activities prohibited by EAC Guidance FAO-08-005, and whether claw back under HAVA § 902 (52 U.S.C. § 21142) is warranted.

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- Whether private entities possessing write access to Michigan's statewide voter registration database, including ERIC and Rock the Vote, are consistent with HAVA's requirement that the list be defined, maintained, and administered at the State level.
- Whether the administrative complaint process afforded meaningful review of the HAVA delegation claim, and whether the federal delegation question warrants de novo federal review following the Bureau of Elections' procedural dismissal without merits ruling.
- Whether the ERIC–CEIR EBU data pipeline, documented by Rhode Island and Georgia public records, involved transmission of Michigan voter and driver data to CEIR under a non-disclosed NDA arrangement, in potential violation of HAVA § 21083's state-level administration requirement and the DPPA.
- Whether the circuit split on NVRA public disclosure standing, in which the Sixth Circuit's dismissal of *PILF v. Benson*, 136 F.4th 613 (6th Cir. 2025) directly conflicts with the First, Ninth, and Tenth Circuits, warrants DOJ intervention or amicus participation in any certiorari petition, and whether DOJ should use its own NVRA enforcement authority (52 U.S.C. § 20510(a)) to independently obtain the ERIC-related records that Benson refused to produce in response to both the PIME HAVA complaint and PILF's NVRA request.
- Whether additional federal oversight or audit review by DOJ or EAC OIG is warranted given the pending status of EAC OIG File No. 24-0056.

§VIII. Summary and Conclusion

Count 4 documents five categories of apparent legal violation arising from Secretary Benson's January 9, 2019, unilateral enrollment of Michigan in ERIC, a private Delaware nonprofit corporation, without express statutory authorization under HAVA § 21083. The violations are: unauthorized delegation of a core HAVA governmental function; inconsistency with HAVA's minimum requirements under § 21084; DPPA violation under 18 U.S.C. § 2721 (including data of minors as young as 14); use of HAVA-funded resources for a GOTV mandate not authorized by federal law; and write access to Michigan's QVF by non-governmental entities.



b. Within sixty (60) days of the Certification Date, and at least every sixty (60) days thereafter, the Member shall transmit: (1) all inactive and active voter files (excluding those records that are confidential or protected from disclosure by law), including those fields identified in Exhibit B, and (2) all licensing or identification records contained in the motor vehicles database (excluding those fields unrelated to voter eligibility, such as fields related to an individual's driving record), including those fields identified in Exhibit B. Under no circumstances shall the Member transmit an individual's record where the record contains documentation or other information indicating that the individual is a non-citizen of the United States. Should Member believe it has an alternative source of data that is equivalent to or better than the motor vehicle database ("Alternative Data Source"), Member

Figure 42: **ERIC Membership *Agreement*** *§ 2(b) as signed by Secretary of State Jocelyn Benson, January 9, 2019.*[230]

The 2020–2026 through-line is the Count's central structural claim. Secretary Benson enrolled Michigan in ERIC in January 2019. The QVF stood at 108.9% of CVAP as of May 2026, a ratio that began with ERIC enrollment and has not been corrected. The PIME HAVA § 21112 complaint filed September 21, 2022, was dismissed on procedural grounds without substantive merits review, after more than three years. The 426-page EAC OIG audit risk assessment (File No. 24-0056) submitted January 29, 2024, remains pending substantive response. Michigan's ERIC membership continues. The statutory authority question has never been adjudicated on the merits.

The ERIC–CEIR pipeline, established by Rhode Island and Georgia public records and corroborated by the Washington State EBU postcard findings, adds a dimension to the voter roll inflation connection that goes beyond list-maintenance suppression. The ethnic-name concentration documented in Washington's EBU postcards (92% Chinese in 2020/2022, shifting to 73–80% Central Asian in 2023–2025), combined with Colorado's admission of 30,000 non-citizen EBU contacts and the documented ERIC→CEIR processing pipeline, collectively support the inference that CEIR's intermediate processing applies filtering that neither ERIC's FAQ nor Michigan's Membership Agreement discloses. Michigan's EBU list passed through this same pipeline. What filtering was applied to Michigan's list cannot be determined without production of CEIR's processing records.

The structures that allowed unauthorized voter roll privatization to proceed in 2019 were still operating and being actively shielded from oversight by the ERIC agreement's FOIA barrier and

[230] Vaeth et al, MFEI Audit Committee, Request for EAC OIG Assessment of Audit Risk, *(File No. 24-0056), Michigan Fair Elections Institute, March 2024, Exhibit A, p. 19.*

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the administrative complaint dismissal through 2026. The questions this Count raises for DOJ review follow directly from that unresolved record.

§IX. Authorities, Sources, and Works Cited

A. Cases

Mutual Pharmaceutical Co. v. Bartlett, 570 U.S. 472 (2013). (State laws conflicting with valid federal law are preempted and without effect. Cited regarding HAVA preemption arguments involving MCL 168.509o(5).) https://supreme.justia.com/cases/federal/us/570/472/

Pub. Int. Legal Found. v. Benson, 136 F.4th 613 (6th Cir. 2025). Sixth Circuit held PILF lacked standing to sue Michigan SOS under NVRA public disclosure provision; affirmed refusal to produce ERIC-related communications. Part of circuit split on NVRA informational standing. Cert. petition filed Oct. 7, 2025, No. 25-437 (U.S.). https://law.justia.com/cases/federal/appellate-courts/ca6/24-1255/24-1255-2025-05-06.html

Pub. Int. Legal Found. v. Sec'y of Pa. (Schmidt), 136 F.4th 456 (3d Cir. 2025). Third Circuit likewise held PILF lacked Article III standing to compel disclosure of Pennsylvania voter-roll records under the NVRA's public disclosure provision absent proof of downstream consequences; same restrictive standing rule as the Sixth Circuit's Benson decision. Cert. petition pending, No. 25-379 (filed Sept. 26, 2025). https://www.supremecourt.gov/DocketPDF/25/25-379/378038/20250926154050445_25-%20Petition.pdf

Pub. Int. Legal Found. v. Bellows, 92 F.4th 36 (1st Cir. 2024). First Circuit recognized informational standing; state restrictions on voter data preempted by NVRA. https://law.justia.com/cases/federal/appellate-courts/ca1/23-1361/23-1361-2024-02-02.html

Voter Reference Found., LLC v. Torrez, 160 F.4th 1068 (10th Cir. 2025). Tenth Circuit recognized standing; state restrictions on publication of voter data preempted by NVRA. https://law.justia.com/cases/federal/appellate-courts/ca10/24-2133/24-2133-2025-11-25.html

Public Interest Legal Found. v. Nago, 2026 WL 1144703 (9th Cir. 2026). Recognized informational standing under the NVRA public-disclosure provision and contributes to the developing circuit split discussed in Count 4. https://case-law.vlex.com/vid/pub-interest-legal-found-1118023598

B. Federal and State Constitutions

U.S. Constitution, Art. I, § 4, cl. 1 (Elections Clause). (Provides Congress authority to regulate federal election administration and serves as the constitutional basis for HAVA.) https://constitution.congress.gov/browse/essay/artI-S4-C1-2/ALDE_00013577/

Michigan Constitution, Art. II, § 4. (Assigns election authority to the Legislature.) https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-Article-II-4

C. Statutes

HAVA, 52 U.S.C. § 21083. QVF defined, maintained, and administered at State level; authorized database coordination only with state motor vehicle authority and Commissioner of Social Security. https://uscode.house.gov/view.xhtml?req=(title:52%20section:21083%20edition:prelim)

HAVA, 52 U.S.C. § 21084. Minimum-requirements provision. Establishes HAVA's requirements as minimum requirements and permits states to adopt stricter election-technology and administration requirements, so long as they are not inconsistent with HAVA's minimum requirements. https://uscode.house.gov/view.xhtml?req=(title:52%20section:21084%20edition:prelim)

HAVA, 52 U.S.C. § 21112. Federal administrative complaint procedure. PIME complaint filed September 21, 2022; dismissed without merits review. https://uscode.house.gov/view.xhtml?req=(title:52%20section:21112%20edition:prelim)

HAVA Section 902, 52 U.S.C. § 21142. HAVA claw back provision. https://uscode.house.gov/view.xhtml?req=(title:52%20section:21142%20edition:prelim)

NVRA, 52 U.S.C. § 20507(i). Public disclosure provision: each State must make available for public inspection "all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters." Independent federal basis for obtaining ERIC-related state records; invoked in *PILF v. Benson* (6th Cir. 2025). https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title52-section20507&num=0&edition=prelim

Driver's Privacy Protection Act (DPPA), 18 U.S.C. § 2721. Prohibition on sharing motor vehicle data with non-governmental entities absent enumerated exception.

https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title18-section2721&num=0&edition=prelim

MCL 168.509o(5). SOS's claimed state-law authority for ERIC participation; PIME complaint argues this provision itself violates HAVA and is inconsistent with the minimum requirements of 52 U.S.C. § 21084. https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-168-509o

MCL 168.509aa et seq. Michigan Qualified Voter File as official statewide voter registration database. https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-168-509aa

MCL § 257.307(1)(a), (2). Michigan Driver License Act; SOS disclosure of driver's license information. https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-257-307

D. Executive Orders

None applicable to Count 4.

E. Legislative Materials

Michigan Senate Elections and Ethics Committee hearing, January 19, 2022. Senator Ruth Johnson (former Michigan SOS, 2011–2019) questions Adam Reames, MDOS, regarding non-citizen automatic voter registration via vehicle title transfer, timestamp ~23:53–25:06. https://imd0mxanj2.execute-api.us-west-2.amazonaws.com/ssr/watch/61f3065bd48d55e44ec8dd80

F. Government Publications

U.S. Election Assistance Commission, FAO-08-005 (Appendix R). (Provides guidance that HAVA funds may not be used for voter-registration or get-out-the-vote activities.) https://www.eac.gov/sites/default/files/document_library/files/FAO-08-005_EAC_1.pdf

MFEI Audit Committee, Request for EAC OIG Assessment of Audit Risk, File No. 24-0056 (Jan. 29, 2024; rev. Mar. 15, 2024). (Develops HAVA, DPPA, GOTV, and audit-risk concerns associated with Michigan's ERIC participation.) https://aa3979fb-9421-4dd8-ba7d-8ead2d346103.usrfiles.com/ugd/aa3979_785b0d23cd8b45e9a91a401f2e06daac.pdf

U.S. Census Bureau, 2020–2024 ACS 5-Year CVAP Special Tabulation. Michigan CVAP = 7,653,711. https://www.census.gov/programs-surveys/decennial-census/about/voting-rights/cvap.html

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G. MFEI / PIME Publications

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COUNT 5. Suppression of Free Speech and Election Oversight

§I. Issues Summary

Count 5 documents a five-channel suppression structure that prevented meaningful public, legislative, judicial, and journalistic scrutiny of Michigan's election administration following the November 3, 2020, general election. The violations documented in Counts 1 through 4, including unauthorized rulemaking, governance through undisclosed guidance, and systemic voter-roll failures, did not arise within a functioning oversight environment. They arose within a structurally compromised one.

As documented in *Compromised Checkpoints*: Restoring Independence to Michigan's Election Oversight (MFEI, April 2026)[231], the effective removal of independent oversight from the Michigan Office of Administrative Hearings and Rules (MOAHR), combined with the statutory ineffectiveness of the Joint Committee on Administrative Rules (JCAR), created the institutional conditions that allowed unauthorized election governance to proceed without meaningful correction or accountability. Count 5 addresses the corresponding suppression mechanisms that prevented a public evidentiary record from forming while those structural failures operated.

Current Federal Enforcement Interest

In July 2026, the United States Department of Justice reaffirmed the continuing federal interest in lawful election administration, preservation of election records, compliance with the Help America Vote Act (HAVA), and ensuring that election administration remains subject to meaningful governmental oversight. The suppression mechanisms documented in this Count are relevant because they concern the creation, preservation, accessibility, and public evaluation of records and information necessary for effective oversight of federal elections. The legal analyses presented herein are those of MFEI and PIME, but the documented factual record may assist federal authorities in evaluating continuing compliance with federal election law.

Topics Covered:

The five suppression channels were:

Legislative Suppression: The McBroom et al, Senate Oversight Committee Report[232] prematurely closed legislative inquiry into the 2020 election while simultaneously recommending investigation or prosecution of citizens raising election-related concerns.

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[231] Johnson et al., Compromised Checkpoints: Restoring Independence to Michigan's Election Oversight, MFEI, Apr. 2026.

[232] McBroom et al, Report on November 2020 Election in Michigan, Mich. Senate Oversight Committee (2021).

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Government-Coordinated Censorship: The Twitter Files[233] and the litigation in *Murthy v. Missouri*[234], documented federal agencies and government-affiliated actors coordinating pressure on major technology platforms to suppress election-integrity speech and related public debate.

Surveillance-Based Information Control: Years before the Twitter Files confirmed these practices operationally, Harvard Business School Professor Emerita Shoshana Zuboff described the underlying architecture in The Age of Surveillance Capitalism[235] (2019): a data-driven system capable of shaping, filtering, suppressing, and directing political discourse at scale through behavioral surveillance and platform control.

FOIA Obstruction and Concealment: The Secretary of State and Bureau of Elections obstructed Michigan election oversight through years of systematic Freedom of Information Act denials, culminating in a formal civil contempt finding under House Resolution No. 117[236] on May 22, 2025

Prosecutorial and Administrative Intimidation: Clerks, canvassers, and citizens attempting election oversight were subjected to documented forms of prosecutorial or administrative pressure, including criminal prosecution of a township clerk for following unauthorized guidance, threats against local officials attempting voter-roll maintenance under undisclosed standards, and Secretary Benson's public warning to county canvassers: "We will come for you[237]."

Together, these five channels insulated the violations documented in Counts 1 through 3 from the scrutiny necessary for constitutional self-government, preventing the normal corrective functions of transparency, oversight, legislative review, public criticism, and lawful accountability from operating in the years following the 2020 election.

§II. Legal Argument

MFEI and PIME advance the following legal theories based on the evidentiary record documented in this Count. These theories represent the organizations' analysis, not adjudicated holdings.

A. First Amendment Coercion (MFEI Legal Argument)

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[233] Patrice Johnson/MFEI, "Twitter Files Lift Cone of Silence" (2022).

[234] *Murthy v. Missouri*, 603 U.S. ___(2024) (No. 23-411).

[235] Shoshana Zuboff, *The Age of Surveillance Capitalism* (PublicAffairs, 2019); Harvard Gazette interview (Mar. 4, 2019).

[236] House Resolution No. 117, House adopted resolution to hold Secretary of State Jocelyn Benson and the Department of State in civil contempt of the Michigan House of 3 Representatives, (May 22, 2025) https://www.legislature.mi.gov/Bills/Bill?ObjectName=2025-HR-0117.

[237] Patrice Johnson/MFEI, "'We Will Come for You': SOS Benson Warns Canvasser Boards" (Sept. 3, 2024).

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MFEI advances the legal argument that the government-platform censorship architecture documented in Channel 2, including the FBI's content-flagging portal and coordinated DHS/CISA access to major platforms, constitutes government coercion of private censorship in violation of the First Amendment under *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58 (1963). The Supreme Court did not hold this conduct permissible in *Murthy v. Missouri*, 603 U.S. — (2024); it ruled on standing. Justice Thomas's controlling principle in *Biden v. Knight First Amendment Institute*, 141 S. Ct. 1220 (2021) — "The government cannot accomplish through threats of adverse government action what the Constitution prohibits it from doing directly" — remains the applicable framework.

B. Elections Clause Impairment (MFEI Legal Argument)

MFEI advances the legal argument that MDOS's systematic denial of election administration records to the Michigan Legislature, culminating in civil contempt under House Resolution No. 117 (May 22, 2025), undermines the legislative authority over federal elections that U.S. Const. Art. I, § 4, cl. 1 assigns to state legislatures, as confirmed in *Moore v. Harper*, 600 U.S. 1 (2023). The Legislature cannot exercise constitutionally assigned oversight over election administration it is prohibited from inspecting.

C. MCL 168.931b Intimidation (MFEI Legal Argument)

MFEI advances the legal argument that Secretary Benson's August 27, 2024 on-camera statement to canvass board members, "If someone were to violate the law and not certify the election at the local level, we will come for you," constitutes intimidation of election officials "with the specific intent of interfering with the performance of that election official's election-related duties," which MCL 168.931b prohibits as a criminal act. Canvass board members are constitutional officers under Michigan Constitution Art. II, § 7; their certification function is quasi-judicial, not purely ministerial.

§III. Factual and Procedural Background

Secretary of State Jocelyn Benson took office in January 2019. Between 2019 and 2021, her office issued the guidance documents, ERIC enrollment, and administrative directives that Counts 1 through 4 of this report document as operating outside statutory authority. Following the November 3, 2020, general election, citizen analysts, legislators, clerks, and journalists began raising concerns about voter roll accuracy, unauthorized rulemaking, and ERIC data-sharing practices. The five suppression channels documented in this Count operated over the period 2020 through 2026, spanning both the Benson era and its institutional aftermath, to prevent those concerns from being examined, documented, and corrected through the normal mechanisms of democratic accountability.

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The key institutional actors are: Secretary Jocelyn Benson (MDOS, 2019–present), responsible for the rulemaking and guidance documented in Counts 1–3 and the FOIA denials and certification threats documented here; Bureau of Elections Director Jonathan Brater, who issued the e-pollbook deletion directive at issue in the *Scott* prosecution, signed the Bishop threat letter, and testified that he could not recall consulting DOJ before issuing the deletion directive; Senator Ed McBroom (Chair) and Senator Lana Theis (Majority Vice Chair), whose 2021 Oversight Committee report formally closed the legislative inquiry while recommending prosecution of election critics; and the FBI, DHS/CISA, and affiliated federal agencies whose content-flagging portal architecture is documented in the Twitter Files.

The five suppression channels did not operate independently. They were temporally convergent (all active 2020–2026), topically convergent (all targeting Michigan election oversight), and directionally convergent (all preventing development of the public evidentiary record). Count 5 documents this convergence as a structural pattern.

§IV. Legal Framework

A. First Amendment — Government Coercion of Private Platforms

The First Amendment prohibits the government from suppressing speech, including through coercion of private intermediaries. *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58 (1963)[238] established that government "suasion, persuasion, or informal sanctions" inducing private censorship violates the First Amendment without formal legal compulsion. Justice Thomas's concurrence in *Biden v. Knight First Amendment Institute*, 141 S. Ct. 1220 (2021)[239] articulated the controlling principle: "The government cannot accomplish through threats of adverse government action what the Constitution prohibits it from doing directly." *Murthy v. Missouri*, 603 U.S. — (2024)[240] addressed the specific government-platform portal architecture documented in the Twitter Files. The Court ruled on standing grounds; it did not hold the underlying conduct constitutionally permissible.

B. Elections Clause and Legislative Oversight Authority

U.S. Const. Art. I, § 4, cl. 1 assigns authority over federal elections to state legislatures. *Moore v. Harper*, 600 U.S. 1 (2023)[241] confirmed that legislative authority includes oversight of executive election administration. When MDOS systematically denied the Legislature access to election

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[238] *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58 (1963).

[239] *Biden v. Knight First Amendment Institute*, 141 S. Ct. 1220 (2021) (Thomas, J., concurring).

[240] *Murthy v. Missouri*, 603 U.S. __(2024) (No. 23-411).

[241] *Moore v. Harper*, 600 U.S. 1 (2023).

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administration records, culminating in a civil contempt finding, it appeared to undermine the legislative authority the Elections Clause protects.

C. FOIA, NVRA Public Inspection, and Election Record Access

Michigan's FOIA statute (MCL 15.231 et seq.) provides a right of public access to government records, with exemptions enumerated in MCL 15.243. MDOS's claimed security exemption for the eLearning Portal is not enumerated in MCL 15.243. The NVRA, 52 U.S.C. § 20507(i), requires election records to be available for public inspection. A private organization's contractual terms (ERIC's membership agreement) cannot override Michigan's statutory FOIA obligations, as BOE attorney Fracassi-Wier's April 2022 denial letter effectively asserted.

Federal oversight of election administration depends upon timely access to election records, operational guidance, and administrative practices. Administrative actions that substantially impair oversight functions may affect the federal government's ability to evaluate compliance with HAVA, the NVRA, and other federal election statutes.

D. 42 U.S.C. § 1983 and Federal Enforcement Authority

Where government officials acting under color of state law suppress constitutionally protected speech, obstruct federal election oversight rights, or retaliate against election oversight advocates, 42 U.S.C. § 1983 provides a federal cause of action. 52 U.S.C. § 20511 provides criminal penalties for knowingly and willfully violating the NVRA, including the public inspection requirement.

§V. Evidentiary Record: The Five Suppression Channels

The suppression documented in this Count operated through five channels that were temporally, topically, and directionally convergent. Each is documented below.

A. Channel 1: The Michigan Senate Oversight Committee's *Report on November 2020 Election in Michigan* as Instrument of Closure (2021)

The *Report on November 2020 Election in Michigan,*[242] (Michigan Senate Oversight Committee, McBroom et al, 2021) is the primary vehicle through which the 2020 election inquiry was legislatively closed. Its conclusions have been widely cited as definitive. Its actual language is more carefully bounded, and its most consequential provision is a prosecutorial recommendation that created a documented chilling effect on subsequent citizen inquiry.

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[242] Senators Ed McBroom, Chair, Report on November 2020 Election in Michigan, Michigan Senate Oversight Committee (2021).

1. The Non-Exhaustive Admission

> "This investigation should not be considered exhaustive. Remaining conscientious of the limitations of this Committee, every possible investigative avenue was not undertaken."
>
> — "Executive Summary," Michigan Senate Oversight Committee*, Report on November 2020 Election in Michigan*, p. 3. [243]

This admission was not reflected in the report's public use. Media organizations, courts, election officials, and political actors cited the report as definitive proof that Michigan had thoroughly investigated and disproved election concerns. That was not what the report said.

2. The Prosecutorial Recommendation

> "The Committee recommends the attorney general consider investigating those who have been utilizing misleading and false information about Antrim County to raise money or publicity for their own ends." — Report on November 2020 Election in Michigan, p. 19.[244]

This recommendation targets public speech, the act of publicly promoting a theory the Committee found unpersuasive. It was made by a legislative committee without a finding of specific unlawful conduct. It was widely read as signaling that election integrity advocates who continued to raise concerns risked official investigation.

3. Constitutional Authority Questions Left Unexamined

The report's stated objective was to investigate claims of fraud, impropriety, error, and mismanagement. It did not examine as a primary inquiry whether Secretary Benson's guidance documents constituted unlawfully promulgated rules (though it acknowledged the Court of Claims had already ruled against Benson's signature guidance, p. 24); whether private election funding complied with state law (Section 3 was explicitly unfinished: "not finalized at this time," p. 12); whether QVF post-certification alterations violated 52 U.S.C. § 20701; or whether Michigan's ERIC enrollment in January 2019 had HAVA statutory authorization. These are precisely the questions that Counts 1 through 3 of this Report subsequently developed into the documented evidentiary record.

4. The Committee's other recommendations went largely unheeded.

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[243] McBroom et al, Report on November 2020 Election in Michigan (2021).

[244] McBroom et al, Report on November 2020 Election in Michigan (2021), Finding 5 (p. 19).

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While the Oversight Committee's report received wide circulation for its findings affirming a secure election and its recommendations to prosecute "those who have been utilizing misleading and false information," its recommendations for election reform were largely ignored. These recommendations, drawn directly from the report's Recommendations and Conclusion section (pages 34–35) and from the embedded findings throughout the body, were as follows:

Poll Challengers and Workers. Place in statute the rights and duties of challengers and poll watchers, with uniform training and accountability requirements. Ensure combined AVCBs can have more than one challenger per party, with replacement authority after sequester is lifted. Allow bipartisan election inspectors for all audits with the process open to the public.

Absentee Ballots and Applications. Prohibit the secretary of state from mailing unsolicited absentee voter ballot applications. Use only the current QVF for any voter mailings. Disallow pre-filled applications from any source. Allow continued pre-processing of absentee ballots the day before Election Day, with stringent security measures, conducted on-site at the tabulation location. Consider allowing tabulation to begin in the week preceding Election Day, with no results released until polls close.

Drop Boxes. Require video security on all drop boxes. Require drop boxes be emptied and secured at or before 8 p.m. on Election Day. Establish manifests and chain-of-custody records for ballot transfers between locations.

Signature Verification. Establish actual administrative rules for examining and validating signatures, consistent with the Michigan Court of Claims ruling striking down Benson's guidance. Ensure eligible voters are not unreasonably denied the ability to vote over signature issues. Require voters to confirm identity at some point in the process — real-time signature, photo ID, or unique identifier such as driver's license number.

Voter Rolls (QVF). Give county clerks greater authority to remove deceased individuals from the QVF. Direct the secretary of state to research and pursue methods — including statutory changes — to prevent and identify voters casting ballots in multiple states.

Canvassing. Reform canvassing by requiring canvassers to be physically present during canvass activities. Expand boards in higher-population counties. Provide additional time to complete the canvass. Change the law to provide consistency and transparency, specifically addressing Wayne County's anomalous practice of delegating canvass responsibilities to the clerk.

Tabulators and Precinct Balance. Develop best practices and training for maintaining balanced precincts. Require tabulator companies to design machines that physically separate tabulated from un-tabulated ballots to prevent accidental refeeding. Strengthen the law on logic and accuracy testing, including penalties for failure to perform.

Audits. Provide live video feeds and recordings of audit procedures. Make results publicly available online. Fulfill the constitutional commitment of Proposal 2018-3 by guaranteeing an audit upon request of any elector.

Antrim County / Broader Accountability. Recommend the attorney general investigate those who used misleading and false information about Antrim County to raise money or publicity.

Ballot Boxes. Extend standards for ballot box construction to drop boxes. Investigate who was responsible for using ballot boxes that the Wayne County Board of Canvassers had disallowed and labeled not for use.

B. Channel 2: Government-Coordinated Platform Censorship (2020–2022)

Beginning December 2, 2022, Elon Musk released internal Twitter documents the "Twitter Files" to independent journalists including Matt Taibbi and Michael Shellenberger. These documents constitute primary source evidence of a coordinated government program to suppress public discourse on election integrity and other politically sensitive subjects. No party has contested their authenticity. *Missouri v. Biden*[245], now *Murthy v. Missouri*[246], the federal litigation arising from this program, reached the U.S. Supreme Court in 2024.

1. **The Twitter Files establish the following as documented facts:**

A. The FBI maintained a direct content-flagging portal to Twitter through which agents identified specific accounts and posts for removal. The FBI characterized this as "our traditional, longstanding and ongoing federal government and private sector engagements" (FBI statement, December 2022).

B. DHS/CISA, the State Department, the CIA, and the Pentagon each had access to this portal. Twitter Files Part 9 (Taibbi, December 24, 2022): the FBI acted as "a doorman" coordinating government-wide platform access.

C. Suppressed content categories explicitly included election integrity questioning. The Intercept (October 2022) documented DHS's planned governance categories: COVID-19 origins and vaccines, racial justice, Afghanistan withdrawal, Ukraine support, and election administration, the last directly encompassing the content MFEI and PIME were publishing about Michigan's potential federal voter-registration compliance issues and ERIC data sharing.

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[245] Missouri v. Biden (later *Murthy v. Missouri*), filed W.D. La. (May 5, 2022); aff'd in part, 603 U.S. __(2024).

[246] *Murthy v. Missouri*, 603 U.S. __(2024).

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D. Meta (Facebook) documented its own compliance dynamic explicitly. When President Biden publicly accused Facebook of "killing people" over vaccine content (July 2021), a Meta executive texted: "It's not great to be accused of killing people" and described a process of "deescalate and work together collaboratively" resulting in platform policy compliance with government pressure.

E. House Republicans announced FBI subpoenas following the Twitter Files release (December 19, 2022). Hans von Spakovsky called for reopening the FEC's Twitter probe. Rep. Anna Paulina Luna testified in a hearing before the U.S. House Oversight Committee[247] (beginning 5:32:29), identifying the censorship network's architecture:

2. Censorship Architecture

Military and intelligence community veterans and congressional witnesses have documented the historical development of this censorship architecture.

> "On this chart, I want to annotate that the Department of Homeland Security, which has the following branches: Cyber Security and Infrastructure Security Agency, also known as CISA, Countering Foreign Intelligence task force now known as the Misinformation, Disinformation, and Mal-information (MDM). This was again used against the American people. The Election Integrity Partnership, EIP, which includes the following: Stanford Internet Observatory, University of Washington Center for Informed Public, Graphika, and Atlantic Council's Digital Forensic Lab and potentially according to what we found on the final report by EIP, the DNC." — Rep. Anna Paulina Luna, U.S. House Oversight Committee Hearing[248] (beginning 5:32:29), February 8, 2023

[247] U.S. House Oversight Committee Hearing, "Protecting Speech from Government Interference and Social Media Bias, Part 1: Twitter's Role in Suppressing the Biden Laptop Story" (Feb. 8, 2023).

[248] U.S. House Oversight Committee Hearing (Feb. 8, 2023). Available at oversight.house.gov.

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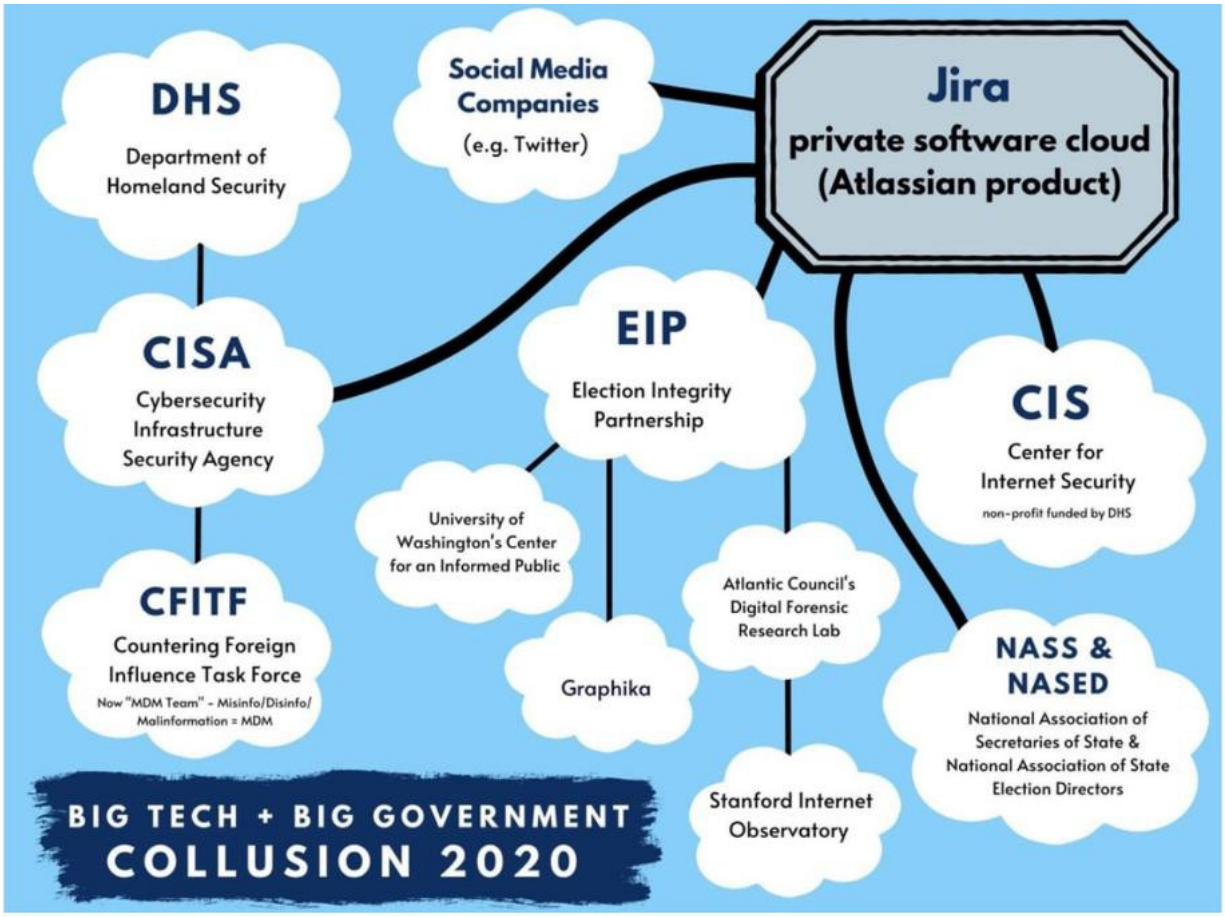


*Figure 43: **Government-Platform Censorship Architecture Presented in Congressional Testimony**, Rep. Anna Paulina Luna, U.S. House Oversight Committee Hearing (beginning 5:32:29) (February 8, 2023)*[249]

David Howell, a retired Army National Guard Physician Assistant with four combat deployments, wrote in the MFEI article Censorship and the National Security State[250] (March 20, 2024) that the national security mechanisms developed to support democracy-promotion efforts overseas, including during the Arab Spring of 2011–2012, were subsequently applied to domestic information environments. Howell contends that this transition began in the context of the 2014 Ukraine crisis and ultimately contributed to coordinated efforts to monitor, moderate, and suppress certain political speech on major social media platforms in the United States.

Michael Benz, former Deputy Assistant Secretary for International Communications at the State Department, provided the institutional chronology in a widely covered 2024 interview. The

[249] U.S. House Oversight Committee Hearing (Feb. 8, 2023). U.S. Oversight.house.gov. (beginning 5:32:29).

[250] David Howell/MFEI, "Censorship and the National Security State" (Mar. 13, 2024).

architecture documented in the Twitter Files represents the domestic manifestation of tools developed for foreign influence operations, Benz explained.



Watch: "The Disturbing Truth About Our Government's Mass Censorship Campaign," with Mike Benz, Executive Director, Foundation for Freedom Online (Epoch Times, Feb. 2, 2023).[251]

The legal framework is established in Bantam Books v. Sullivan[252] (government intimidation inducing private censorship violates the First Amendment) and *Biden v. Knight First Amendment Institute*[253] (Thomas, J., concurring): "A private entity violates the First Amendment if the government coerces or induces it to take action the government itself would not be permitted to do."

The theoretical architecture underlying this program is developed in full in Channel 3 below.

C. Channel 3: Big Tech Surveillance and the Financial Incentives of Compiling Data on People and Using It to Control Behavior

[251] Mike Benz, "The Disturbing Truth About Our Government's Mass Censorship Campaign," Epoch Times (Feb. 2, 2023).

[252] *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58 (1963).

[253] *Biden v. Knight First Amendment Institute*, 141 S. Ct. 1220 (2021) (Thomas, J., concurring).

Harvard Business School Professor Emerita Shoshana Zuboff, in *The Age of Surveillance Capitalism*[254] (2019), provides the theoretical framework for understanding why this architecture was so effective and so difficult for the public to perceive.

Zuboff defines surveillance capitalism as "the unilateral claiming of private human experience as free raw material for translation into behavioral data", meaning data computed into prediction products and sold to those with a commercial or political interest in knowing and shaping what people will do.

The architecture documented in the Twitter Files reflects precisely this dynamic: government agencies operating through the "social relations of the one-way mirror," able to see, to act, and to suppress, while citizens had no way to know what was happening or to contest it. Zuboff also identifies why these operations are structurally resistant to public accountability: "These methodologies are designed to keep us ignorant."

The censorship of election-integrity content documented in this Count was not a visible act of government prohibition. It was an invisible act of behavioral architecture, operating through private intermediaries, at scale, without the formal legal process that would have triggered First Amendment scrutiny. The Zuboff framework[255] provides the analytical vocabulary for what the Twitter Files documented as operational fact: a one-way mirror in which the government and its platform partners observed and shaped public discourse on election administration, while the citizens whose speech was being suppressed had no means of detecting, let alone contesting, what was being done to them.

D. Channel 4: Systematic FOIA Obstruction (2020–2025)

The FOIA denial pattern documented across this report is not a collection of isolated administrative decisions. It is a consistent pattern of withholding election records spanning five years, multiple independent requestors, and multiple record categories:

The significance of these denials extends beyond Michigan's Freedom of Information Act. Election administration records, training materials, operational manuals, and related documentation may also be relevant to federal oversight responsibilities, including review of HAVA compliance, election-record preservation, and administration of federal elections.

1. ERIC Data-Sharing Records (April 2022)

On April 4, 2022, BOE attorney Adam Fracassi-Wier denied citizen analyst Louis Avallone's FOIA for ERIC data-sharing records. The denial simultaneously confirmed that Michigan was

[254] *Zuboff, The Age of Surveillance Capitalism* (2019).

[255] *Zuboff, The Age of Surveillance Capitalism* (2019).

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sharing voter data protected under MCL 168.509gg with ERIC and invoked ERIC's private membership agreement as a basis for withholding state records, asserting that a private nonprofit's contractual terms override Michigan's statutory FOIA obligations. Source: Confessions of a FOIA Denial (PIME/Johnson, April 11, 2022)[256].

2. Clerk-Level FOIA Denial (April 2022)

On April 28, 2022, a Rochester Hills clerk denied citizen Lorraine McGoldrick's FOIA for ERIC/QVF data in writing: "The Clerk's Office does not have access to run any reports as they relate to ERIC and QVF." This confirmed that even local clerks with direct QVF responsibilities were excluded from oversight of the ERIC data-sharing arrangement. Source: FOIA Denied: No Info on ERIC and QVF from Local Clerk (PIME, April 28, 2022)[257].

3. eLearning Portal and Legislative Subpoenas (2024–2025)

The Michigan House Oversight Committee's seven-month effort (November 2024 – May 2025) to obtain election training materials from MDOS required escalation from informal requests to formal FOIA (December 2024) to legislative subpoenas (April 22, 2025) to a civil contempt resolution (May 22, 2025, House Resolution No. 117). MDOS produced 68 of 517 requested items and withheld the 22-gigabyte eLearning Portal. The Court of Claims entered a preservation order on June 11, 2025, and denied summary disposition on November 3, 2025 (*Michigan House of Representatives v. Benson*, No. 25-000096-MZ[258]). The case remains active.

Because these materials reportedly contain the operational standards used by election officials throughout Michigan, their continued unavailability may materially affect the ability of federal investigators, courts, legislators, and the public to evaluate how federal elections are actually administered in practice.

E. Channel 5: Prosecutorial and Administrative Chilling Effect (2021–2025)

1. The Scott Prosecution: Clerk Charged for Refusing to Follow Unauthorized Guidance (2021–2025)

The prosecution of Stephanie Scott, a Hillsdale County township clerk, for conduct governed by pre-codification BOE guidance on e-pollbook deletion, illustrates the asymmetry of Michigan's election oversight environment. The BOE issued a directive to delete e-pollbook data within

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[256] PIME/Johnson, "Confessions of a FOIA Denial" (Apr. 11, 2022).

[257] PIME, "FOIA Denied: No Info on ERIC and QVF from Local Clerk" (Apr. 28, 2022).

[258] *Michigan House of Representatives v. Benson*, No. 25-000096-MZ, Mich. Ct. Cl. (Nov. 3, 2025, Judge Patel).

seven days before Rule R 168.48 codified that practice. Clerk Scott was prosecuted for conduct arising from this guidance. BOE Director Jonathan Brater testified at a probable cause hearing (August 2025) that he could not recall whether he consulted with DOJ on the legality of the deletion directive before issuing it. The Court of Claims found the deletion rule directly conflicts with the NVRA's 22-month preservation mandate (52 U.S.C. § 20701). Source: *People v. Stephanie Scott* (MFEI coverage)[259].

The chilling effect is structural. Clerks who follow unauthorized BOE guidance face prosecution if the guidance turns out to be unlawful, but also clerks who deviate from BOE guidance face MDOS enforcement. The operational standards in the 22-gigabyte eLearning Portal remain withheld. No clerk can independently verify whether the standards they are trained to follow are lawfully established. Additionally, Brater's August 2025 testimony confirms the BOE's documented instruction to clerks not to release QVF data in response to FOIA requests and appears to constitute a direct administrative instruction to obstruct public oversight.

2. The Bishop Threat Letter: Prosecution Risk Under Withheld Standards (April 2026)

On April 14, 2026, Bureau of Elections Director Jonathan Brater sent a three-page letter to Antrim County Clerk Victoria Bishop threatening criminal misdemeanor charges under MCL 168.931(1)(g) for voter roll maintenance activities. Bishop had been issuing confirmation and cancellation notices to voters, updating QVF status codes, and transmitting lists to local clerks — actions she understood to be within her duties as a county clerk performing election oversight. The BOE's letter cited as the governing standard the Election Officials' Manual, Chapter 1, the same Manual that forms part of the 22-gigabyte eLearning Portal that MDOS was simultaneously withholding from the Legislature under active litigation in *Michigan House of Representatives v. Benson*, No. 25-000096-MZ[260].

Jonathan Brater, the SOS's Director of its Bureau of Elections (BOE), signed a letter directing Bishop to produce eight categories of detailed records within nine days or face potential criminal liability for failure to comply with BOE directives. The same Director Brater who signed the Bishop letter, had testified months earlier that he could not recall consulting the Department of Justice before issuing the e-pollbook deletion directive that led to Stephanie Scott's prosecution.

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[259] Christlieb/MFEI, People v. Stephanie Scott (2024–2026).

[260] *Michigan House of Representatives v. Benson*, No. 25-000096-MZ.

The BOE demanded compliance with standards the Legislature cannot inspect, from a clerk who had no independent means of verifying whether those standards were lawfully established. Source: Bureau of Elections Letter to Victoria Bishop, Antrim County Clerk (April 14, 2026)[261].

The Bishop letter establishes a second, more recent documented instance of the pattern. Clerk Scott was prosecuted for following unauthorized BOE guidance. Clerk Bishop was threatened with prosecution for attempting voter roll maintenance under standards drawn from materials the Legislature cannot inspect. In both cases, the enforcement pressure ran downward against locally accountable officials. In neither case did the BOE officials who created the underlying authority, or lack of it, face comparable accountability. The convergence of these two cases confirms a structural pattern, not an isolated incident.

The Scott matter's origin documents corroborate this Count's characterization at a level of detail the prosecution record alone does not supply. Director Brater's October 15, 2021 letter to Adams Township Clerk Stephanie Scott is captioned as advice and instruction but opens by stating that, absent compliance, "this will be the final letter you receive before legal action is taken," and separately accuses Scott of "communicating false or misleading information about elections in Michigan."

Ten days later, having received a partial response, Brater's October 25, 2021 letter escalated from instruction to removal: it directed Scott to "refrain from administering any elections held in Adams Township," transferred all of her statutory election duties to the Hillsdale County Clerk, suspended her QVF access, and warned that noncompliance with the directive was a misdemeanor under MCL 168.931(h).

Read together with the Bishop letter, the two episodes show the same enforcement structure recurring five years apart: a Bureau letter citing MCL 168.21, 168.31, and 168.32 as authority for compelling compliance, an explicit criminal-penalty warning, and no comparable mechanism by which the clerk could obtain independent review of whether the BOE's own underlying guidance was itself lawfully issued.

The pattern predates both: Antrim County Clerk Bishop's press release notes the BOE had established this enforcement mechanism through a prior action against Shelby Township Clerk Stan Grot, making the Bishop letter part of a documented series of enforcement actions against clerks performing election oversight.

3. The RS 2025-13 Cost Barrier: Pricing Citizen Challengers Out of Statutory Rights

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[261] Bureau of Elections Letter to Victoria Bishop, Antrim County Clerk (Apr. 14, 2026), signed by Jonathan Brater, Director, Appendix E (herein).

The chilling effect on election oversight is not limited to government officials. Rule Set 2025-13's "personal knowledge" and "reliable source" requirements impose evidentiary standards on voter registration challengers that do not exist in MCL 168.512. That statute requires only a written affidavit specifying grounds for a challenge. RS 2025-13 adds: a personal knowledge requirement; exclusion of USPS data, online databases, and canvass reports as independently sufficient; and independent verification burdens for death-based cancellations. The practical effect, documented in MFEI's October 2025 Rule Set 13 analysis, is an estimated cost of $1,500 or more per 100-voter challenge, effectively pricing ordinary citizens out of the statutory list-maintenance oversight mechanism the Legislature created. A citizen who identifies 500 potentially ineligible registrants faces a $7,500 compliance cost before a single challenge can be filed. This is not an incidental administrative burden; this barrier runs counter to protections of citizen oversight, which are expressly protected in MCL 168.512, and as implicitly required in the NVRA's reasonable-effort mandate (52 U.S.C. § 20507(a)(4)). Source: MFEI, Analysis of Rule Set 2025-13 (October 2025).[262]

4. Compelled Speech as a Suppression Mechanism: Hagan Realty v. City of East Lansing

The suppression of election oversight speech operated not only through censorship of existing speech but also through compulsion of government-approved speech. East Lansing's city code required landlords to provide voter registration information and application forms to all new tenants at occupancy, imposing civil infraction penalties for non-compliance. The ordinance, targeted at a city where Michigan State University students constitute the predominant tenant population, effectively conscripted private citizens as agents of government voter mobilization messaging.

Attorney Erick Kaardal filed suit in federal court on March 16, 2023, in *Hagan Realty, Inc. v. City of East Lansing*[263], No. 1:2023cv00278 (W.D. Mich.), under 42 U.S.C. § 1983, arguing that East Lansing's ordinance violated the First Amendment's protection against compelled speech: "The First Amendment protects an individual's right to refrain from speaking just as much as it protects the right to speak freely."

The City of East Lansing withdrew the ordinance rather than contest the suit on the merits, achieving the same result as Kaardal's prior victory in a parallel case in Wisconsin. The Supreme Court has consistently held that the government cannot compel private parties to carry its ideological messages, a principle that applies with equal force to voter mobilization mandates

[262] Pure Integrity Michigan Elections, Comprehensive Legal Analysis of Rule Set 2025-13ST. (October 2025).

[263] *Hagan Realty, Inc. v. City of East Lansing*, No. 1:2023cv00278 (W.D. Mich.).

directed at private landlords. Source: Michigan Landlords Sue East Lansing for Forcing Them to Serve as Government Couriers (MFEI, March 22, 2023)[264].

5. The Canvasser Threat: "We Will Come for You" (August 2024)

On August 27, 2024, Secretary of State Jocelyn Benson delivered a direct on-camera threat to Michigan local canvass board members on X (formerly Twitter): "If someone were to violate the law and not certify the election at the local level, we will come for you."



'We will come for you.' Michigan's Secretary of State threatens canvass boards, fearing they may refuse to certify the November 5 election, https://www.youtube.com/watch?v=Jb59sk-UmAw&t=225s[265] (Go to ~3:46)

The statement was delivered as a preemptive warning ahead of the November 5, 2024, general election. Crawford County Board of Canvassers member Bryce Metcalfe responded in writing to MFEI:

"The MI SOS has recently posted a video that threatens me if I don't certify the November elections. This violates Michigan election laws. I will honestly canvass the November election. However, if I encounter problems with the vote count that cannot be corrected, then I will not vote to certify the election."

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[264] MFEI, "Michigan Landlords Sue East Lansing for Forcing Them to Serve as Government Couriers" (Mar. 22, 2023).

[265] Secretary Benson, on-camera statement, X (formerly Twitter) (Aug. 27, 2024), YouTube at ~3:46

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Metcalfe identified MCL 168.931b, which prohibits intimidation of election officials with intent to interfere with their duties, as the statute Benson's threat appeared to violate.

The threat is notable on two grounds. First, it was directed at canvass board members, constitutional officers who perform a quasi-judicial certification function under Michigan Constitution Art. II, § 7. Their function is ministerial but not automatic: canvassers are obligated to certify only results they can verify as accurate. A public threat of prosecution for exercising that judgment is a direct interference with a constitutional function.

Second, the same official whose guidance courts had struck down in five separate cases (*RNC v. Benson*, *Genetski v. Benson*, *Carra v. Benson*, *Johnson v. Benson*, *O'Halloran v. Benson*), and who had promulgated the unauthorized rules and withheld the training materials documented in Counts 1 through 3 and in Channels 1, 3, and 4 of this Count, issued this statement. The convergence of these facts, a Chief Election Officer with a documented pattern of operating outside statutory authority, publicly threatening the officers responsible for certifying her elections, is the culmination of the suppression pattern this Count documents. Source: Johnson, "We Will Come for You": SOS Benson Warns Canvasser Boards to Certify the November 5 Election (MFEI, September 3, 2024)[266].

§VI. Structural Harms of the Suppression Program

The suppression program documented in this Count produces structural harms independent of the specific content suppressed:

A. Foreclosure of the Public Evidentiary Record

Counts 1 through 3 document unauthorized rulemaking, governance by undisclosed guidance, ERIC data-sharing without statutory authority, and voter roll failures. Building a full public evidentiary record of those violations required overcoming four simultaneous barriers. MDOS withheld the primary documents: the eLearning Portal, ERIC records, and QVF logs. Government-coordinated censorship suppressed the platform channels for public dissemination. The legislative investigation closed as non-exhaustive while recommending prosecution of critics. And prosecution risk chilled clerks with direct knowledge from cooperating.

MFEI's six-year investigation built this record despite those headwinds. That the record now exists demonstrates the suppression failed, but only because citizen volunteers sustained the effort against structural resistance.

B. Federal Oversight Impairment

[266] Patrice Johnson/MFEI, "'We Will Come for You': SOS Benson Warns Canvasser Boards" (Sept. 3, 2024).

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Federal oversight of Michigan's compliance with HAVA, the NVRA, and the Elections Clause requires access to the actual operational standards governing Michigan's election administration. Those standards are embedded in the undisclosed 22-gigabyte eLearning Portal. Platform suppression of public discourse concerning those standards reduced the external pressure that might otherwise have produced earlier disclosure. The DOJ, the Election Assistance Commission, federal courts, and the Michigan Legislature cannot fully evaluate compliance with federal election law without knowing the operational standards under which Michigan's 1,690 election jurisdictions are trained to conduct federal elections.

Federal oversight requires more than access to election outcomes; it also requires access to the operational rules, training materials, election records, and administrative practices governing how those outcomes were produced. The suppression mechanisms documented in this Count, including censorship, record withholding, denial of legislative access, and the prosecution or threatened prosecution of officials engaged in election oversight, may collectively have impaired the transparency and availability of information necessary for meaningful federal review of election administration.

C. Democratic Accountability Failure

The Legislature cannot oversee what it cannot see. The *House of Representatives v. Benson* litigation, requiring the Legislature to escalate to civil contempt proceedings to obtain basic election training materials, demonstrates that the executive branch's systematic withholding of election records has impaired the Legislature's constitutionally assigned oversight function. The government-corporate censorship architecture documented in the Twitter Files simultaneously impaired the public's ability to understand and respond to election administration failures.

D. The Information Environment Created

The cumulative effect of the five suppression channels was to create an information environment in which: the primary documentation of Michigan's election administration was withheld; the channels through which citizens could disseminate concerns were subject to censorship; the legislative investigation was concluded while recommending prosecution of those who continued to inquire; and the clerks who administered the election were chilled from cooperation. Count 5 documents what was done to suppress the record documented in Counts 1 through 3 from forming and coming to light.

§VII. Potential Violations of Law

A. Federal Law

A. U.S. Const. Amend. I (First Amendment) — Government coercion of private platforms to suppress constitutionally protected speech about election administration, documented in the

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Twitter Files and the *Murthy v. Missouri* litigation record, constitutes an apparent First Amendment violation under *Bantam Books v. Sullivan*.

B. 52 U.S.C. § 20507(i) (NVRA Public Inspection) — MDOS's systematic refusal to produce ERIC data-sharing records, QVF system logs, and eLearning Portal materials in response to FOIA and legislative subpoena appears to conflict with the NVRA's requirement that election records be available for public inspection.

C. 42 U.S.C. § 1983 — Government officials acting under color of state law who suppress constitutionally protected speech, deny FOIA rights, or coordinate with federal agencies to suppress election oversight content appear to be liable under § 1983.

D. 52 U.S.C. § 20511 (NVRA Criminal Penalties) — Knowingly and willfully denying of public inspection rights under 52 U.S.C. § 20507(i) may constitute a criminal violation of the NVRA.

E. U.S. Const. Art. I, § 4, cl. 1 (Elections Clause) — Systematic executive branch denial of election administration records to the Legislature, culminating in a civil contempt finding, appears to undermine the legislative authority over federal elections that the Elections Clause protects, as confirmed in *Moore v. Harper*, 600 U.S. 1 (2023)[267].

B. Michigan Law

F. MCL 15.231 and MCL 15.243 (Michigan FOIA) — MDOS's refusal to produce eLearning Portal materials citing a security exemption not enumerated in MCL 15.243, and BOE attorney Fracassi-Wier's invocation of ERIC's private membership agreement to override state FOIA obligations, both appear to constitute unauthorized FOIA restriction.

G. MCL 168.931b (Prohibition on Intimidation of Election Officials) — Secretary Benson's August 27, 2024 on-camera statement ("We will come for you") directed at canvass board members who might decline to certify election results appears to constitute intimidation of election officials "because of the election official's status as an election official, with the specific intent of interfering with the performance of that election official's election-related duties," which MCL 168.931b prohibits as a criminal act.

H. MCL 168.931(1)(g) — The Bureau of Elections invoked this criminal misdemeanor provision against Antrim County Clerk Victoria Bishop for voter roll maintenance activities. The BOE's use of criminal misdemeanor threat under an authority derived from the Election Officials' Manual, materials withheld from legislative inspection, raises the question whether MCL 168.931(1)(g) is being applied to enforce standards that themselves lack

[267] *Moore v. Harper*, 600 U.S. 1 (2023).

statutory authorization under *Rovas v. Secretary of State*[268] and *Luttrell v. Department of Corrections*.

I. Michigan Constitution, Art. IV, § 16 — The Legislature's constitutional investigative authority grounds the legislative subpoenas in *House of Representatives v. Benson*. MDOS's seven-month refusal, culminating in civil contempt, appears to violate the Michigan Constitution's separation-of-powers.

J. Michigan Constitution, Art. II, § 4(2) (Transparent Elections) — Concealing from the Legislature, courts, and public the operational standards governing Michigan elections, while coordinating with federal agencies to suppress public discussion of election administration concerns, appears to conflict with the constitutional guarantee of transparent election results.

K. Michigan Constitution, Art. III, § 2 (Separation of Powers) — Executive branch coordination with federal agencies to suppress legislative and public oversight of executive election administration implicates the separation-of-powers framework.

§VIII. Findings

The findings below are organized according to evidentiary category.

A. Established Facts

1. Established Fact 5-A-1

The McBroom et al Senate Oversight Committee Report (2021) contains an explicit non-exhaustive admission ("every possible investigative avenue was not undertaken," p. 3) and recommended the AG "consider investigating" those who publicly promoted election fraud theories (p. 19).

2. Established Fact 5-A-2

The Twitter Files constitute primary source documentation that the FBI maintained a content-flagging portal to Twitter; that DHS/CISA, the State Department, CIA, and Pentagon accessed that portal; and that suppressed content categories included election integrity questioning.

3. Established Fact 5-A-3

[268] *In re Complaint of Rovas*, 482 Mich. 90 (2008).

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Rep. Luna's sworn testimony (Feb. 8, 2023) identified the EIP censorship architecture: DHS/CISA → Stanford Internet Observatory, UW Center for Informed Public, Graphika, Atlantic Council DFRLab → platform partners.

4. Established Fact 5-A-4

BOE attorney Fracassi-Wier's April 4, 2022, FOIA denial confirmed Michigan was sharing voter data with ERIC and invoked ERIC's private membership agreement to deny a Michigan FOIA request.

5. Established Fact 5-A-5

On April 28, 2022, a Rochester Hills clerk denied McGoldrick's FOIA for ERIC/QVF data: "The Clerk's Office does not have access to run any reports as they relate to ERIC and QVF."

6. Established Fact 5-A-6

The Michigan House's seven-month effort to obtain election training materials (Nov. 2024 – May 2025) required escalation to civil contempt (House Resolution No. 117, May 22, 2025), producing 68 of 517 requested items.

7. Established Fact 5-A-7

Stephanie Scott was prosecuted beginning May 2024 for conduct governed by pre-codification BOE guidance on e-pollbook deletion. On April 30, 2026, Judge Lisznyai dismissed all four felony charges, ruling the bindover was an "error of law." The court found no confidentiality requirement in the statute. One misdemeanor was remanded. The deletion rule (R 168.48) conflicts with 52 U.S.C. § 20701.

8. Established Fact 5-A-8

On April 14, 2026, BOE Director Brater threatened Antrim County Clerk Bishop with criminal charges for voter roll maintenance conducted under QVF Manual Chapter 4 and MDOS-approved vendor ElectionSource.

9. Established Fact 5-A-9

On August 27, 2024, Secretary Benson stated on camera: "If someone were to violate the law and not certify the election at the local level, we will come for you."

B. Judicial Findings

1. Judicial Finding 5-B-1

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In *Murthy v. Missouri*, 603 U.S. ___(2024), the Supreme Court ruled on standing, not the merits.

2. Judicial Finding 5-B-2

In *Moore v. Harper*, 600 U.S. 1 (2023), the Court confirmed state legislatures possess Elections Clause authority to regulate federal elections.

3. Judicial Finding 5-B-3

In *People v. Scott* (Judge Lisznyai, Apr. 30, 2026), the court dismissed all felony charges, finding the bind over was an "error of law." The statutory basis for the prosecution did not exist.

C. Legal Arguments

1. Legal Argument 5-C-1

MFEI advances the argument that the government-platform censorship architecture constitutes government coercion under *Bantam Books v. Sullivan*, 372 U.S. 58 (1963).

2. Legal Argument 5-C-2

MFEI advances the argument that MDOS's denial of election training materials to the Legislature undermines Elections Clause authority confirmed in *Moore v. Harper*.

3. Legal Argument 5-C-3

MFEI advances the argument that Secretary Benson's August 27, 2024 statement constitutes intimidation of election officials under MCL 168.931b.

D. MFEI Conclusions

1. MFEI Conclusion 5-D-1

Zuboff's surveillance capitalism framework (2019) provides an independently derived model matching the architecture the Twitter Files revealed.

2. MFEI Conclusion 5-D-2

The five suppression channels operated over the same period, targeted the same subject matter, and produced a consistent directional effect. The inference that they operated as a mutually reinforcing architecture follows from their temporal, topical, and directional convergence.

3. MFEI Conclusion 5-D-3 (pending production)

Whether USAID resources contributed to the "shadow campaign" described in *Time Magazine* (Feb. 4, 2021) is conditional, pending federal investigations following USAID's February 2025 shutdown.

§IX. POTENTIAL FEDERAL INTERESTS

The following investigative actions would be necessary to resolve the open questions identified in this Count. They are presented for DOJ Civil Rights Division / Voting Section and DOJ Election Crimes Branch consideration:

1. **First Amendment / platform censorship review**

   DOJ could assess whether the FBI's content-flagging portal to Twitter and related platforms, as documented in the Twitter Files, constituted government coercion of private censorship in violation of the First Amendment under *Bantam Books v. Sullivan.* Specifically, the DOJ may wish to determine whether Michigan election integrity content was suppressed through these portals, content including potential federal voter-registration compliance issues, ERIC data sharing, and APA violations.

2. **Report on November 2020 Election in Michigan prosecutorial recommendation review**

   DOJ should assess whether the Senate Oversight Committee's recommendation that the Michigan AG investigate election critics constituted an impermissible use of legislative authority to chill constitutionally protected speech, and whether the AG acted on that recommendation against Michigan election oversight advocates.

3. **EIP investigation**

DOJ should assess whether the Election Integrity Partnership (a DHS-funded consortium) unconstitutionally suppressed Michigan-specific election integrity content, including content about potential federal voter-registration compliance issues and ERIC data sharing, during the 2020 election cycle and its aftermath.

4. **FOIA compliance enforcement**

DOJ should assess whether MDOS's systematic denial of election records across multiple independent requestors and record categories over five years constitutes willful violation of the NVRA's public inspection mandate (52 U.S.C. § 20507(i)) warranting federal enforcement under 52 U.S.C. § 20511.

5. **Stephanie Scott prosecution review**

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DOJ should assess whether the prosecution of Stephanie Scott for conduct governed by unauthorized BOE guidance, guidance that directly conflicts with the NVRA's 22-month preservation mandate, implicates federal election law, and whether the BOE's issuance of the conflicting directive without legal authority requires DOJ attention.

6. Coordination with House of Representatives v. Benson

DOJ should monitor the active Mich. *House of Representatives v. Benson* (No. 25-000096-MZ)[269] proceedings and assess whether federal interest in the First Amendment, Elections Clause, and NVRA compliance questions warrants DOJ participation as amicus or through direct intervention.

7. Bishop letter and Channel 5 pattern review

DOJ should review the April 14, 2026 Bureau of Elections letter to Antrim County Clerk Victoria Bishop alongside the Scott prosecution record to assess whether the BOE's pattern of threatening constitutional officers with criminal prosecution for election oversight activity under standards drawn from materials withheld from the Legislature constitutes a systematic use of prosecutorial pressure to suppress legitimate election administration oversight, and whether federal intervention under 42 U.S.C. § 1983 or the Elections Clause is warranted.

8. USAID-elections connection (conditional)

As part of federal investigations now underway following USAID's February 2025 shutdown, DOJ should assess whether USAID resources were directed toward influencing U.S. election administration, including through funding of organizations involved in voter registration drives, ballot initiative campaigns, or election law changes in Michigan.

§X. Federal Questions for DOJ Review

The following questions identify federal interests potentially implicated by the suppression architecture documented in Count 5. They are framed, not as conclusions, for DOJ review.

Whether the FBI's content-flagging portal to Twitter, and parallel portals maintained by DHS/CISA, the State Department, CIA, and Pentagon, constituted government coercion of private censorship in violation of the First Amendment under *Bantam Books v. Sullivan*, 372 U.S. 58 (1963). Specifically, the DOJ may wish to determine whether Michigan election integrity content was suppressed through these portals, content including potential federal voter-registration compliance issues, ERIC data sharing, and APA violations.

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[269] *Michigan House of Representatives v. Benson*, No. 25-000096-MZ.

Whether MDOS's systematic denial of election administration records across five years, multiple requestors, and multiple record categories, culminating in civil contempt under House Resolution No. 117 (May 22, 2025), constitutes willful violation of the NVRA's public inspection mandate (52 U.S.C. § 20507(i)) warranting federal enforcement under 52 U.S.C. § 20511.

Whether MDOS's executive denial of election training materials to the Michigan Legislature implicates the Elections Clause (U.S. Const. Art. I, § 4, cl. 1), given that the Legislature cannot exercise its constitutionally assigned oversight authority without access to the operational standards governing Michigan's election administration.

Whether the prosecution of Hillsdale County Clerk Stephanie Scott for conduct governed by unauthorized BOE guidance (guidance that directly conflicts with the NVRA's 22-month preservation mandate (52 U.S.C. § 20701)) implicates federal election law and warrants DOJ review under the Elections Clause and 52 U.S.C. § 20511.

Whether Secretary Benson's August 27, 2024, on-camera statement threatening canvass board members (constitutional officers performing a quasi-judicial certification function) constitutes interference with federal election administration warranting review under 52 U.S.C. § 20511 and 42 U.S.C. § 1983.

Whether Rule Set 2025-13's evidentiary requirements for voter registration challengers, not enumerated in MCL 168.512 and estimated to cost $1,500 or more per 100-voter challenge, constitute a barrier to the reasonable-effort list maintenance obligation Congress established in NVRA § 8 (52 U.S.C. § 20507(a)(4)).

Whether the DHS-funded Election Integrity Partnership (a consortium of Stanford Internet Observatory, University of Washington Center for Informed Public, Graphika, and Atlantic Council DFRLab) unconstitutionally suppressed Michigan-specific election integrity content during the 2020 election cycle and its aftermath, in potential violation of the First Amendment under *Bantam Books v. Sullivan*.

Whether BOE Director Brater's April 14, 2026, letter to Antrim County Clerk Victoria Bishop, threatening criminal misdemeanor charges for voter roll maintenance activities conducted under an MDOS-approved manual and vendor, constitutes prosecutorial pressure against a constitutional officer in a manner that implicates federal oversight of Michigan's HAVA and NVRA compliance.

§XI. Summary And Conclusion

Count 5 documents five suppression channels that operated between 2020 and 2026 to prevent meaningful public, legislative, judicial, and journalistic scrutiny of Michigan's election administration. These channels were not incidental. They arose from, and in turn helped shield from scrutiny, the same administrative structures documented in Counts 1 through 4:

unauthorized rulemaking, governance through undisclosed guidance, ERIC enrollment without statutory authorization, and voter registration and election-administration issues that could not be fully evaluated because the suppression architecture impeded development of a complete public evidentiary record.

The 2020–2026 through-line is this Count's central finding. The McBroom Report closed legislative inquiry in 2021 while recommending investigation of certain election critics. The FBI and DHS/CISA content-flagging portals documented in the Twitter Files affected public discourse concerning election administration beginning in 2020 and continuing through 2022. MDOS denied FOIA requests beginning in April 2022 and continued withholding election training materials through active litigation in 2025–2026. Bureau of Elections Director Jonathan Brater issued the electronic poll book (EPB) deletion directive that later became central to the *People v. Stephanie Scott* litigation and, in April 2026, warned Antrim County Clerk Victoria Bishop of potential criminal liability for voter-list maintenance activities. Secretary Benson publicly warned local canvass board members, "We will come for you," on August 27, 2024.

The structures that permitted disputed election-administration practices to continue after the 2020 election remained in operation through 2026 and were accompanied by documented record withholding, litigation over access to election materials, platform-based suppression of election-related speech, and prosecutorial or administrative pressure directed at certain election officials and citizens engaged in election oversight. MFEI's six-year investigation assembled the evidentiary record presented in this Report despite those obstacles. The federal questions identified in this Count arise directly from that documented record.

The suppression mechanisms documented in this Count are significant not only because they affected public discussion following the 2020 election, but also because they concern continuing access to the records, policies, training materials, and operational standards governing the administration of federal elections. As the Department of Justice recently emphasized, preservation of election records and meaningful governmental oversight remain continuing federal responsibilities. Accordingly, the issues documented here extend beyond a single election cycle and remain relevant to ongoing evaluation of Michigan's compliance with applicable federal election law.

§XII. Authorities and Sources

A. Primary Case Authority

Case / Authority	Holding / Significance	Relevance to Count 5
Bantam Books, Inc. v. Sullivan, 372 U.S. 58 (1963)[270]	Government suasion or intimidation inducing private censorship violates First Amendment without formal compulsion	Framework for FBI/DHS platform coercion documented in Twitter Files
Murthy v. Missouri, 603 U.S. — (2024)[271]	SCOTUS addressed government-platform censorship portals; ruled on standing; did not hold conduct permissible	Directly addresses Twitter Files architecture; establishes censorship conduct is subject to constitutional scrutiny
Moore v. Harper, 600 U.S. 1 (2023)[272]	Elections Clause authority vests in state legislature, subject to state constitutional limits	Legislative oversight of election administration is constitutionally grounded; MDOS denial implicates Elections Clause
Biden v. Knight First Amendment Institute, 141 S. Ct. 1220 (2021) (Thomas, J., concurring)	Government cannot accomplish through threats what Constitution prohibits it from doing directly	Controlling principle for FBI portal-based content suppression
McBroom et al *Report on November 2020 Election in Michigan*[273] (Michigan Senate Oversight Committee, 2021)	Non-exhaustive investigation; AG prosecution recommendation targeting election critics; APA ruling acknowledged; private funds section unfinished, recommendations for election reform went largely unheeded.	Primary source for Channel 1 suppression; prosecutorial recommendation documented at p. 19

[270] *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58 (1963).

[271] *Murthy v. Missouri*, 603 U.S. __(2024).

[272] *Moore v. Harper*, 600 U.S. 1 (2023).

[273] McBroom et al, *Report on November 2020 Election in Michigan* (2021).

B. Primary MFEI / PIME Sources and External Primary Sources

Source	Description
McBroom et al, *Report on November 2020 Election in Michigan*[274], Mich. Senate Oversight Committee (2021)	PRIMARY SOURCE. 35 pages. Non-exhaustive admission (p. 3); AG prosecution recommendation (p. 19); APA ruling acknowledgment (p. 24); private funds unfinished (p. 12); interstate duplicate voting gap (p. 11); recommendations for election reform went largely unheeded.
Twitter Files Part 9 (Taibbi, Dec. 24, 2022)[275]	CIA, State Dept., Pentagon coordination confirmed. FBI as 'doorman'. Authenticity uncontested. Basis for *Murthy v. Missouri*.
Murthy v. Missouri, 603 U.S. — (2024)[276]	SCOTUS. Government-platform censorship architecture. Standing ruling; conduct not held permissible.
U.S. House Oversight Committee Hearing[277] (beginning 5:32:29), Rep. Anna Paulina Luna (Feb. 8, 2023)	Sworn testimony. DHS/CISA → EIP (Stanford, UW, Graphika, Atlantic Council DFRLab) → platforms. DNC as potential EIP participant per EIP final report.
Confessions of a FOIA Denial (PIME/Johnson, April 11, 2022)[278]	Fracassi-Wier denial confirming MCL 168.509gg data shared with ERIC; ERIC agreement invoked to override Michigan FOIA.
FOIA Denied: No Info on ERIC and QVF from Local Clerk (PIME, April 28, 2022)[279]	Rochester Hills clerk denial confirming local officials excluded from ERIC/QVF oversight.
House Resolution No.	Civil contempt finding. Seven-month subpoena sequence; 68

[274] McBroom et al, *Report on November 2020 Election in Michigan* (2021).

[275] Matt Taibbi, Twitter Files, Parts 1 et seq., Dec. 24, 2022.

[276] *Murthy v. Missouri*, 603 U.S. __(2024).

[277] U.S. House Oversight Committee Hearing (Feb. 8, 2023). Available at oversight.house.gov.

[278] PIME/Johnson, "Confessions of a FOIA Denial" (Apr. 11, 2022).

[279] PIME, "FOIA Denied: No Info on ERIC and QVF from Local Clerk" (Apr. 28, 2022).

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Source	Description
117 (May 22, 2025)	of 517 items produced; eLearning Portal withheld. Authority: Mich. Const. Art. IV § 1; MCL 4.101; MCL 4.541; House Rule 36(2).
Michigan House of Representatives v. Benson, No. 25-000096-MZ (Nov. 3, 2025)[280]	Court of Claims. Summary disposition denied; preservation order on 22GB eLearning Portal. Active.
Michigan House Votes to Hold Secretary Benson in Contempt (MFEI, May 27, 2025)[281]	MFEI coverage. Smit, Hall, Benson statements; Pattwell memo (*Trump v. Mazars*, *Watkins v. U.S.*, *Davis v. SOS*); eight court rulings against Benson guidance.
Twitter Files Lift Cone of Silence (MFEI/Johnson, 2022)[282]	Johnson analysis. FBI portal; Missouri/Louisiana AG lawsuit; FEC probe call; congressional FBI subpoenas; FBI 'standard practice' defense; CIA/State/Pentagon coordination.
People v. Stephanie Scott (MFEI coverage)[283]	Prosecution for conduct under unauthorized BOE guidance. Brater testimony on non-consultation with DOJ. Rule-validity defense; NVRA conflict.
Molly Ball, The Secret History of the Shadow Campaign (Time Magazine, Feb. 4, 2021)[284]	Participant admission: cabal 'got states to change voting systems and laws.' Bipartisan composition noted. Primary source by participants. CONDITIONAL basis for Finding 4.9.
Johnson, Did USAID Affect U.S. Elections?	USAID shutdown; Sen. Johnson 'tip of iceberg'; Mike Benz allegations; ActBlue foreign donation allegations (House

[280] *Michigan House of Representatives v. Benson*, No. 25-000096-MZ.

[281] Michigan House Votes to Hold Secretary Benson in Contempt, MFEI (May 27, 2025).

[282] Patrice Johnson/MFEI, "Twitter Files Lift Cone of Silence" (2022).

[283] Christlieb/MFEI, People v. Stephanie Scott.

[284] Molly Ball, "The Secret History of the Shadow Campaign That Saved the 2020 Election," *Time Magazine* (Feb. 4, 2021).

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Source	Description
(MFEI, Feb. 7–8, 2025)[285]	Admin. Committee/NY Post Oct. 28, 2024). CONDITIONAL — pending federal investigation.
MFEI, Key Errors and Omissions in the 2020 Michigan Senate Oversight Report (2025)[286]	MFEI analytical document. Ten-point critique documenting gap between McBroom et al's *Report on November 2020 Election in Michigan*[287] and its findings and constitutional authority analysis required by subsequent litigation.
Bureau of Elections Letter to Victoria Bishop, Antrim County Clerk (April 14, 2026)[288]	PRIMARY SOURCE. Signed by Jonathan Brater, Director, Bureau of Elections. Three-page letter threatening criminal misdemeanor charges (MCL 168.931(1)(g)) for voter roll maintenance. Cites Election Officials' Manual as governing authority — the same Manual withheld from Legislature under *House v. Benson*.
"The Disturbing Truth About Our Government's Mass Censorship Campaign" (Howell/MFEI, March 24, 2024)[289]	MFEI repost. Author: David Howell, retired Army National Guard Physician Assistant, four combat deployments. Traces censorship architecture from State Department foreign influence operations (Arab Spring, Ukraine) to domestic deployment against American political speech. References Michael Benz/Tucker Carlson interview on National Security State censorship infrastructure. Secondary context source.
Hagan Realty, Inc. v. City of East Lansing[290], No. 1:2023cv00278 (W.D. Mich.); MFEI	Thomas More Society (Kaardal) 42 U.S.C. § 1983 First Amendment compelled speech challenge to East Lansing ordinance requiring landlords to provide voter registration materials to tenants. Filed March 16, 2023. Outcome: City of

[285] Patrice Johnson/MFEI, "Did USAID Affect U.S. Elections?" (Feb. 7–8, 2025).

[286] MFEI, "Key Errors and Omissions in the 2020 Michigan Senate Oversight Report" (2025).

[287] McBroom et al, *Report on November 2020 Election in Michigan* (2021).

[288] Bureau of Elections Letter to Victoria Bishop (Apr. 14, 2026), Appendix E herein.

[289] Howell/MFEI, "The Disturbing Truth About Our Government's Mass Censorship Campaign" (repost Mar. 24, 2024).

[290] *Hagan Realty, Inc. v. City of East Lansing*, No. 1:2023cv00278 (W.D. Mich.).

Source	Description
coverage (March 22, 2023)[291]	East Lansing withdrew the ordinance rather than litigate, achieving the result sought. Parallel to Kaardal's prior First Amendment compelled speech win in Wisconsin. Establishes that government compulsion of private citizens to carry voter-mobilization messaging violates the First Amendment.
Antrim County Clerk Victoria Bishop, Press Release (April 19, 2026)[292]	PRIMARY SOURCE. Bishop's response to BOE letter. Establishes: (1) she followed QVF Manual Chapter 4, pages 6, 7, and 9; (2) she used postcards printed and provided by ElectionSource, an MDOS-approved vendor; (3) she acted on a specific electoral mandate to clean Antrim County rolls; (4) the BOE's criminal misdemeanor threat was understood as part of a pattern following the prior Shelby Township Clerk Stan Grot enforcement action; (5) HAVA and NVRA federal mandates support proactive list maintenance as she understood her role. Corroborates Finding 4.7A.
Johnson, "We Will Come for You": SOS Benson Warns Canvasser Boards to Certify the November 5 Election (MFEI, September 3, 2024)[293]	PRIMARY SOURCE. Documents Secretary Benson's August 27, 2024, on-camera statement: "If someone were to violate the law and not certify the election at the local level, we will come for you." Includes Crawford County canvasser Bryce Metcalfe's written response citing MCL 168.931b. Video: YouTube at ~3:46 (https://www.youtube.com/watch?v=Jb59sk-UmAw&t=225s). Basis for Finding 4.7B.
The Age of Surveillance Capitalism[294] (Zuboff, 2019); Harvard Gazette interview (March 4, 2019)	Harvard Business School Professor Emerita. Defines surveillance capitalism as unilateral claiming of private human experience as behavioral data for prediction products. Key concepts applied in Channel 2: "social relations of the one-way mirror" (government-platform censorship invisible to targets); "methodologies designed to keep us ignorant" (structural invisibility of content suppression); behavioral modification at scale eroding democratic autonomy and

[291] MFEI coverage, Hagan Realty v. City of East Lansing (Mar. 22, 2023).

[292] Antrim County Clerk Victoria Bishop, Press Release (Apr. 19, 2026).

[293] Johnson/MFEI, "'We Will Come for You'" (Sept. 3, 2024).

[294] *Zuboff, The Age of Surveillance Capitalism* (2019).

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Source	Description
	critical thinking. Theoretical framework for why the Twitter Files architecture was structurally resistant to public detection and legal challenge. Cited in Channel 2 (Section II.B).
Mike Benz, "The Disturbing Truth About Our Government's Mass Censorship Campaign[295]," (*Epoch Times*, February 2, 2023)	Former Deputy Assistant Secretary for International Communications, U.S. State Department. Identifies DHS, DARPA, and National Science Foundation funding of censorship infrastructure. Provides institutional chronology of how foreign influence operation tools were domestically deployed against American political speech. Watch Video / Read Transcript links in Channel 2 (Section II.B). Secondary context source.

C. Federal and Michigan Statutory Authorities

Statute / Authority	Relevance
U.S. Const. Amend. I (First Amendment)	Government coercion of private platforms; prosecutorial intimidation of election critics.
U.S. Const. Art. I, § 4, cl. 1 (Elections Clause)	Legislative authority over federal elections; MDOS denial of legislative oversight implicates Elections Clause.
42 U.S.C. § 1983[296]	Federal cause of action for constitutional violations by state officials under color of law.
52 U.S.C. § 20507(i) (NVRA Public Inspection)	Election records must be publicly available; FOIA obstruction appears to conflict.
52 U.S.C. § 20511 (NVRA Criminal Penalties)	Willful denial of NVRA inspection rights may constitute criminal violation.
MCL 15.231 and MCL 15.243	Security exemption claimed by MDOS not enumerated in MCL

[295] Mike Benz, Watch: Mike Benz Exposes Burgeoning Government/Big Tech Censorship Industry (Part 1), updated Apr 19, 2024.

[296] 42 U.S.C. § 1983 (federal cause of action for constitutional violations under color of state law).

Statute / Authority	Relevance
(Michigan FOIA)	15.243; ERIC agreement cannot override statutory FOIA.
Michigan Constitution, Art. IV, § 16	Legislative investigative authority; basis for subpoenas in *House v. Benson*.
Michigan Constitution, Art. II, § 4(2)	Transparent elections guarantee conflicts with suppression of operational election standards.
Michigan Constitution, Art. III, § 2	Separation of powers; executive suppression of legislative oversight authority.

§XIII. Works Cited and Hyperlinks

The following URLs correspond to authorities, exhibits, publications, and primary sources cited in Count 5. Sources are grouped by category. All hyperlinks were verified as of June 19, 2026.

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Biden v. Knight First Amendment Institute, 141 S. Ct. 1220 (2021) (Thomas, J., concurring). https://case-law.vlex.com/vid/biden-v-knight-first-886800958

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Moore v. Harper, 600 U.S. 1 (2023). https://www.supremecourt.gov/opinions/22pdf/21-1271_3f14.pdf

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West Virginia State Board of Education v. Barnette, 319 U.S. 624 (1943) (compelled speech doctrine). https://supreme.justia.com/cases/federal/us/319/624/

Wooley v. Maynard, 430 U.S. 705 (1977) (compelled speech doctrine). https://supreme.justia.com/cases/federal/us/430/705/

Constitutional Authorities

U.S. Const. Amend. I (First Amendment) — government coercion of private platforms; prosecutorial intimidation.

U.S. Const. Art. I, § 4, cl. 1 (Elections Clause) — legislative authority over federal elections; basis for *Moore v. Harper*. https://constitution.congress.gov/browse/essay/artI-S4-C1-2/ALDE_00013577/

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42 U.S.C. § 1983 (federal civil rights; constitutional violations under color of state law). https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title42-section1983&num=0&edition=prelim

52 U.S.C. § 20507(i) (NVRA public inspection of election records). https://uscode.house.gov/view.xhtml?req=%28title%3A52+section%3A20507+edition%3Aprelim%29

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Mich. Const. Art. II, § 4(2) (Transparent Elections). https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-ARTICLE-II-4

Mich. Const. Art. III, § 2 (Separation of Powers). https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-ARTICLE-III-2

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U.S. House Oversight Committee Hearing, "Protecting Speech from Government Interference and Social Media Bias, Part 1: Twitter's Role in Suppressing the Biden Laptop Story" (Feb. 8, 2023). Rep. Luna testimony beginning at 5:32:29. https://oversight.house.gov/hearing/protecting-speech-from-government-interference-and-social-media-bias-part-1-twitters-role-in-suppressing-the-biden-laptop-story/

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Matt Taibbi, Twitter Files Part 9 (Dec. 24, 2022). CIA, State Dept., Pentagon, and FBI coordination. Authenticity uncontested. https://twitter.com/mtaibbi/status/1606701397109796864

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COUNT 6. UOCAVA Violations, Noncitizen Voting Exposure, and Overseas Ballot Records Failures

Failure to Verify Identity or Residency for Overseas Civilian Registrants; No Definitive Citizenship Match Requirement; Post-Election Ballot Counting in Apparent Violation of HAVA § 701(b); PA 268 Noncitizen Registration Exposure; and Unauthorized "Protected Status" Directive Circumventing HAVA.

§I. Issues Summary

Count 6 documents five categories of potential federal compliance issues involving voter eligibility verification, overseas ballot administration, election-record preservation, and statewide voter registration maintenance. The primary documentary foundations are: (1) *Failure of UOCAVA*: Potential for Noncitizen Voting in Our Elections (Johnson/Woodward, MFEI, December 2024)[297], a 22-page report identifying four federal and five Michigan state system failure points, with a foreword by Erick G. Kaardal; and (2) the Request for EAC OIG Assessment of Audit Risk (MFEI, January 2024, File No. 24-0056)[298], a 426-page submission to EAC OIG Inspector General Brianna Schletz documenting the same violations in the context of a formal audit risk assessment.

Unlike many election-administration disputes that involve policy disagreements, the issues presented in Count 6 concern fundamental voter eligibility verification. The core question is whether Michigan possesses any reliable mechanism to verify the identity, citizenship, residency, and eligibility of overseas civilian registrants before ballots are issued and counted. If those mechanisms do not exist, the resulting vulnerabilities implicate federal interests under HAVA, UOCAVA, the NVRA, and federal election-administration requirements.

The central question this Count presents is not whether ineligible overseas civilian ballots were counted, but whether Michigan possesses sufficient verification procedures and records to independently determine that only eligible overseas civilian ballots were counted. The evidentiary record indicates that, in several significant respects, those verification mechanisms and records are absent or incomplete.

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[297] Johnson/MFEI, "ERIC Slips Non-Citizens Onto Voter Rolls," (February 8, 2022)

https://www.mifairelections.org/post/call-to-action-eric-slips-non-citizens-onto-voter-rolls

[298] Anthony Forlini, Macomb County Clerk Alarmed About Citizenship Affecting Jury Trials and Elections, media release, January 12, 2026. https://www.macombgov.org/departments/clerk-register-deeds/news/macomb-county-clerk-alarmed-about-citizenship-affecting-jury

Current Federal Enforcement Interest. Subsequent to the preparation of this report, the United States Department of Justice reaffirmed the continuing federal interest in voter eligibility verification, maintenance of accurate statewide voter registration records, preservation of election records, compliance with the National Voter Registration Act (NVRA), the Help America Vote Act (HAVA), and enforcement of federal election laws governing citizenship qualifications for voting. The factual record presented in this Count concerns each of those subjects as they relate to Michigan's administration of overseas civilian voter registration and absentee voting. The legal analyses presented herein are those of MFEI and PIME; however, the documentary evidence may assist federal authorities in evaluating Michigan's continuing compliance with applicable federal election laws.

As summarized in the Known/Unknown table in the Findings section below, the documentary record already establishes several structural facts, while also identifying critical questions that cannot presently be answered because the necessary records have not been produced.

Topics Covered

Violation Category	Key Facts and Legal Basis
1. No Identity or Residency Verification ("Protected Status" Directive)	Under the "protected status" directive in the SOS Military and Overseas Voters Manual: "Local Clerks must register a protected voter submitting these forms and send an absentee ballot immediately." (Manual p. 4; *Failure of UOCAVA* p. 15.) Neither the FPCA nor the FWAB require applicants to verify identity, citizenship, or residency. (*Failure of UOCAVA* pp. 13, 15–17.) EAC OIG Request (p. 26): "No social security number, driver's license, state ID, passport, or even a utility bill are required. Then, no Michigan elections administrator verifies the applicant's identity or eligibility to vote." MFEI argues that the procedures described here are inconsistent with the verification framework established by HAVA § 303(5). The official MDOS Voter Information Center (Michigan.gov/SOS, accessed June 21, 2026) confirms the FPCA requires no citizenship verification field, and that applicants without a driver's license or Social Security number may self-attest by entering "I do not have a Social Security number or Michigan-issued ID number." This makes self-attestation the only identity gatekeeping mechanism in the FPCA process.
2. Overseas Applicants	SOS Manual (p. 5): "A protected [overseas] voter may use an

Need Never Have Resided in Michigan	address that they no longer live at to register to vote in your jurisdiction even if that address no longer exists." (*Failure of UOCAVA* p. 17.) An applicant may register using a park, vacant lot, or a nonexistent street. EAC OIG Request (p. 30): "Compounding the audit risk is the bizarre fact that overseas applicants never need to have resided in Michigan, and no one — neither the SoS nor the local clerks — verifies the legitimacy of the address claims."
3. No Definitive Citizenship Match Required	Current Michigan guidance does not require clerks to verify citizenship before registering a UOCAVA applicant or counting their ballot. (*Failure of UOCAVA* p. 17, Section 2.2 #5.) "Regular absentee ballots sent by postal mail to protected voters should be processed as usual." (Manual p. 19; *Failure of UOCAVA* p. 17.) Alaska and other states require a passport photocopy. Michigan does not. HAVA § 302(b)(4) requires registration forms to include: "Are you a citizen of the United States?"
4. Post-Election Overseas Ballot Counting: PA 25 of 2023 (HAVA § 701(b) Conflict)	MCL 168.759a(18) allows overseas ballots to arrive up to six days post-election and permits counting of ballots with missing or unclear postmarks if the county clerk determines the envelope was dated on or before Election Day. EAC OIG Request (p. 33): "This state law violates HAVA Section 701(b)." *Failure of UOCAVA* (p. 16) quotes MCL 168.759a and MCL 168.764a directly. Michigan's permanent absentee ballot law then keeps unverified former-UOCAVA registrants on the voter list for 10 years.
5. PA 268 of 2023: Automatic Voter Registration Without Citizenship Verification	MCL 168.493a(5): "An individual who is not eligible to vote and who, without intending to register to vote, becomes registered to vote through human or mechanical error is not considered to have knowingly intended to register to vote in violation of section 519." EAC OIG Request (p. 41): "MCL 168.493 and the SoS's implementation of it amount to an open invitation to violate the law." PA 268 effective June 30, 2025, lacks SAVE database integration.

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§II. Legal Argument

The legal questions addressed below arise within a statutory framework that imposes affirmative responsibilities upon state election officials to verify voter eligibility, administer federal elections in accordance with HAVA and the NVRA, and preserve records sufficient to permit meaningful federal oversight. MFEI and PIME advance the following legal theories based on the evidentiary record in this Count. All arguments are preliminary and subject to factual development through FOIA production and discovery.

A. HAVA § 303(5) Identity Verification Argument (MFEI Legal Argument)

MFEI advances the legal argument that Michigan's UOCAVA civilian registration process accepts FPCA applications without requiring a driver's license number or the last four digits of a Social Security number, in apparent violation of HAVA § 303(5)'s minimum identification requirements. The "protected status" directive instructs clerks to register overseas civilian applicants and immediately issue absentee ballots without performing any identity, residency, or citizenship verification. This process bypasses the HAVA § 303(5) floor as documented in the EAC OIG Request at pages 26–27 and 31.

B. HAVA § 701(b) Ballot Delivery Deadline Argument (MFEI Legal Argument)

MFEI contends that MCL 168.759a(18) / PA 25 of 2023 permits counting overseas ballots arriving up to six days post-election with missing or unclear postmarks, in apparent direct conflict with HAVA § 701(b)'s requirement that overseas ballot delivery not occur after the date of the federal election. The EAC OIG Request at page 33 states: "This state law violates HAVA Section 701(b)." Michigan's missing-postmark provision makes objective timeliness verification impossible and creates a two-tiered standard inconsistent with HAVA § 241(b)'s uniformity requirement.

C. NVRA Citizenship Verification Argument (MFEI Legal Argument)

MFEI submits that Michigan's PA 268 of 2023 automatic voter registration pathway violates the NVRA, 52 U.S.C. § 20504(c), which requires registration forms to state eligibility requirements including citizenship, and HAVA § 302(b)(4), which requires forms to include the question: "Are you a citizen of the United States?" MCL 168.493a's opt-out mechanism does not require the citizenship question to be answered correctly before a registration is created. MCL 168.493a(5)'s no-fault provision further insulates ineligible registrants from criminal accountability.

D. Unauthorized Rulemaking Argument (MFEI Legal Argument)

According to MFEI, the "protected status" directive in the SOS *Military and Overseas Voters Manual* was not promulgated as a rule under MCL 168.758b or the Michigan Administrative

Procedures Act, rendering it unauthorized under *In re Complaint of Rovas*, 482 Mich. 90 (2008), and *Blank v. Dept. of Corrections*, 462 Mich. 103 (2000). This argument is fully developed in Count 2 and incorporated here by cross-reference. The unauthorized directive creates the identity, residency, and citizenship verification gaps documented throughout this Count.

The continuing growth of this voter population increases the importance of reliable identity, citizenship, and eligibility verification procedures because the absence of such mechanisms becomes progressively more significant as the number of affected registrations increases.

E. Elections Clause Argument (MFEI Legal Argument)

Several of the administrative practices documented in this Count, including the "protected status" directive and related UOCAVA implementation procedures, operate within a broader constitutional dispute regarding the authority through which Michigan election procedures have been adopted. MFEI argues that Proposals 3 (2018) and 2 (2022), adopted through citizen initiative rather than the legislature, violate U.S. Const. Art. I, § 4, cl. 1. That constitutional argument and its evidentiary record are fully developed in Count 2. Cross-reference: Count 2, Section I.F and Section II.H.

§III. Factual And Procedural Background

CONTEXTUAL BACKGROUND: SCALE OF THE VULNERABILITY

In August 2024, the Democratic National Committee announced a $300,000 investment to register overseas voters across seven battleground states, including Michigan, whose overseas population it estimated at approximately 1,625,136 people. Whatever the precise figure, overseas civilian registration is trending upward, not downward, which is what makes the verification gaps documented throughout this Count more consequential over time, including the absence of any federal registry capable of independently confirming who is registered overseas (Section V.H, below).

Source: *Failure of UOCAVA* (Johnson/Woodward, MFEI, December 2024), Section 1.1; FVAP, 2022 OCPA Technical Report 2023, p. 188.

INDEPENDENT EXPERT CORROBORATION: ERICK G. KAARDAL FOREWORD

Erick G. Kaardal, counsel on the PIME HAVA complaint (Count 4) and lead counsel on the

Michigan legislators, Elections Clause lawsuit (Section III.B), wrote the foreword to the *Failure of UOCAVA* report (December 2024):

"The State of Michigan is far behind the other states in stopping election abuses by overseas voters and noncitizens. The Michigan Secretary of State and other election officials should follow MFEI's recommendations to improve Michigan's elections."

Source: *Failure of UOCAVA*, Foreword (Erick G. Kaardal, Mohrman, Kaardal and Erickson, P.A., December 2024). Independent expert corroboration from a named attorney with standing in multiple federal proceedings documented in this Report.

The urgency of the violations documented in this Count is amplified by the dramatic growth in non-military overseas civilian UOCAVA voters, the population for which no verification mechanism exists. As the *Failure of UOCAVA*[299] documents at pages 7–11:

MICHIGAN 2020 UOCAVA DATA: THE ELECTION UNDER INVESTIGATION

Source: 2020 EAVS Report, Appendix A, UOCAVA Tables 1–4

- **Registered UOCAVA voters:** 26,866 total: 6,833 uniformed services (25.4%) and 20,033 overseas civilians (74.6%). (Table 1, p. 189.)
- **FPCAs received:** 20,945 total: 4,879 from uniformed services (23.3%) and 16,066 from overseas civilians (76.7%). Michigan did not report rejected FPCA data. (Table 2, p. 192; footnote 6.)
- **Ballots transmitted/counted:** 27,026 transmitted. 22,492 returned. 21,464 counted (95.4% of returned). 1,028 rejected (4.6%, more than double the national 2.1% average). (Table 3, p. 198.)
- **FWABs:** 949 received. 329 counted (34.7%). 620 rejected (65.3%). Michigan noted: "All FWABs received were either counted, received a regular ballot that was counted, or arrived late." (Table 4, p. 201; footnote 5.)

Implication: Of the 21,464 UOCAVA ballots counted in Michigan's 2020 general election, approximately 16,012 were from overseas civilian registrants (74.6%) for whom no identity,

[299] Michigan Legislators' Usurpation of Legislative Duties, Elections Clause Complaint (September 28, 2023), U.S. District Court for the Western District of Michigan. https://aa3979fb-9421-4dd8-ba7d-8ead2d346103.usrfiles.com/ugd/b6c56e_e28d44532b5042a9a5f63a7bb79525c3.pdf

residency, or citizenship verification was performed before registration or ballot issuance.

In 2020, civilian overseas non-military ballots crossed 573,255, a 48% increase over 2016's 387,948. (*Failure of UOCAVA* p. 9, Figure 1-3; EAVS 2022, p. 201[300])

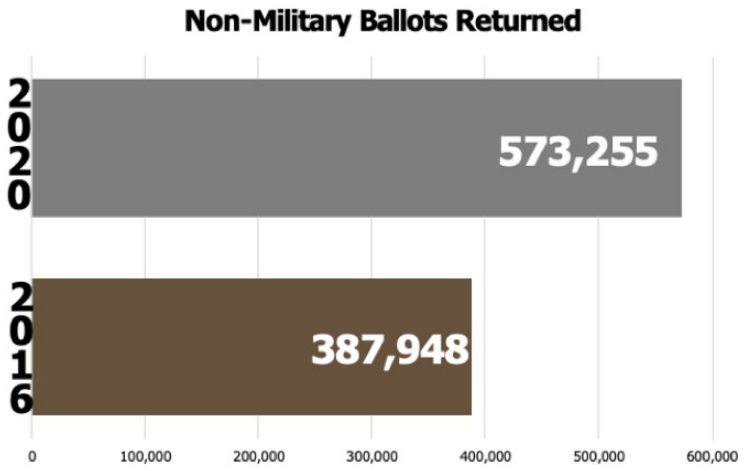


Figure 44: **Non-Military Ballots Returned**, 2016 vs. 2020

Source: Election Administration and Voting Survey 2022 (report to the 118th Congress), p. 201.

In 2022, 83.3% of Michigan's UOCAVA voters were non-military civilians (6,480 of 7,777 total). Michigan ranked 10th nationally for the percentage of ballots transmitted to overseas non-uniformed voters. (*Failure of UOCAVA* p. 10, Figure 1-4; EAVS 2022, p. 211[301])

By November 2024, Michigan's UOCAVA voters climbed to 26,037 total: 21,080 (81.0%) non-military civilians and only 4,957 (19.0%) uniformed service members, a 225% absolute increase in civilian numbers from 2022 to 2024. (*Failure of UOCAVA* p. 10, Figure 1-5; Michigan QVF, November 2024, tabulated by MFEI analyst Alan Dunst.)

[300] *Moore v. Harper*, 600 U.S. 1 (2023). https://www.supremecourt.gov/opinions/22pdf/21-1271_3f14.pdf

[301] *Failure of UOCAVA*: Potential for Noncitizen Voting in Our Elections (Johnson/Woodward, MFEI, December 2024). https://aa3979fb-9421-4dd8-ba7d-8ead2d346103.usrfiles.com/ugd/b6c56e_846cc29540b24b718ab41a2f483e50b3.pdf

UOCAVA Table 1: Registered and Eligible UOCAVA Voters

State	Registered UOCAVA Voters						
	All UOCAVA Voters	Uniformed Services Members		Overseas Citizens		Not Categorized by Voter Type	
		Total	%	Total	%	Total	%
Michigan	7,777	1,297	16.7%	6,480	83.3%	0	0.0%

Figure 1-4, Election Administration and Voting Survey 2022 (A report to the 118th Congress), page 211.

UOCAVA Table 2: Registered and Eligible UOCAVA Voters

State	Registered UOCAVA Voters						
	All UOCAVA Voters	Uniformed Services Members		Overseas Citizens		Not Categorized by Voter Type	
		Total	%	Total	%	Total	%
Michigan	26,037	4,957	19.0%	21,080	81.0%	0	0.0%

Figure 45: **Michigan UOCAVA Voters by Category**, 2022 and November 2024.

Source: Election Administration and Voting Survey 2022 (report to the 118th Congress), p. 211 (Figures 1-4 and 1-5).

MFEI's month-by-month tracking of Michigan's Qualified Voter File through the 2024 election cycle confirms this trajectory, showing overseas civilian registrations continuing to climb while military registrations remained comparatively flat:

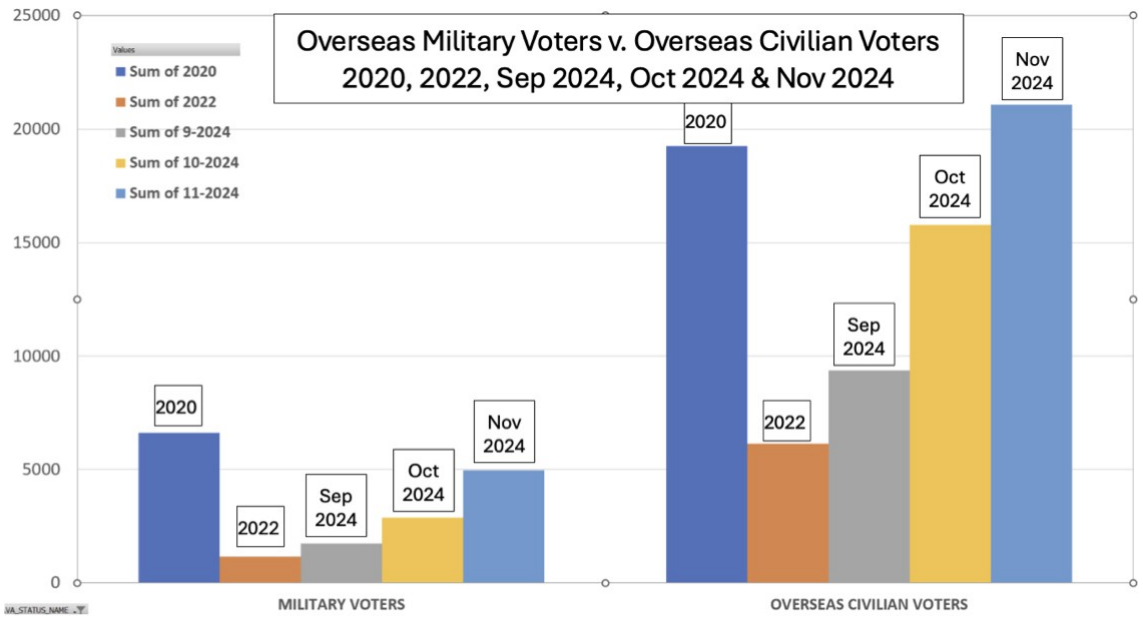


Figure 46: **Overseas civilian voters far outnumber overseas military voters**.

Source: Overseas Military Voters v. Overseas Civilian Voters, 2020–2024, Michigan Qualified Voter File, tabulated by MFEI analyst Alan Dunst, Failure of UOCAVA, p. 10,

Website: MiFairElections.org; Email: contact@mifairelections.org
P.O. Box 41, Stockbridge, MI 49285

Presidential election years show a spike in overseas civilian participation: 9.2% globally in 2016, 9.0% in 2020, with Europe at 12.2% and Oceania at 11.2% in 2020. (*Failure of UOCAVA* p. 8, Figure 1-1; FVAP 2022 OCPA Technical Report, p. 14.)

Table 3. OCVAP Participation Rate by Region[4]

Region	2014	2016	2018	2020	2022
North America	3.0%	6.5%	4.3%	7.4%	2.9%
South/Central America/Caribbean	2.9%	6.1%	3.3%	6.0%	2.3%
Europe	6.2%	13.3%	8.4%	12.2%	4.7%
Sub-Saharan Africa	3.4%	8.1%	4.0%	5.9%	3.3%
Middle East/North Africa	3.2%	7.0%	2.8%	6.7%	2.8%
North/Central/South Asia	2.9%	7.0%	2.9%	6.2%	4.5%
East Asia	2.7%	6.0%	3.5%	5.7%	1.6%
Southeast Asia	6.4%	11.5%	6.4%	10.5%	3.2%
Oceania	5.3%	12.3%	7.0%	11.2%	3.3%
Global	4.3%	9.2%	5.6%	9.0%	3.4%

Figure 47: **OCVAP Participation Rate by Region**

Source: Federal Voting Assistance Program, 2022 Overseas Citizen Population Analysis (OCPA), Technical Report 2023, Section 1.2.

This same national trend is corroborated by EAVS data spanning the full 2014–2022 period, showing the steadily widening gap between the share of UOCAVA ballots transmitted to overseas citizens versus uniformed services members:

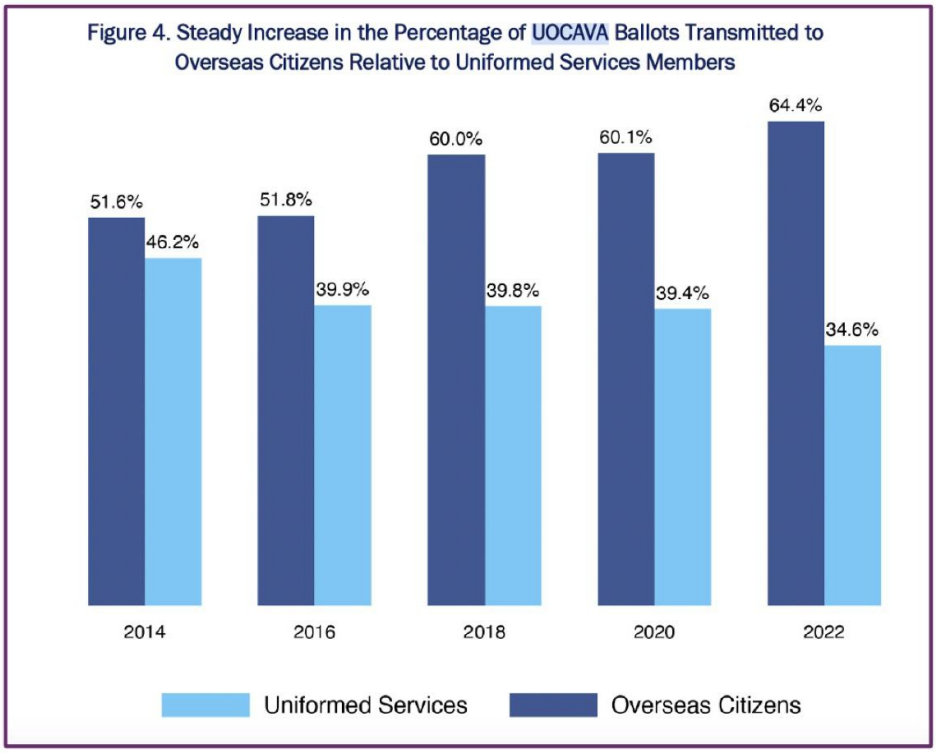


Figure 48: **Steady Increase in the Percentage of UOCAVA Ballots Transmitted to Overseas Citizens Relative to Uniformed Services Members**

Source: Election Administration and Voting Survey (EAVS), 2016 and 2020, Verity Vote.

The DNC invested $300,000 in August 2024 to register up to 9 million overseas voters. That figure exceeded the FVAP's own estimate of 2.8 million eligible overseas voters of voting age. (*Failure of UOCAVA* p. 6.) The DNC identified Michigan specifically: "Over 1.6 million Americans from the battleground states of Arizona, Georgia, Michigan, Nevada, North Carolina, Pennsylvania, and Wisconsin live overseas."

THE CRITICAL DISTINCTION: MILITARY vs. CIVILIAN OVERSEAS VOTERS

Uniformed active-duty military carry DoD-verified credentials and are confirmed in service records. They were the intended beneficiaries of the original 1955 Federal Voting Assistance Act, which narrowly defined eligibility to four categories: active-duty armed forces members and their dependents, merchant marine members and their dependents, civilian federal employees serving abroad and their dependents, and members of religious or welfare groups officially attached to and serving with the armed forces. The Overseas Citizens Voting Rights

Act of 1975 extended absentee coverage to private U.S. citizens residing abroad, and the two statutes were consolidated and broadened into UOCAVA in 1986. Overseas civilians are verified only by self-attestation on the FPCA form. That form requires no identity documentation whatsoever. As the *Failure of UOCAVA* documents at page 12: "The net effect of these changes is that UOCAVA now disenfranchises the very demographic it was intended to serve. Instead of enabling active service members and federal employees serving their country overseas to cast their ballots, UOCAVA now runs the very real risk of diluting their votes with ballots from ineligible voters, unverified registrants, and even non-citizens."

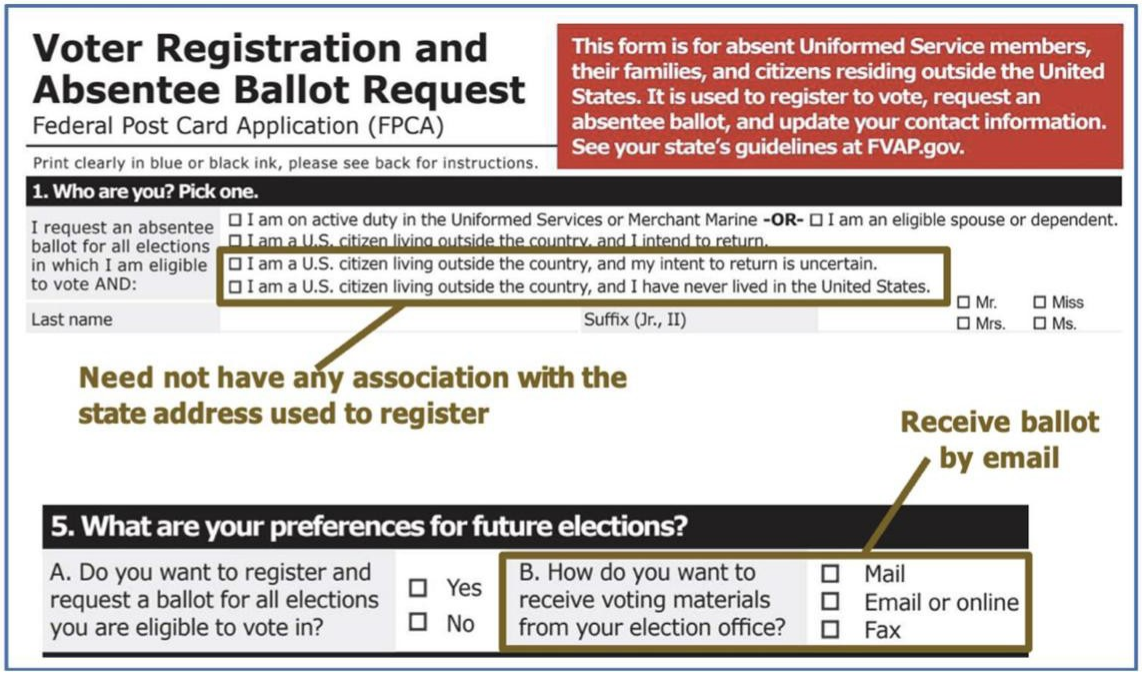


Figure 49: **Federal Post Card Application (FPCA)** — No Residency Verification Required

Source: Federal Voting Assistance Program, Federal Post Card Application.

This shift in composition reverses the statute's original design. UOCAVA and its predecessor statutes were built primarily around a small, credentialed military population verified through DoD service records. Nationally, the share of UOCAVA ballots transmitted to overseas civilians climbed steadily from 51.6% in 2014 to 64.4% in 2022, with the uniformed-services share falling correspondingly over the same period (Figure 1-6, above). Michigan's own numbers track this trajectory: overseas civilian registrants grew from 6,480 in 2022 to 21,080 by November 2024, a 225% increase. The statute's verification framework has not been updated to reflect that a large and growing share of registrants are civilians verified only by self-attestation, not military personnel verified through service records.

The Department of Justice's recent guidance likewise emphasizes the continuing responsibility of state election officials to ensure that only legally eligible citizens participate in federal elections, making the distinction between verified military voters and self-attested civilian overseas registrants particularly relevant to current federal oversight.

A. Pennsylvania Parallel: *Reschenthaler v. Schmidt*

Pennsylvania's experience confirms that the issues surrounding UOCAVA, especially in regard to the verification of identity and eligibility, are not unique to Michigan. Six Pennsylvania congressmen and the election-integrity association, PA Fair Elections, documented the verification failure of this population in their federal lawsuit, *Reschenthaler v. Schmidt*, No. 1:24-cv-01671-CCC (M.D. Pa., amended complaint filed Oct. 7, 2024). As the infographic below (filed as Exhibit L in the amended complaint) shows, the Federal Post Card Application (FPCA) is simultaneously a voter registration application and an absentee ballot application. Two tracks, one form.

On the registration track, HAVA verification, matching a driver's license number against the motor-vehicle database or the last four digits of a Social Security number against SSA records, separates applicants into two populations: *verified* qualified electors entitled to UOCAVA privileges, and *not-verified (NV)* provisional registrants whose identity and eligibility officials have never confirmed.

The amended complaint alleges that Pennsylvania collapses this distinction. The same holds true in Michigan. Under Department of State directives, counties mail or electronically deliver ballots to *all* Approved *and* all NV applicants alike (the gray box at the convergence of the two tracks in the diagram). This practice was confirmed in sworn legislative testimony by Pennsylvania Deputy Secretary for Elections Jonathan Marks: "There's no systematic verification." HAVA's narrow UOCAVA exemption, 52 U.S.C. § 21083(b)(1), relieves qualified UOCAVA voters only of enclosing a copy of identification with a *mailed* ballot. Nothing in HAVA exempts UOCAVA applicants from the registration-verification requirements of § 21083(a)(5). By the Department's own Absentee and Mail Ballot Report, more than 25,000 UOCAVA ballots had already been transmitted for the November 5, 2024, election when the amended complaint was filed. MFEI and Wisconsin Voter Alliance filed an amicus brief in the related standing matter before the U.S. Supreme Court (May 29, 2024).

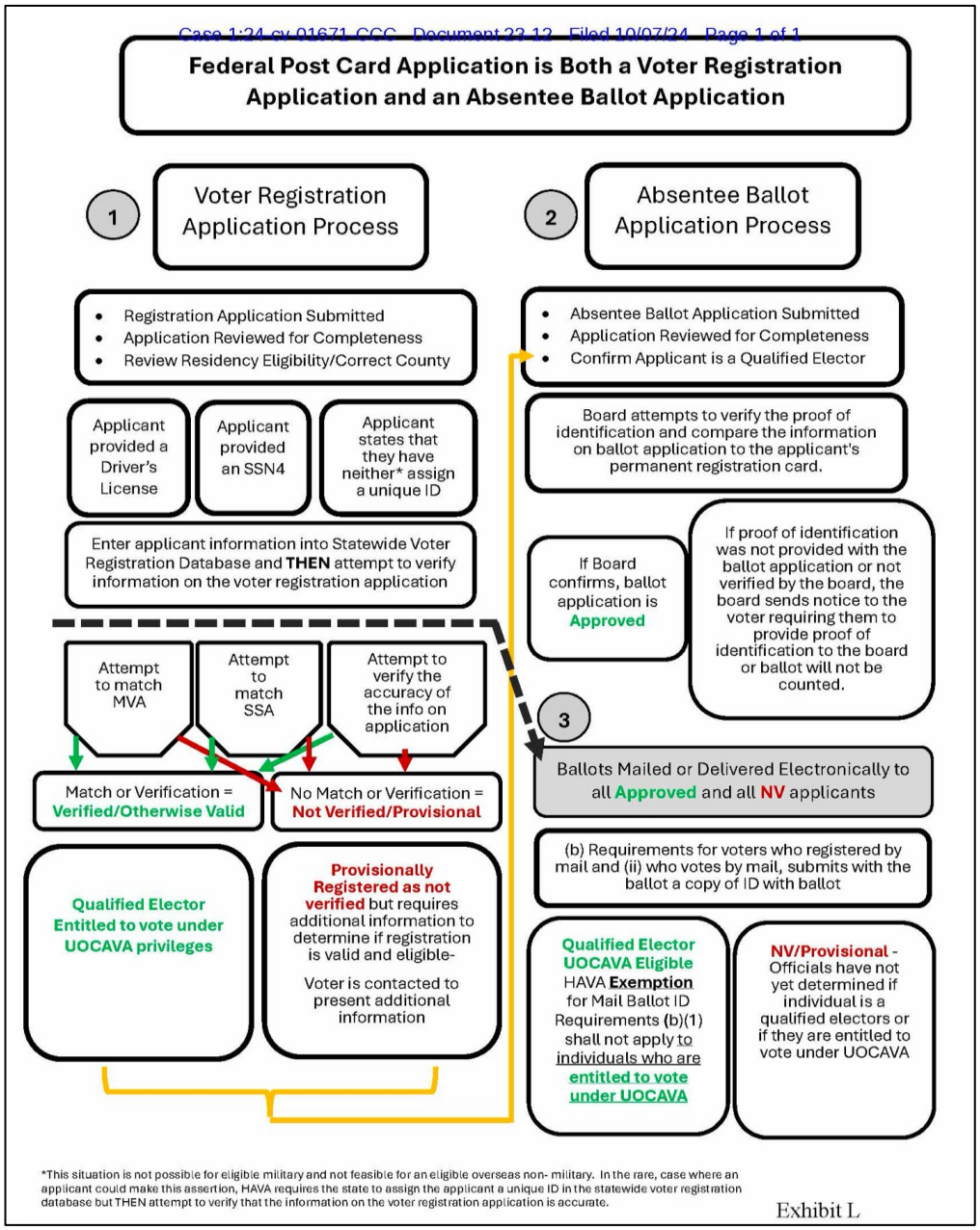


Figure 50: **FPCA Dual-Track Process: Verified vs. Not-Verified Applicants**

Source: Reschenthaler v. Schmidt, No. 1:24-cv-01671-CCC (M.D. Pa.), Amended Complaint, Exhibit L (filed Oct. 7, 2024). Federal court exhibit. The gray convergence box (Step 3) establishes that both Verified/Approved and Not-Verified/NV applicants receive ballots under Pennsylvania's implementation, the same structure documented in Michigan.

B. The Michigan Legislators' Elections Clause Lawsuit (2023–2025)

On September 28, 2023, eleven Michigan state legislators filed a federal civil rights lawsuit challenging Proposals 3 (2018) and 2 (2022) as violations of U.S. Const. Art. I, § 4, cl. 1. Lead counsel: Erick G. Kaardal, Mohrman, Kaardal & Erickson PA. Plaintiffs: Senators Jonathan *Lindsey* and Jim Runestad; Representatives Steve Carra, James DeSana, Joseph Fox, Neil Friske, Matt Maddock, Brad Paquette, Angela Rigas, Joshua Schriver, and Rachelle Smit. Complaint available at: Complaint PDF[302]; MFEI coverage: Michigan Legislator Lawsuit: Not Your Run-of-the-Mill Federal Case (September 30, 2023)[303]

CASE STATUS AS OF MAY 2026

The U.S. District Court for the Western District of Michigan dismissed the suit on standing grounds in April 2024; the legislators have appealed. Under *Bost v. Illinois State Board of Elections*, 607 U.S. ___(2026), a federal candidate competing in Michigan's 2026 elections could now challenge these rule sets without proving in advance how illegal rules affected the outcome. The constitutional merits of the Elections Clause challenge have not been adjudicated. The full evidentiary record and legal argument on this question are developed in Count 2; this Count references the litigation only as background for the administrative practices addressed here. See MFEI Release, Eleven Michigan Legislators Vow to Appeal (April 12, 2024).

§IV. LEGAL FRAMEWORK

A. Federal Statutes

UOCAVA, 52 U.S.C. § 20301–20311, establishes the floor for overseas voter access. It does not prohibit states from verifying that an FPCA applicant is a U.S. citizen previously domiciled in Michigan. UOCAVA's coverage of overseas civilians (52 U.S.C. § 20310(5)) requires prior U.S. domicile and return intent. Michigan's "protected status" directive instructs clerks to disregard these requirements.

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[302] Eleven-legislator Elections Clause complaint, No. 1:23-cv-01025, W.D. Mich., Sept. 28, 2023. https://aa3979fb-9421-4dd8-ba7d-8ead2d346103.usrfiles.com/ugd/b6c56e_e28d44532b5042a9a5f63a7bb79525c3.pdf

[303] MFEI, "Michigan Legislator Lawsuit: Not Your Run-of-the-Mill Federal Case," Sept. 30, 2023. https://www.mifairelections.org/post/legislator-lawsuit-not-your-run-of-the-mill-federal-case

HAVA § 303(5), Exact Statutory Text (EAC OIG Request p. 31)

"(5) Verification of voter registration information.-- (A) Requiring provision of certain information by applicants.-- (ii), notwithstanding any other provision of law, an application for voter registration for an election for Federal office may not be accepted or processed by a State unless the application includes-- (I) in the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number; or (II) in the case of any other applicant, the last 4 digits of the applicant's social security number.*"*

HAVA § 701(b), Exact Statutory Text (EAC OIG Request p. 33)

"(b) Postmarking of Overseas Voting Materials. … that the measures implemented under the preceding sentence do not result in the delivery of absentee ballots to the final destination of such ballots after the date on which the election for federal office is held.*"*

B. Michigan Statutes

MCL 168.758b authorizes the SOS to promulgate rules for overseas voter registration. The secretary's "protected status" directive was not promulgated as a rule under MCL 168.758b. Cross-reference: Count 2 for the full APA invalidity analysis.

MCL 168.493a(5), PA 268 of 2023, Exact Statutory Text (EAC OIG Request p. 41)

"(5) An individual who is not eligible to vote and who, without intending to register to vote, becomes registered to vote through human or mechanical error is not considered to have knowingly intended to register to vote in violation of section 519.*"*

MCL 168.759a(18), PA 25 of 2023, Exact Statutory Text (EAC OIG Request pp. 33–34)

*"*Not later than the seventh day after election day, each city or township clerk shall, without opening the absent voter ballot return envelopes, deliver the absent voter ballots received within 6 days after the election as provided under this subsection to the clerk of the county in which the city or township is located. If the postmark on the absent voter ballot return

envelope is missing or unclear, and if the county clerk determines that the absent voter ballot return envelope or the voter certificate inside the absent voter ballot return envelope is dated on or before election day by the absent uniformed services voter or overseas voter, the county clerk shall consider that absent voter ballot as timely received.*"*

MCL 168.759a(6) requires civilian overseas voters who receive a ballot electronically to print and return it by mail. MCL 168.759a(17) expressly limits electronic ballot return to active-duty military and merchant marine members with a DoD Common Access Card verified electronic signature, with a mandatory rulemaking deadline of September 1, 2025.

Cross-reference: *AG Opinion No. 7322* (Nessel, May 5, 2023),[304] issued directly to Secretary Benson, confirmed on constitutional review that PA 196/197 of 2022's limitation of electronic ballot return to military-only is constitutionally valid. The AG held: "Public Acts 196 and 197 of 2022 do not unconstitutionally burden the fundamental rights of overseas voters who do not possess a Department of Defense verified electronic signature." Any administrative extension of electronic return to civilians without APA rulemaking constitutes unauthorized rulemaking. Cross-reference: Count 2.

C. The "Protected Status" Directive: Unauthorized Guidance

The SOS Military and Overseas Voters Manual (March 2018) and its successor Chapter 7 of the Election Officials' Manual instruct clerks to afford UOCAVA online registrants "protected status," a term with no basis in UOCAVA, HAVA, or Michigan statute. As the *Failure of UOCAVA*[305] states at page 13: "Michigan, under its chief election administrator, Secretary of State Jocelyn Benson, has adopted defective processes and omitted critical elements of election law in its implementation of UOCAVA. Under the auspices of affording UOCAVA online registrants 'protected status,' the state, like others, dispenses with critical and legally required elements of its election laws, including the requirement to verify a registration applicant's identity, state residency, and U.S. citizenship."

The directive illustrates the broader administrative pattern examined throughout this report: election procedures of continuing statewide significance were implemented through manuals and administrative guidance rather than promulgated rules or legislative enactments.

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[304] *AG Opinion No. 7322* (Nessel, May 5, 2023).

[305] EAC, Election Administration and Voting Survey 2022 Report to the 118th Congress. https://www.eac.gov/sites/default/files/2023-06/2022_EAVS_Report_508c.pdf

§V. EVIDENTIARY RECORD

The *Failure of UOCAVA* (pp. 15–17, Section 2.2) documents five specific points of system failure in Michigan's UOCAVA administration, each tied to the Military and Overseas Voters Manual:

A. Failure Point 1: "Protected Status" Registration Without Checking Identity or Eligibility

> SOS Military and Overseas Voters Manual, March 2018, p. 4 (Quoted in *Failure of UOCAVA* p. 15, footnote 5)
>
> *"*Local Clerks must register a protected voter submitting these forms and send an absentee ballot immediately.*"*

Upon receipt of the email application, clerks are directed to "prepare a master card and send a voter identification card." (Manual p. 3; *Failure of UOCAVA* p. 15.) Michigan clerks are instructed to provide unverified applicants official Voter Certificates. Source: *Failure of UOCAVA*[306], pp. 15–16; EAC OIG Request[307], pp. 26–27.

B. Failure Point 2: Absentee Ballot Issued Immediately, without Verification

> SOS Military and Overseas Voters Manual, March 2018, p. 5 (Quoted in *Failure of UOCAVA* p. 15, footnote 7)
>
> *"*In addition to being a registration form, the FPCA/FWAB form is also an absentee ballot application. Once the registration is entered, an absentee ballot must be issued for every election in the calendar year.*"*

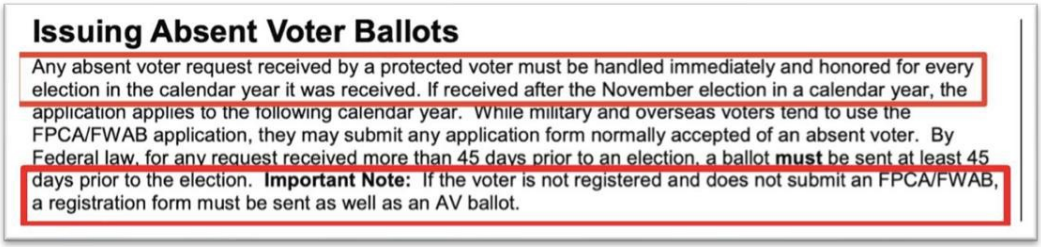
The Manual further specifies at page 15: "Any absent voter request received by a protected voter must be handled immediately and honored for every election in the calendar year it was received." (*Failure of UOCAVA* p. 16, Figure 2-3.) This means a single FPCA submission triggers absentee ballots for all elections throughout the calendar year, with no re-verification.

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[306] Request for EAC OIG Assessment of Audit Risk (MFEI, January 29, 2024; revised March 15, 2024), File No. 24-0056. https://aa3979fb-9421-4dd8-ba7d-8ead2d346103.usrfiles.com/ugd/aa3979_785b0d23cd8b45e9a91a401f2e06daac.pdf

[307] Johnson/MFEI, "Bypass a Wall: Newcomer Program Supports Illegal Migrants, part 1," MFEI (April 2024). https://www.mifairelections.org/post/bypass-a-wall-grab-a-ballot

Website: MiFairElections.org; Email: contact@mifairelections.org
P.O. Box 41, Stockbridge, MI 49285



Issuing Absent Voter Ballots

Any absent voter request received by a protected voter must be handled immediately and honored for every election in the calendar year it was received. If received after the November election in a calendar year, the application applies to the following calendar year. While military and overseas voters tend to use the FPCA/FWAB application, they may submit any application form normally accepted of an absent voter. By Federal law, for any request received more than 45 days prior to an election, a ballot **must** be sent at least 45 days prior to the election. **Important Note:** If the voter is not registered and does not submit an FPCA/FWAB, a registration form must be sent as well as an AV ballot.

Figure 51: ***Michigan SOS Manual — "Issuing Absent Voter Ballots"***

Source: Military and Overseas Voters Manual for Election Administrators*, p. 15.*

C. Failure Point 3: Six-Day Late Ballot Rule + Unverified Voters on Permanent Absentee List

As documented in *Failure of UOCAVA*[308] at pages 16–17: Michigan Compiled Law168.759a and MCL 168.764a allow overseas ballots arriving within six days after the election to be counted if postmarked on or before Election Day. If the postmark is missing or unclear, the county clerk determines timeliness based solely on whether the envelope or certificate is dated on or before Election Day.

From *Michigan Election Law Summary and FAQs*:

> If a city or township clerk receives an absentee overseas voter ballot within six days after the election, and the ballot return envelope for an absent uniformed services voter or overseas voter is postmarked on or before election day, the clerk must consider the ballot as timely received and count and tabulate the ballot. **If an absent overseas voter return envelope has missing or unclear postmarks, local clerks are to send the return envelopes to the appropriate county clerk, who must determine if those ballots are timely received and, if they are, count and tabulate the ballot accordingly**. (MCL 168.759a and MCL 168.764a) [Emphasis added.]

Figure 52: ***MFEI Michigan Election Law Summary*** *— Missing/Unclear Postmark Rule*

Source: Michigan Election Law Summary and FAQs (MCL 168.759a and MCL 168.764a).

[308] MFEI ERIC Fact Sheet. https://www.mifairelections.org/post/summary-eric-electronic-registration-information-center

Website: MiFairElections.org; Email: contact@mifairelections.org
P.O. Box 41, Stockbridge, MI 49285

D. Failure Point 3 (Continued): The 12-Month UOCAVA Lapse and Michigan's 10-Year Permanent Absentee Ballot Law

Every 12 months, UOCAVA registrants must re-submit a Federal Post Card Application to retain UOCAVA status. If they do not re-apply, the UOCAVA designation is removed, but the registration remains active, anchored to whatever Michigan address was cited in the original application. That address may never have been the registrant's actual domicile.

Michigan's permanent absentee ballot law compounds the risk: registrants on the permanent absentee voter list remain there for 10 years. UOCAVA therefore enables unvetted registrants to be added to the voter rolls and to receive automatically dispatched absentee ballots for a decade after their UOCAVA designation expires.

The U.S. Census Bureau quantifies the exposure: the national civilian mover rate is approximately 8.7% per year; the state-to-state migration rate is 19.9% per year. An estimated 28.2 million Americans moved in 2022 alone. Across a four-year presidential election cycle, approximately 113 million Americans will likely have changed address. The subset of former UOCAVA registrants receiving automatic absentee ballots for 10 years under Michigan's permanent absentee law represents a structural exposure to ballot delivery at unverifiable addresses.

Source: *Failure of UOCAVA* (December 2024), Section 2.2, points 3–4; U.S. Census Bureau, State-to-State Migration Flows, 2022.

E. Failure Point 4: Ballots to States in Which Registrant Never Resided

SOS Military and Overseas Voters Manual, March 2018, p. 5 (Quoted in *Failure of UOCAVA* p. 17, footnote 8)

*"*A protected [overseas] voter may use an address that they no longer live at to register to vote in your jurisdiction even if that address no longer exists.*"*

UOCAVA sets a floor, not a ceiling. States may require more from overseas civilian registrants than the FPCA demands. Alaska requires overseas civilians to submit a photocopy of their passport with mail-in absentee ballots. Michigan has not adopted this or any comparable requirement. That is a policy choice, not a federal mandate. The premise that federal law compels Michigan's current practice inverts the statute: UOCAVA and HAVA establish minimum protections for overseas voters, and nothing in either statute prevents a state from requiring additional verification.

As the *Failure of UOCAVA*[309] states at page 17: "Regardless of whether online registrants anchor their Michigan connection to a park, vacant lot, or nonexistent street, the clerk is instructed to 'send the voter identification card in an envelope to the mailing address provided.' These unverified voters' mailing addresses could potentially be in Canada, Russia, or the People's Republic of China."

The EAC OIG Request (p. 30) characterizes this as: "Compounding the audit risk is the bizarre fact that overseas applicants never need to have resided in Michigan, and no one — neither the SoS nor the local clerks — verifies the legitimacy of the address claims." The MDOS Voter Information Center also confirms publicly that U.S. citizens "who have never lived in the U.S. may register to vote in Michigan" through a parent, legal guardian, or spouse connection, with no citizenship or residency verification required. Source: MDOS Voter Information Center, Michigan.gov/SOS (accessed June 21, 2026).

F. Failure Point 5: No Definitive Citizenship Match Required

Current Michigan guidance instructs clerks: "Regular absentee ballots sent by postal mail to protected voters should be processed as usual. If the returned ballot is an electronic ballot that was either printed by the voter or the Clerk, the ballot must include the voter signature certificate. Election inspectors will need to verify that the voter signed the signature certificate and compare the signature to the application." (Manual p. 19; *Failure of UOCAVA* p. 17.)

A signature comparison is not a citizenship verification. Michigan does not require passport submission. Alaska and other states have adopted passport requirements for overseas civilian registrants. The *Failure of UOCAVA*[310] (p. 17) identifies this as "a unique opportunity for Michigan and other states to step in and implement appropriate requirements."

Cross-reference: Count 4 addresses ERIC's structural inability to flag noncitizen registrations. ERIC's bylaws prohibit member states from transmitting records indicating noncitizen status, meaning the noncitizens who enter the QVF through the UOCAVA pathway cannot be identified or removed through ERIC's data-sharing process.

G. Noncitizen Registration Exposure: Converging Pathways

[309] PIME, "Say No to Electronic Overseas Voting" (2023). https://www.mifairelections.org/post/call-to-action-say-no-to-electronic-overseas-voting-say-no-to-senator-wojno

[310] MCL 168.759a (Michigan Legislature, current text). https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-168-759A

1. PA 268 of 2023: Automatic Voter Registration Without Citizenship Verification

Michigan's Public Act 268 of 2023 (effective June 30, 2025), MCL 168.493a, implements automatic voter registration through state agencies. The EAC OIG Request[311] at pages 40–42 documents the citizenship verification gap and quotes MCL 168.493a(5) verbatim. Michigan state IDs issued to noncitizens are visually identical to IDs issued to citizens, meaning the AVR trigger, a state ID transaction, cannot distinguish between citizen and noncitizen registrants. The EAC OIG Request (p. 41) further notes that while PA 268 was effective June 30, 2025, "the practice appears to have gone into effect already."

HAVA § 302(b)(4) requires registration forms to include the question: "Are you a citizen of the United States?" The NVRA, 52 U.S.C. § 20504(c), requires registration forms that "states each eligibility requirement (including citizenship)." MCL 168.493a's opt-out mechanism does not require the citizenship question to be answered correctly before a registration is created. (EAC OIG Request, pp. 41–42.)

Cross-reference: Count 3 addresses the full QVF impact. Count 4 addresses ERIC's noncitizen identification failure. See also: Johnson/MFEI, Call to Action: ERIC Slips Non-Citizens Onto Voter Rolls (February 8, 2022).

2. Governor Whitmer's Nine-Agency Voter Registration Executive Order (2019)

In 2019, Governor Whitmer issued an executive order directing nine Michigan state agencies to register voters at the point of service. Johnson, *Bypass a Wall: Newcomer Program Supports Illegal Migrants* (MFEI, April 2024)[312], documents that agencies serving non-citizen immigrants conducted voter registration without citizenship verification. State Senator Ruth Johnson (former Michigan SOS, 2011–2019) disclosed to the Senate Elections Committee on January 19, 2022, that a non-citizen processing a vehicle title transfer at a Michigan DMV was automatically registered to vote.[313]

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[311] MFEI, "Michigan Legislator Lawsuit: Not Your Run-of-the-Mill Federal Case" (September 30, 2023). https://www.mifairelections.org/post/legislator-lawsuit-not-your-run-of-the-mill-federal-case

[312] Patrice Johnson/MFEI, "Bypass a Wall: Newcomer Program Supports Illegal Migrants, part 1," MFEI, April 2024. https://www.mifairelections.org/post/bypass-a-wall-grab-a-ballot

[313] Patrice Johnson/MFEI, "Call to Action: ERIC Slips Non-Citizens Onto Voter Rolls," MFEI, Feb. 8, 2022. https://www.mifairelections.org/post/call-to-action-eric-slips-non-citizens-onto-voter-rolls

REAL-WORLD CORROBORATION: MACOMB COUNTY JURY-POOL CITIZENSHIP DISCREPANCY

The registration pathways described above are not merely theoretical. In a separate, independently documented instance, Macomb County Clerk Anthony Forlini disclosed in 2026 that a review of Macomb County jury pool records, conducted by comparing jury duty notifications against the state's Qualified Voter File (QVF), identified approximately 198 individuals registered to vote who indicated they were not U.S. citizens.

This finding did not originate from MFEI's own analysis; it surfaced through an unrelated county-level records comparison conducted for jury administration purposes. MFEI cites it not as proof of the scale of the issue statewide, but as evidence that the verification gaps documented in this Count are capable of surfacing concrete discrepancies when any independent cross-check against the QVF is performed. Source: Clerk Forlini press release and QVF comparison assessment (2026).[314]

3. DHS SAVE Not Integrated for QVF Noncitizen Removal

DHS SAVE (Systematic Alien Verification for Entitlements) is a federal database available to states for citizenship and immigration status verification. Multiple states use SAVE to screen voter registration records. The MFEI ERIC Fact Sheet[315] (Recommendation 9) identifies SAVE integration as the primary needed mechanism for noncitizen QVF removal. Michigan has not implemented SAVE integration for QVF maintenance, meaning noncitizens who enter through any converging pathway are not systematically identified and removed.

H. Records and Auditability Failures

Current SOS directives tell clerks to send UOCAVA registrants an absentee ballot without verifying identity or eligibility.

The MDOS manual states:

"*In addition to being a registration form, the FPCA/FWAB form is also an absentee ballot application. Once the registration is entered, an absentee ballot must be issued for every election*

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[314] Anthony Forlini, Macomb County Clerk, "Macomb County Clerk Alarmed About Citizenship Affecting Jury Trials and Elections," media release, January 12, 2026. https://www.macombgov.org/departments/clerk-register-deeds/news/macomb-county-clerk-alarmed-about-citizenship-affecting-jury

[315] MFEI ERIC Fact Sheet. https://www.mifairelections.org/post/summary-eric-electronic-registration-information-center

in the calendar year." [316] and *"A protected [overseas] voter may use an address that they no longer live at to register to vote in your jurisdiction* ***even if that address no longer exists****."* [317]

A plain English reading of this instruction indicates that the Secretary of the MDOS is directing clerks to send these unverified overseas voters an absentee ballot. The Military and Overseas Voters Manual for Election Administrators was working at the time of the MFEI publication but appears to have been subsequently removed from the MDOS site.

Logical Inference: The evidentiary record in this Count establishes not only that Michigan lacks verification mechanisms for overseas civilian registrants, but that the records necessary to evaluate the scope of the problem have never been produced. Four specific auditability failures compound the substantive compliance issues documented above.

These record deficiencies affect not only independent research but also the ability of federal authorities to evaluate compliance with HAVA, the NVRA, and federal election-record preservation requirements. Without access to FPCA records, QVF status data, rejection records, and related documentation, neither election officials nor federal investigators can independently determine whether statutory eligibility requirements were satisfied.

Michigan did not report rejected FPCA data in EAVS 2020. The 2020 EAVS Appendix A, Table 2 (p. 192, footnote 6) records no rejected FPCA data for Michigan, creating a baseline gap in federal reporting. Without this data, neither DOJ nor EAC can independently assess how many overseas civilian registration applications were received and processed without identity, residency, or citizenship verification in 2020. Source: 2020 EAVS, Appendix A, Table 2, p. 192.

The federal government acknowledges that no overseas citizen registry exists. The FVAP's own 2022 OCPA Technical Report (p. 188) states: "there is no registry of overseas citizens that records where each of these individuals resides overseas." This admission establishes that verification failures at the Michigan state level are structurally undetectable at the federal level. No federal cross-check mechanism can identify whether an overseas civilian FPCA registrant is a U.S. citizen or previously resided in Michigan. Source: FVAP, 2022 OCPA Technical Report 2023, p. 188.

FPCA records must be produced to determine actual eligibility. Michigan's FPCA application records and QVF status code data for the November 2020 general election have not been produced in any public forum. These records are necessary to determine how many registrations were accepted without identity, citizenship, or residency verification, and how many

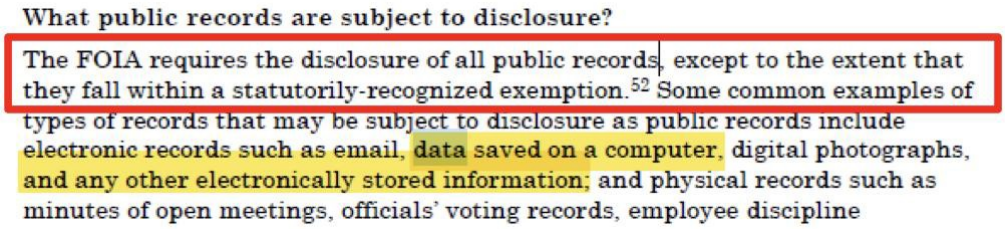
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[316] Military and Overseas Voters Manual for Election Administrators, March 2018, page 15.

[317] Military and Overseas Voters Manual for Election Administrators, March 2018, page 5.

ballots were transmitted, received, and counted. Without FOIA production of these records, the audit gap documented in MFEI Conclusion 6-D-1 cannot be closed. Source: EAC OIG Request, File No. 24-0056, pp. 26–36.

Michigan's own Freedom of Information Act guidance confirms that these records are subject to mandatory disclosure absent a statutory exemption, including electronic records such as QVF status code data:



What public records are subject to disclosure?

The FOIA requires the disclosure of all public records, except to the extent that they fall within a statutorily-recognized exemption.[52] Some common examples of types of records that may be subject to disclosure as public records include electronic records such as email, data saved on a computer, digital photographs, and any other electronically stored information; and physical records such as minutes of open meetings, officials' voting records, employee discipline

Figure 53: ***Michigan FOIA Disclosure Requirement for Electronic Records***

Source: Military and Overseas Voters Manual for Election Administrators, FOIA Law Summary, p. 13.

Current public records do not permit independent verification. No currently available public record permits independent verification of citizenship, residency, or prior Michigan domicile for overseas civilian FPCA registrants. The combination of no identity verification at registration, no citizenship verification at ballot issuance, no postmark verification for late-arriving ballots, and no FPCA rejection data in EAVS 2020 means the full scope of the vulnerability documented in this Count is, at present, unknown and unverifiable from public records alone. This is not a conclusion that fraud occurred. It is a finding that the records necessary to determine whether the system functioned as intended have not been produced.

§VI. Potential Violations of Law

1. Federal Law

a. HAVA § 303(5), Identity Verification

Michigan's UOCAVA civilian registration process accepts FPCA applications without requiring a driver's license number or SSN last-four, in apparent violation of HAVA's minimum identification requirements. Source: EAC OIG Request, pp. 26–27, 31.[318]

b. HAVA § 701(b), Ballot Delivery Deadline

[318] Mark Vaeth et al., MFEI Audit Committee, Request for EAC OIG Assessment of Audit Risk, Jan. 29, 2024; rev. Mar. 15, 2024, File No. 24-0056. https://aa3979fb-9421-4dd8-ba7d-8ead2d346103.usrfiles.com/ugd/aa3979_785b0d23cd8b45e9a91a401f2e06daac.pdf

MCL 168.759a(18) / PA 25 of 2023 permits counting overseas ballots arriving six days post-election with missing or unclear postmarks, in apparent direct conflict with HAVA § 701(b). Source: EAC OIG Request[319], pp. 33–35; *Failure of UOCAVA*[320], p. 16.

c. NVRA, 52 U.S.C. § 20504(c), Citizenship Requirement

The NVRA requires registration forms to state eligibility requirements including citizenship. Michigan's PA 268 AVR pathway does not require the citizenship question to be answered correctly before registration is created. Source: EAC OIG Request[321], pp. 41–42.

d. HAVA § 302(b)(4), Mail-In Registration Form Content

The form shall include: "Are you a citizen of the United States?" PA 268's AVR mechanism does not ensure this question is affirmatively answered before registration is processed. Source: EAC OIG Request[322], p. 42.

e. 52 U.S.C. § 21083 (HAVA, QVF Accuracy)

Unverified UOCAVA civilian registrations with no identity, residency, or citizenship check contribute to the QVF accuracy failures documented in Count 3 (108.9% of CVAP).

f. HAVA § 241(b), Uniform and Nondiscriminatory Implementation

MCL 168.759a(18)'s missing-postmark provision creates a two-tiered system: rigorous verification for Election Day domestic voters, subjective county-clerk determination for late-arriving overseas ballots. Source: EAC OIG Request[323], p. 35.

g. U.S. Const. Art. I, § 4, cl. 1 (Elections Clause)

Proposals 3 (2018) and 2 (2022), placed on the ballot by citizen petition bypassing the legislature, are argued in the legislators' lawsuit[324] to violate the Elections Clause. Constitutional merits not yet adjudicated.

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[319] Mark Vaeth et al., MFEI Audit Committee, Request for EAC OIG Assessment of Audit Risk, File No. 24-0056, pp. 33–35. https://aa3979fb-9421-4dd8-ba7d-8ead2d346103.usrfiles.com/ugd/aa3979_785b0d23cd8b45e9a91a401f2e06daac.pdf

[320] Patrice Johnson and Frederick Woodward, *Failure of UOCAVA*: Potential for Noncitizen Voting in Our Elections, MFEI, Dec. 2024. https://aa3979fb-9421-4dd8-ba7d-8ead2d346103.usrfiles.com/ugd/b6c56e_846cc29540b24b718ab41a2f483e50b3.pdf

[321] Mark Vaeth et al., MFEI Audit Committee, Request for EAC OIG Assessment of Audit Risk, File No. 24-0056, pp. 40–42. https://aa3979fb-9421-4dd8-ba7d-8ead2d346103.usrfiles.com/ugd/aa3979_785b0d23cd8b45e9a91a401f2e06daac.pdf

[322] Mark Vaeth et al., MFEI Audit Committee, Request for EAC OIG Assessment of Audit Risk, File No. 24-0056.

[323] Mark Vaeth et al., MFEI Audit Committee, Request for EAC OIG Assessment of Audit Risk, File No. 24-0056, pp. 33–36.

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2. Michigan Law

a. MCL 168.758b, UOCAVA Rulemaking Authority: The SOS's "protected status" directive was not promulgated as a rule, rendering it unauthorized under *In re Complaint of Rovas*, 482 Mich. 90 (2008). Cross-reference: Count 2.

b. MCL 168.493a(5), PA 268 No-Fault Registration: Creates a structural gap inconsistent with MCL 168.492(1)'s requirement to register only U.S. citizens. Source: EAC OIG Request[325], pp. 40–42.

c. MCL 168.759a(18), PA 25 of 2023 Post-Election Counting: In apparent conflict with HAVA § 701(b). The missing-postmark provision makes it impossible to verify timely mailing of late-arriving overseas ballots. Source: EAC OIG Request[326], pp. 33–36; *Failure of UOCAVA*[327], p. 16.

d. MCL 168.492(1), Citizenship Requirement: Requires registered voters to be U.S. citizens. UOCAVA and AVR pathways without citizenship verification produce registrations inconsistent with this requirement.

§VII. TECHNICAL VULNERABILITY ANALYSIS: ELECTRONIC BALLOT RETURN, THREE INDEPENDENT EXPERT WARNINGS

The EAC OIG Request documents at pages 30–32 three independent expert sources on the security risks of electronic ballot return:

> **Journal of Cybersecurity, February 16, 2021 (EAC OIG Request p. 30)**
>
> "Online voting systems are vulnerable to serious failures: attacks that are larger scale, harder to detect, and easier to execute than analogous attacks against paper-ballot-based voting systems. Internet voting, electronic ballots and even blockchain voting 'greatly increase the risk of undetectable, nation-scale election failures.'"

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[324] Eleven-legislator Elections Clause complaint, No. 1:23-cv-01025, W.D. Mich., Sept. 28, 2023.

[325] Mark Vaeth et al., MFEI Audit Committee, Request for EAC OIG Assessment of Audit Risk, File No. 24-0056.

[326] Mark Vaeth et al., MFEI Audit Committee, Request for EAC OIG Assessment of Audit Risk, File No. 24-0056.

[327] Mark Vaeth et al., MFEI Audit Committee, Request for EAC OIG Assessment of Audit Risk, File No. 24-0056, pp. 33–36; Patrice Johnson and Frederick Woodward, *Failure of UOCAVA*: Potential for Noncitizen Voting in Our Elections, MFEI, Dec. 2024.

U.S. Senate Select Committee on Intelligence, July 25, 2019 (EAC OIG Request p. 30)

*"*States should resist pushes for online voting. One main argument for voting online is to allow members of the military easier access to their fundamental right to vote while deployed. While the Committee agrees states should take great pains to ensure members of the military get to vote for the elected officials, no system of online voting has yet established itself as secure.*"*

NIST, Risk Management for Electronic Ballot Delivery, Marking, and Return, May 2020 (EAC OIG Request pp. 30–31)

*"*If election officials choose or are mandated by state law to employ this high-risk process, its use should be limited to voters who have no other means to return their ballot. … Election officials should be aware … email may be viewed or tampered with at multiple places in the transmission process, and emails can also be forged to appear as if they were sent from a different address.*"*

Civilian Overseas Voters Cannot Legally Return Ballots Electronically

MCL 168.759a(6) states that civilian overseas voters who receive a ballot electronically "shall print the absent voter ballot and return the voted ballot by mail." Electronic ballot return is expressly limited by MCL 168.759a(17) to active-duty military and merchant marine members possessing a DoD Common Access Card verified electronic signature, with a mandatory rulemaking deadline of September 1, 2025.

AG Opinion No. 7322 (Nessel, May 5, 2023), issued directly to Secretary Benson, confirmed: "Public Acts 196 and 197 of 2022 do not unconstitutionally burden the fundamental rights of overseas voters who do not possess a Department of Defense verified electronic signature" and that civilian overseas voters "can continue to return ballots by mail or similar service as they have previously done." Any administrative extension of electronic ballot return to civilian overseas voters without statutory authorization or APA rulemaking constitutes unauthorized rulemaking. Senator Wojno's SB 623 (2023) would have expanded electronic return. Its introduction confirms existing civilian electronic return lacked statutory

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authorization. Source: PIME, Say No to Electronic Overseas Voting (2023)

§VIII. FINDINGS

The following findings are organized into four categories: A. Established Facts (confirmed by documentary record); B. Judicial Findings (conclusions from court opinions and official government determinations); C. Legal Arguments (MFEI's legal theories advanced for DOJ consideration); and D. MFEI Conclusions (analytical inferences and conditional findings pending further investigation).

What Is Known	What Is Unknown
Michigan accepted UOCAVA civilian registrations without requiring identity documentation, proof of citizenship, or proof of Michigan residency.	Whether any noncitizens are currently registered through UOCAVA pathways.
Michigan accepted registrations citing former or nonexistent addresses as the domicile anchor.	Whether any ballots cast in the 2020 general election were cast by ineligible overseas civilian registrants.
Michigan counted approximately 16,012 overseas civilian UOCAVA ballots in 2020 verified only by self-attestation.	How many FPCA applications submitted in 2020 were accepted without meeting UOCAVA's citizenship and prior-domicile requirements.
Michigan has not implemented SAVE database integration for QVF noncitizen removal.	How many ballots were transmitted to addresses that could not be verified as a prior Michigan domicile.
Michigan did not report rejected FPCA data in the 2020 EAVS, creating a baseline audit gap.	These questions will be established only through FOIA production of Michigan's FPCA records and QVF status code data, as requested in Section VIII.

A. Established Facts

Established Fact 6-A-1

The SOS Military and Overseas Voters Manual (March 2018) instructs Michigan clerks:

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"Local Clerks must register a protected voter submitting these forms and send an absentee ballot immediately." (Manual p. 4; *Failure of UOCAVA*, p. 15, footnote 5.) This directive requires clerks to register UOCAVA applicants and immediately issue absentee ballots without performing any identity, residency, or citizenship verification. The EAC OIG Request (p. 26) documents: "no social security number, driver's license, state ID, passport, or even a utility bill are required. Then, no Michigan elections administrator verifies the applicant's identity or eligibility to vote." MFEI argues that the procedures described here are inconsistent with the verification framework established by HAVA § 303(5).

Established Fact 6-A-2

The SOS Manual (p. 5) instructs clerks that "a protected [overseas] voter may use an address that they no longer live at to register to vote in your jurisdiction even if that address no longer exists." (*Failure of UOCAVA*, p. 17, footnote 8.) Clerks must send voter identification cards to whatever mailing address the applicant provides, including addresses in foreign countries. The *EAC OIG Request* (p. 30) characterizes this as "the bizarre fact that overseas applicants never need to have resided in Michigan, and no one, neither the SoS nor the local clerks, verifies the legitimacy of the address claims."

Established Fact 6-A-3

MCL 168.759a(6) provides that civilian overseas voters who receive a ballot electronically must print it and return it by mail. MCL 168.759a(17) expressly limits electronic ballot return to active-duty military and merchant marine members possessing a DoD Common Access Card verified electronic signature. AG Opinion No. 7322 (Nessel, May 5, 2023), issued directly to Secretary Benson, confirmed: "Public Acts 196 and 197 of 2022 do not unconstitutionally burden the fundamental rights of overseas voters who do not possess a Department of Defense verified electronic signature." The AG further stated that civilian overseas voters "can continue to return ballots by mail or similar service as they have previously done." Any administrative extension of electronic ballot return to civilians without APA rulemaking constitutes unauthorized rulemaking.

Established Fact 6-A-4

Michigan Public Act 25 of 2023 (MCL 168.759a(18)) allows overseas ballots to arrive up to six days after the close of an election and permits counting of ballots with missing or unclear postmarks based solely on the county clerk's determination. The *EAC OIG Request* documents at page 33: "This state law violates HAVA Section 701(b) … because it allows late ballots with missing or unclear postmarks to be counted. Michigan's Public Act 25 of

2023 (MCL 168.759a(18)) makes it impossible for a clerk to check the postmark and validate the eligibility of a late-arriving overseas ballot." The *Failure of UOCAVA* (p. 16) further documents that UOCAVA registrants who do not re-apply after 12 months remain on the voter rolls, and on Michigan's permanent absentee ballot list for 10 years. A notable internal discrepancy: the MDOS Voter Information Center states publicly that overseas ballots must be "postmarked no later than Election Day" as a tabulation condition (Michigan.gov/SOS, accessed June 21, 2026). Yet MCL 168.759a(18) simultaneously permits counting ballots with missing or unclear postmarks based solely on county clerk determination. The gap between MDOS's public representation and the statute's actual text is not disclosed on the MDOS website.

Established Fact 6-A-5

Three independent expert sources, documented in the *EAC OIG Request* at pages 30–32, warn that electronic ballot return creates severe security vulnerabilities: the Journal of Cybersecurity (Feb. 16, 2021) documented that such systems "greatly increase the risk of undetectable, nation-scale election failures"; the U.S. Senate Select Committee on Intelligence (July 25, 2019) stated "no system of online voting has yet established itself as secure"; and NIST (May 2020) identified email ballot return as a "high-risk process" that "should be limited to voters who have no other means to return their ballot." Senator Wojno's SB 623 (2023) would have expanded civilian electronic return. Its introduction confirms existing civilian electronic return lacked statutory authorization. Source: PIME, Say No to Electronic Overseas Voting (2023)

Established Fact 6-A-6

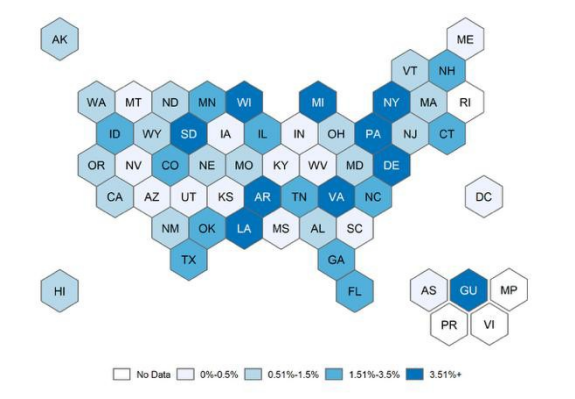
Michigan Public Act 268 of 2023 (effective June 30, 2025), MCL 168.493a, implements automatic voter registration through state agencies. MCL 168.493a(5), quoted verbatim in the *EAC OIG Request* at page 41, states: "An individual who is not eligible to vote and who, without intending to register to vote, becomes registered to vote through human or mechanical error is not considered to have knowingly intended to register to vote in violation of section 519." The EAC OIG Request (p. 41) characterizes this provision as "an open invitation to violate the law." Michigan state IDs issued to noncitizens are visually identical to IDs issued to citizens; PA 268 lacks SAVE database integration.

Established Fact 6-A-7

In the 2020 general election under investigation, Michigan had 26,866 registered UOCAVA voters: 6,833 uniformed services (25.4%) and 20,033 overseas civilians (74.6%). Of 21,464

UOCAVA ballots counted, approximately 16,012 were from civilian overseas registrants. (*2020 EAVS*, UOCAVA Tables 1 and 3, pp. 189, 198.) In the 2022 non-presidential election, 83.3% of Michigan's UOCAVA voters were non-military overseas civilians (6,480 of 7,777 total). Michigan ranked 10th nationally for the percentage of ballots transmitted to overseas non-uniformed voters. By November 2024, the civilian share grew to 81% (21,080 of 26,037 total UOCAVA voters, EAVS 2024 Report), a 225% increase in absolute civilian numbers between 2022 and 2024. Sources: *Failure of UOCAVA*, p. 10, Figures 1-4 and 1-5; *EAVS 2022 Report* to the 118th Congress, pp. 201, 211; Michigan QVF November 2024, tabulated by MFEI analyst Alan Dunst.

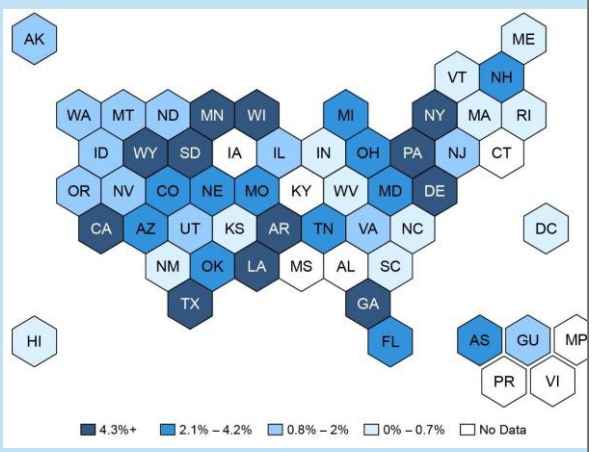
"UOCAVA Ballot Rejection Rates Vary Significantly Across States"



Michigan rejected 3.51% or more of UOCAVA ballots in 2020.

"The overall rejection rate for regular absentee ballots returned by UOCAVA voters was 2.1%, less than half the overall rejection rate of 5.7% reported in 2018."
Source: *EAC 2020 EAVS Report*, p. 186.

"UOCAVA Ballot Rejection Rates Vary Significantly Across States"



Michigan rejected 2.1% - 4.2% of UOCAVA ballots in 2024.

Source: *EAC 2024 EAVS Report*, p. 207.

Established Fact 6-A-8

Governor Whitmer's 2019 executive order directed nine Michigan state agencies to register voters at the point of service. Johnson/MFEI, *Bypass a Wall: Newcomer Program Supports Illegal Migrants* (April 2024), documents agencies serving non-citizen immigrants conducting voter registration without citizenship verification. State Senator Ruth Johnson

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(former Michigan SOS) disclosed to the Senate Elections Committee on January 19, 2022, that a non-citizen processing a vehicle title transfer at a Michigan DMV was automatically registered to vote. Source: Johnson/MFEI, ERIC Slips Non-Citizens Onto Voter Rolls (February 8, 2022)

Established Fact 6-A-9

The federal government's own 2022 Overseas Citizen Population Analysis (OCPA) Technical Report (FVAP, Technical Report 2023, p. 188) acknowledged: "there is no registry of overseas citizens that records where each of these individuals resides overseas." Michigan's SOS Manual (March 2018, p. 5) simultaneously instructs clerks that a registrant "may use an address that they no longer live at to register to vote in your jurisdiction even if that address no longer exists." The convergence establishes that unverifiable overseas civilian registrations are a structural feature of the system. Neither the federal government nor Michigan's election administrators possess any mechanism to detect whether an overseas civilian FPCA registrant is a U.S. citizen, previously resided in Michigan, or submitted a legitimate address. Sources: FVAP 2022 OCPA Technical Report 2023, p. 188; MDOS Military and Overseas Voters Manual, March 2018, p. 5; *Failure of UOCAVA* (December 2024), Section 1.1.

Established Fact 6-A-10

On September 28, 2023, eleven Michigan state legislators filed a federal Elections Clause lawsuit against Governor Whitmer, Secretary Benson, and Director Brater. The case was dismissed on standing grounds in April 2024. The legislators announced intent to appeal. MFEI and Wisconsin Voter Alliance filed an amicus brief in a related Pennsylvania case (May 29, 2024). Under *Bost v. Illinois State Board of Elections*, 607 U.S. ___(2026), a federal candidate may now challenge Michigan's 2026 elections structure without proving in advance how illegal rules affected the outcome. The constitutional merits of the Elections Clause challenge to Proposals 3 and 2 have not been adjudicated.

Established Fact 6-A-11

Before promulgating Rule Set 2025-13-ST, MDOS issued administrative instructions directing local election clerks to treat UOCAVA civilian registrants as a "protected class" exempt from eligibility verification and challenge procedures. Rule Set 2025-13-ST (R 168.253(1)(a), effective February 23, 2026) codified those unauthorized instructions into binding administrative rules. Subrule 3 provides: "After a clerk receives reliable information that an individual has moved, the clerk shall...(a) Verify that the voter is not entitled to

protections under the MOVE act or UOCAVA... If the voter is entitled to protections under the MOVE act or UOCAVA, the clerk shall not send a notice."

As written, this provision prohibits clerks from sending verification notices to all 26,037 Michigan UOCAVA registrants, 81% of whom (21,080) are overseas civilians with no military safeguards. This conflicts with AG Opinion 7322 (Nessel, May 5, 2023), which distinguished DoD-credentialed active military from overseas civilians and confirmed the two groups are not entitled to identical treatment. The rule advanced through JCAR over deadlock without legislative disapproval and took effect February 23, 2026. Sources: Rule Set 2025-13-ST, R 168.253(1)(a) (filed February 23, 2026)[328]; PIME Rule Set 2025-13-ST Analysis (November 5, 2025)[329]; *Compromised Checkpoints* (MFEI, April–May 2026), pp. 23–28[330]; AG Opinion No. 7322 (Nessel, May 5, 2023); PIME Submission in Opposition to Rule Set 2025-13-ST (Sept. 5, 2025)[331].

Established Fact 6-A-12

The Michigan Department of State operates the Electronic Delivery and Return Portal (EDARP), maintained by third-party vendor Enhanced Voting. Per official MDOS guidance: "EDARP is a secure portal through which clerks can send ballots electronically to MOVE voters (also known as UOCAVA voters). All voters receiving their ballots through the portal can vote their ballot inside the portal. Eligible members, defined as members of a uniformed service on active duty or members of the merchant marine who are absent from the United States and do not expect to return before an election, can return their ballots electronically through the portal. Other overseas voters will print their voted ballot and mail it back to their clerk." The MDOS confirms that CAC authentication applies only to "users eligible for electronic return" (active military and merchant marines).

Overseas civilians access EDARP to receive their ballot electronically without DoD-level identity verification. The MDOS further confirms that its stated security mechanism for overseas ballot processing is signature matching against the QVF. This mechanism does not verify the citizenship, identity, or prior Michigan residency of the registrant. Separately, the MDOS Voter Information Center confirms that a Federal Write-In Absentee Ballot "will also serve as voter registration for Michiganders abroad who are eligible to register to vote and

[328] Rule Set 2025-13-ST, R 168.251–168.258, LARA Trans. No. 1586, effective February 23, 2026.

[329] Pure Integrity Michigan Elections (PIME), Rule Set 2025-13-ST Analysis, Nov. 5, 2025.

[330] Michigan Fair Elections Institute, Compromised Checkpoints (April–May 2026), pp. 23–28.

[331] Pure Integrity Michigan Elections (PIME), Submission in Opposition to Rule Set 2025-13-ST, Public Hearing, Sept. 5, 2025. https://b6d83fed-d9cb-4cb1-9e2f-60cfa1575f8d.filesusr.com/ugd/aa3979_c64ea3d9d617440db04a3e4237cecd7b.pdf

request an absentee ballot for future elections," creating a registration pathway through an emergency write-in ballot submitted without prior verification. Sources: Michigan Department of State, Voter Information Center, Military and Overseas Voters (accessed June 21, 2026)[332]; *Compromised Checkpoints* (MFEI, April–May 2026), p. 23-33.

B. Judicial Findings

Judicial Finding 6-B-1

AG Opinion No. 7322 (AG Nessel, May 5, 2023), issued directly to Secretary Benson, held that PA 196/197 of 2022 limiting electronic ballot return to military personnel possessing a DoD Common Access Card verified electronic signature is constitutionally valid. The AG confirmed: "Public Acts 196 and 197 of 2022 do not unconstitutionally burden the fundamental rights of overseas voters who do not possess a Department of Defense verified electronic signature."

The AG further stated that civilian overseas voters "can continue to return ballots by mail or similar service as they have previously done." This opinion directly establishes that any administrative extension of electronic ballot return to civilian overseas voters without statutory authorization or APA rulemaking constitutes unauthorized rulemaking. Source: AG Opinion No. 7322 (May 5, 2023).

Judicial Finding 6-B-2

Bost v. Illinois State Board of Elections, 607 U.S. ___(2026), No. 24-568, established competitor standing for federal candidates challenging election administration structures without requiring proof in advance of how illegal rules affected the outcome. A federal candidate competing in Michigan's 2026 elections may now challenge Proposals 3 (2018) and 2 (2022), the "protected status" directive, and related UOCAVA compliance failures on their constitutional merits. The Elections Clause arguments advanced in the Michigan legislators' lawsuit (dismissed on standing in April 2024) remain available under the *Bost* standing theory.

C. Legal Arguments

[332] Michigan Department of State, Voter Information Center, Military and Overseas Voters (accessed June 21, 2026). https://www.michigan.gov/sos/elections/voting/military-and-overseas-voters

MFEI advances the legal argument that nine independent noncitizen-registration pathways converge to produce a Michigan Qualified Voter File in which noncitizen registrations cannot be identified, quantified, verified, or removed through any current administrative mechanism:

Legal Argument 6-C Nine converging pathways:

6-C-1 The UOCAVA civilian registration process requiring no identity, residency, or citizenship verification (MDOS Voter Information Center, Michigan.gov/SOS, accessed June 21, 2026; *Failure of UOCAVA*, pp. 15–17);

6-C-2 Bureau of Elections Rule Set 2025-13-ST (R 168.253(1)(a), effective February 23, 2026), which codified pre-existing administrative instructions treating UOCAVA civilians as a protected class exempt from eligibility verification or challenge, in contradiction to AG Opinion 7322 and federal law (*Compromised Checkpoints*, MFEI, April–May 2026, pp. 23–28; Rule Set 2025-13-ST Analysis, PIME, November 5, 2025);

6-C-3 Governor Whitmer's 2019 nine-agency voter registration executive order directing state agencies serving non-citizen immigrants to register voters at the point of service without citizenship verification;

6-C-4 PA 268's opt-out AVR expansion without citizenship verification or SAVE integration (MCL 168.493a(5); EAC OIG Request, pp. 40–42);

6-C-5 Michigan's statutory acceptance of late-arriving UOCAVA ballots up to six days post-election, including ballots with missing or unclear postmarks determined timely by county clerk discretion (MCL 168.759a(18); PA 25 of 2023);

6-C-6 The Electronic Delivery and Return Portal (EDARP), operated by third-party vendor Enhanced Voting, through which civilians receive ballots electronically but return them by mail without CAC authentication, and whose operational records MFEI argues are not accessible through standard public records channels due to vendor contract software confidentiality provisions (MDOS Voter Information Center, Michigan.gov/SOS, accessed June 21, 2026; *Compromised Checkpoints*, p. 2974);

6-C-7 Michigan's acceptance of UOCAVA ballots returned via any carrier, with no requirement for verifiable postmark, including ballots with missing or unclear postmarks from international and private carriers (MCL 168.759a(18); *Failure of UOCAVA*, p. 16);

6-C-8 The Federal Write-In Absentee Ballot (FWAB) pathway, through which the MDOS confirms a submitted FWAB "will also serve as voter registration for Michiganders abroad who are eligible to register to vote and request an absentee ballot for future elections" (MDOS Voter Information Center, accessed June 21, 2026), creating a registration through

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an emergency write-in ballot submitted without prior identity, citizenship, or residency verification; and

6-C-9 ERIC's structural inability to flag noncitizen registrations, as ERIC's bylaws prohibit member states from transmitting records indicating noncitizen status (Count 4, cross-reference; *PILF v. Benson*, 136 F.4th 613 (6th Cir. 2025)). Together, these pathways produce a QVF in which the noncitizen registration category cannot be identified, quantified, verified, or removed through any current Michigan administrative mechanism. Michigan's QVF stands at 8,331,635 (108.9% of CVAP 7,653,711 as of May 19, 2026). Sources: MDOS Voter Information Center, Michigan.gov/SOS (accessed June 21, 2026); *Failure of UOCAVA* (December 2024); EAC OIG Request (File No. 24-0056); *Compromised Checkpoints* (MFEI, April–May 2026); Rule Set 2025-13-ST Analysis (PIME, November 5, 2025); Mark Vaeth / MFEI Voter Roll Analysis (May 2026); U.S. Census Bureau 2020–2024 ACS CVAP.

D. MFEI Conclusions

MFEI Conclusion 6-D-1: Conditional Conclusion

The 2020 EAVS establishes that 20,033 overseas civilians were registered as Michigan UOCAVA voters and approximately 16,012 UOCAVA civilian ballots were counted in the 2020 general election. Michigan did not report rejected Federal Post Card Application (FPCA) data for 2020 (footnote 6), creating an audit gap.[333] Michigan's Federal Write-in Absentee Ballot (FWAB)[334] majority-rejection category was "arrived late," predating PA 25 of 2023 and confirming late overseas ballot arrivals were an established pattern. The precise number of those 16,012 civilian ballots from registrants who did not meet UOCAVA's citizenship and prior-domicile requirements will be established through FOIA production of Michigan's FPCA records and QVF status code data.[335]

§IX. POTENTIAL FEDERAL INTERESTS

[333] 2020 EAVS, Tables 1 and 3, pp. 189, 198.

[334] Federal Write-In Absentee Ballot (FWAB), also known as Standard Form 186 (SF-186), is an emergency backup ballot authorized under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA). https://www.fvap.gov/uploads/fvap/forms/fwab.pdf

[335] 2020 EAVS, Appendix A, pp. 189–201.

The Michigan Fair Elections Institute respectfully requests that DOJ Civil Rights Division / Voting Section, DOJ Election Crimes Branch, EAC OIG, and DHS consider undertaking the following:

a. Verification processes. Whether Michigan's administration of overseas civilian voter registration and absentee voting provides sufficient identity, citizenship, residency, and eligibility verification to satisfy the affirmative obligations imposed upon state election officials by HAVA, the NVRA, UOCAVA, and other applicable federal election laws.

b. UOCAVA civilian registration records review. DOJ should require MDOS to produce all FPCA application records for the November 2020 general election and QVF status code data for the overseas civilian voter category, sufficient to determine how many registrations were accepted without identity, citizenship, or residency verification, and how many ballots were transmitted, received, and counted. EAC OIG Request[336], pp. 26–36.

c. HAVA § 701(b) compliance review. DOJ should assess whether MCL 168.759a(18) / PA 25 of 2023 violates HAVA § 701(b) by permitting counting of overseas ballots arriving after election day with missing or unclear postmarks. Source: MFEI EAC OIG Request,[337] pp. 33–36.

d. Electronic ballot return statutory authority review. Assess whether Michigan's electronic overseas ballot return program for civilian voters was implemented with statutory authorization and whether it conflicts with MCL 168.759a(6)[338] and AG Opinion No. 7322. Source: EAC OIG Request, pp. 30–32; MFEI, "Senator Wojno and his party seek to open all overseas voting to electronic ballot return against the advisement of U.S. Government agencies."[339]

e. PA 268 citizenship verification gap. DOJ and DHS should jointly assess whether MCL 168.493a(5)'s no-fault AVR provision complies with HAVA § 302(b)(4) and NVRA § 20504(c). Source: EAC OIG Request, pp. 40–42.

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[336] Mark Vaeth et al, MFEI Audit Committee, Request for EAC OIG Assessment of Audit Risk, Jan. 29, 2024; rev. Mar. 15, 2024, File No. 24-0056, submitted to EAC OIG Inspector General Brianna Schletz, pp. 26–36.

[337] Ibid, pp. 33–36.

[338] Michigan Public Act 25 of 2023, MCL 168.759a, 168.764a.

[339] "Senator Wojno and his party seek to open all overseas voting to electronic ballot return against the advisement of U.S. Government agencies," MFEI, March 17, 2023.

f. SAVE integration directive. DHS should assess whether Michigan qualifies for and should be directed to implement SAVE database integration for QVF noncitizen removal. Source: MFEI ERIC Fact Sheet,[340] Recommendation 9.

g. Newcomer Program voter registration audit. DOJ and DHS should jointly audit Michigan's Newcomer Program voter registration practices at agencies serving non-citizen immigrant populations. Source: Johnson/MFEI, "Bypass a Wall: Newcomer Program," (April 2024).[341]

h. EAVS reporting completeness review. EAC should assess whether Michigan's EAVS submissions for 2020, 2022, and 2024 adequately track civilian versus uniformed UOCAVA subcategories. The trend of increasing civilian and decreasing military UOCAVA ballots requires separate category tracking to assess compliance. Source: EAC OIG Request, pp. 27–29; EAVS 2022 Report, pp. 201, 211[342]

i. 12-month UOCAVA lapse and permanent absentee ballot audit. DOJ should assess the scope of expired UOCAVA registrations that transitioned to active non-UOCAVA status on Michigan's permanent absentee voter list and have continued to receive ballots for up to 10 years. DOJ should require MDOS to produce QVF records identifying former UOCAVA registrants whose status lapsed and who remained on the permanent absentee list. Source: *Failure of UOCAVA* (December 2024)[343], Section 2.2, points 3–4; U.S. Census Bureau, State-to-State Migration Flows, 2022.

j. Passport photocopy or comparable verification requirement. DOJ should assess and Michigan's Secretary of State should consider adopting a requirement for overseas civilian registrants to submit a photocopy of their passport with mail-in absentee ballots. This requirement is already in use in Alaska and consistent with UOCAVA's floor principle. Source: *Failure of UOCAVA*[344].

k. Extension of EO "Ensuring Citizenship Verification" to UOCAVA Electronic Ballot Delivery. President Trump's Executive Order 14399, "Ensuring Citizenship Verification and Integrity in Federal Elections"[345] directs DHS and SSA to compile and transmit State

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[340] "FACT SHEETS: The Electronic Registration Information Center (ERIC). Why Michigan must exit at once," May 9, 2023. https://www.mifairelections.org/post/summary-eric-electronic-registration-information-center

[341] Patrice Johnson, *Bypass a Wall. Grab a Ballot — Michigan's Newcomer Program Supports Illegal Migrants, Part 1*, MFEI, Apr. 2024.

[342] EAC EAVS 2022 Report to the 118th Congress, pp. 201, 211.

[343] Patrice Johnson and Frederick Woodward, *Failure of UOCAVA*: Potential for Noncitizen Voting in Our Elections, MFEI, December 2024.

[344] Ibid., Section 2.2, point 5; Section 3.2, Recommendation 4.

[345] President Donald J. Trump, Executive Order 14399, "Ensuring Citizenship Verification and Integrity in Federal Elections," March 31, 2026.

Citizenship Lists to state election officials, and it directs USPS and DHS to establish unique barcode identifiers for mail-in ballot envelopes to confirm that only citizens receive and cast ballots.

The EO's "Purpose" section states: "Unique ballot envelope identifiers, such as bar codes, enable confirmation that only citizens receive and cast ballots, reducing the risk of fraud and protecting the integrity of Federal elections." No analogous verification or tracking mechanism currently exists for overseas civilian ballots transmitted and returned through Michigan's Electronic Delivery and Return Portal (EDARP), operated by third-party vendor Enhanced Voting.

MFEI requests that DOJ and DHS assess whether the EO's citizenship verification and ballot-tracking mechanisms should be extended by analogy to cover UOCAVA electronic ballot delivery, so the same verification requirements that apply to domestic mail-in ballots apply equally to overseas civilian ballots transmitted through electronic channels.

The EO further directs the Attorney General to prioritize investigation and prosecution of officials who issue federal ballots to individuals not eligible to vote in a federal election, including under 18 U.S.C. 611(a). Note: This EO is subject to pending litigation (*California et al. v. Trump*, filed April 3, 2026,[346] 23 state attorneys general plus the Governor of Pennsylvania; preliminary injunction sought; constitutional merits not adjudicated). MFEI cites it as a statement of administration policy that may assist federal authorities in evaluating Michigan's continuing compliance with federal law. Sources: Executive Order, "Ensuring Citizenship Verification and Integrity in Federal Elections," March 31, 2026, WhiteHouse.gov; NACo Legislative Update, April 3, 2026.

l. Elections Clause appellate monitoring. DOJ should monitor the appellate posture of the Michigan legislators' Elections Clause challenge and assess whether DOJ has an interest in the constitutional question as interpreted in *Moore v. Harper*, 600 U.S. 1 (2023)[347]. See Legislators' Complaint (September 2023)[348].

A. Policy Recommendations (*Failure of UOCAVA*, Sections 3.1–3.2)

The *Failure of UOCAVA* (pp. 18–21) provides detailed federal and Michigan-specific policy recommendations. The following are the Michigan-level recommendations and may, however, assist federal authorities in evaluating Michigan's continuing compliance with applicable federal election laws.

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[346] *California et al. v. Trump*, filed April 3, 2026.

[347] *Moore v. Harper*, 600 U.S. 1 (2023).

[348] Eleven-legislator Elections Clause complaint, No. 1:23-cv-01025, W.D. Mich., Sept. 28, 2023.

Recommendation	Action Required
Separate military from non-military in UOCAVA processing	Obtain list of active military service members and compare to UOCAVA applicants. Apply verification checks to overseas civilian applicants only.
Verify identity, citizenship, and residency before registering an overseas civilian	Require applicants to document Michigan residency. Require identity and citizenship verification. Apply checks retroactively to previously unverified registrants. Eliminate affidavit exceptions to ID requirement. Verify citizenship via 8 U.S.C. § 1373.
Eligible ballots received no later than Election Day	Remove requirement to issue future ballots automatically. Cease registration of voters without consent. MOVE Act 45-day advance mailing requirement exists precisely to ensure timely return before Election Day.
Ensure all UOCAVA voters are current and eligible Michigan residents	Require prior in-person registration at last Michigan address before departure. Require proof of Michigan residency for ballot eligibility. Require passport submission with mail-in ballot, as Alaska and other states have done.
Clean up Michigan QVF	Clear voter rolls each national census and re-register. Conduct initial purge with new law implementation. Require SSN citizenship coding. Implement state-to-state driver license surrender notification for voter roll synchronization.

B. Federal Policy Recommendations (*Failure of UOCAVA*, Section 3.1)

The report's federal-level recommendations are addressed primarily to the EAC and Congress but bear on the DOJ requests in this Section, since several depend on statutory or regulatory changes DOJ could support or recommend:

Recommendation	Action Required
Scale back UOCAVA eligibility requirements	Return eligibility primarily to those directly serving in the military or in direct government service abroad, consistent with the original 1955 Act's intent. Apply ID and citizenship requirements

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	uniformly, with no affidavit exceptions. Permit no electronic voting or registration for nonmilitary overseas registrants.
Separate UOCAVA into military and civilian tracks	Once verified via DoD credentials, active-military registrants need not be subject to further identity, residency, or eligibility checks. Civilian registrants and military family members should meet regular eligibility requirements and return a hand-signed paper ballot by mail.
Verify identity, citizenship, and residency before registering overseas civilians or issuing a ballot	EAC should amend the Federal Post Card Application to require identity and citizenship verification for all applicants. Require proof of residency in the state in which the applicant is registering. Apply these checks retroactively to previously unverified registrants.
Remove automatic registration for future elections	Remove Federal Post Card Application Question 5, which allows an applicant to request ballots for all future elections through a single submission. Link the U.S. Postal Service's National Change of Address system to automatic cancellation of voter registration in the moved-from state.

§X. SUMMARY AND CONCLUSION

Building on the five violation categories introduced in the Issues Summary, this Count documents nine overlapping structural failures, at a finer level of granularity, in Michigan's administration of UOCAVA and related noncitizen voter registration pathways during the 2020 general election and through 2026. None of these failures resulted from a single administrative error. Together they reflect a system that currently lacks documented mechanisms for verifying the identity, residency, or citizenship of overseas civilian registrants before registrations are accepted, ballots are issued, or ballots are counted, as HAVA, the NVRA, and Michigan's own statute require.

The nine structural failures are:

(1) the "protected status" directive requires clerks to register overseas civilian applicants, issue them voter ID cards, and then issue them absentee ballots, with no identity, residency, or citizenship check;

(2) the SOS Military and Overseas Voters Manual requires that once a protected-voter registration is entered, an absentee ballot must be issued for every election in the calendar year, mandatory immediate ballot issuance with no re-verification;

(3) MCL 168.759a(18) / PA 25 of 2023 permits overseas ballots arriving six days post-election to be counted based on the county clerk's subjective postmark determination, in apparent conflict with HAVA § 701(b);

(4) overseas civilian UOCAVA registrants who lapse after 12 months remain on the permanent absentee voter list for ten years, with ballots mailed to addresses that may no longer be valid;

(5) Michigan accepts UOCAVA ballots from applicants who list states in which they have never resided, with no residency verification mechanism;

(6) PA 268 of 2023's automatic voter registration pathway lacks citizenship verification and contains a no-fault provision shielding ineligible registrants from prosecution;

(7) three federal expert sources (the Journal of Cybersecurity, the Senate Intelligence Committee, and NIST) confirm that electronic ballot return creates severe security vulnerabilities, yet Michigan's civilian overseas voters were administratively permitted to return ballots electronically without statutory authorization;

(8) Rule Set 2025-13-ST (R 168.253(1)(a), effective February 23, 2026) codified a pre-existing administrative protected-class exemption, prohibiting clerks from sending verification notices to all 26,037 Michigan UOCAVA registrants, in conflict with AG Opinion 7322; and

(9) nine converging noncitizen registration pathways, including UOCAVA civilian self-attestation, Whitmer's nine-agency executive order, PA 268 AVR, EDARP civilian access without CAC authentication, FWAB-as-voter-registration, MCL 168.759a(18) late-ballot acceptance, ERIC's structural inability to flag noncitizen registrations, Rule Set 2025-13-ST's verification exemption, and post-2023 lapse-retention under the ten-year permanent absentee list, produce a QVF in which the noncitizen registration category cannot be identified, quantified, verified, or removed through any current Michigan administrative mechanism.

In the 2020 general election under investigation, approximately 16,012 of the 21,464 UOCAVA ballots counted were cast by overseas civilian registrants verified only by self-attestation. Michigan's QVF stood at 8,331,635 as of May 2026, 108.9% of the citizen voting-age population of 7,653,711. The precise number of ineligible registrations traceable to these pathways will be established only through federal FOIA production and DOJ investigation.

The evidentiary record supporting Count 6 rests on primary government sources: the 2020 EAC EAVS, the FVAP 2022 OCPA Technical Report, the EAC OIG Request (426 pages, File No. 24-0056), the *Failure of UOCAVA* report (22 pages, December 2024), AG Opinion No. 7322, and

the verbatim text of MCL 168.759a, MCL 168.493a, MCL 168.758b, and MCL 168.492(1). The findings are corroborated by named legal counsel (Erick G. Kaardal), named legislative witnesses (State Senator Ruth Johnson), and MFEI's six-year documentary record. MFEI respectfully requests that DOJ, EAC OIG, and DHS undertake the investigative actions specified in Section VIII.

Robust verification procedures protect not only election integrity generally, but also the voting rights of eligible military personnel and overseas citizens, by helping ensure that their lawful ballots are not diluted by ballots cast by persons whose eligibility cannot be independently verified.

Like the administrative guidance issues examined in Counts 1 and 2, several of the verification practices discussed in this Count arise not from legislative enactments but from administrative manuals, directives, and implementation guidance. This Count evaluates those practices in the specific context of overseas civilian voter registration and ballot administration.

The issues documented in this Count concern more than the administration of overseas absentee voting during a single election cycle. They address the continuing adequacy of Michigan's verification procedures for determining voter eligibility, preserving election records, and maintaining accurate voter registration records. Because those responsibilities remain subjects of active federal enforcement, the issues documented here continue to warrant careful review.

§XI. AUTHORITIES, SOURCES, AND WORKS CITED

A. Case law

Moore v. Harper, 600 U.S. 1 (2023) https://www.supremecourt.gov/opinions/22pdf/21-1271_3f14.pdf	Elections Clause authority vests in state legislature subject to state constitutional limits.

B. Federal and Michigan Statutory Authorities

Statute / Authority	Relevance
52 U.S.C. § 20301–20311	Overview: The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA; 52 U.S.C. §§20301-20311) is the only

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(UOCAVA) https://www.congress.gov/crs_external_products/IF/PDF/IF11642/IF11642.1.pdf	federal statute devoted specifically to voting access for members of the military and other uniformed services, and other overseas citizens. It sets the floor, not cap, for overseas voter registration. Civilian coverage (§ 20310(5)) requires prior U.S. domicile and return intent.
52 U.S.C. § 20504 (part of the National Voter Registration Act of 1993) https://uscode.house.gov/view.xhtml?req=(title:52+section:20504+edition:prelim)	Mandates that every state motor vehicle driver's license application, including renewals, must simultaneously serve as an application to register to vote in federal elections, unless the applicant fails to sign the voter registration portion. "(C) shall include a statement that- (i) states each eligibility requirement (including citizenship); (ii) contains an attestation that the applicant meets each such requirement; and (iii) requires the signature of the applicant, under penalty of perjury;"
Help America Vote Act (HAVA) https://www.congress.gov/bill/107th-congress/house-bill/3295?__cf_chl_f_tk=0wF9sMdPlOWu8wJeRTIkV2SaxPf22GoFK1Vw0Wta7So-1783340203-1.0.1.1-trO1nPsx7HV4_ea45AbuzTSKw4LdxWvr8O1Tct2AtfY	Entire law and all its sections available here.
--Help America Vote Act (HAVA), Section 303 (b) https://www.justice.gov/crt/help-america-vote-act-4	Sets forth requirements for some voters to provide ID to vote. If a voter registers to vote in a county on or after January 1, 2003, the registration is by mail, and the voter has not previously voted in that county, then the voter must either provide ID when he or

	she registers or provide ID when he or she votes. Per the U.S. Justice Department: "Requirements for voters who register by mail," provides that certain categories of persons who register to vote by mail for federal elections for the first time after January 1, 2003, and do not qualify for one of the exemptions in Section 303(b)(3), must submit one of the forms of identification required by Section 303(b)(2)(A) the first time that they vote in a federal election after January 1, 2004. One exemption is Section 303(b)(3)(A), which applies to an individual who registers to vote by mail under Section 6 of the NVRA and includes in the application a copy of one of the required identification documents. Another exemption is Section 303(b)(3)(B), which applies to an individual who registers to vote by mail under Section 6 of the NVRA and provides either a driver's license number or at least the last four digits of the applicant's social security number and "*with respect to whom a State or local election official* ***matches the information*** *submitted ... with an existing State identification record bearing the same number, name and date of birth as provided in such registration*" (emphasis added). If an individual does not qualify for one of the exemptions and does not present the required identification, Section 303(b)(2)(B) provides that he or she may only cast a provisional ballot. https://www.justice.gov/crt/help-america-vote-act-4
--HAVA § 303(5)	Requires states to validate voter eligibility and residency. Michigan UOCAVA civilian process bypasses this minimum standard. EAC OIG Request, p. 31.
--HAVA § 701(b)	Ballot delivery must not occur after election day. PA 25 of 2023 (MCL 168.759a(18)) in apparent direct conflict. EAC OIG Request, pp. 33–35.
--HAVA § 302(b)(4)	Mail-in registration form shall include: "Are you a citizen of the United States?" Michigan Public Act 268 re: automatic voter registration (AVR) pathway does not require affirmative answer.

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52 U.S.C. § 20504 (part of the National Voter Registration Act of 1993) https://uscode.house.gov/view.xhtml?req=(title:52+section:20504+edition:prelim)	Registration forms must state eligibility requirements, including citizenship. This part of the NVRA requires registered voters to be U.S. citizens, so AVR pathways without citizenship verification are inconsistent with this requirement. EAC OIG Request, pp. 41–42. Mandates that every state motor vehicle driver's license application, including renewals, must simultaneously serve as an application to register to vote in federal elections, unless the applicant fails to sign the voter registration portion. "(C) shall include a statement that- (i) states each eligibility requirement (including citizenship); (ii) contains an attestation that the applicant meets each such requirement; and (iii) requires the signature of the applicant, under penalty of perjury;"
52 U.S.C. § 21083 (HAVA, QVF Accuracy) https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title52-section21083&num=0&edition=prelim	Statewide voter registration list must be uniform, accurate, and administered at State level. Unverified UOCAVA registrations contribute to QVF inaccuracy.
52 U.S.C. § 20507(i) (NVRA Public Inspection) https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title52-section20507&num=0&edition=prelim	Election records must be publicly available. Applies to UOCAVA ballot documentation.

U.S. Const. Art. I, § 4, cl. 1 (Elections Clause) https://constitution.congress.gov/browse/essay/artI-S4-C1-2/ALDE_00013577/	State Legislative authority over federal elections. Basis for Michigan legislators' lawsuit.
EAC EAVS 2022 Report to the 118th Congress https://www.eac.gov/sites/default/files/2023-06/2022_EAVS_Report_508c.pdf	p. 201: UOCAVA ballot transmission trends (non-military crossing 500,000 in 2020). p. 211: Michigan ranked 10th; 83.3% civilian. Count 6 Findings 6.6, 6.10.
Federal Voting Assistance Program (FVAP): FPCA Application https://www.fvap.gov/r3/fpca/my-information	FPCA form confirming no identity verification fields required beyond self-attestation. Source for EAC OIG Request Figures 13–14.
EAC EAVS 2020 Report: Military and Overseas Voting in 2020: UOCAVA https://www.eac.gov/sites/default/files/document_library/files/2020_EAVS_Report_Final_508c.pdf	PRIMARY SOURCE. Michigan-specific data: Table 1 (p. 189): 26,866 registered UOCAVA voters: 6,833 military (25.4%), 20,033 civilian (74.6%); Table 2 (p. 192): 20,945 FPCAs, no rejected data (footnote 6); Table 3 (p. 198): 21,464 counted, 4.6% rejection rate (vs. national 2.1%); Table 4 (p. 201): 949 FWABs, 65.3% rejected, majority arrived late. National data: 57.4% civilian UOCAVA registration; 60.1% civilian ballot transmission; 62.3% email transmission; 23 states prohibit email return. Directly establishes the 2020 baseline for Finding 6.10.
FVAP, 2022 Overseas Citizen Population Analysis (OCPA), Technical Report 2023 https://www.fvap.gov/uploa	PRIMARY SOURCE. Page 188, federal government admission: "there is no registry of overseas citizens that records where each of these individuals resides overseas." Establishes that verification failures are structurally undetectable at the federal level. Source for Finding 6.8.

ds/FVAP/Reports/2022-OCPA-Report_Combined_Final_20230925.pdf	

C. Michigan Statutory Authorities

MCL 168.493a(5) (PA 268 of 2023, No-Fault AVR) https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-168-493a	No-fault automatic voter registration. Quoted verbatim: "An individual who is not eligible to vote and who, without intending to register to vote, becomes registered to vote through human or mechanical error … is not considered to have knowingly intended to register to vote." EAC OIG Request, p. 41.
MCL 168.759a(18) (PA 25 of 2023, Post-Election Counting) https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-168-759A	Allows late-arriving overseas ballots with missing or unclear postmarks to be counted, up to six days after election close. Apparent conflict with HAVA § 701(b). EAC OIG Request, pp. 33–35. SOS authority to implement UOCAVA procedures conditioned on APA rulemaking. "Protected status" directive is not promulgated as a law.
MCL 168.758b (UOCAVA Rulemaking Authority)	https://legislature.mi.gov/Laws/MCL?objectName=MCL-168-758B
MCL 168.492(1) (Voter Eligibility, Citizenship) https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-168-492	Voting by persons confined in jail or prison prohibited. Sec. 758b. "A person who, in a court of this or another state or in a federal court, has been legally convicted and sentenced for a crime for which the penalty imposed is confinement in jail or prison shall not vote, offer to vote, attempt to vote, or be permitted to vote at an election while confined."

D. MFEI, PIME and Other Reports and Submissions

Source	Description / Significance
Failure of UOCAVA: Potential for Noncitizen Voting in Our Elections (Johnson/Woodward, MFEI, December 2024) https://aa3979fb-9421-4dd8-ba7d-8ead2d346103.usrfiles.com/ugd/b6c56e_846cc29540b24b718ab41a2f483e50b3.pdf	PRIMARY SOURCE. 22 pages. Foreword by Erick G. Kaardal. Four federal + five Michigan failure points. Key: p.4 Executive Summary; p.13 protected status analysis (Section 2.1 #2); pp.15–17 Michigan state failure points with footnotes to SOS Manual (footnotes 5, 7, 8, 9); p.10 Figures 1-4 and 1-5 (83.3% civilian 2022; 81% civilian November 2024); pp.18–21 policy recommendations.
Request for EAC OIG Assessment of Audit Risk (MFEI, January 29, 2024; revised March 15, 2024) https://aa3979fb-9421-4dd8-ba7d-8ead2d346103.usrfiles.com/ugd/aa3979_785b0d23cd8b45e9a91a401f2e06daac.pdf	PRIMARY SOURCE. 426 pages. File No. 24-0056. EAC OIG Inspector General Brianna Schletz. Section A (pp. 26–27): no-identity-verification finding. Section B (pp. 27–29): 83.3% civilian statistic; EAVS trend data. Section B (p. 30): bizarre fact never-resided finding; three expert warnings on electronic ballot (Journal of Cybersecurity, Senate Intelligence Committee, NIST, pp. 30–32). Section C (pp. 33–36): PA 25 of 2023 / HAVA § 701(b) violation; MCL 168.759a(18) verbatim. Section K (pp. 40–42): MCL 168.493a(5) verbatim; PA 268 citizenship gap; HAVA § 302(b)(4).
AG Opinion No. 7322 (AG Nessel, May 5, 2023) https://www.michigan.gov/ag/-/media/Project/Websites/AG/opinions/2023/OAG-7322.pdf?rev=122fd8ea988246558f8edafe7ee23dea&hash=10DE309527853C0AB540D0EFE55CC426	PRIMARY SOURCE. Issued to SOS Benson. Holding: PA 196/197 limiting electronic ballot return to military-only is constitutionally valid. Confirms: (1) civilian overseas voters must return ballots by mail; (2) DoD CAC is the authentication mechanism; (3) facial review only; conclusion may change on factual record. Directly confirms civilian electronic ballot return requires separate statutory authorization.

MCL 168.759a (Current text through PA 5 of 2025) https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-168-759A	PRIMARY SOURCE. Key provisions: §(18) six-day late ballot + county clerk postmark determination; §(6) civilian must print and mail; §(17) military electronic return requires DoD verified signature; SOS must promulgate rules by September 1, 2025.
PIME HAVA Complaint Against SOS Benson / ERIC (September 21, 2022) https://www.mifairelections.org/post/pime-hava-complaint-against-sos-benson-for-joining-mi-in-third-party-eric	PRIMARY LEGAL DOCUMENT. Filed by Kaardal/Hartman. HAVA delegation argument. Also relevant to Count 4.
Michigan Legislators File Federal Lawsuit: Complaint PDF (September 28, 2023) https://aa3979fb-9421-4dd8-ba7d-8ead2d346103.usrfiles.com/ugd/b6c56e_e28d44532b5042a9a5f63a7bb79525c3.pdf	PRIMARY LEGAL DOCUMENT. Eleven-legislator Elections Clause complaint. Proposals 2 and 3 bypassed legislature. Count 6 Finding 6.8.

E. MFEI Articles and External Sources

Source	Description
MFEI, Fatally Flawed Overseas Ballots and How to Fix Them (November 2024)	MFEI press release summarizing *Failure of UOCAVA*. Eight failure points.

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https://www.mifairelections.org/post/fatally-flawed-overseas-ballots-and-how-to-fix-them	
PIME, Say No to Electronic Overseas Voting (2023) https://www.mifairelections.org/post/call-to-action-say-no-to-electronic-overseas-voting-say-no-to-senator-wojno	PIME analysis opposing electronic overseas ballot return. No statutory authority; ballot secrecy waiver; chain-of-custody elimination. Opposition to SB 623 (Wojno). Confirms existing civilian electronic return lacks authorization.
Johnson/MFEI, Bypass a Wall: Newcomer Program Supports Illegal Migrants (April 2024) https://www.mifairelections.org/post/bypass-a-wall-grab-a-ballot-michigan-s-newcomer-program-supports-illegal-migrants	Documents Newcomer Program agencies serving non-citizen immigrants conducting voter registration without citizenship verification. Count 6 Finding 6.7.
Johnson/MFEI, ERIC Slips Non-Citizens onto Voter Rolls (February 8, 2022) https://www.mifairelections.org/post/call-to-action-eric-slips-non-citizens-onto-voter-rolls	Documents State Senator Ruth Johnson's January 19, 2022 disclosure at a Michigan Senate Elections and Ethics Committee Hearing of non-citizen auto-registration via DMV vehicle title transfer. Count 6, Findings 6.7 and 6.9. https://imd0mxanj2.execute-api.us-west-2.amazonaws.com/ssr/watch/61f3065bd48d55e44ec8dd80
MFEI, Michigan Legislator Lawsuit: Not Your Run-of-the-Mill Federal Case (September 30, 2023) https://www.mifairelections.o	Kaardal press conference; Lindsey, Carra statements. Count 6 Finding 6.8.

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rg/post/legislator-lawsuit-not-your-run-of-the-mill-federal-case	
MFEI, Eleven Michigan Legislators Vow to Appeal (April 12, 2024) https://www.mifairelections.org/post/mfe-release-eleven-michigan-legislators-vow-to-appeal	Dismissal on standing grounds; intent to appeal. Count 6 Finding 6.8.
MFEI / Wisconsin Voter Alliance, U.S. Supreme Court Asked to Grant Standing to Pennsylvania Legislators (May 29, 2024) https://www.mifairelections.org/post/u-s-supreme-court-asked-to-grant-standing-to-pennsylvania-legislators-mfei-wva-file-brief	MFEI and WVA amicus brief on Elections Clause standing. Count 6 Finding 6.8.
Michigan Department of State, Voter Information Center, Military and Overseas Voters (accessed June 21, 2026) https://www.michigan.gov/sos/elections/voting/military-and-overseas-voters	PRIMARY SOURCE. Official MDOS public guidance (8 screenshots, accessed June 21, 2026). Establishes: (1) FPCA requires no citizenship verification; self-attestation is the only identity gatekeeping mechanism; (2) U.S. citizens who have never lived in the U.S. may register in Michigan through parental/spousal connection with no verification; (3) MDOS publicly represents postmark as required while MCL 168.759a(18) permits missing postmarks, a gap that is undisclosed; (4) EDARP portal operated by Enhanced Voting; CAC authentication applies only to active military; civilians access without DoD-level verification; (5) signature matching is MDOS's stated security mechanism; does not verify citizenship, identity, or prior Michigan residency; (6) FWAB "will also serve as voter registration" creating an unverified registration pathway. Cross-reference: Established Facts 6-A-1, 6-A-2, 6-A-4,

	6-A-12; Legal Argument 6-C, pathways 1, 5, 6, 8.
Pure Integrity Michigan Elections (PIME), Rule Set 2025-13-ST Analysis (November 5, 2025). JCAR hearings: Oct. 29 and Nov. 5, 2025.	MFEI/PIME LEGAL ANALYSIS. Documents that R 168.253(1)(a) creates a protected class of UOCAVA civilians exempt from verification and challenge, contradicting AG Opinion 7322 and violating NVRA § 20507(a)(4), (b)(1) and HAVA § 21083(a). 81% of Michigan's 26,037 UOCAVA registrants (21,080) are civilians with no military safeguards. Rule advanced over JCAR deadlock, effective February 23, 2026. Cross-reference: Established Fact 6-A-11; Legal Argument 6-C, pathway 2.
Michigan Fair Elections Institute, *Compromised Checkpoints* (April–May 2026), 212 pages.	MFEI PRIMARY ANALYSIS. Comprehensive analysis of Rule Sets 2025-13-ST through 2025-63-ST. Key findings for Count 6: Rule Set 2025-13-ST creates a permanent unverifiable protected class of overseas civilians (pp. 23–28); EDARP software records carry a confidentiality carve-out (p. 2974); Rule Set 2025-14-ST mandates EPB data deletion within seven days, conflicting with 52 U.S.C. § 20701's 22-month federal retention mandate (pp. 36–37). Cross-reference: Established Facts 6-A-11, 6-A-12; Legal Argument 6-C, pathways 2, 6.
Executive Order 14399, Ensuring Citizenship Verification and Integrity in Federal Elections (March 31, 2026) https://www.federalregister.gov/executive-order/14399	PRIMARY SOURCE. Federal executive action. §2(a): DHS and SSA directed to compile State Citizenship Lists for state election officials, updated at least 60 days before each federal election. §1 Purpose: "Unique ballot envelope identifiers, such as bar codes, enable confirmation that only citizens receive and cast ballots." §2(b): AG directed to prioritize prosecution of officials issuing federal ballots to ineligible voters under 18 U.S.C. 611(a). Litigation status: *California et al. v. Trump* (filed April 3, 2026; preliminary injunction sought; merits not adjudicated). Cited as statement of administration policy, not settled law. Cross-reference: Count 6 Section VIII; Legal Argument 6-C, pathway 7.

Rule Set 2025-13-ST, R 168.251–168.258, LARA Trans. No. 1586 (effective February 23, 2026) https://ars.apps.lara.state.mi.us/Transaction/RFRTransaction?TransactionID=1586 https://ars.apps.lara.state.mi.us/AdminCode/DownloadAdminCodeFile?FileName=1586_2025-071LR_AdminCode.pdf	PRIMARY SOURCE. Administrative rule text. Subrule 3 (R 168.253(1)(a)): directs clerks to verify whether a voter is entitled to MOVE Act or UOCAVA protections and, if so, to refrain from sending verification notices. Creates a blanket exemption from verification procedures for all 26,037 Michigan UOCAVA registrants. Cross-reference: Established Fact 6-A-11; Legal Argument 6-C, pathway 2.
Pure Integrity Michigan Elections (PIME), Submission in Opposition to Rule Set 2025-13-ST, Public Hearing (Sept. 5, 2025) https://b6d83fed-d9cb-4cb1-9e2f-60cfa1575f8d.filesusr.com/ugd/aa3979_c64ea3d9d617440db04a3e4237cecd7b.pdf	MFEI/PIME LEGAL SUBMISSION. Formal opposition filed at public hearing. Documents AG Opinion 7322 conflict, JCAR deadlock, and failure to distinguish military UOCAVA from civilian UOCAVA registrants. Establishes that the protected-class instruction was issued administratively before rule promulgation. Cross-reference: Established Fact 6-A-11; Legal Argument 6-C, pathway 2.

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COUNT 7. ABSENTEE BALLOT CONTROLS, CHAIN OF CUSTODY, AND DROP BOX SECURITY

§I. ISSUES SUMMARY

Count 7 documents systematic failures in Michigan's absentee ballot issuance, return, and verification framework across three election cycles (2020, 2022, and 2024) establishing that the failures are not isolated incidents but recurring structural conditions operating at each stage of the absentee ballot lifecycle.

Michigan's permanent absentee voter list automatically mails ballots to all enrolled registrants without a per-election request, producing approximately 3.2 million absentee ballots in the 2024 cycle alone, the majority of votes cast in the state, issued against a voter roll the Bureau of Elections' own records show contains hundreds of thousands of long-inactive and potentially ineligible registrations. The result is a high-volume mail ballot system whose integrity depends substantially on the post-issuance controls documented in this Count; those controls have repeatedly proven insufficient.

The failures documented in this Count cluster at three stages of the absentee ballot lifecycle. At issuance, a 2024 QVF system change caused clerks to mail 476 ballots to ineligible Challenged/Verify-status registrants in Oakland County alone, and a separate system anomaly linked 82,467 voter IDs to 125,428 potential duplicate records, both described by the Secretary of State as a "glitch." These are distinct from the 26 confirmed duplicate ballot pairs discussed below. Separately, East Lansing's 2020 election produced 1,363 ineligible absentee votes cast and counted without detection.

At return, MCL 168.761d restricts ballot drop-box access to the registrant, authorized postal workers, or immediate family members, and mandates 75-day video surveillance. The Hamtramck prosecution (in which surveillance footage led to criminal charges against two sitting City Council members) demonstrates that unauthorized ballot deposits have occurred in Michigan and that the statute's surveillance requirement, when functioning as required, can detect them. The incident further illustrates the evidentiary importance of preserving surveillance footage, retrieval logs, and other chain-of-custody records, which may be necessary for subsequent criminal, administrative, or federal review. Conversely, failures to preserve those records may substantially impair later oversight. MC4EI's statewide drop box security survey will be submitted to DOJ as a supplement to this Count.

At receipt and verification, time-stamped voter history records show that more than 600 individuals were registered to vote absentee in Ann Arbor after the 8:00 p.m. November 8, 2022, deadline, with 120 registering and casting ballots on November 9: the day after the election closed. Official voter history records were subsequently altered to accommodate counting these

post-deadline ballots, and Secretary of State Benson contributed to the violation by tweeting guidance contrary to MCL 168.731(3) at 6:19 p.m. on election night.

The Count also documents 26 confirmed duplicate ballot pairs from the November 2020 general election, each consisting of one absentee ballot and one in-person ballot for the same voter, both counted, which became visible only upon partial restoration of voter history records MFEI contends were deleted contrary to applicable retention requirements. The SOS's official ballot count exceeds the restored QVF by approximately 100,000 records, making the 26 confirmed pairs a floor rather than a ceiling.

The evidentiary record presented in this Count identifies recurring failures in Michigan's absentee ballot chain-of-custody controls at the issuance, return, verification, and post-certification stages across multiple election cycles and jurisdictions, at scale. These failures occurred at points where post-hoc correction is structurally impossible. The Department of Justice is respectfully requested to assess whether the documented pattern warrants federal enforcement action, independent audit, and the document productions identified in Section VIII.

For purposes of this Count, "chain of custody" refers to the documented continuity of possession, handling, verification, and preservation of an absentee ballot from issuance through tabulation in a manner that permits subsequent verification of statutory compliance. Once an absentee ballot leaves the control of election officials, confidence in the process depends substantially upon documented chain-of-custody safeguards. The failures documented in this Count occurred at critical control points where meaningful post-election verification becomes increasingly difficult or impossible. Accordingly, the significance of these issues extends beyond individual administrative errors to the broader question whether Michigan's absentee ballot system maintains the records, controls, and auditability necessary to permit effective state and federal oversight.

A. Current Federal Enforcement Interest

The significance of the violations documented in this Count is not merely that mistakes occurred, but that they occurred at critical control points where independent verification becomes impossible after the fact. A ballot issued to an ineligible registrant, deposited in an surveilled drop box, accepted after the statutory deadline, or tabulated despite a missing or mismatched stub number cannot readily be distinguished through ordinary post-election audit procedures from a valid ballot. It is permanently commingled with the legitimate vote.

The Ann Arbor, CH/V issuance, Hamtramck, duplicate ballot, and post-certification reclassification failures documented below all share this characteristic: the error cannot be corrected after counting closes. That is the fundamental reason chain of custody failures in absentee ballot administration, even when individually explained as administrative "glitches," cannot be resolved by post-hoc administrative characterization.

B. Topics Covered

- **Ann Arbor 2022 —** Post-Deadline Ballot Counting, Record Alteration, and SOS Erroneous Guidance
- **CH/V Status Ballot Issuance —** 476 Ineligible Ballots Mailed in Oakland County; MCL 168.509aa Violation
- **Duplicate Ballot Records —** 82,467 Voter IDs Linked to 125,428 Potential Duplicate Votes (2024)
- **Lights Out —** 1,363 Ineligible Absentee Votes, East Lansing November 2020
- **Drop Box Security —** Hamtramck Ballot Stuffing; MCL 168.761d Violations; MC4EI Statewide Survey Pending
- **26 Confirmed Duplicate Ballot Pairs —** One Absentee Plus One In-Person, Both Counted; Visible Only After Record Restoration
- **Post-Certification Designation Switching —** 769,091 Vote History Record Changes Obscuring Chain of Custody Audit Trail
- **The Absentee Ballot Lifecycle —** Stage 1 (Issuance), Stage 3 (Return / Drop Box), and Stage 4 (Receipt / Verification) Failures
- ***Johnson v. Secretary of State*, No. 162286 —** Michigan Supreme Court 4–3: No Coherent Election Contest Mechanism as of November 2020

§II. LEGAL ARGUMENT

A. Post-Deadline Ballot Acceptance Argument (MFEI Legal Argument)

[LEGAL ARGUMENT] MCL 168.731(3) is unambiguous: a person may apply in person at the clerk's office "before 8 p.m. on election day" to vote as an absent voter. The statute contains no exception for satellite offices, no exception for persons in line at 8:00 p.m. at a non-precinct location, and no exception for university students. Secretary of State Benson's 6:19 p.m. tweet on November 8, 2022, directing persons in line at clerk satellite offices at 8:00 p.m. that they could "still register and vote", was contrary to the plain text of MCL 168.731(3) and MCL 168.761(3), which together govern the applicable deadline. Satellite clerk offices are not polling places and have no tabulators; a person in line at a satellite office at 8:00 p.m. cannot vote in the current election at that location. The counting of 600+ absentee ballots registered after the 8:00 p.m. deadline, and 120 registered and cast on November 9, was therefore unlawful on the face of the statute. The subsequent alteration of official voter history timestamps to associate November 9 registrations with the November 8 election further implicates 52 U.S.C. § 20702 (federal criminal penalties for alteration of election records) and MCL 168.932 (felony penalty for falsifying vote history records). MFEI respectfully requests that DOJ obtain and review all system modification logs and communications documented in Section VIII, Item 5.

B. Ineligible Ballot Issuance Argument (MFEI Legal Argument)

[LEGAL ARGUMENT] MCL 168.509aa is equally unambiguous: registrants in Challenged (CH) or Verify (V) status may not receive ballots until their status is resolved. The statute contains no glitch exception, no administrative-error exception, and no exception for system-generated label printing. The SOS's characterization of the 2024 CH/V issuance as a "glitch" is a factual description of cause, not a legal defense. The statutory prohibition applies to the act of issuance, not to the intent behind it. HAVA § 21083(a)(4)(A) independently requires that the statewide voter registration database accurately reflect the eligibility status of each registrant and that ballots not be issued to registrants whose eligibility has not been confirmed. The issuance of 476 absentee ballots to CH/V status registrants in Oakland County alone, with 56 voting, therefore represents a dual violation: of MCL 168.509aa at the state level, and of HAVA § 21083(a)(4)(A) at the federal level. The statewide scope of the same system change across all 83 Michigan counties remains unknown and is a subject of MFEI's request for DOJ investigation identified in Section VIII, Item 2.

C. Drop Box Chain of Custody Argument (MFEI Legal Argument)

[LEGAL ARGUMENT] MCL 168.761d establishes three legally enforceable chain-of-custody requirements for drop boxes: (1) video surveillance for 75 days before elections and on Election Day; (2) restriction of ballot return to registered electors, postal workers, clerk staff, or authorized family members; and (3) immediate law enforcement reporting of suspicious activity. MCL 168.764a independently limits authorized return to the registrant, immediate family, postal workers, or clerk staff.

These provisions collectively create a statutory chain of custody standard that is not aspirational; it is mandatory. The Hamtramck prosecution, in which two sitting City Council members were charged with election crimes after surveillance footage captured one shoving ballots into a drop box, establishes that criminal violations of MCL 168.761d have occurred in Michigan by elected officials.

The 2024 EAC EAVS Report (p. 17) independently documents that Michigan was among 15 states unable to report the number of ballots returned at drop boxes, establishing that Michigan's drop box data gap is recognized at the federal reporting level. MFEI's submission of MC4EI's statewide drop box security survey to DOJ will provide the jurisdiction-specific evidentiary basis for assessing the statewide scope of MCL 168.761d compliance failures.

D. Ballot Stub Processing Argument (MFEI Legal Argument)

[LEGAL ARGUMENT] MCL 168.797a(2) provides that if the ballot stub number does not agree with the poll list number, "the ballot shall be marked as 'rejected,' and the elector shall not be allowed to vote." MCL 168.797a(3) provides that "a ballot from which the stub is detached shall not be accepted." MCL 168.765a(8) requires absent voter counting boards to process ballots in "as nearly as possible the same manner as ballots are processed in paper ballot

precincts." These three provisions together create a mandatory rejection requirement for stub-deficient absentee ballots that admits no exception.

The MDOS Bureau of Elections training manual (ED-124, January 29, 2020, pages 37–38) and the accompanying YouTube training video (timestamp 9:41/17:20) instruct election inspectors to instead tabulate such ballots as "challenged ballots", a disposition that has no basis in MCL 168.797a and that inverts the statutory rule. A "challenged ballot" under MCL 168.745–747 is a mechanism for contesting a voter's qualification to vote, not a mechanism for resolving a ballot-level physical defect. The MDOS training instruction is therefore not a permissible administrative interpretation of MCL 168.797a; it is directly contrary to it. Under the Michigan APA ultra vires doctrine (*Rovas*; *Luttrell*; *Coffman*), an agency instruction that directly contradicts a clear statutory mandate is void and of no legal effect. MFEI argues that election results in which stub-deficient absentee ballots were tabulated under the MDOS instruction rather than rejected as the statute requires cannot be audited for compliance with MCL 168.797a after counting has closed.

E. Record Integrity and Federal Retention Argument (MFEI Legal Argument)

[LEGAL ARGUMENT] 52 U.S.C. § 20701 requires that all records and papers relating to any federal election be preserved for at least 22 months after the election. Absentee ballot applications, return envelopes, chain-of-custody logs, and voter history records that document whether a ballot was cast and counted are "records and papers relating to" a federal election within the meaning of § 20701.

The deletion of more than 65,000 voting histories from the QVF in the three-month period encompassing the November 2020 general election, which concealed 26 confirmed duplicate ballot pairs for approximately 14 months until partial restoration in December 2021, constitutes a violation of § 20701's 22-month retention mandate on its face. MCL 168.932 independently establishes felony criminal penalties for falsifying vote history records.

The post-certification switching of 769,091 vote history designations between in-person and absentee categories, documented in When Vote Totals Don't Match, implicates § 20701 to the extent those records were modified within the retention window, and MCL 168.932 to the extent the modifications constitute falsification.

The BOE's characterization of the switching as an algorithmic "fix" does not address the statutory prohibition on falsification. MFEI requests DOJ production of the December 2021 restored QVF dataset and all BOE documentation of the post-certification algorithm described in MFEI's When Vote Totals Don't Match.

§III. FACTUAL AND PROCEDURAL BACKGROUND

A. Scale of Michigan's Absentee Ballot System

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Michigan's permanent absentee voter list, which places registrants on an automatic 10-year rolling absentee ballot enrollment, means the majority of Michigan voters now receive their ballots by mail without any affirmative request for each election. As of the 2024 election cycle, Michigan processed approximately 3.2 million early and absentee votes. This scale creates systemic chain of custody vulnerability.

As the volume of absentee voting increases, the reliability of issuance controls, return procedures, signature verification, chain-of-custody documentation, and election-record preservation becomes correspondingly more significant because post-election reconstruction of these processes is often impossible.

When ballots are automatically mailed to all permanent absentee list registrants, including the 558,627 long-inactive registrations documented in Count 3, the unverified UOCAVA civilian registrations documented in Count 5, and the approximately 800,000 potentially ineligible registrations estimated in MFEI Investigation into Michigan Elections, the result is a volume of unrequested or invalid ballots entering the mail stream that the post-issuance chain of custody framework cannot reliably intercept.

In 2020, Secretary Benson mailed absentee ballot applications to all registered voters statewide without legislative authorization. Non-deliverable applications were returned to the Secretary of State's office rather than to local clerks, creating a chain-of-custody and list-maintenance gap: the SOS received direct evidence of potentially stale or invalid registrations but the local clerks who are legally responsible for list maintenance did not. This unauthorized mass mailing contributed to Michigan receiving a "D" grade from election integrity watchdogs for 2020 overall administration. Source: Michigan Legislature, Letter to AG Pam Bondi Requesting Federal Election Monitoring (Nov. 13, 2025).

B. Ann Arbor 2022: Documented Post-Deadline Ballot Acceptance and Record Alteration

The report Ann Arbor Compromises Election Integrity during 2022 Election[349] (MFEI/PIME, July 2023), prepared by lead investigator Bill Richardson with Dee Davey, Judi *Bennett*, Louis Avallone, and Patrice Johnson, documents four categories of election law violations in the City of Ann Arbor's administration of the November 8, 2022, general election. The investigation used FOIA requests to the Ann Arbor City Clerk's office, QVF cross-referencing, electronic poll book analysis, and tabulator tape review for all 53 Ann Arbor precincts.

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[349] MFEI/PIME, Ann Arbor Compromises Election Integrity during 2022 Election (July 2023), investigators: Bill Richardson, Dee Davey, Judi Bennett, Louis Avallone; editors: Elizabeth Ayoub, Patrice Johnson [hereinafter "Ann Arbor Report"], available at https://aa3979fb…usrfiles.com.

1. Post-Deadline Absentee Ballots Counted: 600+ Voters, 120 on November 9. Time-stamped voter history records obtained through FOIA show that more than 600 individuals (primarily students at the University of Michigan satellite registration offices) were registered to vote absentee after the 8:00 p.m. November 8 election day deadline. Of these 600 late registrants, 120 registered to vote and cast absentee ballots on November 9, 2022 — the day after the election closed. These ineligible ballots were counted.

2. Record Alteration and System Modification. Official voter history records show altered entries associating November 9 registrations with the November 8 election. Witnesses and contemporaneous reports indicated that a state computer programmer was brought into the process after election-day registration deadlines had passed in order to modify Ann Arbor's voting systems to accommodate the counting of post-deadline ballots. Voter history records that were time-stamped after midnight on November 9 appear in the official QVF as votes counted in the November 8 election. MFEI requests DOJ production of all related system modification logs and communications identified in Section VIII, Item 5.

3. Secretary of State Benson Issued Erroneous Guidance. At 6:19 p.m. on November 8, 99 minutes before polls closed, Secretary of State Jocelyn Benson tweeted: "Whether you're at your precinct in line to vote or at your local clerk's office in line to register and vote, as long as you are in line by 8p you can still register and vote." This guidance was erroneous and contrary to Michigan law. Clerk satellite offices are not polling places and have no tabulators. A person in line at a satellite office at 8:00 p.m. cannot vote in the current election at that site.

4. Satellite Office Chain of Custody Failures. Ann Arbor City Clerk Jackie Beaudry placed two satellite clerk offices exclusively on University of Michigan campuses, targeting student housing communities while placing no satellite offices near any of Ann Arbor's 23 largest senior living centers. This placement raises significant questions regarding the uniform and nondiscriminatory administration requirement of NVRA § 8(b) (52 U.S.C. § 20507(b)). The resulting lines of up to four hours also had the effect of deterring eligible voters at the affected locations from completing same-day registration.

5. Electioneering at Absentee Ballot Collection Points. The Washtenaw Democratic Party purchased and delivered pizza to students waiting in line at the satellite offices. Hot chocolate, water, and blankets were also distributed. State Representative Jason Morgan posted a Twitter/X selfie with pizza captioned: "Making sure students stay in line for same-day registration on campus. #VoteBlueToSaveDemocracy." MCL 168.931(1)(a) prohibits giving valuable consideration to any person as an inducement to influence the manner of voting.

C. Absentee Ballots Issued to Challenged and Verify Status Registrants (2024)

Michigan's QVF assigns registrants a Challenged (CH) or Verify (V) status when issues arise such as death, relocation, felony status, non-citizenship, or duplicate registration. MCL

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168.509aa prohibits registrants in CH or V status from receiving ballots until their status is resolved. MFEI Investigation into Michigan Elections (September 2025)[350] documents that a 2024 QVF system change automatically included CH/V registrants in absentee ballot mailing label printing, causing clerks to unknowingly mail ballots to ineligible voters. Oakland County: 476 absentee ballots were sent to CH/V registrants, with 56 voting. The SOS described this as a 'glitch', a characterization that does not affect the statutory analysis, as MCL 168.509aa contains no glitch exception. Clerks were unaware of the ineligible status in part due to delayed ballot printing related to Robert F. Kennedy Jr.'s ballot status uncertainty.

D. Duplicate Absentee Ballots: 82,467 Voter IDs Linked to 125,428 Votes

MFEI Investigation into Michigan Elections (September 2025)[351] and the EAC OIG Request (January 2024)[352] document that in 2024, 82,467 voter identification numbers were linked to 125,428 potential duplicate votes, meaning a single voter ID was associated with more than one ballot record. MFEI Investigation into Michigan Elections documents that MFEI's DEEP Team's daily absentee voter records showed multiple votes linked to single voter IDs, including six documented duplicate votes from Detroit. After MFEI reported this finding, the SOS/BOE removed most duplicates, attributing them to a 'glitch' without detailed explanation despite FOIA requests.

E. East Lansing 2020: Ineligible Absentee Votes — Lights Out Case Study

The Lights Out report[353] (PIME/Anne Hill, May 2022) documents 1,363 absentee votes cast by ineligible registrants in the City of East Lansing's November 2020 general election. Categories: (1) 1,043 votes from registrants confirmed as no longer residing at their registered address; (2) 174 votes from 1,738 registrations at 19 closed MSU residence halls; (3) 67 votes from registrants whose listed residence had been sold to a different owner; (4) 33 votes from registrants at Class 6 licensed fraternity/sorority/co-op properties; (5) 41 votes from registrants at invalid addresses including a demolished street (Cherry Lane), a non-existent street (Spartan Village), and post office addresses; (6) 5 votes cast by voters deceased before September 1, 2020.

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[350] Dee Davey/MFEI Elections Oversight Committee, MFEI Investigation of Michigan Elections, Sept. 2025.

[351] MFEI Investigation into Michigan Elections.

[352] Mark Vaeth et al, MFEI Audit Committee, Request for EAC OIG Assessment of Audit Risk, Jan. 29, 2024; rev. Mar. 15, 2024 [hereinafter "EAC OIG Request"].

[353] Anne Hill, Lights Out: Voter Roll Anomalies during the 2020 Election, East Lansing (PIME, May 14, 2022) [hereinafter "Lights Out"] , available at https://aa3979fb-9421-4dd8-ba7d-8ead2d346103.usrfiles.com/ugd/aa3979_6314c93d815347b1bfcd2153394874be.pdf.

The Lights Out case study establishes that the Michigan absentee ballot system, as administered in a single mid-size university community, processed 1,363 ineligible absentee ballots in a single election without detection. In none of the scenarios involving forwarded, received-by-others, or returned-undeliverable ballots does the chain of custody remain intact.

F. Drop Box Security: Documented Incidents and Statutory Requirements

MCL 168.761d mandates drop boxes in cities and towns, requires video monitoring of drop boxes for 75 days before elections and on Election Day, and requires immediate reporting of vandalism or suspicious activity to law enforcement. MCL 168.764a specifies that ballot return is restricted to mail, personal delivery to the clerk's office, or authorized drop boxes, with delivery limited to the registrant, authorized postal workers, or immediate family members.

MFEI Investigation into Michigan Elections (September 2025)[354] documents a specific instance of drop box ballot stuffing in Hamtramck, Michigan, captured on video surveillance: two Hamtramck City Council members were charged with election crimes, with one caught on camera shoving ballots into a drop box. This establishes that the threat of drop box abuse is not theoretical, and that MCL 168.761d surveillance systems, when functioning as required, can detect it.

The Hamtramck drop box ballot stuffing incident is the primary documented instance of MCL 168.761d violation in the current MFEI evidentiary record. Its evidentiary significance is threefold: it demonstrates that unauthorized ballot deposits by sitting elected officials have occurred in Michigan; it establishes that MCL 168.761d's mandatory video surveillance requirement, when functioning as required, is capable of detecting it; and it establishes that the statutory prohibition on unauthorized persons possessing absentee ballots (MCL 168.761d) and the authorized-return-person requirement (MCL 168.764a) are being violated in practice.

Michigan Citizens for Election Integrity (MC4EI) has conducted extensive statewide research on drop box placement, security camera coverage, surveillance footage review, and chain of custody documentation across Michigan's 1,690 local jurisdictions. MC4EI's statewide drop box security survey, including jurisdiction-specific security assessment data, surveillance footage documentation, comparison of actual practices against MCL 168.761d requirements, and FOIA findings regarding drop box retrieval logs and bipartisan oversight compliance, will be submitted to DOJ as a supplement to this Count upon receipt. The Hamtramck incident establishes the category of violation; MC4EI's survey will establish its statewide scope.

G. Confirmed Duplicate Ballots: One Absentee + One In-Person, Both Counted (2020)

[354] MFEI Investigation into Michigan Elections.

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The Avallone article[355] (Patrice Johnson/PIME, December 14, 2021) documents the only confirmed instance in the current MFEI evidentiary record of duplicate ballots actually counted in a Michigan general election. Analyst Louis Avallone discovered that voting histories intact on October 1, 2020, had disappeared by January 1, 2021, more than 65,000 voting histories vanished in the three-month period encompassing the November 2020 election. After PIME and Senator Ruth Johnson's office interceded with the SOS, the deleted records were restored in the December 1, 2021, QVF dataset.

Upon restoration, Avallone found 26 pairs of duplicate cast ballots in the November 2020 general election. Each duplicate pair consisted of one absentee ballot and one in-person ballot for the same voter, but both counted in the final election results. The 26 confirmed duplicate pairs represent the minimum, not a ceiling. The SOS website showed 5.56 million ballots cast in November 2020; the restored December 2021 QVF showed only 5.46 million voting history records, approximately 100,000 short of the official count. The SOS's official explanation for the voter history deletions was that they were a "technical issue and not done on purpose."

H. Post-Certification Vote History Designation Switching

When Vote Totals Don't Match[356] (Frederick Woodward/MFEI, December 2024) and MFEI Investigation into Michigan Elections (September 2025) document that the Bureau of Elections' post-certification random assignment algorithm has switched vote history designations between in-person and absentee classification for thousands of votes. A total of 769,091 post-certification vote history location changes are documented in the MFEI dataset. MCL 168.932 establishes criminal felony penalties for falsifying vote history records; the BOE's characterization of these changes as an algorithmic 'fix' does not address the statutory prohibition.

§IV. LEGAL FRAMEWORK

A. Federal Law

HAVA § 301 (52 U.S.C. § 21081): Mandates that each state's voting system provide a voter-verifiable paper audit trail for all votes cast on electronic voting systems and requires auditable, secure ballot handling. Michigan's destruction of electronic pollbook data within seven days (addressed in Counts 7 and 10) undermines the audit trail required by this provision.

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[355] Patrice Johnson/PIME, "Citizen Analyst Uncovers Illegal Deletions of Voter History Records," (Dec. 14, 2021) [hereinafter "Avallone Article"], available at mifairelections.org.

[356] Frederick Woodward, *When Vote Totals Don't Match: An Investigative Analysis*, Michigan Fair Elections Institute (Dec. 2024).

HAVA § 303 (52 U.S.C. § 21083): Requires voter verification systems and accurate statewide voter registration list maintenance. The issuance of absentee ballots to CH/V status registrants undermines the accuracy mandates of this provision.

52 U.S.C. § 20702: Criminalizes the theft, destruction, or alteration of election records, including ballots in transit, ballot applications, and voter registration records. The Ann Arbor 2022 investigation documents that official voter history records show altered timestamps associating post-deadline registrations with the November 8 election, and witnesses and contemporaneous reports indicated that voting system modifications were made after election-day registration deadlines had passed.

52 U.S.C. § 20701 — Federal Records Retention Act: The Department of Justice has recently reaffirmed the continuing federal importance of preserving election records sufficient to permit meaningful review of federal election administration. The absentee ballot applications, return envelopes, voter-history records, chain-of-custody logs, surveillance recordings, and related materials discussed throughout this Count are therefore significant not only under Michigan law but also as records potentially subject to federal preservation requirements.

All records pertaining to federal elections must be retained for at least 22 months. Absentee ballot applications, ballot return envelopes, and chain of custody logs constitute records pertaining to federal elections subject to this mandate.

NVRA, 52 U.S.C. § 20507: Requires reasonable effort to maintain accurate voter rolls. The issuance of absentee ballots to approximately 800,000 potentially ineligible QVF registrations creates chain of custody vulnerabilities.

Executive Order 14248 (March 25, 2025): Requires election security measures to protect ballot integrity.[357] Michigan's documented absentee ballot control failures implicate this executive order's enforcement mandate.

B. Michigan Statutes — Absentee Ballot Controls

MCL 168.731(3) — Election Day Deadline: Provides that a person may apply in person at the clerk's office before 8:00 p.m. on election day to vote as an absent voter. Michigan election law does not allow the receipt of absentee ballots after 8:00 p.m. on election day. The Ann Arbor investigation documents at least 600 absentee ballots counted in the November 8, 2022 election that were registered and submitted after this deadline, including 120 registered and voted on November 9.

[357] President Donald Trump, Executive Order 14248, § 3(b), 90 Fed. Reg. 14005 (Mar. 25, 2025).

MCL 168.759 — Ballot Applications: Governs absentee ballot application requirements, submission methods, and verification requirements. Criminal penalties apply for false statements on applications.

MCL 168.759a — Ballot Receipt and Signature Verification: Requires clerks to review and verify signatures on each ballot return envelope, with written documentation of receipt date, time, and approval for tabulation.

MCL 168.761d — Drop Box Requirements: (1) prohibits unauthorized persons from possessing absentee ballots; (2) restricts ballot return to registered electors, postal workers, or clerk staff only; (3) mandates drop boxes in cities and towns; (4) requires video monitoring of drop boxes for 75 days before elections and on Election Day; (5) requires immediate reporting of vandalism or suspicious activity to law enforcement.

MCL 168.764a — Ballot Delivery Methods and Drop Box Security: Provides detailed ballot handling instructions requiring specific delivery methods: mail, personal delivery to clerk's office, or authorized drop box. Authorizes immediate family members to deliver ballots on a voter's behalf. Requires ballots to reach the clerk before polls close on Election Day.

MCL 168.765a — Bipartisan Oversight: Requires that at least one election inspector from each major political party must be present during ballot processing; prohibits ballots from being left unattended; requires sworn oaths for all personnel handling ballots.

MCL 168.509aa — QVF Status and Absentee Ballot Issuance: Prohibits registrants in Challenged (CH) or Verify (V) status from receiving ballots until their status is resolved. MFEI Investigation into Michigan Elections (September 2025) documents that a 2024 QVF system change automatically included CH/V registrants in absentee ballot mailing label printing, resulting in clerks unknowingly mailing ballots to ineligible voters.

MCL 168.931(1)(a) — Electioneering Prohibition: Prohibits any person from giving, lending, or promising valuable consideration to any person as an inducement to influence the manner of voting.

MCL 168.932 — Criminal Penalties for Ballot Handling Violations: Establishes criminal felony penalties for ballot handling violations, including falsification of vote history records. The post-certification vote history modifications documented in When Vote Totals Don't Match (MFEI, December 2024) implicate this provision.

§V. EVIDENTIARY RECORD

A properly administered absentee ballot system maintains chain of custody through five stages: (1) application and issuance; (2) ballot transmission; (3) ballot marking and return; (4) receipt

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and signature verification; and (5) counting board processing. Michigan's documented failures cluster at stages 1, 3, and 4.

A. The Absentee Ballot Lifecycle: Stage 1 — Issuance Failures

The permanent absentee voter list means Michigan issues absentee ballots automatically to all permanent list members without affirmative per-election requests. Stage 1 failures include: (1) ballots mailed to 558,627 long-inactive registrations (inactive since 2019), many at addresses no longer valid; (2) ballots mailed to 476 CH/V status registrants in Oakland County alone in 2024 due to the QVF system change; (3) ballots mailed to UOCAVA civilian registrants at addresses that may be in any country worldwide; (4) ballots issued to 600+ post-deadline Ann Arbor registrants in violation of MCL 168.731(3).

B. Stage 3 — Return and Drop Box Chain of Custody Failures

MCL 168.761d restricts ballot return to the registrant, postal workers, or immediate family members. MCL 168.764a specifies approved return methods. Despite these statutory requirements, Michigan has documented instances of drop box ballot stuffing, ballots found in post offices after elections, and organized third-party ballot collection activities that violate the authorized-person restrictions.

C. Stage 4 — Receipt Verification and Post-Deadline Acceptance Failures

Stage 4 failures include the post-deadline acceptance documented in Ann Arbor (600+ ballots accepted and counted after the MCL 168.731(3) deadline), the six-day post-Election Day acceptance window for UOCAVA ballots under Michigan PA 25 of 2023 (addressed in Count 5), and defective signature verification: "Regular absentee ballots are processed with only voter signature certificates for electronic ballots — no real (wet) signatures — with no additional identity or citizenship checks" (MFEI Investigation into Michigan Elections, September 2025). When signature verification is the final checkpoint for ballot authenticity, the stage 4 verification layer provides limited protection against ballots cast by unauthorized persons.

D. Stage 5 — Ballot Stub Processing: Manual Instructions Contrary to MCL 168.797a

Chain of custody does not end when a ballot reaches the counting board. Michigan law establishes additional statutory controls during tabulation itself, including mandatory verification of serialized ballot stubs.

A fifth structural failure operates at the counting board itself: MDOS training materials instruct election inspectors to tabulate absentee ballots with missing or incorrect serialized stubs rather than reject them, directly contrary to MCL 168.797a's mandatory rejection requirement.

§VI. POTENTIAL VIOLATIONS OF LAW IDENTIFIED IN THE EVIDENTIARY RECORD

1. Apparent MCL 168.731(3) Violation — Ann Arbor Post-Deadline Ballot Counting: The counting of 600+ absentee ballots registered after the 8:00 p.m. deadline, including 120 registered and cast on November 9, appears to violate MCL 168.731(3)'s clear prohibition on absentee ballot receipt after 8:00 p.m. on election day. This apparent violation is documented in time-stamped official voter history records obtained by FOIA.

2. Apparent MCL 168.932 Violation — Record Alteration: The reported dispatch of a computer programmer to modify Ann Arbor's voting systems, combined with time-stamped voter history records showing November 9 registration dates associated with November 8 election votes, raises significant questions under MCL 168.932's prohibition on falsifying vote history records.

3. Apparent MCL 168.509aa Violation — Ballots to CH/V Status Registrants: The issuance of 476 absentee ballots to CH/V status registrants in Oakland County alone — with 56 voting — appears to violate MCL 168.509aa's prohibition on issuing ballots to registrants in challenged or verify status. MCL 168.509aa contains no glitch exception.

4. Apparent NVRA Violation — Non-Uniform Satellite Office Placement: The placement of two Ann Arbor satellite clerk offices exclusively on University of Michigan campuses, while providing no satellite offices near any of the city's 23 largest senior living centers, raises significant questions regarding uniform and nondiscriminatory election administration under NVRA § 8(b) (52 U.S.C. § 20507(b)). Whether this placement pattern constitutes an actionable NVRA violation is a matter committed to the discretion of the DOJ Civil Rights Division; MFEI identifies it as warranting assessment and requests that DOJ determine whether the pattern was isolated to Ann Arbor or reflects broader administrative practice in Michigan jurisdictions with large university student populations.

5. Apparent MCL 168.931(1)(a) Violation — Electioneering: The distribution of pizza, hot chocolate, water, and blankets to voters in line at satellite absentee ballot offices by the Washtenaw Democratic Party appears to violate MCL 168.931(1)(a)'s prohibition on giving valuable consideration to induce voting. The documentation includes social media posts by an elected state official actively promoting the electioneering activity.

6. Apparent HAVA § 21083 Violation — Duplicate Ballot Records: The linking of 82,467 voter IDs to 125,428 potential duplicate ballot records in 2024 raises significant questions under HAVA § 21083's accuracy and unique-identifier requirements.

7. Apparent MCL 168.761d and 168.764a Violations — Drop Box and Ballot Harvesting: The documented Hamtramck drop box ballot stuffing incident, resulting in criminal charges

against two sitting City Council members, establishes that Michigan has experienced documented violations of MCL 168.761d's prohibition on unauthorized persons possessing absentee ballots and MCL 168.764a's authorized-person return requirement.

§VII. FINDINGS

A. Established Facts

Established Fact 7-A-1.

Time-stamped voter history records obtained by FOIA from the Ann Arbor City Clerk's office show that more than 600 individuals were registered to vote absentee after the 8:00 p.m. election day deadline. Of these, 120 registered and cast absentee ballots on November 9, 2022, the day after the election closed. These ballots were counted in the November 8 election. Source: Ann Arbor Compromises Election Integrity during 2022 Election (MFEI/PIME, July 2023).

Established Fact 7-A-2.

Official voter history records show altered timestamps associating November 9 registrations with November 8 election votes. These time-stamped records were obtained by FOIA from the Ann Arbor City Clerk's office and constitute the primary documentary evidence of post-deadline ballot counting. Source: Ann Arbor Compromises Election Integrity during 2022 Election (MFEI/PIME, July 2023).

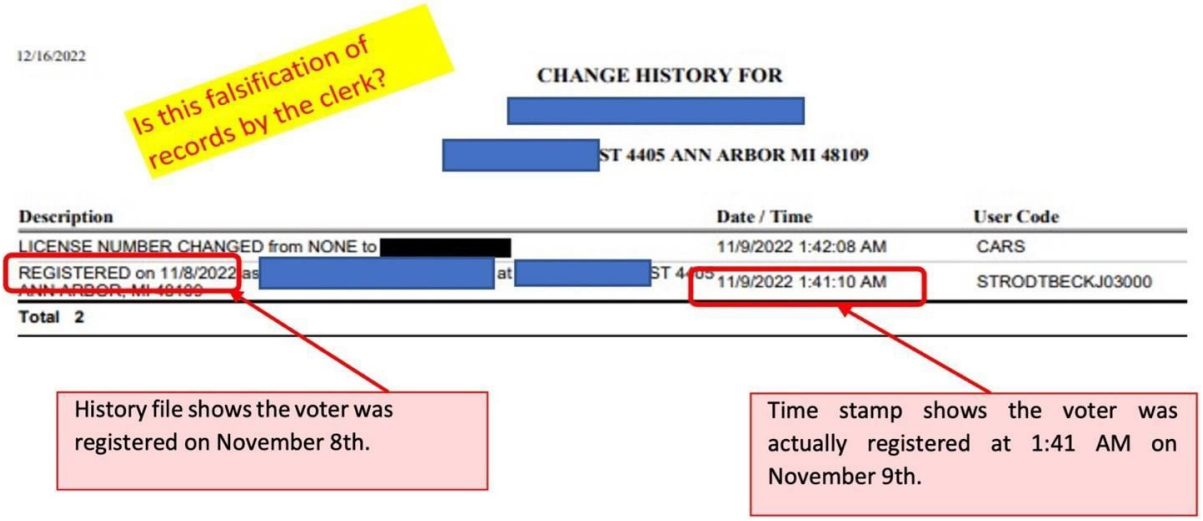


*Figure 54: **Ann Arbor Voter History Change Log**, November 9, 2022. Official record shows a registration time-stamped 1:41 a.m. on November 9 logged as occurring on November 8.*

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Source: Ann Arbor Compromises Election Integrity during 2022 Election (MFEI/PIME, July 2023).

Established Fact 7-A-3.

Secretary of State Jocelyn Benson tweeted erroneous guidance at 6:19 p.m. on November 8, 2022, stating that persons in line at clerk satellite offices at 8:00 p.m. could "still register and vote." This guidance was contrary to MCL 168.731(3) and MCL 168.761(3). Satellite offices are not polling places and have no tabulators; persons in line at a satellite office at 8:00 p.m. cannot vote in the current election at that location. Source: Ann Arbor report (July 2023).



Figure 55: ***Secretary of State Jocelyn Benson's November 8, 2022, tweet directing voters in line at clerk satellite offices at 8:00 p.m. that they could "still register and vote,"*** *contrary to MCL 168.731(3) and MCL 168.761(3).*

Source: Ann Arbor Compromises Election Integrity during 2022 Election (MFEI/PIME, July 2023), p. 7.

Established Fact 7-A-4.

At least 180 already-registered Ann Arbor voters were re-registered in different Ann Arbor precincts after the 14-day statutory window closed, in violation of MCL 168.497(2). Approximately 150 of these 180 unlawful re-registrations (83%) occurred at the two UM campus satellite offices. The resulting lines of up to four hours deterred eligible voters from

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completing same-day registration at those locations. Source: Ann Arbor report (July 2023).

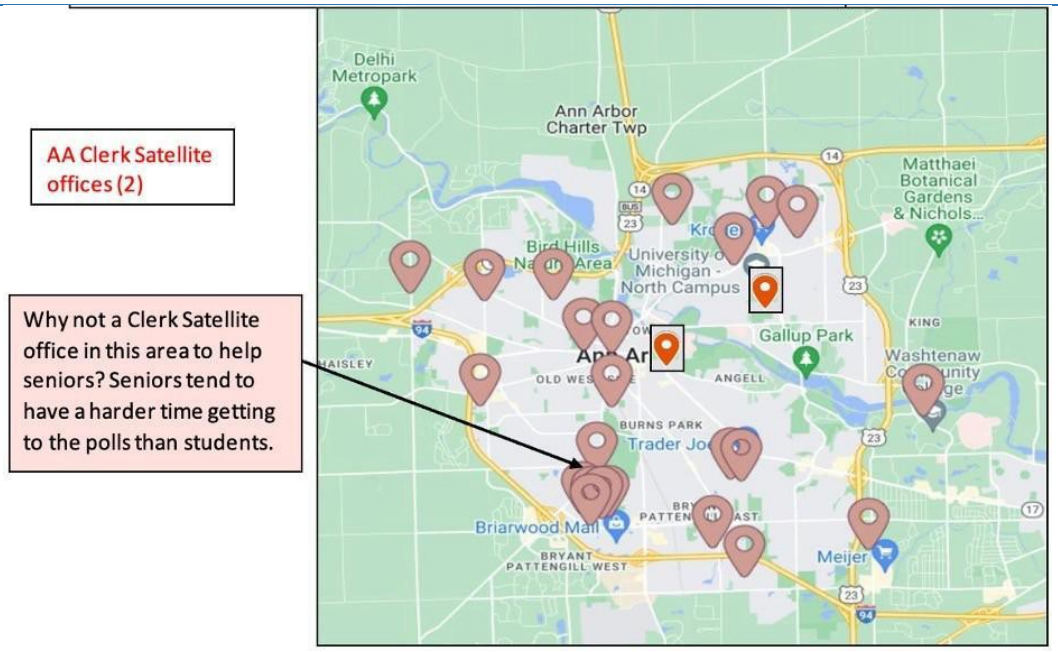


Figure 56: ***Ann Arbor's Two Satellite Clerk Offices Relative to Its Largest Senior Living Centers, 2022. Both satellite offices were placed on University of Michigan campuses;*** *none were placed near the senior-center cluster in the southwest corner of the city.*

Source: Ann Arbor Compromises Election Integrity during 2022 Election (MFEI/PIME, July 2023), P. 8.

Established Fact 7-A-5.

The Washtenaw Democratic Party distributed pizza, hot chocolate, water, and blankets to voters in line at Ann Arbor satellite offices during the November 8, 2022, election. State Representative Jason Morgan posted social media documentation of this activity, captioned "#VoteBlueToSaveDemocracy." MCL 168.931(1)(a) prohibits giving valuable consideration as an inducement to influence voting. Source: Ann Arbor report (July 2023).

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*Figure 57: State **Representative Jason Morgan's November 8, 2022, social media post documenting pizza distribution to students waiting in line at an Ann Arbor satellite office**, captioned "#VoteBlueToSaveDemocracy."*

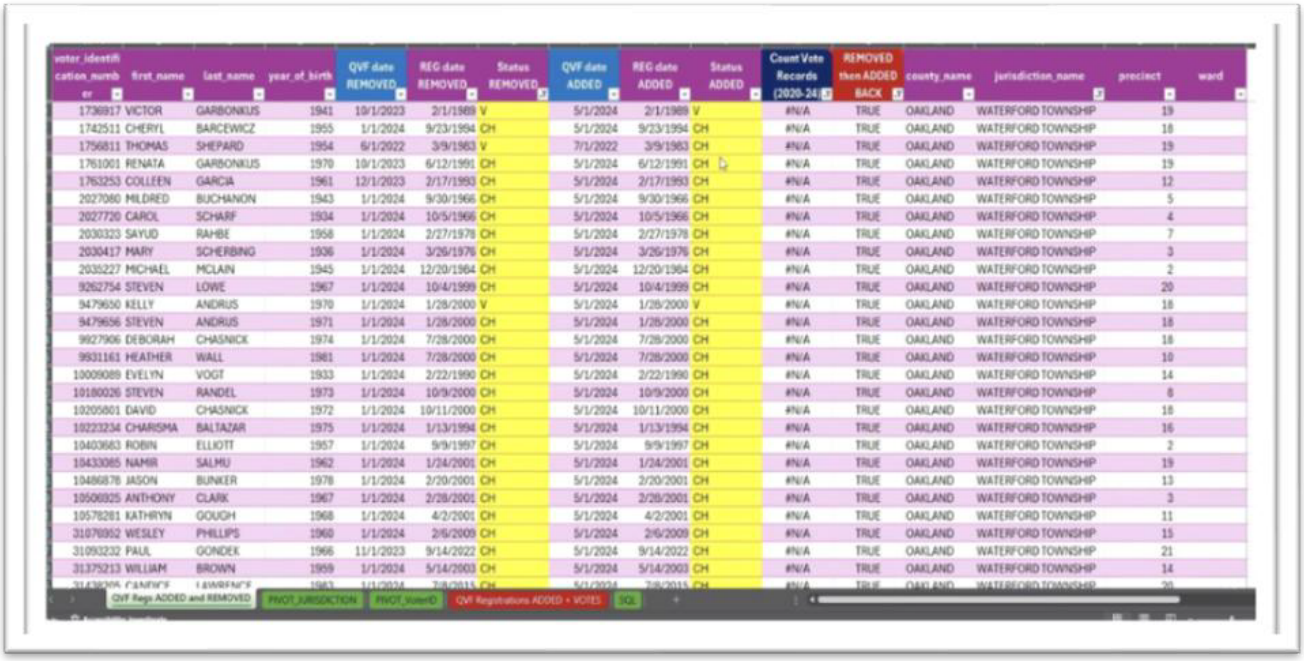
Source: Ann Arbor Compromises Election Integrity during 2022 Election (MFEI/PIME, July 2023).

Established Fact 7-A-6.

A 2024 QVF system change automatically included Challenged (CH) and Verify (V) status registrants in absentee ballot mailing label printing, causing clerks to unknowingly mail ballots to ineligible voters. Oakland County: 476 absentee ballots were sent to CH/V registrants, with 56 voting. The SOS described this as a "glitch"; MCL 168.509aa contains no

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glitch exception. Source: MFEI Investigation into Michigan Elections (September 2025), Section 7.[358] (See Figure 47; Figure 5.) For the statewide scale of this condition, see MFEI Conclusion 7-D-2.



voter_identification_number	first_name	last_name	year_of_birth	QVF date REMOVED	REG date REMOVED	Status REMOVED	QVF date ADDED	REG date ADDED	Status ADDED	Count Vote Records (2020-24)	REMOVED then ADDED BACK	county_name	jurisdiction_name	precinct	ward
1736917	VICTOR	GARBONKUS	1941	10/1/2023	2/1/1989	V	5/1/2024	2/1/1989	V	#N/A	TRUE	OAKLAND	WATERFORD TOWNSHIP	19	
1742511	CHERYL	BARCEWICZ	1955	1/1/2024	9/23/1994	CH	5/1/2024	9/23/1994	CH	#N/A	TRUE	OAKLAND	WATERFORD TOWNSHIP	18	
1756811	THOMAS	SHEPARD	1954	6/1/2022	3/9/1963	V	7/1/2022	3/9/1963	CH	#N/A	TRUE	OAKLAND	WATERFORD TOWNSHIP	19	
1761001	RENATA	GARBONKUS	1970	10/1/2023	6/12/1991	CH	5/1/2024	6/12/1991	CH	#N/A	TRUE	OAKLAND	WATERFORD TOWNSHIP	19	
1763253	COLLEEN	GARCIA	1961	12/1/2023	2/17/1993	CH	5/1/2024	2/17/1993	CH	#N/A	TRUE	OAKLAND	WATERFORD TOWNSHIP	12	
2027080	MILDRED	BUCHANON	1943	1/1/2024	9/30/1966	CH	5/1/2024	9/30/1966	CH	#N/A	TRUE	OAKLAND	WATERFORD TOWNSHIP	5	
2027720	CAROL	SCHARF	1934	1/1/2024	10/5/1966	CH	5/1/2024	10/5/1966	CH	#N/A	TRUE	OAKLAND	WATERFORD TOWNSHIP	4	
2030323	SAYUD	RAHBE	1958	1/1/2024	2/27/1978	CH	5/1/2024	2/27/1978	CH	#N/A	TRUE	OAKLAND	WATERFORD TOWNSHIP	7	
2030417	MARY	SCHERBING	1936	1/1/2024	3/26/1976	CH	5/1/2024	3/26/1976	CH	#N/A	TRUE	OAKLAND	WATERFORD TOWNSHIP	3	
2035227	MICHAEL	MCLAIN	1945	1/1/2024	12/20/1964	CH	5/1/2024	12/20/1964	CH	#N/A	TRUE	OAKLAND	WATERFORD TOWNSHIP	2	
9262754	STEVEN	LOWE	1967	1/1/2024	10/4/1999	CH	5/1/2024	10/4/1999	CH	#N/A	TRUE	OAKLAND	WATERFORD TOWNSHIP	20	
9479650	KELLY	ANDRUS	1970	1/1/2024	1/28/2000	V	5/1/2024	1/28/2000	V	#N/A	TRUE	OAKLAND	WATERFORD TOWNSHIP	18	
9479656	STEVEN	ANDRUS	1971	1/1/2024	1/28/2000	CH	5/1/2024	1/28/2000	CH	#N/A	TRUE	OAKLAND	WATERFORD TOWNSHIP	18	
9927906	DEBORAH	CHASNICK	1974	1/1/2024	7/28/2000	CH	5/1/2024	7/28/2000	CH	#N/A	TRUE	OAKLAND	WATERFORD TOWNSHIP	18	
9931161	HEATHER	WALL	1981	1/1/2024	7/28/2000	CH	5/1/2024	7/28/2000	CH	#N/A	TRUE	OAKLAND	WATERFORD TOWNSHIP	10	
10009089	EVELYN	VOGT	1933	1/1/2024	2/22/1990	CH	5/1/2024	2/22/1990	CH	#N/A	TRUE	OAKLAND	WATERFORD TOWNSHIP	14	
10180026	STEVEN	RANDEL	1973	1/1/2024	10/9/2000	CH	5/1/2024	10/9/2000	CH	#N/A	TRUE	OAKLAND	WATERFORD TOWNSHIP	8	
10205801	DAVID	CHASNICK	1972	1/1/2024	10/11/2000	CH	5/1/2024	10/11/2000	CH	#N/A	TRUE	OAKLAND	WATERFORD TOWNSHIP	18	
10223234	CHARISMA	BALTAZAR	1975	1/1/2024	1/13/1994	CH	5/1/2024	1/13/1994	CH	#N/A	TRUE	OAKLAND	WATERFORD TOWNSHIP	16	
10403683	ROBIN	ELLIOTT	1957	1/1/2024	9/9/1997	CH	5/1/2024	9/9/1997	CH	#N/A	TRUE	OAKLAND	WATERFORD TOWNSHIP	2	
10433085	NAMIR	SALMU	1962	1/1/2024	1/24/2001	CH	5/1/2024	1/24/2001	CH	#N/A	TRUE	OAKLAND	WATERFORD TOWNSHIP	19	
10486878	JASON	BUNKER	1978	1/1/2024	2/20/2001	CH	5/1/2024	2/20/2001	CH	#N/A	TRUE	OAKLAND	WATERFORD TOWNSHIP	13	
10506925	ANTHONY	CLARK	1967	1/1/2024	2/28/2001	CH	5/1/2024	2/28/2001	CH	#N/A	TRUE	OAKLAND	WATERFORD TOWNSHIP	3	
10578281	KATHRYN	GOUGH	1968	1/1/2024	4/2/2001	CH	5/1/2024	4/2/2001	CH	#N/A	TRUE	OAKLAND	WATERFORD TOWNSHIP	11	
31070952	WESLEY	PHILLIPS	1960	1/1/2024	2/6/2009	CH	5/1/2024	2/6/2009	CH	#N/A	TRUE	OAKLAND	WATERFORD TOWNSHIP	15	
31093232	PAUL	GONDEK	1966	11/1/2023	9/14/2022	CH	5/1/2024	9/14/2022	CH	#N/A	TRUE	OAKLAND	WATERFORD TOWNSHIP	21	
31375213	WILLIAM	BROWN	1959	1/1/2024	5/14/2003	CH	5/1/2024	5/14/2003	CH	#N/A	TRUE	OAKLAND	WATERFORD TOWNSHIP	14	

Figure 58: ***Registrants listed in challenge or verify status were mailed absentee ballots.***

Chart by Tim Mauro-Vetter, MFEI DEEP team, based on Michigan's official voter rolls, the Qualified Voter File, August 2025. MFEI Investigation into Michigan Elections.

Established Fact 7-A-7.

MFEI's DEEP Team daily absentee voter records (FOIA, beginning September 30, 2024) showed multiple votes linked to single voter IDs, including six documented duplicate votes from Detroit. A separate 2024 QVF anomaly linked 82,467 voter IDs to 125,428 potential duplicate ballot records. After MFEI reported this, the SOS/BOE removed most duplicates, attributing them to a "glitch."[359] Source: MFEI Investigation into Michigan Elections (September 2025); EAC OIG Request (January 2024).

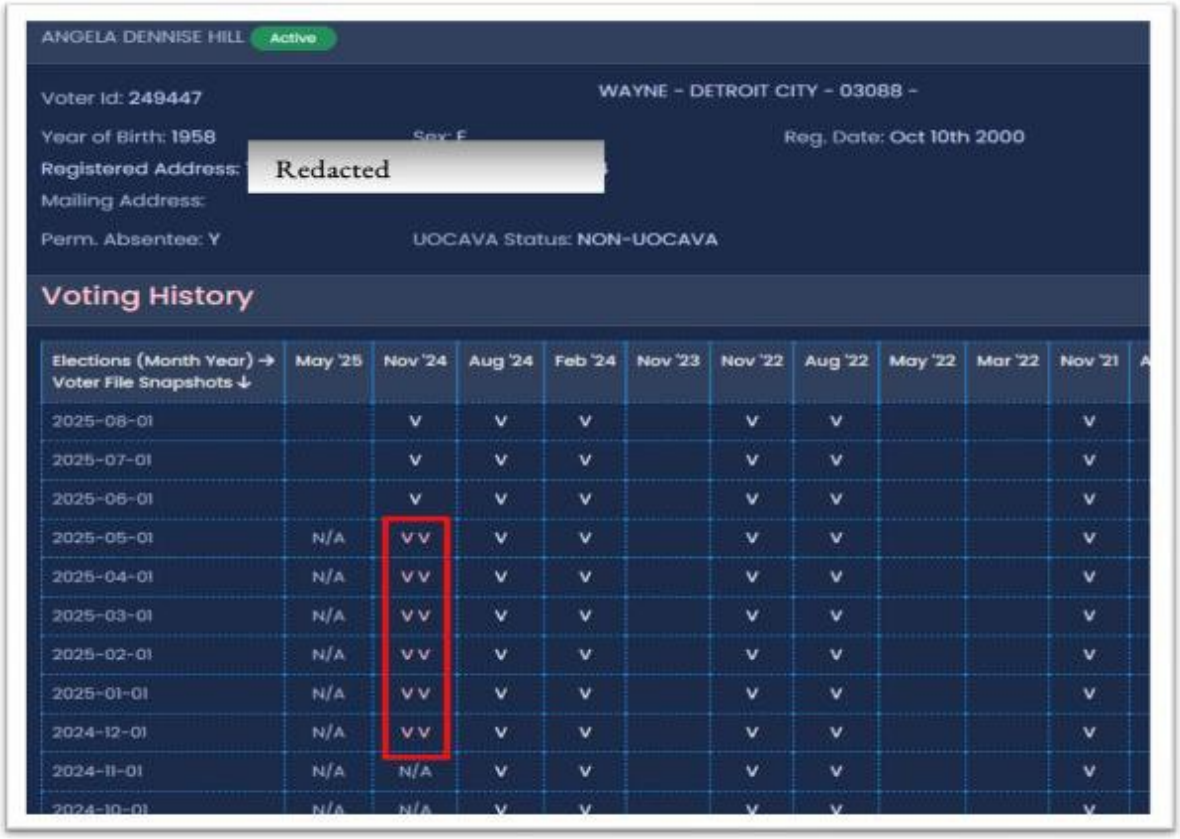
[358] MFEI Investigation into Michigan Elections.

[359] Davey et al, MFEI Investigation into Michigan Elections, (September 2025); EAC OIG Request (January 2024).

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Examples of Duplicate Vote Records



ANGELA DENNISE HILL Active

Voter Id: 249447 WAYNE - DETROIT CITY - 03088 -

Year of Birth: 1958 Sex: F Reg. Date: Oct 10th 2000

Registered Address: Redacted

Mailing Address:

Perm. Absentee: Y UOCAVA Status: NON-UOCAVA

Voting History

Elections (Month Year) → Voter File Snapshots ↓	May '25	Nov '24	Aug '24	Feb '24	Nov '23	Nov '22	Aug '22	May '22	Mar '22	Nov '21
2025-08-01		V	V	V		V	V			V
2025-07-01		V	V	V		V	V			V
2025-06-01		V	V	V		V	V			V
2025-05-01	N/A	V V	V	V		V	V			V
2025-04-01	N/A	V V	V	V		V	V			V
2025-03-01	N/A	V V	V	V		V	V			V
2025-02-01	N/A	V V	V	V		V	V			V
2025-01-01	N/A	V V	V	V		V	V			V
2024-12-01	N/A	V V	V	V		V	V			V
2024-11-01	N/A	N/A	V	V		V	V			V
2024-10-01	N/A	N/A	V	V		V	V			V

Figure 59: ***Michigan QVF 2020–2024. Identical voter IDs*** *and election dates appearing as duplicate counted votes.*

Source: MFEI DEEP Team, daily absentee voter records (FOIA, beginning September 30, 2024); Tim Vetter, MFEI DEEP Team, August 2025; , MFEI Investigation into Michigan Elections, September 2025, Section 3, Figure 6, p. 17.

Established Fact 7-A-8.

The Lights Out report (PIME/Anne Hill, May 2022) documents 1,363 ineligible absentee votes cast in East Lansing's November 2020 general election. Categories: 1,043 moved (no longer at address); 174 closed MSU dorms; 67 sold residences; 33 fraternities/sororities; 41 invalid/non-existent addresses (including 15 from a demolished street); 5 deceased voters (two deceased since 2014). Source: Lights Out (PIME/Anne Hill, May 2022).

Category	Votes	Chain of Custody Significance

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Category	Votes	Chain of Custody Significance
Registrants confirmed no longer residing at registered address (moved)	1,043	Ballots mailed to stale addresses; received by unknown persons or returned undeliverable. No valid chain of custody in either scenario.
Registrations at 19 MSU residence halls confirmed closed before Nov. 2020	174	Ballots delivered to buildings with no eligible occupants at registered addresses. Confirmed via MSU housing records.
Registrations at residential properties confirmed sold to different owner before election	67	Ballots received by new property owners not associated with the registered voter. Confirmed via Washtenaw County deed records.
Registrations at Class 6 licensed fraternity, sorority, and co-op properties	33	High-turnover addresses with multiple unverified occupants; ballots received by persons other than the registered voter cannot be excluded.
Registrations at invalid, non-existent, or demolished addresses (incl. 15 from demolished Cherry Lane; Spartan Village; P.O. box addresses)	41	Ballots cannot have been delivered to valid recipient at a non-existent address. Where they went is unknown. Chain of custody is broken by definition.
Votes cast by registrants confirmed deceased before September 1, 2020 (two deceased since 2014)	5	Ballots cast in names of confirmed deceased registrants. Confirmed via death records. Establishes that no living authorized person cast these ballots.
TOTAL INELIGIBLE ABSENTEE VOTES	**1,363**	**All 1,363 ballots cast and counted in East Lansing's November 2020 general election without detection. None triggered a chain-of-custody flag.**

Figure 60: **Lights Out: 1,363 Ineligible Absentee Votes Cast in East Lansing, November 2020 General Election — Six-Category Breakdown**
Lights Out: Voter Roll Anomalies during the 2020 Election, East Lansing, Michigan (PIME/Anne Hill, May 14, 2022). All six categories verified against primary address records, MSU housing records, Washtenaw County deed records, and vital records. None of the 1,363 ballots were flagged or rejected by the Michigan absentee ballot chain-of-custody system as administered.

Established Fact 7-A-9.

MCL 168.761d requires video monitoring of drop boxes for 75 days before elections and on Election Day. MFEI Investigation into Michigan Elections (September 2025) documents a

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specific drop box ballot stuffing incident in Hamtramck, Michigan, in which two City Council members were charged with election crimes, one caught on video shoving ballots into a drop box. This establishes that drop box ballot stuffing has occurred in Michigan and that the MCL 168.761d video monitoring requirement, when functioning, can detect it. Separately, the 2024 EAC EAVS Report (p. 17) identifies Michigan among 15 states that "reported using ballot drop boxes but were unable to report data on the number of ballots returned at drop boxes", establishing that Michigan's drop box chain of custody gap is documented at the federal reporting level as well as in the MFEI evidentiary record. Sources: MFEI Investigation into Michigan Elections (September 2025); U.S. Election Assistance Commission, Election Administration and Voting Survey 2024 Comprehensive Report (EAC EAVS 2024), p. 17.

Established Fact 7-A-10.

The Michigan Bureau of Elections Managing Your Precinct on Election Day (ED-124, January 29, 2020), pages 37–38, instructs election inspectors at absent voter counting boards that if the ballot number on the stub does not agree with the ballot number on the return envelope label, or the stub is missing and no explanation exists, the ballot is to be "prepared as a challenged ballot" and tabulated. A Bureau of Elections online training video (MI SoS YouTube channel, https://www.youtube.com/watch?v=2EhUddpcDns, timestamp 9:41/17:20) provides the same instruction. The same manual (pages 16–17) instructs that in-person precinct ballots with missing stubs are to be rejected, the opposite disposition for an identical stub defect in a different ballot type. This internal inconsistency within a single MDOS guidance document reflects the manual-statute divergence pattern documented in Count 2. Source: Avallone, Examples of Election Manual Guidelines that Conflict with Election Law Statutes (November 12, 2021), MFEI Library, https://www.mifairelections.org/library; MCL 168.765a(13).

Established Fact 7-A-11.

MCL 168.797a(2) requires election inspectors to compare the ballot stub number with the poll list number and provides that "if the numbers do not agree, the ballot shall be marked as 'rejected,' and the elector shall not be allowed to vote." MCL 168.797a(3) provides that "a ballot from which the stub is detached shall not be accepted." MCL 168.765a(8) requires absent voter counting boards to process ballots "in as nearly as possible the same manner as ballots are processed in paper ballot precincts." No Michigan statute authorizes a "challenged ballot" disposition for a ballot with an incorrect or missing stub; the only authorized statutory disposition is rejection. A "challenged ballot" under MCL 168.745–747 addresses a voter's qualification to vote, not the validity of a specific ballot, and provides no mechanism for resolving ballot-level physical discrepancies. Source: MCL 168.797a(2), (3); MCL

168.765a(8); MCL 168.745–747.

Established Fact 7-A-12.

Upon restoration of 2020 voting histories MFEI contends were deleted contrary to applicable retention requirements, analyst Louis Avallone found 26 pairs of duplicate cast ballots in the November 2020 general election. Each pair consisted of one absentee ballot and one in-person ballot for the same voter, both counted in the results. The January 2021 QVF, afflicted by illegal deletions, had shown no such duplicates; they became visible only upon restoration of deleted records in December 2021. The SOS attributed the deletions to a "technical issue." The 26 confirmed duplicate pairs are a floor, not a ceiling: approximately 100,000 voting history records remain unaccounted for between the SOS's official 5.56 million ballot count and the 5.46 million shown in the restored December 2021 QVF. Source: Avallone / Patrice Johnson, PIME (December 14, 2021).

Established Fact 7-A-13.

MFEI Investigation into Michigan Elections (September 2025, Section 4, Figure 12) confirms that 35.4% of Michigan's ballots in 2024 (2,081,265 of 2,213,167 transmitted) were returned via mail, with a 94.0% return rate and 96.9% counting rate. The federal Carter-Baker Commission (Building Confidence in U.S. Elections) identified absentee ballots as "the largest source of potential voter fraud." Michigan's online registration and permanent absentee voting registration allow a person to register and vote without ever interacting with another human being.[360]

Appendix A: Descriptive Tables

Overview Table 1: Mail Voting in the 2024 General Election

State	% Turnout by Mail	Total Mail Ballots Transmitted	Total Mail Ballots Returned	% Mail Ballots Returned	Mail Ballots Counted	
					Total	% of Returned
Michigan	35.4%	2,213,167	2,081,265	94.0%	2,017,704	96.9%

Figure 61: ***Michigan Mail Ballot Statistics,*** *2024 General Election. 35.4% of all ballots returned by mail; 2,081,265 returned; 96.9% counting rate.*

[360] MFEI Investigation into Michigan Elections.

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Source: 2024 EAC EAVS Report, p. 34; MFEI Investigation into Michigan Elections, September 2025, Section 4, Figure 12.

Established Fact 7-A-14.
MFEI Investigation into Michigan Elections (September 2025, Section 4) identifies three categories of mail-ballot vulnerability: (A) Identity verification — signature verification processes lack standardization, real-time identity confirmation is absent, and impersonation or coercion is difficult to detect; (B) Ballot security — ballots are vulnerable to interception, alteration, or destruction in transit, mass production increases fraud opportunities, and duplicate ballot requests may not be tracked; (C) Chain of custody — multiple handling points create documentation gaps, ballot harvesting by third parties can break chain-of-custody requirements, and unsecured drop boxes may lack surveillance and retrieval documentation.[361]
Established Fact 7-A-15.
MFEI Investigation into Michigan Elections (September 2025, Section 7, Figure 21) documents that QVF data confirms CH/V registrants were removed and re-added without resolving their status (Source: Tim Vetter, MFEI DEEP Team, August 2025). The SOS described this systematic pattern as an administrative error; MFEI Investigation into Michigan Elections legal framework identifies it as a potential violation of HAVA § 21083(a)(4)(A), NVRA § 20507(a)(4) and (d)(1), MCL 168.509aa, and Executive Order 14248 § 3(c).[362]

B. Judicial Findings

Judicial Finding 7-B-1.
On December 9, 2020, the Michigan Supreme Court denied an original action petition seeking an audit and review of the November 3, 2020, general election results. *Johnson v. Secretary of State*, Docket No. 162286 (Mich. Dec. 9, 2020). The Court denied relief 4–3, without oral argument. Justice Viviano, joined by Justice Markman, dissented, acknowledging that Michigan "remain[s] one of the only states without any clear framework to enable and

[361] Ibid., Sec. 4, Fig. 12.

[362] MFEI Investigation into Michigan Elections, Sec. 7.

regulate election contests" and that the only available mechanism "effectively preclude[d] election contests." Justice Viviano explicitly urged the Legislature to enact legislation creating an expedited contest mechanism. No such statute has been enacted as of the date of this submission. Source: *Johnson v. Secretary of State*, No. 162286 (Mich. Dec. 9, 2020).

C. Legal Arguments

Legal Argument 7-C-1.

MFEI's legal analysis identifies five independently sufficient statutory violations arising from the absentee ballot lifecycle documented in this Count. (1) The post-deadline acceptance of 600+ Ann Arbor ballots violated MCL 168.731(3)'s unambiguous 8:00 p.m. cutoff, which contains no satellite-office exception. (2) The issuance of 476 ballots to CH/V-status registrants violated MCL 168.509aa's categorical bar on issuance to registrants whose status is unresolved, which contains no glitch exception. (3) Michigan's documented drop box practices fall short of MCL 168.761d's mandatory video-surveillance, custody, and reporting requirements. (4) MDOS's own training materials instruct election inspectors to tabulate stub-deficient ballots in direct contravention of MCL 168.797a(2)'s mandatory rejection rule. (5) The deletion and post-certification alteration of voter history records implicates 52 U.S.C. § 20701's 22-month federal records retention mandate. Each argument rests on statutory text that is mandatory rather than discretionary, and each is supported by an independent evidentiary record documented in §V and §VII.A. Source: §II, Legal Argument, Subsections A–E.

D. MFEI Conclusions

MFEI Conclusion 7-D-1 — Logical Inference.

Witnesses and contemporaneous reports indicated that a state computer programmer was brought into the process after election-day registration deadlines had passed in order to modify Ann Arbor's voting systems to accommodate the counting of post-deadline ballots. MFEI requests DOJ production of all related system modification logs and communications between the Ann Arbor City Clerk's office and MDOS on and after November 8, 2022. Source: Ann Arbor report (July 2023); MFEI investigative record.

MFEI Conclusion 7-D-2 — Logical Inference.

When absentee ballots are automatically mailed to 558,627 long-inactive registrations,

approximately 800,000 potentially ineligible registrations, and UOCAVA civilian registrations at addresses that may be in any country, the result is a volume of ballots entering the mail stream without valid recipients. These ballots are either returned undeliverable, received by unauthorized persons at the listed address, or forwarded to unknown locations. In none of these scenarios does the required chain of custody remain intact.

MFEI Conclusion 7-D-3 — Logical Inference.

The post-certification switching of vote history designations between in-person and absentee (documented in When Vote Totals Don't Match) obscures, for any ballot reclassified, whether the applicable chain of custody requirements for that ballot type were satisfied. An in-person vote reclassified as absentee cannot subsequently be audited against the correct chain of custody standard.

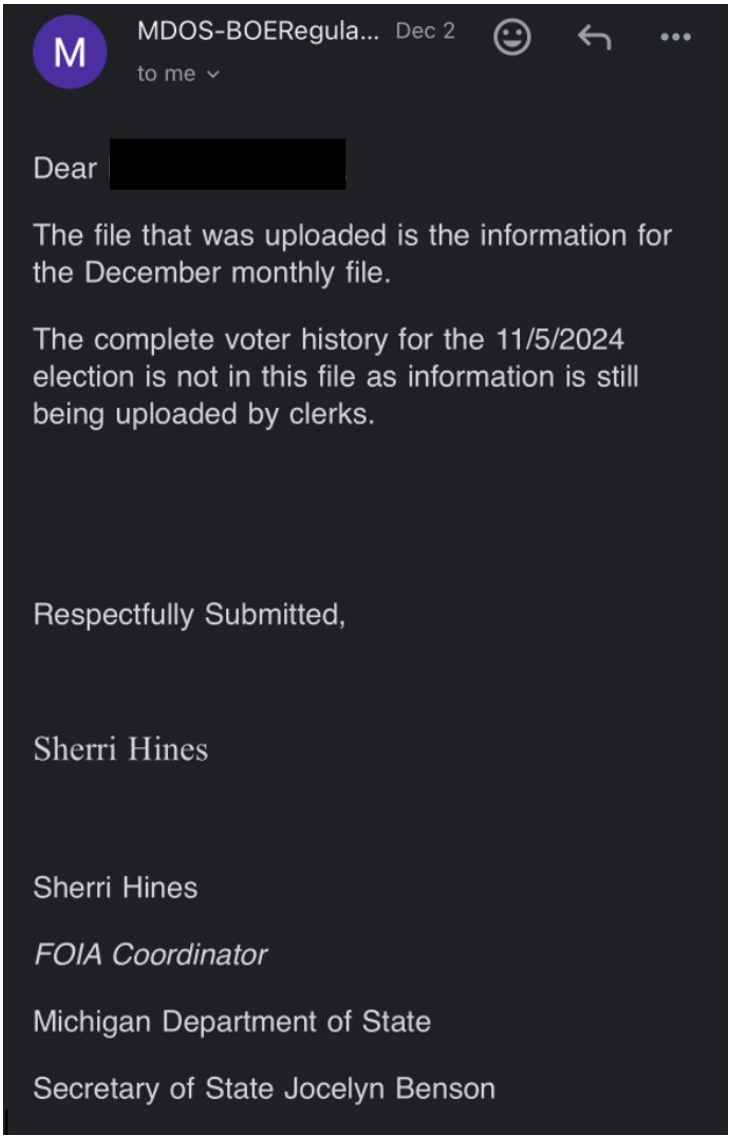
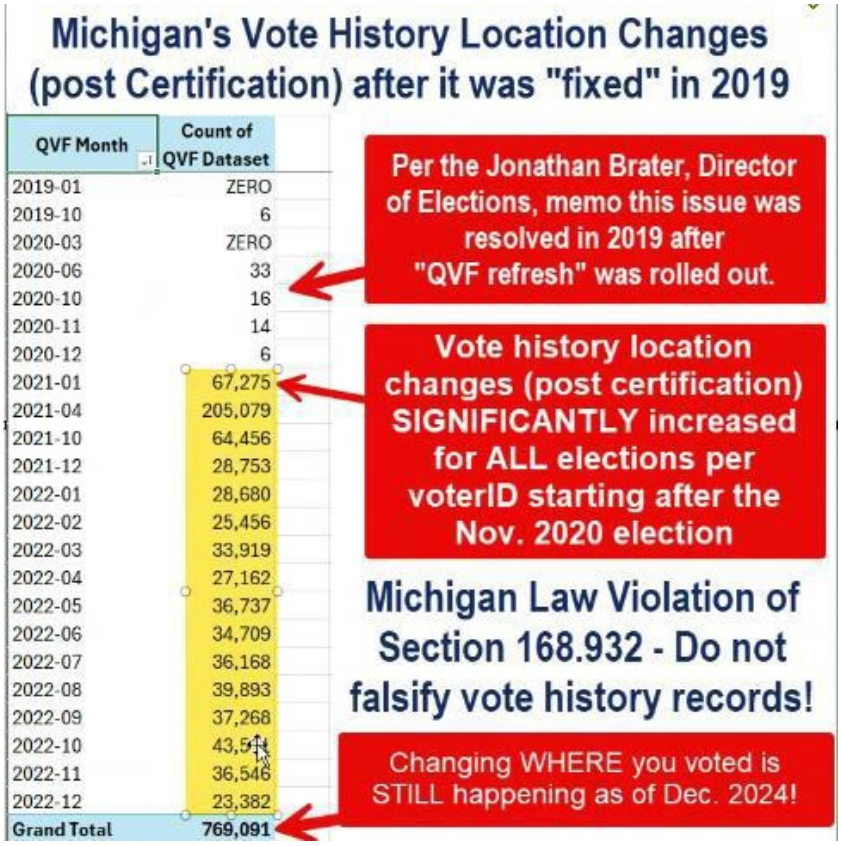


Figure 62: ***Michigan BOE FOIA Response Confirming Incomplete Vote History*** *at Time of 2024 Election Certification*

Source: When Vote Totals Don't Match (Woodward/MFEI, December 2024), Figure 1. FOIA Coordinator Sherri Hines, Michigan Department of State / Secretary of State Jocelyn Benson, confirmed in writing on December 2, 2024, that complete vote history for the November 5, 2024 election was not available. The 2024 election had been certified on November 22, 2024.

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QVF Month	Count of QVF Dataset
2019-01	ZERO
2019-10	6
2020-03	ZERO
2020-06	33
2020-10	16
2020-11	14
2020-12	6
2021-01	67,275
2021-04	205,079
2021-10	64,456
2021-12	28,753
2022-01	28,680
2022-02	25,456
2022-03	33,919
2022-04	27,162
2022-05	36,737
2022-06	34,709
2022-07	36,168
2022-08	39,893
2022-09	37,268
2022-10	43,5[illegible]
2022-11	36,546
2022-12	23,382
Grand Total	769,091

Figure 63: ***Michigan's Vote History Location Changes*** *(Post-Certification), 2019–2022 — 769,091 Total*

Source: When Vote Totals Don't Match (Woodward/MFEI, December 2024), Figure 3. The table documents post-certification vote history location changes by QVF month. Changes were near-zero before November 2020; they increased dramatically, beginning January 2021 (67,275) and peaking at 205,079 in April 2021. The 769,091 grand total reflects changes documented through December 2022. The BOE's Director confirmed the issue was "resolved" by a 2019 QVF refresh; the data shows it was not. Michigan Law: MCL 168.932 prohibits falsification of vote history records.

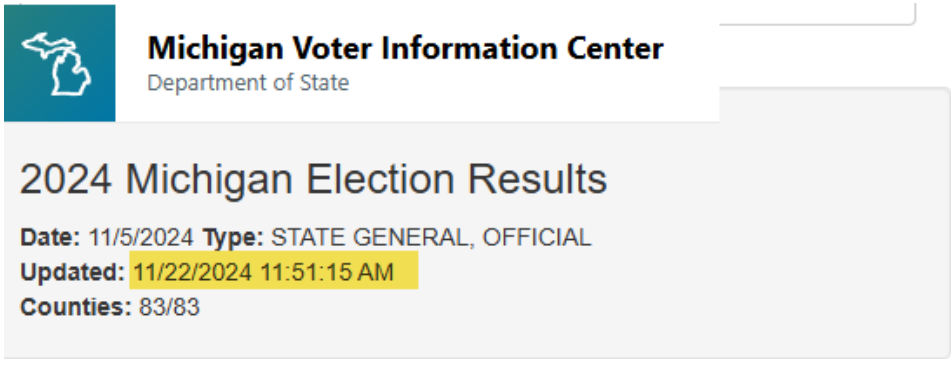


Figure 64: ***Official Certification Date****: November 5, 2024 Michigan General Election*

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Source: When Vote Totals Don't Match (Woodward/MFEI, December 2024), Figure 4. Michigan Voter Information Center / Department of State records confirm the November 5, 2024 election was certified on November 22, 2024, at 11:51:15 AM with all 83 counties reporting. Post-certification vote history changes continuing after this date implicate MCL 168.932 and 52 U.S.C. § 20701.

MFEI Conclusion 7-D-4 — Conditional Conclusion.
The Hamtramck drop box ballot stuffing incident, in which two City Council members were charged with election crimes, one caught on surveillance video shoving ballots into a drop box, is established as a documented MCL 168.761d violation. The statewide scope of drop box chain of custody failures across Michigan's 1,690 local jurisdictions remains a conditional conclusion pending DOJ's receipt of MC4EI's statewide drop box security survey, which MFEI will submit as a supplement to this Count.
MFEI Conclusion 7-D-5 — Logical Inference.
Serialized ballot stubs are the sole ballot-level physical security mechanism by which election officials can verify that the specific ballot returned in an envelope is the same ballot originally issued to the voter. MDOS training that directs inspectors to tabulate rather than reject stub-deficient absentee ballots eliminates this security layer for absentee ballots while maintaining it for in-person ballots, an asymmetry with no statutory basis. Affidavit testimony from Republican election challengers and sworn testimony from senior Democratic election officials at the Detroit TCF Center both acknowledged thousands of stub-deficient ballots processed during the November 2020 general election under the "challenged ballot" instruction. Source: Avallone (November 12, 2021), MFEI Library, https://www.mifairelections.org/library; Republican challenger affidavits, TCF Center, November 3–4, 2020.

§VIII. POTENTIAL FEDERAL INTERESTS

MFEI identifies the following apparent violations for federal investigation. Federal review carries particular significance here because Michigan's own courts have acknowledged the absence of a coherent mechanism to adjudicate election-administration disputes: in *Johnson v. Secretary of State*, the Michigan Supreme Court denied relief without reaching the merits, and Justice Viviano's dissent, joined by Justice Markman, recognized that Michigan "remain[s] one of the only states without any clear framework to enable and regulate election contests" (see Judicial Finding 7-B-1). That gap in state-level remedies is a central reason the violations

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catalogued below warrant independent federal assessment rather than reliance on state judicial or legislative processes to resolve them.

A. Recommended Further Investigation and Federal Enforcement Assessment

1. Criminal referral review — Ann Arbor post-deadline ballot counting. DOJ should assess whether the counting of 600+ post-deadline absentee ballots in Ann Arbor's November 2022 election, including the reported modification of voting systems and alteration of voter history records, warrants criminal referral under 52 U.S.C. § 20702 (federal criminal penalties for alteration of election records) and MCL 168.932 (felony penalty for falsifying vote history records).

2. Full QVF audit for CH/V ballot issuance statewide. DOJ should commission a statewide audit of absentee ballot issuance against QVF CH/V status designations under MCL 168.509aa across all 83 counties and all election cycles since 2020.

3. Review of SOS erroneous guidance — November 8, 2022. DOJ should assess whether SOS Benson's 6:19 p.m. tweet on November 8, 2022, directing election administrators and voters to violate MCL 168.731(3) and MCL 168.761(3), constitutes a violation of Michigan law by the chief election administrator.

4. Statewide audit of drop box surveillance compliance. MCL 168.761d requires video monitoring of drop boxes for 75 days before elections and on Election Day. DOJ should commission a statewide audit verifying compliance across all jurisdictions.

5. Production of Ann Arbor 2022 election records. DOJ should require production of: (a) all time-stamped voter history records for November 8-9, 2022, Ann Arbor registrants; (b) records of any system modifications made to Ann Arbor's voting infrastructure on or after November 8, 2022; (c) all communications between Ann Arbor City Clerk Beaudry and MDOS during the November 8, 2022 election.

6. Review of permanent absentee voter list issuance controls. DOJ should assess whether Michigan's 10-year automatic permanent absentee voter list enrollment, combined with the voter roll maintenance failures documented in Count 3, creates a systemic chain of custody vulnerability that HAVA § 21083 accuracy requirements address.

7. Coordination with MC4EI on drop box security findings. Michigan Citizens for Election Integrity (MC4EI) has conducted extensive statewide research on Michigan drop box security. MFEI will submit MC4EI's findings to DOJ as a supplement to this Count. DOJ should incorporate those findings into its assessment of whether chain of custody failures across Michigan's 1,690 jurisdictions warrant enforcement action under MCL 168.761d and MCL 168.764a. The Hamtramck ballot stuffing prosecution establishes that criminal violations of

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MCL 168.761d have occurred; MC4EI's survey will provide the statewide evidentiary basis for assessing the scope.

8. Review of NVRA non-discrimination violation — Ann Arbor satellite office placement. The placement of satellite clerk offices exclusively on UM campuses while providing no satellite offices for Ann Arbor's senior living centers appears to violate the NVRA's uniform and nondiscriminatory requirement (52 U.S.C. § 20507(b)). DOJ Civil Rights Division should assess whether this pattern was isolated to Ann Arbor or reflects a broader pattern.

9. Review of duplicate ballot records — 82,467 voter ID anomaly. The linking of 82,467 voter IDs to 125,428 duplicate ballot records should be independently investigated to determine whether any duplicate ballots were actually counted and whether the QVF system change was properly documented and audited under HAVA § 21083's accuracy requirements.

10. Investigation of 26 confirmed duplicate ballot pairs in the 2020 general election. DOJ should obtain the December 1, 2021 restored QVF dataset and verify Louis Avallone's finding of 26 pairs of duplicate cast ballots (one absentee + one in-person, both counted). DOJ should assess: (a) whether these 26 pairs represent the full scope or whether the approximately 100,000 missing voting history records contain additional duplicate pairs; (b) whether the voter history deletions that concealed these duplicates for nearly two years constitute violations of 52 U.S.C. § 20701's 22-month retention mandate and MCL 168.932.

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B. Evidentiary Summary

Evidence Item	Key Findings	Legal Relevance
Ann Arbor Compromises Election Integrity during 2022 Election (MFEI/PIME, July 2023) https://aa3979fb-9421-4dd8-ba7d-8ead2d346103.usrfiles.com/ugd/aa3979_3f7675ea36234fc9b346754879bdbe42.pdf	600+ post-deadline ballots; 120 registered/cast Nov. 9; record alteration; SOS erroneous guidance; 180 unlawful re-registrations; electioneering	MCL 168.731(3); MCL 168.932; 52 U.S.C. § 20702; MCL 168.931(1)(a)
Lights Out: East Lansing (PIME/Anne Hill, May 2022) https://aa3979fb-9421-4dd8-ba7d-8ead2d346103.usrfiles.com/ugd/aa3979_6314c93d815347b1bfcd2153394874be.pdf	1,363 ineligible absentee votes 2020: 174 closed MSU dorms, 67 sold residences, 5 deceased, 15 from demolished street, 1,043 moved	MCL 168.759; HAVA § 21083; chain of custody case study
MFEI Investigation of Michigan Elections (September 2025) https://b6d83fed-d9cb-4cb1-9e2f-60cfa1575f8d.filesusr.com/ugd/aa3979_edb360768ac042f0aa5245902b401b52.pdf	CH/V issuance: 476 Oakland County, 56 voted; 82,467 voter IDs / 125,428 duplicate records; Hamtramck drop box stuffing; defective electronic signature verification	MCL 168.509aa; HAVA § 21083; MCL 168.761d
When Vote Totals Don't Match (MFEI, December 2024) https://aa3979fb-9421-4dd8-ba7d-8ead2d346103.usrfiles.com/ugd/aa3979_8558e4a6abcb4543b8ec5df5a86749a9.pdf	769,091 post-certification vote history location changes; in-person/absentee designation switching obscures COC audit	MCL 168.932; 52 U.S.C. § 20701
EAC OIG Request[363] (MFEI, January 2024, Revision March 2024) https://aa3979fb-9421-4dd8-ba7d-8ead2d346103.usrfiles.com/ugd/aa3979_785b0d23cd8b45e9a91a401f2e06daac.pdf	82,467 voter IDs linked to 125,428 duplicate votes; HAVA § 21083 accuracy implications	HAVA § 21083; Count 3 statistical foundation
Citizen Analyst Uncovers Illegal Deletions of Voter History Records, (Avallone/PIME, Dec. 14, 2021)	26 confirmed duplicate ballot pairs (1 AV + 1 in-person, both counted); 100,000-vote discrepancy SOS 5.56M vs. restored QVF 5.46M	MCL 168.932; 52 U.S.C. § 20701; MCL 168.759

[363] EAC OIG Request.

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Evidence Item	Key Findings	Legal Relevance
MC4EI Drop Box Security Survey Statewide drop box security research covering placement, surveillance coverage, retrieval logs, and bipartisan oversight compliance across Michigan's 1,690 local jurisdictions. Hamtramck ballot stuffing incident (two Council members charged) is the primary documented violation in the current record.	Extensive Michigan drop box security research pending receipt; Hamtramck incident establishes category	MCL 168.761d; MCL 168.764a

Figure 65: ***Summary of evidence***

C. Evidentiary Scope: Established Facts and Open Questions

The following summary is intended to assist DOJ reviewers in distinguishing what MFEI has established from primary sources and what requires further investigation to resolve.

Established Facts (Primary-Source Documented)	Open Questions (Require DOJ Investigation)
476 CH/V-status absentee ballots issued in Oakland County; 56 cast and counted (MFEI Investigation into Michigan Elections Sept. 2025; MCL 168.509aa)	Whether the same CH/V system change produced similar issuance failures in counties other than Oakland across the 2024 election cycle
26 confirmed duplicate ballot pairs (1 absentee + 1 in-person, both counted) in November 2020 general election, visible only after partial QVF restoration (Avallone/PIME, Dec. 2021)	Whether the ~100,000 voting history records still unaccounted for (SOS 5.56M official count vs. 5.46M restored QVF) contain additional duplicate pairs
600+ post-deadline absentee ballots counted in Ann Arbor Nov. 8, 2022 election; 120 registered and cast Nov. 9; official timestamps confirm (MFEI/PIME, July 2023; MCL 168.731(3))	Whether a state computer programmer was dispatched to modify Ann Arbor's voting systems; identity of any individuals who directed or performed system modifications on or after Nov. 8, 2022
Hamtramck drop box ballot stuffing: two City Council members criminally charged; one caught on video; MCL 168.761d violation established	Statewide extent of MCL 168.761d drop box surveillance and chain-of-custody compliance failures across Michigan's 1,690 jurisdictions (pending MC4EI survey)

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Established Facts (Primary-Source Documented)	Open Questions (Require DOJ Investigation)
769,091 post-certification vote history location changes switching in-person/absentee designations (Woodward/MFEI, Dec. 2024; MCL 168.932)	Whether the post-certification switching occurred within the 22-month federal retention window and whether it constitutes falsification under MCL 168.932; BOE algorithm documentation
1,363 ineligible absentee votes cast in East Lansing Nov. 2020 election; all six categories documented from primary addresses, deed records, and MSU records (Lights Out, PIME/Hill, May 2022)	Whether the East Lansing pattern is replicated at other Michigan university communities with large transient student voter populations (MSU, WMU, CMU, EMU, GVSU)
MDOS ED-124 (Jan. 29, 2020, pp. 37–38) instructs tabulation of stub-deficient absentee ballots; MCL 168.797a(2)–(3) mandates rejection; direct statutory conflict established (Established Facts 7-A-10–7-A-11, MFEI Conclusion 7-D-5)	Volume of stub-deficient absentee ballots tabulated rather than rejected under MDOS instruction in 2020 and subsequent elections; scope of TCF Center stub-deficient ballot processing

§IX. SUMMARY AND CONCLUSION

A. Component One: Post-Deadline Ballot Counting and Record Alteration — Ann Arbor 2022

The Ann Arbor 2022 investigation establishes the most clearly documented absentee ballot controls failure in the current MFEI evidentiary record. Six hundred or more absentee ballots were registered and submitted after the 8:00 p.m. election day deadline, in violation of MCL 168.731(3). Of these, 120 were registered and cast on November 9, the day after the election closed, and were counted. Official voter history records show altered timestamps associating November 9 registrations with November 8 election votes. Witnesses and contemporaneous reports indicated that a state computer programmer was brought into the process after election-day registration deadlines had passed in order to modify Ann Arbor's voting systems to accommodate the counting of post-deadline ballots. The Secretary of State contributed to this failure by tweeting erroneous guidance at 6:19 p.m. on election night directing voters and administrators to act contrary to MCL 168.731(3). Electioneering at the satellite office locations, documented with social media evidence, compounded the violations. MFEI requests DOJ production of all system modification logs and communications identified in Section VIII, Item 5.

B. Component Two: Systemic Ballot Issuance to Ineligible Registrants

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The issuance of absentee ballots to CH/V status registrants via a QVF system change the Secretary of State described as a "glitch," the linking of 82,467 voter IDs to 125,428 duplicate ballot records via a second such "glitch," and the automatic mailing of ballots to 558,627 long-inactive registrations via the permanent absentee voter list together constitute a pattern of Stage 1 chain of custody failure. The East Lansing 2020 case study documents that this pattern, in a single university community, resulted in 1,363 ineligible absentee votes cast and counted in a single election cycle.

C. Component Three: Drop Box and Post-Certification Integrity Gaps

The documented Hamtramck drop box ballot stuffing incident, resulting in criminal charges against sitting officials, establishes that MCL 168.761d's drop box security framework is being violated in Michigan jurisdictions. The post-certification switching of in-person/absentee vote history designations documented in When Vote Totals Don't Match makes it impossible to audit chain of custody compliance for the ballots reclassified in that process. MC4EI's statewide drop box security survey will be submitted to DOJ as a supplement to this Count, providing the jurisdiction-specific evidentiary basis for assessing the full scope of MCL 168.761d compliance failures across Michigan's 1,690 local jurisdictions.

Like the rulemaking and administrative-guidance issues examined in Counts 1 and 2, several of the absentee ballot practices documented here arise from agency guidance, manuals, training materials, or implementation decisions rather than express statutory enactment. To the extent those administrative practices altered legislatively prescribed ballot-handling requirements, they present questions extending beyond isolated election administration to the broader constitutional allocation of election authority under Michigan law.

The Department of Justice is respectfully requested to review the evidentiary record presented in this Count, to commission the audits and document productions identified in Section VIII, and to assess whether federal enforcement action is warranted under 52 U.S.C. § 20702, HAVA § 21081 and 21083, the NVRA non-discrimination requirement, and related federal statutes.

§X. AUTHORITIES, SOURCES, AND WORKS CITED

A. Cases

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MCL 168.509aa. QVF CH/V status — prohibits ballot issuance to Challenged or Verify registrants. https://legislature.mi.gov/Laws/MCL?objectName=mcl-168-509aa

MCL 168.731(3). Election day absentee ballot deadline: 8:00 p.m. https://legislature.mi.gov/Laws/MCL?objectName=MCL-168-731

MCL 168.759. Ballot applications: submission methods, verification, criminal penalties. https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-168-759

MCL 168.759a. Ballot receipt requirements: signature verification, written documentation. https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-168-759A

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MCL 168.765 / MCL 168.765a. Signature verification protocols; bipartisan oversight; sworn oaths. https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-168-765

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Statewide Drop Box Security Survey, Michigan Citizens for Election Integrity (MC4EI, mc4ei.com. Covers drop box placement mapping, security camera coverage analysis, surveillance footage review, chain of custody documentation, and comparison of actual practices against MCL 168.761d requirements across Michigan's 1,690 local

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[367] Ann Arbor Report.

[368] Patrice Johnson/PIME, Citizen Analyst Uncovers Illegal Deletions of Voter History Records (Dec. 14, 2021).

[369] Lights Out.

[370] MFEI Investigation into Michigan Elections, Sept. 2025.

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jurisdictions. To be submitted to DOJ as a supplement to this Count. The Hamtramck drop box ballot stuffing incident (two City Council members charged, one caught on video) is documented in the current record as the primary established MCL 168.761d violation; MC4EI's survey will provide the statewide scope. https://mc4ei.com

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COUNT 8. Election Day Administration, Polling Place Integrity, and Signature Verification

§I: ISSUES SUMMARY

Count 8: Election Day Administration and Absentee-Ballot Verification

This Count examines Public Act 82 of 2023, which altered Michigan's final ballot-authentication safeguard: the absentee-ballot signature-verification process. PA 82 shifted the statutory emphasis from identity-anchored authentication toward signature-pattern comparison as the principal verification mechanism. This Count evaluates whether that shift is consistent with federal and state law, and whether it leaves Michigan without an effective final checkpoint against ineligible ballots.

PA 82 replaced traditional signature review with a system that requires the acceptance of ambiguous signatures, allows envelope signatures to be verified against samples from the same election cycle (a circular check), permits post-election "curing" for three days after Election Day, and transfers broad discretion to the Secretary of State to invent alternative cure methods outside the statute.

As an example of the real-world stakes, in October 2024 Michigan accepted and tabulated the ballot of Haoxiang Gao, a noncitizen who self-reported his ineligibility only after his vote had already been counted. Section V.B examines that case, and the broader verification gap it illustrates, in detail.

The three-day cure window and post-8:00 p.m. processing also raises a federal Election Day timing conflict. This Count ties directly into Counts 3, 5, 7, and 11. Collectively, these statutory changes raise questions concerning compliance with HAVA, the federal Election Day statutes, and Michigan's constitutional requirement that the Legislature guard against abuses of the elective franchise. Sections VII through IX evaluate whether PA 82's cumulative effect may have shifted ballot authentication toward ballot acceptance.

A. Current Federal Enforcement Interest

Subsequent to the preparation of this report, the United States Department of Justice reaffirmed the continuing federal interest in voter eligibility verification, maintenance of accurate statewide voter registration records, preservation of election records, compliance with the National Voter Registration Act (NVRA), the Help America Vote Act (HAVA), and enforcement of federal election laws governing citizenship qualifications for voting. The factual record presented in this Count concerns those subjects as they relate to Michigan's absentee-ballot verification

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framework. The legal analyses presented herein are those of MFEI and PIME; however, the documentary record may assist federal authorities in evaluating Michigan's continuing compliance with applicable federal election law.

B. Topics Covered:

A. Examines how Public Act 82 of 2023 fundamentally changed Michigan's absentee-ballot signature verification framework and evaluates whether those changes are consistent with federal and state law.

B. Analyzes six statutory provisions affecting signature verification, post-election curing, identity verification, Election Day timing, and administrative discretion.

C. Explores whether PA 82 shifted ballot authentication from independent identity verification toward signature-pattern comparison, reducing the effectiveness of Michigan's final absentee-ballot safeguard.

D. Evaluates the interaction between PA 82 and related election administration issues examined in Counts 3, 5, 7, and 11, including voter registration, UOCAVA voting, chain of custody, and bipartisan election oversight.

E. Identifies potential federal interests under HAVA, the federal Election Day statutes, and the Michigan Constitution's requirement that the Legislature guard against abuses of the elective franchise.

§II: LEGAL ARGUMENT

The following table summarizes Public Act 82 of 2023's six provisions and the legal concern each raises; each is addressed in detail as a lettered argument below.

MCL Section	Provision	Pre-PA 82 Baseline	PA 82 Change	Legal Concern
§ 766a(2)	Slight-dissimilarities standard	Rejection if signature differed from QVF signature on file	Ambiguous signatures must be resolved in favor of the elector; exact match not required	[LEGAL ARGUMENT] Mandates acceptance over verification; reduces rejection rate without improving eligibility screening
§ 766a(7)(c)	Circular signature definition	Reference signature drawn from QVF or master registration card	Return envelope may be compared to same-election-cycle AV application signature	[MFEI CONCLUSION] Creates circular loop: forged application signature passes return envelope verification

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MCL Section	Provision	Pre-PA 82 Baseline	PA 82 Change	Legal Concern
§ 766(3)	Three-day post-election cure window	Signature deficiencies cured by Election Day	Cure deadline extended to 5:00 p.m. on the third day after the election	[LEGAL ARGUMENT] Potential conflict with 2 U.S.C. § 7 uniform Election Day requirement; *RNC v. Wetzel* (5th Cir. 2024)
§ 766a(6)	SOS override authority	Signature cure limited to statutory methods	SOS may prescribe any "other options" for curing deficiencies, without limiting principles	[LEGAL ARGUMENT] No-standards delegation; SOS can administratively waive signature requirement; *Rovas*/*Luttrell* ultra vires concern
§ 761(6)	In-person ID affidavit exception	Identification required for in-person AV application	Signed affidavit substitutes for ID; clerk has no discretion to decline once affidavit is signed	[MFEI CONCLUSION] Attestation substituted for identity verification; no independent citizenship verification triggered
§ 761(7)	Post-8:00 p.m. ballot authorization	MCL 168.731(3): 8:00 p.m. deadline for all ballot activity	Persons in line at 8:00 p.m. may register, apply, and vote absentee after midnight if necessary	[ESTABLISHED FACT] Enacted 8 months after MFEI reported Ann Arbor 2022 violations of the prior deadline and Election Day in-person voting; prospectively codifies the same conduct

*Figure 66: **Six Provisions and Legal Concerns.** Public Act 82 of 2023's six provisions collectively reduced signature verification from identity-anchored authentication to signature-pattern comparison.*

Source: Michigan PA 82 of 2023 (MCL 168.759, 761, 766, 766a, 766b); MFEI legal analysis

Michigan's absentee ballot signature verification process is the final safeguard between ballot issuance and permanent tabulation. It is the last point at which an ineligible, fraudulent, or misdirected ballot can be identified and rejected before it is counted and rendered irremovable. Michigan Public Act 82 of 2023 restructured that process.

The six provisions analyzed in this Section collectively replace a verification framework anchored to independently confirmed identity with one that requires ambiguous signatures to be accepted, permits circular verification against unverified application signatures, authorizes post-election curing through administrative channels, and grants the Secretary of State broad discretion to prescribe alternatives to the signature requirement itself. Taken together, these provisions raise distinct and compounding concerns under federal Election Day statutes, HAVA, the Michigan Constitution's purity-of-elections mandate, and Michigan's separation-of-powers framework. Each argument below identifies the statutory text, the legal concern it raises, and the evidentiary record supporting that concern.

Signature verification serves a limited but important purpose. It is designed to provide reasonable assurance that the individual returning an absentee ballot is the same individual to whom the ballot was issued. It is not, by itself, proof of citizenship or eligibility. The legal questions examined in this Section concern whether PA 82 materially altered that verification function and, if so, whether the resulting framework remains consistent with applicable federal and state law.

A. Why PA 82 Matters: The Cumulative Effect on Ballot Integrity

Signature verification does not operate in isolation. Its effectiveness depends on the integrity of the voter registration records against which signatures are compared, the chain of custody that brings ballots from issuance to the counting board, the training and partisan balance of the inspectors who apply the verification standard, and the existence of a meaningful post-verification audit trail. Count 3 documents the ineligible registrations that enter the QVF and remain active. Count 5 documents the noncitizen and UOCAVA pathways by which ballots are issued without citizenship verification. Count 7 documents the chain-of-custody failures between ballot issuance and return. Count 11 documents the inspector party-balance failures at the counting boards where PA 82's standard is applied.

PA 82 is the final link in this chain. The six provisions examined below collectively replace a verification framework anchored to independently confirmed identity with one that requires ambiguous signatures to be accepted, permits comparison against signatures that are themselves unverified, authorizes post-election curing through administrative channels, and gives the Secretary of State broad discretion to prescribe alternatives to the signature requirement itself. At no stage in the absentee ballot lifecycle does Michigan require a voter to affirmatively demonstrate that they are the person whose name is on the ballot, or that they are a United States citizen eligible to vote. This Section examines whether, and to what extent, PA 82 widened that gap.

Because signature verification constitutes Michigan's final statewide ballot-authentication checkpoint before tabulation, any statutory changes affecting that process necessarily bear upon broader federal interests involving voter eligibility verification, election-record preservation, and the integrity of statewide voter registration administration.

B. The Circular Signature Problem (§ 766a(7)(c))

MCL 168.766a(7)(c): "As used in this chapter, 'signature on file' means any of the following: (c) Only for purposes of the signature comparison conducted under section 766 for an elector's absent voter ballot envelope, the signature on the elector's absent voter ballot application."[373]

Section 766a(7)(c) permits the "signature on file" for verifying an absentee ballot return envelope to be the signature on the same election's absent voter ballot application. This creates a circular verification loop: if the application signature is the reference point, and if clerks accepted that application signature under the same slight-dissimilarities standard, then they verify the return envelope against a signature never independently anchored to a government-issued identity document.

[MFEI CONCLUSION: LOGICAL INFERENCE] The circular verification loop created by § 766a(7)(c) is exploitable by a fraudster who submits an application in a registrant's name with a forged signature: when the return envelope arrives bearing the same forged signature, it passes verification because it matches the application, which was itself accepted without reference to any government-confirmed identity. This is not a theoretical concern.

An example discussed in Section V.B illustrates the consequence of a verification process that compares signature patterns without independently verifying citizenship, identity, or residency.

C. The Slight Dissimilarities Standard (§ 766a(2))

MCL 168.766a(2): "An elector's signature is invalid only if it differs in significant and obvious respects from the elector's signature on file. Slight dissimilarities must be resolved in favor of the elector. Exact signature matches are not required to determine that a signature agrees sufficiently with the signature on file."

Section 766a(2) affirmatively requires clerks to accept ambiguous signatures rather than reject them for cure. *MFEI Investigation into Michigan Elections* (September 2025, p. 44) documents the operational consequence: "Regular absentee ballots are processed with only voter signature certificates for electronic ballots — no real (wet) signatures — with no additional identity or citizenship checks." When electronic signature images are compared against each other under a standard that mandates resolution of ambiguity in the voter's favor, the verification function provides little protection against ballots submitted by unauthorized persons.

In Michigan's 2020 general election, 20,480 absentee ballots were rejected out of 2,741,668 returned (a 0.7% rejection rate). Nationally, non-matching signatures were the leading or second-leading reason for absentee ballot rejection from 2008 through 2018 per EAC EAVS historical

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[373] MCL 168.766a

data. Post-PA 82, the slight-dissimilarities standard will reduce signature-based rejections below the pre-PA 82 baseline: not because more ballots are legitimate, but because the standard flags fewer.

D. The Three-Day Post-Election Cure Window (§ 766(3))

MCL 168.766(3): "If a city or township clerk rejects an absent voter ballot return envelope because the signature on the absent voter ballot return envelope is missing or does not agree sufficiently with the elector's signature on file, the elector must be permitted an opportunity to cure the deficiency as provided under section 766a until 5 p.m. on the third day following the election in order for the absent voter ballot, if otherwise valid, to be accepted for tabulation."

This three-day post-election cure window raises two distinct legal concerns: (1) Federal Election Day conflict: Federal statutes establish a uniform Election Day (2 U.S.C. § 7[374]; 3 U.S.C. § 1[375]). The Fifth Circuit held in *RNC v. Wetzel*, No. 24-60395 (5th Cir. 2024)[376] that ballots must be both cast and received by Election Day. MFEI's amicus brief in *Watson v. RNC*, No. 24-1260 (U.S. Supreme Court)[377] advances the Consummation Theory: Election Day is the firm constitutional deadline for all votes. (2) Election result integrity: Signature-rejected ballots retained at the clerk's office between Election Day and the cure deadline represent a pool of ballots whose eventual tabulation or rejection remains uncertain for three days after the election closes.

E. The SOS Override Authority (§ 766a(6))

MCL 168.766a(6): "The secretary of state may issue instructions to clerks to provide electors with other options, other than by providing a signature under subsection (5), to cure the deficiency in the elector's absent voter ballot application or absent voter ballot return envelope."

Unlike the previous provisions, Section 766a(6) addresses not signature comparison itself but the Secretary of State's authority to alter the cure process administratively. It grants broad authority to prescribe alternatives to that process, effectively allowing the SOS to waive the signature verification requirement through administrative instruction alone, without further legislative authorization. The provision contains no enumeration of permissible alternatives, no limiting principles, and no legislative specification of what "other options" may consist of. Under the

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[374] 2 U.S.C. § 7; (uniform federal Election Day).

[375] 3 U.S.C. § 1 (time of appointing presidential electors).

[376] *RNC v. Wetzel*, No. 24-60395 (5th Cir. 2024) (ballots must be cast and received by Election Day), available at justice.gov.

[377] MFEI Amicus Brief, Watson v. RNC, No. 24-1260 (U.S.) (Consummation Theory).

ultra vires framework that Counts 1 and 3 established (the *Rovas*/*Luttrell* test), this delegation raises a non-delegation concern under Michigan's separation of powers framework.

F. The In-Person ID Affidavit Exception (§ 761(6))

MCL 168.761(6) (in relevant part): "If an elector does not have identification for election purposes, the clerk shall inform the elector that the elector must sign an affidavit to that effect in front of the clerk before an absent voter ballot will be issued in person to that elector. If an elector signs an affidavit under this subsection, the clerk shall issue an absent voter ballot to that elector."

The word "shall" is mandatory. The clerk has no discretion to decline once the affidavit is signed. The affidavit substitutes self-attestation for identity verification. A noncitizen who appears at a clerk's office without ID, signs an affidavit swearing to be an eligible voter, and receives an absentee ballot receives identical treatment to a citizen voter. The affidavit process triggers no citizenship check. As MFEI has documented: when a person applies to vote without providing identity documentation, Michigan's process verifies citizenship by asking the applicant to sign an affidavit swearing they are eligible. That is attestation, not verification: it confirms only that a form was signed, not that the signer is who they claim to be or that they are a United States citizen.

G. The Post-8-p.m. Authorization and Retroactive Legitimization of 2022 Violations (§ 761(7))

MCL 168.761(7) states, "An individual who is in line to register to vote or to update the individual's voter registration at 8 p.m. on election day must be permitted to register to vote or update the individual's voter registration, apply for an absent voter ballot, and vote the absent voter ballot after 8 p.m., including after 11:59 p.m. on election day if necessary."

Section 761(7) prospectively authorizes the practice documented in Count 7's Ann Arbor 2022 investigation: accepting AV ballot applications and counting ballots from persons who were in line at 8:00 p.m. at a clerk's satellite office but who completed their registration and ballot process after 8:00 p.m., including under the statutory text after midnight.

Critical timing issue: PA 82 was signed July 18, 2023, eight months after the November 8, 2022 election. The 2022 Ann Arbor conduct occurred under prior law, specifically MCL 168.731(3) as it existed at the time, which did not contain § 761(7)'s post-8-p.m. authorization. The Count 7 violations remain violations under the law as it stood in 2022. PA 82 codified a similar practice going forward, curing no prior violations and extending no retroactive liability shield to officials who violated the 2022 law.

#	Deadline	Statutory Authority	Activity / Significance
1	8:00 p.m., Election Day	MCL 168.731(3)	Traditional close of voting. All ballots must be received by this time under prior law.
2	After 8:00 p.m., Election Day (no outer limit)	PA 82 § 761(7)	Persons in line at 8:00 p.m. may complete registration, AV application, and ballot submission after midnight. Prospectively codifies conduct found unlawful under prior law in Ann Arbor 2022.
3	6 days post-Election Day (UOCAVA)	PA 25 of 2023 (MCL 168.759a, 168.764a)	UOCAVA ballots accepted up to 6 days after Election Day. Combined with Stage 2, overseas ballots processed in a rolling window extending well past Election Day.
4	5:00 p.m., Day 3 post-election	PA 82 § 766(3)	Signature-deficient domestic AV ballot envelopes may be cured and tabulated through this deadline. Potential conflict with 2 U.S.C. § 7 uniform Election Day requirement.
5	SOS discretion (no statutory outer limit)	PA 82 § 766a(6)	SOS may prescribe alternative cure methods without legislative specification of permissible alternatives, time limits, or verification requirements. Non-delegation concern under *Rovas*/*Luttrell*.

*Figure 67: **Michigan Absentee Ballot Acceptance Timeline Under Public Act 82**.*
Michigan's absentee ballot acceptance window now extends across five statutory stages with no firm outer limit on SOS-authorized cure alternatives.

Source: MCL 168.731(3); PA 82 of 2023, §§ 761(7), 766(3), 766a(6); PA 25 of 2023 (MCL 168.759a, 168.764a)

§III: FACTUAL AND PROCEDURAL BACKGROUND

Having examined the statutory framework enacted through PA 82, this Section places those amendments into their factual and historical context, including the Ann Arbor 2022 election, subsequent legislative action, and the operational environment in which the amended procedures now function.

PA 82 raises not only verification concerns but also timing concerns. Two timing-related issues warrant separate review: (1) whether § 761(7) prospectively authorized conduct previously prohibited under Michigan law; and (2) whether the statute extended ballot-processing activities beyond the traditional Election Day framework.

A. PA 82 Was Enacted After the 2022 Violations It Prospectively Authorizes

The Legislature enacted PA 82 of 2023 on July 18, 2023, eight months after the November 8, 2022, Ann Arbor election violations. Its § 761(7) provision prospectively authorizes practices that were documented violations of prior Michigan law in November 2022. The timing and content of PA 82's Section 761(7) authorization, which precisely addresses the conduct at issue in the Count 7 Ann Arbor 2022 investigation, warrants DOJ review of the legislative record to assess whether the Legislature designed § 761(7) in part to retroactively normalize rather than remedy documented election law violations.

B. PA 82's Relationship to Count 7 (Absentee Ballot Controls)

PA 82's § 766b(5) provides that absentee ballot applications or return envelopes retrieved from a drop box after business hours are not considered received until the next business day. This provision interacts directly with the drop box chain of custody framework analyzed in Count 7. Combined with the three-day post-election signature cure window of § 766(3), Michigan's absentee ballot acceptance timeline under PA 82 is: (1) applications and ballots received at the clerk's office up to 8:00 p.m. Election Day (§ 766(1)); (2) in-line voters processed after 11:59 p.m. Election Day (§ 761(7)); (3) ballots from drop boxes deposited after business hours deemed received the next business day (§ 766b(5)); (4) signature-deficient envelopes cured through 5:00 p.m. on the third day post-election (§ 766(3)); (5) cured ballots delivered to county clerk by day 6 and tabulated by the Board of County Canvassers (§ 766(6)). Combined with the UOCAVA six-day window of Michigan PA 25 of 2023[378] (Count 5), Michigan is effectively accepting and tabulating ballots up to six days post-election through at least two separate statutory mechanisms.

C. Polling Place Administration: Scope

Count 8 is designated as the home for "Election Day Administration and Polling Place Integrity," which encompasses more than signature verification alone. Sections II, IV, and V address the PA 82 signature verification framework in detail. This Section addresses the broader Election Day administration context: the structural interaction between signature verification, inspector training obligations, bipartisan oversight requirements, and the absent voter counting board environment in which Michigan's majority-mail-ballot election is now conducted. The inspector party-balance data is documented in full in Count 11 (Canvass Integrity). Additional federal interest questions arising from this Section are consolidated in Section VIII.A (DOJ Investigative Requests, Items 10-11).

D. Inspector Training and the Bipartisan Oversight Requirement

[378] Michigan Public Act 25 of 2023 (MCL 168.759a(18)).

The effectiveness of Michigan's signature verification framework depends entirely on election inspectors who apply the § 766a(2) slight-dissimilarities standard at absent voter counting boards. MCL 168.765a requires each major party to have at least one inspector present during ballot processing. *MFEI Investigation into Michigan Elections* (September 2025, Section 12) documents systematic imbalances: Detroit 71.7% Democrat vs. 12.1% Republican (2,994 vs. 504 of 4,176); Ann Arbor City 78.7% vs. 19.1%; Grand Rapids 69.8% vs. 25.6%.

In Detroit's August 2024 Primary, 131 of 143 self-identified Republican inspectors had voted in Democratic primaries, raising questions about whether the statutory party-balance requirement was substantively met. Cross-reference: Count 11 (Canvass Integrity, which documents the inspector party imbalance data in detail).

Jurisdiction	Total Inspectors	Democrat %	Republican %	Statutory Standard
Detroit (2020 General)	4,176	71.7% (2,994)	12.1% (504)	MCL 168.674(2): "equal number, as nearly as possible"
Detroit, TCF Center (Nov. 2020)	1,641	52.6% (863)	2.9% (48)	Ratio approx. 18:1 Democrat to Republican
Ann Arbor City (2020 General)	N/A	78.7%	19.1%	MCL 168.674(2): "equal number, as nearly as possible"
Grand Rapids (2020 General)	N/A	69.8%	25.6%	MCL 168.674(2): "equal number, as nearly as possible"
Detroit (Aug. 2024 Primary)	143 self-identified R	N/A	91.6% had voted in Democratic primaries	131 of 143 "Republican" inspectors had Democratic primary voting records

Figure 68: ***Election Inspector Party Parity Balance, Selected Michigan Jurisdictions.***
Inspector party imbalances documented across multiple Michigan jurisdictions; MCL 168.765a requires bipartisan counting board composition. Full data in Count 11.

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Source: MFEI Party Parity Report, MFEI Investigation into Michigan Elections, Sept. 2025, Sec. 12; Avallone Letter to Legislators, Nov. 12, 2021; MCL 168.674(2), 168.765a

PIME analyst Avallone identified the statutory-vs.-manual language gap underlying these imbalances in his November 12, 2021, letter to legislators. MCL 168.674(2) requires election commissions to "appoint an equal number, as nearly as possible, of election inspectors in each election precinct from each major political party." The Bureau of Elections' *Election Officials' Manual* substitutes the more discretionary "politically balance each precinct board 'as nearly as possible,'" language ambiguous enough to produce the Detroit TCF Center imbalance shown in the table above.

Avallone separately flagged that MDOS training materials omit election inspectors' affirmative duty under MCL 168.939 to report suspected election-law violations, a duty that would have applied directly to inspectors observing the imbalanced appointments themselves. The detailed inspector imbalance evidence, including the full statutory and correspondence record, appears in Count 11 (Canvass Integrity).

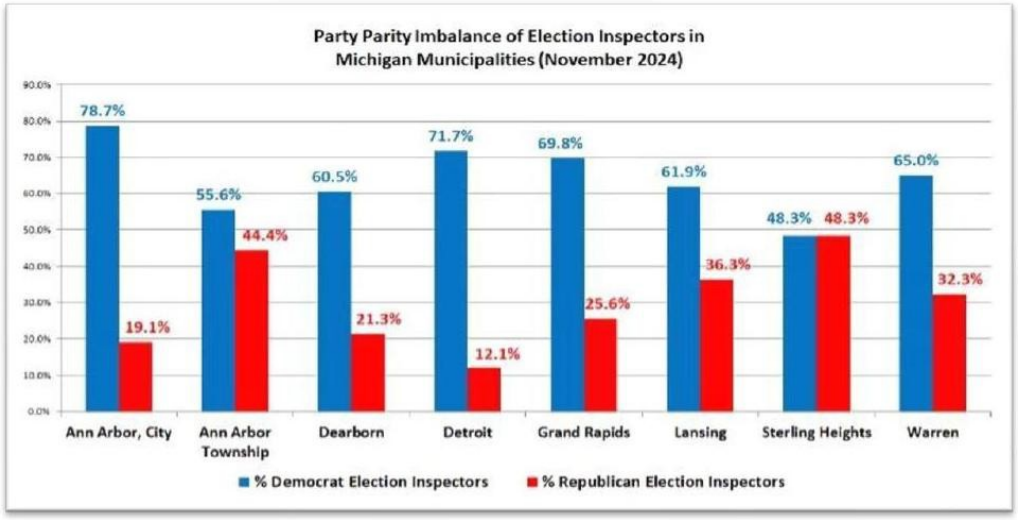
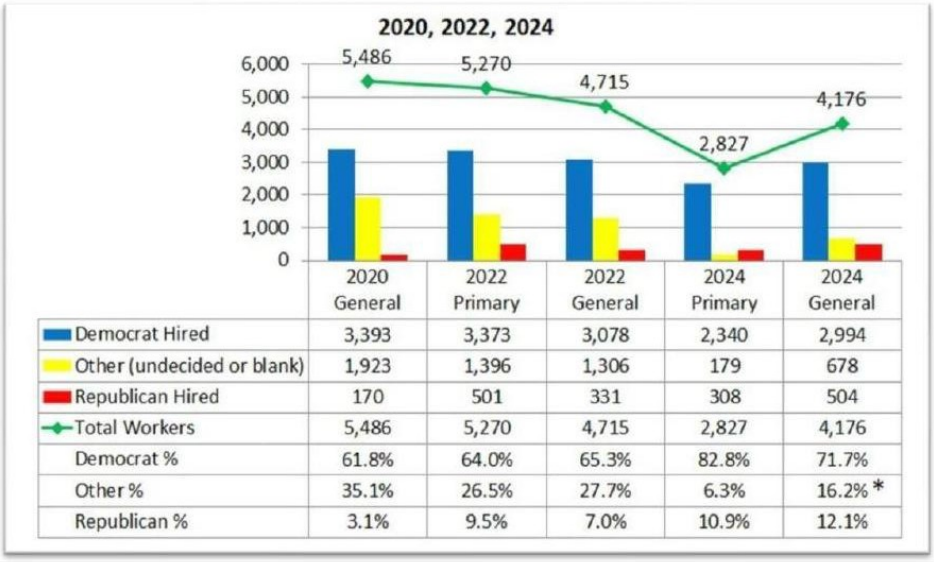


Figure 69: ***Party Parity Imbalance of Election Inspectors****, Michigan Municipalities (November 2024) |*

Source: MFEI Party Parity Analysis 2025 (Johnson et al.); MCL 168.674(2), p. 9.

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Detroit Election Inspector Affiliations



	2020 General	2022 Primary	2022 General	2024 Primary	2024 General
Democrat Hired	3,393	3,373	3,078	2,340	2,994
Other (undecided or blank)	1,923	1,396	1,306	179	678
Republican Hired	170	501	331	308	504
Total Workers	5,486	5,270	4,715	2,827	4,176
Democrat %	61.8%	64.0%	65.3%	82.8%	71.7%
Other %	35.1%	26.5%	27.7%	6.3%	16.2% *
Republican %	3.1%	9.5%	7.0%	10.9%	12.1%

Figure 70: ***Detroit Election Inspector Party Affiliations****, 2020–2024*

Source: MFEI Party Parity Analysis 2025. Democrat % peaked at 82.8% in the August 2024 Primary; Republican % remained below 13% in all cycles shown. p. 10.

E. The Absent Voter Counting Board as De Facto Polling Place

As of 2024, Michigan processed approximately 3.2 million early votes and absentee votes. For the majority of Michigan voters, the absent voter counting board is the site where their vote is authenticated and tabulated. The documented failures in each layer, including circular verification (Section 766a(7)(c)), mandatory resolution of ambiguity for the voter (Section 766a(2)), broad SOS override authority (Section 766a(6)), and inspector imbalances, compound each other. PA 82, PA 269 (Count 9), and the inspector hiring practices documented in Count 14 have collectively restructured Michigan's election day administration in ways that progressively reduce the redundancy of its integrity controls without substituting equivalent safeguards.

§IV: LEGAL FRAMEWORK

A. Federal Law

HAVA § 301, 52 U.S.C. § 21081: Requires that each state's voting system provide voter-verifiable paper audit trails and auditable, secure ballot handling. Michigan's processing of absentee ballots with electronic signature certificates, without wet signatures or independent identity verification, raises questions about whether the required audit trail is maintained for each ballot.

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HAVA § 303, 52 U.S.C. § 21083[379]: Requires accurate voter identification processes and maintenance of the QVF as an accurate statewide voter registration list. Signature verification is the primary post-issuance control against counting ballots from ineligible voters; weakening that control implicates the accuracy requirements of this provision.

2 U.S.C. § 7[380] and the Elections Clause, Art. I, § 4, cl. 1: Establish a uniform federal Election Day. Michigan's three-day post-election signature cure window under PA 82 of 2023 § 766(3) appears to conflict with the federal requirement that all votes be cast and received by Election Day, as confirmed by the Fifth Circuit in *RNC v. Wetzel* (2024) and argued by MFEI in its *Watson v. RNC* amicus brief.

Executive Order 14248 (March 25, 2025) [381]: Requires documentary proof of citizenship for voter registration and mandates election security measures to protect ballot integrity. Michigan's signature-only absentee ballot verification, with no independent verification of voter eligibility, does not satisfy this requirement.

52 U.S.C. Section 20701, Federal Records Retention Act: All records pertaining to federal elections must be retained for at least 22 months, including signature cure forms and ballot return envelopes. PA 82's cure process generates additional signature records whose retention under this mandate has not been independently verified.

The Department of Justice has recently emphasized the continuing obligation of election officials to preserve records sufficient to permit meaningful review of federal election administration. Signature-verification records, cure forms, ballot return envelopes, and related documentation therefore have significance beyond state election administration because they may constitute records subject to federal preservation requirements.

B. Michigan Law: PA 82 of 2023, The Governing Statute

Michigan Public Act 82 of 2023 (Senate Bill 370), signed July 18, 2023[382], amends MCL 168.759, 168.761, and 168.766, and adds new sections 766a and 766b. It is the primary statute governing Michigan's absentee ballot signature verification framework.

MCL 168.766: Governs the clerk's receipt and approval of absentee ballot return envelopes. Rejecting an envelope triggers the three-day post-election cure window under § 766(3).

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[379] HAVA § 303(5), 52 U.S.C. § 21083, (voter verification; QVF accuracy).

[380] 2 U.S.C. § 7 (uniform federal Election Day)

[381] President Donald Trump, Executive Order 14248, § 3(b), 90 Fed. Reg. 14005 (Mar. 25, 2025).

[382] Michigan Public Act 82 of 2023 (SB 370), signed July 18, 2023 (amends MCL 168.759, 168.761, 168.766; adds MCL 168.766a, 168.766b).

MCL 168.766a: Signature Verification Standard (added by PA 82): Establishes the substantive standard and process for signature verification. Key provisions are analyzed in Section II.

MCL 168.766b: Verification Timelines (added by PA 82): Sets deadlines for clerk action on applications and return envelopes.

MCL 168.761[383]: Governs AV ballot application processing. § 761(6) requires in-person applicants to present ID or sign an affidavit. § 761(7) authorizes post-8-p.m. election-day registration and ballot-casting for persons in line at 8 p.m.

MCL 168.759(3): Electronic Signature Acceptability: "the digital image of an elector's signature from a Michigan driver license or official Michigan personal identification card record, or an electronic image of an elector's physical signature, is an acceptable signature for the absent voter ballot application."[384] This means the baseline 'signature on file' against which return envelopes are compared may itself be an unverified electronic image.

MCL 168.765 [385]/ MCL 168.765a: Pre-PA 82 Baseline: establishes bipartisan oversight of counting boards and sworn oaths for ballot handlers. PA 82's signature verification standard layers on top of this existing framework.

MCL 168.932[386]: Criminal Penalties for Ballot Handling Violations: establishes felony penalties for falsification of vote history records and ballot handling violations.

§V: EVIDENTIARY RECORD (THE DEFECTIVE SIGNATURE VERIFICATION PROCESS)

A. Electronic Ballots Processed Without Wet Signatures

MFEI Investigation into Michigan Elections[387] documents the operational reality of Michigan's absentee ballot signature verification: "Regular absentee ballots are processed with only voter signature certificates for electronic ballots, no real (wet) signatures, with no additional identity or citizenship checks." For electronic ballots, the comparison MCL 168.766a mandates is a comparison of one electronic image to another. Neither image is necessarily anchored to a government ID, in-person identity check, or citizenship verification.

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[383] MCL 168.761.

[384] MCL 168.759(3), added by Michigan Public Act 82 of 2023.

[385] MCL 168.765.

[386] MCL 168.932.

[387] MFEI Investigation into Michigan Elections, Sept. 2025, pp. 44.

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B. No Citizenship or Identity Checkpoint at Signature Verification Stage

Michigan's signature verification process, as governed by PA 82's Section 766a, verifies only that a signature on a return envelope sufficiently resembles a signature on file. It does not verify U.S. citizenship, voter identity, or cross-reference any citizenship database, DMV record, or Social Security record. The Haoxiang Gao case (*Gateway Pundit*, May 13, 2026)[388] establishes the concrete consequence: a 19-year-old Chinese student on a student visa voted at an Ann Arbor early voting location in October 2024. His ballot was accepted through Michigan's normal verification process, tabulated, and irremovable. When he self-reported his ineligibility and attempted to retrieve his ballot, he was told it had already been tabulated and could not be returned. He was charged but fled to China before his court date. His vote counted.

Secretary of State Benson testified before the U.S. House Committee on House Administration on September 11, 2024, that there was no evidence of noncitizen voting in Michigan. The documented Gao matter, in which a noncitizen's ballot was accepted and tabulated before he later self-reported his ineligibility, provides a concrete example that the State's verification process did not detect an ineligible ballot in that instance. This Count does not rely on that single incident to establish prevalence; rather, it uses the documented case to evaluate the operation of the verification system.

The Gao case does not establish that noncitizen voting is widespread. It does, however, illustrate that Michigan's signature-verification process, standing alone, did not identify an ineligible voter before ballot tabulation in a documented instance. It establishes that the verification process did not detect it in this instance. The *Gateway Pundit* investigation (McMurray, May 2026) separately identified six individuals on the DHS "Worst of the Worst Criminal Illegal Aliens" list as active Michigan QVF registrants, two with voting histories.[389] This is a secondary media report; the underlying QVF records and DHS list cross-reference are independently verifiable and recommended for DOJ production (Section IX, Item 5).

Source credibility note: MFEI cites The *Gateway Pundit* as a secondary source pointing toward independently verifiable primary records: the Haoxiang Gao court records, the DHS list (a federal government document), and Michigan QVF data (a public record). DOJ is requested to obtain and verify the underlying primary records as part of the investigation recommended in Section VIII.

C. UOCAVA Signature Verification: Circular Application

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[388] Patty McMurray, "Stunning Report — 6 Non-Citizens on DHS 'Worst of the Worst Criminal Aliens," *Gateway Pundit*, May 13, 2026, Haoxiang Gao, a noncitizen on student visa, voted and his ballot was accepted and tabulated at Ann Arbor early voting, Oct. 2024; fled to China before court date.

[389] Ibid., May 13, 2026.

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The *Failure of UOCAVA* report (Johnson/Woodward, MFEI, December 2024)[390] documents that Michigan's SOS *Military and Overseas Voters Manual* (March 2018) instructs clerks, for returned overseas ballots: "Election inspectors will need to verify that the voter signed the signature certificate and compare the signature to the application" (p. 5). For UOCAVA ballots, which already lack independent verification of voter eligibility, citizenship status, and residency at the registration and application stages (Count 5); the return envelope verification stage compares only two signatures to each other, both submitted without independent identity verification. The circular signature problem of § 766a(7)(c) applies with particular force to UOCAVA ballots.

Because both signatures may originate from the same election cycle without independent identity verification, the resulting comparison functions primarily as signature-pattern matching rather than verification of voter identity or eligibility.

D. Pre-Public Act 82 Baseline: The Circular Signature Problem Predates the 2023 Statute

The circular verification defect addressed by PA 82 § 766a(7)(c) was not a statutory innovation; it codified a manual practice that MDOS directed for at least three years before PA 82's enactment. PIME analyst Louis Avallone documented in his November 12, 2021, letter to Michigan legislators that the Michigan Bureau of Elections *Election Officials' Manual*, Chapter

Six Michigan statutes limit the allowable reference signature to the QVF or master registration card. MCL 168.761(2) is explicit: "Signature comparisons must be made with the digitized signature in the qualified voter file." MCL 168.766(2) repeats the identical requirement for absentee ballot return envelopes. MCL 168.761(1), 168.765a(6), 168.766(1), and 168.767 each confirm this restriction. MCL 168.761(2) further specifies that the "absentee ballot application" is a distinct document from the "registration card;" clerks compare the two against each other to validate the application signature, but the application is not a permissible substitute for the QVF as the reference for the return envelope.

Avallone formally raised this statutory conflict in his November 12, 2021, letter to legislators and again in his September 2, 2022, letter to Secretary Benson and BOE Director Brater. Neither Secretary Benson nor Director Brater provided a substantive response. PA 82 of 2023, enacted eighteen months after Avallone's legislative notification, codified the manual's unlawful practice as statutory authorization through Section 766a(7)(c), without correcting the underlying statutory conflict Avallone documented in 2021. Source: Avallone, Examples of Election Manual

[390] Patrice Johnson and Frederick Woodward, *Failure of UOCAVA: Potential for Noncitizen Voting in Our Elections*, Michigan Fair Elections Institute, Dec. 2024.

Guidelines that Conflict with Election Law Statutes (November 12, 2021), MFEI Library.[391] MCL 168.761(1), (2); MCL 168.765a(6); MCL 168.766(1), (2); MCL 168.767.

E. The Avallone Identity-Theft Scenario: How Signature Verification Fails

The article, *Citizen Analyst Uncovers Illegal Deletions of Voter History Records,*[392] presents a hypothetical scenario illustrating the full systemic vulnerability: a fraudster changes a registrant's address online, receives the registrant's absentee ballot at the new address, signs it, and returns it; the signature comparison is between the fraudster's signed envelope and whatever electronic signature image is on file. The slight-dissimilarities standard requires that any ambiguity be resolved in the voter's favor. The fraudster needs only to produce a signature that does not differ in "significant and obvious respects." Subsequent deletion of the voting history record destroys the evidence needed to detect the fraud committed.

§VI: INDEPENDENT AND COMPARATIVE DATA ANALYSIS

The following independent, federally-collected data corroborates the evidentiary record in Section V: signature verification is a nationally significant point of ballot-rejection risk, which is the same control PA 82 relaxed for Michigan's domestic absentee ballots.

A. National UOCAVA Signature Rejection Data (EAC EAVS 2020)

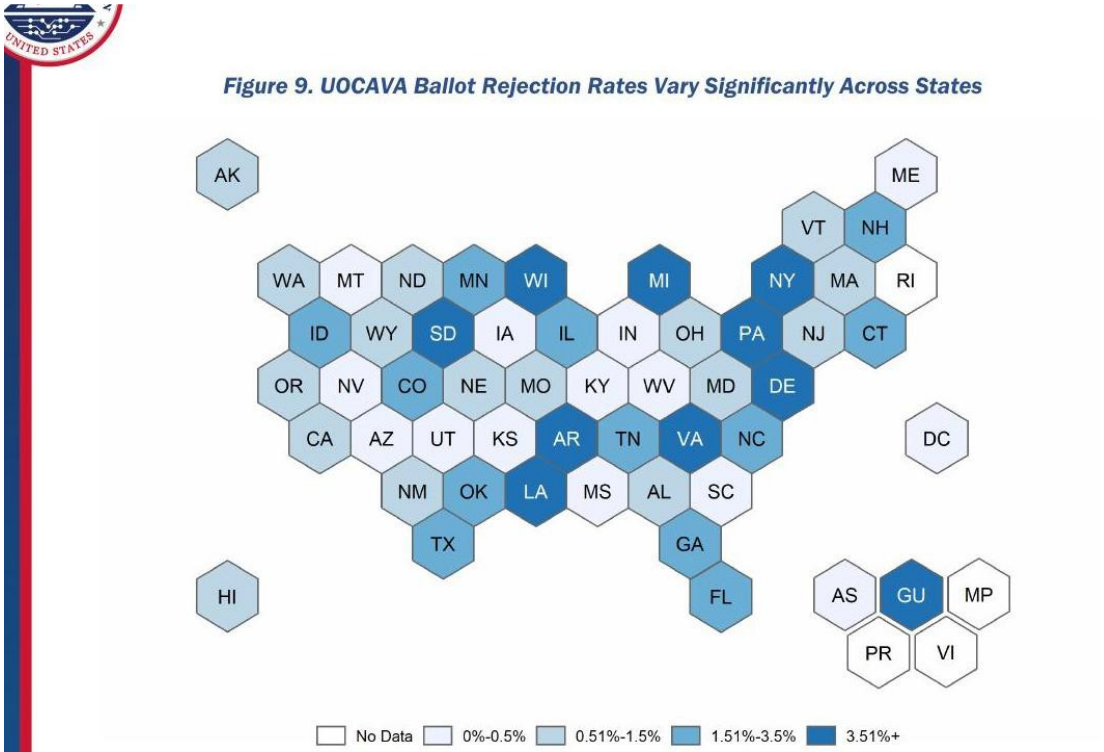
Among UOCAVA ballots nationally, signature issues were among the leading causes of ballot rejection. The *EAC EAVS 2020 Comprehensive Report* (p. 186) found that signature issues accounted for 27.3% of uniformed-services ballot rejections and 13.7% of overseas-citizen ballot rejections. This makes signature defects a larger rejection driver for UOCAVA ballots than for domestic absentee ballots.

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[391] Louis Avallone, Letter to Legislators: Examples of Election Manual Guidelines that Conflict with Election Law Statutes (Nov. 12, 2021), MFEI Library.

[392] Patrice Johnson, *Citizen Analyst Uncovers Illegal Deletions of Voter History Records*, Pure Integrity Michigan Elections, Dec. 14, 2021.

UOCAVA Ballot Rejection Rates



Source: The percentage of returned UOCAVA ballots that were rejected includes regular UOCAVA absentee ballots that were rejected (item B18a in the 2020 EAVS), divided by the total number of regular UOCAVA absentee ballots received (item B9a in the 2020 EAVS). Casewise deletion was used at the state level in calculating the percentages shown in this map. Cutoff points in the graph were selected to reflect states that had the lowest and highest percentage of UOCAVA ballot rejection rates and to differentiate among the states in between the lowest and highest UOCAVA ballot rejection rates.

Uniformed services members and overseas citizen UOCAVA ballots were rejected for similar reasons. Missing the deadline was the most common reason for rejection among both populations—44.7% for uniformed services members and 41.3% for overseas citizens. Signature issues were the cause of 27.3% of ballot rejections for ballots returned by uniformed services members, almost twice the percentage of overseas citizen ballots rejected for this reason (13.7%).[36]

Figure 71: ***UOCAVA Ballot Rejection Rates by State and Signature Rejection Breakdown.***
Signature issues caused 27.3% of rejections for uniformed services ballots, nearly twice the 13.7% rate for overseas citizen ballots.

Source: Election Assistance Commission (EAC), *Election Administration and Voting Survey (EAVS) 2020,* p. 186.

The legal framework, factual record, and comparative data presented above provide the basis for the findings and conclusions that follow.

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§VII: FINDINGS

A. Established Facts

ESTABLISHED FACT 8-A-1

Michigan Public Act 82 of 2023 (SB 370), signed July 18, 2023, amends MCL 168.759, 168.761, 168.766 and adds new sections 766a and 766b. Section 766a(2) requires that "slight dissimilarities must be resolved in favor of the elector" and that rejection requires the signature to differ "in significant and obvious respects." Section 766(3) allows signature-deficient ballot envelopes to be cured through 5:00 p.m. on the third day following the election. Section 766a(7)(c) permits the "signature on file" for return envelope comparison to be the signature on the same election's AV ballot application. Source: PA 82 of 2023 full statutory text, confirmed.

ESTABLISHED FACT 8-A-2

MFEI Investigation into Michigan Elections (September 2025, p. 44) states: "Regular absentee ballots are processed with only voter signature certificates for electronic ballots — no real (wet) signatures — with no additional identity or citizenship checks." Accordingly, the signature-verification process functions as the final authentication step before tabulation despite not independently confirming voter identity or citizenship status. This documents Michigan's operational implementation of the § 766a verification standard as an electronic image comparison without independent confirmation of voter eligibility or citizenship status.

ESTABLISHED FACT 8-A-3

The SOS *Military and Overseas Voters Manual* (March 2018) instructs clerks, for returned UOCAVA ballots: "Election inspectors will need to verify that the voter signed the signature certificate and compare the signature to the application" (p. 5). For UOCAVA ballots, the return envelope is compared to the application signature; both were submitted without independent identity verification. Source: *Failure of UOCAVA* (MFEI, December 2024, p. 19).

ESTABLISHED FACT 8-A-4

In October 2024, 19-year-old Haoxiang Gao, a Chinese student on a student visa at the University of Michigan, voted at an Ann Arbor early voting location. Michigan's normal

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signature verification process accepted and tabulated his ballot. When he self-reported his ineligibility and attempted to retrieve his ballot, he was told it had already been tabulated and could not be returned. He was charged but fled to China before his court date. His vote counted. Source: *Gateway Pundit* / Patty McMurray (May 13, 2026). Secondary source; underlying primary records (court files, DHS list, QVF) independently verifiable and recommended for DOJ production.

Case Summary: Haoxiang Gao

[ESTABLISHED FACT] Secondary source; underlying primary records independently verifiable (see Established Fact 8-A-4).

Individual: Haoxiang Gao, age 19, Chinese national on student visa, University of Michigan.

Election: October 2024; Ann Arbor early voting location.

Verification applied: Standard PA 82 signature verification. No independent citizenship verification. No identity cross-reference.

Outcome: Ballot accepted, tabulated, and irremovable. Gao self-reported ineligibility; told ballot could not be retrieved. Criminal charge filed; Gao fled to China before court date.

DOJ production recommended: Gao court file; Michigan QVF entry; Ann Arbor early voting location ballot processing log for October 2024 (Section VIII, Item 5).

Source: *Gateway Pundit* / Patty McMurray, May 13, 2026.

ESTABLISHED FACT 8-A-5

Among UOCAVA ballots nationally, signature issues were among the leading causes of ballot rejection: the *EAC EAVS 2020 Comprehensive Report* (p. 186) found signature issues accounted for 27.3% of uniformed-services ballot rejections and 13.7% of overseas-citizen ballot rejections. See Section VI.A for the full comparative analysis.

ESTABLISHED FACT 8-A-6 (KEY FINDING)

PA 82 § 761(7), authorizing post-8-p.m. ballot processing for persons in line at 8:00 p.m. on election day, was enacted July 18, 2023, eight months after the November 8, 2022, Ann Arbor election, in which 600+ post-deadline absentee ballots were counted in violation of MCL 168.731(3) as it existed at the time. The Ann Arbor 2022 violations remain violations

of prior law; § 761(7) does not cure them retroactively and creates no liability shield for officials who violated prior law.

ESTABLISHED FACT 8-A-7

MFEI Investigation into Michigan Elections (September 2025, Section 4) documents three categories of signature verification failure in Michigan's absentee ballot process: (A) signature verification processes vary widely and lack standardization; (B) no real-time identity confirmation at time of voting; (C) electronic ballots are processed with only voter signature certificates, no real wet signatures, with no additional confirmation of voter eligibility or citizenship status. MCL 168.765 establishes signature verification protocols; MCL 168.759a requires clerks to review and verify signatures on each ballot return envelope. *MFEI Investigation into Michigan Elections*.[393]

ESTABLISHED FACT 8-A-8

MFEI Investigation into Michigan Elections (September 2025, Section 5) documents that on the University of Michigan campus in Ann Arbor, more than 600 ballots were cast and counted from residents who registered and voted after the polls closed on November 8, 2022, with 120 registrations occurring in the early morning hours of November 9. At the time, state law prohibited registration after the 8 PM deadline; in-line status allowed only already-registered voters to cast a ballot. This is the conduct that PA 82 § 761(7) subsequently prospectively authorized in July 2023. *MFEI Investigation into Michigan Elections* (September 2025)[394]

ESTABLISHED FACT 8-A-9

MFEI Investigation into Michigan Elections (September 2025, Section 5) confirms that 180 voters were allowed to illegally re-register and vote from precincts within the Ann Arbor city jurisdiction in the 2022 election, leading to delays and long lines. Electioneering violations included distribution of free pizzas, water, hot cocoa, and blankets as enticements to wait in

[393] *MFEI Investigation into Michigan Elections Ann Arbor Compromises Election Integrity during 2022 Election.*, Sept. 2025, pp. 23 and 27, citing Bill Richardsons' MFEI/PIME report, July 2023.

[394] Ibid., p.27.

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line and vote, documented in State Rep. Jason Morgan's own social media post. *MFEI Investigation into Michigan Elections*, (September 2025)[395]



Figure 72: ***Ann Arbor's new State Rep. Jason Morgan posts a selfie with a pizza on Twitter. "Making sure students stay in line for same-day registration on campus."*** *#VoteBlueToSaveDemocracy," The Ann Arbor Independent, Nov. 14, 2022, and A2Politico: Let Them Eat Pizza!*

Source: MFEI Investigation into Michigan Elections, p. 28.

B. Judicial Findings

JUDICIAL FINDING 8-B-1

The Fifth Circuit held in *Republican National Committee v. Wetzel*, No. 24-60395 (5th Cir. 2024), that federal statutes require ballots to be both cast and received by Election Day, confirming that a state's post-Election Day ballot-acceptance window raises a federal timing conflict of the kind presented by PA 82 § 766(3)'s three-day signature-cure window.

C. Legal Arguments

LEGAL ARGUMENT 8-C-1: APPARENT FEDERAL ELECTION DAY CONFLICT (PA 82 § 766(3)

[395] Ibid., p 28.

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THREE-DAY CURE WINDOW)

The three-day post-election cure window under MCL 168.766(3), allowing signature-deficient ballot envelopes to be cured and tabulated through 5:00 p.m. on the third day following the election, appears to conflict with the federal uniform Election Day requirement established by 2 U.S.C. § 7 and 3 U.S.C. § 1. The Fifth Circuit confirmed in *RNC v. Wetzel* (2024) that ballots must be both cast and received by Election Day.

LEGAL ARGUMENT 8-C-2: APPARENT NON-DELEGATION CONCERN (PA 82 § 766A(6) SOS OVERRIDE AUTHORITY)

Section 766a(6)'s grant of broad discretionary authority to the SOS to prescribe "other options" for curing signature deficiencies, without any limiting principles, enumeration of permissible alternatives, or specification of what may be substituted for a signature, raises a non-delegation concern under Michigan's separation of powers framework.

LEGAL ARGUMENT 8-C-3: APPARENT HAVA § 21083 CONCERN (CIRCULAR SIGNATURE VERIFICATION)

The circular verification loop created by Section 766a(7)(c), comparing return envelopes to the same election's application signature, rather than to independently verified government-ID signatures, undermines the QVF accuracy requirements of HAVA § 21083.

LEGAL ARGUMENT 8-C-4: APPARENT CONSTITUTIONAL CONFLICT (MI CONST. ART. II, § 4, PURITY OF ELECTIONS)

Michigan's current signature verification standard undermines the Michigan Constitution's mandate that the Legislature guard against abuses of the elective franchise: it (1) requires resolving ambiguity in the voter's favor; (2) permits circular verification against unverified application signatures; (3) grants the SOS broad discretion to waive the signature requirement entirely; and (4) allows curing through self-submitted electronic images without in-person identity verification.

LEGAL ARGUMENT 8-C-5: APPARENT FEDERAL CITIZENSHIP VERIFICATION CONFLICT (NO CITIZENSHIP CHECKPOINT)

Executive Order 14248 requires documentary proof of citizenship for voter registration and mandates election security measures. Michigan's absentee ballot signature verification

process performs no independent citizenship verification at either the application stage or the signature verification stage and provides no mechanism for detecting an ineligible ballot once tabulated. The evidentiary record described in Section V.B illustrates the practical operation of Michigan's current verification process in a documented case involving an ineligible voter.

D. MFEI Conclusions

MFEI Conclusion 8-D-1 (Logical Inference)

As established in Section II.A, Section 766a(7)(c)'s circular definition of "signature on file" allows a fraudster who submits an application with a forged signature to satisfy verification again at the return-envelope stage, since no independent verification layer exists to detect the fraud before tabulation.

MFEI Conclusion 8-D-2 (Logical Inference)

Section 766a(6)'s grant of SOS authority to prescribe "other options" for curing signature deficiencies, without any limiting principles or enumeration of permissible alternatives, gives the SOS de facto power to effectively waive the signature verification requirement by administrative instruction. The broader pattern of SOS administrative actions documented in Counts 1, 3, and 5 supports the inference that the SOS may exercise this authority to further reduce signature verification requirements.

MFEI Conclusion 8-D-3 (Logical Inference)

PA 82's cumulative provisions substantially reduce the security function of signature verification compared to the pre-PA 82 baseline. Those provisions include: the slight-dissimilarities standard mandating resolution of ambiguity in the voter's favor; circular verification against unverified application signatures; the three-day post-election cure window; SOS override authority with no limiting principles; and affidavit substitution for ID at in-person application. Michigan-specific signature rejection rate data for 2024, the first full PA 82 election cycle, would confirm this inference.

MFEI Conclusion 8-D-4 (Logical Inference): Apparent Retroactive Normalization (PA 82 § 761(7) and the 2022 Ann Arbor Violations)

PA 82's § 761(7), enacted eight months after the documented Ann Arbor 2022 election law

violations, prospectively authorizes the same post-8:00-p.m. ballot-acceptance conduct that was illegal under prior law. The 2022 violations were committed under prior law that did not permit them; PA 82 does not retroactively cure those violations or authorize any liability shield for officials who violated the prior law.

MFEI CONCLUSION 8-D-5 (CONDITIONAL CONCLUSION)

The full scope of post-PA 82 signature verification failures, including the rejection rate by reason for 2024, the number of cure forms submitted and accepted post-election, the number of ballots tabulated following late cures, and the breakdown of which "signature on file" category was used for each comparison, is a conditional conclusion pending DOJ production of Michigan EAVS 2024 Table 33a/33b data, Michigan SOS cure form records, and Michigan county canvasser tabulation records for cured ballots.

§VIII: POTENTIAL FEDERAL INTERESTS

MFEI identifies the following apparent violations for federal investigation, drawing on the evidentiary record and legal arguments presented above.

A. DOJ Investigative Requests

1. Whether Michigan's post-PA 82 signature-verification framework provides sufficient safeguards to satisfy the voter-verification, record-preservation, and statewide registration-maintenance responsibilities imposed by HAVA, the NVRA, and other applicable federal election laws.

2. Michigan EAVS Signature Rejection Rate Data (Tables 33a/33b). Whether Michigan's EAVS 2020, 2022, and 2024 comprehensive data tables, reflecting the domestic absentee ballot rejection breakdown by reason (no voter signature, non-matching signature, and other), establish a quantifiable change in signature-based rejection rates attributable to PA 82's slight-dissimilarities standard, and whether that change is material to evaluating the adequacy of Michigan's post-PA 82 verification framework. EAVS 2024, EAVS 2022, EAVS 2020

3. Production of Michigan SOS cure form records, 2024 election cycle. Whether MDOS records for the November 2024 general election disclose: (a) the total number of cure forms issued; (b) the number accepted resulting in tabulation; (c) the number accepted after Election Day under the § 766(3) three-day window; and (d) the form of cure, whether electronic image, in-person signature, or alternative form prescribed by SOS instruction under § 766a(6); and whether those records are complete and auditable under HAVA § 21081(a)(2)(A).

4. Review of SOS instructions issued under § 766a(6). Whether the Secretary of State has issued instructions under MCL 168.766a(6) prescribing alternatives to signature cure, and whether any such instructions effectively reduced the signature verification requirement to below the minimum established by MCL 168.766a, implicating the non-delegation concern identified in Established Fact 8-A-7.

5. Whether MDOS records disclose the volume of in-person absentee ballot applications processed under MCL 168.761(6)'s affidavit exception in the 2020, 2022, and 2024 election cycles, broken down by county, and whether that volume is material to assessing the adequacy of Michigan's identity-verification procedures.

6. Whether the primary records in the Haoxiang Gao matter (specifically the court file, the Michigan QVF entry, and the Ann Arbor early voting location's ballot processing log for October 2024) confirm the documentary basis for the noncitizen voting incident documented in Established Fact 8-A-4, and whether those records support a criminal referral for officials who processed Gao's registration and ballot. *Gateway Pundit* / McMurray (May 13, 2026)

7. Verification of the DHS "Worst of the Worst" list cross-reference. DOJ may wish to cross-reference the DHS "Worst of the Worst Criminal Illegal Aliens" list against Michigan's QVF for all individuals on that list, confirming or extending the six identified in the *Gateway Pundit* report (May 13, 2026), and should determine whether any identified individuals voted in Michigan federal elections.

8. Assessment of federal Election Day preemption of PA 82 § 766(3). Whether Michigan's three-day post-election signature cure window under MCL 168.766(3) is preempted by federal Election Day statutes (2 U.S.C. § 7; 3 U.S.C. § 1), citing the Fifth Circuit's ruling in *RNC v. Wetzel* (2024) and MFEI's amicus brief in *Watson v. RNC*, No. 24-1260.

9. Legislative history review: PA 82 Section 761(7) and the 2022 Ann Arbor violations. Whether the legislative history of PA 82 (including committee hearings, sponsor statements, and enrolled bill analysis) discloses that § 761(7)'s post-8:00 p.m. authorization was designed to prospectively normalize practices that constituted documented violations of prior Michigan law in November 2022, as set out in MFEI Conclusion 8-D-4.

10. Assessment of PA 82 § 766a(6) non-delegation concern. Whether the delegation of authority to the Secretary of State under MCL 168.766a(6) to prescribe signature verification alternatives without enumerated standards or limiting principles satisfies Michigan's separation-of-powers requirements under the *Rovas*/*Luttrell* ultra vires framework established in Counts 1 and 3, and whether any exercise of that authority to date exceeds the statutory grant.

11. Whether absent voter counting board inspector imbalances satisfy MCL 168.765a's bipartisan oversight requirement for signature verification processing.

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12. Whether PA 82's slight-dissimilarities standard and the documented inspector imbalances satisfy HAVA § 21081(a)(2)(A)'s auditable records requirement. Cross-references: Count 7 (Ann Arbor 2022 satellite office inspector issues); Count 11 (inspector party balance data).

§ IX: SUMMARY AND CONCLUSION

A. Component One: PA 82's Weakened Signature Verification Standard

Michigan Public Act 82 of 2023 restructured Michigan's absentee ballot signature verification framework in ways that, taken collectively, reduce the verification function from identity-anchored authentication to signature-pattern comparison. That narrower standard accepts ambiguity rather than resolving it through additional verification. The slight-dissimilarities standard mandates acceptance of ambiguous signatures. The circular signature definition permits clerks to compare return envelopes against same-election-cycle application signatures never independently anchored to government-verified identity. The SOS override authority provides broad discretion to further reduce signature requirements. The affidavit exception allows in-person applicants to bypass ID requirements. The post-8-p.m. authorization extends ballot acceptance to after midnight on election night. And the three-day post-election cure window allows ballot tabulation to extend to the sixth day following the election.

B. Component Two: The Absence of Any Citizenship or Identity Checkpoint

The Haoxiang Gao case (Section V.B) illustrates the consequence of a verification process that authenticates signatures without independently verifying citizenship or identity: once such a ballot is tabulated, no corrective mechanism exists to remove it. Michigan's QVF contains no citizenship field. Its driver's licenses do not distinguish citizens from noncitizens. Its automatic voter registration pipeline under PA 268 adds registrants without citizenship verification. And its signature verification process, the final checkpoint before tabulation, confirms only a signature pattern, not an identity or a citizenship status.

C. The Connection to Other Counts

Count 8 represents the final verification stage in the absentee ballot lifecycle described throughout Counts 3, 5, and 7. Count 3 documents the ineligible registrations that enter the QVF. Count 5 documents the noncitizen and UOCAVA pathways by which those registrations are created without citizenship verification. Count 7 documents the chain of custody failures between ballot issuance and return. Count 8 documents that under PA 82, the final verification layer (signature comparison) requires clerks to accept ambiguous signatures rather than refer them for further scrutiny. At no point in the absentee ballot lifecycle does Michigan require a voter to demonstrate that they are the person whose name is on the ballot, or that they are a U.S. citizen eligible to vote.

Like the rulemaking and administrative-guidance issues examined in Counts 1 and 2, the issues presented in this Count extend beyond the mechanics of signature verification. They raise the broader question whether legislatively prescribed election safeguards have been modified through administrative implementation in ways not expressly authorized by statute. Count 8 therefore represents another example of the report's central structural concern: whether the Legislature's constitutionally assigned authority over election administration has been altered through executive action.

Michigan's absentee-ballot verification system ultimately depends on one question: whether the person returning the ballot is the eligible voter to whom it was issued. The evidentiary record presented in this Count identifies multiple statutory changes that shifted the process away from independent verification and toward acceptance of signatures based primarily on comparison with other signature images. Whether that cumulative shift remains consistent with federal election requirements and Michigan law is an appropriate subject for Department of Justice review.

Because absentee-ballot signature verification represents Michigan's final statewide verification checkpoint before ballots become permanently tabulated, the adequacy of that process remains directly relevant to continuing federal oversight of voter eligibility verification, election-record preservation, and administration of federal elections.

MFEI respectfully requests the Department of Justice to review the evidentiary record presented in this Count, to evaluate the federal interest questions identified in Section VIII, and to assess whether federal enforcement action is warranted under HAVA § 21081 and 21083, 2 U.S.C. § 7, 3 U.S.C. § 1, and related federal statutes.

§ X: AUTHORITIES, SOURCES AND WORKS CITED

A. Cases

Republican National Committee v. Wetzel, No. 24-60395 (5th Cir. 2024). https://law.justia.com/cases/federal/appellate-courts/ca5/24-60395/24-60395-2024-10-25.html. Federal statutes mandate ballots must be both cast and received by Election Day.

Watson v. RNC, No. 24-1260 (U.S. Supreme Court). https://www.scotusblog.com/cases/watson-v-republican-national-committee/ Also, MFEI et al amicus. Consummation Theory: Election Day as firm constitutional deadline. Challenges PA 82 § 766(3). https://b6d83fed-d9cb-4cb1-9e2f-60cfa1575f8d.filesusr.com/ugd/6c7361_d64ed116f7324f5784aa64c02f7009e2.pdf.

B. Constitutions and Constitutional Provisions

Michigan Constitution, Art. II, § 4, https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-ARTICLE-II-4. Right to vote secretly; legislative mandate to preserve purity of elections.

C. Federal Statutes and Executive Orders

2 U.S.C. § 7. https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title2-section7&num=0&edition=prelim. Uniform federal Election Day; federal election timing preempts state law.

52 U.S.C. § 20701. https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title52-section20701&num=0&edition=prelim. 22-month federal records retention; applies to cure forms and ballot return envelopes.

52 U.S.C. § 21083 https://uscode.house.gov/view.xhtml?req=(title:52%20section:21083%20edition:prelim). Voter verification systems; QVF accuracy.

Executive Order 14248 (March 25, 2025). https://www.federalregister.gov/documents/2025/03/28/2025-05523/preserving-and-protecting-the-integrity-of-american-elections. Citizenship verification and election security requirements.

HAVA § 301, https://www.congress.gov/107/plaws/publ252/PLAW-107publ252.pdf. 52 U.S.C. § 21081, https://uscode.house.gov/view.xhtml?req=(title:52%20section:21081%20edition:prelim). Voter-verifiable paper audit trails; auditable ballot handling.

HAVA § 303, https://www.congress.gov/107/plaws/publ252/PLAW-107publ252.pdf.

D. Michigan Statutes: PA 82 of 2023 and Related Provisions

MCL 168.731(3), https://legislature.mi.gov/Laws/MCL?objectName=MCL-168-731. 8:00 p.m. election day absentee ballot deadline under prior law. Violated by Ann Arbor 2022; prospectively superseded by PA 82 § 761(7) for persons in line at 8:00 p.m.

MCL 168.759, https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-168-759. AV ballot applications; Section 759(3): electronic signature acceptability.

MCL 168.761, https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-168-761, AV ballot application processing. Section 761(6): ID or affidavit; Section 761(7): post-8-p.m. election-day ballot authorization.

MCL 168.765, https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-168-765 / MCL 168.765a, https://legislature.mi.gov/Laws/MCL?objectName=mcl-168-765a. Pre-PA 82 signature verification baseline; bipartisan oversight; sworn oaths.

MCL 168.766, https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-168-766 / MCL 168.766a, https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-168-766a / MCL 168.766b, https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-168-766b. AV return envelope receipt; signature verification standard; verification deadlines.

MCL 168.932, https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-168-932. Felony penalties for ballot handling violations and falsification of vote history records.

Michigan Public Act 25 of 2023, https://www.legislature.mi.gov/Bills/Bill?ObjectName=2023-SB-0259. Six-day post-Election Day UOCAVA ballot acceptance. Combined with PA 82 § 766(3), Michigan accepts and tabulates ballots up to six days post-election.

Michigan Public Act 82 of 2023 (SB 370). Signed July 18, 2023. https://www.legislature.mi.gov/Bills/Bill?ObjectName=2023-SB-0370,

The act amends:

MCL 168.759, https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-168-759, MCL 168.761, https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-168-761, MCL 168.766; https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-168-766, adds MCL 168.766a, https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-168-766a, and MCL168.766b, https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-168-766b. Primary Count 8 statute.

E. MFEI/PIME Primary Source Documents

Ann Arbor Compromises Election Integrity during 2022 Election (July 2023, MFEI/PIME). https://aa3979fb-9421-4dd8-ba7d-8ead2d346103.usrfiles.com/ugd/aa3979_3f7675ea36234fc9b346754879bdbe42.pdf, Count 7 / Count 8 bridge: PA 82 § 761(7) enacted 8 months after documented 2022 violations.

Citizen Analyst Uncovers Illegal Deletions of Voter History Records, December 14, 2021 (Patrice Johnson/PIME). https://www.mifairelections.org/post/citizen-analyst-uncovers-illegal-deletions-of-voter-history-records-2021, Identity-theft scenario; attestation vs. verification distinction.

Failure of UOCAVA: Potential for Noncitizen Voting in Our Elections, December 2024 (Johnson/Woodward/MFEI). https://aa3979fb-9421-4dd8-ba7d-8ead2d346103.usrfiles.com/ugd/b6c56e_846cc29540b24b718ab41a2f483e50b3.pdf, SOS

manual instruction: signature-only verification for UOCAVA return envelopes. Circular signature problem for overseas ballots.

Gateway Pundit: Six Noncitizens on DHS's "Worst of the Worst" List Are Registered Michigan Voters (May 13, 2026, Patty McMurray). https://www.thegatewaypundit.com/2026/05/exclusive-stunning-report-6-non-citizens-dhs-worst/, Haoxiang Gao case: noncitizen ballot accepted, tabulated, irremovable.

MFEI Investigation into Michigan Elections, September 2025 (Johnson & Davey/MFEI), p. 44: https://b6d83fed-d9cb-4cb1-9e2f-60cfa1575f8d.filesusr.com/ugd/aa3979_edb360768ac042f0aa5245902b401b52.pdf, "Regular absentee ballots are processed with only voter signature certificates for electronic ballots — no real (wet) signatures — with no additional identity or citizenship checks."

F. Federal Agency Reports and Commission Findings

EAC EAVS 2020, Michigan Data Brief. https://www.eac.gov/sites/default/files/EAVS 2020/State Data Briefs/2020_EAVS_Data_Brief_MI_508c.pdf, 2,741,668 absentee ballots returned; 20,480 rejected (0.7%). No reason-by-reason breakdown in brief format.

EAC Election Administration and Voting Survey 2020 Comprehensive Report. https://www.eac.gov/sites/default/files/document_library/files/2020_EAVS_Report_Final_508c.pdf, Full state-level rejection breakdown by reason in Tables 33a/33b (DOJ production recommended for Michigan-specific signature-mismatch figures).

COUNT 9. Poll Challenger, Observer, and Public Oversight Restrictions

§I. ISSUES SUMMARY

This Count documents how Michigan's statutory poll challenger and observer framework, codified in MCL 168.730[396]-168.735, has been substantially altered through Secretary of State administrative rulemaking. Rule Set 2025-15[397] promulgates six interlocking provisions that substantially alter the Legislature's statutory design, built to provide partisan balance and public accountability in election administration and grounded in Michigan's constitutional guarantee of transparent elections (Mich. Const. Art. II, sec. 4(2)). [398]

Rule Set 2025-15 makes six structural changes to the challenger framework:

(1) Mandatory SOS-designed training (R 168.203-0.204), despite MCL 168.730-168.732 establishing a complete credentialing framework in which the organizational credential "shall be sufficient."

(2) Liaison gatekeeping (R 168.205), removing the direct, one-step reporting right MCL 168.733(1)(e) grants challengers and substituting an unauthorized intermediary.

(3) Four-ground challenge restriction (R 168.208), narrowing MCL 168.733's open-ended challenge authority to four enumerated grounds and excluding deceased voter, duplicate registration, ballot harvesting, and chain-of-custody challenges.

(4) Vague ejection standards (R 168.214, R 168.217), adding two grounds beyond the two MCL 168.733(3) authorizes, both facially vague under *Minnesota Voters Alliance v. Mansky*, 138 S. Ct. 1876 (2018).[399]

(5) Compelled speech (R 168.204), conditioning a statutory right on a "working knowledge" certification of government-drafted content, raising concerns under *West Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624 (1943)[400] and *Wooley v. Maynard*, 430 U.S. 705 (1977).[401]

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[396] MCL 168.730-168.735

[397] Rule Set 2025-15 (LARA Trans. No. 1588). Transaction record: LARA Trans. No. 1588. Full rule text (R 168.203, 204, 205, 208, 214, 215, 217): Rule Set 2025-15 Final Rule Language (PDF).

[398] Mich. Const. Art. II, sec. 4(2): "All elections shall be fair and equal, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage"; enacted by Proposal 3 (2018) and expanded by Proposal 2 (2022).

[399] Minnesota Voters Alliance v. Mansky, 138 S. Ct. 1876 (2018): polling-place speech restrictions must be "capable of reasoned application" and must draw a line "the 'public authority' can enforce, and the voter 'understand.'"

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(6) Structural displacement of organizational credentialing authority, assuming a gatekeeping role MCL 168.730-168.732 vested exclusively in political parties and civic organizations.

These six provisions do not stand in isolation. They overlay a documented context of substantial inspector party imbalance[402] (Count 11: Detroit 71.7% Democrat-affiliated / 12.1% Republican-affiliated in 2024) and active litigation over the SOS's refusal to disclose the training materials at issue in change (5) (*Michigan House of Representatives v. Benson*, No. 25-000096-MZ).[403] They also overlay the 2024-2026 prosecution of former Adams Township Clerk Stephanie Scott for conduct traceable to BOE directives issued under this same rulemaking authority. On May 1, 2026, Judge Sara Lisznyai dismissed all remaining felony charges against Scott[404], a result illustrating broader questions this Count raises about the relationship between administrative rulemaking authority and statutory rights.

This Count advances three parallel arguments. First, the statutory argument: Rule Set 2025-15 appears to override the Legislature's express framework at MCL 168.730-168.735 in at least five specific respects. Second, the constitutional argument: three provisions raise cognizable First Amendment concerns, compelled speech, structural displacement of organizational authority, and viewpoint-discriminatory vagueness. Third, the structural context: these rule changes overlay a pattern of inspector party imbalance and oversight resistance that warrants continued federal review. The federal interest questions arising from all three arguments appear in Section VII.

A. Current Federal Enforcement Interest

Subsequent to the preparation of this report, the United States Department of Justice reaffirmed the continuing federal interest in lawful election administration, preservation of election records, maintenance of accurate statewide voter registration systems, compliance with the National

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[400] West Virginia State Bd. of Educ. v. Barnette, 319 U.S. 624 (1943): "No official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein."

[401] *Wooley v. Maynard*, 430 U.S. 705 (1977): the First Amendment prohibits government from compelling individuals to affirm a government message as a condition of exercising a right.

[402] MFEI Party Parity Analysis: Election Inspector Hiring Practices of Michigan Municipalities (May 2025).

[403] Michigan House of Representatives v. Benson, No. 25-000096-MZ, Op. & Order at 10-11 (Mich. Ct. Cl. Nov. 3, 2025, Hon. Sima G. Patel). Oversight Committee April 15, 2025, meeting minutes quoted.

[404] People v. Stephanie Scott, Hillsdale Circuit Court, docket 25-49-6230-FH (dismissed May 1, 2026, Judge Sara Lisznyai). Charges filed by AG Nessel, May 8, 2024. One charge (concealing a tabulator) was dismissed at district court level prior to trial; four felony charges were dismissed at circuit court on May 1, 2026. Primary source: Jacob Bruns, "Hillsdale County Judge Dismisses All Charges Against Former Township Clerk Stephanie Scott," The Hillsdalian (May 1, 2026). Background: Kristine Christlieb, Felony Case Against Michigan Township Clerk Collapses After Judge Finds Prior Ruling Was "Error of Law," MFEI, Apr. 30, 2026.

Voter Registration Act (NVRA), the Help America Vote Act (HAVA), and ensuring meaningful governmental oversight of federal elections. The factual record presented in this Count concerns one component of that oversight framework: Michigan's statutory system of independent poll challengers and election observers. The legal analyses presented herein are those of MFEI and PIME; however, the documentary record may assist federal authorities in evaluating Michigan's continuing compliance with applicable federal election law.

B. Topics Covered

F. Mandatory SOS-designed challenger training and "working knowledge" certification (R 168.203-0.204)

G. Liaison gatekeeping and the displacement of the direct reporting right (R 168.205)

H. Four-ground challenge restriction narrowing statutory challenge authority (R 168.208)

I. Vague ejection standards and viewpoint-discrimination risk under *Mansky* (R 168.214, R 168.217)

J. Compelled speech concerns under *Barnette and Wooley*

K. Structural displacement of organizational credentialing authority vested by MCL 168.730-168.732

L. *Michigan House of Representatives v. Benson* litigation and legislative oversight of the training materials

M. *People v. Stephanie Scott* prosecution and dismissal of the related felony charges

N. TCF Center challenger access restrictions during the November 2020 election

O. Inspector party imbalance and equal protection concerns arising from discretionary ejection authority

§II. LEGAL ARGUMENT

The legal questions presented by Rule Set 2025-15 are primarily statutory but also implicate First Amendment protections and broader constitutional principles governing separation of powers and governmental accountability. The following sections identify the principal legal theories supporting DOJ review.

A. Ultra Vires: Rule Set 2025-15 Appears to Override a Complete Statutory Framework

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The Legislature enacted a complete, six-statute challenger authorization framework spanning MCL 168.730[405]-168.735.[406] MCL 168.730 establishes the designation pathway: political party committees appoint two challengers per party per precinct, and nonpartisan civic organizations follow the authorization process in MCL 168.731. MCL 168.732 establishes the credential standard: the organizational authority card "shall be sufficient evidence of the right of such challengers to be present."

None of those six statutes includes or authorizes a training prerequisite. The Legislature built a complete authorization system and deliberately omitted one. Under In re *Rovas* Complaint, 482 Mich. 90 (2008)[407] and *Genetski v. Benson*, No. 20-000216-MM (Mich. Ct. Cl. 2021),[408] the SOS's rulemaking authority under MCL 168.31(1)(a) does not permit rules that override express legislative choices or render insufficient what the Legislature declared sufficient. Rule Set 2025-15 appears to violate both principles simultaneously: it adds a training prerequisite the Legislature omitted, and it conditions a right MCL 168.732 declared unconditional on completing government-designed training.

B. Structural Displacement of Independent Credentialing Authority

This argument operates independently of the ultra vires claim. The Legislature deliberately assigned credentialing authority to independent partisan and civic organizations, not the government. MCL 168.730[409] specifies appointment by political party committees. MCL 168.731[410] creates an independent authorization process for non-party civic organizations. MCL 168.732[411] makes the organizational credential the definitive and sufficient proof of the right to serve. Challengers exist to provide independent oversight of government election officials, so the Legislature placed credentialing authority outside the government.

R 168.203-0.204 has altered this architecture by substituting government-designed content for organizational credentialing as the operative prerequisite to serving. The SOS has assumed a gatekeeping role the Legislature assigned to independent organizations. This structural

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[405] MCL 168.730

[406] MCL 168.730-168.735.

[407] *In re Complaint of Rovas*, 482 Mich. 90 (2008): SOS rulemaking authority under MCL 168.31 does not permit rules that override express legislative choices or render insufficient what the Legislature declared sufficient.

[408] Genetski v. Benson, No. 20-000216-MM (Mich. Ct. Cl. Mar. 9, 2021): MDOS's absentee-ballot signature-matching guidance constituted an invalid administrative rule issued without compliance with statutory rulemaking requirements. Not binding Michigan Supreme Court precedent.

[409] MCL 168.730

[410] MCL 168.731

[411] MCL 168.732

displacement raises concerns under *Roberts v. United States Jaycees*, 468 U.S. 609 (1984)[412] which held that government actions unconstitutionally burden expressive association when they constitute "intrusion into the internal structure or affairs of an association." Additional authorities submitted for attorney review are cited in the footnote.[413] [414] [415]

C. Compelled Speech

R 168.204's "working knowledge" certification requirement raises a First Amendment compelled speech concern under the doctrine articulated in Barnette[416] and Wooley.[417] Those decisions prohibit the government from compelling individuals to affirm government-drafted viewpoints as a precondition to exercising a statutory or constitutional right. R 168.204 appears to do exactly that: it conditions the exercise of the statutory right to serve as a challenger on demonstrating agreement with SOS-drafted training content.[418]

The SOS has actively resisted legislative oversight of the training content at issue. In *Michigan House of Representatives v. Benson*, No. 25-000096-MZ (Mich. Ct. Cl., Hon. Sima G. Patel),[419] the MDOS declined to disclose approximately 22 gigabytes of eLearning Portal training materials even in response to a legislative subpoena from the House Oversight Committee. The

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[412] Roberts v. United States Jaycees, 468 U.S. 609 (1984): government actions unconstitutionally burden expressive association when they constitute "intrusion into the internal structure or affairs of an association" -- including "a regulation that forces the group to accept members it does not desire." The parallel in Count 9: R 168.203-0.204 inserts government-designed training as the operative prerequisite for a credential the Legislature vested in independent organizations.

[413] MCL 168.733(1): "The board of election inspectors shall provide challengers with a space that enables the challengers to observe the election procedure and each person applying to vote." MCL 168.733(2): "The board of election inspectors at an absent voter counting board shall provide challengers with a space that enables the challengers to observe the counting of the ballots." Both subsections impose a functional adequacy standard, not merely a right of physical presence.

[414] MCL 168.733(3): "The election inspectors and other election officials on duty shall protect a challenger in the discharge of his or her duties." Statutory ejection grounds: evidence of drinking alcoholic beverages; disorderly conduct -- exactly two grounds authorized by statute. Rule Set 2025-15 adds two additional grounds (R 168.214, R 168.217) not found in the statute.

[415] TCF Center challenger affidavits, hearing testimonies, and written statements re November 2020 election available at Michigan Senate Oversight hearing video, Dec. 1, 2020, Written testimony received in Oversight committee 12.1.20.pdf, and Costantino v. City of Detroit, No. 20-14780-AW, Wayne Co. Cir. Ct., Nov. 13, 2020.

[416] West Virginia State Bd. of Educ. v. Barnette, 319 U.S. 624 (1943).

[417] *Wooley v. Maynard*, 430 U.S. 705 (1977): the First Amendment prohibits government from compelling individuals to affirm a government message as a condition of exercising a right.

[418] Rule Set 2025-15 Final Rule Language.

[419] COC 25-000096-MZ Michigan House of Representatives v Jocelyn Benson et al 11/3/2025.

Court of Claims' November 3, 2025, Opinion and Order denied both parties' summary disposition motions, leaving unresolved whether the Legislature had a valid legislative purpose for the subpoena. The Oversight Committee's April 15, 2025 meeting minutes, quoted in that opinion, state: "Secretary Benson's refusal to provide the [OC] with basic training materials provided to local election officials indicates that the training provided does not comply with the Michigan Election Law." On May 22, 2025, the Michigan House formally held SOS Benson in civil contempt (Mich. H.R. No. 117, 103rd Legislature).[420] Because the disputed materials reportedly contain the operational standards governing challenger training throughout Michigan, continued unavailability of those materials may materially affect the ability of legislators, courts, and federal authorities to evaluate how challenger rights are implemented during the administration of federal elections.

If the training materials contain policy positions, legal interpretations, or procedural prescriptions that challengers dispute, a live question given the SOS's sustained refusal to disclose them, R 168.204 may compel challengers to affirm those positions as the price of serving. DOJ has independent authority to obtain the materials through its investigative powers and may conduct the substantive review the SOS has denied to the Legislature.

Independent federal review of those materials would permit assessment not only of the constitutional questions discussed above but also of whether statewide challenger training accurately reflects the statutory rights and obligations established by the Michigan Election Law.

D. Viewpoint Discrimination and Vagueness

R 168.214 authorizes ejection based on a "reasonable belief" that a challenger has violated a rule. R 168.217 authorizes ejection for wearing "clothing that disrupts peace or order." Both standards appear facially vague under *Mansky*, 138 S. Ct. at 1888,[421] which requires polling-place speech restrictions to provide a line that "the 'public authority' can enforce, and the voter 'understand.'" Neither provides objective, administrable criteria. Both vest unreviewable discretion in election officials.

The ejection standards carry a second, independent ground for challenge: ultra vires. MCL 168.733(3)[422] enumerates exactly two ejection grounds: evidence of drinking alcoholic beverages and disorderly conduct. Rule Set 2025-15 adds two grounds the Legislature did not authorize. MCL 168.31(1)(a) grants the SOS authority to promulgate rules "for the conduct of elections and

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[420] Mich. H.R. No. 117.

[421] Minnesota Voters Alliance v. Mansky, 138 S. Ct. 1876 (2018)

[422] MCL 168.733(3)

registrations in accordance with the laws of this state." Under In re *Rovas* Complaint[423] and *Genetski v. Benson*,[424] that grant does not permit rules that override express legislative choices or add to what the Legislature enumerated. R 168.214 and R 168.217 appear to exceed the SOS's statutory authority on two independent grounds, each sufficient standing alone.

§III. FACTUAL AND PROCEDURAL BACKGROUND

A. The Statutory Authorization Framework

Michigan's poll challenger framework spans six statutes, MCL 168.730-168.735.[425] MCL 168.730 establishes designation and qualification requirements: political party committees appoint two challengers per party per precinct; nonpartisan civic organizations follow the authorization process in MCL 168.731. MCL 168.732 declares the organizational authority card "shall be sufficient evidence of the right of such challengers to be present." MCL 168.733 enumerates challenger rights: the right to be present, the direct reporting right, the enables-observation standard, exactly two ejection grounds, and the mandatory protection obligation. MCL 168.734 imposes criminal penalties on any officer or election board member who prevents challenger presence or refuses to provide conveniences for performance of challenger duties. Independent observation by credentialed challengers serves not only state statutory purposes but also contributes to the broader transparency necessary for meaningful review of election administration by courts, legislatures, and federal authorities.

MCL 168.735 governs challenger access to poll books.

In building this framework, the Legislature made deliberate architectural choices: credentialing went to independent organizational bodies; challenge authority was open-ended; challengers held a one-step direct reporting path with no intermediary; ejection grounds were specific and enumerated; and criminal penalties backed the whole structure. Rule Set 2025-15[426] alters each of these elements through rulemaking.

B. The Rulemaking History of Rule Set 2025-15

Rule Set 2025-15 (LARA Trans. No. 1588) was promulgated by the Michigan Department of State under MCL 168.31.[427] The rulemaking covered: R 168.203 (mandatory training); R 168.204 ("working knowledge" certification); R 168.205 (liaison gatekeeping); R 168.208 (four-

[423] In re Rovas Complaint, 482 Mich. 90 (2008)

[424] Genetski v. Benson, No. 20-000216-MM (Mich. Ct. Cl. Mar. 9, 2021)

[425] MCL 168.730 -168.735

[426] Rule Set 2025-15

[427] MCL 168.31

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ground challenge restriction); R 168.214 ("reasonable belief" ejection); R 168.215 (oath requirement); and R 168.217 ("clothing that disrupts peace or order" ejection). Full rule text: Rule Set 2025-15 Final Rule Language (PDF).[428] PIME filed formal opposition in December 2025.[429]

C. Legislative Oversight Context

On April 15, 2025, the Michigan House Oversight Committee (Chair: Rep. Jay DeBoyer) issued legislative subpoenas to the MDOS for approximately 22 gigabytes of eLearning Portal training materials promulgated under Rule Set 2025-15. The MDOS did not comply. The House brought an enforcement action: *Michigan House of Representatives v. Benson*, No. 25-000096-MZ (Mich. Ct. Cl., Hon. Sima G. Patel).[430] The Court issued a status quo order on June 11, 2025. On November 3, 2025, the Court denied both parties' summary disposition motions, leaving unresolved whether the Legislature had a valid legislative purpose for the subpoena. On May 22, 2025, the Michigan House formally held SOS Benson and MDOS in civil contempt for non-compliance (Mich. H.R. No. 117, 103rd Legislature, May 22, 2025).[431]

The Oversight Committee's April 15, 2025, meeting minutes, as quoted in the Court of Claims' Opinion and Order, state: "Secretary Benson's refusal to provide the [OC] with basic training materials provided to local election officials indicates that the training provided does not comply with the Michigan Election Law."[432]

§IV. LEGAL FRAMEWORK

A. The Statutory Authorization Framework (MCL 168.730-168.732)

MCL 168.730[433] authorizes political party committees to appoint two challengers per party per precinct. MCL 168.731[434] creates the parallel authorization process for nonpartisan and civic organizations. MCL 168.732 declares that the organizational authority card "shall be sufficient

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[428] Rule Set 2025-15 Final Rule Language (PDF)

[429] PIME Opposition RS 2025-15 (PDF), Election Challengers and Poll Watchers Comprehensive Legal Analysis, Pure Integrity Michigan Elections, Dec. 2025. Primary source for all Rule Set 2025-15 statutory violation analysis in this Count.

[430] Michigan House of Representatives v. Benson, No. 25-000096-MZ (Mich. Ct. Cl., Hon. Sima G. Patel).

[431] Mich. H.R. No. 117, 103rd Legislature, May 22, 2025.

[432] The Michigan House of Representatives Oversight Committee's April 15, 2025 meeting minutes.

[433] MCL 168.730

[434] MCL 168.731

evidence of the right of such challengers to be present" at election proceedings.[435] The "shall be sufficient" standard is the primary statutory basis for the ultra vires challenge to R 168.203-0.204, discussed in Section II.A above.

B. MCL 168.733 Challenger Rights and Conduct

MCL 168.733(1) grants challengers the right to be present and the right to "bring to an election inspector's attention" any violation of election law or other prescribed election procedure, a one-step, direct reporting right with no intermediary.[436] MCL 168.733(1) and (2) independently require boards to provide challengers with space "that enables" observation of election procedures and the counting of ballots, a functional adequacy standard that a distance restriction can violate even when challengers remain physically present in the building. MCL 168.733(3) enumerates exactly two ejection grounds (evidence of drinking alcoholic beverages; disorderly conduct) and imposes a mandatory protection obligation: election inspectors "shall protect a challenger in the discharge of his or her duties."

C. MCL 168.734 Criminal Penalties for Interference

MCL 168.734 imposes criminal penalties, up to a $1,000 fine and two years' imprisonment, on any officer or election board member who "shall prevent the presence of any such challenger" or "shall refuse or fail to provide such challenger with conveniences for the performance of the duties expected of him."[437] This provision applies directly to the TCF Center conduct documented in Section V-E and creates the federal criminal nexus analyzed in Section VII.

D. SOS Rulemaking Authority and Its Limits

MCL 168.31[438] authorizes the SOS to promulgate rules for "conduct of elections." Under In re *Rovas* Complaint, 482 Mich. 90 (2008)[439] and *Genetski v. Benson*,[440] that authority carries two structural limits: (1) rulemaking cannot override express legislative choices, and (2) a rule that adds to what the Legislature specified cannot be "necessary" within the meaning of the grant.

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[435] MCL 168.732.

[436] MCL 168.733(1)(2)(3).

[437] MCL 168.734.

[438] MCL 168.31.

[439] In re Rovas Complaint, 482 Mich. 90 (2008).

[440] Genetski v. Benson, No. 20-000216-MM (Mich. Ct. Cl. Mar. 9, 2021).

Rule Set 2025-15 appears to exceed both limits across at least five of its challenged provisions.[441]

E. First Amendment Framework

Two First Amendment doctrines are relevant to Rule Set 2025-15's challenger provisions.

Compelled speech. Barnette, 319 U.S. at 641-642 and Wooley, 430 U.S. at 714[442] prohibit the government from conditioning the exercise of any statutory or constitutional right on affirming government-drafted viewpoints. R 168.204's "working knowledge" certification requirement conditions the statutory right to serve as a challenger on affirming SOS-drafted training content. But the SOS has actively blocked the Legislature from reviewing this content or any content in the SOS clerk manual.

Viewpoint discrimination and vagueness. *Mansky*, 138 S. Ct. at 1888 requires that any polling-place speech restriction provide a standard "capable of reasoned application", one that "the 'public authority' can enforce, and the voter 'understand.'" A restriction that fails this test vests unreviewable discretion in government officials and creates conditions for viewpoint-discriminatory enforcement. R 168.214's "reasonable belief" standard and R 168.217's "clothing that disrupts peace or order" standard both appear to fail the *Mansky* test.

F. Executive Order 14248, Section 2(c)

Executive Order 14248, sec. 2(c)[443] directs DOJ to assess whether state election laws and regulations impose barriers that disadvantage Republican challengers. It provides a potential basis for DOJ assessment of whether the Rule Set 2025-15 challenger restrictions, combined with the inspector party imbalances documented in Count 11, warrant investigation under the Fourteenth Amendment's equal protection guarantee.

§V. EVIDENTIARY RECORD

The figure below maps each challenged Rule Set 2025-15 provision to the statutory right it modifies and the legal framework MFEI asserts as a basis for challenge and serves as the roadmap for the evidence that follows.

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[441] Rule Set 2025-15 Final Rule Language.

[442] Wooley, 430 U.S. at 714; Mansky, 138 S. Ct. at 1888.

[443] Executive Order 14248, sec. 2(c) (Mar. 25, 2025), 90 Fed. Reg. 14005.

Rule Set 2025-15 Provision	Statutory Right or Structure Modified	Legal Basis for Challenge
R 168.203-0.204 Training mandate & "working knowledge" certification	MCL 168.730-168.732 establish a complete authorization framework containing no training prerequisite. MCL 168.732 declares the organizational credential "shall be sufficient." The Legislature assigned credentialing authority exclusively to independent partisan and civic organizations.	Ultra vires (*Rovas*): adds prerequisite absent from statutory framework. Structural displacement: government assumes credentialing role the Legislature assigned to independent organizations. Compelled speech (Barnette; Wooley): conditions statutory right on affirming government-drafted content.
R 168.205 Liaison gatekeeping	MCL 168.733(1)(e) grants challengers a direct right to "bring to an election inspector's attention" any violation of election law. The Legislature established a one-step reporting pathway with no intermediary.	Ultra vires (*Rovas*): interposes intermediary the Legislature did not authorize; delays time-sensitive reporting.
R 168.208 Four-ground challenge restriction	MCL 168.733(1)(c)-(e) authorizes challengers to challenge any "violation of election law or other prescribed election procedure." The Legislature granted open-ended challenge authority.	Ultra vires (*Rovas*): overrides the Legislature's open-ended grant; excludes deceased voter, duplicate registration, ballot harvesting, and chain-of-custody challenges.
R 168.214 / R 168.217 Vague ejection standards	MCL 168.733(3) authorizes exactly two ejection grounds: evidence of alcohol consumption and disorderly conduct. The Legislature enumerated specific, objective standards.	Ultra vires (*Rovas*): adds ejection grounds the Legislature did not authorize. Viewpoint discrimination (*Mansky*): vague standards not "capable of reasoned application."

*Figure 73: **Rule Set 2025-15 Provisions and Corresponding Legal Arguments.***

Source: Rule Set 2025-15 (LARA Trans. No. 1588); MCL 168.730-168.735; In re Rovas Complaint, 482 Mich. 90 (2008); Barnette, 319 U.S. 624 (1943); Wooley, 430 U.S. 705 (1977); Mansky, 138 S. Ct. 1876 (2018)

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A. Training Mandate (R 168.203-0.204)

R 168.203 requires all challengers to complete mandatory SOS-designed training before serving. R 168.204 requires challengers to demonstrate "working knowledge" of the training content as a precondition to performing their statutory function.[444]

MCL 168.730-168.732 establish the complete and exclusive prerequisites for challenger service. None includes a training prerequisite. MCL 168.732 declares the organizational credential "shall be sufficient evidence of the right of such challengers to be present."[445] R 168.203-0.204 conflicts with that standard, an apparent expansion of the SOS's rulemaking authority that In re *Rovas* Complaint[446] and *Genetski v. Benson*[447] do not appear to permit.

R 168.204 independently raises a First Amendment compelled speech concern. Under Barnette[448] and Wooley,[449] the government may not condition the exercise of a statutory right on an affirmation of government-drafted viewpoints. The SOS's training materials, currently subject to a status quo preservation order in *Michigan House of Representatives v. Benson*,[450] appear to constitute the compelled speech at issue. DOJ can obtain those materials through its investigative authority and assess their content against the Barnette / Wooley framework. Source: PIME Opposition RS 2025-15, at pp. 4-6.[451]

B. Liaison Gatekeeping Rule (R 168.205)

R 168.205 requires challengers to route all communications about election irregularities through a designated party "liaison" rather than to election inspectors directly. MCL 168.733(1)(e)[452] grants challengers a direct right to "bring to an election inspector's attention" a violation of election law or other prescribed election procedure. The rule interposes an intermediary the Legislature did not authorize and creates two practical harms: it delays the reporting of time-sensitive irregularities requiring correction during the election, and it introduces a point of

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[444] Rule Set 2025-15 Final Rule Language (PDF).

[445] MCL 168.730, 168.731, 168.732.

[446] In re Rovas Complaint, 482 Mich. 90 (2008).

[447] Genetski v. Benson, No. 20-000216-MM (Mich. Ct. Cl. Mar. 9, 2021).

[448] West Virginia State Bd. of Educ. v. Barnette, 319 U.S. 624 (1943).

[449] *Wooley v. Maynard*, 430 U.S. 705 (1977).

[450] Michigan House of Representatives v. Benson.

[451] PIME Opposition RS 2025-15 (PDF).

[452] MCL 168.733(1)(e).

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discretionary filtering that MCL 168.733(1)(e) does not contemplate. Source: PIME Opposition RS 2025-15, at pp. 6-8.[453]

C. Four-Ground Challenge Restriction (R 168.208)

R 168.208 limits permissible challenges to four specific grounds. MCL 168.733[454] grants challengers the authority to challenge "any violation of election law or other prescribed election procedure." R 168.208 effectively excludes five categories of challenges documented elsewhere in this report: deceased voter registration challenges (Count 3); duplicate registration challenges (Count 3); ballot harvesting challenges (Count 5); absentee ballot chain-of-custody challenges (Count 7); and electronic poll book discrepancy challenges (Count 11). Each excluded category represents a violation of election law that the Legislature authorized challengers to raise. The rule appears to override a statutory standard, not fill a statutory gap.

The GBI Strategies referral illustrates the practical consequence. On April 24, 2025, Rep. Rachelle Smit (Chair, House Election Integrity Committee) and Rep. Jay DeBoyer jointly wrote to FBI Director Kash Patel regarding a coordinated voter registration fraud scheme in Muskegon allegedly involving GBI Strategies, a Tennessee-based petition firm.[455] Such irregularities would constitute violations of election law under MCL 168.733, but a challenger observing them at a counting board would find no permissible challenge ground under R 168.208's four-category restriction.[456]

D. Vague Ejection Standards (R 168.214, R 168.217)

R 168.214 authorizes ejection based on a "reasonable belief" that a challenger has violated a rule. R 168.217 authorizes ejection for wearing "clothing that disrupts peace or order." Both standards appear facially vague under *Mansky*, 138 S. Ct. at 1888.[457] *Mansky* requires polling-place restrictions to provide a line that "the 'public authority' can enforce, and the voter 'understand.'" Neither R 168.214 nor R 168.217 provides objective, administrable criteria meeting that standard. Both vest unreviewable discretion in election inspectors.[458]

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[453] Rule Set 2025-15 Final Rule Language (PDF), pp. 6-8.

[454] MCL 168.733.

[455] Letter from Rep. Rachelle Smit, Chair, House Election Integrity Committee, and Rep. Jay DeBoyer, Chair, House Oversight Committee, to FBI Director Kash Patel (Apr. 24, 2025) (official Michigan House of Representatives letterhead).

[456] Rule Set 2025-15 Final Rule Language (PDF), pp. 6-7.

[457] Minnesota Voters Alliance v. Mansky, 138 S. Ct. 1876 (2018).

[458] Rule Set 2025-15 Final Rule Language (PDF), pp. 9-12.

The ejection standards appear independently ultra vires. MCL 168.733(3)[459] enumerates exactly two ejection grounds. Rule Set 2025-15 adds two grounds the Legislature did not authorize. MCL 168.31(1)(a) authorizes the SOS to promulgate rules "for the conduct of elections and registrations in accordance with the laws of this state." Under In re *Rovas* Complaint[460] and *Genetski v. Benson*,[461] that authority does not extend to rules that override the Legislature's enumerated choices. R 168.214 and R 168.217 may therefore exceed the SOS's statutory authority on two independent grounds, each sufficient standing alone.

MCL 168.733(3) -- Statutory Ejection Grounds (2 grounds)	**Rule Set 2025-15 -- Administrative Ejection Grounds (4 grounds -- rule-added grounds shaded)**
1. Evidence of drinking of alcoholic beverages	1. Evidence of drinking of alcoholic beverages
2. Disorderly conduct	2. Disorderly conduct
(No further grounds authorized by statute)	3. "Reasonable belief" of rule violation (R 168.214) [ADDED BY RULE]
	4. "Clothing that disrupts peace or order" (R 168.217) [ADDED BY RULE]
Ultra vires: MCL 168.733(3) enumerates only two ejection grounds. Rule Set 2025-15 adds two grounds the Legislature did not authorize, exceeding the SOS's MCL 168.31(1)(a) rulemaking authority.	First Amendment vagueness: Grounds 3 and 4 appear facially vague under *Mansky* -- neither provides objective, administrable criteria "capable of reasoned application." Both vest unreviewable discretion in election officials.

Figure 74: **Challenger Ejection Grounds**: MCL 168.733(3) vs. Rule Set 2025-15.

Source: MCL 168.733(3); Rule Set 2025-15, R 168.214, R 168.217 (LARA Trans. No. 1588).

The vagueness concern is compounded by the inspector party imbalances documented in Count 11. The officials who hold discretionary ejection authority under R 168.217 and R 168.214 are subject to documented partisan imbalance: Detroit (71.7% Democrat-affiliated / 12.1% Republican-affiliated, 2,994 vs. 504 of 4,176 total inspectors), Ann Arbor (78.7% / 19.1%), and

[459] MCL 168.733

[460] In re Rovas Complaint, 482 Mich. 90 (2008)

[461] Genetski v. Benson, No. 20-000216-MM (Mich. Ct. Cl. Mar. 9, 2021)

Grand Rapids (69.8% / 25.6%).[462] These imbalances create structural conditions potentially favorable to viewpoint-discriminatory application of the vague ejection standards.

Jurisdiction	Dem.-Affiliated	Rep.-Affiliated	Other / Unrptd.	Dem. - Rep. Gap
Detroit (2024 General)	71.7% (2,994)	12.1% (504)	16.2% (676)	+59.6 pp
Ann Arbor (2024 General)	78.7%	19.1%	2.2%	+59.6 pp
Grand Rapids (2024 General)	69.8%	25.6%	4.6%	+44.2 pp

Note: "pp" = percentage points. Unaffiliated, third-party, and unreported inspectors account for remaining percentages. Partisan parity = 50%/50%. Source: MFEI Party Parity Analysis [C9-02].

Figure 9-PP-1: Election Inspector Party Affiliation, Selected Michigan Jurisdictions, 2024 General Election. Dem.-Rep. Gap = percentage points by which Democrat-affiliated inspectors exceed Republican-affiliated. Detroit raw counts: 2,994 Democrat-affiliated; 504 Republican-affiliated; 676 other/unaffiliated of 4,176 total. Ann Arbor and Grand Rapids raw counts not individually reported in MFEI Party Parity Analysis. Source: MFEI Party Parity Analysis [C9-02]. Cross-reference: Count 11, sec. V.

E. Observer Distance Rules and the 'Enables Observation' Standard Under MCL 168.733

MCL 168.733(1) and (2)[463] require boards to provide challengers with space "that enables" observation of election procedures and the counting of ballots. This is a functional adequacy standard, not a right of physical presence. A distance restriction that prevents challengers from reading ballot information or identifying voters fails this standard regardless of whether challengers remain in the building.

MCL 168.733(3) imposes a mandatory protection obligation. Election inspectors "shall protect a challenger in the discharge of his or her duties."[464] In November 2020, challengers at TCF Center in Detroit reported they were physically prevented from meaningful observation of

[462] MFEI Party Parity Analysis (PDF)

[463] MCL 168.733(1) and (2).

[464] MCL 168.733(3).

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absentee ballot processing, including placement 30-60 feet from processing tables and, in some instances, outright denial of entry. Contemporaneous court filings and affidavits corroborate those accounts.[465]

Physical denial of entry and distance restrictions preventing observation both appear to satisfy on their face the prohibitions in MCL 168.734[466]: that statute makes it a criminal misdemeanor to "prevent the presence of any such challenger" or to "refuse or fail to provide such challenger with conveniences for the performance of the duties expected of him." Whether the responsible individuals at TCF Center qualify as "officers or election board" members within the meaning of sec. 734 and whether any applicable statute of limitations remains open are questions for federal investigation.

The significance of these events extends beyond the individual incidents. Effective challenger observation contributes to the creation of contemporaneous records concerning election administration that may later become relevant to judicial, legislative, administrative, or federal review.

F. *People v. Stephanie Scott* -- An Illustrative Parallel

The prosecution of former Adams Township Clerk Stephanie Scott illustrates the enforcement dynamic that administrative rulemaking authority creates for challengers and election officials who act on their statutory understanding.

Michigan AG Dana Nessel filed charges against Scott on May 8, 2024 -- four felonies and one misdemeanor, arising from her actions following the 2020 general election. The charges included using a computer to commit a crime, unauthorized access to computers, conspiracy to commit unauthorized access, misconduct in office, and disobeying a lawful instruction from the Secretary of State. One charge (concealing a voting tabulator) was dismissed at Hillsdale District Court district court, finding that custody of election equipment falls within a clerk's duties.[467]

Four felony charges proceeded to circuit court. On May 1, 2026, Judge Sara Lisznyai dismissed all four, ruling that "the prosecution's application of the relevant statutes was not supported." Defense counsel David Kallman stated: "The Court recognized what we have argued all along:

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[465] TCF Center challenger affidavits, hearing testimonies, and written statements re: November 2020 election available at Michigan Senate Oversight hearing video, Dec. 1, 2020; Written testimony received in Oversight committee 12.1.20.pdf; Costantino v. City of Detroit, No. 20-14780-AW, Wayne Co. Cir. Ct., Nov. 13, 2020. TCF Center challenger affidavits, hearing testimonies, and written statements re: November 2020 election available at Michigan Senate Oversight hearing video, Dec. 1, 2020.

[466] MCL 168.734.

[467] People v. Stephanie Scott, Hillsdale Circuit Court, docket 25-49-6230-FH. Kristine Christlieb, MI Case that Could Define the Limits of a Clerk's Constitutional Authority, MFEI, Apr. 12, 2026.

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there was never any criminal statute applicable to her proper and legal actions and, therefore, no crime was committed."[468]

The parallel to challenger restrictions is illustrative, not dispositive. A challenger who challenges a ballot on grounds R 168.208 excludes, approaches an inspector directly in violation of R 168.205, or is ejected under R 168.217's vague standard may face enforcement consequences for conduct MCL 168.733 expressly authorized.

The dismissal illustrates the legal consequences that may arise when administrative directives and statutory authority diverge. Whether those dynamics apply to any future challenger enforcement actions is a question for federal investigation.

The significance of these events extends beyond the individual incidents. Effective challenger observation contributes to the creation of contemporaneous records concerning election administration that may later become relevant to judicial, legislative, administrative, or federal review.

§VI. FINDINGS

A. Established Facts

Established Fact 9-A-1 Rule Set 2025-15 (R 168.203-0.204) requires mandatory SOS-designed challenger training and a "working knowledge" certification.[469] MCL 168.730-168.732 establish the complete and exclusive prerequisites for challenger service. None includes a training prerequisite. MCL 168.732 declares the organizational credential "shall be sufficient evidence of the right of such challengers to be present."[470] The rule adds a prerequisite the Legislature omitted and renders insufficient what the Legislature declared sufficient. Source: PIME Opposition RS 2025-15, at pp. 4-6.[471]

Established Fact 9-A-2 Rule Set 2025-15 (R 168.205) requires challengers to report violations through a designated party liaison rather than directly to election inspectors. MCL 168.733(1)(e)

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[468] People v. Stephanie Scott, Hillsdale Circuit Court. Primary source: Jacob Bruns, "Hillsdale County Judge Dismisses All Charges Against Former Township Clerk Stephanie Scott," The Hillsdalian (May 1, 2026).

[469] Rule Set 2025-15 Final Rule Language (PDF), pp. 2-4.

[470] MCL 168.732.

[471] PIME Opposition RS 2025-15 (PDF), pp. 4-6.

grants challengers a direct right to "bring to an election inspector's attention" a violation of election law or other prescribed election procedure.[472] The rule removes a statutory direct-reporting right and interposes an intermediary the Legislature did not authorize. Source: PIME Opposition RS 2025-15, at pp. 6-8.[473]

Established Fact 9-A-3 Rule Set 2025-15 (R 168.208) limits permissible challenges to four specific grounds. MCL 168.733 grants challengers open-ended authority to challenge "any violation of election law or other prescribed election procedure."[474]

Established Fact 9-A-4 Rule Set 2025-15[475] (R 168.214, R 168.217) authorizes challenger ejection based on "reasonable belief" and wearing "clothing that disrupts peace or order." MCL 168.733(3) enumerates exactly two ejection grounds: evidence of drinking alcoholic beverages and disorderly conduct. The rule adds two ejection grounds the Legislature did not authorize.

Established Fact 9-A-5 *Michigan House of Representatives v. Benson*, No. 25-000096-MZ (Mich. Ct. Cl., Hon. Sima G. Patel),[476] is active litigation arising from the MDOS's non-compliance with House Oversight Committee subpoenas for approximately 22 gigabytes of Rule Set 2025-15 eLearning Portal training materials. The Court issued a status quo order on June 11, 2025. The Court denied both parties' summary disposition motions on November 3, 2025, leaving unresolved whether the Legislature had a valid legislative purpose for the subpoena. On May 22, 2025, the Michigan House formally held SOS Benson in civil contempt for non-compliance (Mich. H.R. No. 117, 103rd Legislature).[477]

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[472] MCL 168.733(1)(e).

[473] PIME Opposition RS 2025-15 (PDF), pp. 6-8.

[474] MCL 168.733.

[475] Rule Set 2025-15 Final Rule Language (PDF).

[476] Michigan House of Representatives v. Benson.

[477] Mich. H.R. No. 117, 103rd Legislature, May 22, 2025.

Established Fact 9-A-6 The Michigan House Oversight Committee's April 15, 2025 meeting minutes, quoted in the Court of Claims' November 3, 2025 Opinion and Order, state: "Secretary Benson's refusal to provide the OC [Oversight Committee] with basic training materials provided to local election officials indicates that the training provided does not comply with the Michigan Election Law."[478]

Established Fact 9-A-7 In November 2020, challengers at TCF Center in Detroit reported being physically prevented from meaningful observation of absentee ballot processing, including placement 30-60 feet from processing tables and denial of entry. Contemporaneous court filings and affidavits corroborate those accounts.[479]

Established Fact 9-A-8 MCL 168.734[480] imposes criminal penalties, up to a $1,000 fine and two years imprisonment, on any officer or election board member who "shall prevent the presence of any such challenger" or "shall refuse or fail to provide such challenger with conveniences for the performance of the duties expected of him."

Established Fact 9-A-9 MCL 168.733(1) and (2)[481] require boards to provide challengers with space "that enables" observation of election procedures, voters applying to vote, and the counting of ballots, a functional adequacy standard, not merely a right of presence. MCL 168.733(3) imposes a mandatory protection obligation: election inspectors "shall protect a challenger in the discharge of his or her duties."[482]

Established Fact 9-A-10 On May 8, 2024, Michigan AG Nessel charged former Adams Township Clerk Stephanie Scott with four felonies and one misdemeanor. One charge (concealing a voting tabulator) was dismissed at district court level prior to trial. On May 1,

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[478] The Michigan House of Representatives Oversight Committee's April 15, 2025 meeting minutes.

[479] Michigan Senate Oversight hearing video; Written testimony received in Oversight committee 12.1.20.pdf; Response Appendix Table of Contents Michigan Court of Claims; Costantino v. City of Detroit.

[480] MCL 168.734.

[481] MCL 168.733(1) and (2).

[482] MCL 168.733(3).

2026, Judge Sara Lisznyai dismissed all four remaining felony charges, ruling that "the prosecution's application of the relevant statutes was not supported." Defense counsel David Kallman stated: "The Court recognized what we have argued all along: there was never any criminal statute applicable to her proper and legal actions and, therefore, no crime was committed."[483]

B. Judicial Arguments

Judicial Finding 9-B-1 *Michigan House of Representatives v. Benson* denied summary disposition and preserved the disputed training materials while recognizing the active legislative subpoena dispute.[484]

Judicial Finding 9-B-2 Judge Sara Lisznyai dismissed all remaining felony charges against Stephanie Scott after concluding the prosecution's application of the relevant statutes was unsupported.[485]

C. Legal Arguments

Legal Argument 9-C-1 R 168.208's four-ground restriction appears to exclude five documented categories of challenge that MCL 168.733 authorizes: deceased voter registration challenges (Count 3); duplicate registration challenges (Count 3); ballot harvesting challenges (Count 5); absentee ballot chain-of-custody challenges (Count 7); and electronic poll book discrepancy challenges (Count 11). Each exclusion appears to exceed the SOS's rulemaking authority under In re *Rovas* Complaint[486] and *Genetski v. Benson*.[487]

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[483] People v. Stephanie Scott, Hillsdale Circuit Court, filed by AG Nessel, May 8, 2024. One charge was dismissed at district court level prior to trial; four felony charges were dismissed at circuit court on May 1, 2026. Primary source: Jacob Bruns, "Hillsdale County Judge Dismisses All Charges Against Former Township Clerk Stephanie Scott," The Hillsdalian (May 1, 2026) [C9-05]. Background: Kristine Christlieb, MI Case that Could Define the Limits of a Clerk's Constitutional Authority, MFEI, Apr. 12, 2026.

[484] Michigan House of Representatives v. Benson, No. 25-000096-MZ, Op. & Order at 10-11 (Mich. Ct. Cl. Nov. 3, 2025, Hon. Sima G. Patel).

[485] People v. Stephanie Scott, Hillsdale Circuit Court, docket 25-49-6230-FH (dismissed May 1, 2026, Judge Sara Lisznyai).

[486] In re Rovas Complaint, 482 Mich. 90 (2008).

Legal Argument 9-C-2 R 168.214's "reasonable belief" standard and R 168.217's "clothing that disrupts peace or order" standard appear facially vague under *Minnesota Voters Alliance v. Mansky*, 138 S. Ct. 1876 (2018)[488]. Neither provides objective, administrable criteria "capable of reasoned application." Both vest unreviewable discretion in election officials and create structural conditions potentially favorable to viewpoint-discriminatory enforcement, as illustrated by Figure 9-PP-1 in this Count.

Legal Argument 9-C-3 MCL 168.733(3) authorizes only two ejection grounds.[489] R 168.214 and R 168.217 add two grounds the Legislature did not authorize, appearing to exceed the SOS's MCL 168.31(1)(a) rulemaking grant independently of any First Amendment vagueness analysis. MCL 168.31(1)(a) authorizes rules "for the conduct of elections and registrations in accordance with the laws of this state." Under In re *Rovas* Complaint[490] and *Genetski v. Benson*[491] that grant does not permit rules that add to what the Legislature expressly enumerated.

Legal Argument 9-C-4 MCL 168.732's "shall be sufficient" standard[492] presents the primary statutory basis for the challenge to the training mandate. The Legislature declared the organizational credential sufficient; R 168.203-0.204 renders it insufficient. Under *In re Rovas Complaint*[493] and *Genetski v. Benson*,[494] that result appears to exceed the SOS's rulemaking authority.

Legal Argument 9-C-5 The Legislature vested challenger credentialing authority exclusively in independent partisan and civic organizations, not the government. Challengers exist to provide independent oversight of government election officials. R 168.203-0.204 substitutes government-

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[487] Genetski v. Benson, No. 20-000216-MM (Mich. Ct. Cl. Mar. 9, 2021).

[488] Minnesota Voters Alliance v. Mansky, 138 S. Ct. 1876 (2018).

[489] MCL 168.733(3).

[490] In re Rovas Complaint, 482 Mich. 90 (2008).

[491] Genetski v. Benson, No. 20-000216-MM (Mich. Ct. Cl. Mar. 9, 2021).

[492] MCL 168.732.

[493] In re Rovas Complaint, 482 Mich. 90 (2008).

[494] Genetski v. Benson, No. 20-000216-MM (Mich. Ct. Cl. Mar. 9, 2021).

designed content for organizational credentialing as the operative prerequisite to serving, altering the oversight structure the Legislature built. *Roberts v. United States Jaycees*, 468 U.S. 609 (1984)[495] determined that government actions that constitute "intrusion into the internal structure or affairs of an association" unconstitutionally burden expressive association.

Legal Argument 9-C-6 The TCF Center conduct documented in Finding 9-A-7, physical denial of entry and distance restrictions preventing meaningful observation, appears to satisfy on its face both prohibitions in MCL 168.734[496]: preventing the presence of challengers and refusing to provide conveniences for the performance of their duties. Whether the responsible individuals qualify as "officers or election board" members within the meaning of sec. 734 and whether applicable statutes of limitations remain open are questions for federal investigation. Source: MCL 168.734; TCF Center challenger affidavits (November 2020).

Legal Argument 9-C-7 PA 253 and related legislation created asymmetric rights and obligations: it added rights for observers affiliated with election administration while restricting partisan challengers.

D. MFEI Conclusions

MFEI Conclusion 9-D-1 — Logical Inference Rule Set 2025-15's systematic alteration of challenger access, mandatory government-designed training, liaison gatekeeping, limited challenge grounds, and vague ejection authority, overlays a documented context of substantial inspector party imbalance (Count 11: Detroit 71.7% / 12.1% in 2024).[497] Together, these restrictions and imbalances appear to have substantially reduced effective bipartisan oversight of absentee ballot processing in Michigan's largest jurisdictions. Whether these combined structural features produce that outcome is an appropriate subject for federal investigation.

MFEI Conclusion 9-D-2 — Conditional Conclusion The *Scott* dismissal raises questions

[495] Roberts v. United States Jaycees, 468 U.S. 609 (1984).

[496] MCL 168.734.

[497] MFEI Party Parity Analysis (PDF).

about the extent to which administrative directives may serve as the basis for criminal enforcement where the underlying conduct is arguably authorized by statute. These questions may assist federal authorities in evaluating Michigan's continuing compliance with applicable federal election laws ensuring challenger rights and authorities per MCL 168.733 in circumstances in which Rule Set 2025-15 restricts that authority.

§VII. POTENTIAL FEDERAL INTERESTS

MFEI identifies the following apparent issues for federal investigation. These requests are framed as investigative questions rather than legal conclusions and are intended to assist DOJ in determining whether additional inquiry is warranted.

A. DOJ Civil Rights Division / Voting Section

1. Whether Michigan's implementation of Rule Set 2025-15 materially alters the Legislature's statutory framework governing independent election observation in a manner affecting transparency, public oversight, or compliance with applicable federal election laws.
2. Whether R 168.204's "working knowledge" certification requirement constitutes unconstitutional compelled speech under Barnette[498] and Wooley[499] as applied to challengers -- and whether the training materials, subject to a status quo preservation order in *Michigan House of Representatives v. Benson*,[500] should be obtained by DOJ and reviewed for content assessment independent of the pending state litigation.
3. Whether R 168.208's four-ground challenge restriction, R 168.205's liaison gatekeeping requirement, and R 168.217's vague ejection standard, taken together, appear to constitute a systematic alteration of MCL 168.733's[501] statutory challenger framework actionable under 52 U.S.C. § 20510[502] (NVRA private right of action) or through DOJ enforcement authority.
4. Whether the combination of Rule Set 2025-15's challenger restrictions and the inspector party imbalances documented in Count 11 warrants investigation under the Fourteenth Amendment's equal protection guarantee as applied to challengers in Detroit, Ann Arbor, and Grand Rapids, per Executive Order 14248, sec. 2(c).[503]

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[498] West Virginia State Bd. of Educ. v. Barnette, 319 U.S. 624 (1943).

[499] *Wooley v. Maynard*, 430 U.S. 705 (1977).

[500] Michigan House of Representatives v. Benson.

[501] MCL 168.733.

[502] 52 U.S.C. § 20510.

[503] Executive Order 14248, sec. 2(c) (Mar. 25, 2025), 90 Fed. Reg. 14005.

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B. DOJ Election Crimes Branch / FBI

1. Whether the TCF Center conduct in November 2020 -- physical denial of entry and distance restrictions preventing meaningful observation -- may constitute a misdemeanor under MCL 168.734's[504] criminal prohibition on preventing challenger presence or refusing conveniences for performance of duties; whether the responsible individuals are identifiable; and whether applicable statutes of limitations remain open.
2. Whether the *People v. Stephanie Scott* prosecution[505] raises questions about the extent to which administrative directives may serve as the basis for criminal enforcement where the underlying conduct is arguably authorized by statute -- and whether similar questions may arise with respect to challengers acting under the authority of MCL 168.733.
3. Whether the SOS's refusal to disclose Rule Set 2025-15 training materials to the Michigan House Oversight Committee -- materials the Oversight Committee determined may "not comply with the Michigan Election Law" -- warrants independent DOJ/FBI review of the materials' content and their application to challengers statewide.

§VIII. SUMMARY AND CONCLUSION

The Legislature built a complete challenger authorization framework spanning MCL 168.730[506]-168.735, assigning credentialing to independent organizational bodies, granting open-ended challenge authority, establishing a one-step direct reporting right, enumerating exactly two ejection grounds, and imposing criminal penalties on officials who prevent challenger presence.

MCL 168.732's "shall be sufficient" standard provides the primary statutory basis for challenge: a rule that conditions service on government-designed training appears to condition a statutory entitlement on an additional administrative prerequisite.[507] Rule Set 2025-15 alters that complete framework across six provisions through rulemaking that appears to exceed the SOS's authority under *In re Rovas Complaint*[508] and *Genetski v. Benson*.[509]

Two First Amendment concerns compound the statutory question. First, R 168.204's training mandate appears to condition the statutory right to serve on affirming SOS-drafted content, a potential compelled speech violation under *Barnette*[510] and *Wooley*,[511] compounded by the

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[504] MCL 168.734.

[505] MI Case that Could Define the Limits of a Clerk's Constitutional Authority, MFEI, Apr. 12, 2026.

[506] MCL 168.730

[507] MCL 168.732.

[508] In re Rovas Complaint, 482 Mich. 90 (2008).

[509] Genetski v. Benson, No. 20-000216-MM (Mich. Ct. Cl. Mar. 9, 2021).

[510] West Virginia State Bd. of Educ. v. Barnette, 319 U.S. 624 (1943).

[511] *Wooley v. Maynard*, 430 U.S. 705 (1977).

SOS's systematic blocking of legislative review of the training content at issue.[512] Second, R 168.214 and R 168.217's vague ejection standards appear to fail the *Mansky* test[513] and may simultaneously exceed the SOS's statutory authority on an independent ultra vires ground.

These restrictions do not stand in isolation. The Legislature created Michigan's challenger framework as an independent transparency mechanism intended to facilitate observation of election administration by citizens and political organizations rather than by government officials alone.

They overlay a documented context of substantial inspector party imbalance: in Michigan's three largest jurisdictions, officials affiliated with one party hold 70-78% of election inspector positions and, under Rule Set 2025-15, hold the discretionary ejection authority over challengers from the other party, a structural condition warranting investigative attention as to whether it creates conditions favorable to viewpoint-discriminatory enforcement.

DOJ Civil Rights Division / Voting Section, DOJ Election Crimes Branch, and the EAC Office of Inspector General are each respectfully requested to investigate the matters described herein: (1) assessment of the Rule Set 2025-15 training materials under the *Barnette* / *Wooley* compelled speech framework; (2) assessment of the TCF Center 2020 conduct under MCL 168.734's criminal prohibition; (3) assessment of the Rule Set 2025-15 challenger restriction scheme under MCL 168.733 and 52 U.S.C. sec. 20510; and (4) assessment of the combined challenger restrictions and inspector imbalances under the Fourteenth Amendment's equal protection guarantee.

Like the rulemaking issues examined in Counts 1 and 2, Rule Set 2025-15 illustrates the broader question of whether administrative rulemaking has altered statutory election procedures beyond the scope authorized by the Legislature and allowed by law. This Count examines that question in the specific context of poll challengers and observers, where the Legislature established a comprehensive statutory framework designed to preserve independent citizen oversight of election administration.

Michigan's challenger statutes reflect a legislative judgment that election transparency is best protected through independent citizen oversight rather than exclusive governmental supervision. If administrative rules materially alter that statutory framework, the resulting questions extend beyond election administration to the allocation of governmental authority and the preservation of public confidence in election integrity.

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[512] Mich. H.R. No. 117, 103rd Legislature, Regular Session, Michigan House of Representatives adopted the resolution to formally hold Secretary of State Jocelyn Benson and MDOS in civil contempt for failure to comply with legislative subpoenas for eLearning Portal training materials. (May 22, 2025.

[513] Minnesota Voters Alliance v. Mansky, 138 S. Ct. 1876 (2018)

Because meaningful election oversight depends upon the ability of credentialed challengers to observe, document, and report election procedures as they occur, the issues presented in this Count remain directly relevant to continuing federal oversight of election administration and preservation of public confidence in federal elections.

§IX. AUTHORITIES AND SOURCES

A. Case Law

Boy Scouts of America v. Dale, 530 U.S. 640 (2000) https://supreme.justia.com/cases/federal/us/530/640/. [CLETA REVIEW before including. Applied via *Roberts v. United States Jaycees*: "intrusion into the internal structure or affairs of an association."]

Elrod v. Burns, 427 U.S. 347 (1976) https://supreme.justia.com/cases/federal/us/427/347/. The practice of patronage dismissals violates the First and Fourteenth Amendments. People cannot be fired from their jobs based on their political beliefs.

Genetski v. Benson, No. 20-000216-MM (Mich. Ct. Cl. Mar. 9, 2021). https://files.causeofamerica.org/docs/2021-mar-09-mi-legal-exhibit-10-*Genetski*-vs-benson-court-of-claims.pdf. Companion authority to *Rovas*. Alternate: https://www.scribd.com/document/498855479/*Genetski*-v-Benson-No-20-216-MM-in-the-Court-of-Claims-for-the-State-of-Michigan

Hurley v. Irish-American Gay, Lesbian, and Bisexual Group of Boston, 515 U.S. 557 (1995) https://supreme.justia.com/cases/federal/us/515/557/.

In re Complaint of *Rovas*, 482 Mich. 90 (2008) https://caselaw.findlaw.com/court/mi-supreme-court/1117168.html. SOS rulemaking under MCL 168.31(1)(a) cannot override express legislative choices or render insufficient what the Legislature declared sufficient.

Michigan House of Representatives v. Benson, No. 25-000096-MZ https://www.courts.michigan.gov/4aa8b8/siteassets/case-documents/opinions-orders/coc-opinions-(manually-curated)/2025/25-000096-mz.pdf, Op. & Order (Mich. Ct. Cl. Nov. 3, 2025, Hon. Sima G. Patel). Status quo preservation order in effect. Civil contempt resolution: Mich. H.R. No. 117, May 22, 2025 https://www.legislature.mi.gov/Bills/Bill?ObjectName=2025-HR-0117.

Minnesota Voters Alliance v. Mansky https://supreme.justia.com/cases/federal/us/585/16-1435/, 138 S. Ct. 1876 (2018). Viewpoint discrimination / vagueness at polling places; "capable of reasoned application" standard.

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People v. Stephanie Scott, Hillsdale Circuit Court, docket 25-49-6230-FH (Judge Sara Lisznyai, dismissed May 1, 2026). Source: The Hillsdalian, May 1, 2026 https://hillsdalian.substack.com/p/hillsdale-county-judge-dismisses.

Roberts v. United States Jaycees, 468 U.S. 609 (1984) Primary operative authority for structural displacement argument: government "intrusion into the internal structure or affairs of an association" unconstitutionally burdens expressive association. https://supreme.justia.com/cases/federal/us/468/609/

West Virginia State Bd. of Educ. v. Barnette https://supreme.justia.com/cases/federal/us/319/624/, 319 U.S. 624 (1943). Compelled speech / government orthodoxy.

Wooley v. Maynard https://supreme.justia.com/cases/federal/us/430/705/, 430 U.S. 705 (1977). Compelled affirmation of government message.

B. Constitutional Provisions

Michigan Constitution, Art. II, sec. 4(2) https://legislature.mi.gov/Laws/MCL?objectName=mcl-Article-II-4 -- Constitutional guarantee of free and transparent elections.

C. Federal Law

52 U.S.C. sec. 21081(b) https://uscode.house.gov/view.xhtml?req=(title:52%20section:21081%20edition:prelim) -- HAVA uniform administration requirement.

52 U.S.C. § 20510 (NVRA private right of action). https://www.govinfo.gov/app/details/USCODE-2024-title52/USCODE-2024-title52-subtitleII-chap205-sec20510

Executive Order 14248, sec. 2(c) https://www.federalregister.gov/documents/2025/03/28/2025-05523/preserving-and-protecting-the-integrity-of-american-elections, Mar. 25, 2025, 90 Fed. Reg. 14005.

D. Michigan Statutory and Regulatory Authority

MCL 168.31(1)(a) https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-168-31 -- SOS rulemaking authority directs the SOS to "issue instructions and promulgate rules... for the conduct of elections and registrations in accordance with the laws of this state." Under In re *Rovas* Complaint and *Genetski v. Benson*, this grant does not permit rules that override express legislative choices.

MCL 168.730 https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-168-730 -- Designation and qualifications of challengers (appointment by party committees and civic organizations).

MCL 168.731 https://legislature.mi.gov/Laws/MCL?objectName=MCL-168-731 -- Authorization framework for non-party organizations.

MCL 168.732 https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-168-732 -- Credentials: "shall be sufficient evidence of the right of such challengers to be present." Primary basis for ultra vires challenge to R 168.203-0.204.

MCL 168.733 https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-168-733 -- Challenger rights and conduct: direct reporting right (sec. 733(1)(e)); enables-observation standard (sec. 733(1)-(2)); two ejection grounds (sec. 733(3)); mandatory protection obligation (sec. 733(3)).

MCL 168.734 https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-168-734 -- Criminal penalties for interference with challengers (up to $1,000 fine and two years imprisonment).

MCL 168.735 https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-168-735 -- Challenger access to poll books.

Rule Set 2025-15 Final Rule Language (PDF) https://ars.apps.lara.state.mi.us/Transaction/DownloadFile?FileName=FinalRule%28s%29.pdf&FileType=FinalRule&TransactionID=1588&EffectiveDate=5%2F6%2F2026&ReturnHTML=True.

E. Primary MFEI / PIME Sources

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MFEI Party Parity Analysis: Election Inspector Hiring Practices of Michigan Municipalities (May 2025). Full report: MFEI Party Parity Analysis (PDF) https://aa3979fb-9421-4dd8-ba7d-8ead2d346103.usrfiles.com/ugd/aa3979_6059486a93214066a0d176d5330a134f.pdf.

MFEI Synthesis Memorandum Authority Allocation in MDOS Rule Sets 2025-13-ST, 2025-14-ST, 2025-15-ST, 2025-63-ST, and Campaign Finance Rule Set 2026-22-ST (May 13, 2026), secs. 4.4 and 5.5, revised July 4, 2026. https://6c736125-995a-47e4-8fc2-91eea0bc377a.usrfiles.com/ugd/6c7361_e0f6941c6c494b08810cad251d4ef78b.pdf

PIME Opposition RS 2025-15, Election Challengers and Poll Watchers Comprehensive Legal Analysis, Pure Integrity Michigan Elections, Dec. 2025. Full text: PIME Opposition RS 2025-15 (PDF) https://b6d83fed-d9cb-4cb1-9e2f-60cfa1575f8d.filesusr.com/ugd/aa3979_1ccf3e02176d46899f96838990b07572.pdf.

Smit, Rachelle, Chair, House Election Integrity Committee, and DeBoyer, Jay, Chair, House Oversight Committee, Letter to FBI Director Kash Patel (Apr. 24, 2025). Secondary source: Gateway Pundit, Apr. 26, 2025. See Appendix I herein.

Smit, Rachelle, State Representative, Michigan House of Representatives, 43rd District, "Amendments to Michigan's Election Laws Passed in 2023." See Appendix J herein.

COUNT 10. Voting System Security, Certification, Audit Integrity, Vendors, Contracts, and End-of-Life Equipment

§I. Issues Summary

This Count examines whether Michigan's voting-system architecture, post-election audit framework, and election-record preservation practices provided sufficient transparency, security, and independent verification to ensure the integrity of federal election outcomes. The evidentiary record identifies three principal areas of concern: (1) documented security vulnerabilities affecting Dominion's centralized Election Management System (EMS) architecture and related voting-system components; (2) structural limitations in Michigan's discretionary post-election audit framework that constrain independent verification of election results; and (3) the seven-day deletion of electronic poll book data under Rule R 168.48, raising questions regarding compliance with federal election-record preservation requirements. These issues present factual and legal questions warranting independent review by the Department of Justice.

A. Current Federal Enforcement Interest

On July 7, 2026, Assistant Attorney General Harmeet K. Dhillon notified Michigan Secretary of State Jocelyn Benson that the Department of Justice is reviewing Michigan's compliance with federal election laws, including election-record preservation and HAVA compliance. The Department's accompanying memorandum ties that review to HAVA's specific voting-system requirements — that voters be able to privately verify or correct a ballot before it is cast, and that voting systems produce a permanent paper record for manual recounts and audits, 52 U.S.C. § 21081(a)(1)(A)(ii), (a)(2)(B) — and, separately, to Title III's requirement that election records be retained for 22 months and made available for federal inspection upon demand, 52 U.S.C. §§ 20701, 20703. (See Harmeet Dhillon letter in Appendix L)

Voting-system certification lapses, unmanaged vendor relationships, and equipment operating past its supportable service life bear directly on whether Michigan's systems can produce and preserve the verifiable, auditable record HAVA requires and retain the records Title III mandates. The system-security, certification, and audit findings documented in this Count therefore fall within the federal enforcement framework the Department identified on July 7, 2026.

B. Topics Covered:

- Michigan's Voting System Architecture
- Dominion Election Management System (EMS) and Centralized Infrastructure
- Documented Technical Vulnerabilities in Dominion Voting Systems
- AI-Assisted Cybersecurity Threats to Election Infrastructure
- Rule R 168.48 and Electronic Poll Book Record Deletion

- Federal Election Record Preservation Requirements (52 U.S.C. § 20701)
- Michigan's Post-Election Audit Framework and Risk-Limiting Audits
- Independent Verification and Audit Limitations
- Voting System Vendors, Contracts, and End-of-Life Equipment
- Voluntary Voting System Guidelines (VVSG 2.0) Gap Analysis
- Election Management System Security and Election Definition Files
- Firmware Integrity, Chain of Custody, and Supply-Chain Risks
- Voting System Certification History (VVSG 2.0); see Count 15 for the pending RFP 260000000114/RFP214 procurement
- Continuing Federal Interests in Voting System Security, Audit Integrity, and Record Preservation

§II. Legal Argument

The central legal question presented by this Count is whether Michigan's voting-system architecture, post-election audit practices, and election-record retention procedures satisfy the transparency, auditability, and record-preservation requirements applicable to federal elections. This Count does not allege that any election outcome was incorrect. Rather, it examines whether Michigan's statutory and administrative framework provides an independently verifiable means to confirm reported election outcomes, preserve records necessary for federal review, and detect or investigate outcome-altering error or unauthorized system compromise.

The evidentiary record supporting this Count is organized around three related questions. First, whether Michigan's voting-system architecture incorporates documented technical vulnerabilities that could affect the integrity or independent verification of federal election outcomes. Second, whether Michigan's post-election audit framework provides the level of independent verification associated with modern risk-limiting audit principles. Third, whether Michigan's election-record preservation practices maintain the evidence necessary to permit meaningful post-election review and federal oversight. The sections that follow address each question in turn.

A. Michigan's Dominion Voting Infrastructure Contains Documented Security Vulnerabilities

Michigan's voting-system architecture has been the subject of multiple independent technical evaluations by academic researchers, federal agencies, accredited voting-system laboratories, and election-security experts. These analyses address different aspects of election-system security, including EMS architecture, software independence, firmware integrity, post-election auditability, and vulnerability assessment. Collectively, they provide the technical framework for evaluating whether Michigan's voting infrastructure satisfies the transparency, auditability, and independent verification principles underlying federal election administration.

Among the most comprehensive of these studies is Professor J. Alex Halderman's expert report in *Curling v. Raffensperger*, which examined Dominion's ImageCast X voting system and the EMS architecture used to prepare and distribute election-definition files. Because Michigan employs substantially similar Dominion EMS architecture, Professor Halderman's analysis provides an important technical reference point for evaluating comparable architectural issues within Michigan's election infrastructure. The technical findings themselves are discussed in §V.I.

B. Technological Developments Change Electronic Tabulator Landscape

In April 2026, Anthropic disclosed that its Claude Mythos Preview model had identified thousands of high- and critical-severity software vulnerabilities across major operating systems and web browsers, and it had demonstrated the ability to chain related vulnerabilities into a working exploit granting root-level system access. Cybersecurity researchers have observed that the same reasoning and coding capabilities enabling such models to discover vulnerabilities can also be used to exploit them, prompting Anthropic to launch Project Glasswing, a defensive initiative with partners including AWS, Apple, Google, and Microsoft. According to the IEEE, the initiative was designed to help identify and remediate vulnerabilities in critical software before they can be weaponized.[514]

MFEI infers that these accelerating AI-assisted vulnerability-discovery and exploit-development capabilities pose a heightened and rapidly developing risk to legacy election infrastructure, particularly electronic election systems nearing end-of-life that lack the software-verification and patching cadence needed to keep pace. See Count 15, §II, for MFEI's fuller assessment of the AI-driven shift in the offense-defense balance and its implications for Michigan's pending voting-system procurement.

C. Rule R 168.48: Record Destruction in Violation of Federal Law

Rule R 168.48, promulgated under Rule Set 2025-14 ST, directs election jurisdictions to delete electronic poll book data within seven days of each election's certification.[515] 52 U.S.C. § 20701 requires preservation of all records and papers relating to any application, registration, payment of poll tax, or other act requisite to voting in federal elections for twenty-two months following the election.

The apparent conflict is straightforward.

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[514] Rina Diane Caballar, Claude Mythos Preview Requires New Ways to Keep Code Secure: Multiple layers of verification and human oversight are a start, IEEE Spectrum, Apr. 27, 2026.

[515] PIME RS 2025-14 ST, Public Hearing Submission in Opposition, Sept. 17, 2025.

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The Department of Justice's July 2026 memorandum specifically identifies 52 U.S.C. § 20701 as imposing a mandatory duty upon election officials to retain and preserve election records for twenty-two months, and notes that such records must be available for inspection by the Attorney General upon request. The Department further states that failure to comply with these preservation requirements may carry criminal consequences under federal law.

This Count does not reach criminal conclusions but identifies an apparent conflict between Michigan's seven-day deletion rule, which went into effect with the force of law, and the federal preservation period that warrants independent review.

Electronic poll books are the primary record of voter check-in, ballot issuance, and voter identity verification at each polling place, and document election-day activities that may be relevant to post-election review. Deleting that data within seven days appears to violate the federal preservation mandate on its face. Notably, the Bureau of Elections has directed clerks to delete poll book data on this accelerated schedule since December 1, 2020.[516] Whether these records fall within the scope of § 20701 ultimately presents a legal question, but if they do, the state deletion requirement would be difficult to reconcile with the federal preservation mandate.

MCL 168.31(1)(a) authorizes the Secretary of State to promulgate rules necessary to administer the Michigan Election Law. That delegated rulemaking authority does not authorize administrative rules that conflict with controlling federal statutes. Accordingly, if electronic poll book records are subject to § 20701 or the NVRA's record-retention requirements, any inconsistent administrative rule would be subject to federal preemption under the Supremacy Clause.

Cross-reference: Count 2 (RS 2025-13); Count 4 (ERIC/voter roll data retention).

D. Michigan's Risk-Limiting Audit Framework Does Not Assure Election Accuracy

Michigan's post-election audit authority derives from MCL 168.31a, which provides that the Secretary of State "may audit election precincts" after each election, is a discretionary grant, not a mandate.[517] The statute further provides that audits are "not a recount and do not change any certified election results." Under Michigan's plain-meaning statutory construction rule established in *Luttrell v. Department of Corrections*, 421 Mich. 93 (1984),[518] this language must

[516] Jonathan Brater memo, Appendix G herein.

[517] MCL 168.31a (Michigan Election Law sec. 31a), as amended by 2023, Act 254 (eff. Feb. 13, 2024).

[518] *Luttrell v. Dep't of Corrections*, 421 Mich. 93, 1984.

be enforced as written, meaning Michigan's post-election audits legally cannot serve as binding verification mechanisms capable of correcting erroneous outcomes, regardless of what they find.

As operated in 2020 and 2024, Michigan's RLA framework targeted only a single statewide contest in November elections of even-numbered years. U.S. House races, Senate races in non-audit cycles, and state legislative races received no post-election statistical verification. Lindeman and Stark explain that the statistical assurances provided by a risk-limiting audit depend upon a trustworthy audit trail, reliable ballot accounting, and compliance procedures sufficient to establish that the audit trail accurately reflects voter intent. Those assumptions are fundamental to the statistical guarantees associated with a meaningful risk-limiting audit.[519]

Academic research by Philip B. Stark and Ran Xie concludes that currently available testing methodologies cannot reliably determine whether ballot-marking devices alter election outcomes. The authors explain that logic and accuracy (L&A) testing, parallel testing, and passive testing each have inherent limitations that prevent them from reliably detecting sophisticated outcome-altering attacks.

Because ballot-marking devices may distinguish between testing and live elections, and because neither L&A nor parallel testing can evaluate more than a small fraction of the possible voting transactions that could alter an election outcome, the authors conclude that "none of these methods can protect against outcome-altering problems." Their analysis further demonstrates that, even under optimistic assumptions, passive testing cannot reliably detect outcome-changing manipulation in jurisdictions of the size typical of most U.S. elections.[520]

These conclusions are consistent with Professor Halderman's proof-of-concept malware, which demonstrated how malicious software could be designed to evade routine pre-election testing by delaying activation until specified conditions were met. Under those circumstances, post-election forensic examinations employing methodologies comparable to those used by Pro V&V following the November 2020 election would not necessarily detect carefully engineered malware designed to alter election outcomes.

Audit timing compounded the coverage problem. Greenhalgh and Jefferson found, "In Michigan the post-election audits are conducted months after the election, and elections are certified based entirely on computerized totals before examining any paper ballots."[521] The Department of State

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[519] Mark Lindeman and Philip B. Stark, "A Gentle Introduction to Risk-Limiting Audits," *IEEE Security & Privacy* 10.5 (2012): 42–49.

[520] Philip B. Stark & Ran Xie, Testing Cannot Tell Whether Ballot-Marking Devices Alter Election Outcomes, arXiv:1908.08144v2 (July 30, 2020), https://arxiv.org/abs/1908.08144v2

[521] Susan Greenhalgh and David Jefferson, Ph.D., "Don't just trust, always verify — The status of post-election auditing in the presidential swing states," Free Speech For People, Aug. 2025, p. 3.

characterized the 2020 RLA as an "exercise" due to incomplete participation;[522] the 2024 RLA was not released until ten months post-election. The evidentiary record is developed in §V.G.

The Department of Justice's July 2026 memorandum does not prescribe any particular post-election audit methodology. Rather, it emphasizes the preservation of election records and maintenance of voting systems capable of meaningful review. Accordingly, the observations in this section address whether Michigan's audit framework provides sufficient transparency, auditability, and record preservation to facilitate such review, rather than whether federal law requires a particular audit methodology.

Michigan's own post-election audit worksheet confirms that ballot accounting and reconciliation are treated as audit checklist items, not automatic escalation triggers. The worksheet asks whether the number of ballots cast matches the number of voters, whether remarks were made if the site was out of balance, whether final reconciliation was "completed, balanced, and totals are accurate," and whether the number of ballots matches the number tabulated. It also instructs that discrepancies be noted. But the worksheet does not state that unresolved imbalance requires expansion of the statistical audit, exclusion from the risk-limit calculation, or escalation to a broader hand count. That omission is material because Stark-style RLA assurance depends on a trustworthy audit trail and clear escalation rules when evidence is insufficient.[523]

E. Compounding Limitations: The Absence of Independent Verification

These three failures compound. Michigan's Dominion voting infrastructure, whether optical scan tabulators or accessibility BMDs, connects to a EMS architecture containing documented, unrefuted vulnerabilities. Michigan's post-election audit structure would not have detected malware in most federal contests regardless of the ballot-marking method. The seven-day electronic poll book deletion requirement eliminated an important source of ballot-accounting information before Michigan's post-election audits were completed, reducing the ability to independently reconstruct portions of the ballot-reconciliation process if anomalies later emerged. Each normal mechanism for detecting and correcting errors (pre-election testing, post-election audits, and post-certification forensic review) independently failed. Together, they left no effective verification pathway.

Michigan's election-infrastructure architecture, characterized by proprietary vendor dependency, centralized EMS control, and documented supply-chain and firmware-integrity vulnerabilities, appears to fall short of HAVA's minimum transparency and auditability requirements for voting systems used in federal elections. The electronic recount methodology authorized by MCL

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[522] Michigan Department of State, "Audits of the November 3, 2020 General Election," Apr. 21, 2021.

[523] Michigan Bureau of Elections, Post-Election Audit Manual (Mich. Dep't of State, Nov. 23, 2024); Michigan Bureau of Elections, Post-Election Audit Early Voting Printable Worksheet (Rev. 02/26).

168.871(4)(c) further fails to provide independent verification of election accuracy where the integrity of election-day software cannot be established through publicly reproducible procedures.[524] Each of these theories is developed in the Findings below.

§III. Factual and Procedural Background

A. Michigan's 2020 Voting System Architecture

During the 2020 General Election, Michigan administered elections through a distributed but centrally regulated infrastructure composed of optical-scan tabulators, EMS servers, electronic poll books, adjudication workstations, removable-media transfer systems, firmware-controlled scanners, and vendor-supported software platforms certified by the Michigan Department of State (MDOS).

Because much of this infrastructure remains in operation or has evolved from the same regulatory framework, the issues discussed below remain relevant to current federal oversight.

The state's election infrastructure depended heavily on private vendors through procurement agreements, certification frameworks, software licensing, maintenance contracts, firmware updates, and technical-support relationships. Much of this operational framework, including software governance, certification testing, and vendor support, was not fully transparent to the Legislature or the public.

The integrity of Michigan's voting-system architecture depended upon six foundational assumptions:

1. Certified firmware remained unchanged after certification
2. Election-definition files were securely programmed and transferred
3. Removable media remained secure throughout transport and upload
4. EMS software environments remained isolated from unauthorized access
5. Audit logs and adjudication records were preserved accurately
6. Post-election audits and recounts could independently reproduce tabulated outcomes

The sections that follow evaluate each of these assumptions against the applicable technical, legal, and evidentiary record.

Independent academic analyses of election-night reporting have distinguished between the timing of publicly reported vote totals and the official canvass. For example, researchers at the

[524] MCL 168.871 (Michigan Election Law sec. 871), as last amended by 2024, Act 74 (eff. Apr. 2, 2025; originating as Senate Bill 603 of 2023).

MIT Election Data and Science Lab concluded that changing vote margins during post-election counting largely reflected reporting order, absentee-ballot processing schedules, and jurisdictional reporting practices.

At the same time, the study relied on media reporting feeds rather than official election records. The study was not designed to evaluate statutory compliance, ballot reconciliation, chain of custody, voter eligibility, election-record preservation, or the independent verifiability of election administration. Accordingly, analyses of election-night reporting should not be construed as resolving questions concerning election administration or legal compliance.[525]

Three primary vendors supplied Michigan's election infrastructure: Dominion Voting Systems, Election Systems and Software (ES&S), and Hart InterCivic. Greenhalgh and Jefferson found that Dominion or ES&S supplied 69 percent of Michigan's electronic tabulating machines.[526]

Michigan's primary voting method is hand-marked paper ballots fed into Dominion optical scan tabulators, the ImageCast Precinct (ICP) for precinct-level counting and the ImageCast Central (ICC) for central-count absentee scanning. This is the system Professor Halderman explicitly identifies as more secure than Georgia's universal ballot-marking-device approach. However, both the ICP and ICC share the same centralized Dominion Election Management System (EMS) architecture that the professor documents as the most scalable attack vector. Michigan may also deploy Dominion ImageCast X (ICX) Ballot Marking Devices for accessibility (ADA) voting, but these are not the primary in-person voting method. MFEI DEEP Team documentation of Michigan's 2020 Dominion equipment deployment, including specific models, counties, and unit counts, is available upon request.

Professor Halderman's July 2021 expert report in *Curling v. Raffensperger* (N.D. Ga., No. 1:17-cv-02989-AT, July 1, 2021)[527] documented multiple security vulnerabilities in Dominion's ImageCast X voting system, including an EMS architecture vulnerability permitting malicious software to propagate to connected voting devices through election-definition files. The federal court dismissed *Curling* on Article III standing grounds without reaching the merits of these findings; CISA, the EAC, and MITRE each independently reviewed the findings and did not

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[525] John Curiel, Charles Stewart III, and Jack Williams, The Blue Shift in the 2020 Election (Cambridge, MA: MIT Election Data + Science Lab, 2021), Executive Summary, 1–4; Introduction, 6–7; Describing the Data, 11–17. The report analyzes election-night reporting patterns using National Election Pool (Edison Research) data as reported by the *New York Times*. (Cited here solely for its analysis of election-night reporting dynamics and the distinction between public reporting feeds and official election administration, not as an evaluation of statutory compliance or election integrity.) The authors expressly state that they did not independently compare those reporting feeds to official state election records and did not evaluate statutory compliance, election administration, reconciliation, chain of custody, or election-record preservation.

[526] Greenhalgh and Jefferson, "Don't just trust, always verify — The status of post-election auditing in the presidential swing states," Aug. 2025, p. 14.

[527] *Curling v. Raffensperger*, (N.D. Ga., No. 1:17-cv-02989-AT, July 1, 2021)

dispute their technical validity. The significance of these findings for Michigan turns not on Georgia's voting procedures, but on whether Michigan deployed the same or similar hardware, software, firmware, EMS architecture, or election-definition distribution processes during the 2020 election cycle. The procedural history is discussed in §III.D; the technical findings and their application to Michigan are discussed in §V.I and §V.K.

B. Michigan's Optical Scan Tabulator Infrastructure

Michigan's primary voting method is hand-marked paper ballots. Voters mark paper ballots directly and feed them into optical scan tabulators at the polling place. Michigan's Dominion equipment in this role is primarily the ImageCast Precinct (ICP) (an optical scanner that scans marked ballots at the precinct level) and the ImageCast Central (ICC) for central-count scanning of absentee ballots. This approach is exactly the system Professor Halderman identifies as more secure than Georgia's approach: "In contrast, in most of the United States, voters mark paper ballots directly by hand, and BMDs are reserved for those who need or request them."[528]

Michigan may additionally deploy Dominion ImageCast X (ICX) Ballot Marking Devices for accessibility (ADA) voting. Professor Halderman identifies Michigan as one of sixteen states deploying ICX units in 2020. However, "the vast majority of jurisdictions provide the ICX BMD to voters on request to assist with accessibility", in contrast to Georgia's unique statewide universal deployment.[529] The ICX-specific vulnerabilities Professor Halderman documents in Sections 5–10 of his report therefore apply to the accessibility-voting subset of Michigan ballots, not to the primary hand-marked paper ballot population.

Professor Halderman's EMS election-definition attack is not limited to the ImageCast X ballot-marking device. According to his analysis, the same centralized Election Management System distributes election-definition files to Dominion voting devices throughout a jurisdiction. Professor Halderman's Section 9 Zip Slip vulnerability allows an attacker who infiltrates a county EMS to push malware to every device, ICX or ICP, that receives election definitions from that EMS. This attack requires no physical access to individual machines. The full analysis is in §II.A and §V.I.[530]

ICP scanner-specific vulnerabilities are documented in Professor Halderman's Section 11. While the professor's primary analysis focused on the ICX, he identified significant security problems in the ImageCast Precinct scanner. These are developed in §V.I. below.

C. Rule R 168.48: The Seven-Day Electronic Poll Book Deletion Mandate

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[528] J. Alex Halderman, Ph.D., "Security Analysis of Georgia's ImageCast X Ballot Marking Devices," July 1, 2021, p. 4.

[529] ibid, p. 9.

[530] Ibid, p. 50.

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Rule R 168.48,[531] promulgated under Rule Set 2025-14 ST (R 168.41-168.51, LARA Trans. No. 1587), directs election jurisdictions to delete electronic poll book data within seven days following each election. Electronic poll books record voter check-in, ballot style activation, and the critical voter-to-ballot issuance chain that links each voter to the ballot they received.

The seven-day deletion practice predates Rule Set 2025-14 ST. On December 1, 2020, immediately following certification of the November 2020 General Election, Bureau of Elections Director Jonathan Brater issued a statewide memorandum instructing county clerks that "EPB software and associated files must be deleted from all devices by the seventh calendar day following the final canvass and certification," unless a recount petition, post-election audit, or specific directive of the Secretary of State required otherwise. (Appendix G herein)

The memorandum therefore demonstrates that the seven-day deletion policy originated as statewide Bureau guidance in 2020, five years before being promulgated through formal rulemaking as Rule R 168.48 in Rule Set 2025-14.[532]

Then, as now, this deletion mandate appears to have had no basis in statute. In addition, it appears to conflict with 52 U.S.C. sec. 20701's 22-month federal preservation requirement.[533] It also conflicts with NVRA sec. 8 (52 U.S.C. sec. 20507(i))'s two-year retention requirement[534] for voter registration records used in connection with elections.

The connection to *People v. Stephanie Scott*,[535] Hillsdale Circuit Court No. 25-49-6230 FH, is direct: Scott's conduct arose from her attempt to preserve election records she believed the deletion mandate was unlawfully destroying. On April 30, 2026, the Hillsdale Circuit Court dismissed all four felony charges against Scott, finding MCL 168.509gg(1) imposed no confidentiality requirement on the records at issue. Cross-reference: Count 2.

Election Day	Michigan DOS Rule R 168.48 (7 days)	52 U.S.C. § 20701 Federal Preservation Floor (660 days / 22 months)
▶	✘ DELETE Day 7	→ PRESERVE through Day 660 →

[531] Rule Set 2025-13 final Rule Language.

[532] Rule Set 2025-14.

[533] 52 USC 20701: Retention and preservation of records and papers by officers of elections; deposit with custodian; penalty for violation.

[534] 52 USC 20507: Requirements with respect to administration of voter registration.

[535] Jacob Bruns, Hillsdale County Judge Dismisses All Charges Against Former Township Clerk Stephanie Scott, The Hillsdalian, May 1, 2026. https://hillsdalian.substack.com/p/hillsdale-county-judge-dismisses

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Day 0	State mandate: delete EPB data	Federal mandate: preserve through Day 660
	Michigan Rule R 168.48 Promulgated under Rule Set 2025-14 ST Directs deletion of all EPB data within 7 days of each election, destroying voter check-in records, ballot issuance data, and the voter-to-ballot chain before any post-election RLA can be conducted or published.	**52 U.S.C. § 20701 (Federal Election Records Act)** Requires preservation of all records relating to acts requisite to voting in federal elections for 22 months (660 days) from the date of the election. Electronic poll books are records "relating to acts requisite to voting" under 52 U.S.C. § 20701 and 52 U.S.C. § 20507(i) (NVRA § 8).
Key finding: Michigan's state deletion mandate and the federal preservation floor appear to be in direct conflict. EPB records destroyed on Day 7 cannot be reviewed for the 653 days the federal statute requires their preservation. Any RLA conducted after Day 7, including Michigan's 2020 RLA (published April 2021) and 2024 RLA (published October 2025), was conducted against an incomplete audit trail.		

Figure 75: ***Electronic Poll Book Deletion Timeline vs. Federal Preservation Requirement***

Note: Bureau of Elections Director Jonathan Brater first communicated the seven-day deletion requirement through the issuance on December 1, 2020, of statewide memorandum instructing county clerks that "EPB software and associated files must be deleted from all devices by the seventh calendar day following the final canvass and certification." About five years later the Michigan Department of state promulgated Rule R 168.48 in Rule Set 2025-14 ST, formalizing substantially the same deletion requirement through administrative rulemaking. See Brater Dec. 1, 2020 memo in Appendix G.

Rule R 168.48, promulgated under Rule Set 2025-14 ST, later codified this same seven-day deletion mandate with the force of law. See Count 14, §IV.D (The Avallone EPB Deletion Directive and Records Destruction)

D. *Curling v. Raffensperger*: Procedural History and Evidentiary significance

Curling v. Raffensperger[536] (N.D. Ga., No. 1:17-cv-02989-AT) was filed August 8, 2017 by voters and the Coalition for Good Governance challenging the constitutionality of Georgia's electronic voting systems under the First and Fourteenth Amendments. The plaintiffs argued that universal-use ballot marking devices (BMDs) lacking a secure, voter-verifiable paper audit trail

[536] *Curling v. Raffensperger*, No. 1:17-cv-02989-AT (N.D. Ga., filed Aug. 8, 2017; dismissed on Article III standing Apr. 2025).

exposed elections to cybersecurity risks that violated constitutional guarantees of accurate vote tabulation.

Professor Halderman filed his expert report under seal on July 1, 2021; the court unsealed it nearly two years later on June 14, 2023.[537] After a seventeen-day bench trial in January 2024, Judge Amy Totenberg dismissed the case in April 2025. The court ruled that the plaintiffs lacked Article III standing because they failed to demonstrate a concrete, legally protected injury, characterizing their objections as policy disagreements rather than constitutional violations. The court did not adjudicate the merits of Professor Halderman's security findings.

Evidentiary significance for Michigan: *Curling v. Raffensperger* was dismissed on standing, not on the merits. Professor Halderman's sworn findings were never rebutted on the merits in that proceeding or any subsequent judicial forum. The constitutional question in *Curling* concerned Georgia's *universal* ICX deployment, a risk profile more severe than Michigan's, where ICX units serve accessibility voters only. The specific findings applicable to Michigan's voting infrastructure are analyzed in §V.I.

The Coffee County, Georgia breach arising from this litigation is discussed at §V.J.

E. MFEI VVSG 2.0 Gap Analysis

MFEI conducted a Voluntary Voting System Guidelines (VVSG) 2.0 Gap Analysis identifying nine principal categories of operational divergence between Michigan's election infrastructure and modern federal cybersecurity best-practice standards.[538] VVSG 2.0 substantially expanded national cybersecurity expectations governing voting-system operations, including requirements related to software independence, cryptographic verification, access control, event logging, privilege separation, removable-media security, supply-chain integrity, audit-event traceability, and independent verification capacity. MFEI's analysis identified several areas in which Michigan's operational environment appeared inconsistent with VVSG 2.0 principles governing software independence, auditability, and independent verification.

The MFEI VVSG 2.0 Gap Analysis is available upon request; formal citation information will be provided by MFEI upon request.

Michigan's pending voting-system procurement, RFP 260000000114 and its superseding RFP214, is addressed in full in Count 15, including the AI-era cybersecurity principles it must satisfy and MFEI's assessment of the visible solicitation against those principles.

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[537] J. Alex Halderman, Ph.D., "Security Analysis of Georgia's ImageCast X Ballot Marking Devices," July 1, 2021. Also, Patrice Johnson, "Halderman report comes to light. Exposes nine vulnerabilities of Dominion electronic vote tabulators," MFEI, June 16, 2023, https://www.mifairelections.org/post/halderman-report-comes-to-light-exposes-nine-vulnerabilities-of-dominion-electronic-vote-tabulators

[538] MFEI RFP 114 Study is available in MFEI library under 2026 MFEI Original Reports.

§IV. Legal Framework

The Department of Justice's July 2026 memorandum identifies Title III record preservation as one of its current federal enforcement priorities and specifically reminds state election officials that preserved records must be made available to the Attorney General for inspection upon demand. This guidance underscores the continuing federal interest in preservation of election materials necessary for later review.

A. Help America Vote Act ("HAVA")

The Help America Vote Act of 2002[539] establishes minimum federal standards governing voting systems used in federal elections. 52 U.S.C. sec. 21081 requires that voting systems used in federal elections produce a permanent paper record, provide voters the opportunity to correct errors, be accessible to voters with disabilities, and produce a record that is manually auditable. HAVA established the United States Election Assistance Commission ("EAC") and authorized development of national voting-system standards and testing protocols.

The July 2026 DOJ memorandum likewise emphasizes HAVA's requirements concerning statewide voter registration systems, voting-system functionality, and the production of auditable paper records. These requirements provide the present federal enforcement context for the technical issues examined throughout this Count.

B. Federal Records Preservation – 52 U.S.C. sec. 20701

52 U.S.C. sec. 20701 requires every officer of election to retain and preserve all records and papers relating to any application, registration, payment of poll tax, or other act requisite to voting in any election for twenty-two months from the date of the election. Electronic poll books, EMS audit trails, adjudication records, ballot images, firmware verification records, removable-media logs, and tabulation-event records constitute records relating to acts requisite to voting within the meaning of this statute. Rule R 168.48's seven-day deletion mandate applies to records subject to this federal preservation requirement.

C. NVRA Retention – 52 U.S.C. sec. 20507(i)

52 U.S.C. sec. 20507(i) requires retention of records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of voter

[539] Help America Vote Act of 2002 (HAVA), Pub. L. 107-252, 116 Stat. 1666 (2002).

registration rolls for a minimum of two years.[540] Electronic poll book records, which record the activation of voter registrations for ballot issuance, fall within this retention requirement.

D. Constitutional Framework

The First and Fourteenth Amendments guarantee voters the right to have their votes accurately counted. *Curling v. Raffensperger* presented the constitutional question of whether universal deployment of BMDs with documented security vulnerabilities violates these guarantees. The court dismissed on standing without reaching the merits. The constitutional question remains unresolved. Michigan's deployment of the same ICX equipment raises the same question in the Michigan context.

E. Voluntary Voting System Guidelines (VVSG) 2.0

VVSG 2.0[541] substantially expanded national cybersecurity requirements for voting systems. Key VVSG 2.0 principles directly implicated by the vulnerabilities in this Count include: software independence (Principle 14 -- software errors must not cause undetectable result changes); access control (Principle 12); physical security (Principle 11); and auditability (Principle 15). Greenhalgh and Jefferson found that all federally certified election equipment currently in use has been tested to guidelines adopted twenty years ago, in 2005. They underscored that formal EAC certification status does not establish that operational procedures satisfy current VVSG 2.0 cybersecurity principles.

F. Election Assistance Commission Certification Framework

The EAC[542] administers the federal voting-system testing and certification program through accredited Voting System Test Laboratories ("VSTLs").[543] Certification is intended to ensure that voting systems satisfy applicable federal standards concerning security, reliability, accessibility, auditability, and software integrity. Michigan's statewide voting infrastructure depended heavily upon systems certified through this federal framework.

G. Michigan Certification Authority -- MCL 168.31a and MCL 168.871

Michigan law delegates substantial voting-system certification and operational authority to the Secretary of State and Bureau of Elections through a combination of statutory authority, administrative guidance, procurement agreements, and federally certified testing frameworks.

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[540] National Voter Registration Act of 1993 (NVRA), Pub. L. 103-31, 107 Stat. 77 (1993).

[541] Elections Assistance Commission, EAC Voluntary Voting System Guidelines VVSG 2.0, Feb. 10, 2021.

[542] U.S. Election Assistance Commission (EAC), federal agency responsible for voting-system certification and VVSG standards.

[543] EAC Voting System Testing and Certification Program.

MCL 168.31a[544] grants the Secretary of State discretionary authority to audit election precincts and prescribe all audit procedures, but explicitly provides, "An audit conducted under this section is not a recount and does not change any certified election results.[545]

MCL 168.871(4)(c)[546], as last amended by 2024, Act 74, authorizes electronic recounts using the same software application used on election day. The technical infrastructure examined in this Count also forms part of the regulatory environment examined throughout this report, including rule sets governing electronic poll books, voter-registration databases, election records, canvassing procedures, and election-administration responsibilities adopted, revised, or proposed between 2020 and 2026.

§V. Evidentiary Record

A. Michigan's Voting System Landscape: Vendors, Contracts, and End-of-Life Equipment

Michigan's election infrastructure relied extensively upon proprietary vendor-managed systems deployed through statewide certification and procurement arrangements. Three primary vendors: Dominion Voting Systems, Election Systems & Software (ES&S), and Hart InterCivic, supplied Michigan's election infrastructure through distinct certification histories but shared common architectural dependencies on centralized Election Management Systems (EMS), proprietary software, and vendor-controlled support environments.

The scale of this dependency is substantial. Greenhalgh and Jefferson found that Dominion or ES&S equipment counted approximately 69 percent of Michigan voters' ballots, making the security, integrity, and ongoing support of those systems matters of statewide significance.

Partisan actors compromised both vendors' election software in 2021 and 2022 in what Greenhalgh and Jefferson describe as likely the largest known election cybersecurity breach in the United States.[547]

The authors reported that they identified no evidence of a completed federal investigation into the unauthorized acquisition and distribution of the voting-system software, nor any publicly documented verification that affected systems were independently examined for compromise or formally remediated. Michigan election officials have published no findings confirming that the

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[544] MCL 168.31a. Election audit; procedures.

[545] MCL 168.31a(2). Election audit; procedures.

[546] MCL 168.871(4)(c) Recount; eligibility requirements; procedures for conduct of recount; use of electronic voting system; testing software application; eligible documents.

[547] Greenhalgh and Jefferson, "Don't just trust, always verify — The status of post-election auditing in the presidential swing states," p. 13.

state's Dominion and ES&S equipment was verified free of compromise following the breach. Cross-reference: Count 2 (administrative response to known security threats).

Although the software compromises occurred after the November 2020 General Election, they confirm that the vulnerability class MFEI identified was actively exploited, and that the same compromised software appeared to continue operating through 2022 and 2024 without federal investigation or documented remediation.

The sustainability of Michigan's proprietary vendor infrastructure presents an additional consideration. In a May 2023 interview with *Time* magazine, Dominion CEO and founder John Poulos stated: "Eventually, I suspect all of our customers will go a different direction. ....It's just a matter of time,"[548] acknowledging that the company anticipated its existing voting-system customers would eventually transition to other platforms, raising concerns regarding the ongoing supportability of firmware updates, security patches, maintenance contracts, and technical support for deployed Michigan equipment.

MFEI and PIME documented in June 2023 that the election-technology vendor landscape has historically exhibited corporate continuity through mergers, acquisitions, and rebranding. Diebold Election Systems exited the market and its operations and equipment continued under successor organizations.

MFEI and PIME warned that similar transitions by current vendors could transfer equipment custody and operational control without corresponding public accountability or independent verification of software provenance.[549]

Key concerns that MFEI identified include:

- Proprietary software environments inaccessible to independent public review
- Aging tabulation infrastructure nearing or exceeding intended support lifecycles
- Inconsistent local maintenance procedures
- Centralized firmware deployment dependency
- Fragmented county-level chain-of-custody procedures
- Vendor-controlled technical support functions
- Uneven cybersecurity maturity across jurisdictions

Michigan's pending voting-system procurement is addressed in full in Count 15 (RFP 260000000114/RFP214), including the DEEP Team's architecture review of centralized EMS

[548] John Poulos, "Dominion CEO: Fox News Settlement Won't Save Company," *Time*, May 18, 2023.

[549] Michigan Fair Elections Institute and Pure Integrity Michigan Elections, "Patterns of Death, Rebirth, and Deception: Unveiling the Electronic Voting Machine Controversy," June 20, 2023.

dependency, removable-media reliance, and firmware transparency as measured against the three AI-era software-independence, auditability, and transparency principles set out there.

C. VVSG 2.0 Gap Analysis: Nine Critical Categories

MFEI's VVSG 2.0 analysis identified nine principal categories of concern in Michigan's operational election environment: 1) EMS access-control vulnerabilities, 2) Removable-media chain-of-custody weaknesses, 3) Insufficient independent firmware verification, 4) Inadequate public audit transparency, 5) Centralized software dependency, 6) Inconsistent logging and event retention, 7) Third-party programming exposure, 8) Limited software-independence safeguards, and 9) Insufficient public reproducibility of certification validation.

The convergence between MFEI's nine VVSG 2.0 gap categories and Professor Halderman's documented vulnerability categories is noteworthy. CISA Advisory ICSA-22-154-01[550] identified nine specific CVE-designated vulnerabilities affecting election-definition file integrity, EMS access pathways, removable-media chain of custody, application signature verification, audit log self-attestation, and operating-system-level privilege escalation -- categories that map directly to the EMS access-control, removable-media, firmware verification, and audit transparency gaps.

The EAC concurred with the CISA advisory findings. Three independent assessments: Professor Halderman, EAC, and CISA, reached convergent findings identifying systemic deficiencies in the same equipment ecosystem, which counts two thirds of Michigan's ballots.

D. EMS Election Definition Security and Third-Party Programmers

Election-definition files determine ballot structure, precinct mapping, tabulation logic, candidate positioning, and reporting architecture. MFEI identified concerns regarding centralized EMS programming authority, third-party contractor access, removable-media transfer procedures, inadequate public traceability of election-definition revisions, and vendor-controlled programming environments inaccessible to meaningful public inspection.

CISA Advisory ICSA-22-154-01 independently corroborated this concern, identifying that Dominion ICX systems are susceptible to arbitrary code execution via specially crafted election definition files distributed from the EMS (CVE-2022-1743), directly confirming the EMS access-control and election-definition integrity vulnerabilities identified in MFEI's analysis.

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[550] ICS Advisory, "Vulnerabilities Affecting Dominion Voting Systems ImageCast X," ICSA-22-154-01, Cybersecurity and Infrastructure Security Agency (CISA), Last revised: June 3, 2022, https://www.cisa.gov/news-events/ics-advisories/icsa-22-154-01

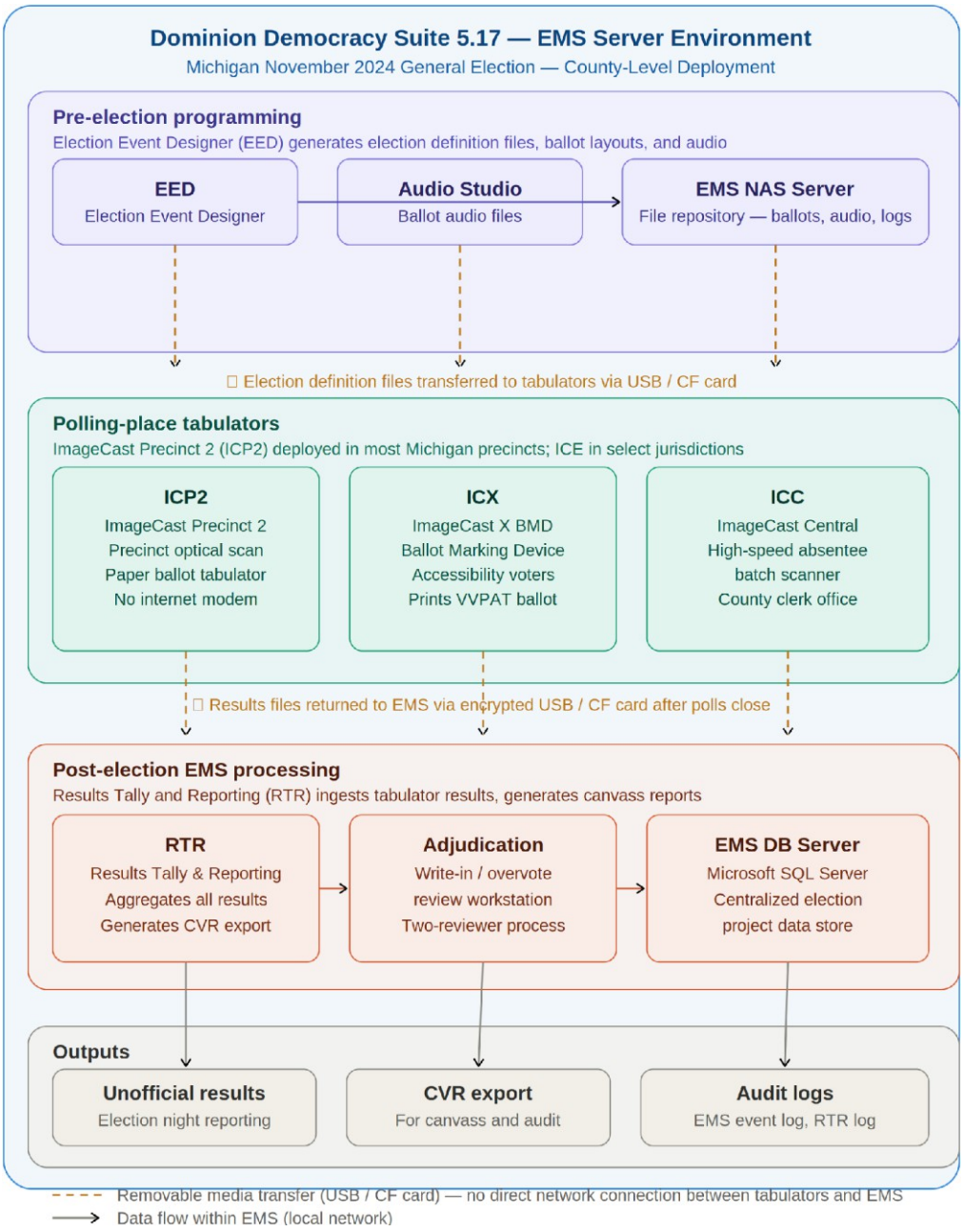


Figure 76: ***EMS-1. Dominion Democracy Suite 5.17 – EMS Server Environment, Michigan November 2024 General Election (County-Level Deployment).***

Pre-election programming (EED → Audio Studio → EMS NAS Server) distributes election definition files to polling-place tabulators (ICP2 optical scanners, ICX BMDs for accessibility, ICC central-count absentee scanners) via removable USB/CF media. Post-election results return via the same removable-media pathway to EMS processing (RTR → Adjudication → EMS DB Server), generating CVR exports and audit logs. The removable-media transfer pathway is the attack vector Professor Halderman's EMS election-definition file analysis (§V.I.) identifies as the most scalable route for malware distribution to all connected Dominion equipment. Source: MFEI DEEP Team, Dominion Democracy Suite 5.17 Architecture Documentation (Michigan 2024 deployment). Cross-reference: §II.A; §V.D.; §V.I.

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E. Firmware Integrity, Hash Verification, and Electronic Chain of Custody

The integrity of election systems depends substantially upon assurance that certified firmware remains unchanged throughout deployment and operation. MFEI identified concerns regarding:

- Inconsistent hash-verification practices
- Insufficient public documentation of firmware validation procedures
- Removable-media transfer vulnerabilities
- Incomplete audit-log retention
- Limited independent verification capacity at the county level
- Excessive reliance upon administrative trust relationships rather than independently reproducible verification

Greenhalgh and Jefferson identified Michigan by name as one of the states that use wireless cellular modems in their polling place tabulators to transmit unofficial election results from each precinct to the county election management server (EMS). Greenhalgh and Jefferson noted:

"Perhaps the most commonly repeated myth about election security is the false claim that voting machines cannot be manipulated because they are never connected to the internet. This is misleading or outright false on several fronts. First, some states like Florida, Michigan, Minnesota, and Wisconsin, use wireless cellular modems in their polling place tabulators to transmit unofficial election results from each precinct to the county election management server that aggregates vote totals. The precinct tabulators are thus online at least briefly on election night, and the central server they transmit to must be online all evening on election night. Researchers have in practice found some of these servers connected to the internet for days, weeks, and even months." [551]

This connectivity directly undermines the EMS isolation assumption in §III that EMS software environments remained isolated from unauthorized access and compounds the firmware and chain-of-custody integrity concerns documented in this subsection. A National Institute of Standards and Technology (NIST) election security researcher described the risk as creating potential for a loss of confidentiality and integrity of that voting system, enabling attackers to change the data or change the behavior of the voting system itself. "If the EMS is exposed the Internet, it can be targeted and infected with malware intended to corrupt vote data. This

[551] Greenhalgh and Jefferson, "*Don't just trust, always verify — The status of post-election auditing in the presidential swing states*," p. 14.

malware can then be transferred the memory cards configured by the EMS for use in the individual voting machines and optical scanners."[552]

This vulnerability is not a new or theoretical concern. In January 2020, NBC News reported that a security researcher's team had identified nearly three dozen U.S. voting systems reachable via the public internet, and that Election Systems & Software, Dominion Voting Systems, and Hart InterCivic had each acknowledged installing cellular modems in some tabulators and scanners to relay unofficial results more quickly. Those modems connect to cell networks that are themselves connected to the internet. Hart InterCivic told NBC News it then had approximately 1,600 modem-equipped tabulators in use across 11 Michigan counties. The persistence of network-capable tabulation hardware in Michigan's election infrastructure from at least 2020 through the current procurement cycle indicates that Principle 1's no-networking requirement (Count 15, §III) addresses a documented and long-standing condition rather than a speculative one.

[552] National Institute of Standards and Technology (NIST), "Voting systems connected to the Internet will be exposed to online attacks," Created August 28, 2020, Updated April 23, 2025. https://www.nist.gov/itl/voting/security-recommendations

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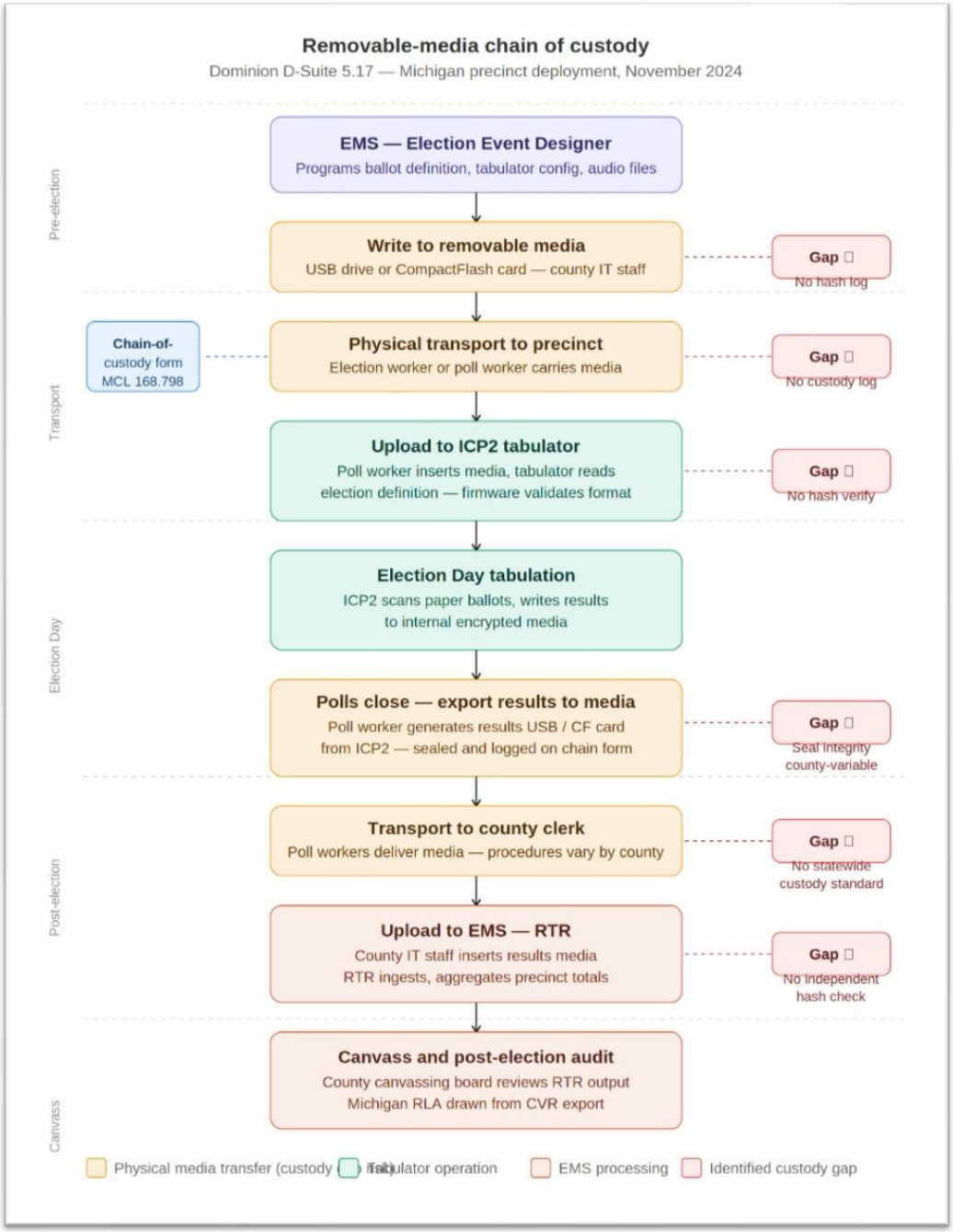


Figure 77: ***Removable-Media Chain of Custody -- Dominion D-Suite 5.17, Michigan Precinct Deployment, November 2024****.*

The diagram traces election definition files and results data through seven custody stages: pre-election EMS programming → write to removable media → physical transport → ICP2 upload → election day tabulation → post-election transport → EMS RTR upload → canvass. Six identified custody gaps are flagged: no hash log at write; no custody log during transport; no hash verification at tabulator upload; seal integrity county-variable at poll close; no statewide custody standard for post-election transport; no independent hash check at EMS upload. These gaps correspond directly to the firmware integrity and chain-of-custody vulnerabilities identified in §V.E and MFEI's VVSG

2.0 Gap Analysis categories 2 (removable-media chain-of-custody weaknesses) and 3 (insufficient independent firmware verification).

Source: MFEI DEEP Team, Dominion D-Suite 5.17 Chain-of-Custody Analysis (Michigan 2024 deployment). Cross-reference: §V.D; §V.E; §V.I; MFEI VVSG 2.0 Gap Analysis, Categories 2–3.

F. Foreign Components, Offshore Coding, and Supply-Chain Risks

MFEI additionally identified concerns regarding offshore software development dependency, foreign-manufactured hardware components, proprietary third-party code integration, opaque software supply chains, and limited public visibility into upstream vendor-development environments.

Greenhalgh and Jefferson document that "[p]ossessing copies of voting system software enables potential attackers to create their own working replicas of the voting systems, test them, probe them, instrument them, and develop malicious exploit code to attack them stealthily.[553]

The threat directly implicates supply-chain provenance for jurisdictions using Dominion and ES&S equipment counting 69 percent of Michigan ballots.[554] Michigan's election infrastructure operated within a globalized technology supply chain lacking sufficiently transparent public verification mechanisms for software provenance and component integrity. MFEI's Gap Analysis found Michigan's practices to be inconsistent with VVSG 2.0's supply-chain integrity standards.

G. Risk-Limiting Audit Failures and the Structural Limits of Michigan's Post-Election Audit Framework

Michigan's post-election audit framework relies upon a risk-limiting audit ("RLA") methodology that the Bureau of Elections has publicly characterized as providing statistical assurance of election accuracy. MFEI Chair Patrice Johnson has stated: "These risk-limiting audits are flawed and give voters false assurance."[555] Michigan's post-election audit authority derives from MCL 168.31a, which provides that the Secretary of State "may audit election precincts" after each election, a discretionary grant, not a mandate.[556]

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[553] Greenhalgh and Jefferson, p. 14.

[554] Greenhalgh and Jefferson, p. 14.

[555] Kristine Christlieb, "Benson's Flawed 2024 Election Audit," Michigan Fair Elections Institute, Oct. 15, 2025.

[556] MCL 168.31a (Michigan Election Law sec. 31a), as amended by 2023, Act 254 (eff. Feb. 13, 2024).

Critically, MCL 168.31a(2) explicitly states that an audit conducted under this section "is not a recount and does not change any certified election results."[557]

Under Michigan's plain-meaning statutory construction rule established in *Luttrell v. Department of Corrections*, 421 Mich. 93 (1984),[558] this language must be enforced as written, meaning Michigan's post-election audits legally cannot serve as binding verification mechanisms capable of correcting erroneous outcomes, regardless of what they find.

1. What a Meaningful Risk-Limiting Audit Requires

MCL 168.31a grants the Secretary of State statutory authority to audit election precincts; the question addressed in this subsection is not whether the Legislature authorized post-election audits, but whether the audits Michigan actually conducts satisfy the technical and evidentiary prerequisites for a meaningful risk-limiting audit. Modern risk-limiting audits (RLAs) are grounded in the work of Mark Lindeman and Philip B. Stark (2012), who describe an RLA as a statistically rigorous method for confirming reported election outcomes while limiting the probability that an incorrect outcome will escape correction. A meaningful RLA depends upon an auditable, voter-verifiable paper trail, reliable ballot accounting through an accurate ballot manifest, random ballot selection, and statistically valid sampling procedures conducted at a predetermined risk limit. Lindeman and Stark further explain that these assumptions are fundamental. They assume a compliance audit demonstrating that the audit trail accurately reflects voter intent; otherwise, even a full hand count may not reveal the correct election outcome, and the statistical assurances associated with a risk-limiting audit cannot be achieved.[559]

Appel, DeMillo, and Stark likewise explain that RLAs assume a trustworthy paper trail and caution that "applying an RLA procedure to an untrustworthy paper trail cannot limit the risk that a wrong reported outcome goes uncorrected."[560] They further explain that RLAs assume a full hand tally of the paper trail would reveal the correct electoral outcome and that separate compliance audits are required to establish whether the paper trail itself is trustworthy.

2. Michigan's Risk-Limiting Audit Framework

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[557] MCL 168.31a(2), "An audit conducted under this section is not a recount and does not change any certified election results."

[558] *Luttrell v. Department of Corrections*.

[559] Mark Lindeman, Philip B. Stark, and Vincent S. Yates, *BRAVO: Ballot-polling Risk-limiting Audits to Verify Outcomes*, University of California, Berkeley, Aug. 6-7, 2012. https://www.usenix.org/conference/evtwote12/workshop-program/presentation/lindeman

[560] A.W. Appel, R.A. DeMillo, and P.B. Stark, Ballot-Marking Devices (BMDs) Cannot Assure the Will of the Voters, Election Law Journal 19(3): 432--450 (2020) (orig. preprint Apr. 21, 2019). https://www.stat.berkeley.edu/~stark/Preprints/appelEtal20.pdf

Michigan law does not require risk-limiting audits. The National Conference of State Legislatures classifies Michigan as an "Optional RLA" state because it has no statutory requirement to conduct risk-limiting audits following elections.[561] Unlike Georgia, which enacted a mandatory RLA statute, Ga. Code Ann. § 21-2-498,[562] requiring a hand audit of one statewide contest following each general election, Michigan leaves decisions regarding whether to conduct an audit, which contests to audit, audit methodology, and publication of results largely to the discretion of the Secretary of State. Moreover, MCL 168.31a(2) expressly provides that "[a]n audit conducted under this section is not a recount and does not change any certified election results."

Several characteristics of Michigan's current audit framework bear directly on the assumptions underlying meaningful risk-limiting audits.

Category	**Michigan**	**Georgia**
Statutory Mandate	✗ No statutory RLA mandate. MCL 168.31a grants discretionary authority only. NCSL classifies Michigan as "Optional RLA" — audits at SOS discretion.	✓ Ga. Code Ann. § 21-2-498 mandates a full hand audit of one statewide contest after each general election. Identified by MITRE as primary compensating control making Professor Halderman's documented attacks operationally infeasible.
Authoritative Paper Trail	✓ Paper ballots are the authoritative record. ICP optical scanners count hand-marked ballots directly. Michigan DOES have this control. QR-code-specific BMD manipulation is not the primary threat vector for ICP equipment.	✓ Paper ballots authoritative. BMD QR code manipulation detectable by comparing paper text to QR code. Second MITRE compensating control. Both Georgia and Michigan have this.

[561] National Conference of State Legislatures, Risk-Limiting Audits (classifies Michigan as "Optional RLA" — no statutory mandate).

[562] Ga. Code Ann. § 21-2-498.

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Category	Michigan	Georgia
EPB Retention / Audit Trail Integrity	✗ Rule R 168.48 mandates deletion of EPB data within 7 days, making the audit trail incomplete before any RLA can be published. Under Lindeman-Stark framework, RLA conducted against incomplete audit trail provides "mere theater" rather than statistical assurance.	✓ No comparable seven-day destruction mandate for Georgia audit trail records. Georgia's audit trail intact when mandatory RLA is conducted.
Scope of RLA Coverage	✗ One statewide contest in even-numbered November election years only. U.S. House, off-cycle Senate, and legislative races unaudited. Malware targeting unaudited federal contests would have had a low probability of detection under Michigan's 2020 framework.	✓ Mandatory: one statewide contest per general election cycle, with legislative authority to expand. Georgia's presidential contest was audited in 2020.
Timing of Publication	✗ 2020 RLA published April 2021 (5 months post-election). 2024 RLA published October 2025 (10 months post-election). MDOS characterized 2020 RLA as an "exercise" due to incomplete participation.	✓ Georgia's mandatory audit conducted and published within weeks post-certification. Completed before electors cast votes.
MITRE Compensating Control Assessment	✗ Lacks MITRE's primary compensating control (mandatory RLA statute). EMS centralization attack unaddressed. MITRE finding: EMS election-definition file attack is hardest to detect and most scalable — the one attack Michigan cannot rule out through its audit framework.	✓ Both MITRE compensating controls present: mandatory RLA statute + paper ballot as authoritative audit trail. MITRE concluded most of Professor Halderman's attack scenarios operationally infeasible under Georgia's specific framework.

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Category	Michigan	Georgia
Detroit / Major Jurisdiction Coverage	✗ 2024 RLA excluded Detroit (Michigan's largest city and most disputed jurisdiction) and Troy (Oakland County's largest city). MFEI: effective audit must specifically address known disputed jurisdictions, not just achieve statewide statistical validity.	✓ Georgia's 2020 audit covered all counties in the statewide hand count. No major jurisdiction excluded from Georgia's mandatory audit.
Net Assessment	✗ Michigan lacks the statutory RLA mandate MITRE identified as the primary compensating control. Rule R 168.48 destroys the audit trail before any RLA can be conducted. The EMS centralization attack — accepted as technically valid by Dominion's own expert — remains unaddressed.	✓ Both MITRE compensating controls present. Mandatory RLA statute with full statewide coverage. Audit trail intact. MITRE found most of Professor Halderman's attack scenarios operationally infeasible under Georgia's framework.

Figure 78: ***Michigan vs. Georgia — Risk-Limiting Audit Framework Comparison.***

MITRE accepted all of Professor Halderman's security findings as technically valid and found them operationally infeasible under Georgia's specific framework because of two compensating controls: a mandatory RLA statute and paper ballots as the authoritative audit trail. Michigan shares the second control but lacks the first. Rule R 168.48's seven-day EPB deletion further compromises Michigan's audit trail before any post-election RLA can be conducted.

Sources: MITRE Report (July 2022); Ga. Code Ann. § 21-2-498; NCSL Risk-Limiting Audits; Michigan Dept. of State, Audits of the November 3, 2020 General Election (Apr. 21, 2021); MCL 168.31a.

3. The audit trail integrity problem

First, Rule R 168.48 requires electronic poll book data to be deleted within seven days after certification. Although other election records remain available, electronic poll books contain important ballot-accounting information, including voter check-in records, ballot issuance records, and other data used to reconcile ballots issued with ballots counted. The deletion of these records before post-election audits are completed or published may limit the ability to independently reconstruct portions of the ballot-accounting process after the seven-day period.[563]

[563] Lindeman and Stark.

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The Bureau's 2026 Early Voting audit worksheet reinforces this concern. It requires auditors to check daily reconciliation, whether the number of ballots cast matches the Daily List of Voters, whether out-of-balance days were remarked, and whether the final reconciliation and ballot summary were completed, balanced, and accurate.[564] It then separately requires a ballot-container and voted-ballot hand-count audit, including whether the number of ballots matches the number tabulated. The worksheet therefore recognizes reconciliation and ballot-container integrity as necessary audit elements, but it does not explain how unresolved discrepancies affect statewide statistical assurance.[565]

Second, Michigan's post-election audits are generally completed long after election certification. Greenhalgh and Jefferson observed that Michigan's audits "are conducted months after the election, and elections are certified based entirely on computerized totals before examining any paper ballots." [566]

The Michigan Department of State likewise described its 2020 post-election audits as "primarily procedural audits" that included a hand count of only one precinct in each selected jurisdiction for one statewide contest to evaluate whether election officials followed prescribed procedures rather than to independently verify statewide tabulated outcomes. The Department also characterized its statewide 2020 risk-limiting audit as an "exercise" because incomplete jurisdictional participation prevented inclusion of all selected jurisdictions.[567]

Third, Michigan's own Office of the Auditor General subsequently evaluated the Bureau of Elections' post-election audit program and concluded that it was "Sufficient, with exceptions." The performance audit identified reportable conditions involving oversight of post-election audits, found that approximately 9% of selected audits were not properly submitted, approximately 10% of submissions were late, and approximately 17% of completed audits did not include the required hand count of the selected statewide race. The Auditor General further observed that legislative changes could improve the effectiveness of Michigan's post-election audits in verifying the overall accuracy and integrity of election results.[568]

Fourth, the Bureau of Elections did not publish its 2024 General Election RLA until October 13, 2025, approximately ten months after the election. The audit did not include Detroit, Michigan's largest city, accounting for approximately eight percent of the statewide vote and the jurisdiction at the center of the most significant election-administration disputes arising from the 2020

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[564] Early Voting Audit Worksheet, Post Election Printable Worksheet, Michigan Department of State.

[565] Post-Election Audit Manual, 2026.

[566] Greenhalgh and Jefferson, p. 14.

[567] Michigan Bureau of Elections, Department of State's own report on the 2020 General Election audit, April 21, 2021.

[568] Michigan's own Office of the Auditor General, projects.

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General Election. Nor did it include Troy, the largest municipality in Oakland County, Michigan's second most populous county. Although statewide statistical validity is an important objective, meaningful post-election verification should also examine jurisdictions that have generated significant election results and administration concerns.

Viewed collectively, these characteristics (a discretionary audit framework, audits completed months after certification, limited jurisdictional participation, documented deficiencies identified by the Office of the Auditor General, destruction of certain electronic reconciliation records before audits are completed, and audit worksheets that record unresolved discrepancies without identifying their effect on statewide statistical assurance) may reduce the ability of Michigan's post-election audit process to provide the level of independent verification contemplated by the academic literature on risk-limiting audits.

Academic research likewise demonstrates that pre-election testing cannot reliably detect sophisticated manipulation of ballot-marking devices. Philip B. Stark explains that pre-election logic and accuracy testing has limited ability to detect outcome-changing malware because it is impractical to test every combination of voter behavior, ballot style, device configuration, language setting, timing, and other variables that sophisticated attacks may exploit. He further concludes that neither traditional logic and accuracy testing nor parallel testing can comprehensively evaluate all combinations capable of altering election outcomes.[569]

These observations are consistent with Professor Halderman's proof-of-concept malware, which was intentionally designed to avoid detection during routine testing by delaying activation until after an initial series of ballots had been cast. Under those circumstances, a post-election forensic examination employing methodologies comparable to those used by Pro V&V following the November 2020 election would not necessarily detect carefully engineered malware of this type.

4. Michigan's RLA Implementation Diverges from Its Own 2018 Pilot Program's Recommendations

Michigan's current risk-limiting audit program traces directly to a December 2018 pilot conducted in Kalamazoo, Lansing, and Rochester Hills in partnership with the Brennan Center for Justice, MIT, and U.C. Berkeley researchers.[570] The pilot's own report made specific recommendations for statewide implementation. Comparing those recommendations to

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[569] Philip B. Stark, There is no Reliable Way to Detect Hacked Ballot-Marking Devices, Aug. 21, 2019. https://www.stat.berkeley.edu/~stark/Preprints/bmd-p19.pdf

[570] Liz Howard, Ronald L. Rivest, and Philip B. Stark, eds., A Review of Robust Post-Election Audits: Various Methods of Risk-Limiting Audits and Bayesian Audits, Brennan Center for Justice at NYU School of Law, Nov. 7, 2019.

Michigan's actual RLA practice as reflected in the 2020 and 2024 post-election audit reports reveals that several of the pilot's core recommendations were never adopted.

2018 Pilot Recommendation	Actual Michigan Practice
Implement RLAs statewide under BOE-established standard procedures, ideally codified.	No statutory RLA mandate exists. MCL 168.31a remains discretionary; NCSL still classifies Michigan "Optional RLA."[571]
Use the ballot-polling method — the method suited to Michigan's precinct-based, largely non-CVR equipment.	Current practice uses a Bureau-designed "batch comparison" method not tested in the pilot, comparing precinct totals rather than individual ballots.[572]
Use a consistent, tightly-set risk limit (pilot sites used 5% and 9%).	Current practice targets a 10% risk limit, described in the Bureau's own 2025 report as "industry standard" — looser than any risk limit used in the founding pilot.[573]
Left open whether an RLA should run before certification so results could inform it.	Both the 2020 and 2024 RLAs ran well after certification — roughly five and ten months, respectively.[574]
Use Bayesian audits alongside RLAs, sharing the same ballot sample.	No Bayesian audit component appears in current Michigan practice.[575]

[571] Ibid., p. 22 (Recommendations).

[572] Ibid., pp. 6–7 (Project Overview: ballot-polling recommended for Michigan's precinct-based, largely non-CVR equipment).

[573] Ibid., p. 9 (Michigan RLA Pilot Results table: 5% risk limit at Kalamazoo and Rochester Hills, 9% at Lansing).

[574] Ibid., pp. 17–18 (Issue: Aligning the RLA Process with the Canvass and Recount Processes).

[575] Ibid., p. 18 (Recommendations: "Risk Limiting Audits and Bayesian Audits should be used together.").

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2018 Pilot Recommendation	Actual Michigan Practice
Recommended ballot imprinting as critical to reliable comparison audits; Lansing's 2018 pilot, lacking imprinting, returned attained risk of 87% (ballot-polling) and 100% (hybrid) against a 9% target — a result the report says "would have led to a second round of sampling."	Batch comparison avoids the imprinting problem by design, but the pilot's own worst-case failure mode — a badly missed risk limit answered with only incremental resampling rather than escalation — recurred in the 2024 statewide audit's Round 1 miss (p=0.101 against a 0.10 target), resolved by adding just two more batches in Round 2 rather than a full hand tally.[576]

Michigan's current RLA program is, on this record, a genuine departure from the design its own founding pilot validated and recommended, not merely a scaled-up version of it. Cross-reference: §V.G.2 (Michigan's RLA Framework); §V.G.3 (audit trail integrity problem).

H. Michigan's recount statute and the Circular Verification Problem in Electronic Recounts

Michigan's recount statute, MCL 168.871, as last amended, authorizes boards of canvassers to conduct a recount by tabulating ballots "on an electronic voting system using the same software application used on election day." MCL 168.871(4)(c).[577] A testing requirement applies: before conducting an electronic recount, the board must test the software using a test deck. MCL 168.871(5). If the test fails, the board must use another recount method.

The ministerial certification and one-way-door consequences of PA 269 of 2023 are examined in Count 11.

The voting-system-security concerns documented in this Count create a structural problem for this recount framework. Where the integrity of election-day software cannot be independently verified, due to the firmware-management, hash-verification, EMS access-control, and chain-of-custody vulnerabilities identified in §V.B through §V.F, a recount conducted on that same software may not provide an independent check on the original tabulation. The MCL 168.871(5) test-deck requirement addresses software counting accuracy for specific offices but does not independently verify firmware authenticity, election-definition integrity, or the chain-of-custody conditions under which the original tabulation was performed. The result is a circular verification structure: the integrity of the original count is confirmed by a recount that depends upon the integrity of the same system whose integrity is at issue.

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[576] Ibid., pp. 16, 24–25 (imprinting discussion; Lansing pilot results, SUITE risk of 87% and hybrid risk of 100% against a 9% target).

[577] MCL 168.871, as last amended by 2024, Act 74 (eff. Apr. 2, 2025; originating as Senate Bill 603 of 2023).

The ministerial certification and one-way-door consequences of this framework are examined in Count 11. Cross-reference: Count 11 (MCL 168.871(1)-(3); ministerial certification; one-way door).

§VI. Technical Vulnerability Analysis and Independent Security Research

A. Prof. Halderman's Security Analysis: Findings Applicable to Michigan's Voting Infrastructure

Professor Halderma, with the assistance of Prof. Drew Springall, submitted his security analysis of Dominion Voting Systems equipment as an expert report in *Curling v. Raffensperger* on July 1, 2021.[578] The report documents vulnerabilities in both the ICX Ballot Marking Device and the ImageCast Precinct (ICP) optical scanner. Michigan's primary voting method is hand-marked paper ballots scanned by ICP optical scanners, not the ICX BMD. Accordingly, the sections of Professor Halderman's report most directly applicable to Michigan are the EMS-based remote attack (Section 9) and the ICP-specific vulnerabilities (Section 11), with ICX-specific findings (Sections 5–8) applicable to the accessibility-voting subset only.

During approximately twelve person-weeks of unrestricted access to the voting equipment, supporting documentation, and administrative credentials, Professor Halderman and his research team identified multiple exploitable vulnerabilities. His report concluded that certain attacks "could be effectuated by malicious actors with very limited time and access to the machines"[579] and that "large-scale fraud"[580] could be accomplished with "only moderate technical skills."[581]

B. Remote Malware via EMS Election Definition File (Section 9) -- Directly Applicable to Michigan's Primary System

Professor Halderman identified a critical directory traversal (Zip Slip) vulnerability in the election definition file loader, a vulnerability in the code that runs when any Dominion device (ICX or ICP) receives and processes the election definition file distributed from the EMS before each election. By modifying the election definition file, an attacker who infiltrates a county Election Management System can spread malware to every Dominion device in the county that loads the file. This attack requires no physical access to individual machines. An attacker who infiltrates Dominion's central election project preparation systems could spread malware to

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[578] J. Alex Halderman, Ph.D., Security Analysis of Georgia's ImageCast X Ballot Marking Devices, July 1, 2021 (Sections 5–8, 9, 11).

[579] Ibid., p. 4.

[580] Ibid, p. 7.

[581] Ibid, p. 7.

every Dominion device in Michigan. This is the attack vector MITRE identified as the most scalable and hardest to attribute.[582]

C. ICP Scanner Vulnerabilities (Section 11) -- Michigan's Primary Counting Equipment

Although Professor Halderman's primary analysis focused on the ICX, he also examined the ImageCast Precinct (ICP) ballot scanner, Michigan's primary polling-place vote-counting device. He found: (1) ballot images stored on ICP memory cards are stored in the order they were cast, meaning a dishonest election worker with brief access to the scanner memory card could determine how individual voters voted, violating ballot secrecy; (2) the ICP accepts photocopied ballots on ordinary office paper, creating ballot-box stuffing risk; and (3) the tamper-evident seal on the ICP tested was improperly installed and could be removed without visible evidence of tampering. These vulnerabilities apply directly to Michigan's primary optical scanning infrastructure.[583]

D. ICX Ballot Marking Device Findings (Sections 5–8) -- Applicable to Michigan Accessibility Voting Only

The QR code attack, smart card forgery, vote-stealing malware, and local USB malware installation vulnerabilities documented in Sections 5–8 are specific to the ICX BMD. If Michigan deploys ICX units for ADA accessibility voting, these vulnerabilities apply to that subset of ballots. Michigan's primary hand-marked paper ballot population is not subject to QR code manipulation or BMD-specific malware. MFEI DEEP Team documentation of Michigan's 2020 ICX accessibility deployment scope is available for production upon request.

Independent of Professor Halderman's technical findings, a separate framework developed by Professor Andrew Appel, Professor Richard DeMillo, and Professor Philip B. Stark analyzes BMD security in terms of two properties necessary for any audit to confirm an election outcome: contestability and defensibility. A voting system is contestable if an undetected software error or alteration that changes an election outcome can always produce public evidence that the outcome is untrustworthy. A voting system is defensible if, when the reported outcome is correct, it is possible to generate convincing public evidence of that correctness despite any malfunction that may have occurred.[584] Applying this framework, Appel, DeMillo, and Stark conclude that no

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[582] The MITRE Corporation, Independent Technical Review: Security Analysis of Georgia's ImageCast X Ballot Marking Devices, MITRE Product MP220250 (July 2022).

[583] J. Alex Halderman, Ph.D., Security Analysis of Georgia's ImageCast X Ballot Marking Devices, July 1, 2021 (Section 11).

[584] Andrew W. Appel, Richard A. DeMillo, and P.B. Stark, There is No Reliable Way to Detect Hacked Ballot-Marking Devices, Election Law Journal 19(3): 432-450 (2020) (defining "contestable" and "defensible"), Aug. 2019.

EAC-certified BMD, including the ICX units Michigan deploys for ADA accessibility voting, is contestable or defensible: if a BMD prints a vote other than the one the voter selected, only the voter can know it, and the voter has no way to prove the discrepancy to a poll worker or election official; conversely, if BMD output is challenged, there is no way to reconstruct with public evidence what the voter actually intended.[585] MFEI infers that this conclusion, reached independently of and by a different analytical method than Professor Halderman's, corroborates the finding above with respect to Michigan's ICX accessibility-voting subset: a risk-limiting audit or full hand recount of BMD-marked ballots can confirm only that the paper record matches itself, not that the paper reflects the vote the voter actually cast. [LOGICAL INFERENCE]

E. EMS and Audit Log Vulnerabilities (Sections 7, 10) -- Applicable to All Dominion Equipment

The audit log manipulation vulnerability (Section 10) and the EMS architecture vulnerabilities are shared across all Dominion equipment. ICX audit logs are stored in regular files with no cryptographic protection and can be edited with pre-installed apps. The EMS architecture creates a single point of compromise for election definition programming for all Dominion devices in Michigan.

F. Coffee County Breach

Curling v. Raffensperger highlighted a documented breach in Coffee County, Georgia, in which Dominion ICX equipment was accessed by unauthorized parties. This event demonstrates that the physical access vulnerabilities Professor Halderman documented theoretically have been exploited in practice. While Coffee County involved ICX BMD equipment specifically, it confirms that the vulnerability class across Dominion's product line is not purely theoretical.

G. The MITRE Report: EMS Centralization Attack and Michigan's Audit Gap

The MITRE Corporation's National Election Security Lab ("MITRE NESL"), retained by Dominion Voting Systems Corp. via counsel Susman Godfrey LLP, conducted an independent technical review of Professor Halderman's security analysis. MITRE published its findings in July 2022.[586]

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[585] Ibid. (concluding that no EAC-certified BMD is contestable or defensible, and recommending against BMD use by voters capable of hand-marking a paper ballot).

[586] The MITRE Corporation, National Election Security Lab, Independent Technical Review: Security Analysis of Georgia's ImageCast X Ballot Marking Devices, MITRE Product commissioned by Dominion Voting Systems Corp. via Susman Godfrey LLP. MP220250, July 2022.

H. MITRE accepted Professor Halderman's findings as technically valid. As discussed in §V.I, Professor Halderman documented multiple vulnerability classes affecting Dominion's voting-system architecture. MITRE's independent technical review disputed only the operational feasibility of those vulnerabilities under Georgia's specific procedures. MITRE identified the EMS election-definition file attack (MITRE Report Section 5.2.5) as the one attack potentially capable of affecting large numbers of ballots county-wide and hardest to detect. This finding is directly applicable to Michigan because the EMS centralization attack does not depend on BMD deployment; it affects all Dominion devices, including ICP optical scanners, that receive election definitions from the same EMS.

Michigan's position relative to Georgia's compensating controls is set out in Figure 61 and the evidentiary record §V. In summary: Michigan shares Georgia's paper-ballot authoritative-record control but lacks Georgia's mandatory RLA statute -- the control MITRE identified as most critical. The EMS centralization attack and ICP-specific vulnerabilities therefore remain unaddressed by any Michigan audit framework.[587] [588]

The EPB deletion and RLA audit-trail interaction is fully analyzed in §V.G. In summary: the seven-day deletion mandate forecloses any RLA meeting the Lindeman-Stark preconditions, and Michigan's absence of a statutory RLA mandate means there is no requirement to conduct any audit at all. Together, these conditions leave Michigan without the audit protections that constrained Professor Halderman's threat scenarios in Georgia.

Proper use of the MITRE/Halderman materials. Four facts establish the federal investigative predicate: (1) the EMS centralization attack Professor Halderman documented applies to all Dominion equipment that Michigan deployed, ICP and ICC optical scanners and any ICX accessibility units; (2) Dominion's own retained expert accepted this vulnerability class as technically valid; (3) Michigan's absence of a statutory RLA mandate means Michigan lacks a key compensating control that even Georgia maintained; and (4) federal investigation is the only mechanism capable of assessing Michigan's operational security posture for all Dominion equipment deployed in 2020, and beyond.

L. The Pro V&V Post-Election Verification Problem: ICX SHA-256 Methodology and ICP Verification Gaps

After the November 2020 General Election, Pro V&V, Inc. completed a post-election Field Audit of Dominion Democracy Suite 5.5-A equipment in six Georgia counties, dated December

[587] Ibid.

[588] Ga. Code Ann. § 21-2-498.

Website: MiFairElections.org; Email: contact@mifairelections.org
P.O. Box 41, Stockbridge, MI 49285

2, 2020.[589] Pro V&V audited 18 components, including both ICX BMDs and ICP scanners, verifying SHA-256 hash values and concluded all versions matched.

The Pro V&V ICX verification methodology is defeated by Professor Halderman-documented malware. For the ICX BMD, Pro V&V used the device's own "Extract Application" function to export the installed APK and compare its SHA-256 hash. Professor Halderman documents in Section 7.5 that malware exports the original unmodified APK when this function is invoked, producing a false-clean result.[590] This limitation applies to any Michigan ICX accessibility units but does not apply to ICP optical scanner verification, which uses a different process. The Pro V&V Field Audit Report (Exhibit C to the Halderman Report) describes the ICP verification methodology. Counsel may wish to assess whether an analogous malware-defeat mechanism applies to compact flash extraction.

Michigan implications. To the extent Michigan conducted post-election software hash verification of ICX accessibility units using the "Extract Application" methodology, that verification is subject to the structural defeat of Professor Halderman's documents. For Michigan's primary ICP/ICC optical scan equipment, the applicable verification methodology and any documentation of post-2020 verification should be identified and assessed. No public documentation confirming Michigan-specific post-election software verification of ICP or ICC equipment following November 2020 has been identified. MFEI suggests DOJ compel production of any such records.

§VII. Findings

A. Established Facts

Established Fact 10-A-1

During the November 2020 General Election and continuing through 2026, Michigan administered federal elections through an interconnected infrastructure of vendor-managed voting systems, EMS, firmware-controlled tabulators, electronic poll books, adjudication workstations, removable-media transfer systems, and administrative certification processes operating across approximately 1,690 election jurisdictions statewide. Michigan's infrastructure relied on three primary vendors: Dominion Voting Systems, Election Systems

[589] Pro V&V, Inc., Field Audit Report, Dominion Voting Systems Democracy Suite (D-Suite) Version 5.5-A, Dec. 2, 2020, Report No. TR-01-03-GA-01-01.01 (Exhibit C to Halderman Expert Report, *Curling v. Raffensperger*, No. 1:17-cv-02989-AT (N.D. Ga.)). Verified SHA-256 hash values of 18 components across 6 Georgia counties.

[590] J. Alex Halderman, Ph.D., Security Analysis of Georgia's ImageCast X Ballot Marking Devices, July 1, 2021 (Section 7.5).

and Software (ES&S), and Hart InterCivic, with Dominion and ES&S equipment counting 69 percent of Michigan voters' ballots.[591] Greenhalgh and Jefferson identified Michigan as one of several states where election integrity breaches have been caused by arguably criminal actions committed by election insiders, and found that partisan actors compromised and distributed both Dominion and ES&S software in 2021 and 2022 without subsequent federal investigation or verified remediation.[592]

Established Fact 10-A-2

Michigan's election administration relied extensively upon proprietary vendor-managed systems for ballot-definition programming, tabulation, adjudication, EMS configuration, firmware maintenance, election-night technical support, and software deployment functions integral to federal-election administration. These systems operated through vendor-controlled software environments, licensing arrangements, firmware update schedules, maintenance contracts, and technical-support relationships not fully transparent to either the Legislature or the public. In a May 2023 interview with *Time* magazine, Dominion CEO and founder John Poulos stated: "Eventually, I suspect all of our customers will go a different direction... It's just a matter of time,"[593] acknowledging that the company anticipated that its existing voting-system customers would eventually transition to other platforms, raising concerns regarding the ongoing supportability of firmware, security patches, and maintenance for deployed Michigan equipment.

Established Fact 10-A-3

Michigan election administration depended heavily upon EMS architecture, third-party contractor access, and vendor-controlled election-definition programming environments. Election-definition files, which determine ballot structure, precinct mapping, tabulation logic, candidate positioning, and reporting architecture, were frequently prepared within proprietary software ecosystems controlled by vendors and contractors rather than independently verifiable public systems. CISA Advisory ICSA-22-154-01 independently confirmed this vulnerability category, identifying that Dominion ICX systems are susceptible

[591] Susan Greenhalgh, David Jefferson et al., Computer Scientists: Breaches of Voting System Software Warrant Recounts to Ensure Election Verification, Free Speech For People, Nov. 18, 2024.

[592] Ibid.

[593] John Poulos, Dominion CEO: Fox News Settlement Won't Save Company, Time, May 18, 2023.

to arbitrary code execution via specially crafted election-definition files distributed from the EMS (CVE-2022-1743), directly corroborating MFEI's identification of election-definition integrity as a critical security gap in Michigan's voting-system architecture.[594]

Established Fact 10-A-4

Michigan's voting-system infrastructure relied substantially upon proprietary technology supply chains not independently reviewable by the public, including foreign-manufactured hardware components, offshore software development environments, proprietary third-party code integration, and opaque upstream vendor-development processes. MFEI and PIME documented that the election-technology vendor landscape has historically exhibited corporate continuity through mergers, acquisitions, and rebranding.

Diebold Election Systems exited the market and operations continued under successor organizations, and it warned that similar transitions could transfer equipment custody without corresponding public accountability.[595] **This warning was borne out in Michigan's own vendor landscape when Dominion Voting Systems was acquired and rebranded as Liberty Vote in October 2025; see Established Fact 10-A-17.**

Established Fact 10-A-5

Professor Halderman, Ph.D., Professor of Computer Science and Engineering at the University of Michigan and co-chair of Michigan's Election Security Advisory Commission, submitted a sworn expert report in *Curling v. Raffensperger* (N.D. Ga., No. 1:17-cv-02989-AT, July 1, 2021) documenting critical security vulnerabilities in the Dominion Voting Systems ICX BMD, the same device deployed in Michigan in 2020.[596]

Professor Halderman documented working proof-of-concept attacks that subverted every security mechanism in the ICX, including user authentication, hash validation, logic and

[594] U.S. Cybersecurity and Infrastructure Security Agency, ICS Advisory ICSA-22-154-01, "Vulnerabilities Affecting Dominion Voting Systems ImageCast X," June 3, 2022.

[595] Michigan Fair Elections Institute and Pure Integrity Michigan Elections, "Patterns of Death, Rebirth, and Deception: Unveiling the Electronic Voting Machine Controversy," June 20, 2023.

[596] U.S. Cybersecurity and Infrastructure Security Agency (CISA), ICS Advisory ICSA-22-154-01, June 3, 2022.

accuracy testing, firmware validation, and risk-limiting audits. CISA reviewed Professor Halderman's findings and published ICS Advisory ICSA-22-154-01 (June 3, 2022), identifying nine specific CVE-designated vulnerabilities.[597] The EAC concurred with CISA's findings and mitigations.[598] Professor Halderman's Report was withheld from public disclosure for approximately two years. MFEI documented these findings and their implications for Michigan's election infrastructure.[599]

MITRE's independent technical review accepted the underlying vulnerability classes identified by Professor Halderman as technically valid while reaching different conclusions regarding the practical likelihood of successful exploitation under Georgia's election procedures.

Established Fact 10-A-6

Michigan was among sixteen states in which Dominion ImageCast X (ICX) Ballot Marking Devices were deployed in some capacity in 2020. Professor Halderman's sworn expert report expressly identifies Michigan by name: "In 2020, the ICX was used in parts of 16 states: Alaska, Arizona, California, Colorado, Georgia, Illinois, Kansas, Louisiana, Michigan, Missouri, Nevada, New Jersey, Ohio, Pennsylvania, Tennessee, and Washington."[600] However, as Professor Halderman notes, "the vast majority of jurisdictions provide the ICX BMD to voters on request to assist with accessibility"; Georgia was unique in universal deployment. Michigan's primary voting method is hand-marked paper ballots fed into Dominion ImageCast Precinct (ICP) optical scan tabulators. ICX BMD units in Michigan, if deployed, served accessibility (ADA) voters only. The ICX-specific vulnerabilities the professor documented in Sections 5–8 apply to the accessibility-voting subset of Michigan ballots; the EMS election-definition file attack (Section 9) and ICP scanner vulnerabilities (Section 11) apply to Michigan's primary optical scan infrastructure. MFEI DEEP Team documentation of Michigan's 2020 ICX deployment scope (number of units, counties, and software version) is available upon request.

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[597] U.S. Election Assistance Commission, "EAC Issues Advisory on Dominion ImageCast X Component," June 3, 2022.

[598] Patrice Johnson, "Halderman Report Comes to Light: Exposes Nine Vulnerabilities of Dominion Electronic Vote Tabulators," mifairelections.org.

[599] Alex Halderman, Ph.D., "Security Analysis of Georgia's ImageCast X Ballot Marking Devices," July 1, 2021, p. 9.

[600] J. Alex Halderman, Ph.D., Security Analysis of Georgia's ImageCast X Ballot Marking Devices, July 1, 2021 (Sections 5–8); MFEI DEEP Team, RFP 114 Technical Review, available for production upon request.

Established Fact 10-A-7

Curling v. Raffensperger was dismissed by Judge Amy Totenberg in April 2025 on Article III standing grounds, following a seventeen-day bench trial in January 2024.[601] The court ruled that the plaintiffs failed to demonstrate a concrete, legally protected injury. The court did not adjudicate the merits of Professor Halderman's security findings. The vulnerabilities he documented remain technically unrefuted in any judicial proceeding. A dismissal on standing is not a finding that the equipment is secure.

Established Fact 10-A-8

Rule R 168.48, promulgated under Rule Set 2025-14 ST, mandates deletion of electronic poll book data within seven days of each election.[602] 52 U.S.C. sec. 20701 requires preservation of all records relating to acts requisite to voting for twenty-two months following federal elections. Electronic poll books record voter check-in and ballot activation, acts requisite to voting. The rule mandates destruction of records the federal statute mandates preservation. Additionally, 52 U.S.C. sec. 20507(i) imposes a two-year NVRA retention requirement on such records.

Despite these federal laws and despite the apparent existence of no supporting statute. Of note: Jonathan Brater, Director of the Bureau of Elections, issued a memo on December 1, 2020, to the state's more than 1600 local clerks directing them to delete EPB information for the 2020 election cycle. He wrote in the letter, available herein in Appendix G:

> *"**E-Pollbook laptops and flash drives**: The EPB software and associated files must be deleted from all devices by the seventh calendar day following the final canvass and certification of the election (November 30, 2020) unless a petition for recount has been filed and the recount has not been completed, a post-election audit is planned but has not yet been completed, or the deletion of the data has been stayed by an order of the court or the Secretary of State."*

Five years later, the Michigan Department of State promulgated Rule 168.48 to the same effect as part of Rule Set 2025-14.

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[601] *Curling v. Raffensperger*, No. 1:17-cv-02989-AT (N.D. Ga., dismissed on Article III standing Apr. 2025).

[602] Rule R 168.48 (Rule Set 2025-14 ST,), LARA Transaction No. 1587.

Established Fact 10-A-9

Michigan's risk-limiting audit framework as operated in 2020 and 2024 produced results delayed beyond the period of highest public scrutiny. Greenhalgh and Jefferson found that Michigan's post-election audits "are conducted months after the election, and elections are certified based entirely on computerized totals before examining any paper ballots."[603] The Michigan Department of State's own report on the 2020 General Election audit, published April 21, 2021, described audits as "primarily procedural audits" including a hand count of only one precinct per selected jurisdiction, conducted to determine whether election workers followed proper procedures.[604] The Department of State itself characterized the 2020 risk-limiting audit as an "exercise" due to incomplete participation. The Bureau of Elections did not release the 2024 General Election audit until October 13, 2025, approximately ten months after the election, and Michigan had published no statewide 2024 audit report as of July 2025.

Established Fact 10-A-10

Michigan's 2024 General Election risk-limiting audit drew a purportedly random statewide sample that excluded Detroit, Michigan's largest city and the jurisdiction generating the most significant election-integrity disputes in the 2020 General Election cycle, as well as Troy, the largest city in Oakland County, Michigan's second most populous county. Although at least one precinct from every county was included, the exclusion of Detroit and Troy from an audit publicly characterized by the Bureau of Elections as confirming election accuracy raised concerns about whether the sample-selection methodology produced results capable of addressing known areas of election-integrity concern.[605]

Established Fact 10-A-11

MCL 168.871(4)(c), as last amended by 2024, Act 74 (eff. Apr. 2, 2025; originating as Senate Bill 603 of 2023), authorizes Michigan boards of canvassers to conduct election

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[603] Michigan Department of State, "Audits of the November 3, 2020 General Election," Apr. 21, 2021.

[604] Kristine Christlieb, "Benson's Flawed 2024 Election Audit," Michigan Fair Elections Institute, Oct. 15, 2025.

[605] Ibid.

recounts by tabulating ballots on an electronic voting system using the same software application used on election day,[606] subject to a pre-recount test-deck verification requirement under MCL 168.871(5). This recount methodology does not require independent verification of firmware authenticity, election-definition integrity, or chain-of-custody conditions governing the original tabulation. Where election-day software integrity cannot be independently verified, as documented in this Count, an electronic recount conducted under MCL 168.871(4)(c) uses the same unverified system components as the original count and may not provide an independent check on tabulation accuracy.

Established Fact 10-A-12

Academic research by Stark and Xie (2020) establishes that pre-election testing cannot tell whether ballot-marking devices alter election outcomes.[607] Professor Halderman's proof-of-concept malware was specifically designed to defeat logic and accuracy testing by skipping the first "n" ballots before activating cheating only during live election conditions. Michigan's risk-limiting audit framework as operated in 2020 targeted only a single statewide contest in November elections of even-numbered years. U.S. House races, U.S. Senate races in non-audit years, and state legislative races received no post-election statistical verification. Under Professor Halderman's threat model, malware targeting these contests would have had a low probability of detection.

Established Fact 10-A-13

Michigan has no statutory mandate requiring risk-limiting audits following elections. The National Conference of State Legislatures classifies Michigan in its "Optional RLA" category, states with no statutory requirement to conduct risk-limiting audits.[608] This contrasts with Georgia's mandatory RLA statute, Ga. Code Ann. sec. 21-2-498,[609] which the MITRE Corporation's independent technical review identified as a primary compensating control making Professor Halderman's documented attacks operationally infeasible under Georgia's framework, a compensating control that Michigan lacks. Cross-reference: Count 11 (Proposal

[606] MCL 168.871, (Michigan Election Law sec. 871).

[607] Michigan Department of State, "Audits of the November 3, 2020 General Election," Apr. 21, 2021.

[608] Ga. Code Ann. § 21-2-498.

[609] The MITRE Corporation, Independent Technical Review: Security Analysis of Georgia's ImageCast X Ballot Marking Devices, MITRE Product MP220250 (July 2022).

2 of 2022 and statutory RLA mandate analysis).

Established Fact 10-A-14

The MITRE Corporation's National Election Security Lab ("MITRE NESL"), which was retained by Dominion Voting Systems Corp. via Susman Godfrey LLP to independently review Professor Halderman's security analysis, accepted all of the professor's documented vulnerabilities as technically valid.[610] MITRE disputed only operational feasibility under Georgia's specific procedures, not the technical validity of the vulnerabilities. MITRE identified the EMS election-definition file attack (MITRE Report Section 5.2.5) as the one attack vector potentially capable of affecting ballots county-wide without practical detection. This finding applies to Michigan's Dominion optical scan infrastructure because the EMS centralization attack affects all Dominion devices that receive election definitions from the same EMS, including ICP optical scanners, not just ICX BMDs. Michigan lacks the key compensating control Georgia had: Michigan has no statutory RLA mandate.[611]

Established Fact 10-A-15

Pro V&V, Inc. conducted a post-election Field Audit of Dominion Democracy Suite 5.5-A equipment in six Georgia counties, completed December 2, 2020,[612] testing 18 components including ICX BMDs, ICP scanners, and ICC central-count scanners. For ICX verification, Pro V&V used the device's own "Extract Application" function to export the installed APK and compare its SHA-256 hash to known certified values. Professor Halderman's Section 7.5 establishes that ICX malware defeats this verification method by exporting the original clean APK when the function is invoked.[613] The "clean" result therefore cannot confirm an uncompromised ICX. For ICP optical scanners, Pro V&V extracted firmware to compact flash cards and compared SHA-256 hashes separately; the ICP verification methodology and its potential limitations for Michigan's primary equipment

[610] Ibid.

[611] National Conference of State Legislatures, National Conference of State Legislatures, Risk-Limiting Audits (classifying Michigan as "Optional RLA" — no statutory mandate).

[612] J. Alex Halderman, Ph.D., Security Analysis of Georgia's ImageCast X Ballot Marking Devices, July 1, 2021 (Section 7.5).

[613] Pro V&V, Inc., Field Audit Report, Dominion Voting Systems Democracy Suite (D-Suite) Version 5.5-A, Dec. 2, 2020, Report No. TR-01-03-GA-01-01.01 (Exhibit C to Halderman Expert Report, *Curling v. Raffensperger*, No. 1:17-cv-02989-AT (N.D. Ga.)).

require separate assessment.

The current record does not establish whether Michigan conducted comparable post-election software verification of ICP or ICX equipment following November 2020. The methodology used therefore presents a factual question for DOJ investigation.

Established Fact 10-A-16

For any ICX Ballot Marking Device deployment, Professor Halderman identifies two distinct ballot manipulation attack strategies.[614] Strategy 1 alters only the ballot QR codes (which Dominion scanners exclusively count) while leaving human-readable text unchanged, voter-undetectable and detectable only by an RLA targeting the specific affected contest. Strategy 2 alters both QR codes and human-readable text simultaneously, completely undetectable by any audit, hand count, or forensic review. These BMD-specific strategies apply to the accessibility-voting subset of Michigan's ballots, not to the primary hand-marked paper ballot population, where voters mark their own choices directly and the human-readable text is itself the authoritative record. The primary threat to Michigan's optical scan infrastructure is the EMS election-definition file attack (Halderman Section 9), which can compromise how ICP scanners tabulate hand-marked paper ballots.

Established Fact 10-A-17

On October 9, 2025, Dominion Voting Systems was acquired by Scott Leiendecker, founder of KnowInk, a Missouri-based electronic-pollbook company, and former Republican director of the St. Louis City Board of Elections, and rebranded as Liberty Vote; the acquiring company's press release stated that "Dominion is gone" and that Liberty Vote assumed full ownership and operational control. [615] State election officials were informed that no staff changes, contract terminations, or product overhauls were expected in the near term, and legacy Dominion equipment has continued operating under the Liberty Vote name.[616] On November 25, 2025, Liberty Vote submitted a new system, Frontier 1.0, to the U.S. Election Assistance Commission for certification under the VVSG 2.0 standard; as of this Count's

[614] J. Alex Halderman, Ph.D., Security Analysis of Georgia's ImageCast X Ballot Marking Devices, July 1, 2021 (Section 9).

[615] CBS News, "Dominion Voting Systems acquired by St. Louis-based Liberty Vote," Oct. 9, 2025; CNN, "Former GOP election official buys Dominion Voting Systems, says he'll push for paper ballots," Oct. 9, 2025.

[616] Votebeat, "What the sale of Dominion Voting Systems to Liberty Vote means," Oct.–Nov. 2025.

preparation, that certification remains pending, and Michigan's Dominion-deployed jurisdictions continue to operate legacy equipment.[617]

B. Judicial Findings

Judicial Finding 10-B-1

***Bost v. Illinois State Board of Elections*, 607 U.S. __(2026) (No. 24-568).**[618] In *Bost*, the United States Supreme Court recognized competitor standing in election-administration contexts, adopting the "illegally structured competitive environment" framework and the 100-meter-dash analogy advanced by MFEI, the Wisconsin Voter Alliance, and allied amici. The Court's recognition of this standing theory is directly applicable to structural challenges to election-system architecture, certification procedures, and administrative frameworks that govern the competitive environment of federal elections. MFEI, as an organization whose member candidates and election participants are directly affected by the structural conditions governing election-system integrity, may rely upon this standing framework in presenting the claims identified in this Count. Cross-reference: Count 2.

Judicial Finding 10-B-2

***In re Complaint of Rovas v. SBC Michigan*, 482 Mich. 90 (Mich. July 23, 2008).** In *Rovas*, the Michigan Supreme Court established that agency action exceeding the bounds of the agency's statutory authority is void and without legal effect. This holding applies to questions raised in this Count regarding the scope of the Secretary of State's certification authority, voting-system governance powers, vendor-contract authority, and administrative frameworks governing election-system operations that may exceed the Legislature's statutory grants under MCL Chapter 168. Where the Secretary of State or Bureau of Elections directed, approved, or implemented voting-system governance measures beyond the scope of delegated statutory authority, the *Rovas* standard appears applicable to the validity of those directives. Note: *Rovas* arose in a telecommunications regulatory context (MPSC/SBC Michigan dispute); the ultra vires doctrine it establishes applies here to SOS/BOE election-administration authority questions. Cross-reference: Counts 1 and 2.

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[617] Liberty Vote, libertyvote.com (accessed 2026); U.S. Election Assistance Commission, "Frontier 1.0,"

[618] Bost v. Illinois State Board of Elections, 607 U.S. __, 2026, No. 24-568.

Judicial Finding 10-B-3

***Coffman v. State Board of Examiners in Optometry*, 331 Mich. 582 (1951).** In *Coffman*, the Michigan Supreme Court held that administrative agencies may not enlarge the scope of authority granted by the Legislature through administrative construction or rulemaking. This holding applies to questions raised in this Count regarding whether MDOS and Bureau of Elections administrative certification procedures, software-governance frameworks, vendor-access directives, and voting-system operational guidance exceeded the statutory authority granted by MCL Chapter 168. Where administrative actors expanded their own operational authority over election-system governance beyond the Legislature's express grants, the *Coffman* standard appears applicable to the legal validity of those expansions. Cross-reference: Counts 1 and 2.

Judicial Finding 10-B-4

***RNC v. Benson*, Case No. 24-000148-MZ (Court of Claims, Oct. 10, 2024).** Judge Brock Swartzle ordered that mail ballots be cast and counted with ballot serial number matching to ensure chain-of-custody integrity. This judicial determination is relevant to the chain-of-custody vulnerabilities documented in this Count. Where serial number matching is judicially required as a baseline chain-of-custody control for mail ballots, deficiencies in the broader electronic chain-of-custody framework governing EMS uploads, removable-media transfers, firmware verification records, and adjudication event logs raise parallel integrity concerns grounded in the same public-confidence rationale the court applied. Cross-reference: Count 8.

Judicial Finding 10-B-5

***Genetski v. Benson*, Case No. 20-000216-MM (Court of Claims, Mar. 9, 2021).** Judge Christopher Murray held that guidance issued by the Secretary of State on October 6, 2020, regarding signature-matching standards was issued in violation of the Administrative Procedures Act. This determination establishes that the Secretary of State issued legally non-compliant administrative guidance during the period immediately preceding the November 2020 General Election.

This finding may assist federal authorities in evaluating whether administrative certification frameworks, operational directives, and vendor-governance guidance governing Michigan's voting-system infrastructure during the election cycle were issued under lawful authority and

in compliance with applicable federal law and procedural requirements. The pattern of non-compliant administrative guidance identified in Genetski is not confined to signature-matching procedures and warrants examination in the voting-system governance context. Cross-reference: Count 8; Counts 1 and 2.

Judicial Finding 10-B-6

***Luttrell* v. Department of Corrections, Docket Nos. 70188, 70189, 421 Mich. 93 (1984).**[619] In *Luttrell*, the Michigan Supreme Court established that statutory interpretation begins with the plain and ordinary meaning of statutory language and, where that language is unambiguous, the Legislature's intent is clearly expressed and the statute must be enforced as written without further judicial construction. Courts may look beyond statutory text only when the language is ambiguous. This holding applies in three respects in this Count. First, MCL 168.31a's plain text, that audits are not a recount and do not change any certified election results, is unambiguous and must be enforced as written under *Luttrell*, precluding the SOS from representing RLAs as binding verification mechanisms. Second, MCL 168.871(4)(c)'s plain text authorizing electronic recounts using the same software application used on election day must be enforced as written. Third, HAVA's audit-capability provisions must be enforced according to their plain meaning, which Michigan's post-election audit practices appear to fall short of satisfying. Cross-reference: Counts 1 and 2.

C. Legal Arguments

Legal Argument 10-C-1

MFEI argues that Michigan's election-administration structure during the 2020 election cycle and continuing through 2026 relied upon proprietary voting-system components, vendor-controlled software environments, certification frameworks, and administrative verification processes that raise substantial questions about compliance with HAVA's requirements of transparency, auditability, and public verifiability. Vendor dependency, EMS architecture, removable-media transfer procedures, third-party programmer access, and opaque firmware management together created conditions under which meaningful independent public validation of software integrity, firmware authenticity, election-definition programming, and

[619] MCL 168.871(4)(c) (Michigan Election Law sec. 871); Help America Vote Act of 2002 (HAVA), Pub. L. 107-252, 116 Stat. 1666 (2002).

post-election audit reproducibility was not feasibly achievable. These conditions are inconsistent with the transparency and verification principles underlying HAVA's minimum standards for voting systems used in federal elections.

Legal Argument 10-C-2

MFEI argues that electronic poll book log records, EMS audit trails, adjudication records, ballot images, firmware verification records, removable-media transfer logs, and tabulation-event records constitute federal-election records subject to the 22-month mandatory preservation requirement of 52 U.S.C. sec. 20701. MFEI further argues that practices directing the deletion or non-retention of such records within seven days of a federal election, as reflected in Rule R 168.48 and administrative guidance and rule sets examined elsewhere in this report, appear to conflict directly with that federal preservation mandate. To the extent such practices were applied to records generated during the November 2020 General Election, they may represent apparent violations of federal election-records law warranting review by the Department of Justice. Cross-reference: Count 2.

Legal Argument 10-C-3

MFEI argues that Michigan's operational election environment appears to exhibit substantial divergence from the cybersecurity principles established in the VVSG 2.0 framework in nine principal categories: EMS access-control practices; removable-media chain-of-custody procedures; independent firmware verification; public audit transparency; centralized software dependency; logging and event-record retention; third-party programming exposure; software-independence safeguards; and public reproducibility of certification validation. MFEI further argues that such divergence, in a statewide election-administration environment affecting federally regulated elections, raises questions regarding whether Michigan's certification and operational frameworks satisfy applicable federal standards as a substantive matter, independent of formal EAC certification status. Greenhalgh and Jefferson independently corroborate this argument: they found that all federally certified election equipment currently in use has been tested to guidelines adopted twenty years ago, in 2005,[620] and by CISA Advisory ICSA-22-154-01, which confirmed nine specific vulnerabilities in Dominion ICX equipment that is EAC-certified for use in Michigan.[621] MFEI further argues

[620] U.S. Election Assistance Commission, EAC Voting System Testing and Certification Program.

[621] Susan Greenhalgh, David Jefferson et al., Computer Scientists: Breaches of Voting System Software Warrant Recounts to Ensure Election Verification, Free Speech For People, Nov. 18, 2024.

that the confirmed and unmitigated compromise of Dominion and ES&S voting software by partisan actors without federal investigation or documented remediation creates conditions under which Michigan's continued reliance on that equipment raises additional compliance questions that formal certification status does not address.

No public documentation has been identified to confirm MDOS-issued Dominion security patch installation records following CISA Advisory ICSA-22-154-01. DOJ should compel production of any such records.

See Count 15, §V–§VI, for MFEI's current assessment of whether Michigan's pending voting-system procurement (RFP 260000000114/RFP214) satisfies software-independence, auditability, and transparency requirements.

Legal Argument 10-C-5

MFEI argues that Michigan's risk-limiting audit framework, as implemented in the 2020 and 2024 General Election cycles, does not satisfy HAVA's audit-capability requirements as a substantive matter. HAVA requires that voting systems used in federal elections produce a permanent paper record suitable for a manual audit and that states provide for post-election audit capacity sufficient to support public confidence in election accuracy. MFEI argues that an audit framework characterized by multi-month publication delays, sample-selection methodology that excluded Detroit, Michigan's largest and most disputed jurisdiction, and the absence of forensic audit capacity raises substantial questions about whether Michigan provided the independent, timely, and publicly verifiable audit function that HAVA's audit-capability provisions contemplate. MFEI further argues that the Department of State's characterization of the 2020 risk-limiting audit as an "exercise" due to incomplete participation,[622] combined with the absence of a published 2024 statewide audit report as of July 2025, raises questions regarding the transparency obligations applicable to federally regulated election-administration representations. Additionally, MFEI argues that MCL 168.31a's plain text, which provides that post-election audits are not a recount and do not change any certified election results, is unambiguous under *Luttrell v. Department of Corrections*, 421 Mich. 93 (1984),[623] and must be enforced as written. The SOS's public representations characterizing RLA results as confirming or verifying election accuracy appear to overstate what the statute authorizes these audits to accomplish.

[622] MCL 168.31a(2), "An audit conducted under this section is not a recount and does not change any certified election results."

[623] Luttrell v. Dep't of Corrections,, 421 Mich. 93 (1984).

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Legal Argument 10-C-6

MFEI argues that the electronic recount methodology authorized by MCL 168.871(4)(c)[624], permitting recount by tabulation on the same electronic voting system and software application used on election day, is structurally incapable of providing independent verification of election accuracy where the integrity of that software and system cannot be independently established through publicly reproducible verification procedures. MFEI further argues that the firmware, hash-verification, EMS access-control, and chain-of-custody deficiencies documented in this Count create conditions under which MCL 168.871(4)(c) recounts may be structurally circular: they may confirm the original count using the same unverifiable components that produced it. Where the pre-recount test-deck requirement under MCL 168.871(5) verifies only counting accuracy for specific offices and does not address firmware authenticity, election-definition integrity, or chain-of-custody provenance, the testing requirement does not cure the independent-verification deficit. This structural limitation is compounded by Professor Halderman's documented proof that ICX malware can defeat test-deck verification by skipping cheating until live election conditions are met.[625] MFEI argues that this structural limitation warrants DOJ and EAC review of whether Michigan's recount framework satisfies HAVA's audit-capability and independent-verification requirements. Cross-reference: Count 11 (ministerial certification consequences).

Legal Argument 10-C-7

MFEI argues that Michigan's voluntary risk-limiting audit framework, considered together with the timing of post-election audits and the seven-day electronic poll book deletion requirement in Rule R 168.48, may substantially limit the statistical assurance ordinarily associated with a meaningful risk-limiting audit. Michigan law does not require RLAs, limits audit implementation to the Secretary of State's discretion and provides that post-election audits are "not a recount and do not change any certified election results." MCL 168.31a(2). In addition, electronic poll book data is directed to be deleted before Michigan's statewide RLAs have historically been completed or published.

MFEI further argues that these structural characteristics warrant DOJ review of whether Michigan's post-election audit architecture provides the level of independent verification contemplated by modern risk-limiting audit principles and whether public descriptions of

[624] J. Alex Halderman, Ph.D., Security Analysis of Georgia's ImageCast X Ballot Marking Devices, July 1, 2021.

[625] MCL 168.871(5) (Michigan Election Law sec. 871). Recounts

those audits accurately communicate their scope and limitations.

Legal Argument 10-C-8

MFEI argues that the MITRE Corporation's independent technical review[626] substantially strengthens the basis for federal inquiry because it accepts as technically valid the vulnerability class involving malicious election-definition files distributed through Dominion's centralized Election Management System. Unlike vulnerabilities requiring physical access to individual devices, an EMS-based attack has the potential to affect multiple connected tabulators through the routine election-definition distribution process.

MITRE concluded that Georgia's mandatory post-election risk-limiting audit statute served as an important compensating control reducing the practical likelihood that such an attack would succeed undetected under Georgia's election framework. Michigan shares Georgia's use of authoritative paper ballots but does not have a comparable statutory RLA requirement.[627]

MFEI therefore argues that DOJ should determine whether Michigan's Dominion optical-scan infrastructure, including ImageCast Precinct (ICP) and ImageCast Central (ICC) systems, was protected by security controls, audit procedures, and independent verification mechanisms sufficient to detect or mitigate the EMS-based attack vector identified by MITRE. To the extent Michigan deployed ImageCast X (ICX) ballot-marking devices for accessibility voting, those units likewise warrant review under the technical analyses discussed in this Count.

Michigan's Dominion equipment deployment scope (ICP, ICC, and any ICX units) is subject to confirmation by the MFEI DEEP Team; documentation is available upon request.

Legal Argument 10-C-9

MFEI argues that the post-election software verification methodology available for Dominion ICX Ballot Marking Devices, SHA-256 hash comparison via the "Extract Application"

[626] The MITRE Corporation, Independent Technical Review: Security Analysis of Georgia's ImageCast X Ballot Marking Devices, MITRE Product MP220250 (July 2022).

[627] Ga. Code Ann. § 21-2-498.

function, is structurally incapable of detecting ICX malware of the type Professor Halderman documented.[628] [629] For Michigan's primary Dominion optical scan equipment (ICP and ICC), the applicable verification methodology and its limitations require separate identification and assessment. MFEI further argues that the absence of a statutory RLA mandate, combined with Rule R 168.48's seven-day EPB deletion, means that no available post-election verification procedure was capable of detecting or investigating tabulation anomalies caused by an EMS-based election-definition file attack on Michigan's optical scan infrastructure. MFEI argues this compounded verification gap, covering both ICX accessibility units and primary optical scan equipment, warrants DOJ forensic investigation using independent verification methodology applied to all Dominion equipment Michigan deployed in 2020. Whether Michigan conducted post-election software verification of any Dominion equipment following November 2020 presents a factual question for DOJ investigation.

D. MFEI Conclusions

MFEI Conclusion 10-D-1 -- Logical Inference

Portions of Michigan's deployed voting infrastructure operated on aging or end-of-life equipment during and after the 2020 election cycle, creating increased exposure to unsupported firmware environments, patch-management deficiencies, cybersecurity vulnerabilities, and diminished vendor supportability. The documented equipment conditions and vendor-support timelines examined in this Count indicate that these conditions created operational and security risks inconsistent with the reliability and integrity expectations applicable to federally regulated election infrastructure.

MFEI Conclusion 10-D-2 -- Conditional Conclusion

Michigan's machine-refresh initiative, if implemented without structural reform to software-governance, vendor-access controls, and independent audit mechanisms, is unlikely to resolve the systemic auditability and transparency vulnerabilities identified in this Count. If the underlying software-governance architecture, characterized by vendor dependency, centralized EMS control, opaque firmware management, and insufficient public audit mechanisms, remains substantially intact following hardware replacement, the conditions

[628] See §V.G, §V.I, supra (RLA framework and technical findings).

[629] See §V.G, §V.I, supra (RLA framework and technical findings).

affecting independent verification and public confidence in election-system integrity will persist through subsequent election cycles.

MFEI Conclusion 10-D-3 -- Logical Inference

MFEI's VVSG 2.0 Gap Analysis identified nine operational categories in which Michigan's election-system practices appear to diverge from modern federal cybersecurity and audit-integrity principles. This conclusion is reinforced by three independent assessments reaching convergent findings: Halderman and Springall identified nine specific CVE-designated vulnerabilities in Dominion ICX equipment,[630] CISA independently confirmed those vulnerabilities,[631] and the EAC concurred with CISA's findings.[632] The operational conditions documented in this Count indicate that Michigan's election environment exhibited substantial gaps between formal EAC certification status and independently verifiable public assurance. Formal certification status does not, by itself, establish that operational procedures satisfied the substantive cybersecurity and audit-integrity principles underlying those standards during the period examined.

MFEI Conclusion 10-D-4 -- Logical Inference

Multiple election-system procedures examined in this Count lacked independently reproducible public verification mechanisms, including firmware hash verification, EMS audit logging, adjudication record retention, and removable-media chain-of-custody documentation. The absence of independently reproducible verification procedures limited the ability of the public, the Legislature, and federal oversight authorities to independently confirm the integrity of election-system operations during the period examined.

MFEI Conclusion 10-D-5 -- Conditional Conclusion

Michigan's election infrastructure relied substantially upon administrative and vendor-controlled hash-verification procedures that lacked fully transparent public reproducibility. Professor Halderman's proof-of-concept malware demonstrated that the ICX's own hash

[630] See §IV.E, §IV.F, supra (VVSG 2.0 and EAC certification framework).

[631] Ibid.

[632] Ibid.

display and APK export functions can be compromised to present original values while the underlying code has been modified.[633] If firmware or software modifications occurred between certification and deployment or between deployment events across election cycles, the verification procedures documented in this Count appear insufficient to detect or document such modifications through independent public review.

MFEI Conclusion 10-D-6 -- Conditional Conclusion

Election-system firmware, removable media, EMS upload procedures, and ballot-definition transfer processes contained documented chain-of-custody weaknesses affecting audit confidence and forensic traceability. These weaknesses were present during the November 2020 General Election as the operational record examined in this Count demonstrates, and they limited the ability of post-election audits, recounts, and forensic reviews to independently reproduce and verify tabulated outcomes. This limitation bears directly on the reliability of certification processes that depended upon such audits and recounts for their evidentiary foundation.

MFEI Conclusion 10-D-7 -- Logical Inference

Voting-system procurement and vendor ecosystems included foreign-manufactured hardware components and offshore software-development exposure that, in the absence of transparent public supply-chain verification mechanisms, raise additional concerns regarding software provenance and component integrity in federally regulated election infrastructure. The known compromise of Dominion and ES&S software by partisan actors with those vendors' equipment counting 69 percent of Michigan ballots[634] amplifies the supply-chain concern: where the provenance and integrity of voting system software cannot be publicly confirmed, and where that software has been demonstrably misappropriated and distributed without federal investigation or mitigation, the supply-chain-integrity gap documented in this Count appears related to public confidence in election outcomes.

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[633] J. Alex Halderman, Ph.D., Security Analysis of Georgia's ImageCast X Ballot Marking Devices, July 1, 2021 (Section 7.5).

[634] Susan Greenhalgh, David Jefferson et al., Computer Scientists: Breaches of Voting System Software Warrant Recounts to Ensure Election Verification, Free Speech For People, Nov. 18, 2024.

MFEI Conclusion 10-D-8 -- Logical Inference

Michigan's post-election audit framework did not provide independent, timely, or publicly verifiable assurance of election accuracy during the 2020 or 2024 General Election cycles. As documented in Established Facts 10-A-10 and 10-A-11, audits were published months after certification, excluded Michigan's largest and most disputed jurisdiction, and were characterized by the Department of State itself as procedural exercises rather than independent verification. The framework did not function as the independent verification mechanism HAVA contemplates or the Bureau of Elections represented it to be.[635]

MFEI Conclusion 10-D-8A -- Logical Inference

Michigan's post-election audit forms recognize ballot-accounting failures as material audit events, including unmatched ballot/voter totals, incomplete or inaccurate reconciliation summaries, out-of-balance remarks, seal discrepancies, and ballot-container/tabulator mismatches. However, the forms do not identify any mandatory statistical consequence when those failures remain unresolved. MFEI therefore concludes that Michigan's audit framework documents reconciliation risk but does not clearly incorporate that risk into the statewide RLA assurance claim.

MFEI Conclusion 10-D-9 -- Logical Inference

Michigan's risk-limiting audit structure as operated in 2020, combined with Professor Halderman's documented proof that ICX malware can defeat logic and accuracy testing and avoid detection by RLA in most contests, means that malware-based vote manipulation in U.S. House races, U.S. Senate races in non-audit years, and state legislative races would have had a low probability of detection under the framework Michigan operated.[636]

MFEI Conclusion 10-D-10 -- Logical Inference

[635] See Established Facts 10-A-10, 10-A-11, supra.

[636] J. Alex Halderman, Ph.D., Security Analysis of Georgia's ImageCast X Ballot Marking Devices, July 1, 2021.

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Rule R 168.48's seven-day electronic poll book deletion mandate, combined with the audit structure described in 10-D-9, means that both the primary post-election verification mechanism (RLA) and the primary forensic investigation mechanism (EPB records) were independently insufficient to detect or investigate malware-based vote manipulation. Together, they eliminated every effective post-election verification pathway.

MFEI Conclusion 10-D-11 -- Conditional Conclusion

If Professor Halderman's documented vulnerabilities were exploited in Michigan's 2020 deployment of the ICX, a question that Michigan's RLA structure and R 168.48 deletion mandate make impossible to resolve from currently available records, votes cast on ICX BMDs in Michigan would have been altered without voter detection, without detection by logic and accuracy testing, and without detection by Michigan's limited post-election audit procedures.[637] Whether exploitation occurred is a question for federal forensic investigation. The preconditions for undetected exploitation were present in Michigan during the November 2020 General Election.

§VIII. Potential Federal Interests

MFEI identifies the following apparent violations for federal investigation. Each characterization reflects apparent conduct requiring further inquiry, not a conclusive legal determination. MFEI respectfully requests that the DOJ Civil Rights Division Voting Section, DOJ Election Crimes Branch, and EAC Office of Inspector General undertake the specific investigative actions listed below.

A. DOJ Investigative Requests

1. **EPB Deletion and 52 U.S.C. sec. 20701.** Investigate whether Rule R 168.48's seven-day electronic poll book deletion mandate violates 52 U.S.C. sec. 20701's twenty-two-month federal preservation requirement. Determine whether electronic poll book records from the 2020, 2022, and 2024 elections were deleted in compliance with R 168.48, and whether that deletion destroyed federal election records before the statutory preservation period expired. Rule R 168.48 directly conflicts with an express federal preservation mandate on its face; Supremacy Clause analysis strongly favors the federal mandate.

[637] See §V.I, §V.K, supra (Halderman and MITRE findings).

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2. **RLA Audit Trail Integrity.** Investigate whether Michigan's post-election audit procedures, including any risk-limiting audits, provide meaningful statistical assurance of outcome integrity where electronic poll book data is destroyed within seven days of the election under Rule Set 2025-14 (R 168.48), and where Michigan has no statutory RLA mandate. Assess whether Michigan's post-election audit representations to the public and to federal authorities satisfy the conditions Lindeman and Stark identify as necessary for a meaningful risk-limiting audit.[638]
3. **Forensic Analysis of ICX Deployment and MITRE Compensating Control Gap.** Compel production of all ICX firmware version records, EMS access logs, election definition files, and chain-of-custody documentation for Michigan's 2020 ICX deployment. Conduct an independent forensic analysis to determine whether evidence of malware installation, unauthorized modification, or compromise is present in the Michigan deployment record. MITRE's independent technical review, commissioned by Dominion, accepted all Professor Halderman vulnerabilities as technically valid and found that operational infeasibility in Georgia depended on compensating controls (mandatory RLA statute; paper ballot as authoritative audit trail) that Michigan lacked.[639]
4. **Pre-Election Testing Adequacy.** Compel production of all pre-election logic and accuracy testing records, firmware hash verification records, and VSTL audit documentation for Michigan's ICX deployment in 2020. Assess whether the hash verification procedures used would have detected Professor Halderman-documented malware that defeats external APK validation by exporting the original APK during verification.
5. **RLA Adequacy for Federal Contests.** Investigate Michigan's risk-limiting audit structure as operated in 2020 and assess whether it provided constitutionally adequate assurance of accurate vote tabulation in federal contests. Specifically, assess whether U.S. House races and U.S. Senate races in non-audit years received any post-election statistical verification, and whether the absence of such verification, combined with the documented ICX vulnerabilities, creates a federal election integrity concern.

   Coffee County Breach as Threat Baseline. Investigate the Coffee County, Georgia breach, the real-world exploitation of ICX physical access vulnerabilities documented in *Curling v. Raffensperger*, as a threat intelligence baseline for assessing whether similar access events occurred in Michigan. Compel production of all physical security logs, chain-of-custody records, and access event documentation for Michigan's 2020 ICX deployment.

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[638] Mark Lindeman and Philip B. Stark, "A Gentle Introduction to Risk-Limiting Audits," IEEE Security & Privacy 10.5 (2012): 42–49.

[639] The MITRE Corporation, Independent Technical Review: Security Analysis of Georgia's ImageCast X Ballot Marking Devices, MITRE Product MP220250 (July 2022).

6. **VVSG 2.0 Decertification Review.** Refer to the EAC Office of Inspector General for assessment of whether Michigan's VVSG 2.0 compliance gaps, as documented in MFEI's Gap Analysis, constitute grounds for decertification review of Michigan's current voting system infrastructure under HAVA sec. 231.
7. **Dominion Disclosure Obligations.** Investigate Dominion Voting Systems' disclosure obligations to Michigan election officials regarding the ICX vulnerabilities Professor Halderman documented. Specifically, determine whether Dominion disclosed the October 2020 software update vulnerability to Michigan election authorities, and whether Michigan officials were informed that the same update installed in Georgia left BMDs in a state exploitable by non-technical voters.
8. **Voting System Software Compromise.** Investigate whether the unauthorized copying and distribution of Dominion and ES&S voting system software by partisan actors constitutes a federal cybersecurity offense warranting DOJ investigation, independent of any state-level election-fraud proceedings. Determine whether the compromise and unauthorized distribution of Dominion and ES&S voting system software has been investigated by the Department of Justice and, if so, whether the investigation addressed the ongoing security implications for states continuing to use that equipment.

B. Additional Federal Questions

The following questions are presented for consideration by the Department of Justice, EAC Office of Inspector General, and other appropriate federal reviewing authorities:

- Whether EMS and firmware-validation procedures are independently reproducible and disclosed with firmware hash records
- Whether certification and recertification procedures adequately preserve auditability and independent verification capacity
- Whether supply-chain controls and offshore software-development exposures satisfy applicable federal standards
- Whether third-party contractor access to election-management systems, election-definition programming, or certification-related processes is subject to adequate transparency, oversight, and verification controls
- Whether procurement and RFP processes are subject to oversight incorporating standard independence and conflict-of-interest protections
- Whether Michigan's election-system certification and operational practices comply with the substantive requirements of HAVA, independent of advisory EAC certification status and the outdated 2005 testing standards against which current equipment was evaluated
- Whether removable-media chain-of-custody procedures have been independently evaluated and verified

- Whether election-definition programming is subject to objective quality-assurance controls and independent audit review
- Whether Michigan election-administration officials documented and publicly disclosed their response to the nine security vulnerabilities identified in CISA Advisory ICSA-22-154-01 (June 3, 2022) and concurred with by the EAC, and whether those vulnerabilities were remediated, verified, and publicly confirmed before the 2022, 2024, and subsequent federal election cycles
- Whether MCL 168.871(4)(c)'s electronic recount methodology satisfies HAVA's audit-capability and independent-verification requirements in the context of voting systems whose software-governance integrity cannot be publicly confirmed

§IX. SUMMARY AND CONCLUSION

Count 10 documents three interlocking structural failures in Michigan's voting-system architecture. Each independently warrants federal investigation. Together, they dismantled every normal verification mechanism for accurate vote tabulation.

First, Michigan's Dominion voting infrastructure (optical scan tabulators counting hand-marked paper ballots, plus ICX accessibility units) is connected to an EMS centralization architecture containing documented, technically unrefuted security vulnerabilities. Dominion's own retained expert (MITRE) accepted all of Professor Halderman's documented vulnerabilities as technically valid.[640] CISA Advisory ICSA-22-154-01 identified nine specific CVE-designated security vulnerabilities in Dominion equipment;[641] the EAC concurred.[642] Greenhalgh and Jefferson found that 69 percent of Michigan voters' ballots were counted on Dominion or ES&S equipment, whose software was subsequently compromised in what the authors describe as likely the largest known election cybersecurity breach in the United States,[643] without federal investigation or documented remediation.

Second, Michigan's post-election audit structure would not have detected the manipulation Professor Halderman documented in most federal contests, and the conditions for a meaningful RLA were structurally absent. With an RLA targeting only one statewide contest in even-numbered years, every U.S. House race, every off-cycle Senate race, and every state legislative race was unaudited by any post-election statistical procedure. Lindeman and Stark's foundational RLA framework establishes that any audit conducted against an incomplete audit

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[640] U.S. Cybersecurity and Infrastructure Security Agency, ICS Advisory ICSA-22-154-01, June 3, 2022.

[641] U.S. Election Assistance Commission, "EAC Issues Advisory on Dominion ImageCast X Component," June 3, 2022.

[642] Susan Greenhalgh, David Jefferson et al., Computer Scientists: Breaches of Voting System Software Warrant Recounts to Ensure Election Verification, Free Speech For People, Nov. 18, 2024.

[643] Ibid.

trail provides "mere theater" rather than statistical assurance.[644] Michigan's Rule R 168.48 destroys electronic poll book records within seven days of each election, structurally foreclosing a meaningful RLA before any such audit could be conducted or certified. The Department of State itself characterized the 2020 RLA as an "exercise" due to incomplete participation;[645] the 2024 RLA was not published until ten months after the election and excluded Detroit from its sample.

Third, Rule R 168.48's seven-day electronic poll book deletion mandate destroyed the forensic records that would have been needed to investigate anomalies after the fact. Electronic poll books are federal election records under 52 U.S.C. sec. 20701. Their destruction within seven days, well before the 22-month federal preservation period expired, foreclosed forensic investigation of the voter-to-ballot issuance chain that is the first audit point in any investigation of vote manipulation or anomalies. The MCL 168.871(4)(c) recount statute compounds this problem, permitting recount on the same software used on election day, a circular verification structure where unverified software confirms itself.[646]

What Dominion's own retained expert could not deny amplifies the significance of these findings. MITRE accepted all of Professor Halderman's documented vulnerabilities as technically valid and found most operationally infeasible under Georgia's framework because Georgia had a mandatory RLA statute.[647] Michigan lacks that statutory RLA mandate.[648] Michigan does share Georgia's second compensating control (that paper ballots are authoritative) but the absence of a mandatory RLA means that the one protection MITRE identified as making the most scalable attack detectable is absent in Michigan. The EMS election-definition file attack that Dominion's own expert identified as the hardest to detect remains the primary concern for Michigan's optical scan infrastructure.

The judicial determinations identified in this Count, including the Supreme Court's recognition of competitor standing in *Bost v. Illinois SBE* and the Michigan Supreme Court's holdings on ultra vires administrative action in *Rovas* and *Coffman*, provide applicable legal frameworks for the structural and certification-authority questions raised here. The pattern of legally non-compliant administrative guidance identified in *Genetski v. Benson* and the chain-of-custody protections required in *RNC v. Benson* reinforce the legal standards against which Michigan's voting-system governance practices are measured.

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[644] Rule R 168.48 (Rule Set 2025-14 ST), LARA Transaction No. 1587.

[645] Kristine Christlieb, "Benson's Flawed 2024 Election Audit," Michigan Fair Elections Institute, Oct. 15, 2025.

[646] MCL 168.871(4)(c) (Michigan Election Law sec. 871); 52 U.S.C. § 20701.

[647] Ga. Code Ann. § 21-2-498.

[648] The MITRE Corporation, Independent Technical Review: Security Analysis of Georgia's ImageCast X Ballot Marking Devices, MITRE Product MP220250 (July 2022).

The federal interest in these findings is direct and substantial. HAVA's audit requirements, 52 U.S.C. sec. 20701's preservation mandate, and the EAC's VVSG 2.0 cybersecurity standards all bear on the conditions documented in this Count. The Sixth Circuit's June 24, 2026, decision in *United States v. Benson*, No. 26-1225,[649] confirms federal authority to investigate Michigan election records under Title III of the Civil Rights Act and affirms Michigan's voter file constitutes a record subject to that authority, providing additional context for why independent DOJ investigation of the voting-system governance failures documented in this Count is appropriate.

Taken together, the Established Facts, Judicial Findings, Legal Arguments, and MFEI Conclusions documented in this Count support referral to the Department of Justice for review of whether Michigan's voting-system governance framework complied with applicable federal requirements during the 2020 General Election and whether structural conditions affecting the transparency, auditability, and independent verifiability of that election have been adequately remediated in the years that followed. The same voting-system architecture, vendor relationships, software-governance framework, and recount methodology documented here as operating in 2020 remained substantially in place through 2026, and in the case of MCL 168.871(4)(c), were codified by subsequent legislation, making the structural conditions examined in this Count an ongoing rather than historical concern.

§X. Authorities, Sources, and Works Cited

Cases

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Coffman v. State Board of Examiners in Optometry, 50 N.W.2d 322 (1951) The Michigan Supreme Court declared the statutory provision delegating school rating authority to the International Association of Boards of Examiners in Optometry unconstitutional as an improper delegation of legislative power but held that excising this phrase did not invalidate the remainder of the licensing act. The court affirmed that while the legislature sets minimum standards, the administrative board retains discretion to adopt higher

[649] *United States v. Benson*, No. 26-1225 (6th Cir. June 24, 2026) (Mathis, J., majority; Nalbandian, J., dissenting); below: No. 1:25-cv-01148 (W.D. Mich., dismissed Feb. 10, 2026, J. Jarbou); affirmed on alternate grounds. Majority held Michigan's qualified voter file constitutes election records subject to Title III of the Civil Rights Act (42 U.S.C. § 1971 et seq.) and that the Attorney General's subpoena authority reaches records in an election official's possession; affirmed dismissal on grounds that specific demand exceeded Title III scope on facts presented.

requirements for public protection. https://law.justia.com/cases/michigan/supreme-court/1951/331-mich-582-1.html

Curling v. Raffensperger, N.D. Ga., No. 1:17-cv-02989-AT, (July 1, 2021). https://www.courtlistener.com/docket/6139924/curling-v-raffensperger/

Genetski v. Benson, Case No. 20-000216-MM (Court of Claims, Mar. 9, 2021): SOS signature-matching guidance issued in violation of the Administrative Procedures Act. Cross-reference: Count 8; Counts 1 and 2. https://www.democracydocket.com/cases/michigan-administrative-procedures-act-challenge/

In re Complaint of Rovas v. SBC Michigan https://caselaw.findlaw.com/court/mi-supreme-court/1117168.html

Luttrell v. Department of Corrections, *Luttrell v. Dept. of Corrections*, https://law.justia.com/cases/michigan/supreme-court/1985/70188-4.html

RNC v. Benson, Case No. 24-000148-MZ (Court of Claims, Oct. 10, 2024): Judge Brock Swartzle ordered ballot serial number matching to ensure mail-ballot chain-of-custody integrity. Cross-reference: Count 8. https://www.democracydocket.com/wp-content/uploads/2024/03/2024-07-30-Final-Order-and-Judgment.pdf

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Watson v. RNC, No. 24-1260: Consummation versus No-Limits theory on Election Day ballot receipt deadlines. Cross-reference: Count 6. https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/24-1260.html

Constitutional Provisions

Michigan Constitution of 1963: Constitutional provisions governing separation of powers, legislative authority over elections, canvassing structures, and election administration.

U.S. Const. First and Fourteenth Amendments: Guarantee of accurate vote tabulation; implicated by documented security vulnerabilities in Dominion voting infrastructure used in Michigan

and by voting-system architecture that limits independent verification of tabulation integrity.

Federal Statutes

52 U.S.C. sec. 20507(i) (NVRA sec. 8)
https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title52-section20507

52 U.S.C. sec. 20701 https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title52-section20701

52 U.S.C. sec. 21081 (HAVA sec. 301)
https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title52-section21081

52 U.S.C. sec. 21083 (HAVA sec. 303)
https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title52-section21083

Help America Vote Act of 2002 (HAVA)
https://www.eac.gov/sites/default/files/eac_assets/1/6/HAVA41.PDF

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MCL 168.31a (Michigan Election Law sec. 31a), as amended by 2023, Act 254 (eff. Feb. 13, 2024) https://legislature.mi.gov/Laws/MCL?objectName=MCL-168-31A

MCL 168.871 (Michigan Election Law sec. 871), as last amended by 2024, Act 74 (eff. Apr. 2, 2025; originating as Senate Bill 603 of 2023)
https://legislature.mi.gov/Laws/MCL?objectName=MCL-168-871

MCL 168.932 -- Prohibition on falsification of vote history records; implicated by Professor Halderman's documented audit log manipulation capabilities applicable to Dominion equipment. https://legislature.mi.gov/Laws/MCL?objectName=MCL-168-932

Rule R 168.48 (Rule Set 2025-14 ST)
https://ars.apps.lara.state.mi.us/Transaction/RFRTransaction?TransactionID=1587

Other State Statutes

Ga. Code Ann. sec. 21-2-498: Georgia's mandatory risk-limiting audit statute, identified by MITRE as a primary compensating control making Professor Halderman's documented attacks operationally infeasible under Georgia's framework -- a compensating control Michigan lacks. https://law.justia.com/codes/georgia/title-21/chapter-2/article-12/section-21-2-498/

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COUNT 11. Canvass Integrity, Reconciliation Failures, and Ministerial Certification

§I. Issues Summary

This Count documents apparent systemic failures in Michigan's election reconciliation and canvass process, failures that have been compounded, and in some respects constitutionally entrenched, by a series of statutory and voter-initiative changes that have progressively stripped county boards of canvassers of the investigative discretion they previously held under Michigan law.

The investigation underlying this Count is grounded in six primary findings:

1. PA 269 of 2023 and Michigan Proposal 2 (2022) together transformed the county board of canvassers' certification duty from a quasi-judicial function with discretionary power to adjourn, investigate, and correct into a strictly ministerial, clerical, and nondiscretionary obligation to certify based solely on 'the statements of returns.' This transformation is now embedded in the Michigan Constitution and forecloses the investigative tools that canvassers previously held to address the discrepancies documented in this Count.
2. 92% of Michigan counties responding to FOIA requests showed discrepancies between their Statement of Votes Cast (SOVC) and official Election Summary Reports for the 2024 election directly implicating the county-level reconciliation function that boards of canvassers are required to perform under MCL 168.822 before certifying results.
3. MCL 168.824(a) requires canvass statements to disclose 'the number of out-of-balance precincts that were not reconciled during the county canvass process.' County boards of canvassers have not consistently applied this mandatory disclosure requirement, and the 92% SOVC mismatch rate documented by Woodward (December 2024) represents a systemic reconciliation failure that MCL 168.824(a) required them to disclose.
4. On December 2, 2024, the Michigan Bureau of Elections acknowledged that clerk data for the November 5, 2024, election had not been fully uploaded, ten days after certification. MCL 168.823 requires that returns be complete before the board of county canvassers can lawfully convene and certify; the BOE's own acknowledgment establishes that this prerequisite was not satisfied.
5. PIME analyst Louis Avallone identified 26 confirmed duplicate ballot pairs, each consisting of one absentee ballot and one in-person ballot from the same voter, both counted in the November 2020 general election, after partially restoring deleted voter history records he documented as unauthorized. These pairs were invisible in the certified canvass record and were not disclosed as out-of-balance precincts under MCL 168.824(a).

6. Michigan Proposal 2 (2022)'s constitutional certification mandate 'election results to be determined solely by the vote of electors casting ballots in the election' was the subject of a federal Elections Clause challenge in *Lindsey v. Whitmer* (W.D. Mich., filed September 28, 2023), which alleged that both Proposal 2 (2022) and Proposal 3 (2018) violated Article I, Section 4 of the U.S. Constitution by displacing the legislature from its constitutionally assigned role in regulating federal elections. The Supreme Court declined certiorari. The case was dismissed without reaching the merits.[650]

These findings, taken together, document a canvass and certification system in which the oversight mechanisms that Michigan law once provided to county boards of canvassers have been progressively eliminated, while the documented reconciliation failures that those mechanisms were designed to catch have grown in scale and frequency.

A. Current Federal Enforcement Interest

On July 7, 2026, Assistant Attorney General Harmeet K. Dhillon notified Secretary Benson that the Department of Justice is reviewing Michigan's compliance with federal election laws, including the statutory duty to preserve election records, 52 U.S.C. § 20701, and to maintain an accurate, current statewide voter registration list, 52 U.S.C. § 21083(a)(1)(A).

The Department's letter addresses that accuracy duty in the context of the voter rolls, but the same logic applies with equal force to the canvass and certification process examined in this Count: a certified result is only as reliable as the records underlying it, and reconciliation failures at the canvass stage are, functionally, the same category of record-accuracy failure the Department's letter treats as a federal compliance concern in the registration context. The reconciliation and ministerial-certification issues documented in this Count therefore raise the same federal interest — accurate, reconcilable election records — that the Department identified on July 7, 2026, even though the letter's own examples focus on the voter list rather than the canvass. (See Dhillon letter to Benson, Appendix L.)

B. Topics Covered

- Evolution of Michigan's Canvass and Certification Framework
- PA 269 of 2023 and the Ministerial Certification Mandate
- Proposal 2 (2022) and Constitutional Entrenchment of Canvass Procedures
- County Canvasser Investigative Authority and Statutory Conflicts
- Statewide Reconciliation Failures and Statement of Votes Cast (SOVC) Discrepancies
- Qualified Voter File (QVF) Alterations and Post-Certification Data Integrity
- Detroit Precinct Consolidation and Auditability

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[650] Lindsey v. Whitmer, No. 1:23-cv-01025 (W.D. Mich. Sept. 28, 2023); aff'd, No. 24-1413, 6th Cir. Dec. 20, 2024; cert. denied.

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- Ann Arbor 2022 Certification Failures and Post-Deadline Registrations
- Chain of Custody, Recount Eligibility, and the "One-Way Door" Doctrine
- Elections Clause, HAVA, and Potential Federal Interests in Election Certification

§II. Legal Argument

A. PA 269 of 2023 Creates an Irreconcilable Statutory Conflict

PA 269 of 2023 amended MCL 168.822 to impose a 'ministerial, clerical, and nondiscretionary' certification duty on county boards of canvassers but left intact MCL 168.823's investigative powers to adjourn, summon election inspectors, open ballot boxes, and require corrected returns. These provisions cannot be harmonized in practice: a canvasser directed to certify 'based solely on statements of returns' regardless of circumstance cannot meaningfully exercise investigative powers that only matter if certification can be withheld.[651] [652]

Although the Department of Justice's July 2026 memorandum does not address the allocation of canvassing authority under Michigan law, it emphasizes the federal interest in fair and impartially conducted federal elections, preservation of election records, and maintenance of election systems capable of meaningful review. The discussion that follows addresses whether Michigan's current certification framework provides sufficient transparency and accountability to facilitate those federal interests.

The three-adjective formulation 'ministerial, clerical, and nondiscretionary' is significant. 'Ministerial' eliminates quasi-judicial authority and reduces the function to executing a predetermined duty without independent judgment. 'Clerical' reduces the function to administrative record-processing with no substantive review authority. 'Nondiscretionary' eliminates case-by-case judgment regardless of circumstances. Taken together, a canvasser cannot meaningfully exercise the 'power to adjourn from day to day' or 'summon election inspectors' if the ultimate certification is mandatory regardless of what any investigation reveals.

MCL 168.842 carries identical 'ministerial, clerical, and nondiscretionary' language for the Board of State Canvassers in presidential elections, extending the same structural conflict to the statewide certification chain. A Board of State Canvassers member who identifies a reconciliation discrepancy in a presidential election faces the same structural barrier as a county canvasser.[653]

B. MCL 168.824(a): A Mandatory Transparency Obligation Not Being Met

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[651] Mich. PA 269 of 2023 (amending MCL 168.22a, 168.822). Enrolled Senate Bill 529.

[652] MCL 168.823 (adjournment and investigative powers of county boards of canvassers).

[653] MCL 168.842 (expedited canvass; presidential election; ministerial duty of Board of State Canvassers).

MCL 168.824(a)'s use of 'shall' is unambiguous: the disclosure of out-of-balance precincts is not discretionary. *Rovas Complaint v. Michigan Dep't of Licensing and Regulatory Affairs*, 290 Mich. App. 458 (2010), and the ultra vires doctrine generally establish that administrative actors cannot narrow mandatory statutory requirements through inaction or inconsistent application. The 92% SOVC mismatch rate documented by Woodward (December 2024), combined with the absence of corresponding out-of-balance precinct disclosures in the public canvass record, establishes a strong inference of systemic non-compliance with a mandatory statutory obligation.[654]

C. The One-Way Door Forecloses Post-Certification Correction

Under MCL 168.871, election irregularities not caught during the canvass become permanently unreviewable. When the ballot count does not match the poll list, as the 26 confirmed duplicate ballot pairs from 2020 would have revealed, MCL 168.871 directs that 'the original return of the votes for that precinct shall be taken as correct.' PA 269's ministerial mandate and Proposal 2's constitutional entrenchment mean canvassers cannot halt certification to investigate; once certified, the error is locked in.[655]

Mahmood v. City of Hamtramck (Mich. Ct. App. No. 378814, March 27, 2026) illustrates the one-way door's practical operation. The Court of Appeals majority relied on *Gracey v. Grosse Pointe Farms Clerk* as controlling precedent. MFEI's analysis identified that reliance as inapposite: *Gracey* involved sealed ballots while the Hamtramck ballots had been accessed by unauthorized individuals after discovery. MCL 168.871(2) and MCL 168.932(b)/(e) support the conclusion that chain-of-custody violations render affected ballots permanently unreviewable.[656]

This structural closure raises federal concerns under 52 U.S.C. § 20701 (22-month preservation mandate) and HAVA § 303 (accuracy requirements), both of which contemplate post-election review capability that Michigan's current framework effectively eliminates. This structural closure also embodies a counterintuitive consequence of MCL 168.871: chain-of-custody deficiencies that should heighten scrutiny instead operate as a legal barrier to it, a paradox developed in full in §V.G.

The Department of Justice's July 2026 memorandum likewise emphasizes preservation of election records necessary for later review. The concerns identified in this section therefore relate not only to Michigan's recount procedures, but also to whether the statutory framework preserves

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[654] Rovas v. SBC Michigan, 482 Mich. 90 (2008) (mandatory statutory requirements; ultra vires doctrine).

[655] MCL 168.871 (hand recount conditions; ballot ineligibility; one-way door).

[656] Mahmood v. City of Hamtramck, No. 378814 (Mich. Ct. App. March 27, 2026), https://www.courts.michigan.gov/495fd1/siteassets/case-documents/uploads/opinions/final/coa/20260327_c378814_31_378814.opn.pdf (per curiam). Chain-of-custody violations; reliance on Gracey v. Grosse Pointe Farms Clerk distinguished.

meaningful opportunities for post-election review consistent with current federal enforcement priorities.

D. The Proposal 2 (2022) Audit Prohibition Conflicts with the Bipartisan Inspection Model

Proposal 2 (2022) constitutionally prohibits 'political party officers from having a role in directing, supervising, or conducting audits.' Michigan election law, by contrast, is built on a bipartisan inspection model: county boards of canvassers are four-member bipartisan bodies; poll challengers are partisan designees; election inspectors are required to reflect bipartisan balance under MCL 168.677. The audit prohibition, constitutionally entrenched, creates structural tension with the bipartisan oversight framework that Michigan's election statutes otherwise require and, as documented in the MFEI Party Parity Analysis (May 2025), the 71.7%/12.1% inspector imbalance documented in Detroit and comparable imbalances in Ann Arbor and Grand Rapids compound that tension with documented evidence.[657]

E. The Elections Clause Question

Article I, Section 4 assigns regulation of federal elections to 'the Legislature' of each state. *Moore v. Harper*, 600 U.S. 1 (2023), confirmed this vesting is subject only to state constitutional constraints imposed through ordinary legislative processes. Michigan Proposal 2 (2022), a citizen initiative, transferred election certification authority and audit supervision to a constitutional framework that the legislature cannot modify without another voter-approved amendment. That mechanism raises a direct and unresolved question under the Elections Clause's 'Legislature' requirement, a question that *Lindsey v. Whitmer* raised but did not resolve on the merits. That question is addressed in the federal investigative requests set out in §VII.[658]

§III. Factual and Procedural Background

A. The Pre-PA 269 Canvass Framework

Prior to PA 269 of 2023, Michigan's county boards of canvassers operated under a quasi-judicial framework. The canvass was a substantive review function, not merely a clerical tallying exercise. Canvassers exercised real discretion when returns were questionable, including the power to adjourn, investigate, summon election inspectors, open ballot boxes, and require

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[657] Party Parity Analysis: Election Inspector Hiring Practices of Michigan Municipalities (Patrice Johnson, Elizabeth Bonner, Judi Bennett; MFEI, May 2025). https://aa3979fb-9421-4dd8-ba7d-8ead2d346103.usrfiles.com/ugd/aa3979_6059486a93214066a0d176d5330a134f.pdf

[658] *Moore v. Harper*, 600 U.S. 1 (2023) (Elections Clause; state legislative authority over federal elections).

corrected returns. The certification function, while ultimately mandatory, was preceded by a substantive review phase in which canvassers could raise and address discrepancies.

Norman Shinkle, a former 13-year member of Michigan's Board of State Canvassers who reviewed and endorsed MFEI's Canvasser Report (October 2024), stated that the canvasser position is 'often appointed with little assistance as to the nature of the job and the responsibilities.' The investigative function therefore depended on canvassers who understood and were prepared to assert their statutory authority. Statute and constitutional amendment have progressively reduced that authority without any corresponding public documentation of what was lost. This framework reflected the common law understanding of the canvass as a safeguard, an independent institutional checkpoint between precinct-level vote counting and final certification. Eliminating that checkpoint did not simply remove canvassers' power to investigate. It removed the only institutional actor in the Michigan framework with authority to halt certification pending resolution of discrepancies. No other actor steps in once the canvass closes.[659]

B. PA 269 of 2023: The Statutory Transformation and the Three-Adjective Problem

PA 269 of 2023 amended MCL 168.822 to add: 'It is the ministerial, clerical, and nondiscretionary duty of each board of county canvassers... to certify election results based solely on the statements of returns from the election day precincts, early voting sites, and absent voter counting boards in the county and any corrected returns.'

Each adjective independently forecloses a different dimension of canvasser authority: 'Ministerial' eliminates quasi-judicial authority; 'Clerical' eliminates substantive review; 'Nondiscretionary' eliminates case-by-case judgment. The full legal implications of this formulation are developed in §II.A.

MCL 168.842 extends the identical 'ministerial, clerical, and nondiscretionary' duty language to the Board of State Canvassers in presidential elections, applying the same structural constraint at the statewide level.

C. Michigan Proposal 2 (2022): Constitutional Codification

[659] Responsibilities and Rights of County Boards of Canvassers (Frederick Woodward; MFEI, Oct. 2024). Endorsed by Norman B. Shinkle, former 13-year member, Michigan Board of State Canvassers. ISBN 979-8-9916802-2-6.

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Michigan Proposal 2 (2022), approved November 8, 2022, with 59.99% of the vote, constitutionally codified the ministerial certification mandate. Key provisions added to Article II of the Michigan Constitution:[660]

- Canvass boards must certify election results based only on the official records of votes cast
- Election results to be determined solely by the vote of electors casting ballots in the election
- Board of State Canvassers is the only entity authorized to certify election results, supervise recounts, and resolve ties
- Election audits must be conducted in public; audit methods finalized and made public prior to the election; funding publicly disclosed
- Political party officers prohibited from directing, supervising, or conducting audits
- Local governments may accept private and in-kind donations for election administration with public disclosure (cross-reference: Count 2)
- Military and overseas absentee ballots counted, if postmarked by election day and received within six days after the election

The constitutional codification elevates the PA 269 ministerial duty language from statute to constitutional mandate, meaning the legislature cannot modify or roll back the ministerial duty framework without a further voter-approved constitutional amendment.

D. Inspector Party Imbalance: The Structural Context

The canvass integrity failures documented in this Count do not occur in a neutral oversight environment. MFEI's Party Parity Analysis (May 2025) documented that in Detroit's 2024 General Election, 71.7% of election inspectors were Democrat-affiliated and 12.1% were Republican-affiliated (2,994 vs. 504 of 4,176 total). In Ann Arbor City, the ratio was 78.7% to 19.1%. In Grand Rapids, 69.8% to 25.6%. Cross-reference: Count 9.

The inspector imbalance is directly relevant to canvass integrity because absent voter counting board operations, the process that generates the data the canvass is supposed to verify, are conducted by these same inspectors. A canvass that cannot investigate is structurally dependent on the accuracy of counting conducted in an environment of documented partisan imbalance. When the investigative checkpoint is eliminated, the integrity of the count depends entirely on the integrity of the counting environment.

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[660] Michigan Proposal 2, Voting Policies in Constitution Amendment (2022) (Ballotpedia). Approved Nov. 8, 2022; 59.99% in favor.

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City / Jurisdiction	Democrat Inspectors	Republican Inspectors	Other / Unaffiliated	Total
Detroit (Wayne County)	**2,994 (71.7%)**	**504 (12.1%)**	676 (16.2%)	4,174
Ann Arbor City (Washtenaw County)	**78.7%**	19.1%	2.2%	—
Grand Rapids (Kent County)	**69.8%**	25.6%	4.6%	—
MCL 168.677 requires bipartisan balance. Absent voter counting board results — the primary data source for the canvass — are generated by these same inspectors.	***D:R ratio 5.9×1 (Detroit)***	***3.6×1 to 5.9×1 across cities***		

Figure 79: ***Election inspector party affiliation by city, 2024 General Election.***

MCL 168.677 requires bipartisan balance; documented Democrat-to-Republican ratios range from 2.7:1 (Grand Rapids) to 5.9:1 (Detroit). Absent voter counting board operations are conducted by these inspectors.

Source: MFEI Party Parity Analysis (May 2025). Cross-reference: Count 9.

E. The 2020 Election: Canvass Failures and Record Deletion

PIME analyst Louis Avallone documented in December 2021 that 26 confirmed duplicate ballot pairs, each consisting of one absentee ballot and one in-person ballot from the same voter, both counted in the November 2020 general election, were visible only after partial restoration of deleted voter history records. Avallone's analysis also documented that a 2017 change to the QVF records retention strategy affected the baseline against which the 2020 deletions were measured. The restoration revealed a discrepancy of approximately 100,000 records between the official SOS vote count (5.56 million) and the restored QVF (5.46 million). The SOS attributed this to a 'technical issue, not done on purpose,' a characterization conveyed through Garrett Wheat (Chief of Staff to Sen. Ruth Johnson) and not independently verified.[661]

F. The 2022 Ann Arbor Election: Post-Deadline Registrations and Discriminatory Satellite Office Placement

[661] Citizen Analyst Uncovers Illegal Deletions of Voter History Records (Patrice Johnson / Louis Avallone; PIME, Dec. 14, 2021).

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The Ann Arbor 2022 Report documented that 600-plus ballots were cast and counted from voters whose QVF registration timestamps showed registration after the 8:00 p.m. election-day deadline under MCL 168.731(3), including 120 ballots from registrations timestamped November 9, the day after the election. Official voter history records were subsequently altered to show November 8 registration dates. Tabulator tapes for all 53 City of Ann Arbor precincts confirmed these were physical counting events. No out-of-balance precinct disclosure was made in the certified canvass statement.

The conditions that produced these violations were structural, not incidental. Ann Arbor City Clerk Jacqueline Beaudry placed both satellite clerk offices exclusively on the University of Michigan's two campuses, where precincts containing at least one U-M student housing complex voted 94.7% for the Democratic candidate for governor in November 2022. No satellite office was placed near any of the 23 largest senior living centers in Ann Arbor, which are clustered in the southwest corner of the city near Briarwood Mall. The National Voter Registration Act (NVRA), Section 8(b), requires that any state program to protect election integrity "shall be uniform and nondiscriminatory." The Ann Arbor satellite office placement satisfied neither requirement.

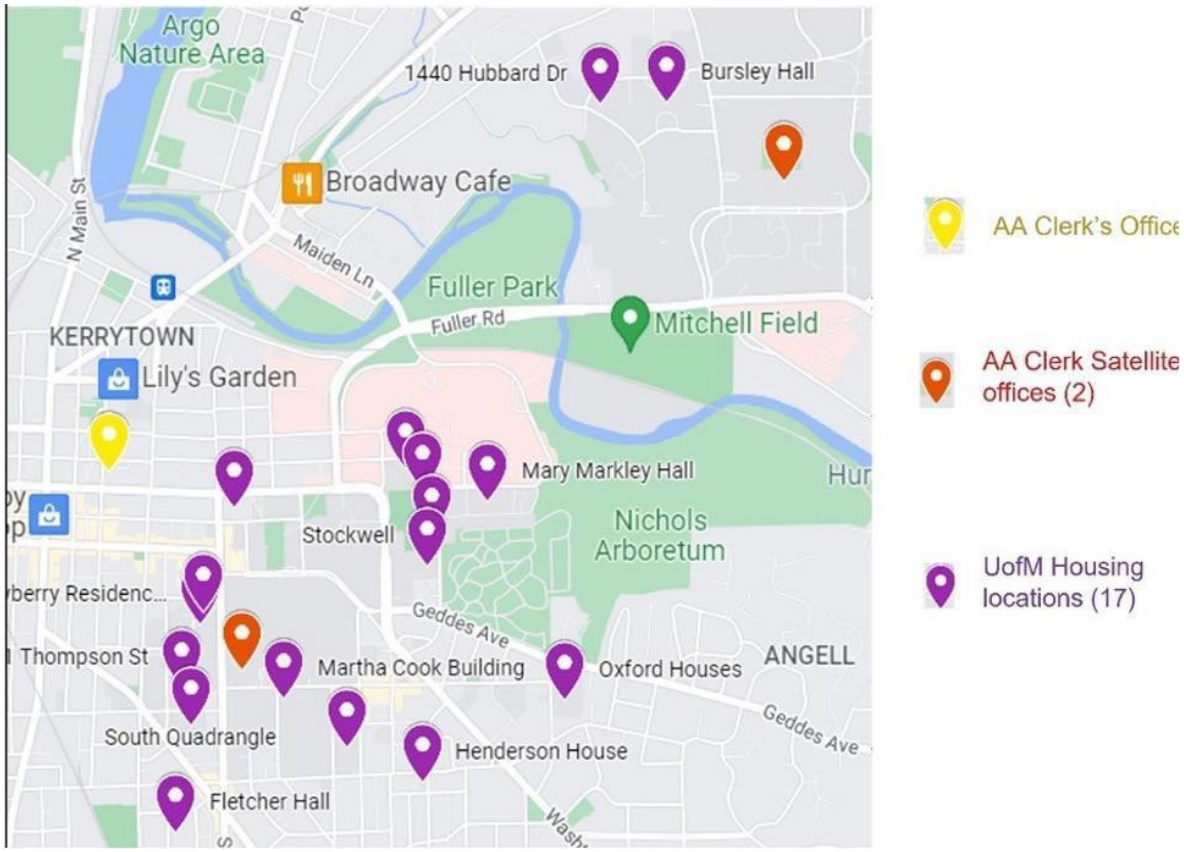


Figure 80: ***Ann Arbor satellite clerk offices (orange pins, 2 total) placed exclusively on University of Michigan campuses*** *among 17 UofM housing locations (purple pins).*

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No satellite office was placed near any of the 23 largest senior living centers in Ann Arbor.

Source: Richardson et al., Ann Arbor Compromises Election Integrity during 2022 Election (MFEI/PIME, July 2023), p. 8

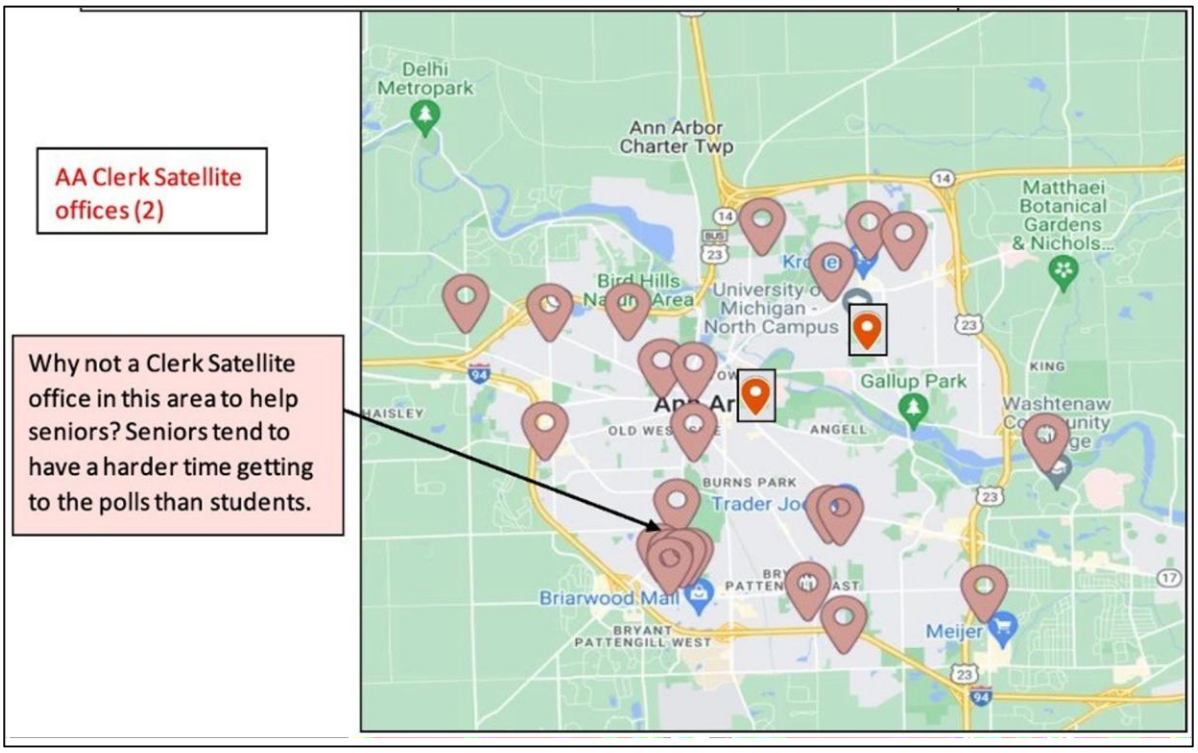


*Figure 81: **The 23 largest senior living centers in Ann Arbor** (pink pins) are concentrated in the southwest near Briarwood Mall.*

Both satellite clerk offices (orange squares) were placed on university campuses in the northeast. MCL 168.677 and NVRA § 8(b) require nondiscriminatory administration.

Source: Richardson et al., Ann Arbor Compromises Election Integrity during 2022 Election (MFEI/PIME, July 2023), p. 9.

This practice is not historical. As of the date of this report, Ann Arbor continues to operate satellite clerk offices exclusively on University of Michigan campuses, and comparable satellite office placement patterns have been documented at Michigan State University's East Lansing campus. The structural conditions that produced the 2022 Ann Arbor certification chain failure, including late registrations processed at partisan-leaning satellite offices, ballot counting extended past the statutory deadline, and records subsequently altered, remain embedded in the ongoing administration of elections in both jurisdictions.

G. The 2024 Election: Incomplete Data at Certification

The Bureau of Elections' December 2, 2024, FOIA response acknowledged: 'The complete voter history for the 11/5/2024 election is not in this file as information is still being uploaded by clerks.' This statement, made ten days after the November 22, 2024, certification, raises a direct question under MCL 168.823. The statute requires that returns be complete before the board certifies; the BOE's acknowledgment appears on its face to establish that this prerequisite was not satisfied prior to the November 22, 2024, certification.

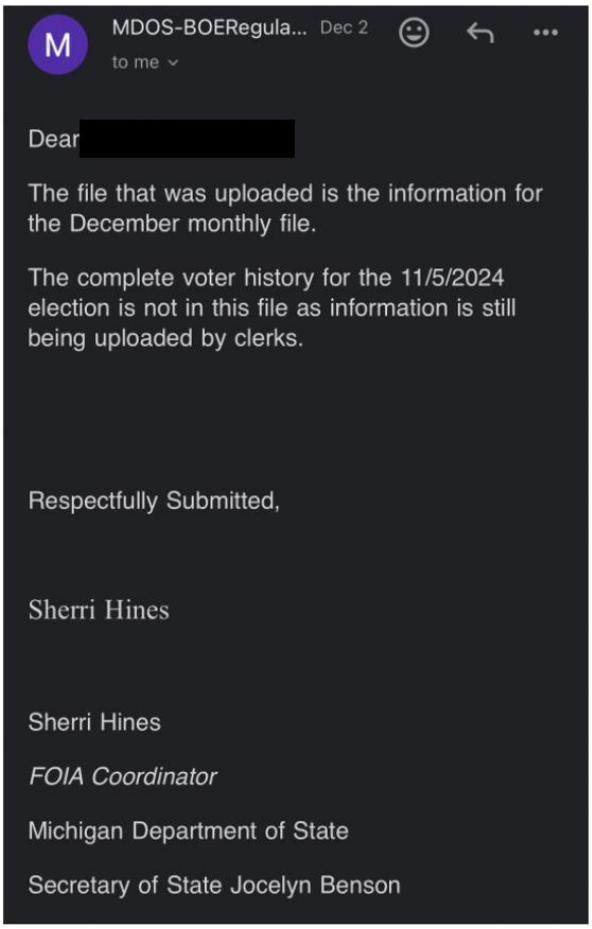


Figure 82: ***MCL 168.823 Certification Prerequisite — November 2024 Election****.*

MCL 168.823 requires complete returns before certification. MCL 168.828 requires clerk upload within 24 hours. The BOE’s December 2, 2024 FOIA acknowledgment establishes that the completeness prerequisite was not satisfied before the November 22, 2024 certification, ten days elapsed before the BOE confirmed data was still being uploaded by clerks.

Source: BOE FOIA Response, Sherri Hines, December 2, 2024 (reproduced in Woodward, When Vote Totals Don't Match, December 2024).

H. Antrim County 2020: A Contested Record

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The November 2020 election in Antrim County, Michigan produced an initial tabulation anomaly involving Dominion Voting Systems equipment that was widely reported at the time: unofficial results briefly showed an implausible result before a corrected canvass was certified. The Michigan Secretary of State attributed the discrepancy to clerk error in uploading a software update rather than a malfunction or manipulation of the tabulation system, and a subsequent hand count audit of Antrim County was certified as consistent with the corrected results. Independent analyses commissioned by litigants reached different conclusions, and the competing technical records have not been fully reconciled in any judicial or administrative proceeding that resolved the underlying forensic questions on the merits.

MFEI has not conducted an independent forensic review of the Antrim County record sufficient to evaluate the competing analyses and does not advance a finding on this incident in the present Count. The evidentiary record is contested, the official explanation has not been independently corroborated by MFEI, and the volume of conflicting material in the public record counsels caution. MFEI notes the incident here in the interest of a complete factual background and is available to provide further analysis of the Antrim County record upon specific request from the DOJ or EAC. The official SOS hand count audit is documented in: Michigan Department of State, Hand Audit of All Presidential Election Votes in Antrim County Confirms Previously Certified Results, Voting Machines Were Accurate (Dec. 17, 2020), https://www.michigan.gov/som/0,4669,7-192-47796-547883--,00.html; and Final Numbers from Antrim County Audit Continue to Affirm Accuracy of Election Results (Dec. 18, 2020), https://www.michigan.gov/sos/resources/news/2020/12/18/final-numbers-from-antrim-county-audit-continue-to-affirm-accuracy-of-election-results. [CLETA REVIEW — confirm whether additional characterization is warranted.]

§IV. Legal Framework

A. Michigan Statutory Framework: The Canvass Powers

County boards of canvassers are established by MCL 168.22 as four-member bipartisan bodies. Their investigative toolkit includes:

- MCL 168.823: Power to adjourn when returns are missing, incomplete, or incorrect; to summon persons having ballot boxes, poll lists, and tally sheets; to open ballot boxes; to correct obvious mathematical errors; to summon election inspectors or designate county clerk staff to count uncounted ballots
- MCL 168.870: Subpoena power requiring persons in charge of ballot boxes, poll lists, tally sheets, and returns to appear before the board
- MCL 168.871: Hand recount authority when seal numbers are broken or mismatched, or when ballot count does not match the poll list ('one-way door', when recount is ineligible, original return is taken as correct)

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- MCL 168.872: Full investigative authority when fraud is alleged — subpoena power, authority to open any ballot box regardless of condition, duty to report findings to prosecuting attorney and attorney general
- MCL 168.861: Quo warranto remedy for fraudulent or illegal voting or tampering with ballots before a recount
- MCL 168.873: Felony penalty for any officer who 'willfully interfere[s] with a fair and impartial recount of the votes'

LEGAL TENSION: MCL 168.823's investigative powers and MCL 168.822's ministerial duty language are in apparent tension. PA 269 of 2023 and Proposal 2 (2022) appear to have constitutionally subordinated MCL 168.823's investigative function to the MCL 168.822 ministerial mandate — leaving canvassers with powers on paper and no consequence to enforce them.

B. The Gap: Investigative Powers Without Certification Authority

The critical gap created by PA 269 of 2023 and Proposal 2 (2022) is this: canvassers retain investigative powers on paper, but the ministerial certification mandate removes the consequence that gave those powers force. Under the pre-PA 269 framework, a canvasser who discovered a reconciliation discrepancy could refuse to certify, forcing resolution before certification proceeded. Under the post-PA 269 framework, a canvasser who discovers the same discrepancy must certify regardless. The investigative powers of MCL 168.823 and MCL 168.872 remain on the books, but without the ability to withhold certification, they have no coercive effect.

This structural reality is captured in a single observation: investigation without consequence is not oversight. A canvasser who can investigate but cannot withhold certification is not a check on the certification process; she is a witness to it. The 92% SOVC mismatch rate documented in this Count, and the reconciliation failures that produced it, may be in part a product of this structural elimination, a system designed to certify first and investigate never.

STRUCTURAL CONCERN: The ministerial duty framework created by PA 269 of 2023 and constitutionally entrenched by Proposal 2 (2022) eliminated the institutional checkpoint function that county boards of canvassers previously served. A canvasser who cannot withhold certification cannot meaningfully investigate, because investigation without consequence is not oversight.

Canvasser Power (MCL 168.823)	Pre-PA 269	Post-PA 269 / Proposal 2
Adjourn to procure missing returns	✓ Available	✗ Certification mandatory regardless
Summon persons with ballot boxes/poll lists	✓ Available	✗ Certification mandatory regardless

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Canvasser Power (MCL 168.823)	Pre-PA 269	Post-PA 269 / Proposal 2
Open ballot boxes and examine papers	✓ Available	✗ Certification mandatory regardless
Summon election inspectors	✓ Available	✗ Certification mandatory regardless
Require corrected returns	✓ Available	✗ Certification mandatory regardless
Withhold certification pending investigation	✓ Available	✗ Eliminated by MCL 168.822 ministerial mandate

Figure 83: ***Canvasser investigative powers before and after PA 269 of 2023****.*

Each power in the left column remains on the books under MCL 168.823 but has no operative effect because MCL 168.822 mandates certification regardless of what any investigation reveals.

Source: Woodward/MFEI Canvasser Report (October 2024); MCL 168.822; MCL 168.823.

C. The Mandatory Statutory Provisions

> **MCL 168.822 (as amended by PA 269 of 2023):** *It is the ministerial, clerical, and nondiscretionary duty of each board of county canvassers, and each of the members of the board of county canvassers, to certify election results based solely on the statements of returns from the election day precincts, early voting sites, and absent voter counting boards in the county and any corrected returns.*
>
> **MCL 168.842 (presidential elections):** *Identical 'ministerial, clerical, and nondiscretionary' duty language for the Board of State Canvassers, extending the same structural constraint to statewide certification in presidential election years.*
>
> **MCL 168.824(a):** *In any statement prepared under [MCL 168.824], the board of county canvassers shall disclose the number of out-of-balance precincts that were not reconciled during the county canvass process.*

D. Federal Constitutional Framework: The Elections Clause

Article I, Section 4, Clause 1 provides: 'The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof.' *Moore v. Harper*, 600 U.S. 1 (2023), confirmed this vesting in state legislatures. Proposal 2 (2022), a citizen initiative, constitutionally entrenched election certification rules that the legislature cannot modify without a further voter-approved amendment, potentially displacing legislative authority over federal elections.

E. Federal Statutory Framework

52 U.S.C. § 20701 requires 22-month preservation of election records. 52 U.S.C. § 21083 (HAVA § 303) requires statewide voter registration system accuracy. 52 U.S.C. § 20507(i) requires 2-year NVRA records retention. These provisions collectively establish a federal

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framework for election record accuracy and preservation that Michigan's post-PA 269 structure appears to impair.

The Department of Justice's July 2026 memorandum identifies these federal record-preservation and election-integrity provisions as present enforcement priorities and reminds election officials that preserved records must remain available for federal inspection.

F. The *Bost* and *Watson* Amicus Frameworks

MFEI participated as co-filer in two SCOTUS amicus briefs. In *Bost v. Illinois State Board of Elections* (No. 24-568, SCOTUS 2026), MFEI advanced the 'competitor standing' theory: voters and candidates competing in an illegally structured election environment have Article III standing regardless of whether they can document the illegal structure changed the outcome. The *Bost* majority adopted the 100-meter-dash analogy. A candidate competing under a ministerial certification mandate that forecloses investigation of reconciliation failures has standing to challenge that mandate as a structural compromise of the competitive environment.[662]

In *Watson v. RNC* (No. 24-1260, SCOTUS), MFEI advanced the 'Consummation' theory, that Election Day is a constitutionally mandated firm receipt deadline for ballots. Proposal 2 (2022)'s six-day post-Election Day military and overseas ballot receipt window is in direct tension with this theory and may independently implicate the Elections Clause. The *Bost* majority is now cited as authority in *Watson*.[663] [664]

§V. Evidentiary Record

A. The SOVC vs. Election Summary Discrepancy: 92% Mismatch Rate

The Statement of Votes Cast (SOVC) is the precinct-by-precinct tabulator output that county boards of canvassers are required to reconcile against official Election Summary Reports during the canvass. A discrepancy between the SOVC and the official Election Summary Report is, by definition, an out-of-balance precinct under MCL 168.824(a), requiring disclosure.

When Vote Totals Don't Match (Woodward/MFEI, December 2024) found that 92% of the 50-plus Michigan counties responding to FOIA requests showed discrepancies between their SOVC data and official Election Summary Reports for the November 5, 2024, election. Only 8% showed a one-for-one match. Selected county-level findings:[665]

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[662] Bost v. Illinois State Board of Elections, 607 U.S. ——, No. 24-568 (2026) (competitor standing; 100-meter-dash analogy).

[663] Watson v. RNC, No. 24-1260 (U.S. Supreme Court) (SCOTUSblog). Argued Mar. 23, 2026.

[664] MFEI Amicus Brief, Watson v. RNC, No. 24-1260 (Consummation Theory). Bost majority cited as authority.

[665] When Vote Totals Don't Match: An Investigative Analysis (Frederick Woodward; MFEI/Politylitics, Dec. 2024). BOE FOIA Response (Sherri Hines) reproduced at p. 5 (Fig. 1).

County / Jurisdiction	Discrepancy Scale	Context
Isabella County	11,000+ mismatches	~1 in 3 voters; home to Central Michigan University
Kalamazoo County	3,000+ mismatches	Home to Western Michigan University
Washtenaw County	2,000+ mismatches	Home to University of Michigan; 2022 anomalies documented
City of Livonia	Irreconcilable (SOS vs. local tabulator)	Confirmed by MIME, September 2025
Statewide (50+ counties)	92% mismatch rate	Only 8% showed one-for-one SOVC/Summary match

Figure 84: ***Selected county-level SOVC discrepancies, November 5, 2024 general election****.*

Isabella County: 11,000+ mismatches (~1 in 3 voters); Kalamazoo: 3,000+; Washtenaw: 2,000+; City of Livonia: irreconcilable (MIME, September 2025).

Source: Woodward, When Vote Totals Don't Match (MFEI, December 2024).

- **Isabella County:** 11,000+ discrepancies against a total voter population of approximately 32,000, with approximately 1 in 3 votes potentially problematic being home to Central Michigan University
- **Kalamazoo County:** 3,000+ discrepancies; home to Western Michigan University
- **Washtenaw County:** 2,000+ discrepancies; home to University of Michigan; site of 2022 election irregularities documented in the Ann Arbor 2022 Report

MIME (September 2025, Section 1) independently corroborates the reporting failure, finding the City of Livonia's November 2024 State Supreme Court results irreconcilable between SOS official results and local tabulator results, a documented case of the same SOVC-to-summary mismatch phenomenon.[666]

The question for federal investigation is whether these discrepancies were disclosed in county canvass statements as MCL 168.824(a) requires. The absence of corresponding public disclosures in the canvass record, combined with the scale of the SOVC discrepancies found upon FOIA request, creates a strong inference that the mandatory disclosure was not made.

Reconciliation Outcome	Counties (of 50+)	Share	County-Level Detail (Selected)
SOVC ≠ Election Summary (out-of-balance)	~46 of 50+	92%	Isabella: 11,000+ (pop. ~32,000); Kalamazoo: 3,000+; Washtenaw: 2,000+; Livonia: irreconcilable SOS vs. local tabulator (MIME, Sep. 2025)

[666] MFEI Investigation into Michigan Elections (MIME), Section 1 (Dee Davey, MFEI Elections Oversight Team; Sept. 2025).

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Reconciliation Outcome	Counties (of 50+)	Share	County-Level Detail (Selected)
SOVC = Election Summary (reconciled)	~4 of 50+	8%	One-for-one match; no MCL 168.824(a) disclosure required
MCL 168.824(a) disclosure found in canvass record	Not documented	—	Mandatory out-of-balance disclosure not found in public canvass record despite 92% mismatch rate

Figure 85: ***SOVC vs. Election Summary Report discrepancy rate****,*

November 5, 2024 general election. 92% of responding counties showed discrepancies constituting unreported out-of-balance precincts under MCL 168.824(a).

Source: Woodward, When Vote Totals Don't Match (MFEI, December 2024); MIME (September 2025, Section 1).

B. The Random Assignment Algorithm and Post-Certification QVF Manipulation

The Bureau of Elections made 769,091 post-certification vote history location changes to Michigan's QVF since 2020 through a random assignment algorithm. Phani Mantravadi (MFEI DEEP Team / QVF analyst) characterized the effect: "This pattern of obfuscating or altering historical data makes it almost impossible to reconcile counts." The SOVC mismatch rate and the post-certification QVF manipulation are not independent phenomena; they appear to reflect the same underlying data integrity failure, and together impede the ability of any post-certification review to determine whether the canvassed returns accurately reflected eligible votes cast. (Cross-reference: Count 3, QVF Accuracy.)

The scale of these QVF data integrity failures is independently corroborated by the DOJ Civil Rights Division's own analysis. In *United States v. Benson*, Case No. 1:25-cv-01148 (W.D. Mich., filed September 25, 2025), the DOJ's Voting Section filed suit against Secretary Benson citing data from the Election Assistance Commission's 2024 Election Administration and Voting Survey (EAVS): Michigan sent confirmation notices to only 4.5% of its voting population against a national average of 19.5%.

Michigan removed only 4.2% of registered voters against a national average of 9.1%. The complaint noted that Michigan willingly submits the identical data demanded by the DOJ, including driver's license numbers and last-four Social Security digits, to ERIC, a private organization with no enforcement authority, while refusing to provide it to the Attorney General of the United States. The DOJ filing confirms that the QVF accuracy failures documented in this Count are not localized anomalies; they reflect a pattern the federal government has independently identified as statistically anomalous and legally non-compliant.

C. Detroit Precinct Consolidation: The Non-Auditable Jurisdiction

Michigan permits only Detroit to consolidate multiple election precincts into single absent voter counting board results. MFEI's DEEP Team documented four independent data sources producing four different voter counts for Detroit's November 2024 election:

- Wayne County Statement of Votes Cast: 247,770
- SOS QVF via FOIA (December 12, 2024): 247,378
- Wayne County QVF FOIA (January 28, 2025): 246,854
- Detroit QVF FOIA (January 23, 2025): 243,334

These figures, which should be identical, differ by up to 4,436. The consolidation of precinct results renders precinct-level reconciliation under MCL 168.822 effectively impossible: a canvasser cannot determine which precincts contribute to which totals, cannot perform the out-of-balance precinct analysis required by MCL 168.824(a), and cannot match individual voter IDs to ballot records.

MCL 168.798b(2) requires cities with 250 or more precincts to separately report results for each election day precinct and each absent voter counting board. Detroit's precinct consolidation practice appears to conflict with this requirement. Detroit accounts for approximately 5.8% of statewide votes yet is the least auditable jurisdiction in Michigan's canvass record. Cross-reference: MIME (September 2025, Section 1).

Data Source	FOIA / Access Date	Voter Count Reported	Variance from SOVC
Wayne County Statement of Votes Cast (SOVC)	Election night	**247,770**	Baseline (0)
Secretary of State QVF via FOIA	Dec 12, 2024	247,378	−392
Wayne County QVF via FOIA	Jan 28, 2025	246,854	−916
City of Detroit QVF via FOIA	Jan 23, 2025	**243,334**	**−4,436**
All four sources should be identical. MCL 168.798b(2) requires separate reporting per precinct; Detroit's consolidation practice appears to conflict with this requirement.			**Max divergence: 4,436 votes**

Figure 86: ***Four independent data sources for Detroit November 2024 voter count***

— figures that should be identical differ by up to 4,436. Detroit's 2019 precinct consolidation practice renders precinct-level reconciliation under MCL 168.822 and MCL 168.824(a) effectively impossible.

Source: MFEI DEEP Team FOIA analysis; MIME (September 2025, Section 1).

D. BOE Certification Prerequisite Failure: MCL 168.823 and MCL 168.828

MCL 168.823 establishes the adjournment power as a statutory prerequisite for lawful certification: the board must procure or correct missing, incomplete, or incorrect returns before

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certifying. MCL 168.828 requires clerks to upload final election results within 24 hours of certification. Together these provisions create a mandatory sequence: complete returns precede certification.

The BOE's December 2, 2024, acknowledgment, that voter history data for the November 5, 2024 election had not been fully uploaded ten days after the November 22, 2024, certification, raises a direct question about whether this statutory prerequisite was met. The same question applies to the 2020 election, where the post-certification emergence of 769,091 vote history changes suggests the data presented for certification did not reflect final, complete returns.

> **CERTIFICATION PREREQUISITE CONCERN:** If the BOE did not have complete clerk data at the time of certification, on what basis did county boards of canvassers certify under MCL 168.823's completeness requirement? This unresolved question applies to both 2020 and 2024.

E. The 26 Confirmed Duplicate Ballot Pairs and the 100,000-Record Discrepancy

Louis Avallone documented in December 2021 that 26 confirmed duplicate ballot pairs, each consisting of one absentee ballot and one in-person ballot from the same voter and both counted in the certified 2020 results, became visible only after partial restoration of deleted voter history records. Avallone's analysis also documented a 2017 change to the QVF records retention strategy that affected the baseline against which subsequent deletions were measured. Each pair represents an out-of-balance precinct that should have been identified during the canvass and disclosed under MCL 168.824(a). The 26 pairs are the floor, not the ceiling: complete restoration of the deleted records, which the BOE has not performed, would be required to determine the full scope. The SOS's certified 2020 count (5.56 million) exceeded the restored December 2021 QVF (5.46 million) by approximately 100,000 records.

F. Ann Arbor 2022: Full Certification Chain Breakdown

The satellite office placement created the structural precondition for every violation that followed. By concentrating same-day registration activity at two partisan-leaning campus sites with no tabulator, where absentee ballots, not in-person votes, were the only voting mechanism, the clerk created a pipeline for post-deadline ballot issuance that the normal precinct-level controls were not designed to catch. Secretary of State Jocelyn Benson compounded the problem at 6:19 p.m. on Election Day when she tweeted that anyone in line at a "local clerk's office" by 8:00 p.m. could "still register and vote", guidance that was contrary to MCL 168.731(3) and MCL 168.761(3), which limit absentee ballot issuance to registered voters presenting in person before 8:00 p.m. The clerk's own posted satellite office notices stated: "If you are already registered and would like to vote on election day, you must go to your assigned polling location", language that was simultaneously ignored in practice.

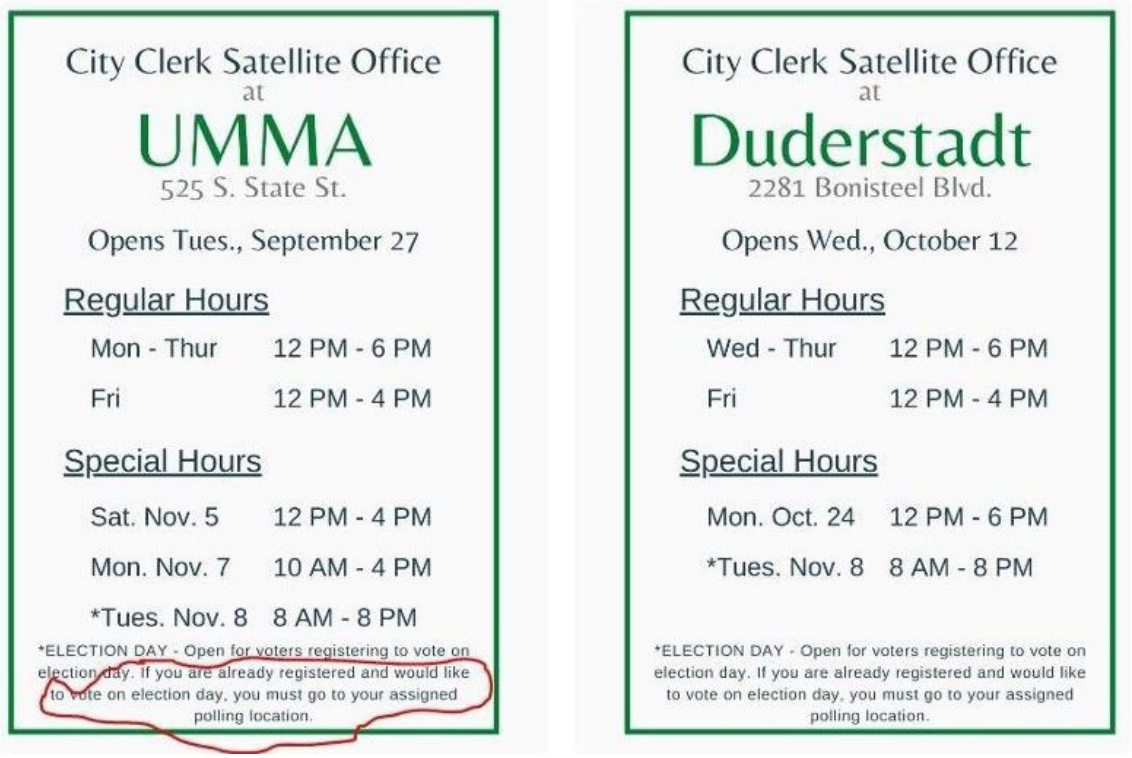


Figure 87: ***Official Ann Arbor City Clerk satellite office notices*** *(UMMA and Duderstadt).*

The election day footnote (circled) reads: "If you are already registered and would like to vote on election day, you must go to your assigned polling location." The clerk's own notice acknowledged the legal requirement while the satellite offices processed 180 illegal re-registrations and more than 600 post-deadline absentee ballots.

Source: Richardson et al., Ann Arbor Compromises Election Integrity during 2022 Election (MFEI/PIME, July 2023), p. 13.

The Ann Arbor 2022 Report documented the complete certification chain failure: (1) ineligible registrations entered the QVF after the 8:00 p.m. election-day deadline under MCL 168.731(3); (2) ballots were issued, cast, and counted on those ineligible registrations; (3) a state-level programmer was reportedly dispatched to adjust voting systems to count these ballots; (4) the adjusted results were reported to the county board; (5) the county board certified those results; (6) official voter history records were subsequently altered to show November 8 registration dates, concealing the November 9 timestamps; (7) no out-of-balance precinct disclosure was made.

Tabulator tapes for all 53 City of Ann Arbor precincts confirmed the discrepancy was a physical counting event, not a data artifact. At no point in this chain did the canvass function as an independent checkpoint.

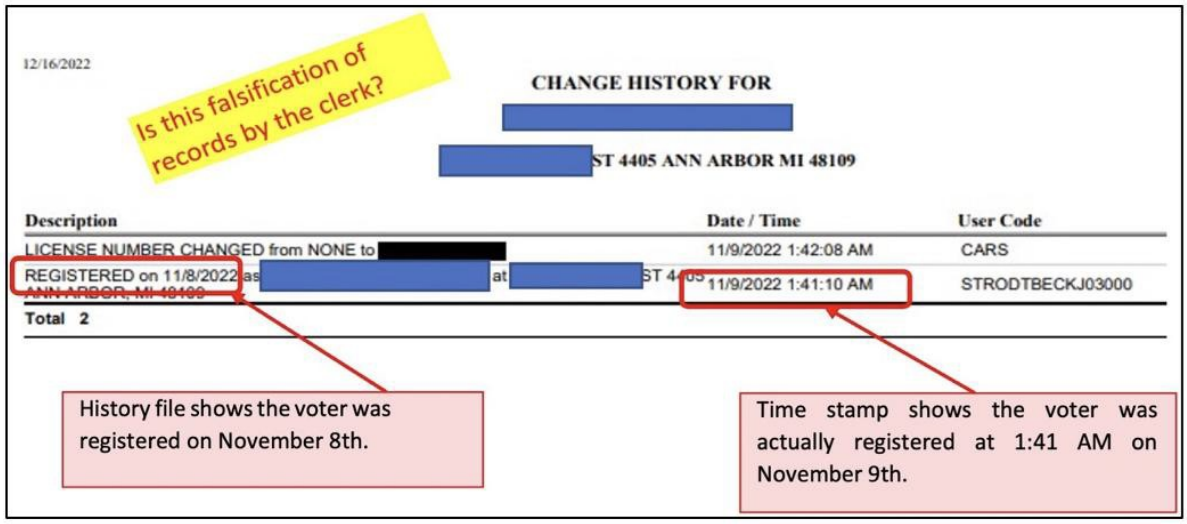


Figure 88: ***Voter History File shows a November 9, 2022, registration for the November 8, 2022, election,***

Official QVF Change History record for an Ann Arbor voter. The Description field shows the voter REGISTERED on 11/8/2022, but the Date/Time column records 11/9/2022 1:41:10 AM. The voter was registered at 1:41 a.m. on November 9, the day after the election. This record is one of more than 600 time-stamped QVF records documenting post-deadline registrations subsequently altered to show November 8, 2022 dates. Personal identifying information redacted.

Source: Richardson et al., Ann Arbor Compromises Election Integrity during 2022 Election (MFEI/PIME, July 2023), p. 6; QVF FOIA production, Ann Arbor City Clerk's Office.

G. Chain-of-Custody Defects and Recount Ineligibility: The Recount Paradox

MCL 168.871 establishes the conditions under which a precinct's ballots lose recount eligibility. Those conditions include: seal numbers on ballot containers that are broken or mismatched without explanation; a ballot count that does not match the poll list; or ballot label assembly seals that are broken or bear different numbers. When any of these conditions exists, MCL 168.871 directs that 'the original return of the votes for that precinct shall be taken as correct.'

On its face, this provision appears to protect election integrity by preventing recounts in precincts where the ballot chain of custody cannot be verified. In practice, it produces the opposite result: the conditions most likely to indicate a problem with a precinct's vote count are the same conditions that make that precinct's ballots unreviewable. The less reliable the chain of custody, the less likely the ballots are to be examined.

The sequence Michigan law creates is as follows:

1. Ballots are counted on election day.

2. Canvassers certify the count under the ministerial mandate of MCL 168.822.

3. A party or candidate requests a recount.

4. Officials examine the ballot containers and find that seal numbers are broken, mismatched, or otherwise fail the statutory requirements of MCL 168.871.

5. MCL 168.871 prohibits the recount. The statute does not authorize examination of the ballots to determine what occurred.

6. MCL 168.871 accepts the original certified count as correct. The chain-of-custody failure that should have prompted investigation instead produces legal finality.

This framework appears counterintuitive because chain-of-custody deficiencies function as a barrier to review rather than a trigger for review. Under an integrity-protective design, broken seals or mismatched numbers would prompt investigation. Under MCL 168.871 as written, they produce finality.

The paradox is compounded by the ministerial certification mandate of PA 269 of 2023. The ministerial mandate eliminates the canvass as an investigative checkpoint: canvassers must certify regardless of what they observe. MCL 168.871 then eliminates the recount as a corrective mechanism: chain-of-custody failures that survived the canvass foreclose the recount. The canvass checkpoint was removed by statute; the recount remedy is foreclosed by the same conditions the canvass could no longer catch. At no stage in this sequence does the existence of a chain-of-custody defect trigger examination of the ballots rather than acceptance of the original return.

> **RECOUNT PARADOX:** Under Michigan's current framework, the conditions most likely to raise questions about ballot integrity: broken seals, mismatched numbers, and ballot counts that do not match poll lists, simultaneously eliminate the principal mechanism for reviewing those ballots. Chain-of-custody defects function as a legal barrier to review, not as a trigger for it.

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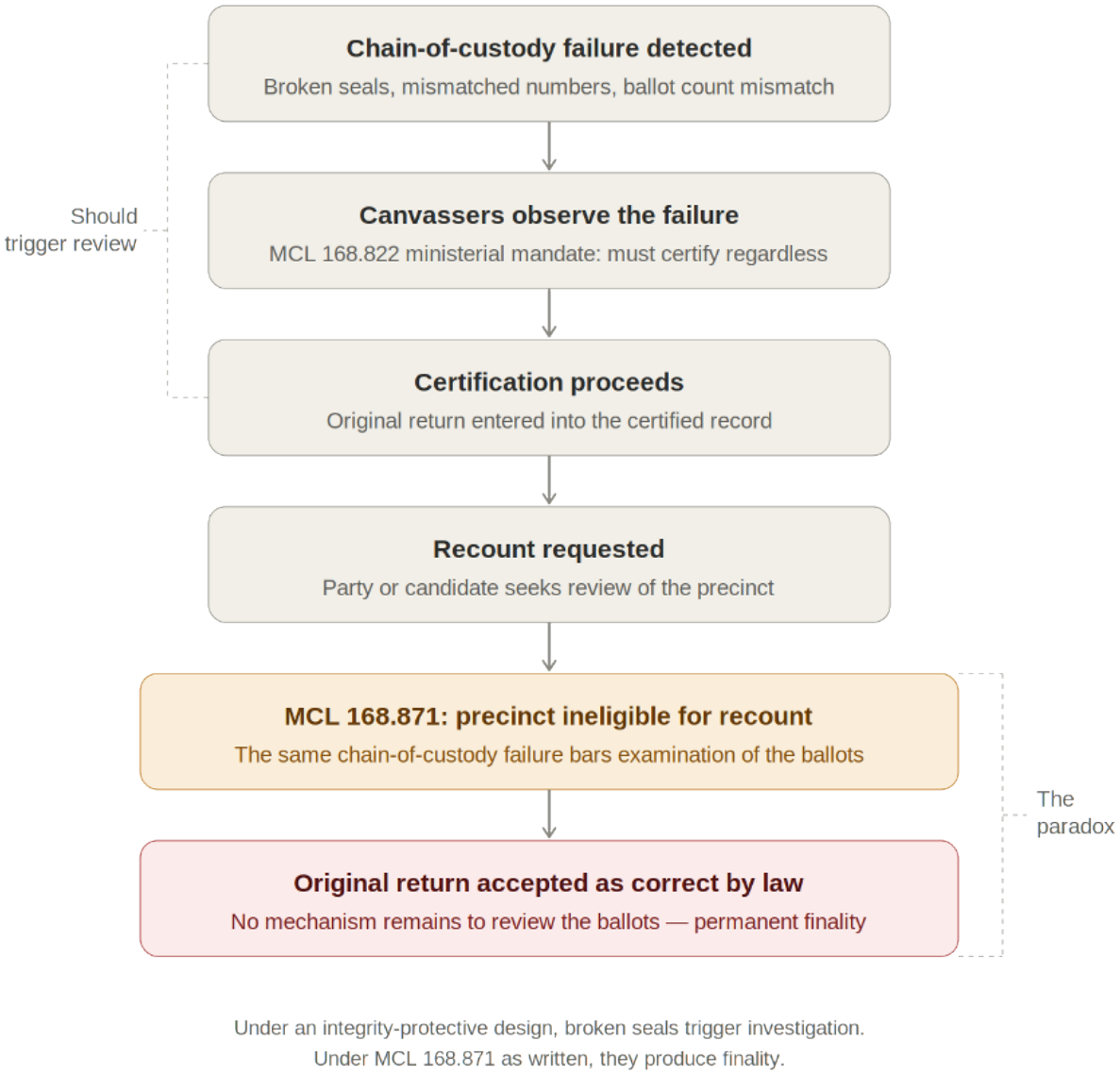


*Figure 89: **The Recount Paradox Under MCL 168.871**.*

Under Michigan’s current framework, chain-of-custody failures that should trigger review of ballot integrity instead produce legal finality. The conditions most likely to raise questions about a precinct — broken seals, mismatched numbers, ballot counts that do not match poll lists — simultaneously eliminate the principal mechanism for reviewing those ballots.

Source: MCL 168.871; Mahmood v. City of Hamtramck, No. 378814 (Mich. Ct. App. March 27, 2026); MFEI analysis.

Mahmood v. City of Hamtramck (Mich. Ct. App. No. 378814, March 27, 2026) illustrates the paradox in operation. Thirty-seven absentee ballots discovered post-election had been accessed by unauthorized individuals while stored in the clerk's office. The Court of Appeals majority

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ordered the ballots counted despite that unauthorized access, relying on *Gracey v. Grosse Pointe Farms Clerk* as controlling precedent. MFEI's analysis identified that reliance as inapposite: *Gracey* involved sealed ballots where chain of custody broke in delivery but ballot contents were never accessed, a different context. The dissent (O'Brien, J.) expressly cited MCL 168.871(2) and the clerk's sworn testimony that ballot security was not preserved. The effect is precisely what the paradox predicts: ballots whose physical integrity cannot be confirmed are ordered counted, yet those same ballots, having failed MCL 168.871(2)'s security preservation requirement, would be ineligible for recount if the results are later contested. They can be counted once but never independently verified.

H. The One-Way Door: MCL 168.871

MCL 168.871 establishes that when ballots are determined not eligible for recount, "the original return of the votes for that precinct shall be taken as correct." A precinct loses recount eligibility when: seal numbers are broken or mismatched without explanation; the ballot count does not match the poll list; or ballot label assembly seals are broken or bear different numbers. The chain-of-custody failures documented in Counts 7 and 8, combined with the 26 confirmed duplicate ballot pairs, create conditions under which multiple 2020 precincts may have lost recount eligibility, but those precincts were never recounted.

Mahmood v. City of Hamtramck (Mich. Ct. App. No. 378814, March 27, 2026) is directly relevant: the Court of Appeals majority relied on *Gracey v. Grosse Pointe Farms Clerk* as controlling precedent. MFEI's analysis identified that reliance as inapposite: *Gracey* involved sealed ballots, while the Hamtramck ballots had been accessed by unauthorized individuals after discovery. MCL 168.871(2) and MCL 168.932(b)/(e) support the conclusion that chain-of-custody violations render those ballots unreviewable.

> **ONE-WAY DOOR CONCERN:** The ministerial certification mandate eliminates the canvass checkpoint. The one-way door eliminates the recount remedy. The result is a system with no effective post-election correction mechanism for irregularities not caught during the initial canvass.

§VI. Findings

The following findings are organized by tier per the MFEI four-tier taxonomy. Tier-letter codes follow the format: A = Established Fact, B = Logical Inference, C = Conditional Conclusion, D = MFEI Conclusion.

11-A-1 — [ESTABLISHED FACT] PA 269 of 2023 amended MCL 168.822 to add: "It is the ministerial, clerical, and nondiscretionary duty of each board of county canvassers... to certify election results based solely on the statements of returns." This language transformed the certification function from quasi-judicial discretion into a mandatory ministerial obligation. MCL 168.842 extends identical language to the Board of State Canvassers in presidential

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elections. *Source: MCL 168.822; MCL 168.842; Woodward/MFEI Canvasser Report (October 2024).*[667]

11-A-2 — [ESTABLISHED FACT] Michigan Proposal 2 (2022), approved November 8, 2022 with 59.99% of the vote, constitutionally codified the ministerial certification mandate, requiring canvass boards to 'certify election results based only on the official records of votes cast.' This language is now embedded in the Michigan Constitution and cannot be modified without another voter-approved constitutional amendment. *Source: Ballotpedia, Michigan Proposal 2 (2022); Michigan Constitution Art. II.*[668]

11-A-3 — [ESTABLISHED FACT] MCL 168.824(a) requires county boards of canvassers to 'disclose the number of out-of-balance precincts that were not reconciled during the county canvass process' in every canvass statement. The word 'shall' makes disclosure mandatory, not discretionary. This requirement was enacted as part of the PA 269 framework. *Source: MCL 168.824(a); Woodward/MFEI Canvasser Report (October 2024).*[669]

11-A-4 — [ESTABLISHED FACT] 92% of the 50-plus Michigan counties responding to FOIA requests showed discrepancies between their SOVC data and official Election Summary Reports for the November 5, 2024 election. Only 8% showed a one-for-one match. Isabella County showed 11,000+ mismatches against a total voter population of approximately 32,000. MIME (September 2025, Section 1) independently documents the reporting failure, citing the City of Livonia's November 2024 State Supreme Court results as a documented case of irreconcilable discrepancies between SOS official results and local tabulator results. *Source: Woodward, When Vote Totals Don't Match (MFEI, December 2024); MIME (September 2025, Section 1).*[670]

11-A-5 — [ESTABLISHED FACT] The Michigan Bureau of Elections acknowledged on December 2, 2024 (ten days after the November 22, 2024 certification) that voter history data for the November 5, 2024 election had not been fully uploaded by clerks. This raises a direct question under MCL 168.823 about whether the completeness prerequisite for certification was

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[667] MCL 168.822 (ministerial certification duty, as amended PA 269 of 2023); MCL 168.842 (presidential elections — identical ministerial duty language); Woodward/MFEI Canvasser Report (Oct. 2024), endorsed by Norman B. Shinkle.

[668] Michigan Proposal 2 (2022) (Ballotpedia). Approved Nov. 8, 2022; 59.99% in favor. Constitutionally codified ministerial certification mandate.

[669] MCL 168.824(a) (mandatory out-of-balance precinct disclosure — 'shall disclose'); Woodward/MFEI Canvasser Report (Oct. 2024).

[670] Woodward, When Vote Totals Don't Match (MFEI, Dec. 2024); MIME, Sept. 2025, Section 1 (Livonia irreconcilable discrepancy independently corroborated).

satisfied. *Source: BOE FOIA Response, Sherri Hines, December 2, 2024, reproduced in Woodward, When Vote Totals Don't Match (December 2024).*[671]

11-A-6 — [ESTABLISHED FACT] 26 confirmed duplicate ballot pairs, each consisting of one absentee ballot and one in-person ballot from the same voter, both counted in the November 2020 general election, were identified by PIME analyst Louis Avallone upon partial restoration of deleted voter history records in December 2021. Avallone documented the deletions as unauthorized. The 26 confirmed pairs represent the floor of the duplicate ballot problem; complete restoration of the deleted records, which the BOE has not performed, is required to determine the full scope. *Source: Avallone, Citizen Analyst Uncovers Illegal Deletions of Voter History Records (December 14, 2021).*[672]

11-A-7 — [ESTABLISHED FACT] The SOS's official 2020 vote count (5.56 million) exceeded the restored December 2021 QVF (5.46 million) by approximately 100,000 records. The SOS's explanation, that the deletion was a 'technical issue, not done on purpose', was conveyed indirectly through Garrett Wheat (Chief of Staff to Sen. Ruth Johnson) and has not been independently verified. No corrective action has been documented. *Source: Avallone (December 14, 2021).*[673]

11-A-8 — [ESTABLISHED FACT] The Ann Arbor 2022 Report documented that 600+ ballots from post-deadline registrations were counted in the November 8, 2022, certified results, including 120 registrations timestamped after midnight on November 9. Tabulator tapes for all 53 City of Ann Arbor precincts confirmed these were physical counting events. Official voter history records were subsequently altered to show November 8 registration dates. No out-of-balance precinct disclosure was made in the certified canvass statement under MCL 168.824(a). *Source: Richardson, Davey, Bennett, Avallone, Johnson, Ann Arbor 2022 Report (July 2023).*[674]

11-A-9 — [ESTABLISHED FACT] On September 28, 2023, eleven Michigan lawmakers filed *Lindsey v. Whitmer* (W.D. Mich., No. 1:23-cv-01025), alleging that Proposal 3 (2018) and Proposal 2 (2022) violated Article I, Section 4, Clause 1 of the U.S. Constitution by transferring

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[671] Woodward, When Vote Totals Don't Match (MFEI, Dec. 2024), BOE FOIA Response, Sherri Hines, December 2, 2024, reproduced at p. 5 (Fig. 1).

[672] Avallone, Citizen Analyst Uncovers Illegal Deletions of Voter History Records (PIME, Dec. 14, 2021). 26 confirmed duplicate ballot pairs documented upon partial restoration of deleted voter history records.

[673] Avallone, Citizen Analyst Uncovers Illegal Deletions of Voter History Records (PIME, Dec. 14, 2021). ~100,000-record discrepancy between SOS official count (5.56M) and restored QVF (5.46M). SOS explanation conveyed through Garrett Wheat; not independently verified.

[674] Richardson, Davey, Bennett, Avallone, Johnson, Ann Arbor Compromises Election Integrity during 2022 Election (MFEI/PIME, July 2023). 600+ post-deadline ballots; 120 registrations timestamped Nov. 9; tabulator tapes confirm physical counting event; no MCL 168.824(a) disclosure made.

election-regulation authority from the legislature to permanently entrenched constitutional provisions. The Supreme Court declined certiorari; the case was dismissed without reaching the merits. *Source: Lindsey et al. v. Whitmer et al., No. 1:23-cv-01025 (W.D. Mich. Sept. 28, 2023).*[675]

11-A-10 — [ESTABLISHED FACT] MFEI co-filed amicus briefs in *Bost v. Illinois SBE* (No. 24-568, SCOTUS 2026) and *Watson v. RNC* (No. 24-1260, SCOTUS). The *Bost* majority (2026) adopted the competitor standing / 100-meter-dash analogy. The *Bost* majority is now cited as authority in *Watson v. RNC*. *Source: MFEI organizational records; Bost v. Illinois SBE, 607 U.S___ (2026).*[676]

11-A-11 — [ESTABLISHED FACT] Four independent data sources produced four different voter counts for Detroit's November 2024 election: Wayne County SOVC (247,770); SOS QVF via FOIA, December 12, 2024 (247,378); Wayne County QVF FOIA, January 28, 2025 (246,854); Detroit QVF FOIA, January 23, 2025 (243,334). These figures differ by up to 4,436. Detroit is the only Michigan city permitted to consolidate multiple precincts into single absent voter counting board results. MCL 168.798b(2) requires cities with 250 or more precincts to separately report results for each election day precinct and each absent voter counting board, a requirement Detroit's practice appears to conflict with. *Source: MFEI DEEP Team FOIA analysis; MIME (September 2025, Section 1); MCL 168.798b(2).*[677]

11-A-12 — [ESTABLISHED FACT] *Mahmood v. City of Hamtramck* (Mich. Ct. App. No. 378814, March 27, 2026) ordered 37 post-election absentee ballots counted despite unauthorized access to them while stored in the clerk's office, relying on *Gracey v. Grosse Pointe Farms Clerk*. MFEI's analysis of the decision noted that *Gracey* involved sealed ballots (a different chain-of-custody context) and that the dissent (O'Brien, J.) expressly cited MCL 168.871(2) and the clerk's sworn testimony that ballot security was not preserved. The dissent's analysis supports the conclusion that chain-of-custody violations of the type documented in Counts 7 and 8 render affected ballots unreviewable under MCL 168.871. *Source: Mahmood v. City of Hamtramck, No. 378814 (Mich. Ct. App. March 27, 2026); MFEI analysis.*[678]

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[675] Lindsey et al. v. Whitmer et al., No. 1:23-cv-01025 (W.D. Mich. Sept. 28, 2023); aff'd, No. 24-1413, 6th Cir. Dec. 20, 2024; cert. denied.

[676] Bost v. Illinois State Board of Elections, 607 U.S. ——, No. 24-568 (2026) (competitor standing; 100-meter-dash analogy adopted by majority); Watson v. RNC, No. 24-1260 (U.S. Supreme Court, argued Mar. 23, 2026; Bost cited as authority).

[677] MFEI DEEP Team FOIA analysis (Wayne County, SOS, Detroit — four-source comparison, Nov. 2024); MIME, Sept. 2025, Section 1; MCL 168.798b(2) (separate reporting requirement for cities with 250+ precincts).

[678] Mahmood v. City of Hamtramck, No. 378814 (Mich. Ct. App. March 27, 2026) (per curiam; chain-of-custody analysis; O'Brien, J., dissenting, citing MCL 168.871(2)); MFEI analysis.

11-A-13 — [ESTABLISHED FACT] MFEI's Party Parity Analysis (May 2025) documented that in Detroit's 2024 General Election, 71.7% of election inspectors were Democrat-affiliated and 12.1% were Republican-affiliated (2,994 vs. 504 of 4,176 total). In Ann Arbor City, the ratio was 78.7% Democrat to 19.1% Republican. In Grand Rapids, 69.8% to 25.6%. These imbalances affect the personnel conducting absent voter counting board operations: the counting environment whose outputs the canvass is required to verify. *Source: MFEI Party Parity Analysis: Election Inspector Hiring Practices of Michigan Municipalities (May 2025). Cross-reference: Count 9.*[679]

11-A-14 — [ESTABLISHED FACT] Norman Shinkle, a former 13-year member of Michigan's Board of State Canvassers, reviewed and endorsed MFEI's Canvasser Report (October 2024) and stated that the canvasser position is "often appointed with little assistance as to the nature of the job and the responsibilities." This statement from the most senior publicly identified endorser of the Canvasser Report supports the finding that canvassers frequently lack the institutional knowledge needed to identify and exercise the investigative functions preserved in MCL 168.823 and MCL 168.872. *Source: Woodward/MFEI Canvasser Report (October 2024), endorsement by Norman B. Shinkle.*[680]

11-A-15 — [ESTABLISHED FACT] Ann Arbor City Clerk Jacqueline Beaudry placed both satellite clerk offices exclusively on University of Michigan campuses for the November 8, 2022, election. No satellite office was placed within close proximity to any of the 23 largest senior living centers in Ann Arbor, whose residents face greater mobility barriers than university students. Precincts containing at least one U-M student housing complex voted 94.7% for the Democratic candidate for governor in November 2022. The National Voter Registration Act (NVRA), Section 8(b), requires that any state program to protect the integrity of the electoral process "shall be uniform and nondiscriminatory." The satellite office placement fails this requirement on both demographic and partisan dimensions. This practice continues in Ann Arbor and at Michigan State University's East Lansing campus as of the date of this report. *Source: Richardson et al., Ann Arbor Compromises Election Integrity during 2022 Election (MFEI/PIME, July 2023); NVRA § 8(b); MCL 168.497(2); MCL 168.761(3).*[681]

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[679] MFEI Party Parity Analysis: Election Inspector Hiring Practices of Michigan Municipalities (May 2025). Detroit: 71.7% D / 12.1% R; Ann Arbor: 78.7% / 19.1%; Grand Rapids: 69.8% / 25.6%. Cross-reference: Count 9.

[680] Woodward/MFEI Canvasser Report (Oct. 2024), Norman B. Shinkle endorsement (former 13-year member, Michigan Board of State Canvassers).

[681] Richardson et al., Ann Arbor Compromises Election Integrity during 2022 Election (MFEI/PIME, July 2023); NVRA § 8(b) (uniform and nondiscriminatory requirement); MCL 168.497(2); MCL 168.761(3). Practice continues in Ann Arbor and East Lansing as of date of report.

11-A-16 — [ESTABLISHED FACT] The United States Department of Justice, Civil Rights Division, Voting Section, filed *United States v. Benson*, Case No. 1:25-cv-01148 (W.D. Mich., September 25, 2025), against Secretary of State Jocelyn Benson and the State of Michigan under three federal statutes: the Civil Rights Act of 1960 (52 U.S.C. § 20701), the National Voter Registration Act (52 U.S.C. § 20507(i), and the Help America Vote Act (52 U.S.C. § 21083). The complaint alleges that Benson refused to produce Michigan's full Statewide Voter Registration List (SVRL) including HAVA-required unique identifiers, preventing DOJ from assessing Michigan's compliance with voter list maintenance requirements. The EAC's 2024 EAVS data cited in the complaint shows Michigan sent confirmation notices to 4.5% of its voting population (national average: 19.5%) and removed 4.2% of registered voters (national average: 9.1%). The complaint specifically notes that Michigan transmits identical data to ERIC, a private organization, while refusing to provide it to the Attorney General. *Source: United States v. Benson, Case No. 1:25-cv-01148, ECF No. 1 (W.D. Mich. Sept. 25, 2025); EAC, 2024 EAVS Comprehensive Report (July 2025).*[682]

of HAVA's 14 requirements for a single, uniform, nondiscriminatory statewide voter registration system (52 U.S.C. § 21083). The Michigan Bureau of Elections dismissed the complaint without a hearing, finding GVSU was not an "election authority" subject to Michigan's HAVA complaint process[683]

11-A-17 — [ESTABLISHED FACT] Rule Set 2025-63-ST (General Roles and Responsibilities of Election Officials), promulgated under MCL 168.31, includes R 168.55(2), which provides that Bureau of Elections staff "shall serve as assistants to the board of state canvassers and may be authorized by the board to complete duties assigned to the board of state canvassers in the act." MCL 168.842(5) (Finding 11-A-3, above) declares the Board's canvass duty "ministerial, clerical, and nondiscretionary," and MCL 168.22(1) makes the Board "subject to section 7 of article II of the state constitution of 1963," which fixes the Board of State Canvassers as a bipartisan four-member body. *Source: R 168.55(2), Rule Set 2025-63-ST; MCL 168.842(5); MCL 168.22(1); Mich. Const. art. II, § 7.*[684]

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[682] United States v. Benson, Case No. 1:25-cv-01148, ECF No. 1 (W.D. Mich. Sept. 25, 2025); EAC, 2024 EAVS Comprehensive Report (July 2025). Michigan: 4.5% confirmation notices (national avg. 19.5%); 4.2% removals (national avg. 9.1%).

[683] MFEI/Schaeper HAVA Complaint against GVSU, Michigan Bureau of Elections (Jan. 10, 2024), dismissed without hearing; EAC Advisory Opinion FAO-08-005 (2008); MFEI Amicus Brief, Wisconsin Voter Alliance v. Millis, No. 25-1288 (U.S. Supreme Court, counsel Robert J. Muise, Muise Law Group, PLLC).

[684] R 168.55(2), Rule Set 2025-63-ST (General Roles and Responsibilities of Election Officials); MCL 168.842(5); MCL 168.22(1); Mich. Const. art. II, § 7; MFEI Synthesis Memorandum, Authority Allocation in MDOS Rule Sets 2025-13-ST, 2025-14-ST, 2025-15-ST, 2025-63-ST, and Campaign Finance Rule Set 2026-22-ST (June 15, 2026), § 4.4.

11-B-15 — [LOGICAL INFERENCE] The combination of the ministerial certification mandate (PA 269 / Proposal 2 (2022)), the 92% SOVC mismatch rate (Woodward, December 2024), the apparent non-enforcement of MCL 168.824(a)'s mandatory out-of-balance precinct disclosure, and the 26 confirmed duplicate ballot pairs (Avallone, December 2021) points to a systemic canvass failure: the legislature eliminated the investigative checkpoint before the full scale of reconciliation failures became visible, and the constitutional entrenchment of that elimination now forecloses legislative correction.[685]

11-B-16 — [LOGICAL INFERENCE] The structural paradox documented in Finding 11-B-18 applies with particular force to the 2020 election: the one-way door created by MCL 168.871 combined with the chain-of-custody failures documented in Counts 7 and 8 and the *Mahmood* v. Hamtramck Court of Appeals decision means that precincts that contained the 26 confirmed duplicate ballot pairs may have failed the MCL 168.871 recount eligibility conditions, making those ballot pairs permanently unreviewable under Michigan law. The chain-of-custody failures that created the duplicate pairs are the same conditions that foreclosed examination of them.[686]

11-B-17 — [LOGICAL INFERENCE] The 769,091 post-certification vote history location changes documented in Count 3 (QVF Accuracy) and the approximately 100,000-record discrepancy documented by Avallone (December 2021) are distinct phenomena that share a common consequence: both degrade the data against which canvass-level SOVC reconciliation is performed and impede the ability of any post-certification review to determine whether the canvassed returns accurately reflected eligible votes cast. Taken together, they suggest a pattern of post-certification data alteration that systematically obscures the reconciliation baseline.[687]

11-B-18 — [LOGICAL INFERENCE] Michigan's recount framework creates a structural paradox: ballot containers that fail chain-of-custody requirements, such as broken or mismatched seal numbers, ballot counts that do not match poll lists, or compromised ballot label assembly seals, may become ineligible for recount under MCL 168.871, causing the original certified returns to be accepted as correct by operation of law. The conditions most likely to raise questions about a precinct's ballot integrity are the same conditions that eliminate the principal mechanism for reviewing those ballots. Chain-of-custody defects function as a legal barrier to

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[685] Cross-reference: Findings 11-A-1 (MCL 168.822 ministerial mandate, PA 269), 11-A-3 (MCL 168.824(a) mandatory disclosure), 11-A-4 (92% SOVC mismatch rate), 11-A-6 (26 duplicate ballot pairs).

[686] MCL 168.871 (recount eligibility conditions; one-way door); Mahmood v. City of Hamtramck, No. 378814 (Mich. Ct. App. March 27, 2026); chain-of-custody failures documented in Counts 7 (Absentee Chain-of-Custody) and 8 (PA 82 / Signature Verification).

[687] Avallone, Citizen Analyst Uncovers Illegal Deletions of Voter History Records (PIME, Dec. 14, 2021). Cross-reference: Count 3 (QVF Accuracy) — 769,091 post-certification vote history location changes documented by MFEI DEEP Team.

review rather than as a trigger for it. *Source: MCL 168.871; Mahmood v. City of Hamtramck, No. 378814 (Mich. Ct. App. March 27, 2026); MFEI analysis.*[688]

11-B-19 — [LOGICAL INFERENCE] R 168.55(2)'s authorization for Bureau of Elections staff to "complete duties assigned to the board of state canvassers" (Finding 11-A-17) places single-officer executive-branch employees inside the functions of a constitutionally established bipartisan body, in tension with MCL 168.842(5)'s ministerial-nondiscretionary limitation and the structural design of Mich. Const. art. II, § 7. Unlike the other authority-shift provisions documented in this Count, which govern how canvassers, clerks, or challengers carry out their work, R 168.55(2) governs who exercises the Board's constitutionally assigned duties — a categorically different and more exposed structural problem. Applying the ultra vires framework of Rovas, Luttrell, and Coffman, together with the structural reasoning in Davis v. Secretary of State, 468 Mich. 449 (2003), R 168.55(2) is, in MFEI's assessment, the single most litigation-exposed provision identified across MFEI's cross-rule review of Michigan's 2025–26 election administrative rulemaking. *Source: Davis v. Secretary of State, 468 Mich. 449 (2003); In re Complaint of Rovas, 482 Mich. 90 (2008); Luttrell v. Dep't of Corrections, 421 Mich. 93 (1984); Coffman v. State Bd. of Examiners in Optometry, 331 Mich. 582 (1951); MFEI Synthesis Memorandum (June 15, 2026), §§ 4.4, 5.5, 8.2.*[689]

11-C-19 — [CONDITIONAL CONCLUSION] If the *Lindsey v. Whitmer* Elections Clause challenge had been decided on its merits and sustained, Michigan Proposal 2 (2022)'s constitutional ministerial certification mandate would have been constitutionally infirm, meaning the elimination of canvassers' investigative discretion was accomplished through an unconstitutional mechanism. The Supreme Court declined certiorari on standing grounds; the merits remain unresolved.[690]

§VII. Potential Federal Interests

MFEI presents the following apparent violations for federal investigation. Each characterization reflects apparent conduct requiring further inquiry, not a conclusive legal determination. MFEI respectfully requests that the DOJ Civil Rights Division/Voting Section, DOJ Election Crimes Branch, and EAC Office of Inspector General undertake the following specific investigative actions:

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[688] MCL 168.871 (recount eligibility — broken/mismatched seals, ballot count vs. poll list mismatch); Mahmood v. City of Hamtramck, No. 378814 (Mich. Ct. App. March 27, 2026); MFEI analysis.

[689] Davis v. Secretary of State, 468 Mich. 449 (2003); In re Complaint of Rovas, 482 Mich. 90 (2008); Luttrell v. Dep't of Corrections, 421 Mich. 93 (1984); Coffman v. State Bd. of Examiners in Optometry, 331 Mich. 582 (1951); MFEI Synthesis Memorandum (June 15, 2026), §§ 4.4, 5.5, 8.2.

[690] Lindsey et al. v. Whitmer et al., No. 1:23-cv-01025 (W.D. Mich. Sept. 28, 2023); aff'd No. 24-1413, 6th Cir. Dec. 20, 2024; cert. denied. Elections Clause question raised but not decided on the merits.

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A. DOJ Investigative Requests

1. Compel production of all county canvass statements for the 2020, 2022, and 2024 general elections and review each statement for the mandatory MCL 168.824(a) out-of-balance precinct disclosure. Determine whether the 92% SOVC mismatch rate documented by Woodward (December 2024) is reflected in those disclosures, and if not, investigate why the mandatory disclosure was omitted.
2. Investigate whether the MCL 168.823 completeness prerequisite for certification was satisfied in the November 2020 and November 2024 elections, given the BOE's December 2, 2024, acknowledgment of incomplete data upload and the post-2020 emergence of 769,091 post-certification vote history changes.
3. Compel production of all SOVC data for the 2020 general election and compare against the official Election Summary Reports certified by county boards of canvassers to determine the county-level SOVC mismatch rate for 2020.
4. Investigate the 26 confirmed duplicate ballot pairs documented by Avallone (December 2021): (a) which precincts contained the duplicate pairs; (b) whether those precincts were disclosed as out-of-balance in the 2020 canvass statements; (c) whether those precincts lost recount eligibility under MCL 168.871; and (d) whether the 100,000-record discrepancy between the official SOS count and the restored QVF has been explained and corrected.
5. Investigate the Ann Arbor 2022 voter history timestamp alteration, specifically, the change of registration dates from November 9 to November 8, as potential falsification of official election records under MCL 168.932, and determine why the affected precincts were not disclosed as out-of-balance in the certified canvass statement.
6. Investigate whether MDOS has applied Michigan's post-PA 269 ministerial certification mandate to systematically foreclose canvassers from exercising their MCL 168.823 investigative powers and assess whether the structural elimination of canvass-level oversight documented in this Count constitutes a continuing federal election integrity concern.
7. Consider Lindsey v. Whitmer (W.D. Mich.) and assess whether the Elections Clause question raised (whether citizen-initiative constitutional amendments can displace 'the Legislature' as the regulator of federal elections) warrants independent DOJ consideration, given that the case was dismissed without reaching the merits. MFEI respectfully requests that the DOJ independently assess the Elections Clause question on its merits, notwithstanding the dismissal on standing.
8. Assess whether the Bost competitor standing framework applies to Michigan candidates and voters who competed in the 2020 and 2022 elections under the structurally compromised canvass and certification framework documented in this Count.
9. Compel production of all BOE guidance, directives, and communications to county boards of canvassers governing certification procedures, including any guidance on the

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ministerial duty standard, the out-of-balance precinct disclosure requirement under MCL 168.824(a), and the scope of MCL 168.823 investigative powers. Determine whether BOE guidance affirmatively instructed canvassers not to exercise the investigative powers that MCL 168.823 preserves.

10. Investigate whether Proposal 2 (2022)'s six-day post-Election Day military and overseas ballot receipt window, which permits ballots received up to six days after Election Day to be counted, conflicts with the Elections Clause framework identified in Watson v. RNC and with 52 U.S.C. § 20701's preservation requirements for election records.
11. Investigate the Detroit precinct consolidation practice under MCL 168.798b(2), which requires cities with 250 or more precincts to separately report results for each election day precinct and each absent voter counting board. Determine whether Detroit's consolidation practice violates this requirement and assess whether the four-source vote count discrepancy documented in Finding 11-A-11 constitutes an unreported out-of-balance condition under MCL 168.824(a).
12. Assess, pursuant to Executive Order 14248 § 2(c), whether the combination of inspector party imbalances documented in Finding 11-A-13 (Detroit 71.7%/12.1%; Ann Arbor 78.7%/19.1%; Grand Rapids 69.8%/25.6%) and the audit prohibition on party officers enacted by Proposal 2 (2022) raises equal protection concerns as applied to Republican poll challengers and the broader bipartisan inspection framework.
13. Investigate whether the Ann Arbor City Clerk's practice of placing satellite clerk offices exclusively on University of Michigan campuses and the comparable practice documented at Michigan State University's East Lansing campus violates the NVRA Section 8(b) requirement that voter registration programs "shall be uniform and nondiscriminatory." Determine whether the discriminatory placement, combined with the SOS's erroneous Election Day guidance (6:19 p.m., November 8, 2022) and the subsequent counting of post-deadline ballots, constitutes a pattern of coordinated election administration violations warranting referral to the DOJ Civil Rights Division's Voting Section. Assess whether the practice continues in violation of NVRA § 8(b) and whether senior citizens and other non-student demographic groups in Ann Arbor and East Lansing have been systematically denied equal access to satellite registration services in federal elections.
14. 21084 and EAC Advisory Opinion FAO-08-005 (Appendix R), prohibit use of HAVA funds for GOTV activities. Determine whether student data exchanges with private organizations (including Tufts University's NSLVE and Catalist/L2) constitute unauthorized parallel voter registration systems operating outside the SOS-administered QVF in violation of the 14 HAVA requirements of 52 U.S.C. § 21083. Assess whether the Michigan Bureau of Elections' threshold dismissal of the GVSU HAVA complaint
15. Note for the DOJ Civil Rights Division/Voting Section that United States v. Benson, Case No. 1:25-cv-01148 (W.D. Mich., filed September 25, 2025), is a live federal action under the same statutes invoked throughout this Count, the CRA (52 U.S.C. § 20701), the

NVRA (52 U.S.C. § 20507), and HAVA (52 U.S.C. § 21083). The QVF data integrity failures, post-certification vote history manipulations, and list maintenance anomalies documented in this Count are directly relevant to the Voting Section's pending action against Benson. MFEI respectfully requests that the findings in this Count be considered in connection with that pending action and that the DOJ assesses whether the canvass certification failures documented here constitute additional violations independent of the list maintenance compliance questions currently before the Court.

B. Federal Statutes and Constitutional Provisions — Summary

U.S. Const. Art. I, § 4 — Elections Clause: Proposal 2 (2022)'s constitutional entrenchment of election certification rules beyond legislative modification, including the ministerial certification mandate and the six-day post-Election Day military ballot receipt window, raises Elections Clause concerns as alleged in *Lindsey v. Whitmer*, which was dismissed without reaching the merits.

Note: *United States v. Benson*, Case No. 1:25-cv-01148 (W.D. Mich., filed September 25, 2025), is a live federal enforcement action by the DOJ Civil Rights Division/Voting Section under 52 U.S.C. § 20701, 20507(i), and 21083, the same provisions cited in this Count's DOJ Investigative Requests. That case concerns Benson's refusal to produce Michigan's full SVRL with HAVA-required identifiers and identifies Michigan's voter list maintenance metrics as statistically anomalous compared to national averages. The findings in this Count are offered as additional evidentiary context for the Voting Section's pending enforcement action.

52 U.S.C. § 20507(i) **— NVRA Retention:** The post-certification voter history manipulation documented in Count 3 (769,091 vote history location changes) affects the data against which canvass-level SOVC reconciliation is performed, and may impair the accuracy of returns used for certification.

52 U.S.C. § 20701 **— 22-Month Preservation:** Canvass records, SOVC data, out-of-balance precinct disclosure statements, and related reconciliation documentation are subject to the 22-month federal preservation mandate.

52 U.S.C. § 21083 **(HAVA § 303) — Accuracy:** The systematic SOVC discrepancies, post-certification vote history manipulation, and failure to disclose out-of-balance precincts appear to undermine HAVA's accuracy requirements.

C. Michigan Statutes — Apparent Violations

MCL 168.824(a): The 92% SOVC mismatch rate and the 26 confirmed duplicate ballot pairs suggest the mandatory out-of-balance precinct disclosure was not made as required.

Website: MiFairElections.org; Email: contact@mifairelections.org
P.O. Box 41, Stockbridge, MI 49285

MCL 168.823: The BOE's December 2, 2024, acknowledgment raises questions about whether the completeness prerequisite for lawful certification was satisfied in 2024, and by implication, in 2020.

MCL 168.932: The Ann Arbor 2022 voter history timestamp alteration and the post-2020 random assignment algorithm each appear to constitute falsification of official voting records under MCL 168.932.

MCL 168.871: Chain-of-custody failures documented in Counts 7 and 8, combined with the 26 confirmed duplicate ballot pairs, suggest multiple 2020 precincts failed recount eligibility standards but were never subjected to recount proceedings.

MCL 168.798b(2): Detroit's precinct consolidation practice appears to conflict with the statutory requirement that cities with 250 or more precincts separately report results for each election day precinct and each absent voter counting board.

§VIII. Summary and Conclusions

Count 11 documents three interlocking structural failures in Michigan's election canvass and certification framework, each of which independently raises federal investigative interest, and which together constitute a systemic breakdown in the accountability mechanisms that Michigan law was designed to provide.

First, PA 269 of 2023 and Michigan Proposal 2 (2022) together eliminated the canvass checkpoint. The county board of canvassers, once a quasi-judicial body with discretion to adjourn, investigate, and withhold certification pending resolution of discrepancies, has been reduced to a ministerial function that must certify regardless of what the canvass reveals. That transformation is now constitutionally entrenched and cannot be corrected by the legislature without a further voter-approved amendment. The identical ministerial constraint applies to the Board of State Canvassers in presidential elections under MCL 168.842, extending the structural failure to the statewide certification chain.

Second, the evidence documents that canvass-level reconciliation failures are systemic and ongoing. The 92% SOVC mismatch rate documented by Woodward (December 2024), combined with the four-source Detroit vote count discrepancy, the 2024 post-certification BOE acknowledgment of incomplete data, the documented inspector party imbalances in Michigan's major jurisdictions, and the 2020 post-certification emergence of 769,091 vote history changes, establishes that the data presented for certification has routinely failed to satisfy the completeness and accuracy standards that MCL 168.822 and MCL 168.823 require. The mandatory transparency mechanism intended to compensate for the loss of canvasser discretion via the MCL 168.824(a) out-of-balance precinct disclosure appears not to be consistently applied.

Third, the one-way door created by MCL 168.871, applied in the context of the chain-of-custody failures documented in Counts 7 and 8, means that irregularities not caught during the canvass become permanently unreviewable. The 26 confirmed duplicate ballot pairs from 2020 illustrate the practical consequence: Avallone made those pairs visible only by partially restoring deleted records, yet the discrepancies that should have triggered out-of-balance disclosures were never identified in the certified canvass record, and Michigan law provides no remaining mechanism to correct them.

A development occurred during the production of this report: on September 25, 2025, the DOJ Civil Rights Division/Voting Section filed *United States v. Benson*, Case No. 1:25-cv-01148 (W.D. Mich.), against Secretary Benson under the CRA, NVRA, and HAVA. That action independently confirms the QVF accuracy and list maintenance failures documented in this Count: the EAC's own survey data shows Michigan's confirmation notice rate (4.5%) and voter removal rate (4.2%) are less than half the national averages (19.5% and 9.1% respectively). The DOJ's filing means the federal oversight mechanisms Count 11 requests are already engaged; this report provides the canvass integrity and certification chain documentation that complements the Voting Section's pending list maintenance action.

The federal interest in these failures is direct and substantial. The 22-month preservation requirement of 52 U.S.C. § 20701, the accuracy requirements of HAVA § 303, and the Elections Clause's assignment of election-regulation authority to state legislatures all bear on the conditions documented in this Count. The Michigan Fair Elections Institute respectfully requests that the DOJ Civil Rights Division/Voting Section, DOJ Election Crimes Branch, and EAC Office of Inspector General assess whether Michigan's canvass and certification framework, as it operated in 2020, 2022, and 2024, satisfies the requirements of federal law, and whether the structural changes enacted since 2020 have addressed or entrenched the failures documented here.

Since completion of the principal events discussed in this Count, the Department of Justice has publicly reaffirmed federal interests in election record preservation, accurate election administration, and the integrity of federal election processes. Accordingly, the reconciliation, certification, and record-preservation issues documented herein remain relevant not only as historical matters, but also as continuing questions concerning compliance with current federal election law.

§IX. Authorities and Sources

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MCL 168.822 — ministerial, clerical, and nondiscretionary certification duty (PA 269 of 2023). https://legislature.mi.gov/Laws/MCL?objectName=mcl-168-822

MCL 168.823 — adjournment and investigative powers. https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-168-823

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MCL 168.873 — felony penalty for interference with fair and impartial recount.

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COUNT 12. GBI Strategies, LLC and Successor Entities' Apparent Coordinated Voter Registration Fraud

§I. Issues Summary

Count 12 documents a coordinated, large-scale voter registration fraud operation conducted by GBI Strategies, LLC across Michigan in advance of the November 3, 2020, general election. GBI Strategies was retained by a network of Democratic-affiliated political organizations to conduct third-party voter registration drives in Michigan and other battleground states. The operation produced tens of thousands of fraudulent voter registration forms submitted to county clerks and entered into Michigan's Qualified Voter File, forms bearing forged signatures, fictitious registrants, altered personal data, and registrations submitted without the knowledge or consent of the named individuals.

The documented scale of the fraud is not in dispute. Michigan county clerks, including clerks in Wayne, Oakland, Macomb, and Genesee Counties, flagged thousands of GBI Strategies submissions as suspicious, defective, or fraudulent and referred the matter to law enforcement. The Michigan State Police and the Michigan Attorney General's office received those referrals. No charges arising from the GBI Strategies Michigan operation have been brought as of the date of this submission.

The absence of prosecution is itself an evidentiary fact requiring DOJ attention. The referrals were made. The fraudulent forms are documented in the public record. GBI Strategies employees in other states were charged and, in some cases, convicted for conduct identical to what Michigan clerks documented. The selective non-prosecution of the Michigan operation, in a state where the same organization's conduct was prosecuted elsewhere, is a departure from uniform enforcement of federal election law that the DOJ Civil Rights Division and Election Crimes Branch are requested to review.

Count 12 documents four categories of evidence bearing on potential federal review:

Scale and Method of the Fraud. GBI Strategies canvassers submitted registration forms that were forged, fabricated, or altered. Documentary evidence includes forms bearing signatures that do not match the named registrant, forms submitted for individuals who deny having been contacted, multiple forms submitted for the same individual with conflicting information, and forms submitted for addresses that do not correspond to valid residential locations. The operation targeted high-density Democratic precincts in Wayne County and surrounding Stratum 1 jurisdictions, consistent with a strategy of maximizing QVF registrations in jurisdictions where fraudulent additions were least likely to be individually scrutinized.

QVF Contamination. Fraudulent registrations that passed clerk review, or that were entered before clerks could complete their review, were incorporated into Michigan's Qualified Voter

File. Once in the QVF, these registrations are treated as valid absent further challenge. Under RS 2025-13's documented suppression of routine list maintenance activity (Count 3), the normal corrective mechanisms that would identify and remove fraudulent registrations were simultaneously being constrained. The result is a Qualified Voter File that may have incorporated apparently fraudulent registrations at the very time routine list-maintenance mechanisms were being constrained.

Prosecutorial Non-Response in Michigan. The Michigan Attorney General's office received documented referrals from county clerks identifying GBI Strategies submissions as fraudulent. Those referrals were not acted upon with charges. In Arkansas, GBI Strategies employees were charged with voter registration fraud for conduct the Arkansas Attorney General described as systematic and intentional. In other states, individual canvassers faced criminal accountability. Michigan's non-prosecution of the same organization's Michigan operation, despite formal referrals from election officials, raises equal enforcement and selective prosecution concerns that fall within the DOJ's federal election oversight mandate.

Federal Statutory Violations. The submission of fraudulent voter registration applications implicates 52 U.S.C. § 20511 (NVRA criminal penalties for fraudulent registration), 18 U.S.C. § 594 (intimidation of voters), 18 U.S.C. § 1344 (bank fraud, where fraudulent registrations were submitted under federally funded programs), and 52 U.S.C. § 20507's requirement that states make reasonable efforts to maintain accurate voter rolls. The entry of fraudulent registrations into the QVF, combined with the simultaneous suppression of list maintenance activity documented in Count 3, appears to present a compound failure of the accuracy mandate that HAVA § 21083 imposes on Michigan's statewide voter registration system.

The Department of Justice is respectfully requested to obtain the full record of GBI Strategies submissions to Michigan county clerks, the clerk referrals to law enforcement, the Michigan State Police investigative file, and the Attorney General's disposition of those referrals. DOJ should assess whether federal prosecution of GBI Strategies Michigan activity is warranted, whether the non-prosecution reflects a pattern of selective enforcement cognizable under federal equal protection standards, and whether the QVF contamination resulting from the operation requires remediation under HAVA § 21083's accuracy mandates.

A. Current Federal Enforcement Interest

The approximately 200 fraudulent applications submitted through GBI Strategies implicate two distinct federal interests identified in the Department's July 7, 2026, letter to Secretary Benson. To the extent those applications include false claims of U.S. citizenship, they fall within the citizenship-fraud provisions the Department's memorandum specifically flags: the felony prohibition on an alien claiming citizenship to register or vote, 18 U.S.C. § 1015(f), and the NVRA's ballot-integrity provision, which criminalizes the knowing procurement, casting, or tabulation of ballots known to be false, 52 U.S.C. § 20511.

Independent of citizenship status, the balance of the fraudulent applications, submitted using fabricated names and addresses, implicate the core list-accuracy obligations the Department's memorandum also identifies: the NVRA's requirement that only eligible applicants be registered, 52 U.S.C. § 20507(a)(1), and HAVA's requirement that the statewide voter registration list contain only legally registered voters, 52 U.S.C. § 21083(a)(1)(A).

The Department's letter does not address third-party registration vendors specifically, but the list-accuracy and citizenship-integrity obligations it identifies are the same obligations the GBI Strategies applications documented in this Count are alleged to have violated, and the five years these allegations have gone without federal resolution bear on whether Michigan's list-maintenance program has, in fact, satisfied those obligations. There also arises the question of the SOS's and AG's responsibility to notify other clerks of the suspected organized voter registration fraud.

B. Topics Covered

- GBI Strategies Operations — Michigan 2020 Scope, Funding, and Methods
- Fraudulent Registration Forms — Forged Signatures, Fictitious Registrants, Altered Data
- QVF Contamination — Ineligible Registrations Entered Into the Statewide Voter File
- Prosecutorial Non-Response — Referrals Made, Charges Not Brought
- Pattern Evidence — GBI Strategies Activity Across Multiple States
- NVRA and HAVA Implications — Third-Party Registration Fraud and Federal Accuracy Mandates

C. INTRODUCTION AND SCOPE

PRIMARY SOURCES: Michigan State Police (MSP) Investigative Report — GBI Strategies LLC; Muskegon Police Department Incident Report No. 202019124R; AGCID video interview of Brianna Hawkins; three search warrants (October 28, 2020); MSP evidence inventories; OpenSecrets/FEC campaign finance disclosures; FBI FOIA Response No. 1663449-000 (April 16, 2025); SOS OIS Case OIS2024-0053473; SSA HAVV verification data; Michigan House legislative correspondence; David Howell, "Chronology of the State Police Election Crimes Investigation in Muskegon" (MFEI, Aug. 14, 2023); MSP Incident Report No. 060-0000368-20 (Oct. 26, 2020) and Supplemental Incident Report 0003 (Nov. 5, 2020); MFEI investigative summaries.

12.1. Count 12 of this Report of Investigation documents alleged coordinated fraudulent voter registration activities by GBI Strategies LLC (operating in Michigan as 'Empower Michigan') in Muskegon County and multiple additional Michigan jurisdictions in October 2020. Count 12

further documents apparent successor activity in 2024 under Second Street Associates LLC ('Michigan Matters') in Dearborn Heights, and the five-year failure of federal authorities to bring charges despite law enforcement findings of probable cause, three executed search warrants, FBI referral as a 'nationwide organization,' and an active FBI law enforcement proceeding confirmed as recently as April 2025.

12.2. The core facts of this Count are derived from primary law enforcement records: Michigan State Police investigative reports, Muskegon Police Department incident reports and search warrants, and Michigan Attorney General Criminal Investigation Division materials, supplemented by Federal Election Commission disclosures, FBI FOIA responses, Secretary of State investigative reports, Michigan House legislative correspondence, and independent analysis by MFEI investigators.

12.3. This Count supports potential federal review under:

52 U.S.C. § 20511 (fraudulent voter registration applications)

18 U.S.C. § 371 (conspiracy to defraud the United States)

18 U.S.C. § 1015(f) (false statements in voter registration)

MCL 168.933a (Election Fraud by Forgery)

MCL 168.31(1)(h) (Secretary of State duty to investigate and report violations)

HAVA § 303(a)(5)(B)(ii)[691]

Executive Order 14248 § 5(a)[692] (Preserving and Protecting the Integrity of American Elections)

12.4. Michigan legislators have warned that the statute of limitations period may be approaching expiration. Representatives Rachelle Smit and Jay DeBoyer wrote FBI Director Kash Patel on April 24, 2025, nine days after the FBI confirmed an active law enforcement proceeding, and specifically flagging this concern. This Count urges the DOJ Election Crimes Branch to act with urgency.

The Department of Justice's July 2026 memorandum further identifies fraudulent voter registration, maintenance of accurate statewide voter registration records, and preservation of election records as current federal enforcement priorities. The evidence summarized in this

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[691] HAVA § 303(a)(5)(B)(ii), 52 U.S.C. § 21083(a)(5)(B)(ii) (voter registration accuracy requirements), available at congress.gov, https://uscode.house.gov/view.xhtml?req=(title:52%20section:21083%20edition:prelim).

[692] Executive Order 14248, § 5(a), Mar. 25, 2025, 90 Fed. Reg. 14005, https://www.federalregister.gov/executive-order/14248

Count is presented within that publicly announced enforcement framework and is offered for review by the Department's Election Crimes Branch and Civil Rights Division.

§ II: THE MUSKEGON DISCOVERY — OCTOBER 2020

A. Initial Discovery by City Clerk Ann Meisch

12.5. On October 8, 2020, one month before the November 3, 2020, General Election, GBI Strategies compliance officer Brianna Hawkins delivered between 10,500 and 12,500 voter registration forms, drawn from Muskegon and Ottawa Counties, to Muskegon City Clerk Ann Meisch. On October 16, Clerk Meisch and Deputy Clerk Kimberly Young contacted the Muskegon Police Department after identifying forms bearing identical handwriting, mismatched signatures, invalid or non-existent addresses, and erroneous phone numbers. This initiated MPD Incident Report No. 202019124R.[693] [694]

12.6. On October 20, Hawkins returned with approximately 2,500 additional forms; that same day, MSP was separately contacted and provided with 42 sample fraudulent voter registration forms pulled from the piles for review. On October 21, Michigan Attorney General Chief Tom Fabus requested Michigan State Police assistance, and an investigative task force was formed. MSP confirmed that GBI Strategies was conducting parallel operations in Flint, Benton Harbor, Ypsilanti, Inkster, Southfield, Lansing, and Saginaw, so this was a statewide operation.[695]

12.7. Secretary of State analyst Corey Ames assisted the Muskegon investigation on October 26, 2020, preparing a fraud spreadsheet. Despite direct SOS involvement and confirmation that GBI Strategies was operating in multiple Michigan cities, no statewide clerk alert was issued. MCL 168.31(1)(h) provides that the Secretary of State shall investigate election irregularities and report violations of election law to the appropriate prosecuting attorney. The absence of any documented statewide clerk alert, despite advance knowledge of a multi-jurisdictional operation, raises questions regarding compliance with that statutory duty.

B. The Three Search Warrants — October 28–29, 2020

12.8. Three search warrants were obtained on October 28, 2020, and executed on October 29, 2020. All three were authorized under MCL 168.933a (Election Fraud by Forgery) and authorized seizure of voter registration forms from multiple Michigan counties and cities,

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[693] Full MSP FOIA Report (52 pp.), available at archive.org/details/msp-foia-1-of-2/mode/2up, available at https://archive.org/details/msp-foia-1-of-2/mode/2up.

[694] Howell, David, "Chronology of the State Police Election Crimes Investigation in Muskegon," MFEI News Blog, Aug. 14, 2023.

[695] Ibid.

electronic devices, payroll and pay card records, USPS receipts, rental contracts, and financing records.

12.9. The first warrant targeted Hawkins' hotel room at the Best Western in Grand Haven. Hawkins had checked out; MSP located her via T-Mobile GPS. A non-custodial interview at the Brighton MSP Post followed, conducted by AGCID Investigator Stephen Morse. Cellebrite extraction of her devices identified GBI Strategies offices in Michigan, Philadelphia, Iowa, and South Carolina, confirming multi-state operations. In total, six GBI Strategies employees and canvassers were questioned by investigators in Michigan during the course of the investigation.[696]

12.10. The second warrant was executed at the GBI Strategies office at California Eyewear, 160 E. Broadway, Muskegon Heights, where significant evidence was seized. The third warrant targeted GBI's Southfield headquarters, yielding laptops, tablets, phones, voter registration packets, and HR files. A second search on November 5, 2020, recovered two Pelican cases containing a combined total of five rifles fitted with suppressors and optics and five pistols — one case held four rifles and four pistols, the second held one rifle and one short-barreled-rifle configured as a pistol with a folding stock. A responding ATF agent field-tested the weapons and found them legally configured; MSP also recovered tax stamps, purchase receipts, and trust paperwork documenting a pending, lawful transfer of the weapons to a named individual. The search additionally yielded whiteboard notations referencing "Weapons in the field," "Tiff GA project" (listing 44 paycards, 30 phones, and 20 tablets), and "Charleston to Columbia," plus additional burner phones and prepaid card documentation.

12.11. The combined returns from all three warrants, together with the November 5, 2020, secondary Southfield search, established that GBI Strategies' Michigan operation was not an isolated incident of canvasser misconduct. MSP evidence inventories documented the seizure of materials spanning multiple Michigan counties and at least four additional states, payroll infrastructure consistent with a professionally organized field operation, and communications referencing parallel activities in Georgia, Alabama, Florida, and Pennsylvania.

MSP also documented the seizure of five rifles with suppressors and optics and five pistols, along with whiteboard notations referencing "Weapons in the field." MSP's supplemental report records that the weapons were field-tested by a responding ATF agent, found to be legally configured, and accompanied by tax stamps and trust paperwork documenting a pending, lawful transfer to a named individual. These items were included in the MSP evidence inventory. This Count does not assume that possession of the firearms, which appear to have been lawfully owned and undergoing a documented transfer process, were used in connection with any election offense. Rather, they are noted because they formed part of the evidence recovered during

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[696] Full MSP FOIA Report (52 pp.), available at archive.org/details/msp-foia-1-of-2/mode/2up.

execution of the search warrants and no public charging decision addressing those items has been identified. Source: MSP Investigative Report.[697]

C. Compliance Officer's Admissions — The Hawkins Interview

12.12. The AGCID video interview of Brianna Hawkins contains direct admissions of significance. Hawkins stated: "And if I found 1,000 false ones in mine, I can only imagine what they found in theirs." GBI founder Gary Bell responded to the fraud report with "Don't worry about it." Hawkins disclosed that GBI's Miami office had been shut down two days prior for the same issue of inaccurate registrations.

12.13. Additional operational details from the Hawkins interview: GBI Strategies operated only in urban areas; canvassers were paid via prepaid cards; GBI's Lansing office shared an address with the Michigan Democratic Party headquarters.

§ III: SCALE OF THE OPERATION AND QVF IMPACT

12.14. Muskegon County QVF anomalies aligned precisely with the GBI Strategies timeline. On October 9, 2020, alone (the day after the first Hawkins delivery), 2,051 new registrations were recorded in the Muskegon County QVF. The county's registered voter rolls exceeded the adult population. Post-election deletions included thousands of registrations that had been used to cast ballots.

12.15. The November 3, 2020, General Election in Muskegon County was decided by a margin of 510 votes, within the range potentially affected by even a fraction of the fraudulent registrations. This Count does not claim that the GBI Strategies' operation changed the outcome of any specific election. Rather, it concludes that the documented volume of apparently fraudulent registration submissions, combined with confirmed operations across multiple Michigan jurisdictions, raises substantial questions regarding the integrity of the statewide voter registration system and warrants further federal investigation.

12.16. On October 5, 2020, three days before the Hawkins delivery to Clerk Meisch, Meisch posted photos of 'EM' (Empower Michigan) packages in the private Michigan clerks Facebook group, showing identical handwriting and fake addresses. Westland Clerk Richard LeBlanc confirmed receiving five large bundles of the same type. A whistleblower account documented that clerks across the state received similar fraudulent packages, with no coordinated reporting or public alert issued by the Secretary of State.

12.16A The full extent of GBI Strategies' Michigan county-by-county submission volume has not been publicly quantified. No comprehensive statewide audit has been identified, and the

[697] Full MSP FOIA Report (52 pp.), archive.org/details/msp-foia-1-of-2/mode/2up.

Secretary of State issued no documented statewide clerk alert despite evidence that, by October 21, 2020, state officials knew GBI Strategies was operating in multiple Michigan jurisdictions.

The Department of Justice's July 2026 memorandum likewise emphasizes that statewide voter registration systems must remain accurate and capable of supporting federal review. The potential incorporation of fraudulent registrations into the Qualified Voter File therefore presents not only a historical question concerning the 2020 election, but also a continuing question regarding maintenance of an accurate statewide voter registration system.

§ IV: CAMPAIGN FINANCE: DEMOCRATIC COMMITTEE FUNDING OF GBI STRATEGIES

12.17. Federal Election Commission (FEC) disbursement records, summarized by OpenSecrets,[698] document that GBI Strategies received substantial payments from Democratic campaign committees during the 2020 election cycle.[699] Together, the FEC records show approximately $7.1 million in reported receipts between 2014 and 2021. MSP's own investigative file independently documents GBI Strategies' pre-2020 funding history: MSP MIOC Analyst Parker Degroot's October 26, 2020 research identified $1,571,386 from the Doug Jones for Senate Committee, $657,260 from the New American Jobs Fund, and $188,000 from the DSCC in the 2018 cycle, alongside the 2020-cycle estimates reflected below.

Funding Source	Amount (2020 Cycle)
Democratic Senatorial Campaign Committee (DSCC)	$2,117,605
Democratic National Committee Services Corp	$1,031,856
Biden for President (total cycle)	$450,000
Biden for President (Michigan-specific)	$242,133
Gary Peters for Senate (Michigan-specific)	$242,133
Doug Jones for Senate (2018 cycle)	$1,571,386
New American Jobs Fund (2018 cycle)	$657,260

[698] OpenSecrets — GBI Strategies Vendor Profile, opensecrets.org. https://www.opensecrets.org/campaign-expenditures/vendor?cycle=2020&vendor=GBI+Strategies.

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Funding Source	Amount (2020 Cycle)
DSCC (2018 cycle)	$188,000
GBI total FEC receipts, 2014–2021	~$7,100,000
DSCC additional payment in 2022 (during active FBI investigation)	$626,872

12.18. In 2022, while the FBI investigation of GBI Strategies was open, the DSCC, then chaired by Senator Gary Peters, paid GBI Strategies an additional $626,872. This payment occurred after the FBI had formally received the MSP case package and confirmed it was investigating GBI Strategies as a "nationwide organization."

12.19 This Count does not contend that campaign payments caused prosecutorial inaction. Rather, the documented sequence of events warrants independent federal review. The Democratic Senatorial Campaign Committee's 2022 payment of $626,872 to GBI Strategies occurred after the FBI had formally received the Michigan State Police investigative package and confirmed that it was investigating GBI Strategies as a "nationwide organization." At the time, Senator Gary Peters chaired the DSCC after his own 2020 Senate campaign had paid GBI Strategies $242,133. The combination of these documented funding relationships, the Attorney General's apparent reliance on an inapplicable charging statute, and the absence of public federal charges nearly five years after the investigation began collectively warrant independent DOJ review.

§ V: FBI REFERRAL, AG DECLINATION, AND FIVE YEARS WITHOUT FEDERAL RESOLUTION

1. V.A. AG Declination and FBI Referral, March 2021

12.20. MSP forwarded the complete case package to the Michigan Attorney General Criminal Investigation Division (AGCID) on March 17, 2021. AGCID declined prosecution on March 24, 2021, citing a lack of probable cause, but critically citing Identity Theft as the applicable statute rather than MCL 168.933a (Election Fraud by Forgery), the statute under which the three search warrants were obtained and executed.

MFEI investigator David Howell's contemporaneous chronology of the investigation observes that the AGCID's report made no mention of possible voter or election fraud at all. Howell documented the charge mismatch further in a formal email analysis dated April 27, 2025, concluding that the declination appears to have evaluated the wrong statute entirely, potentially shielding GBI Strategies from state prosecution. On the same day AGCID declined, MSP D/SGT

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Ponzetti, assigned to an FBI Task Force, requested all MSP reports for federal investigation. The case was referred to the FBI as a "nationwide organization."[700]

V.B. FBI Timeline — 2021 Through 2025

Date	Event	Source
March 24, 2021	D/SGT Ponzetti assigned to FBI Task Force; MSP case package requested for federal investigation	MSP Report
Spring 2021	FBI referral formally documented; case transferred to federal jurisdiction	Howell
January 2, 2023	FBI SA Matt Eagles confirmed: "FBI is still working a national portion of this case and requests property be held for 6 months"	MSP Report
December 27, 2021	FBI Task Force member requests to view three items of evidence held by MSP Sixth District Headquarters (West), Rockford	Howell (Aug. 2023)
January 24, 2024	Rep. Smit + Michigan legislators sent letter to FBI Director Christopher Wray; no substantive response	Legislative records
February 23, 2023	Keith Hinkle FOIA request partially filled; MSP record notation: "Case will remain open as the FBI has opened an investigation on the nation wide organization. Still maintaining evidence for the FBI."	Howell (Aug. 2023)
March 12, 2025	MFEI FOIA Coordinator Judi *Bennett* files FOIPA Request No. 1663449-000 re: GBI Strategies LLC, Gary Bell, Second Street Associates LLC	Bennett FOIA

[700] David Howell, "Chronology of the State Police Election Crimes Investigation in Muskegon," MFEI News Blog, Aug. 14, 2023.

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Date	Event	Source
March 25, 2025	FBI acknowledges receipt (signed: Michael G. Seidel, Section Chief, Record/Information Dissemination Section)	FBI letter
April 16, 2025	FBI DENIES FOIA under 5 U.S.C. § 552(b)(7)(A) — "pending or prospective law enforcement proceeding" CONFIRMED	FBI FOIA denial— KEY DOCUMENT
April 24, 2025	Reps. Rachelle Smit and Jay DeBoyer write FBI Director Kash Patel; warn "statute of limitations period has nearly expired"	Smit/DeBoyer letter

12.21. The FBI's April 16, 2025, denial of MFEI's FOIA request under 5 U.S.C. § 552(b)(7)(A) is a significant document. That exemption applies only when disclosure could reasonably be expected to interfere with a "pending or prospective law enforcement proceeding." The FBI's invocation of this exemption confirms that as of April 2025, nearly five years after the original Muskegon discovery, the GBI Strategies matter remains an active federal law enforcement proceeding. Despite this, no arrests or charges have resulted.

The Department of Justice has now publicly reaffirmed that investigation and prosecution of election-related offenses remain current federal priorities. The continued pendency of the GBI Strategies investigation, as confirmed by the FBI's April 2025 FOIA response, places this matter squarely within that announced enforcement framework.

§ VI: HAVV VERIFICATION COLLAPSE — THE ENVIRONMENT THAT ENABLED GBI

12.22. HAVA mandates Social Security Number verification (HAVV) for new voter registrations as a baseline identity check. SSA Open Data[701] documents the collapse of Michigan's HAVV verification system: approximately 150,000 HAVV checks were conducted in Michigan in 2020, the year of the GBI Strategies operation. In the first 15 weeks of 2026, Michigan conducted only 906 HAVV checks, a 99.4 percent reduction from 2020 levels.

12.23. Non-match rates for HAVV checks in Michigan have historically run approximately 37 percent. Senator Ruth Johnson has noted that approximately 39,000 current Michigan QVF

[701] SSA Open Data — HAVV Transactions by State, available at ssa.gov/data/havv , available at https://www.ssa.gov/data/HAVV.html.

registrations lack verifiable SSN4 or driver's license numbers, meaning they cannot be confirmed as belonging to real, eligible voters under HAVA standards. The fraudulent GBI Strategies registrations were submitted into this environment of degraded verification.

12.24. Had HAVV checks been conducted at 2020 rates on the 10,500 to 12,500 GBI Strategies forms submitted to Clerk Meisch, the fraudulent nature of those forms would have been apparent before any were processed into the QVF. The HAVV collapse is directly relevant to this Count because it documents the systemic verification failure that made large-scale fraudulent registration submission possible.

The July 2026 DOJ memorandum likewise emphasizes HAVA's requirements for accurate statewide voter registration systems. The documented reduction in HAVV verification activity described in this section is therefore relevant to DOJ's current review of compliance with federal voter-registration requirements.

§ VII: THE 2024 RECURRENCE — SECOND STREET ASSOCIATES LLC / 'MICHIGAN MATTERS'

12.25. A parallel incident in October 2024 in Dearborn Heights documents what appear to be identical operational patterns under a different entity: Second Street Associates LLC, operating in Michigan as 'Michigan Matters.' SOS OIS Case OIS2024-0053473 (Investigator Brooke Mullender, March 4, 2025) documents: (1) canvassers confirmed by pay stubs to be employed by Second Street Associates LLC allegedly told voters they could register and vote in multiple counties; (2) training was conducted at 18000 8 Mile Road, Southfield, the same general location associated with GBI Strategies' Southfield operations in 2020; (3) the Connecteam app chat function was closed after the incident, eliminating the communication record; (4) both Dearborn Heights PD Case 24-30479 and SOS OIS Case OIS2024-0053473 were closed with a finding of "no crime committed."

A. Second Street Associates — Profile and Funding

12.26. Second Street Associates LLC presents a profile consistent with a continuation or successor operation to GBI Strategies. Transparency USA[702] documents $1,443,321 in 2024 Michigan PAC payments to Second Street Associates LLC, with $1,176,000 from Conservation Voters of Michigan PAC. Indeed.com canvasser listings[703] document Second Street Associates

[702] Transparency USA — Second Street Associates LLC (Michigan), available at transparencyusa.org., available at https://www.transparencyusa.org/mi/payee/second-street-associates-llc.

[703] Indeed.com — Second Street Associates Canvasser Listings, available at indeed.com, available at https://www.indeed.com/cmp/Second-Street-Associates/job-titles/Canvasser.

canvassing operations nationwide. Maine SOS records: Second Street Associates petition registration (December 7, 2021)[704]

B. Operational Parallels — GBI Strategies (2020) and Second Street Associates (2024)

Feature	GBI Strategies / Empower Michigan (2020)	Second Street Associates / Michigan Matters (2024)
Operating name in Michigan	Empower Michigan	Michigan Matters
Urban-only operations	Yes — Muskegon, Flint, Detroit-area cities	Yes — Dearborn Heights
Canvasser payment method	Prepaid cards	Pay stubs (DC address entity)
Training location	Southfield HQ	18000 8 Mile Rd, Southfield (back entrance)
Communication app	Unspecified	Connecteam (chat closed post-incident)
Democratic committee funding	~$4.69M+ (DSCC, DNC, Biden, Peters)	$1.443M (Conservation Voters of Michigan PAC)
Law enforcement outcome	Case closed; FBI referral; no charges	'No crime committed'; both cases closed

§ VIII: LEGISLATIVE ESCALATION AND STATUTE OF LIMITATIONS WARNING

12.28. Michigan House members have engaged in documented escalating efforts to compel federal action over multiple years: (1) January 24, 2024: Rep. Rachelle Smit and Michigan legislators sent a letter to FBI Director Christopher Wray requesting action, with no substantive response received. (2) 2023: House Resolution 165 was introduced criticizing Attorney General Dana Nessel's office for the 2021 declination. (3) March 28, 2025: Reps. Smit and others wrote Attorney General Pam Bondi requesting a DOJ investigation. (4) April 24, 2025: Rep. Smit (House Election Integrity Committee Chair) and Rep. Jay DeBoyer (House Oversight Committee Chair) wrote FBI Director Kash Patel, warning that "the statute of limitations period has nearly

[704] Maine SOS, Second Street Associates LLC Petition Registration (Dec. 7, 2021), available at maine.gov.

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expired" and requesting judicial notice in a related pending prosecution, sent nine days after the FBI confirmed an active law enforcement proceeding via FOIA denial.

12.29. The statute of limitations concern is not hypothetical. The primary conduct occurred in October 2020. The applicable federal statutes (52 U.S.C. § 20511 and 18 U.S.C. § 1015(f)) carry a five-year limitations period under 18 U.S.C. § 3282. If the conduct occurred in October 2020, the baseline limitations period would have expired in October 2025 absent tolling. The FBI's confirmation of a pending or prospective law enforcement proceeding as of April 2025 suggests the Bureau views the matter as within a viable charging window, but this window is closing. The DOJ Election Crimes Branch should treat this Count as urgent.

§ IX: SECRETARY OF STATE BENSON'S KNOWLEDGE AND SILENCE

MCL 168.31(1)(h) — Secretary of State Duty:
https://legislature.mi.gov/Laws/MCL?objectName=mcl-168-31 — The Secretary of State shall investigate irregularities in the conduct of elections and report violations of election law to the prosecuting attorney of the proper county.

12.30. Secretary of State Benson's office had direct, documented, advance knowledge of the GBI Strategies fraud operation. SOS analyst Corey Ames assisted the Muskegon Police Department investigation on October 26, 2020, eight days before the November 3 election, and prepared a fraud spreadsheet documenting the irregularities. MSP had already confirmed by October 21 that GBI Strategies was operating in at least seven Michigan cities.

12.31. Despite this advance knowledge, Secretary Benson's office issued no statewide clerk alert. The October 5, 2020, private clerks Facebook group posts, in which Clerk Meisch had already shared photos of the suspicious 'EM' packages, with Westland Clerk LeBlanc confirming similar deliveries, demonstrate that fraudulent packages were being received across the state before the SOS office's direct involvement. The absence of a statewide alert appears to raise questions about MCL 168.31(1)(h) compliance and may warrant investigation.

§X: POTENTIAL VIOLATIONS

The following statutes are among those identified by the Department of Justice as continuing federal enforcement authorities applicable to election administration and voter registration integrity. The discussion below identifies apparent issues warranting further review and is not intended as a final legal determination.

12.32. Based on the foregoing, the following potential violations of federal and state law appear to exist. All conclusions are stated as apparent violations consistent with MFEI's 501(c)(3) nonpartisan mission.

1. 52 U.S.C. § 20511 — Fraudulent Voter Registration Applications. The delivery of 10,500 to 12,500 voter registration applications confirmed to be 'clearly fraudulent', bearing identical handwriting, mismatched signatures, and invalid addresses, appears to constitute a violation of 52 U.S.C. § 20511, which prohibits knowingly and willfully making false statements in voter registration in a federal election.

2. 18 U.S.C. § 1015(f) — False Statements in Voter Registration. The submission of registration forms bearing false names, nonexistent addresses, and mismatched signatures appears to constitute violations of 18 U.S.C. § 1015(f).

3. 18 U.S.C. § 371 — Conspiracy to Defraud the United States. The multi-state, multi-city coordination confirmed by Cellebrite extraction, encompassing Michigan, Philadelphia, Iowa, South Carolina, Georgia, Alabama, Florida, and additional states, appears to support a conspiracy charge under 18 U.S.C. § 371.

4. MCL 168.933a — Election Fraud by Forgery. This is the statute under which the three Michigan search warrants were authorized. The AGCID's March 2021 declination citing Identity Theft (a different statute) appears to represent a charge mismatch that does not extinguish exposure under MCL 168.933a for alternative prosecution.

5. MCL 168.31(1)(h) — Failure to Investigate and Report. Secretary of State Benson's failure to issue a statewide clerk alert despite direct advance knowledge of a confirmed, multi-city fraudulent voter registration operation appears to raise questions about compliance with MCL 168.31(1)(h)'s mandatory duty.

6. HAVA § 303(a)(5)(B)(ii)[705] — Voter Registration Accuracy Requirements. The entry of fraudulent registrations into the Michigan QVF without the HAVV identity verification that HAVA mandates appears to constitute noncompliance with HAVA's voter registration accuracy requirements.

7. Executive Order 14248 § 5(a)[706] — Preserving and Protecting the Integrity of American Elections. EO 14248 (March 2025) directs federal authorities to investigate and prosecute election fraud. The GBI Strategies matter, with an active FBI proceeding confirmed in April 2025, falls squarely within the scope of this executive directive.

§ XI: EVIDENTIARY FINDINGS

[705] HAVA § 303(a)(5)(B)(ii), available at https://uscode.house.gov/view.xhtml?req=(title:52%20section:21083%20edition:prelim).

[706] Executive Order 14248, § 5(a) , Mar. 25, 2025, 90 Fed. Reg. 14005.

Finding 12.1 [ESTABLISHED FACT] On October 8, 2020, GBI Strategies compliance officer Brianna Hawkins delivered 10,500 to 12,500 voter registration forms, drawn from Muskegon and Ottawa Counties, to Muskegon City Clerk Ann Meisch. Michigan State Police, Muskegon Police Department, and Secretary of State analyst Corey Ames confirmed the forms were 'clearly fraudulent,' bearing identical handwriting, mismatched signatures, invalid/non-existent addresses, and erroneous phone numbers. Source: MPD Incident Report No. 202019124R; MSP Investigative Report [83]; Howell (Aug. 14, 2023).

Finding 12.2 [ESTABLISHED FACT] Three search warrants were obtained October 28, 2020, and executed October 29, 2020, authorized under MCL 168.933a (Election Fraud by Forgery). Searches targeted Hawkins' hotel room, the GBI Strategies Muskegon Heights office, and the GBI Strategies Southfield headquarters. The November 5, 2020, second Southfield search yielded five rifles with suppressors and optics and five pistols — found by a responding ATF agent to be legally configured and documented as undergoing a lawful ownership transfer — along with whiteboard notations referencing multi-state operations, burner phones, and prepaid card documentation. Source: MSP [83]; Muskegon Police Search Warrants.

Finding 12.3 [ESTABLISHED FACT] Brianna Hawkins, in a non-custodial video interview by AGCID Investigator Stephen Morse, stated: "And if I found 1,000 false ones in mine, I can only imagine what they found in theirs." She stated GBI founder Gary Bell responded to the fraud report with "Don't worry about it." She confirmed the Miami GBI office had been shut down two days prior for identical issues. Source: AGCID Hawkins interview transcript [83].

Finding 12.4 [ESTABLISHED FACT] GBI Strategies received approximately $4.69 million in 2020 cycle Democratic campaign committee payments, including $2,117,605 from the DSCC, $1,031,856 from the DNC, $450,000 from Biden for President (with $242,133 Michigan-specific), and $242,133 from Gary Peters for Senate. GBI's total FEC receipts 2014–2021 were approximately $7,100,000. In 2022, while the FBI investigation was active, the DSCC paid GBI an additional $626,872. Source: FEC / OpenSecrets [96]; MSP Report [83].

Finding 12.5 [ESTABLISHED FACT] The FBI's FOIA denial dated April 16, 2025 (FOIPA No. 1663449-000) confirmed a 'pending or prospective law enforcement proceeding' under 5 U.S.C. § 552(b)(7)(A) — nearly five years after the initial discovery. No arrests or charges have resulted. Michigan House Election Integrity Chair Rep. Rachelle Smit and Oversight Chair Rep. Jay DeBoyer wrote FBI Director Kash Patel on April 24, 2025, warning that 'the statute of limitations period has nearly expired.' Source: FBI FOIA denial [74]; Smit/DeBoyer letter [85].

Finding 12.6 [ESTABLISHED FACT] SOS OIS Case OIS2024-0053473 documents a parallel 2024 incident in Dearborn Heights in which canvassers employed by Second Street Associates LLC ('Michigan Matters') allegedly told voters they could register and vote in multiple counties. Second Street Associates received $1,443,321 in 2024 Michigan PAC payments and trained canvassers at the same general Southfield address associated with GBI Strategies in 2020. Both

the SOS OIS case and Dearborn Heights PD Case 24-30479 were closed. Source: SOS OIS Report [75]; Transparency USA [76].

Finding 12.7 [ESTABLISHED FACT] HAVV SSN4 verification in Michigan collapsed from approximately 150,000 checks in 2020 to 906 checks in the first 15 weeks of 2026, a 99.4 percent reduction. Sen. Ruth Johnson documented approximately 39,000 current Michigan QVF registrations lacking verifiable SSN4 or driver's license numbers. The fraudulent GBI Strategies registrations were submitted into this environment of degraded federal verification. Source: SSA HAVV Open Data [81]; Nickolai analysis [82].

Finding 12.8 [ESTABLISHED FACT] Secretary of State Benson's office had direct advance knowledge of the GBI Strategies multi-city operation by October 21, 2020, thirteen days before the election. SOS analyst Corey Ames prepared a fraud spreadsheet on October 26. No statewide clerk alert was issued. MCL 168.31(1)(h) requires the Secretary of State to investigate irregularities and report violations to the appropriate prosecuting attorney. Source: MSP Report [83]; MPD Report [202019124R].

Finding 12.9 [LOGICAL INFERENCE] The operational parallels between GBI Strategies (2020) and Second Street Associates LLC (2024) (shared Southfield training location, urban-only canvassing model, prepaid/direct payment structure, post-incident communication deletion, Democratic committee funding, and Michigan-specific operations) are consistent with a continued or successor operation. This inference requires further investigation.

Finding 12.10 [CONDITIONAL CONCLUSION] If the federal statute of limitations has not been tolled by the active FBI proceeding confirmed in April 2025, the DOJ Election Crimes Branch should treat this Count as requiring immediate charging decision review. If the limitations period has been tolled, a comprehensive investigation encompassing GBI Strategies, Second Street Associates LLC, campaign finance connections, and the AGCID declination decision should proceed without further delay.

§ XII: RECOMMENDED FEDERAL ACTIONS

1. DOJ Election Crimes Branch: Conduct immediate review of the FBI GBI Strategies file and make a charging decision before any remaining statute of limitations window closes

2. DOJ Election Crimes Branch: Investigate the AGCID's March 24, 2021, declination decision, specifically the charge mismatch between Identity Theft (cited as the basis for declination) and MCL 168.933a Election Fraud by Forgery (the statute under which search warrants were issued), to determine whether the declination improperly shielded GBI Strategies from state prosecution.

3. DOJ Civil Rights Division / Voting Section: Issue federal subpoenas for: (a) Westland Clerk Richard LeBlanc's records of GBI 'EM' package receipt; (b) Second Street Associates LLC operational records; (c) Connecteam communications records from the Dearborn Heights 2024

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operation; and (d) Michigan Democratic Party records related to GBI Strategies' shared Lansing address.

4. DOJ: Investigate whether Secretary of State Benson's failure to issue a statewide clerk alert, despite direct advance knowledge of a confirmed multi-city fraudulent registration operation, constitutes a violation of MCL 168.31(1)(h) and whether that failure is separately actionable under federal election law.

5. EAC / SSA: Audit Michigan's HAVV verification collapse (from approximately 150,000 checks in 2020 to 906 in the first 15 weeks of 2026) and determine whether Michigan's current HAVV implementation satisfies HAVA § 303(a)(5)(B)(ii)[707] voter registration accuracy requirements.

6. DOJ / FBI: Investigate Second Street Associates LLC as a potential successor operation to GBI Strategies, including its funding sources, operational infrastructure, training methodology, and connections to the 2020 GBI Strategies network.

7. **DOJ Civil Rights Division / Voting Section**: Review whether any fraudulent registrations identified during the GBI Strategies investigation remain within Michigan's Qualified Voter File and determine whether additional corrective action is warranted to satisfy HAVA's statewide voter registration accuracy requirements.

§ XIII: SUMMARY AND CONCLUSION

13.1. Count 12 documents a coordinated voter registration fraud operation conducted in Michigan during the 2020 election cycle by GBI Strategies LLC and examines the subsequent investigative, prosecutorial, and administrative response. The evidentiary record includes Michigan State Police investigative reports, Muskegon Police Department records, Attorney General Criminal Investigation Division materials, executed search warrants, campaign finance disclosures, FBI FOIA responses, Secretary of State investigative records, and related legislative correspondence. Together, these materials document substantial evidence of fraudulent voter registration submissions, a multi-jurisdictional operation extending beyond Muskegon County, and formal referrals to state and federal law enforcement.

13.2. This Count does not contend that the documented registration fraud altered the outcome of any particular election. Rather, it concludes that the volume and nature of the fraudulent registration activity, the apparent incorporation of some registrations into Michigan's Qualified Voter File, the documented deficiencies in identity verification and list maintenance, and the absence of publicly identified criminal charges despite years of investigation collectively warrant continued federal review. These issues bear directly upon the integrity and accuracy of

[707] HAVA § 303(a)(5)(B)(ii).

Michigan's statewide voter registration system and the public's confidence in the administration of federal elections.

13.3. The record further documents that Michigan election officials, the Michigan State Police, and the Attorney General's office received evidence of fraudulent registration activity before the November 2020 General Election and that the matter was subsequently referred to the Federal Bureau of Investigation as part of a broader, multi-state investigation. The FBI's April 2025 invocation of the law-enforcement exemption under 5 U.S.C. § 552(b)(7)(A) confirms that a pending or prospective federal law enforcement proceeding remained active nearly five years after the initial discovery. Whether that investigation ultimately results in criminal charges is a matter committed to the Department of Justice. Nevertheless, the documented investigative history, coupled with the approaching limitations concerns identified by Michigan legislators, underscores the importance of timely federal review.

13.4. The evidence presented in this Count also raises broader questions concerning compliance with federal voter registration requirements under the National Voter Registration Act and the Help America Vote Act. Specifically, the interaction between fraudulent third-party registration activity, reduced identity verification, and limitations on routine voter list maintenance warrants careful evaluation to determine whether Michigan's statewide voter registration system continues to satisfy HAVA's accuracy requirements and provides the reliable registration records contemplated by federal law.

13.5. Since the events described in this Count, the Department of Justice has publicly reaffirmed that fraudulent voter registration, maintenance of accurate statewide voter registration records, preservation of election records, and enforcement of federal election laws remain active federal priorities. The evidence assembled herein is submitted within that current enforcement framework. MFEI respectfully requests that the Department of Justice review the investigative record, evaluate whether additional criminal, civil, or administrative action is warranted, and determine whether further measures are necessary to protect the integrity and accuracy of Michigan's statewide voter registration system and the administration of future federal elections.

§ XIV: SOURCES AND WORKS CITED

A. Investigative Sources

Bennett, Judi, FOIA Request to FBI, FOIPA No. 1663449-000 — GBI Strategies LLC, Gary Bell, Second Street Associates LLC (March 12, 2025), On file with MFEI.

FBI Acknowledgment Letter, FOIPA No. 1663449-000, signed Michael G. Seidel, Section Chief (March 25, 2025), On file with MFEI.

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COUNT 13. Poll Challenger Obstruction, Canvasser Intimidation, and Denial of Statutory Oversight Rights

Systematic Exclusion of Credentialed Challengers, Weaponization of Police Authority, and Criminal Intimidation of Wayne County Board of Canvassers Members at the 2020 TCF Center Absent Voter Counting Board

§ I. ISSUES SUMMARY

This Count documents the systematic denial of statutory poll challenger rights at the November 2020 Detroit general election Absent Voter Counting Board (AVCB) at the TCF Center, the organized intimidation of credentialed Republican challengers by election officials and partisan operatives, and the criminal intimidation of Wayne County Board of Canvassers members who attempted to withhold certification of an election they found to be fatally out of balance. Together, the documented evidence appears consistent with a coordinated, multi-layered impairment of the oversight mechanisms Michigan law assigns to protect the integrity of the counting and canvassing process.

Because those oversight mechanisms are integral to the administration of federal elections, their impairment also bears upon the ability of federal authorities to evaluate compliance with HAVA and other federal election statutes.

The primary sources for this Count are two contemporaneous court filings: *Trump v. Benson*, No. 20-000225-MZ (Mich. Ct. Claims, Nov. 6, 2020), establishing the challenger rights statutory framework; and *Costantino v. Detroit*, No. 20-14780-AW (Wayne Co. Cir. Ct., Nov. 13, 2020),[709] whose complaint and accompanying affidavit document the counting board's disputed operational decisions. Supplemental documentation includes the sworn Palmer affidavit (Nov. 18, 2020),[710] the O'Halloran TCF Timeline (MC4EI, Aug. 2021), and testimonial evidence, provided under oath to the Michigan House Oversight Committee (Dec. 1, 2020).

In writing the TCF Timeline, Philip O'Halloran, M.D., himself a GOP poll challenger and affiant at TCF, drew on 150-plus sworn affidavits and the Speckin Forensics LLC physical examination of ballot envelopes. The TCF Timeline captures the structural dynamic this Count addresses:

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[709] Costantino v. Detroit, No. 20-14780-AW (Wayne Co. Cir. Ct., Nov. 13, 2020).

[710] Affidavit of Monica Palmer, Appendix M herein.

> *"When one party's duly authorized election observers, by all indications acting in good faith and in the spirit of election integrity, are ambushed by a cynical, carefully orchestrated, and calculated operation to thwart them at every turn in the performance of their statutory duties, and the perpetrators go unpunished, the system is officially broken."*
>
> *— Philip O'Halloran, TCF Timeline: The 2020 General Election in Detroit (MC4EI, August 2021), Discussion, p. 57.*

On December 2, 2020, the Michigan House Oversight Committee conducted a public hearing at which challengers, poll workers, and election observers testified under oath about the counting board conditions documented in this Count. Among the witnesses was Jessy Jacob, a 34-year City of Detroit employee and its head engineer for elections, who described instructions she received to backdate ballots and disregard signature mismatches.

Challenger Hima Kolanagireddy testified that Democrat operatives had no training in actual election challenges and were present solely to intimidate GOP challengers and secure their removal.[711] This legislative testimony, gathered independently of the litigation record, corroborates the court filings and sworn affidavits that form the primary evidentiary foundation of this Count. The full hearing transcript is preserved in the Michigan Senate/House compiled testimony archive. [C13-08]

Six structural findings emerge from this Count (including a new finding on DOE-trained provisional ballot deception, 13-A-7a):

1. Michigan law (MCL 168.733/734) grants credentialed poll challengers specific statutory rights to observe, inspect, and challenge election procedures, and makes it a felony punishable by up to two years in state prison for any officer or election worker to prevent a challenger's presence or deny them conveniences for the performance of their duties. These rights were systematically violated across 134 counting boards over two days at the TCF Center.
2. The Wayne County Board of Canvassers Chair, a sworn Republican member with a legal duty to certify or refuse certification, found that more than 70 percent of Detroit's 134 AVCBs did not balance. She initially voted not to certify, was subjected to over two hours of public threats, racial attacks, and a false legal instruction that she had no discretion, and was induced to certify by a promise of a full independent audit that Secretary Benson immediately disclaimed.

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[711] Hima Kolanagireddy, video (~2:16:47), Testimony before the Michigan House Oversight Committee, Dec. 2, 2020.

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3. A New Hampshire woman, subsequently arrested by the FBI and charged under federal threat statutes, criminally threatened Palmer and her 12-year-old daughter with graphic images of mutilated women. The federal prosecution of those threats is consistent with a pattern of coercion extending beyond the counting floor to the canvassing and certification process itself.
4. The Speckin Forensics LLC physical examination of two of 134 AVCBs found that 12 to 20 percent of ballot envelopes had no corresponding signed application, the eligibility requirement under MCL 168.759 that challengers were attempting to flag when they reported thousands of ballots not found in the poll books. The challengers' systematic exclusion prevented this finding from real-time capture.
5. Critically, the operational practices described by multiple witnesses in 2020 recurred during Detroit's November 8, 2022 primary at the same TCF Center: challengers again reported unlisted ballots, and Senior Advisor Chris Thomas, the official involved in 2020, again refused the proper challenge procedure on the record. This recurrence indicates that the conduct documented in this Count may reflect a recurring administrative practice, not an isolated incident, and the distinction that may assist federal authorities in evaluating whether federal investigative engagement is warranted
6. DOE poll worker training conducted October 14–15, 2020, recorded by GOP trainee Adam de Angeli and submitted under oath to the Michigan Legislature, reveals that election workers were pre-trained to weaponize the six-foot distancing rule to block challengers from observing ballot processing, to call 911 to have challengers removed, and, in a separate and independent violation, to issue provisional ballots to voters solely for the purpose of quieting them and having those ballots destroyed without the voters' knowledge. This pre-election training establishes that the obstruction documented in Findings 13-A-7 and 13-A-7a was not spontaneous but planned.

Taken together, these events present not merely allegations of isolated misconduct, but evidence of a recurring operational pattern that, if substantiated, may warrant federal review under both HAVA and the Elections Clause.

Current Federal Enforcement Interest

Subsequent to the preparation of this report, the United States Department of Justice reaffirmed the continuing federal interest in the lawful administration of federal elections, preservation of election records, compliance with the Help America Vote Act (HAVA), and the maintenance of procedures necessary to permit meaningful federal oversight. The factual record presented in this Count concerns the administration of those oversight mechanisms during Michigan's 2020 general election. Although the legal conclusions presented herein are the independent analyses of MFEI and PIME, the evidence concerning challenger access, challenge procedures, preservation of audit records, and recurring administrative practices may assist federal authorities in evaluating continuing compliance with applicable federal election law.

Framework

The framework depicted below illustrates the causal chain documented in this Count. Pre-election decisions, such as the DOE's deliberate training of poll workers to obstruct challengers and the systematic exclusion of Republican poll workers from TCF assignments, fed directly into the Election Day pattern of physical blocking, challenge denial, and elimination of the audit trail challengers would have created. Those two streams converge on the Speckin Forensics LLC independent corroboration, which provides physical, documentary confirmation that the unlisted ballot phenomenon challengers were attempting to flag in real time was real. The chain then continues through the certification coercion sequence (false legal instruction, a broken audit promise, and FBI-prosecuted criminal threats against a canvasser's family) to the federal oversight impairment that is the legal conclusion of this Count. The 2022 recurrence finding at the base of the diagram establishes that the conduct was not isolated to the 2020 election but reflects a recurring administrative practice at the same venue under the same official.

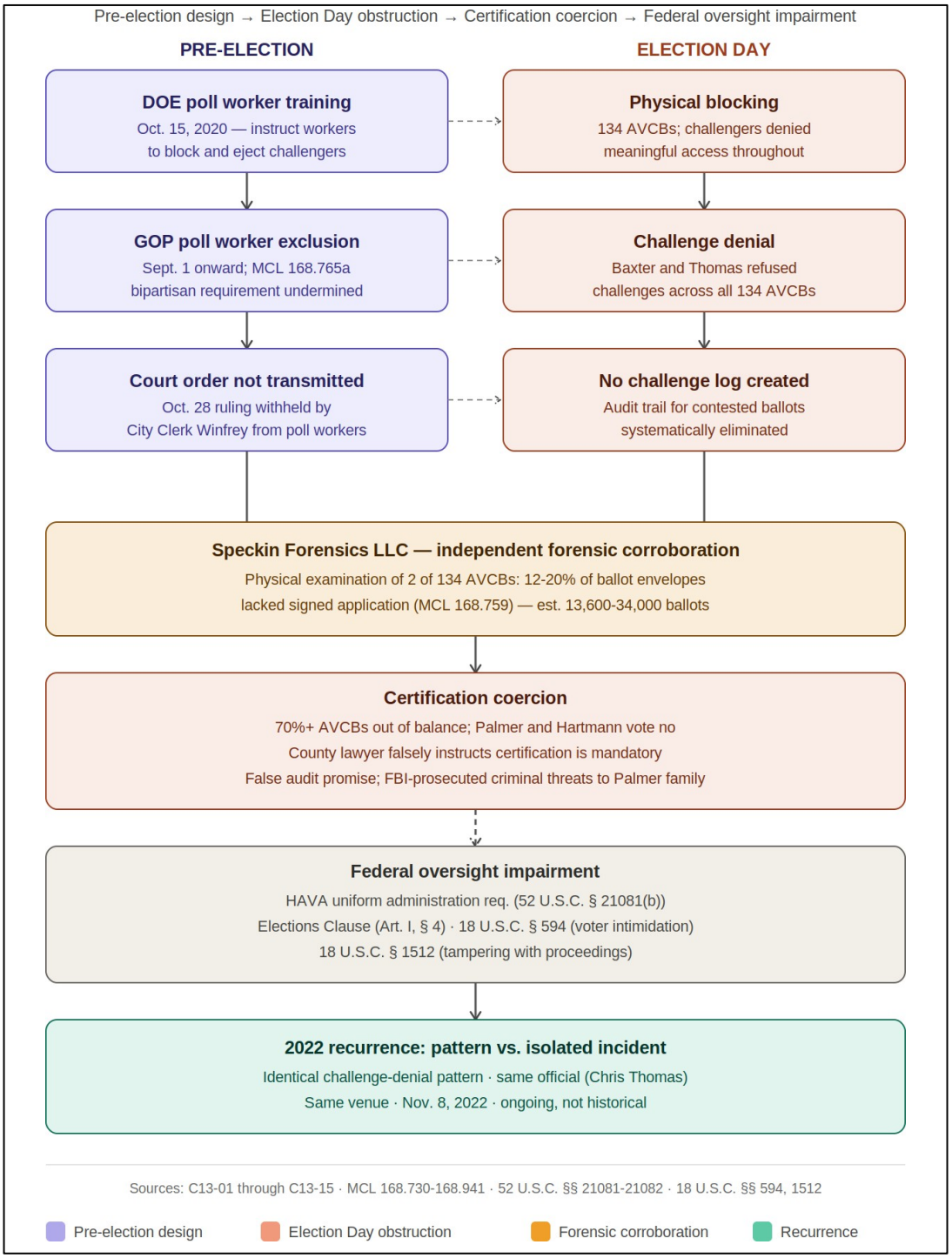


Figure 90: ***TCF Obstruction: Causal Chain. Pre-election design*** *(Detroit Dept. of Elections training, GOP worker exclusion, withheld court order) converges with Election Day obstruction (physical blocking, challenge denial, eliminated audit trail) through Speckin Forensics LLC independent corroboration, to certification coercion, federal oversight impairment, and documented 2022 recurrence.*

Sources: C13-01 through C13-15; MCL 168.730–168.941; 52 U.S.C. § 21081–21082; 18 U.S.C. § 594, 1512.

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§ II. LEGAL ARGUMENT

The following federal and Michigan authorities establish the legal framework within which the conduct documented in this Count is assessed. The pattern of conduct documented in §V constitutes apparent violations of multiple provisions at both levels.

The statutes discussed below establish not only the rights of challengers and canvassing officials under Michigan law, but also the federal interest in ensuring that election procedures are administered uniformly, transparently, and in a manner that preserves records and meaningful oversight of federal elections

A. Federal Law

1. U.S. Const. Art. I, Sec. 4, cl. 1 (Elections Clause) — The systematic exclusion of credentialed challengers from observation of the federal election counting process, and the coercion of canvassers performing federal election certification duties, raise Elections Clause concerns under *Moore v. Harper*, 600 U.S. 1 (2023).
2. U.S. Const. Amend. XIV, Sec. 1 (Equal Protection) — The documented selective admission of Democrat operatives and exclusion of credentialed Republican challengers, applied on the basis of party affiliation, appears to violate the Equal Protection Clause's prohibition on arbitrary and disparate treatment of persons performing equivalent statutory functions. See *Bush v. Gore*, 531 U.S. 98 (2000). See §IX for citation.
3. 52 U.S.C. Sec. 21081(b) (HAVA Uniform and Nondiscriminatory Administration) — The application of distancing and masking enforcement exclusively against Republican challengers while permitting Democrat operatives to move freely, and the admission of uncredentialed Democrat observers to the exclusion of credentialed GOP challengers, appears to conflict with HAVA's requirement of uniform and nondiscriminatory administration of federal elections.
4. 52 U.S.C. Sec. 21082 (HAVA Provisional Ballots) — The systematic refusal to record formal challenges to unlisted ballots, and the denial of the challenge procedure that would have allowed those ballots to be retrieved and verified, appears to conflict with HAVA's provisional ballot protection mechanism.

The Department of Justice's July 2026 guidance likewise emphasizes continuing federal oversight of election administration and compliance with HAVA requirements. The procedures documented in this Count therefore extend beyond questions of state election administration and bear directly upon the integrity of federal elections and federal oversight.

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B. Michigan Law

1. MCL 168.733 (Challenger Rights) — The comprehensive pattern of denial of challenger rights documented in this Count constitutes apparent systematic violation of each of the nine challenger right provisions of MCL 168.733(1)(a) through (i).
2. MCL 168.734 (Challenger Intimidation Felony) — The documented threats, physical intimidation, racial abuse, police removal, and denial of conveniences for the performance of challenger duties appear consistent with apparent violation of MCL 168.734(4), a felony punishable by up to two years in state prison.
3. MCL 168.765a (Bipartisan Inspector Requirement) — The documented absence of Republican inspectors at individual counting boards, including during military ballot duplication performed exclusively by two Democrats, raises substantial questions regarding compliance with MCL 168.765a's requirement that at least one election inspector from each major political party be present at all times.
4. MCL 168.759 (Signed Application Required) — The Speckin forensic finding that 12 to 20 percent of examined ballot envelopes lacked a corresponding signed application raises substantial questions regarding compliance with MCL 168.759's requirement that a clerk shall not deliver an absent voter ballot to an applicant who does not sign the application.
5. MCL 168.940 and MCL 168.941 (Prosecutor and Peace Officer Duty to Prosecute) — Michigan law imposes a duty on every prosecuting attorney who receives credible information of an election law violation to cause the same to be prosecuted, and on any peace officer present and having knowledge of a violation to institute criminal proceedings. None of the documented MCL 168.734 violations at the TCF Center were prosecuted, and the police present were directed to remove the challengers whose obstruction gave rise to the statutory duty to prosecute.
6. Michigan Constitution, Art. II, Sec. 4(2) (Purity of Elections) — The coercion of the Wayne County Board of Canvassers through false legal instruction, false audit promises, racial attacks, and criminal threats against a canvasser's minor child, in order to compel certification of an election the canvasser found to be seriously out of balance, appears to conflict with the Michigan Constitution's guarantee of purity of elections. See §IX for citation.

Counts 13 and 14 are companion chapters. Count 14 documents the chain-of-custody failures, ballot eligibility violations, and record-destruction issues that challengers sought to observe and document. This Count documents what happened to the challengers attempting to observe those events. The two chapters are designed to be read together: the obstruction documented here and the underlying conduct documented in Count 14 are different aspects of the same administrative sequence at the 2020 TCF Center. Cross-reference also to Count 9 (Poll Challenger, Observer,

and Public Oversight Restrictions) for the regulatory framework now governing the challenger rights whose alleged violation this Count documents.

§ III. FACTUAL AND PROCEDURAL BACKGROUND

A. *Trump v. Benson*: Background and Significance

Trump v. Benson (No. 20-000225-MZ, Mich. Ct. Claims, Nov. 6, 2020) was filed while counting was still underway and establishes the comprehensive contemporaneous legal articulation of MCL 168.733's requirements in the context of the 2020 TCF counting board operations. *Costantino v. Detroit* (No. 20-14780-AW, Wayne Co. Cir. Ct., Nov. 13, 2020) is the most comprehensive contemporaneous judicial pleading of the chain-of-custody and ballot eligibility violations that challengers were attempting to document when they were excluded from the counting floor. The complaint's six-count allegation record, the Chris Thomas affidavit, and the Speckin forensic corroboration are set out in full in Count 14, Sections III.B, III.C, and IV.E.

For purposes of this Count, the significance of both cases is as the contemporaneous judicial record establishing what the challengers were attempting to observe and document when they were systematically excluded. The denial of injunctive relief in both cases was on procedural grounds: mootness in *Trump v. Benson*, crediting the Thomas affidavit in *Costantino*, and constitutes no factual determination that the events did not occur. A significant percentage of counted ballots lacked the signed application that Michigan law requires.

B. The Palmer Affidavit: Sworn Account of Canvasser Coercion

Monica Palmer, Chair of Wayne County Board of Canvassers, testified before the Michigan Senate Oversight Committee on December 1, 2020. In her testimony, Chair Palmer stated that after the August 2020 primary election more than 70 percent of Detroit absentee counting boards were "unrecountable because they were unbalanced and unexplained." Her testimony corroborated her November 18, 2020, affidavit, describing the November certification proceedings and the structural deficiencies that remained unresolved before certification.



Figure 91: ***Witness Monica Palmer, Chair of Wayne County Board of Canvassers****, testified before the Michigan Senate Oversight Committee on December 1, 2020. After the August 2020 primary election, she said, more than 70 percent of Detroit absentee counting boards were "unrecountable because they were unbalanced and unexplained." Her testimony corroborates her sworn November 18, 2020, affidavit describing the November certification proceedings and the structural deficiencies that remained unresolved before certification.*

Sources: Michigan Senate Oversight Committee hearing (Dec. 1, 2020); Watch video: https://youtu.be/3Mnzsbc5Grw?si=3WFQ3O1FiEeLnwjQ. See also Palmer Affidavit in Appendix M herein November 18, 2020.

Significance of Chair Monica Palmer's affidavit

Palmer's affidavit, sworn November 18, 2020, at 9:33 p.m. before a notary public in Wayne County, provides the definitive firsthand account of the Wayne County certification proceedings. Its 28 numbered paragraphs establish the following under penalty of perjury: [712]

1. The August 2020 primary election had demonstrated a 72 percent out-of-balance rate for Detroit's absentee voting precincts, and the Board had unanimously approved a resolution requesting a state election monitor and investigation into the City of Detroit's training and processes (paragraphs 6-9).

[712] Palmer, Monica. Affidavit, sworn November 18, 2020, notarized by Janice L. Daniels, Notary Public, Oakland County, MI. 3 pp. Numbered paragraph citations in §III.B correspond to the affidavit's own paragraph numbering. O'Halloran, Philip, M.D. TCF Timeline: The 2020 General Election in Detroit. MC4EI, August 2021. Spekin, Erich. Speckin Forensics LLC physical examination, Detroit 2020 AVCB ballot envelopes.

2. On November 17, 2020, the November certification meeting did not begin until 4:46 p.m. Officials provided Palmer the final canvass minutes immediately before the meeting, without the executive summary customarily furnished at certification meetings (paragraphs 12–13).
3. Palmer determined that more than 70 percent of Detroit's 134 AVCBs did not balance, with many having no explanation for why they did not balance (paragraph 14).
4. Palmer voted not to certify. The vote deadlocked 2-2 along party lines (paragraph 16).
5. For more than two hours, public commenters made personal remarks including accusations of racism and threats against Palmer and members of her family (paragraph 18).
6. During the public comment period, Wayne State University economic-development vice president Ned Staebler told Palmer and fellow Republican canvasser William Hartmann, "Your grandchildren are going to think of you like Bull Connor or George Wallace," and predicted they would be remembered as having disenfranchised Black voters in Detroit. Following Staebler's remarks and similar comments from other members of the public, Palmer and Hartmann reversed course and joined the board's two Democratic members in voting to certify, conditioned on the audit promise described below.
7. Wayne County Corporate Counsel Janet Anderson-Davis falsely told Palmer that her role was ministerial and that she could not use her discretion on matters like an incomplete record (paragraph 19).
8. Vice-Chair Jonathon Kinloch offered a resolution promising a full, independent audit of the unbalanced precincts, and represented that the Secretary of State and Governor had given assurances. Palmer certified in reliance on that promise (paragraphs 21-22).
9. Later that evening, Palmer was sent statements that Secretary Benson did not view the audit resolution as binding (paragraph 23).
10. Palmer rescinded her certification vote and attested that she fully believed the Wayne County vote should not be certified, that the election had serious process flaws warranting investigation, and that she would not have certified but for the false audit promise (paragraphs 24-28).

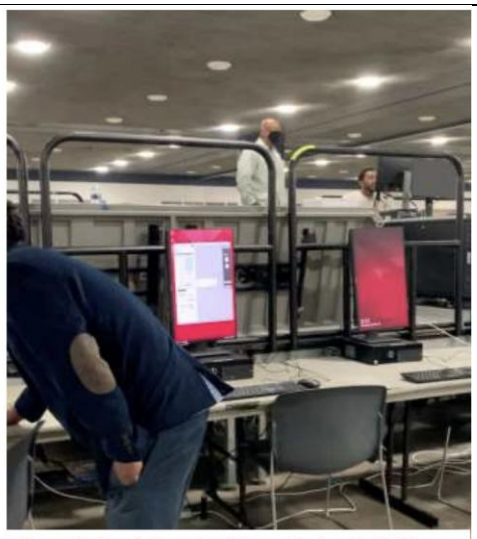
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Figure 92:Video: ***Poll Challenger Hima Kolanagireddy states, "not a single challenge was ever entered [recorded]."***

Tabulators were jamming three or four times an hour, she said, and workers were often not clearing out the 30 to 50 recorded votes before feeding them through the tabulator and counting them a second time. (~2:30). "I was at Table 57 where I said that I saw a stack of ballots which had with a sticky note on them saying 'not in EPB/S.' They didn't know what it meant but it didn't take me long to figure it out…. I started writing down the ballot numbers and the name of the person on the ballot. They were all in sequence. These were all mail-in ballots, they cannot be in sequence. If they are mailed in they come in all different order…. I thought something is not right here….Garden Street, sequential ballots, signatures were all alike. They had no date stamp…and none of them were coming up in the system. They were all being entered manually." The sticky note indicated, "They even knew that none of these details would be in the poll book or the system." (~2:25) video link:
https://house.mi.gov/VideoArchivePlayer?video=OVER-120220.mp4

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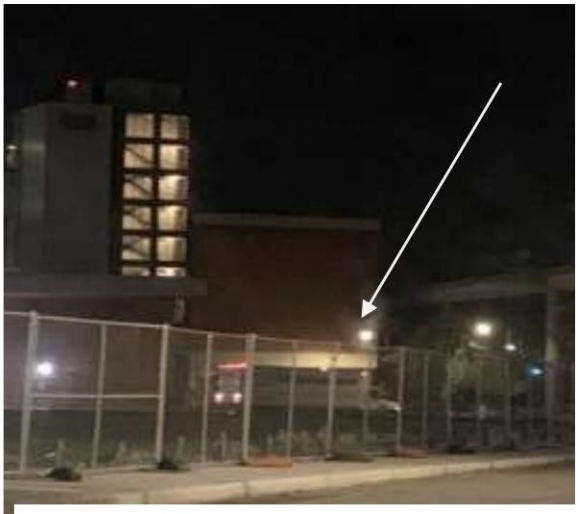
The restricted area in the center of the counting floor that GOP lawyer Klein Preston described in an affidavit as a "...raised stage on which unknown functions were performed, involving ballots which were not subject to observation, review, scrutiny or challenge."



Challengers were made to stand behind the row of ballot boxes (transfer cases) on the left, making it impossible to see the computer screens of the row of tabulators (counting machines) on the right. Some challengers moved in closer, later alleging that workers often failed to zero out vote tallies when ballots jammed and were re-tabulated



Detroit election official Sommer Woods blocks entry to credentialed GOP Challengers, 11 pm November 4th, 2020. Brian Szmytke, of the Trump campaign informs her that there are only 10 GOP challengers left inside to cover 134



Penske truck backing into the TCF Center loading dock off Steve Yzerman Blvd. at 10:16 pm, November 4th.

Figure 93: Images from Phil O'Halloran, M.D., "TCF Timeline: The 2020 General Election in Detroit," Michigan Citizens for Election Integrity (MC4EI), Aug. 2021. Reprinted in MFEI blog, Aug. 31, 2021.

C. Criminal Threat Investigation and FBI Arrest

The criminal intimidation of Palmer did not end with the Zoom meeting. On November 18, 2020, the same day she signed her affidavit, Palmer received death threats from 23-year-old Katelyn Jones of New Hampshire, who sent graphic images of mutilated women with a note warning that Palmer's 12-year-old daughter "should be afraid." Jones was arrested by the FBI and charged with making violent interstate threats. She admitted to sending the messages. Full reporting is available at: ClickOnDetroit/WDIV, December 24, 2020.[713]

Michigan Attorney General Dana Nessel confirmed her department was investigating threats against Wayne County Board of Canvassers members. See: ClickOnDetroit/WDIV, November 24, 2020.[714]

The sequence is legally significant: Palmer voted not to certify; was subjected to over two hours of threats and racial attacks; was falsely told she had no discretion; certified under duress based on a false audit promise; rescinded the next day; and was then criminally threatened by an out-of-state actor subsequently arrested by the FBI. If established as described, the sequence may support a finding of documented coercion of a canvassing official in the exercise of her statutory certification duties, not legitimate political pressure applied to a public official.

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[713] ClickOnDetroit/WDIV, December 24, 2020. https://www.clickondetroit.com/news/local/2020/12/24/wayne-county-canvasser-says-recent-violent-threats-have-her-living-in-fear/

[714] ClickOnDetroit/WDIV, November 24, 2020. https://www.clickondetroit.com/news/local/2020/11/24/michigan-ag-confirms-investigation-into-threats-made-against-wayne-county-canvassers/

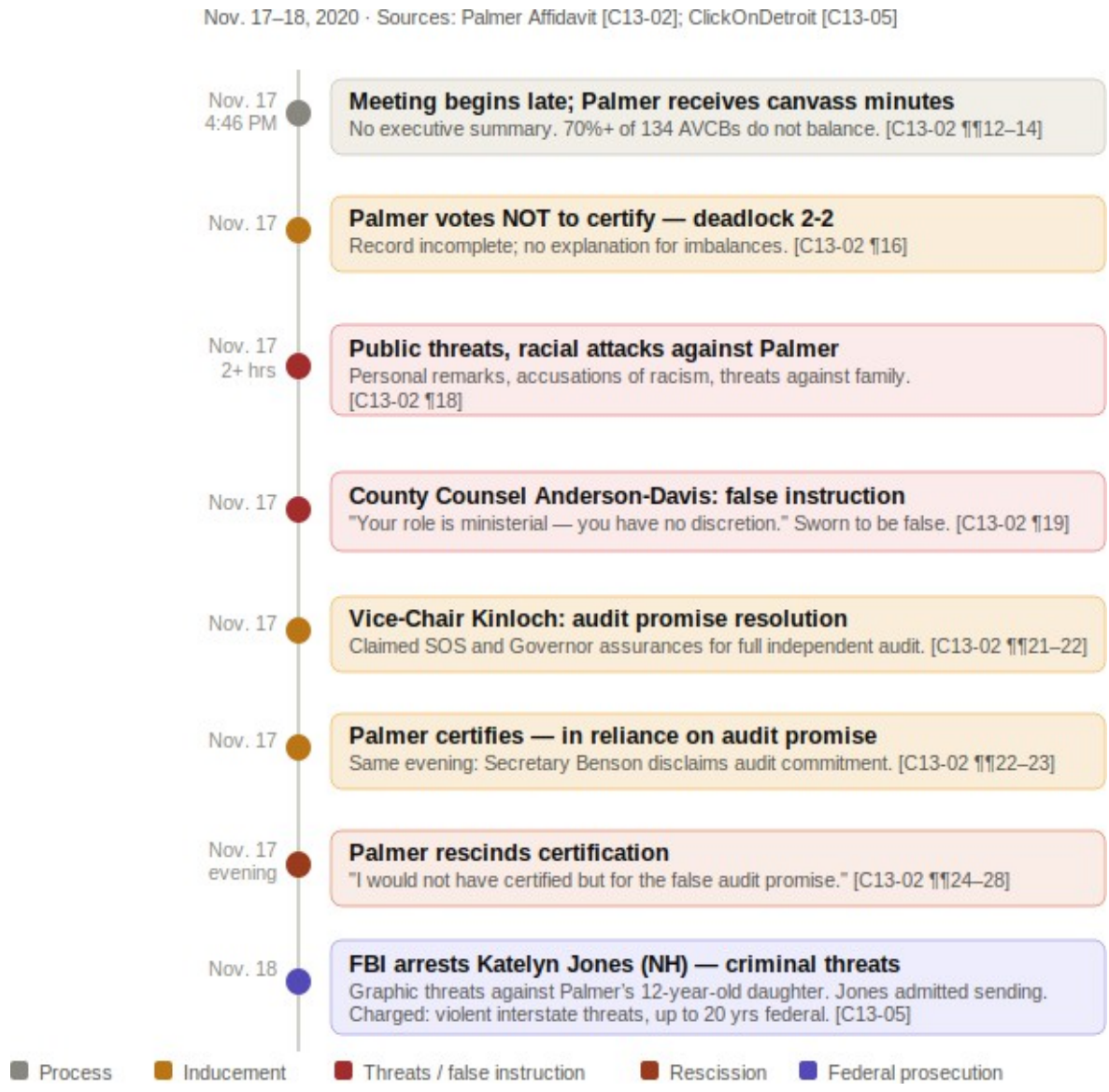


Figure 94: ***MCL 168.823 Certification Timeline****.*
This figure displays the statutory 8-day certification window and maps the Palmer sequence (vote no, coercion, false legal instruction, false audit promise, certification under duress, rescission, criminal threats) against that timeline. The sequence illustrates that the coercion operated within the certification window and was not incidental to it. Source: MCL 168.823; Palmer Affidavit [C13-02]; Trump v. Benson [C13-01].

§ IV. LEGAL FRAMEWORK

A. Poll Challenger Rights Under Michigan Election Law

MCL 168.730 authorizes each political party, incorporated organization, or organized committee to designate one challenger to serve at each counting board. MCL 168.733 grants credentialed

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poll challengers the following statutory rights under MCL 168.733(1): the right to observe election procedure and each person applying to vote (§(1)); the right to inspect poll books and witness voters' names being entered (§(a)); the right to observe how election inspectors perform their duties (§(b)); the right to challenge the voting rights of any person the challenger has good reason to believe is not a registered elector (§(c)); the right to challenge any election procedure not properly performed (§(d)); the right to bring to an election inspector's attention any improper ballot handling, any regulatory violation, any campaigning by election workers, or any other election law violation (§(e)); the right to remain present during the canvass until the statement of returns is signed (§(f)); the right to examine each ballot as it is counted (§(g)); the right to keep records of votes cast and other election procedures (§(h)); and the right to observe the recording of absent voter ballots on voting machines (§(i)).

MCL 168.734 makes it a criminal offense to interfere with these rights. Subsection (4) provides that a person shall not threaten or intimidate a challenger while performing any activity allowed under MCL 168.733. Any officer or election board member who prevents a challenger's presence, refuses to provide a challenger with conveniences for the performance of their duties, or fails to do so shall, upon conviction, be punished by a fine not exceeding $1,000 or imprisonment in the state prison not exceeding two years, or both. These penalties apply regardless of any claim that the challenger failed to comply with distance, masking, or other operational requirements that were not themselves validly promulgated.

MCL 168.765a separately requires that at all times, at least one election inspector from each major political party must be present at the absent voter counting place. This bipartisan representation requirement operates independently of the challenger rights under MCL 168.733 and supplies an additional legal basis for the violations documented in this Count.

B. The Anchor Case: *Trump v. Benson* and the Challenger Rights Framework

Trump v. Benson, No. 20-000225-MZ (Mich. Ct. Claims, Nov. 6, 2020, Judge Cynthia Stephens) arose from the exclusion of credentialed challenger Eric Ostergren from a Detroit absent voter counting board on November 4, 2020. The complaint, filed by True North Law LLC on behalf of Donald J. Trump for President Inc. and Ostergren, sets out the most comprehensive contemporaneous legal articulation of MCL 168.733's requirements in the context of the 2020 TCF counting board operations. The full complaint and Opinion and Order are available at: *Texas v. Pennsylvania* Response Appendix, No. 22O155 (U.S. Supreme Court).

Judge Stephens denied the emergency motion for injunctive relief on November 6, 2020, finding that the complaint failed to allege Secretary Benson's specific involvement in the Ostergren exclusion, that the ballots had already been counted rendering the requested relief moot, and that the Connarn sticky note affidavit was inadmissible as hearsay. The court's denial of relief is not a factual finding that challengers were not excluded or that challenger rights were not violated: the court expressly grounded its denial in mootness and the absence of direct SOS responsibility

for a local official's actions. The complaint's statutory framework and factual allegations remain valid as a legal record of what Michigan law requires and what was alleged to have been violated.

The *Trump v. Benson* appendix filed with the U.S. Supreme Court in *Texas v. Pennsylvania* also includes the *Costantino v. Detroit* complaint, the Chris Thomas affidavit, and the Board of State Canvassers meeting record of November 23, 2020, constituting the most comprehensive judicial record of the TCF counting board dispute.

C. Wayne County Board of Canvassers Authority and the Certification Process

The Wayne County Board of Canvassers is a four-member bipartisan body responsible for certifying county election results. Certification requires a majority vote. Monica Palmer, as Republican Chair, had both the authority and the statutory obligation to evaluate the completeness and accuracy of the canvass record before certifying. When more than 70 percent of Detroit's AVCBs failed to balance, with discrepancies ranging from 200 to 600 votes per board, Palmer determined the record was incomplete and voted not to certify.

The subsequent inducement to certify through a false promise of audit and the immediate disavowal of that promise by Secretary Benson raises substantial questions regarding the integrity of the canvassing process independent of the underlying ballot irregularities. Palmer's sworn affidavit of November 18, 2020, establishes these facts under penalty of perjury.

D. Federal Law: HAVA Uniform Administration and Due Process

Section 302(a) of the Help America Vote Act (52 U.S.C. 21082) requires that provisional ballots be provided and counted for voters whose eligibility is questioned. The systematic denial of the challenge process at TCF, where challengers were prevented from logging challenges, election workers told challengers "we don't do that here," and the highest-ranking official in the room refused to record formal challenges to thousands of unlisted ballots, appears to raise questions regarding the implementation of HAVA's provisional ballot requirement (52 U.S.C. § 21082). MFEI acknowledges that the precise connection between the challenge procedure under MCL 168.733 and HAVA's provisional ballot mechanism is a statutory interpretation question for DOJ to assess; what the record establishes is that the challenge-recording mechanism was systematically denied.

HAVA's uniform and nondiscriminatory administration requirement (52 U.S.C. 21081(b)) further applies. The documented pattern of admitting uncredentialed Democrat operatives while excluding credentialed GOP challengers, applying masking and distancing rules selectively against Republican challengers while permitting Democrat representatives to move freely, and calling police to remove challengers who objected to improper procedures while protecting those

blocking challenger access, appears consistent with facially discriminatory administration of the counting process.

§ V. Evidentiary Record

A. Pre-Election Exclusion of Republican Poll Workers

The obstruction of Republican oversight at the TCF Center began before Election Day. Starting September 1, 2020, over 100 Republican volunteers submitted applications to serve as poll workers at the TCF AVCB. Most received no response. Several were told positions were filled. Wayne County Board of Canvassers Chair Monica Palmer personally recruited 50 GOP volunteers for poll worker positions at TCF and was told there were no positions available. TCF Counting Board Chief Daniel Baxter, when asked about a list of 100 Republican applicants who had been told the board was full, stated he was not aware of that.

MCL 168.765a requires that at least one election inspector from each major political party be present at the absent voter counting place at all times. The systematic exclusion of Republican poll worker applicants before the election structurally undermined this requirement: with few GOP poll workers on the floor, the bipartisan inspection requirement could not be met, and challenger oversight could not compensate for the absence of bipartisan inspectors at individual counting boards.

The Detroit Department of Elections poll worker training, as GOP poll worker trainee Adam de Angeli documented in a recording made October 15, 2020 [C13-08]. De Angeli captured DOE trainer "Miss Tyra" explicitly instructing the class that the six-foot distancing rule would prevent challengers from seeing what workers were doing: "Exactly! Unless they got 'reeeally' good vision or they brought their binoculars."

The trainer added that workers were "entitled to your six feet" and instructed workers to call 911 and have challengers "thrown up out of there" if they came closer.

This training was given to election workers before the October 28 court order banned the six-foot rule. Then Clerk Winfrey failed to transmit or communicate the court order permitting meaningful access to TCF workers and challengers before the election.[715]

Marian Sheridan, founder of Guard the Vote and a Republican poll challenger at TCF in both 2018 and 2020, submitted a sworn affidavit attaching a signed list of more than 50 named

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[715] Adam de Angeli, Sworn Affidavit re: DOE Poll Worker Training Recordings, October 14–15, 2020. In: "Written testimony received in Oversight committee 12.1.20," Michigan Senate Committee Minutes and Testimony Archive, 2019–2020 Session, pp. 69–85. Also in Amistad Project Super-Appendix, App. 6, p. 117 (Trump v. Benson). Michigan Senate written testimony archive (Dec. 1, 2020)

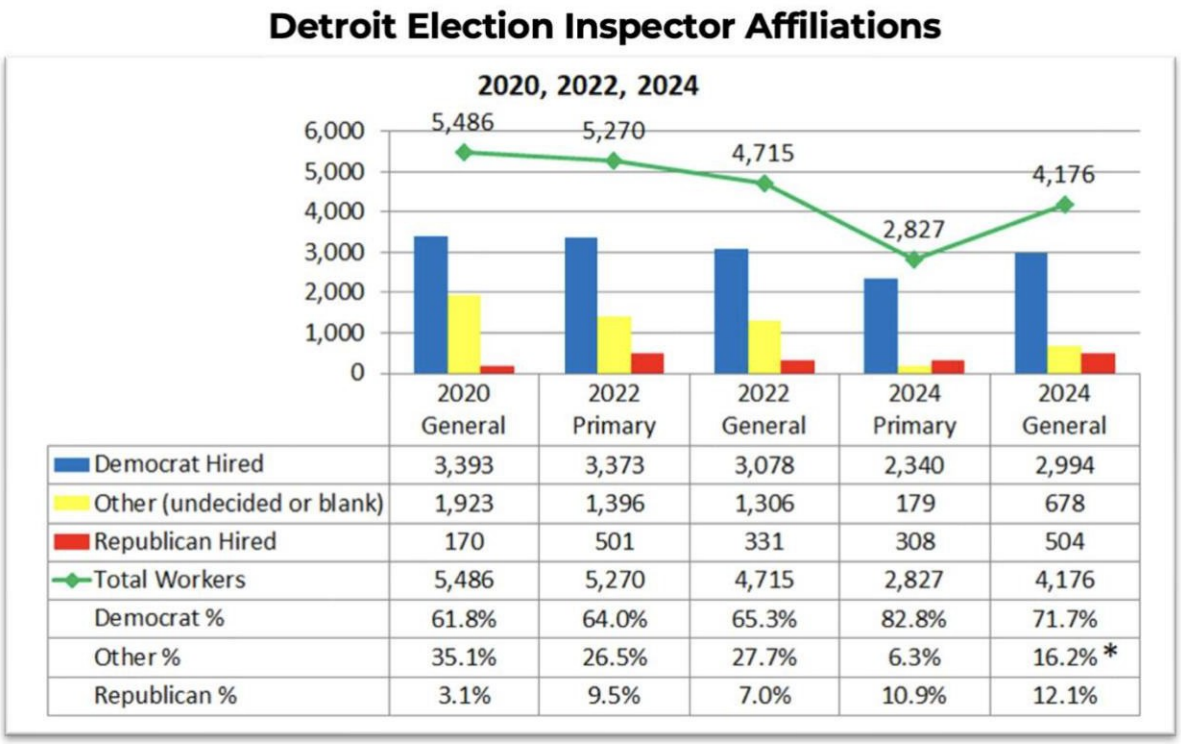
Republican applicants who applied in September 2020 and were told they were not needed, were never contacted after applying, attended training or were subsequently called back.

Sheridan personally witnessed transfer cases being sealed on November 2, 2020, without bipartisan representation, in apparent violation of applicable Michigan election procedures. [C13-11] If federal authorities were to assess whether the pre-election exclusion of GOP poll worker applicants was systematic and structurally compromised the MCL 168.765a bipartisan inspection requirement, the Sheridan affidavit provides a documented factual foundation.[716]

MFEI's *Party Parity Analysis: Election Inspector Hiring Practices of Michigan Municipalities* (May 2025), built on data obtained through Freedom of Information Act requests, documents a systemic pattern of excluding Republican election inspectors in Detroit across multiple election cycles. In Detroit's 2020 general election, Republican hires comprised only 3.1% of all election inspectors, while Democrats comprised 61.8%.

By the 2024 general election, Republican representation had reached only 12.1%, against 71.7% Democrat. This FOIA-derived multi-cycle data provides quantitative corroboration of the Sheridan affidavit's account of systematic pre-election exclusion of Republican poll worker applicants and directly supports the inference that the inspector imbalance documented at TCF was not an isolated event but a recurring feature of Detroit election administration. For Flint and other Michigan municipalities, see Count 8.

[716] Sheridan, Marian. Sworn Affidavit, November 21, 2020. Michigan Senate Committee Minutes and Testimony Archive, 2019–2020 Session, pp. 1–5. Michigan Senate testimony archive (2019–2020 Session)



	2020 General	2022 Primary	2022 General	2024 Primary	2024 General
Democrat Hired	3,393	3,373	3,078	2,340	2,994
Other (undecided or blank)	1,923	1,396	1,306	179	678
Republican Hired	170	501	331	308	504
Total Workers	5,486	5,270	4,715	2,827	4,176
Democrat %	61.8%	64.0%	65.3%	82.8%	71.7%
Other %	35.1%	26.5%	27.7%	6.3%	16.2% *
Republican %	3.1%	9.5%	7.0%	10.9%	12.1%

*Figure 95: **Detroit election inspector party affiliations, 2020–2024**.*
Republican hires ranged from 3.1% (2020 general) to 12.1% (2024 general) across five election cycles. Source: MFEI Party Parity Analysis (May 2025) p. 10; data derived from City of Detroit election records via FOIA. Percentages may reflect a small margin of error due to possible duplicate counts.

B. Election Day and Post-Election Day: Systematic Challenger Denial

The O'Halloran TCF Timeline[717], a compiled analysis of 150-plus sworn affidavits from Republican, Democratic, and non-partisan challengers and poll workers, documents a comprehensive and consistent pattern of challenger obstruction across both days of counting. The breadth of corroboration across independent affiants with no apparent coordination is among the strongest evidentiary features of this record.

1. Physical blocking of challengers from viewing ballot duplications, in violation of MCL 168.733(1)(g). GOP affiant Jennifer Seidl estimated she was blocked from viewing 100 ballot duplications. GOP challenger Janice Hermann swore that workers presented their backs to create a "wall" between her and the duplication process. GOP challenger Ulrike Sherer reported that poll workers moved in front of her to block her view, and when she asked workers to accept challenges, was told "we don't do that here."

[717] O'Halloran, M.D., *TCF Timeline The 2020 General Election in Detroit,* Michigan Citizens for Election Integrity, MC4EI, August 2021. Report reprinted in MFEI blog, Aug. 31, 2021.

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2. Denial of bipartisan representation at ballot duplication, in violation of MCL 168.765a. GOP challenger Bonnie Pettibone observed a ballot being duplicated without a Republican present and was denied when she asked whether a Republican was there to witness. GOP challenger Brett Kinney was falsely told bipartisan supervision "is not required." Non-partisan affiant Christopher Schornak, working at AVCB #88 and #89, observed at 11:35 AM a mismatch between ballot numbers and the electronic records for those voters: Ballot #7909 was reassigned to Ballot #0976, and Ballot #5748 was reassigned to Ballot #505 at Board #89.

   Both reassignments were independently observed by GOP affiant Abbie Helminen. When Schornak attempted to challenge these ballots, a supervisor told him: "We are not talking to you. You cannot challenge this." With assistance from GOP lawyers Schornak ultimately succeeded in logging challenges. Schornak also observed military ballot duplication performed exclusively by two Democrats with no Republican inspector present, in apparent violation of MCL 168.765a, a violation corroborated by GOP affiant Jennifer Seidl and others in the O'Halloran TCF Timeline.[718]

3. Denial of the right to lodge formal challenges, in violation of MCL 168.733(1)(d). Multiple challengers attempted to log challenges for clearly challengeable ballots and were refused. Multiple GOP challengers formally challenged thousands of unlisted ballots and were repeatedly denied by Daniel Baxter and Chris Thomas, who told them the challenge was not valid, as documented in the O'Halloran TCF Timeline [C13-03]. Non-partisan challenger John McGrath counted 1,454 unlisted voter ballots at AVCB #56 alone and was repeatedly interrupted by Democrat challengers attempting to distract him from recording them. [C13-12] Detroit Polling Site Assessor Ted Dickens confirmed that no matter how off-base a challenge might be, it must be recorded under Michigan election law.[719]

4. Selective admission of uncredentialed Democrat operatives to the exclusion of credentialed GOP challengers. At approximately 1:00 p.m. on November 4, the doors to the AVCB were closed, barring credentialed GOP challengers. Inside were dozens of uncredentialed Democrat operatives from the ACLU, Detroit Will Breathe, Detroit

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[718] Schornak, Christopher. Sworn Affidavit, November 8, 2020. Notary: Kimberly A. Moi, Wayne County. Michigan Senate Committee Minutes and Testimony Archive, 2019–2020 Session, pp. 131–136. [C13-10] Voter names on reassigned ballots anonymized per MFEI production rules; ballot numbers preserved for investigative reference. Michigan Senate testimony archive (2019–2020 Session) O'Halloran, Philip, M.D., testimony before Michigan Senate Oversight Committee, Dec. 1, 2020. Video: https://youtu.be/OErxmoDmd-A

[719] McGrath, John. Written testimony, December 1, 2020. Michigan Senate Committee Minutes and Testimony Archive, 2019–2020 Session, pp. 115–119. Non-partisan challenger at AVCB #56 and #73. [C13-12] Michigan Senate testimony archive (2019–2020 Session)

Action, Michigan Liberation, 484 Forward and the 313 Collective. A credentialed GOP challenger told a Detroit Free Press reporter (secondary source) that people with green stickers (Democrats) were being admitted while people with yellow wristbands (Republicans) were blocked by police [C13-03].

5. Police weaponized against challengers performing statutory duties. A SWAT team was called to TCF under the false pretext that challengers were breaking windows. Sgt. Scott Barrick of the Detroit Police Department's 3rd Precinct confirmed upon arrival that no windows had been broken. The team was nonetheless directed to remain on scene until 1:00 a.m. and was used to bar credentialed GOP challengers from re-entry. Secretary Benson subsequently told WJR Radio that the paper placed over the windows was done by police because challengers were breaking windows, a statement contradicted by Sgt. Barrick and multiple witnesses [C13-03].

6. Physical intimidation and verbal abuse of challengers. Multiple sworn affidavits attest to challengers being physically threatened ("you 'bout to get an elbow!"), called racial slurs, accused of being racists and members of a cult, and subjected to organized harassment by Democrat operatives specifically trained to distract and remove GOP challengers. Affiant Kathleen Daavettila observed Democrat challengers distributing a packet of instructions entitled "Tactics to Distract GOP Challengers." Non-partisan challenger Hima Kolanagireddy testified to the House Oversight Committee that Democrat operatives had no training in actual election challenges and were present solely to intimidate GOP challengers and get them removed.

The figure below summarizes the six documented categories of obstruction that emerged from the affidavit record. Each category represents a distinct and independently documented mode of interference with MCL 168.733 challenger rights. Together they demonstrate a comprehensive, multi-modal suppression of the oversight function Michigan law assigns to poll challengers: not a collection of isolated incidents, but a pattern applied systematically across all 134 counting boards over two counting days.

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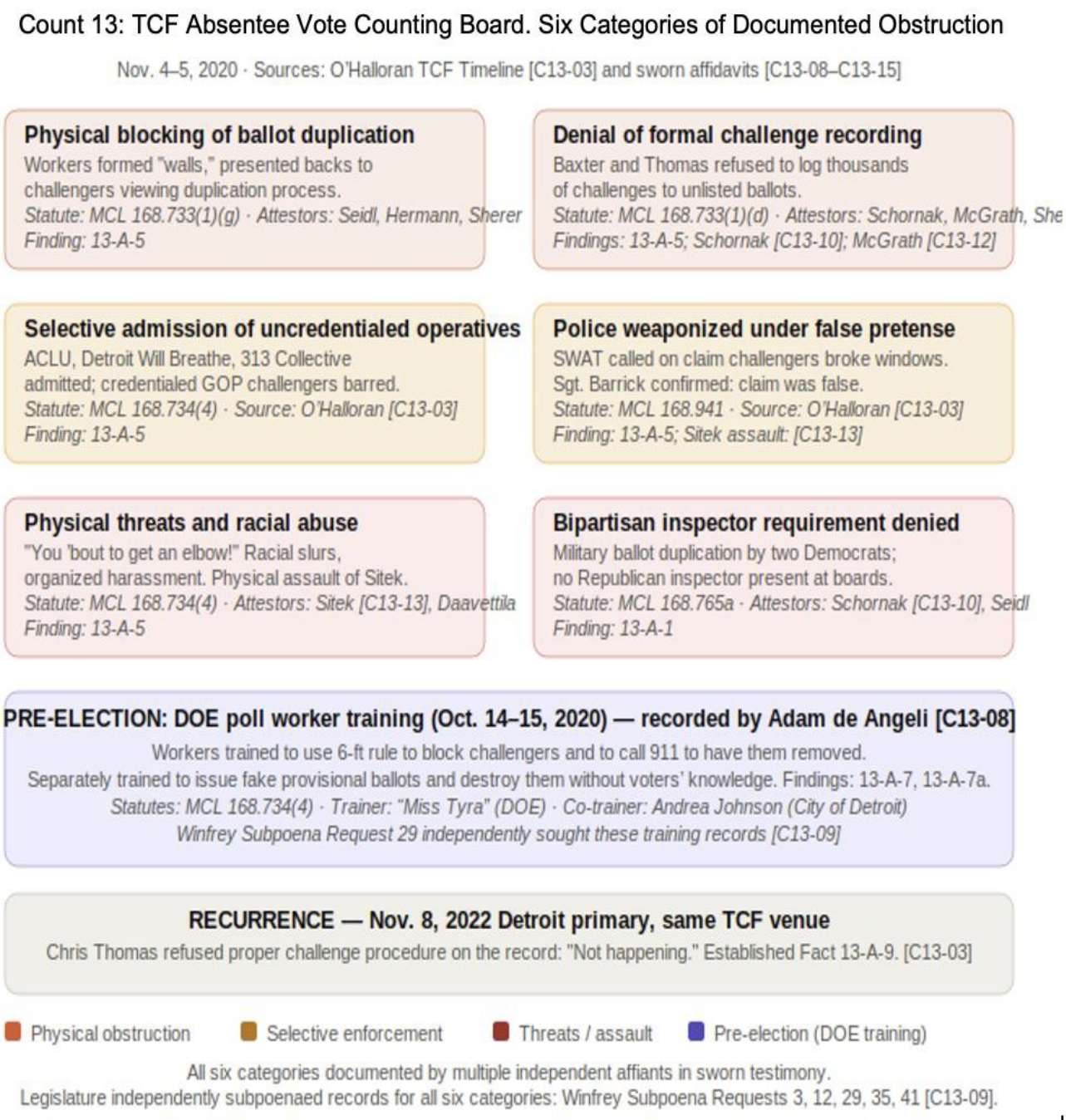


Figure 96: ***Six Categories of Documented Challenger Obstruction at the 2020 TCF Center AVCB****.*
Based on 150-plus sworn affidavits compiled in the O'Halloran TCF Timeline [C13-03] and the Costantino v. Detroit complaint [C13-04]. Each category was documented by multiple independent witnesses. All six categories implicate MCL 168.733 and MCL 168.734. The denial of challenge logging (Category 4) directly eliminated the audit trail that would have permitted post-election verification of contested ballots.

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Late-night ballot delivery was anticipated by election officials on scene. Non-partisan challenger Jacqueline Zaplitny swore that at approximately 2:30 AM on November 4, when no ballots remained on counting board tables and counting appeared concluded, a supervisor stated: "when that big door opens, we will get more trucks." This firsthand account of a supervisor anticipating additional ballot deliveries before they arrived corroborates the sworn accounts of multiple challengers who subsequently witnessed tens of thousands of ballots unloaded at the AVCB sally port at approximately 3:25 AM.[720]

Physical assault of a non-partisan challenger went unaddressed by law enforcement on scene. Non-partisan Election Integrity Fund challenger Glen Sitek swore that on November 5, 2020, a poll worker rose from his seat and physically shoved him away from a ballot duplication table. Sitek immediately approached three Detroit Police Department officers standing approximately 75–100 feet away and requested to file an assault and battery charge against the poll worker.

The officers, who were present and had knowledge of the incident, declined to act. MCL 168.941 imposes a mandatory duty on any peace officer "present and having knowledge of any violation of any of the provisions of this act" to "forthwith institute criminal proceedings." The documented refusal to act is inconsistent with the mandatory duty MCL 168.941 imposes on peace officers present and having knowledge of a violation.[721]

C. The Whistleblower Account: Jessy Jacob

City of Detroit poll worker Jessy Jacob, a 34-year employee and Detroit Public Works engineer with no apparent political affiliation, provided sworn testimony to the Michigan House Oversight Committee on December 2, 2020, and filed a sworn affidavit in the *Costantino* litigation. Her account is the insider corroboration of what challengers were attempting to document when they were excluded: she attested under oath that her supervisor directed her to backdate thousands of late-arriving ballots, that Senior Advisor Chris Thomas acknowledged the backdating and permitted it to continue, and that she was told to disregard signature mismatches. She documented these instructions in two sticky notes passed to GOP challenger Jessica Connarn, which were produced in the *Trump v. Benson* litigation. The full Jacob account, including the verbatim sticky-note text, the Thomas exchange, and her House Oversight Committee testimony, is set out in Count 14, Section III.C.

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[720] Jacqueline Zaplitny, Sworn Affidavit, November 8, 2020. Michigan Senate Committee Minutes and Testimony Archive, 2019–2020 Session, pp. 45–48. [C13-14] Michigan Senate testimony archive (2019–2020 Session)

[721] Glen Sitek, Sworn Affidavit, November 2020. Michigan Senate Committee Minutes and Testimony Archive, 2019–2020 Session, pp. 23–24. [C13-13] MCL 168.941 imposes a mandatory, non-discretionary duty — the officers' refusal is a statutory failure, not a judgment call. Michigan Senate testimony archive (2019–2020 Session)

City of Detroit poll worker Jessy Jacob, a 34-year City employee and DPW engineer with no apparent political affiliation, provided sworn testimony to the Michigan House Oversight Committee on December 2, 2020, and filed a sworn affidavit in the *Costantino v. Detroit* litigation. Jacob's account is notable as a firsthand insider account: unlike challenger affidavits, it comes from a City employee describing instructions she received from supervisors. Her account establishes the following under oath:

1. Jacob encountered ballots outside their envelopes that had apparently arrived after the November 3 deadline. Her supervisor instructed her to backdate the ballots to November 2 and let them proceed.
2. Jacob refused and took a sticky note directing backdating to AVCB Director Daniel Baxter. Senior Advisor Chris Thomas stated Jacob was correct about procedure, but asked "why should we punish voters for a processor's mistake?" and permitted the ballots to proceed.
3. Jacob's supervisor, Carol Aldridge, then told her "do not check the signatures." When Jacob brought Thomas a ballot with a clearly mismatched signature, Thomas's response was: "Oh, that's okay. Let it go."
4. In her sworn affidavit, Jacob stated: "I was instructed to improperly pre-date the absentee ballots receive date that were not in the QVF as if they had been received on or before November 3rd, 2020. I was told to alter the information in the QVF to falsely show that the absentee ballots had been received in time to be valid. I estimate this was done to thousands of ballots."
5. Jacob passed a sticky note to GOP challenger Jessica Connarn reading "Entered receive date as 11/2/20 on 11/4/20. JJ" and a second note stating "Received into QVF on 11/4/20 was asked to enter the ballot received date as 11/2/20." These notes were produced in the *Trump v. Benson* litigation.

Jacob was subsequently removed from her counting board position and ushered to the restricted raised platform. She told the House Oversight Committee: "They treated me like a criminal. I never expected this kind of treatment. It was really, really bad. I just wanted to serve the City of Detroit."

D. The Forensic Corroboration: Speckin Forensics LLC

The Speckin Forensics LLC analysis, conducted by lead investigator Erich Spekin, provides physical corroboration that the unlisted ballot phenomenon challengers repeatedly reported was real and not imagined or exaggerated. Spekin and his team physically examined ballot envelopes and ballot applications for two of the 134 TCF counting boards. Their methodology required pairing each ballot envelope with its corresponding ballot application, the signed document that MCL 168.759 requires before a clerk may deliver an absent voter ballot.

In one counting board, 20 percent of ballot envelopes had no corresponding signed application. In the other, 12 percent had no corresponding signed application. Speckin extrapolated these findings across all 134 boards, estimating that at the rates documented in the two examined boards, between 13,600 and 34,000 of approximately 170,000 counted absentee ballots may have lacked a signed application.

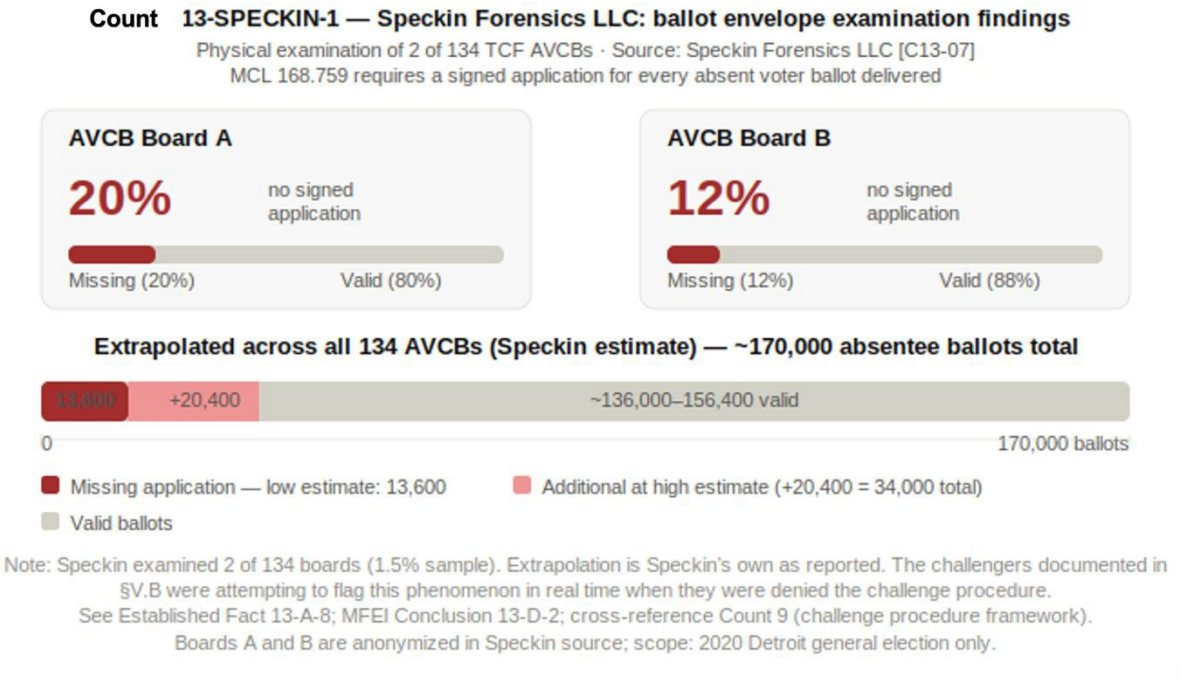


*Figure 97: **Speckin Forensics LLC Findings**: Missing Signed Applications by Counting Board. Physical examination of 2 of 134 AVCBs. Board A: 20% of ballot envelopes had no corresponding signed application. Board B: 12% had no corresponding signed application. Extrapolated range across all 134 boards: 13,600–34,000 ballots potentially lacking the signed application required by MCL 168.759.*

Source: Spekin, Erich, Speckin Forensics LLC [C13-07]; MFEI blog, Aug. 2, 2023.

These findings directly corroborate the challenger testimony. When challengers reported seeing ballots not found in the poll books, they were observing the downstream consequence of ballots that had never been properly received into the QVF because they lacked the application that triggers the receipt process. When election workers manually entered those ballots with the 1/1/1900 placeholder birthdate, they were processing ballots that, under MCL 168.759, should not have been delivered in the first place.

E. Recurrence at the 2022 Detroit Primary

O'Halloran's account of the November 8, 2022, Detroit primary election at the same TCF Center documents the identical pattern recurring two years later. Starting at approximately 4:30 p.m.,

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GOP and non-partisan challengers across the counting board began reporting multiple ballots not in the electronic poll book. The challengers attempted to formally challenge the ballots but election inspectors were instructed to truncate the challenge procedure by omitting the step of writing the ballot number on the body of the ballot after its stub was removed — the step that, under Michigan election law, allows a challenged ballot to be later retrieved, verified, or backed out of results if found ineligible.

When the challenger team confronted Chris Thomas, still present as Senior Advisor to the City Clerk two years later, and demanded the proper challenge procedure, Thomas flatly refused, stating: "There's no way we're going to put that ballot number on there and that tape over it. Not happening." He said this despite having sent challengers an email three days earlier outlining the proper challenge procedure. The 2022 recurrence indicates that the 2020 TCF pattern may not have been an isolated aberration but a recurring operational approach to managing unlisted ballot challenges. For purposes of federal investigation, a recurring administrative practice is more likely to reflect institutional policy than individual misconduct, and more likely to support a pattern-or-practice finding under federal civil rights authorities.

Cross-Reference — Count 14: The Speckin Forensics LLC examination and Jessy Jacob whistleblower account are established as primary evidence in this Count (Established Fact 13-A-6, Established Fact 13-A-8, MFEI Conclusion 13-D-2). The chain-of-custody failures that created the structural conditions challengers were attempting to document, including the 3:25 a.m. ballot delivery, defective ballot containers, and the post-certification EPB deletion directive, are documented in Count 14 (Chain of Custody Failures, Ballot Eligibility Violations, and Unlawful Post-Deadline Ballot Processing). Cross-reference to Count 9 (Poll Challenger, Observer, and Public Oversight Restrictions) for the Rule Set 2025-15 regulatory framework that now governs the exercise of the challenger rights whose violation this Count documents.

F. Structural Harms of the Obstruction Program

1. Destruction of the Audit Trail

Michigan election law's challenge procedure serves a specific structural purpose: it creates an auditable paper trail of contested ballots that can be retrieved, examined, and if necessary, backed out of results by a court. When election workers refused to record challenges, refused to allow challengers to write down ballot numbers, and Daniel Baxter and Chris Thomas denied formal challenges to thousands of unlisted ballots, they did not merely inconvenience Republican observers. They substantially impaired the mechanism by which the counting process could later be audited and incorrect results corrected. The denial of challenge recording appears, functionally, to have eliminated the audit trail for challenged ballots.

The elimination of contemporaneous challenge records likewise affects the preservation of election evidence available for later administrative, judicial, or federal review. The Department

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of Justice has recently emphasized the importance of preserving election records and maintaining documentation necessary to evaluate compliance with federal election law. The impairment of the challenge-recording process therefore has significance beyond state procedures because it may limit the evidentiary record available for subsequent review.

2. Canvasser Coercion Nullifying the Certification Check

The Wayne County Board of Canvassers certification function is a structural check on the counting process. A canvasser who finds the record incomplete has the authority and the duty to withhold certification pending resolution. When Palmer exercised that authority, the documented response (public racial attacks, false legal instruction, an unenforceable audit promise, and criminal threats against her family) appears consistent with a coordinated effort to neutralize the certification check rather than to engage it. The result was that the certification check, the last institutional mechanism for catching and flagging counting irregularities before results became final, appears to have been impaired through a combination of coercion and false legal instruction.

3. Impaired Federal Oversight of HAVA Compliance

Federal oversight of Michigan's compliance with HAVA requires access to the actual operational standards governing the counting process and the ability to assess whether those standards were applied uniformly and fairly. The systematic exclusion of credentialed challengers from the counting process prevents federal oversight from assessing whether the counting procedures applied at TCF complied with HAVA's uniform and nondiscriminatory administration requirement. The result is a structural impairment of federal oversight that flows directly from the challenger obstruction documented in this Count. Federal authorities have an independent interest in determining whether the administrative practices at TCF, if established as described, compromised the uniform and nondiscriminatory administration of a federal election as required by 52 U.S.C. § 21081(b).

4. Chilling Effect on Future Volunteer Service

The documented experience of TCF challengers: physical threats, racial abuse, police removal, criminal threats against their families, and denial of all meaningful oversight, constitutes a powerful deterrent to future volunteer service as poll challengers and canvassers. Several affiant challengers reported leaving the counting floor in response to the hostile environment. Palmer stated she could not go to the grocery store without fear for her daughter's safety. The chilling effect on future election oversight volunteer service is a structural harm to Michigan's election integrity infrastructure that extends well beyond the 2020 election cycle.

§ VI. FINDINGS

A. Established Facts

The following ten Established Facts (tier A) are grounded in primary sources: contemporaneous court filings, sworn affidavits, notarized testimony, recorded government training sessions, physical forensic examinations, and news reports of verified government actions. Each fact is stated at the level of what the cited source establishes; where a source contains an allegation not yet adjudicated, that is noted. Finding codes follow the format [Count-Tier-Number].

Established Fact 13-A-1. *Trump v. Benson* (No. 20-000225-MZ) alleges in a contemporaneous sworn court filing that credentialed challenger Eric Ostergren was excluded from a Detroit absent voter counting board on November 4, 2020, and that Michigan absent voter counting boards were not complying with MCL 168.765a's bipartisan inspector requirement. The denial of injunctive relief was on mootness grounds and does not constitute a factual determination that the exclusion did not occur.

Trump v. Benson, Mich. Ct. Claims, Nov. 6, 2020 [C13-01]

Established Fact 13-A-2. Monica Palmer's sworn affidavit of November 18, 2020 establishes under penalty of perjury: more than 70% of Detroit's 134 AVCBs did not balance; she voted not to certify; she was subjected to two-plus hours of threats and racial attacks; Wayne County Counsel falsely told her she had no discretion; she certified in reliance on a false audit promise; and she rescinded that certification after Secretary Benson disclaimed the audit commitment.

Palmer Affidavit, Nov. 18, 2020 [C13-02]

Established Fact 13-A-3. FBI arrested Katelyn Jones of New Hampshire for sending Monica Palmer graphic images of mutilated women with threats directed at Palmer's 12-year-old daughter, as reported by ClickOnDetroit/WDIV (December 24, 2020). Jones admitted to sending the messages and was charged with making violent interstate threats facing up to 20 years in federal prison.

ClickOnDetroit / WDIV, Dec. 24, 2020 [C13-05]

Established Fact 13-A-4. Michigan Attorney General Dana Nessel confirmed to ClickOnDetroit/WDIV (November 24, 2020) that her department was investigating threats made against members of the Wayne County Board of Canvassers.

ClickOnDetroit / WDIV, Nov. 24, 2020 [C13-06]

Established Fact 13-A-5. The O'Halloran TCF Timeline, based on 150-plus sworn affidavits, documents systematic challenger obstruction including: physical blocking of duplication observation; denial of challenge recording; selective admission of uncredentialed Democrat operatives; police weaponized under false pretense of broken windows; physical threats and racial abuse; and organized Democrat operatives distributing materials titled "Tactics to Distract GOP Challengers." The report's author, Philip O'Halloran, M.D., was himself a credentialed GOP challenger at TCF Center November 2–4, 2020, and filed his own sworn affidavit documenting firsthand observations including chain-of-custody violations and verbal threats against him. O'Halloran subsequently testified before the Michigan Senate Oversight Committee on December 1, 2020.

O'Halloran TCF Timeline, MC4EI, Aug. 2021 [C13-03]

Established Fact 13-A-6. Jessy Jacob, a 34-year City of Detroit DPW engineer, provided sworn testimony to the House Oversight Committee and filed a sworn affidavit in *Costantino v. Detroit* attesting that she was instructed to backdate thousands of late-arriving ballots and to accept ballots with clearly mismatched signatures. Her account was corroborated by challengers Polly McNichol, Julie Maday, and Jennifer Seidl who were present.

Costantino v. Detroit [C13-04]; O'Halloran TCF Timeline [C13-03]

Established Fact 13-A-7. DOE trainer "Miss Tyra," recorded on October 15, 2020 by GOP poll worker trainee Adam de Angeli [C13-08], explicitly told the training class that the six-foot rule would prevent challengers from seeing what workers were doing — joking that challengers would need "reeeally good vision or… binoculars" — and instructed workers to call 911 and have challengers removed if they came closer. This training predated the October 28 court order permitting meaningful challenger access that Clerk Winfrey failed to transmit.

O'Halloran TCF Timeline, p. 8 [C13-03]; de Angeli, Adam. Sworn Affidavit, Oct. 14–15, 2020

training recordings; MI Senate/House Oversight Committee written testimony, Dec. 1, 2020, pp. 69–85 [C13-08]

Established Fact 13-A-7a. In the same October 15, 2020, training, DOE trainer "Miss Tyra" instructed workers to issue provisional ballots to voters whose absentee ballots were already recorded as cast, not to preserve those voters' rights, but to "quiet them down" and remove them from the counting area. Workers were told the provisional ballot "doesn't count" and would be destroyed by the Department of Elections. The verbatim training transcript records: "Destroy it! He's already voted… He doesn't know that, does he? No. He doesn't know that." This trained deception of voters presenting a legitimate concern about their absentee ballot's validity is distinct from the six-foot obstruction finding in 13-A-7 and appears to constitute an independent violation of MCL 168.734's prohibition on interference with the election process.

de Angeli, Adam. Sworn Affidavit, Oct. 14–15, 2020 training recordings; MI Senate/House Oversight Committee written testimony, Dec. 1, 2020, pp. 69–85, paras. 44–45 [C13-08]

Established Fact 13-A-8. Speckin Forensics LLC physically examined ballot envelopes and applications for two of 134 AVCBs and found 20% of envelopes in one board and 12% in another had no corresponding signed application as required by MCL 168.759. Speckin extrapolated an estimated 13,600 to 34,000 potentially ineligible ballots across all 134 boards.

Speckin Forensics LLC analysis [C13-07]

Established Fact 13-A-9. At the November 8, 2022, Detroit primary, Senior Advisor Chris Thomas refused the proper ballot challenge procedure, stating "There's no way we're going to put that ballot number on there and that tape over it. Not happening," despite having emailed challengers the proper procedure three days earlier.

O'Halloran TCF Timeline [C13-03]. Note: C13-07 (Speckin Forensics LLC) documents 2020 ballot envelope examination only; the 2022 Detroit primary recurrence is drawn from the O'Halloran TCF Timeline as a documented ripple effect of the 2020 obstruction pattern.

B. MFEI Conclusions

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MFEI Conclusions (tier D) comprise logical inferences drawn from the Established Facts above. They are not presented as adjudicated findings. Each conclusion identifies the inferential step it represents and the evidence from which it is drawn. Tier D conclusions are distinguished from Established Facts and Judicial Findings throughout the report per the four-tier evidentiary taxonomy described in the Style Sheet.

MFEI Conclusion 13-D-1 — Logical Inference The systematic denial of challenger rights at TCF was not a spontaneous reaction to challenger conduct but a pre-planned operational approach, as evidenced by: DOE trainer instruction on October 15 to use distancing rules to block challengers; Clerk Winfrey's failure to transmit the October 28 court order; organized distribution of "Tactics to Distract GOP Challengers" materials; and recurrence of the identical approach at the 2022 primary.

O'Halloran TCF Timeline; de Angeli, Adam. Sworn Affidavit, Oct. 14–15, 2020 training recordings; MI Senate/House Oversight Committee written testimony, Dec. 1, 2020, pp. 69–85.

MFEI Conclusion 13-D-2 — Logical Inference The Speckin finding that 12–20% of examined ballot envelopes lacked signed applications is consistent with and corroborates the challenger testimony that thousands of ballots not in the poll books were manually entered into the QVF with the 1/1/1900 placeholder birthdate. The inference that the unlisted ballot phenomenon challengers reported was real and large-scale follows from the physical forensic evidence.

Speckin Forensics LLC analysis; Costantino complaint

§ VII. POTENTIAL FEDERAL INTERESTS

The following questions identify the potential federal interests engaged by the conduct documented in this Count, and the investigative steps MFEI respectfully requests the DOJ Civil Rights Division / Voting Section, DOJ Election Crimes Branch, and EAC OIG consider. Notably, the Michigan Legislature independently identified these same investigative priorities: on December 15, 2020, the Joint Senate and House Oversight Committees issued a subpoena to Detroit City Clerk Janice Winfrey demanding 48 categories of documents, including challenger sign-in and sign-out logs (Request 3), all policies on challenger presence and removal (Requests

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12 and 35), poll worker training records including instructor names (Request 29), and the "*Carra v. Benson*" stipulated final order transmission records (Request 41).[722]

- Whether the documented refusals to record formal challenges at all 134 TCF AVCBs resulted in incomplete or falsified official challenged ballot books, in apparent violation of MCL 168.733's requirement that challenges be recorded, and whether DOJ subpoena of those records for November 3–4, 2020, and November 8, 2022, is warranted.
- Whether administrative practices that systematically prevented credentialed challengers from observing ballot processing, recording formal challenges, or preserving contemporaneous audit records impaired compliance with HAVA's requirements for the uniform administration of federal elections and reduced the availability of records necessary for federal oversight.
- Whether the Speckin forensic finding of 12–20% missing signed ballot applications in two of 134 TCF AVCBs may merit DOJ-directed independent forensic examination of the remaining 132 boards, and whether the Michigan Secretary of State may be required to produce all ballot envelopes and applications for the 2020 Detroit general election within the 22-month federal retention window (52 U.S.C. § 20701).
- Whether the documented pattern of physical obstruction, intimidation, and denial of statutory challenger conveniences at TCF constitutes apparent violation of MCL 168.734(4) and whether those same acts constitute federal civil rights violations under 18 U.S.C. § 594 (voter intimidation) or 18 U.S.C. § 595 (interference with elections by government employees), warranting referral to the Michigan Attorney General and the DOJ Election Crimes Branch.
- Whether the Wayne County certification coercion sequence (false legal instruction by County Counsel that the Board had no discretion, false audit promise by Vice-Chair Kinloch, and federally prosecuted criminal threats against Palmer) constitutes potential violations of 18 U.S.C. § 594 and 18 U.S.C. § 1512 (tampering with official proceedings).
- Whether the full evidentiary record of *Costantino v. Detroit* (No. 20-14780-AW) merits review as the documentary foundation for any federal investigation of the 2020 TCF counting board operations.

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[722] Michigan Legislature, Joint Subpoena to Detroit City Clerk Janice Winfrey, December 15, 2020. Signed by Sen. Ed McBroom (Senate Oversight Committee) and Rep. Matt Hall (House Oversight Committee). 6 pp., 48 document requests. Subpoena authority: MCL 4.101 et seq. https://justthenews.com/sites/default/files/2020-12/Subpoena%20to%20Detroit%20City%20Clerk.pdf

- Whether the documented 2022 recurrence of the same challenge-denial pattern, including Chris Thomas's on-record refusal to follow the proper challenge procedure at the same venue two years later, constitutes a pattern and practice of MCL 168.734 violations sufficient to support systemic relief rather than case-by-case prosecution.
- Whether Michigan's systematic exclusion of credentialed challengers from the TCF counting process, and its denial of the provisional ballot mechanism to unlisted ballot challengers, constitutes a violation of HAVA's uniform and nondiscriminatory administration requirement (52 U.S.C. § 21081(b)) sufficient to implicate Michigan's continued receipt of HAVA formula funds, a question properly before the EAC OIG.

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§ VIII. SUMMARY AND CONCLUSION

Count 13 documents a systematic impairment of Michigan's statutory election oversight mechanisms during the November 2020 general election at Detroit's TCF Center Absent Voter Counting Board. The evidence indicates that credentialed challengers were repeatedly prevented from carrying out the oversight functions assigned to them by Michigan law, that contemporaneous records documenting election challenges were impaired, and that the certification process was affected by documented pressure directed toward public officials performing election-related duties. The record further documents substantially similar practices during the City's 2022 election, suggesting that these issues extend beyond a single election cycle.

The evidentiary record supporting these findings is extensive and includes contemporaneous court filings, more than 150 sworn affidavits, sworn testimony from election challengers and election workers, a whistleblower declaration from a longtime City of Detroit employee, documentary records, and an independent forensic examination by Speckin Forensics LLC. Together, these sources provide multiple independent lines of evidence regarding challenger access, ballot processing, election administration, and the preservation of election records.

The Department of Justice's July 2026 guidance reaffirmed the federal government's continuing interest in lawful election administration, preservation of election records, compliance with the Help America Vote Act (HAVA), and maintaining procedures necessary for meaningful federal oversight of federal elections. The evidence documented in this Count concerns each of those interests. If credentialed challengers were systematically prevented from observing ballot processing, documenting formal challenges, or preserving contemporaneous audit records, those practices may affect both the transparency of election administration and the ability of federal authorities to evaluate compliance with applicable federal election law.

The record presented in this Count identifies ten Established Facts and two MFEI Conclusions supported by multiple categories of evidence. Among other findings, the evidence documents recurring restrictions on challenger participation, pre-election training materials concerning challenger interactions, independently verified ballot-record discrepancies, sworn allegations regarding ballot processing practices, documented pressure affecting certification officials, and substantially similar practices occurring again during the City's 2022 election administration.

Read together with Count 9 (challenger regulations) and Count 14 (chain of custody), this Count presents a comprehensive factual record concerning the operation of election oversight mechanisms in Michigan's largest counting jurisdiction. Because the documented practices continued beyond 2020, they remain relevant to ongoing federal review of election administration, election-record preservation, and compliance with federal election law.

IX. AUTHORITIES, SOURCES, AND WORKS CITED

A. Primary Case Authorities

This Count cites the following primary sources, based on contemporaneous court filings, sworn affidavits, statutes, and physical forensic examinations. These sources are distinguished from secondary sources, including MFEI analyses and media reports. Some citation details may not be repeated here.

Case	Holding / Significance	Relevance to Count 13
Trump v. Benson, No. 20-000225-MZ (Mich. Ct. Claims, Nov. 6, 2020, Judge Stephens) https://www.supremecourt.gov/DocketPDF/22/22O155/163387/20201210145418055_22O155 MI APP.pdf	Denied emergency injunctive relief as moot and for lack of direct SOS responsibility; complaint establishes MCL 168.733/734 framework and contemporaneous record of Ostergren exclusion	ANCHOR DOCUMENT — Contemporaneous court filing establishing challenger rights statutory framework and first-day exclusion
Costantino v. Detroit, No. 20-14780-AW (Wayne Co. Cir. Ct., Nov. 13, 2020, Judge Kenny) https://www.greatlakesjc.org/wp-content/uploads/Complaint-Costantino-FINAL-With-Exhibits.pdf	Denied injunctive relief; complaint and Thomas affidavit establish official account of counting board operations and disputed backdating sequence	Primary judicial record of counting board violations; Chris Thomas affidavit; Jessy Jacob backdating allegations
***Moore v. Harper*, 600 U.S. 1 (2023)** https://www.supremecourt.gov/opinions/22pdf/21-1271_3f14.pdf.	Elections Clause vests federal election regulation in state Legislature, not executive branch	Constitutional framework for challenger exclusion challenge under Elections Clause
Bush v. Gore, 531 U.S. 98, US Supreme Court, (2000)	Equal Protection prohibits arbitrary and disparate treatment	Constitutional basis for selective admission/exclusion equal

Case	Holding / Significance	Relevance to Count 13
https://supreme.justia.com/cases/federal/us/531/98/	in the vote counting process	protection claim
Texas v. Pennsylvania Response Appendix, No. 22O155 (U.S. Supreme Court). 2020. https://www.supremecourt.gov/DocketPDF/22/22O155/163387/20201210145418055_22O155%20MI%20APP.pdf		

B. Federal and Michigan Statutory Authorities

18 U.S.C. Sec. 594 (Intimidation of Voters)
https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title18-section594

18 U.S.C. Sec. 595 (Interference with Elections by Government Employees)
https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title18-section595

18 U.S.C. Sec. 1512 (Tampering with Official Proceedings)
https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title18-section1512

52 U.S.C. Sec. 21081(b) (HAVA Uniform and Nondiscriminatory Administration)
https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title52-section21081

52 U.S.C. Sec. 21082 (HAVA Provisional Ballots)
https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title52-section21082

52 U.S.C. Sec. 20701 (Federal Records Retention, 22-month requirement)
https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title52-section20701

Michigan Legislature, Joint Subpoena to Detroit City Clerk Janice Winfrey, Order to Produce Documents, signed December 15, 2020, by Sen. Ed McBroom (Senate Oversight Committee) and Rep. Matt Hall (House Oversight Committee). 6 pp., 48 document requests. Requests relevant to Count 13 include: Request 3 (poll challenger sign-in/sign-out logs), Request 11 (who was in charge of challenger access at TCF), Request 12 (all policies on challenger presence and removal), Request 29 (poll worker training records

including instructor names), Request 35 (directions given regarding challenger rights and removal), and Request 41 https://www.clickondetroit.com/news/local/2020/12/16/michigan-lawmakers-issue-subpoenas-to-detroit-livonia-city-clerks/ (*Carra v. Benson* stipulated final order transmission to Detroit, https://electionlawblog.org/wp-content/uploads/MI-Carra-20201023-complaint.pdf).

U.S. Const. Art. I, Sec. 4, cl. 1 (Elections Clause) https://constitution.congress.gov/browse/article-1/section-4/

U.S. Const. Amend. XIV, Sec. 1 (Equal Protection and Due Process)

"Written testimony received in Oversight committee 12.1.20," Michigan Senate Committee Minutes and Testimony Archive, 2019–2020 Session (194 pp.), pp. 49–54. Documents: at Board #31, 7:30–8:30 AM, 63 consecutive ballots, none found in electronic poll book, all on supplemental sheets only; supervisor directed worker to flip all ballots face-down mid-observation; AVCB Deputy Chief David Nathan personally intervened to obstruct; several thousand ballots arriving in evening with no QVF or supplemental list match, entered with 01/01/1900 birthdate on instructions described as coming from Wayne County Clerk's office. [C13-15] Senate testimony archive: https://committeemintestimony.senate.michigan.gov/2019-2020/

MCL 168.24k was added by 2020 PA 177 (SB 757), Imd. Eff. Oct. 6, 2020. It required county boards of canvassers to examine and approve/disapprove ballot containers by October 15, 2020, prohibited use of non-approved containers, and made a clerk's use of a non-compliant container a misdemeanor (MCL 168.24k(4)–(6)). The Palmer–Hartmann January 2020 examination of 50 containers and their "Not Approved" sticker placement preceded 168.24k's enactment and proceeded under MCL 168.24j (general ballot container standards); the Election Day deployment of those stickered containers fell squarely within the 168.24k regime. https://legislature.mi.gov/Laws/MCL?objectName=mcl-168-24k

MCL 168.716. https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-168-716

MCL 168.730 (Designation of Poll Challengers) MCL 168.730 (Designation of Poll Challengers)

MCL 168.733 (Poll Challenger Rights) MCL 168.733 (Poll Challenger Rights)

MCL 168.734 (Poll Challenger Intimidation — Felony) MCL 168.734 (Poll Challenger Intimidation — Felony)

MCL 168.759 (Signed Application Required for Absent Voter Ballot) MCL 168.759 (Signed Application Required for Absent Voter Ballot)

MCL 168.765a (Bipartisan Inspector Requirement at AVCB) MCL 168.765a (Bipartisan Inspector Requirement at AVCB)

MCL 168.940 (Prosecutorial Duty to Prosecute Election Law Violations) MCL 168.940 (Prosecutorial Duty to Prosecute Election Law Violations)

MCL 168.941 (Peace Officer Duty to Prosecute Election Law Violations) MCL 168.941 (Peace Officer Duty to Prosecute Election Law Violations)

Michigan Constitution, Art. II, Sec. 4(2) (Purity of Elections) https://legislature.mi.gov/mileg.aspx?page=getObject&objectName=mcl-Article-II

Michigan Constitution, Art. III, Sec. 2 (Separation of Powers) https://legislature.mi.gov/mileg.aspx?page=getObject&objectName=mcl-Article-III

Public Act 177 of 2020 (SB 757), effective October 6, 2020. Amends MCL 168.759, 168.761, 168.764a, 168.765, 168.765a, 168.765b; adds MCL 168.14b, 168.24k, 168.761d.

State of Michigan, Jocelyn Benson, Secretary of State, Department of State, Lansing, *Michigan Audits of the November 3, 2020 General Election*, April 21, 2021, https://content.govdelivery.com/attachments/MISOS/2021/04/22/file_attachments/1765739/BOE%202020%20Post%20Election%20Audit%20Report_04%2021_21%5B38191%5D.pdf

D. Primary and MFEI / PIME Sources

Ann Arbor Compromises Election Integrity during 2022 Election, Michigan Fair Elections Institute / Pure Integrity Michingan Elections, July 2023. https://aa3979fb-9421-4dd8-ba7d-8ead2d346103.usrfiles.com/ugd/aa3979_3f7675ea36234fc9b346754879bdbe42.pdf

Avallone, Louis. Letter to Secretary Benson and Director Brater re: Unlawful Deletion of QVF Voting Records, Nov. 1, 2021.

Board of State Canvassers Certification Meeting record in Texas v. Pennsylvania Response Appendix, No. 22O155, U.S. Supreme Court, Dec. 10, 2020. Meeting of the Board of State Canvassers Draft Minutes, November 23, 2020., pp. 220–240. https://www.supremecourt.gov/docket/docketfiles/html/public/22o155.html.

Carzon, William and Sitto, Andrew; Affidavits, O'Halloran TCF Timeline (MC4EI, Aug. 2021).

Costantino v. City of Detroit, No. 20-14780-AW (Wayne Co. Cir. Ct., filed Nov. 8, 2020; opinion Nov. 13, 2020). Great Lakes Justice Center. https://www.greatlakesjc.org/cases/costantino_v_detroit/

Cushman, Robert. Supplemental Sworn Affidavit, sworn and subscribed November 2020; also filed in *Colbeck v. City of Detroit*, No. 20-AW (Wayne County Circuit Court, Great Lakes Justice Center). Submitted as written testimony to the Michigan Senate Oversight Committee and House Oversight Committee, December 1, 2020. Source: MC4EI,

"Affiants Report," https://mc4ei.com/wp-content/uploads/2022/01/Affiants-Report.pdf, *TCF Timeline Report*, https://mc4ei.com/wp-content/uploads/2022/01/TCF-Timeline-Report-2020-Detroit-General-Election.pdf, Cushman affidavits located at pp. 49 and 52.

Jacob, Jessy, Affidavit, in Costantino v. City of Detroit, No. 20-14780-AW. https://www.greatlakesjc.org/cases/costantino_v_detroit/

Levi, Lori, Written testimony received in Oversight committee 12.1.20.pdf, Michigan Senate Oversight hearing, Dec. 1, 2020, p.45. https://committeemintestimony.senate.michigan.gov/umbraco/surface/DownLoadFile/Written testimony received in Overisght committee 12.1.20?SessionId=2019&Vault=2&FolderType=1&CommitteeId=62381998&MeetingId=278239049&DocumentId=1210718728&name=Written%20testimony%20received%20in%20Overisght%20committee%2012.1.20.pdf

McGrath, John. Written testimony submitted to the Michigan Senate Oversight Committee and House Oversight Committee, December 1, 2020. In: "Written testimony received in Oversight committee 12.1.20," Michigan Senate Committee Minutes and Testimony Archive, 2019–2020 Session (194 pp.), pp. 115–119. Non-partisan challenger at AVCB #56 and #73, November 4, 2020. Documents: continuous processing of unlisted voter ballots with 01/01/1900 birthdate entry; 1,454 unlisted voter ballots counted at AVCB #56 alone; Democrat challengers attempting to distract and obstruct non-partisan challengers. [C13-12] Senate testimony archive: https://committeemintestimony.senate.michigan.gov/2019-2020/

MFEI EAC OIG Request for Assessment of Audit Risk (submitted January 29, 2024; supplemented March 15, 2024). 426 pp. https://aa3979fb-9421-4dd8-ba7d-8ead2d346103.usrfiles.com/ugd/aa3979_785b0d23cd8b45e9a91a401f2e06daac.pdf

Michigan Single Audit Reports, Michigan Office of Auditor General, 2015–2022, compiled in MFEI EAC OIG Request for Assessment of Audit Risk, Table at p. 38 [C14-07]. Grand total: $57,574,047 (EAC HAVA Requirements Payments: $26,839,244; EAC HAVA Election Security Grants: $22,020,934; EAC HAVA Election Reform Payments: $8,713,869). Source data: Michigan Office of Auditor General completed projects, https://audgen.michigan.gov/complete-projects/

Moore v. Harper, 600 U.S. 1 (2023). The Court held that the Elections Clause of Article I vests authority to regulate federal elections in state legislatures acting within the bounds of the federal Constitution, and that state courts may review legislative action for compliance with state constitutional provisions — but that authority does not extend to the executive branch acting unilaterally. https://www.supremecourt.gov/opinions/22pdf/21-1271_3f14.pdf

O'Halloran, Philip, M.D., TCF Timeline: The 2020 General Election in Detroit. MC4EI, August 2021. On file with MFEI; available for production upon request.

O'Halloran, Phillip, M.D., TCF Timeline (MC4EI, Aug. 2021); MFEI EAC OIG Request for Assessment of Audit Risk (2024). https://mc4ei.com/wp-content/uploads/2022/01/TCF-Timeline-Report-2020-Detroit-General-Election.pdf

Palmer, Monica, Affidavit, November 18, 2020 (notarized, Oakland County). States during the August 2020 primary 72% of Detroit absentee precincts were out of balance; November 2020 general: more than 70% of Detroit's 134 AVCBs did not balance, many without explanation. Cited in Trump v Benson, Court of Claims Case No.: 20-000225-MZ. Palmer Affidavit reproduced in its entirety in Appendix M herein.

Palmer, Monica Testimony, Michigan Senate Oversight Committee, Dec. 1, 2020. https://imd0mxanj2.execute-api.us-west-2.amazonaws.com/ssr/watch/63d7fa50d40e810008cf79a9

People v. Stephanie Scott, Hillsdale Circuit Court No. 25-49-6230 FH (Judge Sara S. Lisznyai). District Court No. 24-0498-FY. Order dated April 30, 2026: all four felony charges dismissed; MCL 168.509gg(1) imposes no confidentiality requirement; one misdemeanor against Scott remanded to district court. Defense: David A. Kallman, Kallman Legal Group / Great Lakes Legal Center. On file with MFEI. See also Bruns, Jacob, "Hillsdale County Judge Dismisses All Charges Against Former Township Clerk Stephanie Scott," The Hillsdalian, May 1, 2026. https://hillsdalian.substack.com/p/hillsdale-county-judge-dismisses

Rule R 168.48 (EPB Deletion Directive), promulgated under Rule Set 2025-14 ST, LARA Trans. No. 1587, filed and effective October 23, 2025. The rule codified the BOE's pre-existing informal seven-day deletion directive — the same directive at issue in People v. Stephanie Scott. Rule Set 2025-14 ST final rule language available at: https://ars.apps.lara.state.mi.us/Transaction/DownloadFile?FileName=FinalRule%28s%29.pdf&FileType=FinalRule&TransactionID=1587&EffectiveDate=10%2F23%2F2025&ReturnHTML=True

Schornak, Christopher, Sworn Affidavit, November 8, 2020. Notary: Kimberly A. Moi, Wayne County. Submitted as written testimony to the Michigan Senate Oversight Committee and House Oversight Committee, December 1, 2020. In: "Written testimony received in Oversight committee 12.1.20," Michigan Senate Committee Minutes and Testimony Archive, 2019–2020 Session (194 pp.), pp. 131–136. Non-partisan Election Integrity Fund challenger at AVCB #88 and #89, November 4, 2020. Documents: systematic obstruction of challenges; ballot number reassignments at AVCB #88 and #89; supervisor refusal to accept challenges; military ballot duplication by two Democrats with no Republican present; denial of vote count totals per board. Senate testimony archive: https://committeemintestimony.senate.michigan.gov/2019-2020/

Sheridan, Marian, founder of Guard the Vote and a Republican poll challenger at TCF in both 2018 and 2020. Sheridan submitted a sworn affidavit attaching a signed list of more than 50 named Republican applicants who applied in September 2020 and were told they were not needed, were never contacted after applying, attended training, or subsequently called

back. Sheridan personally witnessed transfer cases being sealed on November 2, 2020, without bipartisan representation, in apparent violation of applicable Michigan election procedures. [C13-11] If federal authorities were to assess whether the pre-election exclusion of GOP poll worker applicants was systematic and structurally compromised the MCL 168.765a bipartisan inspection requirement, the Sheridan affidavit provides a documented factual foundation.[723]

Sitek, Glen. Sworn Affidavit, November 2020. Non-partisan challenger, Election Integrity Fund, November 5, 2020. Submitted as written testimony to the Michigan Senate Oversight Committee and House Oversight Committee, December 1, 2020. In: "Written testimony received in Oversight committee 12.1.20," Michigan Senate Committee Minutes and Testimony Archive, 2019–2020 Session (194 pp.), pp. 23–24. Documents: poll worker physically shoved affiant away from duplication table; affiant attempted to file assault and battery charge with Detroit Police officers present on scene; officers declined to act despite witnessing the incident, constituting a failure of the duty imposed by MCL 168.941.

Speckin Forensics Analysis of Detroit 2020 AVCB Ballot Applications, Speckin Forensics LLC., MFEI blog, Aug. 2, 2023. https://www.mifairelections.org/post/speckin-forensic-analysis-2020-election

Thomas, Christopher, Affidavit, Nov. 11, 2020, in Costantino v. City of Detroit, No. 20-14780-AW. https://www.greatlakesjc.org/cases/costantino_v_detroit/

Thomas, Christopher, Deposition in Texas v. Pennsylvania Response Appendix, No. 22O155. https://www.supremecourt.gov/DocketPDF/22/22O155/163387/20201210145418055_22O155%20MI%20APP.pdf

Weber Rhonda, Affidavit, Written testimony received in Oversight committee 12.1.20.pdf, Michigan Senate Oversight hearing, Dec. 1, 2020, p. 6. https://committeemintestimony.senate.michigan.gov/umbraco/surface/DownLoadFile/Written testimony received in Overisght committee 12.1.20?SessionId=2019&Vault=2&FolderType=1&CommitteeId=62381998&MeetingId=278239049&DocumentId=1210718728&name=Written%20testimony%20received%20in%20Overisght%20committee%2012.1.20.pdf

Zaplitny, Jacqueline. Sworn Affidavit, November 8, 2020. Submitted as written testimony to the Michigan Senate Oversight Committee and House Oversight Committee, December 1, 2020. In: "Written testimony received in Oversight committee 12.1.20," Michigan Senate Committee Minutes and Testimony Archive, 2019–2020 Session (194 pp.), pp. 45–48. GOP credentialed challenger at TCF Center, November 3–4, 2020. Documents: no

[723] Sheridan, Marian. Sworn Affidavit, November 21, 2020. Michigan Senate Committee Minutes and Testimony Archive, 2019–2020 Session, pp. 1–5. Michigan Senate testimony archive (2019–2020 Session)

uniformity or ballot verification compliance observed; at approximately 2:30 AM November 4, supervisor stated "when that big door opens, we will get more trucks" — firsthand anticipation of late-night ballot delivery before it occurred.

COUNT 14. Chain of Custody Failures, Ballot Eligibility Violations, and Unlawful Post-Deadline Ballot Processing

§ I. ISSUES SUMMARY

This Count examines the underlying ballot handling and record-preservation issues that challengers sought to observe. It presents three federal questions squarely within DOJ jurisdiction: the destruction of election records within the 22-month federal retention period of 52 U.S.C. § 20701; election administration that was neither uniform nor nondiscriminatory under HAVA, 52 U.S.C. § 21081(b); and the conduct of federal election counting procedures outside legislative authorization, implicating the Elections Clause as construed in *Moore v. Harper*, 600 U.S. 1 (2023).

Count 14 documents the systematic failure of chain of custody protections governing absent voter ballots in the 2020 Detroit general election and the 2022 Ann Arbor general election. Physical and documentary evidence establishes that tens of thousands of counted ballots lacked the signed applications Michigan law requires as a statutory eligibility prerequisite. The evidence further documents unlawful post-deadline counting of more than 600 ballots in Ann Arbor that Secretary of State Benson's erroneous Twitter guidance facilitated, together with the Bureau of Elections' directive to delete electronic poll book data, a directive MFEI contends conflicts with the 22-month retention requirement of 52 U.S.C. § 20701. Together these events constitute a documented pattern of ballot eligibility failures that operated at every stage of the absent voter process, from transport and receipt, through counting and certification, to post-election records management.

The anchor document for this Count is *Costantino v. Detroit*, No. 20-14780-AW (Wayne County Circuit Court, filed November 8, 2020), the most comprehensive contemporaneous judicial record of chain of custody and ballot eligibility violations at the TCF Center. It is supplemented by the Speckin Forensics LLC physical examination of ballot envelopes, the sworn affidavit of Wayne County Board of Canvassers Chair Monica Palmer, the MFEI/PIME Ann Arbor 2022 report, and the Avallone QVF analysis.

Wayne County Board of Canvassers Chair Monica Palmer, sworn under oath, captured the dimension of the problem:

> "During this meeting, I determined that more than 70% of Detroit's 134 Absent Voter Counting Boards (AVCB) did not balance, and many had no explanation to why they did not balance."
>
> — Monica Palmer, Wayne County Board of Canvassers Chair, sworn affidavit, November 18, 2020. See also testimony to the Michigan Senate Oversight

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Committee, December 1, 2020, describing the Detroit absentee precincts as "unbalanced and unexplained."[724]

Six structural findings emerge from this Count:

1. Michigan election law establishes mandatory chain-of-custody requirements for absent voter ballots at every stage of transport, receipt, and processing. MCL 168.716 requires ballots to be wrapped, sealed, and accompanied by certified documentation. No such documentation was maintained for tens of thousands of ballots transported by unvetted temporary workers in unsecured containers between drop boxes, satellite centers, the Department of Elections, and the TCF Center.
2. MCL 168.759 requires a signed absent voter ballot application before a clerk may deliver an absent voter ballot. Speckin Forensics LLC, a court-recognized forensic document examination firm retained by MFEI, physically examined two of 134 Detroit AVCBs and found that 12 to 20 percent of ballot envelopes had no corresponding signed application. Speckin extrapolated from those two boards an estimated range of potentially affected counted ballots across all 134 boards; the extrapolation appears in the Speckin report as 13,600 to 34,000, though that range derives from Speckin's own published methodology and has not been independently verified by MFEI.
3. City of Detroit poll worker whistleblower Jessy Jacob attested under oath that she was directed by supervisors to backdate thousands of late-arriving ballots and to accept ballots with clearly mismatched signatures. Senior Advisor Chris Thomas acknowledged the backdating was occurring and permitted it to continue on the grounds that voters should not be "punished" for what he characterized as a processor error. The Board of State Canvassers meeting record of November 23, 2020, shows TCF Chief Daniel Baxter admitting one counting board was off by 600 votes.
4. The 3:25 a.m. arrival on November 4, 2020, of an estimated 50-60 boxes of what multiple GOP challengers identified as ballots, delivered to the TCF Center sally port by white van with no chain of custody documentation, after the official 8:00 p.m. Election Day deadline, represents an violation of MCL 168.731(3) and MCL 168.761(3) and was never satisfactorily explained by election officials.
5. In Ann Arbor's November 2022 general election, MFEI/PIME investigators documented through FOIA-obtained voter history records that more than 600 voters registered and cast absentee ballots after the 8:00 p.m. election day deadline, with 120 registering after midnight on November 9. Available FOIA records indicate that

[724] Monica Palmer Affidavit, November 18, 2020 (notarized, Oakland County). States during the August 2020 primary 72% of Detroit absentee precincts were out of balance; November 2020 general: more than 70% of Detroit's 134 AVCBs did not balance, many without explanation. Cited in Trump v Benson, Court of Claims Case No.: 20-000225-MZ. Palmer Affidavit reproduced in its entirety in Appendix M herein.

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official voter history records were altered to conceal the post-deadline registrations. Secretary Benson's erroneous 6:19 p.m. Twitter guidance on Election Day directly contributed to this violation.

6. The Michigan Bureau of Elections' directive to delete electronic poll book data within seven days, issued by Director Jonathan Brater before Rule R 168.48 codified it as a promulgated rule, conflicts with the 22-month federal retention requirement of 52 U.S.C. 20701 and the five-year QVF voting history retention requirement of MCL 168.509q. The Avallone QVF analysis documents that a programming error deleted approximately 491,873 voting history records from the QVF between October 2019 and January 2021, impairing post-election audit capability for every affected voter.

A. Current Federal Enforcement Interest

Of the statutory obligations identified in the Department of Justice's July 7, 2026, letter to Secretary Benson, the one most directly implicated by this Count is the record-preservation mandate of 52 U.S.C. § 20701, which requires retention of all records and papers relating to any act requisite to voting in a federal election.

The Department's accompanying memorandum expressly ties this retention duty to the administration of federal elections and to the maintenance of records necessary for federal review. Chain-of-custody breaks, processing of ballots after applicable deadlines, and the handling of ballots of disputed eligibility are, by definition, failures in the creation or preservation of exactly the records § 20701 requires Michigan to retain and make available.

The evidence documented in this Count therefore falls within the specific enforcement priority the Department identified on July 7, 2026, not merely the general administration-of-elections interest common to the Report as a whole. (See Dhillon letter to Benson, Appendix L).

B. Topics Covered: Unlawful Post-Deadline Ballot Processing

- Absent Voter Ballot Transport Without Manifests — MCL 168.761d and MCL 168.716
- Defective Ballot Containers — Missing Applications, Broken Seals, Non-Compliant Returns
- The 3:25 a.m. Delivery — Post-Deadline Ballot Acceptance and Counting
- EPB Deletion Directive — O'Halloran Testimony and Federal Records Retention Conflict
- Speckin Forensics LLC — Physical Chain-of-Custody Evidence from Ballot Envelope Examination
- Stephanie Scott Prosecution — Rule-Based Felony Charges for Preserving Federal Records (see Section IV.G)
- Irremediability — MCL 168.871 One-Way Door and the Absence of a Post-Certification Remedy

§ II. Legal Framework

A. Chain of Custody Requirements:

MCL 168.716 establishes the foundational chain-of-custody requirement for absent voter ballots:

> *The ballots of each kind for each election precinct shall be wrapped and secured in 2 separate packages. Each package shall be securely sealed with a red paper seal furnished by the secretary of state and shall bear on its wrapper the name and number of the precinct and a certificate signed by the county clerk or some member of the board of county election commissioners or his or its duly authorized agent, setting forth the number and kind of ballots in such package and that such ballots were counted, packaged and sealed by himself personally, or by his duly authorized agent.*
>
> -- MCL 168.716[725]

No Michigan statute permits the transport of absent voter ballots in open USPS trays without lids, in unsealed containers, or by couriers without transfer logs recording ballot counts, departure times, arrival times, and transporter identities. The documented 2020 Detroit ballot transport practices violated each of these requirements. Separately, the absent-voter instructions required by MCL 168.764a enumerate the narrow classes of individuals who may lawfully possess an absent voter ballot: the voter, immediate family or household members, mail handlers in the normal course of employment, and the clerk's authorized officials, a restriction the documented courier practices also implicate.

B. Drop Box Chain of Custody: MCL 168.761d

MCL 168.761d was added by 2020 PA 177 (SB 757), with immediate effect October 6, 2020, meaning it was in force for the November 3, 2020, election. As originally enacted, it provided: drop boxes ordered or installed before October 1, 2020 were exempt from the section's physical-security requirements (subsection (1)); outdoor drop boxes subject to the section required video monitoring (subsection (4)(c)); and, applying to every drop box regardless of when it was ordered or installed, only the city or township clerk, the deputy clerk, or a sworn member of the clerk's staff was authorized to collect absent voter ballots from a drop box (subsection (5)).

The statute was amended after the 2020 election, first by 2022 PA 195 (effective October 7, 2022), the version that governed the November 2022 Ann Arbor election, and then by 2023 PA 85 (HB 4697, effective February 13, 2024). This added the requirements found in the current text: immediate return of collected materials to the clerk's office, transport in a ballot container

[725] MCL 168.716. https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-168-716

approved under MCL 168.24j (subsection (13)), and documentation of each collection (date, collector's name, and location) preserved for not less than 22 months.

Because subsection numbering shifted across the 2020, 2022, and 2024 versions, citations should specify which version applied to each election. Because these documentation and transport-container requirements took effect February 13, 2024 (after both elections) the express documentation requirement was not in force for either the 2020 Detroit or the 2022 Ann Arbor election, and the manifest claims rest on the authorized-collector rule, MCL 168.716, MCL 168.765, and applicable Secretary of State procedures.[726] [727]

Two consequences follow. First, collection of drop-box ballots by unvetted temporary workers who were not the clerk, a deputy clerk, or sworn staff violated subsection (5) as then in force. Second, whether Detroit's drop boxes, deployed beginning October 5, 2020, were ordered before October 1, 2020, is a question that determines whether the video-monitoring requirement of subsection (4)(c) applied to them; Director Azzouz's contradictory statements about camera monitoring (Section III.A) are relevant to that question.

C. Signed Application Requirement: MCL 168.759

Subject to section 761(2), MCL 168.759 states that a clerk or assistant clerk shall not deliver an absent voter ballot to an applicant who does not sign the application. A signed absent voter ballot application is therefore not merely a procedural formality, it is a statutory eligibility prerequisite. Under MCL 168.759, a ballot delivered without a signed application raises substantial questions regarding the lawfulness of that delivery and the eligibility of the ballot for counting. The Speckin Forensics LLC finding that 12 to 20 percent of examined ballot envelopes lacked a corresponding signed application raises substantial questions regarding compliance with this requirement at the TCF Center counting boards.

D. Election Day Deadline: MCL 168.731(3) and MCL 168.761(3)

MCL 168.731(3) states that a person may apply in person at the clerk's office before 8 p.m. on election day to vote as an absent voter. MCL 168.761(3) limits same-day registration and absent voter ballot issuance to individuals who are not registered to vote in the city or township in which they are registering, and only through election day. Both statutes establish 8:00 p.m. on

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[726] Public Act 177 of 2020 (SB 757), effective October 6, 2020. Amends MCL 168.759, 168.761, 168.764a, 168.765, 168.765a, 168.765b; adds MCL 168.14b, 168.24k, 168.761d.

[727] MCL 168.24k was added by 2020 PA 177 (SB 757), Imd. Eff. Oct. 6, 2020. It required county boards of canvassers to examine and approve/disapprove ballot containers by October 15, 2020, prohibited use of non-approved containers, and made a clerk's use of a non-compliant container a misdemeanor (MCL 168.24k(4)–(6)). The Palmer–Hartmann January 2020 examination of 50 containers and their "Not Approved" sticker placement preceded 168.24k's enactment and proceeded under MCL 168.24j (general ballot container standards); the Election Day deployment of those stickered containers fell squarely within the 168.24k regime.

election day as the hard deadline for receipt and processing of absent voter ballots and registration.

Ballots received after this deadline, whether delivered to a TCF sally port at 3:25 a.m. on November 4, 2020, or processed at an Ann Arbor satellite office after midnight on November 9, 2022, are ineligible and may not lawfully be counted. All statutory citations in this Count are to the versions in force at the time of the documented conduct. The version of MCL 168.761 governing the November 2022 Ann Arbor election was subsection (3) as amended by 2020 PA 177, with no in-line allowance for clerk's offices.

The current MCL 168.761(7) in-line allowance was added by 2023 PA 82, effective February 13, 2024, and cannot apply retroactively. MCL 168.765(4) separately required that any ballot received after the close of polls be marked with the time and date of receipt and filed rather than counted; the backdating practice documented in Section III defeats that requirement.

E. Federal Records Retention: 52 U.S.C. 20701

Federal law, 52 U.S.C. 20701 (originally § 301 of the Civil Rights Act of 1960), requires that all records and papers relating to federal elections be retained for 22 months following the election. Electronic poll book data is a record relating to a federal election.

The Department of Justice's July 2026 memorandum likewise identifies 52 U.S.C. § 20701 as imposing a mandatory obligation to preserve election records for twenty-two months and reminds election officials that such records must remain available for inspection by the Attorney General upon request. The discussion that follows evaluates the challenged Michigan practices within that current federal enforcement framework.

The Bureau of Elections' directive to delete EPB data within seven days is facially inconsistent with this 22-month retention requirement, a conflict that Director Brater acknowledged in effect when he testified at the August 2025, probable cause hearing that he could not recall whether DOJ had reviewed the directive's legality before issuance.

Brater's own written guidance to clerks confirms and dates this destruction practice. In a memorandum dated July 10, 2023 (See Appendix K herein), and again in a memorandum dated August 20, 2024 (Appendix Q), both captioned "Security of Qualified Voter File and Electronic Pollbooks," Brater instructed municipal and county election officials that the Bureau requires clerks to destroy electronic copies of EPB data and flash drives after printing the required paper pollbook copies, traced the practice to at least 2012, and characterized the instruction as a "lawful directive" issued under the Bureau's supervisory authority, MCL 168.21, 168.31, and 168.32.

The August 2024 memorandum (Appendix Q) separately sets out the custody procedures the Bureau requires for physical ballot inspection, including continuous clerk or clerk-designated

staff supervision, a prohibition on the requester touching ballots or ballot containers, and a written record of election-seal serial numbers and the names of individuals present at each removal and resealing.

MFEI does not dispute the Bureau's authority to regulate the manner of inspection. MFEI's position is that the electronic-destruction practice these memoranda confirm and defend is difficult to reconcile with the 22-month retention mandate of 52 U.S.C. § 20701. The memoranda's characterization of retention-related inquiries as resting on "false and misleading claims" does not resolve that federal-state conflict.

The Bureau's December 1, 2020 memorandum to county clerks (Appendix G), issued one day before the Board of State Canvassers certified the November 3, 2020 election, set the seven-day EPB deletion clock running from that certification: EPB software and associated files were to "be deleted from all devices by the seventh calendar day following the final canvass and certification of the election (November 30, 2020)," subject to three stated exceptions — a pending recount, "a post-election audit is planned but has not yet been completed," or a court or Secretary of State stay.

The same memorandum announced that the Bureau "will be conducting a state-wide Risk Limiting Audit of the Presidential race," meaning the audit exception was triggered for every jurisdiction within that audit's scope as of the memorandum's own issuance. The Bureau's own subsequent audit report, published April 21, 2021, establishes that the statewide RLA was not merely unfinished as of November 30, 2020: ballot selection did not begin until January 11, 2021, clerks were instructed to complete retrieval and reporting by January 22, 2021, and the consolidated results were not published until the April 21, 2021 report itself.[728]

The RLA ultimately drew from a manifest of 6,262 ballot containers spanning more than 1,300 of Michigan's 1,520 jurisdictions. On the terms of the Bureau's own December 1, 2020 memorandum, EPB deletion should therefore have been stayed past November 30, 2020, for essentially every jurisdiction in the state until at least January 2021.

A February 12, 2021 follow-up memorandum (Appendix C) confirms the same conditional-deletion policy remained in effect at that time. MFEI does not have evidence establishing whether individual jurisdictions in fact complied with this self-imposed stay or instead deleted EPB data on the original seven-day schedule notwithstanding the pending statewide audit; that factual question — whether the Bureau's own retention exception was honored in practice — is one DOJ is positioned to resolve through jurisdiction-level records requests that MFEI is not.

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[728] State of Michigan, Jocelyn Benson, Secretary of State, Department of State, Lansing, *Michigan Audits of the November 3, 2020 General Election*, April 21, 2021. https://content.govdelivery.com/attachments/MISOS/2021/04/22/file_attachments/1765739/BOE%202020%20Post%20Election%20Audit%20Report_04%2021_21%5B38191%5D.pdf

F. QVF Five-Year Voting History Retention: MCL 168.509q

MCL 168.509q(f) requires the qualified voter file to contain voting history for a 5-year period for each qualified voter. MCL 168.509o(1) designates the QVF as the official file for the conduct of all elections held in Michigan, under the direction and supervision of the Secretary of State. The Avallone QVF analysis establishes that a programming error introduced into the QVF between October 2019 and February 2020 was causing voting history records to be deleted whenever a voter's registration date changed. This deletion is not merely incorrect, it is unlawful under MCL 168.509q's mandatory five-year retention requirement.

G. HAVA Uniform Administration and Audit Requirements

HAVA's uniform and nondiscriminatory administration requirement (52 U.S.C. 21081(b)) applies to the counting and canvassing process. Counting tens of thousands of ballots with no chain of custody documentation, no signed applications, and backdated receipt dates, while denying challengers statutory access to document these conditions, raises substantial questions regarding whether administration was uniform and nondiscriminatory as HAVA requires.

The Department of Justice's July 2026 memorandum similarly emphasizes HAVA's requirements governing election administration and statewide election records. Accordingly, the observations in this Count concern whether Michigan's documented procedures preserved the transparency, auditability, and records necessary for meaningful federal review.

The deletion of EPB data that would have allowed federal auditors to verify voter eligibility further impairs HAVA compliance assessment.

H. The Recount Bar for Out-of-Balance Precincts: MCL 168.871

MCL 168.871 establishes the statutory bar that converts counting errors into uncorrectable results: a precinct is not eligible for a hand recount where its ballot container seal is broken or improperly sealed, or where the number of ballots in the container does not match the poll book, and in that event the original machine-tabulated returns stand. This is the "one-way door" referenced in this Count's Issues list and the statutory basis for the irremediability analysis in Legal Framework § H and Section V.A.

§ III. Factual and Procedural Background

A. Background and Filing

Costantino v. Detroit, No. 20-14780-AW was filed on November 8, 2020, five days after election day, while the county canvass was underway, by the Great Lakes Justice Center (GLJC) on behalf of plaintiffs Cheryl A. Costantino and Edward P. McCall Jr. The complaint and full record are preserved in the *Texas v. Pennsylvania* Response Appendix, No. 22O155 [C14-01].

The attorneys of record were David A. Kallman, Erin E. Mersino, Jack C. Jordan, and Stephen P. Kallman of the Great Lakes Justice Center, 5600 W. Mount Hope Hwy., Lansing, MI 48917. Judge Timothy Kenny denied injunctive relief on November 13, 2020, crediting the Thomas affidavit; this Count relies on the evidentiary record assembled in the case, the sworn affidavits, the forensic examination, and the official meeting records, not on the litigation outcome.[729]

The complaint named as defendants: City of Detroit; Detroit Election Commission; Janice M. Winfrey in her official capacity as Clerk of the City of Detroit and Chairperson of the Detroit Election Commission; Cathy M. Garrett in her official capacity as Clerk of Wayne County; and the Wayne County Board of Canvassers. It alleged six categories of systematic election misconduct in Detroit's absent voter counting process.

B. The Six Core Allegations

The *Costantino* complaint's six core chain of custody and ballot eligibility allegations are directly relevant to Count 14's legal theory:[730]

6. The complaint alleged systematic processing and counting of ballots from voters whose names failed to appear in either the QVF or the supplemental sheets. According to the complaint, when a voter's name could not be found, election workers assigned the ballot to a random name already in the QVF, a person who had not voted, thereby corrupting the poll book record and making the ballot untraceable.
7. The complaint alleged that supervisors instructed election workers not to verify signatures on absentee ballots, to backdate absentee ballots, and to process such ballots regardless of their validity.
8. After election officials announced the last absentee ballots had been received, another batch of unsecured and unsealed ballots, without envelopes, arrived in trays at the TCF Center. The complaint alleges tens of thousands of these absentee ballots were counted.
9. The complaint further alleged that supervisors instructed election workers to process ballots that arrived after the election deadline and to falsely report those ballots as received before the November 3, 2020, deadline.
10. The complaint alleged systematic use of false information to process ballots, including fictitious birthdates. According to the complaint, election workers inserted new names into the QVF after the election and recorded these voters as having a birthdate of 1/1/1900.

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[729] Costantino v. City of Detroit, No. 20-14780-AW (Wayne Co. Cir. Ct., filed Nov. 8, 2020; opinion Nov. 13, 2020). Great Lakes Justice Center. https://www.greatlakesjc.org/cases/costantino_v_detroit/

[730] Id. (Costantino complaint, six categories of alleged misconduct).

11. The complaint alleged that on a daily basis leading up to the election, City of Detroit election workers coached voters to support specific candidates, and that workers rewarded voters who dropped off ballots with food, drinks, and t-shirts in apparent violation of MCL 168.931(1)(a).

C. The Chris Thomas Affidavit and the "Trust Us" Sequence

The affidavit of Christopher Thomas, filed November 11, 2020, is the official defense of the TCF Center's operational decisions. Thomas served as Senior Advisor to City Clerk Janice Winfrey and was the highest-ranking election official on the counting board floor. His affidavit addresses the three most contested chain of custody questions:[731]

12. On the unlisted ballot problem: Thomas claimed that ballots not appearing in the QVF or supplemental lists were not received because election workers failed to click "save" when entering them into the system. He maintained this was a clerical error affecting individual ballots, not a systemic problem. Township clerk Cindy Berry and her Elections Coordinator Mary Geremesz independently told O'Halloran that their QVF system would make it essentially impossible for multiple save failures to occur, as each entry is processed individually with built-in checks.
13. On the backdating: Thomas claimed ballots assigned a November 2 receipt date on November 4 were the result of the same save-and-close failure, and that workers were simply correcting the date to the actual receipt date rather than backdating late-arriving ballots. Jessy Jacob's sworn testimony directly contradicts this: she attested that she was specifically instructed to enter a pre-November 3 receipt date for ballots she believed had arrived after the deadline, and that this was done to thousands of ballots by multiple workers continuously since 9:00 p.m. on November 3.[732]
14. On the 5,000-7,000 problem ballots: Thomas and Baxter, when confronted by GOP lawyers Preston and Humes about a final batch of thousands of unlisted ballots being returned to the counting boards for processing, explained the process and then told the challengers "trust us" when asked how signature verification could be assured for ballots whose applications were not accessible at the TCF Center. They then denied the formal challenge Preston and Humes attempted to lodge, claiming it was not a valid challenge — a denial that multiple challenger affidavits and Detroit Polling Site Assessor Ted Dickens directly contradict.

D. Jessy Jacob Affidavit and Claims

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[731] Affidavit of Christopher Thomas, filed Nov. 11, 2020, in Costantino v. City of Detroit, No. 20-14780-AW.

[732] Affidavit of Jessy Jacob, in Costantino v. City of Detroit, No. 20-14780-AW.

City of Detroit poll worker Jessy Jacob, a 34-year City employee and DPW engineer, with no political affiliation, provided sworn testimony to the Michigan House Oversight Committee on December 2, 2020, and filed a sworn affidavit in the *Costantino v. Detroit* litigation. Jacob's account is notable as a firsthand insider account: unlike challenger affidavits, it comes from a city employee describing instructions she received from supervisors. Her account establishes the following under oath:

1. Jacob encountered ballots outside their envelopes that had apparently arrived after the November 3 deadline. Her supervisor instructed her to backdate the ballots to November 2 and let them proceed.
2. Jacob refused and took a sticky note regarding the backdating to AVCB Director Daniel Baxter. Senior Advisor Chris Thomas stated Jacob was correct about procedure but asked "why should we punish voters for a processor's mistake?" and permitted the ballots to proceed.

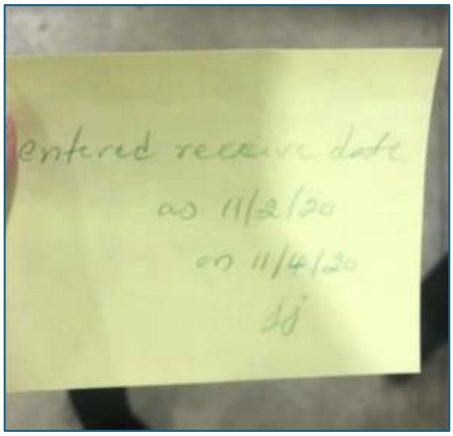


Figure 98: ***The sticky note that Detroit ballot processor, Jessy Jacob, showed to Dan Baxter****,*

Detroit Director of Operations. The note refers to a group of thousands of ballots that had allegedly not been pre-processed, meaning they were not receipt-dated, signature verified, and checked as eligible voter in the Qualified Voter File or Electronic Poll Book. Source: TCF Timeline, p. 39.

3. Jacob's supervisor, Carol Aldridge, then told her, "do not check the signatures." When Jacob brought Thomas a ballot with a clearly mismatched signature, Thomas's response was: "Oh, that's okay. Let it go."
4. In her affidavit, Jacob stated: "I was instructed to improperly pre-date the absentee ballots receive date that were not in the QVF as if they had been received on or before November 3rd, 2020. I was told to alter the information in the QVF to falsely show that the absentee ballots had been received in time to be valid. I estimate this was done to thousands of ballots."
5. Jacob passed a sticky note to GOP challenger Jessica Connarn reading "Entered receive date as 11/2/20 on 11/4/20. JJ" and a second note stating, "Received into QVF on 11/4/20

was asked to enter the ballot received date as 11/2/20." These notes were produced in the *Trump v. Benson* litigation.

Jacob was subsequently removed from her counting board position and ushered to the restricted raised platform. She told the House Oversight Committee: "They treated me like a criminal. I never expected this kind of treatment. It was really, really bad. I just wanted to serve the City of Detroit."



Figure 99: ***Video: Whistleblower Jessy Jacob****,*

head engineer with the City of Detroit for 34 years, gives testimony before the Michigan House Oversight Committee on December 2, 2020 (29:58 – 1:37) Jacob stated she was told by Christopher Thomas, advisor to Detroit Clerk Janice Winfrey and former Director of the Michigan Bureau of Elections, to backdate late arriving ballots. While she was processing ballots at Detroit's TCF Center, Thomas instructed her to accept a mismatched signature (1:28:45). After that, she was moved to a different function. Daniel Baxter, Chief of Operations, instructed her to process an absentee ballot submitted after deadline (1:15). She was also instructed not to ask for voter ID and to falsify ballot application mailing dates while processing ballots at a rate of 10,000 - 15,000 ballots per day. Video link: https://house.mi.gov/VideoArchivePlayer?video=OVER-120220.mp4.



Figure 100: ***The raised platform ("the Podium") at the center of the TCF AVCB****,*

from which GOP challengers were barred entry, photographed five days before Election Day. Adjudication stations are visible on the tables at lower left; the sally port entrance for vehicles delivering ballots is visible in the rear background. The foreground computers are where Jessy Jacob and two other poll workers accessed the Qualified Voter File, which requires an internet connection. Source: TCF Timeline, p. 31

Brief of Amicus Curiae City of Detroit in Support of Defendants, *Texas v. Pennsylvania*, No. 22O155 (U.S. Dec. 10, 2020), Section I.B "The Jacob Affidavit," pp. 12–15. Counsel: David H. Fink, Fink Bressack; Lawrence T. Garcia, City of Detroit Law Department.
URL: https://www.supremecourt.gov/DocketPDF/22/22O155/163437/20201210163842796_City%20of%20Detroit%20Amicus%20Brief.pdf

E. The Board of State Canvassers Record: November 23, 2020

The Michigan Board of State Canvassers Certification Meeting of November 23, 2020, recorded in the draft minutes preserved in the SCOTUS appendix at pages 220-240, produced two admissions directly relevant to Count 14. TCF Chief Daniel Baxter, when pressed by State Board Canvasser Norm Shinkle, admitted that one of the counting boards was off by 600 votes.

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When Shinkle asked whether revised poll lists had been delivered to the Wayne County Board of Canvassers 13 days after the election, Baxter stated: "No. I'm not aware of that."

However, Monica Palmer had already sworn under oath that such a list, delivered in a black trunk the day before the certification meeting, did exist and had been recommended to her by Michigan Bureau of Elections Director Jonathan Brater as a resource for resolving the mismatched counts. Baxter's denial under oath of what Palmer had independently verified created a conflict in the official record that may warrant DOJ investigation.[733]

§ IV. Evidentiary Record

A. Ballot Transport: No Manifests, No Logs, No Background Checks

Detroit, November 2020:

From October 5, 2020, when Detroit opened 23 satellite voting centers and deployed 30 drop boxes, through November 5, 2020, temporary workers with no background checks transported absent voter ballots between drop boxes, satellite centers, the Department of Elections on West Grand Boulevard, and the TCF Center. Multiple sworn affidavits, corroborated by DOE Director George Azzouz's personal communications with O'Halloran, established the following transport failures:

1. No transfer logs recording the number of ballots picked up, the departure time, the arrival time, or the identity of the transporter. Director Azzouz confirmed to O'Halloran on October 29 that no one was watching the drop box surveillance cameras in real time, then told him three days later the opposite was true.
2. Ballots transported in open USPS trays without lids or any way to lock the contents. Multiple ballot tracker affidavits document ballots being transported in open containers, in non-DOE vehicles with out-of-state plates, by single individuals with no supervision.
3. On November 2, 2020, ballot trackers Steve Orsini and Tim Mahoney observed a man exiting the DOE carrying approximately 100 blank ballots openly, without any container or cover, stating he had made the same transfer five times that day and had been doing it all week. The same observers witnessed a man pushing a dolly with five boxes, one open, with contents appearing to be ballots, who became irate when questioned and turned back inside the DOE.
4. On November 3 at 2:45 p.m., O'Halloran observed two people arriving at the TCF rear delivery port in a Dodge Caravan with 10 USPS trays of ballots containing approximately

[733] Board of State Canvassers Certification Meeting record in Texas v. Pennsylvania Response Appendix, No. 22O155, U.S. Supreme Court, Dec. 10, 2020. Meeting of the Board of State Canvassers Draft Minutes, November 23, 2020., pp. 220–240. https://www.supremecourt.gov/docket/docketfiles/html/public/22o155.html.

3,500 ballots. There were no signatures, no handoff paperwork, and no log entries. At 3:25 p.m. four men arrived with two more USPS trays and refused to say where the ballots came from. At 5:10 p.m. a DOE van arrived with five more USPS trays containing an estimated 1,750 ballots. None of these deliveries had chain of custody documentation.

Michigan election law is explicit on ballot packaging requirements. MCL 168.716 requires that ballots be wrapped, secured in two packages, sealed with a red paper seal furnished by the Secretary of State, and accompanied by a certificate signed by a county official setting forth the number and kind of ballots and certifying they were counted, packaged, and sealed personally or by a duly authorized agent. None of these requirements were met for any of the documented ballot transfers.

For the drop-box legs of the documented transport chain, MCL 168.761d now requires collection only by the clerk, deputy clerk, or sworn staff, immediate return to the clerk's office, transport in approved ballot containers, and documentation of every collection preserved for 22 months, the authorized-collector rule (now subsection (9), originally subsection (5)) was in force from October 6, 2020; see Legal Framework § B for which requirements applied to which election.

B. Electioneering at the DOE and Unauthorized Ballot Collection on Election Day

The affidavit of Rhonda Weber, submitted to the Michigan Senate and House Oversight Committees on December 1, 2020, documents a pattern of unauthorized ballot collection and electioneering at the Detroit Department of Elections on West Grand Boulevard on November 3 and 4, 2020. Weber attests that she was conducting surveillance of the DOE after suspicious activity had been reported there. Her affidavit establishes the following facts under penalty of perjury:[734]

1. On November 3, 2020, at approximately 4:43 p.m., a DOE worker was collecting absentee ballots on the sidewalk of West Grand Boulevard in an open, lidless USPS mail tray. Cars drove by and rolled down their windows to drop ballots into the tray. Multiple ballots were dropped by a single person. The DOE worker accepted them without question.
2. A woman in a black SUV parked on West Grand Boulevard and made three separate trips to dump absentee ballots from a large open Tupperware container into the DOE worker's USPS tray. She was not wearing anything official.

[734] Affidavit of Rhonda Weber, Written testimony received in Oversight committee 12.1.20.pdf, Michigan Senate Oversight hearing, Dec. 1, 2020, p. 6.

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3. People dropping off absentee ballots on the sidewalk or from the street received free food, drinks, and t-shirts. Groups were stationed in front of the DOE worker distributing these items after him on the street.
4. On November 4, 2020, an off-duty police officer notified Weber that he observed a man taking absentee ballots from the DOE and placing them in his car, a black Ford Crown Victoria with municipal plates. Weber followed the man to a post office, where white trays she believed were filled with additional absentee ballots were delivered to him. When the man noticed her surveillance, he aggressively backed his car up and boxed her in before accelerating away in the direction of the TCF Center. Around 2:00 p.m., the off-duty officer notified Weber that the man in the red pants had returned to the DOE without the absentee ballots or USPS trays.

Weber states that photographs documenting these events are attached to her affidavit as true and accurate depictions of what she observed. The distribution of food, drinks, and t-shirts to voters dropping off ballots raises substantial questions regarding compliance with MCL 168.931(1)(a)'s prohibition on giving valuable consideration as an inducement to influence voting. The sidewalk collection of absentee ballots by a DOE employee in an open, lidless, unsecured tray raises corresponding questions regarding compliance with MCL 168.716's sealing and certification requirements and MCL 168.764a's restriction on who may lawfully possess an absent voter ballot.

C. The Defective Ballot Containers

The chain of custody failures extended beyond transport to the containers used to seal ballots at the close of counting. Wayne County Board of Canvassers GOP members Monica Palmer and Bill Hartmann had examined and rejected 50 newly delivered metal ballot transfer cases in January 2020, finding that spot welds had failed on the back end of the boxes, creating gaps large enough to insert papers. They affixed "Not Approved for Use as a Ballot Container" stickers to the defective boxes and required repair or replacement.

On Election Day, November 3, 2020, Palmer and Hartmann arrived at the TCF Center counting floor and found counting boards using the very containers to which they had affixed their "Not Approved" stickers. Palmer testified to Senator Ed McBroom: "I did observe several counting boards that were using the unapproved containers." She emailed the Canvassing Board's legal counsel. Under Michigan law, a clerk using an unapproved container is guilty of a misdemeanor.

For the November 3, 2020, election specifically, 2020 PA 177 added MCL 168.24k, which required each board of county canvassers to examine absent voter ballot secrecy envelope containers before October 15, 2020, to designate each container as approved or not approved, prohibited the use of unapproved containers, and made a clerk's use of a non-compliant

container a misdemeanor (MCL 168.24k(4)–(6)). By the end of the election, Palmer determined that more than 30 of 50 examined containers remained unusable.[735]



Figure 101. "Large quantities of ballots were delivered to the TCF Center in what appeared to be mail bins with open tops. Poll Challenger Daniel Gustafson signed an affidavit stating he "witnessed tens of thousands of ballots being delivered to the TCF Center that were not in any approved, sealed, or tamper-proof container…Large quantities of ballots were delivered to the TCF Center in what appeared to be mail bins with open tops. Contrary to law, these ballot bins and containers did not have lids, were not sealed, and did not have the capability of having a metal seal." Source: "Over 40,000 Fraudulent Ballots in Detroit?" from the Federalist, reprinted in Intercessors for America (IFA), November 18, 2020, https://ifapray.org/blog/over-40000-fraudulent-ballots-in-detroit/

The legal consequence of defective ballot containers is severe: under MCL 168.871 (Legal Framework § H), a precinct whose ballot container seal is broken or improperly sealed, or where the number of ballots in the container does not match the poll book, is not eligible for a hand recount, the original machine-tabulated returns stand. With more than 70 percent of Detroit's 134

[735] Monica Palmer Testimony, Michigan Senate Oversight Committee, Dec. 1, 2020.

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AVCBs out of balance, and defective containers contributing to that imbalance, the statutory bar on hand recounts effectively immunized the counting errors from correction and rendered them permanent.

D. The 3:25 A.M. Ballot Delivery: November 4, 2020

Among the most consequential chain of custody events documented at the TCF Center was the arrival, at 3:25 a.m. on November 4, 2020, of an estimated 50–60 boxes of what multiple sworn affiants identified as ballots at the TCF Center sally port, more than seven hours after the 8:00 p.m. election day deadline. (Both timestamps are as recorded in the O'Halloran TCF Timeline.

1. At 3:11 a.m., a black sports car arrived at the sally port. A man walked out of the AVCB and appeared to exchange something with the driver before the car departed.
2. At 3:25 a.m., a white van arrived and men unloaded an estimated 50-60 boxes on a dolly, bringing them inside the TCF room. Multiple GOP challengers on scene later reported identifying the contents as ballots.
3. At approximately 4:00 a.m., GOP affiant William Carzon observed the white City of Detroit "Vote Mobile" van arriving at the rear entrance sally port, with approximately 60 postal boxes being unloaded and taken to the receiving tables. When the sleeves were removed, he identified manila envelopes containing absentee ballots. (Carzon's count of approximately 60 boxes refers to a later delivery; the initial 3:25 a.m. arrival involved an estimated 50–60 boxes per other affiants.) [C14-02] [736]
4. At 4:30 a.m., GOP affiant Andrew Sitto watched as "tens of thousands of ballots" were brought in and placed on eight long tables from the rear of the room.[737] [C14-02]
5. At 5:30 a.m., election supervisors announced that all the ballots that had just arrived had been counted. Multiple sworn affiants noted that this claim appeared inconsistent with the delivery volume and the fact that only half of the 134 counting boards had received any ballots to count.

Time	Phase	Event	Source
2:45 p.m. Nov. 3	Pre-Deadline Delivery	O'Halloran observes Dodge Caravan at TCF rear port: 10 USPS trays, ~3,500 ballots. No signatures, no handoff paperwork, no log entries.	*O'Halloran TCF Timeline [C14-02]*

[736] O'Halloran, M.D., *TCF Timeline The 2020 General Election in Detroit,* Michigan Citizens for Election Integrity (MC4EI), August 2021. Report reprinted in MFEI blog, Aug. 31, 2021.

[737] Affidavits of William Carzon and Andrew Sitto; *TCF Timeline The 2020 General Election in Detroit,* Michigan Citizens for Election Integrity (MC4EI), August 2021. Report reprinted in MFEI blog, Aug. 31, 2021.

Time	Phase	Event	Source
3:25 p.m. Nov. 3	Pre-Deadline Delivery	Four men arrive with 2 more USPS trays. Refuse to say where the ballots came from.	*O'Halloran TCF Timeline [C14-02]*
5:10 p.m. Nov. 3	Pre-Deadline Delivery	DOE van arrives: 5 more USPS trays, ~1,750 ballots. No chain of custody documentation.	*O'Halloran TCF Timeline [C14-02]*
8:00 P.M	**ELECTION DAY DEADLINE**	**8:00 P.M. — ELECTION DAY DEADLINE** MCL 168.731(3) and MCL 168.761(3): No ballot may be received or processed after this time	*MCL 168.731(3) and MCL 168.761(3)*
3:11 a.m. Nov. 4	**POST-DEADLINE**	Black sports car arrives at TCF sally port. Man walks out of AVCB and appears to exchange something with driver before car departs. Van escorted by this vehicle on both deliveries.	*Challenger affidavits; TCF Center surveillance footage (publicly released via Gateway Pundit, Feb. 2021); O'Halloran TCF Timeline [C14-02]*

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Time	Phase	Event	Source
3:23–3:25 a.m. Nov. 4	**POST-DEADLINE**	WHITE VAN (city of Detroit "Vote Mobile," bearing City Clerk Janice Winfrey's office markings) enters TCF electronic gate at 3:23 a.m. At 3:25 a.m., surveillance camera inside TCF building records three individuals unloading 50+ boxes on a dolly just outside the counting room. Boxes wheeled into counting room on carts. Van departs ~25 minutes later; returns an hour later with additional boxes. No chain of custody documentation for either delivery. 7+ hours after deadline.  *Figure 102: **TCF Center surveillance still, 3:25 a.m.**, Nov. 4, 2020. Source: TCF Center security footage (publicly released via Gateway Pundit, Feb. 8, 2021).*	*TCF Center surveillance footage (publicly released via Gateway Pundit, Feb. 8, 2021); Shane Trejo affidavit; Pat Colbeck witness account; O'Halloran TCF Timeline*
4:00 a.m. Nov. 4	**POST-DEADLINE**	"Vote Mobile" van observed at rear entrance: ~60 postal boxes unloaded. Sleeves removed — manila envelopes containing absentee ballots visible. (William Carzon affidavit)	*Carzon affidavit [C14-02]*
4:30 a.m. Nov. 4	**POST-DEADLINE**	"Tens of thousands of ballots" brought in and placed on 8 long tables from rear of room. (Andrew Sitto affidavit)	*Sitto affidavit [C14-02]*

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Time	Phase	Event	Source
5:30 a.m. Nov. 4	**POST-DEADLINE**	Election supervisors announce: all just-arrived ballots have been counted — a physical impossibility given the volume and the fact that only half of 134 counting boards received any ballots to count.	*Challenger accounts [C14-02]*

Figure 103: ***TCF Center Ballot Delivery Timeline: November 3–4, 2020***

The Official Denial — and Its Unresolved Contradictions

"No absentee ballots received after the deadline of 8:00 p.m. on November 3, 2020, were received by or processed at the TCF Center."

— Christopher Thomas, sworn affidavit and deposition, *Texas v. Pennsylvania* Response Appendix No. 22O155 [C14-01]

The Thomas explanation, that the van carried pre-deadline ballots slowly processed at the DOE, was accepted by every major media fact-check published in February 2021 without independent verification. No chain of custody documentation was produced confirming that the specific ballots in the van had arrived at the DOE before 8:00 p.m. No transfer manifest. No handoff log. No supervisor sign-off. Thomas's own affidavit admitted to 41 boxes in one delivery; Gateway Pundit surveillance footage documented 60+ boxes in the first drop and a second return delivery approximately one hour later, neither confirmed by Thomas. The same Chris Thomas whose account of the black trunk delivery directly contradicts Monica Palmer's sworn affidavit (Section III-D), and who told challengers to "trust us" on unverifiable signature matching (Section III-C), is the sole official source for the claim that the 3:25 a.m. van delivery was lawful. No independent investigation has been conducted. No subpoena for TCF surveillance footage, DOE loading dock video, or van chain of custody logs has been issued. The official account has not been substantiated; the record reviewed by MFEI does not identify any independent investigation or use of subpoena power to verify or refute it.



TCF Center, Nov. 3–4, 2020: GOP challengers locked out as windows are covered with paper.

Simultaneous Context: Challenger Exclusion at the TCF Center

While the van deliveries documented above were occurring, Republican challengers at the TCF Center had already been locked out of the counting floor and windows were covered with paper to prevent observation. The chain of custody failures captured on surveillance video — the 3:25 a.m. delivery, the boxes unloaded outside the counting room, the absence of documentation — were occurring in conditions where the statutory observer function had been eliminated. See Count 9 (Poll Challenger Restrictions) and Count 13 (Poll Challenger Obstruction) for the legal framework

	governing the exclusion.

Sources: O'Halloran TCF Timeline (MC4EI, Aug. 2021); Challenger affidavits of Shane Trejo, William Carzon, Andrew Sitto, and Pat Colbeck; Chris Thomas deposition, Texas v. Pennsylvania Response Appendix No. 22O155; Gateway Pundit / TCF Center surveillance footage, published Feb. 8, 2021 (Cassandra Fairbanks and Jim Hoft). Window-covering photograph: TCF Center, Nov. 3–4, 2020, Widely circulated no longer available online

Chris Thomas later stated in a deposition: "No absentee ballots received after the deadline of 8:00 p.m. on November 3, 2020, were received by or processed at the TCF Center." The official explanation was that these were ballots that had arrived from drop boxes and satellites before the deadline but had been slowly processed at the DOE before being transferred.

Monica Palmer questioned this explanation, noting the ballots "were only partially sorted" and asking why it would take more than seven hours to transfer ballots from the DOE to the TCF when transfers had been occurring hourly all day. The SCOTUS appendix preserves Thomas's deposition statement and the challenger affidavits on this sequence. Established on the present record: [738]

Established on the present record

Surveillance footage depicts a white van arriving at the TCF Center sally port between 3:23 and 3:25 a.m. on November 4, 2020. Multiple sworn affiants reported boxes being unloaded from that vehicle and moved into the counting room. No transfer manifest, handoff log, or chain of custody documentation for that delivery has been identified in the record reviewed by MFEI.

Question presented

Whether the ballots in that delivery had been lawfully received before the 8:00 p.m. statutory deadline cannot be resolved from the presently available record. Resolution requires subpoena authority to compel TCF Center surveillance footage, DOE loading dock records, and any surviving transfer documentation for the period 8:00 p.m. November 3 through 6:00 a.m. November 4, 2020.

D. The Avallone EPB Deletion Directive and Records Destruction

The chain of custody failures in the 2020 election deepened after the election when the Bureau of Elections issued a directive to delete electronic poll book data within seven days. Director Jonathan Brater issued this directive as binding guidance long before Rule R 168.48 codified it

[738] Deposition of Christopher Thomas, in Texas v. Pennsylvania Response Appendix, No. 22O155. https://www.supremecourt.gov/DocketPDF/22/22O155/163387/20201210145418055_22O155%20MI%20APP.pdf

as a promulgated rule. Its effect was to destroy the primary post-election audit tool for verifying the validity of challenged ballots.[739]

Because the Department of Justice has now expressly identified preservation of election records as a current enforcement priority, the continued significance of the EPB deletion directive extends beyond historical analysis and presents an ongoing question concerning compliance with federal record-retention requirements.

The significance of EPB deletion is clarified by the testimony of Kent County Clerk Lisa Posthumus Lyons, who submitted an amendment letter to Chairmen McBroom and Senator Hall on November 20, 2020. Clerk Lyons explained the EPB's functional role with precision: The EPB is a snapshot of the QVF that is loaded onto a laptop computer to be used on Election Day in the precincts to create an Election Day list of voters and voter history that will be uploaded back into the QVF within seven days of each election. Critically, the EPBs in the precincts are not connected to the QVF or the internet for security reasons.

This means the EPB functioned as the primary contemporaneous, precinct-level record of which voters checked in and voted on Election Day — it is disconnected from the QVF precisely because connectivity would create a security vulnerability. The BOE's directive to delete these isolated records within seven days therefore eliminated the primary independent audit mechanism for confirming that each ballot counted at the 134 TCF AVCBs corresponded to a voter who actually checked in to vote. Clerk Lyons' account also confirms that the seven-day window for upload back to the QVF is the same window the deletion directive operates within, meaning deletion could occur before the upload was complete or verified.[740]

Louis Avallone's November 1, 2021, letter to Secretary Benson and Director Brater, addressed to both officials directly and copied to Patrice Johnson as Chair of Pure Integrity for Michigan Elections, identified a separate but related records integrity problem: a QVF software programming error introduced between October 2019 and February 2020 that deleted voting history records whenever a voter's registration date changed. Avallone's key findings, based on FOIA-obtained QVF extract files, established:

- The error manifests when a voter's registration date changes as the result of a registration record update, such as a change of address. When the registration date changes, the

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[739] Rule R 168.48 (EPB Deletion Directive), promulgated under Rule Set 2025-14 ST, LARA Trans. No. 1587, filed and effective October 23, 2025. The rule codified the BOE's pre-existing informal seven-day deletion directive — the same directive at issue in People v. Stephanie Scott. Rule Set 2025-14 ST final rule language available at: https://ars.apps.lara.state.mi.us/Transaction/DownloadFile?FileName=FinalRule%28s%29.pdf&FileType=FinalRule&TransactionID=1587&EffectiveDate=10%2F23%2F2025&ReturnHTML=True

[740] O'Halloran, M.D., *TCF Timeline The 2020 General Election in Detroit,* Michigan Citizens for Election Integrity (MC4EI), August 2021. Report reprinted in MFEI blog, Aug. 31, 2021, and MFEI EAC OIG Request for Assessment of Audit Risk (2024).

complete voting history from past elections is reset and deleted. Voting history data is retained only for elections after the date of the registration update.

- The error first surfaced on or before February 29, 2020, and had been reporting voting history data incorrectly from that date forward. QVF extracts dated October 1, 2019, and earlier showed correct voting histories; extracts dated February 29, 2020, and later showed deletions.
- Voters with registration dates of October 11, 2018, or later are affected. This means the error affects millions of Michigan voters whose registrations were updated in the two years before the 2020 election, including the large cohort who updated their registrations for the 2020 election itself.
- Avallone's conservative estimate, calculated from FOIA QVF extract files dated January 1, 2021, found approximately 491,873 voting history records missing — nearly half a million records deleted from the official state voter file in violation of MCL 168.509q's five-year retention requirement.[741]
- As of the December 1, 2021, QVF dataset, the unlawfully deleted records appeared to have been partially restored, suggesting the Bureau of Elections became aware of the problem and attempted correction without publicly acknowledging the error or notifying the Secretary of State and Legislature as Avallone had requested.

The QVF integrity failure documented by Avallone was not purely retrospective. GOP challenger testimony submitted to the December 1, 2020, Michigan Senate and House Oversight Committee hearing documents the 1/1/1900 placeholder practice occurring in real time at the counting boards during the 2020 election.

Challenger Lori Levi, who finally gained access to the TCF counting floor at approximately 5:05 p.m. on November 4, 2020, observed workers at Table 38 manually entering voter data with the fictitious birthdate of 01/01/1900. Her written testimony records two specific instances by ballot number: Ballot 5522 (Maureen Eremic, 99 Owen St., Detroit 48202) was manually entered with a birthdate of 01/01/1900; Ballot 5523 (Scott Randall Lamprides) was also manually entered.[742]

Levi further observed that Ballot 5525, a duplicate entry for Daniell Lytrice Wisdom, was first placed in a provisional envelope and then moved to the to-be-tabulated bucket, effectively allowing the same voter to vote twice. Levi also noted that the screen was flashed off quickly when workers realized she was observing, preventing her from reading the full entries.

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[741] Avallone, Louis. Letter to Secretary Benson and Director Brater re: Unlawful Deletion of QVF Voting Records, Nov. 1, 2021.

[742] Lori Levi, Written testimony received in Oversight committee 12.1.20.pdf, Michigan Senate Oversight hearing, Dec. 1, 2020, p.45.

These observations corroborate the *Costantino* allegation (Section III-B) that election workers systematically used fictitious birthdates to enter unlisted voters into the QVF during counting and establish that the 1/1/1900 records identified by Avallone's post-election QVF analysis were generated by a practice challengers observed and documented in real time.

Together, the EPB deletion and the QVF voting history purge destroyed the two complementary audit mechanisms that would have allowed investigators to verify ballot eligibility after the fact. Figure 14-2 (Audit Trail Destruction Matrix) documents the full scope of what was lost.

Audit Mechanism	What It Would Have Documented	How Destroyed / Lost	When	Retention Require-ment	Status
Electronic Poll Books (EPBs)	Which voters actually checked in and voted on Election Day — the only real-time, precinct-level voter check-in record	BOE directive (Director Brater) — deleted within 7 days of each election	Within 7 days post-election	52 U.S.C. § 20701: 22 months	**DESTROYED**
QVF Voting History Records	Multi-election voting patterns; implausible voting sequences; baseline for eligibility verification	QVF programming error (Oct. 2019–Feb. 2020): deleted records on every registration date change	~491,873 records missing by Jan. 1, 2021	MCL 168.509q: 5 years	**DELETED**
AVCB Ballot Applications	Whether each of 170,000 counted ballots had a signed application (statutory eligibility prerequisite under MCL 168.759)	Not preserved post-certification; Speckin physically accessed only 2 of 134 boards — 132 remain unexamined	Post-certification	Federal: 22 months (52 U.S.C. § 20701)	**UNEXAMINED**
TCF Center Surveillance Video	What arrived at the sally port, when, and by whom — including the 3:25 a.m. post-deadline delivery	Unknown custody; no subpoena issued; no independent verification secured	Unknown	Federal: 22 months if election record	**UNSECURED**
Ballot Transfer Logs / Manifests	What was transported, by whom, departure/arrival times, ballot counts — required by MCL 168.716	Never created. No transfer logs were maintained for any delivery during Oct. 5–Nov. 5, 2020.	N/A — never existed	MCL 168.716: required at time of transport	**NEVER CREATED**

Figure 104: ***The Audit Trail Destruction Matrix.***

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The Department of Justice's July 2026 memorandum reinforces the significance of these categories of records. It emphasizes that election records relating to federal elections must be preserved and remain available for subsequent federal review under 52 U.S.C. § 20701. The Audit Trail Destruction Matrix illustrates how the cumulative loss, deletion, or non-preservation of multiple categories of election records may substantially impair independent verification after certification and limit meaningful post-election review.

Legal Consequence: The One-Way Door

With EPBs deleted, QVF histories purged, ballot applications unexamined, and no transfer logs, the 2020 Detroit absent voter counting process is effectively unauditable through ordinary legal processes. Under MCL 168.871, the 71% out-of-balance rate among the 134 AVCBs forecloses hand recounts. Only federal subpoena power can reach surviving physical ballot materials, EPB backup records, and QVF FOIA datasets.

Source: Avallone Letter to Benson/Brater, Nov. 1, 2021 [C14-05]; O'Halloran TCF Timeline; Speckin Forensics LLC Analysis [C14-04]; Lyons Letter to McBroom/Hall, Nov. 20, 2020; 52 U.S.C. § 20701; MCL 168.509q; MCL 168.716

E. The Speckin Forensic Corroboration

The Speckin Forensics LLC analysis provides the physical documentary corroboration that the chain of custody and ballot eligibility failures described in challenger testimony and court filings were real, not theoretical. Erich Speckin is a court-qualified forensic document examiner with decades of experience in questioned-document analysis; Speckin Forensics LLC has served as expert witnesses in state and federal proceedings. Speckin and his team physically examined ballot envelopes and ballot applications for two of the 134 TCF AVCBs, pairing each ballot envelope with its corresponding signed application as required by MCL 168.759. In one counting board, 20 percent of ballot envelopes had no corresponding signed application. In the second, 12 percent had none. These percentages represent not estimates but physical counts of actual ballot envelopes examined by trained forensic investigators.[743]

Speckin separately extrapolated these two-board findings across all 134 boards. If the 12 to 20 percent missing-application rate found in those two boards were representative of all 134, the number of potentially affected ballots would be substantial, though that extrapolation rests on two examined boards out of 134 and should be weighed accordingly. What is not extrapolation is the physical finding itself: in both boards reviewed, trained forensic investigators found that a significant percentage of ballot envelopes had no corresponding signed application as Michigan

[743] Speckin Forensics Analysis of Detroit 2020 AVCB Ballot Applications, Speckin Forensics LLC., Speckin Forensics LLC, MFEI blog, Aug. 2, 2023,

law requires. Speckin concluded that the forensic record, standing on its physical examination alone, constitutes evidence of ballot eligibility questions at the TCF Center warranting further investigation. This is the only physical forensic examination of the actual ballot materials in this record, and it directly corroborates the conditions that statutory challengers sought to document before observer access was denied at the TCF Center.

Cross-Reference Count 13: The Speckin Forensics LLC physical examination of ballot envelopes and the Jessy Jacob sworn whistleblower account are established as primary evidence in Count 13 (Poll Challenger Obstruction, Canvasser Intimidation, and Denial of Statutory Oversight Rights). The chain-of-custody failures documented in this Count, absent voter ballot transport without manifests, defective containers, missing applications, the 3:25 a.m. post-deadline ballot delivery, and the EPB deletion directive, are the structural conditions that challengers were attempting to document when they were excluded from the TCF Center. Cross-reference also to Count 9 (Poll Challenger, Observer, and Public Oversight) for the Rule Set 2025-15 regulatory framework now governing challenger rights whose 2020 violation this Count documents.

E. The Ann Arbor 2022 Election: Post-Deadline Ballots and Record Falsification

1. The MFEI/PIME Investigation

Ann Arbor, November 2022

Lead investigator Bill Richardson documented the Ann Arbor 2022 election irregularities in a July 2023 MFEI/PIME report, with investigators Dee Davey, Elizabeth Ayoub, Judi *Bennett*, Louis Avallone, and editor Patrice Johnson. The investigation used FOIA-obtained voter history records, electronic poll book information, same-day registrant lists, and tabulator tapes for all 53 City of Ann Arbor precincts to establish four categories of apparent violation.

2. Post-Deadline Ballots: 600-Plus Counted

Time-stamped voter history records obtained through FOIA showed that more than 600 individuals, primarily students at University of Michigan satellite registration offices — were registered to vote absentee after the 8:00 p.m. election day deadline on November 8, 2022, in violation of MCL 168.731(3) and MCL 168.761(3). Of these, time stamps show 120 voter records created after midnight on November 9, 2022, the day after the election. These ballots, if the documented timestamps are accurate, were counted despite arriving after the statutory deadline.[744]

[744] Ann Arbor Compromises Election Integrity during 2022 Election, MFEI/PIME, July 2023.

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The voter history records provided time stamps as to when voters were registered. The FOIA-obtained Change History records show the actual registration timestamp alongside the voter history file's reported registration date, reflecting a November 8 registration date for voters whose Change History timestamps indicate registration at 1:41 a.m. on November 9. The MFEI/PIME report characterizes this discrepancy as indicating potential alteration of official records.

Statutory history: the law in force on November 8, 2022 (MCL 168.761(3) as amended by 2020 PA 177) provided that a person "may apply in person at the clerk's office before 8 p.m. on election day to vote as an absent voter," with no allowance for individuals standing in line at 8:00 p.m. The in-line allowance now found in MCL 168.761(7) was added by 2023 PA 82, effective February 13, 2024, fourteen months after the election and seven months after the July 2023 MFEI/PIME report. A subsequent amendment cannot retroactively authorize the 2022 conduct; if anything, the sequence, erroneous guidance first, conforming statute later, parallels the governance-by-guidance pattern documented in Count 2.

3. Secretary Benson's Twitter Guidance: Correct on Same-Day Voting, Incorrect on the Deadline

At 6:19 p.m. on November 8, 2022 (101 minutes before the 8:00 p.m. deadline) Secretary of State Jocelyn Benson posted guidance on Twitter stating: "Whether you're at your precinct in line to vote or at your local clerk's office in line to register and vote, as long as you are in line by 8p you can still register and vote."

Since Proposal 3 (2018), Mich. Const. Art. II, §4(1)(f)(2) has permitted an elector to register in person at a clerk's office through and including election day and be "immediately eligible to receive a regular or absent voter ballot"; MCL 168.759(6) requires the clerk to issue that ballot on the spot and requires the elector to vote it at the clerk's office the same day. Same-day registration-and-voting at a clerk's office was already routine practice in the 2020 and 2022 general elections. To that extent, Secretary Benson's guidance correctly described existing law.

The guidance was legally incorrect only as to timing: it told voters that being "in line by 8p" at a clerk's office, like being in line at a precinct polling place, would preserve their right to complete the process after 8:00 p.m. No such in-line extension applied to the clerk's-office same-day registration-and-AV process on November 8, 2022. That protection did not exist until MCL 168.761(7), added by 2023 PA 82, effective February 13, 2024, fourteen months after this election. Before that amendment, the in-line protection ran only to voters already holding a ballot and standing in line at an election-day polling place with a tabulator, a distinct process under different statutory provisions. Election administrators who, in reliance on Secretary Benson's guidance, accepted new same-day registrations or issued and accepted absent voter ballots from same-day registrants after 8:00 p.m. on November 8, 2022, acted on a legal protection that would

not exist for another fourteen months. No one may register or complete a same-day registration-and-vote transaction after 8:00 p.m. without that protection.[745]

The Ann Arbor City Clerk's own satellite office announcements correctly stated: "If you are already registered and would like to vote on election day, you must go to your assigned polling location." That instruction was accurate for already-registered voters, who must vote at their assigned precinct, not a satellite clerk's office. The 600-plus post-deadline registrations and ballots counted in Ann Arbor are a documented downstream consequence of the Secretary's overstatement of the in-line rule, the same pattern documented in Count 2 with respect to Secretary Benson's governance-by-guidance program.

[745] Id. (Secretary of State guidance, Nov. 8, 2022).

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Part A — The Post-Deadline Sequence

Time	Status	Event	Authority
6:19 p.m. Nov. 8, 2022	**ERRONEOUS GUIDANCE**	Secretary of State Benson posts on Twitter: "Whether you're at your precinct in line to vote or at your local clerk's office in line to register and vote, as long as you are in line by 8p you can still register and vote." — Correct that same-day registrants may vote at a clerk's office; incorrect that this could continue past 8:00 p.m.	*Ann Arbor 2022 Report [C14-06]*
8:00 P.M	**STATUTORY DEADLINE**	**8:00 P.M. STATUTORY DEADLINE** MCL 168.761(3) (2020 PA 177) — no in-line allowance for clerk's offices	*MCL 168.761(3) (2020 PA 177)*
After 8:00 p.m. Nov. 8, 2022	**POST-DEADLINE**	600+ voters registered and cast absentee ballots at University of Michigan satellite offices after the statutory deadline. Ineligible ballots counted.	*MCL 168.731(3); MCL 168.761(3)*
After midnight Nov. 9, 2022	**POST-DEADLINE**	120 voter records time-stamped after midnight on November 9 — the day after the election. These ballots were counted.	*FOIA voter history records [C14-06]*
1:41 a.m. Nov. 9	**RECORD FALSIFICATION**	QVF Change History records document registrations at 1:41 a.m. on Nov. 9. Official voter history file was altered to show a Nov. 8 registration date — affirmative falsification requiring QVF system access.	*FOIA Change History records [C14-06]*
2:00 a.m. Nov. 9	**POST-DEADLINE**	Final vote cast at Ann Arbor satellite office — 6 hours after the statutory deadline.	*Ann Arbor 2022 Report [C14-06]*
Feb. 13, 2024	**POST-HOC AMENDMENT**	2023 PA 82 takes effect: in-line-at-8:00-p.m. allowance added to MCL 168.761(7). This allowance did not exist at the time of the November 2022 election. A subsequent amendment cannot retroactively authorize the 2022 conduct.	*2023 PA 82 (14 months after election)*

Figure 105: ***Ann Arbor 2022: The Post-Deadline Registration Sequence and Guidance Comparison.***

Part B — Guidance Comparison: What the Law Permitted vs. What the SOS Said

Ann Arbor City Clerk's Guidance	Secretary of State Benson's Guidance (Twitter, 6:19 p.m.)
"If you are already registered and would like to vote on election day, you must go to your assigned polling location."	*"Whether you're at your precinct in line to vote or at your local clerk's office in line to register and vote, as long as you are in line by 8p you*

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	can still register and vote."
✔ LEGALLY CORRECT	✖ INCORRECT ON THE 8 P.M. DEADLINE
MCL 168.761(3) (2020 PA 177): applies only to polling places with tabulators; in-line allowance for clerk's offices not created until 2023 PA 82, effective February 13, 2024	Same-day registrants may lawfully register and vote an absent voter ballot at a clerk's office on election day (Mich. Const. Art. II, §4(1)(f)(2); MCL 168.759(6)). But the in-line-past-8-p.m. extension applied only to polling places with tabulators until 2023 PA 82; no such extension existed for the clerk's-office process on November 8, 2022.

Source: Ann Arbor 2022 Report, MFEI/PIME, July 2023 [C14-06]; FOIA voter history records and Change History records; MCL 168.761(3) (2020 PA 177); 2023 PA 82 (eff. Feb. 13, 2024)

4. Discriminatory Satellite Placement and Illegal Re-Registrations

The MFEI/PIME investigation also documented that Ann Arbor City Clerk Jacqueline Beaudry placed both satellite clerk offices exclusively on University of Michigan campuses, with no satellite offices near Ann Arbor's 23 largest senior living centers. MFEI submits that this placement pattern raises questions under the Fourteenth Amendment's equal protection guarantee and is presented as a matter for DOJ consideration rather than a legal conclusion.[746]

Additionally, official state records showed that the Ann Arbor City Clerk allowed more than 180 already-registered voters within the city to re-register at a different Ann Arbor precinct after the close of the statutory 14-day window, a violation of Michigan election law. Approximately 150 of these 180 unlawful re-registrations occurred at the two campus satellite offices. The resulting hours-long lines, with the final vote cast at 2:00 a.m. on November 9, constituted voter suppression of eligible voters deterred by the lines.

F. The Stephanie Scott Prosecution: A Window into the Deletion Directive's Legal Authority

The criminal prosecution of former Adams Township Clerk Stephanie Scott (*People v. Stephanie Scott*, Hillsdale Circuit Court No. 25-49-6230 FH, Judge Sara S. Lisznyai) has been resolved. By order dated April 30, 2026, all four felony charges were dismissed as to both defendants (Scott

[746] Id. (satellite office placement and re-registration findings).

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and co-defendant Stefanie Lynn Junttila, also known as Stefanie Lambert); the court held that MCL 168.509gg(1) imposes no confidentiality requirement; one misdemeanor against Scott was remanded to district court. Defense counsel: David A. Kallman, Kallman Legal Group / Great Lakes Legal Center.

The case's significance for this Count is structural: the prosecution placed in the sharpest relief the EPB deletion directive's disputed legal authority. Scott was charged for EPB-related conduct under rules promulgated four years after the conduct at issue, while Director Brater testified at the August 2025 probable cause hearing that he could not remember whether the directive's legality was ever reviewed with DOJ. A directive whose own author cannot vouch for its legal review was nonetheless invoked as the basis for felony charges against a clerk who preserved her records, charges that a court ultimately dismissed.

Cross-reference: The Scott prosecution is also addressed in Count 2 (Unauthorized Guidance, Manuals, and Directives), where it is placed as integrated prose in the context of the Bureau of Elections' directive program. See Count 2 for the full case record including the April 30, 2026 dismissal order.[747]

G. Structural Harms: The Compounding Effect of Chain of Custody Failures

1. Irreversibility: The Counting Before Auditing Problem

The most significant structural harm of the chain of custody failures documented in this Count is that they are irreversible. Once a ballot without a signed application is counted, once a late-arriving ballot is backdated and processed, once the EPB data confirming who actually voted is deleted, and once the QVF voting history that would reveal implausible voting patterns is purged, the errors cannot be corrected. Michigan law compounds this: under MCL 168.871, a precinct whose ballot container does not match the tabulator tape cannot be subjected to a hand recount, and the machine result stands. The destruction of the audit trail, whether deliberate or negligent, transforms counting errors into permanent, uncorrectable results.

2. The 71 Percent Out-of-Balance Rate as a Systemic Indicator

Monica Palmer's sworn finding that more than 70 percent of Detroit's 134 AVCBs did not balance (Section III.D) is not merely a bookkeeping irregularity. Under MCL 168.871, an out-of-

[747] People v. Stephanie Scott, Hillsdale Circuit Court No. 25-49-6230 FH (Judge Sara S. Lisznyai). District Court No. 24-0498-FY. Order dated April 30, 2026: all four felony charges dismissed; MCL 168.509gg(1) imposes no confidentiality requirement; one misdemeanor against Scott remanded to district court. Defense: David A. Kallman, Kallman Legal Group / Great Lakes Legal Center. On file with MFEI. See also Bruns, Jacob, "Hillsdale County Judge Dismisses All Charges Against Former Township Clerk Stephanie Scott," The Hillsdalian, May 1, 2026. https://hillsdalian.substack.com/p/hillsdale-county-judge-dismisses

balance precinct cannot be recounted by hand. The practical effect of the out-of-balance rate, compounded by defective ballot containers, deleted EPB data, and purged QVF voting histories, is that the 2020 Detroit absent voter counting process is, at this point, effectively unauditable through ordinary legal processes. Only a federal subpoena for preserved physical ballot materials, EPB backup records, and QVF FOIA datasets can reconstruct the audit trail the documented failures destroyed.

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Part A — The Numbers

Category	Count	% of 134 AVCBs	Legal Consequence
Total Detroit AVCBs (Absent Voter Counting Boards)	**134**	100%	Baseline
AVCBs that did not balance (Palmer, sworn affidavit, Nov. 18, 2020)	**95+**	**>70%**	MCL 168.871 bar triggered → no hand recount
Ballot containers personally examined by Palmer and Hartmann (Jan. 2020)	50	37% of total	—
Containers rejected with "Not Approved" stickers (Jan. 2020)	50	100% examined	MCL 168.24k misdemeanor violation (deployed on Election Day)
Containers still unusable on Election Day (Palmer testimony)	**30+**	>60% examined	Defective seal → MCL 168.871 bar triggered
AVCBs eligible for hand recount under MCL 168.871 (at most)	**<40**	**<30%**	Only boards in balance with intact containers

Figure 106: ***The One-Way Door: MCL 168.871 and the Detroit AVCB Out-of-Balance Rate***

Part B — The Legal Mechanism: How Out-of-Balance Precincts Become Permanent Results

AVCB does not balance OR ballot container seal broken / count mismatch

▼

MCL 168.871 bar triggered: precinct not eligible for hand recount

▼

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Original machine-tabulated result stands — permanently

▼

No statutory remedy available: counting errors become permanent, uncorrectable results

MCL 168.871 (2012 PA 272 — version governing Nov. 2020 and Nov. 2022)

A board of county canvassers shall not conduct a hand recount of the ballots in a precinct if the seal on the ballot container is broken or the ballot container has been opened since the election, or the number of ballots in the ballot container does not equal the number of ballots shown on the statement of votes for that precinct. In that event, the returns as originally made shall stand.

Source: Palmer Affidavit, Nov. 18, 2020 (Appendix M herein); Palmer Testimony, Michigan Senate Oversight Committee, Dec. 1, 2020; MCL 168.871 (2012 PA 272); MCL 168.24k (2020 PA 177); O'Halloran TCF Timeline.

3. The Ann Arbor Record Falsification as an Admission

The MFEI/PIME finding that official voter records were altered to show a November 8 registration date for voters who were actually registered in the early hours of November 9 is significant beyond the Ann Arbor context. The available records indicate that someone with access to the official state voter record system (the QVF) may have altered time-stamped registration records to conceal post-deadline voting. If confirmed, this would not be a chain of custody failure in the sense of negligent procedures, but affirmative alteration of official records. The available documentary record supports characterization as potential falsification of official election records, a criminal offense under Michigan law, and warrants independent investigation.

4. Federal HAVA Fund Accountability

Michigan received $57,574,047 in HAVA formula funds between 2015 and 2022, comprising EAC HAVA Requirements Payments ($26,839,244), EAC HAVA Election Security Grants ($22,020,934), and EAC HAVA Election Reform Payments ($8,713,869), as documented in Michigan Single Audit Reports prepared by the Michigan Office of Auditor General and compiled in the MFEI EAC OIG Request for Assessment of Audit Risk (Table, p. 38 [C14-07]). HAVA funds are conditioned on compliance with HAVA's substantive requirements, including uniform and nondiscriminatory administration. The documented chain of custody failures, no transport manifests, defective ballot containers, missing signed applications, post-deadline ballot counting, deleted audit records, raise substantial questions about whether Michigan administered elections in compliance with the statutory requirements attached to those HAVA funds. The

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EAC OIG, as an addressee of this Count, is respectfully requested to assess whether Michigan's HAVA fund expenditures are consistent with documented administrative practices.[748]

V. LEGAL ARGUMENT

A. Federal Law

- U.S. Const. Art. I, § 4, cl. 1 (Elections Clause) — The counting of ballots without signed applications, without chain of custody documentation, and after the statutory deadline, in the context of a federal election, raises Elections Clause concerns under *Moore v. Harper*, 600 U.S. 1 (2023) where the procedures governing the federal election counting process were not authorized by the Michigan Legislature.[749]
- 52 U.S.C. § 20701 (22-Month Federal Records Retention) — Congress enacted 52 U.S.C. § 20701 precisely to ensure that federal investigators can access election records when questions arise about the conduct of federal elections. The Bureau of Elections' directive to delete electronic poll book data within seven days of each election is facially inconsistent with that 22-month retention mandate. If EPB records were destroyed within the federal retention period, DOJ investigators examining the 2020 Detroit election would have been denied access to records that Congress specifically required election officials to preserve for potential federal review. Director Brater's admission that he could not recall whether he consulted DOJ on the directive's legality before issuing it confirms that no federal law review was conducted before a directive that may have deprived federal investigators of evidence.
- 52 U.S.C. § 21081(b) (HAVA Uniform and Nondiscriminatory Administration) — The transport of ballots without manifests, processing of ballots without signed applications, counting of post-deadline ballots, and alteration of registration records to conceal post-deadline voting constitute administration that is neither uniform nor nondiscriminatory across Michigan's election jurisdictions.

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[748] Michigan Single Audit Reports, Michigan Office of Auditor General, 2015–2022, compiled in MFEI EAC OIG Request for Assessment of Audit Risk, Table at p. 38 [C14-07]. Grand total: $57,574,047 (EAC HAVA Requirements Payments: $26,839,244; EAC HAVA Election Security Grants: $22,020,934; EAC HAVA Election Reform Payments: $8,713,869). Source data: Michigan Office of Auditor General completed projects, https://audgen.michigan.gov/complete-projects/

[749] *Moore v. Harper*, 600 U.S. 1 (2023). The Court held that the Elections Clause of Article I vests authority to regulate federal elections in state legislatures acting within the bounds of the federal Constitution, and that state courts may review legislative action for compliance with state constitutional provisions — but that authority does not extend to the executive branch acting unilaterally. https://www.supremecourt.gov/opinions/22pdf/21-1271_3f14.pdf

- 52 U.S.C. § 20507(i)(1) (NVRA Public Inspection) — The deletion of QVF voting history records in apparent violation of the five-year retention requirement of MCL 168.509q, and the BOE's failure to acknowledge the Avallone-documented error, conflict with the NVRA's requirement that election records be available for public inspection.

B. Michigan Law

- MCL 168.716 (Ballot Wrapping and Sealing) — The documented transport of absent voter ballots in open USPS trays without seals, certificates, or transport logs raises substantial questions regarding compliance with MCL 168.716's mandatory packaging and certification requirements.

- MCL 168.759 (Signed Application Required) — The Speckin forensic finding that 12 to 20 percent of examined ballot envelopes lacked a corresponding signed application raises substantial questions regarding compliance with MCL 168.759's prohibition on delivering absent voter ballots without a signed application.

- MCL 168.731(3) and MCL 168.761(3) (Election Day Deadline, 2020 PA 177 version) — The counting of 600-plus post-deadline absentee ballots in Ann Arbor's 2022 election, including 120 registered after midnight on November 9, raises substantial questions regarding compliance with both statutes' 8:00 p.m. election day deadline for absent voter ballot receipt and processing.

- MCL 168.765(2), (4) (Tabulation Timing; Late-Received Ballots) — The backdating of late-arriving ballots and the processing of post-deadline deliveries circumvented the requirements of MCL 168.765(4), as amended by 2020 PA 177, that a ballot received after the close of the polls be plainly marked with the time and date of receipt and filed in the clerk's office, and MCL 168.765(2)'s prohibition on tabulating any absent voter ballot before the opening of the polls.

- MCL 168.871 (Recount Bar for Out-of-Balance Precincts) — The combination of defective ballot containers and the 71 percent out-of-balance rate triggered the MCL 168.871 bar on hand recounts, foreclosing the ordinary statutory remedy and rendering the documented counting errors permanent.

- MCL 168.509q (QVF Five-Year Voting History Retention) — The Avallone analysis establishes that approximately 491,873 voting history records were deleted from the QVF between October 2019 and January 2021, constituting apparent violation of MCL 168.509q(f)'s mandatory five-year voting history retention requirement.

- Rule R 168.48 (EPB Deletion Directive), promulgated under Rule Set 2025-14 ST, LARA Trans. No. 1587, filed and effective October 23, 2025. Codifies the BOE seven-day EPB deletion directive; at issue in *People v. Stephanie Scott* (April 30, 2026

dismissal). Final rule text: https://ars.apps.lara.state.mi.us/Transaction/DownloadFile?FileName=FinalRule%28s%29.pdf&FileType=FinalRule&TransactionID=1587&EffectiveDate=10%2F23%2F2025&ReturnHTML=True

- MCL 168.931(1)(a) (Electioneering Prohibition) — The distribution of food, drinks, and t-shirts to voters dropping off absentee ballots at DOE headquarters on West Grand Boulevard on November 3, 2020 (documented in the sworn affidavit of Rhonda Weber, submitted to the Michigan Senate and House Oversight Committees, December 1, 2020 [C14-08]) and to voters waiting in line at Ann Arbor satellite offices (documented by MFEI/PIME investigators in 2022) constitutes apparent violation of MCL 168.931(1)(a)'s prohibition on giving valuable consideration as an inducement to influence voting.
- Michigan Constitution, Art. II, § 4(2) (Transparent Elections) — The deletion of EPB data, the deletion of QVF voting histories, the available evidence of registration record alterations, and the withholding of TCF training materials documented in Count 2 together raise questions regarding compliance with the constitutional guarantee of transparent elections.

V-A. Why This Matters to Federal Investigators

Federal investigations into election administration depend critically on the preservation of election records. Congress enacted 52 U.S.C. § 20701 specifically to ensure that when questions arise about the conduct of federal elections, investigators can access the underlying records necessary to answer those questions. That statutory framework rests on recognition that election records are perishable: once they are destroyed, the questions they would have answered cannot be fully resolved through subsequent investigation.

The issues presented in this Count are therefore not merely questions about past state election administration. They concern the availability of evidence relevant to federal oversight. If EPB data was deleted within the federal 22-month retention window, DOJ investigators have been denied access to the primary contemporaneous record of voter check-ins. If QVF voting histories were unlawfully purged, auditors cannot identify implausible voting sequences. If official voter registration records were altered, the documentary basis for reconstructing the Ann Arbor events has been compromised. In each case, investigators cannot independently verify ballot eligibility or administrative compliance regardless of how thoroughly they pursue the question.

This Count therefore presents questions that are not resolvable by ordinary state-court processes or administrative review and that are squarely within the investigative capacity of the Department of Justice. Federal subpoena authority can reach surviving physical ballot materials, EPB backup records, QVF system access logs, and TCF Center surveillance footage that no other

body can compel. MFEI submits that the questions raised here about record destruction, ballot eligibility, and the integrity of official election records in federal elections are precisely the kinds of questions that Congress intended 52 U.S.C. § 20701 and HAVA's uniform administration requirements to address.

VI. FINDINGS

§V. A. Established Facts

Established Fact 14-A-1 *Costantino v. Detroit* (No. 20-14780-AW), filed November 8, 2020, contains sworn allegations of six categories of chain of custody and ballot eligibility violations at the TCF Center: processing ballots from voters not in QVF; instructions to disregard signature verification and to backdate ballots; late unsealed ballot batches arriving without envelopes; instructions to falsely report late ballots as on-time; systematic use of the 1/1/1900 birthdate placeholder; and daily voter coaching by DOE workers.

Source: Costantino v. Detroit [C14-01]; GLJC case page [C14-01]

Established Fact 14-A-2. Jessy Jacob's sworn affidavit attests that she was instructed by supervisors to backdate the receipt dates of thousands of late-arriving absentee ballots to November 2, and that Chris Thomas acknowledged the backdating was occurring and permitted it. She passed two sticky notes to GOP challengers documenting this: "Entered receive date as 11/2/20 on 11/4/20" and "Received into QVF on 11/4/20 was asked to enter the ballot received date as 11/2/20."

Source: Costantino v. Detroit, Jacob affidavit [C14-01]; O'Halloran TCF Timeline [C14-02]

Established Fact 14-A-3. Monica Palmer's sworn affidavit establishes that more than 70% of Detroit's 134 AVCBs did not balance, that defective ballot containers she and Hartmann had personally rejected in January 2020 were used on Election Day, and that a revised Statement of Votes was delivered in a black trunk the day before the certification meeting, a fact Baxter denied under oath at the November 23, 2020 Board of State Canvassers meeting.

Source: Palmer Affidavit, Nov. 18, 2020 [C14-03]; Board of State Canvassers record, Nov. 23, 2020 [C14-01]

Established Fact 14-A-4. Multiple sworn affidavits from GOP challengers, ballot trackers, and O'Halloran himself document that absent voter ballots were transported between drop boxes, satellite centers, the DOE, and the TCF Center without transfer logs, transporter

signatures, departure/arrival times, or ballot counts, in open USPS trays without seals, by couriers without background checks, in violation of MCL 168.716.

Source: O'Halloran TCF Timeline [C14-02]; corroborated by unsworn statements of DOE Director Azzouz to O'Halloran

Established Fact 14-A-5. At 3:25 a.m. on November 4, 2020, more than seven hours after the 8:00 p.m. election day deadline, a white van delivered an estimated 50-60 boxes of what multiple GOP challengers identified as ballots to the TCF Center sally port with no chain of custody documentation. Chris Thomas denied in deposition that any post-deadline ballots were received or processed at the TCF Center.

Source: O'Halloran TCF Timeline [C14-02]; Thomas deposition in SCOTUS appendix [C14-01]

Established Fact 14-A-6. Speckin Forensics LLC physically examined ballot envelopes and applications for two of 134 AVCBs and found 20% of envelopes in one board and 12% in another had no corresponding signed application required by MCL 168.759. Speckin extrapolated from those two boards an estimated range of 13,600 to 34,000 potentially affected counted ballots across all 134 boards, per Speckin's published methodology.

Source: Speckin Forensics LLC analysis [C14-04]

Established Fact 14-A-7. Louis Avallone's November 1, 2021, letter to Secretary Benson and Director Brater, supported by FOIA QVF extract analysis, establishes that a QVF programming error introduced between October 2019 and February 2020 deleted voting history records for voters whose registration dates changed. Avallone's conservative estimate found approximately 491,873 voting history records missing from the January 1, 2021 QVF extract, in violation of MCL 168.509q's five-year retention requirement.

Source: Avallone letter to Benson/Brater, Nov. 1, 2021 [C14-05]

Established Fact 14-A-8. MFEI/PIME FOIA analysis of voter history records establishes that more than 600 voters in Ann Arbor's November 2022 election registered and cast absentee ballots after the 8:00 p.m. election day deadline, including 120 who registered after midnight on November 9. FOIA-obtained Change History records reflect a November 8 registration date for voters whose registration timestamps indicate November 9, 2022, a

discrepancy the MFEI/PIME report characterizes as indicating potential alteration of official records.

Source: Ann Arbor 2022 Report, MFEI/PIME, July 2023 [C14-06]

Established Fact 14-A-9. Secretary of State Benson's 6:19 p.m. Twitter post on November 8, 2022, correctly told voters that eligible electors could register and vote an absent voter ballot at a clerk satellite office on election day, consistent with Mich. Const. Art. II, §4(1)(f)(2) and MCL 168.759(6). The guidance was legally incorrect only in stating that voters "in line by 8 p.m." at a clerk satellite office could still register and vote after 8:00 p.m.; that in-line protection did not exist until MCL 168.761(7), added by 2023 PA 82, effective February 13, 2024. Election administrators who accepted registrations after 8:00 p.m. at clerk satellite offices pursuant to that guidance acted contrary to MCL 168.731(3) and MCL 168.761(3) as then in force.

Source: Ann Arbor 2022 Report, MFEI/PIME, July 2023 [C14-06]

§V. B. MFEI Conclusions

MFEI Conclusion 14-B-1. — Logical Inference The combination of: (a) no transport manifests; (b) defective ballot containers; (c) the Speckin finding of 12-20% missing applications; (d) the Jessy Jacob backdating testimony corroborated by two sticky notes; (e) the 71% out-of-balance rate; and (f) the deletion of EPB audit data, constitutes a chain of mutually corroborating evidence that the ballot eligibility failures at the 2020 TCF Center were systemic, not incidental. The forensic and documentary record therefore supports the inference that the certified results cannot be verified as accurate, and the destruction of the audit records made that condition permanent.

Source: All C14 sources

MFEI Conclusion 14-B-2 — Logical Inference The alteration of Ann Arbor voter registration records to conceal post-deadline registration timestamps was not a clerical error: it required affirmative access to the QVF system and deliberate entry of an incorrect registration date. The available records support the inference that this constitutes intentional falsification of official election records, in violation of Michigan law, based on the documented discrepancy between the Change History timestamps and the voter history file entries.

Source: Ann Arbor 2022 Report, MFEI/PIME, July 2023 [C14-06]

§VI. SUMMARY AND CONCLUSION

Three interlocking failures, each independently sufficient to implicate federal jurisdiction, establish a documented pattern of ballot eligibility violations extending from Election Day 2020 through the post-election destruction of the records that would have made accountability possible.

The first failure is physical: the chain of custody documentation required by MCL 168.716, 168.759, 168.761d, and 168.765 was systematically absent from every stage of absent voter ballot handling in the 2020 Detroit election. Ballots moved without manifests, in unsealed containers, by couriers with no background checks. The Speckin Forensics LLC physical examination confirmed the downstream consequence: between 12 and 20 percent of examined ballot envelopes had no corresponding signed application, the statutory prerequisite for lawful ballot delivery. With more than 70 percent of Detroit's 134 AVCBs out of balance, and defective ballot containers that the Board of Canvassers itself had rejected deployed on Election Day, the conditions for an unauditable count were in place before the first ballot was tabulated.

The second failure is administrative: in Ann Arbor's November 2022 election, more than 600 voters were registered and cast absentee ballots after the 8:00 p.m. statutory deadline, with 120 registered after midnight on November 9. The Secretary of State's erroneous 6:19 p.m. Twitter guidance directly induced this violation. The available evidence supports the inference that someone with QVF system access altered official voter records to replace November 9 registration timestamps with November 8 dates, consistent with intentional falsification of official election records. If borne out, this would not be a procedural irregularity but the kind of deliberate official conduct that the Elections Clause and HAVA's uniform administration requirement are designed to address.

The third failure is structural: the Bureau of Elections' directive to delete electronic poll book data within seven days destroyed the primary post-election audit tool for the 2020 election before any independent investigation could be mounted. The concurrent QVF programming error, which deleted approximately 491,873 voting history records in violation of MCL 168.509q, compounded the records destruction. Together, these failures rendered the chain of custody and ballot eligibility violations documented in this Count effectively unverifiable through ordinary legal processes: the MCL 168.871 out-of-balance bar foreclosed hand recounts; the EPB deletion foreclosed voter check-in verification; and the QVF deletions foreclosed voting pattern analysis. The result is a 2020 absent voter counting process unreviewable by conventional means.

The DOJ holds the principal remaining mechanism for accountability. Federal subpoena power can reach the surviving physical ballot materials, EPB backup records, QVF FOIA datasets, and TCF Center video that Michigan's ordinary legal processes cannot compel. The EPB deletion directive's conflict with 52 U.S.C. § 20701's 22-month federal retention mandate is facially apparent and requires a federal response. The Speckin Forensics LLC finding of systematic missing ballot applications, the Jessy Jacob backdating testimony, and the Ann Arbor record falsification collectively present a record of ballot eligibility failures in federal elections that falls within the core jurisdiction of the DOJ Civil Rights Division's Voting Section and the DOJ Election Crimes Branch. MFEI respectfully submits Count 14 and its supporting evidentiary record for federal investigation and appropriate legal action.

§VII. A. POTENTIAL FEDERAL INTERESTS

The following federal interests are presented for consideration by the DOJ Civil Rights Division / Voting Section, the DOJ Election Crimes Branch, and the EAC OIG. Each is framed as a specific legal question identifying the federal interest implicated.

- Whether the Bureau of Elections' directive to delete electronic poll book data within seven days constitutes a violation of 52 U.S.C. § 20701's 22-month federal records retention requirement, and whether DOJ should compel production of any surviving EPB backup records for the 2020 Detroit election and commission an independent forensic examination of all 134 AVCB ballot envelopes and signed applications to determine the full scope of the missing-application violation documented by Speckin Forensics LLC.
- Whether the November 4, 2020 post-midnight delivery of ballot boxes to the TCF Center sally port, more than seven hours after the 8:00 p.m. election day deadline, constitutes unlawful post-deadline ballot processing in violation of MCL 168.731(3) and MCL 168.761(3), and whether DOJ should subpoena the TCF Center sally port video, Department of Elections loading dock video, and all transfer records for ballot deliveries from the DOE to the TCF between 8:00 p.m. on November 3 and 6:00 a.m. on November 4, 2020.
- Whether the Bureau of Elections' seven-day EPB deletion directive, issued without DOJ review of its federal law compliance as Director Brater's August 2025 testimony established, violates 52 U.S.C. § 20701, and whether the subsequent felony prosecution of Clerk Stephanie Scott, which ended in dismissal of all felony counts on April 30, 2026, under that legally unreviewed directive implicates federal due process concerns.
- Whether the QVF programming error documented by Avallone, which deleted approximately 491,873 voting history records between October 2019 and January 2021 in apparent violation of MCL 168.509q's five-year retention requirement, was concealed from the Legislature and public in violation of MCL 168.509o(1), and whether DOJ should compel independent verification through FOIA QVF extract analysis.

- Whether the alteration of voter registration records in Ann Arbor's 2022 election, to show a November 8 registration date for voters whose QVF Change History records reflect registration timestamps of November 9, 2022, constitutes intentional falsification of official election records under Michigan law and whether federal election record integrity statutes are implicated, including identification of the individual or individuals who altered the records through subpoena of QVF system access logs.
- Whether Michigan's documented chain of custody failures, including the absence of ballot transport manifests, the use of defective ballot containers, the counting of post-deadline ballots, and the deletion of EPB audit data, are consistent with the terms of Michigan's HAVA formula fund grants, and whether those failures implicate Michigan's eligibility for continued HAVA funding under 52 U.S.C. § 21081(b)'s uniform and nondiscriminatory administration requirement.
- Whether the legal framework underlying *People v. Stephanie Scott*, which ended with dismissal of all four felony counts on April 30, 2026, including the court's holding that MCL 168.509gg(1) imposes no confidentiality requirement, establishes that the BOE's EPB deletion directive lacks statutory authority, and whether that absence of authority constitutes a violation of 52 U.S.C. § 20701 that DOJ should remedy through formal guidance to Michigan election officials.

§VII. B. Investigative Questions Presented

The evidentiary record developed in this Count leaves a set of specific factual questions that cannot be resolved from the materials available to MFEI. These questions are presented for the federal investigators who hold the authority and tools to answer them. Unlike the "whether" questions in Section VII, which frame the legal issues, these questions identify the specific records and witnesses that a federal investigation could access.

- **Transport Documentation.** Were ballot transport manifests created for any of the deliveries documented in this Count? If so, who holds them and why were they not produced in response to FOIA requests or litigation discovery?
- **Surveillance Footage.** What TCF Center and DOE surveillance footage from October 5 through November 5, 2020, still exists? Who holds custody of that footage, and was any footage destroyed or overwritten?
- **EPB Deletion Authorization.** Who within the Bureau of Elections authorized the seven-day EPB deletion directive, when was that decision made, and what legal review (if any) preceded it? Director Brater's August 2025 testimony that he could not recall DOJ consultation requires follow-up under oath.

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- **Ballot Applications.** Have the ballot applications missing from the two Speckin-examined AVCBs ever been located? Are the remaining 132 AVCB ballot envelopes and applications still physically available for examination?
- **Vote Mobile Chain of Custody.** What chain-of-custody documentation exists for the "Vote Mobile" vehicle that arrived at the TCF Center between 3:23 and 3:25 a.m. on November 4, 2020? What route did it travel from the DOE? When did it depart the DOE, and who authorized the transfer?
- **Ann Arbor QVF Record Alteration.** Who had QVF system access on November 8–9, 2022, and who specifically altered the registration timestamps documented in the Ann Arbor FOIA Change History records? QVF system access logs would identify the account used.
- **QVF Voting History Restoration.** Were the 491,873 voting history records deleted by the QVF programming error ever fully restored, and were affected voters notified? Has the Bureau of Elections reported the error to the Legislature or Secretary of State as Avallone requested in November 2021?
- **Batch Identification Records.** Does the DOE hold any records identifying the ballots in the 3:25 a.m. delivery by precinct or batch number that would allow cross-referencing against the 134 AVCB count sheets?
- **Wayne County CVR and Ballot-Image Production Completeness.** Did Wayne County and the Bureau of Elections produce complete Cast Vote Record data and complete ballot-image files for the November 3, 2020, general election in response to public-records requests, or only partial productions? A dataset reviewed by MFEI shows Cast Vote Record entries populated for only 27 of 135 Detroit absent voter counting boards and 41 of 504 election-day precincts, and identifies nine counting boards where the ballot-image PDF files produced account for approximately 6,325 fewer ballots than the corresponding Cast Vote Record totals for those boards. MFEI has not verified the identity of the requesting party, the date, or the scope of the public-records request that produced this dataset, and does not assert that the shortfall reflects anything beyond an incomplete or sampled production. DOJ is positioned to obtain the complete, original CVR and ballot-image files directly from Wayne County and determine whether any records production to date, to MFEI or any other requester, was complete.
- **Detroit Ballot-Design Write-In Pattern.** Third-party analysis of a subset of Detroit's 2020 ballot images identified 11,336 ballots (approximately 4.47% of 254,117 ballots reviewed) on which a write-in oval was marked without an accompanying candidate name, and found this rate roughly two and one-half times higher among election-day precinct ballots (7.56% of 82,607 ballots) than absentee ballots (2.98% of 171,510 ballots), despite both ballot streams using an identical ballot design in which write-in ovals for multi-seat judicial races appear without a "write-in" label. MFEI has not

verified the analyst's identity, methodology, or a comparison baseline from a similarly designed ballot in another Michigan jurisdiction or election cycle, and does not assert that the pattern reflects fraud rather than voter confusion arising from the unlabeled ballot design or a data-processing artifact. DOJ is positioned to obtain the original, unprocessed ballot images and tabulator data directly from Wayne County and Dominion Voting Systems to assess the reliability of this analysis and determine whether the observed disparity has an innocent explanation.

MFEI does not assert that investigation would necessarily establish unlawful conduct. It asserts that the available record raises questions that require the investigative tools (subpoena authority, forensic access, and sworn testimony) that only federal investigators possess.

§VII. C. Statewide Litigation: McQueer v. Benson (Electronic Poll Book Retention)

On August 12, 2026, a Michigan township clerk filed suit in the Court of Claims raising, independently of MFEI, substantially the same electronic poll book retention conflict addressed in this Count. Because the litigation is both statewide in reach and independently filed, MFEI treats it as a distinct evidentiary strand rather than folding it into the Investigative Questions above.

Established Fact 14-C-1.

On August 12, 2026, Michelle McQueer, Clerk of Bridgewater Township, Washtenaw County, filed a verified complaint in the Michigan Court of Claims, McQueer v Benson, Case No. 2026-000172-MZ (Hon. Michael J. Riordan), against Secretary of State Jocelyn Benson, Director of Elections Jonathan Brater, and the Michigan Department of State. The complaint alleges that Mich Admin Code R 168.48, part of Rule Set 2025-014 ST and effective October 23, 2025, commands destruction of electronic poll book software and associated files within seven days of certification, in conflict with the twenty-two-month federal retention requirement of 52 U.S.C. § 20701 and with Michigan's own retention and disposal statutes, MCL 168.811, MCL 750.491, and MCL 399.811, and that R 168.48 exceeds the Secretary's rulemaking authority under MCL 168.31.

The complaint further alleges that the rulemaking notice preceding R 168.48's adoption disclosed only a secure live connection to the Qualified Voter File and did not disclose the deletion command; that no member of the public attended the July 15, 2025 public hearing on the rule; and that both written comments received addressed connectivity rather than deletion. The complaint alleges that the clerk wrote to Secretary Benson and Director Brater on July 6, 2026 requesting a declaratory ruling and a stay, and that as of filing she had received no response. By the Secretary of State's own published account, Michigan's elections are administered by 281 city clerks and 1,240 township clerks; R 168.48 applies to all of them. As of

this draft, the case is newly filed and no ruling has issued; nothing in this paragraph should be read as a judicial finding.

The clerk's preemption and statutory-conflict theories, presented as Counts I through III of her complaint, are her legal arguments, not judicial findings, and MFEI takes no position on their ultimate merit. MFEI notes, without adopting the argument as its own, that if the Court of Claims accepts them, the ruling would corroborate from an independent source the concerns already raised in Established Fact 14-A-1 and the Investigative Questions above regarding the seven-day EPB deletion directive.

DOJ Investigative Request 14-C-2. Obtain the complete rulemaking record for Rule Set 2025-014 ST (R 168.41 through R 168.48), including the public hearing notice, regulatory impact statement, and all written comments, to assess independently whether the notice satisfied MCL 24.241(2)(c)'s disclosure requirements. Determine whether electronic poll book records were destroyed following any election conducted under R 168.48 before the August 4, 2026 primary, as the complaint alleges at paragraph 44, and whether the Department directed comparable destruction through its election manuals in prior election cycles, as alleged at paragraph 57. Monitor the disposition of McQueer v Benson (Court of Claims Case No. 2026-000172-MZ) and update this Count's evidentiary tier classification of these facts if and when the court rules.

VIII. AUTHORITIES, SOURCES AND WORKS CITED

A. Cases

Case	Holding / Significance	Relevance to Count 14
Costantino v. Detroit, No. 20-14780-AW (Wayne Co. Cir. Ct., Nov. 13, 2020, Judge Kenny)	Denied injunctive relief; complaint and Thomas affidavit constitute the primary judicial record of chain of custody and ballot eligibility violations at the 2020 TCF Center	ANCHOR DOCUMENT — Six-count complaint alleging systematic ballot eligibility failures; Chris Thomas affidavit; Jessy Jacob backdating sequence
Genetski v. Benson (Mich. Ct. Claims, March 9, 2021)	SOS guidance functioning as de facto rules must be promulgated through the APA process; signature verification guidance ruled invalid	Establishes that BOE EPB deletion directive issued as guidance, not promulgated rule, is invalid under Michigan APA
People v. Stephanie Scott (Hillsdale Circuit Court No. 25-49-6230 FH, Judge Lisznyai; resolved April 30, 2026)	Felony prosecution of former clerk for EPB-related conduct under rules that were promulgated four years after the conduct; ex post facto argument raised	Establishes that BOE EPB deletion directive governs clerk conduct with criminal consequences, yet its legal authority is disputed

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Moore v. Harper, 600 U.S. 1 (2023)	Elections Clause vests federal election regulation in state Legislature, not executive branch	Constitutional framework for chain of custody failures conducted outside statutory authorization
Texas v. Pennsylvania Response Appendix, No. 22O155 (U.S. Supreme Court, Dec. 10, 2020)	Preserves the primary evidentiary record for the 2020 TCF Center counting: *Costantino* complaint and exhibits, Christopher Thomas affidavit and deposition, Monica Palmer affidavit, Board of State Canvassers certification record Nov. 23, 2020 (pp. 220–240)	Repository for Thomas deposition (Sections III-C, IV-C), Palmer affidavit (III-D), BSC certification record (III-D), challenger affidavits (IV-A through IV-C). URL: https://www.supremecourt.gov/DocketPDF/22/22O155/163387/20201210145418055_22O155%20MI%20APP.pdf
O'Halloran v. Benson, Case No. 22-000162-MZ (Mich. Ct. App. Oct. 19, 2023)	Philip O'Halloran's litigation against BOE relating to EPB and election record access; establishes O'Halloran's standing as a TCF Center poll challenger and his documented efforts to obtain records governing the chain of custody events he witnessed	Confirms O'Halloran's role and access disputes; supports provenance of C14-02 (TCF Timeline). URL: https://www.courts.michigan.gov/4ae0a3/siteassets/case-documents/uploads/opinions/final/coa/20231019_c363503_103_363503.opn.pdf
McQueer v. Benson, Case No. 2026-000172-MZ (Mich. Ct. Claims, filed Aug. 12, 2026)	Verified complaint alleges R 168.48 (EPB seven-day deletion directive) is preempted by 52 U.S.C. § 20701's twenty-two-month federal retention requirement and exceeds the Secretary's rulemaking authority; newly filed, no ruling issued as of this draft	Independent, non-MFEI corroboration of the same EPB-retention conflict documented in this Count (see § VII-B); a ruling would be the first judicial test of the seven-day deletion directive's validity under 52 U.S.C. § 20701

B. Federal and State Statutory Authorities

52 U.S.C. § 20701 (Federal Records Retention, 22-month requirement) https://uscode.house.gov/view.xhtml?hl=false&edition=prelim&req=granuleid%3AUSC-prelim-title52-

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section20701&num=0&saved=%7CZ3JhbnVsZWlkOlVTQy1wcmVsaW0tdGl0bGU1Mi1zZWN0aW9uMjA3MDE%3D%7C%7C%7C0%7Cfalse%7Cprelim

52 U.S.C. § 20702 (Prohibition on Falsification and Destruction of Election Records) https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title52-section20702&num=0&edition=prelim

52 U.S.C. § 20507(i)(1) (NVRA Public Inspection of Election Records) https://uscode.house.gov/view.xhtml?hl=false&edition=prelim&path=%2Fprelim%40title52%2Fsubtitle2%2Fchapter205&req=granuleid%3AUSC-prelim-title52-section20507&num=0&saved=L3ByZWxpbUB0aXRsZTUyL3N1YnRpdGxlMi9jaGFwdGVyMjA1|Z3JhbnVsZWlkOlVTQy1wcmVsaW0tdGl0bGU1Mi1jaGFwdGVyMjA1|||0|false|prelim

52 U.S.C. § 21081(b) (HAVA Uniform and Nondiscriminatory Administration) https://uscode.house.gov/view.xhtml?req=(title:52%20section:21081%20edition:prelim)

U.S. Const. Amend. XIV, § 1 (Equal Protection and Due Process)

U.S. Const. Art. I, § 4, cl. 1 (Elections Clause) https://constitution.congress.gov/browse/article-1/section-4/

U.S. Department of Justice, Civil Rights Division. Letter to Secretary of State Jocelyn Benson, July 7, 2026 ("Dhillon letter"), identifying the record-preservation mandate of 52 U.S.C. § 20701 among the Department's current enforcement priorities. Appendix L.

2020 PA 177 (SB 757) — added MCL 168.761d and 168.24k; amended MCL 168.759, 168.761, 168.764a, 168.765, 168.765a, 168.765b (Imd. Eff. Oct. 6, 2020) https://legislature.mi.gov/documents/2019-2020/publicact/htm/2020-PA-0177.htm

2020 PA 177 (SB 757), Imd. Eff. Oct. 6, 2020 — Added MCL 168.761d (drop box requirements) and MCL 168.24k (ballot container examination); amended MCL 168.759, 168.761, 168.764a, 168.765, 168.765a, 168.765b. https://legislature.mi.gov/documents/2019-2020/publicact/htm/2020-PA-0177.htm

2022 PA 195, Eff. Oct. 7, 2022 — Amended MCL 168.761d; version governing November 2022 Ann Arbor election.

2023 PA 81, Eff. Feb. 13, 2024 — Added MCL 168.523b (election day vote centers, including in-line-at-clerk's-office allowance at subsection 523b(6)); not in effect at time of November 2022 election.

2023 PA 82, Eff. Feb. 13, 2024 — Amended MCL 168.761, renumbering same-day registration subsection from (3) to (7) and adding in-line-at-8:00-p.m. allowance not present at time of November 2022 election.

2023 PA 82 — amended MCL 168.761, adding the in-line-at-8:00-p.m. allowance and renumbering subsection (3) content to (7) (Eff. Feb. 13, 2024)

2024 PA 74, Eff. Apr. 2, 2025 — Amended MCL 168.871 (recount bar for out-of-balance precincts); 2012 PA 272 version governed both November 2020 and November 2022 elections.

McBroom, Edward, and Theis, Lana. Report on the November 2020 Election in Michigan. Michigan Senate Oversight Committee, June 2021. Secondary; the Committee's review of 2020 Detroit election administration and the TCF Center counting process provides legislative context for the chain of custody failures documented in this Count. URL: https://milivcounty.gov/wp-content/uploads/MISenate-Oversight-Committee-Report-NOV2020.pdf.

MCL 168.509o(1) (Secretary of State QVF Maintenance Obligation) http://legislature.mi.gov/doc.aspx?mcl-168-509o

MCL 168.509q (QVF Five-Year Voting History Retention Requirement) http://legislature.mi.gov/doc.aspx?mcl-168-509q

MCL 168.716 (Absent Voter Ballot Wrapping and Sealing Requirements) http://legislature.mi.gov/doc.aspx?mcl-168-716

MCL 168.731(3) (Election Day 8:00 p.m. Absent Voter Deadline) http://legislature.mi.gov/doc.aspx?mcl-168-731

MCL 168.759 (Signed Application Required for Absent Voter Ballot Delivery) http://legislature.mi.gov/doc.aspx?mcl-168-759

MCL 168.761(3) (Same-Day Registration Absent Voter Ballot Deadline) http://legislature.mi.gov/doc.aspx?mcl-168-761

MCL 168.761d (Drop Box Requirements; Authorized Collectors; Collection Documentation) https://legislature.mi.gov/Laws/MCL?objectName=mcl-168-761d

MCL 168.764a (Absent Voter Instructions; Ballot Possession Restrictions)

MCL 168.765 (Tabulation Timing; Late-Received Ballots; Delivery to Counting Boards) http://legislature.mi.gov/doc.aspx?mcl-168-765

MCL 168.871 (Recount Eligibility; Out-of-Balance Precincts), as amended by 2012 PA 272, Imd. Eff. July 3, 2012 (governing version for November 2020 and November 2022 elections); subsequently amended by 2024 PA 74, Eff. Apr. 2, 2025. https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-168-871

MCL 168.931(1)(a) (Electioneering Prohibition)

Michigan Board of State Canvassers, Certification Meeting Record, November 23, 2020 (draft minutes and transcript), preserved in *Texas v. Pennsylvania* Response Appendix,

No. 22O155, pp. 220–240. https://www.supremecourt.gov/DocketPDF/22/22O155/163387/20201210145418055_22O155%20MI%20APP.pdf

Michigan Constitution, Art. II, § 4(2) (Transparent Elections)

Michigan Constitution, Art. III, § 2 (Separation of Powers)

Rule Set 2025-14 ST, "Use of Electronic Pollbook" (R 168.41–R 168.51), Michigan Department of State, LARA Transaction No. 1587, filed and effective October 23, 2025; R 168.48 (Data Retention) codifies the seven-day EPB deletion directive at issue in this Count. https://ars.apps.lara.state.mi.us/Transaction/RFRTransaction?TransactionID=1587

Secretary of State Jocelyn Benson, Twitter post, November 8, 2022, 6:19 p.m. (SOS Benson publishes incorrect guidance, stating that in-line applicants at clerk satellite offices may register and vote if in line at 8 pm on election night.



"Whether you're at your precinct in line to vote or at your local clerk's office in line to register and vote, as long as you are in line by 8p you can still register and vote." Secretary of State Jocelyn Benson's tweet is misleading and contrary to Michigan law. Further down in the fine print, her tweet contradicts itself, stating, "at your polling place" and "you have a right to cast your ballot."

Figure 107: Source: Ann Arbor Compromises Election Integrity during 2022 Election, Michigan Fair Elections Institute, July 2023, p. 7

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Michigan Senate Oversight Committee and Michigan House Oversight Committee. Written Testimony Received, December 1, 2020. Two-volume compilation. Includes affidavits of Marian Sheridan (pp. 1–5), Rhonda Weber (pp. 6–8), Glen Sitek (pp. 23–24), and others; together with challenger accounts submitted to the Committee following the November 19, 2020 and December 1, 2020, hearings. https://committeemintestimony.senate.michigan.gov/umbraco/surface/DownLoadFile/Written%20testimony%20received%20in%20Overisght%20committee%2012.1.20?SessionId=2019&Vault=2&FolderType=1&CommitteeId=62381998&MeetingId=278239049&DocumentId=1210718728&name=Written%20testimony%20received%20in%20Overisght%20committee%2012.1.20.pdf.

Palmer, Monica S. Testimony to Michigan Senate Oversight Committee, December 1, 2020. See also sworn affidavit of November 18, 2020 for the source of the 70% out-of-balance finding cited in the Issues Summary pull quote. https://imd0mxanj2.execute-api.us-west-2.amazonaws.com/ssr/watch/63d7fa50d40e810008cf79a9

Posthumus Lyons, Lisa, Kent County Clerk/Register of Deeds. Letter to Chairmen McBroom and Hall re: Amendment to Oversight Committee Testimony. November 20, 2020. https://imd0mxanj2.execute-api.us-west-2.amazonaws.com/ssr/watch/63d7fa50d40e810008cf79a9

C. MFEI / PIME Publications

Avallone, Louis. Letter to Secretary Jocelyn Benson and Director Jonathan Brater re: Unlawful Deletion of QVF Voting Records. November 1, 2021. Cc: Sen. Ruth Johnson; Sen. Jim Runstead; Rep. Matt Maddock; Holly Brandt, Milford Township Clerk; Patrice Johnson, Chair, Pure Integrity for Michigan Elections; Joanne Bakale, Election Integrity Force. 6 pages, plus exhibits. MFEI Library: https://6c736125-995a-47e4-8fc2-91eea0bc377a.usrfiles.com/ugd/6c7361_b95b96ab9777464788f6177b18779e82.pdf

Brater, Jonathan, Director of Elections, Michigan Bureau of Elections. Memorandum to Municipal and County Election Officials re: Security of Qualified Voter File and Electronic Pollbooks. July 10, 2023. 7 pp. States that the Bureau instructs clerks to destroy electronic copies of EPB data and flash drives after printing paper pollbook copies, tracing the practice to at least 2012, and characterizes the instruction as a lawful directive under MCL 168.21, 168.31, and 168.32. Appendix K herein.

Brater, Jonathan, Director of Elections, Michigan Bureau of Elections. Memorandum to Municipal and County Election Officials re: Security of Qualified Voter File and Electronic Pollbooks; Inspection of Voted Ballots. August 20, 2024 (Appendix Q). 8 pp. Updates the July 10, 2023 memorandum (Appendix K); adds ballot-inspection custody procedures (continuous clerk supervision, prohibition on requester handling ballots, and

written seal serial-number records) and discussion of Michigan Court of Claims decision in the Macomb County EPB-data FOIA litigation (June 25, 2024)

Costantino v. City of Detroit, No. 20-14780-AW (Wayne Co. Cir. Ct., Nov. 13, 2020). ANCHOR DOCUMENT. Complaint, Chris Thomas Affidavit, Opinion and Order. Attorneys: David A. Kallman, Erin E. Mersino, Jack C. Jordan, Stephen P. Kallman, Great Lakes Justice Center, Lansing, MI. Case page: https://www.greatlakesjc.org/cases/costantino_v_detroit/ Full record in *Texas v. Pennsylvania* Response Appendix, No. 22O155 (U.S. Supreme Court): https://www.supremecourt.gov/DocketPDF/22/22O155/163387/20201210145418055_22O155%20MI%20APP.pdf [750]

Christlieb, Kristine. "Breaking News: Michigan Bureau of Elections Director Admits His Statewide Instruction to Delete Poll [Book Data]." Michigan Fair Elections Institute, July 12, 2025. Reports Director Brater's admissions at the *People v. Stephanie Scott* probable cause hearing, August 2025, that he could not recall whether he consulted DOJ on the EPB deletion directive's legality before issuing it. URL: Christlieb, Kristine. "Breaking News: Michigan Bureau of Elections Director Admits His Statewide Instruction to Delete Poll [Book Data]." URL: https://www.mifairelections.org/post/breaking-news-michigan-bureau-of-elections-director-admits-his-statewide-instruction-to-delete-poll

Johnson, Patrice. "Citizen Analyst Uncovers Illegal Deletions of Voter History Records." Pure Integrity Michigan Elections, December 14, 2021. Contemporaneous MFEI/PIME report on the Avallone QVF analysis. URL: Johnson, Patrice. "Citizen Analyst Uncovers Illegal Deletions of Voter History Records." Pure Integrity Michigan Elections, December 14, 2021. Contemporaneous MFEI/PIME report on the Avallone QVF analysis. URL: https://www.mifairelections.org/post/citizen-analyst-uncovers-illegal-deletions-of-voter-history-records-2021

Michigan Citizens for Election Integrity (MC4EI). "TCF Timeline: The 2020 General Election in Detroit." August 2021 (Philip O'Halloran, author). Secondary commentary based on 150-plus sworn affidavits; primary affidavit record is [C14-02]. URL: Michigan Citizens for Election Integrity (MC4EI). "TCF Timeline: The 2020 General Election in Detroit." August 2021 (Philip O'Halloran, author). Secondary commentary based on 150-plus sworn affidavits; primary affidavit record is [C14-02]. On file with MFEI. URL: https://mc4ei.com/wp-content/uploads/2022/01/TCF-Timeline-Report-2020-Detroit-General-Election.pdf

[750] Full record in Texas v. Pennsylvania Response Appendix, No. 22O155 (U.S. Supreme Court). https://www.supremecourt.gov/DocketPDF/22/22O155/163387/20201210145418055_22O155%20MI%20APP.pdf

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O'Halloran, Philip. TCF Timeline: The 2020 General Election in Detroit. Michigan Citizens for Election Integrity (MC4EI), August 2021. 58 pp. Based on 150-plus sworn affidavits. https://mc4ei.com/wp-content/uploads/2022/01/TCF-Timeline-Report-2020-Detroit-General-Election.pdf

O'Halloran, Philip, and Speckin, Erich. Speckin Forensics LLC Analysis of Detroit 2020 AVCB Ballot Applications. Speckin Forensics LLC, Lansing, Michigan. Erich Speckin is a court-qualified forensic document examiner; Speckin Forensics LLC has served as expert witnesses in state and federal proceedings. Physical examination of ballot envelopes and applications for two of 134 AVCBs; 12–20% missing application finding; 13,600–34,000 extrapolation per Speckin's published methodology. https://mc4ei.com/wp-content/uploads/2022/01/TCF-Timeline-Report-2020-Detroit-General-Election.pdf

Michigan Bureau of Elections. Memorandum to County Clerks re: Recounts; Release of Voting Equipment. December 1, 2020. 2 pp. Sets the seven-day EPB deletion deadline (November 30, 2020) subject to stated exceptions, including a pending or planned post-election audit, and announces the statewide Risk-Limiting Audit of the presidential race. Appendix G.

Michigan Bureau of Elections. Memorandum to County Clerks re: Release of Voting Equipment. February 12, 2021. 1 p. Reaffirms that EPB software and files must be deleted unless a post-election audit is planned but not yet completed, or deletion has been stayed by court or Secretary of State order. Appendix C.

Palmer, Monica. Affidavit, contained in Appendix M herein. Sworn November 18, 2020, notarized by Janice L. Daniels, Notary Public, State of Michigan, Oakland County. 3 pp. Board of State Canvassers Certification Meeting record, November 23, 2020 (draft minutes and transcript), in *Texas v. Pennsylvania* Response Appendix, No. 22O155, pp. 220-240. Palmer Affidavit, also cited in Trump v Benson, Court of Claims Case No.: 20-000225-MZ.

Posthumus Lyons, Lisa, Kent County Clerk/Register of Deeds. Letter to Chairmen McBroom and Hall and members of the Senate and House Oversight Committees. November 20, 2020. Amendment to testimony at Senate/House Oversight Committee hearing of November 19, 2020. 2 pp. Clarifies that the EPB is a snapshot of the QVF loaded onto a laptop for Election Day use, not connected to the QVF or the internet for security reasons, and uploaded back into QVF within seven days of each election. Authoritative source on EPB function and the seven-day upload window. See Letter in Appendix N.

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Vaeth, Mark, et al. MFEI Audit Committee. Request for EAC OIG Assessment of Audit Risk, File No. 24-0056. Submitted to EAC OIG Inspector General Brianna Schletz, January 29, 2024; supplemented March 15, 2024. 426 pp. Section documenting BOE EPB deletion directive, Brater testimony, and records retention analysis. https://aa3979fb-9421-4dd8-ba7d-8ead2d346103.usrfiles.com/ugd/aa3979_785b0d23cd8b45e9a91a401f2e06daac.pdf[751]

Weber, Rhonda. Affidavit (sworn). Submitted to Michigan Senate Oversight Committee and Michigan House Oversight Committee, December 1, 2020. Written testimony received in connection with Senate/House Oversight Committee hearing of December 1, 2020. 2 pp. plus photographic exhibits. Documents unauthorized ballot collection in open USPS tray on West Grand Boulevard; electioneering (food, drinks, t-shirts) distributed to voters surrendering ballots; post-midnight ballot movement on November 4, 2020, from DOE toward TCF Center.[752] https://committeemintestimony.senate.michigan.gov/umbraco/surface/DownLoadFile/Written testimony received in Overisght committee 12.1.20?SessionId=2019&Vault=2&FolderType=1&CommitteeId=62381998&MeetingId=278239049&DocumentId=1210718728&name=Written%20testimony%20received%20in%20Overisght%20committee%2012.1.20.pdf.

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[751] MFEI EAC OIG Request for Assessment of Audit Risk (submitted January 29, 2024; supplemented March 15, 2024). 426 pp. https://aa3979fb-9421-4dd8-ba7d-8ead2d346103.usrfiles.com/ugd/aa3979_785b0d23cd8b45e9a91a401f2e06daac.pdf

[752] Affidavit of Rhonda Weber, Written testimony received in Oversight committee 12.1.20.pdf, Michigan Senate Oversight hearing, Dec. 1, 2020, p. 6.

Colbeck, Patrick (former Michigan State Senator). Witness account of the 3:30 a.m. ballot delivery at the TCF Center, November 4, 2020. Colbeck described observing a "mini-panel truck" bearing Detroit Election Bureau markings with no bipartisan transfer observers present. He stated, "We have no way of verifying any of that information." Written testimony submitted to Michigan Senate and House Oversight Committees, December 1, 2020; Video testimony available: Michigan Senate Oversight hearing video, Dec. 1, 2020. https://imd0mxanj2.execute-api.us-west-2.amazonaws.com/ssr/watch/63d7fa50d40e810008cf79a9

TCF Center Surveillance Footage, November 4, 2020, 3:23–3:25 a.m. Security camera footage from inside the TCF Center showing the white city of Detroit "Vote Mobile" van entering the TCF electronic gate at 3:23 a.m. and three individuals unloading 50–60 boxes on a dolly in the hallway outside the counting room at 3:25 a.m. First published by Gateway Pundit (Cassandra Fairbanks and Jim Hoft), February 8, 2021. The van departed approximately 25 minutes later and returned approximately one hour later with additional boxes; the black sports car escort is visible on both deliveries. Video obtained from TCF Center security system. Secondary publication: First published by Gateway Pundit (Cassandra Fairbanks and Jim Hoft), February 8, 2021. https://www.thegatewaypundit.com/2021/02/exclusive-tcf-center-election-fraud-newly-recovered-video-shows-late-night-deliveries-tens-thousands-illegal-ballots-michigan-arena/

TCF Center Window-Covering Photograph, November 3–4, 2020. Photograph documenting Detroit city officials covering TCF Center counting room windows with paper while Republican challengers, including challengers who later submitted sworn affidavits regarding the 3:25 a.m. ballot delivery, were locked outside the counting floor. Widely circulated. See also Count 9 (Poll Challenger Restrictions) and Count 13 (Poll Challenger Obstruction) for the concurrent legal framework governing challenger exclusion. https://mc4ei.com/wp-content/uploads/2022/01/TCF-Timeline-Report-2020-Detroit-General-Election.pdf

Michigan Senate and House Oversight Committees. Written Testimony Received, December 1, 2020. Compilation includes written submissions of Patrick Colbeck (pp. documenting TCF ballot delivery observations), Shane Trejo (3:30 a.m. ballot drop account), Rhonda Weber (DOE sidewalk electioneering), Lori Levi (1/1/1900 QVF entry observation at Table 38), and others. URL: https://imd0mxanj2.execute-api.us-west-2.amazonaws.com/ssr/watch/63d7fa50d40e810008cf79a9

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COUNT 15: Procuring Election Infrastructure for the AI Era: RFP 260000000114 / RFP214

§I. Issues Summary

The federal government has a strong and growing interest in whether states are procuring election systems capable of withstanding next-generation cyber threats. Michigan is presently conducting its most consequential election-infrastructure procurement in a generation — RFP 260000000114 (issued January 14, 2026) and its superseding RFP214 — at the precise moment that artificial intelligence has measurably shifted the offense-defense balance in cybersecurity.[753] [754]

Central Thesis

Election security is no longer primarily a question of defending against today's threats, but of procuring systems resilient against the capabilities likely to exist throughout the next decade.

This Count's strongest evidentiary point is easy to overlook precisely because it is procurement law rather than election-night drama: **a state that selects a voting system today locks in that system's architecture for approximately a decade, while the capability of the adversaries that system must withstand is compounding annually.** Michigan's procurement decision in 2026–2027 is not a decision about defending the 2026 or 2028 election. It is a bet about whether 2026-era procurement language can defend the elections of 2032 and 2036 against an adversary whose tools by then bear little resemblance to today's.

Because Count 1 of this report documents the concentration of executive authority over Michigan election administration, the transparency, independent testing, and oversight safeguards addressed in this Count are the necessary counterweight to that same concentration in the specific context of a single, decade-long procurement decision.

§II. Why This Procurement Suddenly Matters: The AI Paradigm Shift

[753] MFEI, "When Software Can Attack Itself: How Next-Generation AI Raises the Stakes for Election Integrity—and Why the Answer Is Simpler Than the Threat" (public white paper, draft, July 2026).

[754] MFEI, "Preliminary Assessment of Michigan's Voting-System Procurement: *Review of the Available Portions of RFP 260000000114 and Framework for Evaluating Its Successor*" (technical report prepared for the Michigan Board of State Canvassers and the Michigan House, draft, July 2026).

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Old assumption: Sophisticated software attacks required rare expertise and weeks of effort, so a determined defender could reasonably expect to stay ahead of any realistic adversary.

New reality: AI systems now autonomously discover exploitable vulnerabilities and generate working exploits from public advisories, at a fraction of the previous cost, skill, and time.[755] [756] [757] [758]

Therefore: Procurement standards drafted before this shift require renewed scrutiny, which is the subject of this Count.

II.A. The capability shift, documented

Google's "Big Sleep" project produced the first confirmed AI-agent discovery of an exploitable memory-safety flaw in widely deployed software, and by mid-2025 the same line of work identified a serious vulnerability in SQLite before any attacker reached it through conventional means.[759]

DARPA's AI Cyber Challenge, concluding at DEF CON in August 2025, fielded autonomous systems that discovered and patched vulnerabilities in real codebases without human guidance over sustained ~140-hour runs, and the Cloud Security Alliance's April 2026 assessment concluded that large language models can now autonomously discover exploitable vulnerabilities and generate working exploits from public advisories, in some cases outperforming human teams in competitive exercises.[760] [761] Documented AI-generated malware exploiting a 2026 vulnerability illustrates the resulting compression of skill — colloquially, "vibecoding" an

[755] Google Project Zero, "Big Sleep" (2024–2025); CVE-2025-6965 (SQLite), identified prior to in-the-wild exploitation.

[756] DARPA AI Cyber Challenge (AIxCC), 2023–2025, concluded at DEF CON, August 2025; autonomous cyber-reasoning systems discovered and patched vulnerabilities in real codebases across approximately 140-hour runs without human guidance.

[757] Cloud Security Alliance, AI Safety Initiative (April 2026), "Automated Exploit Generation: LLMs Cross the Threshold." labs.cloudsecurityalliance.org.

[758] Darktrace (2026), documented AI-generated malware exploiting CVE-2025-55182 ("React2Shell").

[759] Google Project Zero, "Big Sleep" (2024–2025); CVE-2025-6965 (SQLite), identified prior to in-the-wild exploitation.

[760] DARPA AI Cyber Challenge (AIxCC), 2023–2025, concluded at DEF CON, August 2025; autonomous cyber-reasoning systems discovered and patched vulnerabilities in real codebases across approximately 140-hour runs without human guidance.

[761] Cloud Security Alliance, AI Safety Initiative (April 2026), "Automated Exploit Generation: LLMs Cross the Threshold." labs.cloudsecurityalliance.org.

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exploit, in which an operator with limited technical skill describes a desired attack in plain language and the AI system builds it.[762]

II.B. The decade-lock-in problem

A voting system procured in 2027 must withstand not the AI of 2027 but the far more capable AI of 2035 and beyond. Once a state buys voting equipment, it typically keeps it for a decade or more; procurement decisions are, in effect, long-term bets against an adversary that is demonstrably improving faster than at any prior point in the history of election technology. This dynamic is precisely why the gaps identified in §V matter more today than they would have mattered when the state's original RFP was drafted in January 2026: The threat model underlying the solicitation was already dated at the moment of issuance.

II.C. Where the real risk sits

The most realistic AI-enabled threat to a Michigan election is not a cinematic hack of a tabulator on election night. It is the quieter, cheaper attack: a convincing synthetic voice, video, or email used to trick an election worker into clicking a link or sharing a password. AI has made this kind of social engineering dramatically more convincing and less expensive to produce, and complexity in modern voting systems — tabulators, ballot-marking devices, electronic pollbooks, election-management software, results-reporting websites — gives such attacks more places to hide. An adversary need not change a single vote to cause serious harm; a credible deepfake of a poll worker "admitting" fraud, released on election night, can manufacture doubt just as effectively.

§III. The Governing Principles

Every credible election-security recommendation in this Count derives from a small number of first principles, not from an unrelated list of grievances against a single procurement. Rivest's foundational concept of "software independence" — a system in which an undetected change in the software cannot cause an undetectable change in the election outcome — unifies them.[763]

Principle 1: Never trust software when paper can verify

When a voter marks a paper ballot by hand, the paper is the vote; no software and no AI can silently alter a physical record after the fact. Touchscreen ballot-marking devices (BMDs) insert

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[762] Darktrace (2026), documented AI-generated malware exploiting CVE-2025-55182 ("React2Shell").

[763] Rivest, R. (2008), "On the Notion of 'Software Independence' in Voting Systems," Phil. Trans. Royal Soc. A, 366.

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software between voter intent and the counted vote, and the peer-reviewed evidence on voter verification of BMD printouts is weak: in one real-election study, 47% of voters did not inspect their printed ballot at all, and those who did averaged approximately 3.9 seconds of review; in a controlled experiment in which the machine deliberately altered a vote, only approximately 7% of voters detected the change.[764] [765] Appel, DeMillo, and Stark formalize the resulting defect: a BMD-based system is neither "contestable" nor "defensible," because when a voter alleges the printout was wrong, officials cannot distinguish malfunction, voter error, and bad-faith claim from one another.[766]

The National Academies reach the same conclusion by a different route, recommending human-readable paper ballots as a baseline safeguard.[767] This principle also requires that tabulation equipment have no networking capability of any kind: a tabulator that cannot receive a message from outside cannot be reached by a remote attacker, human or AI, regardless of how capable that attacker becomes.

This requirement responds to a documented history, not a hypothetical. In January 2020, NBC News reported that Election Systems & Software, Dominion Voting Systems, and Hart InterCivic had each acknowledged installing cellular modems in some tabulators and scanners, and that a security researcher's team had found nearly three dozen U.S. voting systems reachable via the public internet as a result. Hart InterCivic told NBC News it then had approximately 1,600 such modem-equipped tabulators in use across 11 Michigan counties. Michigan's continued use of wireless cellular modems in polling-place tabulators is independently documented in Count 10, §V.E. RFP 260000000114's failure to categorically prohibit network-capable tabulation hardware (§V, Principle 1) therefore leaves open a vulnerability with a documented history in Michigan specifically, not merely in other jurisdictions.

Principle 2: Verifiability must be checkable by ordinary humans

A software-independent paper record only protects an election if someone actually checks it against the machine count using a method that does not itself require trusting the machine.

Risk-limiting audits (RLAs) may supply that method, but they have a history of becoming ineffectual. With RLAs administrators and citizens hand-count a statistically chosen sample of

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[764] DeMillo, R., Kadel, R., & Marks, M. (2018), study of ballot-marking-device use in a Tennessee election. SSRN: ssrn.com/abstract=3292208.

[765] Bernhard, M., et al. (2020), "Can Voters Detect Malicious Manipulation of Ballot Marking Devices?" 2020 IEEE Symposium on Security and Privacy, 679–694.

[766] Appel, A.W., DeMillo, R.A., & Stark, P.B. (2020), "Ballot-Marking Devices (BMDs) Cannot Assure the Will of the Voters," Election Law Journal 19(3): 432–450. SSRN: ssrn.com/abstract=3375755.

[767] National Academies of Sciences, Engineering, and Medicine (2018), Securing the Vote: Protecting American Democracy.

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paper ballots and compare it to the machine totals; if the machine tallies were correct, a small sample confirms it quickly, and if something is off, the audit expands until it finds the error.[768]

But RLAs are only effective if they comply with audit-standards. Michigan's have not.

Better to conduct complete audits of five percent of randomly selected jurisdictions, weighing most heavily the jurisdictions that 1) were the last to report, and 2) had precincts that did not balance. Michigan has strong existing audit traditions; the open question is whether vendor systems selected under RFP214 will natively support RLA procedures — ballot-manifest generation, efficient ballot retrieval, audit-friendly reporting — at a defined statistical risk limit.

Principle 3: Sunlight over secrecy

The same AI tools that help an attacker find flaws also help defenders find them first, but only if the code and the testing process are open to inspection. A decade of DEF CON Voting Village results demonstrates that independent researchers find serious problems quickly when given access, while the same problems, cloaked in secrecy and vendor-controlled testing, tend to go unfixed for years.[769]

This principle is violated whenever vote-counting software is treated as a trade secret, whenever independent researchers are barred by non-disclosure agreements (NDA) from testing and publishing, and whenever an evaluation process rewards a vendor's own unverified representations over independently demonstrated performance.

§IV. Michigan's Procurement: Chronology and Legal Framework

RFP 260000000114 was issued January 14, 2026, with a pre-proposal meeting January 20, a questions deadline of January 22, State answers posted January 30, and a proposal deadline of February 25, 2026; the anticipated contract start is January 1, 2027.[770] The question-and-answer window was eight days. RFP214, which supersedes the original solicitation, and the full Statement of Work (Schedule A), Schedules D–J, and Attachments A–C had not been obtained by MFEI as of the publication of this report, so the reasons for and contents of the superseding version are accordingly unknown.

HAVA § 21083(a)(4) imposes an accuracy requirement on voting systems, and § 21083(a)(1)(A)(ix) requires a unique identifier per legally registered voter (addressed as to

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[768] Lindeman, M., & Stark, P.B. (2012), "A Gentle Introduction to Risk-Limiting Audits," IEEE Security & Privacy 10: 42–49.

[769] DEF CON Voting Village reports (2017–present), defcon.org; Georgetown Law Technology Review (2019) summary of DEF CON 27 findings.

[770] RFP 260000000114 (issued January 14, 2026), Proposal Instructions (in MFEI possession); superseding RFP214 and full Statement of Work (Schedule A) not yet obtained by MFEI as of this draft.

Michigan's QVF in Count 3). The federal Voluntary Voting System Guidelines 2.0 (VVSG 2.0), adopted February 2021, is the current federal certification baseline; the first systems certified to VVSG 2.0 were announced by the EAC only in mid-to-late 2025.[771]

Executive Order 14248 (2025) states that voting systems should not encode a vote within a barcode or QR code in the counting process and should provide a voter-verifiable paper record.[772] Michigan's procurement is not bound by EO 14248 as a matter of federal compulsion, but the order reflects the current federal policy baseline against which a decade-long state procurement is reasonably measured.

§V. Does RFP 260000000114 Satisfy the Principles?

The visible portion of the original RFP — principally the Proposal Instructions — gets several structural elements right: it addresses VVSG 2.0 certification status, mandates integrated hardware/software acceptance testing (Schedule I, Attachment C), requires state certification and a mock election, provides for Board of State Canvassers approval, and contemplates disaster-recovery planning (Schedule F) and data-security requirements (Schedule E). Measured against the three principles in §III, however, the visible material leaves each principle only partially addressed — and each gap below is paired with a specific, answerable question rather than a conclusion that the State has failed. These are not yet failures; they are unresolved questions the governing documents have not yet answered.

Principle 1 — Never trust software when paper can verify

The visible material contains no explicit mandate that the ballot of record be a hand-marked paper ballot, and no categorical prohibition on network-capable tabulation hardware — the RFP's only networking-adjacent provision restricts equipment origin under the FCC prohibited-equipment list (DA-21-309A1, covering Huawei, ZTE, and similar manufacturers), which is a supply-chain restriction, not a prohibition on network connectivity itself.

Verify in RFP214: *Does the Statement of Work mandate hand-marked paper ballots as the primary method, exclude votes encoded in barcodes/QR codes, and require tabulation systems to be physically incapable of network communication, verified by independent hardware inspection?*

Principle 2 — Verifiability must be checkable by ordinary humans

[771] EAC certification announcements: Hart InterCivic, Verity Vanguard 1.0 (first system certified to VVSG 2.0, July 2025); Smartmatic, VSR1 2.1 (November 2025), per Bipartisan Policy Center reporting.

[772] Exec. Order No. 14248, "Preserving and Protecting the Integrity of American Elections" (2025).

There is no visible mention of parameters and standards for audits. Michigan has strong post-election audit traditions, but the RFP does not bind vendor systems to support audit procedures with such components as ballot-manifest generation, efficient ballot retrieval, and audit-friendly reporting.

Verify in RFP214: *Does the Statement of Work require vendor systems to natively support risk-limiting audits at a defined statistical risk limit (e.g., 5%, i.e., 95% confidence)?*

Principle 3 — Sunlight over secrecy

Nothing visible requires vendors to publish source code under an open-source license; the RFP's Confidential Treatment (CT) Form instead contemplates trade-secret claims over portions of proposals, and Section 16.f requires the bidder, not the State, to defend and indemnify against FOIA litigation over the bidder's own redactions, removing the State's financial incentive to challenge vendor secrecy claims.[773]

Separately, of 500 total evaluation points, 210 (Statement of Work, SOW, Section 1.0) and 100 (the Vendor Questions Worksheet) — 310 points, or 62% — are scored on vendor self-reported representations, with independent demonstration and point deduction treated as discretionary rather than mandatory.[774]

In MFEI's assessment, this evaluation-weighting structure is the single most consequential gap in the visible material: a bidder can score a supermajority of available points before any independent verification of its security claims occurs.

Verify in RFP214: Does the SOW require software components to be open to independent review without NDAs? Does it grant independent researchers full access to test and publish findings? Was the evaluation framework restructured to weight independently verified results above vendor self-reporting?

Principle	What the visible RFP does	What remains unresolved
1. Software independence	References "election equipment" and a "voting solution"; restricts equipment origin (not connectivity)	No hand-marked-ballot mandate; no categorical air-gap requirement
2. Human-checkable	Not addressed in visible material	No requirement that vendor systems natively support risk-

[773]RFP 260000000114, Section 16 (Confidential Treatment Form and FOIA provisions), § 16.f.

[774]RFP 260000000114, Evaluation Criteria (500-point scoring framework), Vendor Questions Worksheet and Statement of Work Section 1.0.

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verification		limiting audits
3. Sunlight over secrecy	CT Form permits trade-secret claims; §16.f shifts FOIA defense cost to bidder; 62% of scoring is vendor self-report	No open-source or independent-testing mandate; evaluation weighting unresolved

§VI. Findings

The Established Facts, Legal Arguments, and MFEI Conclusions below substantiate the three principles set out in §III and the gap analysis in §V. No Judicial Finding (Tier B) is asserted in this Count: the underlying procurement is ongoing and has not been the subject of litigation or judicial review.

Established Fact 16-A-1

Between 2024 and 2026, AI systems progressed from automating routine security tasks to autonomously discovering exploitable vulnerabilities in widely deployed production software and, separately, to generating working exploits from public vulnerability advisories — developments documented by Google Project Zero, DARPA's AI Cyber Challenge, and the Cloud Security Alliance.[775] [776] [777]

Established Fact 16-A-2

Peer-reviewed research on ballot-marking devices documents that a substantial share of voters do not meaningfully verify BMD-printed ballots: 47% did not inspect the printout at all in one real-

[775] Google Project Zero, "Big Sleep" (2024–2025); CVE-2025-6965 (SQLite), identified prior to in-the-wild exploitation.

[776] DARPA AI Cyber Challenge (AIxCC), 2023–2025, concluded at DEF CON, August 2025; autonomous cyber-reasoning systems discovered and patched vulnerabilities in real codebases across approximately 140-hour runs without human guidance.

[777] Cloud Security Alliance, AI Safety Initiative (April 2026), "Automated Exploit Generation: LLMs Cross the Threshold." labs.cloudsecurityalliance.org

election study, and only approximately 7% of voters detected a deliberately altered vote in a controlled experiment.[778] [779]

Established Fact 16-A-3

RFP 260000000114 was issued January 14, 2026, with an eight-day bidder-question window and a February 25, 2026 proposal deadline, for a contract anticipated to begin January 1, 2027 and govern voting equipment procurement for approximately a decade. MFEI had not obtained the superseding RFP214, the full Statement of Work, and Schedules D–J as of the publication date of this report.[780]

Established Fact 16-A-4

Of 500 total evaluation points in the visible RFP, 310 (62%) — comprising Statement of Work Section 1.0 (210 points) and the Vendor Questions Worksheet (100 points) — are scored on vendor self-reported representations, with independent demonstration and point deduction treated as discretionary rather than mandatory.[781]

Established Fact 16-A-5

The visible RFP material contains no explicit mandate that the official ballot of record be a hand-marked paper ballot, no open-source or independent-code-review requirement, no categorical

[778]DeMillo, R., Kadel, R., & Marks, M. (2018), study of ballot-marking-device use in a Tennessee election. SSRN: ssrn.com/abstract=3292208.

[779]Bernhard, M., et al. (2020), "Can Voters Detect Malicious Manipulation of Ballot Marking Devices?" 2020 IEEE Symposium on Security and Privacy, 679–694.

[780]MFEI, "When Software Can Attack Itself: How Next-Generation AI Raises the Stakes for Election Integrity—and Why the Answer Is Simpler Than the Threat" (public white paper, draft, July 2026).

[780]MFEI, "Preliminary Assessment of Michigan's Voting-System Procurement: *Review of the Available Portions of RFP 260000000114 and Framework for Evaluating Its Successor*" (technical report prepared for the Michigan Board of State Canvassers and the Michigan House, draft, July 2026).

prohibition on network-capable tabulation hardware, no requirement that vendor systems natively support risk-limiting audits, and no visible cryptographic chain-of-custody mandate.[782]

Established Fact 16-A-6

RFP 260000000114 Section 16.f requires the bidder — not the State — to defend and indemnify against FOIA litigation arising from the bidder's own trade-secret redactions of proposal contents, removing the State's financial incentive to challenge vendor secrecy claims over voting-system architecture.[783]

Established Fact 16-A-7

Executive Order 14248 (2025) discourages barcode- or QR-encoded vote representations and calls for a voter-verifiable paper record; the first system certified to VVSG 2.0 (Hart InterCivic, Verity Vanguard 1.0) was announced in July 2025 and marketed as avoiding barcode/QR-encoded votes, consistent with that order.[784] [785]

Legal Argument 16-C-1

The absence of a visible hand-marked-paper-ballot mandate, combined with the documented BMD verification failure rates in Established Fact 16-A-2, raises a question under HAVA § 21083(a)(4)'s accuracy requirement as to whether a BMD-default system — if selected under RFP214 — would satisfy Michigan's obligation to ensure voter-verified accuracy of the counted record.

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[782]RFP 260000000114 (issued January 14, 2026), Proposal Instructions; Section 16 (Confidential Treatment Form and FOIA provisions), § 16.f; and Evaluation Criteria (500-point scoring framework), Vendor Questions Worksheet and Statement of Work Section 1.0; superseding RFP214 and full Statement of Work (Schedule A) not yet obtained by MFEI as of this draft.

[783]RFP 260000000114, Section 16 (Confidential Treatment Form and FOIA provisions), § 16.f.

[784]Exec. Order No. 14248, "Preserving and Protecting the Integrity of American Elections" (2025).

[785]EAC certification announcements: Hart InterCivic, Verity Vanguard 1.0 (first system certified to VVSG 2.0, July 2025); Smartmatic, VSR1 2.1 (November 2025), per Bipartisan Policy Center reporting.

Legal Argument 16-C-2

The RFP's supply-chain restriction, limited to equipment origin under the FCC prohibited-equipment list, does not reach the distinct and independently sufficient risk that any network-capable tabulation hardware — regardless of manufacturer — is remotely reachable; a categorical air-gap requirement, not an origin restriction, is necessary to satisfy Principle 1.

Legal Argument 16-C-3

An evaluation framework in which 62% of available points are awarded on vendor self-report before independent verification, as documented in Established Fact 16-A-4, raises questions of competitive-bidding and due-diligence integrity distinct from any single vendor's conduct: the structure itself rewards persuasive representation over demonstrated security regardless of which vendor is ultimately selected.

Legal Argument 16-C-4

The Section 16.f indemnification structure documented in Established Fact 16-A-6 is in tension with the presumption of disclosure underlying Michigan's FOIA framework, addressed generally as to this report's FOIA litigation counts (see Counts 1 and 13): a structure in which the State bears no cost for accepting vendor secrecy claims creates no institutional incentive to test those claims.

MFEI Conclusion 16-D-1

The convergence of AI-driven compression in the skill and time required to discover and weaponize software vulnerabilities (Established Fact 16-A-1) with a procurement expected to govern voting equipment for approximately a decade (Established Fact 16-A-3) supports the inference that a system selected on the visible RFP terms risks locking in a threat model that is materially obsolete well before the equipment's service life ends.

MFEI Conclusion 16-D-2

The pairing of heavy vendor self-report weighting (Established Fact 16-A-4) with the absence of

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a visible mandatory independent-testing requirement supports the inference that the procurement, as currently structured and so far as visible to MFEI, is capable of selecting a voting system on the strength of unverified vendor representations alone.

MFEI Conclusion 16-D-3

Because RFP214, the full Statement of Work, and Schedules D–J remain unobtained by MFEI, no final determination of Michigan's compliance or non-compliance with HAVA, VVSG 2.0, or Executive Order 14248 can yet be made. The findings in this Count constitute an evaluation framework and document-production agenda, not a concluded adjudication, and each Established Fact above should be read together with the corresponding "Verify in RFP214" question in § V.

§VII. DOJ / EAC OIG Investigative Requests

1. Production of RFP214 in full, including all modifications, and the full Statement of Work (Schedule A).
2. Production of Schedules D–J and Attachments A–C (including the acceptance-testing checklist).
3. Production of the companion Request for Qualifications/Quotes (RFQ), including scope, criteria, and bidder list.
4. Production of all bidder questions and State answers for both the original RFP and RFP214, and confirmation of public posting on SIGMA VSS.
5. An accounting, by evaluation criterion, of any award-recommendation scoring, distinguishing points awarded on vendor self-report from points awarded following independent verification.
6. Confirmation of current EAC VVSG 2.0 certification status for each prospective bidder at the time of evaluation.
7. Documentation of any lobbying contacts by prospective bidders with the Board of State Canvassers, the Department of Technology, Management, and Budget (DTMB), or the Legislature concerning RFP terms.
8. An assessment of whether RFP214-related documents, bidder questions, State answers, and modifications have been posted on SIGMA VSS consistent with public-notice practice.

§VIII. MFEI Recommended Requirements

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Regardless of RFP214's ultimate contents, MFEI's position is that the following are non-negotiable for any voting system deployed in Michigan, organized by the governing principle each satisfies:

Principle 1 — Software independence

4.1 Hand-marked paper ballots.

The official vote of record must be a hand-marked paper ballot, verifiable by the voter's own eyes before casting; marking devices remain available as a separate accessibility option, not the default; votes must not be encoded in barcodes or QR codes.

4.3 Air-gapped tabulation.

Tabulation systems must have no networking capability of any kind; remote-access software on any election-management system should be grounds for contract termination.

4.7 Verified supply chain.

Hardware, firmware, and software provenance must be documented and verifiable, with components from adversarial nations prohibited.

Principle 2 — Human-checkable verification

4.4 Audits.

Every election must undergo an audit at a defined risk limit (5% or lower) before certification, with vendor systems supporting GAGAS (Yellow Book) audit procedures natively.

4.6 Cryptographic chain-of-custody.

Equipment must be tracked with tamper-evident, cryptographically verifiable custody logging from delivery through post-election storage.

Principle 3 — Sunlight over secrecy

4.2 Fully open-source software.

All tabulation, ballot-definition, and election-management software must be published under an open-source license with full public access, with no NDAs or trade-secret restrictions on security research.

4.5 Independent security testing.

Any selected system must undergo testing with full, unrestricted access for independent researchers, including the right to publish findings.

4.8 Contractual exit rights.

Contracts must define clear performance and security benchmarks, with exit rights on vendor failure and no lock-in to proprietary data formats.

4.9 AI-era security obligations.

Contracts should require ongoing adversarial red-teaming assuming AI-assisted attackers, cryptographic verification of firmware/software updates, and personnel-security training addressing synthetic-media social engineering.

§IX. Conclusion: Michigan's Opportunity

Michigan has an opportunity unavailable to most states. Because it is replacing its voting system after the emergence of next-generation AI capabilities, it can incorporate procurement safeguards that many jurisdictions did not know they needed when their systems were purchased. Whether Michigan seizes that opportunity will influence election security for at least the next decade.

RFP 260000000114, as issued, contained significant gaps against each of the three governing principles in §III. Whether RFP214 addressed them is unknown — and that uncertainty is itself the problem, because the public cannot evaluate what it cannot see. Michigan can set a national standard for voting-system procurement in the AI era, or it can repeat the pattern of jurisdictions that bought opaque systems, signed restrictive contracts, and spent years defending them. The requirements in § VIII are, in MFEI's assessment, non-negotiable for any system that will count Michigan's votes.

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Overall Conclusion

A. Record Submitted for Independent Federal Review

This Report has examined fourteen categories of election administration issues arising from Michigan's conduct of the 2020 General Election and the legal, administrative, and procedural developments that followed through 2026. Drawing upon judicial records, sworn testimony, legislative proceedings, forensic analyses, public records obtained through the Freedom of Information Act, election data, official government publications, and independent technical review, the Report identifies recurring questions concerning compliance with federal election statutes, state election law, constitutional principles, and accepted standards of election administration.

The Counts are diverse in subject matter. They examine executive rulemaking, voter registration maintenance, implementation of the Help America Vote Act, private administration of governmental election functions, overseas voting procedures, signature verification, ballot processing, voting-system security, reconciliation and certification, voter registration fraud, statutory observer rights, chain of custody, election record preservation, and post-election transparency. Considered individually, each Count presents a distinct evidentiary record. Considered collectively, they reveal recurring structural themes that extend beyond any single election or isolated administrative decision.

Among those recurring themes are the exercise of executive authority beyond express legislative authorization; diminished transparency and public oversight; inconsistent application of statutory election procedures; deficiencies in election record preservation; barriers to meaningful post-election review; and the increasing reliance upon administrative guidance and informal practices to address matters governed by statute. Whether each documented practice ultimately violated federal or state law is a determination reserved to the appropriate courts and enforcement authorities. The purpose of this Report is more limited: to assemble the available evidence, identify the governing legal framework, and present questions warranting independent review.

The Department of Justice's July 2026 correspondence to the Michigan Secretary of State confirms that many of these same subjects, including voter registration accuracy, election record preservation, administration of federal elections, and compliance with the National Voter Registration Act and the Help America Vote Act, remain active federal enforcement priorities. That correspondence does not resolve the factual or legal questions presented here, nor does this Report suggest otherwise. It does, however, underscore the continuing relevance of the evidence assembled in these pages and the importance of preserving records necessary for meaningful federal review.

Throughout this Report, MFEI has distinguished between established facts, judicial findings, documentary evidence, expert analysis, legal argument, and organizational conclusions. Where

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the evidence is incomplete or disputed, that uncertainty has been identified. Where subpoena authority or additional governmental investigation would be required to resolve unanswered questions, those limitations have likewise been acknowledged. This approach reflects the Institute's commitment to presenting a balanced evidentiary record rather than advocating predetermined conclusions.

Public confidence in elections depends not only upon lawful outcomes but also upon transparent procedures capable of independent verification. Election systems must permit meaningful oversight by election officials, legislators, courts, candidates, observers, and, where appropriate, federal authorities charged with enforcing the Nation's election laws. When records are unavailable, statutory safeguards are not followed, or established procedures cannot be independently verified, confidence is diminished regardless of the ultimate accuracy of any election result.

Accordingly, MFEI respectfully submits this Report to the United States Department of Justice for whatever review it deems appropriate. The Institute expresses no opinion regarding whether any particular matter warrants civil enforcement, criminal prosecution, administrative action, or no further action. Those determinations rest exclusively with the responsible governmental authorities. MFEI's purpose has been to preserve the available evidence, organize it within the applicable legal framework, and identify issues that merit independent evaluation in the interest of faithful enforcement of federal law, transparent election administration, and continued public confidence in the electoral process.

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Submission Statement

The legitimacy of self-government in a constitutional republic depends not only upon the faithful casting and counting of lawful ballots, but also upon the faithful preservation of the public records and legal processes that permit those ballots to be independently verified.

Respectfully submitted to the United States Department of Justice

Michigan Fair Elections Institute

A Michigan nonprofit corporation organized under Section 501(c)(3) of the Internal Revenue Code

August 2, 2026

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APPENDIX A: Speckin Forensic Analysis

Speckin Forensic Analysis 2020 Election Detroit, available at Michigan Fair Elections Institute, https://www.mifairelections.org/post/speckin-forensic-analysis-2020-election

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Arson Investigator
Vehicle Fire Specialist

Anthony A. Milone
Computer & Graphics Specialist
Forensic Document Specialist

Dr. Julie A. Howenstine
Serologist
DNA Analyst & Consultant
Crime Scene Reconstruction

July 26, 2023

I was asked to examine and recount ballots, the envelopes, totals tapes, record books and other associated documents for the 2020 election. This included AVCBs 1-134 and Precincts 1- 503 for the City of Detroit in their possession. This process took from the 17th of April 2023 to the 17th of May 2023. Additional photos were taken from 17th of July 2023 to 24th of July 2023.

Upon my arrival at the Detroit Department of Election Office located at 2978 W. Grand Blvd., Detroit, MI 48202, we were greeted, and the ground rules were explained and provided by the management staff. The rules included but are not limited to, no touching of the ballots, envelopes or register tapes. We could only direct the staff there to move, show, count, etc. the items desired. I was not allowed to proceed beyond the lobby area without being accompanied by a supervisor.

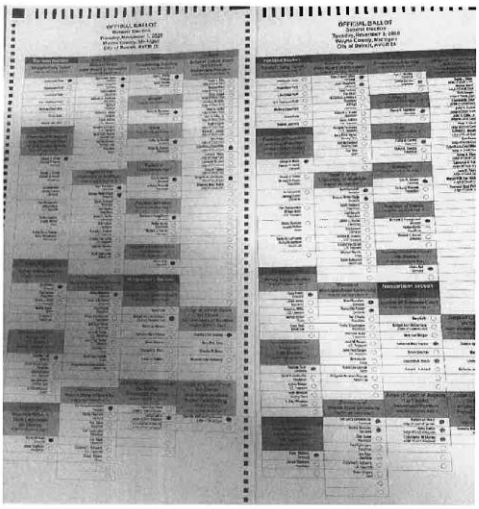
The ballots were located in locked cabinets that had a tag on them that had to be cut off. There were 17 cabinets in total of which 12 were filled with AVCB ballots and the other 5 were filled with Precinct Ballots. The ballots were stored in these cabinets by AVCB 1-8, 8-17, 17-24, 24-30, 31-36, 37-41, 42-51, 52-61, 62-70, 71-81,82-92, 93-134 and by Precincts 1-88, 89-207, 208-301, 302-384, and 385-503. The ballots were all stacked in the cabinets one on top of the other and had to be sorted by the City staff upon removal from the cabinet.

The manner in which the ballots were counted was by the representative from the Election office moving the ballots from one pile to another while my team was tallying the vote totals. The tallies were recorded by Presidential candidate (Biden, Trump, or other) and by Congressional Senator candidate (Peters, James or other). In this context, the term "other could be anything other than the two main candidates such as another party, write in, undervote (blank), or overvote. This category was designed as a placeholder to keep the number of ballots total as well as the main parties' vote totals. While the ballots were in front of my team, we were able to observe that the printing on the mail in ballots have some inconsistencies, for example some have darker printing than others.

At the same time when this printing anomaly was noted, many of the City of Detroit staff commented to each member of my team that the ballot paper felt different on some of the ballots. We were unable to touch the paper or examine completely to determine this. It occurred while the representative was flipping the ballots, some were sticking to one another, and they made comments that some ballots felt

thicker than others. In my opinion, further examination should occur on these ballots and AV boards to confirm these differences, the number of instances where this may have occurred, patterns that may exist on voting on the different paper stock, and any further determinations that can be made from either paper that exists. This can be crucial evidence in light of the possibility of additional ballots being introduced as discussed in affidavits and evidenced by videos.

Below is a photograph of two ballots showing the representative difference in printing appearance that can be seen between two ballots from AV 26, similar differences were found in other AV boards.



The mail in envelopes, absentee applications, register tapes and record books were located in the same storage room as the ballots in file-like storage drawers. These drawers were not locked or sealed like the ballots at the time of our arrival.

The method used to count the envelopes was to observe the representative from the Election office count the envelopes in stacks of a 100 (sometimes 50 or 25), we then counted the total and I recorded that number. With regards to the register tapes and the record books; the City representative removed the tapes and record book from the envelope, I then documented the totals that were recorded and the materials were placed back in the same envelope.

In several of the AV boards, a comparison was made from the applications for mail in ballots to the envelopes. I was told by the City staff that many applications were sent out (even unsolicited in cases) for

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mail in ballots in 2020. However, it was confirmed by the staff that in order to receive a mail in ballot, an application needed to be received, either by return mail or delivered in person.

This was a very time-consuming process to match up each returned ballot with a corresponding application, therefore only 2 AV boards were done like this as time allowed. In the two AV boards compared (AV 79 and AV 122), there were 289 mail-in ballots (249 in AV 79 and 40 in AV 122) found that had NO application in the file to receive the ballots. In some of those instances post it notes were found in the files that included "Ballot doesn't match poll book"; "not on list in QVF"; and "Not on list".

I have now been provided with what I am told is a "permanent AV voter list". I then compared the ballot return envelopes that have no corresponding application for AV ballot request to the "permanent list".

Looking into the math involved, AV 79 had a total of 1249 ballots counted according to the total printouts. 249 showed no application for the ballot, this is nearly 20%. When the "permanent list" is compared to these 249 without applications, 155 of them were still not found on this list or with an application. This is over 12%.

For AV 122 the total ballots shown in the printouts is 511, with 40 having no corresponding application which is approximately 8%. When the "permanent list" is compared to these 40 without applications, 33 of them were still not found on this list or with an application. This is over 6%.

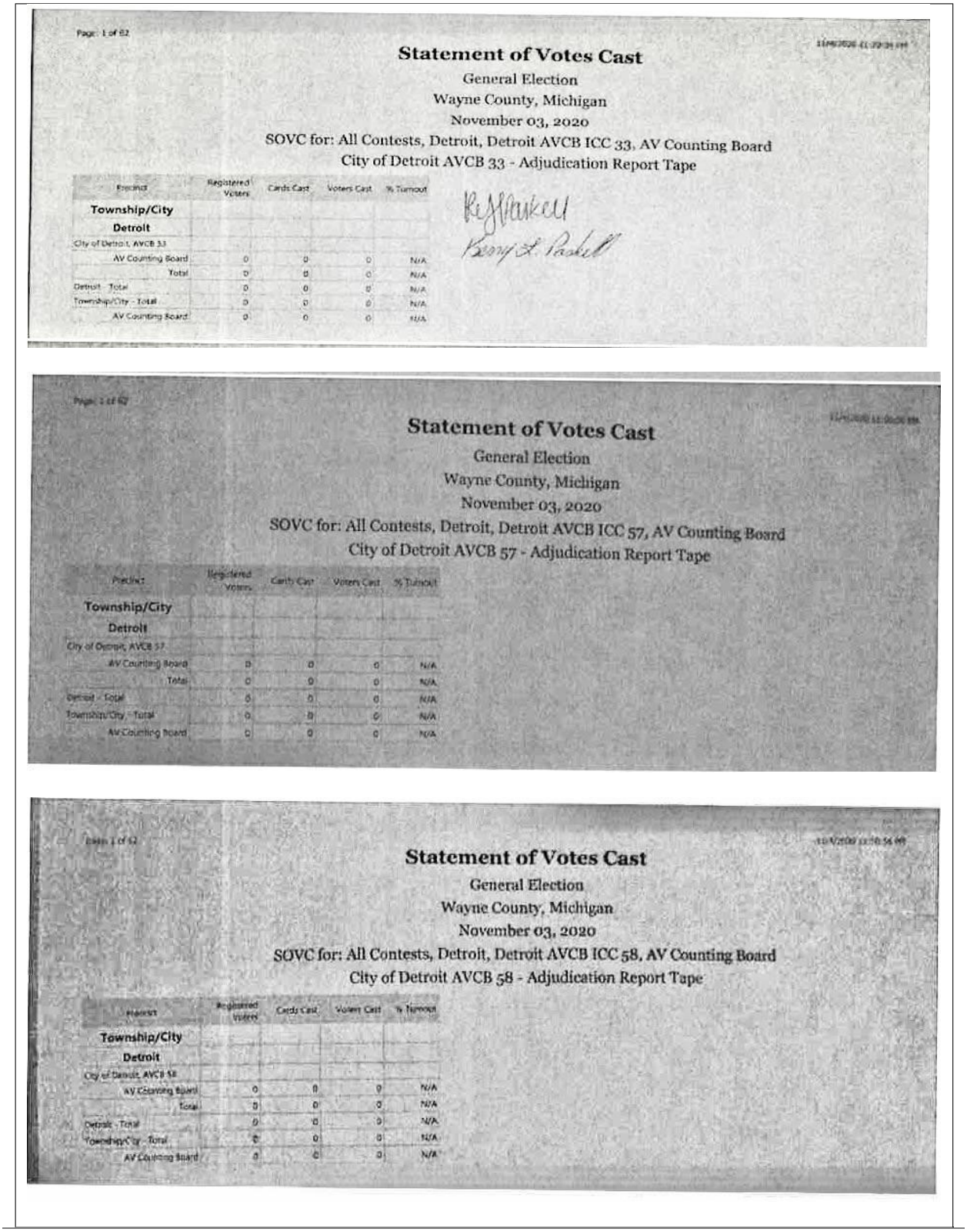
It would follow that is all the boards were compared in this manner, with approximately 170,000 AV ballots, the range at 8%-20% would be 13,600 to 34,000 ballots with no application requesting the ballot.

My office will continue to analyze records and compare additional boards in the same manner as AV 79 and AV 122 above.

After the envelopes were counted, the total number of envelopes were compared to the total number of ballots for each AVCBs. Many of these boards had unexplainable differences. In some, the number of ballots was more than the number of envelopes. In a few instances, there were more envelopes that ballots present to be counted. A small discrepancy can exist by simple human error of an envelope missing or misfiled of course, but the differences in some cases are much bigger. For example, AV 18 contains 43 more envelopes than ballots; AV 38 contains 40 more ballots than envelopes; AV 40 contains 62 more ballots than envelopes. There are dozens of such examples, while other AVs match exactly or nearly exactly.

A comparison was then made to the vote totals on the tapes (in person) or printouts (AVCB) to the ballots present to be counted. Three AV boards had totals of ZERO votes on the printouts, but votes were recorded to the state. These boards are AV 33, AV 57, and AV 58. It is unclear how the totals were reported when the printouts show ZERO. At 11:23pm AV 33 shows the totals of zero, for AV 57 at 11:50pm shows zero, and for AV 58 at 11:50pm shows zero. These three AV envelopes showed no totals on any printouts.

See photos on the following page:



Page: 1 of 62

Statement of Votes Cast

General Election
Wayne County, Michigan
November 03, 2020
SOVC for: All Contests, Detroit, Detroit AVCB ICC 33, AV Counting Board
City of Detroit AVCB 33 - Adjudication Report Tape

Precinct	Registered Voters	Cards Cast	Voters Cast	% Turnout
Township/City				
Detroit				
City of Detroit, AVCB 33				
AV Counting Board	0	0	0	N/A
Total	0	0	0	N/A
Detroit - Total	0	0	0	N/A
Township/City - Total	0	0	0	N/A
AV Counting Board	0	0	0	N/A

Page: 1 of 62

Statement of Votes Cast

General Election
Wayne County, Michigan
November 03, 2020
SOVC for: All Contests, Detroit, Detroit AVCB ICC 57, AV Counting Board
City of Detroit AVCB 57 - Adjudication Report Tape

Precinct	Registered Voters	Cards Cast	Voters Cast	% Turnout
Township/City				
Detroit				
City of Detroit, AVCB 57				
AV Counting Board	0	0	0	N/A
Total	0	0	0	N/A
Detroit - Total	0	0	0	N/A
Township/City - Total	0	0	0	N/A
AV Counting Board	0	0	0	N/A

Page: 1 of 62

Statement of Votes Cast

General Election
Wayne County, Michigan
November 03, 2020
SOVC for: All Contests, Detroit, Detroit AVCB ICC 58, AV Counting Board
City of Detroit AVCB 58 - Adjudication Report Tape

Precinct	Registered Voters	Cards Cast	Voters Cast	% Turnout
Township/City				
Detroit				
City of Detroit, AVCB 58				
AV Counting Board	0	0	0	N/A
Total	0	0	0	N/A
Detroit - Total	0	0	0	N/A
Township/City - Total	0	0	0	N/A
AV Counting Board	0	0	0	N/A

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For AV 13, the ballots counted by hand and the vote totals reported to the state are nearly identical (1565 vs 1566), but the number of ballots scanned and shown on the printouts are 1621. This is over 50 ballots for this AV board that show as scanned but are not present in the ballots presented to us.

As for AV 14, the number of ballots on the totals printout as scanned and the votes reported are very similar (1764 vs 1757) this is also very similar to the number of envelopes counted for that AV board of 1765. However, the number of ballots actually present is 1740. This is approximately 25 more envelopes present than ballots. I am unable to determine where these previous approximately 25 ballots have gone.

In AV 15, the number of ballots present and the total ballots on the printout are similar (1762 vs 1765). The number of envelopes counted for the AV is 1795. This is approximately 30 more envelopes present than ballots. I am unable to determine where these previous approximately 30 ballots have gone.

In AV 19, the total number of ballots counted by my team and the number of ballots on the total printout are similar (2301 vs 2300). There were only 2270 envelopes counted for this AV board. This would leave approximately 30 ballots appearing and counted that have no corresponding envelope received.

In AV 23, the total envelopes counted, and the number of ballots scanned on the totals printout are similar (2858 vs 2855). The totals ballots presented in our count was only 2818. This would be a difference of 40 ballots missing, or possibly the same ballots that were also rescanned to account for scanned total than total ballots present.

In AV 26, the total number of ballots present, and the total number scanned on the printout are similar (3426 vs 3430). The number of envelopes returned for this AV board was 3385. This is approximately 45 more ballots presented and counted than envelopes found to return the ballots.

Similar anomalies in the ballot count, envelope count, or total votes scanned exist in the following additional AV boards: AV 27, AV 28, AV 32, AV 36, AV 38, AV 40, AV 41, AV 42, AV 43, AV 45, AV 62, AV 64, AV 68, AV 69, AV 77, AV 79, AV 82, AV 87, AV 88, AV 89, AV 95, AV 96, AV 101, and AV 122.

Further anomalies existed in the totals for an individual candidate, for instance in AV 49 the total we counted within the ballots present for in the presidential race for Biden is 902, however, the total reported as votes cast and counted for AV board is 965 for Biden. It is unclear where these additional 63 votes would have come from as they are not present in the ballots presented. Duplicate scanning and counting of ballots is possible and could account for this discrepancy but the computer and system data including the scans of the ballots from the tabulators would need to be examined to confirm or deny this possibility.

Similar anomalies (of 10 or more votes) in total votes on the printouts of compared to the totals in the ballots exist in the following AV boards: AV 1 (32), AV 3 (22), AV 4 (16), AV 6 (10), AV 10 (-13), AV 12 (-12), AV 13 (53), AV 17 (57), AV 21 (16), AV 22 (13), AV 23 (36), AV 24 (19), AV 25 (15), AV 28 (46), AV 30 (-12), AV 35 (11), AV 36 (-15), AV 37 (-22), AV 40 (-10), AV 41 (53), AV 42 (10), AV 43 (27), AV 44 (-29), AV 45 (-41), AV 47 (23), AV 49 (63), AV 62 (92), AV 67 (19), AV 68 (-19), AV 72 (13), AV 73 (11), AV 75 (16), AV 77 (12), AV 84 (13), AV 86 (19), AV 88 (59), AV 92 (16), AV 93 (14), AV 94 (15), AV 95 (19), AV 99 (63), and AV 130 (46).

Based on these types of anomalies between scanned totals and ballots currently present, it is my opinion that the computer data relating to the scanning and tabulation from this 2020 election should be examined and compared for discrepancies as well as time sequences. This data should include ballot images to check for duplicate scans, comparison of totals, times of scanning, and other related features and possible access from outside sources. My office is ready and able to perform this additional analysis. The data and computer hardware should be preserved until complete analysis can be performed.



Erich J. Speckin

Forensic Document Analyst

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APPENDIX B: Rep. Smit letter to SOS Benson, March 2026

43RD DISTRICT
STATE CAPITOL
P.O. BOX 30014
LANSING, MI 48909-7514

MICHIGAN HOUSE OF REPRESENTATIVES

RACHELLE SMIT

SPEAKER PRO TEMPORE

PHONE: (517) 373-0615
FAX: (517) 373-7512
RachelleSmit@house.mi.gov

March 16, 2026

Attn: Jocelyn Benson

Secretary of State

Michigan Department of State
Richard H. Austin Building – 4th Floor
430 W. Allegan St.
Lansing, MI 48918

RE: Clerk Training and Noncitizens Voting

Dear Secretary Benson,

In my work as Chair of the House Election Integrity Committee, I discovered highly concerning information regarding clerk training materials provided by your office that have shown a dangerous shift in guidance over the years. In my capacity as Chair, I would like to share my findings with you and request clarification about the Michigan Department of State's mode of operation.

In 2019, the Michigan Bureau of Elections' (BOE) clerk training manual directed clerks to verify voter citizenship. At that time, if a clerk could not verify a voter's United States citizenship, then the clerk was directed not to issue the voter a ballot. Fast forward to 2024, and the rules changed in the election official's manual. In the 2024 edition, clerks were directed not to confirm citizenship. They were also directed to permit a voter to receive a ballot, even if the voter's citizenship status had not been verbally confirmed. This is a highly problematic change in policy that allows eligibility to vote based off an individual's self-attestation rather than an election official's unbiased verification. Noncitizens voting can now go unchecked, and we have seen that in the 2024 election.

MDOS has identified at least 15 noncitizens who cast a ballot in the 2024 general election. Clearly, the Bureau of Elections' change in policy is not working. These developments show that it is of the utmost importance for clerks to verify an individual's citizenship before sending that

person a ballot. In your April 3, 2025 press release, you stated that "this is a serious issue, one we must address." I could not agree more, but my question is, how is your department in fact addressing this issue?

For our part, the House Election Integrity Committee has taken decisive steps to fix this problem in our state. The Committee has heard testimony on HB 4765, which would require citizenship and verification to register to vote. It is a common-sense solution, which the Department has shockingly spoken out in opposition. I would like to know what MDOS is doing to prevent noncitizens from voting. How is the Department truly verifying voter eligibility and citizenship status?

The people of Michigan deserve answers and real solutions from those who are elected to serve them in office. I respectfully request the following from the Department:

1. A detailed report on what MDOS is doing to ensure only citizens vote in our elections, including but not limited to, planned updates to the elections manual, current and future guidance to local clerks, and cooperation with the federal government in conducting citizenship verification.

2. A comprehensive update on the cases of the 14 surviving noncitizens who voted in the 2024 general election, with a complete explanation of what MDOS and the Michigan Department of the Attorney General are doing to bring these alleged perpetrators to justice.

As you know, the Committee has an important and valuable role in providing oversight to the Michigan Department of State's functions to ensure that the Department is properly and effectively executing its duties. If it is not, or if statutory changes and/or improvements are needed, or if the Department needs additional resources, the Committee has a responsibility to the People of Michigan to recommend legislation to the House of Representatives for the overall benefit of the state and the security of our elections. We appreciate your prompt attention to this matter and look forward to your response, which we respectfully request within seven business days.

With Liberty,

Representative Rachelle Smit

Michigan's 43rd House District

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P.O. Box 41, Stockbridge, MI 49285

Appendix C: Jonathan Brater Memo, February 12, 2021

STATE OF MICHIGAN
BUREAU OF ELECTIONS
LANSING

MEMORANDUM

DATE: February 12, 2021
TO: County Clerks
FROM: Michigan Bureau of Elections
SUBJECT: Release of Voting Equipment

Please be advised of the following:

RELEASE OF VOTING EQUIPMENT: The security of ballots and election equipment is released as follows:

Ballots, programs and related materials: The security of all optical scan ballots, programs, test decks, accuracy test results, edit listings and any other related materials are released.

E-Pollbook laptops and flash drives: The EPB software and associated files must be deleted unless a post-election audit is planned but has not yet been completed or the deletion of the data has been stayed by an order of the court or the Secretary of State. Jurisdictions should consult with city, township, or county counsel regarding any pending court orders, subpoenas, or records requests regarding these materials.

FEDERAL BALLOT RETENTION REQUIREMENT: If the office of President, U.S. Senator or U.S. Representative in Congress appears on the ballot (all appeared on the November 3, 2020 general election ballot), federal law requires that all documents relating to the election -- including optical scan ballots and the programs used to tabulate optical scan ballots -- be retained for 22 months from the date of the certification of the election. To comply with the requirement, the Bureau of Elections recommends that optical scan ballots and the programs relating to federal elections be stored in **sealed ballot bags** in a secure place during the 22-month retention period. The documents subject to the federal retention requirement must not be transferred to ballot bags for extended retention until after they are released under Michigan election law as detailed in this memo.

Questions?

If you have any questions, please contact us via email at elections@michigan.gov, or by phone at (517) 335-3234 or (800) 292-5973.

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APPENDIX D: State-by-State Comparison of 24 States with Dual Rulemaking Oversight Systems

Table: 24-State Central Panel Independence Comparison

State	Statutory Foundation	Independence Tier	Legislative Oversight Body	Central Panel Adjudication Kept Structurally Separate from Rulemaking & allowing no dual function	CP Free of Exec. Branch Rule-making	Links to Key Sources & Case Law
Alaska	Yes Alaska Stat. § 44.64.010 (2005)	Tier 1 — Statutory / Full Independence	Administrative Regulation Review Committee (ARRC) Alaska Stat. § 24.20.400 et seq.	Yes	Yes	Alaska Stat. § 44.64.010 Alaska Stat. § 24.20.400
Arizona[7]	Yes A.R.S. § 41-1092 (1992)	Tier 2 — Structural / Partial Independence	Governor's Regulatory Review Council (GRRC) A.R.S. § 41-1052	Yes	Yes	A.R.S. § 41-1092 A.R.S. § 41-1052
California[8]	Yes Cal. Gov. Code § 11370 (1945; reformed 1995)	Tier 1 — Statutory / Full Independence	Office of Administrative Law (OAL) Cal. Gov. Code § 11340 et seq.	Yes	Yes	Cal. Gov. Code § 11370 Cal. Gov. Code § 11340.5

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State	Statutory Foundation	Independence Tier	Legislative Oversight Body	Central Panel Adjudication Kept Structurally Separate from Rulemaking & allowing no dual function	CP Free of Exec. Branch Rule-making	Links to Key Sources & Case Law
Colorado	Yes C.R.S. § 24-4-105 (1959)	Tier 2 — Structural / Civil Service Independence	Office of Legislative Legal Services (OLLS) C.R.S. § 2-5-201 et seq.	Yes	Yes	C.R.S. § 24-4-103 Est. 1959, 24-4-105 C.R.S. § 2-5-201 et seq. (Legal Services); Legislative review of administrative rules and regulations.
Florida	Yes Fla. Stat. § 120.65 (1974)	Tier 1 — Statutory / Full Independence	Joint Administrative Procedures Committee (JAPC) Fla. Stat. § 120.545 (APA Ch. 120) 11.60 Admin. Proc. Cmte.	Yes	Yes	Fla. Stat. § 120.65 & 120.65, Fla. Stat. § 120.545, 11.60 Admin. Proc. Cmte
Georgia	Yes O.C.G.A. § 50-13-40 (1994)	Tier 1 — Statutory / Full Independence	Standing Committees (Rules Committee) O.C.G.A. § 50-13-4	Yes	Yes	O.C.G.A. § 50-13-40
Indiana	Yes IC 4-15-10.5 (H.E.A. 1223, 2019; op. July 1, 2020)	Tier 2 — Structural / Civil Service Independence	Indiana General Assembly (standing committees) IC 4-22-2 et seq.	Yes	Yes	4-15-10.5 IC 4-21.5-3-7 4-22

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State	Statutory Foundation	Independence Tier	Legislative Oversight Body	Central Panel Adjudication Kept Structurally Separate from Rulemaking & allowing no dual function	CP Free of Exec. Branch Rule-making	Links to Key Sources & Case Law
Iowa	Yes Iowa Code § 10A.801 (1998; op. Jan. 1, 1999)	Tier 2 — Structural / Civil Service Independence	Administrative Rules Review Committee (ARRC) Iowa Code § 17A.8	Yes	Yes	Iowa Code § 10A.801 Iowa Code § 17A.8 & 17A.8
Louisiana	Yes La. R.S. § 49:991 (Acts 1995, No. 739; op. Oct. 1, 1996)	Tier 2 — Structural / Civil Service Independence	Senate & House Standing Committees La. R.S. § 49:968	Yes	Yes	La. R.S. § 49:991, La. R.S. § 49:968, 49:992 49:994 49:968
Maryland	Yes Md. Code Ann., State Gov't § 9-1601–9-1610 (Ch. 788, Acts 1989; op. Jan. 1, 1990)	Tier 1 — Statutory / Full Independence	Joint Committee on Administrative, Executive & Legislative Review (AELR) Md. Code Ann., State Gov't § 10-111	Yes	Yes	Md. Code Ann., State Gov't § 9-1601 & 9-1601 Md. Code Ann., State Gov't § 10-111 & 10-110
Massa-chusetts	Yes M.G.L. c. 7, § 4h (est. 1974; renamed DALA 1983)	Tier 2 — Structural / Civil Service Independence	Joint Committee on Administrative Law / Secretary of State M.G.L. c. 30A	Yes	Yes	M.G.L. c. 30A; Reg. Manual M.G.L. c. 7, § 4H

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State	Statutory Foundation	Independence Tier	Legislative Oversight Body	Central Panel Adjudication Kept Structurally Separate from Rulemaking & allowing no dual function	CP Free of Exec. Branch Rule-making	Links to Key Sources & Case Law
Michigan [1]	No Exec. Reorg. Order 2019-06 — NO statutory foundation	Tier 3 — Executive Capture (OUTLIER: 0/5 protections)	Joint Committee on Administrative Rules (JCAR) MCL § 24.235 et seq.	No MOAHR (E.R.O. 2019-06) combines adjudicative and rulemaking gatekeeping functions in a single EO-created body. No other state central panel holds this dual function. [1]	No Sole State [1]	E.R.O. 2019.06 MCL § 24.201 et seq. *House of Representatives v. Benson*, No. 25-000096-MZ
Minne-sota [2]	Yes Minn. Stat. § 14.48 (1975); renamed Court of Administrative Hearings, Laws 2025, ch. 39, art. 2	Tier 1 — Statutory / Full Independence	Legislative Coordinating Commission / Standing Committees Minn. Stat. § 14.03 et seq.	Yes	Yes [2]	Minn. Stat. § 14.48 Minn. Stat. § 14.50 Minn. Stat. § 14.15 Laws 2025, ch. 39, art. 2
Missouri	Yes Mo. Rev. Stat. § 621.015 (L. 1965, p. 277, § 1)	Tier 1 — Statutory / Full Independence	Joint Committee on Administrative Rules (JCAR) Mo. Rev. Stat. § 536.175	Yes	Yes	Mo. Rev. Stat. § 621.015 Mo. Rev. Stat. § 536.175 536.037

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State	Statutory Foundation	Independence Tier	Legislative Oversight Body	Central Panel Adjudication Kept Structurally Separate from Rulemaking & allowing no dual function	CP Free of Exec. Branch Rule-making	Links to Key Sources & Case Law
New Jersey [4]	Yes N.J.S.A. 52:14F-1 (P.L. 1978, c. 67; op. 1979)	Tier 1 — Statutory / Full Independence	Administrative Law Committee / Office of Legislative Services N.J.S.A. 52:14B-4	Yes	Yes [2]	N.J.S.A. 52:14F-1; & N.J.S.A. 52:14F-1 through 14F-5 N.J.S.A. 52:14B-4.3 N.J.S.A. 52:14B-4
North Carolina [5]	Yes G.S. § 7A-750 et seq. (OAH est. 1985, c. 746)	Tier 1 — Statutory / Full Independence	Joint Legislative Admin. Procedure Oversight Committee; Rules Review Commission (RRC) G.S. § 143B-30.1 et seq., 150B	Yes	Yes	G.S. § 7A-750; G.S. ch. 150B 7A-750 7A-752 7A-754 143b-301 ch 150B
North Dakota[6]	Yes N.D.C.C. ch. 54-57 (est. 1991) [6]	Tier 1 — Statutory / Full Independence	Administrative Rules Committee N.D.C.C. ch. 28-32	Yes	Yes	N.D.C.C. ch. 54-57 (PDF) & 54-57-01, 54-57-03 N.D.C.C. ch. 28-32
South Carolina	Yes S.C. Code Ann. § 1-23-500 (Act No. 181, 1993; renamed ALC by Act No. 202, 2004)	Tier 1 — Statutory / Full Independence	General Assembly Standing Committees S.C. Code Ann. § 1-23-120 et seq.	Yes	Yes	S.C. Code Ann. § 1-23-500 1-23-500 1-23-510 1-23-520 1-23-120

State	Statutory Foundation	Independence Tier	Legislative Oversight Body	Central Panel Adjudication Kept Structurally Separate from Rulemaking & allowing no dual function	CP Free of Exec. Branch Rule-making	Links to Key Sources & Case Law
South Dakota	Yes SDCL ch. 1-26D (SL 1995, ch. 8)	Tier 2 — Structural / Civil Service Independence	Legislature (Standing Committees) SDCL ch. 1-26	Yes	Yes	SDCL ch. 1-26D; SDCL ch. 1-26 1-26D-1 1-26D-2 1-26D-3 1-26D-6
Tenne-ssee	Yes T.C.A. § 4-5-321 et seq. (APD formalized 1986; UAPA est. 1974)	Tier 2 — Structural / Civil Service Independence	Secretary of State (Legislative Branch) / Standing Committees T.C.A. § 4-5-101 et seq., 4-5-206	Yes	Yes	T.C.A. § 4-5-101 et seq.; T.C.A. § 4-5-321
Texas [9]	Yes Tex. Gov't Code ch. 2003 (SOAH est. 1991, 72nd Leg.)	Tier 2 — Structural Independence	House/Senate Standing Committees; Texas Register (SOS) Tex. Gov't Code ch. 2001 (APA)	Yes	Yes	Tex. Gov't Code ch. 2003; Tex. Gov't Code ch. 2001
Washing-ton	Yes RCW 34.12.010 (ESHB 101, 1981 c 67; op. July 1, 1982)	Tier 1 — Statutory / Full Independence	Joint Administrative Rules Review Committee (JARRC) RCW ch. 34.05	Yes	Yes	RCW 34.12.010; RCW 34.05.610 34.12.030

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State	Statutory Foundation	Independence Tier	Legislative Oversight Body	Central Panel Adjudication Kept Structurally Separate from Rulemaking & allowing no dual function	CP Free of Exec. Branch Rule-making	Links to Key Sources & Case Law
Wisconsin [3] [10]	Yes Wis. Stat. § 227.43 & 227.26 (JCRAR est. 1966; ALJ central panel statutory)	Tier 2 — Structural / Civil Service Independence	Joint Committee for Review of Administrative Rules (JCRAR) Wis. Stat. § 227.19 et seq. [3]	Yes	Yes	Wis. Stat. § 227.43; Wis. Stat. § 227.19; Wis. Leg. 227.16; *Evers v. Marklein*, 2025 WI 36 (July 8, 2025)
Wyoming [11]	✅ **Yes** W.S. § 9-2-2201–9-2-2203 (created 1987; reorg. 1992)	Tier 2 — Structural Independence (Senate confirmation confirmed; at-pleasure removal)	Legislature (Select Committee / APA Oversight) W.S. § 16-3-103	Yes	Yes	W.S. § 9-2-2201– W.S. § 16-3-103, 9-2-2202 9-2-2203 27-14-602

Figure 108: ***Independence comparison of the 24 central-panel states.*** *Source: Michigan Fair Elections Institute (MFEI), Primary-Sources Verified, March 2026*

Note: The Illinois Bureau of Administrative Hearings (BAH) resembles MOAHR in that BAH was also created by executive-order. However, Illinois was excluded from the central-panel pool because it has no rulemaking/gatekeeping authority and no adjudication finality.

[1] **Michigan MOAHR Michigan** — Dual-Function Anomaly (Unique in Dataset): Several states in this comparison maintain executive branch rulemaking oversight bodies that are structurally separate from their adjudicative central panels, notably Arizona (GRRC, A.R.S. § 41-1052, statutory, Governor-appointed), California (OAL, Gov. Code § 11340 et seq., Governor-appointed, Senate-confirmed), and North Carolina (OSBM, G.S. § 150B-21.4, impact analysis review). In each case, the rulemaking oversight body and the adjudicative panel are structurally separate entities. Michigan is the sole state where a single EO-created body (MOAHR) simultaneously serves as the central adjudicative panel and exercises rulemaking gatekeeping authority. This dual-function structure, combined with MOAHR's absence of any independence

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protections (no statutory foundation, no Senate confirmation, no qualifications requirement, no cause-based removal, non-default finality: 0/5 protections), is the structural anomaly at the center of *House of Representatives v. Benson*, Case No. 25-000096-MZ (Ingham County Circuit Court).

[2] **Minnesota / New Jersey** — Rulemaking Hearing Function Distinguished: Minn. Stat. § 14.50 and N.J.S.A. 52:14F: OAH/OAL conducts rulemaking hearings as a procedural/neutral forum. Approval/disapproval authority remains with the Legislature and agency, not the central panel. Scored 'No' for gatekeeping.

[3] **Wisconsin Post-*Evers v. Marklein***, 2025 WI 36 (July 8, 2025): Five JCRAR statutes struck as facially unconstitutional — Wis. Stat. § 227.19(5)(c),(d),(dm); 227.26(2)(d),(im). JCRAR retains advisory powers only. Constitutional status of § 227.19(2)-(4) standing committee review remains unsettled as of March 2026.

[4] **New Jersey ALJ Senate Confirmation**: Only state where individual ALJs, not merely the director, are subject to Gov. appointment with Senate confirmation. N.J.S.A. 52:14F-5. The most thoroughly judicialized central panel in dataset.

[5] **North Carolina Appointment**: Chief ALJ appointed by Chief Justice of the NC Supreme Court — the only state where central panel leadership is selected by the judicial branch.

[6] **North Dakota Senate Confirmation Confirmed**: N.D.C.C. § 54-57-01(2) expressly requires Governor appointment with Senate confirmation; 6-year term; cause-based removal only.

[7] **Arizona:** Tier 2 due to Structural / Partial Independence. A.R.S. § 41-1092.01 provides statutory nomination (§ 38-211) but not full Senate confirmation; finality is non-default. GRRC (§ 41-1052) is a separate executive body.

[8] **California Tier Correction:** Prior versions listed California as Tier 2. Corrected to Tier 1 — Statutory / Full Independence. Cal. Gov. Code § 11370.2(b) requires Governor appointment with Senate confirmation and attorney + 5 years' experience. OAH and OAL are structurally separate.

[9] **Texas Tier Correction:** Structural Independence. Tex. Gov't Code § 2003.022(a) provides a 2-year term with no Senate confirmation; finality is non-default (§ 2003.042(a)(6)). SOAH has the strongest express independence purpose statement in the dataset (§ 2003.021(a)), but structural protections are partial.

[10] **Wisconsin Tier Correction:** Prior versions listed Wisconsin as Tier 1. Corrected to Tier 2 — Structural / Civil Service Independence post-*Evers v. Marklein*, 2025 WI 36 (July 8, 2025). DHA (§ 227.43) retains civil service protections for ALJ staff; JCRAR oversight powers are now advisory only.

[11] **Wyoming Confirmation Correction:** W.S. § 9-2-2201(b) expressly requires appointment 'with the advice and consent of the senate.' Wyoming remains Tier 2 because the director serves

at the governor's pleasure and hearing examiners are removable 'at any time without cause' (§ 9-2-2201(c)). Wyoming therefore satisfies the Senate confirmation criterion but not the cause-based removal criterion.

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APPENDIX E: Jonathan Brater, Director of MDOS Bureau of Elections, to Victoria *Bush*, Antrim County Clerk, Apr. 14, 2026

STATE OF MICHIGAN
BUREAU OF ELECTIONS
LANSING

April 30, 2026

Victoria Bishop, Antrim County Clerk
Via email: bishopv@antrimcountymi.gov

Dear Clerk Bishop,

Our office received no response to my letter of April 14, 2026, requesting information about voter list maintenance activities your office has conducted that conflict with the Michigan Election Law.

I am aware of a press statement your office released on April 19. In this document you attempt to justify your activities based on your policy views and your election as Antrim County Clerk in November 2024. The office to which you were elected has authorities and responsibilities assigned to it by the Michigan Election Law; you do not have unlimited authority to conduct any action you see fit simply because you were elected to office. Furthermore, as noted in my April 14 letter to you, the Secretary of State is the chief election officer of the state, and has supervisory control over local election officials performing their duties under the Michigan Election Law. MCL 168.21.

Additionally, voters in Antrim County also elected the municipal clerks who run elections in Antrim County or, as applicable, the municipal officials who appointed those clerks, and they too have authorities and responsibilities under the law. The Michigan Election Law provides that the Department of State and municipal clerks conduct voter list maintenance, including by making appropriate updates to voters' status in the Qualified Voter File (QVF). A County clerk's role in voter list maintenance is limited to *identifying* voters who have died on the basis of County Vital records (the actual cancellation is conducted by the municipal clerk) and providing assistance to municipal clerks *at their request*. MCL 168.510.

In my prior letter, I asked you to provide any agreements or requests you have from municipal clerks in which they gave you permission to alter voters' QVF records on their behalf. As of this date, you have not provided any such agreements. Consequently, you should not be making any changes to voter status in QVF other than identifying possibly deceased voter records for municipal clerks to review and cancel. You should not be cancelling, inactivating, or challenging voters on behalf of municipal clerks, which, again, you have authority to do only at the request of municipal clerks.

The Election Officials' Manual ("the Manual"), Chapter 1, further delineates these responsibilities. Page 7 outlines the duties of the county clerk and does **not** include voter registration maintenance. Page 8 expressly states that *"City and township clerks* maintain the voter registration records for their respective jurisdictions and are responsible for administering all federal, state, county, city, township, and village elections." (Emphasis added).

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Victoria Bishop
Page 2

For voters whose records it appears you have already altered without permission or statutory authority, the Bureau is discussing the appropriate next steps for each voter with the voter's municipal clerk.

Again, the Bureau requires the data we asked you to provide in my prior letter. The Bureau is continuing to review your activities and will provide instruction on required corrective action. This will include steps not only for voters whose QVF records you have altered but also for voters to whom you sent a confirmation and/or cancellation notice outside of the statutorily mandated process. These voters may require additional communication to prevent confusion or wrongful disenfranchisement.

Under the Michigan Election Law, 1954 PA 116, as amended, MCL 168.1*et seq.*, the Secretary of State is the Chief Election Officer of this State and "shall have supervisory control over local election officials in the performance of their duties under the provisions of this act." MCL 168.21. The Secretary of State is required by law to "issue instructions" and "[a]dvise and direct local election officials as to the proper methods of conducting elections." MCL 168.31(1)(a),(b). County clerks and Boards of Commissioners are required to comply with the instructions given by the Secretary of State. *Secretary of State v Berrien Co Bd of Election Comm'rs,* 373 Mich 526, 530-531 (1964). The Director of Elections is authorized to act at the Secretary's behest "with respect to the supervision and administration of the election laws." MCL 168.32.
Per the Michigan Election Law, "an individual shall not willfully fail to perform a duty imposed upon that individual by this act or disobey a lawful instruction or order of the secretary of state as chief state election officer or of a board of county election commissioners, board of city election commissioners, or board of inspectors of election," and a violation of this provision is a misdemeanor. MCL 168.931(1)(g).

Pursuant to my authority under the Michigan Election Law, I am directing you to refrain from any further alterations to voter records in QVF, aside from your statutorily authorized duty to flag possibly deceased voter records for municipal clerk review. You should not be cancelling these records or taking any other action to alter voter records in QVF for any other reasons. I am also directing you to refrain from sending cancellation or confirmation notices to registered voters. Further, I am directing you to provide the data and information listed in my prior letter to the Bureau.

Sincerely,

Jonathan Brater, Director
Bureau of Elections

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APPENDIX F: Technical Memorandum. QVF Registration Trends and List Maintenance (2023–2026)

Analysis of Michigan Qualified Voter File (QVF) Registration Trends and List Maintenance (2023–2026)

Analysis by Mark Vaeth | May 19, 2026

Purpose

This memorandum summarizes an independent analysis of Michigan Qualified Voter File (QVF) registration trends conducted using publicly available Michigan Department of State voter registration totals, United States Census Bureau Citizen Voting Age Population (CVAP) estimates, and Michigan Fair Elections Institute analyses derived from records obtained under the Michigan Freedom of Information Act. The purpose is to evaluate observable trends in voter registration growth and list maintenance relevant to compliance with the National Voter Registration Act (NVRA), 52 U.S.C. § 20507.

Executive Summary

As of May 19, 2026, Michigan reported **8,331,635 registered voters** in the Qualified Voter File (QVF). The corresponding U.S. Census Bureau estimate of Michigan's Citizen Voting Age Population (CVAP) is **7,653,711**, producing a registration-to-CVAP ratio of approximately **108.9 percent**. Comparable states generally report substantially lower registration ratios; for example, Ohio reported approximately **84.6 percent** during the same period.

Michigan also removed approximately **213,000** long-inactive registrations between September 2025 and April 2026 following public attention to inactive registrations. However, the analysis indicates that approximately **61.8 percent** of the previously identified long-inactive registrations remained coded as active, while **50,738** new registrations entered the system during the same period, limiting the net reduction in total registrations.

Methodology

This analysis relies upon:

- Michigan Department of State QVF daily and weekly voter-count snapshots;
- United States Census Bureau 2020–2024 ACS Citizen Voting Age Population estimates;
- Michigan Fair Elections Institute FOIA-derived registration analyses;
- Ohio Secretary of State voter registration totals, for comparison purposes.

Observed Trends

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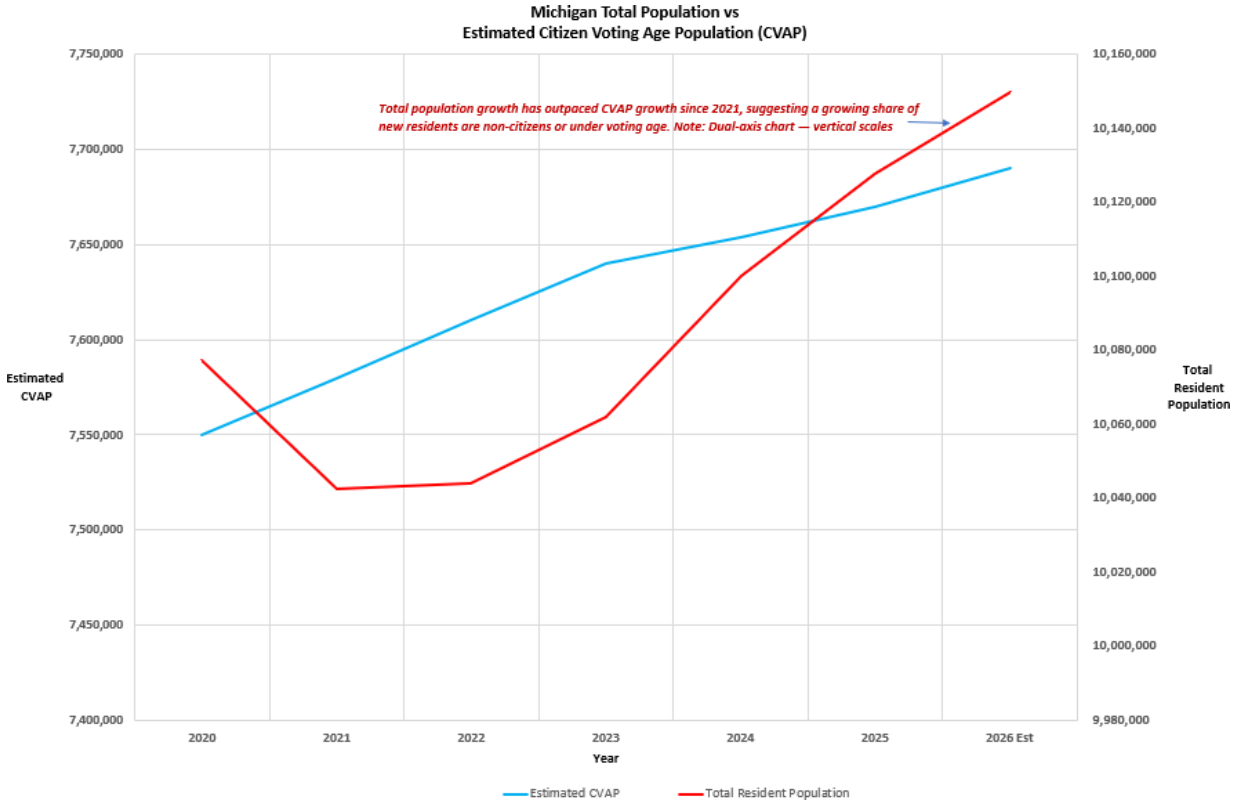


Figure 109: ***Michigan Total Resident Population vs. Estimated Citizen Voting Age Population (CVAP)****, 2020–2026. The figure shows reported voter registrations continuing to increase while estimated CVAP grew at a slower rate over the same period.*

Comparison to a Peer State

State	CVAP (2020–2024 ACS)	Registered Voters (May 2026)	Registration-to-CVAP Ratio
Michigan	7,653,711	8,331,635	108.9%
Ohio	8,956,209	7,580,955	84.6%

Figure 110: ***Registration-to- CVAP ratios for Michigan and Ohio****, based on 2020–2024 ACS CVAP estimates and May 2026 voter registration totals.*

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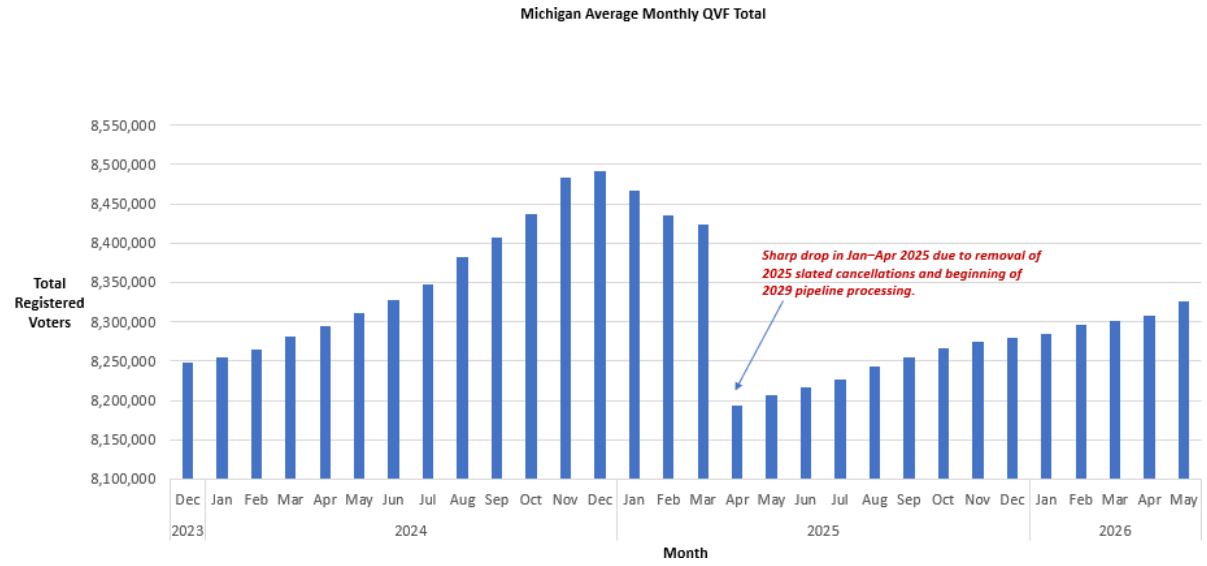


Figure 111: ***Michigan Average Monthly QVF Total****, December 2023–May 2026.*
The figure shows QVF totals declining in early 2025 during a period of list-maintenance cancellation activity, followed by continued growth attributable to new registrations.

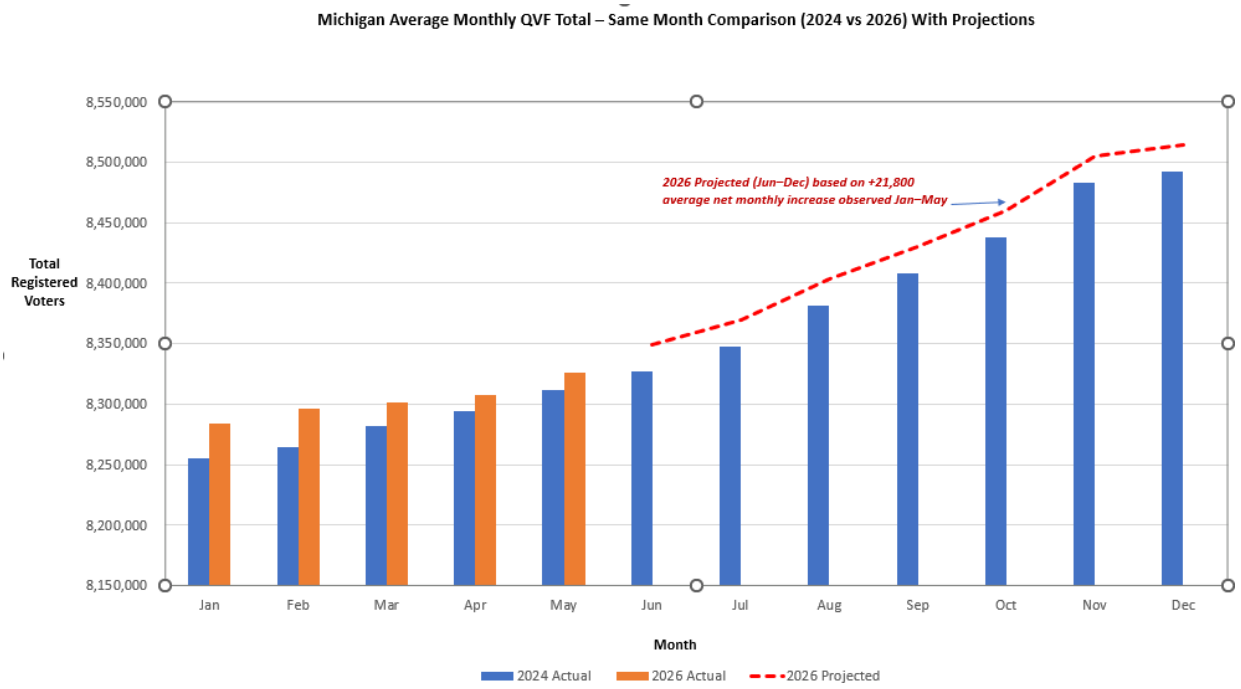


Figure 112: ***Michigan Average Monthly QVF Total, Year-over-Year Comparison*** *(2024 vs. 2026), with Projection. The figure compares monthly QVF totals for 2024 and 2026 and includes a projection for the remainder of 2026 based on the average net monthly increase observed from January through May.*

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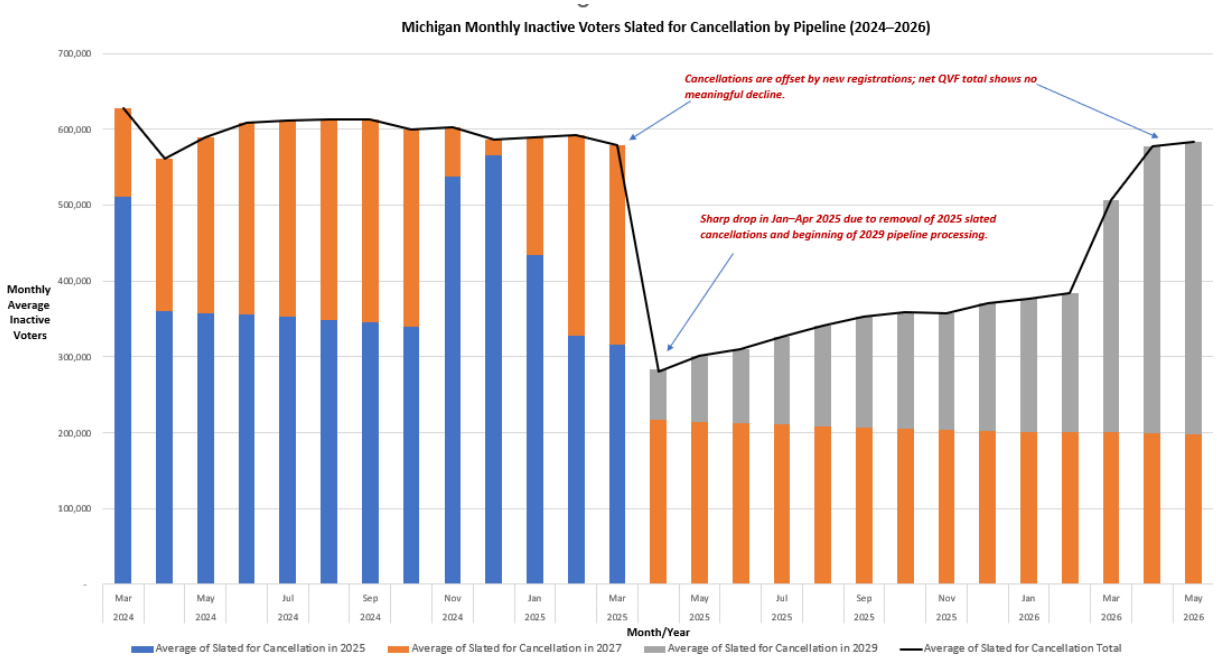


Figure 113: **Michigan Monthly *Inactive Voters Slated for Cancellation***, *by Processing Pipeline, 2024–2026. The figure shows the volume of inactive registrations processed for cancellation across multiple pipelines relative to the net QVF total over the same period.*

Observations

The registration-to-CVAP ratio exceeds 100 percent and is substantially higher than the comparison state presented in this memorandum. Additional analysis may be warranted to determine the extent to which registration totals reflect active eligible electors, inactive registrations, recent movers, duplicate records, or other factors recognized under the National Voter Registration Act.

Several additional patterns are observed in the data reviewed:

- The 20-year inactivity threshold established under Rule Set 2025-13 (R 168.252) is more permissive than the notice-and-removal framework contemplated by 52 U.S.C. § 20507(c)(2)(A), which envisions action beginning within approximately four years of confirmed inactivity.
- Approximately 61.8 percent of the registrations identified as long-inactive in September 2025 remained coded as active as of April 2026.
- The September 2025–April 2026 removals followed increased public attention to long-inactive registrations. The Michigan Office of the Auditor General has indicated that a full statistical audit is not expected to be completed until 2027.

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NVRA Discussion

The observed data may warrant further review under the list-maintenance provisions of the National Voter Registration Act, particularly regarding the timing and consistency of removal procedures for long-inactive registrations. The analysis does not independently determine whether any individual registration is improper but evaluates aggregate trends using publicly available data.

Conclusion

The data analyzed in this memorandum identify persistent growth in Michigan's Qualified Voter File despite documented list-maintenance activity. These observations may warrant additional review by election administrators, auditors, and federal authorities responsible for enforcing the National Voter Registration Act and other applicable election laws.

Sources

- Michigan Qualified Voter File (QVF) Totals — Michigan Secretary of State, Voter Count Dashboard (daily and weekly snapshots): mvic.sos.state.mi.us/VoterCount/Index (8,331,635 registered voters as of May 19, 2026).
- Citizen Voting Age Population (CVAP) — Michigan & Ohio — U.S. Census Bureau, 2020–2024 American Community Survey 5-Year Special Tabulation (CVAP 2020–2024 5-Year ACS Data, State.csv, cvap_est column: Michigan 7,653,711; Ohio 8,956,209).
- Total Resident Population (Michigan) — U.S. Census Bureau, Annual Estimates of the Resident Population for Counties in Michigan, Vintage 2025.
- MFEI Analysis of Long-Inactive Registrations — Michigan Fair Elections Institute, "Michigan Voter Rolls Shed 213,000 Ghost Registrations After Citizen Advocacy Campaign," May 5, 2026 (analysis by Mark Vaeth, based on FOIA data obtained from the Michigan Secretary of State's office, September 2025 and April 1, 2026).
- Ohio Registered Voters — Ohio Secretary of State official figures as of May 2026: 7,580,955.

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APPENDIX G: Jonathan Brater, December 1, 2020, Letter to Clerks

STATE OF MICHIGAN
BUREAU OF ELECTIONS
LANSING

MEMORANDUM

DATE: December 1, 2020
TO: County Clerks
FROM: Michigan Bureau of Elections
SUBJECT: Recounts; Release of Voting Equipment

Please be advised of the following:

STATE RECOUNTS: The Board of State Canvassers completed its canvass of the November 3, 2020 general election on November 23, 2020. The deadline for filing a petition for a recount with the Secretary of State elapsed on November 30, 2020. The following lists the recount requests received by the Secretary of State by the recount petition filing deadline:

- 71st State House District: Eaton County

CONDUCT OF LOCAL RECOUNTS: Recounts requested for local offices that overlap the district listed above may not proceed until clearance is received through this office. Recounts requested for local offices that do not overlap the district listed above may proceed at this time.

DEADLINE FOR COMPLETION OF RECOUNTS: After a general election, each requested recount must be completed no later than 30 days after 1) the deadline for filing a counter petition or 2) the first date the recount may lawfully begin (MCL 168.875).

CONDUCT OF POST-ELECTION AUDITS: If a recount has been requested involving a precinct that has been selected for a post-election audit, the audit may not begin until after the recount has been completed. All other post-election audits may proceed at this time. All of the resources you will need to conduct post-election audits may be found at this link: Post-Election Audit Resources.

The post-election procedure audit includes a hand count of the ballots for the U.S. Senate race in each precinct selected for audit. Additionally, we will be conducting a state-wide Risk Limiting Audit of the Presidential race.

RELEASE OF VOTING EQUIPMENT: The security of ballots and election equipment is released as follows:

BUREAU OF ELECTIONS
RICHARD H. AUSTIN BUILDING • 1ST FLOOR • 430 W. ALLEGAN • LANSING, MICHIGAN 48918
www.Michigan.gov/elections • (800) 292-5973

Website: MiFairElections.org; Email: contact@mifairelections.org
P.O. Box 41, Stockbridge, MI 49285

Ballots, programs and related materials: The security of all optical scan ballots, programs, test decks, accuracy test results, edit listings and any other related materials will be released once all post-election audits are completed.

E-Pollbook laptops and flash drives: The EPB software and associated files must be deleted from all devices by the seventh calendar day following the final canvass and certification of the election (November 30, 2020) unless a petition for recount has been filed and the recount has not been completed, a post-election audit is planned but has not yet been completed, or the deletion of the data has been stayed by an order of the court or the Secretary of State.

FEDERAL BALLOT RETENTION REQUIREMENT: If the office of President, U.S. Senator or U.S. Representative in Congress appears on the ballot (all appeared on the November 3, 2020 general election ballot), federal law requires that all documents relating to the election -- including optical scan ballots and the programs used to tabulate optical scan ballots -- be retained for 22 months from the date of the certification of the election. To comply with the requirement, the Bureau of Elections recommends that optical scan ballots and the programs relating to federal elections be stored in **sealed ballot bags** in a secure place during the 22-month retention period. The documents subject to the federal retention requirement must not be transferred to ballot bags for extended retention until after they are released under Michigan election law as detailed in this memo.

Questions?

If you have any questions, please contact us via email at elections@michigan.gov, or by phone at (517) 335-3234 or (800) 292-5973.

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APPENDIX H: Rep. Smit letter to SOS Benson, July 31, 2025

43RD DISTRICT
STATE CAPITOL
P.O. BOX 30014
LANSING, MI 48909-7514

MICHIGAN HOUSE OF REPRESENTATIVES
RACHELLE SMIT
SPEAKER PRO TEMPORE

PHONE: (517) 373-0615
FAX: (517) 373-7512
RachelleSmit@house.mi.gov

July 31, 2025

Attn: Khyla Craine, Esq.

Chief Legal Director

Michigan Department of State
Richard H. Austin Building – 4th Floor
430 W. Allegan St.
Lansing, MI 48918

RE: REQUEST FOR DOCUMENTS AND MATERIALS / PLEASE RESPOND AND PRODUCE BY AUGUST 20, 2025

Dear Chief Legal Director Craine,

The House Election Integrity Committee ("Committee") propounds the following document and information requests below. As you know, the Committee has an important and valuable role in providing oversight of the Michigan Department of State's ("Department") functions, to ensure that the Department is properly and effectively executing its duties. If it is not, or if statutory changes and/or improvements are needed, or if the Department needs additional resources, the Committee has a responsibility to the People of Michigan to recommend legislation to the House of Representatives for the overall benefit and health of the state.

Please **respond** to the following queries and/or produce[786] the following documents[787] on or before **August 20, 2025**:

[786] For all withheld documents and/or materials, please identify the specific item withheld, the basis upon which it is being withheld, the date of its creation, its native file format, its author, its sender, its subject matter, a summary of

*Unless otherwise stated, the time period for the requests is **January 1, 2019** through the present.*

1) Identify:

   a. All databases (including but not limited to the Qualified Voter File ("QVF")) used by the Secretary of State, and/or the Department of State, and/or the Bureau of Elections to manage any aspect of Michigan elections;

   b. The individual custodian(s) of the databases (including but not limited to the QVF);

   c. For each identified database, the associated election function(s) and/or information;

   d. The type of servers used to house each of these databases, including but not limited to the QVF database, as well as the custodians of the servers and the location(s) of the servers;

   e. By database, all persons and/or vendors who manage and maintain said database(s), including but not limited to the QVF database, for the Department and/or the Bureau of Elections, including but not limited to the code and servers, and for each, please provide the name, title, employer, phone number, and email address for each identified person, primary points of contact, and vendor.

2) Please produce the full, complete, unredacted and unencumbered "read" login access to the complete Qualified Voter File Database and every field, aspect and component of that database, including but not limited to the lists of all voters who voted (in any type of election, including but not limited to primary and general elections) and all of the statewide poll books.

3) For the period of January 1, 2018, through the present, please produce the full, complete, unencumbered (with complete and unredacted access to every data field of any and every

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the contents, its custodian, where it presently is kept, and its recipients. Where a legal privilege is claimed, please explain the basis for the claim of privilege.

[787] All documents and materials should be full, complete, unencumbered, and unredacted. Materials should be produced in their native format.

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kind) login access to the Qualified Voter File Database Transaction Log (or however such log/ data is described/ styled/ referred to by the Department of State and/or the Bureau of Elections).

4) Please produce the full, complete and unredacted QVF batch file and SQL data export code used to pull all data pulled in response to each and every Freedom of Information Request relating to the Qualified Voter File between January 1, 2019, through the present.

5) For the time period of January 1, 2016, through the present, please produce all contracts/ agreements with all third parties who have write and/or read and/or ANY access to the Qualified Voter File, including but not limited to Rock the Vote and ERIC.

6) The full, complete, unredacted, QVF as it existed during the following time periods:

   a. Five days after the 2016 election;

   b. Five days after the 2018 election;

   c. Five days after the 2020 election;

   d. Five days after the 2022 election;

   e. Five days after the 2024 election.

We ask that you provide your written response as well as the documents and materials requested above to Chair Smit no later than **August 20, 2025**. If there are any concerns regarding this request or if clarification is needed, please contact either of our offices as soon as possible. Please provide the requested documents electronically via email to RachelleSmit@house.mi.gov. We appreciate your prompt attention to this matter and look forward to your response.

Sincerely,



Rachelle Smit
Speaker Pro Tempore
Chair, House Election Integrity Committee
Michigan House of Representatives

cc: Chair Jay DeBoyer, Oversight Committee

Website: MiFairElections.org; Email: contact@mifairelections.org
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APPENDIX I: Rep. Smit letter to Kash Patel re: GBI Strategies, Apr. 24, 2025

43RD DISTRICT
STATE CAPITOL
P.O. BOX 30014
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MICHIGAN HOUSE OF REPRESENTATIVES
RACHELLE SMIT
SPEAKER PRO TEMPORE

PHONE: (517) 373-0615
FAX: (517) 373-7512
RachelleSmit@house.mi.gov

April 24, 2025

Attn: Director Kash Patel
FBI Headquarters
935 Pennsylvania Ave, NW
Washington, D.C. 20535-0001

Director Patel,

I am writing regarding the Federal Bureau of Investigation's ongoing investigation into alleged voter fraud in Muskegon, Michigan during the November 2020 election.

Credible news reports have referenced police reports from both the Muskegon Police Department and Michigan State Police indicating a coordinated effort by an out-of-state petition-gathering firm (GBI Strategies, based in Tennessee) to engage in voter registration fraud. Additionally, we have received information from law enforcement sources confirming that criminal misconduct occurred.

This appears to be not merely potential identity theft but possibly a criminal conspiracy to commit election fraud.

It is concerning that these voter registration applications were submitted on October 7th—the same day the Michigan Secretary of State's office was processing a high volume of voter registrations *for previously registered individuals*. This timing suggests a deliberate intent to conceal, as the impact of these registrations would be less noticeable during a period of naturally increased registration activity.

According to media reports, the Muskegon Police were instructed to cease their investigation, with the matter apparently being transferred to the FBI.

These reports of criminal activity have remained unaddressed for nearly five years. We respectfully request immediate action to investigate this matter fully and hold all perpetrators accountable.

We also formally request that the FBI provide full transparency regarding the results of its investigation into GBI Strategies' questionable activities, not only in Michigan but in every state where the organization operated during the 2020 election. The American public has been waiting for this information and resolution for nearly five years. The time for disclosure has come.

Furthermore, we must emphasize that the statute of limitations period has nearly expired for most of the crimes which appear to have been committed in this case. Decisive action is now needed to ensure justice is not permanently denied due to procedural timelines.

Recycled Paper

Additionally, we request that judicial notice be provided in the pending criminal prosecution of the 16 Michigan Republican electors, acknowledging that an investigation into systemic voter fraud was indeed pending during November and December of 2020. Michigan's Attorney General has repeatedly stated that no election fraud occurred in the 2020 Michigan election, yet the FBI appears to have evidence suggesting otherwise.

We look forward to a response from your office. This investigation has continued without resolution for nearly five years. The People of Michigan, like millions of Americans watching what happens in Michigan, want – and deserve – answers.

Thank you for your attention to this matter, and for your service to Michigan.

With Liberty,

Rep. Rachelle Smit
Chair, House Election Integrity Committee
Michigan's 43rd House District

Rep. Jay DeBoyer
Chair, House Oversight Committee
Michigan's 63rd House District

APPENDIX J: Rep. Smit: Amendments to Mich. Elections Laws Passed in 2023

43RD DISTRICT
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MICHIGAN HOUSE OF REPRESENTATIVES
RACHELLE SMIT
STATE REPRESENTATIVE

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Amendments to Michigan's Election Laws Passed in 2023

Bill Page	Text of PA	Summary from 2023 PA Table	Legislative Analysis
SB 13	PA 2	*Elections; presidential primary*; presidential primary election date; revise.	HFA; SFA
SB 259	PA 25	*Elections; absent voters*; tabulating absent voter ballots received up to 6 days after an election from an absent uniformed services voter or overseas voter; provide for.	HFA; SFA
SB 367	PA 81	*Elections; voting procedures*; early voting procedures; provide for, allow processing and tabulation of absent voter ballots during the early voting period, and allow an absent voter to tabulate the absent voter's ballot in person at a polling place or early voting site.	HFA; SFA
SB 370	PA 82	*Elections; absent voters*; signature matching and curing for absent voter ballot applicants and absent voter ballot return envelopes; provide for, and provide for modifications to the absent voter ballot application and process.	HFA; SFA
HB 4696	PA 83	*Criminal procedure; sentencing guidelines*; sentencing guidelines for certain Michigan election law violations; provide for and update.	HFA; SFA
SB 339	PA 84	*Elections; absent voters*; absent voter ballot and application tracking system; create.	HFA; SFA
HB 4697	PA 85	*Elections; absent voter ballot drop boxes*; requirements for absent voter ballot drop boxes; modify.	HFA; SFA
HB 4699	PA 86	*Elections; absent voters*; provisions regarding permanent mail ballot voters; implement, and modify certain election material retention periods.	HFA; SFA
SB 373	PA 87	*Elections; voters*; definition of identification for election purposes; expand.	HFA; SFA
HB 4702	PA 88	*Elections; other*; precinct size; increase.	HFA; SFA
HB 4567	PA 184	*Elections; voters*; certain references to challenged ballots; remove.	HFA; SFA
HB 4568	PA 185	*Elections; offenses*; prohibition on hiring of transportation assistance to the polls; eliminate.	HFA; SFA
SB 470	PA 193	*Elections; absent voters*; electronic return of absent voter ballots by uniformed services voters; amend start date.	HFA; SFA
SB 572	PA 226	*Elections other*; precinct size; modify.	HFA; SFA
SB 573	PA 227	*Elections other*; precinct size; modify.	HFA; SFA
SB 385	PA 251	*Elections; election officials*; electronically submitting precinct election inspector applications; allow.	HFA; SFA
SB 505	PA 252	*Criminal procedure; sentencing guidelines*; sentencing guidelines for certain Michigan election law violations dealing with intimidating an election official provide for.	HFA; SFA
HB 4129	PA 253	*Elections; offenses*; intimidating an election official or preventing an election official from performing the election official's duties; prohibit.	HFA; SFA
SB 570	PA 254	*Elections; election officials*; county clerk to appoint a designee to conduct an election audit under certain circumstances; require.	HFA; SFA

SB 590	PA 255	***Elections; other***; contesting post-certification presidential election results; provide for.	HFA; SFA
SB 591	PA 256	***Civil procedure; writs***; quo warranto; revise applicability for election lawsuits.	HFA; SFA
SB 594	PA 257	***Elections; registration***; online voter registration process; modify.	HFA; SFA
HB 4569	PA 258	***Elections; registration***; preregistration to vote at age 16; provide for.	HFA; SFA
HB 4695	PA 259	***Elections; voting procedures***; early voting procedures; clarify, and clarify appointing election inspectors to early voting sites.	HFA; SFA
HB 4984	PA 260	***Traffic control; driver license***; option to decline voter registration on a driver license application; clarify.	HFA; SFA
HB 4985	PA 261	***State; identification cards***; option to decline voter registration on a state identification card application; clarify.	HFA; SFA
HB 4986	PA 262	***Traffic control; driver license***; option to decline voter registration on an enhanced driver license or state identification card application; remove.	HFA; SFA
HB 5144	PA 265	***Elections; offenses***; penalties for distributing materially deceptive media; provide for, and provide procedure for enjoining materially deceptive media.	HFA; SFA
HB 5145	PA 266	***Criminal procedure; sentencing guidelines***; sentencing guidelines for certain election law offenses involving materially deceptive media and intimidating an election official; provide for.	HFA; SFA
SB 374	PA 267	***Elections; other***; precinct size; modify, and require candidates for office to file financial disclosure report before assuming office.	HFA; SFA
HB 4983	PA 268	***Elections; registration***; automatic voter registration; modify.	HFA[i]
SB 529	PA 269	***Elections; presidential electors***; certain provisions of the federal electoral count reform act; implement, clarify straight party ticket voting, modify the election tie-breaking procedure, revise the selection process for members of the board of state canvassers, and modify certain recount timelines.	HFA; SFA
HB 4570	PA 270	***Elections; absent voters***; online application for absent voter ballots; provide for.	HFA; SFA

[i] No Senate Fiscal Agency legislative analysis was available for the version of this bill that passed, substitute S-2.

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Appendix K: Brater Memo to Clerks, July 10, 2023

STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

MEMORANDUM

Date: July 10, 2023
To: Municipal and County Election Officials
From: Jonathan Brater, Director of Elections
Subject: Security of Qualified Voter File and Electronic Pollbooks

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Introduction

Election officials have experienced a series of attempts to access election materials that, if disclosed, pose privacy threats to Michigan voters and security threats to Michigan's election system. At times, these attempts have been accompanied by aggressive and even threatening language and behavior. Consistent with the Michigan Election Law and its responsibility to safeguard election security in Michigan, the Bureau of Elections (the Bureau) has instructed clerks that while Qualified Voter File (QVF) and Electronic Pollbook (EPB) records are public and subject to disclosure, certain components of these systems cannot be released without compromising voter privacy and election system security.

This memorandum provides further explanation of these issues and information for clerks to consider when reviewing public records requests with their legal counsel. It also describes the potential consequences of providing inappropriate access to election equipment to unauthorized individuals. Additionally, the memorandum addresses several false claims that have been made about QVF and EPB data and election administration in Michigan.

Record Requests Seeking QVF and EPB Data

Clerks have received requests for access to QVF and EPB data in a variety of different formats, including:

- Requests under the Michigan Freedom of Information Act (FOIA)
- Demands that records be preserved for "investigation"
- Demands to perform "inspections" of election records or equipment

Regardless of the format of any request to inspect QVF or EPB data, clerks should consult with their own counsel for legal questions regarding any of these requests.[1] The Bureau provides the following information in this memorandum: a summary of applicable provisions of FOIA and the Michigan Election Law; a description of the manner in which the Bureau has responded to

[1] Any clerk who receives a subpoena, request to preserve records pursuant to a lawsuit, or a request to inspect records from law enforcement should consult with legal counsel and inform the Bureau of Elections and the Michigan Department of Attorney General.

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Michigan.gov/Elections • 517-335-3234

specific requests, and; instructions not to disclose certain materials that pose a threat to election system security if released.

Requests for Electronic EPB Files

Clerks have received requests for electronic copies of EPB materials in various formats. These include requests for "an electronic copy of the Qualified Voter File (QVF) extract"; an "electronic pollbook flash drive", a "CSV- Comma separate value format", or other similar requests. At times, these requests have been accompanied by "helpful" instructions showing clerks how to potentially compromise the security of their election systems and render their election equipment unusable by illegally providing security-compromising information to unauthorized individuals.

Before responding to these or any FOIA requests, clerks should consult with their legal counsel regarding the requests and exemptions that may apply. Under FOIA, officials may shield sensitive information from disclosure. In the case of EPB files, the Bureau of Elections instructs clerks that they must not publicly release data or files that would reveal the software design or data architecture of the EPB. The Bureau gives this lawful instruction[2] under its supervisory authority pursuant to MCL 168.21, 168.31, and 168.32, as doing so could compromise the Bureau's ability to secure and safeguard the software and data from hacking, theft, loss or destruction, and accordingly interfere with the Bureau's obligation under the Michigan Election law to provide EPB software to clerks. MCL 168.668b.

In response to previous FOIA requests regarding EPB data, the Bureau of Elections has not disclosed these records because the records sought constitute "cybersecurity plans, assessments, or vulnerabilities" that are exempt from disclosure. The Bureau has an interest in maximizing the protection and defense of its information systems, which outweighs the public interest in the disclosure of this information as the release of this sensitive information could jeopardize the security of Michigan's electoral process. MCL 15.243(1)(y). In addition, the responsive records include proprietary software information, security feature information, and sensitive information which, if released, "would disclose a person's cybersecurity plans or cybersecurity-related practices, procedures, methods, results, organizational information system infrastructure, hardware, or software." MCL 15.243(1)(z). Additionally, these files contain sensitive information regarding jurisdictions' EPB laptop(s) that might compromise the security of these laptops.

EPB files also contain personal identifying information such as full birth dates for voters, which are exempt from disclosure. MCL 168.509gg. Attempted manual redaction of personal identifying information may not be sufficient to protect this information from disclosure if the software and program files are disclosed.

[2] See MCL 168.931(h) ("A person shall not willfully fail to perform a duty imposed upon that person by this act, or disobey a lawful instruction or order of the secretary of state as chief state election officer[.]""

If clerks receive a FOIA request for EPB data, the requestor can be directed to the county clerk for paper pollbook copies or to the Bureau for the log file or voter history.

Notwithstanding the above restrictions on the release of certain information, there are numerous ways in which members of the public can review public QVF and EPB data. Clerks can provide the paper records they are legally obligated to maintain for the required retention period after each election, as soon as the security period has elapsed. Certain specific data derived from the QVF and EPB is subject to disclosure under FOIA, including the lists of registered voters from the QVF and the paper printout of the EPB generated on election night.

If members of the public are interested in verifying the names of individuals registered to vote on a certain date or included in the EPB, they may obtain this information by submitting a FOIA request for publicly available records. If members of the public with concerns about EPB data wish to verify the names of individuals who cast ballots, they can also do so by submitting a FOIA request and reviewing the paper applications to vote completed by all in-person voters and the absent voter ballot applications submitted by all absentee voters.

Electronic records such as the EPB log file or voter history can be requested from the Bureau. Requests for EPB data must be directed to the Bureau to ensure that sensitive information related to both individual voters and the EPB are removed before public disclosure of otherwise available information. Even if clerks were to attempt to redact a voter's date of birth and other personally identifiable information, the disclosure of security and technical information is also exempt from FOIA and may not be properly redacted if produced by clerks, instead of the Bureau.

Demands to Disregard Lawful Instructions from the Bureau of Elections

Clerks have also received communications demanding that they disregard instructions contained in the Bureau of Elections communications, including the Recount/Release of Security Memorandum circulated after each election. The Bureau's instructions are lawful directives in compliance with state and federal law.

Going back to at least 2012 (under Secretary of State Ruth Johnson), the Bureau has issued a directive to destroy electronic copies of the EPB and flash drive. As clerks are no doubt aware, numerous candidates of both major political parties have won statewide elections since 2012. This procedure is necessary to safeguard security and voter privacy. Clerks destroy electronic copies only after they have already printed the paper copy of pollbook information (which must be retained for the required retention period).

Clerks must comply with this instruction regardless of whatever claims private individuals make. A private individual has no authority to instruct clerks on their duties. Whatever "investigation" these individuals claim to be conducting or threats of "prosecution" they may make toward local or state officials, in the absence of a court-issued subpoena or other court order, clerks are not required to comply with their demands. If clerks do receive one of these demands, they should consult with their attorney on how to respond.

Clerks should also be wary of private individuals, including self-proclaimed "experts," attempting to instruct them on the issue of whether disclosure of electronic materials would or would not constitute a security concern. In reality, it is often not possible for an individual unfamiliar with a system to determine whether any one individual piece of information, if known, would be useful in compromising that system. This is one of the reasons software and data elements which may, on their own or in combination with other elements, jeopardize security are not disclosed. Similarly, clerks should not accept at face value claims from private individuals, whatever expertise they claim to have, that clerks can easily redact security-related or personal identifying information.

Consequences of Improper Disclosure

Clerks should understand that the disclosure of this sensitive information may compromise the integrity of Michigan's elections and may warrant an investigation by the Department of State, Department of Attorney General, or Michigan State Police. Improper disclosure may also result in fiscal implications for the jurisdiction. Specifically, disclosure could require the purchase of new EPB laptops for each precinct for which data was compromised.

False and Misleading Claims About QVF and EPB Data

Individuals seeking improper access to QVF and EPB records have made numerous false or misleading claims about QVF and EPB data and election administration in Michigan. Although making or believing false statements has no bearing on whether individuals are permitted to access a record, clerks may find these explanations useful in communicating with the public or other local and county officials, including law enforcement.

Election Turnout and Voter History

Some individuals have claimed that because, in past elections, the total number of ballots tabulated statewide does not exactly match the number of voters with a voter history indicator in QVF, this means that election results and files cannot be trusted, or that there is some sort of unknown or unexplained irregularity involving voter data.

In reality, these numbers do not match exactly because they come from two different sources. County-certified election results are based on the number of ballots cast and tabulated in each jurisdiction, as determined by the county canvass. This includes canvasser review of tabulator tapes showing election night results, in addition to any corrections or adjustments at the county canvass and recounts, if applicable.

Voter history in QVF is based on entry of voter history data from the EPBs (for in-person voters) and absent voter ballot return envelopes (for absentee voters). Following each election, each clerk uploads their EPB data for each of their precincts to the QVF. This automatically updates the voter history in QVF for all voters recorded in the EPB as voting at the polling place. Alternatively, clerks can manually add voter history to the QVF using the paper printout of the EPB.

If any of Michigan's 1,520 municipal clerks do not update QVF with EPB data for any of their precincts, voter history for voters in those precincts will not appear in QVF even though those voters did in fact appear at the precinct, apply to vote, get recorded in the poll book, and cast

ballots. Following each election, the Bureau sends multiple communications and reminders to clerks to add voter history data to the QVF. Most clerks do so promptly, but some are delayed and some fail to do so.

This was the case in the November 2020 election, as it was in other past elections. Approximately 5.57 million ballots were cast in the November 2020 election according to certified results. As of April 2021, when the Office of the Auditor General reviewed QVF data for its audit of the Bureau, voter history for approximately 5.53 million voters had been uploaded to the QVF. In subsequent months, the Bureau sent additional communications to clerks reminding them to add voter history data to the QVF, and more clerks did so. As of 2022, the number of voters showing history in QVF for the November 2020 election was approximately 5.55 million.

Ultimately, a small percentage of jurisdictions did not add QVF data for at least one of their precincts in 2020 which meant that a small percentage of voter history was not recorded in QVF. Approximately 99.6% of voter history was uploaded in the QVF for the November 2020 election, which is a higher percentage than was uploaded for the November 2016 election (approximately 99.0%) and November 2018 election (approximately 98.5%). In subsequent elections, the percentage of voter history uploaded has increased even further.

EPB Time and Date Records

Individuals have claimed that the absence of a specific "time stamp" on some voter history tables is suspicious because, on election day, the EPB records the specific time at which a voter appeared on Election Day. These individuals misunderstand the table they are viewing. In reality, some QVF tables include "00:00" in the time field because the record is referring to an election *date,* not a *time* on election day. Elections occur all day, so it does not make sense for QVF to display any specific time. Like other programs that include voluminous amounts of data, QVF generates tables of data that are programmed and populated using numerous databases.[3] When there is no entry needed for a field (for example, a time field corresponding to election day), the default value that databases display is "00:00."

Voter History from Previous Addresses

Some voters who have moved from one jurisdiction to another in Michigan have noticed that voter history from prior elections, when they voted at their prior address, may appear as voter history from their current address. This is because the old version of QVF (QVF Legacy) did not track the jurisdiction where a past vote occurred. One of the many benefits of QVF Refresh, released in 2019, is that voter history from prior addresses can be tracked at the prior address. Therefore, voters who moved to and voted from prior addresses in elections that occurred after QVF Refresh was released will see voter history appear as having voted at the prior address.

[3] Some individuals have claimed that there are multiple QVF "databases" and that this is somehow being used to perpetuate fraud. Aside from being impossible for the reasons described later in the memo, this claim is based on misconceptions regarding the QVF. The QVF is not a single "database" but instead a program used by the Bureau and Clerks for many purposes, requiring numerous tables and reports, which are in turn programmed and populated by numerous databases. For an explanation of what a database actually is, see this explanation from Microsoft: https://azure.microsoft.com/en-us/resources/cloud-computing-dictionary/what-are-databases/.

However, votes that occurred at addresses when the voter's move predated QVF Refresh will display at the current address. This is not because of some nefarious purpose, but because QVF Legacy did not have the data capability as the current system.

QVF Record Identifying and Voter ID Numbers

Some individuals have claimed that the fact that there are multiple identifying numbers corresponding to voter records in QVF suspicious. In reality, there are multiple numbers for security reasons. Voters have a public voter ID number in QVF and the EPB, which is public and disclosed in public record requests. QVF also contains separate record-identifying numbers that correspond to voter records, which are used for security and verification purposes (and which are not publicly disclosed for security reasons). Again, the non-disclosed record-identifying number is not different from the voter ID number for some nefarious purpose, but as an internal verification and security measure.

Security Procedures Used to Verify EPB is Offline

As clerks are aware, the EPB used on Election Day must be offline and laptops operating the EPB software must be turned to "airplane mode" to ensure there is no internet connection. In order to make sure that EPBs are offline, the EPB software is designed to receive a periodic "Ping" from the State of Michigan network on Election Day to check for improper internet connectivity. If the Ping detects an internet connection on the EPB laptop, the EPB software displays a warning message instructing the user to disconnect the laptop from an internet connection by turning the laptop to airplane mode. Some individuals have suggested this connection is suspicious, when in fact it is a security feature designed to ensure EPB laptops remain offline throughout Election Day.

General QVF-Related Conspiracy Theories

In general, some individuals have pointed to various data or program elements in QVF and claimed – whether because QVF data is imperfect or incomplete, because these individuals do not understand what they are looking at, or some combination of the above – that this shows some broad conspiracy to perpetrate election fraud. While it is of course true that QVF – a constantly changing voter file that needs to be updated whenever a voter registers, moves, cancels a registration, dies, applies for an absentee ballot, or various other activities – will never be 100 percent accurate or up to date, this does not mean there is some conspiracy to manipulate QVF data to perpetrate fraud. In fact, in recent years the Bureau and clerks have done more than ever before to keep QVF accurate and up to date.[4]

Regardless of how accurate or up to date QVF is at any given time, however, the suggestion that QVF could be used to perpetuate massive undetected election fraud is without merit. Even if one were to assume that Bureau staff (many of whom have worked at the nonpartisan Bureau of Elections for years or decades under multiple Secretaries of State of both political parties) and staff at the nonpartisan Department of Technology, Management, and Budget were involved in such a scheme, it would require thousands of clerks and election inspectors of both political parties to be involved as well.

[4] For more information on how QVF is kept up to date, see https://www.michigan.gov/sos/elections/voting/voters/voter-registration-cancellation-procedures.

This is because while QVF is used to maintain *electronic* registration and voting records, voting is done by human beings using *paper* ballots, in elections that are run by municipal clerks across the state. In addition to the paper ballots, there are also polling place applications to vote (which must be completed by in-person voters, and which are retained by clerks after election) and absentee ballot applications (which must be completed by absentee voters, and which are also retained by clerks after elections). These materials provide an independent, *paper* record of all the individuals who cast ballots in an election. If there were actually some kind of fraud being perpetrated using QVF, this could be easily proven by reviewing these paper records.

In many respects, these nonsensical claims about QVF are similar to the false claims previously made about ballot tabulation equipment, which if true could have been proven by reviewing paper ballots (when in fact, reviews of paper ballots all confirmed that tabulators counted ballots accurately).

Additional Information and Support Available

It is unfortunate that election officials continue to be subjected to false claims, abusive behavior, and even threats. Whatever assertions individuals make about election officials, clerks should be mindful that there are legal avenues for individuals to pursue these assertions. If individuals disagree with a FOIA determination by a local or state official, they can file a lawsuit. If they believe criminal activity occurred, they can make a complaint in writing to law enforcement.

The Bureau encourages election officials to communicate with local and state law enforcement regarding any threats they may have received, and to continue to communicate with law enforcement regarding the various false claims and allegations of criminal activity that some individuals continue to make. Clerks are also encouraged to communicate with municipal and county government associations for additional independent support and advice. Finally, the Bureau of Elections remains available for any additional questions you have or support you may need. If clerks believe that any unauthorized or unsupervised access to their equipment may have occurred, they should contact the Bureau immediately. Please do not hesitate to contact the Bureau if we can be of further assistance.

Appendix L: Harmeet Dhillon letter to SOS Benson

U.S. Department of Justice
Civil Rights Division

Assistant Attorney General
950 Pennsylvania Ave, NW - RFK
Washington, DC 20530

July 7, 2026

Via U.S. Mail and Electronic Mail

The Honorable Jocelyn Benson
Michigan Secretary of State
430 West Allegan Street, 4th Floor
Lansing, MI 48918
secretary@michigan.gov

Re: The State of Michigan's Compliance with Federal Law Governing Voter Eligibility.

Dear Secretary Benson:

This letter is sent to you as the chief election officer of the state of Michigan. This letter serves as a notice of the federal laws applicable to state and local election officials to ensure free, fair, and transparent elections. Also attached to this letter is a memorandum titled, "Federal Law Requirements for State and Local Election Officials," which outlines various responsibilities for state and local election officials under federal law and the potential criminal penalties for those who fail to carry out their duties.

Federal law mandates that state and local election officials properly maintain election records and undertake certain actions to ensure that only eligible U.S. citizens cast votes in elections for federal office. This includes: (i) Title III of the Civil Rights Act of 1960 (CRA), 52 U.S.C. § 20701 *et seq.*; (ii) the Voting Rights Act of 1965 (VRA), 52 U.S.C. § 10301 *et seq.*; (iii) the National Voter Registration Act of 1993 (NVRA), 52 U.S.C. § 20501 *et seq.*; and (iv) the Help America Vote Act of 2002 (HAVA), 52 U.S.C. § 20901 *et seq.*

In addition to the Civil Rights Division's authority to seek injunctive relief for violations of these laws, we are also authorized to prosecute criminal violations. Section 12(2)(B) of the NVRA makes it a crime for "an election official" in a federal election to "knowingly and willfully deprive[], defraud[], or attempt[] to deprive or defraud the residents of a State of a fair and impartially conducted election process, by— . . . (B) the *procurement, casting, or tabulation* of ballots that are known by the [election official] to be materially false, fictitious, or fraudulent under the laws of the State in which the election is held." 52 U.S.C. § 20511. For example, knowingly retaining noncitizens on Michigan's "State Voter Registration List" (SVRL) and sending such individuals ballots, and then counting such ballots, would constitute the "procurement, casting, or tabulation" of ballots that are known to be false in violation of section 12(2)(B) of the NVRA.

In addition, *any* individual who knowingly and willfully gives false information in registering to vote or in actually casting a vote in violation of 52 U.S.C. § 10307(c) of the VRA, or *anyone* who conspires with another to violate such section, can be criminally prosecuted, subject

to potential fines and imprisonment, in accordance with such section. 52 U.S.C. § 21144 (HAVA). Furthermore, any individual who knowingly commits fraud or knowingly makes a false statement with respect to the naturalization, citizenry, or alien registry of any individual in violation of 18 U.S.C. § 1015 may be criminally prosecuted and if the prosecution is successful, such persons "shall" be fined or imprisoned, or both, in accordance with 52 U.S.C. § 21144.

Moreover, while federal law obviously makes it unlawful for noncitizens to vote in federal elections, 52 U.S.C. § 21144, state election officers, including the chief election officer of the state, could be criminally prosecuted for aiding and abetting the violation of any of these provisions:

- Under 18 U.S.C. § 1015(f), it is a felony for an alien to "claim that he is a citizen of the United States in order to register to vote or to vote in any Federal, State, or local election (including an initiative, recall, or referendum);"

- Under 18 U.S.C. § 911, it is a felony for an alien to "falsely and willfully represent himself to be a citizen;" and

- Under 18 U.S.C. § 611, it is unlawful for an alien to vote in a federal election.

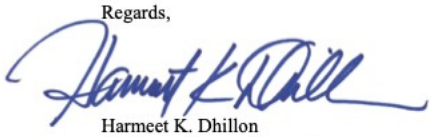
In conclusion, any election officer, including the chief election officer of the state, who knowingly retains noncitizens on the state's SVRL or facilitates noncitizens in receiving and casting ballots could be subject to criminal liability. An intentional act that is aimed at diluting the votes of citizens could also constitute a violation of 18 U.S.C. § 241, which makes it unlawful for two or more persons to conspire to injure any person in the exercise of that person's constitutional rights. We encourage you to contact us to discuss what steps your state should take to maintain clean voter lists as required by law.

2

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The Department of Justice, Civil Rights Division, would like to assist your state in complying with these federal laws. Please respond to this letter within five days informing us how the state of Michigan intends to ensure it is complying with these federal laws both at the state and local level and how the Department can assist in those efforts. Please send your written response within five (5) days to William F. Mohrman, Senior Counsel, at william.mohrman@usdoj.gov.

Regards,



Harmeet K. Dhillon
Assistant Attorney General
Civil Rights Division

CC:

The Honorable Dana Nessel, Michigan Attorney General
525 W. Ottawa St
Lansing, MI 48906
miag@michigan.gov

3

Federal Law Requirements for State and Local Election Officials

Multiple federal statutes place requirements on state and local election officials in conducting safe, fair, accurate, and verifiable federal elections and maintaining state voter registration lists. These include but are not limited to:

Title III of the Civil Rights Act of 1960 (CRA), 52 U.S.C. § 20701 et seq., requires that election officers, among other things:

- "[R]etain and preserve" for 22 months after a federal election "all records and papers which come into his possession relating to any . . . registration . . . or other act requisite to voting in such election." 52 U.S.C. § 20701. Failure to "retain and preserve" is a crime punishable by fine or imprisonment, or both. 52 U.S.C. § 20702.

- Make these records available for inspection, reproduction, and copying upon demand by the Attorney General or his representative. 52 U.S.C. § 20703.

The National Voter Registration Act of 1993 (NVRA), 52 U.S.C. § 20501 *et seq.*,[1] was based on the finding that the "right of *citizens* of the United States to vote is a fundamental right" and requires election officials, among other things, to:

- Ensure that any *eligible* applicant is registered to vote in an election. 52 U.S.C. § 20507(a)(1) (emphasis added).

- Ensure that when citizens register to vote through a driver's license or mail-in application process, that application includes a statement that—
  - states each eligibility requirement (including citizenship);
  - contains an attestation that the applicant meets each such requirement; and
  - requires the signature of the applicant, under penalty of perjury. 52 U.S.C. §§ 20504(c)(2)(C) & 20508(b)(2).

- Conduct a general program that makes a reasonable effort to remove from the official lists of eligible voters the names of ineligible voters by reason of death or change in residence. 52 U.S.C. § 20507(a)(4).

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[1] Pursuant to the NVRA, the following six states are exempted from compliance with the NVRA: Idaho, Minnesota, New Hampshire, North Dakota, Wisconsin, and Wyoming. 52 U.S.C.A. § 20503 (b).

- "[P]rovide that the name of a registrant may not be removed from the official list of eligible voters except" in four situations: (1) the request of the registrant, (2) the registrant's criminal conviction or mental incapacity, (3) the death of the registrant, and (4) the registrant's confirmed change of address. 52 U.S.C. §§ 20507(a)(3), 20507(a)(4).

- Complete, not later than 90 days prior to the date of a primary or general election for federal office, programs to systematically remove the names of ineligible voters from the official lists of eligible voters, 52 U.S.C. § 20507(c)(2), provided that the 90-day cut-off does not apply to the removal of non-citizens who were never eligible to register in the first place. *See, e.g., Bell v. Marinko*, 367 F.3d 588, 591-592 (6th Cir. 2002) ("In creating a list of justifications for removal, Congress did not intend to bar the removal of names from the official list of persons who were ineligible and improperly registered to vote in the first place."); *contra, e.g., Arcia v. Florida Sec'y of State,* 772 F.3d 1335, 1346 (11th Cir. 2014).

- Maintain for at least 2 years and make available for public inspection all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters. 52 U.S.C. § 20507(i)(1).

- Avoid depriving or defrauding the residents of a state of a fair and impartially conducted election process, by the *procurement, casting, or tabulation* of ballots that are known to be materially false, fictitious, or fraudulent under the laws of the state, 52 U.S.C. § 20511, which may include retention of noncitizens on a state's SVRL. Violation of this provision is a crime.

The Help America Vote Act of 2002 (HAVA), 52 U.S.C. § 20901 *et seq.*, provides minimum standards to ensure that voter registration records are accurate and updated regularly, and requires states, among other things, to:

- Implement, in a uniform and nondiscriminatory manner, a single, official, centralized, interactive computerized statewide voter registration list at the state level that contains the name and registration information of every *legally* registered voter in the state and assigns a unique identifier to each legally registered voter in the state. 52 U.S.C. § 21083(a)(1)(A).

- Perform voter list maintenance on a regular basis, including removing registrants in accordance with the NVRA, 52 U.S.C. § 21083(a)(2)(A), and removing registrants who are ineligible to vote. 52 U.S.C. § 21083(a)(4)(A).

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- Reject for processing an application for voter registration for an election for federal office unless the application includes the applicant's unique identifier for purposes of the state's SVRL:
    - driver's license number;
    - if the applicant has no driver's license, then the last 4 digits of the applicant's social security number; or
    - if the applicant has neither a driver's license nor social security number, then a state-assigned number which will serve to identify the applicant for voter registration purposes. 52 U.S.C. § 21083(a)(5)(A).
- Include the following in the mail-in voter registration form developed under HAVA:
    - The question "Are you a citizen of the United States of America?" and boxes for the applicant to check to indicate whether the applicant is a citizen of the United States. 52 U.S.C. § 21083(b)(4)(a)(i).
    - The question "Will you be 18 years of age on or before election day?" and boxes for the applicant to check to indicate whether or not the applicant will be 18 years of age or older on election day. 52 U.S.C. § 21083(b)(4)(a)(ii).
    - The statement "If you checked 'no' in response to either of these questions, do not complete this form." 52 U.S.C. § 21083(b)(4)(a)(iii).
- Provide voters with an opportunity to privately and independently verify, change, or correct their ballot before it is cast and counted. 52 U.S.C. § 21081(a)(1)(A)(ii).
- Produce through the state's voting systems a permanent paper record for purposes of manual recounts and audits. 52 U.S.C. § 21081(a)(2)(B).

HAVA also provides it is illegal for anyone to provide false information or commit fraud in conjunction with a noncitizen registering to vote or casting a ballot, or conspiring with those who engage in such acts, which may include election officials who knowingly conspire with noncitizens who illegally register to vote or cast a ballot. 52 U.S.C. § 21144 (a) & (b). Violations carry criminal penalties under 52 U.S.C. § 10307(c) and 18 U.S.C. § 1015 of up to a $10,000 fine or imprisonment of up to five years. This includes election officials who knowingly conspire with noncitizens to secure false information on registrations. 52 U.S.C. § 21144 (a).

3

Criminal Liability: In addition, several provisions of federal law make it unlawful for noncitizens to vote in federal elections, and an election officer could be criminally liable for aiding and abetting under 18 U.S.C. §2 for the violation of any of these provisions or knowingly including noncitizens on the state's SVRL:

- Under 18 U.S.C. § 1015(f), it is a felony for an alien to claim that he is a citizen of the United States in order to register to vote or to vote in any federal, state, or local election (including an initiative, recall, or referendum).
- Under 18 U.S.C. § 911, it is a felony for an alien to falsely and willfully represent himself to be a citizen.
- Under 18 U.S.C. § 611, it is unlawful for an alien to vote in a federal election.
- An election officer who knowingly takes an action aimed at retaining noncitizens on the state's SVRL could be subject to criminal liability under 18 U.S.C. § 241.

Cybersecurity: The Department of Homeland Security designated election systems as a critical infrastructure subsector in January 2017, and state and local election officials are on the front lines to ensure that election and voting systems are secure and free from interference by foreign or domestic actors.

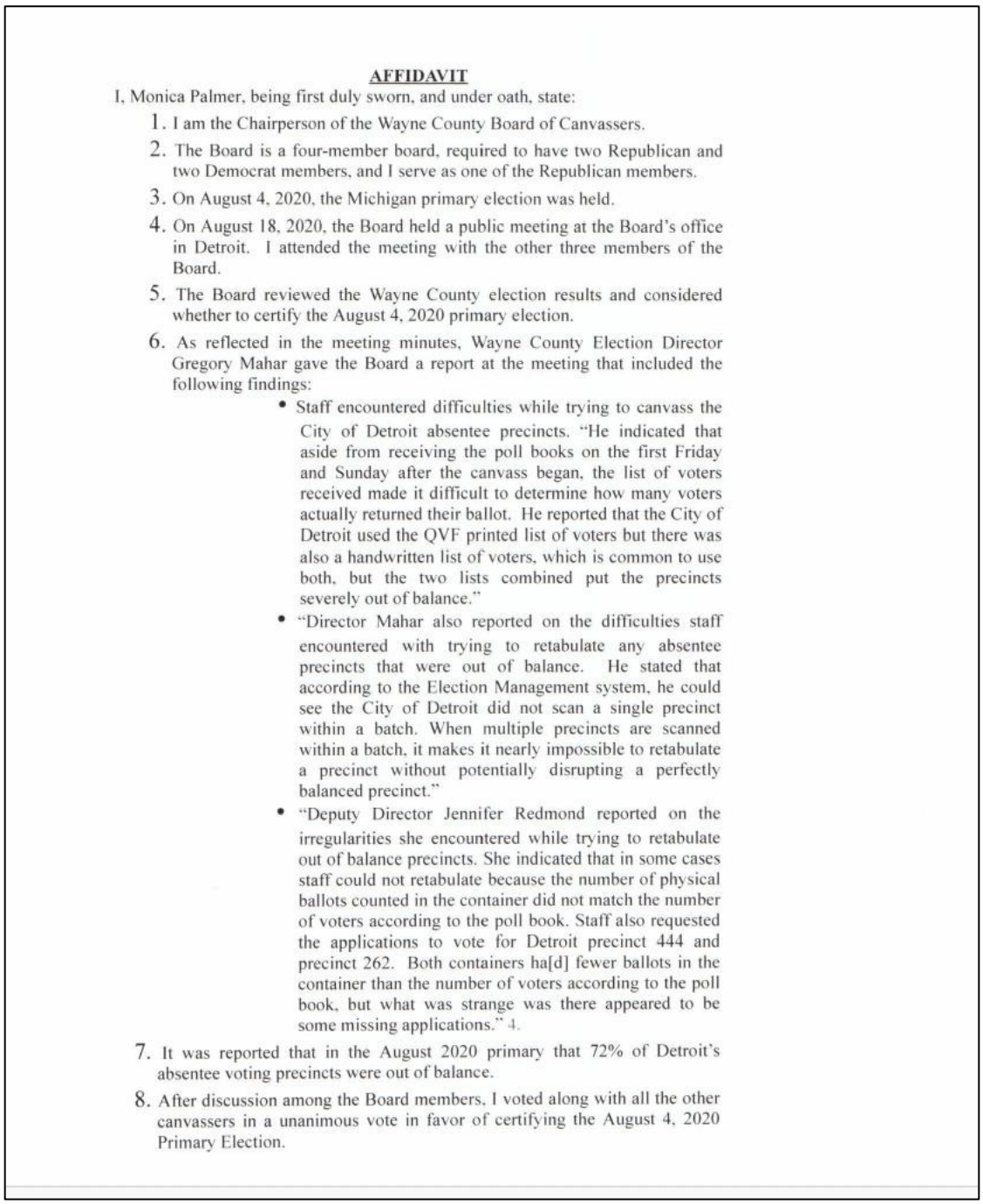
- The **Cybersecurity and Infrastructure Security Agency** has created the Election Security Risk Profile Tool to assess your local election system risk and ensure that technical cybersecurity assessments and services meet critical needs.
- Election officials should visit the CISA website (https://www.cisa.gov/cybersecurity-toolkit-and-resources-protect-elections) and follow all applicable guidelines to perform their duties in keeping American elections secure from cyberthreats.

4

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Appendix M: Affidavit Monica Palmer

Monica Palmer Affidavit, November 18, 2020 (notarized, Oakland County). Cited in Trump v Benson, Court of Claims Case No.: 20-000225-MZ. States during the August 2020 primary 72% of Detroit absentee precincts were out of balance; November 2020 general: more than 70% of Detroit's 134 AVCBs did not balance, many without explanation.



AFFIDAVIT

I, Monica Palmer, being first duly sworn, and under oath, state:

1. I am the Chairperson of the Wayne County Board of Canvassers.
2. The Board is a four-member board, required to have two Republican and two Democrat members, and I serve as one of the Republican members.
3. On August 4, 2020, the Michigan primary election was held.
4. On August 18, 2020, the Board held a public meeting at the Board's office in Detroit. I attended the meeting with the other three members of the Board.
5. The Board reviewed the Wayne County election results and considered whether to certify the August 4, 2020 primary election.
6. As reflected in the meeting minutes, Wayne County Election Director Gregory Mahar gave the Board a report at the meeting that included the following findings:
   - Staff encountered difficulties while trying to canvass the City of Detroit absentee precincts. "He indicated that aside from receiving the poll books on the first Friday and Sunday after the canvass began, the list of voters received made it difficult to determine how many voters actually returned their ballot. He reported that the City of Detroit used the QVF printed list of voters but there was also a handwritten list of voters, which is common to use both, but the two lists combined put the precincts severely out of balance."
   - "Director Mahar also reported on the difficulties staff encountered with trying to retabulate any absentee precincts that were out of balance. He stated that according to the Election Management system, he could see the City of Detroit did not scan a single precinct within a batch. When multiple precincts are scanned within a batch, it makes it nearly impossible to retabulate a precinct without potentially disrupting a perfectly balanced precinct."
   - "Deputy Director Jennifer Redmond reported on the irregularities she encountered while trying to retabulate out of balance precincts. She indicated that in some cases staff could not retabulate because the number of physical ballots counted in the container did not match the number of voters according to the poll book. Staff also requested the applications to vote for Detroit precinct 444 and precinct 262. Both containers ha[d] fewer ballots in the container than the number of voters according to the poll book, but what was strange was there appeared to be some missing applications." 4.
7. It was reported that in the August 2020 primary that 72% of Detroit's absentee voting precincts were out of balance.
8. After discussion among the Board members, I voted along with all the other canvassers in a unanimous vote in favor of certifying the August 4, 2020 Primary Election.

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9. Although certifying the primary election results, all Board members expressed serious concerns about the irregularities and inaccuracies. The Board unanimously approved a proposed joint resolution titled "Requesting a State Election Monitor and Investigation" that stated "Now Therefore Be it Resolved That, The Board of Canvassers for the County of Wayne, Michigan, request for the Secretary of State as Michigan's Chief Election Officer, to appoint a monitor to supervise the training and administration of the City of Detroit, Absentee Voter Counting Boards in the 2020 November General Election. Be it Finally Resolved, That, the Board of Canvassers for the County of Wayne, Michigan, request an investigation be conducted by the State Department of Elections into the training and processes used by the City of Detroit in the 2020 August Primary Election."

10. On November 3, 2020, the general election was held. I went to observe the election process at the TCF Center on November 3, 2020 and November 4, 2020.

11. Since November 5, I went to the Wayne County Canvas almost every day and helped the Wayne County staff.

12. On November 17, 2020, there was a board of Canvassers meeting scheduled to start at 3:00pm to determine whether or not to certify the November election. The meeting did not begin until 4:46pm.

13. Minutes before the meeting began at 4:46pm, I was given a report on the final canvas. We were not given an executive summary which was customary at most other certification meetings.

14. During this meeting, I determined that more than 70% of Detroit's 134 Absent Voter Counting Boards (AVCB) did not balance and many had no explanation to why they did not balance.

15. Vice-Chair Kinloch made a motion to certify the vote. I noted our prior reservations about unbalanced precincts in August 2020 and determined the record had discrepancies and irregularities and was incomplete.

16. A motion was made to certify the vote, and I voted not to certify. The vote to certify the Wayne County elections failed 2-2.

17. After the vote, my Democrat colleagues chided me and Mr. Hartmann for voting to not certify.

18. After the vote, public comment period began and dozens of people made personal remarks against me and Mr. Hartmann. The comments made accusations of racism and threatened me and members of my family. The public comment continued for over two hours and I felt pressured to continue the meeting without break.

19. After several hours of harsh comments, Vice-Chair Kinloch suggested a potential resolution. Wayne County Corporate Counsel Janet Anderson-Davis told me that I had to certify the vote that night. She told the members their role was ministerial and they could not use their discretion on matters like the record being incomplete. We were told that discretion was outside the board's authority.

20. After being told by Ms. Anderson-Davis that I could not use my discretion regarding the anomalies, I believed I had no choice but to certify the results despite my desire to oppose certification based on the incomplete record.

21. Additionally, we were presented with a resolution that promised a full, independent audit that would present answers to the incomplete record. I voted to agree to certify based on the promise of a full, independent audit. I would not have agreed to vote to certify but for that promise of a full, independent audit.

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22. Vice-Chairman Jonathan Kinloch gave me assurances that voting for the certification of the November election would result in a full, independent audit of Detroit's unbalanced precincts. I relied on that assurance and voted to certify the election based on that assurance. Without that assurance I would not have voted to certify the Wayne County November election.

23. Later that evening, I was sent statements that Secretary Jocelyn Benson made saying that she did not view our audit resolution to be binding. Her comments disputed the representations made by Vice-Chair Kinloch on which I relied.

24. As a result of these facts, I rescind my prior vote to certify Wayne County elections.

25. I fully believe the Wayne County vote should not be certified.

26. The Wayne County election had serious process flaws which deserve investigation. I continue to ask for information to assure Wayne County voters that these elections were conducted fairly and accurately. Despite repeated requests, I have not received the requisite information and believe an additional 10 days of canvas by the State Board of Canvassers will help provide the information necessary.

27. I initially voted not to certify the election, and I still believe this vote should *not* be certified and the State Board of Canvassers should canvass for an additional period.

28. Until these questions are addressed, I remain opposed to certification of the Wayne County results.

The above information is true to the best of my information, knowledge, and belief.

I certify under penalty of perjury, that my statement and the evidence submitted with it, are all true and correct.

Printed Name: Monica S Palmer

Signed Name: Monica S Palmer

Date:

Sworn to before me this 18 day of November 2020 at 9:33 pm

My Commission expires on: 08/3/2022

JANICE L. DANIELS
NOTARY PUBLIC - STATE OF MICHIGAN
COUNTY OF OAKLAND
My Commission Expires August 3, 2022
Acting in the County of WAYNE

Website: MiFairElections.org; Email: contact@mifairelections.org
P.O. Box 41, Stockbridge, MI 49285

Appendix N: Affidavit: Lisa Posthumus Lyons

COUNTY CLERK / REGISTER OF DEEDS
KENT COUNTY ADMINISTRATION BUILDING
300 MONROE AVENUE, N.W.
GRAND RAPIDS, MI 49503
TELEPHONE (616) 632-7640
FAX (616) 632-7645

LISA POSTHUMUS LYONS
County Clerk / Register

November 20, 2020

Dear Chairmen McBroom and Hall and members of the Senate and House Oversight Committees,

Thank you again for the opportunity to testify before your committees yesterday. I hope it provided you and the public a clear understanding of our election process here in Michigan, our unique checks and balances, and the importance of transparency in every step of the process.

I would like to offer this letter as an amendment to the answer I provided to a question posed by Representative LaFave. He asked how do we ensure that a voter who received and returned an absentee ballot and then goes to the precinct to vote does not have both the absentee ballot and the in-precinct ballot count, especially in an instance where the voter goes to their precinct immediately after hand-delivering their absentee ballot to the clerk. Shortly after providing the answer, I realized I had misspoke and did not include each step required in this situation. Before I took an opportunity to clarify, we had moved on to the next subject, and I forgot to circle back to the question prior to being dismissed.

To be clear, there is no situation which I can logically conceive where a voter would unwittingly go to their precinct to cast a ballot after immediately submitting an absentee ballot. This would be an intentional attempt to defraud the election and should be prosecuted to the fullest extent allowed by law. We do have a process in place to prevent double-voting from occurring. In this instance, the election worker in the precinct will see a flag in the Electronic Poll Book (EPB) that the voter has been issued an absentee ballot. If the absentee ballot has been received by the clerk before 4:00 pm the day before Election Day, the EPB would state "Absentee Ballot [(ballot number)] sent/received by clerk—Do not issue ballot". If the absentee ballot has NOT been received by the clerk before 4:00 pm on the day before Election Day, the EPB would state " Absentee Ballot [(ballot number)] sent by clerk—Voter must surrender ballot or submit affidavit".

If the voter does not have the absentee ballot to surrender, an Affidavit of Absentee Voter must be completed by the voter prior to receiving a ballot to vote in the precinct. Prior to issuing that voter a ballot in the precinct, it is absolutely critical that the election worker makes a phone call to the city or township clerk to verify that their absentee ballot was not received after the EPB file was generated from the Qualified Voter File after 4:00 pm the day before. If the clerk verifies that the absentee ballot has not yet been received, the voter will sign the affidavit (on which it states that the election worker MUST call the clerk's office for verification) and be issued a ballot in their precinct; the clerk will "reject" in the Qualified Voter File the absentee ballot that was issued to the voter, which will prevent it from being scanned in as "received" and counted. This phone call is critical in preventing accidental or intentional double-voting. In answering this question during the hearing, I overlooked sharing with the committee the important step of this phone call to the city or township clerk.

Additionally, in answering this question in the hearing, I inadvertently interchanged the Qualified Voter File (QVF) and the Electronic Poll Book (EPB) and would like to provide clarification and background.

The EPB is a snapshot of the QVF that is loaded onto a laptop computer to be used on Election Day in the precincts to create an Election Day list of voters and voter history that will be uploaded back into QVF within seven days of each election. The EPBs in the precincts are not connected to the QVF or the internet for security reasons, and this is why that phone call to the clerk's office is so critical.

I hope the above helps to clarify the answer I provided in the hearing and assists in providing you and the public a greater understanding of our elections process here in Michigan. Again, thank you for the invitation to testify before you and explain how elections in Kent County are secure, fair, and transparent. Please feel free to call upon me if I can be of future assistance.

Sincerely,

Lisa Posthumus Lyons

Lisa Posthumus Lyons
Kent County Clerk/Register of Deeds

Appendix O: Brater Letter, October 15, 2021

STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

October 15, 2021

Stephanie Scott, Clerk
Adams Township
3571 State Road
Hillsdale, MI 49242
Via email: ***stephiedscott@gmail.com***

Dear Clerk Scott:

I write to advise and instruct you on your obligations under the Michigan Election Law, to correct numerous false statements you have made about the conduct of elections in Michigan, and to inform you of the consequences should you continue to fail to perform your statutory duties. If you continue to ignore correspondence from the Bureau of Elections, this will be the final letter you receive before legal action is taken.

The Bureau of Elections (Bureau) understands that you have continued to refuse to allow a technician from Hart Intercivic, Inc. (Hart) to perform preventative maintenance on your voting machines. Not only is preventative maintenance a service that Hart is contractually required to provide, it is also essential to ensure your tabulator and voter assist terminal (VAT) continue to be in good working condition and perform properly so that you can serve your voters on election day. For more information about the importance of the preventative maintenance, please see my letter of September 8, 2021, attached for your reference.

The Bureau also understands that you have refused to perform the responsibilities required of you with regard to Public Accuracy Testing of your voting equipment. Under the Michigan Election Law, 1954 PA 116, MCL 168.798, and administrative rules promulgated by the Department of State, R 168.771, your election commission is required to conduct testing no later than October 28, 2021, following posting of public notice of the meeting. Upon completion of the testing, you are required to sign a certificate verifying that testing has been conducted.

The Bureau understands that you intend to use certified Hart tabulators for the conduct of the November 2, 2021, election in Adams Township as required by law, but public statements indicate that you may refuse to use them for future elections. Neither you nor the township may conduct elections by counting ballots in any method other than the use of a certified electronic system in which tabulators count paper ballots. Decades ago, the Michigan State Legislature enacted provisions of the Michigan Election Law that expressly require that ballots be counted by a certified electronic system. MCL 168.37, 795, 795a. The Michigan Election Law does not allow local, county or state officials to waive these requirements. For further information, see my September 8, 2021 letter.

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Based on your public statements, I am concerned that your refusal to perform your legally mandated duties is connected to numerous false claims you have made about the conduct of elections in Michigan, which have been repeatedly debunked by election officials and experts of both political parties.

At a recent public meeting in your township, you made the following statements:

- You claim that the test deck for the Logic and Accuracy Test (L&A Test) was "incomplete" for the March 2021 election, and you do not believe the tabulators were properly tested for the November 2020 election because in your estimation, in order to do so the test deck would have had to include over 200 million ballots. You also claim that the test decks were prepared by Election Source, which you found concerning.

  Although Election Source is an accredited election contractor in Michigan, Hillsdale County does not contract with Election Source for any election-related services. The county uses Spectrum as their election service vendor. The test deck created by Spectrum for the March election (attached, along with invoices for the test decks for November 2020 and March 2021), did, indeed, meet the requirements of the Michigan Administrative Rules and the Michigan Election Law. You seem to mistakenly assume that a test deck must include every single possible combination of votes on a ballot in order to be sufficient, but that is not the case. Instead, for a special election, the test deck must test that the programming follows the applicable rules for undervotes, overvotes, and stray marks, and also correctly awards votes in properly marked races or questions.

  A review of your transcript in the Elections eLearning Center suggests you have never reviewed our instructional materials regarding the creation of test decks. The link to our module on L&A Testing for a Special Election can be found here and the manual can be found here.

- You do not wish to participate in L&A Testing for the November 2021 election because you believe it could somehow destroy information that is on the tabulator now.

  Michigan Administrative Rule 168.778 requires the election commission, of which you are a part, to conduct a public L&A Test prior to each election. You are also required to be present at the test and certify the accuracy of the test. The data from both the November 2020 election and March 2021 election are currently stored in the Election Management System (EMS) retained by Hillsdale County. No election information from those elections is retained on the tabulator following the election.

  Instead, information is sent to the county. The *unofficial* election night results are sent via secure modem transmission to the county after the election is completed and the tabulator tape has been printed, at which point the data is entered into the into the EMS. Additionally, it is the V-drive (what you refer to as the USB stick), not the tabulator, that contains the programming and results for the election. That drive is also returned to the county after each election. The Hillsdale County Board of Canvassers then compares the electronic results to the paper tabulator tapes and pollbooks. There is no election information retained on the tabulator once the V-drive is removed.

- You do not want to allow preventative maintenance to be performed on your tabulator because you claim not to know who will be doing it and it might be Election Source. You are also concerned that, during preventative maintenance, data on the tabulator may somehow be erased.

  You have already been repeatedly informed that preventative maintenance is mandatory and does not delete data. You were informed in a July 27, 2021 email from Abe Dane (attached) that Hart and a Hillsdale County employee would be performing the preventative maintenance. As I previously explained, preventative maintenance is routinely performed every two years and is a necessary security and maintenance process and does not destroy any records required to be maintained under federal or state law.

- You claim you were instructed by the Bureau of Elections to destroy the electronic pollbook "data."

  All electronic pollbook data is printed in paper form on election night. That information is then placed in the paper poll book and retained for 22 months after the certification of the election. Clerks are instructed to delete the *electronic version* of the *already-printed* data to safeguard the personal information contained in the file.

- You are concerned with using a Hart tabulator because of a 2007 report you found online regarding the Hart Intercivic Rally voting system. You further stated that you did not know if the software had been upgraded since then.

  A 14-year-old report on a voting system that is no longer used has no bearing on the current voting system. The bipartisan U.S. Election Assistance Commission certified the most recent version of the Hart Verity voting system used in Michigan on February 21, 2020, after it was tested by a Voting System Test Laboratory, and the bipartisan Board of State Canvassers approved it on April 20, 2020.

- You are concerned that the modem is somehow turned on and the machine is somehow connected to the internet on election day.

  While your tabulator has a modem physically attached, the modem is disabled while polls are open. Tabulator programming does not allow any modem communications to occur while voting is in progress; the secure transmission can occur only after the election is complete and the tabulator tape has been printed. Additionally, data transmission is one-way. Data (unofficial results) is sent from the tabulator to the host, and no data is transferred from the host to the tabulator. The official results are compiled based on the tabulator tape that is printed, not the unofficial results. The actual paper ballots are also retained.

- You claim the Bureau of Elections instructed clerks to destroy the chain of custody of ballots and said that ballots can be stored anywhere. Additionally, you claim you are reluctant to review the paper ballots from November 2020 so as not to "break" chain of custody of the ballots.

On February 12, 2021 the Bureau instructed clerks as follows:

> If the office of President, U.S. Senator or U.S. Representative in Congress appears on the ballot (all appeared on the November 3, 2020 general election ballot), federal law requires that all documents relating to the election -- including optical scan ballots and the programs used to tabulate optical scan ballots -- be retained for 22 months from the date of the certification of the election. To comply with the requirement, the Bureau of Elections recommends that optical scan ballots and the programs relating to federal elections be stored in **sealed ballot bags** in a secure place during the 22-month retention period. The documents subject to the federal retention requirement must not be transferred to ballot bags for extended retention until after they are released under Michigan election law as detailed in this memo (emphasis added).

You and other clerks were clearly instructed to retain ballots and other election materials in sealed ballot bags in a secure place. This is to ensure the chain of custody. However, as the custodian of these records, you are allowed to open the sealed ballot bag to review the ballots yourself. Additionally, you are *required* to access the ballots if you receive a Freedom of Information Act Request to review the voted ballots from a member of the public. The Bureau has provided detailed instructions (attached) to clerks to ensure the chain of custody is maintained during the process. Chain of custody does not mean you, as the custodian, cannot access the records. It means that you must remain in control of them at all times.

In a recent text message to an election inspector you made the following statement:

- You would be reaching out to all the election inspectors appointed for the November 2021 election to share your concerns about the tabulator.

As you know, Michigan conducted more than 250 audits following the 2020 election, the majority of which were conducted by county clerks of both political parties all across the state. The audits results are publicly available,[1] as is a report by the Michigan Senate Oversight Committee that found that claims of voting equipment being compromised were baseless.[2]

If you truly have concerns about whether voting tabulators accurately counted ballots, you can review the paper ballots from the November 3, 2020 election in your jurisdiction, which are in your possession. Any other clerk in Michigan can do the same, and any member of the public can inspect the paper ballots by submitting a Freedom of Information Act request.

If you truly have concerns about the accuracy or integrity of pollbooks used on election day, you can review the paper record of the electronic pollbook used on election day, which is in the county's possession, and compare it to the Qualified Voter File, to which you have access. Any other clerk in Michigan can do the same. There is no voter information or record on the electronic copy of the electronic pollbook that is not also retained on the paper copy, and it has been standard practice for many years to delete the electronic copy to safeguard the personal identifying information on the file.

[1] https://www.michigan.gov/documents/sos/BOE_2020_Post_Election_Audit_Report_04_21_21_723005_7.pdf.
[2] https://www.misenategop.com/oversightcommitteereport/.

Stephanie Scott, Clerk
Adams Township
Page 5

The Bureau of Elections has already provided extensive information explaining why the claims you and others have made are not accurate. I sincerely hope that you will take the time to review this information and correct your misperceptions and misstatements on these issues. By communicating false or misleading information about elections in Michigan, you risk not only undermining confidence in democracy in your community, but also amplifying threats and intimidation of your fellow election officials across our state which, fueled by misinformation, continue unabated.

Regardless of your reasons for failing to fulfill your responsibilities, the Bureau of Elections will not allow noncompliance with the Michigan Election Law or failure to conduct needed security safeguards to continue. Therefore, in order to ensure public trust and confidence in the integrity and security of upcoming elections in your community, I am directing you to comply with the Michigan Election Law and instructions from the Bureau of Elections.

Under the Michigan Election Law, the Secretary of State is the Chief Election Officer of this State and "shall have supervisory control over local election officials in the performance of their duties under the provisions of this act." MCL 168.21. The Secretary of State is required by law to "issue instructions" and "[a]dvise and direct local election officials as to the proper methods of conducting elections." MCL 168.31(1)(a),(b). County clerks and Boards of Commissioners are required to comply with the instructions given by the Secretary of State. *Secretary of State v Berrien Co Bd of Election Comm'rs*, 373 Mich 526, 530-531 (1964). The Director of Elections is authorized to act at the Secretary's behest "with respect to the supervision and administration of the election laws." MCL 168.32.

In accordance with my authority under the Michigan Election Law, you are directed to:

- Permit Hart Intercivic, Inc. to perform preventative maintenance on your voting equipment.
- Conduct Public Accuracy Testing and sign required certificates.
- Conduct all future elections in Adams Township using certified Hart Intercivic, Inc. voting equipment, until such time as the Hillsdale County Clerk chooses a different certified voting system vendor.

Please confirm that you will comply with these instructions no later than Friday, October 22, 2021. If you fail to do so, you will be instructed to refrain from administering any elections in Adams Township and legal action will be taken as necessary to enforce this instruction. Be advised that willfully failing to comply with a lawful order from the Secretary of State is a misdemeanor. MCL 168.931(h).

Sincerely,

Jonathan Brater
Director of Elections

c: Marney Kast, Hillsdale County Clerk
Heather Meingast, Michigan Department of Attorney General

Website: MiFairElections.org; Email: contact@mifairelections.org
P.O. Box 41, Stockbridge, MI 49285

Appendix P: Brater Cease & Desist Letter, October 25, 2021

STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

October 25, 2021

Stephanie Scott, Clerk
Adams Township
5675 Knowles Road
P.O. Box 336
North Adams, MI 49262
Via U.S. Mail and email: ***stephiedscott@gmail.com***

Dear Clerk Scott:

As of this date, you have not responded sufficiently to my previous letter directing you to confirm by October 22, 2021, that you would fulfill your legal responsibilities and comply with instructions from the Bureau of Elections. I previously directed you, in a letter dated October 15, 2021 (attached for your reference), to confirm that you would do the following:

- Permit Hart Intercivic, Inc. to perform preventative maintenance on your voting equipment.
- Conduct Public Accuracy Testing and sign required certificates.
- Conduct all future elections in Adams Township using certified Hart Intercivic, Inc. voting equipment, until such time as the Hillsdale County Clerk chooses a different certified voting system vendor.

On October 17, 2021 you responded by email stating that Public Accuracy Testing had been scheduled for October 27, 2021; however, in response to a follow-up email you did *not* confirm that you would sign certificates confirming Public Accuracy Testing had been completed, which you, as Township Clerk, are required to do. You also did not respond to either of the other two matters raised in the directive.

Your past statements, detailed in prior letters, indicate that you are unwilling to fulfill your responsibilities as clerk, and you have failed to confirm that you will fulfill them in response to recent correspondence. Accordingly, in order to ensure public trust and confidence in the integrity and security of elections, and to ensure that elections in Adams Township are conducted in accordance with the Michigan Election Law, I am directing you to refrain from administering any elections held in Adams Township, including the upcoming November 2, 2021 election. These functions will be fulfilled by the Hillsdale County Clerk or her designee until further notice.

Under the Michigan Election Law, 1954 PA 116, as amended, MCL 168.1*et seq.*, the Secretary of State is the Chief Election Officer of this State and "shall have supervisory control over local election officials in the performance of their duties under the provisions of this act." MCL 168.21. The Secretary of State is required by law to "issue instructions" and "[a]dvise and

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direct local election officials as to the proper methods of conducting elections." MCL 168.31(1)(a),(b). County clerks and Boards of Commissioners are required to comply with theinstructions given by the Secretary of State. *Secretary of State v Berrien Co Bd of Election Comm'rs,* 373 Mich 526, 530-531 (1964). The Director of Elections is authorized to act at the Secretary's behest "with respect to the supervision and administration of the election laws." MCL 168.32.

In accordance with my authority under the Michigan Election Law, you are directed to refrain from any election administration activities, including the duties described below pertaining to voter registration and routine list maintenance; preparation, issuance, and processing of ballots (including absent voter ballots) and absent voter ballot applications; ordering or assembling election supplies and precinct supply kits; recruiting, placing, and training election inspectors; logic and accuracy testing; voter registration before the 14th day prior to Election Day and the close of polls; handling any Election Day issues that may arise; generation of unofficial election results, and responsibilities related to the post-election canvass process.

- **Performing Voter Registration and Routine List Maintenance.** You must refrain from any duties associated with processing voter registration applications and performing routine list maintenance. These functions must be performed by the Hillsdale County Clerk or an individual designated by her or the Bureau of Elections.

- **Ordering Election Supplies and Ballots.** You are prohibited from ordering election supplies and ballots; the Hillsdale County Clerk or an individual designated by her or the Bureau of Elections must order supplies and prepare the precinct materials. You are prohibited from handling any ballots, including blank ballots. The Hillsdale County Clerk or an individual designated by her or the Bureau of Elections must secure and track all ballots, including blank ballots, that are ordered or delivered to your office.

- **Processing Absent Voter Ballot Applications and Issuing Absent Voter Ballots.** You are barred from issuing, handling, and processing any absent voter ballot applications, and prohibited from preparing, issuing, delivering, receiving, and handling any absent voter ballots, including the recording of issuance and receipt of ballots in the Qualified Voter File (QVF). Only the Hillsdale County Clerk or an individual designated by her or the Bureau of Elections are permitted to perform any of these functions.

- **Preparing Polling Locations.** You must not set up (or supervise the set up of) polling locations. The Hillsdale County Clerk or an individual designated by her or the Bureau of Elections must perform (or supervise) the set up.

- **Recruiting, Assigning and Training Election Inspectors.** You must refrain from performing any tasks associated with poll worker recruitment, placement and training. Training must be conducted by an individual who is certified to train election inspectors. If supplemental training is necessary, it may be taught by the Hillsdale County Clerk or an individual designated by her or the Bureau of Elections.

- **Membership on the Election Commission.** The Hillsdale County Clerk or an individual designated by her or the Bureau of Elections shall replace you as a member

of the Township Election Commission.

- **Role in Logic and Accuracy Testing.** You must not perform any duties in relation to logic and accuracy testing. Individuals designated by the Election Commission (other than yourself) may be authorized to complete the test decks, ballot charts, and initial testing for the preliminary logic and accuracy testing. The public accuracy test shall be conducted by the Election Commission, which is also responsible for sealing the equipment, recording seal numbers, and completing the required paperwork. Duties that would otherwise be performed by you will be performed by the Hillsdale County Clerk or an individual designated by her or the Bureau of Elections.

- **Addressing Election Day Issues.** Issues that arise on Election Day must be addressed by the Hillsdale County Clerk or an individual designated by her or the Bureau of Elections as appropriate.

- **Compiling Unofficial Results/ Post-Election Canvass.** The Hillsdale County Clerk or an individual designated by her or the Bureau of Elections will act as the Township's point of contact regarding involving all duties related to the compiling of unofficial results and the 14-day post-election canvass process.

You are directed to provide immediate access to all election equipment and records, including tabulators, voter assist terminals, absent voter ballot applications and ballot envelopes, and polling place materials, to the Hillsdale County Clerk or her designee at a time and place specified by the County Clerk or her designee. Your access to the Qualified Voter File will be suspended until further notice. Adams Township will be billed for all costs incurred by Hillsdale County and the State of Michigan, including staff time, for administering elections in Adams Township.

This directive remains in effect until further notice. Be advised that willfully failing to comply with a lawful order from the Secretary of State is a misdemeanor. MCL 168.931(h). Please contact my office if you require additional information or clarification regarding these instructions.

Sincerely,

Jonathan Brater
Director of Elections

c: Marney Kast, Hillsdale County Clerk
Heather Meingast, Michigan Department of Attorney General
Adams Township Board

Appendix Q: Brater Memo, Aug. 20, 2024

STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

MEMORANDUM

Date: August 20, 2024

To: Municipal and County Election Officials

From: Jonathan Brater, Director of Elections

Subject: Security of Qualified Voter File and Electronic Pollbooks; Inspection of Voted Ballots

Introduction

The Bureau of Elections has previously advised municipal and county election officials on ongoing attempts to access election materials that, if disclosed, pose privacy threats to Michigan voters and security threats to Michigan's election system. These attempts continue and have, at times, been accompanied by aggressive and even threatening language and behavior. Consistent with the Michigan Election Law and its responsibility to safeguard election security in Michigan, the Bureau of Elections (the Bureau) has instructed clerks that while Qualified Voter File (QVF) and Electronic Pollbook (EPB) records are public and subject to disclosure, certain components of these systems cannot be released without compromising voter privacy and election system security. EPB records include records from Early Voting EPBs used for in-person early voting during the nine days of constitutionally mandated early voting and any additional days offered.

Additionally, while voted ballots are public records,[1] it is critical that any inspection preserves security and ensures they are handled only by election officials. The United States Department of Justice publication on this subject states:

> Section 20701 requires that covered election documentation be retained either physically by election officials themselves, or under their direct administrative supervision. This is because the document retention requirements of this federal law place the retention and safekeeping duties squarely on the shoulders of election officials.[2]

This memorandum updates previous guidance and provides further explanation of these issues and information for clerks to consider when reviewing public records requests with their legal counsel. It also describes the potential consequences of providing inappropriate access to election equipment to

[1] The Michigan Attorney General has concluded that "voted ballots, which are not traceable to the individual voter, are public records subject to disclosure under the Freedom of Information Act [.]" Atty Gen Op No 7247 (May 13, 2010), http://www.ag.state.mi.us/opinion/datafiles/2010s/op10324.htm.

[2] Federal Prosecution of Election Offenses, Eighth Edition.

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unauthorized individuals. Additionally, the memorandum addresses several false and misleading claims that have been made about QVF and EPB data and election administration in Michigan.

Record Requests Seeking QVF and EPB Data

Clerks have received requests for access to QVF and EPB data in a variety of different formats, including:

- Requests under the Michigan Freedom of Information Act (FOIA)
- Demands that records be preserved for "investigation"
- Demands to perform "inspections" of election records or equipment

Regardless of the format of any request to inspect QVF or EPB data, clerks should consult with their own counsel for legal questions regarding any of these requests.[3] The Bureau provides the following information in this memorandum: a summary of applicable provisions of FOIA and the Michigan Election Law; a description of the manner in which the Bureau has responded to specific requests, and; instructions not to disclose certain materials that pose a threat to election system security if released.

Requests for Electronic EPB Files

Clerks have received requests for electronic copies of EPB materials in various formats. These include requests for "an electronic copy of the Qualified Voter File (QVF) extract", an "electronic pollbook flash drive", a "CSV- Comma separate value format", or other similar requests. At times, these requests have been accompanied by supposedly "helpful" instructions showing clerks how to potentially compromise the security of their election systems and render their election equipment unusable by illegally providing security-compromising information to unauthorized individuals.

Before responding to these or any FOIA requests, clerks should consult with their legal counsel regarding the requests and exemptions that may apply. Under FOIA, officials may shield sensitive information from disclosure. In the case of EPB files, the Bureau of Elections instructs clerks that they must not publicly release data or files that would reveal the software design or data architecture of the EPB. The Bureau gives this lawful instruction[4] under its supervisory authority pursuant to MCL 168.21, 168.31, and 168.32, as doing so could compromise the Bureau's ability to secure and safeguard the software and data from hacking, theft, loss or destruction, and accordingly interfere with the Bureau's obligation under the Michigan Election law to provide EPB software to clerks. MCL 168.668b.

In response to previous FOIA requests regarding EPB data, the Bureau of Elections has not disclosed these records because the records sought constitute "cybersecurity plans, assessments, or vulnerabilities" that are exempt from disclosure. The Bureau has an interest in maximizing the protection and defense of its information systems, which outweighs the public interest in the disclosure of this information as the release of this sensitive information could jeopardize the security of Michigan's electoral process. MCL 15.243(1)(y). In addition, the responsive records include proprietary software information, security feature information, and sensitive information which, if released, "would disclose a person's cybersecurity plans or cybersecurity-related practices, procedures, methods, results, organizational information system infrastructure, hardware, or software." MCL 15.243(1)(z). Additionally, these files contain sensitive information regarding jurisdictions' EPB laptop(s) that might compromise the security of these laptops.

EPB files also contain personal identifying information such as full birth dates for voters, which are exempt from disclosure. MCL 168.509gg. Attempted manual redaction of personal identifying

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[3] Any clerk who receives a subpoena, request to preserve records pursuant to a lawsuit, or a request to inspect records from law enforcement should consult with legal counsel and inform the Bureau of Elections and the Michigan Department of Attorney General.

[4] See MCL 168.931(h) ("A person shall not willfully fail to perform a duty imposed upon that person by this act, or disobey a lawful instruction or order of the secretary of state as chief state election officer[.]")

information may not be sufficient to protect this information from disclosure if the software and program files are disclosed.

If clerks receive a FOIA request for EPB data, the requestor can be directed to the county clerk for paper pollbook copies or to the Bureau for the log file or voter history.

Notwithstanding the above restrictions on the release of certain information, there are numerous ways in which members of the public can review public QVF and EPB data. Clerks can provide the paper records they are legally obligated to maintain for the required retention period after each election, as soon as the security period has elapsed. Certain specific data derived from the QVF and EPB is subject to disclosure under FOIA, including the lists of registered voters from the QVF and the paper printout of the EPB generated on election night.

If members of the public are interested in verifying the names of individuals registered to vote on a certain date or included in the EPB, they may obtain this information by submitting a FOIA request for publicly available records. If members of the public with concerns about EPB data wish to verify the names of individuals who cast ballots, they can also do so by submitting a FOIA request and reviewing the paper applications to vote completed by all in-person voters and the absent voter ballot applications submitted by all absentee voters.

Electronic records such as the EPB log file or voter history can be requested from the Bureau. Requests for EPB data must be directed to the Bureau to ensure that sensitive information related to both individual voters and the EPB are removed before public disclosure of otherwise available information. Even if clerks were to attempt to redact a voter's date of birth and other personally identifiable information, the disclosure of security and technical information is also exempt from FOIA and may not be properly redacted if produced by clerks, instead of the Bureau.

Demands to Disregard Lawful Instructions from the Bureau of Elections

Clerks have also received communications demanding that they disregard instructions contained in the Bureau of Elections communications, including the Recount/Release of Security Memorandum circulated after each election. The Bureau's instructions are lawful directives in compliance with state and federal law.

Going back to at least 2012 (under Secretary of State Ruth Johnson), the Bureau has issued a directive to destroy electronic copies of the EPB and flash drive. As clerks are no doubt aware, numerous candidates of both major political parties have won statewide elections since 2012. This procedure is necessary to safeguard security and voter privacy. Clerks destroy electronic copies only after they have already printed the paper copy of pollbook information (which must be retained for the required retention period).

Clerks must comply with this instruction regardless of whatever claims private individuals make. A private individual has no authority to instruct clerks on their duties. Whatever "investigation" these individuals claim to be conducting or threats of "prosecution" they may make toward local or state officials, in the absence of a court-issued subpoena or other court order, clerks are not required to comply with their demands. If clerks do receive one of these demands, they should consult with their attorney on how to respond.

Clerks should also be wary of private individuals, including self-proclaimed "experts," attempting to instruct them on the issue of whether disclosure of electronic materials would or would not constitute a security concern. In reality, it is often not possible for an individual unfamiliar with a system to determine whether any one individual piece of information, if known, would be useful in compromising that system. This is one of the reasons software and data elements which may, on their own or in combination with other elements, jeopardize security are not disclosed. Similarly, clerks should not accept at face value claims from private individuals, whatever expertise they claim to have, that clerks can easily redact security-related or personal identifying information.

Consequences of Improper Disclosure

Clerks should understand that the disclosure of this sensitive information may compromise the integrity of Michigan's elections and may warrant an investigation by the Department of State, Department of Attorney General, or Michigan State Police. Improper disclosure may also result in fiscal implications for the jurisdiction. Specifically, disclosure could require the purchase of new EPB laptops for each precinct for which data was compromised.

False and Misleading Claims About QVF and EPB Data

Individuals seeking improper access to QVF and EPB records have made numerous false or misleading claims about QVF and EPB data and election administration in Michigan. Although making or believing false statements has no bearing on whether individuals are permitted to access a record, clerks may find the following explanations useful in communicating with the public or other local and county officials, including law enforcement.

Election Turnout and Voter History

Some individuals have claimed that because, in past elections, the total number of ballots tabulated statewide does not exactly match the number of voters with a voter history indicator in QVF, this means that election results and files cannot be trusted, or that there is some sort of unknown or unexplained irregularity involving voter data.

In reality, these numbers do not match exactly because they come from two different sources. County-certified election results are based on the number of ballots cast and tabulated in each jurisdiction, as determined by the county canvass. This includes canvasser review of tabulator tapes showing election night results, in addition to any corrections or adjustments at the county canvass and recounts, if applicable.

Voter history in QVF is based on entry of voter history data from the EPBs (for in-person voters) and absent voter ballot return envelopes (for absentee voters), as well as the real-time record of early voting activity by the Early Voting EPBs. Following each election, each clerk uploads their EPB data for each of their precincts to the QVF. This automatically updates the voter history in QVF for all voters recorded in the EPB as voting at the polling place on Election Day. Alternatively, clerks can manually add voter history to the QVF using the paper printout of the EPB.

If any of Michigan's 1,521 municipal clerks do not update QVF with EPB data for any of their precincts, voter history for voters in those precincts will not appear in QVF even though those voters did in fact appear at the precinct, apply to vote, get recorded in the poll book, and cast ballots. Following each election, the Bureau sends multiple communications and reminders to clerks to add voter history data to the QVF. Most clerks do so promptly, but some are delayed and some fail to do so.

This was the case in the November 2020 election, as it was in other past elections. Approximately 5.57 million ballots were cast in the November 2020 election according to certified results. As of April 2021, when the Office of the Auditor General reviewed QVF data for its audit of the Bureau, voter history for approximately 5.53 million voters had been uploaded to the QVF. In subsequent months, the Bureau sent additional communications to clerks reminding them to add voter history data to the QVF, and more clerks did so. As of 2022, the number of voters showing history in QVF for the November 2020 election was approximately 5.55 million.

Ultimately, a small percentage of jurisdictions did not add QVF data for at least one of their precincts in 2020 which meant that a small percentage of voter history was not recorded in QVF. Approximately 99.6% of voter history was uploaded in the QVF for the November 2020 election, which is a higher percentage than was uploaded for the November 2016 election (approximately 99.0%) and November 2018 election (approximately 98.5%). In subsequent elections, the percentage of voter history uploaded has increased even further.

EPB Time and Date Records

Individuals have claimed that the absence of a specific "time stamp" on some voter history tables is suspicious because, on election day, the EPB records the specific time at which a voter appeared on Election Day. These individuals misunderstand the table they are viewing. In reality, some QVF tables include "00:00" in the time field because the record is referring to an election *date,* not a *time* on election day. Elections occur all day, so it does not make sense for QVF to display any specific time. Like other programs that include voluminous amounts of data, QVF generates tables of data that are programmed and populated using numerous databases.[5] When there is no entry needed for a field (for example, a time field corresponding to election day), the default value that databases display is "00:00."

Voter History from Previous Addresses

Some voters who have moved from one jurisdiction to another in Michigan have noticed that voter history from prior elections, when they voted at their prior address, may appear as voter history from their current address. This is because the old version of QVF (QVF Legacy) did not track the jurisdiction where a past vote occurred. One of the many benefits of QVF Refresh, released in 2019, is that voter history from prior addresses can be tracked at the prior address. Therefore, voters who moved to and voted from prior addresses in elections that occurred after QVF Refresh was released will see voter history appear as having voted at the prior address.

However, votes that occurred at addresses when the voter's move predated QVF Refresh will display at the current address. This is not because of some nefarious purpose, but because QVF Legacy did not have the data capability as the current system.

QVF Record Identifying and Voter ID Numbers

Some individuals have claimed that the fact that there are multiple identifying numbers corresponding to voter records in QVF is suspicious. In reality, there are multiple numbers for security reasons. Voters have a public voter ID number in QVF and the EPB, which is disclosed in public record requests. QVF also contains separate record-identifying numbers that correspond to voter records, which are used for security and verification purposes (and which are not publicly disclosed for security reasons). Again, the non-disclosed record-identifying number is not different from the voter ID number for some nefarious purpose, but as an internal verification and security measure.

Security Procedures Used to Verify EPB is Offline

As clerks are aware, the EPB used on Election Day must be offline and laptops operating the EPB software must be turned to "airplane mode" to ensure there is no internet connection. In order to make sure that EPBs are offline, the EPB software is designed to receive a periodic "Ping" from the State of Michigan network on Election Day to check for improper internet connectivity. If the Ping detects an internet connection on the EPB laptop, the EPB software displays a warning message instructing the user to disconnect the laptop from an internet connection by turning the laptop to airplane mode. Some individuals have suggested this connection is suspicious, when in fact it is a security feature designed to ensure EPB laptops remain offline throughout Election Day.

General QVF-Related Conspiracy Theories

In general, some individuals have pointed to various data or program elements in QVF and claimed – whether because QVF data is imperfect or incomplete, because these individuals do not understand

[5] Some individuals have claimed that there are multiple QVF "databases" and that this is somehow being used to perpetuate fraud. Aside from being impossible for the reasons described later in the memo, this claim is based on misconceptions regarding the QVF. The QVF is not a single "database" but instead a program used by the Bureau and Clerks for many purposes, requiring numerous tables and reports, which are in turn programmed and populated by numerous databases. For an explanation of what a database actually is, see this explanation from Microsoft: https://azure.microsoft.com/en-us/resources/cloud-computing-dictionary/what-are-databases/.

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what they are looking at, or some combination of the above – that this shows some broad conspiracy to perpetrate election fraud. While it is of course true that QVF – a constantly changing voter file that needs to be updated whenever a voter registers, moves, cancels a registration, dies, applies for an absentee ballot, or engages in various other activities – will never be 100 percent accurate or up to date, this does not mean there is some conspiracy to manipulate QVF data to perpetrate fraud. In fact, in recent years the Bureau and clerks have done more than ever before to keep QVF accurate and up to date.[6]

Regardless of how accurate or up to date QVF is at any given time, however, the suggestion that QVF could be used to perpetuate massive undetected election fraud is without merit. Even if one were to assume that Bureau staff (many of whom have worked at the nonpartisan Bureau of Elections for years or decades under multiple Secretaries of State of both political parties) and staff at the nonpartisan Department of Technology, Management, and Budget were involved in such a scheme, it would require thousands of clerks and election inspectors of both major political parties to be involved as well.

This is because while QVF is used to maintain *electronic* registration and voting records, voting is done by human beings using *paper* ballots, in elections that are run by municipal clerks across the state. In addition to the paper ballots, there are also polling place applications to vote (which must be completed by in-person voters, and which are retained by clerks after election) and absentee ballot applications (which must be completed by absentee voters, and which are also retained by clerks after elections). These materials provide an independent, *paper* record of all the individuals who cast ballots in an election. If there were actually some kind of fraud being perpetrated using QVF, this could be easily proven by reviewing these paper records.

In many respects, these nonsensical claims about QVF are similar to the false claims previously made about ballot tabulation equipment, which if true could have been proven by reviewing paper ballots (when in fact, reviews of paper ballots all confirmed that tabulators counted ballots accurately).

Court decision on disclosure of QVF and EPB data

In addition to similar memoranda provided following previous elections, this memorandum was first issued July 10, 2023, after the Bureau learned of FOIA requests of local clerks for QVF and EPB data in specific formats. Following consultation with and instruction from the Bureau, local clerks correctly denied those requests and directed the requester to the Bureau to fulfill the request in a way that would ensure the security of sensitive election information. In August 2023, the requester filed a lawsuit against several Macomb County municipal clerks to appeal their denial of the FOIA request, and the Secretary of State was allowed to join the clerks as an intervening defendant. In his request, the requester had sought extract files from EPBs in .CSV or .XLS format with redactions of information exempt under FOIA. On September 6, 2023, the Bureau provided records in .XLS format to the requester.

On June 25, 2024, the court granted the clerks' and SOS' motion for summary disposition, finding that the suit was moot given that the clerks had each specifically denied the FOIA requests and the Bureau had provided the information requested.

If similar requests arise in the future, local clerks should consult with their attorney and the Bureau of Elections on how best to respond.

Ballot Disclosure Procedures

A city or township clerk who grants a request from a person to inspect or receive copies of ballots voted in an election must proceed as follows:

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[6] For more information on how QVF is kept up to date, see https://www.michigan.gov/sos/elections/voting/voters/voter-registration-cancellation-procedures.

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- If the person wishes to inspect the voted ballots, the clerk who has custody of the ballots or office staff designated by the clerk must be present in the room where the inspection takes place for the entire time the ballots are being examined. At no time during the course of the examination is the person or persons inspecting the ballots permitted to touch or handle the ballots, touch or handle the container or ballot bag in which the ballots are secured, or be left unattended in the room where the examination is carried out when secured or unsecured ballots are present.
- If the person wishes to receive copies of the voted ballots, the clerk who has custody of the ballots or office staff designated by the clerk must perform the necessary photocopying. At no time during the course of the photocopying is the person or persons requesting the photocopies permitted to touch or handle the ballots, touch or handle the container or ballot bag in which the ballots are secured, or be left unattended in the room where the photocopying is taking place when secured or unsecured ballots are present.
- The clerk must maintain a complete written record of the measures taken to protect and preserve the integrity of the ballots, including the following information:
    - The serial numbers appearing on the election seals removed from the ballot containers or ballot bags involved.
    - The serial numbers appearing on the election seals used to reseal the ballots into the ballot containers or ballot bags after the conduct of the ballot examination or the photocopying of the ballots.
    - The names and titles of the authorized individual or individuals who removed and replaced the election seals.
    - The date and time the seals were removed and replaced.
    - The names and addresses of any individuals who witnessed the removal and replacement of the election seals.
    - The names and titles of the authorized individual or individuals who supervised the examination of the ballots or performed any necessary photocopying of the ballots. The record must be maintained in a secure place by the clerk having custody of the ballots.

A city or township clerk who receives a request from a person to inspect or receive copies of voted ballots should consult the jurisdiction's legal counsel for advice in connection with responding to a particular FOIA request, including whether to recover any actual costs associated with retrieving any information that may be disclosed pursuant to FOIA.

Nothing provided under this directive shall be construed to allow the public disclosure of voted ballots prior to 1) the release of the ballots under Michigan's ballot security provisions, or 2) the conduct and completion of any recounts requested after the election.

Additional Information and Support Available

It is unfortunate that election officials continue to be subjected to false claims, abusive behavior, and even threats. Whatever assertions individuals make about election officials, clerks should be mindful that there are legal avenues for individuals to pursue these assertions. If individuals disagree with a FOIA determination by a local or state official, they can file a lawsuit. If they believe criminal activity occurred, they can make a complaint in writing to law enforcement.

The Bureau encourages election officials to communicate with local and state law enforcement regarding any threats they may have received, [7] and to continue to communicate with law enforcement regarding the various false claims and allegations of criminal activity that some individuals continue to make. Clerks are also encouraged to communicate with municipal and county government associations for additional independent support and advice. Finally, the Bureau of Elections remains available for any additional questions you have or support you may need. If clerks believe that any unauthorized or unsupervised access to their equipment may have occurred, they should contact the Bureau immediately. Please do not hesitate to contact the Bureau if we can be of further assistance.

[7] Note that an individual who intimidates an election official because of the election official's status as an election official, with the specific intent to interfere with their performance of election-related duties, is guilty of a misdemeanor, or a felony if it is the individual's third or subsequent offense. MCL 168.931b.

Appendix R: EAC Advisory Opinion FAO-08-005

U.S. ELECTION ASSISTANCE COMMISSION
1225 New York Ave. NW – Suite 1100
Washington, DC 20005

U.S. Election Assistance Commission
Funding Advisory Opinion
FAO-08-005

Requestors:
Pennsylvania (AOR-08-007)
Division Director, EAC Payments and Grants Division (AOR-08-013, AOR-08-014, AOR-08-015, and AOR-08-016)

Questions:
May HAVA funds be used for the following voter registration related activities:

1. Producing voter registration forms?
2. Preparing and providing instructions on how to register to vote?
3. Conducting voter registration drives including advertising for the event, setting up booths, and paying salaries of employees who register new voters?
4. Encouraging citizens to register to vote?
5. Training poll workers to register new voters?

Determination:
General information applicable to all questions and the specific answers are presented below.

EAC has concluded that HAVA authorizes the use of HAVA funds for voter registration activities as follows:

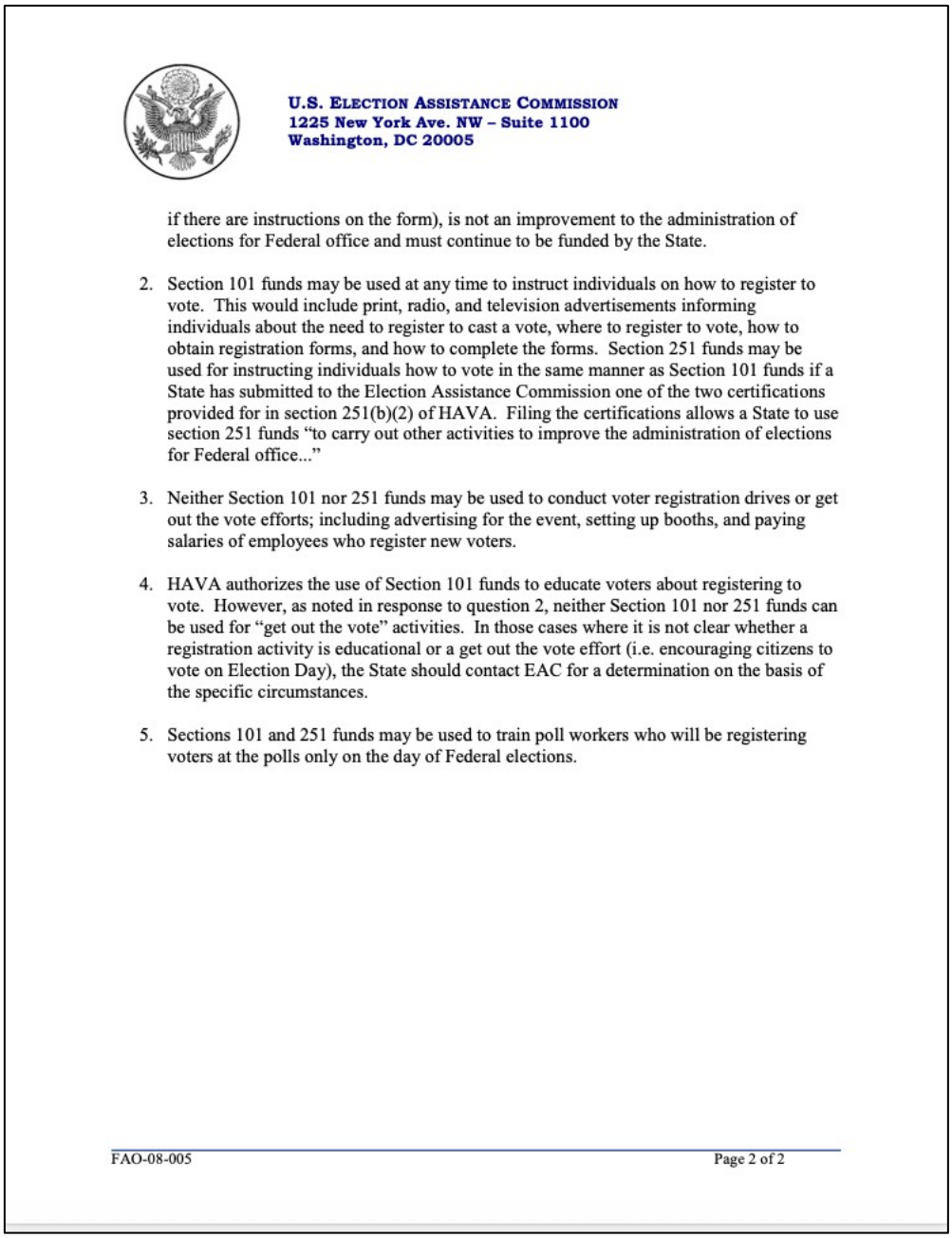
- Section 101(b)(1)(C) allows Section 101 funds to be used for educating voters concerning voting procedures.

- Section 251(b)(1) allows Section 251 funds to be used to implement and maintain a computerized statewide voter registration list and to publicly post on the day of each election for Federal office instructions on how to vote, including how to cast a vote and how to cast a provisional ballot.

In the opinion of EAC, the phrases "educating voters on voting procedures" and "how to cast a vote" would include providing instruction on how to register to vote as one could not vote if not registered. However, voter registration activities do not qualify for funding under the umbrella of improvements to the administration of elections for Federal office because the activities do not directly contribute to the administration of a Federal election.

Answers

1. Neither Section 101 nor 251 funds may be used to print, copy, or revise State voter registration forms. Providing voter registration forms is an activity that States have been carrying out for years, is not a requirement imposed by HAVA, is not educational (even



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if there are instructions on the form), is not an improvement to the administration of elections for Federal office and must continue to be funded by the State.

2. Section 101 funds may be used at any time to instruct individuals on how to register to vote. This would include print, radio, and television advertisements informing individuals about the need to register to cast a vote, where to register to vote, how to obtain registration forms, and how to complete the forms. Section 251 funds may be used for instructing individuals how to vote in the same manner as Section 101 funds if a State has submitted to the Election Assistance Commission one of the two certifications provided for in section 251(b)(2) of HAVA. Filing the certifications allows a State to use section 251 funds "to carry out other activities to improve the administration of elections for Federal office..."

3. Neither Section 101 nor 251 funds may be used to conduct voter registration drives or get out the vote efforts; including advertising for the event, setting up booths, and paying salaries of employees who register new voters.

4. HAVA authorizes the use of Section 101 funds to educate voters about registering to vote. However, as noted in response to question 2, neither Section 101 nor 251 funds can be used for "get out the vote" activities. In those cases where it is not clear whether a registration activity is educational or a get out the vote effort (i.e. encouraging citizens to vote on Election Day), the State should contact EAC for a determination on the basis of the specific circumstances.

5. Sections 101 and 251 funds may be used to train poll workers who will be registering voters at the polls only on the day of Federal elections.

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Source: Funding Advisory Opinion (FAO) 08-005, U.S. Elections Assistance Commission, Posted: September 14, 2010.
https://www.eac.gov/sites/default/files/document_library/files/FAO-08-005_EAC_1.pdf

Appendix S: MCL 24.234 — Office of Regulatory Reform (Full Text)

Reproduced in full, as published by the Michigan Legislature. Cross-referenced in Count 1 (Executive Branch Consolidation of Election Oversight Authority).

ADMINISTRATIVE PROCEDURES ACT OF 1969 (EXCERPT)
Act 306 of 1969

24.234 Office of regulatory reform; agency; powers and duties.

Sec. 34.

(1) The office of regulatory reform is an independent and autonomous type 1 agency within the department of management and budget. The office of regulatory reform has the powers and duties as set forth in executive order no. 1995-6 (executive reorganization order no. 1995-5), MCL 10.151, and shall exercise the powers and perform the duties prescribed by subsection (2) independently of the principal executive departments of this state, including, but not limited to, personnel, budgeting, procurement, and management-related functions.

(2) In addition to any other powers and duties described in subsection (1), the office of regulatory reform shall review proposed rules, coordinate processing of rules by agencies, work with the agencies to streamline the rule-making process, and consider efforts designed to improve public access to the rule-making process.

History: Add. 1999, Act 262, Eff. Apr. 1, 2000

Compiler's Notes: For transfer of powers and duties of the office of regulatory reform from the department of management and budget to the office of regulatory reform, see E.R.O. No. 2000-1, compiled at MCL 10.152 of the Michigan compiled laws.

Popular Name: Act 306
Popular Name: APA

Source: https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-24-234