



OKLAHOMA

Governor's Task Force on Campaign Finance and Election Threats

March 31, 2024



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Governor's Task Force on Campaign Finance and Election Threats

On Nov. 1, 2023, Governor J. Kevin Stitt issued Executive Order 2023-29, creating the Governor's Task Force on Campaign Finance and Election Threats. This group of nine members was charged to rigorously assess campaign finance, scrutinize foreign investment and combat foreign interference in Oklahoma elections.

As society navigates the complexities of modern democracy, understanding the dynamics of campaign finance and recognizing potential threats to electoral processes are crucial for upholding the integrity of our democratic institutions.

With the rise of disinformation campaigns, cyberattacks and foreign interference, safeguarding the integrity of elections has become paramount. This document offers insights into these emerging challenges and proposes actionable strategies to mitigate risks and enhance electoral security.

By fostering informed dialogue and catalyzing meaningful action, it is the mission of the Task Force to contribute to the preservation of democratic values and the promotion of free and fair elections.

Finally, it is the hope of the Task Force that this report serves as a valuable resource, guiding stakeholders towards meaningful dialogue and effective solutions.



FILED

December 11, 2023
OKLAHOMA SECRETARY
OF STATE

J. Kevin Stitt
Office of the Governor
State of Oklahoma

**EXECUTIVE DEPARTMENT
AMENDED EXECUTIVE ORDER 2023-29**

One of the few pillars of our system of government that continues to enjoy broad consensus is that elections should be decided by American citizens free from interference. Oklahoma’s Constitution could not be clearer: “All elections shall be free and equal.”

But elections are only as free and equal as the processes used to finance campaigns and count votes. Although federal law already prohibits contributions, donations, expenditures, and disbursements by foreign nationals to any federal, state, or local election, the State of Oklahoma may need additional clarity and/or legal safeguards to ensure our state election, initiative, and referendum processes are as free and equal as possible.

That said, I am proud to report that Oklahoma is a national leader in election security. Our state and county election boards are best in class. Oklahomans should know the ballots cast and counted in Oklahoma are legitimate. But we must not rest on our laurels. Instead, we must ensure that our elections and political processes are not tainted by other governments’ investment and/or interference.

In short, political outcomes in Oklahoma should be products of Oklahomans exercising their individual political judgment freed from coercive influence. That’s why I’m calling on the Legislature, and in particular the Senate Rules and House Election and Ethics Committees, to introduce legislation that would get governments’ money and influence out of state elections once and for all—perhaps as soon as the next regular session.

Therefore, I, J. Kevin Stitt, Governor of the State of Oklahoma, pursuant to the power and authority vested in me by Sections 1 and 2 of Article VI of the Oklahoma Constitution, and to the fullest extent authorized by law, hereby order the creation of the Governor’s Task Force on Campaign Finance and Election Threats (the Task Force) until March 31, 2024:

The Task Force shall study, evaluate, and develop policy and administrative recommendations related to campaign finance and foreign investment and/or interference in Oklahoma elections. Specific areas of inquiry should include, but need not be limited to:

1. Identifying the ways in which Oklahoma is leading the nation in election security;

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2. Identifying any campaign finance loopholes that need to be closed and identifying the nature of any government interference in state elections;
3. Designing, for the Legislature's benefit as it considers drafting common-sense legislation to curtail any interference in our politics, a mechanism or process by which the state can detect the covert distribution of propaganda and disinformation against the peace and dignity of the State of Oklahoma.

The Task Force shall submit to the Governor, the President Pro Tempore of the Oklahoma Senate, and the Speaker of the Oklahoma House of Representatives, a report on or before March 31, 2024, detailing its findings and recommendations.

The Task Force shall be composed of nine (9) members determined as follows:

1. The Chair, selected by the Governor;
2. Paul Ziriaux, Secretary of the State Election Board;
3. Josh Cockroft, Secretary of State;
4. A county election board member from a county with a population of 50,000 or more, selected by the Chair;
5. A county election board member from a county with a population of 49,999 or less, selected by the Chair;
6. The President Pro Tempore of the Senate, or designee;
7. The Speaker of the House, or designee; and

The Governor shall appoint two (2) at-large members, each of whom should have expertise in matters relating to campaign finance, elections, privacy, or ethics.

The Chair of the Task Force, shall have the authority to create committees and name committee chairs to facilitate the work of the Task Force and shall have the authority to appoint Task Force members and/or non-member subject matter experts to serve on committees. The Task Force shall meet as often as deemed necessary by the Chair allowing for timely completion of its work. Five (5) or more members shall constitute a quorum for the purpose of conducting the business of the Task Force. Task Force members and non-members appointed to serve on committees shall serve without compensation.

The Office of Management and Enterprise Services shall provide staff, technical, and administrative support for the Task Force. All Executive departments, officers, agencies, and employees of the State shall cooperate with the Task Force, including providing any information, data, records, and reports as may be requested.

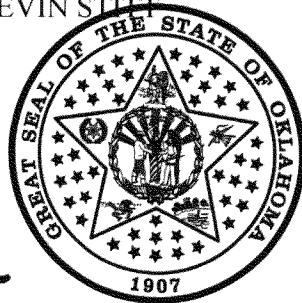
This Executive Order shall be distributed to each member of the Task Force, all state and county election boards, and all cabinet secretaries.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, on this 11th day of December, 2023.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA



J. KEVIN STITT



ATTEST:


Josh Cockroft, SECRETARY OF STATE

CHAIRMAN'S LETTER

For a period of four months, a group of nine Oklahomans of diverse backgrounds and beliefs came together to study virtually every aspect of Oklahoma's ethics regulation and election administration. Task Force Members gathered data, reviewed case law and scholarly articles, and conducted interviews. The Task Force met, discussed, questioned, debated, and reached consensus. The following report and its recommendations are the result of the Task Force's work.

The Task Force met 10 times for meetings where the members heard from experts, both from around the country and throughout Oklahoma. A full list of all who made presentations, provided expert guidance, or otherwise assisted the Task Force through logistical support appears in the Acknowledgements section following the report. All were helpful, and all contributed to the report. We wish to thank them for the significant time and effort they spent to help the Task Force better understand the issues, their work, their areas of expertise, and their perspectives.

In addition to the meetings Task Force members attended, members conducted research to more fully understand the issues before the group. Some met individually with stakeholders and interested parties. All read and studied volumes of information. Members reviewed, edited, and re-edited the text of the report. Members arrived at every meeting well-prepared to discuss, to advocate, to compromise, and, ultimately, to reach consensus.

Task Force members have learned much throughout this process. We hope that this knowledge, as imparted in the report, will result in the implementation of all or at least most of the Task Force's recommendations. Members trust their recommendations are the prudent steps toward ethics and election laws that provide constitutional protections and transparent yet secure election institutions.



Anthony J. Ferate

Executive Summary

Governor Kevin Stitt announced the Governor’s Task Force on Campaign Finance and Election Threats (Task Force) at the beginning of November 2023. It is an effort to examine our election systems and ethics regulations to determine what, if any, changes are necessary to assure that our elections are secure, and that appropriate competitive balance exists in our ethics regulations.

During the past three months, the Task Force has examined state law and listened to the perspectives of stakeholders, both formally and informally, and deliberated topics among the members.

The Task Force, upon reviewing the [Executive Order](#) from the Governor, applied the following definition to determine a threat: A threat is defined as an issue that may cause serious harm or interference with the integrity of our elections and ethics regulations, or have the potential to cause serious harm or interference to our election and ethics integrity.

The threshold question that the Task Force considered in deliberating Oklahoma’s relevant statutes, regulations, and our recommendations is “How does Oklahoma’s current approach impact the First Amendment to the U.S. Constitution?” Certainly, this analysis may on its face appear to affect our state’s ethics laws more disproportionately than our election rules. But in areas of free expression and regulation of independent expenditures, some of the considerations on how the Legislature may play a role in forming election policy must be considered as well.

The Task Force spent a significant amount of time scrutinizing Oklahoma’s election systems and rules, and met with individuals that have conducted reviews of Oklahoma’s elections or have critiques of the system. Following a full analysis of Oklahoma’s system, the Task Force concludes that our election system is one of the best systems in the nation. Elections are conducted with integrity and efficiency. Audits are conducted to verify results. But most importantly, officials focus on their mission, driven to conduct a fair and unbiased election. This does not mean that the Task Force does not have recommendations to change the system. Currently, randomized post-election audits are required by the Secretary of the State Election Board, but are not mandated by statute. Some municipalities have contemplated adopting ranked-choice voting, which has in some cases created confusion and incorrect election results in other states. There is no requirement under Oklahoma law for election board secretaries or members to publicly disclose campaign contributions to candidates to their fellow board members, which could raise questions about conflicts of interest. These are easy fixes that do not fundamentally alter the strong system that we should be proud to possess.

Despite the wishes of many in Oklahoma, the U.S. Supreme Court has spoken, and independent expenditures are constitutional in the United States. Oklahoma does not have a mechanism to reverse the long line of Supreme Court precedent, nor can we simply ignore it. But Oklahoma does have the ability to require more rigid reporting and accountability of the officers of the entity. Further, Oklahoma can, and should, reverse the paradigm that our candidates have operated under—at a disadvantage to independent expenditures—that subjects the contributions they receive to full public disclosure and limits under false concerns about influence that do not account for the millions of dollars spent against them with scant disclosure. It’s time for the paradigm to shift.

Through the Task Force’s “emerging considerations” section, the Task Force explores areas that it determined did not at this time rise to the level of a threat but should be monitored. These include how county and local ethics reporting and violations are managed, the move toward open, or jungle, primaries, and state-tribal interplay related to reporting of eligibility of voters to the Oklahoma State Election Board, and prosecution of election violations.

Through the recommendations advanced in the next section, this Task Force strongly recommends that changes should be made. Among other areas, specific action should be taken in such areas as the use of Artificial Intelligence in electioneering, mandatory post-election auditing of election results, violations for foreign influence in state elections, and a fresh regulatory structure that allows for unlimited contributions from natural born individuals directly to candidates rather than hiding dollars from sunlight.

Findings and Recommendations

The Task Force strongly recommends that the Legislature, election board, or the ethics commission undertake the following actions to assure our elections are safe and secure, and a competitive balance is available in our ethics laws.

Election Recommendations

1. To ensure that conflicts of interest are avoided, the Legislature should enact appropriate legislation to regulate and/or require disclosure of campaign contributions by the secretaries and members of the State Election Board and county election boards.
2. After nearly every election, the Secretary of the Oklahoma State Election Board orders a post-election audit of at least one race in every county to verify the accuracy in the election results. However, post-election audits are discretionary under current law. The Legislature should amend state law to make random post-election audits mandatory.
3. Under the federal Uniformed and Overseas Citizens Absentee Voting Act, Oklahoma and other states must meet certain requirements to assure that members of the uniformed services and other citizens overseas are provided access to vote by absentee ballot in their home state. Many decades ago, the Oklahoma Legislature went further than the federal law required when it created a fax system for returning voted ballots from these individuals. The system is rarely used today as the fax machine is essentially obsolete but has the potential to create questions surrounding ballot integrity. The fax system is less secure than other methods of returning absentee ballots, such as mail, private delivery service, or in-person. Additionally, state and federal law require absentee ballots to be sent to these voters 45 days prior to federal and state elections—including by secure electronic delivery upon request—allowing far more time to return voted absentee ballots by traditional methods. The Task Force recommends that the Legislature examine replacing or eliminating the statute allowing for the return of absentee ballots by facsimile device for overseas citizens.
4. In some states and localities, ranked-choice voting has become a new approach to conducting voting. Many localities that have undertaken ranked-choice voting have seen slowed results and lengthy result times. Such inefficiency has in some situations sown

distrust of election results. In Tacoma, WA, the municipality conducted one election under the system before abandoning it. In Berkley, CA, the wrong candidate was thrown out in the first round of voting, and the “winner” sworn in, before a university audit of the results found an error that resulted in the initial losing candidate actually winning the race. Other evidence points to an increase in voter error, and slower results. Further, the costs of converting our election systems to support ranked-choice voting are significant and would be undertaken without merit. Oklahoma’s accuracy and efficiency in ballot counting is admired nationally. Because of this, the Task Force recommends banning ranked-choice voting as a method of counting elections in Oklahoma.

5. In order to regulate the use of misrepresentations in elections like those that are possible by means of artificial intelligence such as voice, video, or both, the Ethics Commission should create disclosure rules about misrepresentation, and the Legislature should review existing laws and new statutes other states are adopting to ensure these are sufficient to protect campaigns, elections, and the public from the emerging technology known as “artificial intelligence” (AI).

Ethics Reform Recommendations

6. In order to provide Oklahoma’s law enforcement community an investigative and prosecutorial authority, the Legislature should enact legislation to ban foreign expenditures under penalty of felony.
7. The U.S. Supreme Court has detailed in opinions since *Buckley v. Valeo* and continuing through *Citizens United v. FEC*, that speech through independent expenditures cannot be abridged in ethics regulation. But the courts have upheld some reporting requirements, so long as those requirements do not violate *Alabama v. NAACP* and *Americans for Prosperity v. Bonta*. The Task Force recommends that the Ethics Commission add additional disclosure requirements to independent expenditure filings, including the following:
 - a. Enforce existing domicile requirement for the treasurers of independent expenditure entities in Oklahoma.
 - b. Incorporation of the independent expenditure entity must be in Oklahoma.
 - c. Provide a phone number that is answered by a person situated in Oklahoma more than five hours a day.
 - d. The treasurer shall personally certify that no campaign funds came from foreign sources under penalty of personal liability under the law.
8. Candidates and the political parties that support them are not currently allowed under Oklahoma law to effectively compete against independent expenditures. Independent expenditure entities are allowed to raise anonymously unlimited amounts of money where candidates and political parties may not. In one example studied, independent expenditures had a 4 to 1 spending advantage against the candidate that was opposed. In another, the statewide candidate spent a nominal amount while the independent expenditure effort that supported the candidate spent orders of magnitude more than

either candidate in the race. Candidates, not independent expenditures, should run races. Candidates should also have the ability to respond to independent expenditure groups with equal ability to raise funds. The Task Force proposes:

- a. Eliminating contribution limits for all natural persons that donate directly to a candidate or political party's accounts regulated by the Oklahoma Ethics Commission.
 - b. Increase the contribution limits for Limited Partnerships, Limited Liability Companies, tribes, PACs, and other non-corporate entities to candidates to \$15,000.00, indexed for inflation every election cycle. Such entities could receive contributions from their members without limit. (Corporations and unions are banned from contributing under current Oklahoma law. The Task Force would not oppose lifting these restrictions but is not recommending it as part of this report.)
 - c. The Ethics Commission should provide for unlimited transfers between political parties and their candidates.
 - d. In order to reduce redundancy in campaign expenditures and to allow appropriate coordination between house and senate party caucuses and their members, the Ethics Commission should provide for caucus party committees similar to the entities that exist at the federal level.
9. Oklahoma's current cumulative reporting threshold for a contribution is \$50.00. The FEC has not increased its reporting limit from \$200 since 1975, a rate that by today's dollar valuation is \$1,153.63. To encourage a diversity of smaller contributors to become involved in campaigns without risk of doxing or other adverse effects to their employment opportunities, Oklahoma should increase the cumulative initial contribution reporting requirement to \$200.00 indexed for inflation.
10. Because of the recommendations above, the definition of coordination Oklahoma currently operates under would be overly burdensome and illogical. Oklahoma's coordination definition should be redefined to allow coordination up to the limits prescribed under the above recommendations with entities allowed to participate under the law.

Emerging Considerations

11. Tribal-state relations are in some respects at a point of inflection following the decision in *McGirt v. Oklahoma*. The Task Force does not comment on the case to wade into the jurisdictional friction that encircles the decision, but in order to recommend partnership between Oklahoma and the tribes on two specific areas:
- a. The Oklahoma State Election Board should communicate with tribal authorities, to assure that felons are not authorized to vote in Oklahoma elections.
 - b. The Task Force encourages cooperation between the tribes and the State of Oklahoma to resolve jurisdictional questions related to election crimes and campaign finance violations.

12. Under the current Oklahoma Ethics Commission Rules, ethics reports for county and local officers and candidates are filed with local officials. These local officials, however, possess no regulatory authority beyond acceptance of the reports, and any investigatory or regulatory action remains with the Oklahoma Ethics Commission. The Task Force recommends that the Ethics Commission clarify and reassert its regulatory authority or more fully release its jurisdiction so that local district attorneys may undertake investigatory and prosecutorial authority.
13. Some jurisdictions have started merging primaries and holding open, or jungle, primaries under the guise of opening up the primary system to all voters. Primaries were designed for political parties to advance a particular nominee to the general election for consideration against the nominee of other political parties. In many instances, open primaries thwart political party options and the general elections often have two individuals of the same party as an option. Such a primary system can have the effect of reducing options for voters despite its intent, and any unintended consequences should therefore be cautiously contemplated before it is instituted in Oklahoma.

CHAPTER 1: ELECTIONS

Article I, Section 4 of the United States Constitution grants authority to state legislatures to prescribe policies related to the "times, places and manner of holding elections" for U.S. Senators and Representatives. Oklahoma receives its grant of authority over federal elections from this section, and similarly receives its grant of authority for state elections under Article 3, Section 4 of the Oklahoma Constitution. The Oklahoma Legislature has taken its constitutional responsibilities seriously, creating and managing an election structure that assures fraud is detected and punished.

Structure

The election structure is divided between a State Election Board and subordinate county election boards. The State Election Board is composed of three (3) members and two (2) alternate members, each of whom are appointed to four-year terms by the Governor from lists provided by the two largest political parties. The appointments require the advice and consent of the State Senate. The Secretary of the State Election Board is not a member of the board. County election boards consist of the secretary of the county election board, two members and two alternate members, all of whom are appointed to four-year terms by the State Election Board. Board members and alternate members are nominated by the county central committees of the two largest political parties.

The statutory duties of the State Election Board include certifying state and federal elections, hearing contests of candidacy related to state or federal offices and appointing or removing county election board secretaries and members. County election boards' statutory duties include certifying county and local elections and hearing contests of candidacy related to county and local offices.

The Secretary of the State Election Board is the administrative officer of the State Election Board agency whose duties include having general supervisory authority over county election boards. By law, the Secretary of the State Senate serves as the Secretary of the State Election Board. The Secretary is elected by the State Senate every two years.

Similarly, a county election board secretary is the administrative officer of the county election board agency whose duties include appointing precinct officials and having general supervisory authority over precinct officials and absentee voting board members.

The secretaries and boards do not make policy related to election administration, but rather are required to follow the state and federal election laws enacted by the Oklahoma Legislature and the United States Congress, respectively.

Election Security and Integrity

The Oklahoma Legislature has enacted numerous laws and procedures to protect the security and integrity of elections in the State of Oklahoma.

There is mandatory bipartisanship at every level of election administration. By law, the two largest political parties have representation at every level of elections in Oklahoma, from pre-

cinct officials and absentee voting boards to each county election board and the State Election Board. This helps ensure that no single political party controls the election process.

Oklahoma has statewide uniformity in its elections. State law provides for a “unitary, unified, integrated system of election administration” in Oklahoma. This means that Oklahoma voters cast their ballots the same way in every precinct in every county – following the same procedures, adhering to the same security protocols and using the same type of voting device. This is not the way all states administer elections, but this unitary system has led to better predictability when a voter arrives at their precinct, and a more efficient, accurate count of ballots.

Ballots are printed on paper and counted by optical scanning voting devices. Oklahoma law requires ballots to be printed on paper that are counted by optical scanning voting devices in every precinct polling place. Paper ballots are hand-marked by voters and provide a record of the votes cast in every election that can be recounted or audited when required or allowed by law. Oklahoma’s voting system utilizes a unique barcode and other security features on each ballot to protect against counterfeiting or accidental double-counting of ballots. For federal and state elections, paper ballots are retained by the county election board secretary for a period of 24 months. All 77 county election boards use the eScan A/T, an optical scan voting device to tabulate ballots, manufactured by Hart InterCivic, a Texas-based company.

Recounts and post-election audits have proven the accuracy of Oklahoma’s voting devices. Recounts and post-election audits of elections regularly occur in Oklahoma and have consistently shown that Oklahoma’s voting devices accurately count ballots. State law authorizes any candidate to petition for a recount of his or her race, while local and state question elections also have provisions allowing for recounts to be requested. Additionally, the Secretary of the State Election Board is authorized by state law to direct county election board secretaries to conduct post-election audits “for the purpose of maintaining the security of the election system by ensuring that voting devices and software used in a particular election correctly tabulate votes.” The Secretary of the State Election Board regularly orders random post-election audits, and the audit reports are posted on the State Election Board website.

Oklahoma has strict requirements for mail absentees and nursing home absentees. Absentee voters must have their identity verified. To request an absentee ballot, a voter must provide the driver license number or last four digits of their Social Security number, which must match the information on the voter registration record. State law requires that absentee ballots must be notarized (“standard” absentee ballots) or have the voter’s signature witnessed by two people (“physically incapacitated” absentee ballots) to ensure that the person casting the ballot is actually the person to whom the ballot was issued. Except for rare exceptions allowed by law, a voter must request and return his or her own absentee ballot. Additionally, voters who are confined to nursing homes and veterans centers must vote their absentee ballots in the presence of a bipartisan Absentee Voting Board, who collect the sealed ballots, secure the ballots in a lockbox, and return the ballots to the county election board for processing. Absentee ballots are processed and counted at a public meeting of the county election board. “Absentee Ballot Harvesting” is a crime in Oklahoma.

Proof of identity is required for in-person voting. Every voter who appears to vote in person—whether on Election Day or during the in-person absentee voting period—must provide proof of identity. Under Oklahoma law, there are three ways for voters to prove their identity:

1. Present a valid photo ID issued by the State of Oklahoma, the federal government or a federally recognized tribal government; or
2. Present a county election board voter identification card; or
3. Complete an affidavit with a provisional ballot.

Election officials conduct regular voter list maintenance. State law requires regular maintenance of voter lists to help ensure voter rolls are kept up-to-date. County election board secretaries conduct voter list maintenance on a monthly basis, removing voters from the voter rolls for such reasons as death, conviction of a felony, judicial determination of mental incapacitation, registration in another county or state, or surrendering an Oklahoma driver license upon being issued a driver license in another state. Additionally, in odd-numbered years state law requires the State Election Board Secretary to remove inactive voters who failed to respond to an address confirmation mailing and then failed to vote for two consecutive election cycles. In 2023, more than 155,000 voter registrations were canceled by Oklahoma election officials as part of voter list maintenance procedures, and in 2022 that number was more than 80,000. For the month of February 2024, a total of 6,053 voter registrations were canceled by county election boards across the state as part of the voter list maintenance process – including 2,516 deceased voters and 3,204 voters who moved out of the county. Each month, the State Election Board posts reports of voter registration statistics and voter list maintenance statistics by county on its website.

Election results are known on election night. State election laws and procedures ensure that unofficial election results are known on election night, which helps to bring certainty and ensure the public's confidence about the outcome of elections. For example, to be counted, a mail absentee ballot must be received by the time polls close at 7 p.m. on Election Day. Typically, mail absentee and in-person absentee votes are the first to be tabulated and posted online on election night. Additionally, state law requires county election boards to convene a public meeting on Election Day for the purpose of receiving precinct returns. The county election board must remain in session until all precinct returns are received, and the election results are required to be “accumulated and listed” as the precinct returns are received.

Numerous other security and integrity measures exist that help protect Oklahoma elections.

- Oklahoma's optical scanning voting devices cannot connect to the internet and have no wireless connectivity. The devices have built-in features that enhance security and prevent tampering, and are also protected by multiple locks and security seals.
- Ballots are secured and a strict chain of custody is maintained through the certification of the election. Both paper ballots and printed vote tallies are secured by the county sheriff on election night until the election results are certified.
- Under Oklahoma law, only citizens of the United States and residents of the State of Oklahoma may register to vote in Oklahoma. Further, state law explicitly prohibits noncitizens from being offered voter registration services when obtaining a driver license.
- Standardized training is provided to all election officials in the state to ensure that each precinct official has been given the knowledge to properly conduct the election.

- Pre-election testing by the State Election Board and county election boards ensures the accuracy of the election database, voting devices, and ballots.
- State law allows watchers to be commissioned by a candidate or a recognized political party in Oklahoma to observe the setup and closing of precincts on Election Day.

Independent Reviews and Investigations

Independent reviews and investigations of Oklahoma elections have shown that Oklahoma's elections are secure and accurate.

In March 2023, the Oklahoma Legislative Office of Fiscal Transparency (LOFT) released an evaluation of Oklahoma's absentee voting system. This independent examination by staff of the Oklahoma Legislature reviewed the state's absentee voting laws and election board procedures and conducted on-site observation of eight county election boards in 2022. LOFT also compared Oklahoma's absentee voting system to that of other states.

LOFT issued three findings in its official report:

- Finding 1: Oklahoma's Absentee Voting Processes Enable Election Integrity.
- Finding 2: Local Level Compliance with Effective Processes Yield a Secure and Accurate Vote Count.
- Finding 3: Oklahoma's Uniform Election System Supports Election Security and Efficiency.

Report: <https://okloft.gov/reports/absentee-voting/report>

The nonpartisan League of Women Voters of Oklahoma conducted an investigation into Oklahoma's election security after hearing suggestions that "elections in our state are insecure, if not outright compromised by fraud." LWVOK's investigation identified 59 cases of potential voting crimes related to the 2020 General Election that were referred by election officials to district attorneys in 16 counties – out of 1,564,886 ballots cast statewide. Only one referral resulted in criminal charges, while in all other instances prosecutors declined to file charges, usually determining there was 'no criminal intent' on the part of the voter. The LWVOK's report noted that the league is "confident that Oklahoma's election infrastructure is sound" and that "where enforcement of voter fraud laws is required, those laws are enforced."

In 2021, Oklahoma Cyber Command conducted a full investigation that debunked claims that election interference occurred in the State of Oklahoma's 2020 General Election. Some claimed publicly that every county in Oklahoma was the subject of a cyberattack that changed vote totals and provided Internet Protocol (IP) addresses that were supposedly the subject of the attack. However, according to an October 2021 memorandum regarding Cyber Command's independent investigation, Oklahoma's Chief Information Security Officer noted that "none of the five State of Oklahoma IPs were/are associated with the State of Oklahoma's election infrastructure" and further noted that "(t)here is not now, nor has there been, any credible evidence of a cyber incident or event that could have interfered with the State of Oklahoma's 2020 General Election."

Potential Threats to Elections

Misinformation, Disinformation and Malinformation (MDM). Traditional “misinformation” about elections involved attempting to trick voters in order to disenfranchise them – such as making false claims about changes to voting dates and times. While this remains a concern, a more recent form of misinformation appears to be aimed at causing voters to distrust election procedures and results. For example, election officials have seen false claims that “algorithms” determine election winners or that voting devices contain secret wireless connections. False claims such as these actually harm election integrity by undermining the public’s confidence in elections. Most false claims such as these are protected by the First Amendment, so the best way to counter this threat is by providing facts about elections.

Insider Threats. Following the 2020 elections, at least three states (Colorado, Michigan and Georgia) experienced security breaches that were allegedly enabled by election officials, including allegations of voting system passwords being posted online, copies of voting software being made available for download, and voting devices being inspected by outsiders who were not supposed to have access. Oklahoma election officials must remain vigilant about such threats. Thankfully, Oklahoma law makes it a felony for any person to tamper with voting equipment or software or access it without authorization.

Physical threats. Law enforcement has investigated alleged threats against at least three Oklahoma election officials in recent years – as well as the alleged doxing of two of these officials’ home addresses. In response, the Oklahoma Legislature enacted legislation making it a crime to threaten election officials or dox their addresses and allowing certain election officials to keep their home addresses private in voter registration records. State and county election officials maintain close ties with state, local and federal law enforcement to help ensure they are able to detect and report physical threats.

Cyber threats. Oklahoma’s voting devices never connect to the internet, but election officials work closely with Oklahoma Cyber Command and other authorities to employ multiple security protocols to help protect election systems and public facing voter services from would-be attackers.

Artificial Intelligence (AI). As the capabilities of artificial intelligence continue to grow, this potentially represents a new threat to elections. AI-created deepfakes, for example, could make it easier to spread misinformation about elections or to impersonate candidates and election officials.

Security vs. Access. When lawmakers and election officials consider election integrity and security measures, it is important to bear in mind the impact these could have on voters. It is important to strike the right balance between security on the one hand, and voter access on the other.

Contesting election results. No system involving human beings can be perfect or entirely error-free. The Oklahoma Legislature has put in place specific mechanisms for candidates to contest the results of an election – from requesting a recount to presenting evidence of alleged irregularities to a district judge. It is important for Oklahoma election officials to be transparent and take appropriate corrective action if clerical or administrative errors occur.

Recommendations

1. To ensure that conflicts of interest are avoided, the Legislature should enact appropriate legislation to regulate and/or require disclosure of campaign contributions by the secretaries and members of the State Election Board and county election boards.
2. After nearly every election, the Secretary of the Oklahoma State Election Board orders a post-election audit of at least one race in every county to verify the accuracy in the election results. However, post-election audits are discretionary under current law. The Legislature should amend state law to make random post-election audits mandatory.
3. Under the federal Uniformed and Overseas Citizens Absentee Voting Act, Oklahoma and other states must meet certain requirements to assure that members of the uniformed services and other citizens overseas are provided access to vote by absentee ballot in their home state. Many decades ago, the Oklahoma Legislature went further than the federal law required when it created a fax system for returning voted ballots from these individuals. The system is rarely used today as the fax machine is essentially obsolete, but has the potential to create questions surrounding ballot integrity. The fax system is less secure than other methods of returning absentee ballots, such as mail, private delivery service, or in-person. Additionally, state and federal law require absentee ballots to be sent to these voters 45 days prior to federal and state elections—including by secure electronic delivery upon request—allowing far more time to return voted absentee ballots by traditional methods. The Task Force recommends that the Legislature examine replacing or eliminating the statute allowing for the return of absentee ballots by facsimile device for overseas citizens.
4. In some states and localities, ranked-choice voting has become a new approach to conducting voting. Many localities that have undertaken ranked-choice voting have seen slowed results and lengthy result times. Such inefficiency has in some situations sown distrust of election results. In Tacoma, WA, the municipality conducted one election under the system before abandoning it. In Berkley, CA, the wrong candidate was thrown out in the first round of voting, and the “winner” sworn in, before a university audit of the results found an error that resulted in the initial losing candidate actually winning the race. Other evidence points to an increase in voter error, and slower results. Further, the costs of converting our election systems to support ranked-choice voting are significant and would be undertaken without merit. Oklahoma’s accuracy and efficiency in ballot counting is admired nationally. Because of this, the Task Force recommends banning ranked-choice voting as a method of counting elections in Oklahoma.
5. In order to regulate the use of misrepresentations in elections such as those that are possible by means of artificial intelligence such as voice, video, or both, the Ethics Commission should create disclosure rules about misrepresentation, and the Legislature should review existing laws and new statutes other states are adopting to ensure these are sufficient to protect campaigns, elections, and the public from the emerging technology known as “artificial intelligence” (AI).

CHAPTER 2: ETHICS

While there have been laws regulating campaign finance since statehood, it wasn't until 1990 when the voters approved State Question 627 that the Oklahoma Ethics Commission came into existence.

The Ethics Commission is an agency with authority under Article 29 of the Oklahoma Constitution. It possesses specific jurisdiction to promulgate rules and investigate violations of those rules. In the early days of the agency's existence, the Legislature attempted to circumvent the authority granted under the Constitution, and at times, the Oklahoma Supreme Court intervened in support of the Ethics Commission, upholding its authority.

Specifically, the Ethics Commission regulates disclosure and enforcement of reporting requirements for lobbyists, candidates for public office, and elected officials.

Ethics Regulation and the First Amendment

In 1976, the U.S. Supreme Court decided the landmark decision *Buckley v. Valeo*. The case focused on several elements of the Federal Election Campaign Act, but pertinent to the discussion here, the court determined that the First Amendment is abridged when limits on political expenditures are enacted. While the court did allow disclosure and limits on contributions, the concept that money is speech—actually written by Justice White in a concurrence—arises from *Buckley*.

The contention has continued forward, and if *Buckley* itself does not stand for that proposition, the 2010 Supreme Court decision in *Citizens United v. FEC* does. The court found that the First Amendment allows an entity or individual to use their own dollars, in unlimited amounts, so long as the expending party does not coordinate the spending with a candidate.

The decision in *Citizens United* and other cases such as *McCutcheon v. FEC* have buttressed the concept that the First Amendment limits regulation of campaign ethics and disclosure. Thus, the Task Force has prioritized analysis of the Oklahoma Ethics Commission's regulations, as well as its recommendations, under the First Amendment.

Potential Threats to Competitive Elections

Independent Expenditures. As mentioned, *Citizens United* provided broad latitude to an entity to spend funds in an unlimited and anonymous amount to influence an election so long as the expenditures are not coordinated with a candidate. This scheme has provided a broad grant to entities to engage in political activity outside of the candidate's campaign.

In the 2022 Oklahoma elections, independent expenditure organizations had a high-level scrutiny due to their activity. In the Governor's race, one organization outspent either candidate by orders of magnitude. In the Republican primary for the State Auditor's seat, a candidate spent less than \$2500 on his election compared to the independent expenditure groups that supported him. While the entities never fully reported their activity, some analysts have estimated amounts far in excess of \$500,000.00.

Currently Oklahoma's regulatory environment allows independent expenditures to operate unfettered beyond registration, but disadvantages candidates and political parties by limiting the amounts that they can raise, increasing the amount of time that a candidate must spend fundraising compared to engaging with voters. This disparity will only grow the use of independent expenditures in the state unless the Ethics Commission provides candidates and the political parties that support them the ability to compete in the independent expenditure environment.

Further, the First Amendment provides for the operation of independent expenditure entities, but case law has not restricted reporting requirements. Although it has been lightly enforced, Oklahoma does require an independent expenditure group to keep an in-state treasurer and local phone number. Stakeholders in this process have shared that the phone number consistently goes unanswered, and often the treasurer is unresponsive.

The Task Force does believe that there exist sufficient threats in the way that Oklahoma regulates campaigns that without significant change, the state is at risk that independent expenditure entities can assume the role of primary campaign communication entity as opposed to candidates. Meaningful change must be considered by the Oklahoma Ethics Commission to reverse this potential.

Surplus Funds. In 2014, the Oklahoma Ethics Commission instituted a new regulation that restricted the expenditure of funds raised in-cycle. The regulation, as implemented, effectively prevents a candidate from purchasing a table at a political party event, transferring funds to a political party or another candidate, or even preventing the acceptance of mailing support from a political party. Beyond the obvious unconstitutionality of the expenditure restriction under *Buckley*, the regulation restricts a candidate's ability to effectively deploy resources. The current restriction would also prevent a legislative candidate from transferring funds to a joint house or senate caucus party committee similar to the way congressional committees operate at the federal level.

The Task Force does believe that the surplus funds rule effectively restricts First Amendment freedom provided under *Buckley*, and that swift action should be undertaken to the regulatory environment.

Disclosure Minimum. Oklahoma Ethics Commission rules do not provide a legislative history beyond 2014, but Oklahoma requires that any expenditure above \$50.00, in aggregate, be reported in the state. By comparison, the FEC instituted a minimum reporting number in the 1970s of \$200. If adjusted for inflation, that reporting requirement would be more than \$1100.00. The Task Force possesses serious concerns about scenarios created, for example, following Proposition 8 in California.

Proposition 8 was a state question in California in 2008. The effort was to ban same-sex marriage in the state, and the effort did pass that year with 52.2% of the vote. Following the election, relatively small contributions to Prop 8 were disclosed to employers and the public, causing people to lose employment opportunities and public reputation. Today, the term, "doxing" has been applied to the phenomenon of asserting public ridicule against an opponent.

The Task Force believes that the minimum reportable contribution limit is so low that it creates a threat to participation in political activity. The Task Force further believes that the minimum should be significantly increased with an automatic inflation adjustment in the amended rule.

Recommendations

1. In order to provide Oklahoma's law enforcement community an investigative and prosecutorial authority, the Legislature should enact legislation to ban foreign expenditures under penalty of felony.
2. The U.S. Supreme Court has detailed in opinions since *Buckley v. Valeo* and continuing through *Citizens United v. FEC*, that speech through independent expenditures cannot be abridged in ethics regulation. But the courts have upheld some reporting requirements, so long as those requirements do not violate *Alabama v. NAACP* and *Americans for Prosperity v. Bonta*. The Task Force recommends that the Ethics Commission add additional disclosure requirements to independent expenditure filings, including the following:
 - a. Enforce existing domicile requirement for the treasurers of independent expenditure entities in Oklahoma.
 - b. Incorporation of the independent expenditure entity must be in Oklahoma.
 - c. Provide a phone number that is answered by a person situated in Oklahoma more than five hours a day.
 - d. The treasurer shall personally certify that no campaign funds came from foreign sources under penalty of personal liability under the law.
3. Candidates and the political parties that support them are not currently allowed under Oklahoma law to effectively compete against independent expenditures. Independent expenditure entities are allowed to raise anonymously unlimited amounts of money where candidates and political parties may not. In one example studied, independent expenditures had a 4 to 1 spending advantage against the candidate that was opposed. In another, the statewide candidate spent a nominal amount while the independent expenditure effort that supported the candidate spent orders of magnitude more than either candidate in the race. Candidates, not independent expenditures, should run races. Candidates should also have the ability to respond to independent expenditure groups with equal ability to raise funds. The Task Force proposes:
 - a. Eliminating contribution limits for all natural persons that donate directly to a candidate or political party's accounts regulated by the Oklahoma Ethics Commission.
 - b. Increase the contribution limits for Limited Partnerships, Limited Liability Companies, tribes, PACs, and other non-corporate entities to candidates to \$15,000.00 indexed for inflation every election cycle. Such entities could receive contributions from their members without limit. (Corporations and unions are banned from contributing under current Oklahoma law. The Task Force would not oppose lifting these restrictions but is not recommending it as part of this report.)
 - c. The Ethics Commission should provide for unlimited transfers between political parties and their candidates.

- d. In order to reduce redundancy in campaign expenditures and to allow appropriate coordination between house and senate party caucuses and their members, the Ethics Commission should provide for caucus party committees similar to the entities that exist at the federal level.
4. Oklahoma's current cumulative reporting threshold for a contribution is \$50.00. The FEC has not increased its reporting limit from \$200 since 1975, a rate that by today's dollar valuation is \$1,153.63. To encourage a diversity of smaller contributors to become involved in campaigns without risk of doxing or other adverse effects to their employment opportunities, Oklahoma should increase the cumulative initial contribution reporting requirement to \$200.00 indexed for inflation.

Because of the recommendations above, the definition of coordination Oklahoma currently operates under would be overly burdensome and illogical. Oklahoma's coordination definition should be redefined to allow coordination up to the limits prescribed under the above recommendations with entities allowed to participate under the law.

CHAPTER 3: EMERGING CONSIDERATIONS

The Task Force spoke about three matters that do not currently rise to the level of a threat, but could in the future if not addressed effectively. Those matters, and our recommendations, are:

1. Tribal-state relations are in some respects at a point of inflection following the decision in *McGirt v. Oklahoma*. The Task Force does not comment on the case to wade into the jurisdictional friction that encircles the decision, but in order to recommend partnership between Oklahoma and the tribes on two specific areas:
 - a. The Oklahoma State Election Board should communicate with tribal authorities to assure that felons are not authorized to vote in Oklahoma elections.
 - b. The Task Force encourages cooperation between the tribes and the State of Oklahoma to resolve jurisdictional questions related to election crimes and campaign finance violations. In at least one instance, tribal authorities are prosecuting a state election violation that occurred in a local election. Communication and collaboration between jurisdictions must be fostered for the mutual respect of state and tribal elections.
2. Under the current Oklahoma Ethics Commission Rules, ethics reports for county and local officers and candidates are filed with local officials. These local officials, however, possess no regulatory authority beyond acceptance of the reports, and any investigatory or regulatory action remains with the Oklahoma Ethics Commission. The Task Force recommends that the Ethics Commission clarify and reassert its regulatory authority or more fully release its jurisdiction so that local district attorneys may undertake investigatory and prosecutorial authority.
3. Some jurisdictions have started merging primaries and holding open, or jungle, primaries under the guise of opening up the primary system to all voters. Primaries were designed for political parties to advance a particular nominee to the general election for consideration against the nominee of other political parties. In many instances, open primaries thwart political party options and the general elections often have two individuals of the same party as an option. Such a primary system can have the effect of reducing options for voters despite its intent, and any unintended consequences should therefore be cautiously contemplated before it is instituted in Oklahoma.

A.J. Ferate

A graduate of the University of Nebraska and Oklahoma City University School of Law, A.J. Ferate has practiced law for more than 18 years before the U.S. Supreme Court and courts in Oklahoma, Virginia, and the Cherokee Nation. After serving as General Counsel to the Oklahoma Republican Party for more than 12 years, he was elected Chairman of the Oklahoma Republican Party in May 2022. Early in his career, Ferate held legislative aide duties in the Nebraska Legislature, then went on to work for former Nebraska Treasurer David Heineman. He gained experience in the judiciary while serving Judge Gary L. Lumpkin at the Oklahoma Court of Criminal Appeals, the highest criminal appellate court in Oklahoma. Following this service, he began work with Commissioner Denise Bode of the Oklahoma Corporation Commission, assisting her in her duties regulating 70% of Oklahoma’s economy, including oil and gas and electric utilities. In 2021, Ferate served as General Counsel to the Miyares for Attorney General campaign in Virginia, then served in a lead role in the Attorney General-elect’s transition office. He honorably served 10 years as an intelligence analyst for the U.S. Naval Reserve, including time at the Office of Naval Intelligence in the greater Washington D.C. area. Ferate currently works for Spencer Fane, LLP, a law firm with more than 25 offices nationwide.

Samantha Call

Samantha Call serves as the Wagoner County Election Board Secretary, where she plays a vital role in ensuring the democratic process runs smoothly. Beyond her professional responsibilities, Call is deeply involved in her community through volunteering efforts. She has been a dedicated member of the First Baptist Church of Wagoner for 12 years, where she actively contributes to various community initiatives.

In her personal life, Call is happily married to her husband of 12 years and is a proud mother of a son. Her commitment to both her family and community showcases her strong values of service and dedication. Call’s passion for making a positive impact in the lives of others is evident in all aspects of her life.

Josh Cockroft

Josh Cockroft was appointed as Oklahoma’s 39th Secretary of State by Governor Kevin Stitt on Sept. 13, 2023. Additionally, he was appointed to serve as the Governor’s Chief Policy Advisor, leading all the Governor’s policy and regulatory efforts.

Per the Oklahoma Constitution, the Secretary of State serves as the chief clerical officer in charge of recording all business, tribal, legislative, and executive actions in the state. The position also serves as a member of the Governor’s Cabinet, overseeing the State Election Board, State Ethics Commission, and 12 other agencies, boards, or commissions. With the added role of Chief Policy Advisor to the Governor, Cockroft serves as the liaison between the Governor and the state Legislature, leading the Governor’s advocacy efforts and advancing the Governor’s agenda.

Secretary Cockroft began his career in state politics in 2010. He served eight years as a four-term Oklahoma State Representative for the people of House District 27 in south central Okla-

homa. While in elected office, he served in numerous leadership positions under four Speakers of the House. He chaired the House Rules Committee, led two special investigative committees, and served on multiple policy and budget committees. He also served as a member of the Presiding Officer Team.

Briefly leaving political office, Cockroft then spent three years from 2019-2022 as the Senior Director of Government Affairs for the Oklahoma Association of REALTORS®; the state's largest trade association. He led all federal, state, and local governmental activities for the association. This included direct lobbying efforts, political fundraising, Political Action Committee administration, policy research, and serving as OAR's liaison to state agencies, association membership, and elected officials.

In 2022, Cockroft served as the Political Director for the Governor's re-election campaign. He led all statewide grassroots efforts, managed campaign staff and interns, coordinated campaign events, advised the Governor and other members of senior campaign and fundraising staff of political matters, and built upon a statewide network of supporters to navigate the Governor to a historic second-term victory.

Upon the Governor's successful re-election bid, Secretary Cockroft served as Governor Stitt's Deputy Chief of Staff and a Senior Policy Advisor until his appointment in September.

A lifelong Oklahoman, Cockroft has a background in ministry, farming, and ranching. He lives in Cleveland County with his wife Jessica, and their three daughters.

Steve Curry

Steve Curry holds a BS degree from OSU, an MBA from OCU and has 35 years' experience in the insurance and securities industry. Curry was chairman for seven of the eight years he served on the State Election Board and was also an OKGOP National Committeeman for eight years. He is married and has three children and three grandchildren who all live in Oklahoma.

Jake Parsons

Over the past two decades, Jake Parsons has managed or advised successful gubernatorial, senatorial, congressional, statewide and legislative campaigns across the country. He has also worked with multiple Fortune 100 companies, national trade associations and issue advocacy groups on political development and served in senior leadership positions for the Republican Party in three different states.

For the past four election cycles, Parsons has served as Chairman and Executive Director of Majority Fund, the largest continuing super PAC in Oklahoma. Prior to returning to Oklahoma, he oversaw the largest statewide ballot integrity program in US history, helping elect Governor Bruce Rauner in Illinois.

In addition to his campaign work, he has worked at all levels of government, having spent the last seven years as senior advisor to the longest serving Speaker of the House in Oklahoma history, Charles McCall, where he oversees a diverse portfolio of policy, communications, member engagement and political affairs.

Originally from Southern California, Parsons is an Oklahoman by choice and makes his primary residence in Oklahoma City.

Jeff Peters

Jeff Peters has served as Chief of Staff of the Oklahoma Senate since 2020. Prior to that, Peters was Chief of Staff for Lt. Governor Matt Pinnell and spent nearly a decade on the staff of Congressman Tom Cole. Peters began his career working in political campaigns and has nearly 20 years of experience with local, state and federal elections. Peters and his wife Shau-na reside in south Oklahoma City with their two children, Jack and Carter.

Tiffany Rozell

Tiffany Rozell began her career as an election official in October 2016, just weeks before the November General Election. Growing up in Cherokee County, Rozell has strong roots and a deep love for the citizens of Oklahoma and especially the county that raised her. After graduating from Tahlequah High School in 2002, she attended college at Northeastern State University briefly before joining the workforce and starting her family.

Rozell began her career in the election system as the Assistant Secretary of Cherokee County in 2016. She was appointed to the position of Secretary by Senator Dewayne Pemberton in 2019 when her predecessor and mentor was asked to join the Oklahoma State Election Board. Along with being the Chief Election Official for Cherokee County, Rozell has also been a Regional Coordinator for the Oklahoma State Election Board for three years, training, informing and assisting assigned counties.

Andrew C. Spiropoulos

Andrew Spiropoulos is the Robert S. Kerr, Sr. Professor of Constitutional Law at Oklahoma City University School of Law and the Director of the School's Center for the Study of State Constitutional Law and Government. He is a graduate of Carleton College and received an MA in political science and his law degree from the University of Chicago. Before joining the faculty in 1991, Professor Spiropoulos clerked for Judge Danny J. Boggs of the United States Court of Appeals for the Sixth Circuit and practiced law with the Chicago firm of Gardner, Carton & Douglas. From 2005 to 2006, he served as Senior Counselor to the Speaker of the Oklahoma House of Representatives. He has been a Heritage Foundation Salvatori Fellow, was the Reporter of the Uniform Interstate Enforcement of Domestic-Violence Protection Orders Act, and, from 2011 to 2022, served as the Milton Friedman Distinguished Fellow at the Oklahoma Council of Public Affairs. Professor Spiropoulos writes and teaches in the fields of constitutional law, legislation, state and local government, and political theory.

Paul Ziriaux

Paul Ziriaux (pronounced ZEER'-iks) has served as Secretary of the State Election Board since 2009 and is Oklahoma's chief election official. He is also the Secretary of the State Senate. (Since 1913, Oklahoma law has required the Secretary of the State Senate to serve as the Secretary of the State Election Board.) Ziriaux, originally from Claremore, has worked as a senior leadership aide in the State Senate, as chief of staff and press secretary to a Member of Congress, and as a radio station music director and announcer. He is a member of the National Association of State Election Directors and the American Society of Legislative Clerks and Secretaries and is a past appointee to the Capitol Preservation Commission. He is an alumnus of Oklahoma State University in Stillwater.

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