



WISCONSIN INSTITUTE
FOR LAW & LIBERTY

Good morning.

Thank you Chairman Steil, Ranking Member Morelle, and Members of the Committee for the opportunity to testify today.

First, I think it is important to set the table about where the Wisconsin Institute for Law & Liberty (WILL) stands on election integrity issues more broadly. In the aftermath of the 2020 election, WILL conducted an assessment of the election that was referred to by the *Wall Street Journal* as the “best summary” of what happened. We found that while it is almost certain that the number of votes that did not comply with existing legal requirements exceeded Joe Biden’s margin of victory, there was no evidence of widespread voter fraud. Indeed, President Biden likely received more votes from eligible voters than did President Trump.

That said, there are credible reasons that the 2020 election shook the faith of many Americans in the electoral process. With the justification of the COVID-19 pandemic, many systems and rules were unilaterally abandoned without following proper legislative procedure. And new techniques were used to drive targeted voter turnout that existed in legal gray areas. This called into question the fundamental fairness of the election process. It is some of these issues that I am here to discuss today.

The prospect of private funding of elections ought to be of concern to voters across the political spectrum. Take any of the conservative boogeymen of the left—the Koch Brothers, for example—and imagine that they are sending money directly to election officials almost entirely in conservative-leaning areas of the nation. I feel confident in predicting that the same folks who are turning now complacent would be complaining loudly about the injustice of it. Yet that is what happened with Center for Technology and Civic Life (henceforth, CTCL) funding.

CTCL records indicated that 216 communities around Wisconsin received a grant. Madison and Milwaukee received a disproportionate amount of the funding—45% overall despite only representing about 14% of the state’s population.

In a statistical analysis, we compared the change in turnout between 2016 and 2020 with whether or not the community received a CTCL grant. We found that communities receiving CTCL funds saw an increase in the number of votes for Democratic candidates in 2020 that was greater than in communities that did not receive the funding. On average, a CTCL grant was correlated with an increase of about 41 votes for President Biden. This would result in an electoral impact of approximately 8,000 votes across the state. No relationship was found between CTCL funding and Trump’s vote total.

It is also important to note that CTCL grants were likely legal under Wisconsin law at the time they were made. Efforts have been made in subsequent years to ban the grants, or to require that they be distributed equitably by the state. Those proposals have been vetoed by the Governor.

There is currently a state constitutional amendment under consideration that would bypass the Governor.

Even if we were to take CTCL at their word that this was a non-partisan process, it doesn't mean that the next person to engage in similar tactics will even give the slightest lip service to non-partisanship.

What we can say for certain is that CTCL did provide funding for programs that ultimately have been judged to be illegal. Before the 2021 election, the City of Racine introduced a Mobile Voting Unit. This unit was purchased with funding from CTCL, and was first used in the 2021 Spring election. The stated purpose of the van was to park in various places around the city and allow people to fill out absentee ballots.

WILL believed that the van was illegal under state law for a number of different reasons. What we will focus on today was a Wisconsin statute on absentee voting that states, "no site may be selected which provides an advantage to any political party." While other absentee ballot drop-off locations are in fixed buildings, Racine's Mobile Voting Unit presented unique problems when it comes to electoral fairness.

Using data from the 2016, 18, and 20 general elections, we tried to determine the average partisan make-up of each ward in Racine. We found that as the share of Democratic votes in a ward increased, so did the expected number of locations for the voting van in that ward. Across the wards that were ultimately selected for use in the 2022 primary, a hypothetical ward with 100% Democratic voters was expected to have 0.25 more van locations than a ward with 0% Democratic voters. Looking at the list of possible van locations, that number increased to 2.25.

There are any number of reasons the van sites may have been selected. In the worst-case scenario for election integrity, they may have been strategically chosen to benefit aligned politicians. In a more favorable light, the locations may have been randomly selected to disburse the sites throughout the City. Nevertheless, in the eyes of the law, the reasoning behind these decisions is irrelevant. If the locations chosen benefited one political party more than the other – and the van did - the van was violating the law. A Wisconsin court agreed with our argument and ruled that the van was illegal.

In the end, both of these issues come back to the concept of fairness, and an equal application of the law to every American regardless of where they fall on the political spectrum. I would hope that we can all agree it is in America's interest that those on both sides of the aisle have their faith restored in our electoral process. Unfair election practices like those being discussed today only serve to undermine that faith, and lend credibility to those who put forth less defensible claims of election fraud.

I thank you for the opportunity to testify, and welcome any questions.