

Subject: [Document Released to Requester] North Carolina State Board of Elections public records request #23-151

Date: Sunday, November 5, 2023 at 8:30:43 PM Eastern Standard Time

From: North Carolina State Board of Elections

To: AO Records

EXTERNAL SENDER

-- Attach a non-image file and/or reply ABOVE THIS LINE with a message, and it will be sent to staff on this request. --

North Carolina State Board of Elections Public Records

A document has been released for record request #23-151 along with the following message:

Hi,

Please see some responsive documents. Our legal team is reviewing additional documents, and we will provide those as promptly as possible. Please let us know if you have any questions in the meantime.

Thanks,
State Board staff

- [American_Oversight_Part1.pdf](#)

[View Request 23-151](#)

<https://ncsbe-nc.nextrequest.com/requests/23-151>

Document links are valid for one month. After December 6, you will need to sign in to view the document(s).

Questions about your request? Reply to this email or sign in to contact staff at North Carolina State Board of Elections.

Technical support: See our [help page](#)

From: [Jay N. DeLancy](#)
To: [Bell, Karen B](#)
Cc: [Gannon, Patrick](#)
Subject: [External] Thank you!
Date: Wednesday, February 15, 2023 5:50:30 PM

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Director Bell...

It was kind and gracious of you yesterday to offer the use of a table for my, um... super high-tech camera gear, and Pat showed a true public servant's spirit in hustling to make it happen. Ironically, the stopping and starting of the livestream resulted in our only capturing the part of the meeting that covered campaign finance! Nonetheless, you both have my deepest appreciation.

Jay

--

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Jay DeLancy is Director of Voter Integrity Project - NC, a 501(c)(4), non-profit organization, founded in 2011, dedicated to open and honest elections. When not mentoring other state-based election integrity organizations, VIP has conducted forensic audits, that uncovered almost 30,000 deceased persons on one state's voter rolls; more than 500 registered voters in one county who had also convinced the courts that they were not US citizens; a four-state criminal investigation into nearly 400 cases of suspected interstate-double voting that has triggered multiple criminal referrals; five felony indictments and four convictions (to date)... which also exposed the prosecutorial bias against punishing vote fraud. Among their recent projects, one involved finding enough votes cast by deceased persons to trigger numerous election protests by a state Supreme Court candidate, which effectively countered his opponent's protests, promoting felon voters.

From: [Jay N. DeLancy](#)
To: ["Rep. George Cleveland"](#); Dennis.Riddell@ncleg.gov; carl.ford@ncleg.gov; neal.inman@ncleg.gov; Sam.hayes@ncleg.gov
Cc: [Cox, Paul](#); [Bell, Karen B](#); [SBOE Grp - Legal](#); james.k.womack@gmail.com; ["Cleta Mitchell"](#); [Philip Thomas](#)
Subject: FW: [External] FW: Illegal control of observers
Date: Monday, November 7, 2022 11:11:59 AM

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ALCON,

This email was brought to my attention today, so please pardon the late notice. The bottom line is that Mr. Cox is taking an untenable position because of the "Observer Tip" guidance his agency promulgated shortly before the primary.

At that time, I posted a [response](#) that included links to the 2016 Tip sheet and the KBB version, which highlighted changes made in SBE Monitor Observer Runner Guide" (**Observer Tips 2022**), and wrote, "While we can all agree that confidentiality rules prohibit observers from certain places inside the polls, the law cites no further restrictions on observer movements. In spirit of §163-45(c), the 2016 version of their same guide (**Observer Tips 2016**) clarified the observers' the right to "observe the registration, ballot, and help tables without impeding voters or precinct officials [and] walk outside the voting enclosure to observe the curbside voting area." Now, the state is forcing observers to sit (or stand) in a designated area and not move without flagging down the Chief Judge and asking permission to perform their statutory rights "to make such observation and take such notes as the observer may desire." I

We've alerted national players on this matter, as this restriction not only violates the [NC poll observer statute \(§163-45\(c\)\)](#), but it also violates federal law from the 1965 Voting Rights Act ([18 US Code 245](#)). When election judges are pointing to the SBE's own "Observer Tips" sheet and even the NCGOP legal staff is citing that illegal guidance, we have a problem. Mr. Cox's disavowal of his agency's own guidance is worthy of careful scrutiny.

Respectfully,

--

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convictions (to date)...which also exposed the prosecutorial bias against punishing vote fraud. Among their recent projects, one involved finding enough votes cast by deceased persons to trigger numerous election protests by a state Supreme Court candidate, which effectively countered his opponent's protests, promoting felon voters.

From: Cox, Paul <paul.cox@ncsbe.gov>
Sent: Friday, October 28, 2022 12:11 PM
To: Rep. George Cleveland <George.Cleveland@ncleg.gov>; Rep. Dennis Riddell <Dennis.Riddell@ncleg.gov>; Sen. Carl Ford <Carl.Ford@ncleg.gov>; Neal Inman (Speaker Moore's Office) <Neal.Inman@ncleg.gov>; Sam Hayes (Speaker Moore's Office) <Sam.Hayes@ncleg.gov>
Cc: Bell, Karen B <Karen.Bell@ncsbe.gov>; SBOE_Grp - Legal <Legal@ncsbe.gov>
Subject: RE: [External] FW: Illegal control of observers

Hi Rep. Cleveland,

As far as we're aware, the State Board's guidance is not requiring that, which was the allegation raised. Each polling place is managed by its site lead and the county board. If there are restrictions on movement, they are likely specific to the requirements or circumstances of the specific polling place, the need to maintain order and the security of elections materials, and to avoid interference with voters, etc.

Best,

Paul Cox | General Counsel

NORTH CAROLINA STATE BOARD OF ELECTIONS
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RALEIGH, NC 27611
919.814.0700
www.ncsbe.gov

From: Rep. George Cleveland <George.Cleveland@ncleg.gov>
Sent: Friday, October 28, 2022 11:58 AM
To: Cox, Paul <paul.cox@ncsbe.gov>; Rep. Dennis Riddell <Dennis.Riddell@ncleg.gov>; Sen. Carl Ford <Carl.Ford@ncleg.gov>; Neal Inman (Speaker Moore's Office) <Neal.Inman@ncleg.gov>; Sam Hayes (Speaker Moore's Office) <Sam.Hayes@ncleg.gov>
Cc: Bell, Karen B <Karen.Bell@ncsbe.gov>; SBOE_Grp - Legal <Legal@ncsbe.gov>
Subject: RE: [External] FW: Illegal control of observers

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Mr. Cox – Thank you for your extensive reply. Are you assuring me that no observer is being required to remain in one area of the voting enclosure and obtain permission from the Chief Judge to move about in the voting enclosure within the parameters of the law.

George

From: Cox, Paul <paul.cox@ncsbe.gov>
Sent: Friday, October 28, 2022 10:47 AM
To: Rep. George Cleveland <George.Cleveland@ncleg.gov>; Rep. Dennis Riddell <Dennis.Riddell@ncleg.gov>; Sen. Carl Ford <Carl.Ford@ncleg.gov>; Neal Inman (Speaker Moore's Office) <Neal.Inman@ncleg.gov>; Sam Hayes (Speaker Moore's Office) <Sam.Hayes@ncleg.gov>
Cc: Bell, Karen B <Karen.Bell@ncsbe.gov>; SBOE_Grp - Legal <Legal@ncsbe.gov>
Subject: RE: [External] FW: Illegal control of observers

Representative Cleveland,

I hope this note finds you well.

This email seeks to address the concern you raised based on a writer claiming that there are unlawful restrictions on partisan observers. First, I'll address the law that applies and then I'll review the facts that have been alleged.

Legal Review

The State Board's guidance is consistent with the law. The person who wrote in to complain has not identified any specific ways that the guidance is inconsistent with the law. They instead refer vaguely to "burdensome and unmerited restrictions," without addressing what, specifically, in the guidance is violating the law. In fact, the observer guide that the writer is criticizing has been in use since at least 2016, with only minor revisions. As explained further below, our impression is that the writer is conflating local misunderstandings or the inability of a single observer to be all places at one time with alleged problems with State Board guidance.

None of the State Board's guidance confines observers to a specific area in the voting place. The State Board's guidance, by design, is not so prescriptive. All voting sites are configured differently. Some sites provide ample space for observers to move about in the area where they still cannot view voted ballots or confidential voter information, or have access to voting equipment or ballots. Other sites, however, are quite small and there may be no extra space, beyond an area designated by the site lead, for the movement of observers in a way that

would not impede the flow of voters or position observers in a location where they could view confidential voter information or have access to election equipment or ballots. And, of course, observers must be kept from interfering with or intimidating any voters.

For full context, the state law that pertains to the conduct of observers is not limited to GS 163-45(c). That provision states, in full, “[a]n observer shall do no electioneering at the voting place, and shall in no manner impede the voting process or interfere or communicate with or observe any voter in casting a ballot, but, subject to these restrictions, the chief judge and judges of elections shall permit the observer to make such observation and take such notes as the observer may desire.” Other provisions of law forbid observers from going certain places in the voting enclosure, to ensure the privacy of voters and the integrity of the state’s elections.

Election officials must always be mindful that observers are representatives of the political parties. They take no oath (by law) and are not election officials; they are, instead, representatives of an organization with an interest in the outcome of the election. And county-appointed site managers have broad authority to ensure order within the voting site and to avoid disruptions or interference with voters. They enforce these requirements with respect to both Democratic and Republican observers. There are, after all, typically observers from each party participating in any given county.

Below are some of the authorities that pertain to the limitations on what observers may (or may not) do in a voting enclosure:

08 NCAC 20 .0101 ELECTION OBSERVERS

...

(c) **Observers at Voting Place.** No more than two precinct-specific observers from each political party may be in the voting enclosure at any time. Only one at-large observer from each political party may be in the voting enclosure at any time, even if no precinct-specific observers are present. All observers, whether precinct-specific or at-large, may be relieved after serving no less than four hours; however, the total number of observers from each party cannot exceed three total observers in the voting enclosure at one time: two precinct-specific observers and one county or State at-large observer. An observer may leave the voting place without having served for four hours, but the observer cannot be replaced by a new observer until at least four hours have passed since the first observer began serving. **An observer who leaves the voting place for any reason may be prohibited by the chief judge from returning if the observer’s return would cause a disruption in the voting enclosure.**

(d) **Observer Conduct.** Observers who engage in prohibited conduct after receiving a warning may be required by the chief judge to leave the voting enclosure. **Prohibited activities by observers include:**

- (1) Wearing or distributing campaign material or electioneering;**
- (2) Impeding or disrupting the voting process or speaking with voters or election assistants;**

- (3) Interfering with the privacy of the voter, including positioning themselves in such a way that they can view confidential voter information on poll books or laptops or standing in such a way that they can view the contents of ballots inserted into a tabulator;
- (4) Using an electronic device to film or take photographs inside the voting enclosure;
- (5) Taking photographs, videos, or recording a voter without the consent of the voter and the chief judge;
- (6) Entering the voting booth area or attempting to view voted ballots;
- (7) Boarding a vehicle containing curbside voters; and
- (8) Providing voter assistance.

....

08 NCAC 04 .0306 DUTIES OF CUSTODIANS OF VOTING SYSTEMS

(a) The chair of the county board of elections shall be responsible for the safekeeping, storage, maintenance and care of the voting system. The voting system shall be stored in a location such that access is restricted to county board of elections staff and the system cannot be tampered with when not in use on election day. The county board of elections may appoint as many persons as determined necessary for the maintenance, storage and care of the voting system and for the preparation and testing of the voting system and delivery to the voting precincts preceding a primary or an election. Persons employed for this purpose shall be compensated for their services as authorized by the county board of elections.

(b) On election day when the system is used for voting purposes and until the chair of the county board collects the system, the voting system shall be under the supervision and control of the chief judge unless the county board of elections authorizes another elections official to have supervision and control.

08 NCAC 10B .0101 TASKS AND DUTIES OF PRECINCT OFFICIALS AT VOTING PLACES

...

(b) Tasks of Precinct Chief Judge - Precinct Chief Judges, in accordance with election statutes, within the Rules of the State Board of Elections, and under the supervision of the county board of elections, shall have the following tasks to perform as to each primary or election:

- (17) ensure the maintenance of and appearance of efficient, impartial, and honest election administration at the precinct as required by G.S. 163-166.5(3);
- (18) monitor the grounds around the voting place to ensure compliance with the limitation on activity in the buffer zone under G.S. 163-166.4(a);
- (19) ensure peace and good order at the voting place as required by G.S. 163-48. Examples of peace and good order include:
 - (A) keeping open and unobstructed the place at which voters or persons seeking to register or vote have access to the place of registration and voting;

- (B) preventing and stopping attempts to obstruct, intimidate, or interfere with any person in registering or voting;
 - (C) protecting challengers and witnesses against molestation and violence in the performance of their duties; and
 - (D) ejecting from the place of registration or voting any challenger or witness for violation of any provisions of the election laws or rules.
- (20) ensure that voters are able to cast their votes in dignity, good order, impartiality, convenience, and privacy as required in G.S. 163-166.7(c) and 08 NCAC 10B .0101;

...

(g) General duties of all Precinct Officials - All precinct officials, in accordance with election statutes, with the rules of the State Board of Elections and under the supervision of the county board of elections, shall perform all of the following:

- (1) count votes when votes are required to be counted at the voting place, G.S. 163-182.2;
- (2) make an unofficial report of returns to the county board of elections, G.S. 163-182.2;
- (3) certify the integrity of the vote and the security of the official ballots at the voting place, G.S. 163-182.2;
- (4) return official ballots and equipment to the county board of elections, G.S. 163-182.2;
- (5) ensure that the voting system cannot be tampered with throughout the period voting is being conducted;
- (6) ensure that only properly voted official ballots are introduced into the voting system;
- (7) ensure that, except as provided by G.S. 163-166.9, no official ballots leave the voting enclosure during the time voting is being conducted there;
- (8) ensure that all improperly voted official ballots are returned to the precinct officials and marked as spoiled;
- (9) ensure that voters leave the voting place after voting;
- (10) ensure that voters not eligible to vote in the precinct but who seek to vote there are given assistance in voting a provisional official ballot or guidance to another voting place where they are eligible to vote;
- (11) ensure that information gleaned through the voting process that would be helpful to the accurate maintenance of the voter registration records, including any updates to a voter's voter registration, is recorded and delivered to the county board of elections;
- (12) ensure that registration records can only be accessed by precinct officials;
- (13) ensure that party observers are given access as provided by G.S. 163-45 to current information about which voters have voted;

....

§ 163-47. Powers and duties of chief judges and judges of election.

(a) The chief judges and judges of election shall conduct the primaries and elections within their respective precincts fairly and impartially, and **they shall enforce peace and good order in and about the place of registration and voting.** On the day of each primary and general and special election, the precinct chief judge and judges shall remain at the voting place from the time fixed by law for the commencement of their duties there until they have completed all those duties, and they shall not separate nor shall any one of them leave the voting place except for unavoidable necessity.

....

§ 163-48. Maintenance of order at place of registration and voting.

The chief judge and judges of election shall enforce peace and good order in and about the place of registration and voting. They shall especially keep open and unobstructed the place at which voters or persons seeking to register or vote have access to the place of registration and voting. They shall prevent and stop improper practices and attempts to obstruct, intimidate, or interfere with any person in registering or voting. They shall protect challenger and witnesses against molestation and violence in the performance of their duties, and they may eject from the place of registration or voting any challenger or witness for violation of any provisions of the election laws. **They shall prevent riots, violence, tumult, or disorder.**

In the discharge of the duties prescribed in the preceding paragraph of this section, the chief judge and judges may call upon the sheriff, the police, or other peace officers to aid them in enforcing the law. They may order the arrest of any person violating any provision of the election laws, but such arrest shall not prevent the person arrested from registering or voting if he is entitled to do so. The sheriff, police officers, and other officers of the peace shall immediately obey and aid in the enforcement of any lawful order made by the precinct election officials in the enforcement of the election laws. The chief judge and judges of election of any precinct, or any two of such election officials, shall have the authority to deputize any person or persons as police officers to aid in maintaining order at the place of registration or voting.

§ 163-165.1. Scope and general rules.

...

(e) **Voted ballots and paper and electronic records of individual voted ballots shall be treated as confidential, and no person other than elections officials performing their duties may have access to voted ballots or paper or electronic**

records of individual voted ballots except by court order or order of the appropriate board of elections as part of the resolution of an election protest or investigation of an alleged election irregularity or violation. Voted ballots and paper and electronic records of individual voted ballots shall not be disclosed to members of the public in such a way as to disclose how a particular voter voted, unless a court orders otherwise. Any person who has access to an official voted ballot or record and knowingly discloses in violation of this section how an individual has voted that ballot is guilty of a Class 1 misdemeanor.

§ 163-166.3. Limited access to the voting enclosure.

(a) Persons Who May Enter Voting Enclosure. - During the time allowed for voting in the voting place, only the following persons may enter the voting enclosure:

- (1) An election official.
- (2) An observer appointed pursuant to G.S. 163-45.
- (3) A runner appointed pursuant to G.S. 163-45, but only to the extent necessary to announce that runner's presence and to receive the voter list as provided in G.S. 163-45.
- (4) A person seeking to vote in that voting place on that day but only while in the process of voting or seeking to vote.
- (5) A voter in that precinct while entering or explaining a challenge pursuant to G.S. 163-87 or G.S. 163-88.
- (6) A person authorized under G.S. 163-166.8 to assist a voter but, except as provided in subdivision (7) of this section, only while assisting that voter.
- (7) Minor children of the voter under the age of 18, or minor children under the age of 18 in the care of the voter, but only while accompanying the voter and while under the control of the voter.
- (8) Persons conducting or participating in a simulated election within the voting place or voting enclosure, if that simulated election is approved by the county board of elections.
- (9) Any other person determined by election officials to have an urgent need to enter the voting enclosure but only to the extent necessary to address that need.

(b) Photographing Voters Prohibited. - No person shall photograph, videotape, or otherwise record the image of any voter within the voting enclosure,

except with the permission of both the voter and the chief judge of the precinct. If the voter is a candidate, only the permission of the voter is required. This subsection shall also apply to one-stop sites under G.S. 163-227.2, 163-227.5, and 163-227.6. This subsection does not apply to cameras used as a regular part of the security of the facility that is a voting place or one-stop site.

(c) **Photographing Voted Ballot Prohibited.** - No person shall photograph, videotape, or otherwise record the image of a voted official ballot for any purpose not otherwise permitted under law.

§ 163-166.4. Limitation on activity in the voting place and in a buffer zone around it.

(a) **Buffer Zone.** - No person or group of persons shall hinder access, harass others, distribute campaign literature, place political advertising, solicit votes, or otherwise engage in election-related activity in the voting place or in a buffer zone which shall be prescribed by the county board of elections around the voting place. In determining the dimensions of that buffer zone for each voting place, the county board of elections shall, where practical, set the limit at 50 feet from the door of entrance to the voting place, measured when that door is closed, but in no event shall it set the limit at more than 50 feet or at less than 25 feet.

....

§ 163-166.6. Designation of tasks.

The State Board of Elections shall promulgate rules for the delegation of tasks among the election officials at each precinct. Those rules shall emphasize:

- (1) **The need to place primary managerial responsibility upon the chief judge.**
- (2) The need to have maximum multiparty participation in all duties where questions of partisan partiality might be raised.
- (3) **The need to provide flexibility of management to the county board of elections and to the chief judge, in consideration of different abilities of officials, the different availability of officials, and the different needs of voters precinct by precinct.**

§ 163-166.7. Voting procedures.

....

(c) **(Effective December 1, 2019 - see note)** The State Board of Elections shall promulgate rules for the process of voting. Those rules shall emphasize the appearance as well as the reality of dignity, good order, impartiality, and the

convenience and privacy of the voter. Those rules, at a minimum, shall include procedures to ensure that all the following occur:

- (1) The voting system remains secure throughout the period voting is being conducted.
- (2) Only properly voted official ballots are introduced into the voting system.
- (3) Except as provided by G.S. 163-166.9, no official ballots leave the voting enclosure during the time voting is being conducted there. The rules shall also provide that during that time no one shall remove from the voting enclosure any paper record or copy of an individually voted ballot or of any other device or item whose removal from the voting enclosure could permit compromise of the integrity of either the machine count or the paper record.
- (4) All improperly voted official ballots are returned to the precinct officials and marked as spoiled.
- (5) Voters leave the voting place promptly after voting.
- (6) Voters not clearly eligible to vote in the precinct but who seek to vote there are given proper assistance in voting a provisional official ballot or guidance to another voting place where they are eligible to vote.
- (7) Information gleaned through the voting process that would be helpful to the accurate maintenance of the voter registration records is recorded and delivered to the county board of elections.
- (8) The registration records are kept secure. The State Board of Elections shall permit the use of electronic registration records in the voting place in lieu of or in addition to a paper pollbook or other registration record.
- (9) Party observers are given access as provided by G.S. 163-45 to current information about which voters have voted.

....

§ 163-273. Offenses of voters; interference with voters; penalty.

(a) Any person who shall, in connection with any primary or election in this State, do any of the acts and things declared in this section to be unlawful, shall be guilty of a Class 2 misdemeanor. It shall be unlawful:

- (1) For a voter, except as otherwise provided in this Chapter, to allow

his ballot to be seen by any person.

- (2) For a voter to take or remove, or attempt to take or remove, any ballot from the voting enclosure.
- (3) For any person to interfere with, or attempt to interfere with, any voter when inside the voting enclosure.
- (4) For any person to interfere with, or attempt to interfere with, any voter when marking his ballots.
- (5) For any voter to remain longer than the specified time allowed by this Chapter in a voting booth, after being notified that his time has expired.
- (6) For any person to endeavor to induce any voter, while within the voting enclosure, before depositing his ballots, to show how he marks or has marked his ballots.
- (7) For any person to aid, or attempt to aid, any voter by means of any mechanical device, or any other means whatever, while within the voting enclosure, in marking his ballots.

(b) Election officers shall cause any person committing any of the offenses set forth in subsection (a) of this section to be arrested and shall cause charges to be preferred against the person so offending in a court of competent jurisdiction.

§ 163-274. Certain acts declared misdemeanors.

(a) Class 2 Misdemeanors. - Any person who shall, in connection with any primary or election in this State, do any of the acts and things declared in this subsection to be unlawful, shall be guilty of a Class 2 misdemeanor. It shall be unlawful to do any of the following:

...

- (4) For any person to break up or by force or violence to stay or interfere with the holding of any primary or election, to interfere with the possession of any ballot box, election book, ballot, or return sheet by those entitled to possession of the same under the law, or to interfere in any manner with the performance of any duty imposed by law upon any election officer or member of any board of elections.
- (5) For any person to be guilty of any boisterous conduct so as to disturb any member of any election board or any chief judge or judge of election in the performance of that person's duties as

imposed by law.

...

- (16) For any person who is not an elections official or who is not otherwise authorized by law to retain a registrant's signature, full or partial Social Security number, date of birth, or the identity of the public agency at which the registrant registered under G.S. 163-82.20, any electronic mail address submitted under Article 7A of this Chapter, or drivers license number from any form described in G.S. 163-82.3 after submission of the form to the county board of elections or elections official.

....

§ 163-275. Certain acts declared felonies.

Any person who shall, in connection with any primary, general or special election held in this State, do any of the acts or things declared in this section to be unlawful, shall be guilty of a Class I felony. It shall be unlawful:

...

- (10) For any person to assault any chief judge, judge of election or other election officer while in the discharge of duties in the registration of voters or in conducting any primary or election.
- (11) For any person, by threats, menaces or in any other manner, to intimidate or attempt to intimidate any chief judge, judge of election or other election officer in the discharge of duties in the registration of voters or in conducting any primary or election.

....

As the above authorities show, the management of the polling place involves many complex rules and requirements. To the extent a county-appointed election official is not permitting an observer to freely roam within a voting enclosure, it is likely in service to one or more of these legal requirements.

Factual Review

We've reached out to the directors of each of the counties where the writer has identified supposed issues with observer restrictions, and below are some of the facts that have been reported. Each of these counties has excellent directors of elections who are committed to the integrity of the election process, and we have full confidence in their management of their one-stop voting locations.

In Harnett County, we understand that the computer issue that one observer discussed had absolutely nothing to do with the site manager handing the observer the State Board's observer guide, despite the writer's conflation of the two. Site officials had an issue connecting a check-in laptop to a printer, and they worked to remedy that issue successfully. The observer was obviously not involved in this process, nor do we understand that they even complained about that. For the observer to have been involved, they would have had to go behind the check-in table and be next to unvoted ballots and confidential voter information. Our impression is that in this report the observer was simply reporting to their party's network that this issue occurred. They *separately* discussed being given an observer guide which they say conflicted with their training. We have no idea how they were trained because observers are not election officials and county officials do not train them. We do know that at that particular one-stop site, observers have been coming and going from the site to observe curbside voting without impediment.

In Henderson County, one observer complained that she couldn't monitor how a voting machine technician was addressing an overheating tabulator by removing the tabulator from its housing and replacing it with another. According to county officials, the observer thought that, given her experience as a computer programmer, she should have been more involved in this process. Obviously, partisan observers are never asked to or permitted to participate in voting equipment repair. Addressing other complaints that observers could not see voters inserting ballots into a tabulator, our further understanding is that county officials rotated the tabulator specifically to address these complaints. We believe the layout of the voting site originally had the tabulator facing into the voting booth area where observers are forbidden from going by law. To further accommodate observers, county officials added seating for observers at multiple locations in the enclosure, including right next to the helpdesk and the check-in tables. Our understanding is that observers often complain that they cannot hear everything going on in a busy voting location, but that is always going to be the case, especially when you have multiple slots for check-in. Site officials are not going to limit check-in to one person at a time for the sake of observers' ability to hear.

In Wake County, the observer who wrote in is at a site that is particularly limited in space. According to county officials, it is impossible to be in some areas of the voting enclosure without being where voters are filling out their ballots. The location cannot be altered without mingling voters with observers, according to county officials. The writer should be aware, however, that we have received a notification from one-stop officials who witnessed this particular observer apparently filming curbside voters, which could be considered a form of voter intimidation and, if the filming were done while the voter was voting, violates the prohibition on filming voters in the act of voting.

In Lee County, the observer is simply complaining that the board of elections' office is small

and when the location gets busy, it is crowded and noisy. This complaint appears to have nothing to do with State Board guidance on observers and, in fact, our understanding is that observers are able to move around that polling place to hear better as long as they're not interfering with voters or going into elections personnel areas. As you're aware, the board of elections office is the principal, default one-stop voting location under North Carolina law. GS 163-227.2(b)–(c). The county board has to take specific action to avoid using their office as a one-stop site and instead use a different location. GS 163-227.6(a). The adequacy of the board office for hosting one-stop voting is a legitimate policy discussion to be raised with the county board. But our understanding is that the board unanimously chose to keep the board office as a one-stop location to avoid situations like what occurred in the primary in Lee County, where a partisan observer tailed a poll worker's car from a remote one-stop site to the board office when she was transporting ballots. This was quite unsettling to that worker, understandably.

In the vast majority of voting locations, voting and observing is currently being carried out without incident, based on the information we have from county elections officials. We have had a handful of incidents so far, mostly involving too-aggressive electioneers outside the voting enclosure. In Wayne County, one observer was removed and ordered not to return yesterday for yelling at a voter who was using their phone for magnification of the small text on a one-stop application at check in. It is appropriate that such behavior by an observer not be tolerated.

In sum, the report you received from the writer is unspecific about how the State Board's guidance is inconsistent with the law. Multiple sources of law have to be considered when determining the limitations on observer activity in and around the polling place, all of which are considered when providing guidance to elections officials. And further information from county officials concerning the reports forwarded by the writer confirm that State Board guidance is not resulting in any unlawful impediments on observer activity.

Best regards,

Paul Cox | General Counsel

NORTH CAROLINA STATE BOARD OF ELECTIONS

430 N SALISBURY STREET

RALEIGH, NC 27611

919.814.0700

www.ncsbe.gov

From: Rep. George Cleveland <George.Cleveland@ncleg.gov>

Sent: Wednesday, October 26, 2022 10:34 AM

To: Bell, Karen B <Karen.Bell@ncsbe.gov>

Cc: Rep. Dennis Riddell <Dennis.Riddell@ncleg.gov>; Sen. Carl Ford <Carl.Ford@ncleg.gov>; Neal Inman (Speaker Moore's Office) <Neal.Inman@ncleg.gov>; Sam Hayes (Speaker Moore's Office) <Sam.Hayes@ncleg.gov>

Subject: [External] FW: Illegal control of observers

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Ms. Bell – It is against Statute to restrict observers to a specific area or to require permission for them to move within the voting area. Please correct any instructions your office has issued to restrict observers in their duties.

George

From: Jay N. DeLancy <jay@voterintegrityproject.com>

Sent: Monday, October 24, 2022 11:01 AM

To: elections.sboe@ncsbe.gov

Cc: james.k.womack@gmail.com; 'Cleta Mitchell' <cleta@cletamitchell.com>; 'Philip Thomas' <philip.thomas@ncgop.org>; Rep. George Cleveland <George.Cleveland@ncleg.gov>; Rep. Dennis Riddell <Dennis.Riddell@ncleg.gov>

Subject: Illegal control of observers

Dear Sir/Ma'am,

We've received numerous complaints from our trained poll observers of their being restricted in movement, which clearly violates §163-45(c) "An observer shall do no electioneering at the voting place, and shall in no manner impede the voting process or interfere or communicate with or observe any voter in casting a ballot, but, subject to these restrictions, the chief judge and judges of elections shall permit the observer to make such observation and take such notes as the observer may desire."

-

Your "[Observer Tips](#)" guidance to election officials continues to place burdensome and unmerited restrictions of people who have a statutory right to move freely about the precinct or early voting location. Attached are some reports showing the impact of your policy. They come from Harnett, Henderson, Lee, and Wake Counties.

Report #165 addresses how your artificial requirement for observers to ask permission from the CJ/SS any time they wish to move from an illegally designated observer area. The impact of this contrived regulation means the Wake County observer was unable to follow the trouble a voter had over at the help desk. By the time the observer could flag down the Site Supervisor, the voter had already moved away from the Help Desk.

Report #249 shows the impact of your faulty restrictions on a Harnett County observer who wanted to monitor a "computer issue." The Observer Tips guidance was used to restrict the observer from

access.

Report #202 Henderson County Director Hebb graciously added a second observer jail location where the observer was equally unable to hear any of the conversations voters had with election officials.

Report #257 (Henderson Co.) showed how the second approved observer jail was across the room, near the tabulator, which was turned away from the observer position when the bins were checked to ensure they were empty at the beginning of the day.

Report #240 (Henderson County) shows how the observer was unable to hear discussions between voters and employees at the Help Desk.

Report #262 (Lee County) shows how the problem was compounded by the CBE insistence on using a room that's too small for the volume of voters present during early voting. Not only can the observer not move close enough to the voters to hear their name and residence (as required by 08 NCAC 10B .0103) but the acoustics of the room make the process even more impossible to monitor.

This is just a sample from the first few days of early voting, but we're seeing an overall pattern of illegal observer restrictions which are both unwarranted and unnecessary. In my ten years of poll observing, freedom of movement was never a concern to election officials and that was under both Democrat and Republican SBE Directors. The policy included allowing observers to enter and exit the polling location at any time and for any reason (including to watch a curbside transaction, make a phone call, or use the facilities), to freely traverse the voting enclosure, and monitor any and all voting concerns from six feet away. There were rarely any problems with this policy. Respectfully request your agency immediately re-issue your Observer Tips after deleting any restrictions on observer mobility that conflict with §163-45(c).

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Jay N. DeLancy, LtCol, USAF (Ret)
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Jay DeLancy is Director of Voter Integrity Project - NC, a 501(c)(4), non-profit organization, founded in 2011, dedicated to open and honest elections. When not mentoring other state-based election integrity organizations, VIP has conducted forensic audits, that uncovered almost 30,000 deceased persons on one state's voter rolls; more than 500 registered voters in one county who had also convinced the courts that they were not US citizens; a four-state criminal investigation into nearly 400 cases of suspected interstate-double voting that has triggered multiple criminal referrals; five felony indictments and four convictions (to date)...which also exposed the prosecutorial bias against punishing vote fraud. Among their recent projects, one involved finding enough votes cast by deceased persons to trigger numerous election protests by a state Supreme Court candidate, which effectively countered his opponent's protests, promoting felon voters.

From: [Gannon, Patrick](#)
To: [Jay N. DeLancy](#); [Bell, Karen B](#)
Subject: RE: [External] Thank you!
Date: Thursday, February 16, 2023 11:14:31 AM

You're welcome, Jay!

From: Jay N. DeLancy <jay@voterintegrityproject.com>
Sent: Wednesday, February 15, 2023 5:50 PM
To: Bell, Karen B <Karen.Bell@ncsbe.gov>
Cc: Gannon, Patrick <Patrick.Gannon@ncsbe.gov>
Subject: [External] Thank you!

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Director Bell...

It was kind and gracious of you yesterday to offer the use of a table for my, um... super high-tech camera gear, and Pat showed a true public servant's spirit in hustling to make it happen. Ironically, the stopping and starting of the livestream resulted in our only capturing the part of the meeting that covered campaign finance! Nonetheless, you both have my deepest appreciation.

Jay

--

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From: [Bell, Karen B](#)
To: [Jay N. DeLancy](#)
Cc: [Gannon, Patrick](#)
Subject: RE: [External] Thank you!
Date: Wednesday, February 15, 2023 11:06:04 PM

You're very welcome, Jay. Sorry to hear of the technical difficulties. Seems there will be opportunity to pick back up in the future though.

Have a great evening,
Karen

Karen Brinson Bell, CERA, PMP

Executive Director, NCSBE
(919) 814-0700 Main Line



From: Jay N. DeLancy <jay@voterintegrityproject.com>
Sent: Wednesday, February 15, 2023 5:50 PM
To: Bell, Karen B <Karen.Bell@ncsbe.gov>
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